

CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting: 12 December 2011
Report of: Greenspaces Manager
Subject/Title: Addition to the Definitive Map
Wildlife and Countryside Act 1981 - Section 53:
Application to Add a Bridleway between Goldford Lane,
Larkton and Long Lane, Bickerton.

1.0 Report Summary

1.1 This report is an informative item to brief members on a recent determination of an application by Cheshire West and Chester Council.

2.0 Recommendation

2.1 No decision is required by Committee.

3.0 Reasons for Recommendations

3.1 N/A

4.0 Wards Affected

4.1 Wrenbury

5.0 Local Ward Members

5.1 Councillor S Davies

6.0 Policy Implications including - Climate change - Health

6.1 Not Applicable

7.0 Financial Implications

7.1 Not Applicable

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 Under section 53 of the Wildlife & Countryside Act 1981 (WCA), the Council has a duty, as surveying authority, to keep the Definitive Map and Statement under continuous review. Under schedule 14 of the WCA, applications can be

made to an authority submitting evidence that suggests that the Definitive Map needs to be amended. The authority must investigate and determine that evidence and decide on the outcome whether to make a Definitive Map Modification Order or not. Cheshire West and Chester Council have determined that an order be made to add a bridleway to the Definitive Map and Statement. Part of the route is within the boundary of Cheshire East Council in the parish of Bickerton.

9.0 Risk Management

9.1 None

10.0 Background and Options

10.1 This application was made to Cheshire County Council in 2007 for a bridleway to be added to the Definitive Map and Statement along a route commonly known as 'Dean's Lane'.

10.2 At the time of Local Government Re-organisation this application was allocated to Cheshire West and Chester as the applicant resided in that authority.

10.3 Cheshire West and Chester (CWAC) sought agreement from Cheshire East PROW to investigate and determine this application with a view to making an order that will modify both definitive maps. CWAC have determined this application in accordance with their 'call-in' procedure. This procedure involves a report being prepared and published for a period of 28 days during which a member of the Public Rights of Way Committee can call it in to be discussed at Committee. If not called in the Head of Culture and Recreation can confirm the recommendation made in the report as a decision of the Council. This report was approved on the 3rd October.

10.4 A Definitive Map Modification Order was made on the 25th November and will be advertised in early December for the statutory 42 days.

10.5 The basis of the claim for a bridleway was user evidence submitted by twelve people spanning a period from 1953 to the date of the application in 2007. All the witnesses had used the way openly and without permission. They recall there being bridle signs at each end of the track.

10.6 The lane used to be enclosed by a hedge each side but these boundaries were removed by the landowners in 1972. Cheshire County Council received complaints at this time and they reached agreement with the landowners at the behest of users to install bridle gates to maintain access. Further obstructions occurred and the County Council threatened enforcement action to reinstate use.

10.7 Additional historical research was undertaken into the route which revealed it to be partly recorded on an estate map of 1735 and County Maps from the early 19th century. The route was also shown on Tithe Maps and Ordnance Survey mapping from the 1840's through to the current day.

10.8 In conclusion it was considered that the tests relating to section 53 of the Wildlife & Countryside Act 1981 i.e. whether the available evidence is considered sufficient to reasonably allege that a public path subsists and whether there has been the expiration of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path; had been met.

10.9 The report and plan are attached as appendices.

11.0 Access to Information

The report prepared by Cheshire West and Chester relating to this investigation can be inspected by contacting the PROW team at:

Name: Clare Hibbert

Designation: Definitive Map Officer

Tel No: 01270 686063

Email: clare.hibbert@cheshireeast.gov.uk