

Cheshire West and Chester Council
Delegated Report

Application Number	SD/049/02091
Description	Proposed footpath diversion order under section 257 of the Town and Country Planning Act 1990
Site address	Footpath 6, 7, 9 and 45 Ellesmere Port
Applicant Name	Company Secretary Redrow, Redrow House, St David's Park, Ewloe CH5 3RX
Ward	Ledsham and Manor
Ward Members	Councillors Gareth Anderson and Peter Rooney
Case Officers	Adele Mayer, Public Rights of Way Officer tel: 01606 271822
Date	28 April 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 6, 7, 9 and 45 Ellesmere Port on the grounds that it is necessary to do so in order to enable development to be carried out pursuant to Planning Permission No 12/02091/OUT and 16/05464/REM.
- 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 7 Ellesmere Port commences on Ledsham Road, B5463 and runs in a southerly direction along the access track to Hall Farm, continuing to the junction with Footpaths 6,9 and 45 Ellesmere Port. The part of the footpath affected by the application runs between OSGR SJ 36467619 and then running in a southerly direction to the junction with the named footpaths at OSGR SJ 3660 7600 and

shown by a solid black line between points A and B on plan SD/049 (“the Plan”) (Approximately 230 metres).

2. Footpath 45 Ellesmere Port commences on the termination of Pennistone Drive (UV1340) at OSGR SJ 3676 7614 and runs in a south westerly direction to the junction with Footpaths 7,9,6 at OSGR SJ 3660 7600 and shown by a solid black line between points C and B on the plan (Approximately 216 metres).
3. Footpath 9 Ellesmere Port commences on Gerrard Avenue (UV3298), the part of the footpath affected runs from the termination of Gerrard Avenue at OSGR SJ 3703 7579 and runs in a north westerly direction to the junction of Footpaths 7,45,6 at OSGR SJ 3660 7600 as shown by a solid black line between points D and B on the plan (Approximately 483 metres).
4. Footpath 6 Ellesmere Port runs from the Ledsham parish boundary with the junction of Footpaths 3 and 6 Ledsham, in a generally north north easterly direction to the junction with Footpath 7, 45 and 9. The part affected by the application commences at OSGR SJ 3656 7574 and runs in a north north easterly direction to OSGR SJ 3660 7600 as shown by a solid black line between points E and B on the plan (Approximately 259 metres).
5. The surface of the footpaths affected is currently pasture throughout. There are no recorded width or limitations on the Definitive Statement. Photographs of the footpaths found at Appendix A.

Proposal/application detail

6. Planning Permission had been applied for from Cheshire West and Chester Council under application number 12/0209/OUT proposing a residential development of up to 2000 homes, primary school, community building, a park and public open space and other related infrastructure at land associated with Sutton New Hall Farm, Ledsham Road, Little Sutton. Following an appeal to the Secretary of State for Communities and Local Government, the Planning Inspectorate permitted the

development (see Appeal ref: APP/A0665/A/13/2209026). The public footpaths in part cross the areas of construction and other than the footpaths being diverted would be obstructed by new buildings.

7. Plans showing the detail of the site layout are submitted under planning reference 16/05464/REM. A copy plan can be found at Appendix B of this report to show how the diversions will fit into the layout.
8. The agent has proposed to divert parts of the four footpaths where the new development will be constructed. The new routes are shown on the plan accompanying the report.
9. Footpath 7 utilises the farm track from Ledsham Road and the diversion will commence at OSGR SJ 3646 7619 and run through public open space in a generally south south easterly direction for approximately 208 metres to join the proposed pedestrian boulevard OSGR SJ 3654 7600 as shown by a dashed black line between points A and F on the plan.
10. Footpath 45 will commence at the termination of Penistone Drive at OSGR SJ 3676 7614 and run through public open space in a generally southerly then westerly direction for approximately 264 metres to a point on the proposed adopted highway at OSGR 3667 7599 as shown by a dashed black line between points C and G on the plan.
11. Footpath 9 will commence on Gerrard Avenue at OSGR SJ 3703 7579 and run through public open space in a generally westerly then north westerly direction for approximately 303 metres to proposed adopted highway at OSGR SJ 3681 7589. The diversion will continue from the proposed adopted highway at OSGR SJ 3679 7591 then running in a northerly direction for approximately 83 metres join the diverted part of Footpath 45 at OSGR SJ 3676 7599 as shown by a black dashed line between points D to J and I to H on the plan

12. Footpath 6 will commence from a point on the existing footpath at OSGR SJ 3656 7574 and will run along a boulevard set back from the adopted highway in generally a westerly direction for approximately 45 metres to OSGR 3652 7575 to the proposed adopted highway and then commencing again at the proposed adopted highway at OSGR SJ 3605 7575 running in a generally northerly direction for approximately 163 metres to proposed adopted highway at OSGR SJ 3652 7591 and commencing again at the proposed adopted highway at OSGR SJ 3652 7594 and running in a generally northerly then easterly direction for approximately 119 metres to the proposed adopted highway at OSGR SJ 3660 7600 and commencing again at the proposed adopted highway at OSGR SJ 3660 7600 then running in a generally easterly direction for approximately 56 metres to the proposed adopted highway at OSGR SJ 3666 7600. As shown by a black dashed line between points E to O and N to M and L to B and B to K on the plan.
13. The surface of the new paths will be a mix of bound gravel as indicated by the planning application hard surfacing layout plans. There will be no gates or other limitations.
14. The routes throughout will be a width of 2 metres.

Relevant Legislation

15. 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.
16. 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.
17. Relevant Policies

The following policies and protocols are relevant to this application.

17.1. Rights of Way Improvement Plan 2011-16

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

17.1.2. 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

18. The purpose of the diversion is to alter the definitive line of the path so that it enables development to take place.

19. The current footpaths cross the site in open fields. The fields will be developed; however, the plans have been designed to mainly stay within public open space. The current use of the footpaths are recreational and as such, the diversions have retained a satisfactory level of length within green space.

20. The diversion of Footpath 6 will be along a pedestrian boulevard separated from the adopted highway. Where the footpaths will cross estate roads, provision has been made within the layout for pedestrian surfacing and kerbs. The directional links experienced by the current users of the footpaths, on the axis north west to south east are mostly retained by the layout.

21. 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

22. After careful consideration of the application and the relevant law and policies it is considered that it is necessary to divert part of Public Footpaths 6, 7, 9 and 45 Ellesmere Port 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/049/02091.

Plan SD/049

Planning Application 12/02091/OUT and 16/05464/REM

Appendix A

Site Visit 28.02.2017



Gate at Gerrard Avenue at Footpath 9





Footpath 9 view towards water treatment works



Footpath 9 view towards Penistone Drive

Junction of footpaths





Footpath 6





Footpath 7 towards Ledsham Road







Footpath 45 towards Penistone Drive



Appendix B

