

CHESHIRE WEST AND CHESTER COUNCIL

DELEGATED REPORT

Application Number	SD070/FP34 Winsford
Description	Proposed Public Path Diversion Order under Section 257 of the Town and Country Planning Act 1990
Site address	Public Footpath No 34 Winsford
Applicant	Engie Regeneration Ltd, Newcastle upon Tyne
Ward	Councillor Mike Baynham, Tommy Blackmore, Gina Lewis
Ward Member	Winsford Over and Verdin Ward
Case Officer	Adele Mayer, Public Rights of Way Officer (e mail adele.mayer@cheshirewestandchester.gov.uk)
Date	1 March 2021

Recommendation:

- 1) That an order be made under section 257 of the Town and Country Planning Act 1990 diverting parts of Footpath No 34 in Winsford on the grounds that it is necessary to do so to enable development to be carried out pursuant to Planning Permission No 20/00742/FUL
- 2) That the Highway Commissioner be authorised to take any action considered necessary in respect of the confirmation of the Order duly authorised to be made.

1. Site Description

1.1 Footpath No 34 Winsford commences on Grange Lane (UY93) and runs in a north easterly direction over Roehurst Lane (UY1340) and then over fields to terminate on Weaver Parkway, a disused rail line and now a linear country park. The length of footpath to be diverted as a consequence of planning permission is the section running over a field, between Roehurst Lane and Weaver Parkway. The proposal is to stop up approximately 268 metres between OS grid reference SJ 6485 6682 and SJ 6506 6699 and shown on Plan SD070 ("the plan") by a solid black line between A and B.

1.2 The current surface of the footpath is grass pasture land.

2. Proposal/application detail

2.1 Outline planning permission was granted by the Council under planning reference 20/00742/FUL for development of the site for housing and associated infrastructure. The development was approved at the Planning committee which took place on 29 September 2020. The application includes the revised site layout plan, reference 1067-A001 (extract of this plan at Appendix B of the report). The revised site layout shows that part of the existing public footpath crosses the area of construction and if the footpath is not diverted it would be obstructed by the new housing and infrastructure. Accordingly, a diversion is required if the development permitted is to proceed to the approved revised site layout. The planning approval provides further details regarding landscape details to be submitted in due course

2.2 The developer has proposed to divert approximately 268 metres of the footpath between A and B which is affected by the development as shown on the application plan. Images of the original line of the footpath can be found at Appendix A of the report. There will be no change in the termination points. The new route between A and B will run along a proposed pedestrian footpath set in open space for approximately 280 metres in length, running south of and then north of the current alignment of footpath as shown by a broken black line between points A-C-D-E-F-B on the plan.

2.3 The width of the new routes will be 2 metres throughout. The surface is subject to a reserved matters application, it is expected that the surface will be a rolled gravel surface.

2.4 There will be no limitations on the new routes.

3. Consultation

3.1 During the consultation on the full planning application for, no objections or other comments were received regarding the proposed diversion of the footpath.

4. Relevant Legislation

4.1 In accordance with section 257 of the Town and Country Planning Act 1990 (the "1990 Act") the Council may make an order if it is satisfied that it is necessary to do so in order for development to be carried out in accordance with the planning permission granted.

4.2 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 to confirm the Order (or not) with or without modifications.

5. Relevant Policies

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

5.1.1 Rights of Way Improvement Plan 2011-16

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

5.1.2 Statement of Action E05 “we will follow the Equalities Act 2010 to comply with standards for mobility and visually impaired users where appropriate and reasonable”

6. Assessment and Issues

6.1 The purpose of the diversion is to alter the definitive line of the path so that it enables development to take place. Whilst this is sufficient to satisfy the test under 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.

6.2 The existing footpath runs through a field, and the diversion route will run through open space, and so retain something of the current rural setting. The diversion route will direct pedestrians along a footpath to be constructed to details to be included in a reserved matter application.

6.3 There is an acceptable increased difference in length between the current line and the proposed line for the diversion. The surface and length are as commodious between the current line and proposed diversion route.

6.4 The merits of the planning application are not under consideration in assessing 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 for consideration.

7. Conclusion

7.1 After careful consideration of the application and the relevant law and policies it is considered that it is necessary to divert part of Footpath No 34 Winsford as illustrated on the Plan to enable the development to proceed in accordance with a planning permission which has been granted.

8. Associated documents

File: SD070/FP34 Winsford.
Planning Application 20/00742/FUL

Appendix A Site Photographs
September 2020

North east end of Roehurst Lane and junction at the field



Junction of Roehurst Lane and field, facing north west





Above and below: continuation of path from Roehurst Lane between shrubs



Below: field facing north east



Appendix B

Extract from site layout plan under reference 20/00742/FUL, plan reference 1067- A001

