

CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting:	11 March 2013
Report of:	Public Rights of Way Manager
Subject/Title:	Town and Country Planning Act 1990, Section 257: Proposed Public Path Stopping Up Order - Public Footpath No. 1 Basford (Part)

1.0 Report Summary

- 1.1 The report outlines the proposal to stop up part of Public Footpath No.1 in the Parish of Basford due to the construction of a spur of the Crewe Green Link Road South. This includes a discussion of related consultations carried out in respect of the planning consent and the legal tests to be considered for a stopping up order to be made. The proposal has been requested by Cheshire East Borough Council as the Highway Authority in order that the legal process runs in parallel with that of a Compulsory Purchase Order that has been made. 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 stop up 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 stop up part of Public Footpath No.1 Basford, as illustrated on Plan No. TCPA/013, on the grounds that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted.
- 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 Act.
- 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. Should this situation arise, the Council would request that the Secretary of State consider the Order in parallel with the Compulsory Purchase Order related to the scheme.

3.0 Reasons for Recommendations

- 3.1 In accordance with Section 257 of the Town and Country Planning Act 1990 it is within the Council's powers to make the Order if it appears to the Council that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted. It is considered that the proposed stopping up is necessary in order to enable development to be

carried out in accordance with planning permission granted for the reasons set out in below.

- 3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. Under section 259 of the Town and Country Planning Act 1990, the Secretary of State shall not confirm any such Order unless satisfied that the matters discussed at paragraph 3.1 are satisfied.
- 3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

4.0 Wards Affected

- 4.1 Haslington.

5.0 Local Ward Members

- 5.1 Councillors John Hammond and David Marren.

6.0 Policy Implications including – Carbon Reduction - Health

- 6.1 The Cheshire East Council Local Transport Plan (LTP) 3 Strategy set out the completion of the Crewe Green Link Road (South) as one of its key objectives. Indeed the scheme is included in the LTP Implementation Plan (2011-2015) as policy B2 – ‘Enabling Development’. The scheme is protected in planning policy as Policy TRAN7 of the Crewe and Nantwich replacement Local Plan 2011. The principle of support for the Basford East development site which would be accessed by the CGLRS is also allocated under policy E.3.2 as a Regional and Strategic employment allocation in the Crewe and Nantwich Replacement Local Plan 2011. The spur roads from the central roundabout of the new link road allow for this future comprehensive development of the Basford East site.

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 or 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 A planning application (ref. 12/4115N) was submitted to the Planning Authority by Cheshire East Borough Council, as the Highway Authority, for a “Dual carriageway road, known as the Crewe Green Link Road (South) linking the A500 with the A5020 and associated works” at fields between the A5020 Weston Road and the A500, with an additional area to the south of the A500 off Weston Lane, Crewe. Phase 1 of the development encompasses a north-south spine road between the A5020 and the A500, whilst Phase 2 of the development involves a connecting east-west spur road which crosses the line of Public Footpath No. 1 in Basford.
- 10.2 Planning permission was subsequently granted on 18th January 2013 in which condition No. 3 of the Decision Notice states:
*“Development shall not begin on phase 2 of the development (as indicated on plan reference B1772401/P/100/004 Rev 3) until details of proposals for the stopping-up of the affected section of public footpath Basford FP1 have been submitted to and approved in writing by the Local Planning Authority.
Development on phase 2 not commence until this footpath has been stopped-up in accordance with the approved details.
Reason: In the interests of the PROW and pedestrian safety and in accordance with Policies RT.9 (Footpaths and Bridleways) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.”*
- 10.2 Public Footpath No. 1 Basford commences at its junction with Public Footpath No. 25 in the Town of Crewe at OS grid reference SJ 7205 5362 and runs in a generally southerly direction for approximately 1.7km to its junction with Weston Lane (C504) at OS grid reference SJ 7216 5232. The section of path to be stopped up is shown by a solid black line on Plan No. TCPA/013. The length of the path to be stopped up is approximately 6.4 metres in length.
- 10.3 In order to facilitate the development of the proposed Crewe Green Link Road (South), a Compulsory Purchase Order (CPO) titled “The Cheshire East Borough Council (Crewe Green Link Road South) Compulsory Purchase Order 2013”, was made under the Highways Act 1980 and the Acquisition of Land Act 1981 on 18th January 2013. The CPO has been made to secure, compulsorily, the land and new rights required to facilitate the construction of the new road. The area of land to be acquired pursuant to the Compulsory Purchase Order includes the land where the stretch of footpath FP1 Basford is to be stopped up.

The Statement of Reasons accompanying the CPO states in paragraph 3.10:

“The western spur from the central roundabout at its terminus intersects a Public Right of Way (footpath FP1 Basford). It is proposed that the route will be unchanged, except during construction when a temporary

diversion will be required, however a stopping up order is to be progressed to cover the section inside the highway boundary which will have highway rights affecting it following construction of the spur road”.

- 10.4 It is proposed that the stopping up Order would come into effect upon the commencement of development of Phase 2 of the scheme.
- 10.5 The design of the spur road, a 30mph single carriageway, will accommodate the onward passage of pedestrians using Public Footpath No. 1 in Basford, in order that use of the footpath is not hindered. A stopping-up of the section of footpath is required, however, so that duplicate rights are not in evidence over the same land.
- 10.6 An assessment in relation to equality legislation has been carried out and it is considered that the crossing of the proposed spur road would be no less easy to use than the existing route; whilst traffic would have to be negotiated, the surface of the route across the new road would be more accessible than the existing agricultural land.
- 10.7 The landowner is the Co-operative Wholesale Society. The landowner and tenant have been informed of the proposed stopping up Order.
- 10.8 The Ward Members have not yet been directly consulted on the proposed stopping up Order. However, they were consulted on the proposed road scheme through the planning consent process (Ref. 12/4115N). The Ward Members would receive notification of the making of the proposed stopping up Order.
- 10.9 The statutory undertakers have not yet been directly consulted on the proposed stopping up Order. However, they were consulted through the planning consent process (Ref. 12/4115N). If a stopping up Order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected. The statutory undertakers would receive notification of the making of the proposed stopping up order.
- 10.10 The user groups have not yet been directly consulted on the proposed stopping up Order. However, they were able to comment on the proposed road scheme through the planning consent process (Ref. 12/4115N), with the Mid Cheshire Footpath Society, Open space Society and South Cheshire Group of the Ramblers having been directly consulted. The user groups would receive notification of the making of the proposed stopping up Order.
- 10.11 The Planning Officer has confirmed that no objections referencing the impact of the proposed road on the Public Footpath were received during the consultation on the planning consent application (Ref. 12/4115N). This said, it can be anticipated that objectors to the Compulsory Purchase Order will take the opportunity to also object to the proposed stopping up Order.
- 10.12 Objections have been lodged against the Compulsory Purchase Order and in the event they are not withdrawn, the CPO will be submitted to the Secretary

of State for determination with a public inquiry anticipated in July or August 2013. In the event of objections being received against the proposed stopping up Order, the Council would request the Secretary of State to determine the stopping up Order in parallel with the determination of the CPO.

11.0 Access to Information

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

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