

# **CHESHIRE EAST COUNCIL**

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

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**Date of meeting:** 10 June 2010  
**Report of:** Greenspaces Manager  
**Title:** Town and Country Planning Act 1990 Section 257  
Request To Formally Abandon  
“The Cheshire County Council (Footpath No.49 (Part)  
Parish Of Haslington, Borough of Crewe and  
Nantwich) Public Path Diversion Order 2009”

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### **1.0 Purpose of Report**

- 1.1 The report seeks Committee approval to formally abandon this diversion order, following a request for the same from the applicant (Land Recovery Limited, c/o Mineral Planning Group).

### **2.0 Recommendations**

- 2.1 That the diversion order “The Cheshire County Council (Footpath No.49 (part) Parish of Haslington, Borough of Crewe and Nantwich) Public Path Diversion Order 2009” be abandoned in accordance with the request of the applicant through their agent.

### **3.0 Reasons for Recommendation**

- 3.1 The diversion order attracted a number of objections from local people, largely due to the fact that the original line is an attractive “green lane” and has perceived high wildlife value. The original line of the path is open and available on the ground and has not, in fact, been affected by the quarry development, as the applicant undertook other works to meet other planning obligations, which ultimately mitigated against any adverse effect on the path.
- 3.1 The applicant’s agent has therefore requested that the diversion order be abandoned, as it is no longer required. It is therefore appropriate to abandon the order and for the path to remain on its original alignment.

### **4.0 Wards Affected**

- 4.1 Doddington

### **5.0 Local Ward Councillors**

Councillor David Brickhill, Councillor John Hammond and Councillor Rodney Walker.

## **6.0 Financial Implications**

- 6.1 As the diversion order is contested and would normally require sending to the Secretary of State for confirmation, to formally abandon it avoids the costs associated with any Public Inquiry.

## **7.0 Legal Implications**

- 7.1 Under s259 of the Town and Country Planning Act 1990, no order shall take effect unless confirmed by the Secretary of State, or unless confirmed, as an unopposed order, by the council. As the order has not been submitted to the Secretary of State for confirmation, the council may at this stage make a decision to abandon the proposed order, as a result of new evidence being supplied that the order is no longer necessary to enable development to be carried out.

## **8.0 Risk Assessment**

- 8.1 Not applicable

## **9.0 Background and Options**

- 9.1 Under the Town and Country Planning Act 1990, Planning Authorities have the power to make Orders to extinguish (close) or divert Public Rights of Way, if they grant a Planning Permission which will affect a Public Right of Way. In this case, the Cheshire County Council was satisfied that the Order was necessary and complied with the following legal grounds and tests laid down in Section 257 of the Town and Country Planning Act 1990 :

*A competent authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted under Part III of the Act.*

- 9.2 The Cheshire County Council made the Order on 29<sup>th</sup> January 2009, following an application from The Mineral Planning Group on behalf of Mr Beecroft of White Moss Quarry, Radway Green, Alsager. It had been approved by Cheshire County Council's Rights of Way Committee on 24<sup>th</sup> October 2008, as per the Report at Appendix 1.
- 9.3 The diversion related to the County Council granting planning consent (no. 7/2008/CCC/8) to develop an aggregate recycling and storage operation at White Moss Quarry. The original line of Footpath No. 49 Haslington runs along the south easterly edge of the development area and it was believed it would be affected by the proposal. The current line also crosses the haul road at the entrance and exit points to the site where vehicles were manoeuvring; the new route was to cross the road at a point where visibility is better. The new route was to run along the boundary of an adjacent field and have a mostly grass surface with a width of 2 metres.

## **10 Access to Information**

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

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