

Report of	Meeting	Date
Chief Executive	Development Control Committee	14 July 2015

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 257
CHORLEY BOROUGH COUNCIL (PUBLIC FOOTPATH NO.8,
ECCLESTON) PUBLIC PATH DIVERSION ORDER 2015**

PURPOSE OF REPORT

1. To consider the making of a public path diversion Order, in order to facilitate the development of an earth embankment, ancillary control and infrastructure, a new permanent access road and borrow pits in the River Yarrow on the Croston Flood Risk Management Project Land 485M south east of 77 Lydigate Lane, Eccleston.

RECOMMENDATIONS

2. That the Head of Governance and Property Services be authorised to make the Chorley Borough Council (Public Footpath No 8 Eccleston) Public Footpath Diversion Order 2015 pursuant to Section 257 of the Town and Country Planning Act 1990, in order to permit the development to be carried out in accordance with the grant of planning permission namely the development of an earth embankment , ancillary control and infrastructure, a new permanent access road and borrow pits in the River Yarrow on the Croston Flood Risk Management Project Land 485M south east of 77 Lydigate Lane, Eccleston.
3. That in the event that no objections are received to the making of the order or where an objection is received by the statutory deadline and it is subsequently withdrawn then the Head of Governance and Property Services be authorised to confirm the making of the Chorley Borough Council (Public Footpath No 8 Eccleston) Public Footpath Diversion Order 2015.
4. The Head of Governance and Property Services is authorised to arrange advertisements in the local press, to serve notice on site and on prescribed persons and to 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

5. A planning application under reference 14/01046/FULMAJ for the construction of an earth embankment , ancillary control and infrastructure, a new permanent access road and borrow pits in the River Yarrow on the Croston Flood Risk Management Project Land 485M south east of 77 Lydigate Lane, Eccleston was approved on the 21 January 2015. In order to facilitate the development the Environment Agency has submitted an application to divert the existing public right of way.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

6. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		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	

BACKGROUND

7. Planning approval for the development of an earth embankment, ancillary control and infrastructure, a new permanent access road and borrow pits in the River Yarrow on the Croston Flood Risk Management Project Land 485M south east of 77 Lydigate Lane, Eccleston was granted on 21 January 2015.
8. The development will provide a temporary flood storage area during periods of heavy rainfall in order to reduce the flood risk in Croston to a 1 in 100 year event. The Scheme has been designated as an 'Accelerated Project' in the Environment Agency's Projects of Acceleration and Growth programme.
9. There is an existing right of way (Footpath No 8 Eccleston) that runs through the site therefore the Environment Agency has now submitted an application for the diversion of the current footpath.
10. The current footpath runs from point A in an east/west direction for the distance of 50metres as shown in a bold black line on the appended map.
11. It is proposed that the footpath is diverted so as to run in a north westerly direction around the eastern toe of the proposed flood embankment for 130metres where it will turn west and cross a stone access track before turning south down the western toe of the embankment for 130metres to re-join the existing footpath as shown by blue dashed line on the appended map.
12. The diversion of the footpath is necessary to facilitate the development.
13. Upon the making of the Order 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 notice and a copy of the order and they must be allowed the opportunity to make objections within 28 days from the date of notice.
14. In the event that no objections are received or any objections so received are subsequently withdrawn the Council may confirm the Order as an unopposed order.
15. On confirmation of the order similar steps to those outlined above must be repeated enclosing a copy of the confirmed order. Objectors may challenge the validity of the Order 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.

IMPLICATIONS OF REPORT

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

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

COMMENTS OF THE STATUTORY FINANCE OFFICER

17. Chorley Council will incur costs in advertising the proposed order in the local press and officer time must be spent in drafting and sending out notices. The developer has agreed to meet the costs of the application.
18. Maintenance responsibility of public footpaths rests with Lancashire County Council as part of the wider public footpath network.

COMMENTS OF THE MONITORING OFFICER

19. The legal basis for the making and confirmation of the order and the procedural requirements are addressed within the body of the report.

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Jodi Fitzpatrick	5112	26 June 2015	