

# Public Rights of Way Committee

## Agenda

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<b>Date:</b>	<b>Monday, 7th September, 2009</b>
<b>Time:</b>	<b>2.00 pm</b>
<b>Venue:</b>	<b>Committee Suite 1,2 &amp; 3, Westfields, Middlewich Road, Sandbach CW11 1HZ</b>

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

3. **Minutes of Previous meeting** (Pages 1 - 8)

To approve the minutes of the meeting held on 1 June 2009 as a correct record.

4. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

Note: In order for officers to undertake any background research it would be helpful if questions were submitted at least one working day before the meeting.

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For any apologies or requests for further information, or to give notice of a question to be asked by a member of the public

**Contact:** Rachel Graves

**Tel:** 01270 529742

**E-Mail:** [rachel.graves@cheshireeast.gov.uk](mailto:rachel.graves@cheshireeast.gov.uk)

5. **Highways Act 1980 - Section 118: Extinguishment of Public Footpath No. 4 and Restricted Byway No. 6 Mlddlewich** (Pages 9 - 14)

To consider the application to extinguish Public Footpath No. 4 and Restricted Byway No. 6 (part) in Middlewich.
6. **Highways Act 1980 - Section 118: Proposed Extinguishment of Public Footpath No. 17 (part) Sandbach** (Pages 15 - 20)

To consider the application to extinguish Public Footpath No. 17 (part) in Sandbach.
7. **Highways Act 1980 - Section 119: Application for the Diversion of Public Footpath No. 20 (part) Parish of Sutton** (Pages 21 - 28)

To consider the application for the diversion of Public Footpath No. 20 (part) in the Parish of Sutton.
8. **Highways Act 1980 - Section 119: Application for the Diversion of Public Footpath No. 13 (part) Parish of Wrenbury cum Frith** (Pages 29 - 34)

To consider the application for the diversion of Public Footpath No. 13 (part) in the Parish of Wrenbury cum Frith.
9. **Highways Act 1980 - Section 119: Application for the Diversion of Public Footpath No. 4 (part) Parish of Brereton** (Pages 35 - 42)

To consider the application for the diversion of Public Footpath No. 4 (part) in the Parish of Brereton.
10. **Highways Act 1980 - Section 119: Application for the Diversion of Public Footpath No.3 Parish of Mottram St Andrew** (Pages 43 - 50)

To consider the application for the diversion of Public Footpath No. 3 (part) in the Parish of Mottram St Andrew.
11. **Town and Country Planning Act 1980 - Section 257: Application for the Diversion of Public Footpath No. 7 (part) Parish of Warmingham** (Pages 51 - 56)

To consider the application for the diversion of Public Footpath No.7 (part) in the Parish of Warmingham.
12. **Highways Act 1980 - Section 25: Creation Agreement for a New Public Footpath in the Parish of Bollington** (Pages 57 - 62)

To consider the proposal to enter into a creation agreement for a new public footpath in the Parish of Bollington.
13. **Update on Development of the Rights of Way Improvement Plan (2011-2026) within the Local Transport Plan 3** (Pages 63 - 66)

To consider a report on the development of the Rights of Way Improvement Plan (ROWIP) (2011-2026) within the context of the Local Transport Plan 3 (LTP3).

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Public Rights of Way Committee**  
held on Monday, 1st June, 2009 at Main Hall, Sandbach Town Hall, High  
Street, Sandbach

### **PRESENT**

Councillor B Moran (Chairman)  
Councillor R Walker (Vice-Chairman)

Councillors Rachel Bailey, D Cannon, R Cartlidge, Wilkinson and J Wray

### **OFFICERS PRESENT:**

Guy Kilminster, Head of Health and Wellbeing  
Mark Wheelton, Leisure Services and Greenspace Manager  
Mike Taylor, Greenspaces Manager;  
Amy Rushton, Interim Public Rights of Way Manager  
Genni Butler, Acting Countryside Access Development Officer  
Clare Hibbert, Public Rights of Way Officer  
Hannah Flannery, Acting Public Rights of Way Officer  
Charles Riley, Solicitor Places, Regulatory and Compliance  
Rachel Graves, Democratic Services Officer.

### **1 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **2 DECLARATIONS OF INTEREST**

Councillor David Cannon declared a personal interest in the meetings proceedings by virtue of his membership of the PALLEO Rambling Club in Crewe and Nantwich. In accordance with the code of conduct, he remained in the meeting during consideration of all items of business

### **3 PUBLIC SPEAKING TIME/OPEN SESSION**

No members of the public present wished to address the Committee.

### **4 PUBLIC RIGHTS OF WAY POSITION STATEMENT**

The Committee considered a report which briefed them on the work planning targets and current workload of the Public Rights of Way Team for the forthcoming year.

The work undertaken by the Rights of Way Team fell into three areas of work:

- Protection and maintenance of the network

- Development of access and production and implementation of the Rights of Way Improvement Plan
- The processing of legal orders associated with changes to the path network

Members noted the Appendices to the Report, which outlined the work programme for the Network Management Team, listed the projects undertaken in 2008/09 as part of the Rights of Way Improvement Plan and detailed the outstanding workload for definitive map and legal orders work.

It was noted that the Rights of Way Team had been operating towards targets for 2008/09 set by the Cheshire County Council Rights of Way Committee in April 2008. The targets had been set in the context of the former Countryside Agency (now Natural England) National Targets for public rights of way, which had as their aim that the rights of way network in England and Wales should be:

- Legally defined
- Properly maintained
- Well publicised

These targets would remain as the targets for Cheshire East.

Although Councils were no longer required to report on Best Value Performance Indicator 178 (the percentage of PROW network deemed “easy to use”), the national group, the County Surveyors’ Society is keen that authorities continue to collect this data and in Cheshire it had been collected as local indicator LTP 13. This performance indicator would continue as a means of benchmarking progress and the first of two annual random surveys for Cheshire East would be implemented by the team in June.

### **RESOLVED:**

That the “Milestones” approach to setting work programme targets and gathering local performance indicators be endorsed and the workload of the Public Rights of Way Team be noted.

## **5 LEGAL ORDERS TEAM: STATEMENT OF PRIORITIES FOR DEFINITIVE MAP MODIFICATION ORDERS**

The Committee considered a report seeking approval for a revised “statement of priorities” for dealing with a potentially large volume of Definitive Map Modification Order applications and matters requiring detailed investigations.

The Council as Surveying Authority for the Definitive Map and Statement had a duty to keep it under continuous review and make modifications as required. It was recommended that Surveying Authorities should periodically publish a statement of priorities for dealing with Definitive Map Modification Orders. The former Cheshire County Council Rights of Way Committee had approved interim statements of priorities in 2000, 2004 and most recently in January 2006.

The workload of the Legal Orders Team had increased in recent years due to national initiatives, such as the Rights of Way Improvement Plan, and local pressures such as the need for the completion of a consolidated Definitive Map

and Statement. The current system of prioritisation was complex in that it attempted to combine a chronological approach with other qualitative criteria and as a result was difficult to apply and had never been fully implemented. A revised system of priorities was therefore proposed to permit a systematic but flexible approach to dealing with a large volume of DMMO applications and matters requiring detailed investigation.

Members endorsed the revised system of priorities, as detailed in Appendix 2 to the Report, and requested an interim report be brought to Committee in six months outlining how the revised system was working. A further report should be carried out and brought to Committee in twelve months time reviewing the revised system.

**RESOLVED:** That

- (1) the revised Statement of Priorities , as outlined in Appendix 2, be approved.
- (2) further reports be brought in six and twelve months on the revised Statement of Priorities.

## **6 CHARGING POLICY FOR PUBLIC PATH ORDERS, TEMPORARY AND EMERGENCY CLOSURES AND RIGHTS OF WAY SEARCHES**

The Committee considered a report that detailed the fees and charges levied by the Legal Orders Team for Public Path Orders, Temporary Closures and other work from 1 April 2009 onwards.

Members were informed that charges were made in accordance with the Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 as amended by the Local Authorities (Charges for Overseas Assistance and Public Paths Order) Regulations 1996. Charges were also made for written responses for public rights of way searches.

The report detailed the current and proposed charges in respect of the following services:

- Public Path Diversions Orders
- Emergency and Temporary Closures
- Gating Orders
- Property Searches

It was noted that a review of charges and staff costs had taken place in July 2008 to reflect full cost recovery. The hourly rate was calculated at the average spinal point for grade 8 plus an additional 26% to cover overheads. Value Added Tax (VAT) was added at 15%, except for searches. From 1 April 2009 a mandatory increase of 2.5% on all rechargeable services was to be levied by the Council and this had been reflected in the proposed charges. There was no profit element to the charges and none may be levied.

**RESOLVED:**

That subject to any departmental review of charging policy, or the implementation of statutory regulations relating to local authority charges, the following charges apply:

- (1) Public Path Diversion Orders: for a straightforward public path diversion application resulting in a confirmation order, the charge from 1 April will be £1134.69 plus VAT plus the actual advertising costs.
- (2) Emergency and Temporary Closures:
  - (a) for an emergency 5 day or 21 day closure (not requiring press advertisement), the charge will be £165.03 plus VAT and a further £82.51 plus VAT to extend the closure for a further 21 days. A temporary closure extended for up to 6 months will be £165.03 plus VAT plus advertising costs.
  - (b) a 6 month temporary closure will be £415.13 plus VAT plus two advertisements.
  - (c) an administration charge of £311.60 plus VAT for referring an extension to a temporary closure to the Secretary of State for Environment, Food and Rural Affairs
- (3) Gating Orders: the charge will be £1134.68 plus VAT plus actual advertising costs.
- (4) Property Searches: the charge for searches will be £61.50.
- (5) increases in charges relating solely to inflation be implemented by Officers without the need to Committee approval.

## **7 ADOPTION OF AND AMENDMENTS TO THE PUBLIC RIGHTS OF WAY ENFORCEMENT PROTOCOL**

The Committee considered a report on the Public Rights of Way Enforcement Protocol, including its effectiveness and to seek approval for its adoption in the new authority, with proposed amendments.

In July 2000, a comprehensive protocol in relation to enforcement for Rights of Way was adopted by the former Cheshire County Council Rights of Way Committee. Details of the protocol were incorporated into a booklet "Public Paths a Guide to Problems and Protocols" (also know as the A-Z). As a result of case law and changes to legislation, the Protocol was amended in July 2001, January 2003 and July 2007.

It was proposed that the Enforcement Protocol and Booklet be adopted by Cheshire East Council. A number of changes to the protocol and booklet were suggested for the next reprint and Appendix 5 to the Report detailed these.

The Committee supported the setting out of a clear, unambiguous protocol on enforcement which would enable the Rights of Way team to carry out their duties effectively, in an even handed, fair, consistent manner. Members asked that wording in relation to Cross Compliance be made more persuasive and reporting offenders to the Rural Payments Agency would not be undertaken, in normal circumstances, as a first resort. It was agreed that wording would be circulated outside of the meeting for agreement.

**RESOLVED:** That

- (1) the enforcement protocols, as detailed in Appendices 1-4 of the Report, be approved.
- (2) the amendments to the protocol, as contained in Appendix 5 to the Report be approved, subject to the Committee's agreement outside of the meeting to the revised wording for the Cross Compliance section.
- (3) further amendments to the protocol and booklet "Public Paths A Guide to Problems and Protocols" be submitted to the Public Rights of Way Committee for approval from time to time.

**8 UPDATE ON THE CURRENT RIGHTS OF WAY IMPROVEMENT PLAN (2006-2011) AND AN INTRODUCTION TO THE NEXT (2011-2026)**

The Committee considered a report on the progress of the current Cheshire County Council Rights of Way Improvement Plan (2006-2011) and which provided an introduction to the next Cheshire East Rights of Way Improvement Plan (2011-2026).

It was noted that Section 60 of Countryside and Rights of Way Act 2000 required local authorities to prepare and publish a rights of way improvement plan (ROWIP) and to access and review the plan at intervals of not less than 10 years. The aim of the ROWIP was to assess:

- the extent to which local public rights of way meet the present and likely future needs of the public
- the opportunities provided by local rights of way for exercise and other forms of open-air recreation and the enjoyment of the authority's area
- the accessibility of local rights of way to blind and partially sighted persons and others with mobility problems.

It was a statutory requirement that the ROWIP be fully integrated with the Local Transport Plan being developed for the period 2011-2026.

**RESOLVED:** That

- (1) the report be noted.
- (2) a report on the progress of the Rights of Way Improvement Plan and the Local Transport Plan be brought to the next meeting of the Committee.

**9 HIGHWAYS ACT 1980 – SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 1 (PART) PARISH OF BATHERTON**

The Committee considered a report that detailed an application from Mr G Horton (the applicant) of Millbank Farm, Batherton, requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 1 in the parish of Batherton.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make an Order if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The current definitive line of footpath No. 1 ran through the applicant's garden and was currently obstructed by a wall and fence. The applicant had constructed the wall and created the garden many years ago without realising that this was the definitive line of the route as people had always walked diagonally across the field in a more direct route. It was only recently that they had been made aware of the correct line of the footpath. The proposed diversion ran along the outside of the garden wall and then cut diagonally across the field to rejoin the definitive line. The route was more direct and was currently in use by walkers.

It was noted that no objections had been received. The Committee considered that the proposed footpath would be more enjoyable than the existing route in terms of amenity and that the new route was not substantially less convenient than the existing route. The proposed route would also benefit the landowner in terms of his privacy. It was therefore considered that the proposed route would be more satisfactory than the current route and that the legal tests for the making and confirming of a diversion order were satisfied.

**RESOLVED:** That

- (1) an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No. 1 Batherton as illustrated on Plan No. HA/043/FP1/001 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- (2) Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- (3) In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

#### **10 HIGHWAYS ACT 1980 – SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 26 (PART) PARISH OF BOLLINGTON**

The Committee considered a report that detailed an application from Mrs C Drake of Swanscoe Farm, Kerridge (the applicant) requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 26 in the parish of Bollington.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make an Order if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.



The application had been made in the interest of the landowner due to security and safety concerns. The current line of the footpath took the public down the driveway towards Swanscoe Farm, through the working farm yard, alongside a barn and then continued in a northerly direction along a field edge. The applicant had been the victim of burglary on a number of occasions and had already taken other preventative measures and now wished to secure the area around the property and outbuildings. The applicant also had safety concerns about the public walking through a working farm yard. The diversion would benefit the applicant as the public would no longer need to walk through the farm yard. The proposed route was currently in use as a permissive footpath running through an adjacent field. It was similar in length, offered easier access with two pedestrian gates rather than field gates and stiles and provided a better view.

It was noted that no objections had been received. The Committee considered that the proposed footpath was not substantially less convenient than the existing route. The proposed route would also benefit the landowner in terms of security and safety. It was therefore considered that the legal tests for the making and confirming of a diversion order had been satisfied.

**RESOLVED:** That

- (1) an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No. 26 Bollington as illustrated on Plan No. HA/028/FP26/002 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- (2) Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- (3) In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**11 PROPOSAL FOR PERMISSIVE PATHS FOR HORSE RIDERS IN THE PARISH OF PECKFORTON**

The Committee considered a report on a proposed agreement to grant permissive paths for horse riders on condition of liability for the surface of the routes and liability for personal injury of users being assumed by the Council.

A permissive path agreement was essentially a private agreement between the Council and the individual concerned. The Countryside Access Development Team had been approached by the Habitats and Hillforts Landscape Partnership Team with regard to a proposal to create two permissive paths for horse riders through the Peckforton Estate. The Habitats and Hillforts Landscape Partnership Scheme was a partnership of local organisations and residents who were working together to improve the hillforts of the sandstone ridge which ran through Cheshire.

The Council's Risk Management and Insurance advisors had indicated that the addition of the proposed permissive paths for horse riders would not incur any additional costs in relation to the Council's insurance.

It was noted that work on surface drainage and furniture improvement would be undertaken with funding from the Habitats and Hillforts Landscape Partnership Scheme in order to bring the proposed routes up to a suitable standard for horse riders. There was a 100 metre section of cobbles on a gradient on one of the proposed routes. Signage and mounting blocks would be installed to recommend to users that they dismount to cross this section.

The Committee considered that the proposed permissive paths for horse riders would offer users a traffic-free route for the riding and enjoyment of the area. The need for which had been identified in the Rights of Way Improvement Plan. The proposal was also in line with the published Equestrian Strategy of the former Cheshire County Council and also met one of the aims of the Habitats and Hillforts Landscape Partnership Scheme.

**RESOLVED:**

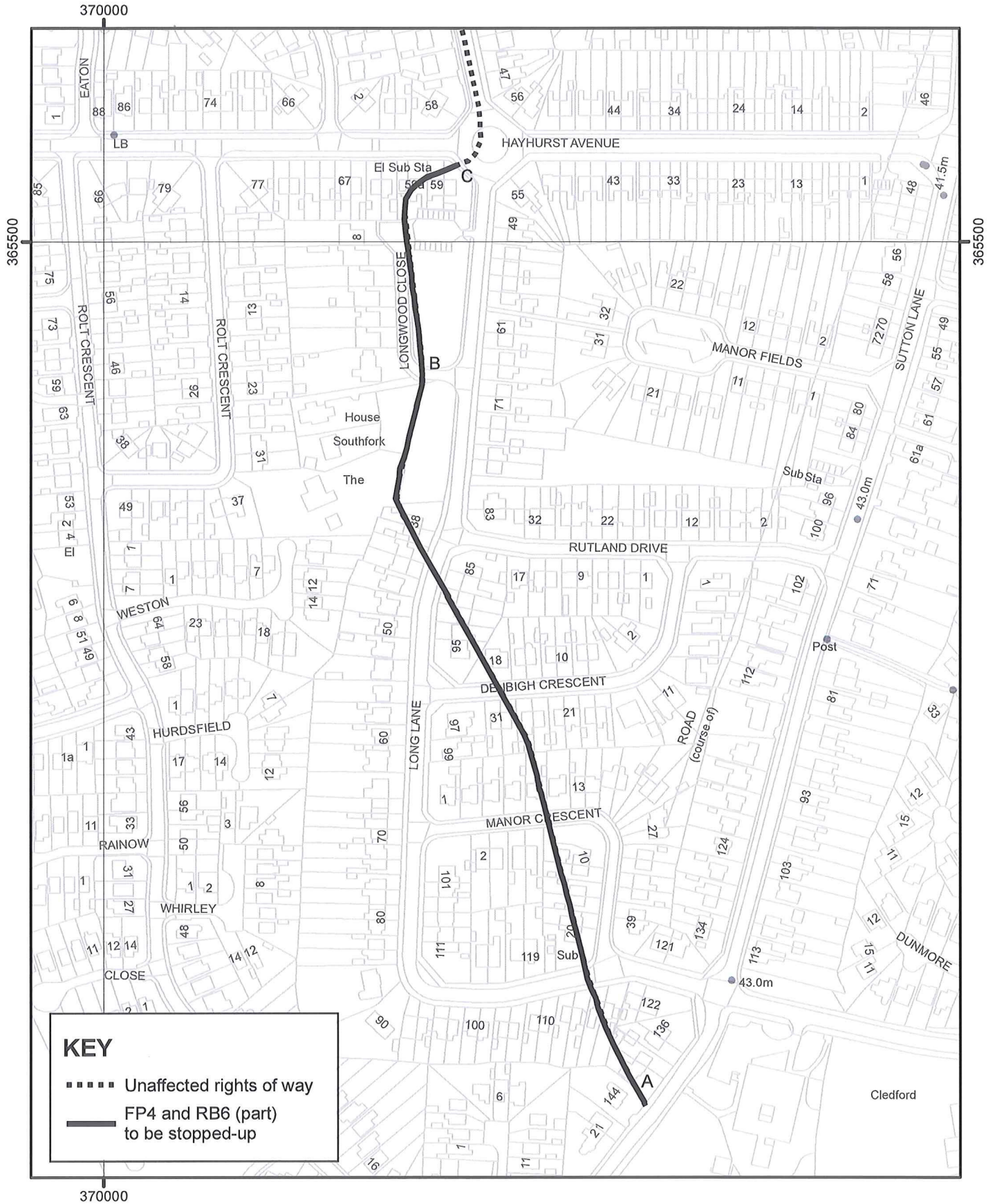
That the Council enter into a permissive path agreement with the landowner to create permissive paths for horse riders in the parish of Peckforton.

The meeting commenced at 2.00 pm and concluded at 3.55 pm

Councillor B Moran (Chairman)

**HIGHWAYS ACT 1980 – Section 118**

**Proposal to Extinguish Public Footpath No. 4 and  
Restricted Byway No.6 (Part) in Middlewich**



Cheshire East Borough Council  
Highways Act 1980 s118  
Extinguishment of FP4 and RB6 (part)  
Middlewich

1:2,500

Plan No.  
HA/207/FP4\_RB6/004

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# **CHESHIRE EAST COUNCIL**

## **REPORT TO: RIGHTS OF WAY COMMITTEE**

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<b>Date of Meeting:</b>	<b>7 September 2009</b>
<b>Report of:</b>	<b>Greenspaces Manager</b>
<b>Subject/Title:</b>	<b>Highways Act 1980 – Section 118 Extinguishment of Footpath No. 4 And Restricted Byway No.6 (Part) Middlewich</b>

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### **1.0 Report Summary**

- 1.1 The report outlines the proposal to extinguish Public Footpath No. 4 and Restricted Byway No.6 in Middlewich. This includes a discussion of consultations carried out in respect of the proposal and the legal tests for an extinguishment Order to be made. The report makes a recommendation based on that information, for decision by Members as to whether an Order should be made to extinguish the routes described.

### **2.0 Recommendations**

- 2.1 An Order be made under Section 118 of the Highways Act 1980 to extinguish Public Footpath No.4 and part of Restricted Byway No.6 Middlewich, as illustrated A-B-C on Plan No. HA/207/FP4\_RB6/004 on the grounds that they are not needed for public use.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

### **3.0 Reasons for Recommendations**

- 3.1 In accordance with Section 118(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council that it is expedient that a path or way should be stopped up on the ground that it is not needed for public use. It is considered that Public Footpath No.4 and Restricted Byway No.6 (part) as shown on plan HA/207/FP4\_RB6/004 are not needed for public use, as alternative

access is available between the same points, via the adopted road network of the housing estate.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- The extent (if any) to which it appears to him...that the path or way would, apart from the order, be likely to be used by the public, and
- The effect which the extinguishment of the right of way would have as respects land served by the path or way, and
- The material provision of any rights of way improvement plan prepared by any local highway authority which includes land over which the order would extinguish a public right of way.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 8.2 above.

3.4 There are no objections to this proposal. It is in the interest of all the owners affected by these rights of way that they are legally extinguished, to avoid any future attempts at conveyance being jeopardised. There is no evidence of the public wishing to have the legal lines of the routes reopened for use and no realistic possibility of doing so on the ground. There is nothing in Cheshire East Council's 'Rights of Way Improvement' to contradict this view.

#### **4.0 Wards Affected**

4.1 Middlewich

#### **5.0 Local Ward Members**

5.1 Councillor Peter Edwards  
Councillor Michael Parsons  
Councillor Simon McGrory

#### **6.0 Policy Implications including - Climate change - Health**

6.1 None arising.

#### **7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

7.1 None arising.

**8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

- 8.1 As there is no applicant in this case, the costs of advertising the Order recommended would be borne by Cheshire East Council. These would be approximately £200 each.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

- 9.1 The legal issues are contained within the report.

**10.0 Risk Management**

- 10.1 n/a

**11.0 Background and Options**

- 11.1 Public Footpath No.4 and Restricted Byway No.6 (part) Middlewich are currently obstructed by a large housing estate, constructed sometime in the 1960s by Middlewich Estates Limited. See plan HA/207/FP4\_RB6/004 A-B-C.
- 11.2 The obstruction of these rights of way clearly occurred because the Planning Authority of the time failed to ensure that the proper legal processes were followed and did not make a stopping-up order to legally extinguish the line of the footpath/restricted byway, prior to the development being carried out. As a result, a total of 41 properties on the estate are affected in terms of having the legal line of the footpath/restricted byway running either through their house or garden.
- 11.3 This situation came to the County Council's attention in 2006 when an owner of an affected property attempted to sell their house and the vendor's solicitor conducted a legal search to see if it was affected by a public right of way. At that time, the Council confirmed to all parties concerned that no enforcement action would be taken on the legal lines of these routes. Despite this, the sale fell through.
- 11.4 It was therefore agreed that Congleton Borough Council, as the successor Planning Authority, should take responsibility for the matter and undertake to legally extinguish the lines of the public rights of way affecting the properties, under section 118 of the Highways Act 1980. Congleton Borough Council began that process in 2007. The Borough Council got as far as consulting the affected property owners and drafting further letters to consultees, but progressed the matter no further.
- 11.5 Following Local Government Reorganisation in April 2009, the Public Rights of Way Team wrote to all the former Borough Council legal teams to ask that they forward any future public rights of way work

relating to development under the Town and Country Planning Act 1990 direct to them.

- 11.6 Although this case is an extinguishment under section 118 of the Highways Act 1980, the legal officer from Congleton Borough Council who was dealing with it felt it would be more properly dealt with by the Public Rights of Way Team. The letter referred to above at 11.5 therefore prompted the legal officer to forward the case to the Public Rights of Way Team.
- 11.7 Consultations were carried out in April 2009. The local Councillors have been consulted about the proposal. Councillor Mike Parsons telephoned to express strong support for the proposal and said that it would be very welcome on the part of the householders affected.
- 11.8 Middlewich Town Council has been consulted and confirmed that it supports the proposal.
- 11.9 The statutory undertakers have also been consulted and have no objections to the proposed extinguishment
- 11.10 The user groups have been consulted. No objections have been received.
- 11.11 Natural England has been consulted and had no comments to make regarding the proposal.
- 11.12 The affected householders were consulted. Only one response was received, which expressed support for the proposal.

## **12.0 Overview of Year One and Term One Issues**

- 12.1 None arising.

## **13.0 Access to Information**

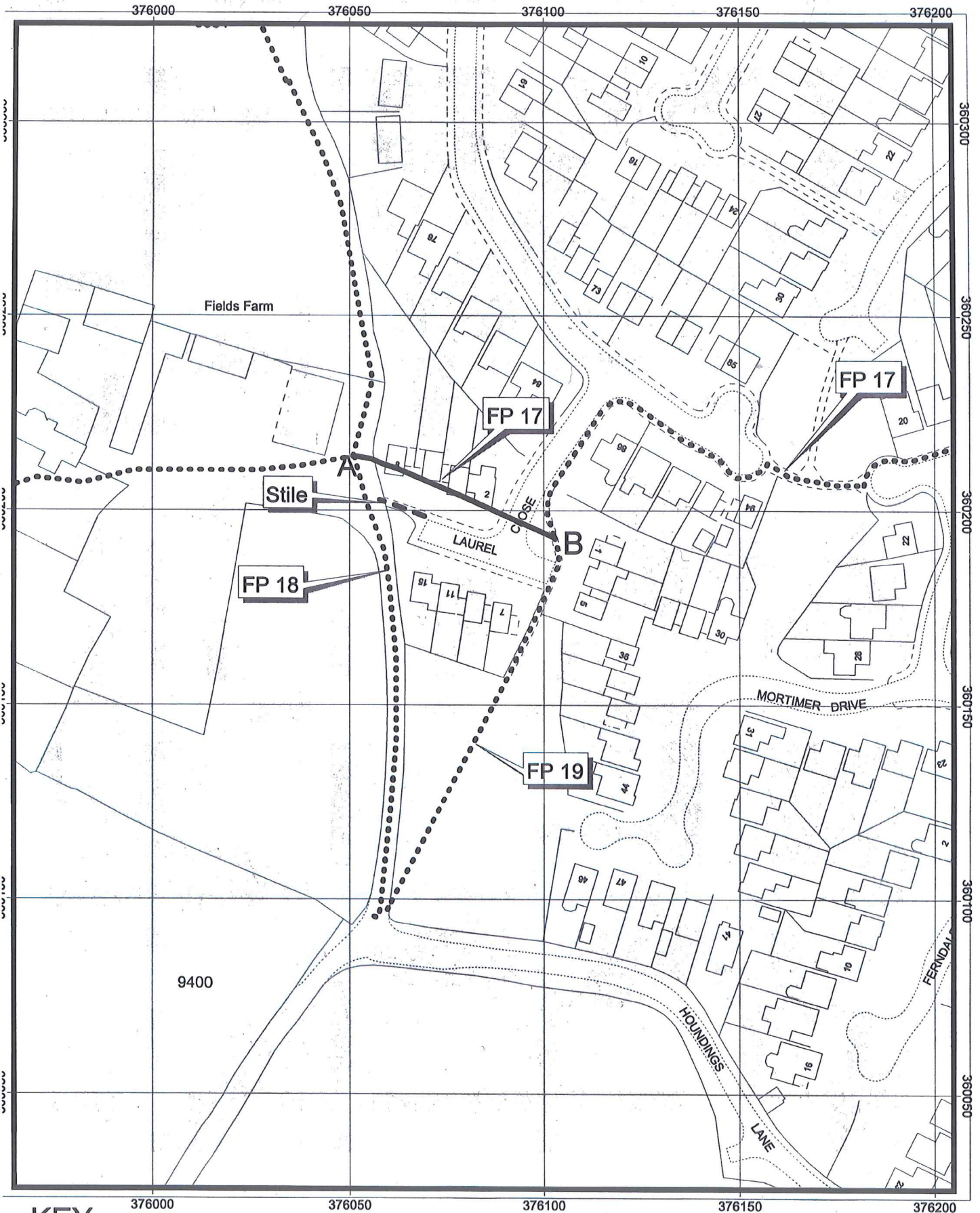
The background papers relating to this report can be inspected by contacting the report writer:

Name: Amy Rushton  
Designation: Public Rights of Way Manager (acting)  
Tel No: 01606 271827  
Email: amy.rushton@cheshireeast.gov.uk



**HIGHWAYS ACT 1980 - Section 118**

**Proposal to Extinguish Public Footpath No.17 (part)  
in Sandbach**



# KEY



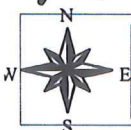
Path to be Closed



Existing Footpaths



Adopted Footway



Proposed extinguishment of Public Footpath No. 17 (part), Sandbach

Scale  
1:1250

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Plan No. HA/262/FP17/011

## **CHESHIRE EAST COUNCIL**

### **REPORT TO: Public Rights of Way Committee**

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**Date of Meeting:** 7 September 2009  
**Report of:** Greenspaces Manager  
**Subject/Title:** Highways Act 1980 section 118 -Proposed Extinguishment of Public Footpath no.17 (part) Sandbach.

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#### **1.0 Report Summary**

- 1.1 The report outlines the investigation to extinguish part of Public Footpath No. 17 in the Parish of Sandbach. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for an extinguishment order to be made. The proposal has been put forward by the Public Rights of Way Unit to resolve an anomalous situation. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an Order should be made to extinguish the section of footpath concerned.

#### **2.0 Recommendations**

- 2.1 An Order be made under section 118 of the Highways Act 1980 to extinguish part of public footpath no. 17, Sandbach as illustrated on Plan No. HA/262/FP17/011 on the grounds that it is not needed for public use.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

#### **3.0 Reasons for Recommendations**

- 3.1 In accordance with Section 118(1) of the Highways Act 1980 it is within the Council's discretion to make an Order if it appears to the Council that it is expedient that a path or way should be stopped up on the ground that it is not needed for public use. It is considered that Public Footpath No.17 (part) as shown on plan HA/262/FP17/011 is not needed for public use, as an alternative route is available via the

adopted footway between Laurel Close and the continuation of Footpath 17 and connecting Footpath no. 18.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- The extent (if any) to which it appears to him...that the path or way would, apart from the order, be likely to be used by the public, and
- The effect which the extinguishment of the right of way would have as respects land served by the path or way, and
- The material provision of any rights of way improvement plan prepared by any local highway authority which includes land over which the order would extinguish a public right of way.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

3.4 There have been no objections to the consultation on this proposal. It is in the interest of the owners of properties nos. 2 to 8 Laurel Close affected by these rights of way that they are legally extinguished, to avoid the difficulties experienced when a house sale is in prospect. There has been no evidence of the public wishing to use the route in question and it seems clear that the original intention when the houses were developed was to divert the path onto the adopted highway network as had happened in the adjacent development. There is nothing in Cheshire East Council's 'Rights of Way Improvement Plan' that impacts upon this proposal.

#### **4.0 Wards Affected**

4.1 Sandbach East and Rode

#### **5.0 Local Ward Members**

5.1 Councillor Elsie Alcock  
Councillor Rhoda Bailey  
Councillor Andrew Barratt

#### **6.0 Policy Implications including - Climate change - Health**

6.1 None

**7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

7.1 None

**8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

8.1 There is no applicant for this order therefore the authority will bear the associated costs. These will amount to the cost of two adverts in a local newspaper i.e. approximately £200 each.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

9.1 The legal issues are contained within the report at 3.1- 3.4 above.

**10.0 Risk Management**

10.1 n/a

**11.0 Background and Options**

11.1 Part of Public Footpath no. 17 in Sandbach runs across the gardens and dwellings of four properties in Laurel Close which were constructed in the 1980's. The part of the path affected is shown on the attached plan number HA/262/FP17/011.

11.2 This situation was brought to light by a recent search on No. 4 Laurel Close which obviously caused concern to the potential purchaser. A thorough search of available documentation has shown that the path was not diverted or extinguished at the time of the development. The Planning Authority at the time would have been responsible for ensuring this was done. On the adjacent development a further section of the same path was legally diverted onto the highway network. It seems clear that the intention was to provide an alternative for this path as an adopted link path exists to accommodate the route.

11.3 In order to regularise this situation and to prevent further problems arising at the point of sale, it is proposed that Cheshire East Borough Council as successor authority to the district council, make an extinguishment order for this part of Footpath no. 17.

11.4 Consultations have been carried out with the local ward councillors. No comments have been received.

11.5 Sandbach Town Council have been consulted and had no specific comment on the proposal but did request updated signage on the connecting paths. This has been referred to the area maintenance officer who has the matter in hand.

- 11.6 The statutory undertakers have also been consulted and have no objections to the proposed extinguishment
- 11.7 The user groups have been consulted. No objections have been received.
- 11.8 The affected householders were consulted. One response was received, which expressed support for the proposal.

## **12.0 Overview of Year One and Term One Issues**

- 12.1 None

## **13.0 *Access to Information***

The background papers relating to this report can be inspected by contacting the report writer:

Name: Clare Hibbert  
Designation: Public Rights of Way Officer  
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**HIGHWAYS ACT 1980 – Section 119**

**Application for the Diversion of Public  
Footpath No. 20 (Part) Parish of Sutton**



Proposed Diversion of Public  
Footpath Sutton No. 20 (Part)

Scale  
1:2500

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# **CHESHIRE EAST COUNCIL**

## **REPORT TO: RIGHTS OF WAY COMMITTEE**

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**Date of meeting:** 7 September 2009  
**Report of:** Greenspaces Manager  
**Subject/Title:** Highways Act 1980 – Section 119  
Application for the Diversion of Public  
Footpath No. 20 (Part) Parish of Sutton

---

### **1.0 Report Summary**

- 1.1 The report outlines the investigation of an application to divert part of Public Footpath No. 20 in the Parish of Sutton. This includes a discussion of consultations carried out in respect of the application and the legal tests for a diversion order to be made. The application has been made by the landowner concerned. The report makes a recommendation based on that information, for Members as to whether or not an Order should be made to divert the footpath.

### **2.0 Recommendations**

- 2.1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No. 20 Sutton as illustrated on Plan No. HA/284/FP20/003 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

### **3.0 Reasons for Recommendations**

- 3.1 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. It is considered that the proposed diversion is in the interests of the landowner for the reasons set out in paragraphs 11.4 and 11.5 below.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- Whether the path is substantially less convenient to the public as a consequence of the diversion.

And whether it is expedient to confirm the Order considering:

- The effect that the diversion would have on the enjoyment of the path or way as a whole.
- The effect that the coming into operation of the Order would have as respects other land served by the existing public right of way.
- The effect that any new public right of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

3.4 There are no objections to this proposal. It is considered that the proposed footpath will be more enjoyable than the existing route, moving the footpath out of the applicant's garden and away from his home provides a less intimidating route for users. It also provides improved views. The new route is not 'substantially less convenient' than the existing route and will also be of benefit to the landowner in terms of security and privacy. It is therefore considered that the proposed route will be more satisfactory than the current route and that the legal tests for the making and confirming of a diversion order are satisfied.

#### **4.0 Wards Affected**

4.1 Macclesfield Forest

#### **5.0 Local Ward Members**

5.1 Councillor Marc Asquith  
Councillor Hilda Gaddum  
Councillor Lesley Smetham

#### **6.0 Policy Implications including - Climate change - Health**

6.1 Not applicable.

**7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

7.1 Not applicable.

**8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

8.1 Not applicable.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

9.1 The legal issues are contained within the report. The report has correctly identified in 11.10 that no confirmation of the Order must take place until all works have been certificated as the implication for confirmation of the Order prior to works being completed will leave a route which will no longer be recorded on the Definitive Map.

**10.0 Risk Management**

10.1 Not applicable.

**11.0 Background and Options**

11.1 An application has been received from Mr and Mrs Egerton of Hartsgrove Cottage, Hollin Lane, Sutton, Macclesfield, SK11 0NN ('the Applicant') requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 20 in the Parish of Sutton.

11.2 Public Footpath No. 20 Sutton commences at its junction with Hollin Lane (C402) at OS grid reference SJ 9416 6938 and runs in a generally north easterly direction to join Meg Lane (UW2636) at OS grid reference SJ 9496 6983. The section of path to be diverted is shown by a solid black line on Plan No. HA/284/FP20/003 running between points A-B. The proposed diversion is illustrated with a black dashed line on the same plan, running between points A-B.

11.3 The applicant owns the land over which the current path runs and the majority of the land over which the proposed diversion would run. A small section of the proposed route at the easternmost end of the proposed route runs in the adjacent landowner's field. Written consent to the proposal has been provided by the adjacent landowner. Under section 119 of the Highways Act 1980 the Council may accede to an applicant's request if it considers it expedient in the interests of the applicant to make an order diverting the footpath.

11.4 The current line of Public Footpath No. 20 Sutton (A-B) takes walkers in very close proximity to the applicants' home (Hartsgrove Cottage)

and immediately past the windows of the property. It forms part of the Gritstone Trail and is a well used route.

- 11.5 The proposed diversion is already in use as a permissive route. It takes walkers away from Hartsgrove Cottage, leaving the driveway and passing through an attractive paddock to the south east of the current route, following a stream along a very attractive valley. It then rejoins the existing line of Public Footpath No. 20 Sutton in the field adjacent to Hartsgrove Cottage. The new route avoids the applicants' garden and the driveway which is also used by vehicles. The section of footpath proposed to be diverted is approximately 143 metres, the proposed route for the diversion is slightly shorter, approximately 139 metres. In addition, the proposed route provides improved views for walkers.
- 11.6 The local Councillors have been consulted about the proposal, no objections have been received.
- 11.7 Sutton Parish Council have been consulted about the proposal; no response has been received.
- 11.8 The statutory undertakers have also been consulted and have no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 11.9 The user groups have been consulted. The Peak and Northern Footpaths Society have responded to state that they have no objection to the proposal.
- 11.10 The Ramblers Association responded to state that subject to the following, the proposed diversion appears satisfactory: the path's surface needs to be improved as it is prone to muddiness; the path needs raising at the lower end where it is almost at the level of the stream, above the occasional flood level; a kissing gate is desirable where the path meets the access lane; the width should be 1.5 – 2.0 metres (although they recognise that this will not be achievable throughout); any tree felling or thinning should not interfere with access to the path (the definitive route will be used while the improvement works are carried out). The applicant has responded to confirm that assuming that the diversion is agreed, every effort will be made to carry out all work to a suitable standard. Also, the Cheshire East Borough Council would not issue the Article 2 'certificate of satisfaction' or confirm the Order until works have been carried out on the new path to bring it up to a suitable standard.
- 11.11 Paul Sorenson, from the Byways and Bridleways Trust, has responded to strongly commend the proposal and comments that "I have personally used the proposed diversion route many times and consider it far more attractive to the public than the 'Definitive' route".

11.12 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.

11.13 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion will have no detrimental affect on use of the way.

## **12.0 Overview of Year One and Term One Issues**

12.1 Not applicable.

## **13.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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Designation: (Acting) Public Rights of Way Officer

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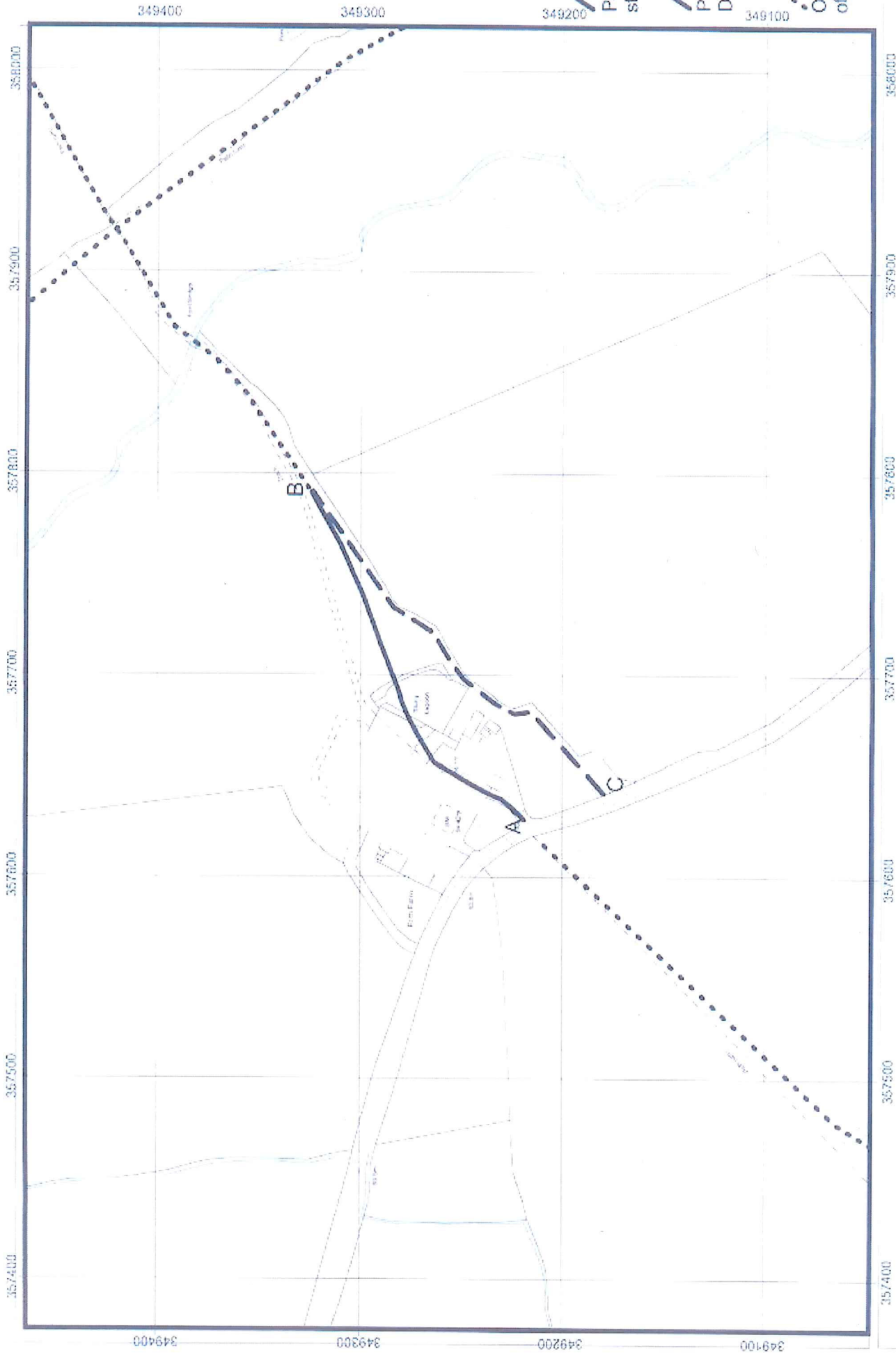
PROW File: 284D/384

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**HIGHWAYS ACT 1980 – Section 119**

**Application for the Diversion of Public  
Footpath No. 13 (Part) Parish of Wrenbury cum Frith**

Plan No.  
HA/005



-  Path to be stopped up
-  Proposed Diversion
-  Other Rights of Way



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Proposed Diversion of Public Footpath  
Wrenbury cum Frith No. 13 (Part)





# **CHESHIRE EAST COUNCIL**

## **REPORT TO: RIGHTS OF WAY COMMITTEE**

---

**Date of meeting:** 7 September 2009  
**Report of:** Greenspaces Manager  
**Subject/Title:** Highways Act 1980 – Section 119  
Application for the Diversion of Public Footpath No.  
13 (Part) Parish of Wrenbury Cum Frith

---

### **1.0 Report Summary**

- 1.1 The report outlines the investigation of an application to divert part of Public Footpath No. 13 in the Parish of Wrenbury cum Frith. This includes a discussion of consultations carried out in respect of the application and the legal tests for a diversion order to be made. The application has been made by the landowner concerned. The report makes a recommendation based on that information, for Members as to whether or not an Order should be made to divert the footpath.

### **2.0 Recommendations**

- 2.1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No. 13 Wrenbury cum Frith as illustrated on Plan No. HA/005 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

### **3.0 Reasons for Recommendations**

- 3.1 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. It is considered that the proposed diversion is in the interests of the landowner for the reasons set out in paragraphs 11.4 and 11.5 below.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- Whether the path is substantially less convenient to the public as a consequence of the diversion.

And whether it is expedient to confirm the Order considering:

- The effect that the diversion would have on the enjoyment of the path or way as a whole.
- The effect that the coming into operation of the Order would have as respects other land served by the existing public right of way.
- The effect that any new public right of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

3.4 There are no objections to this proposal. It is considered that the proposed footpath will be more enjoyable than the existing route, moving the footpath out of the farmyard and the gardens of the new properties provides a less intimidating route for users. It also provides improved views. The new route is not 'substantially less convenient' than the existing route and will also be of benefit to the landowner and future inhabitants of the four dwellings in terms of security and privacy. It is therefore considered that the proposed route will be more satisfactory than the current route and that the legal tests for the making and confirming of a diversion order are satisfied.

#### **4.0 Wards Affected**

4.1 Cholmondeley

#### **5.0 Local Ward Members**

5.1 Councillor Rachel Bailey  
Councillor Margaret Hollins  
Councillor Allan Richardson

#### **6.0 Policy Implications including - Climate change - Health**

6.1 Not applicable.

**7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

7.1 Not applicable.

**8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

8.1 Not applicable.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

9.1 The legal issues are contained within the report.

**10.0 Risk Management**

10.1 Not applicable.

**11.0 Background and Options**

11.1 An application has been received from Mr P B Hockenhull of Frith Farm, Wrenbury, Nantwich, CW5 8HN ('the Applicant') requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 13 in the Parish of Wrenbury cum Frith.

11.2 Public Footpath No. 13 Wrenbury cum Frith commences at its junction with the unnamed road (UX797) at OS grid reference SJ 5762 4921 and runs in a generally north easterly direction to join Public Footpath No. 7 Chorley at OS grid reference SJ 5786 4938. The section of path to be diverted is shown by a solid black line on Plan No. HA/005 running between points A-B. The proposed diversion is illustrated with a black dashed line on the same plan, running between points C-B.

11.3 The applicant owns the land over which the current path lies and the proposed diversion would lie. Under section 119 of the Highways Act 1980 the Council may accede to an applicant's request if it considers it expedient in the interests of the applicant to make an order diverting the footpath.

11.4 The existing line of Public Footpath Wrenbury cum Frith No. 13 (A-B) runs along the rear of a range of traditional buildings which have recently been granted planning permission for four dwellings. After consultation with the Public Rights of Way Unit, a condition was placed on the planning permission that the applicant apply to divert the footpath under the Highways Act. The current line of the footpath would run through the gardens of the four dwellings and the proximity of the footpath to the dwellings would lead to a loss of privacy and security of the future inhabitants. The current line of the footpath has also been

partially obstructed by a slurry pit for a number of years and diverting the route would avoid this obstruction.

- 11.5 The beginning of the new route is approximately 40 metres south east of the current route. It follows the boundary of the adjacent field, in a north easterly direction, until it rejoins the existing line of the footpath. Moving the footpath out of the farmyard and the gardens of the new properties into open countryside would improve the security and privacy for the applicant and also provide improved views for the public.
- 11.6 The local Councillors have been consulted about the proposal. Councillor Margaret Hollins has responded favourably to the proposal.
- 11.7 Wrenbury cum Frith Parish Council have been consulted about the proposal. No response has been received.
- 11.8 The statutory undertakers have also been consulted and have no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 11.9 The user groups have been consulted. The Peak and Northern Footpaths Society have responded to state that they have no objection to the proposal.
- 11.10 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 11.11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the existing route.

## **12.0 Overview of Year One and Term One Issues**

- 12.1 Not applicable.

## **13.0 Access to Information**

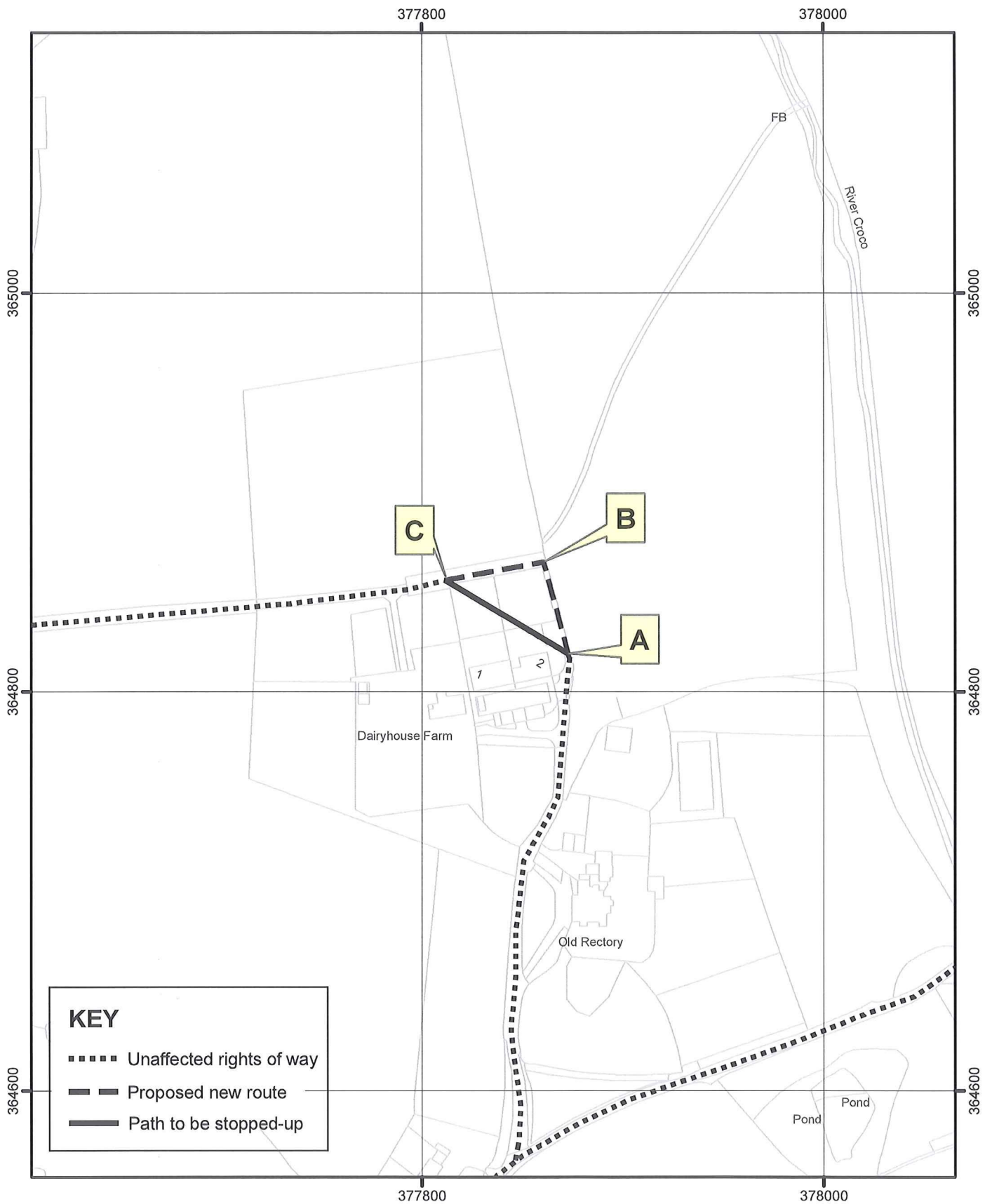
The background papers relating to this report can be inspected by contacting the report writer:

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PROW File: 331D/386

**HIGHWAYS ACT 1980 - Section 119**

**Application for the Diversion of Public  
Footpath No. 4 (Part) Parish of Brereton**



# **CHESHIRE EAST COUNCIL**

## **REPORT TO: RIGHTS OF WAY COMMITTEE**

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**Date of meeting:** 7 September 2009  
**Report of:** Greenspaces Manager  
**Subject/Title:** Highways Act 1980 – Section 119  
Application for the Diversion of Public  
Footpath No. 4 (Part) Parish of Brereton

---

### **1.0 Report Summary**

- 1.1 The report outlines the investigation of an application to divert Public Footpath No. 4 in the Parish of Brereton. This includes a discussion of consultations carried out in respect of the application and the legal tests for a diversion order to be made. The application has been made by the landowner concerned. The report makes a recommendation based on that information, for decision by Members as to whether an Order should be made to divert the footpath.

### **2.0 Recommendations**

- 2.1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No. 4 Brereton as illustrated on Plan No. HA/012 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

### **3.0 Reasons for Recommendations**

- 3.1 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. It is considered that the proposed diversion is in the interests of the landowner for the reasons set out in paragraphs 11.4 and 11.5 below.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- Whether the path is substantially less convenient to the public as a consequence of the diversion.

And whether it is expedient to confirm the Order considering:

- The effect that the diversion would have on the enjoyment of the path or way as a whole.
- The effect that the coming into operation of the Order would have as respects other land served by the existing public right of way.
- The effect that any new public right of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

3.4 There are no objections to this proposal. It is considered that the proposed footpath will be more enjoyable than the existing route and that the new route is not 'substantially less convenient' than the existing route. It will also be of benefit to the landowners in terms of their privacy. It is therefore considered that the proposed route will be more satisfactory than the current route and that the legal tests for the making and confirming of a diversion order are satisfied.

#### **4.0 Wards Affected**

4.1 Congleton Rural.

#### **5.0 Local Ward Members**

5.1 Councillor Les Gilbert  
Councillor Andrew Kolker  
Councillor John Wray

#### **6.0 Policy Implications including - Climate change - Health**

6.1 Not applicable.



**7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

7.1 Not applicable.

**8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

8.1 Not applicable.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

9.1 Legal issues are contained within the report.

**10.0 Risk Management**

10.1 Not applicable.

**11.0 Background and Options**

11.1 An application has been received from Mr and Mrs H McCormick of Barn 2 Dairy House Farm, Brereton ('the Applicant') requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 4 in the Parish of Brereton.

11.2 Public Footpath No. 4 Brereton commences at its junction with Restricted Byway No. 8 Brereton at OS grid reference SJ 7784 6456 and runs in a generally northerly direction to Dairy House Farm, it then turns in a generally north westerly direction to join the A50 Newcastle Road. The section of path to be diverted is shown by a solid black line on Plan No. HA/012 running between points A-C. The proposed diversion is illustrated with a black dashed line on the same plan, running between points A-B-C.

11.3 The applicants own part of the land over which the current path runs, the remaining part belongs to the owner/occupier of Barn 1. The land over which the proposed diversion runs is partly owned by the applicants and partly owned by Mr and Mrs Harris of Dairy House Farm. Mr and Mrs Harris have written to confirm they have no objection to the diversion of the footpath onto their land. Under section 119 of the Highways Act 1980 the Council may accede to an applicant's request if it considers it expedient in the interests of the applicant to make an order diverting the footpath.

11.4 The current definitive line of footpath no. 4 (A-C) takes the public diagonally across the gardens of the applicant's property and Barn 1. When purchasing the property it was only in the very late stages that the applicants were made aware that the path entered the property in this way. The path is inconvenient and affects the applicant's privacy as they spend time as a family outside and their children play in this

area. The line walked on the ground is not the same as the legal line; the legal line also affects the garden of Barn 1 but the walked line is solely within the garden of the applicants. Therefore the owner/occupier of Barn 1 was presumably also unaware of the path when they purchased their property.

- 11.5 The diversion (A-B-C) would benefit the landowners as the public would no longer need to walk through their garden. The proposed diversion is already in place as a permissive route. From the current route it continues along a short paved section, then it goes around the outside of the garden, along a 3 metre wide compact stone track with post and rail fencing each side. At each end of the track there are currently two bollards to prevent vehicle access, these will be removed and a fence and kissing gate installed at the northern end of the track (point B); this is to make the field to the north stock proof. At the end of the track the proposed route then turns in a westerly direction to join the current route, this section is a grass surface. The proposed route is similar in length and offers easier access with only one kissing gate rather than two pedestrian gates on the current route.
- 11.6 The local Councillors have been consulted about the proposal, no objections have been received.
- 11.7 Brereton Parish Council has been consulted about the proposal; no response has been received.
- 11.8 The statutory undertakers have also been consulted and have no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 11.9 The user groups have been consulted. The Peak and Northern Footpaths Society has indicated they have no objection. No further comments have yet been received.
- 11.10 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals. Natural England has been consulted and has indicated they have no comment to make at this time.
- 11.11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion will have no detrimental affect on use of the way.

## **12.0 Overview of Year One and Term One Issues**

- 12.1 Not applicable.

**13.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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Designation: Public Rights of Way Officer

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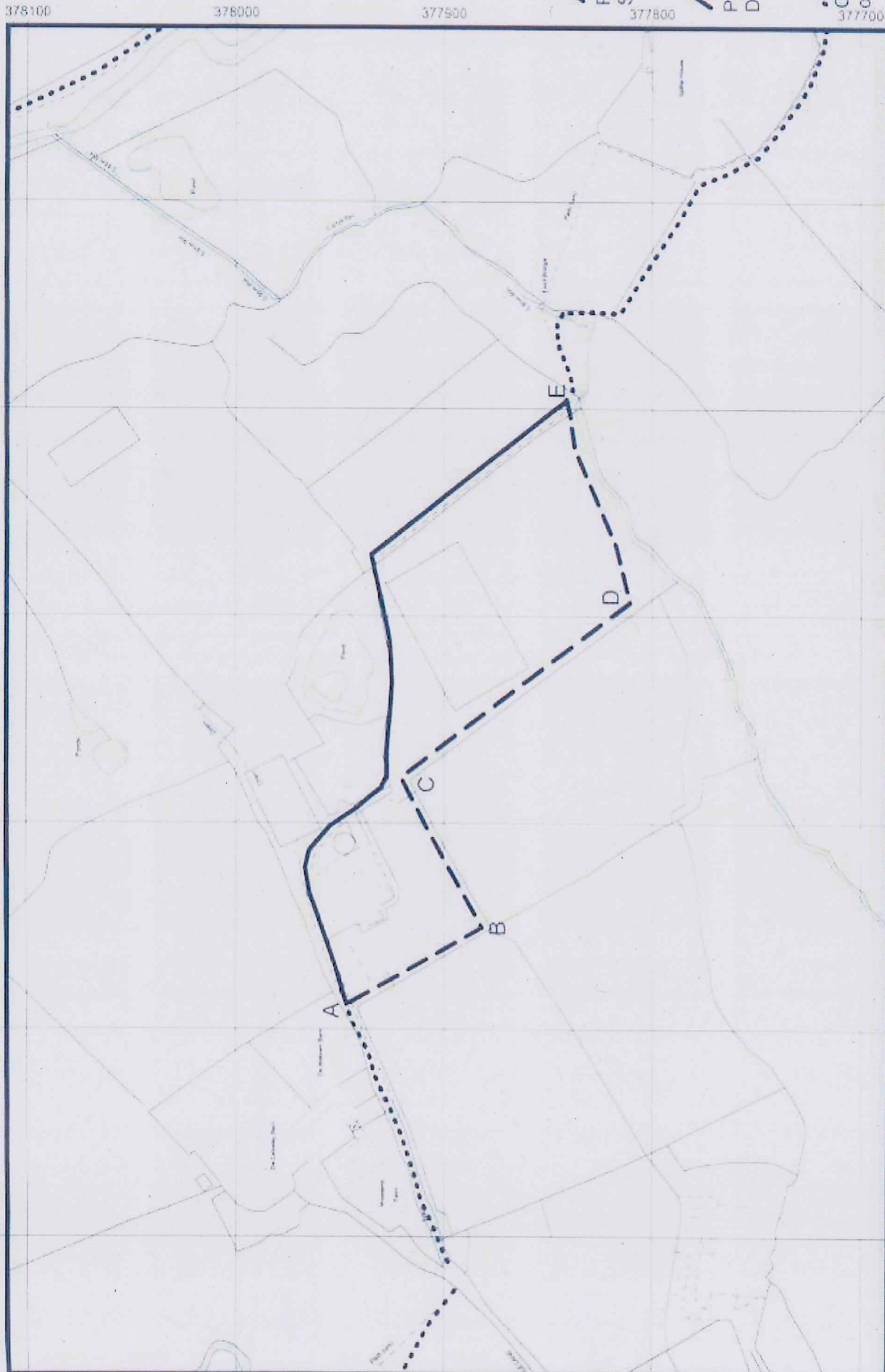
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**HIGHWAYS ACT 1980 – Section 119**

**Application for the Diversion of Public  
Footpath No. 3 (Part) Parish of Mottram St Andrew**

Plan No.  
HA/007



**Proposed Diversion of Public Footpath**  
**Mottram St Andrew No. 3 (Part)**

**Scale**  
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Path to be Stopped Up  
 Proposed Diversion  
 Other Rights of Way

# **CHESHIRE EAST COUNCIL**

## **REPORT TO: RIGHTS OF WAY COMMITTEE**

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**Date of meeting:** 7 September 2009  
**Report of:** Greenspaces Manager  
**Subject/Title:** Highways Act 1980 – Section 119  
Application for the Diversion of Public Footpath No.  
3 (Part) Parish of Mottram St Andrew

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### **1.0 Report Summary**

- 1.1 The report outlines the investigation of an application to divert part of Public Footpath No. 3 in the Parish of Mottram St Andrew. This includes a discussion of consultations carried out in respect of the application and the legal tests for a diversion order to be made. The application has been made by the landowner concerned. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an Order should be made to divert the footpath.

### **2.0 Recommendations**

- 2.1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No. 3 Mottram St Andrew as illustrated on Plan No. HA/007 on the grounds that it is expedient and in the interests of the owner of the land crossed by the path.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

### **3.0 Reasons for Recommendations**

- 3.1 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. It is considered that the proposed diversion is in the interests of the landowner for the reasons set out in paragraphs 11.4 and 11.5 below.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- Whether the path is substantially less convenient to the public as a consequence of the diversion.

And whether it is expedient to confirm the Order considering:

- The effect that the diversion would have on the enjoyment of the path or way as a whole.
- The effect that the coming into operation of the Order would have as respects other land served by the existing public right of way.
- The effect that any new public right of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

3.4 Although there are objections to this proposal, it is considered that the proposed footpath will be more enjoyable than the existing route, providing improved views for walkers and a more easily accessible route. Moving the footpath out of the stud yard will benefit the landowner in terms of farm management and privacy and security. The new route is not 'substantially less convenient' and it will also provide a less intimidating route for walkers. It is therefore considered that the proposed route will be more satisfactory than the current route and that the legal tests for the making and confirming of a diversion order are satisfied.

#### **4.0 Wards Affected**

4.1 Prestbury and Tytherington.

#### **5.0 Local Ward Members**

5.1 Councillor Paul Findlow  
Councillor Thelma Jackson  
Councillor Bill Livesley

#### **6.0 Policy Implications including - Climate change - Health**

6.1 Not applicable.



**7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

7.1 Not applicable.

**8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

8.1 Not applicable.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

9.1 If objections are received to the published Order, any ensuing hearing or or Inquiry may find against any decision of the Committee and entail additional legal support and use of resources.

**10.0 Risk Management**

10.1 Not applicable.

**11.0 Background and Options**

11.1 An application has been received from Mr M Battersby and Miss R Fallows of Lower Gadhole Farm, Greendale Lane, Mottram St Andrew, SK10 4AY ('the Applicant') requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 3 in the Parish of Mottram St Andrew.

11.2 Public Footpath No. 3 Mottram St Andrew commences at its junction with Greendale Lane (QW1705) at OS grid reference SJ 8908 7789 and runs in a generally south easterly direction to join Public Footpath No. 6 Prestbury at OS grid reference SJ 8954 7784. The section of path to be diverted is shown by a solid black line on Plan No. HA/007 running between points A-E. The proposed diversion is illustrated with a black dashed line on the same plan, running between points A-E.

11.3 The applicant owns the land over which the current path lies and over which the proposed diversion would run. Under section 119 of the Highways Act 1980 the Council may accede to an applicant's request if it considers it expedient in the interests of the applicant to make an order diverting the footpath.

11.4 The current line of Public Footpath No. 3 Mottram St Andrew runs through a busy working stud yard which is used for the breeding and training of young sport horses. Moving the footpath out of the yard would be of benefit in terms of farm management and also avoid any further conflict or risk of accidents between members of the public and the horses. Horses in training can be easily disturbed and upset and

this has led to injury to pedestrians in the past. Diverting the footpath should improve safety for users.

- 11.5 The proposed route runs along field boundaries to the south of the existing route, until it rejoins the existing line of the footpath. It would move the route out of the stud farm, allowing users views of the horses whilst avoiding physical contact with them. It would also provide enhanced views of the Cheshire Countryside. The current route is partly enclosed with a width of 1.5 metres. The proposed route will also be partly enclosed by post and rail fencing and will have a width of 2.3 – 2.5 metres. The surface of the new route will be part stoned and part pasture. The proposed route also offers easier access. It does not require any path furniture and would remove the need for the stile and gate which users currently have to negotiate.
- 11.6 The local Councillors have been consulted about the proposal. No comments have been received.
- 11.7 Mottram St Andrew Parish Council have been consulted about the proposal. No response has been received.
- 11.8 The statutory undertakers have also been consulted and have no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 11.9 The user groups have been consulted. Following a site meeting the Peak and Northern Footpath Society have responded to state that they have no objection to the diversion of the footpath providing that the surface between points C and D is firm enough for walkers. The applicant has agreed to carry out any surfacing/drainage works necessary to bring the diverted route up to an acceptable standard.
- 11.10 The Ramblers Association have responded to state that “the line of the proposed diversion is likely to be acceptable subject to agreement of path widths and that the surface of the path is such that it can be walked in all seasons”. The width of the new route will be 2.2 – 2.5 metres and the surface will be stoned where necessary.
- 11.11 Mr Neil and Mrs Patricia Bridge who are neighbours of the applicant and reside at Woodend Farm House have responded to state that they object to the proposal for the following reasons:
  - “1. The original footpath does go through the yard, however the horses are kept in an enclosed area or stabling, on the many times my wife and I have used the path we have rarely seen any horse in the enclosed area.
  - 2. The majority of the horses appear to be kept in the fields which the path runs through and seem quite used to humans.
  - 3. The argument about privacy and security I feel is a non starter as the proposed diversion is as close to the new building and gives views

into the property, the original path is much lower and the views in to the property are restricted. The proposed diversion is very steep and older walkers of which there are many have told us they have difficulty going up and down the path especially in wet weather, it also allows walkers views into mine and my neighbours property which using the applicants argument is not good for our privacy or security.”

- 11.12 The current line of the footpath runs through a busy working stud farm. The proposed route would take walkers out of the yard which will enable the applicants’ to improve stud farm management and security and privacy of the yard. A small section of the proposed route is steeper than the current route (point A to B on Plan No. HA/007) but it offers much improved views of the surrounding countryside and the surface will be stoned to reduce the risk of it becoming wet and slippery.
- 11.13 Mr Philip and Mrs Katharine Chong are also neighbours of the applicant and reside at De Mottram Barn. They have also responded to state that they object to the proposal for the following reasons:
- That the diversion has direct views into their property, further compromising their privacy in favour of the applicants;
  - That this is a popular route and the diversion would be considerably steeper and more difficult for some walkers;
  - That the diversion has increased furniture and therefore is not as easy to use;
  - That the existence of the footpath was known when planning for the stud and dwelling was granted and that planning should not have been granted if the horses present a danger to the public
- 11.14 The proposed route is visible from Mr and Mrs Chongs bedroom window but it is not possible to see into their house. Although this small section of the proposed route is steeper than the current route (point A to B on Plan No. HA/007) it does offer improved views. As previously highlighted, the surface will be stoned to reduce the risk of it becoming slippery. There is no furniture on the proposed route, so easier access is provided. The Council cannot use the planning process that granted permission for the stud farm and house as a determinative factor in assessing the merits of an application. Account can only be given to the current situation and whether the legal tests are met. The relevant tests in this case, given the nature of the objections received to date appear to be whether the path is substantially less convenient to the public as a consequence of the diversion and the effect that the diversion would have on the enjoyment of the path or way as a whole. The applicant will meet the costs of any works required to bring the new route up to an acceptable standard and the Cheshire East Council would not issue the Article 2 ‘certificate of satisfaction’, or confirm the Order, until works have been carried out on the new path to bring it up to a suitable standard.

11.15 Under the Highways Act 1980, an appropriate authority is empowered to make a Public Path Diversion order where it appears to be expedient in the interests of the owner, lessee or occupier of the land crossed by the path or of the public. In addition, in order that the Order is capable of confirmation, the authority must be satisfied that the path will not be substantially less convenient as a result of the diversion and regard must be paid to the effect of the diversion on public enjoyment of the path as a whole. It is considered that the proposal is in the interests of the landowner and is not substantially less convenient than the current route and, that in terms of enjoyment, it is an improvement on the current route.

11.16 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.

11.17 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the existing route.

## **12.0 Overview of Year One and Term One Issues**

12.1 Not applicable.

## **13.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

Name: Hannah Flannery

Designation: (Acting) Public Rights of Way Officer

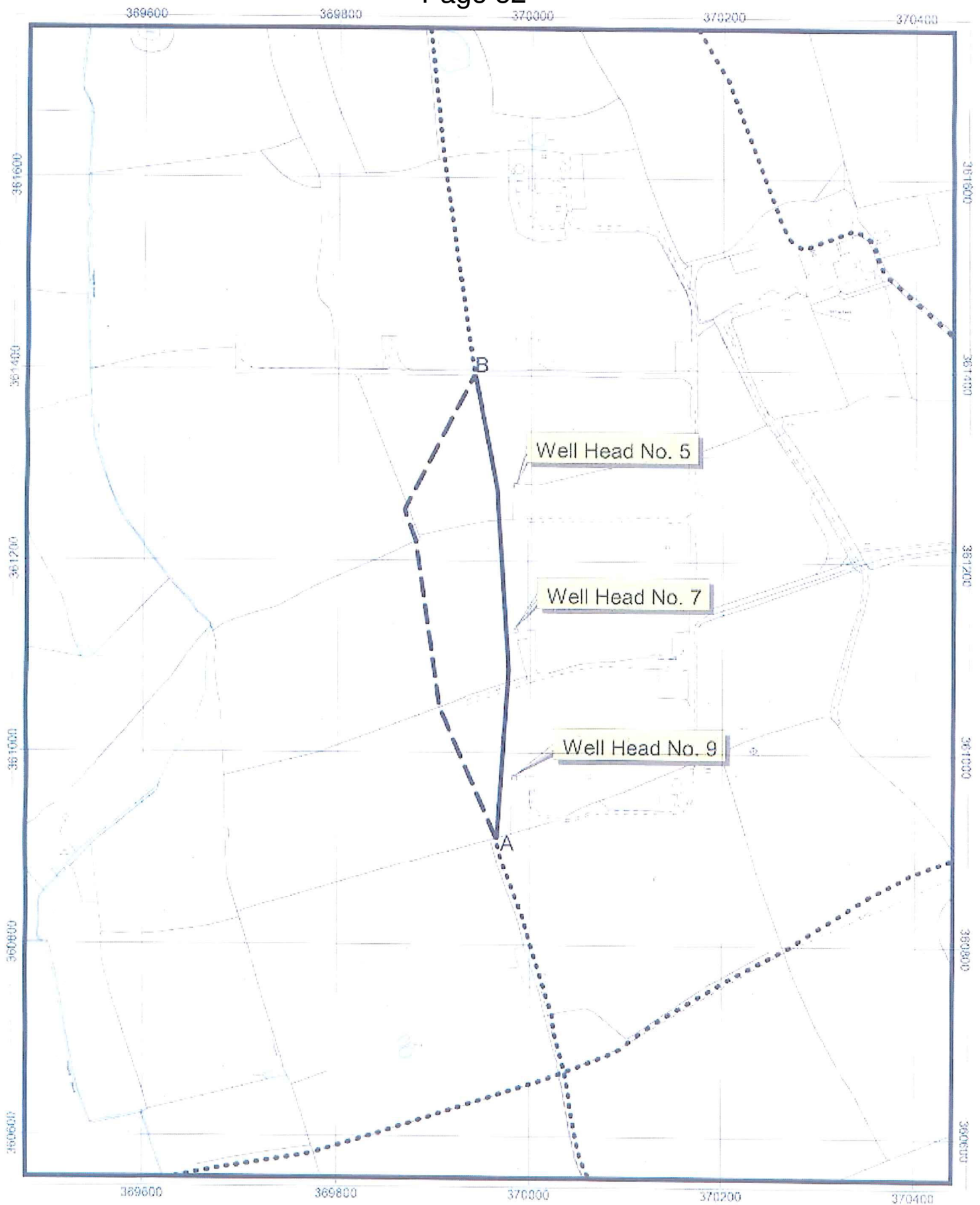
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PROW File: 216D/389

**TOWN AND COUNTRY PLANNING ACT 1990  
– Section 257**

**Application for the Diversion of Public  
Footpath No. 7 (Part) Parish of Warmingham**



 Path to be Stopped Up

 Proposed Diversion

 Other Rights of Way

Plan No.  
TCPA/001



Proposed Diversion of Public Footpath  
Warmingham No. 7 (Part)

Scale  
1:5000

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# **CHESHIRE EAST COUNCIL**

## **REPORT TO: RIGHTS OF WAY COMMITTEE**

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**Date of meeting:** 7 September 2009  
**Report of:** Greenspaces Manager  
**Subject/Title:** Town and Country Planning Act 1990 - Section 257  
Application for the Diversion of Public  
Footpath No. 7 (Part) Parish of Warmingham

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### **1.0 Report Summary**

- 1.1 The report outlines the investigation of an application to divert part of Public Footpath No. 7 in the Parish of Warmingham. This includes a discussion of consultations carried out in respect of the application and the legal tests for a diversion order to be made. The application has been made by EDF Energy Limited. The report makes a recommendation based on that information, for Members as to whether an Order should be made to divert the footpath.

### **2.0 Recommendations**

- 2.1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 7 Warmingham as illustrated on Plan No. TCPA/001 on the grounds that the Borough Council is satisfied that it is necessary to do so to allow development to take place.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

### **3.0 Reasons for Recommendations**

- 3.1 In accordance with Section 257 of the Town and Country Planning Act 1990, the Borough Council, as Planning Authority, can make an Order diverting a footpath if it is satisfied that it is necessary to do so to enable development to be carried out in accordance with a planning permission that has been granted.
- 3.2 It is considered that it is necessary to divert part of Footpath No. 7 Warmingham as illustrated on Plan No. TCPA/001 to allow for the

extension of the gas processing plant. Planning consent was granted on 31 March 2009 to allow for the extension of the gas processing plant.

- 3.3 Those consulted have no objections to the proposal and it is considered that the legal tests for the making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 are satisfied.

**4.0 Wards Affected**

- 4.1 Cholmondeley

**5.0 Local Ward Members**

- 5.1 Councillor Rachel Bailey  
Councillor Margaret Hollins  
Councillor Allan Richardson

**6.0 Policy Implications including - Climate change  
- Health**

- 6.1 Not applicable.

**7.0 Financial Implications for Transition Costs (Authorised by the  
Borough Treasurer)**

- 7.1 Not applicable.

**8.0 Financial Implications 2009/10 and beyond (Authorised by the  
Borough Treasurer)**

- 8.1 Not applicable.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

- 9.1 Objections received to a proposed order, if not withdrawn, could lead to a public inquiry or hearing with attendant legal involvement and use of resources.

**10.0 Risk Management**

- 10.1 Not applicable.

**11.0 Background and Options**

- 11.1 An application has been received from EDF Energy Limited ('the Applicant') requesting that the Council make an Order under section 257 of the Town and County Planning Act 1990 to divert part of Public Footpath No. 7 in the Parish of Warmingham.



- 11.2 Public Footpath No. 7 Warmingham commences on Drury Lane (UY1446) at OS grid reference SJ 7065 5966 and runs in a generally northerly direction to Forge Mill Lane at OS grid reference SJ 6985 6251. The section of path to be diverted is shown by a solid black line on Plan No. TCPA/001 running between points A-B. The proposed diversion is illustrated with a black dashed line on the same plan, running between points A-B.
- 11.3 The existing alignment of the footpath would be directly affected by the conversion of the existing brine cavities to gas storage due to the need to create drilling compounds and soil storage areas around each well head for a number of years and the requirement for an enlarged fenced compound around each converted well head. The land is owned by British Salt Limited and Mrs Diane Nelson, who have consented to the proposed diversion
- 11.4 Planning permission was granted to the applicant on 31 March 2009. The application is cited as Planning Permission Ref: 7/2008/CCC/15 'to allow for the extension of the gas processing plant and link to National Transmission System, electricity and manifold compounds, conversion of ten brine cavities to gas storage and associated infrastructure at land at Hill Top Farm, Hole House Farm, Spring Moss Farm and Parkfield Farm, Warmingham, Cheshire'.
- 11.5 The current line of Public Footpath No. 7 Warmingham (A-B) passes in close proximity to the existing Brine Well Heads Nos. 9, 7 and 5 and their associated infrastructure, as shown on Plan No. TCPA/001. In addition, the areas surrounding the enclosed compounds would be required for future maintenance access and the site will become a COMAH (Control of Major Accident Hazards Regulations 1999) site, due to the storage of large quantities of gas within the site. As such it is considered necessary to divert the footpath away from the operational well head compounds for gas storage cavities. The length of footpath proposed to be diverted is approximately 485 metres.
- 11.6 The proposed route for the footpath is approximately 510 metres and would move the footpath away from the proposed gas well head infrastructure, crossing agricultural fields to the west of the development. It would require three kissing gates where it crosses the field boundaries.
- 11.7 The local Councillors have been consulted about the proposal. Councillor Rachel Bailey responded to state that she attended a meeting at Warmingham Parish Council 'who consider the diversion to be eminently sensible'. Councillor Bailey concurred with the view of the Parish Council.
- 11.8 Warmingham Parish Council have been consulted about the proposal and responded to state that they have no objections.

- 11.9 The statutory undertakers have also been consulted and have no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 11.10 The user groups have been consulted. The Peak and Northern Footpaths Society have responded to state that they have no objection.
- 11.11 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 11.12 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

## **12.0 Overview of Year One and Term One Issues**

- 12.1 Not applicable.

## **13.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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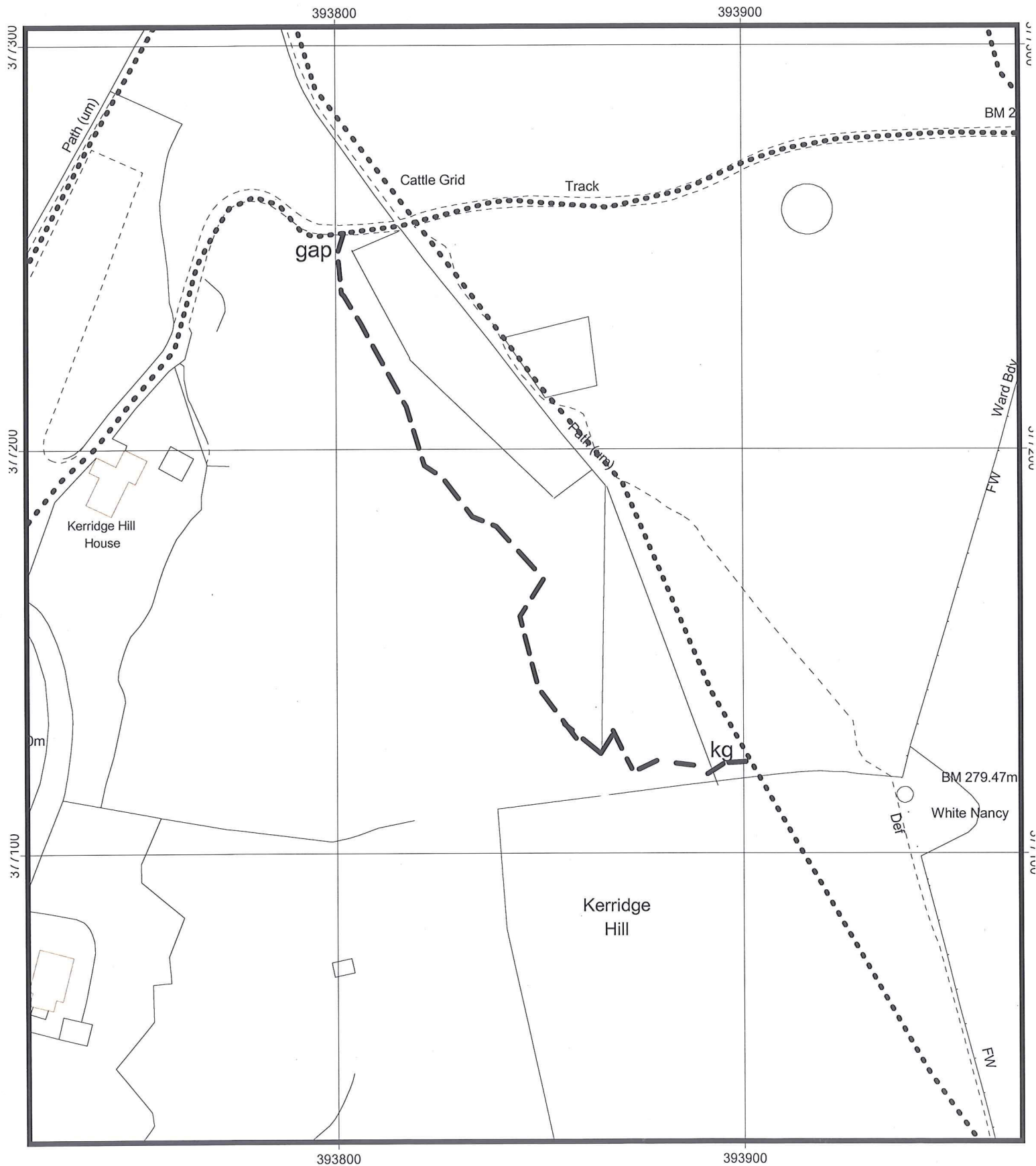
PROW File: 306D/390

**HIGHWAYS ACT 1980 - Section 25**

**Creation Agreement for a New Public Footpath in the  
Parish of Bollington**

# Highways Act 1980 s25 Proposed Creation Agreement for a Public Footpath over land in the Parish of Bollington

Plan No.  
HA/008



Public footpath  
to be dedicated



Unaffected Public  
Right of Way



Scale 1:1250

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## **CHESHIRE EAST COUNCIL**

### **REPORT TO: PUBLIC RIGHTS OF WAY COMMITTEE**

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**Date of Meeting:** 7 September 2009  
**Report of:** Green Spaces Manager  
**Subject/Title:** Highways Act 1980 – Section 25  
Creation Agreement for a New Public Footpath in the  
Parish of Bollington

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#### **1.0 Report Summary**

- 1.1 A new path has been constructed by volunteers of the Kerridge Ridge and Ingersley Vale (KRIV) Countryside and Heritage Project up to the White Nancy viewpoint in the Parish of Bollington. It is proposed that the Council enter into creation agreements with the landowners who have agreed to dedicate this route as a public footpath.

#### **2.0 Recommendations**

- 2.1 That creation agreements be entered into under Section 25 of the Highways Act 1980 to create a new public footpath in the Parish of Bollington, as illustrated on Plan No. HA/008, and that public notice be given of these agreements.

#### **3.0 Reasons for Recommendations**

- 3.1 A new path has been constructed in order to help relieve the pressure of the estimated 40,000 - 50,000 visitors who walk up to the White Nancy view point each year.
- 3.2 The White Nancy feature has been recognised in the Bollington Town Plan 2008 as the symbol of the town. The Town Plan also recommends the development of public access to the hilltop area. The construction of this new path has contributed to this aim.
- 3.3 Consultation undertaken for the statutory Rights of Way Improvement Plan (ROWIP) of the former Cheshire County Council identified the need for an increase in the number of circular routes available for local people. The new path offers users an alternative route to the existing right of way which climbs open hillside, thereby creating a circular route with a mix of landscape characteristics.

#### **4.0 Wards Affected**

- 4.1 Bollington and Disley Ward.

**5.0 Local Ward Members**

- 5.1 Councillor Matthew Davies  
Councillor Harold Davenport  
Councillor Diana Thompson.

**6.0 Policy Implications including - Climate Change  
- Health**

- 6.1 The development of circular walking routes for local residents and visitors alike is aligned with the health and wellbeing objectives and priorities of the Council as stated in the Corporate Plan (2.1.1 Encouraging healthier lifestyles), the Local Area Agreement (National Indicator 8 Adult participation in sport and active recreation) and the Health and Wellbeing Service commitment to the Change4Life initiative.

**7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

- 7.1 None arising.

**8.0 Financial Implications 2009/10 and Beyond (Authorised by the Borough Treasurer)**

- 8.1 The KRIV Project Chairman has agreed that any maintenance tasks and costs associated with the proposed footpath will be covered by the KRIV project until June 2015. Thereafter, any maintenance works will be resourced by the public rights of way team.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

- 9.1 Under Section 25 of the Highways Act 1980, a local authority has power to enter into an agreement with any person having the capacity to dedicate a public footpath.
- 9.2 The Highways Act 1980 requires the authority to have regard to the needs of agriculture and forestry (including the breeding and keeping of horses), and to the desirability of conserving flora, fauna and geographical and physiographical features. In this case, the path has already been constructed in agreement with the landowners.

**10.0 Risk Management**

- 10.1 No risks are foreseen.

**11.0 Background and Options**

- 11.1 The KRIV Project is a community initiative that aims to retain and restore industrial heritage features that are found in the local landscape

and specifically to improve public access to that landscape. The project is a partnership between local residents, Bollington Town Council, Rainow Parish Council, the former Macclesfield Borough Council, the Bollin Valley Partnership, and Groundwork. The project's volunteer programme offers local people the opportunity to work in the countryside on environmental and conservation tasks and over 2000 volunteer hours have been donated in the construction of the new path.

- 6.2 The route runs from OS grid reference SJ 9380 7725 off public footpath No. 17, Bollington and climbs in a generally south-easterly direction through Redway Wood for a distance of approximately 200 metres to its junction with public footpath No. 35, Bollington at OS grid reference SJ 9390 7712, as shown in Plan No. HA/008. The path comprises approximately 199 steps faced with stone or wood and has a soil and wood chip surface.
- 6.3 The KRIV project has requested that the new path is adopted as a public footpath in order to protect this public access for perpetuity.
- 6.4 The landowners are in support of the proposed creation agreements.
- 6.5 Bollington Town Council and the local Members have been consulted; no responses have been received.

## **12.0 Overview of Year One and Term One Issues**

- 12.1 None arising.

## **13.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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## **CHESHIRE EAST COUNCIL**

### **REPORT TO: PUBLIC RIGHTS OF WAY COMMITTEE**

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<b>Date of Meeting:</b>	<b>7 September 2009</b>
<b>Report of:</b>	<b>Green Spaces Manager</b>
<b>Subject/Title:</b>	<b>Update on Development of the Rights of Way Improvement Plan (2011-2026) within the Local Transport Plan 3</b>

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#### **1.0 Report Summary**

- 1.1 This report provides an update to Members on the development of the Rights of Way Improvement Plan (ROWIP) (2011-2026) within the context of the Local Transport Plan 3 (LTP3).

#### **2.0 Recommendations**

- 2.1 That the report be noted.

#### **3.0 Reasons for Recommendations**

- 3.1 No decision is required by Members at present.

#### **4.0 Wards Affected**

- 4.1 All.

#### **5.0 Local Ward Members**

- 5.1 All Members.

#### **6.0 Policy Implications including - Climate Change - Health**

- 6.1 The development of the ROWIP is aligned with the health and wellbeing objectives and priorities of the Council as stated in the Corporate Plan (2.1.1 Encouraging healthier lifestyles), the Local Area Agreement (National Indicator 8 Adult participation in sport and active recreation) and the Health and Wellbeing Service commitment to the Change4Life initiative.
- 6.2 In addition, the ROWIP, as an integrated part of the LTP3, will be set within the context of the Local Area Agreement indicators concerning air quality and CO<sub>2</sub> emissions.

**7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

7.1 None arising.

**8.0 Financial Implications 2009/10 and Beyond (Authorised by the Borough Treasurer)**

8.1 Some consultation costs during the current financial year are anticipated, as yet unknown.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

9.1 It is a statutory duty under section 60 of the Countryside and Rights of Way Act 2000 for every local highway authority to prepare and publish a Rights of Way Improvement Plan.

9.2 Non compliance with the requirement for the full integration of the ROWIP with the LTP3 could result in criticism from statutory monitoring bodies and agencies.

**10.0 Risk Management**

10.1 No matters arising.

**11.0 Background and Options**

11.1 Members will be aware that the current ROWIP covering Cheshire East Borough is the former countywide document prepared by Cheshire County Council, published in February 2006. It is proposed that a new ROWIP be prepared for Cheshire East Borough to focus on the post-LGR needs of the new Borough and to form part of the new Local Transport Plan (LTP3).

11.2 It is a statutory requirement that the ROWIP be fully integrated with LTP3. The national transport goals enshrined in LTP3 are as follows:-

- reducing carbon emissions;
- supporting economic growth;
- promoting equality of opportunity;
- contributing to better safety, security and health; and,
- improving quality of life and a healthy natural environment.

11.3 Earlier this summer, Natural England published a good practice note on LTP and ROWIP integration. The document promotes the optimisation of the role that rights of way can play in the wider transport system and highlights the benefits of the integration of the two plans:-

- a more holistic approach to transport, addressing the rights of way network as an integral part of urban and rural transport systems;
- strengthening of the long term sustainability of the rights of way network as its role in the wider transport network is recognised;

- securing more direct and integrated funding and delivery;
- encouragement of new ways of working with internal and external partners including local access forums;
- promoting a shift to 'active travel' in which walking and riding are considered as a choice of transport modes;
- advantage in delivering positive benefits for people and the natural environment – a more active lifestyle in a greener, healthier, low carbon, quieter and safer environment.

11.4 The timetable and project plan for the development of the ROWIP will be drawn up to align with those of the LTP3 project, resulting in the publication of the final plans in April 2011. A Steering Group is being established to monitor the development of the ROWIP and its integration with LTP3. A representative of the ROWIP will also sit on the governance structure for LTP3.

11.5 This second ROWIP will build on the first which was assessed under Natural England's ROWIP evaluation process. The Cheshire ROWIP was regarded as a good document and one that demonstrated best practice.

11.6 It is anticipated that the next ROWIP will comprise:-

- an assessment of the present and predicted demand for the network of rights of way and other access routes;
- an assessment of the present network, particularly with regard to the needs of people with mobility and visual impairments;
- an assessment of the gap between the demand and the present network; and,
- a statement of action, designed to address the gaps identified.

11.7 There will be an extensive consultation process for the ROWIP and LTP3, with opportunity for Members and for the public to have input to both documents. It is anticipated that consultation will begin later this financial year and Members are encouraged to participate when invited.

## **12.0 Overview of Year One and Term One Issues**

12.1 Not applicable.

## **13.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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