

CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting: 24th September 2012
Report of: Greenspaces Manager
Subject/Title: Town and Country Planning Act 1990 Section 257:
Application for the Diversion of Public Footpath No. 9 (part),
Parish of Ridley

1.0 Purpose of Report

- 1.1 The report outlines the investigation to divert part of Public Footpath No. 9 in the Parish of Ridley. 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 Robert Latham of Ridley Bank Farm, Wrexham Road, Ridley, Tarporley, CW6 9RZ for the construction of a cattle shed (Planning reference: 12/1235N). 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 Recommendations

- 2.1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 9 Ridley, as illustrated on Plan No. TCPA/011 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 Recommendation

- 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. 9 Ridley as illustrated on Plan No. TCPA/011, to allow for the erection of a cattle shed. Planning consent was granted on the 8th May 2012 by Cheshire East Council; reference number 12/1235N.

3.3 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.

4.0 Ward Affected

4.1 Wrenbury

5.0 Local Ward Members

5.1 Councillor S Davies

6.0 Financial Implications

6.1 Not applicable

7.0 Legal Implications

7.1 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.

8.0 Risk Assessment

8.1 Not applicable

9.0 Background and Options

6.1 An application has been received from Mr Robert Latham of Ridley Bank Farm, Wrexham Road, Ridley, Tarporley, CW6 9RZ 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. 9 in the Parish of Ridley.

6.2 Public Footpath No. 9 Ridley commences at its junction with Wrexham Road at O.S. grid reference SJ 5659 5377 and runs in a generally south westerly direction through a pasture field and then continuing through further fields in a generally west, south westerly direction to terminate at its junction with Public Footpath No. 16, Cholmondeley at O.S. grid reference SJ 5593 5341. The section of path required to be diverted is shown by a solid black line on Plan No. TCPA/011 running between points A-B although the section of path proposed for diversion is much longer and runs between points C-A-B-F. The proposed diversion is illustrated with a black dashed line on the same plan, running between points C-D-E-F.

- 6.3 The existing alignment of the footpath would be directly affected by the construction of the planned cattle shed. The land is entirely owned by Mr Robert Latham.
- 6.4 Planning permission was granted to the applicant on 8th may 2012. The application is cited as Planning Permission Ref: 12/1235N. The details of the decision notice are for the erection of a cattle shed at Ridley Bank Farm.
- 6.5 Part of the current line of Public Footpath No.9 Ridley would be obstructed by the planned cattle shed. Therefore, the footpath diversion is required to provide a public access around the cow shed.

The length of footpath proposed for diversion (points C-A-B-F) is approximately 345 metres of which approximately 38 metres would be obstructed (points A-B). Although longer than other possible routes, it is felt that this route would provide walkers with an easily navigable path and would take them away from the cattle shed and surrounding land that is likely to receive heavier use by cattle making it more uneven underfoot. Consequently, although this route is longer than would normally be proposed for a diversion under the legislation of the Town and Country Planning Act 1990 s.257, it is considered to offer potential benefits for walkers and to be a sensible alternative.

- 6.6 The proposed route for the footpath (C-D-E-F) is approximately 407 metres long and would take users away from the cattle shed whilst allowing them to follow a distinct boundary hedge in an easterly and then southerly direction (points C-D-E) before crossing the pasture field in a direct line following a west, south westerly direction to meet the current footpath in the south west field corner (point F).

The route would be 2 metres wide throughout.

- 6.7 The local Councillor has been consulted about the proposal. No comments have been received.
- 6.8 Bulkeley and Ridley Parish Council have been consulted about the proposal and no comments have been received.
- 6.9 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.
- 6.10 The user groups have been consulted. The Peak and Northern Footpath Society registered no objection to the proposal and requested signage at point E. No other responses have been received.
- 6.11 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 6.12 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 convenient to use than the current route.

10.00 Access to Information

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

Officer: Marianne Nixon

Tel No: 01270 686 077

Email: marianne.nixon@cheshireeast.gov.uk

Background Documents: PROW file 254D/454