

CHESHIRE EAST COUNCIL

Public Rights Of Way Committee

Date of Meeting: 11 June 2012
Report of: Public Rights of Way Manager
Subject/Title: Town and Country Planning Act 1990 Section 257
Application for the Diversion of Public Footpath No.1 (Part) Pari
of Hankelow

1.0 Purpose of Report

1.1 The report outlines the investigation to divert part of Public Footpath No. 1 in the Parish of Hankelow. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way Unit as a response to an application for planning approval submitted by Mr Ian Glennister of Lanyon Bowdler Solicitors for the redevelopment of existing barns at Manor Farm, Hall Lane, Hankelow, including construction of a garage block. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an Order should be made to divert the section of footpath concerned.

2.0 Recommendations

2.1 Subject to planning permission being issued in relation to planning application reference 11/3818N, approval is given for an Order to be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 1, Hankelow as illustrated on Plan No. TCPA/009 on the grounds that the Borough Council is satisfied that it is necessary to do so to allow development to take place on the condition that planning consent is given.

2.2 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 Acts.

2.3 In the event of objections to the Order being received and not resolved, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

3.0 Financial Implications

3.1 Not applicable

4.0 Legal Implications

- 4.1 Objections received to the proposed order, if not withdrawn, could lead to a public inquiry or hearing with attendant legal involvement and use of resources.

5.0 Risk Assessment

- 5.1 Not applicable

6.0 Background and Options

- 6.1 An application has been received from Mr Andrew Jones of CAS Estates (“agent”) on behalf of Mr Ian Glennister (“the Applicant”) of Lanyon Bowdler Solicitors, 39-41 Church Street, Oswestry, SY11 2SZ requesting that the Council make an Order under section 257 of the Town and County Planning Act 1990 to divert part of Public Footpath No. 1 in the Parish of Hankelow.
- 6.2 Public Footpath No. 1 Hankelow commences at its junction with Hall Lane at OS grid reference SJ 6683 4562 and runs in a generally south westerly direction through the grounds of Manor Farm after which it bears south, south westerly and then southerly through fields to its junction with Audlem Road at OS grid reference SJ 6664 4497. The section of path to be diverted is shown by a solid black line on Plan No. T CPA/009 running between points A-B. The proposed diversion is illustrated with a black dashed line on the same plan, running between points A-C-D-B.
- 6.3 The existing alignment of the footpath would be directly affected by the proposed construction of a garage block which will be developed in the interests of Mr Glennister (“applicant”) who owns the land over which runs this section of the footpath, once planning permission is granted.
- 6.4 A planning application has been submitted but not yet granted for proposed barn conversions at Manor Farm, Hall Lane, Hankelow, Nantwich, CW3 0JB, cited as Planning Permission Ref: 11/3818N.
- 6.5 Part of the current line of Public Footpath No.1 Hankelow (A-B) lies directly on the site of the construction of the garage as shown on the plan submitted by the applicant’s agent (Hank07) and would be obstructed by it. Therefore, the footpath diversion is required to provide public access around the garage. The length of footpath proposed to be diverted is approximately 30 metres.
- 6.6 The proposed route for the footpath is approximately 37 metres long and would move the footpath from point A to bypass the garage by entering a field to the north (point C) and then following the southern field boundary before re-entering the property grounds (point D) to rejoin the current route at point B on Plan No. T CPA/009.
- 6.7 The local Councillor, Councillor Rhoda Bailey, has been consulted about the proposal. No comments were received.

- 6.8 Hankelow Parish Council has been consulted about the proposal and registered no objection to the diversion.
- 6.9 The statutory undertakers have also been consulted and have no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 6.10 The user groups have been consulted. No responses have been received.
- 6.12 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 6.13 An assessment in relation to Equality Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion would be not be significantly less easy to use than the current route.

7.0 Reasons for Recommendation

- 7.1 In accordance with Section 257 of the Town and Country Planning Act 1990, the Borough Council, as 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 in accordance with a planning permission that has been granted.
- 7.2 It is considered that it is necessary to divert part of Footpath No. 1 Hankelow as illustrated on Plan No. TCPA/009, to allow for the construction of a garage block in accordance with the pending planning permission; reference number 11/3818N.
- 7.3 Consultations have not elicited any objections to the proposal and it is considered that the legal tests for the making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 are satisfied and be considered for approval on condition that Planning Application reference number 11/3818N is granted.

For further information:

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Background Documents: PROW file 142D/443