

CHESHIRE WEST AND CHESTER COUNCIL

DELEGATED REPORT

Application Number	SD064/FP8 Beeston
Description	Proposed Public Path Diversion Order under Section 257 of the Town and Country Planning Act 1990
Site address	Public Footpath No 8 Beeston
Applicant	XPG2 Developments Ltd, CH1 3BQ
Ward	Councillor Mike Jones
Ward Member	Tattenhall Ward
Case Officer	Adele Mayer, Public Rights of Way Officer (e mail adele.mayer@cheshirewestandchester.gov.uk)
Date	21 February 2020

Recommendation:

- 1) That an order be made under section 257 of the Town and Country Planning Act 1990 diverting two parts of Footpath No 8 in the Parish of Beeston on the grounds that it is necessary to do so to enable development to be carried out pursuant to Planning Permission No 13/04149/OUT and 18/00637/REM.
- 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 8 Beeston commences on Brook Lane (C515) and runs in a north easterly direction over a hill, running through the site of the Beeston Cattle Market to terminate on Whitchurch Road (A49). Two sections of the footpath are affected by the application and are proposed to be diverted to configure to the development site layout. The first section is shown running between OS Grid Reference SJ 5519 5972 (Point A)

and OS grid reference SJ 5520 5976 (Point B) by a solid black line on plan SD064 (“The Plan”). The second section is shown running between OS grid Reference SJ 5523 5980 (Point C) and OS grid reference SJ 5526 5982 (Point D) by a solid black line on the plan.

1.2 The current surface of the footpath is rough gravel/concrete through the auction site.

2. Proposal/application detail

2.1 Outline planning permission was granted by the Council under planning reference 13/04149/OUT for demolition of existing buildings at the former Beeston Cattle Market and redevelopment of the site for housing and associated infrastructure. An application for approval of reserved matters approved by the Council under planning reference 18/00637/REM, includes the revised site layout plan (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 development. Accordingly, diversions are required if the development permitted is to proceed to the approved revised site layout. The planning application for approval of reserved matters included plans that show the current line of the footpath and the proposed diversion.

2.2 The developer has proposed to divert approximately 35 metres of the footpath between A and B and 41 metres between C and D which is affected by the development as shown on plan reference 1147-01-Rev H. Images of the original line of the footpath can be found at Appendix A of the report. The termination point D on Whitchurch Road will be moved to a point on Whitchurch Road approximately 10 metres south east (point E on the Plan). The new route between A and B will run along a proposed pedestrian footway for approximately 39 metres in length south east of the current line of the footpath as shown on the plan. The new route between C and E will run for approximately 43 metres in a north easterly direction following the line of a proposed pedestrian footway to the junction with the footway to Whitchurch Road.

2.3 The width of the new routes will be 2 metres throughout. The surface will be a gravel surface as shown on the landscape plans.

2.4 There will be no limitations on the new routes.

3. Consultation

3.1 During the consultation on the planning application for reserved matters, 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 or not to confirm the Order 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 terminates on Whitchurch Road at the vehicular entry point to the market site. The entry can be hazardous due to busy and uncontrolled access. The diversion route will direct pedestrians along a path between a row of parking bays

and the new housing to its termination on Whitchurch Road by a path not crossed by other traffic. This should result in an improvement for pedestrian safety. Otherwise the footpath runs through the site, following the line of the footpath and where necessary the proposed line of the footway to the carriageway.

6.3 There is an acceptable, small 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 8 Beeston 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: SD064/FP8 Beeston.

Planning Application 13/04149/OUT and 18/00637/REM.

Appendix A Site Photographs

April 2018

Commencing at the southern edge of the development site looking north to the cattle market





Cattle market yard looking north (approximate location for point A on the plan)



Office buildings at entry to cattle market from Whitchurch Road (approximate location for point C on the plan)



Pedestrian gate to Whitchurch Road footway (point D on plan)
(brick house retained, green building replaced with housing)



Appendix B

Extract from layout plan under reference 18/00637/REM

