

CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting: 8th December 2014
Report of: Public Rights of Way Manager
Subject/Title: Public Hearing to Determine Public Path Extinguishment Order - The Cheshire East Borough Council (Public Footpath No. 29 (Part) Parish of Sandbach) Public Path Extinguishment Order 2013

1.0 Report Summary

1.1 This report is an informative item to brief members on a recent public Hearing and the outcome.

2.0 Recommendation

2.1 No decision is required by Committee.

3.0 Reasons for Recommendations

3.1 N/A

4.0 Wards Affected

4.1 Sandbach Ettiley Heath and Wheelock..

5.0 Local Ward Members

5.1 Councillor Gail Wait.

6.0 Policy Implications

6.1 Not Applicable

7.0 Financial Implications

7.1 Not Applicable

8.0 Legal Implications

8.1 Once an Order has been made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and this may lead to a public hearing/inquiry. It follows that the Committee decision may be confirmed or

not confirmed. This process may involve additional legal support and resources

9.0 Risk Management

9.1 None

10.0 Background and Options

- 10.1 An application was received from Mr Frank Murray of Ipstones Developments Ltd requesting that the Council make an Order under section 118 of the Highways Act 1980 to extinguish part of Public Footpath No. 29 in the Parish of Sandbach. The application was supported by two additional landowners also affected by this section of footpath.
- 10.2 Cheshire East Borough Council considered this application in a report put before the Rights of Way Committee in September 2013 and the making of an order was approved. Two objections to the Order were received within the statutory time period; from Mr Chris Meewezen on behalf of the Congleton Ramblers Group and Mr Terry Norris on behalf of The Peak and Northern Footpaths Society
- 10.3 The objections were based on various reasons. In summary, the main points were that there was a demonstrable public need for the footpath and that the alternative route was not acceptable as it was substantially inconvenient.
- 10.4 As the objections were not withdrawn consequently a file of the relevant information was submitted to the Planning Inspectorate in April 2014.
- 10.5 A public Hearing was held on 30th September 2014 at Westfields. The Council was represented by Hannah Duncan (Definitive Map Officer) and Mike Taylor (Public Rights of Way Manager). The objectors represented themselves. The appointed Inspector was Michael Lowe.
- 10.6 The Hearing heard evidence in support of the Order from the Council's Public Rights of Way Manager, Mike Taylor and Definitive Map Officer, Hannah Duncan. In opposition to the Order the Hearing heard evidence from Terry Norris of the Peak and Northern Footpaths Society, Chris Meewezen of the Congleton Ramblers Group and local resident, Roger Foden. The basis of the evidence in support of the Order was that the lack of complaints about the long standing obstruction was a good indication that the path was not needed and that the alternative, more attractive and safer route was satisfactory.
- 10.7 The evidence in opposition to the order was that footpath No. 29 was a more attractive route for walkers in comparison to the alternative route and that it would be a more direct route for some residents to access the local shop and wider countryside. The Ramblers had gathered 24 signatures on a petition in support of this.

- 10.8 The Hearing was closed and concluded on 30th September 2014. The Inspector issued a decision letter on the 18th November 2014 in which he did not confirm the order. The balance of the argument weighed in favour of retaining the footpath as the Inspector believed that a significant number of local residents on the estate would find the footpath a convenient route to the local shop and other locations (if it were available) and attached considerable weight to this factor.
- 10.9 The Council is now required to give notice of this decision on any person on whom notices were required to be served under paragraphs 1(3)(b), (3c) or (4).

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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