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| March 2024 | ITEM: |
| Delegated Decision Report | |
| Diversion of Public Footpath 141 | |
| Wards and communities affected: West Thurrock | Key Decision: Non-Key |
| Report of: Alison Loveridge – Team Leader Highways and Drainage | |
| Accountable Head of Service: Julie Nelder - Assistant Director of Highways and Transportation | |
| Accountable Director: Paul Crick - Interim Director of Public Realm | |
| This report is Public | |

Executive Summary

Industrial Chemicals Limited c/o Lawson Planning Partnership Limited, have submitted an application to make a Public Path Diversion Order under section 119 of the Highway Act 1980, to divert definitive Public Footpath 141, as shown on the attached plan.

Part of the existing footpath was blocked following the construction of an emergency access road between St Clement's Road and Stoneness Road under planning application ref: 23/00711/FUL.

The Footpath will be stopped up for a distance of approximately 129.6 metres, running parallel between the Procter & Gamble and ICL sites. The proposed diversion provides a route along the existing roadside pavement on St Clement's Road, with a permissive path from St Clement's Road to re-join the existing Footpath.

There is a legal process to be followed before a Public Path Diversion Order can be formally made and confirmed and Thurrock's definitive Map Book and Statement updated accordingly.

1. Recommendations:

- 1.1 That it is expedient to divert Public Footpath 141 and that approval be given to proceed with the proposal to make a Public Path Diversion Order to divert Public Footpath 141.

- 1.2 That approval be given for the Order to be sent out for consultation.
- 1.3 That approval be given, subject to no objections being received (or if objections have been received, those objections have been resolved), confirmation of the Order will be advertised to formally complete this part of the process.
- 1.4 That approval be given that upon confirmation of the Order Thurrock's definitive Map Book and Statement is updated and a further Legal Order is made in accordance with Public Path Diversion Order under section 119 of the Highway Act 1980.

2. Introduction and Background

- 2.1 Industrial Chemicals Limited c/o Lawson Planning Partnership Limited, have submitted an application to make a Public Path Diversion Order under section 119 of the Highway Act 1980, to divert definitive Public Footpath 141, as shown on the attached plan (Appendix 1).
- 2.2 The access road was closed because of a recent need to close St Clements Way and Stoneness Road as a result of protestors tunnelling under them (Appendix 2). These two roads formed the main access points to the application site and caused significant disruption to Industrial Chemical Limited's (ICL) operations and impacted on their ability to serve its customer base.
- 2.3 Following liaison between Thurrock Council, all the emergency services, COMAH emergency systems and the COBRA Committee, it was agreed that an emergency access route between St Clements Way and the West Thurrock Works site should be installed in order to allow ICL's operations to continue uninterrupted.
- 2.4 Part of the existing footpath was blocked following construction of an emergency access road between St Clement's Road and Stoneness Road under planning application ref: 23/00711/FUL. Plan showing road network attached.
- 2.5 The path will need to be stopped up for a distance of approximately 129.6 metres running parallel between the Procter & Gamble and ICL sites (as shown on attached plan detailing footpath arrangement). The proposed diversion provides a level route on the roadside pavement for all users along St Clements Road, with a gentle slope along the permissive path from St Clements Road to re-join the existing footpath.
- 2.7 It is not possible to re-open the old route prescribed route to height level differences between the new access road and connecting footpath. It is deemed less user friendly for disability groups etc. In addition the new alignment is deemed safer due to the openness of the route and hardened surface.

- 2.7 The existing footpath is subject to anti-social behaviour due to the unauthorised use of motorcycles, culminating with the route being blocked off a short distance to the south of St Clements Road. In order to maintain the required antisocial behaviour prevention measures, it is proposed to reinstall the existing chicane at the entrance to the diverted section of footpath, as shown on the submitted plans.
- 2.8 The proposed diversion of the section of Public Footpath 141 would bring its users closer to the church at the northern end of the diversion, allowing them to better appreciate this heritage asset than they would currently be able to do from the existing route to the west of St Clement's Road. As such, the proposed public footpath diversion would result in an enhancement to the way in which the church is experienced by the public.
- 2.9 There is a legal process to be followed before a Public Path Diversion Order can be formally made and confirmed and the definitive Map and Statement updated accordingly.
- 2.10 A Public Path Diversion Order is first made and is then subject to a 28 day consultation period and can be confirmed if there are no objections, or if objections received have been resolved. However, If an objection is received and not resolved and the Council find it appropriate, providing the applicant is prepared to fund it, the application can be sent to the Secretary of State who will appoint an inspector to consider the objection and make a final decision.
- 2.11 If the Order has no objections, it can be confirmed immediately after the 28 day consultation period. It is the confirmation of the Order that validates the diversion. Once the Order has been confirmed a further legal Order is made to update Thurrock's definitive Map Book and Statement.

3. Issues, Options and Analysis of Options

- 3.1 The footpath is currently severed along its route as result of the emergency access road being constructed, resulting in a permanent new layout, and the definitive map does not align with the situation onsite. It is not feasible to reinstall to the former route due to cost and the engineering difficulties generated by the construction of the access road. It appears expedient that the line of the Footpath be diverted. Therefore this diversion should proceed.
- 3.2 A sum of £1800 has been paid to the Council, by Industrial Chemicals Limited c/o Lawson Planning Partnership Limited in line with the Councils fees and charges. This will cover the administrative duties and any additional signage that may be needed. This would need to be refunded should the recommendation not go ahead.
- 3.3 If objections are received during the consultation period and these are not resolved, there is a need to refer to the Secretary of State to make a final

decision, any additional cost incurred must be met by the applicant. These costs are unquantified as it depends on the nature of the objection and the cost of the Inspector which the Secretary of State would appoint to review the case and make the decision.

4. Consultation (including Overview and Scrutiny, if applicable)

- 4.1 The proposal to divert a Footpath is subject to a statutory consultation for a period of 28 days under section 119 of the Highways Act 1980. First the Order is made, followed by a Statutory Notice which is placed in a local newspaper, at the site, on the councils website and a copy of the Order is sent to utility companies, statutory consultees and stakeholders.

5. Impact on corporate policies, priorities, performance and community impact

- 5.1 These actions accord with the Council priorities to create a safer environment.

6. Implications

6.1 Financial

Implications verified by:

Industrial Chemicals Limited c/o Lawson Planning Partnership Limited paid the fee of £1800 in accordance with Thurrock Council's fees and charges. Any additional charges incurred would also be borne by the applicant.

6.2 Legal

Implications verified by: **Caroline Robins**
Locum Principal Planning and Highways
Solicitor

Section 119 of the Highways Act 1980 provides the right for a Public Path Diversion Order to be made by the Council and consulted on if it appears expedient that the line of the Footpath be diverted. This is a non-executive function by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended.). The footpath diversion will not be effective unless the Order is confirmed by the Council or if there are unresolved objections, the Secretary of State. The effect of a confirmed Order is to create a new right of way and extinguish the old.

6.3 Diversity and Equality

Implications verified by:

There are no diversity implications within this report. Any responses received as part of the consultation will be analysed to assess if there are any negative implications to those with protected characteristics, should the footpath be diverted.

- 6.4 **Other implications** (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder and impact on Looked After Children)

N/A

7. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

None

8. **Appendices to the report**

Plan of existing and proposed routes

Report Author:

Alison Loveridge

Public Realm

Appendix 1



KEY

- Public Right of Way (Footpath 141)*
- Section of PRow to be closed (approx. 129.6m)*
- Diversion of PRow (approx. 135.6m)*
- Emergency Access Road*

*Line widths not to scale, indicative only.

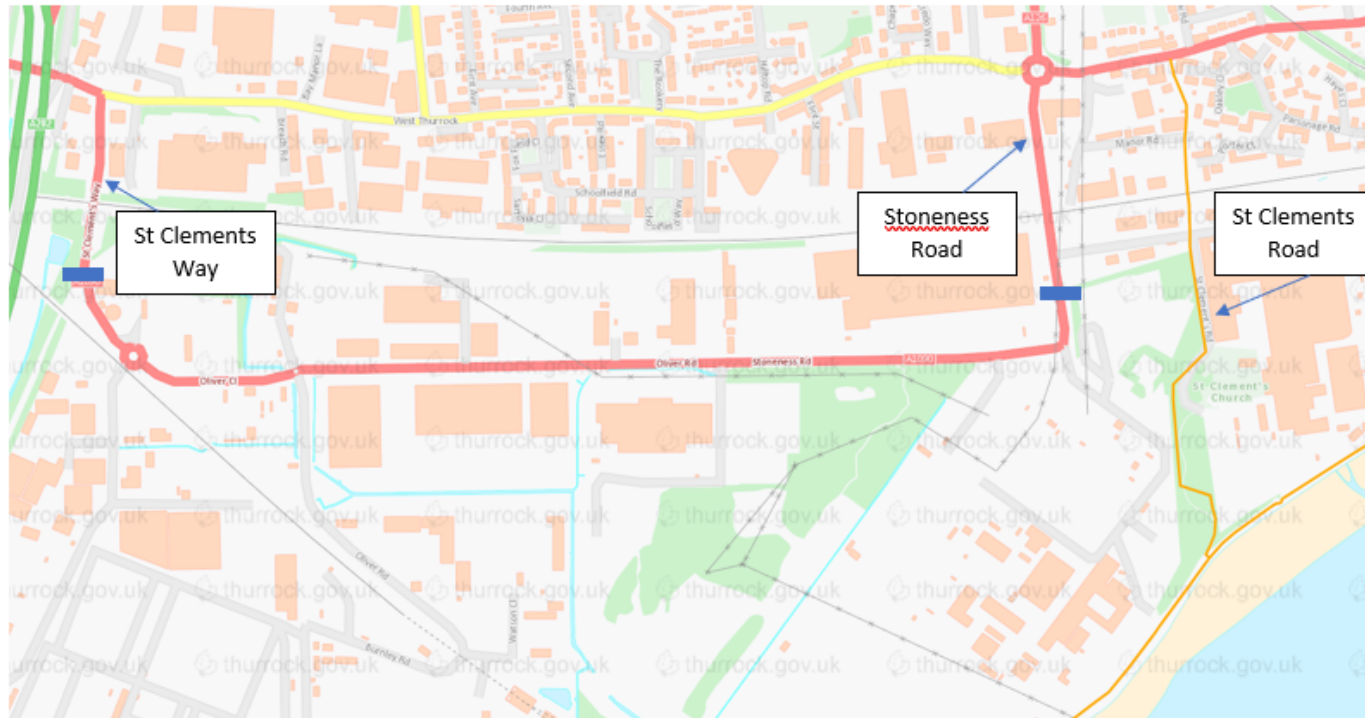
The Coach House, East Hill House, 76 High Street,
 Colchester, Essex, CO1 1UF
 01206 835150
 www.lppartnership.co.uk

LPP

Client: Industrial Chemicals Ltd
 Project: West Thurrock Works Emergency Access Road
 Title: Emergency Access Road and PRow
 Drawn by: KH Drawing No: 330/22/02

Appendix 2

Footpath 141 – Road Network



■ Protestor tunnels/closure points