

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Public Rights of Way Committee**
held on Monday, 12th June, 2017 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor M Hardy (Chairman)

Councillors Rhoda Bailey, S Davies, L Gilbert, L Jeuda (substitute for Cllr D Flude) and J Wray

Officers

Mike Taylor, Rights of Way Manager
Clare Hibbert, Definitive Map Officer
Marianne Nixon, Public Path Orders Officer
Sarah Baxter, Democratic Services Officer
Sheila Dillon, Senior Lawyer, Legal Services

1 APOLOGIES FOR ABSENCE

Apologies were received from Councillors D Flude and T Fox.

2 DECLARATIONS OF INTEREST

Councillor M Hardy, in the interests of openness in relation to Item 7, declared that he was the Ward Councillor and had worked with local residents in respect of the planning application but had no input in the diversion application.

3 MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting held on 13 March 2017 be confirmed as a correct record and signed by the Chairman.

4 PUBLIC SPEAKING TIME/OPEN SESSION

The Chairman advised that he would invite those registered to speak to come forward to speak when the application was being considered by the Committee.

5 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257: APPLICATION FOR THE DIVERSION OF AN UNRECORDED FOOTPATH, CHURCH LANE, WISTASTON

The Committee considered a report which detailed an application from Gladman Developments Ltd requesting the Council to make an Order under Section 257 of the Town and Country Planning Act 1990 to divert an Unrecorded Footpath on land off Church Lane, Wistaston.

In accordance with Section 257 of the Town and Country Planning Act 1990 the Borough Council, as Planning Authority, can make an Order diverting a public right of way if it was satisfied that it was necessary to do so to enable development to be carried out in accordance with a planning permission that had been applied for or granted.

Planning approval had been granted for an outline application for a proposed residential development of up to 300 dwellings, site access, public open space, landscaping and associated infrastructure – planning reference 14/3024N.

The footpath was not currently recorded on the Definitive Map, but was the subject of a Definitive Map Modification Order application, which had been submitted in July 2015 by Mr FP Alcock.

The Committee, at its last meeting, had deferred making a decision on an application to divert the Unrecorded Footpath to allow residents to negotiate with the developers on the position of the proposed diversion and to allow for advice and clarity to be sought from the planning officer regarding the diversion and whether it complied with the conditioned plans.

Following the meeting, the Applicant had met with one of the Ward Councillors and a representative from the local residents. This had resulted in a second application being submitted, which had amended the proposed diversion so that the section of footpath running easterly from Public Footpath No.1 to points E and F would now run behind the houses on Church Lane – as shown as J-K-L on Plan TCPA/038(2), and within a green corridor which would be made up of a 3 metre wide tarmacked path within a 6 metre wide green zone with private drives to the north and the connecting properties facing southerly onto the drives and the footpath.

The remaining part of the proposed diversion would remain the same as the previous application. The intent of which was to retain the nature of the claimed path as a circular route with the northern and western lengths still running through an undeveloped green zone, although the southern alignment would be more urban in character.

Councillor M Simon, Ward Councillor, thanked the Committee for their decision to defer the application as further discussions with Gladman had

resulted in an amended plan which local residents were happy with. She thanked Gladman for their support and co-operation in assisting them to reach a resolution that couldn't have led to a better outcome. In addition she had been asked by Peter Wainwright who attended the last meeting to seek clarification in respect of the bowling green hedge which currently was maintained by the bowling club. As a result of the proposal one side of the hedge would be in the footpath area and therefore Mr Wainwright was querying who would be responsible for maintaining that side of the hedge.

Mr Kevin Waters of Gladman Developments Ltd spoke in support of the application and stated that the principle point of objection related to part of the route to the North of properties J-L. Gladman had met with Councillor M Simon and local residents in order to address the issues. As a result of further discussion part of the route was amended and the remainder of the route was unchanged. Gladman were pleased with the feedback received.

Daniel Evans, the Principal Planning Officer confirmed that the revised proposal satisfied the relevant planning condition. He confirmed a housebuilder had now been selected which would now make a significant contribution to the Council's housing supply. In respect of Councillor M Simon's query relating to the hedge he confirmed it would be the responsibility of one of the two landowners.

Consultation had been carried out on the second application. The Ward Councillors had been consulted and responded to say that the amended application had taken account of residents' wishes and that the proposed diversion was acceptable.

Daniel Evans, Principal Planning Officer for Cheshire East Council, had been consulted as the officer involved with the planning process for the application. He considered that on balance this proposal meets the requirements of planning condition 16 of the planning permission, which required that a scheme of pedestrian and cycle provision through the site shall be substantially in accordance with the Footpaths and Cycleways plan approved by the Planning Inspector. However, he believed that the revised layout offered a number of disadvantages to the existing residents of Church Lane. These being that they would have dwellings facing into their rear boundaries rather than backing on; there would be vehicular movements along the private drives to the rear of their houses and that the footpath to the rear would allow users to walk along the rear boundaries of their properties.

Mr Griffith, a resident of Church Lane, had raised several queries regarding the details of the proposed development as he was concerned about privacy and security. Gladman Developments Ltd had responded directly to him to say that these elements would be part of the reserved matters planning application and expected that neighbouring residents would be consulted at that time.

Mr Alcock, the applicant for the Definitive Map Modification Order, had responded to say that the amended route was very similar to the route put forward in his application and he assumed that the opportunity to comment on details such as levels, planting, surface finish and enclosures would be available at the reserved matters stage. He therefore had no objections to the amended proposal.

Mr Weaver who lives at an adjacent property on Church Lane had rung in to say that he was concerned about the likelihood of dog fouling issues arising on the footpath to the rear and wished to know about the future maintenance of the footpath. He was not objecting to the proposal.

The Committee considered the application and concluded that it would be necessary to divert the Unrecorded Footpath to allow for the construction of 300 houses and associated infrastructure as detailed within planning reference 14/3024N. The Unrecorded Footpath would be directly affected by the proposed housing and road network. It was considered that the legal tests for the making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 were satisfied.

The Committee unanimously

RESOLVED: That

- 1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert the Unrecorded Footpath on land off Church Lane, Wistaston, as illustrated on Plan No. TCPA/038(2), on the grounds that the Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.
 - 2 Public Notice of the making of the Order is 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 Acts.
 - 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.
- 6 **TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 48 (PART) PARISH OF HASLINGTON**

The Committee considered a report which detailed an application from Stewart Milne Homes requesting the Council to make an Order under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.48 in the parish of Haslington.

In accordance with Section 257 of the Town and Country Planning Act 1990, the Borough Council, as Local Planning Authority, could make an Order diverting a footpath if it was satisfied that it was necessary to do so to enable development to be carried out in accordance with a planning permission that had been applied for or granted.

Planning approval had been granted for a reserved matters application for the erection of 40 dwellings comprising of 1, 2, 3, 4 and 5 bedroom houses, open space and associated works – planning reference 16/4729N.

The existing alignment of the footpath would be affected by the housing development. Due to the size and layout of the site it was not possible to retain the footpath on its current alignment. Part of the affected footpath ran through Yew Tree Farm and had been obstructed by outbuildings for many years, although there had always been a route available to use. The farm and the yard would remain unaffected but the land on three sides would be developed. The diversion would take the footpath along the boundary of the site, abutting open fields – points C-D-B on Plan No.TCPA/039.

The proposed route would be 2 metres wide with timber edging and a compacted stone surface. There would be a 2 metre wide buffer zone from the base of the adjacent hedge to the north west side of the path. The hedge would be maintained to a height of 1.2 metres. The fence boundaries to the south east side of the path and the rear and sides of the adjacent properties would be no higher than 1.8 metres.

The Committee considered the application and concluded that it was necessary to divert part of Public Footpath No.48 Haslington to allow for the erection of 40 dwellings, open space and associated works as detailed within planning reference 16/4729N. It was considered that the legal tests for the making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 were satisfied.

The Committee unanimously

RESOLVED: That

- 1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.48 Haslington, as illustrated on Plan No.TCPA/039, on the grounds that it is necessary to do so in order to enable development to be carried out.
- 2 Public Notice of the making of the Order is 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 Acts.

- 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.

7 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 20 (PART), PARISH OF MACCLESFIELD

The Committee considered a report which detailed an application from Mr Simon Chandler of Chandler Harris LLP on behalf of Belong Ltd, Pepper House, Market Street, Nantwich requesting the Council to make an Order under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.20 in the parish of Macclesfield.

In accordance with Section 257 of the Town and Country Planning Act 1990, the Borough Council, as Planning Authority, could make an Order diverting a footpath if it was satisfied that it was necessary to do so to enable development to be carried out in accordance with a planning permission that had been applied for or granted.

Planning approval had been granted in August 2016 for a new 30 space surfaced car park – planning reference 15/5536M.

Mr John Evans spoke in support of the application and stated that he was representing a number of local residents who were all in support of the proposal. He stated it would enable Belong to construct a long awaited car park which would assist in alleviating the parking issues around the locality, as well as restoring some normality to highway traffic around Kennedy Avenue, improve the safety for all road users in the immediate area and give the local residents some overdue respite from the ongoing parking problems suffered.

The existing alignment of the footpath section proposed for diversion would be directly affected by the development of the car park. The land over which the current route ran and over which the proposed diversion route would run was entirely owned by Cheshire East Council and written agreement for the diversion proposal had been secured from the Council.

The proposed new route would start within the public open space and then follow a direct line along the western perimeter of the car park to join Kennedy Avenue – points A-D on Plan No.TCPA/041. The new route would have a width of 2 metres and would have a grass surface.

The Committee considered the application and concluded that it was necessary to divert part of Public Footpath No.20 Macclesfield to allow for the provision of a 30 space surface car park, as detailed within planning reference 15/5536M. It was considered that the legal tests for the making and confirming of a Diversion Order under Section 257 of the Town and Country Planning Act 1990 were satisfied.

The Committee unanimously

RESOLVED: That

- 1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.20 Macclesfield, as illustrated on Plan No.TCPA/041, on the grounds that the Borough Council is satisfied that it is necessary to do so to allow development to take place.
 - 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 Acts.
 - 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.
- 8 **TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NOS. 4 AND 5 (PARTS) PARISH OF HASLINGTON**

The Committee considered a report which detailed an application from Mrs Olivia Starkey of Wright Marshall on behalf of the Cheshire Farm Service of Cheshire East Borough Council, requesting the Council to make an Order under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath Nos.4 and 5 in the parish of Haslington.

In accordance with Section 257 of the Town and Country Planning Act 1990, the Borough Council, as Planning Authority, could make an Order diverting a footpath if it was satisfied that it was necessary to do so to enable development to be carried out in accordance with a planning permission that had been applied for or granted.

Planning permission had been granted in March 2017 for the conversion of Hall 'o' the Heath Farm to form three new residential units – planning reference 16/5835N.

The existing alignment of the footpath sections proposed for diversion would be affected by the development of the residential property. The use of the land over which these footpath sections ran would change from farm operations to residential usage of communal areas and gardens. The land over which the current route ran and over which the proposed route would run was entirely owned by Cheshire East Borough Council.

The Committee considered the application and concluded that it was necessary to divert parts of Public Footpaths Nos.4 and 5 Haslington to allow for the conversion of the farm buildings, as detailed in planning reference 16/5835N. It was considered that the legal tests for the making

and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 were satisfied.

The Committee unanimously

RESOLVED: That

- 1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert parts of Public Footpath Nos.4 and 5 Haslington, as illustrated on Plan No. TCPA/040, on the grounds that the Borough Council is satisfied that it is necessary to do so to allow development to take place.
- 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 Acts.
- 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.

9 PUBLIC RIGHTS OF WAY ANNUAL REPORT 2016/17 AND WORK PROGRAMME 2017/18

The Committee considered a report which detailed the achievements of the Public Rights of Way service during 2016-17 and set out the proposed work programme for 2017-18.

The Public Rights of Way Manager reported on the work carried out during 2016-17 by the Network Management and Enforcement Team and the Legal Orders Team. Specific performance was detailed in the Appendices to the report.

The budget for Public Rights of Way had remained as set throughout the year which had allowed the team to both plan spending and clear previous backlogs that had arisen.

RESOLVED:

That the Annual Report for 2016-17 be noted and the proposed Work Programme for the Public Rights of Way Team for 2017-18 be approved.

The meeting commenced at 2.00 pm and concluded at 3.05 pm

Councillor M Hardy (Chairman)