

Cheshire West and Chester Borough Council
Officer Delegated Report

Application Number	SD/053/17/04573
Description	Proposed Public Footpath stopping up order under section 257 of the Town and Country Planning Act 1990
Site address	Footpath 19 Helsby (part)
Applicant Name	K Jones, BCRN, Swan House, Russell Street, Chester CH3 5AL
Ward	Helsby
Ward Member	Councillor Alan McKie
Case Officer	Adele Mayer, PROW asset management Officer PublicRightofWay@cheshirewestandchester.gov.uk
Date	22.06.2018

Recommendation that:

- 1) An order be made under Section 257 of the Town and Country Planning Act 1990 stopping up part of Public Footpath No 19 Helsby on the grounds that it is necessary to do so in order to enable development to be carried out pursuant to Planning consent under reference 17/04229/FUL.
- 2) The Highways Commissioner be authorised to take any action considered necessary in respect of the confirmation of the order duly authorised to be made.

Site Description

1. Footpath 19 Helsby commences on the Chester Road at OSGR SJ 4881 7535 and runs in a south easterly then southerly direction to join Alvanley Road at OSGR SJ 4909 7500, passing over a bridge over Old Chester Road and also connecting with Public Footpath No 20 Helsby. The section of path affected by the proposal is that

where the path runs over the bridge, between OSGR SJ 4890 7523 and OSGR SJ 4890 7523 for a distance of approximately 6 metres as shown on plan SD/056 (“the Plan”) between points A and B. The intention is to stop up part of the width of the footpath between these points to reduce the width of the public footpath to 3 metres and enable the permitted construction of a new design bridge.

2. There are no recorded widths or limitations on the Definitive Statement; however there is a presumption that the public footpath runs across the full width between boundaries. The full square width between existing bridge parapets is approximately 8.7 metres. Photographs of the existing footpaths can be found at Appendix B.

Proposal/application detail

3. Planning Permission has been consented by Cheshire West and Chester Council under application number 17/04229/FUL proposing a replacement bridge. The planning permission approves the replacement of an existing bridge.
4. Plans showing the detail of the new bridge construction can be found under planning reference 17/04229/FUL on the Planning Portal website (<https://www.planningportal.co.uk/>). Or <https://pa.cheshirewestandchester.gov.uk/online-applications/caseDetails.do?caseType=Application&keyVal=OX1R9LTEGGR00>
A copy layout plan can be found at Appendix A of this report to show the diversion with the scheme layout.
5. The Applicant has applied to stop up part of the width of the footpath where the new bridge will be constructed. The widths to be stopped up are indicated on the Plan accompanying the report. The new bridge construction design has wider parapets and as a consequence would have the effect of obstruction of the public footpath.
6. The proposed stopping up is the distance of the new bridge which is approximately 6 metres in length (that is between points A and B on the plan). The width of the unaffected part of the footpath will be not less than 3 metres. The line for the path and the bridge is on a skew but the measurement of the overall width has been taken square to the line of the footpath and is approximately 8.7 metres. The plan

shows a simple hatched area of stopping up on each side of the centre line of the footpath. The width on either side measured square with the footpath is approximately 2.85 metres equidistant on both sides. The area on the plan shown as cross hatched will be the width of the footpath.

7. The surface of the footpath affected is unsealed metaling and herbage. The replacement will be a skid resistant surface over concrete.
8. There will be no limitations. The bridge will be constructed with parapets for safety reasons.

Relevant Legislation

9. In accordance with section 257 of the Town and Country Planning Act 1990 (the "1990 Act") the Council may make an order stopping up 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 planning permission granted.
10. Schedule 14 to the 1990 Act sets out the legal procedure and timescales that apply to orders made under section 257 of the 1990 Act and requires the Council to give notice of the making of the diversion order. If there are no objections or any objections are withdrawn the Council may proceed to confirm the order. Otherwise the order can only be confirmed by the Secretary of State.

Relevant Policies

11. The following policies and protocols are relevant to this application.

11.1. Rights of Way Improvement Plan 2011-16

- 11.1.1. 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"

Assessment and Issues

12. The purpose of the stopping up is to enable a replacement bridge to be constructed pursuant to planning permission.
13. The reduction in width to 3 metres is considered to be a satisfactory width for pedestrian user. Other rights exist which are private vehicular rights, however it is considered that the visibility of oncoming traffic is sufficient for users to avoid traffic conflict.
14. The current use of the footpaths appears to be mainly recreational and as such, the diversion has retained a satisfactory level of space and enjoyment of views.
15. 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 in order to delay the process of development.

Conclusion

16. After careful consideration of the application and the relevant law and policies it is considered that it is necessary to stop up part of Public Footpath 19 Helsby as illustrated on the Plan to enable development to be carried out in accordance with a planning permission which has been granted.
17. It is considered that the legal tests for the making and confirming an Order are satisfied.

Associated documents

File: SD/056/04229/Helsby
Planning Application 17/04229/FUL
Plan SD/056

Appendix A

Planning proposal showing the proposed bridge replacement.

All dimensions to be provided on site.
No dimensions to be extracted from this drawing
Unless otherwise stated.

NO.	DESCRIPTION	DATE	BY	CHECKED
1	ORIG BRIDGE DEMOLITION/ CHANGED DECK FINISHED			

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Client: Choilmondeley Estates
Choilmondeley Nr Malpas

Project: Robin Hood Lane Bridge
Heilsby WA6

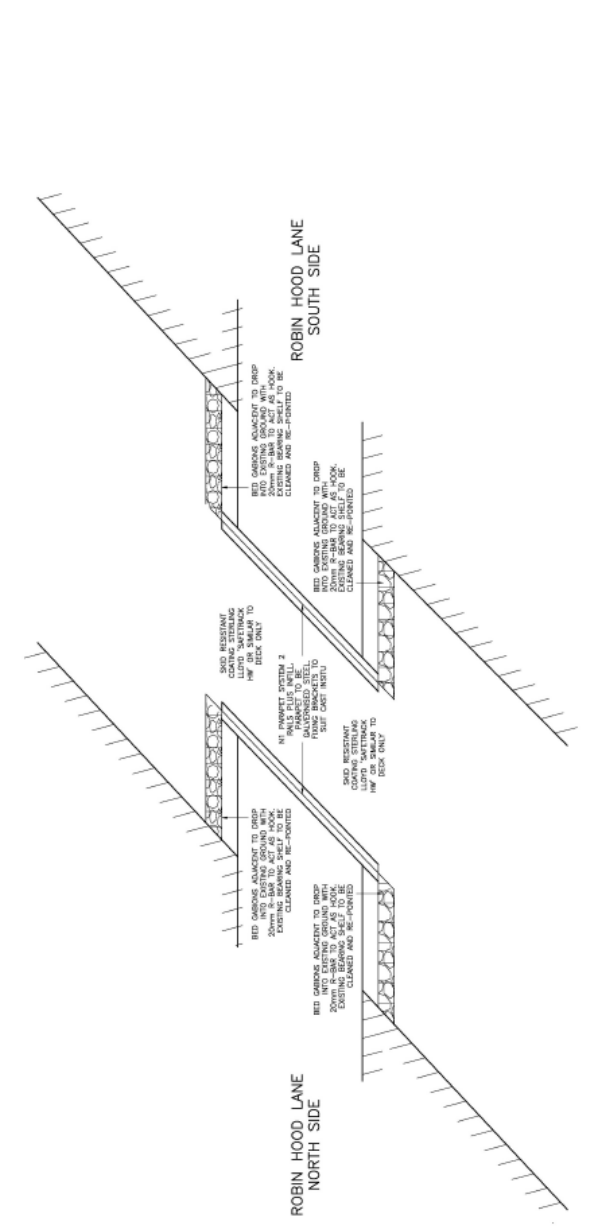
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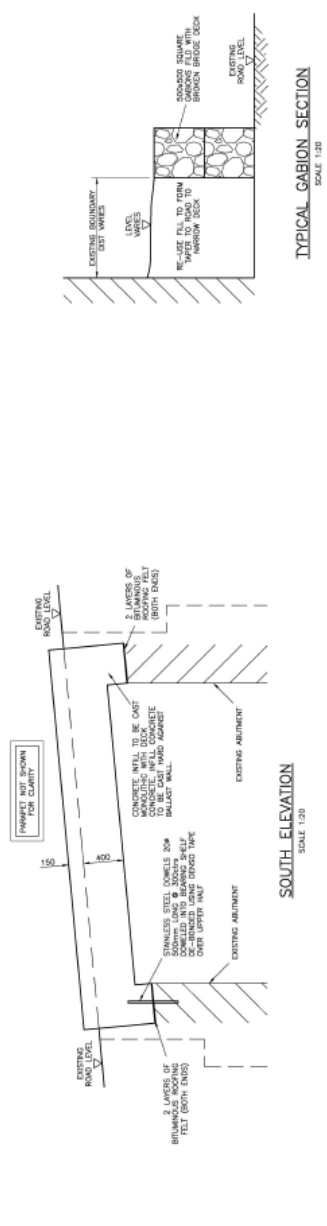
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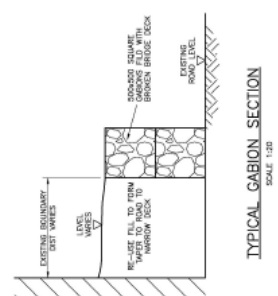
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PROPOSED SITE PLAN
SCALE 1:200



SOUTH ELEVATION
SCALE 1:200



TYPICAL GABION SECTION
SCALE 1:20

Appendix B Site photographs



Public Footpath 19 Helsby crossing bridge running north



