

CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of meeting: 5th December 2016

Report of: Public Rights of Way Manager

Title: Town and Country Planning Act 1990 Section 257
Application for the Diversion of Public Footpaths No.8 and 9
(Parts) Parish of Mottram St Andrew

1.0 Purpose of Report

- 1.1 The report outlines the investigation to divert part of Public Footpaths Nos. 8 and 9 in the Parish of Mottram St Andrew. 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 an application has been made by the agents Kitson Architecture Ltd. on behalf of Mottram Hall Limited, Wellington House, Cliffe Park, Bruntcliffe Road, Morley, Leeds, LS27 0RY. The application has been made as a consequence of planning approval granted for:

Planning Application: 16/2236M

Proposed extension of Mottram Hall Hotel to provide: new meeting rooms with enlargement of existing function suite; an extension to provide 34 new bedrooms; refurbishment of south wing to provide 15 additional bedrooms; alterations to the main entrance/reception area; 52 additional car parking spaces and; a new service hub and yard

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.

Members are required to consider the issues set out in this report and make a decision as to whether the proposed footpath diversion 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 divert part of Public Footpaths Nos. 8 & 9 Mottram St Andrew as illustrated on Plan No. TCPA/035 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 diverting a public footpath 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 divert part of Footpaths Nos. 8 & 9 Mottram St Andrew, as illustrated on Plan No. TCPA/035, to allow for the construction of an extension to the hotel building and the development of a new service yard and hub. The footpath would be directly affected by the extension, the service road and hub.
- 3.3 No objections have been raised at the informal consultation stage; therefore 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 Wards Affected

- 4.1 Prestbury.

5.0 Local Ward Members

- 5.1 Councillor Paul Findlow

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") 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 Kitson Architecture Ltd. acting as Agent for Mottram Hall Limited ('the Applicant'), requesting that the Council make an Order under section 257 of the Town and County Planning Act 1990 to divert parts of Public Footpaths Nos. 8 & 9 in the Parish of Mottram St Andrew.
- 9.2 Public Footpath No. 8 commences to the north of Woodside Cottage at its junction with footpaths nos. 26 & 7, Mottram St Andrew at OS grid reference SJ 8845 7881 and runs in a generally northerly direction to the west of Mottram Hall Hotel then turning easterly to its junction with Footpath no. 9 at a point between the Hotel and the Car Park at OS grid reference SJ 8853 7950. The section of this footpath to be diverted is shown by a solid black line on Plan No. TCPA/035 running between points A-B Public Footpath No. 9 commences at its junction with footpath 8, described above, and runs in a generally easterly direction between the Hotel and the Car Park and then generally south easterly to the Parish Boundary with Prestbury at the River Bollin at O.S. grid reference SJ 8909 7916. The section of path to be diverted is shown by a solid black line on Plan No. TCPA/035 running between Points B- D. The whole of the proposed diversion is illustrated with a black dashed line on the same plan, running between points A-B-D.
- 9.3 The proposed diversion is necessary to accommodate an extension to the hotel and associated diversion of the existing internal road and a new service hub and delivery yard. These development locations were necessary to avoid adverse impact on the older parts of the listed building and to allow large delivery and refuse vehicles access to a central service hub. The diversion is a minor realignment of the footpaths taking the path slightly further to the north to run from the golf course at the eastern end of the site (point A on the enclosed plan) along a new pavement adjacent to the internal road and crossing this road to descend diagonally across a banked grassed area to Point C and then alongside the car park to its westerly end through a small wooded area across a stream and re-joining the existing alignment of Footpath no 9 just to the east of a golf cart track (point D).
- 9.4 The proposed route will be made up of a pavement alongside the internal service road between points A and B1 then will be a timber edged rolled stone path across the grass embankment, it will then join the car park and be along the sealed tarmac surface until it leaves the car park area where it will again be a rolled stone and timber edged path. The widths will be 1.6 m along the pavement (A to B1), 2 metres along the rolled stone surfaces (B1 to C and D1 to D) and also between C and C1 and 1.8 metres along the car park edge (C1 to C2). Where the route crosses the internal roadway, the crossing will be raised with a pattern similar to a zebra crossing.
- 9.5 The current alignment of Footpath 9 has been unavailable for some time and consequently pedestrians have been using a route across the Car Park in the

meantime. The original alignment was diverted by Macclesfield Borough Council in 1990 when a previous expansion of the Hotel was approved.

- 9.6 Councillor P Findlow has been consulted as the Ward Councillor. No Comments have been received.
- 9.7 Mottram St Andrew Parish Council has been consulted. No comments have been received.
- 9.8 The user groups have been consulted. 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 diversion would be no less convenient to use than the existing route.

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 216D/526