

# **CHESHIRE EAST COUNCIL**

## **REPORT TO: RIGHTS OF WAY COMMITTEE**

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**Date of meeting:** 7 September 2009  
**Report of:** Greenspaces Manager  
**Subject/Title:** Town and Country Planning Act 1990 - Section 257  
Application for the Diversion of Public  
Footpath No. 7 (Part) Parish of Warmingham

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### **1.0 Report Summary**

- 1.1 The report outlines the investigation of an application to divert part of Public Footpath No. 7 in the Parish of Warmingham. This includes a discussion of consultations carried out in respect of the application and the legal tests for a diversion order to be made. The application has been made by EDF Energy Limited. The report makes a recommendation based on that information, for Members as to whether an Order should be made to divert the footpath.

### **2.0 Recommendations**

- 2.1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 7 Warmingham as illustrated on Plan No. TCPA/001 on the grounds that the Borough Council is satisfied that it is necessary to do so to allow development to take place.
- 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, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

### **3.0 Reasons for Recommendations**

- 3.1 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.
- 3.2 It is considered that it is necessary to divert part of Footpath No. 7 Warmingham as illustrated on Plan No. TCPA/001 to allow for the

extension of the gas processing plant. Planning consent was granted on 31 March 2009 to allow for the extension of the gas processing plant.

- 3.3 Those consulted have no 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.

#### **4.0 Wards Affected**

- 4.1 Cholmondeley

#### **5.0 Local Ward Members**

- 5.1 Councillor Rachel Bailey  
Councillor Margaret Hollins  
Councillor Allan Richardson

#### **6.0 Policy Implications including - Climate change - Health**

- 6.1 Not applicable.

#### **7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

- 7.1 Not applicable.

#### **8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

- 8.1 Not applicable.

#### **9.0 Legal Implications (Authorised by the Borough Solicitor)**

- 9.1 Objections received to a proposed order, if not withdrawn, could lead to a public inquiry or hearing with attendant legal involvement and use of resources.

#### **10.0 Risk Management**

- 10.1 Not applicable.

#### **11.0 Background and Options**

- 11.1 An application has been received from EDF Energy Limited ('the Applicant') 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. 7 in the Parish of Warmingham.

- 11.2 Public Footpath No. 7 Warmingham commences on Drury Lane (UY1446) at OS grid reference SJ 7065 5966 and runs in a generally northerly direction to Forge Mill Lane at OS grid reference SJ 6985 6251. The section of path to be diverted is shown by a solid black line on Plan No. TCPA/001 running between points A-B. The proposed diversion is illustrated with a black dashed line on the same plan, running between points A-B.
- 11.3 The existing alignment of the footpath would be directly affected by the conversion of the existing brine cavities to gas storage due to the need to create drilling compounds and soil storage areas around each well head for a number of years and the requirement for an enlarged fenced compound around each converted well head. The land is owned by British Salt Limited and Mrs Diane Nelson, who have consented to the proposed diversion
- 11.4 Planning permission was granted to the applicant on 31 March 2009. The application is cited as Planning Permission Ref: 7/2008/CCC/15 'to allow for the extension of the gas processing plant and link to National Transmission System, electricity and manifold compounds, conversion of ten brine cavities to gas storage and associated infrastructure at land at Hill Top Farm, Hole House Farm, Spring Moss Farm and Parkfield Farm, Warmingham, Cheshire'.
- 11.5 The current line of Public Footpath No. 7 Warmingham (A-B) passes in close proximity to the existing Brine Well Heads Nos. 9, 7 and 5 and their associated infrastructure, as shown on Plan No. TCPA/001. In addition, the areas surrounding the enclosed compounds would be required for future maintenance access and the site will become a COMAH (Control of Major Accident Hazards Regulations 1999) site, due to the storage of large quantities of gas within the site. As such it is considered necessary to divert the footpath away from the operational well head compounds for gas storage cavities. The length of footpath proposed to be diverted is approximately 485 metres.
- 11.6 The proposed route for the footpath is approximately 510 metres and would move the footpath away from the proposed gas well head infrastructure, crossing agricultural fields to the west of the development. It would require three kissing gates where it crosses the field boundaries.
- 11.7 The local Councillors have been consulted about the proposal. Councillor Rachel Bailey responded to state that she attended a meeting at Warmingham Parish Council 'who consider the diversion to be eminently sensible'. Councillor Bailey concurred with the view of the Parish Council.
- 11.8 Warmingham Parish Council have been consulted about the proposal and responded to state that they have no objections.

- 11.9 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.
- 11.10 The user groups have been consulted. The Peak and Northern Footpaths Society have responded to state that they have no objection.
- 11.11 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 11.12 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

## **12.0 Overview of Year One and Term One Issues**

- 12.1 Not applicable.

## **13.0 Access to Information**

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

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