

**PUBLIC PATH DIVERSION ORDER
HIGHWAYS ACT 1980 S119
THE CHESHIRE EAST COUNCIL
(FOOTPATH NO. 11 (PART) PARISH OF BASFORD)
PUBLIC PATH DIVERSION ORDER 2016**

STATEMENT OF REASONS FOR MAKING THE ORDER

Under the Highways Act 1980, Highway Authorities have the power to make Orders to create, extinguish (close) or divert public rights of way. A Notice that such an Order has been made has to be advertised on the site of the path in question and in the local press. This provides an opportunity for objections or representations to be made to the proposed change.

The Cheshire East Council has made an Order to divert part of Footpath No. 11 in the Parish of Basford. This statement has been prepared to explain various aspects of the Order.

THIS STATEMENT DOES NOT FORM PART OF THE ORDER

The Cheshire East Council has made the Order following an application from Mr P Heslop of Goodmans Real Estate (UK) Ltd, Nelton House, Central Boulevard, Blythe Valley Park, Solihull, West Midlands, B90 8BG. In summary, the diversion detailed within this Order will complete a number of footpath changes in the area that have been designed to accommodate a residential development with new road layouts. These footpath changes may then be made fully operational. The set of events leading to this Order are detailed the remainder of this statement.

In 2013, the part of Public Footpath No.11 Basford proposed for diversion, was to be diverted under the Town and Country Planning Act 1990 S.257 in response to the following planned development:

Planning Application ***Planning Application 13/0336N*** - *Outline application for residential development (up to 370 units), Offices (B1), local centre comprising food and non-food retail (A1) and restaurant/public house (A3/A4), hotel (C1), car showroom and associated works including construction of new spine road with accesses from Crewe Road and A500, creation of footpaths, drainage including formation of SUDS, foul pumping station, substation, earthworks to form landscaped bunds, provision of public open space and landscaping*

As resolved by the Rights of Way Committee in 2013 (see Rights of Way Committee Minute No. 18, 16th September, 2013), two unopposed Legal Orders were made that would extinguish Shavington cum Gresty FP2 and divert a short section of Basford FP11 such that it would link to the new spine road, 'John Mills Way', once this road was adopted by the Council.

The spine road has now been completed and adopted and, the landscaped bunds detailed above have been installed, including storm water balancing ponds. It was the intention that the unopposed legal orders would be confirmed and made operable at this point to conclude the necessary path changes required to preserve the public right of way between the A500 and Crewe Road. However, further consideration of the diversion route has resulted in the applicant submitting a new proposal that would allow the footpath to be better aligned through the landscaped area.

Although the previous extinguishment and diversion were progressed under the Town and Country Planning Act, Section 257, the legal test to enable development is not met by the circumstances of this new diversion and it must therefore be processed under section 119 of the Highways Act 1980.

Referring to the attached plan numbered Plan No. HA/102 (which is the Order plan overlaid with the layout of the new spine road, 'John Mills Way'), the proposed new route would start at point B and would run in a generally westerly direction through a gap in a sound fence to continue to cross over a tarmac 'Y' shaped area to its junction with John Mills Way where it would terminate (point C).

Since the new route would straddle the parish boundary, a short section of new footpath would be created in the Parish of Shavington cum Gresty that would take the new route to its junction with John Mills Way (Parish Boundary – point C).

The new route would be 2 metres wide and have surfaces of tarmac over the 'Y' shaped area and topsoil between the tarmac 'Y' and the current footpath (point C).

The diversion would be made in the interests of the landowner to complete the new public right of way between the A500 and Crewe Road using Basford FP11 (part) and the recently adopted road network (adopted August 2015).

An assessment in relation to the Equality Act 2010 has been carried out and it is considered that the proposed diversion will not be significantly less convenient than the current route.

The Authority is satisfied that the Order complies with the following legal grounds and tests laid down in Section 119 of the Highways Act:

It appears to the Council to be expedient to make the Order in the interests of the owners of the land crossed by the path.

And it is expedient for the Order to be confirmed having regard to the following grounds:

- 1) Whether the path is substantially as convenient to the public as a consequence of the diversion
- 2) The effect which the diversion would have on the enjoyment of the path or way as a whole
- 3) The effect which the coming into operation of the Order would have as respects other land served by the existing public right of way
- 4) The effect which any new public right of way created by the Order would have as respects the land over which the right is so created and any land held with it.

The new path will come into operation only on the date of confirmation of the Order. The original path will only be stopped up on the date on which the Borough Council certifies that the new path is suitable for public use.

Making and advertising of the Order simply provides an opportunity for objections or representations to be made in writing by **24th March 2016** to the Head of Legal and Monitoring Officer, at the Public Rights of Way Unit, 2nd Floor, Old Building, Municipal Buildings, Earle Street, Basford, Cheshire, CW1 2BJ.

The Cheshire East Council will be willing to discuss the concerns of those considering objecting or making representations relating to the Order. The contact officer is Marianne Nixon, Public Rights of Way Unit, 2nd Floor, Old Building, Municipal Buildings, Earle Street, Basford, Cheshire, CW1 2BJ. Tel: 01270 686 077. If she is not available you will be able to leave a message for her on the same number during office hours (0830-1700 Mondays to Thursdays and 0830-1630 on Fridays).

The right of objection to an Order is a statutory right, but it should be exercised in a reasonable manner. The costs involved in dealing with objections to Orders can be awarded against objectors in cases of unreasonable behaviour.

If any objections are made and not withdrawn then the Council has two options available; it can decide not to confirm the Order or it can refer the order to the Planning Inspectorate for determination. An Inspector from the Planning Inspectorate will then hear the objections at a public inquiry or hearing or in writing if the objectors agree. The inspector can confirm an order, confirm it with modifications, or refuse to confirm it. If no objections are received the Council will be able to confirm the order itself but it has no power to modify orders.

