

CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting:	8 th December 2014
Report of:	Public Rights of Way Manager
Subject/Title:	Town and Country Planning Act 1990 Section 257: Application for the Diversion of Public Footpath no. 19 (part), Parish of Rainow

1.0 Purpose of Report

- 1.1 The report outlines the investigation to divert part of Public Footpath No. 19 in the Parish of Rainow. 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 W Horne, Further Harrop Farm, Bakestonedale Road, Rainow, Cheshire, SK10 5UU for the construction of a sheep shed (Planning reference: NP/CEC/0814/0898). 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. 19 Rainow, as illustrated on Plan No. TCPA/022 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.19 Rainow as illustrated on Plan No. TCPA/022, to allow for the erection of a sheep shed. Planning consent was granted on the 16th October 2014 by the Peak District National Park; reference number NP/CEC/0814/0898.

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 Sutton

5.0 Local Ward Members

5.1 Councillor H Gaddum

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 R Gascoigne (agent) of Emery Planning Partnership Ltd on behalf of Mr W Horne, Further Harrop Farm, Bakestonedale Road, Rainow, Cheshire, SK10 5UU 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. 19 in the Parish of Rainow.

6.2 Public Footpath No. 19 Parish of Rainow is a long footpath (approximately 2,332 metres) that runs mainly across pasture fields that lie between Macclesfield Road and Bakestonedale Road.

It commences at its junction with Macclesfield Road at O.S. grid reference SJ 9626 7727 to run in a generally north westerly and then northerly directions to Fold Farm. It then continues in a generally north, north easterly direction to its junction with Public Footpath No. 20, Parish of Rainow. At this point, it turns sharply to follow an easterly direction to its junction with Public Footpath No. 22 Parish of Rainow from where it turns sharply again to follow a generally north, north easterly direction past Further Harrop Farm (to its east). It then continues in this direction to terminate at its junction with Bakestonedale Road at O.S. grid reference SJ 9702 7917.

The section of path required to be diverted is shown by a solid black line on Plan No. TCPA/022 running between points B-C although the section of path proposed for diversion is longer and runs between points A-B-C-D. The proposed diversion is illustrated with a black dashed line on the same plan, running between points A-E-D.

- 6.3 The existing alignment of the footpath would be directly affected by the construction of the planned sheep shed. The land is entirely owned by Mr W Horne.
- 6.4 Planning permission was granted to the applicant on 16th October 2014. The application is cited as Planning Permission Ref: NP/CEC/0814/0898 'Erection of agricultural livestock building, associated alterations to immediate site levels, alteration to farm track along with part diversion of footpath (Rainow FP19). The proposed development is shown on the plan entitled 'Proposed diversion of Rainow FP19 overlaid with development plan'.
- 6.5 Part of the current line of Public Footpath No.19 Rainow would be obstructed by the planned sheep shed. Therefore, the footpath diversion is required to provide a public access around the sheep shed.

The length of footpath proposed for diversion (points A-B-C-D) is approximately 43 metres of which approximately 10 metres would be obstructed (points B-C) by the planned sheep shed.

- 6.6 The proposed route for the footpath (A-E-D) is approximately 48 metres long, just 5 metres longer than the current route and would take users around the sheep shed.

The route would be 2 metres wide throughout and would have a similar grass surface to the current route since it would cross the same pastureland no more than approximately 12 metres to the west of the current route.

- 6.7 The local Councillor has been consulted about the proposal. No comments have been received.
- 6.8 Rainow Parish Council has been consulted about the proposal and members registered that they have no objection to the proposal.
- 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. Members of both the East Cheshire Group of the Rambler's Association (RA) and the Peak and Northern Footpath Society registered that they have no objection to the proposal. No other comments were received.

There were suggestions from the East Cheshire Ramblers that:

- A shallow depth of the topsoil (approx. 1 metre wide) be removed along the

new route and replaced with stone to provide a solid foundation walkable in all seasons whilst acting initially as a clear indication of the line of the new footpath. This would be on the understanding that in time, grass would grow over the stoned section so the footpath would blend back into the surrounding pastureland.

- The new route be waymarked to make it clear for walkers.

These suggestions are under consideration and final outcomes will be reported verbally.

- 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:

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Background Documents: PROW file 253D/499