

Cheshire West and Chester Council

Delegated Report

Application Number SD074/FP16 Allostock

Description Proposed Footpath diversion order under section 257 of the Town and Country Planning Act 1990

Site address Public Footpath 16 (part) Allostock

Ward Shakerley Ward

Ward Member Councillor Mark Stocks

Case Officer Adele Mayer, Prow Asset Management Officer
PublicRightOfWayWest@Cheshirewestandchester.gov.uk

Date 23.08.2021

Recommendation:

1) That an Order be made under section 257 of the Town and Country Planning Act 1990 diverting a section of Public Footpath 16 Allostock on the grounds that it is necessary to do so in order to enable development to be carried out pursuant to Planning Permission No 21/02178/FUL as shown on plan SD074 ("the plan"), a copy of which is annexed hereto.

2) That 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. Public Footpath 16 Allostock runs between Hulme Lane (C603) at OS grid reference SJ 719 730 and runs in a generally southerly direction running through the grounds of Hulme Mill and Hulme Hall, to Hulme Hall Lane (UW3267) at OS grid reference SJ 731 719. The section of footpath affected by the proposal is shown by a solid black line between points A (OSGR SJ 71979 73005) and B (OSGR SJ 71981 72946) on plan SD074 (“the plan”) and is 58 metres in length.
2. The affected section of footpath currently runs over loosely gravelled surfacing of a drive and car parking area, leading to a grassed lawn area to a bridge crossing of Bradshaw Brook. There is an existing kissing gate on the north side of the bridge, adjacent to a field gate. Images of the route can be found at Appendix A.

Proposal/application detail

3. An application for planning permission has been applied for under reference 21/02178/FUL for extensions, alterations and construction of a domestic outbuilding. The application includes a plan of the proposed drawing reference “diversion of public footpath” and an image can be found at Appendix B.
4. Plans showing the layout can be found under the relevant planning reference at the planning portal: <https://pa.cheshirewestandchester.gov.uk/online-applications/>
5. The proposed diversion will commence from the edge of the drive and the car park area at point A on the plan. The route will cross the car park area in a south easterly direction to the edge of the hard surfacing and onto a grass area adjacent to the hedge at point C, OS grid reference SJ 71994 72964. The route will then run in a south-south-westerly direction, to follow the boundary which will be a mix of the existing hedge and new fence, to meet with the bridge crossing and existing kissing gate at point B. The total length of the diversion is approximately 66 metres and shown by a broken black line between points A-C-B on the plan. The existing kissing gate will remain, there will be no additional limitations.

Relevant Legislation

6. 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 to enable development to be carried out in accordance with planning permission granted, or for which an application has been made.

7. 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.

8. Section 40 of the Natural Environment and Rural Communities Act 2006 requires the authority to have regard for conserving biodiversity. There is no additional impact from the diversion on the landscape.

9. Section 17 of the Crime and Disorder Act 1998 requires the authority to have due regard to the impact of the proposal and prevention of crime and disorder. The diversion runs within the boundary of the property. Security measures are in place and the public do not pass directly adjacent to any doors or windows.

Relevant Policies

10. The following policies and protocols are relevant to this application.
 - 10.1. Rights of Way Improvement Plan 2011-16
 - 10.1.1. Statement of Action BS1 “we will seek to address safety concerns highlighted whilst using the network during consultation”

10.1.2. 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

11. The purpose of the diversion is to alter the definitive line of the path so that it enables development to take place. The current footpath runs very close to the existing buildings and is preventing expansion of the building. The diversion of the footpath is necessary for ensuring there is space to extend the building area. It is considered the test for making the order has been made.
12. The new route will divert the footpath to the east side of the drive and it will diagonally cross the current car parking area to the hedge boundary line on the east side. The new route will increase the length of the footpath by approximately 8 metres. The route appears to be used for recreational use rather than as a functional route and it is considered that the increased length is not inconvenient for walkers.
13. The new route commences and terminates on the same footpath and there are no other considerations of connectivity.
14. There is little difference in the surfacing or views of the current path and the proposed diversion. The current route runs over part hard and part soft surfacing and the new route runs over similar so for the purpose of accessibility the new route will be as accessible as currently.
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. If objections to an Order are received the matter would be referred to the Secretary of State.

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 Public Footpath 16 Allostock as illustrated on the plan to enable development to be carried out in accordance with a pending planning permission.

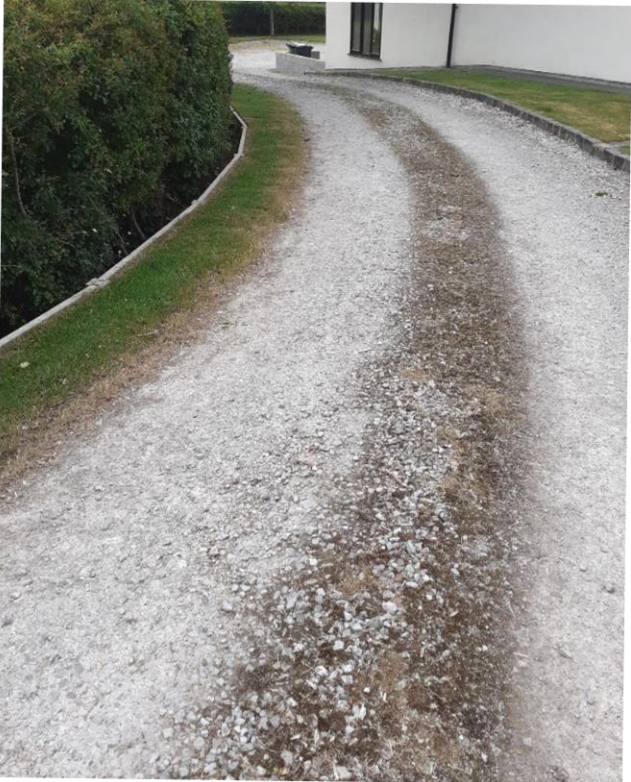
Associated documents

File: SD074/FP16 Allostock

Planning Application 21/02178/FUL

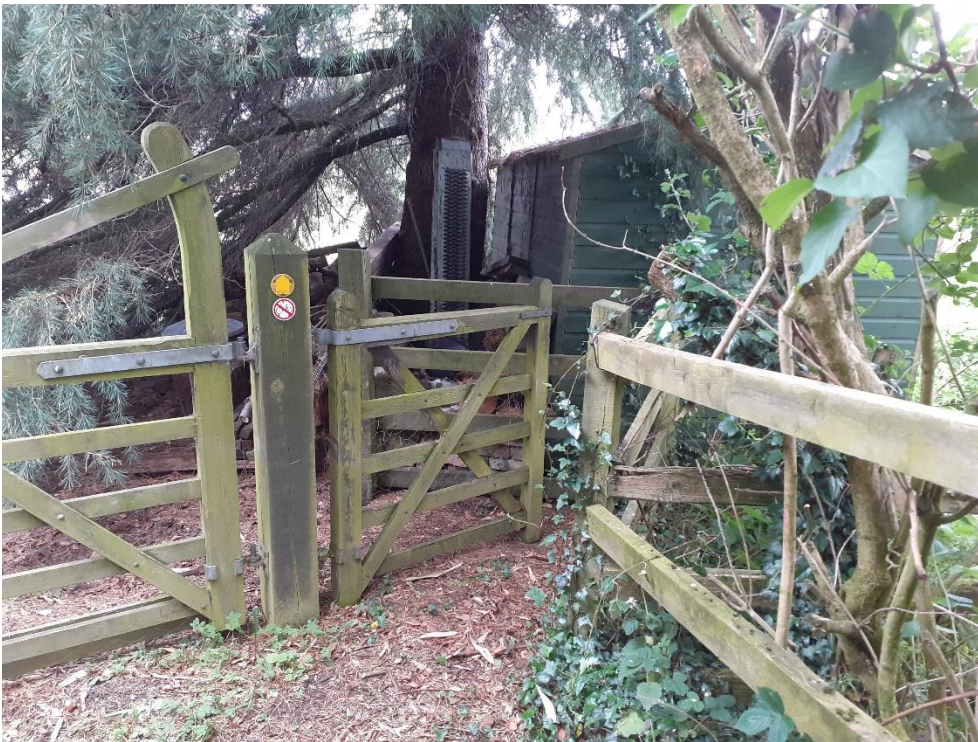
Appendix A Site images

Driveway facing south





area for car parking, hedge and grass lawn, facing south. Below, facing north, existing kissing gate. Shed to be removed.



Appendix B

