

Highways and Transport Committee

19 June 2025

**Highways Act 1989 section 118:
Proposed extinguishment of Public
Footpath No. 29 in the Parish of
Knutsford**

Report of: Philip Cresswell, Executive Director of Place

Report Reference No: HTC/02/25-26

Ward(s) Affected: Knutsford

Decision

Purpose of Report

1. The report outlines the investigation to extinguish Public Footpath No. 29 in the Parish of Knutsford following receipt of an application from Puro Property Partnership.
2. The work of the Public Rights of Way team contributes to the Corporate Plan vision of Enabling prosperity and wellbeing for all in Cheshire East, with the commitments of Unlocking prosperity for all and Improving health and wellbeing, and the policies and objectives of the Council's statutory Rights of Way Improvement Plan.

Executive Summary

3. This report outlines the investigation to extinguish Public Footpath No. 29 in the Knutsford and includes a discussion of the consultations carried out in respect to the proposals and the legal tests to be considered for a diversion order to be made under the Town and Country Planning Act 1990
4. The recommendation is that a public path extinguishment order be made under section 118 of the Highways Act Act 1980 on the grounds that Cheshire East Council is satisfied that it is necessary to do so as it is no longer needed for public use, based on DEFRA guidance,

Government guidance on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises, published in August 2023.

RECOMMENDATIONS

The Highways & Transport Committee is recommended to:

1. Decide that a public path extinguishment Order be made under section 118 of the Highways Act 1980 for Knutsford Public Footpath No.29 in the Parish of Knutsford, on the grounds that the Public Footpath is no longer needed for public use.
2. Decide that 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 Act.
3. Note that in the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or Public Inquiry.

Background

5. Public Footpath No. 29 in the Parish of Knutsford commences at its junction with King Street (B5083) at O.S. grid reference SJ 7520 7872 and runs in a generally east north easterly direction for approximately **11 metres** to O.S. grid reference SJ 7521 7872 at its junction with Old Market Place.
6. An application has been received by Cheshire East Borough Council from Puro Property Partnership to extinguish Public Footpath No.29 in the parish of Knutsford. Under section 118 of the Highways Act 1980, an appropriate authority is empowered to make a Public Path Extinguishment Order where it appears expedient to the Council to extinguish the path on the ground that it is not needed for public use and that an alternative route is available via the public footway along King Street and Old Market Place.
7. A planning application (**ref:16/1717M**) for a ground level dining area (Piccolinos Restaurant, King Street, Knutsford), was approved in 2016. The consequent construction, fencing and furniture triggered an application to claim a public footpath should be added to the Definitive Map & Statement.

8. The application was successful on appeal, whereby a Planning Inspector determined the application so that a Definitive Map Modification Order was made under section 53 (2) (b) of the Wildlife & Countryside Act, to add Public Footpath No. 29 Knutsford to the definitive map. This order was dated 16th August 2018 and subsequently confirmed.

Consultation and Engagement

9. The Ward Members for Knutsford, Knutsford Town Council, the user groups, statutory undertakers, and the Council's Nature Conservation Officer have been consulted.
10. The Peak & Northern Footpath Society responded to the informal consultation, stating that their inspector notes that Knutsford Footpath No. 29 is not accessible due to the outdoor dining area at the restaurant but are not objecting to the proposed extinguishment.
11. Cadent Gas and Openreach both responded and each respectively said that they had no objection to the proposed extinguishment.
12. Two objections have been received to the proposal. The first from Knutsford Town Council stating that in their view, Knutsford Footpath No. 29 provides a less steep route from King Street to Old Market Place, which is beneficial to people with mobility issues or to people when the road is icy.
13. The second objection is from The Green Lane Association, who object on the grounds that Knutsford Footpath No. 29 is a useful route for the public and note that the route was blocked by fencing as early as 2015, prior to the granting of planning permission for the outdoor dining area.

Reasons for Recommendations

14. The application states that Knutsford Public Footpath No. 29 not needed for public use. The outdoor dining area is crucial to the viability of the business of Piccolinos restaurant.
15. An alternative route is available via the public footway along King Street and Old Market Place. This is considered like for like in its convenience to the definitive line of Knutsford Public Footpath No. 29. Both routes start at the public footway King Street and end at the car park in Old Market Place. The alternative is 11 metres longer which in practice takes slightly more time to walk.
16. DEFRA guidance published in 2023. *Government guidance on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or*

commercial premises. This sets out Government policy on changes to public rights of way through gardens, farmyards and other commercial premises. Acknowledging that the public may not be comfortable following a path through a contained space, the guidance gives authorities the scope to balance the needs of both landowner and the public in cases where rights of way cross residential, agricultural and commercial premises.

17. The guidance states that in determining applications, the authority should consider a diversion to the right of way in question, or an extinguishment.
18. Relating to Knutsford Public Footpath No. 29 no diversion to the definitive line is available. An extinguishment is the favoured option.

Other Options Considered

19. If the authority was to do nothing, then the current definitive line of Knutsford Public Footpath No. 29 would still be in place on the definitive map but not accessible due to the outdoor dining area. This is an unsatisfactory situation as it is misleading to the public.

Implications and Comments

Monitoring Officer/Legal

20. Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the Local 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.

Section 151 Officer/Finance

21. If objections to an Order lead to a subsequent hearing/inquiry, the Council would be responsible for any costs involved in the preparation and conducting of such. The maintenance of the Public Right of Way, if it remains on the Definitive Map and Statement, would fall to the landowner and Council in line with legislation. The associated costs would be borne within existing Public Rights of Way revenue and capital budgets

Policy

22. The work of the Public Rights of Way team contributes to the Corporate Plan vision of Enabling prosperity and wellbeing for all in Cheshire East, with the commitments of Unlocking prosperity for all and Improving health and wellbeing, and the policies and objectives of the Council's statutory Rights of Way Improvement Plan.

Corporate Plan 2025-2029

Vision: Enabling prosperity and wellbeing for all in Cheshire East

Commitments –

- Unlocking prosperity for all
- Improving health & wellbeing

Equality, Diversity and Inclusion

23. An assessment in relation to the Equality Act 2010 has not been carried out by the Public Rights of Way Network Management and Enforcement Officer for the area.

Other Implications

24. *Human Resources* - There are no direct impact for human resources

Risk Management

There are no direct implications for risk management

Rural Communities - There are no direct implications for Rural Communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)-
There are no direct implications for Children and Young People

Public Health

The recommendations are anticipated to have no overall impact on the health and wellbeing of Cheshire East residents.

Climate Change

It is not anticipated that the recommendations will affect the Council to reduce its carbon footprint.

Access to Information

Contact Officer:

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Appendices:	<p>1 Knutsford FP 29 Plan</p> <p>2 Knutsford FP29 Plan small scale</p> <p>3 Photographs</p> <p>4 Defra guidance re diversions and extinguishment</p>
Background Papers:	<p>The background papers and files relating to this report can be inspected by contacting the report writer.</p>