

Highways and Transport Committee

20th November 2025

**Town and Country Planning Act 1990
Section 257**

**Proposed Diversion of Public Footpath No.
2 in the Parish of Somerford (Part)**

Report of: Philip Cresswell, Executive Director of Place

Report Reference No: HTC/17/25-26

Ward(s) Affected: Somerford

For Decision

Purpose of Report

1. The report outlines the investigation into a proposed diversion of Public Footpath No.2 in the Parish of Somerford following receipt of an application from Anwyl Group Limited under the provisions of Section 257 of the Town and Country Planning Act 1990.

Executive Summary

2. This report sets out the investigation that has been carried out in respect of the proposal to divert part of Public Footpath No. 2 in the Parish of Somerford. It summarises the consultations undertaken, including any objections received and considers the relevant legal tests. The report addresses both the public interest and the interests of affected landowners and describes the proposed new route with reference to accompanying plans. The diversion proposal has been submitted by the Public Rights of Way team in accordance with the Council's statutory duties. The recommendation is that a Public Path Diversion Order is made under Section 257 of Town and Country Planning Act 1990 on the grounds that Cheshire East Borough Council ("the Council") is satisfied that the diversion is necessary to enable the approved development to take place.

RECOMMENDATIONS

The Highways & Transport Committee is recommended to:

1. Approve that a Public Path Diversion Order is made under section 257 of the Town and Country Planning Act 1990 for part of Public Footpath No. 2 in the Parish of Somerford as shown on Plan No. TCPA083 on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so to enable the construction of an approved development.
2. Approve that public notice of the making of the Order be given and that, in the event no objections are received within the statutory notice period, the Order be confirmed in the exercise of the powers conferred on the Council by the said Act.
3. Note that should any objections be received, Cheshire East Borough Council will be responsible for the conduct of any hearing or Public Inquiry relating to the Order.

Background

4. An application has been received from Anwyl Group Limited Homes 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.2 in the Parish of Somerford as it is deemed necessary to allow the construction of a fenced children's play area. Planning documents can be accessed via the planning portal using reference [23/2713C](#). Planning approval consent was approved on 20th December 2024.
5. The section of Public Footpath No. 2 in the parish of Somerford proposed for diversion is shown as a bold black line on Plan No. TCPA083 between Points A and B. It begins at Point A and follows a grassed field surface in a generally north-north-west direction for approximately 213 metres, terminating at Point B.
6. The proposed diversion route is shown as a bold dashed black line between points A, C, D, E, and B. The diverted route begins at Point A and proceeds generally west for approximately 2 metres to Point C. It then continues in a generally north-north-west direction for approximately 203 metres to Point D, followed by a west-north-west direction for approximately 5 metres to Point E. From there, it runs generally north for approximately 5 metres to Point B, where it re-joins the definitive alignment of Public Footpath No. 2.
7. The proposed surface between points A and C will comprise a 2-metre-wide compacted gravel path, bordered on both sides by a timber knee rail. To the north of this section, the landscaping will include a grassed

border and the planting of semi-mature trees. To the south, the layout will include a seating area, sculpture, ornamental trees, shrubs and grass planting. A secondary gravel path will connect from the south and join the public right of way at point C.

8. From Point C, the proposed surface will consist of a 2-metre-wide compacted gravel path, bordered by a timber knee rail. The adjacent landscaping will include tree planting, wetland rain garden depressions, a wildflower meadow attenuation pond, and grassed areas. The path will cross the development access road and pavements, which will be surfaced with tarmac, before continuing along a 2-metre-wide gravel path, bordered by a timber knee rail. Landscaping along this continued section will again incorporate trees, wetland rain garden, wildflower meadow, an attenuation pond, and grass. Prior to reaching Point D, the landscaping will include a wildflower meadow and a fenced children's play area to the west, and additional seating and a planted ornamental hedge to the east.
9. The proposed path between points D, E and B will consist of a 2-metre-wide grassed surface. The surrounding area will be landscaped to include a wildflower meadow and tree planting.

Consultation and Engagement

10. The ward members, Somerford Parish Council, user groups, utility companies, and the council's Nature Conservation Officer have been consulted, with three submitted written responses received.
11. The Congleton Ramblers are 'happy with the proposal as described in the informal consultation documents.'
12. The Peak and Northern Footpath Society replied stating that 'The diversion request seems reasonable in that the proposed route diverts little from the present route the plan shows landscaping, and it looks well planned' before continuing and stating 'it is unfortunate that the Society was not consulted at the planning stage, when any issues could have been resolved to the satisfaction of all concerned.'
13. Somerford Parish Council raised an objection to the proposed diverted route through the estate's landscaped centre, preferring a natural path along the western edge. See Appendix 1 for a copy of the statement.

Reasons for Recommendations

14. 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 (TCPA), 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.’

Section 259 of the TCPA states: ‘An Order made under section 257 or 258 shall not take effect unless confirmed by the Secretary of State, or unless confirmed, as an unopposed Order, by the authority who made it.’

15. It is considered that it is necessary to divert part of Public Footpath No. 2 in the Parish of Somerford as illustrated on Plan No. TCPA083, to allow the construction of children’s play area as detailed within planning reference [23/2713C](#).
16. Where objections to the making of an Order are received and not withdrawn, the Order must be referred to the Secretary of State for determination. In considering whether to confirm the Order the Secretary must have regard to the matters discussed in paragraph 15 below.
17. The Public Right of Way team’s work supports Cheshire East Borough Council’s Corporate Plan outcome 1.5 which is keeping ‘Communities connected through an improved accessible, rural and urban transport network including active travel’. This includes commitments to unlocking prosperity, improving health and wellbeing. The proposed diversion also aligns with the policies and objectives set out in the Council’s statutory Rights of Way Improvement Plan.

Other Options Considered

18. If the authority was to do nothing the development of the fenced children’s play area would obstruct the Public Right of Way.

Implications and Comments

Monitoring Officer/Legal

19. The legal framework governing this proposal is set out in Section 257 of the Town and Country Planning Act 1990, which provides the Council with the discretionary power to make a Public Path Diversion Order where it appears necessary to do so to allow a development to be carried out. Legal considerations are set out in paragraph 12 of this report.

20. Once an Order is made, it may be subject to public objection. If any objections are received and not withdrawn, the Council loses the power to confirm the Order. In such cases, the matter must be referred to the Secretary of State, which may result in a hearing or Public Inquiry. As a result, the decision may ultimately be confirmed or overturned. This process may require additional legal resources and officer time.

Section 151 Officer/Finance

21. The applicant is responsible for all costs associated with the diversion application and construction of the proposed surface and any landscaping required for the alternative route. If objections result in a hearing or inquiry, the Council would be responsible for any associated costs, including preparation and legal representation. Under the planning consent, the developer will be responsible for maintenance of the diverted routes

Human Resources

22. There are no direct implications for Human Resources.

Risk Management

23. There are no direct implications for risk management

Impact on other Committees

24. There are no direct implications on other Committees

Policy

25. The Public Right of Way team's work supports the Council's Corporate Plan vision of enabling prosperity and wellbeing for all in Cheshire East. This includes commitments to unlocking prosperity, improving health and wellbeing. The proposed diversion also aligns with the policies and objectives set out in 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

26. An assessment in relation to the Equality Act 2010 has been carried out by the Public Rights of Way 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.

Other Implications

Rural Communities

27. 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)

28. There are no direct implications for Children and Young People.

Public Health

29. The recommendations are anticipated to offer a positive overall impact on the health and wellbeing of Cheshire East residents.

Climate Change

30. The work of Public Rights of Way team encourages a reduction in carbon emissions and increased environmental sustainability by reducing energy consumption and promoting healthy lifestyles through active travel and leisure.

Name of Consultee	Post held	Date sent	Date returned
<i>Statutory Officer (or deputy) :</i>			
Ashley Hughes	Executive Director of Resources, Section 151 Officer	24/10/25	28/10/25
Kevin O'Keefe	Interim Director of Law & Governance (Monitoring Officer)	21/10/25	22/10/25

<i>Legal and Finance</i>			
Bethany Hill	Solicitor	13/10/25	13/10/25
Wendy Broadhurst	Principal Accountant (Lead Business Partner)	07/10/25	13/10/25

Access to Information	
Contact Officer:	Richard Chamberlain – Richard.chamberlain2@cheshireeast.gov.uk
Appendices:	Appendix 1 – Somerford Parish Council statement Appendix 2 - Plan - Proposed Diversion Footpath No. 2 (Part) in the Parish of Somerford
Background Papers:	The background papers and files relating to this report can be inspected by contacting the report writer.

Appendix 1 – Somerford Parish Council statement

‘The Council is a little disappointed that the proposal is still that the PROW should pass through the centre paved area of the estate, rather than through the more natural grassed area at the perimeter to the West. Those who walk public footpaths do not, in our experience, want to walk through the middle of a busy housing estate with modern, hard, landscaping on either side, they walk to escape into quiet and natural environments. Before the land was sold for development, the footpath was through open fields. Now post-development the footpath bisects the hard landscaping of a housing estate. Altering the footpath by a metre or two to the north and southern end is a missed opportunity, and in practice, walkers and dog walkers are likely to use the area planted with wildflowers and marginal plants shown on the landscape plans regardless. For this reason, the Council objects to the proposal.’