

CHESHIRE WEST AND CHESTER BOROUGH COUNCIL

OFFICER DELEGATED REPORT

Application Number

Description	Proposed Public Footpath Diversion Order under Section 257 of the Town and Country Planning Act 1990
Site address	Public Footpath No 13 Ashton Hayes
Ward Member	Councillor Hugo Deynem
Ward	Sandstone Ward
Case Officer	Adele Mayer, PROW Asset Management Officer publicrightofway@cheshirewestandchester.gov.uk
Date	19 July 2021

Recommendation:

- 1) That an Order be made under Section 257 of the Town and Country Planning Act 1990 ("the 1990 Act") diverting part of Public Footpath No 13 ("FP 13") in the Parish of Ashton Hayes and shown on plan SD073 ("the Plan") on the grounds that it is necessary to do so to enable development to be carried out in accordance with planning permission granted under reference 21/00320/FUL ("the Planning Permission").
- 2) That if no objections are received the Highway 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. FP13" commences on the A54 Chester Road at OSGR SJ 50166 68063 (point A on the Plan) and runs in a north westerly then north easterly direction to the B5393, Ashton Lane at OSGR SJ 50259 68527 (not shown on the Plan). The section of FP13 affected by this application is that section commencing on Chester Road at point A on the Plan running in a generally north easterly direction for approximately 185 metres to a point on a field boundary at OSGR SJ 50166 68241 (Point B on the Plan).

2. The current surface of FP13 is a grass field running through a leisure area for camping.

Proposal/application detail

3. The Planning Permission has been granted for the use of existing 8 tent pitches and for the siting of 16 camping pods.
4. The developer has proposed to divert the part of FP13 away from the area being developed for a leisure camping site to start approximately 85 metres east of the current junction on the A54 Chester Road (point A to point C on the Plan). The proposed footpath diversion would run from point C on the Plan at OSGR SJ 50242 68105 and then run in a northerly direction to OSGR SJ 50240 68226 shown as Point D on the Plan and then run in a westerly direction to re-join the unaffected length of footpath at Point B on the Plan, for a total length of approximately 196 metres.
5. The proposed diversion of FP13 will run over grass. The line of the diversion will follow on the east side of a line of birch trees. The expected works to bring the new line into satisfactory condition includes the cutting down of vegetation on the line of point C to D shown on the Plan, and the area between point D to B on the Plan requires clearance of vegetation between the boundary fence on the north side and the field on the south side. It is agreed with the developer that a mature Oak tree adjacent to point B will be unaffected and the diversion will run south of the Oak tree.
6. Ashton Hayes Parish Council has requested under the Parish Neighbourhood plan; Policy E3 - Green environment that the area used for recycling of material (east of points C to D on the Plan) will have more tree planting. The planting will increase the amenity of the footpath.
7. The width of the section of FP13 to be diverted will be 2 metres throughout. For reasons of safety and because the footpath commences on the A54 Chester Road, a pedestrian gate will be inserted at point C as shown on the Plan.

Relevant Legislation

8. In accordance with 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.

9. 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 the Council may proceed to confirm the order. However if objections are received the Order would be referred to the Secretary of State for Environment, Food and Rural Affairs who will decide whether or not to confirm the Order with or without modifications.
10. The Crime and Disorder Act 1998 required the Council to consider the impact of changes on the local risk. A diversion would remove the safety and security concerns of the proximity of the footpath to the leisure development.

Relevant Policies

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

11.1 Rights of Way Improvement Plan 2011-16

11.2 Statement of Action BS1 “we will seek to address safety concerns highlighted whilst using the network during consultation

11.3 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”

Assessment and Issues

12. The purpose of the diversion is to alter the definitive line of FP13 to enable development to take place. Whilst this is sufficient to satisfy Section 257 of the 1990 Act such that an Order may be made, consideration has also been given to the impact that the diversion would have on the amenity and convenience of the path.
13. The existing footpath runs through an area being developed for leisure facilities, which creates a safety and security issue for both users of the footpath and the users of the leisure facilities. The land over which the footpath runs is grass and the new route will run over grass. The footpath currently runs through an area which has seen the development of ponds. There has been concern that the proposed diversion will lose some amenity value and guidance has been given for the area in the vicinity of the diversion to be improved with tree planting.
14. There is a small but acceptable difference in length between the current line of the existing FP13 and the newly proposed diverted line. The surface and length of the proposed diversion is as commodious as the current line. The new start point of the footpath (point C on the Plan) will be closer to the crossing bollards of

the A54 Chester Road and the start of the footpath on the south side of the A54 Chester Road.

15. The merits of the planning application are not under consideration in assessing this application. It is possible that if the planning application has received objections then a subsequent application to divert a public footpath may also receive objections to seek to delay the process of development. However, as stated above, if objections are received the Order would be referred to the Secretary of State for consideration.

Conclusion

16. After careful consideration of the application and the relevant law and policies it is considered that it is necessary to divert part of FP13 as illustrated on the Plan to enable the development to proceed in accordance with the Planning Permission which has been granted and condition expected to be approved.

Associated documents

File: SD073/FP13 Ashton Hayes
Planning Application : 21/00320/FUL

Appendix A

Site photographs



Existing stile on Chester Road below, location in relation to Chester Road crossing point above





Facing north, from stile across the site above and below,





Continuation of footpath facing north between hedges, across grass





Continuation of footpath across grass to stile into adjacent field





Proposed diversion from stile facing east along field boundary on left of image to line of posts see below





Proposed line of footpath facing south, footpath on left of the posts and below, on left side of birch trees





Facing south, point in hedge to connect to Chester Road and below, facing west, entry near to middle lamp post on right of image



Appendix B

Extract from planning application

