

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

Application Number	SD/052/01669
Description	Proposed footpath diversion order under section 257 of the Town and Country Planning Act 1990
Site address	Public Footpath No 23 Parish of Acton Bridge
Applicant Name	Mr M McCormick, Hill Top Farm, Acton Bridge
Ward	Weaver and Cuddington
Ward Members	Councillors Charles Fifield, Harry Tonge and Paul Williams
Case Officers	Adele Mayer, Public Rights of Way Officer tel: 01606 271822
Date	1 August 2017

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 23 Acton Bridge on the grounds that it is necessary to do so in order to enable development to be carried out in accordance with Planning Permission No 15/01669/OUT and 17/00686/FUL and 17/00687/DIS
- 2) That the Place Area Manager 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 23 Acton Bridge commences on Hill Top Road, Acton Bridge (C617) and runs in a north easterly direction to Strawberry Lane, Acton Bridge (UV 2363). The part of the footpath affected by the application runs from the junction with Hill Top Road at OSGR SJ 5975 7509 for a distance of approximately 103 metres to a point on the boundary with the neighbouring property, Alder House at OSGR SJ 5918

7517 as shown by a solid black line between points A and B on plan SD/052 (“the plan”).

2. The footpath has been previously diverted under the Town and Country Planning Act 1971 s210 by Vale Royal Borough Council “Footpath No 23 Hill Top Farm, Acton Bridge) Public Path Diversion Order 1989”.
3. The surface of the footpath affected is pasture throughout. Fencing would replace the shrubbery on the boundary between points C and D on the plan. Photographs of the footpaths can be found at Appendix A.

Proposal/application detail

4. Outline planning permission has been applied for from Cheshire West and Chester Council under application number 15/01669/OUT proposing a residential development of one dwelling and landscaping on land to the north west of Hill top Farm. The public footpath in part crosses the area of construction and other than the footpaths being diverted would be obstructed by new buildings.
5. Planning permission was granted by the council on 27 October 2015 and an application for approved matters has since been submitted. The developer’s agent has proposed to divert the footpath to follow the eastern boundary of the building plot away from the location of a garage/outbuilding shown on plan 1636HT-PL-101-C on application 17/00686/FUL (Appendix B). The alternative route is also shown on this plan.
6. The new route will commence approximately 2 metres east of the current path on Hill Top Road at OSGR SJ 59752 75094. It will run along the eastern boundary of the plot, following a line between the two properties in a north easterly direction for approximately 108 metres to the corner of the plot at OSGR SJ 59817 75176 to rejoin the existing line of the footpath as shown by a black dashed line between points C and D and B on the plan.
7. The surface of the new footpath will be pasture grass. The footpath will be enclosed by a fence as shown on the planning application plan. The width of the path will be variable between 2 and 2.5 metre to allow for future maintenance.

Relevant Legislation

8. 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.
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. Otherwise the order can only be confirmed by the Secretary of State.

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 footpath so that it enables development to take place.
12. The current footpath runs through an open field. The field is to be developed with one dwelling including garage/outbuilding which would obstruct the current line of the footpath, other than the footpath being diverted. The primary use of the footpath is for recreation and the Council is satisfied that the diversion retains a satisfactory width and surfacing.

13. The commencement of the path at point C on the plan is adjacent to a busy road and the current point of crossing to the south side of Hill Top Road to join the footway is at one of the most advantageous points for visibility to traffic.
14. 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. However, as stated above, if objections are received the order would be referred to the Secretary of State.

Conclusion

15. After consideration of the application and the relevant law and policies it is considered that it is necessary to divert part of Public Footpath 23 Acton Bridge as illustrated on the plan to enable development to be carried out in accordance with a planning permission which has been granted.

.Associated documents

File: SD/052/01669

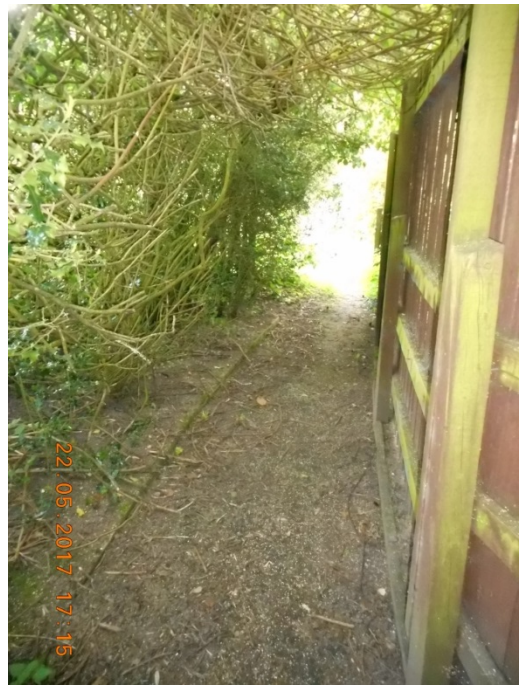
Plan SD/052

Planning Application 15/01669/OUT and 17/00686/FUL and 17/00687/DIS

Appendix A

Junction with Hill Top Road









path beyond gate





Existing rail and post fencing



Existing wooden pedestrian gate;
Verge railings

Appendix B

