

Public Rights of Way Sub Committee

Date of Meeting:	13 th March 2023
Report Title:	Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpath No. 36 in the Town of Sandbach (part).
Report of:	Jayne Traverse, Executive Director Place
Report Reference No:	To be confirmed by Democratic Services
Ward(s) Affected:	Sandbach Elworth

1. Purpose of Report

- 1.1.** The report outlines the investigation to divert part of Public Footpath No. 36 in the Town of Sandbach following receipt of an application from a Network Rail.
- 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. 36 in the Town of Sandbach. 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. 36 in the Town of Sandbach as illustrated on Plan No. TCPA/075, to allow for the

proposed works to reconstruct the footbridge as detailed in Planning Application 22/1649C.

5. Other Options Considered

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

6. Background

- 6.1.** An application has been received from Network Rail 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. 36 in the Town of Sandbach as it is deemed necessary to allow for the proposed works to reconstruct a footbridge which carries the footpath over the railway.
- 6.2.** Public Footpath No. 36 in the Town of Sandbach commences at its junction with Public Footpath No. 35 in the Town of Sandbach and continues in a generally northerly direction to the Bradwall parish boundary for approximately 660 metres.
- 6.3.** The existing alignment of Public Footpath No. 36 in the Town of Sandbach will be directly affected by the construction of a new footbridge over the railway therefore the diversion is required to preserve the public rights of way.
- 6.4.** The length of Public Footpath No. 36 in the Town of Sandbach to be diverted is shown as a bold black line on Plan No. T CPA/075 between points A-B-C. It commences at point A and continues in a generally south easterly direction for approximately 12 metres to point B, it then continues in a generally easterly direction for approximately 9 metres to point C. This route is currently not available for use as it is obstructed by the current footbridge. An alternative, permissive route is in place on site which follows a similar route to the proposed diversion.
- 6.5.** The proposed diversion of part of Public Footpath No. 36 in the Town of Sandbach is shown as a dashed black line between points A-D-C on Plan No. T CPA/075. An extract of the developer's plan is also shown with the new footbridge being displayed in red, the current footbridge is displayed in green. It will commence at point A and will run in a generally easterly direction for approximately 15 metres to point D. The first 10 metres will run along the existing hard surfaced track with a width of 2 metres. The final 5 metres of this section will be enclosed with 1800mm high palisade fencing on both sides and will be a width of 2 metres increasing to 3 metres by point D with a tarmacked surface. It will then run in a generally southerly direction for approximately 13 metres to Point C for a total of 28 metres, this part of the path will run up a new set of stairs for the new footbridge, this will be 2.3

metres wide and the stairs will be made from steel with handrails both sides. The full specification for the staircase can be found in the planning documents under reference 22/1649C.

7. Consultation and Engagement

- 7.1.** The Ward member for Sandbach Elworth, Sandbach Town Council, the user groups, statutory undertakers, and the Council's Nature Conservation Officer have been consulted and have raised no objections at the time of writing this report. Any objections or comments received following the writing of this report will be reported on verbally to the Committee.

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 part 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/075
Background Papers:	The background papers and file relating to the report (File Ref: 262/600D) can be inspected by contacting the report writer.