

Public Rights of Way Sub Committee

Date of Meeting:	1 st August 2022
Report Title:	Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpaths No. 12 and 14 in the Parish of Wardle
Report of:	Jayne Traverse, Executive Director Place
Ward(s) Affected:	Wardle

1. Purpose of Report

- 1.1. The report outlines the investigation to divert part of Public Footpath No. 12 and 14 in the Parish of Wardle following receipt of an application for a developer.
- 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 work of the Public Rights of Way team contributes to the Corporate Plan priority “A thriving and sustainable place”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

2. Executive Summary

- 2.1. This report outlines the investigation to divert part of Public Footpath No. 12 and 14 in the Parish of Wardle. 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 Town and Country Planning Act 1990.

- 2.2.** The recommendation will be that a Public Path Diversion Order be made under Section 257 of the Town and Country Planning Act 1990 on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.

3. Recommendations

- 3.1.** A Public Path Diversion Order be made under Section 257 of the Town and Country Planning Act 1990 on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.
- 3.2.** 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.
- 3.3.** In the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or Public Inquiry.

4. Reasons for Recommendations

- 4.1.** 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.”
- 4.2.** The Council, as the Local 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, providing that the application has been formally registered with the Council.
- 4.3.** It is considered that it is necessary to divert part of Footpath No. 12 and 14 in the Parish of Wardle as illustrated on Plan No. TCPA/070, to allow for the development of a spine road and other associated infrastructure works, as detailed within planning reference 21/6382N.

5. Other Options Considered

- 5.1.** Not applicable – this is a non-executive matter.

6. Background

- 6.1.** An application has been received from AEW Architects on behalf of Philip Posnett requesting that the Council make an Order under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 12 and No. 14 in the Parish of Wardle as it is deemed necessary to allow for the second phase of the spine road construction and other associated infrastructure works as detailed within planning reference 21/6382N.
- 6.2.** Public Footpath No. 12 in the Parish of Wardle commences at its junction with Public Footpath No. 1 in the Parish of Wardle and runs for approximately 1450 metres in a generally south westerly direction to its junction with the parish Boundary of Wardle and Haughton.
- 6.3.** Public Footpath No. 14 in the parish of Wardle commences at its junction with Wardle Footpath No. 12 and runs in a generally southerly direction for approximately 642 metres to its junction with Public Footpath No. 10 in the Parish of Haughton.
- 6.4.** The existing alignment of Public Footpath No. 12 and No. 14 in the Parish of Wardle will be directly affected by the construction of a new spine road and associated infrastructure, therefore the diversion is required to preserve the public rights of way. The associated planning application, 21/6382N, has not yet been approved, this proposed diversion will not come in to affect until such time that it is approved.
- 6.5.** The length of Public Footpath No. 12 in the Parish of Wardle to be diverted is shown as a bold black line on Plan No. TCPA/70 between points A-C-B. It commences at point A and continues in a generally west south westerly direction for approximately 210 metres along an old track on site, at point C the definitive line then leaves the old track and crosses a ploughed field and continues in a generally south westerly direction for approximately 255 metres to point B.
- 6.6.** The proposed diversion of Public Footpath No. 12 in the Parish of Wardle is shown as a dashed black line between points E-F-G-B. The diversion will run from point E to point F in a generally west south westerly direction for approximately 122 metres, it will be 2 metres in width with a compacted hardcore surface with a top dressing and will run through a green corridor of existing planting, it will be 10 metres away from the road in this section. It will then run from point F to point B in a generally south westerly direction for

approximately 360 metres. It will be 2 metres in width with a tarmac surface and will be within a 7 metre wide green corridor, it will be 5 metres away from the spine road. There will be one main road crossing with dropped kerbs for crossing, and will follow the road around a bus turning area. This road will remain private and will not be adopted highway.

- 6.7.** The proposed diversion route commences at Point E, this will join with a previous diversion of Wardle Footpath No. 12 which is currently at confirmation stage. This will be completed before the proposed Order is signed and therefore the network will remain connected.
- 6.8.** The length of Public Footpath No. 14 in the Parish of Wardle to be diverted is shown as a bold black line on Plan No. TCPA/70 between points C-D. It commences at point C and runs in a generally south westerly direction for approximately 70 metres along an old track.
- 6.9.** The proposed diversion of Public Footpath No. 14 in the Parish of Wardle is shown as a dashed black line between points G-D. it runs in a generally south easterly direction for approximately 12 metres and will be a tarmaced crossing over the road, with dropped kerbs at the crossing.
- 6.10.** It is proposed that a further diversion of the next section of Wardle Footpath No. 14 will be carried out under a future planning application for the site once the plans for the buildings have been completed..

7. Consultation and Engagement

- 7.1.** The Ward member for Bunbury, the Wardle Parish Council, the user groups, statutory undertakers, adjacent residents and the Council's Nature Conservation Officer have been consulted and have raised no objections.

8. Implications

8.1. Legal

- 8.1.1.** 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.

8.2. Finance

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

8.3. Policy

8.3.1. There are no direct policy implications.

8.4. Equality

8.4.1. 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.

8.5. Human Resources

8.5.1. There are no direct human resource implications.

8.6. Risk Management

8.6.1. There are no direct risk management implications.

8.7. Rural Communities

8.7.1. There are no direct implications for rural communities.

8.8. Children and Young People/Cared for Children

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

8.9. Public Health

8.9.1. There are no direct implications for public health.

8.10. Climate Change

8.10.1. 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.

8.10.2. The diversion of the Public Footpath would enable better access to the public rights of way network by members of the public on foot with the potential for the improvement and promotion of active healthy lifestyles and wellbeing.

Access to Information	
Contact Officer:	Laura Allenet – Public Path Orders Officer Laura.allenet@cheshireeast.gov.uk 01270 686053
Appendices:	Plan No. TCPA/070 and developers plan

Background Papers:	The background papers and file relating to the report can be inspected by contacting the report writer.
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