

**Cheshire West and Chester Borough Council**  
**Delegated Report**

<b>Application Number</b>	SD082/FP11//24 Tushingham Cum Grindley
<b>Description</b>	Proposed footpath diversion order under section 257 of the Town and Country Planning Act 1990
<b>Site address</b>	Footpath 11 (Part) and Footpath 24 (Part) in the Parish of Tushingham cum Grindley
<b>Applicant Name</b>	Halls Holdings Ltd, agent for Mr Morris of Chads Farm
<b>Ward</b>	Malpas
<b>Ward Member</b>	Councillor Rachel Williams
<b>Case Officer</b>	Deborah Lack (Public Rights of Way Officer)
<b>Date</b>	10 <sup>th</sup> July 2025

**Recommendation:**

- 1) That an Order be made under section 257 of the Town and Country Planning Act 1990 (**“the 1990 Act”**) diverting a section of Public Footpath No 11/2 (Part) (**“FP11”**) and Public Footpath No 24/1 (Part) (**“FP24”**) Tushingham cum Grindley, on the grounds that it is necessary to do so in order to enable development to be carried out pursuant to Planning Permission No 17/02915/FUL (**“the Planning Permission”**) as shown on plan SD082 (**“the Plan”**) a copy of which is annexed hereto.
- 2) That the Senior Manager Asset and Network be authorised to take any action considered necessary in respect of the confirmation of the Order duly authorised to be made.

## **1. Site Description**

- 2.** FP24 commences on an agricultural field at OSGR SJ 5249 4697 and travels in a south/south easterly direction towards the main farmstead at Chads Farm, before re-entering an agricultural pasture field and ending at OSGR SJ 5257 4632. As FP24 progresses towards the existing boundary of Chads Farm farmyard, members of the public are required to use two stiles. The first stile provides access via a small gap to the side of an agricultural building which is currently used for forage storage. The path which the public use in this section is made up of loose soil and grass. The second stile is situated on the eastern corner of the agricultural building, placing the public directly in front of the only opening to the agricultural building.
- 3.** FP11 is located just off the A41. Starting at OSGR SJ 5221 4661 it travels along Bar Hill Drive in a north easterly direction and makes its way through Chads Farm yard, joining the Sandstone Trail on the adjacent side of the farm holding, before finishing in an agricultural field at OSGR SJ 5283 4701, where it joins Tushingham cum Grindley BR10.
- 4.** The area which is to be affected in conjunction with the Planning Permission commences at SJ 5258 4670. From this point on, FP11 follows a stone track into the partly concreted and stone area of Chads Farm farmyard.
- 5.** Both FP24 and FP11 currently run directly through the main farmyard and access track where the majority of farm operations occur, including the holding of livestock and also access for farm traffic. This area is made up of a stone and partially concreted surface. Members of the public are required to go through a number of metal gates in the farmyard, which are usually closed to ensure livestock do not escape. In addition to this, FP11 passes through two frequently used livestock handling areas, one for sheep and the other for cattle.

## **6. Proposal/application detail**

7. The Planning Permission has been granted for the conversion of buildings into seven dwellings (17/02915/FUL). The documents show the proposed diversion on the application drawing (Plan 3 on Appendix A)
8. Plans showing the layout can be found under planning reference 17/02915/FUL at the planning portal: <https://pa.cheshirewestandchester.gov.uk/online-applications/>
9. The proposed new route aims to divert both FP24 and FP11 away from both the farmyard at Chads Farm and the development of the seven new dwellings and associated private garden areas, access and parking.
10. The proposed diversion of FP24 commences at FP11 at SJ 52730 46870 (Point D on the Plan) and travels in a north westerly direction to join Tushingham Cum Grindley BR No. 10 at OS Grid Reference SJ 5249 4697 (Point E on the Plan).
11. Tushingham cum Grindley FP24(2) will remain the same.
12. The total distance of the diverted section will be approximately 248 metres and will have a width of 2 meters throughout.
13. The proposed diversion of FP11 commences at Tushingham Cum Grindley FP No. 24(2) at OS Grid Reference SJ 5266 4660 (Point B on the Plan) and travels in a north easterly direction to join Tushingham Cum Grindley BR No. 10 at OS Grid Reference SJ 5283 4701 (Point D on the Plan).
14. Tushingham cum Grindley FP11(1) will remain the same.
15. The total distance of the diverted section will be approximately 282 metres and will have a width of 2 meters throughout.

## **16. Relevant Legislation**

17. In accordance with section 257 of the 1990 Act the Council may make an Order diverting a public footpath if it is satisfied that it is necessary to do so in order for development to be carried out in accordance with planning permission granted, or for which an application has been made.
18. Schedule 14 to the 1990 Act requires the Council to give notice of the making of the Diversion Order. If there are no subsisting objections (and provided that by then the associated planning permission has been granted) the Council may proceed to confirm the Order. Otherwise, the Order can only be confirmed by the Secretary of State.

## **19. Relevant Policies**

20. The following policies and protocols are relevant to this application.
- 20.1. Rights of Way Improvement Plan 2011-16
  - 20.2. Statement of Action BS1 “we will seek to address safety concerns highlighted whilst using the network during consultation”
  - 20.3. Statement of Action E05 “we will follow the Equality Act 2010 to comply with standards for mobility and visually impaired users where appropriate and reasonable”
  - 20.4. Cheshire West and Chester Rights of Way Committee 29 July 2009: “Structures on public rights of way”

## **21. Assessment and Issues**

22. The purpose of the diversion is to alter the definitive line of the path so that it enables development to take place.

23. Both FP24 and FP11 cross through the farmyard and through the location of the proposed new dwelling houses and associated private garden areas, access, and parking.
24. The diversion of both FP24 and FP11 is required to allow the development to take place but will also reduce the risk to the general public, of walking through an active farmyard. Since FP24 and FP11 were placed through the centre of Chads Farm, farming operations have expanded, with larger numbers of heavy agricultural machinery being used around the farm on a daily basis, as well as frequent livestock handling in the yard.
25. The current route of FP24 takes members of the public close to many livestock housings, increasing the risk of spooking and distress to the animals being housed inside, and a risk of injury to the footpath users. There is also a potential bio security risk to footpath users from being in such close proximity to the farming operation.
26. The proposed diversion route is slightly longer than the existing route (by a distance of 200m for FP11 if travelling from the A41 east to BR10, and by a distance of 82m for FP24 if travelling from FP7 north to BR10). However, the proposed diversion takes members of the public on a more pleasant and safer route.
27. The proposed diversion route has fewer limitations and so has improved accessibility.
28. The proposed diversion route commences and terminates at the same points and there are no other considerations of connectivity.
29. The merits of the planning application are not under consideration in looking at this application. It is possible that if an application has itself received objections then a subsequent Order to divert a public right of way may draw objections to delay the process of development. If objections to an Order are received the matter would be referred to the Secretary of State.

### **30. Conclusion**

31. After careful consideration of this application and the relevant law and policies it is considered that it is necessary to divert part of FP24 and FP11 in order to enable development to be carried out in accordance with the Planning Permission that is granted or pending.

### **32. Associated documents**

Plan: SD/082/FP11/FP24/Tushingham Cum Grindley

Planning Application: 17/02915/FUL

<https://pa.cheshirewestandchester.gov.uk/online-applications/>

### **APPENDIX A**

Site Photographs including:

Plan 1 - Existing TCG FP24

Plan 2 - TCG FP11

Plan 3 - Proposed new route