

# CHESHIRE EAST COUNCIL

## Public Rights of Way Committee

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<b>Date of Meeting:</b>	7 <sup>th</sup> December 2015
<b>Report of:</b>	Public Rights of Way Manager
<b>Subject/Title:</b>	Town and Country Planning Act 1990 Section 257: Application for the Diversion of Public Footpath no. 29 (part), Parish of Sandbach

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### 1.0 Purpose of Report

The report outlines the investigation to divert part of Public Footpath No. 29 in the Parish of Sandbach. 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 a planning application that is currently under consideration by the Council's Planning Department. The application has been submitted by Ms. Hannah Chadwick (agent) of JRC Architects on behalf of Mr Michael Barrow, Picframes.co.uk, Unit 7, Gate Farm, Wettenhall Road, Nantwich, Cheshire, CW5 6AL for erection of a new industrial unit (housing 4no. individual office/storage units) and, associated car parking (Planning reference: 15/2960C). 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. 29 Sandbach, as illustrated on Plan No TCPA/026 on the grounds that the Borough Council is satisfied that it is necessary to do so to allow development to take place on condition that no adverse comments are received from Sandbach Town Council.
- 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. 29 Sandbach as illustrated on Plan No. TCPA/026 to allow for the erection of a new industrial unit (housing 4no. individual office/storage units) and, associated car parking as detailed within planning reference: 15/2960C.

- 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 Sandbach Ettiley Heath and Wheelock

#### **5.0 Local Ward Members**

- 5.1 Councillor G Wait

#### **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 Ms. Hannah Chadwick (agent) of JRC Architects on behalf of Mr Michael Barrow, Picframes.co.uk, Unit 7, Gate Farm, Wettenhall Road, Nantwich, Cheshire, CW5 6AL 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. 29 in the Parish of Sandbach.
- 6.2 Public Footpath No. 29 Sandbach commences at its junction with Sandy Lane at O.S. grid reference SJ 7354 6052 and, apart from the section between Sandy Lane and Milton Way, runs through an estate along adopted highways in a generally south easterly direction to terminate on Elton Road at O.S. grid reference SJ 7388 6027. In total, the footpath has a length of approximately 593 metres.

The section of path required to be diverted by Mr Barrow is shown by solid black line on Plan No. TCPA/026 running 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 section proposed for diversion by Mr Barrow, would be directly affected by development of the industrial unit as shown on Plan No. TCPA/026.

The land over which the current route runs and over which the proposed route would run is entirely owned by Mr Barrow.

- 6.4 Planning permission was granted to Mr Barrow on 17<sup>th</sup> August 2015. The application is cited as Planning Permission Ref: 15/2960C. The details of the application are for the development of an industrial unit and associated car parking.

- 6.5 With regard to the development, part of the current line of Public Footpath No.29 Sandbach would be obstructed by the industrial unit. Therefore, the footpath diversion is required to preserve public access through the development.

The length of footpath proposed for diversion (points A-B-C-D) is approximately 87 metres.

- 6.6 Referring to Plan No. TCPA/026, the proposed diversion route would run along the southern perimeter of the development area as shown by the bold black dashed line between points A-E-D. It would be enclosed within a 3 metre wide corridor (hatched area) by 2.4 metre high palisade security fencing and would be surfaced with compacted hardcore. The corner (point E) along this new route would have a 3 metre radius to assure good visibility for users. The proposed diversion route would have a length of approximately 82 metres.

This diversion would be made in the interests of the landowner.

- 6.9 The local Councillor has been consulted about the proposal and expressed concern about the response from local residents since the proposal involves placement of a 2.4 metre fence along the rear of their properties. This concern is exacerbated from a previous situation whereby a metal fence bounding a local scrapyard was increased in height. The Councillor recommended that these residents be consulted.

To date, the residents have not been consulted on the basis that the initial consultation is an informal invite of comments from a discrete number of statutory consultees. However, if the diversion is approved, then the residents will receive a copy of the Legal Order documents and the notice inviting them to comment within the four week statutory advertising period. Furthermore the proposed fencing will be the same type and height as the fencing that is in place at the moment although it will be moved 2 metres further away from the rear of the properties.

- 6.10 Sandbach Town Council has been consulted about the proposal and comments will not be available until after their meeting due to be held on the evening of Monday 7<sup>th</sup> December.
- 6.11 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.
- 6.12 The user groups have been consulted. The Peak and Northern Footpath Society registered that their members have no objection to the diversion. No other responses have been received.
- 6.13 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 6.14 An assessment in relation to the Equality Act 2010 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 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 262D/508