

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
Proposed Diversion of Public Footpath No. 6 (part)
Parish of Knutsford

1.0 Report Summary

- 1.1 The report outlines the investigation to divert part of Public Footpath No.6 in the Parish of Knutsford. 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 applied for by the agent on behalf of the landowner following the granting of planning permission for the conversion of derelict barns to four domestic dwellings. 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 footpath concerned.

2.0 Recommendation

- 2.1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.6 Knutsford as illustrated on Plan No. TCPA/006 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 Reasons for Recommendations

- 3.1 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 footpath 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.

3.2 It is considered that it is necessary to divert part of Footpath No. 6 Knutsford as illustrated on Plan No.TCPA/006, to allow for the development of the existing redundant barn to provide four new dwellings and the demolition of outbuildings. Planning consent was granted on the 24th June 2011 by Cheshire East Council; reference number 11/0613M.

3.3 Consultations have elicited no 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.

4.0 Wards Affected

4.1 Knutsford

5.0 Local Ward Members

5.1 Councillor Stewart Gardiner
Councillor Olivia Hunter
Councillor Peter Raynes

6.0 Policy Implications including – Carbon Reduction - Health

6.1 The proposal supports the following policies and initiatives of the Cheshire East Rights of Way Improvement Plan 2011-2026:

- Policy H3: Public rights of way and green infrastructure: Protect and enhance our public rights of way and green infrastructure and endeavour to create new links where beneficial for health, safety or access to green spaces. Initiative: 'Leisure routes for cyclists, horse riders and walkers'

- Policy H2: Promotion of active travel and healthy activities: Work in partnership to promote walking, cycling and horse riding as active travel options and healthy activities. Initiative 'Public information on the public rights of way network'

6.2 The development of new walking, cycling and horse riding routes for local residents and visitors alike is aligned with the health and wellbeing objectives and priorities of the Council as stated in the Corporate Plan (2.1.1 Encouraging healthier lifestyles) and the Health and Wellbeing Service commitment to the Change4Life initiative.

7.0 Financial Implications

7.1 Not applicable.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local authority to confirm the order itself, and may lead to a hearing/an inquiry. It follows that the Committee

decision may be confirmed or not confirmed. This process may involve additional legal support and resources

9.0 Risk Management

9.1 Not applicable

10.0 Background and Options

- 10.1 An application has been received from Knight Frank ('the Applicant') on behalf of the Crown Estate ('the landowners') requesting that the Council make an Order under section 257 of the Town and County Planning Act 1990 to divert part of Public Footpath No. 6 in the Parish of Knutsford.
- 10.2 Public Footpath No. 6 Knutsford commences at Bexton Road at OS grid reference SJ 7455 7780 and runs in a generally south westerly direction to its junction with the Bexton Parish Boundary and Footpath No.1 at OS grid reference SJ 7434 7767. The section of path to be diverted is shown by a solid black line on Plan No. TCPA/006 running between points A-B. The length of the path to be closed is approximately 100 metres in length. The proposed diversion is illustrated with a black dashed line on the same plan, running between points A-C-B.
- 10.3 The existing alignment of the footpath would be adversely affected by the creation of a residential courtyard with parking places and vehicular movements to the front of the dwellings. The land to be developed and the surrounding fields are all owned by the Crown Estate.
- 10.4 Planning permission was granted to the applicant on 24 June 2011. The application is cited as Planning Permission Ref: 11/0613M. The permission specifies the change of use of a redundant barn at Blackhill Farm, Bexton Road to provide four dwellings including the demolition of outbuildings.
- 10.5 The proposed route for the footpath is approximately 139 metres long and would move the footpath to the outside of the south easterly and south westerly boundaries of the site along the edge of the adjacent arable field. The field edge would be levelled /rolled to provide an even surface. A gap would be left to the side of the current field gate where the path leaves Bexton Road.
- 10.6 The local Councillors have been consulted about the proposal. Councillor S Gardiner responded to say he thought that the diversion proposal looked fine.
- 10.7 Knutsford Town Council have been consulted. They have responded to say that they considered the proposal acceptable subject to an adequate width and the hedging being maintained.
- 10.8 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.

10.9 The user groups have been consulted.

10.10 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 existing route.

11.0 Access to Information

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

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