

## **Public Rights of Way sub committee**

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**Date of Meeting:** 13<sup>th</sup> March 2023

**Report Title:** Informative Report:  
Secretary of State decisions for Highways Act 1980  
S119 Diversion of Footpath No. 4 Parish of Poole,  
Diversion of Footpath No. 5 in the Parish of Adlington  
and Diversion of Footpath No. 2 in the Parish of Eaton.

**Report of:** Jayne Traverse, Executive Director Place

**Ward(s) Affected:** Bunbury, Poynton West and Adlington, and Eaton  
Wards

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### **1. Purpose of Report**

- 1.1. This report is an informative to brief Members on the decision made by the Planning Inspectorate on behalf of the Secretary of State on the Orders made by the Council to divert Footpath No. 4 in the Parish of Poole, Footpath No. 5 in the Parish of Adlington and Footpath No. 2 in the Parish of Eaton under the Highways Act 1980 s119.
- 1.2. 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 The report informs Members that following the referral of these Orders to the Planning Inspectorate following objection, they have been determined by written representations and subsequently confirmed.

### **3. Recommendations**

- 3.1. No decision is required by Committee

## **4. Reasons for Recommendations**

- 4.1.** Not Applicable and other options are therefore not relevant.

## **5. Background**

- 5.1.** Once a proposed diversion has been determined by the Public Rights of Way Sub-Committee a legal Order is made, which may then 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 If objections are not withdrawn, this removes the power of the Local Highway Authority to confirm the Order itself, and may lead to a hearing or Public Inquiry.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. The following Diversion Orders have been recently determined by the Planning Inspectorate by the written representations process.

**5.2.** The Cheshire East Borough Council (Footpath No. 4 (Part) Parish of Poole) Public Path Diversion Order

- 5.2.1. The Cheshire East Borough Council (Footpath No. 4 (Part) Parish of Poole) Public Path Diversion Order was made on 28<sup>th</sup> March 2019. Public notice of the Order having been made was published in the local press, posted on site and served on the relevant organisations on 3<sup>rd</sup> April 2019.
- 5.2.2. The advertising of the Order attracted one objection from the Open Spaces Society, the initial objection was that the proposed diversion did not meet the legal tests and also failed to resolve the issues that the applicant claimed to be the reason for the diversion. Officers had extensive conversations and correspondence with the Open Spaces Society to attempt to understand and resolve the objections.
- 5.2.3. It was understood that their objections were that the diversion was
- a) less convenient because it ran around the edge of the field,
  - b) less enjoyable because it was enclosed at 2.5 metres width with potential for overgrowth and future maintenance
  - c) unknown status of part of Cinder Lane.
- 5.2.4. However, subsequent to the submission of the Order to the Planning Inspectorate, the objection from the Open Spaces Society was withdrawn.
- 5.2.5. The Order was confirmed by the Planning Inspectorate on the 15<sup>th</sup> March 2022.

**5.3.** The Cheshire East Borough Council (Footpath No. 5 (part) Parish of Adlington) Public Path Diversion Order 2018

- 5.3.1. The Cheshire East Borough Council (Footpath No. 5 (part) Parish of Adlington) Public Path Diversion Order was made on 3<sup>rd</sup> May 2018. Public notice of the Order having been made was published in the local press, posted on site and served on the relevant organisations on 16<sup>th</sup> March 2018.

- 5.3.2. The advertising of the Order attracted two objections. One was from Cadent Gas which was later withdrawn leaving one outstanding objection. The objection from a member of the public was related to the new termination point of the diversion as it was considered to be inappropriate leading to users having to walk along the road.
- 5.3.3. Officers responded to the objection, addressed the point raised and sought the withdrawal of the objection.
- 5.3.4. No statement of case was submitted from the objector to the Planning Inspectorate so the decision from the Inspector was based on the initial objection.
- 5.3.5. The Inspector concluded that the diversion is expedient in the interests of the landowners and that it would not be substantially less convenient to the public.
- 5.3.6. The Order was confirmed by the Planning Inspectorate on 1<sup>st</sup> June 2022.
- 5.4.** The Cheshire East Borough Council (Footpath No.2 (part) Parish of Eaton Public Path Diversion Order 2019
  - 5.4.1. The Cheshire East Borough Council (Footpath No.2 (part) Parish of Eaton Public Path Diversion Order 2019 was made on 21 February 2019. Public notice of the Order having been made was published in the local press, posted on site and served on the relevant organisations on 7<sup>th</sup> March 2019.
  - 5.4.2. Advertising of the Order attracted three objections. Officers responded to the objections, addressed the points raised and sought the withdrawal of the objections. Two objections were withdrawn and one objection was sustained by the Open Spaces Society. The main objections that the Society had were as follows:
    - a) The definitive line was obstructed
    - b) The proposed route failed to meet the legal tests and the diversion was excessive in satisfying the privacy and security rationale for the diversion in the interests of the applicant
    - c) The proposed route was substantially narrower than 2.5 metres for a considerable proportion of its length and was less than 1 metre wide in parts
    - d) The conditions underfoot, were unacceptable, and substantially worse following some rain.
    - e) The proposed enclosure was oppressive and therefore unacceptable.
  - 5.4.3. Subsequent to the submission of the Order to the Planning Inspectorate, the objection from the Open Spaces Society was withdrawn.
  - 5.4.4. When submitting the Order, The Cheshire East Borough Council requested that a number of minor modifications relating to the alignment and the description of the new route be made if it was confirmed. The modified Order was advertised on 21<sup>st</sup> July 2022 and this was subsequently confirmed as an unopposed Order on 3<sup>rd</sup> November 2022.

## **6. Consultation and Engagement**

- 6.1.** This is an Informative report, so no further consultation has been undertaken. All relevant parties were provided with a copy of the Inspectors' decision letters.

## **7. Implications**

### **7.1. Legal**

- 7.1.1. There are no further legal implications for the Authority.

### **7.2. Finance**

- 7.2.1. There are no potential further financial implications.

### **7.3. Policy**

- 7.3.1. There are no direct policy implications.

### **7.4. Equality**

- 7.4.1 There are no direct equality implications.

### **7.5. Human Resources**

- 7.5.1. There are no direct implications for Human Resources.

### **7.6. Risk Management**

- 7.6.1. There are no direct implications for risk management.

### **7.7. Rural Communities**

- 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**

- 7.9.1. There are no direct implications for public health

### **7.10. Climate Change**

- 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 diversions of the Public Footpaths contributes to the management of the public rights of way network for members of the public on foot with the potential for the improvement and promotion of active healthy lifestyles and wellbeing.

<b>Access to Information</b>	
Contact Officer:	Laura Allenet Laura.allenet@cheshireeast.gov.uk 01270 686053
Appendices:	N/A
Background Papers:	243D/575, 003D/547 and 117D/572