

Public Rights of Way Sub Committee

03 July 2023

Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpath No. 5 in the Parish of Crewe

Report of: Peter Skates, Director of Growth and Enterprise

Ward(s) Affected: Crewe East

Purpose of Report

- 1 The report outlines the investigation to divert part of Public Footpath No. 5 in the Town of Crewe following receipt of an application from a developer.
2. The work of the Public Rights of Way team contributes to the Corporate Plan priority “A thriving and sustainable place”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

Executive Summary

3. This report outlines the investigation to divert Public Footpath No. 5 in the Town of Crewe and includes a discussion of the consultations carried out in respect to the proposals and the legal tests to be considered for a diversion order to be made under the Town and Country Planning Act 1990.
4. The recommendation will be that the Public Footpath diversion order be made under section 257 of the Town and Country Planning Act 1990 on the grounds that Cheshire East Council is satisfied that it is necessary to do so in order to enable development to be carried out.

RECOMMENDATIONS

The Public Rights of Way Sub Committee is recommended to:

1. Decide that a public path diversion order be made under section 257 of the Town and Country Planning Act 1990 for Public Footpath No. 5 in the Town of Crewe as shown on Plan No. TCPA/076 on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.
2. Decide that public notice of the making of the Order be given and in the event of there being no objections within the period specified, and in the event that planning consent has been granted, the Order be confirmed in the exercise of the powers conferred on the Council by the said Act.
3. Note that in the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or Public Inquiry.

Background

4. An application has been received from Bowsal Developments Ltd. and Housing 21 requesting that the Council make an Order under section 257 of the Town and Country Planning Act 1990 to divert part of the Public Footpath No. 5 in the Town of Crewe as it is deemed necessary to allow for the construction of up to 47 retirement living (extra care) new dwellings and the associated infrastructure. Planning documents can be accessed via the Planning Portal using reference 22/4698N, this application is yet to be determined.
5. Public Footpath No. 5 in the Town of Crewe commences at its junction with Crewe Bridleway No. 34 and runs for approximately 86 metres in a generally north westerly direction to its junction with Herbert Street (UY378/A).
6. The existing alignment of Public Footpath No. 5 in the Town of Crewe will be directly affected by the construction of the 47 retirement apartments and associated infrastructure (22/4698N) therefore the diversion is required to preserve the public right of way.
7. That length of Public Footpath No. 5 in the Town of Crewe to be diverted is shown as a bold black line on Plan No. TCPA/076 between points A to B. It commences at point A where there is a redundant stile and continues in a generally north westerly direction for approximately 86 metres across a mixed surface of tarmac and loose stone to point B. At point B the definitive line terminates at the junction with Herbert Street (UY378/A).

8. The proposed diversion of Public Footpath No. 5 in the Town of Crewe is shown as a dashed black line between points C to D. It commences at point C at the junction with Crewe Bridleway No. 34 and will continue in a generally north north westerly direction for approximately 42 metres to point D at the junction with Herbert Street (UY378/A).
9. At point C an accessible chicane barrier delineating the junction with Crewe Bridleway No.34 will be fitted to minimise risk of collision at junction. The path will be surfaced with porous tarmac with a width of 3 metres for approximately 32 metres. The proposed route includes permissive cyclist usage of the footpath and the owners have consented to take on ongoing maintenance of the Footpath. This length will be bordered to the west by a verge measuring 0.6 metres width and a close-boarded fence measuring 1.8 metres in height. To the east the path will be bordered by an existing pond leading to a 1 metre verge and planted hedge line approximately 42metres. Over approximately 16 metres the path width will then gradually reduce to 2 metres in width as it meets the proposed vehicular turning head of the development. Dropped kerbs will be installed at either side of the driveway access for the adjacent property and a wooden close-boarded fence measuring 1.2 metres in height will line the western edge of the diversion before ending at point D.

Consultation and Engagement

5. The Ward Members for Crewe East, Crewe Town Council, the user groups, statutory undertakers, and the Council's Nature Conservation Officer have been consulted and have raised no objections.

Reasons for Recommendations

6. In accordance with section 257 of the Town and Country Planning Act 1990 ("TCPS") as amended by section 12 of the Growth and Infrastructure Act 2013:

“(1A) Subject to the section 259, a competent authority may by Order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that-

(a) An application for planning permission and respected development have been made under Part 3, and

(b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.”

7. The Council, as the Local Planning Authority, can make an Order diverting a footpath if it is satisfied that it is necessary to do so to enable

development to be carried out, providing that the application has been formally registered with the Council.

8. It is considered that it is necessary to divert Public Footpath No. 5 in the Town of Crewe as illustrated on Plan No. TCPA/076, to allow the construction of up to 47 living extra care apartments and associated infrastructure as detailed within the planning reference 22/4698N.
9. The work of the Public Rights of Way team contributes to the Corporate Plan priority “A thriving and sustainable place”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

Other Options Considered

10. Not applicable – this is a non-executive matter.

Implications and Comments

Monitoring Officer/Legal

11. Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the Local Authority to confirm the Order itself and may lead to a hearing or Public Inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

Section 151 Officer/Finance

12. If objections to an Order lead to a subsequent hearing/inquiry, the Council would be responsible for any costs involved in the preparation and conducting of such. The maintenance of the Public Right of Way would continue to be the responsibility of the landowner and Council in line with legislation. The associated costs would be borne within existing Public Rights of Way revenue and capital budgets

Policy

13. The work of the Public Rights of Way team contributes to the Corporate Plan priority “A thriving and sustainable place”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

A thriving and sustainable place

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| <ul style="list-style-type: none">• A great place for people to live, work and visit• Welcoming, safe and clean neighbourhoods• Reduce impact on the environment• A transport network that is safe and promotes active travel |
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- Thriving urban and rural economies with opportunities for all
- Be a carbon neutral council by 2025

Equality, Diversity and Inclusion

14. An assessment in relation to the Equality Act 2010 has been carried out by the Public Paths Officer for the area and it is considered that the proposed diversion would be no less convenient to use than the current one.

Human Resources

- 2 There are no direct implications for Human Resources.

Risk Management

- 3 There are no direct implications for risk management.

Rural Communities

- 4 There are no direct implications for Rural Communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 5 There are no direct implications for Children and Young People

Public Health

- 6 The recommendations are anticipated to offer a positive overall impact on the health and wellbeing of Cheshire East residents.

Climate Change

- 7 The recommendations will help the Council to reduce its carbon footprint and achieve environmental sustainability by reducing energy consumption and promoting healthy lifestyles.

Access to Information	
Contact Officer:	Richard Chamberlain – Public Path Orders Officer Richard.chamberlain2@cheshireeast.gov.uk

Appendices:	Plan No. TCPA 076
Background Papers:	The background papers and file relating to the report can be inspected by contacting the report writer.