

Public Rights of Way Committee

Date of Meeting: 10 June 2019

Report Title: Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpath No.20 (parts) in the Town of Crewe.

Senior Officer: Frank Jordan, Executive Director Place

1. Report Summary

- 1.1. This report outlines the investigation to divert Public Footpath No.20 (parts) in the Town of Crewe. This includes a discussion of the consultations carried out in respect of the proposal and the legal tests to be considered for a diversion Order to be made under the Town and Country Planning Act 1990. The proposal has been put forward by Jacobs UK Limited on behalf of Cheshire East Borough Council in response to a planning application being submitted for highway infrastructure measures and associated works, in the Leighton area of Crewe, also known as the North West Crewe Package;

Planning Application: 18/6118N, Land between Flowers Lane, Minshull New Road the A530 Middlewich Road and North of Pym's Lane Crewe.

- 1.2. The report makes a recommendation based on that information, for a quasi-judicial decision by Members as to whether or not a diversion Order should be made for that section of public footpath.
- 1.3. The proposal contributes to the Corporate Plan Outcomes 4 "Cheshire East is a green and sustainable place" and 5 "People live well and for longer", and the policies and objectives of the Council's statutory Rights of Way Improvement Plan.

2. Recommendation/s

- 2.1. A public path diversion Order be made under Section 257 of the Town and Country Planning Act 1990 to divert parts of Public Footpath No.20 in the

Town of Crewe on grounds that the Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development.

- 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, 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.
- 2.3. In the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

3. Reasons for Recommendation/s

- 3.1. In accordance with Section 257 of the Town and Country Planning Act 1990 ("TCPA") as amended by Section 12 of the Growth and Infrastructure Act 2013:

"(1A) Subject to 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 in respect of development has 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."

- 3.2. The Council as the Local Planning Authority can make an Order diverting a public footpath if it is satisfied that it is necessary to do so to enable development to be carried out, provided a planning application has been formally registered with the Council.

4. Other Options Considered

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

5. Background

- 5.1. An application has been received from Jacobs UK Limited on behalf of Cheshire East Borough Council requesting that the Council make an Order under section 257 of the Town and Country Planning Act 1990 to divert a section of Public Footpath No.20 in the Town of Crewe to enable the development of a new spine road to be undertaken.

- 5.2. Public Footpath No.20 commences on Minshull New Road (UY457/C) at O.S. grid reference SJ 6877 5723 and runs in a generally westerly direction for a distance of approximately 126 metres. The footpath then curves slightly at O.S. grid reference SJ 6864 5724 in a generally westerly to south westerly direction for a distance of approximately 325 metres to O.S. grid reference SJ 6835 5712. The footpath then turns in a generally north westerly direction for a distance of approximately 65 metres to O.S. grid reference SJ 6833 5718 before continuing in a generally north easterly direction for a distance of approximately 67 metres to the Parish boundary and its junction with Public Footpath No.6 in the Parish of Leighton. The sections of path proposed to be diverted are shown on Plan No. TCPA/056 attached to this report as a solid black line between points A-B a total distance of approximately 159 metres and F-G-H a total distance of approximately 76 metres.
- 5.3. The proposed diversions are shown on the same Plan (TCPA/056) and are depicted by bold black dashes between points A-C-D-E-B and between points. F-J-I-H
- 5.4. The proposed diversion between points A-C-D-E-B would commence at O.S. grid reference SJ 6855 5721, point A on Plan No. TCPA/056, and would curve in a generally south south easterly direction for a distance of approximately 24 metres to O.S. grid reference SJ 6855 5719, point C on the Plan. The path would then curve in a generally south westerly direction over a proposed carriageway crossing point for a distance of approximately 23 metres to O.S. grid reference SJ 6853 5717, point D on the Plan. The path would then curve gently in a generally north westerly direction for a distance of approximately 30 metres to O.S. grid reference SJ 6850 5718, point E on the Plan, before continuing in a generally south westerly direction for a distance of approximately 100 metres to O.S. grid reference SJ 6841 5714, point B on the Plan, and the unaffected section of the footpath. This section of the proposed diversion would have a total distance of approximately 180 metres.
- 5.5. The proposed diversion between points F-J-I-H would commence at O.S. grid reference SJ 6839 5714 point F on Plan No. TCPA/056 and would run in a generally west south westerly direction for a distance of approximately 16 metres to O.S. grid reference SJ 6838 5713, point J on the Plan, the path would then turn to run in a generally north north westerly direction over a proposed carriageway crossing point to O.S. grid reference SJ 6837 5715, point I on the Plan, for a distance of approximately 23 metres. The path would then turn to run in a generally west south westerly direction for a distance of approximately 32 metres to O.S. grid reference SJ 6834 5714, point H on the Plan, to reconnect with the remaining unaffected section of

the public footpath. This section of the proposed diversion would have a total distance of approximately 75 metres.

- 5.6. Initially the proposal was to fence the diversion away from the carriageway; however, since the informal consultation was undertaken the road designers have decided that to do so would introduce costly long term maintenance requirements. The footpath will instead be segregated by a row of around eight individual trees to be planted in the greenspace between the Footpath and carriageway. This will provide a form of segregation whilst maintaining an open feel to the area. There is no requirement for the addition of any path furniture along the proposed diversions. The proposed diversions will run approximately 4 metres away from and parallel to the carriageway. The diversion would be at least 2 metres wide and have a compacted stone surface throughout, except where the path crosses the carriageway. The section of path crossing the carriageway would have tactile paving and dropped kerbs to indicate their presence, and would have a central pedestrian island.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. Once an Order is 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 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.

6.2. Finance Implications

- 6.2.1. If objections to the Order lead to a subsequent hearing or inquiry, this legal process would have financial implications for the Council.

6.3. Policy Implications

- 6.3.1. There are no direct policy implications.

6.4. Equality Implications

- 6.5. An assessment in relation to the Equality Act 2010 has been carried out by the PROW Network Management and Enforcement Officer for the area and it is considered that the proposed diversion would be no less convenient to use than the current one.

6.6. Human Resources Implications

6.6.1. There are no direct human resource implications.

6.7. Risk Management Implications

6.7.1. There are no direct risk management implications.

6.8. Rural Communities Implications

6.8.1. There are no direct implications for rural communities.

6.9. Implications for Children & Young People

6.9.1. There are no direct implications for children and young people.

6.10. Public Health Implications

6.10.1. There are no direct implications for public health.

7. Ward Members Affected

7.1. Crewe St Barnabas Ward Member Councillor Handley and Leighton Ward Member Councillor Evans have been consulted (post May 2019 elections). Both Ward Members have been sent a copy of this report. The deadline for comments is 6th June 2019. Any comments received will be reported verbally to the Public Rights of Way Committee.

8. Consultation & Engagement

8.1. Crewe Town Council have been consulted, any comments received by the consultation deadline on 6th June 2019 will be reported to the Public Rights of Way Committee verbally.

8.2. The user groups, Statutory Undertakers and the Council's Nature Conservation Officer have been consulted. Any comments received by 6th June 2019 will be reported to the Public Rights of Way Committee verbally.

9. Access to Information

9.1. The Background papers and file 181D/577 relating to this report can be inspected by contacting the report writer.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following

Officer Name: Sarah Fraser

Job Title: Public Path Orders Officer

Email: sarah.fraser@cheshireeast.gov.uk