
Date of Meeting:	6 th December 2021
Report Title:	Town and Country Planning Act 1990 s257 Application for the Diversion of Public Bridleway No's 10 and 11 (part), Parish of Arclid
Report of:	Jayne Traverse, Executive Director Place
Ward(s) Affected:	Brereton Rural

1. Executive Summary

- 1.1. The report outlines the investigation to divert Public Bridleway No. 10, and part of Public Bridleway No. 11 in the Parish of Arclid. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way team as an application has been received by a developer following a planning consent. This application was originally submitted by Bathgate Silica Sand Ltd to apply for permission to extend silica and sand workings at Arclid quarry, in a south westerly direction and to revise the development programme and restoration scheme approved under permission 09/2291W (Planning reference: 19/3951W).
- 1.2. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an order should be made to divert the sections of bridleway concerned.
- 1.3. Diversion of the above bridleways has been requested since their current alignment would otherwise be destroyed by sand excavation.
- 1.4. The work of the Public Rights of Way team contributes to the three Corporate Plan aims "We will provide strong community leadership and work transparently with our residents, businesses and partners to deliver our ambition in Cheshire East", "We aim to reduce inequalities, promote fairness and opportunity for all and support our most vulnerable residents" and "We

will lead our communities to protect and enhance our environment, tackle the climate emergency and drive sustainable development”.

2. Recommendation/s

- 2.1. That an Order be made under Section 257 of the Town and Country Planning Act 1990 to divert Public Bridleway No 10 and part of Public Bridleway No. 11 in the Parish of Arclid, as illustrated on Plan No TCPA/068 on the grounds that the 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 Act.
- 2.3. In the event of objections to the Order being received and not resolved, 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 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 in England of any footpath, bridleway or restricted byway if they are satisfied that—

an application for planning permission in respect of development has been made under Part 3, and 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. Thus the Council, as the Local Planning Authority, can make an Order diverting a bridleway if it is satisfied that it is necessary to do so to enable development to be carried out, providing that the application has been formally registered with the Council.
- 3.3. It is considered necessary to divert Public Bridleway No. 10 and part of Public Bridleway No. 11 in the Parish of Arclid as illustrated on Plan No. TCPA/068 to enable the sand excavations to go ahead as detailed within Planning Application: 19/3951W.
- 3.4. 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.

4. Other Options Considered

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

5. Background

5.1. An application has been received from Bathgate Silica Sand Ltd, requesting that the Council make an Order under section 257 of the Town and Country Planning Act 1990 to divert Public Bridleway No's 10 and 11 (part) in the Parish of Arclid.

5.2. Sand extraction is currently taking place at Arclid Quarry and planning permission (Planning reference: 19/3951W) was granted to the Archibald Bathgate Group on 28th January 2021 to extend their operations further, by undertaking additional excavations beneath land located to the south west of the quarry site. Over this land currently run Arclid bridleway No.10 and part of Arclid bridleway No.11. Therefore, to enable the sand extraction to continue, it is necessary to firstly divert the bridleways to new alignments further south west such that they would align along the perimeter boundaries of the quarry excavation area.

5.3. At present, the land over which the new alignments would run is pastureland and arable farmland. The sand excavations will change the nature of this land but, once complete, a comprehensive restoration plan will be undertaken to restore and relandscape the area. The land is owned by the applicant.

5.4. The new bridleway sections would be the same as the current routes to be diverted. They would have a surface of compacted loose aggregate material that would freely drain, would be 4 metres wide and enclosed by a post and wire netting fence (which would be removed once the excavations are complete, and the landscape restored). The only difference would be that two bridlegates would be installed at each end of the diversion route at its junctions with Hood Lane, and the current route (points F and T on Plan No. TCPA/068). The current routes to be diverted are free from path furniture.

5.5. Elaborating, Plan No. TCPA/068 shows the bridleway sections to be diverted and the new routes, using colour coding.

Diversion of Arclid Bridleway No 10

5.6. Arclid Bridleway No 10 to be diverted starts at its junction with Hood Lane (point A). From this point, the bridleway undulates along a southern field boundary in a generally west, north westerly direction (points A-B-C-D-E) terminating at point E where a 90 degree bend takes the bridleway in a northerly direction.

5.7. The proposed new route will start at its junction with Hood Lane further south to the current route (point F). From this point, it would pass through a bridle gate to then run in a generally north westerly direction (points F-G-H-I-J-K) before bearing in a northerly direction to point L and then in a generally easterly direction (points L-M-N-E) terminating at point E where it re-joins the current bridleway.

Diversion of Arclid Bridleway No 11 (part)

5.8. The part of Arclid Bridleway No 11 proposed for diversion starts at point O. From point O, it runs in a generally north, north easterly direction (points O-P), and then west, north westerly (points P-Q-R-S-T), to terminate opposite the junction to Arclid Cottage Farm (point E).

5.9. The proposed new route would have the same start point at point O, but would run in a generally westerly direction (points O-U-V) and then run in a generally northerly direction (points V-T) to terminate on re-joining the current route at point T, after passing through a bridle gate.

6. Consultation & Engagement

6.1. Brereton Rural Ward: Councillor John Wray was consulted and no comments were received.

6.2. Also consulted were Councillor Sam Corcoran and Councillor Michael Benson of neighbouring wards, Sandbach Heath and East and Sandbach Town respectively. No comments were received in direct relevance to the proposal.

6.3. Arclid Parish Council has been consulted and registered that Councillors have no objection to the diversion proposals.

6.4. The user groups have been consulted. The Peak and Northern Footpath Society (PNFS) registered no objection. No other comments were received.

6.5. The statutory undertakers have been consulted and have raised 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.

6.6. The Council's Nature Conservation Officer has been consulted, and no comments have been received.

7. Implications of the Recommendations

7.1 Legal Implications

7.1.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the 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.

7.2 Finance Implications

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

7.3 Policy Implications

7.3.1 There are no direct policy implications.

7.4 Equality Implications

7.4.1 An assessment in relation to the Equality Act 2010 has been carried out and it is considered that the proposed diversion would not be significantly less convenient to use than the current one.

7.5 Human Resources Implications

7.5.1 There are no direct human resources implications.

7.6 Risk Management Implications

7.6.1 There are no direct risk management implications.

7.7 Rural Communities Implications

7.7.1 There are no direct implications for rural communities.

7.8 Children and Young People/Cared for Children

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

7.9 Public Health Implications

7.9.1 There are no direct implications for public health.

7.10 Climate Change Implications

7.10.1 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.

7.10.2 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.

Access to Information	
Contact Officer:	Marianne Nixon, Public Path Orders marianne.nixon@cheshireeast.gov.uk 01270 686 077
Appendices:	Plan No. TCPA/068
Background Papers:	The background papers relating to this report can be inspected by contacting Marianne Nixon and quoting the following file reference: File No. 016D/594