

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Public Rights of Way Committee**  
held on Monday, 12th March, 2018 at Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

### **PRESENT**

Councillor M Hardy (Chairman)  
Councillor D Flude (Vice-Chairman)

Councillors Rhoda Bailey, W S Davies, T Fox, L Gilbert and J Wray

### **Officers in attendance**

James Felton, Planning Lawyer  
Clare Hibbert, Definitive Map Officer  
Laura Brown, Public Path Orders Officer  
Sarah Fraser, Public Path Orders Officer  
Marianne Nixon, Public Path Orders Officer  
Andrew Poynton, Planning and Highways Lawyer  
Rachel Graves, Democratic Services Officer

### **24 APOLOGIES FOR ABSENCE**

Apologies were received from Councillor S Davies.

### **25 DECLARATIONS OF INTEREST**

In the interests of openness Councillor M Hardy declared that he had received correspondence in relation to the Rochdale Village Green applications.

### **26 MINUTES OF PREVIOUS MEETING**

#### **RESOLVED:**

That the minutes of the meeting held on 4 December 2017 be confirmed as a correct record and signed by the Chairman.

### **27 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.

## **28 VILLAGE GREEN APPLICATION: APPLICATION TO REGISTER LAND ADJOINING SWIFT ROAD, BAMFORD, ROCHDALE AS A TOWN OR VILLAGE GREEN**

The Committee considered the report of the Independent Expert on the application to register land adjoining Swift Road, Bamford, Rochdale as a village green.

The Council was the registration authority for village greens and the responsibility for this function was delegated to the Public Rights of Way Committee under the constitution. A delegation of powers to determine this application on behalf of Rochdale Borough Council (RBC) had been accepted by the Public Rights of Way Committee at its meeting on 13 June 2016.

The application was submitted to RBC by Mrs Janice Arden on 23 June 2015. The application related to a piece of land adjoining Swift Road, Bamford. When accepting the application, RBC's Legal Service Section has confirmed that there had been no trigger or terminating events in respect of the land and that the application could be processed. RBC had undertaken a 6 week period of public consultation when the plan of the application land was available for inspection, site notices erected and details published in the Rochdale Observer. The consultation ran from 22 July to 2 September 2015.

RBC, in its capacity as landowner, objected to the application. As an objection had been received to the application it was forwarded to an Independent Expert – Mr Timothy Jones, for consideration. The Independent Expert was provided with copies of the application, plan and supporting information in the forms of witness statements and correspondence as well as RBC's objection letter and the response from the applicant.

The Independent Expert provided his report – appended to the Report, and having considered the ownership of the land, planning permission in respect of the land, the objection submitted by RBC's Property Services Section and the statements submitted in support of the application concluded that no part of the land should be registered as a village green and recommended that the land not be registered and that there was no need to hold a public inquiry. The basis for his conclusion was that RBC had given permission to the public to use the land and that those residents who had been informed that the land was for communal or resident's use had been correctly informed.

Councillor Patricia Sullivan, ward member for Bamford, spoke in support of the application saying she was disappointed with the Independent Expert had recommended that the application be rejected on the technicality that residents used the land with permission from the Council when they were not aware that the Council owned the land. The land was marked on their

deeds as 'village green. The area did not have parks or play areas for residents to use.

Mr David Fitton, Chairman of Bamford Village Green Group, spoke in support of the application saying he was devastated that the recommendation of the Independent Expert was to reject the application based on a technicality. The area was designed as village green on the residents' deeds and there were no other green spaces on the estate. The land was well used and asked the Committee to save it for future generations.

The Committee considered the report and recommendations of the Independent Expert and the comments made by the public speakers and by majority

**RESOLVED:**

That the report of the Independent Expert, Mr Timothy Jones, be accepted and that the application to register land adjoining Swift Road, Bamford, Rochdale as a village green be rejected for the reasons set out in the Independent Expert's report.

**29 VILLAGE GREEN APPLICATION: APPLICATION TO REGISTER LAND OPPOSITE THE ENTRANCE TO ST. VINCENTS RC PRIMARY SCHOOL ADJACENT TO CALDERSHAW ROAD CUT LANE AND SHEARING AVENUE NORDEN ROCHDALE AS A TOWN OR VILLAGE GREEN**

The Committee considered the application to register land opposite the entrance to St Vincents RC Primary School adjacent to Caldershaw Road, Cut Lane and Shearing Avenue, Norton, Rochdale as a village green under section 15 of the Commons Act 2006.

The Council was the registration authority for village greens and responsibility for this function was delegated to the Public Rights of Way Committee under the Council's constitution. A delegation of powers to determine this application on behalf of Rochdale Borough Council (RBC) had been accepted by the Public Rights of Way Committee at its meeting on 13 June 2016.

The application, dated 9 October 2015, had been submitted to RBC by The Friends of Heritage Green c/o Mr Adrian Sutcliffe. When accepting the application, RBC's Legal Service Section has confirmed that there had been no trigger or terminating events in respect of the land and that the application could be processed. RBC had undertaken a 6 week period of public consultation when the plan of the application land was available for inspection, site notices erected and details published in the Rochdale Observer. The consultation ran from 8 April to 30 May 2017. No representations were received.

As no objections were received to the application it was initially viewed as appropriate for the Public Rights of Way Committee to consider and determine the application based on a written report as opposed to being forwarded to an Independent Expert for consideration.

However, following preparation of the report for the December meeting of the Public Rights of Way Committee, RBC had submitted a representation stating that the use of the land had been 'by right' rather than 'as of right' as RBC owned the land for housing purposes and in accordance with powers in the housing legislation, the public had a legal right to use the land.

The report outlined that the first 2 requirements of section 15(2) of the Commons Act 2006 had been satisfied but a determination was required as to whether third such element was satisfied via any such use of the land being 'as of right' as opposed to 'by right'. It was therefore recommended that the matter be referred to an Independent Expert for determination.

Councillor Michael Holly, ward councillor for Norden spoke in support of the application and that he was disappointed that the decision was no longer for approval with RBC objecting so late in the process.

Mr Mark Hope, Friends of Heritage Green spoke in support of the application saying that RBC were aware of the application and had had two opportunities to submit their objections during the consultation phases and asked the Committee to consider the original recommendation for approving the application.

The Committee considered the report before them and the comments made by the public speakers.

The Committee by majority

**RESOLVED:** That

- 1 the application along with all the background information is sent to an Independent Expert experienced in determining Town and Village Green Applications to determine:-
  - a) whether the application can be determined on the papers or if a non-statutory public inquiry is required to be held; and
  - b) to issue such timetable for the submission of representations/progression of this matter as they consider appropriate; and
  - c) to determine the application and prepare a written report for the Council recommending whether or not the application

should be approved or rejected by reference to the submitted evidence.

- 2 written notification of this Committee's decision is sent to Rochdale Borough Council within 7 days of the publication of the minutes of the meeting.

*The meeting adjourned from 12.00 noon to 12.10pm.*

*Councillor S Davies arrived to the meeting during the break.*

### **30 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO.31 (PART), PARISH OF KETTLESHULME**

The Committee considered a report which detailed an application from Mr J Hodgson of Black Hill Gate Farm, Kettlethulme, requesting the Council to make an Order to divert part of Public Footpath No.31 in the parish of Kettlethulme.

In accordance with Section 119 (1) of the Highways Act 1980, it was within the Council's discretion to make an Order to divert a public footpath if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The land over which the current path ran and the proposed diversion ran were owned by the Applicant and by Mr A Hodgson who had given written consent to the proposal.

The alignment of the current footpath was along the driveway and then in very close proximity to the front of the cottage at Blackhill Gate Farm. A permissive route was in place which took the path away from the immediate frontage of the cottage and had been in use for many years. Planning permission had been granted by the Peak Park planning department to extend the existing livestock barn, which would indirectly affect the current line of the footpath.

The proposed diversion was the route of the permissive path, which ran to the west of the current route and ran through pasture field – Points E-C on Plan HA/118. The new route would have a width of 2 metres and not be enclosed. There would be two pedestrian gates at points E and D.

The proposed new route was in the interests of the landowner for the reasons of privacy and security with regards to the current footpath's proximity to the cottage and also reasons of land and animal management due to the planning permission to extend the livestock barn and enclose an adjacent secure area for handling cattle.

The Committee noted that no objections had been received during the informal consultation. The Committee considered that the proposed route

would not be substantially less convenient than the existing route. Diverting the footpath would be of benefit to the applicant as it would offer increased privacy and security and more efficient land and stock management. It was considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a Diversion Order were satisfied.

The Committee unanimously

**RESOLVED:** That

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.31 by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan No.HA/118 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 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, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**31 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 41 (PART), PARISH OF HASLINGTON**

The Committee considered a report which detailed an application from Victoria Webb-Johnson, Fields Farm, Sydney Road, Crewe requesting the Council to make an Order to divert part of Public Footpath No.41 in the parish of Haslington.

In accordance with Section 119(1) of the Highways Act 1980, it was within the Council's discretion to make an Order to divert a public footpath if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The land over which the section of Public Footpath No.41 Haslington to be diverted and the proposed diversion ran belonged to the Applicant.

The current alignment went along the driveway for Fields Farm – points A-B on Plan No. HA/124, before turning onto an area of grass to a pedestrian gate – points B to C.

The proposed diversion would run along the northern boundary of the property – Points D to C, and be 2.5 metres wide with a stone surfaced width of at least 1.2 metres. The Applicant intended to enclose the path for livestock management and personal security and use a post and rail fence similar to other fences already on site. A new pedestrian gate would be installed at Point D to allow the new diversion to connect with Public Footpath No.22 Haslington.

The proposals were in the interests of the Applicant due to reasons of privacy and security. By moving the path to the north of the Applicant's boundary, it was moved away from the residential buildings and improved security for the occupants. It would also provide better security and land management for grazing livestock. Moving the footpath from the driveway would remove the risk from the interaction of walkers and vehicles.

The Committee note that no objections had been received during the informal consultations and considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpath off the driveway of Field Farm would ensure privacy and security for the landowner and their livestock. It was considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a Diversion Order were satisfied.

The Committee unanimously

**RESOLVED:** That

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.41 in the parish of Haslington by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan No.HA/124 on the grounds that it is expedient in the interests of the landowners.
- 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, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**32 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 5 (PART), PARISH OF ADLINGTON**

The Committee considered a report which detailed an application from Mrs Cox of Springbank Farm, Springbank Lane, Adlington requesting the

Council to make an Order to divert part of Public Footpath No.5 in the parish of Adlington.

In accordance with Section 119(1) of the Highways Act 1980, it was within the Council's discretion to make an Order to divert a public footpath if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The majority of land over which the section of the current path to be diverted and the proposed diversion ran belonged to the Applicant. The section of path that ran through the property known as The Hole belonged to Mr & Mrs Taylor, who had provided written consent.

The section of Public Footpath No.5 Adlington to be diverted ran through the garden of The Hole, passing very close to residential buildings. After exiting the garden it ran along a private track which acted as a driveway for The Hole and visitors to Springbank Farm and its stables. The track was surfaced and used by vehicles and for the movement of horses.

The proposed diversion ran just outside the boundary of The Hole and ran in a south easterly direction through fields before going along an existing track to join Springbank Lane. The new junction on Springbank Lane was approximately 80 metres from the original junction. This road was currently well used by walkers as a link between Macclesfield Canal and the Middlewood Way. The section of road was relatively straight with good sightlines and had areas of verge which allowed people to step off the road if necessary. The proposed diversion would have a width of 2 metres within which a stone track would be laid along its whole length.

The proposals were in the interests of the Applicant due to reasons of privacy and security. It would enable the residents of Springbank Farm and The Hole to install a full security gate as there was a history of burglaries at The Hole. It would also enable higher levels of equine control for the stables at Springbank Farm as the current gate has a history of being left open, putting the horses and members of the public at risk.

The Committee considered the concerns received from the Parish Council, the Peak and Northern Footpaths Society and East Cheshire Ramblers during the informal consultation and the responses provided, as set out in the report.

The Committee considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpath would be of benefit to the Applicant as moving the footpath away from Springbank Farm and The Hole would improve their privacy and security. It was considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a Diversion Order were satisfied.

The Committee by majority



**RESOLVED:** That

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.5 in the parish of Adlington by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan No.HA/123, on the grounds it is expedient to do so in the interests of the landowners.
- 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, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**33 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 45 (PART), AND PUBLIC FOOTPATH NO. 44 (PART) PARISH OF BOLLINGTON**

The Committee considered a report which detailed an application from Jones Homes (North West) Limited, Emerson House, Heyes Lane, Alderley Edge requesting the Council to make an Order to divert part of Public Footpath No.45 and part of Public Footpath No.44 in the parish of Bollington.

In accordance with Section 119 (1) of the Highways Act 1980, it was within the Council's discretion to make an Order to divert a public footpath if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The land over which the sections of Public Footpaths No.44 and 45 Bollington to be diverted and the proposed diversion ran belonged to Jones Homes.

The section of Public Footpath No.45 Bollington to be diverted ran along a private driveway, passed through an open set of gates and over a landscaped garden to the north of the gates to join a temporary surfaced path over the garden that led to a pedestrian gate in the fence line.

The section of Public Footpath No.44 to be diverted (Points D to B on Plan HA/122) ran for 12 metres before it joined Public Footpath No.45 Bollington.

The proposed diversion would follow a permissive route that was already constructed and well used by the general public. The proposed diversion had a Breedon gold gravel topped surface laid on MOT stone with timber

edgings and was approximately 2 metres wide throughout. The diverted route was similar in length to the current route.

The Committee noted that no objections had been received during the informal consultation and considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpath would move the footpath out of the new development of Cold Harbour Farm ensuring future residents' privacy and security was increased. It was considered that the proposed routes would be a satisfactory alternative to the current ones and that the legal tests for the making and confirming of a diversion order were satisfied.

The Committee unanimously

**RESOLVED:** That

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.45 and part of Public Footpath No.44 in the parish of Bollington by creating a new section of public footpath and extinguishing the current paths, as illustrated on Plan No. HA/122, on the grounds that it is expedient in the interests of the landowners.
- 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, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**34 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 12 (PART), PARISH OF LOWER WITHINGTON**

The Committee considered a report which detailed an application from Mr J Kennerley and Son of Shellmorehill Farm, Lower Withington requesting the Council to make an Order to divert part of Public Footpath No.12 in the parish of Lower Withington.

In accordance with Section 119(1) of the Highways Act 1980, it was within the Council's discretion to make an Order to divert a public footpath if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The land over which the section of footpath to be diverted and the proposed diversion ran belonged to the Applicants. The section of Public Footpath No.12 to be diverted ran along a stone surfaced track to

Shellmorehill Farm. The footpath then continued past two dwellings and crossed a holding area leading to a milk parlour, before passing through collecting and silage yards to exit through a slurry tank which obstructed the line of the path. The footpath continued across a field and a farm track until it joined Public Footpath No.19 Lower Withington.

Within the farm yard area there were three large gates for controlling the movement of cattle between the yards for milking and these needed to be opened and closed by users in order to walk the path. A permissive path was in place to pass the slurry tank which obstructed the footpath.

The proposed route would commence near the start of the track to Shellmorehill Farm at Point A on Plan HA/120 and run along field boundaries until it joined Public Footpath No.18 Lower Withington at Point J on Plan HA/120. The route would be 2.5 metres wide and have a grass surface. Kissing gates and a footbridge would be installed on the route.

The Committee noted that no objections had been received during the informal consultation and noted the comments from the Applicant, Mr Morrow, Mr & Mrs Mitchell and the East Cheshire Ramblers.

The Committee considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpath would allow the Applicant to improve the privacy and security of their farm and home and improve the safety for users. It was considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a Diversion Order were satisfied.

The Committee unanimously

**RESOLVED:** That

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.12 Lower Withington by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan No.HA/120, on the grounds that it is expedient in the interests of the owners of the land crossed by the path.
- 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, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**35 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 3 (PART), PARISH OF CRANAGE**

The Committee considered a report which detailed an application from Mr M Gibson, Glebe Farm, Holmes Chapel requesting the Council to make an Order to divert part of Public Footpath No.3 in the parish of Cranage.

In accordance with Section 119(1) of the Highways Act 1980, it was within the Council's discretion to make an Order to divert a public footpath if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The land over which the section of path to be diverted and the proposed diversion ran belonged to the Applicant. The section of Public Footpath No.3 to be diverted ran along the applicant's driveway and yard access and passed within close proximity to both business and domestic premises. Beyond this the path narrowed from approximately 8 metres wide with an even gradient to approximately between 1 metre and 1.5 metres wide with an uneven gradient. The narrow width and uneven gradient made this section of path difficult to walk which was further compounded by the often wet and muddy conditions caused by the frequent flooding of two natural underground springs that flowed directly under the footpath.

The proposed route would commence approximately 61 metres northwest of the current path on Knutsford Road – Point C on Plan HA/119, and would follow the natural line of the field boundary to re-join the unaffected part of Footpath No.3 at its junction with Public Footpath No.15 – Point B on Plan HA/119. The new route would have minimum width of 2.5 metres, be enclosed between post and wire fencing and have a grass surface. There was a requirement for a kissing gate at the start of the proposed path on Knutsford Road.

The Committee noted that no objections had been received during the informal consultation and noted the comments from the Applicant, Cranage Parish Council, Holmes Chapel Parish Council and the Ramblers Association.

The Committee considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpath would allow the landowner to protect the privacy and security of their home and business premises. It was considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a Diversion Order were satisfied.

The Committee unanimously

**RESOLVED:** That

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.3 in the parish of Cranage by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan No. HA/119, on the grounds that it is expedient in the interests of the owners of the land crossed by the path.
- 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, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**36 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 46 (PART), PARISH OF MOBBERLEY**

The Committee considered a report which detailed an application from Mrs Uttley of Ivy House Farm, Mobberley requesting the Council to make an Order to divert part of Public Footpath No.46 in the parish of Mobberley.

In accordance with Section 119 (1) of the Highways Act 1980, it was within the Council's discretion to make an Order to divert a public footpath if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The land over which the section of path to be diverted and the proposed diversion would run belonged to the Applicant. It was proposed to divert the existing route of the footpath away from the Applicant's driveway from a new commencing point on Moss Lane - Point D on Plan No. HA/121, to pass through an old orchard approximately 50 metres to the southwest of its current position. The path would run along the field boundary before turning to cross the field to meet with the stile at Point B on Plan No.HA/121.

The new route would have a minimum width of 2.5 metres and the first 25 metres of the proposed path would be partially surfaced with stone and the remainder of the path would run across free draining dry land comprising of stone, earth and grass surface. A kissing gate would be installed at the commencement point on Moss Lane.

The Committee noted that no objections had been received during the informal consultation and noted the comments from East Cheshire Ramblers on the footpath surface.

The Committee considered the proposed route would not be substantially less convenient than the existing route. Diverting the path would preserve the landowner's privacy and security. It was considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a Diversion Order were satisfied.

The Committee unanimously

**RESOLVED:** That

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No. 46 in the parish of Mobberley by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan No. HA/121 on the grounds that it is expedient in the interest of the owner of the land crossed by the path.
- 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, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**37 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257:  
APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO 7  
AND PUBLIC BRIDLEWAYS NO. 10 AND 11 (PARTS), PARISH OF  
ARCLID**

The Committee considered a report which detailed an application from Mr Rick Bright of Bright & Associates on behalf of the Archibald Bathgate Group Ltd requesting the Council to make an Order under Section 257 of the Town and Country Planning Act 1990 to divert Public Footpath No.7 and parts of Public Bridleways No.10 and No.11 in the parish of Arclid.

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 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 which had been applied for or granted.

It was reported that in the paragraph preceding paragraph 6.9 of the report, it should read Public Footpath No.9 Arclid and not Public Footpath No.7.

Planning permission had been granted for the extension of the southern eastern extension of South Arclid Quarry to enable further silica sand excavations and workings – planning reference 09/2291W.

The sand extractions in the south eastern extension of the South Arclid Quarry would destroy the land over which the current alignment of Public Footpath No.7 Arclid ran and also a section of bridleway consisting of parts of Public Bridleways No.10 and No.11. It was therefore necessary to divert the public footpath and the bridleway sections to ensure that the public rights of way were preserved.

The Committee were informed of the confirmation to the Open Spaces Society, Congleton Ramblers and the Peak and Northern Footpath Society that the section of Hood Lane linking the proposed footpath diversion to the proposed bridleway diversion was a public highway (adopted unclassified road). Confirmation had also been provided to the Open Spaces Society that the airfield serving the Cheshire Microlite Centre, and across which the current and proposed diversions ran, would be closed before the proposed diversions were confirmed.

The Committee noted that to date no objections had been registered although Arclid and Betchton Parish Councils had requested an extension to the consultation deadline so they could consider the proposals at their meetings on 15 March 2018.

The Committee unanimously

**RESOLVED:** That

- 1 the decision to make the Order be delegated to the Head of Rural and Cultural Economy or his nominated delegate who, in consultation with the Chairman of the Public Rights of Way Committee, consider the proposal together with any comments received from members of the Arclid and Betchton Parish Councils following their meetings on 15 March 2018.
- 2 if an Order is made, Public Notice 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 on condition that the diversion of Arclid Public Footpath No.9 is complete.
- 3 In the event of objections being received and not resolved, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**38 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257:  
APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO'S 3  
(PART) AND 4 (PARTS) IN THE PARISH OF WORLESTON AND  
PUBLIC FOOTPATH NO 4 (4PARTS) IN THE PARISH OF HENHULL**

The Committee considered a report which detailed an application from Mr Kevin Coyne of Taylor Wimpey (North West Ltd) on behalf of a consortium of house developers requesting the Council to make an Order under Section 257 of the Town and Country Planning Act 1990 to divert parts of Public Footpath No.3 and No.4 in the parish of Worleston and divert part of Public Footpath No.4 in the parish of Henhull.

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 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 which had been applied for or granted.

Planning permission had been granted for a residential development of up to 1,100 dwellings, 1.82ha of land for business use, a potential primary school, community facilities and local centre, allotments, recreational open space and associated landscaping, highways, access roads, cycleways, footways and drainage infrastructure – planning reference 13/2471N.

Parts of the existing alignment of Public Footpath No.3 and Public Footpath No.4 Worleston and Public Footpath No.4 Henhull would be affected by the construction of the residential development. The consortium of housing developers owned the land over which both the current footpaths and proposed diversions routes ran and had all given written permission for the diversions as proposed, with the exception of a short section of Public Footpath No.3 Worleston for which landowner permission was still be sought

Questions about the proposed diversion had been raised by the Peak and Northern Footpath Society in relation to the impact of the flood plain around the River Weaver, screening of Public Footpath No.4 Worleston from the new road and whether some of the routes were to be landscaped.

In response to these questions it was reported that the proposed routes affected by the flood plain would be designed to allow run off of surface water. In relation to the section of Public Footpath No.4 Worleston, the new road would run at the base of an embankment and would not be screened. Other than two sections of Public Footpath No.4 Henhull which would be landscaped with trees and areas of wild flowers, the other proposed diversion routes would run within the existing landscapes (mainly grassland).

The Committee considered the application and concluded it was necessary to divert part of Public Footpath No.3 and parts of Public Footpath No.4 Worleston and parts of Public Footpath No.4 Henhull to allow for the residential development, as detailed in planning reference 13/2471N. 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 Three Orders be made under Section 257 of the Town and Country Planning Act 1990 to divert the following footpath sections, as illustrated on Plan No. TCPA/045:
  - i. Two parts of Public Footpath No.4 in the parish of Henhull
  - ii. Part of Public Footpath No.3 in the parish of Worleston on condition that written agreement from the remaining landowner is secured
  - iii. Two parts of Public Footpath No.4 in the parish of Worleston

The recommendation is made on the grounds that the Borough Council is satisfied that it is necessary to do so to allow the development to take place.

- 2 Public Notice of the making of the Orders be given and in the event of there being no objections within the period specified, the Orders be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Orders being received and not resolved, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**39 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 11 (PART), PARISH OF BASFORD**

The Committee considered a report which detailed an application from Mr C Hadjivassilious of THDA Consulting Engineers (agent) on behalf of Mr P Heslop of Goodman Real Estates (UK) Ltd Nelson House, Blythe Valley Park, Shirley, Solihull, West Midlands B90 8BG 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.11 in the parish of Basford.

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 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 which had been applied for or granted.

Planning permission had been granted for the construction of a commercial development for general industry, storage and distribution business on 18 July 2014 - planning reference 14/0378N. A reserved matters application relating to landscaping had been approved on 3

January 2018 – planning reference 17/3374N. Two further applications were being progressed with an expectation that permission would be granted by the end of April 2018 – planning references 18/0377N and 18/0475N.

The land over which the existing alignment of the footpath section proposed for diversion would be obstructed by the proposed commercial development and a diversion was required to preserve the right of way for the public between Jack Mills Way and Weston Road. The proposed new route would take users through a landscaped area that would be developed outside the western and southern perimeters of the site. Although the route was longer it was considered that it would be more scenic and easier to negotiate than any alternative that weaved between the buildings of the new commercial development. The new route would be 2 metres wide, free of footpath furniture and would have a grass surface.

Mr Ian Pritchard from Goodman spoke in support of the application to divert Public Footpath No.11 Basford as it would allow for the commercial development to be constructed, which would secure locally based business and jobs already committed to the development.

The Committee noted that the proposal was being presented prior to the completion of the informal consultation period, which would run for a further four weeks following the meeting.

To date comments had been received from the Ward Councillors, all of whom had registered support. Councillor Marren had commented that the proposals were logical and sensible; Councillor Hammond supported and trusted that the proposed route would be well maintained. Councillor Edgar saw no problems with the proposed route.

The Committee noted that the Open Spaces Society had verbally raised concerns relating to the alignment of the route running parallel to Jack Mills Way and had queried the merits of an alternative alignment to the east of the site running parallel to the railway. These points would be further discussed with the developer during the remainder of the consultation period. The Committee expressed strong concerns about this alternative route given it would be located to the rear of the development, between the development and railway.

The Committee unanimously

**RESOLVED:** That

- 1 the decision to make the Order be delegated to the Head of Rural and Cultural Economy or his nominated delegatee who, in consultation with the Chairman and Vice Chairman of the Public Rights of Way Committee, consider the proposals together with all consultee comments received during the consultation following its completion on Tuesday 10 April 2018.
- 2 If an Order is made, Public Notice of the making of the Order be given and in the event of there being no objections with 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.

The meeting commenced at 10.30 am and concluded at 1.35 pm

Councillor M Hardy (Chairman)