

Report of	Meeting	Date
Head of Governance	Development Control Committee	5 August 2014

## **PROPOSED CONFIRMATION OF DIVERSION OF A SECTION OF PUBLIC FOOTPATH NUMBER 31 COPPULL NEAR MILTON ROAD S.257 TOWN AND COUNTRY PLANNING ACT 1990**

### **PURPOSE OF REPORT**

1. To determine whether the Diversion Order in relation to part of Public Footpath No. 31 Coppull (in order to facilitate the development of 8 two bedroomed bungalows for affordable rent) should be confirmed as an unopposed order.

### **RECOMMENDATION(S)**

2. That the Chorley Borough Council (Public Footpath No. 31 Coppull) Public Path Diversion Order 2014 made on 16 January 2014 pursuant to Section 257 of the Town and Country Planning Act 1990 be confirmed as an unopposed order in respect of a length of Footpath Number 31 Chorley.
3. That the Head of Governance is authorised to serve notice regarding the confirmation of the order on prescribed persons and arrange for notice in the local press and on site and certify the order as being complied with having regard to any representations from the Public Rights of Way Team (PROW) at Lancashire County Council (LCC) or to confirm the order in the absence of representations from PROW and certify its terms as being complied with.

### **EXECUTIVE SUMMARY OF REPORT**

4. A section of Public Footpath No. 31 Coppull Chorley affects a parcel of land to the east of Milton Road, running in a broadly east-west direction. The parcel of land was subject of a planning application by Chorley Community Housing (CCH), a subsidiary of the Adactus Group, to build 8 two bedroomed bungalows for affordable rent.
5. Planning permission was granted by Development Control Committee on 14 January 2014 (Ref 13/01096/FUL). The making of the diversion order was also approved at that committee.
6. The south western area of the application site is affected by a section of Footpath Number 31. Members are referred to the order map within Appendix A to this report which shows a section of the existing legal footpath by a continuous bold black line between the points A-B-C. This is the route which is to be diverted i.e. it will cease to be a legal right of way if Chorley Council certifies the terms of the order as being complied with following confirmation.
7. In order to facilitate the development it is proposed to divert the path onto a route between the points A-D shown by bold black dashes on the plan in Appendix A.
8. To illustrate the wider context of Footpath 31 a continuation of Footpath No. 31 is shown by thin dashes to the east of Point "A" and to the west of Point "C" on the plan in Appendix A. These sections are not affected by the proposed diversion.

<b>Confidential report</b> Please bold as appropriate	Yes	No
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## CORPORATE PRIORITIES

9. 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	

## DETAILS OF THE MAKING OF THE ORDER ON 16 JANUARY 2014

10. The length of Footpath No. 31 between the points A-B-C forming the subject of the application runs for a total distance of about 40 metres.
11. The length of the proposed diverted route between the points A-D runs for a total distance of about 25 metres.
12. The diversion comprises a slightly shorter route so it is no less convenient for users. It is not significantly different in nature (i.e. gradients, extent, length or direction) to the existing route.
13. Before the development authorised in January 2014 the section of Footpath No. 31 to be diverted was in practice not used by the general public as it was obstructed by a fence bounding the application site. The diversion will in fact improve matters for the public by restoring a route along footpaths which will become part of the public footpath network and therefore maintainable at public expense.
14. Consent of the owner of the land affected by the newly diverted route is required. Both the existing legal route and the route of the proposed diversion are on land owned by the applicant CCH.
15. Approximately at Point D the land is affected by a 225 mm public sewer which runs in an east-west direction and a 4 inch water main which runs in a north-south direction. In accordance with Schedule 14 to the Town and Country Planning Act 1990 United Utilities were consulted after the making of the order.
16. Enquiries with National Grid revealed that they have gas apparatus running along Milton Road. National Grid objected to an earlier version of the proposed order which envisaged a diversion running from A-D-C on the map in Appendix A. This would have affected the apparatus between the points D-C. However as Milton Road is adopted it is not necessary to effect a diversion along the points D-C as the public already enjoy rights of way over this section and indeed such a diversion would not be lawful. National Grid were sent the revised proposal in December 2013 shown on the plan in Appendix A and they replied that they had no objection.
17. The width of the existing unadopted pathway at Point A is about 1.8 metres. However it widens to about 3 metres by Point D. No change in the width of the path was specified in the order.
18. The cost of dealing with the application has been met by CCH.
19. The order was made i.e. with provisional effect on 16 January 2014 following approval by Development Control Committee on 14 January. The relevant notices were served on statutory consultees on 21 January 2014 and notice placed on site and in the local press. Two of the statutory consultees (LCC and the Peak and Northern Footpaths Society) responded that they had no objection. No other responses were received.

## IMPLICATIONS OF REPORT

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

Finance	X	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

21. The applicant developer made a contribution of £1500 to the costs of making the order and paid for the notice of making in January 2014. Costs of placing the notice of confirmation in the local press will be recovered from the applicant developer. 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 section of public footpath will rest with Lancashire County Council.

#### COMMENTS OF THE MONITORING OFFICER

22. An order made under s.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 recommended for confirmation to Development Control Committee as an unopposed order.
24. On confirmation of the order similar steps to those outlined in paragraph 23 above must be repeated enclosing a copy of the confirmed order. Objectors may challenge the confirmation in the High Court within six weeks after notice of the confirmation is published on the grounds that the confirmation is outside the Council's powers or that there has been a procedural defect. The diversion order does not come into effect until Chorley Borough Council certifies that the provisions of the order have been complied with. It is reasonable to take into account the views of LCC because the County will be responsible for maintaining the newly diverted route and ensuring that it remains unobstructed. However the decision to certify is ultimately one for Chorley Council as the order making authority.

<b>Background Papers</b>			
<b>Document</b>	<b>Date</b>	<b>File</b>	<b>Place of Inspection</b>
E-mailed letter of objection from National Grid	10/12/13		
Plan from applicant showing services	04/12/13	2120	Town Hall
Plan from Building Control			

showing services	3/12/13		
E-mailed letter from National Grid confirming have no objection to revised proposal	24/12/13		
Letter from LCC stating no objection	14/02/14		
E-mail from Peak & Northern Footpaths Society stating no objection	17/02/14		

<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
Alex Jackson	5166	21/07/14	IKEN File 2120