

Report of	Meeting	Date
Director of Governance	Planning Committee	10 December 2024

PROPOSED CHORLEY BOROUGH COUNCIL FOOTPATH FP0902026 PUBLIC PATH DIVERSION ORDER 2025

PURPOSE OF REPORT

1. To consider an application submitted on behalf of Lea Valley Limited for the diversion of FP0602026 in order to facilitate the development of up to 33 individual units for employment and commercial uses. The public path diversion order authorised by members on 16 January 2024 which has been made but not confirmed will not be pursued in the light of defects in the route on the order map identified by Lancashire County Council (LCC). The new order proposed will not be made until 2025 given the looming Christmas shutdown which is reflected in the title of the proposed order.

RECOMMENDATION(S)

2. That the making of the proposed Chorley Borough Council Footpath FP0902026 Public Path Diversion Order 2025 pursuant to Section 257 of the Town and Country Planning Act 1990 be approved in respect of lengths of Footpath 26 shown on the proposed order map reference 1181-02-031-P4 at Appendix 2 so as to facilitate development in accordance with the grant of planning permission reference 21/00439/FULMAJ.
3. That the Director of Governance is authorised to serve notice regarding the making of the order on prescribed persons and arrange for notice in the local press and on site.
4. That the Director of Governance is authorised, in the event that no representations are received or in the event that any which are received are withdrawn, to confirm the order as unopposed and to serve notice regarding the confirmation of the order on prescribed persons and arrange for notice in the local press and on site.

EXECUTIVE SUMMARY OF REPORT

5. Sections of FP0602026 affect a site next to the M61 motorway. The land benefits from the grant of planning permission to construct up to 33 individual units for various employment and commercial uses, namely retail and food and drink uses, light industry, general industry and warehousing.
6. Full planning permission was granted for the development on 25 January 2023.
7. A public right of way recorded as Public Footpath 26 traverses the site to be developed and indeed crosses the middle of proposed Building E which is intended for employment use.
8. An alternative route for this public footpath has been proposed.
9. Works will be required by the diversion order at the cost of the applicant to make it the legal public right of way.

10. The applicant's solicitors have submitted a fresh application by letter dated 13 September 2024 which is attached as Appendix A. The letter refers to a plan. The plan referred to in the letter is not appended to this report to avoid confusion because it has been superseded by further plans the final agreed version of which is reference 1181-02-031-P4 following comments by LCC.

Confidential report Please bold as appropriate	Yes	No
--	-----	----

CORPORATE PRIORITIES

11. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all	X	A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	

PREVIOUS ORDER WHICH IS TO BE ABANDONED

12. Following approval by members of this committee on 10 January 2024 the Chorley Borough Council Part of Footpath 26 (Chorley North and Astley) Diversion Order 2024 was made on 27 February 2024 and subject to statutory consultation and public advertisement commencing on 5 March 2024. Comments were received from the Public Rights of Way team at LCC in May 2024. No other consultee made representations. The comments of LCC may be summarised as follows:

A section of diverted footpath follows the canal towpath to the bridge and stops at the bridge.

The Order describes the footpath as surfaced with a 200mm layer of Type 1 stone rolled with dust finishing to a width of 2 metres and such other works as Chorley Borough Council should specify. However the canal towpath is less than 2 metres even taking the most generous land available from the fence to the edge of the bank. This would require the fence moving back but that is not the best or necessary solution.

A significant issue is that the landowners of the towpath, Canal and River Trust (CRT), say they had not consented to this diversion onto their land and in fact were not identified as a consultee. The alternative route finishes as the towpath goes under the bridge. There are steps but those are not the alternative route shown in the Order and it is 3rd party land so the applicant does not have power to dedicate it.

The consequence of this is that as it stands the Order cannot take effect. In order to be able to be certified it would require:

- *the agreement of the CRT to accept the diversion*
- *the fence moved back to give at least 2 metres usable width*
- *the CRT to dedicate land to create access rights between the top of the bridge and the towpath and this to be constructed to accessible standard (this would normally require a ramped access not steps)*

LCC suggested that a cheaper and easier solution would be to make a new diversion order.

FRESH APPLICATION FOR DIVERISON ORDER

13. The applicant's solicitor submitted a fresh application by letter dated 13 September 2024 at Appendix 1. The letter advised that the previous application for a diversion order was withdrawn. The applicant stated that all of the new route falls within the ownership of their client Lea Valley Limited. This means that the issue of ownership of the Canal and River Trust described above identified by LCC is avoided. The letter proposed that the new diversion will be made of a tarmac path of between 2m and 1.5m in width.
14. LCC commented on 23 September 2024 that the width of the newly diverted footpath should be two metres and that the proposed new route diverted unnecessarily southwards at one point and that the co-ordinates were quoted to 1 mm precision which leaves little margin for error.
15. LCC made further comments on 26 September pointing out the applicant's proposed route would require a retaining structure at one point and that the surface should be tarmac with pin kerb edges and camber to shed water built to an LCC specification. LCC suggested alternative routes one of which the applicant accepted.
16. In light of these comments the applicant supplied a revised plan which went through successive revisions. The final version proposed to be used as the order map is Drawing reference 1181-02-031-P4 which is attached as Appendix 2.
17. The proposed order map shows the existing route to be stopped up between the points A-B-C-D 430m long shown by a bold black line. It will be diverted onto a new route between points A-W-X-Y-Z-D 286 metres long shown by a broken black line and constructed to a minimum width of two metres. It will have a bitumen macadam surface.
18. The diversion comprises a shorter route so it is not materially less convenient for users.
19. The cost of dealing with the fresh application and statutory notices in the local press will be met by the applicant.

IMPLICATIONS OF REPORT

1. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	x	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

20. The applicant was required to make a contribution of £1,500 to the costs of making the abandoned order. Given the further work, costs of £750 for making the new order have been sought and received from the applicant. The applicant will be required to meet in full the cost of advertisement of the making and (if unopposed) confirmation of the new order in the local press.
21. When the order comes into effect after it is certified that its provisions have been complied with legal responsibility for maintenance of the newly created sections of public footpath will rest with LCC.

COMMENTS OF THE MONITORING OFFICER

22. An order made under Section 257 may provide for the creation of an alternative highway for the footpath to be diverted. The order may also authorise or require works and require any person named in the order to meet the costs of such works.

23. A public notice describing the order must be advertised in the local press and the order placed on deposit for public inspection. This public notice and order map must also be placed at each end of the length of public footpath to be diverted. Owners of land affected by the order and various statutory consultees must be contacted and served with the order and notice and allowed the opportunity to make objections within 28 days from the making of the order. If no objections are made the order may then be confirmed as an unopposed order. After the order is confirmed i.e. made permanent it does not come into effect until Chorley Borough Council certifies that the provisions of the order have been complied with in relation to any works required to bring the diverted route up to standard.

Background Papers			
Document	Date	File	Place of Inspection
E-mails from Public Rights of Way at LCC E-mails from applicant's solicitor Earlier iterations of proposed order maps	Various	22718	Town Hall

Report Author	Ext.	Date	Doc ID
Alex Jackson	5166	27 November 2024	IKEN File 22718