

**APPLICATION TO DIVERT PUBLIC FOOTPATH 108 CHEADLE AND GATLEY**

Report of the Corporate Director for Place Management and Regeneration

**1. MATTER FOR CONSIDERATION**

- 1.1 Committee is requested to consider whether to authorise the diversion of Public Footpath 108 Cheadle and Gatley, under section 257 of the Town and Country Planning Act 1990, shown on the plan in Appendix 1.

**2. LEGAL POSITION**

- 2.1 Under section 257 of the Town and Country Planning Act 1990 a footpath can be diverted by an Order made by the Council where it is satisfied that it is necessary to enable development for which planning permission has been granted to be implemented.
- 2.2 The granting of planning permission does not provide authority in itself for diversion of the Public Footpath, and the making of an Order does not guarantee the confirmation of an Order.
- 2.3 If objections are received to the Order, the Council may not confirm the Order, but must forward the Order to the Secretary of State for confirmation.

**3. BACKGROUND**

- 3.1 An application has been received from Mr P Robinson, Robinsons Nursery, Yew Tree Farm, Bolshaw Road, Heald Green, Stockport under section 257 of the Town and Country Planning Act 1990 to divert Public Footpath 108 Cheadle and Gatley.
- 3.2 The diversion is to allow a pack house building to be erected, for which a planning application was received on 08/11/2018 and granted on 16/4/2019.
- 3.3 The existing footpath passes over a main vehicular access road for the Nursery and passes between existing buildings until it continues into the Borough of Cheshire East.
- 3.4 Plan 1 shows the footpath to be diverted as a solid line A – B – C – D – E and the proposed diversion as a bold dashed line A – F – E.

**4. ISSUES**

- 4.1 Public Footpath 108 Cheadle and Gatley (A – B – C – D - E) runs in a southerly direction along a main vehicular access road through the nursery before turning south westerly where the definitive line of the path is obstructed by existing work buildings. This appears to have been the case for many years. Users of the route have continued to follow the access road round the buildings and continued on

unhindered until the footpath leaves the borough into Cheshire East. It is approximately 224 metres in length and has no defined width.

- 4.2 The proposed diversion (A – F – E) runs between hedges and fencing in a southerly direction until it turns west at point F and continues on until it leaves the borough into Cheshire East. It is approximately 247 metres in length and has a minimum width of 1.5 metres.
- 4.3 The proposed diversion (A – F – E) was originally installed as a concessionary path/alternate route and has been used regularly by members of the public.
- 4.4 Whilst the diversion is to allow the owner to construct a new building the proposed route will also allow safer conditions to users of the footpath as the current definitive line passes along a main vehicular access for work related activity.
- 4.5 Mr P Robinson has confirmed he is the landowner and will pay all costs associated with the proposed diversion.
- 4.6 Preliminary consultations were carried out on 7/11/2018 by Heine Planning Consultancy who act for the landowner. Replies were received from Peak and Northern Footpath Society, The Ramblers Stockport and Atkins Global National Plan. No objections were received.
- 4.7 Should the Council resolve to make an order, statutory notices will be advertised on site and in the local press allowing the public and interested parties 28 days to make objections and representations. If no objections are received the Authority can confirm the order. If objections are submitted and cannot be resolved the Order cannot be confirmed by the Council and needs to be sent to the Secretary of State for confirmation. It is likely the Secretary of State would call a Public Inquiry at this stage.

## **5. CONCLUSION**

- 5.1 The proposed diversion would facilitate the implementation of the planning permission granted to erect a pack house building and therefore meets the grounds for making an order.

## **6. RECOMMENDATIONS**

- 6.1 That the Committee resolves to authorise the making of an Order under section 257 of the Town and Country Planning Act 1990, diverting Public Footpath 108 Cheadle and Gatley shown as a black solid line between Points A – B – C – D - E, to a route shown by broken black lines between points A– F – E in Appendix 1 of the report.
- 6.2 That in the event that objections are received and sustained to the Order, the Committee resolves to forward the Order to the Secretary of State for confirmation.

## **BACKGROUND PAPERS**

There are none

Anyone wishing to inspect the above background papers or requiring further information should contact **Nicholas Robinson** on telephone number 07800 618313 or alternatively email [rightsofway@stockport.gov.uk](mailto:rightsofway@stockport.gov.uk)