

Agenda Item	A7
Application Number	Associated with 23/01380/FUL
Proposal	To permanently divert a Public Footpath reference: BW0106023 in Bolton Le Sands to enable the implementation of residential development pursuant to the proposals set out in application 23/01380/FUL for change of use of former public house to 2 dwellings and erection of 1 dwelling on former car park, construction of boundary walls and creation of associated car parking.
Application site	Public Footpath No: BW0106023
Applicant	Mr Geoff Harris
Agent	Mr Michael Harrison
Case Officer	Mr Robert Clarke
Departure	N/A
Summary of Recommendation	<ol style="list-style-type: none"> 1) That, subject to planning permission being granted for planning application 23/01380/FUL, an Order be made pursuant to Section 257 of the Town and Country Planning Act 1990 to divert Public Footpath BW0106023 in Bolton Le Sands in the manner set out in the report and the subsequent Order to enable the development to be carried out in accordance with the planning permission, and in the event of no objections being received or any objections being received are withdrawn, the Order be confirmed. 2) That the Chief Officer Planning and Climate Change be granted delegated powers to take or authorise any action considered necessary in respect of the making and confirmation of the Order duly authorised to be made.

(i) Procedural Matters

Planning application 23/01380/FUL (and associated listed building consent 23/01296/LB) relates to the change of former public house to 2 dwellings and erection of 1 dwelling on former car park, construction of boundary walls and creation of associated car parking. Both applications are reported to and recommended to be approved at this Planning Committee meeting. In accordance with the Councils constitution, approval for the making of a diversion order has to be made via Planning Committee.

1.0 Application Site and Setting

1.1 Public Footpath BW0106023 is a public right of way that lies within the Bolton & Slyne Ward in the Parish of Bolton Le Sands. The footpath runs from east to west through the former car park of the

former Packet Boat pub. It measures approximately 19.5 metres in length and links Packet Lane to Main Road.

- 1.2 Public Footpath BW0106023 comprises tarmac surfacing and is at present bordered by timber hoardings on both sides.

2.0 Background

- 2.1 Planning application 23/01380/FUL which is recommended to be approved, subject to conditions, is a full planning application for the change of use of former public house to 2 dwellings and erection of 1 dwelling on the former car park, construction of boundary walls and creation of associated car parking.
- 2.2 In order to secure an acceptable and safe development layout and to deliver a new detached dwelling within the site, it is necessary to divert the existing public right of way.
- 2.3 Section 257 of the Town and Country Planning Act 1990 (the Act) provides that the local planning authority authorised to grant planning permission may, by Order, authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted under Part III of the Act.
- 2.4 When an Order is made by a local planning authority under Section 257, it is necessary for the local authority to give notice of the Order by publishing a notice in a local newspaper, displaying a notice on site and notifying specified persons and bodies. In the event that objections are made and not withdrawn, the Order will need to be referred to the Secretary of State for consideration and confirmation. If there are no objections or all objections are withdrawn or resolved, the Order can be confirmed by the local planning authority.

3.0 The Proposal

- 3.1 The applicant has applied to divert BW0106023. The submitted diversion route plan shows the way in which the PROW would be relocated to the south in order to accommodate the detached new build dwelling. The final position of the alternative route is a matter that shall be addressed and formalised through the diversion order process.
- 3.2 Fundamentally, the alternative route for the diverted BW0106023 shall maintain the connection between Packet Land and Main Road which run either side of the development site. It must also have a minimum width of 2 metres, have a firm properly constructed surface with no gates or stiles crossing the new route. The precise position of the diverted route shall be provided on an amended Diversion Route Plan before the Order is made and publicity takes place. Part of the consultation and publicity will involve the County Council's public right of way team who are already aware of the development proposals and the need for the diversion order.

4.0 Advice

- 4.1 The existing footpath provides an important and well used connection between Packet Lane and Main Road and subsequently to the footpath which then connects to Bolton Le Sands Primary School. The existing path is presently bordered by timber hoarding and is made of tarmac which previously formed the car park to the Packet Boat.
- 4.2 The critical part of this proposal is to ensure that the public right of way is legally protected through the site and that the alternative route maintains connection between Packet Lane and Main Road. The level of change is relatively minor and would involve the slight repositioning of the public right of way in light of the conflict with the siting of the new detached dwelling proposed through planning application 23/01380/FUL. The final position shall be determined before the Order is made and in consultation with the County Council Public Rights of Way team.

4.3 Section 257 of the Act gives local planning authorities a power to change the route of a public footpath where a diversion is necessary to enable development to be carried out in accordance with a planning permission (the test). In view of the circumstances set out above and the suitability and availability of an alternative route through the development site, it is considered that the test set out in Section 257 is satisfactorily met. Further, it is considered the future developer who proceeds with implementing planning permission 23/01380/FUL should pay the costs of diverting BW0106023.

5.0 Recommendation

5.1 That the Local Planning Authority proceeds to make an Order pursuant to Section 257 of the Town and Country Planning Act 1990 to divert BW0106023 in Bolton Le Sands to enable the development to be carried out in accordance with the planning permission 23/01380/FUL. In the event of no objections being received to the Order, or any such objections received being withdrawn, the Order be confirmed. This is on the terms the developer pays the cost of diverting the footpath and providing the alternative route in accordance with the requirements of the confirmed Order.

5.2 That the Chief Officer of Planning and Climate Change be granted delegated powers to take or authorise any action considered necessary in respect of the making and confirmation of the Order duly authorised to be made.

Background Papers

None