

**Cheshire West and Chester Council  
Delegated Report**

<b>Application Number</b>	SD083/FP1 Rushton
<b>Description</b>	Proposed footpath diversion order under section 257 of the Town and Country Planning Act 1990
<b>Site address</b>	Footpath 1 (Part) in the Parish of Rushton
<b>Applicant Name</b>	Mr & Mrs Ford
<b>Ward</b>	Tarporley
<b>Ward Member</b>	Councillor Charles Hardy
<b>Case Officer</b>	Deborah Lack, Public Rights of Way Officer
<b>Date</b>	24 <sup>st</sup> June 2025

**Recommendation:**

- 1) That an Order be made under section 257 of the Town and Country Planning Act 1990 diverting a section of Public Footpath No 1 Rushton, on the grounds that it is necessary to do so in order to enable development to be carried out pursuant to Planning Permission No 23/03628/FUL as shown on plan SD083 ("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**

Rushton Public Footpath No 1 commences at the Alpraham Parish Boundary at OSGR SJ 59988 61203 and travels in a northerly direction through Towns Green farmyard to a small woodland to the north of Towns Green, where it reaches the boundary of the application site at SJ 60080 61638. The footpath then enters the edge of the woodland via a stile and exits at the other end of the woodland, before crossing agricultural fields to the unclassified road UY1684/A. at OSGR SJ 60148 62162.

The current surface comprises a mixture of grass, gravel and concrete hardstanding within the farmyard.

There are currently 5 field gates along the existing section of footpath within the application site.

## **2. Proposal/application detail**

3. Planning permission has been granted under planning reference 23/03628/FUL for the conversion of existing barns into 2 new dwellings (including a single storey link extension) and one extended dwelling including demolition of existing agricultural buildings and erection of a new detached garage.
4. Plans showing the layout can be found under planning reference 23/03628/FUL at the planning portal: <https://pa.cheshirewestandchester.gov.uk/online-applications/>
5. The submitted planning application proposals are for the conversion of the range of barns into dwelling houses, including the development of associated private garden areas, access and parking.
6. The current line of the PROW crosses the proposed private gardens, access and parking areas and associated boundary treatments.
7. The proposed diversion of the PROW would enable the planning permission to be implemented in the manner proposed and provide a more suitable route for walkers to experience the surrounding countryside.
8. The current line of the PROW crosses an operational farmyard, passing through two heavy gates, one at either end. The surface of the yard is concrete. Various farm buildings and structures are present. Livestock and farm machinery regularly cross the current route of the PROW in the vicinity of the farmyard, where livestock is also regularly penned. To the north of the farmyard, the PROW passes between buildings that are used for equine purposes. Horses are regularly moved across the PROW between the stables and the paddocks. This will continue to happen, if the planning application is approved.
9. Current surface comprises a mixture of grass, gravel and concrete hardstanding within the farmyard. It is proposed to provide a wide grass path for the diversion route (3m to 6m in width throughout)
10. The total length of the diversion section is approximately 917 metres (compared to 463 meters currently)
11. There are 2 field gates along the proposed diversion route currently, with an additional 12 feet wide stock gate to be added at the southern section, as indicated on the accompanying plan.

## **12. Relevant Legislation**

13. In accordance with section 257 of the Town and Country Planning Act 1990 (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.
14. 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.

## **15. Relevant Policies**

16. The following policies and protocols are relevant to this application:
  - 16.1. Rights of Way Improvement Plan 2011-16
  - 16.2. Statement of Action BS1 “we will seek to address safety concerns highlighted whilst using the network during consultation”
  - 16.3. 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”
  - 16.4. Cheshire West and Chester Rights of Way Committee 29 July 2009: “Structures on public rights of way”

## **17. Assessment and Issues**

18. The purpose of the diversion is to alter the definitive line of the path so that it enables development to take place.
19. The existing footpath cross directly through the location of the proposed new dwelling houses and associated private garden areas, access and parking.
20. The proposed diversion route is longer than the existing route. However, the diversion is a more pleasant and safer route, as it avoids the busy farmyard and associated farming activity, and will prevent footpath users having to walk directly through private gardens and driveways. It also affords better views of open fields, as opposed to existing farmyard and buildings.
21. The proposed diversion has taken into account the wetness of the ground. Consideration was made for locating the proposed route along the southern field boundary to shorten the diversion slightly, rather than following the line of the

stream, but the field boundary is underlain by clay so holds the water, whereas the proposed route along the line of the stream is more free draining.

22. The proposed diversion route has fewer limitations, so is more accessible.

23. The new route commences and terminates at the same points and there are no other considerations of connectivity.

24. 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.

## **25. Conclusion**

26. After careful consideration of the application and the relevant law and policies it is considered that it is necessary to divert part of Public Footpath 1 in the Parish of Rushton to enable development to be carried out in accordance with planning permission granted.

## **27. Associated documents**

Plan: Rushton FP1 TCPA plan SD083

Planning Application: 23/03628/FUL

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

## **APPENDIX A**

Site Photographs including:

1. Existing route
2. Proposed route