

CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of meeting: 14th March 2016

Report of: Public Rights of Way Manager

Title: Town and Country Planning Act 1990 S257
Application for the Extinguishment of Pedestrians Routes,
Former Victoria Community High School, West Street,
Crewe

1.0 Purpose of Report

- 1.1 The report outlines the investigation to extinguish four pedestrian routes that run across the site of the Former Victoria Community High School, off West Street in Crewe. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for an extinguishment order to be made. The proposal has been put forward by the Public Rights of Way Unit as an application has been made by the agents IBI Group, on behalf of Dr Georgina Harris of Crewe Engineering and Design TC, Westfields, Middlewich Road. Sandbach. The application has been made as a consequence of planning approval granted for:

Planning Application: 15/4389N

Demolition of former Newdigate and Meredith Buildings and the erection of a 3622 sqm. new educational building and associated car parking and landscaping works, alongside the refurbishment of the Oakley Building for use by the UTC Former Victoria Community High School and The Oakley Centre, West Street, Crewe, CW1 2PZ.

- 1.2 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 extinguish the sections of pedestrian routes concerned.
- 1.3 Members are required to consider the issues set out in this report and make a decision as to whether the proposed extinguishment of the pedestrian routes is necessary to enable development to take place in accordance with section 257 of the Town and Country Planning Act 1990 (as detailed in paragraph 3.1 below).

2.0 Recommendations

- 2.1 An Order is made under Section 257 of the Town and Country Planning Act 1990 to extinguish those pedestrian routes illustrated on Plan No. TCPA/027 on the grounds that the Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.
- 2.2 Public Notice of the making of the Order is 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 Local Planning Authority, can make an Order extinguishing a pedestrian route that it considers to be a public right of way if it is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with a planning permission that has been applied for or granted.
- 3.2 It is considered that it is necessary to extinguish those sections of pedestrian routes as illustrated on Plan No. TCPA/027 to allow for the demolition of existing buildings and the construction of a new educational building and associated car parking and landscaping. The pedestrian routes indicated would be directly affected by the new building, car parking and proposed secure perimeter of the site intended to ensure safeguarding of pupils.
- 3.3 Informal consultations have not elicited any objections and it is considered that the legal tests for the making and confirming of an Extinguishment Order under section 257 of the Town and Country Planning Act 1990 are satisfied.

4.0 Wards Affected

- 4.1 Crewe Central

5.0 Local Ward Members

- 5.1 Councillor Irene Faseyi.

6.0 Financial Implications

- 6.1.1 Not applicable

7.0 Legal Implications

- 7.1 Section 257 of the Town and Country Planning Act 1990 ("TCPA") (as amended by section 12 of the Growth and Infrastructure Act 2013) allows the council to make and confirm orders authorising the stopping up or diversion of a footpath if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission applied for. There are requirements of public notice and if objections are received to the proposed order and not withdrawn, the order must be submitted to the Secretary of State for confirmation, who must either call for a local inquiry or give the

objectors an opportunity of being heard before making his decision. This would require attendant legal involvement and use of resources. It follows that the Committee decision may or may not be confirmed by the Secretary of State.

- 7.2 The procedure in making an order is detailed in Schedule 14 to the TCPA and the Town and Country Planning (Public Path Orders) Regulations 1993, which are made under the TCPA.

8.0 Risk Assessment

- 8.1 Not applicable

9.0 Background and Options

- 9.1 An application has been received from IBI Group acting as Agent for the Crewe Engineering and Design TC ('the Applicant'), requesting that the Council make an Order under section 257 of the Town and County Planning Act 1990 to extinguish four lengths of pedestrian routes that cross the site of the Former Victoria Community School on West Street in Crewe.

- 9.2 The routes affected are:

A-B) A pedestrian route commencing at its junction with Ludford Street at O.S. grid reference SJ 7033 5606 and running in a generally south and south-westerly direction to the east of the current Newdigate building for approximately 51 metres to its junction with the new pedestrian north – south link at O.S. grid reference SJ 7035 5602.

C-D-E) A pedestrian route commencing at its junction with route A-B above, at O.S. grid reference SJ 7033 5606 and running generally south easterly then easterly then northerly direction for a distance of approximately 76 metres to its junction with Chetwode Street at O.S. grid reference SJ 7039 5607.

D-F) A pedestrian route commencing at its junction with route C-D-E above, at O.S. grid reference SJ 7036 5605, point D, and running in a generally southerly direction for a distance of approximately 34 metres to its junction with the north- south route to be retained (J-K) at O.S. grid reference SJ 7036 5602.

G-H) A pedestrian route commencing at its junction with the footway on Oakley Street at O.S. grid reference SJ 7043 5608 and running in a generally south and south westerly direction for a distance of approximately 65 metres to the east-west route to be retained (L-K-H) at O.S. grid reference SJ 7041 5602.

- 9.3 The proposed extinguishments are necessary as they currently pass through the proposed new college building. In addition the routes pass through the area of the site which is to be defined by a secure perimeter, ensuring the safeguarding of pupils. Consequently there can be no public access to this area and it will be available to staff and pupils only.

The layout for the proposed new building and site development is shown on the attached Development Plan. This represents in green those paths that will be retained as public routes and those in red that are to be extinguished within the dashed red line boundary of the site. The routes to be retained are depicted on Plan No. TCPA/027 as a black dashed line J-K (north-south route) and L-K-H (east to west route).

The route J-K will be constructed of concrete paving and existing block paving (made good and re-used) and will have a width in excess of 5 metres except where it runs along the footway to the site entrance from Ludford Street where it will be approximately 1.8 metres. This route will be maintained by the UTC. The route L-K-H will be tarmacked and be approximately 2.2 metres wide. This route will be adopted by the Highways Department and subsequently maintained by the Council. Both routes have secured public access rights by conditions in the Planning decision notice, numbers 14 and 17.

- 9.4 The history of the current site dates back to the late 1970's when sections of the existing streets were stopped up by Magistrate's Court Order to prepare the way for the development of the new Victoria Community High School. No formal access provision was set out through the school site however it was not enclosed and remained highly permeable effectively allowing rights of access for pedestrians to develop. The school stopped being an educational site in about 2009/2010 when it merged with another school and moved to a new site to become the Sir William Stanier Community School. Since that time two of the buildings have been derelict and the Oakley Centre has been used by Cheshire East Council as a Community Centre. When the current development of the site was in the planning stage the PROW department was approached for their comments on the status of the routes through the site. It was considered that public rights had probably accrued. Signs located on site by Cheshire County Council stating ' Private Property, Right of Way' gave a strong indication that access had been acknowledged by the County as landowner. On this basis it was recommended to the partnership working in conjunction to develop the University Technology College, that the routes should be formally closed. At the same time it was agreed that one pedestrian route through the site was an essential requisite in designing the new layout. The route along the frontage of the site running east to west is a strange anomaly as it falls mostly within the school site landholding and yet it also effectively serves as the northern footway to West Street. It was therefore also essential that this route was retained for the public.
- 9.5 The pedestrian routes are currently the subject of a temporary closure order whilst site preparation works are underway and asbestos is removed from the buildings. This order came into force on the 7th December 2015 and expires after six months. If the developer wishes to extend this period of closure, an application must be made to the Department of Transport at least 4 weeks before the current expiry date.
- 9.6 Councillor Faseyi has been consulted as the Ward Councillor for Crewe Central, no comments have been received.

- 9.7 Crewe Town Council has been consulted and responded to say that they had resolved that the Council had no objection to the proposals for the extinguishment and retention of pedestrian routes. However they also noted the disappointing lack of direct consultation and notification with affected residents before the 6 month temporary closures of all pedestrian routes were implemented.
- 9.8 The user groups and statutory undertakers have also been consulted and no comments have been received.
- 9.9 An assessment in relation to Equality Act 2010 Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed routes to be retained would be no less convenient to use than the existing routes.

10.0 Access to Information

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

For further information:

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Background Documents: PROW file 344E/516