

CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting: 19 September 2011
Report of: Greenspaces Manager
Subject/Title: Town and Country Planning Act 1990 Section 257
Application for the Diversion of Public Bridleway No. 7
(Part) Parish of Alpraham

1.0 Purpose of Report

- 1.1 The report outlines the investigation to divert part of Public Bridleway No. 7 in the Parish of Alpraham. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way Unit as a response to planning approval granted to Mr David Symms for the construction of a milking parlour at Rookery Farm, Alpraham. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an Order should be made to divert the section of bridleway concerned.

2.0 Recommendations

- 2.1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Bridleway No. 7, Alpraham as illustrated on Plan No. TCPA/059 on the grounds that the Borough Council is satisfied that it is necessary to do so to allow development to take place.
- 2.2 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.
- 2.3 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.

3.0 Wards Affected

- 3.1 Bunbury

4.0 Local Ward Members

- 4.1 Councillor Michael Jones

5.0 Financial Implications

- 5.1 Not applicable

6.0 Legal Implications

- 6.1 Objections received to the proposed order, if not withdrawn, could lead to a public inquiry or hearing with attendant legal involvement and use of resources.

7.0 Risk Assessment

- 7.1 Not applicable

8.0 Background and Options

- 8.1 An application has been received from P&L Agriconsulting (“agent”) on behalf of Mr David Symms (‘the Applicant’) requesting that the Council make an Order under section 257 of the Town and County Planning Act 1990 to divert part of Public Bridleway No. 7 in the Parish of Alraham.
- 8.2 Public Bridleway No. 7 Alraham commences along the farm drive at OS grid reference SJ 5747 6052 and runs in a generally east south easterly direction along the drive into the farmyard of Rookery Farm where it then bears in a south, south easterly direction to continue across field land to its junction with Alraham Footpath numbers 8 and 14 at OS grid reference SJ5773 6034. From here, it follows a generally easterly direction across fields to terminate at OS grid reference SJ 5848 6015. The section of path to be diverted is shown by a solid black line on Plan No. TCPA/059 running between points A-C. The proposed diversion is illustrated with a black dashed line on the same plan, running between points A-B-C.
- 8.3 The existing alignment of the bridleway would be directly affected by the development of the milking parlour which is required by Mr David Symms to enable milking of an increasing number of cows. The land is entirely owned by Mr David Symms.
- 8.4 Planning permission was granted to the applicant on 22nd June 2011. The application is cited as Planning Permission Ref: 11/1061N. The details of the decision notice are for the development of the milking parlour at Rookery Farm.
- 8.5 Part of the current line of Public Bridleway No.7 Alraham (points 1-2 on Plan No. TCPA/059) lies directly on the site designated for development of the milking parlour as shown on the plan submitted by the applicant’s agent. This part of the existing bridleway, Alraham BR7, would be obstructed by the milking parlour. Therefore, the bridleway diversion is required to provide public access around the new milking parlour. The length of bridleway proposed to be diverted is approximately 180 metres.
- 8.6 The proposed route for the bridleway is approximately 174 metres long and would move the bridleway from point A along the farm drive, to enter the adjacent field via a bridle gate. Through this, it would follow a south, south easterly direction to point B before bearing in a south easterly direction to terminate at its junction with Alraham Footpaths Number 8 and 14 at point C on Plan No. TCPA/059.

- 8.7 Local councillor, Councillor Mike Jones, has been consulted about the proposal and did not register any objection.
- 8.8 Alpraham Parish Council has been consulted about the proposal and registered no objection to the diversion
- 8.9 The statutory undertakers have also been consulted and have no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 8.10 The user groups have been consulted. No responses have been received to date. Responses received before committee will be verbally reported.
- 8.11 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 8.13 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion would be no less easy to use than the current route.

9.0 Reasons for Recommendation

- 9.1 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 bridleway if it is satisfied that it is necessary to do so to enable development to be carried out in accordance with a planning permission that has been granted.
- 9.2 It is considered that it is necessary to divert part of Bridleway No. 7 Alpraham as illustrated on Plan No. TCPA/059, to enable the development of a milking parlour that will enable milking of a larger number of cows at Rookery Farm. Planning consent was granted on the 22nd June 2011 by Cheshire East Council; reference number 11/1061N.
- 9.3 Consultations have not elicited objections to the proposal and it is 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 are satisfied.

10.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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Background Documents: PROW file 010D/487