

Highways and Transport Committee

23rd November 2023

Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpath No. 32 in the Town of Crewe (Part)

Report of: Peter Skates, Director of Growth and Enterprise

Report Reference No: HTC/35/23-24

Ward(s) Affected: Crewe East

Purpose of Report

- 1 The report outlines the investigation to divert part of Public Footpath No. 32 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 Green aim of the Corporate Plan, the “A thriving and sustainable place” priority 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 part of Public Footpath No. 32 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 a public path 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 Highways and Transport 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 part of Public Footpath No. 32 in the Town of Crewe as shown on Plan No. TCPA/022 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 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

- 5 An application has been received from Crewe Youth Club – Registered Charity 1167350 requesting that the Council make an Order under section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 32 in the Town of Crewe as it is deemed necessary to allow for the construction of a new indoor sports facility, gymnasium and associated access, car parking and landscaping works. Planning documents can be accessed via the Planning Portal using reference 23/2182N. Planning consent was approved on the 27th October 2023.
- 6 Public Footpath No. 32 in the Town of Crewe commences off Greystone Road (UY2178) at the north east corner of the religious hall and runs in a north east direction for approximately 50 metres, and then in a generally north direction for 150 metres to its junction with Henry Street (UY377).
- 7 The existing alignment of Public Footpath No. 32 in the Town of Crewe will be directly affected by the construction of a sports facility, gymnasium and associated infrastructure (23/2182N) therefore the diversion is required to preserve the public right of way.
- 8 That length of Public Footpath No. 32 in the Town of Crewe to be diverted is shown as a bold black line on Plan No. TCPA/022 between points A to B. The definitive line commences at point A and continues

to point B in a generally north east direction for 50 metres. Access between points A and B has been obstructed since the 1960s when the former youth club buildings were constructed. Following a fire in 2014 the youth club building has been demolished but the route remains obstructed by a boundary chain link fence around the site.

- 9 The proposed diversion of part of Public Footpath No. 32 in the Town of Crewe is shown as a dashed black line between points C, D, E and B. It commences at point C at the junction with Greystone Road and the proposed entrance to the sporting complex and will continue north for approximately 17 metres to point D and then east for approximately 45 metres to point E and then north north east to point B for approximately 38 metres before re-joining the definitive alignment of Crewe Footpath No. 32.
- 10 The proposed diversion route currently exists on the ground and is likely to have done so for a number of decades. The Diversion application offers an opportunity to resolve this longstanding anomaly. No change is proposed to the surface or width of the diversion route. The diversion route is surfaced with tarmac with a varying width no less than 2 metres along its length. The existing chain link fence between the new indoor sports facility and the path is to be replaced with a green mesh fence in order to offer a degree of natural surveillance of the path.

Consultation and Engagement

- 11 The Ward Members for Crewe East, Crewe Town Council, the user groups, statutory undertakers, and the Council's Nature Conservation Officer have been consulted.
- 12 Peaks and Northern Footpath Society commented 'there are no concerns' with the proposed diversion.
- 13 Councillor Faddes replied 'I am happy with this proposed diversion'.
- 14 One objection has been received from Cadent stating that an easement is required to protect the gas mains infrastructure located on the current definitive line. Crewe Youth club have accepted this requirement and aim to this in place by February 2024 are working with Cadent. Once an easement is in place Cadent has signalled an intention to remove the objection.

Reasons for Recommendations

- 15 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:
- 16 “(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-
- 17 An application for planning permission and respected development have been made under Part 3, and
- 18 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.”
- 19 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 planning application has been formally registered with the Council.
- 20 It is considered that it is necessary to divert part of Public Footpath No. 32 in the Town of Crewe as illustrated on Plan No. TCPA/022, to allow the construction of a new indoor sports facility, gymnasium and associated access, car parking and landscaping works as detailed within the planning reference 23/2182N.
- 21 The work of the Public Rights of Way team contributes to the Green aim for the Corporate Plan, the “thriving and sustainable place” priority and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

Other Options Considered

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

Implications and Comments

Monitoring Officer/Legal

- 23 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

- 24 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. Under existing arrangements maintenance of the Public Right of Way would borne by Cheshire East Highways from existing Council budgets.

Policy

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

A thriving and sustainable place

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

Thriving urban and rural economies with opportunities for all

Be a carbon neutral council by 2025

Equality, Diversity and Inclusion

- 26 An assessment in relation to the Equality Act 2010 has been carried out and it is considered that the proposed diversion is no less convenient to use than the current one.

Human Resources

- 27 There are no direct implications for Human Resources.

Risk Management

- 28 There are no direct implications for risk management.

Rural Communities

- 29 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)

30 There are no direct implications for Children and Young People

Public Health

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

Climate Change

32 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 022
Background Papers:	The background papers and file relating to the report can be inspected by contacting the report writer.