

Public Rights of Way Committee

Date of Meeting: 07 December 2020

Report Title: Highways Act 1980 s.119: Public Path Diversion Order, Goostrey Public Footpath No.12 (part) – Informative Report

Senior Officer: Frank Jordan, Executive Director, Place

1. Report Summary

- 1.1. This report is to inform the Committee that an Order made to divert part of Goostrey Public Footpath No. 12 was considered at a Public Inquiry held on 4th – 5th February 2020 and the decision was made not to confirm the Order.

2. Recommendation/s

- 2.1. That the content of this report be noted and minuted. No committee decision is required.

3. Reasons for Recommendation/s

- 3.1. To formally note that the Order made to divert part of Goostrey Public Footpath No. 12 was not confirmed following consideration of evidence presented and examined during a Public Inquiry held by the Planning Inspectorate on 4th - 5th February 2020.

4. Other Options Considered

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

5. Background

- 5.1. An application was received from Mr R Carr (agent) of Robin Carr Associates on behalf of Mr & Mrs Dick (applicants) of Swanwick Hall, Booth Bed Lane, Goostrey, Cheshire CW4 8NB, requesting the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 12 in the Parish of Goostrey.
- 5.2. The current path runs immediately in front of the residential property owned by the applicants, and then between it and the adjoining barns / farm

buildings through what was originally an area of farmyard, but is now more akin to the driveway, parking area and garages to the house. The applicants submitted the application to divert the footpath away from their property, to afford improved privacy and security to their property.

- 5.3. On 13th June 2016, the Committee resolved that an Order be made and confirmed to divert part of Goostrey Public Footpath No. 12 under section 119 of the Highways Act 1980. The diversion is shown on Plan No. HA/010A.
- 5.4. An Order was made and advertised for 28 days from 30th November 2016. Of the objections received, two were sustained. The case was therefore referred to the Planning Inspectorate for determination as the Authority cannot confirm an opposed Order.
- 5.5. A decision not to confirm the Order to divert part of Goostrey Public Footpath No. 12 was made following a Public Inquiry held on 4th - 5th February 2020.
- 5.6. The Inspector did not confirm the Order on the basis that despite the diversion route being more accessible than the current route, the enjoyment to be derived from experiencing the listed farmhouse and associated buildings in their proper context outweighed the enjoyment to be gained from the new path, such that the new path was less enjoyable as a whole. The Inspector noted that it was a very finely balanced case, but, in considering the legal tests necessary for the confirming of an Order, concluded that the loss of enjoyment outweighed the benefits to the landowners.

6. Implications of the Recommendations

6.1 Legal Implications

- 6.1.1 There are no legal implications.

6.2 Finance Implications

- 6.2.1 There are no financial implications.

6.3 Policy Implications

- 6.3.1 There are no direct policy implications.

6.4 Equality Implications

- 6.4.1 There are no direct equality implications.

6.5 Human Resources Implications

- 6.5.1 There are no direct human resources implications.

6.6 Risk Management Implications

6.6.1 There are no direct risk management implications.

6.7 Rural Communities Implications

6.7.1 There are no direct implications for rural communities.

6.8 Implications for Children & Young People

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

6.9 Public Health Implications

6.9.1 There are no direct implications for public health.

6.10 Climate Change Implications

6.10.1 The Council has committed to becoming carbon neutral by 2025 and to encourage all businesses, residents and organisations in Cheshire East to reduce their carbon footprint.

6.10.2 The work of the Public Rights of Way team encourages a reduction in carbon emissions and increased environmental sustainability by reducing energy consumption and promoting healthy lifestyles through active travel.

7 Ward Members Affected

7.1 Dane Valley Ward: Councillors Les Gilbert and Andrew Kolker were originally consulted.

8 Consultation & Engagement

8.1 Statutory and local user groups and statutory undertakers were originally consulted.

9 Access to Information

9.1 The background papers of file No. 132D/507 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:

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