

Public Rights of Way Committee

Agenda

Date:	Thursday, 10th June, 2010
Time:	2.00 pm
Venue:	Committee Suite 1,2 & 3, Westfields, Middlewich Road, Sandbach CW11 1HZ

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 - 11)

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. It is not required to give notice of the intention to make use of public speaking provision; however, as a matter of courtesy, a period of 24 hours notice is encouraged.

Members of the public should provide 3 clear working days notice, in writing, if they wish to ask a question at the meeting, in order for an informed answer to be given.

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

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5. **Highways Act 1980 - Section 25: Creation Agreement for a New Public Bridleway in the Parish of Bollington** (Pages 12 - 18)

To consider a report on the Council entering into a Creation Agreement for a new Public Bridleway in the Parish of Bollington.

6. **Public Rights of Way Annual Report 2009/10 and Work Programme 2010/11** (Pages 19 - 40)

To consider report on the achievements of the Council in terms of its public rights of way functions during the year 2009/10 and the proposed work programme for the year 2010/11.

7. **Update on Development of the Rights of Way Improvement Plan (2011 - 2026)** (Pages 41 - 43)

To consider a report on the development of the Rights of Way Improvement Plan (ROWIP) (2011-2026).

8. **Town and Country Planning Act 1990 - Section 257: Application for the Diversion of Public Footpath No. 24 (Part) Parish of Disley** (Pages 44 - 49)

To consider the application for the diversion of Public Footpath No. 24 (part) in the Parish of Disley.

9. **Town and Country Planning Act 1990 - Section 257: Request to Formally Abandon "The Cheshire County Council (Footpath No.49 (Part) Parish of Haslington, Borough of Crewe and Nantwich) Public Path Diversion Order 2009"** (Pages 50 - 57)

To consider the request from the applicant to formally abandon the above diversion order.

10. **Highways Act 1980 - Section 119: Application for the Diversion of Public Footpath No. 29 (Part) Parish of Brereton** (Pages 58 - 63)

To consider the application for the diversion of Public Footpath No. 29 (part) in the parish of Brereton.

11. **Highways Act 1980 - Section 119: Application for the Diversion of Public Footpath No. 8 (Parts) Parish of Baddington** (Pages 64 - 69)

To consider the application for the diversion of Public Footpath No. 8 (parts) in the parish of Baddington.

12. **Highways Act 1980 - Section 119: Application for the Diversion of Public Footpath Nos. 3 and 9 (Part) Parish of Henbury** (Pages 70 - 76)

To consider the application for the diversion of Public Footpath Nos. 3 and 9 in the parish of Henbury.

13. **Highways Act 1980 - Section 25 and Section 26: Proposal to Enter a Creation Agreement and to Make a Creation Order for a Bridleway; Public Footpath No. 6 Parish of Eaton** (Pages 77 - 87)

To consider a report on a proposal to enter into a creation agreement for the dedication of a bridleway over Public Footpath No. 6 (part) and to make a creation order in the parish of Eaton.

14. **Highways Act 1980 - Section 25: Creation Agreement for a New Public Bridleway in the Parishes of Nantwich and Wistaston** (Pages 88 - 92)

To consider a report on the proposal to enter into a creation agreement for the dedication of a public bridleway in the parishes of Wistaston and Nantwich.

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Public Rights of Way Committee**
held on Monday, 1st March, 2010 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

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

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

OFFICERS PRESENT

Guy Kilminster, Head of Health and Wellbeing
Mark Wheelton, Leisure Services and Greenspace Manager
Mike Taylor, Greenspace Manager
Amy Rushton, Public Rights of Way Manager
Hannah Flannery, Acting Public Rights of Way Officer
Clare Hibbert, Public Rights of Way Officer
Ginika Ogidi, Solicitor
Rachel Graves, Democratic Services Officer

35 APOLOGIES FOR ABSENCE

There were no apologies for absence.

36 DECLARATIONS OF INTEREST

Councillor David Cannon declared a personal interest in the meeting proceedings by virtue of his membership of the PALLGO 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.

37 MINUTES OF PREVIOUS MEETING**RESOLVED:**

The minutes of the meeting held on 7 December 2009 be approved as a correct record and signed by the Chairman.

38 PUBLIC SPEAKING TIME/OPEN SESSION

Tori Rigby, Heidi Gilks and John Mellersh addressed the Committee in relation to Item 7 on the agenda – Application to upgrade Public Footpaths between Knutsford Road, Chorley and Moor Lane, Wilmslow to Public Bridle Status and Application to upgrade Public Footpath No 42 to Public Bridleway Status, Parish of Wilmslow.

39 PROPOSED POLICY FOR STRUCTURES (PATH FURNITURE) FOR PUBLIC RIGHTS OF WAY

The Council had the discretionary power to authorise the erection of structures (stiles and gates) on public rights of way where it was satisfied that these were necessary to prevent the ingress or egress of animals on land which was used, or was being brought into use, for agriculture or forestry or for the breeding or keeping of horses.

In February 2009 the Department of Environment, Food and Rural Affairs had issued draft guidance relating to structures on public rights of way.

As a result of the guidance and in anticipation of the final guidance, the informal policies on structures currently operating in the Rights of Way Team had been reviewed. It was hoped that the adoption of a formal policy in relation to structures on public rights of way would lead to greater consistency and reduce the possibility of legal challenge e.g. under the Disability Discrimination Act 1985 & 2005. It was also hoped that the adoption of the Policy would lead to greater use of the network because of increased accessibility.

The policy would cover newly authorised structures and structures which were put in place following the making of a Public Footpath Order. Wherever possible, structures would comply with the British Standard BS5709:2006 and where a new path was created; gates or gaps would be used rather than stiles as boundary structures. Applications for the erection of structures by owners, lessee or occupiers of agricultural land would be given permission for the erection of gate rather than a stile and where an existing stile was to be replaced the Council would use its best endeavours to ensure that the stile was replaced with a gate or a gap.

A draft of the policy had been considered by the Cheshire Local Access Forum at its meeting on 18 December 2009. The Forum had a range of views on the draft policy and a number of their suggestions had been incorporated into the Cheshire East Standard for Path Furniture on Public Rights of Way, namely that galvanised steel structures should also be available powder coated in green or black and that on stiles the standard anti-slip treatment for the step boards, where required, should be a 'spray and chip' type treatment rather than chicken wire.

RESOLVED:

- 1 That the proposed policy relating to structures erected on Public Rights of Way be approved. The policy to include newly authorised structures and structures which are put in place following the making of a Public Path Order (usually Diversion Orders made under the Highways Act 1980 and Town & Country Planning Act 1990), and to comprise of four principles:

- Wherever possible structures erected on Public Rights of Way will comply with the British Standard BS5709:2006. If this is not possible structures to comply with the Cheshire East Standard for Path Furniture
- Where a new path is created following the making of a Public Path Order, gates or gaps will be used rather than stiles as boundary structures, Gates or gaps to comply with either BS5709:2006 or the Cheshire East Standard for Path Furniture
- Where an application is made under s147 Highways Act 1980 by an owner, lessee or occupier of agricultural land for the erection of a structure to prevent the ingress or egress of animals, permission will be given for the erection of a gate and not a stile. The gate must comply with either BS5709:2006 or the Cheshire East Standard for Path Furniture
- Where an owner, lessee or occupier which to replace an existing stile on their land, the Council will use its best endeavours to facilitate a less restrictive option by replacing the stile with a gate or gap.

2 That the Cheshire East Standard for Path Furniture for the specification of structures to be used by the Council on Public Rights of Way be approved.

40 PRIORITISATION SYSTEM FOR DIFFERENT CATEGORIES OF MAINTENANCE AND ENFORCEMENT ISSUES ON PUBLIC RIGHTS OF WAY

The Council had statutory obligations under various sections of the Highways Act 1980 to deal with obstructions and other types of problems on the public rights of way network.

Following the creation of Cheshire East Borough Council, the maintenance and enforcement team were currently managing around 100km of additional path each within their areas. This had resulted in stretching officers to the limit and meant that some problems reported were not being investigated for several weeks, and others such as minor, non statutory complaints not at all.

Officers had been prioritising their own workload on a largely 'common sense' basis, with complaints with a possible impact on public safety being prioritised first, then obstructions and finally minor non-statutory matters. Due to the budget shortfall facing the Council, it was unlikely that any extra staffing would be available.

It was proposed that a system be introduced by which officers could prioritise different types of complaints. Priority 1 would be for public safety issues, with and complaints being investigated/responded to in 24-72 hours from receipt of complaints. Priority 2 would be for obstructions and

statutory duties, with and complaints being investigated/responded to in 2-4 weeks from receipt of complaint. Priority 3 would be for maintenance issues and minor compliance issues, with and complaints being investigated/responded to in 4-6 weeks from receipt of complaint. Priority 4 would be for non-statutory requests/enquires and these would be dealt with at the discretion of the relevant officer.

The new system would be publicised on the Council's website and through the Cheshire East Public Rights of Way Forum to make the public and user groups aware of the timescales in which reported problems will be investigated against.

RESOLVED:

That the prioritisation system for different categories of complaints on the public rights of way network be approved.

41 WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III, SECTION 53: APPLICATION TO UPGRADE A PUBLIC FOOTPATH BETWEEN KNUTSFORD ROAD, CHORLEY AND MOOR LANE, WILMSLOW TO PUBLIC BRIDLEWAY STATUS (PUBLIC FOOTPATH NOS. 29, 15 (PART), 14, 10 (PART), 9 (PART), 27 PARISH OF CHORLEY AND FOOTPATH NO. 40 (CLAY LANE) PARISH OF WILMSLOW); AND APPLICATION TO UPGRADE PUBLIC FOOTPATH NO. 42 (FILTER BED LANE) TO PUBLIC BRIDLEWAY STATUS, PARISH OF WILMSLOW

The Committee received a report which detailed two applications from The Border Bridleways Associations to modify the Definitive Map and Statement by upgrading a number of public footpaths to public bridleways.

Section 53(2)(b) of the Wildlife and Countryside Act 1981 requires that Cheshire East Borough Council shall keep the Definitive Map and Statement under continuous review and make such modifications to the Map and Statement as appear requisite in consequence of the occurrence of certain events.

One such event requiring modification of the map by the upgrading of public rights of way is the discovery of evidence by the Council which, when considered with all other relevant evidence available, shows “that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description.”

This was commonly demonstrated by user evidence. All evidence must be evaluated and weighed and a conclusion reached whether, on balance of probabilities, either the alleged rights subsist or are reasonably alleged to subsist. Any other issues such as safety, security, suitability, desirability or the effects on property or the environment are not relevant to the decision.

Where evidence in support of the application was user evidence, section 31(1) of the Highways Act 1980 applied: -

“Where a way ... has been actually enjoyed by the public as of right and without interruption for a full period of twenty years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it”

This required that the public must have used the way without interruption and as of right: this is without force, secrecy or permission. Section 31(2) states that “the 20 years is to be calculated retrospectively from the date when the right of the public to use the way is brought in question.”

Application No. 1 had been submitted by The Border Bridleways Association in January 2008 to modify the Definitive Map and Statement by upgrading a number of footpaths to public bridleways. The public footpaths together made up a route from Knutsford Road to Moor Lane. A further application had been submitted in May 2008 (Application 2) to modify the Definitive Map and Statement by upgrading Public Footpath No. 42 in the parish of Wilmslow, known as Filter Bed Lane. This footpath ran between Upcast Lane and Clay Lane.

Both applications were based on user evidence. For Application No. 1 user evidence forms were received from 31 individuals and for Application No. 2 user evidence forms were received from 23 individuals. Nineteen individuals claimed to have used both routes and because of the close proximity of the routes, it had been decided to investigate both applications at the same time.

In relation to Application No. 1, the witness evidence submitted showed use of the claimed route on horseback between 1945 and 2007. Public access on horseback appeared to be brought into question in 2006 when a landowner locked a gate across the route. Therefore the relevant 20 year period to be considered was 1986 to 2006. Officers had interviewed 11 witnesses and of these, 3 witnesses had used the route for the relevant 20 year period. A further two witnesses had used the route cumulatively over the period and one had used the route for 19 years. Of the 11 witnesses interviewed, 7 stated that they had been challenged at Studholme Kennels and the remaining 4 were aware of others being stopped. None of the witnesses recalled being challenged by anyone else.

For Application No. 2, the user evidence covered a cumulative period of over 48 years from 1960 to 2008. As there was no evidence of the route being brought into question, the relevant period is calculated from the date of the application; therefore the 20 year period to be considered was 1988 to 2008. The cumulative use of the route on horseback over this period could be considered sufficient to show that public bridleway rights had come into existence by prescription. None of the witnesses stated that they had been challenged when riding on Filter Bed Lane and many had

said that they used this route as an alternative to going past Studholme Kennels.

The Committee considered the evidence presented in the report and taking into account that under section 31(1) of the Highways Act 1980 public bridleway rights can come into existence by prescription unless there was evidence to the contrary came to the agreement that due to the challenges at Studholme Kennels, for this section of the route there was sufficient evidence to show that the landowner had rebutted the presumed dedication, by indicating that he had no intention to dedicate the way as a bridleway. As there was no witness evidence to having been challenged anywhere else along either of the claimed routes, the user evidence for the remainder of the route was considered sufficient to show public bridleway rights. The Committee therefore considered that there was sufficient user evidence to support the existence of public bridleway rights along the route A-B-C-D-E-H-G on drawing no. MO/001 and that on the balance of probabilities the evidence provided showed inter alia that a right of way which was not shown on the Definitive Map and Statement was reasonably alleged to subsist and the requirements of Section 53 (3) (c) (ii) had been met and that the Definitive Map and Statement should be modified to upgrade the route from a Pubic Footpath to a Public Bridle Way.

RESOLVED:

- 1 That an Order be made under Section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by upgrading to Public Bridleway, the route as shown between points A-B-C-D-E-H-G on drawing number MO/002.
- 2 The application to modify the Definitive Map and Statement to record public bridleway rights between points H and F, as illustrated on drawing number MO/001 be refused on the grounds that there is sufficient evidence to show that the landowner has rebutted the presumed dedication by indicating he had no intention to dedicate the way.
- 3 Public notice of the making of the Order be given and, in the event of there being no objections within the specified period, or any objections received being withdrawn, the Order be confirmed in exercise of the power conferred on the Council by the said Act.
- 4 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.

**42 HIGHWAYS ACT 1980 – SECTION 119 AND SECTION 25:
APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATHS NO. 3
AND NO. 4 (PARTS) PARISH OF WINCLE AND CREATION OF PUBLIC
FOOTPATH NO. 41 PARISH OF WINCLE**

The Committee received a report which detailed an application from Mr Simon Holding (the applicant) of Buttlerland Farm, Wincle, Macclesfield requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpaths No. 3 and No. 4 in the parish of Wincle.

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 of the owner, lessee or occupier of the land crossed by the path.

The applicant owned the land over which the current paths and the proposed alternative routes ran. The first section of the current line of Footpath No. 3 to be diverted ran immediately past the applicant's back door and kitchen windows, which created a significant loss of privacy and caused security issues for the applicant. Moving this section of the footpath would allow the applicant to improve the privacy and security of his property considerably. The second section of Footpath No. 3 to be diverted cut across the corner of a field and was undesirable in terms of farm management.

The current line of Footpath No. 4 ran along the driveway to the applicants home and then through a very busy working farmyard which was used by heavy farm machinery, tractors and livestock. This created privacy and security issues for the applicant and the various plan and machinery operated in and around the farm buildings could be hazardous for walkers. Diverting this section of Footpath No. 4 would allow the applicant to improve the privacy and security of his property, improve farm management and provide a safety benefit to users.

If the diversion orders for Footpath Nos. 3 and 4 were confirmed, the applicant had agreed to dedicate an additional footpath on his land, which would be a useful link to Public Footpath No. 2 Wincle (Minn End Lane) for walkers.

Under section 25 of the Highways Act 1980 a local authority may enter into an agreement with any person having the capacity to dedicate a public footpath or bridleway.

The Committee noted that there were no objections to the proposals and considered that the proposed footpaths would be more enjoyable than the existing routes and the proposed dedication of a footpath would offer advantages to users, providing a useful link to Minn End Lane. The new routes were not substantially less convenient than the existing routes and diverting the footpaths would be of huge benefit to the landowners,

particularly in terms of security and privacy and also in terms of farm management. It was therefore considered that the proposed routes would be beneficial than the current routes and the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 1 That 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 Footpaths No. 3 and No. 4 Wincle, as illustrated on Plan No. HA/013, on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2 A creation agreement be entered into with the applicant under Section 25 of the Highways Act 1980 to create a new public footpath (No. 41) as illustrated on Plan No. HA/013 between points I-J.
- 3 Public Notice of the making of the Order be given and in the event of there being no objections to the Order within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts. There is no statutory objection process for the creation agreement.
- 4 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.

43 HIGHWAYS ACT 1980 – SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 46 (PART) PARISH OF CONGLETON

The Committee received a report which detailed an application from Mr James Morton (applicant) of Pool Bank Mill, Weathercock Lane, Timbersbrook, Congleton requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 46 in the parish of Congleton.

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 of the owner, lessee or occupier of the land crossed by the path.

The applicant owned part of the land over which the current route and proposed route ran and was in the process of purchasing the land in front of Pool Mill Bank from Messrs P and B Dean (adjacent landowners) to construct a new driveway for access to his property. The adjacent landowners have provided written consent and support for the proposal. Mr G Robinson owned the field to the south west of Timbers Brook over

which part of the current path lay and he had provided written consent and support for the proposal.

The footpath formed part of the Gritstone Trail and was a well used route. The existing line of the footpath ran directly in front of the applicant's home and immediately past the windows of the property. It also ran in very close proximity to the two adjacent landowners' properties, Pool Bank Cottage and Pool Bank House.

The proposed route also crossed Mr Robinson's field. This section of the diversion was also in the interests of the landowner, as moving the footpath south of the current line of the route would take users away from the reservoir area where Mr Robinson had encountered problems with people damaging fencing as they attempted to enter the area. It would also provide an improved surface for users as the land over which the proposed route would run in this field was much drier and less boggy than the current route.

The Committee noted that no objections had been received and considered that the new route was not substantially less convenient than the existing route and would be of benefit to the landowners. Moving the footpath away from the applicant and adjacent landowners' properties would allow them to improve their privacy and security considerably. The section of the diversion in the field, between the two kissing gates, was also in the interests of the landowner as moving the footpath would improve the security of the land around the reservoir. It would also provide an improved surface for users. It was therefore considered that the proposed route would be beneficial than the current route and that the legal tests for making and confirming of a diversion order were satisfied.

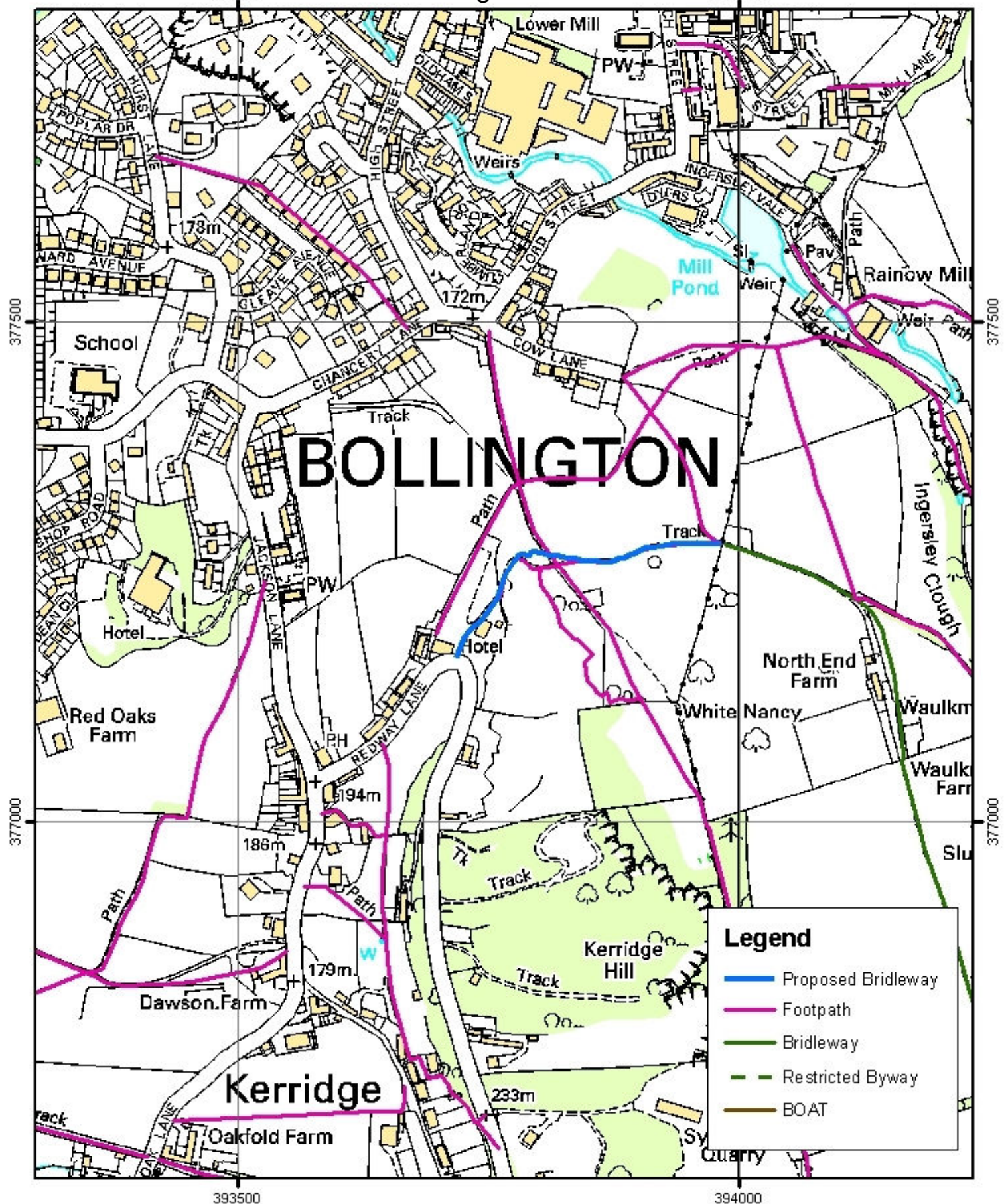
RESOLVED:

- 1 That 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. 46 Congleton, as illustrated on Plan No. HA/014, on the grounds that it is expedient in the interest 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.

The meeting commenced at 2.00 pm and concluded at 3.40 pm

Councillor B Moran (Chairman)

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Highways Act 1980 S25 Proposed Bridleway
Creation Agreement Parish of Bollington

Plan No.
HA/009/Outline

This is a working copy of the definitive map
and should not be used for legal purposes



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Cheshire East Council, 100049045 2009.

CHESHIRE EAST COUNCIL

REPORT TO: PUBLIC RIGHTS OF WAY COMMITTEE

Date of Meeting: 10 June 2010
Report of: Mike Taylor, Green Spaces Manager
Subject/Title: Highways Act 1980 – Section 25
Creation Agreement for a New Public Bridleway in the
Parish of Bollington

1.0 Report Summary

- 1.1 Discussions have been in progress in Bollington for a number of years to establish a bridleway to connect Redway in Kerridge to an existing public bridleway in Rainow parish. It is proposed that the Council enter into creation agreements with the landowners who have agreed to dedicate this route as a public bridleway.

2.0 Recommendations

- 2.1 That creation agreements under Section 25 of the Highways Act 1980 be entered into with the appropriate persons with capacity to dedicate to create a new public bridleway in the Parish of Bollington, as illustrated on Plan No. HA/009/Outline, and that public notice be given of these agreements.

3.0 Reasons for Recommendations

- 3.1 The landowners have agreed to dedicate the proposed route as a public bridleway and there is notable public support for the creation of that route as a public bridleway.
- 3.2 Consultation undertaken for the statutory Rights of Way Improvement Plan of the former Cheshire County Council identified the need for an increase in the number of bridleways available for local people to use. This need has arisen due to the lack of bridleways in the Borough and the high traffic volume and speed on rural roads on which users have to ride.

4.0 Wards Affected

- 4.1 Bollington and Disley Ward.

5.0 Local Ward Members

- 5.1 Councillor M Davies, Councillor H Davenport and Councillor D Thompson.

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

- 6.1 The development of new horseriding 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 2010/11 and Beyond (Authorised by the Borough Treasurer)

- 8.1 The works required to provide surfacing on a section of the proposed route would be paid for from the ROWIP capital allocation from the Local Transport Plan, with a contribution from the Footpaths Advisory Committee of Bollington Town Council. 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 right of way. The path will become a public bridleway and maintainable at the public expense on a specific date as stated in the agreement.
- 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 majority of the route is on an existing track and the route alignment and necessary works for that section which is proposed to be remote from that track have been agreed with the landowners.
- 9.3 Under Section 25 of the Highways Act 1980, there is no statutory right for objection to the proposal.

10.0 Risk Management

- 10.1 No risks are foreseen.

11.0 Background and Options

- 11.1 The proposed route runs from OS grid reference SJ 9371 7716 off Redway in Kerridge in the Town of Bollington and climbs in a generally north-easterly and then easterly direction for a distance of approximately 330 metres to its junction with public bridleway No. 43 in the Parish of Rainow, at OS grid reference SJ 9398 7727, as shown in Plan No. HA/009/Outline.
- 11.2 The majority of the route runs along an existing concrete track over which runs public footpath No. 17 in the Town of Bollington. A 90m section of the proposed route would be created away from the track in order to avoid a tight and steep corner. This decision was arrived during a site meeting held on 13th October 2009 as a solution to potential safety concerns raised. The meeting was attended by the landowners of the proposed route, lessors of the land either side of the proposed route, adjacent landowners who have a right of vehicular access along the concrete track, a Public Rights of Way Officer from the former Cheshire County Council, the North West Regional Bridleway Officer from the British Horse Society and the Project Manager of the Kerridge Ridge and Ingersley Vale Countryside and Heritage Project.
- 11.3 Further concerns regarding safety would be addressed through the provision of a verge alongside the concrete track onto which a rider could move should a vehicle approach.
- 11.4 The landowners are in full support of the proposed creation agreements.
- 11.5 Bollington Town Council, Rainow Parish Council and the local Members have been consulted.
Bollington Town Council responded:
“The Council discussed this item at their Planning Meeting on 11th May 2010 and resolved to support the proposal”. Further, the minutes of the Town Council’s Footpaths Advisory Committee meeting held on 28th September 2009 read that “should the creation of a Bridleway along the route of FP17 go ahead the committee would like to support the scheme with a contribution towards a gate”.
Rainow Parish Council responded:
“As far as the Parish Council understand landowners, on the existing bridleway 43, have concerns about this proposal. The Council would suggest that you contact these landowners to discuss this with them.” Each of the landowners whose names were forwarded by the Parish Council have been contacted directly.

Councillor Davies responded:

“I fully support [the proposal] ... I believe the upgrade will be in the public interest”.

- 11.6 A petition has been received from the Footpaths Advisory Committee of Bollington Town Council to which 93 signatories offered their support for the extension of the bridleway in Rainow into Bollington via public footpath No. 17. Further, 6 individuals have submitted independent correspondence in support of the proposal and the Kerridge Residents' Association have written to state their support for the proposal.
- 11.7 East Cheshire Ramblers commented that the group is “happy to support the current proposed extension of Rainow Bridleway 43/ upgrade of Bollington Footpath 17 and to see the satisfactory resolution of this long standing problem”. The Ramblers' Footpath Inspector for Bollington has studied the new route and concluded that it “enables the complete separation of horse and walkers soon after the entrance by Redway House. When the flatter summit of the road is attained there is open visibility and sufficient room and thus no problem arises”.
- 11.8 Further correspondence has been received from 7 individuals who raise objections to the proposed bridleway, including landowners along the existing public bridleway in Rainow and a tenant of land crossed by the proposed bridleway and the existing bridleway. Concerns about horseriders meeting walkers, children and dogs along the very popular route were raised by a number of the correspondents. One stated that they “have the strongest objection of this proposal on safety grounds”. Each of these user groups is permitted to use any public bridleway. Clear lines of sight are available along the proposed route and at the one location where the existing track follows a steep and tight corner, a separate route for the proposed bridleway is planned.
- 11.9 Concerns were raised regarding issues of health and safety concerning the narrowness of the public bridleway in Rainow, it being “locally very constricted and with several lateral and horizontal gradients” and “extremely muddy for most of the year ... and as a consequence it is very slippery”. Users have concluded that this existing public right of way is narrow, but manageable. Any further works required to improve the existing public bridleway will be considered through normal maintenance procedures.
- 11.10 Questions were raised as to the deterioration of the surface of the existing public bridleway due to increased usage, resulting in the surface being more difficult for people to use. Any issues arising will be dealt with through normal maintenance procedures.
- 11.11 One landowner raised issues concerning animal health due to the predicted increase in use of the existing bridleway by horses. The level of animal health risk attributable to the use of a public bridleway by

horses is the same in this instance as in any other land parcel crossed by such a public right of way.

- 11.12 A number of correspondents, including a tenant of land crossed by the proposed bridleway and the existing bridleway noted that “the [proposed] change of status will impact on the safety and security of my livestock on these pastures” through gates being left open by users of the proposed bridleway causing cattle to stray onto the public highway. Correspondents suggested that the likelihood of gates being left open would rise through increased use and, in particular, through use by horseriders. The one additional gate that is proposed to be installed on the line of the proposed bridleway would have a self-closing mechanism.

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: RIGHTS OF WAY COMMITTEE

Date of meeting:	June 2010
Report of:	Greenspaces Manager
Title:	Public Rights of Way Annual Report 2009/10 and Work Programme 2010/11

1.0 Report Summary

- 1.1 This report records the achievements of the Council in terms of its public rights of way functions during the year 2009/10 and sets out the proposed work programme for the year 2010/11. Details are set out in Appendices.

2.0 Recommendations

- 2.1 That Members note the Annual Report for 2009/10 and approve the proposed Work Programme for the Public Rights of Way Team 2010/11.

3.0 Reasons for Recommendations

- 3.1 As set out in the background and options section of the report (section 11).

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 Rights of Way Improvement Plan (see Appendix 2) contributes towards the Council's policies relating to climate change, social inclusion, sustainable travel and health and wellbeing.

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

- 7.1 None arising

8.0 Financial Implications 2010/11 and Beyond (Authorised by the Borough Treasurer)

8.1 None arising

9.0 Legal Implications (Authorised by the Borough Solicitor)

9.1 Contained within the body of the Report.

10.0 Risk Management

- 10.1 Members are requested to note the fact that the Public Rights of Way Team does not currently have the resources to carry out path inspections under section 58 of the Highways Act 1980 (see 11.5.1. below). The County Council lost the 2 posts of 'survey assistant' under the 'Transforming Cheshire' restructure in 2007. These posts assisted the County Council in defending against insurance claims where individuals had accidents on public rights of way. For example, a claim for an accident on Sound FP6 was successfully defended in 2004, because the path had been inspected by the survey assistant. It has not been possible to continue the survey in such a systematic and meticulous fashion ever since the posts were lost. Bridges continue to be surveyed every 2 years, but paths in general do not.
- 10.2 There was one claim against the Council in 2009/10 for a defect on the surface of a public right of way (claims relating to structures are referred to the landowner). The claim has not yet been settled. Liability has been admitted, but the Council's external claims handlers are still waiting to receive detailed medical evidence from the claimant's solicitors before an agreement on damages can be reached.
- 10.3 As described below at 11.7.2, one member of the Legal Orders Team left to go on maternity leave in March 2010, due to return March 2011. Insufficient funds are available within the Greenspaces Service to allow the recruitment of maternity cover. The work of the Legal Orders Team will suffer as a result; in particular, applications for Definitive Map Modification Orders will not progress very far and will certainly fail to be determined within the statutory 12 month timeframe. One result of this may be that applicants seek directions from the Secretary of State against the Council¹, to have their applications determined within a given time. A number of such directions being issued against the Council would have extremely negative results from a public relations perspective. It would also place existing staff under even more pressure.

¹ Schedule 14 paragraph 3 (2), Wildlife and Countryside Act 1981

11.0 Background and Options

11.1 The work programme for the Public Rights of Way Team is usually approved by the Rights of Way Committee each April, in the form of a series of targets. Targets are set in the context of the Countryside Agency's (now Natural England) National Targets for public rights of way, which have as their aim that the rights of way network in England and Wales should be:

- Legally Defined
- Properly Maintained
- Well publicised

11.2 In addition to those targets, and reflecting the range of new work imposed by the Countryside and Rights of Way (CROW) Act 2000, targets in relation to four other areas are also set:

- Implementation of the Rights of Way Improvement Plan
- Implementation of the CROW Act 2000: New Duties and Powers
- Countryside Access Development and Initiatives
- General Support and Administration

11.2 Because of Local Government Reorganisation (LGR), the County Council's Rights of Way Committee was not able to set such targets for the new authorities at its last meeting on 23rd January 2009.

11.3 Cheshire East Council's Rights of Way Committee met for the first time on 1st June 2009. At that meeting, it considered a 'position statement' for the Public Rights of Way Team, which included targets for 2009/10 loosely covering the same areas as in previous years. Each area is examined individually, below, with the successes of 2009/10 and targets forming the 2010/11 work programme contained within the relevant appendices. However, it should be recognised that the 2009/10 targets were set at a time of great uncertainty, with unknown quantities in terms of structures, staff and financial resources.

11.4 Network Management – Maintenance and Enforcement

11.4.1 The Maintenance and Enforcement Team comprises three full-time officers who deal with the protection and maintenance of the network. They operate on an area basis, with each officer responsible for approximately 630 kilometres of the network. Within their area, they are responsible for maintenance and enforcement to remove obstructions and keep the path network available for use.

11.4.2 Since the implementation of LGR, the maintenance and enforcement officers have found their workload increasing, due to

the fact that the disaggregation of the path network into East and West resulted in a longer area network to look after (an additional c.90km each). Conversely, their area budgets have decreased, meaning that officers have more paths to look after, with less money.

- 11.4.3 An outline report and work programme for the Maintenance and Enforcement Team is attached at Appendix 1. The component tasks represent the “Milestones” identified in the former Countryside Agency’s National Targets.

11.5 Path Inspection

- 11.5.1 The Public Rights of Way Team does not have dedicated staff to carry out path inspections under section 58² of the Highways Act 1980 (see above at 10.1). Another form of path inspection exists in the form of the former national Best Value Performance Indicator 178: percentage of paths deemed ‘easy to use’. Although councils are no longer required to report on BVPI178, the national group, the County Surveyors’ Society, is keen that authorities continue to collect this data and in Cheshire it has been collected as a local indicator for the Local Transport Plan - LTP 13.
- 11.5.2 The team duly carried out the BVPI178 inspection this year: the percentage pass rate was 84%, which compares very favourably with a pass rate of 69% for the County Council’s last survey in 2008.

11.6 Rights of Way Improvement Plan - Access Development

- 11.6.1 There is one full-time member of staff dedicated to the implementation of the existing ROWIP and access development projects. They are also jointly responsible for the administration of the Cheshire Local Access Forum and for writing the new ROWIP for Cheshire East Council, to be published as part of the Council’s third LTP in 2011. This post sits outside the Public Rights of Way Team and is line-managed by the Visitor Services and Community Manager.
- 11.6.2 A Project Board and Steering Group have been established to assist with the process of developing Cheshire East’s new ROWIP. The Project Board consists of a broad range of officers from different Council services, who all contribute their expertise and knowledge in helping define the scope and focus of the new document, and (it is anticipated) in identifying resources to implement the ‘Statement of Action’ once it is adopted. The Steering Group consists of elected Members from the Rights of Way Committee, together with the portfolio-holder for Health and

² Section 58 HA80 = “Special defence in action against a highway authority for damages for non-repair of highway”. Under this section it is a defence to prove that the authority had taken such care as in all the circumstances was reasonably required to secure that the path of the highway to which the action relates was not dangerous to traffic. In other words, systematically inspecting the network for defects (and subsequently repairing them) provides the Council with a defence against claims for damages.

Wellbeing. Their role is to direct the project programme and to monitor progress against the project time plan.

- 11.6.3 Against the background of developing the project management framework for the new ROWIP, work has continued this year in delivering access projects from the existing one. Appendix 2 contains an outline report and work programme for Access Development. Project delivery will inevitably be curtailed 2010/11 as the demands of developing ROWIP2 take precedence.

11.7 **Legal Orders Team**

- 11.7.1 The legal orders team comprises three officers (2 x full-time, 1 x part-time) who operate on a caseload basis and deal with public path orders, (diversions and extinguishments), definitive map modification orders, (changes to the definitive map) emergency and temporary closures, land searches, planning applications and day to day enquiries.

The team has an income target relating to public path orders and temporary closures (£43,316), which is an erroneous 'hangover' from the County Council in the days when there was a dedicated income-generating post for this area of work – the income provided the salary for the post. In the absence of such a post in the structure for Cheshire East, this target could not be met. At the time of writing, the income generated by the team for the financial year 2009/10 stood at £26,649. This is impressive in the absence of a dedicated income generation officer. An income-generation post is currently being recruited on what will initially be a fixed 1 year contract to address this.

- 11.7.2 One member of staff from this team has recently left to go on maternity leave, due to return March 2011. As there is insufficient budget within the Greenspaces Service to permit the recruitment of maternity cover, it is inevitable that the work of this team will suffer as a result, and it is likely that backlogs of Public Path Orders and Definitive Map Orders will increase as the remaining staff try to keep on top of the daily demands of responding to enquiries, dealing with planning applications (which are time-limited) and their existing case-loads.
- 11.7.3 Details of the outstanding workload and the forecast work programme for the Legal Orders Team are attached at Appendix 3 which includes a summary of this year's work.

11.8 **Policy development**

- 11.8.1 Cheshire East Council inherited a raft of County Council policies relating to the public rights of way function. Where necessary, these were amended for the new authority and approved by the Rights of Way Committee: -

- Amendments to the Maintenance and Enforcement Protocol
- Statement of Priorities for Definitive Map Modification Orders
- New Charging Policy for Public Path Orders, Searches & Temporary Closures
- Policy for Structures on Public Rights of Way
- Standard Response Times for Different Categories of Problem on the Network

11.9 **Local Access Forum**

11.9.1 Following LGR, both authorities formally decided to continue with one, pan-Cheshire Local Access Forum. The Cheshire and Warrington Local Access Forum held its last meeting on 18th September 2009 (the LAF year runs from September to September), following which Warrington Borough Council formally decided to withdraw from the Forum and to join forces with the Halton Local Access Forum. The last Annual Report of the Cheshire and Warrington Local Access Forum is attached as Appendix 4.

11.9.2 Therefore the first meeting of the new 'Cheshire Local Access Forum' was held on 18th December 2009. This included an induction session for the 7 new members of the Forum. The agenda included: -

- Election of Chair and Vice-chair
- Approval of the annual report
- Post-LGR update from CEC and CWAC
- Consideration of the draft Cheshire East Policy on Structures on Public Rights of Way
- A presentation on the CWAC Local Transport Plan 3
- A report on DEFRA Circular 1/09 (implications for LAFs and Local Authorities)
- ROWIP updates from CEC and CWAC
- Feedback from the north-west regional LAF chair's meeting

11.9.3 The Cheshire Local Access Forum is still to decide its priorities for 2010, but will continue in its role as a statutory advisory body for matters relating to countryside access. It will respond to consultations on corporate policy (e.g. the Local Transport Plan, Sustainable Communities Strategy etc.) and will be closely involved in the development of the new CEC and CWAC ROWIPs. Its next meeting is on June 18th 2010.

11.9.4 The Cheshire Local Access Forum is to be complemented by 2 new Rights of Way Fora for CEC and CWAC. These liaison groups will be based on the model for the former Cheshire Rights of Way Forum, and will meet twice a year, meeting for the first time in June 2010. They will be constituted:

- To enable interest groups (users, landowners and others) to engage in constructive debate and discussion about issues of law, policy, principle and work programming with members and officers of the Council;
- To encourage understanding of each others' concerns;

- To participate in the consultation process associated with the new Rights of Way Improvement Plan for Cheshire East.

As was previously the case, the Forum will not meet to discuss the facts, merits or demerits of individual cases, which should be dealt with direct with the relevant officers.

11.10 **Budget**

- 11.10.1 The team has suffered, along with the rest of the Greenspaces Service, from a lack of clarity over the exact budget available to it in the financial year 2009/10, which can be attributed to the disruption caused by LGR and the difficulties experienced by the finance teams over the amalgamation of County and Borough resources, which has taken priority. The table below represents our 'best estimate' as to what our resources were (and thus what were our spending limits), based on the high-level budget information provided to us at the start of the financial year.

Centre	Type Costs	2009 - 10
		Budget £
Countryside Access Development	Employees	37,446
	Transport	3045
	Supplies/Services	8643
	Capital (from LTP)	24,000
Maintenance and Enforcement Team	Employees	184,039
	Transport	11,396
	Contractors	99,621
	Materials	23,241
	Capital	0
	Income target (enforcement charges)	-4050
Legal Orders Team	Employees	137,791
	Transport	2410
	Contractors	13,574
	Materials	0
	Capital	0
	Income target (from PPOs and Temp closures)	-43,316
		360,049

- 11.10.2 The base revenue budget for contractors and materials has not increased over the past 6 years (there was a one-off capital element last year under the County Council). The increasing demands on the budget after LGR (see 11.4.2 above) resulted in funds being almost completely expended by December 2009 and work other than planned pre-allocated commitments has had to be

cut back. In addition, a moratorium on all non-essential spending was imposed over the Health and Wellbeing service in October 2009 and remains in place.

- 11.10.3 It is of great concern that Cheshire East has inherited a base level of budget committed to the maintenance of the network that is falling well short of meeting current and future expectations. This is especially so in a climate of severe budgetary pressures which the authority faces across all service areas.

11.11 Conclusion

- 11.11.1 The Cheshire East Public Rights of Way Team began 2009/10 with sense of anticipation; a sense of a new beginning with new opportunities and challenges that despite the hard work that it would undoubtedly create, had an appeal to all of us. Indeed after the seemingly unending pressures of firstly the Single Status Review and secondly the Transforming Cheshire structural review, staff felt that the new authority would offer a period of consolidation, allowing us to concentrate on what we do best, continuing to develop our services.
- 11.11.2 As well as continuing with the “day job” the team have been concentrating on the disaggregation of the last remaining unit assets and this process is now complete. I would like to take this opportunity to pay tribute to the group of people whose professionalism and effort has done so much towards making the rights of way network in Cheshire East what it is today.
- 11.11.3 The continuing interest and support from Members, senior officers, the Cheshire Local Access Forum and the various user group representatives has been greatly appreciated. This operating partnership provides a template for other authorities and has enabled our high standards of service delivery to be continued.

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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APPENDIX 1

SECTION 3: NATIONAL TARGET 2: "PROPERLY MAINTAINED"

Component Task		Source			Achievements April 2009 to March 2010	Targets 2010/11
No	Measure of Success					
3.1	All footpaths, bridleways and byways correctly signposted where they leave a metalled road.	C/side Act 68 NERC Act 06			<ul style="list-style-type: none"> 323 signs erected across the borough. 	<ul style="list-style-type: none"> Installation of additional signs and replacement signs following loss and damage to ensure the requirements of Countryside act 1968 s 27 are fulfilled.
3.2	All PROW clear of obstructions, misleading notices, other hindrances or impediments to use.	HA 80 s130			<ul style="list-style-type: none"> Enforcement actions saw 2 notices served for cropping and 17 for general obstruction. Additionally a number of "seven day" warnings were issued in relation to cropping offences. Officers have also been involved in ensuring the removal obstructions etc. in many other cases for which the service of notice did not become necessary (43 "informal" written warnings). 	<ul style="list-style-type: none"> Reprint of amended protocols on enforcement (approved by ROW Committee June 2009) and promotion/distribution to landowners. Carry out necessary enforcement work in line with adopted protocols to ensure that the duty set out in Highways act 1980 is fulfilled.
3.3	Bridges, stiles, gates etc are in place where required; all are safe and convenient to use.	HA 80 s41 and s146			<ul style="list-style-type: none"> In East Cheshire 253 stiles, 69 gates and 35 bridges have been installed. 	<ul style="list-style-type: none"> Implementation and promotion to landowners of the new policy in relation to boundary structures (approved by ROW Committee March 2010). Renew and repair structures to ensure that they adequately allow the public to access all public paths in the county. Assist owners and occupiers to repair and replace stiles and gates on public rights of way.

Component Task		Source			Achievements April 2009 to March 2010	Targets 2010/11
No	Measure of Success					
3.4	Surface of every PROW is in proper repair, reasonably safe and suitable for the expected use.	HA 80 s41			<ul style="list-style-type: none"> A routine maintenance programme is in operation and 360 paths across the borough were subject to routine strimming/ tractor flailing at least once during the growing season with many cut more frequently. <p>Special surfacing projects facilitated with additional funding from other departments:</p> <ul style="list-style-type: none"> Gawsworth BY24, 280m: General surface repairs Macclesfield FP26, 92m: Tarmac Macclesfield FP71, 48m: Tarmac Macclesfield FP75, 53m: Tarmac Macclesfield FP78, 32m: Tarmac Henbury FP7, 672m: Gritstone Holmes Chapel RB4, 140m: Emergency surface repairs Middlewich FP14, 131m: Gritstone Edleston BR1, 52m: Extensive restoration works including drainage & the construction of a causeway over extremely wet area Chorlton FP7: Boardwalk installed over flooded area Chorlton FP12: Boardwalk 	<ul style="list-style-type: none"> The routine maintenance programme will be extended as new paths requiring routine maintenance are encountered (e.g. paths created through ROWIP). Officers will continue to work with colleagues in other departments and other partners in order to facilitate additional funding for special projects in relation to rights of way wherever possible.

Component Task		Source			Achievements April 2009 to March 2010	Targets 2010/11
No	Measure of Success					
					<ul style="list-style-type: none"> installed over pond Bickerton FP28 (Witches Staircase): Large scale steps, revetment & surfacing works 	
3.5	All PROW inspected regularly by or on behalf of the authority.	HA 80 s58			<ul style="list-style-type: none"> The path inspection regime has ceased since the loss of the two Assistant Rights of Way Officer posts in the team in 2007, who acted as path inspectors. It has not been possible to continue the survey in such a systematic and meticulous fashion as previously. Bridges continue to be surveyed, but paths in general do not. This could result in a lack of a legal defence to claim(s) for personal injury. All maintenance officers hold bi-annual meetings with the relevant representative of the walking and equestrian user groups to agree priorities for work. 	<ul style="list-style-type: none"> The maintenance officers will continue to hold bi-annual meetings with the relevant representatives of the walking, equestrian and other user groups to agree work priorities and to discuss the results of the survey work carried out by these groups.
3.6	The authority is able to protect and assert the public's rights and meet other statutory duties (e.g. to ensure compliance with the Rights of Way Act 1990).	HA 80 s130			<ul style="list-style-type: none"> All cropping obstructions were responded to within 4 weeks of reporting. A new 'response time' standard for dealing with different sorts of complaints in relation to PROW issues was approved by Committee 1st March 2010. 	<ul style="list-style-type: none"> Continue to adhere to the response times set out in the new standard.
3.7	Waymarks or signposts	C/side			<ul style="list-style-type: none"> Waymarking is undertaken by 	<ul style="list-style-type: none"> Waymarking and signposting will be

Component Task		Source			Achievements April 2009 to March 2010	Targets 2010/11
No	Measure of Success					
	are provided at necessary locations and are adequate to assist users. Waymarking scheme/initiative in place.	Act 1968 s27			staff and contractors as appropriate. Additionally waymarkers are provided to partners such as Mid-Cheshire Footpaths Society and the Ramblers' Association to enable them to replace missing and damaged waymarkers.	undertaken as appropriate.

APPENDIX 2
RIGHTS OF WAY IMPROVEMENT PLAN (1) IMPLEMENTATION
COUNTRYSIDE ACCESS DEVELOPMENT

Component Task		ROWIP Target	Achievements 2009-10	Targets 2010-11
No				
1	Bollington – bridge over canal at Clarence Mill to link towpath (FP52 Bollington) with Clarence Road		<ul style="list-style-type: none"> Partners = Macclesfield Countryside Management, Bollington Civic Society, Bridge Engineers, British Waterways, Friends of Bollington Recreation Ground, adjacent landowner. Bridge constructed (September 2009). 	<ul style="list-style-type: none"> Need to source funds for ongoing maintenance costs and agree with planning that CE can adopt the structure for a PROW. Dedication of a PROW across new structure and down British Waterways' track to park and adjacent circular loop.
2	LTP Area Programme Crewe and Nantwich – Crewe to Nantwich greenway		<ul style="list-style-type: none"> Partners = Sustrans, Highways, Weaver Valley Regional Park Creation of new bridleway link between Crewe (Queen's Park) and Nantwich Riverside over land owned by the Beam Heath Trust. Part of the Sustrans 'Connect 2' project using the People's Millions Lottery Money. Applications for funding secured. Design and landowner negotiations continue. Public consultation exercise to follow. 	<ul style="list-style-type: none"> Secure a section 25 creation agreement with the Beam Heath Trust to create the new Public Bridleway section.
3	Nantwich Riverside Loop		<ul style="list-style-type: none"> Partners = James Thompson, Nantwich Riverside Officer, British Waterways Continuing contributions to James' overall package of projects. Part of Weaver Valley Regional Park. Circular 'Nantwich Riverside Loop' route linking riverside and canal. Path improvements and new bridge. £50k WREN bid successful October 2009 for upgrading towpath (Edleston FP8) as part of Riverside Loop project. Installation of route signage complete. 	<ul style="list-style-type: none"> Development of leaflet to promote loop.

Component Task		ROWIP Target	Achievements 2009-10	Targets 2010-11
No				
4	Access Improvements as part of 'Middlewich Vision'		<ul style="list-style-type: none"> Partners = Middlewich Vision Upgrade FP2 Stanthorne to bridleway status, Stanthorne Mill. Have carried out Land Registry searches and checked research files – need to approach landowners to test water (suggested Town Council could do it). Other works assessed on FP19. FP14 – completed surfacing works and removal of gate undertaken August 2009 	<ul style="list-style-type: none"> Will continue to attend meetings but new delivery projects will be put on hold whilst ROWIP2 is developed, unless Congleton Area Highways can deliver them on our behalf.
5	discovercheshire.co.uk		<ul style="list-style-type: none"> Partners = ICT, Tourism colleagues June 09 - new version due for release, faster navigation and possibility to create micro-sites. December 09 - delays with the new version. due to mapping problems but will be live soon. 	<ul style="list-style-type: none"> Involvement in site development and content management group will continue but input will be limited whilst ROWIP2 is developed.
6	ECOMINDS		<ul style="list-style-type: none"> Partners = Countryside Rangers, Adult Services East (Sandbach) Working with established group "Greenleaves Conservation Volunteers" (group of mental health service users) to create bid for funding so they can become independent and bid for tenders for PROW work etc. – developing them into a social enterprise, providing tools and transport etc. Working with Alistair Wright (ranger) and Paul Biddulph (adult services). Draft policies for group drawn up for inaugural meeting prior to bid submission. 	<ul style="list-style-type: none"> Involvement to be supportive, but limited, as the group now need to take the lead themselves on developing their bid.
7	Walks for All Leaflet		<ul style="list-style-type: none"> Partners = Countryside Management Service & disability representatives August 09 – draft leaflet with disability user 	<ul style="list-style-type: none"> Launch leaflet with promotion and wide distribution, website etc.

Component Task		ROWIP Target	Achievements 2009-10	Targets 2010-11
No				
			<p>groups for comment on format and information content. October 2009 – draft received from designers.</p> <ul style="list-style-type: none"> December 09 - user groups in the process of trialling routes. 	
	White Nancy Footpath –new footpath up to the viewpoint of White Nancy in Bollington		<ul style="list-style-type: none"> Partners: Landowners and KRIV project volunteers Agreement entered into to establish a new public footpath 	
	Peckforton Estates – two permissive paths for horse riders created		<ul style="list-style-type: none"> Partners: Landowners and Habitats and Hillforts Landscape Partnership Scheme Agreements entered into to establish new permissive paths for horse riders 	

ROWIP2

The principle target for this work area 2010/11 is to develop the framework for ROWIP2, in accordance with the following timeline: -

Stage	Tasks	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11
Project management	ROWIP steering group meeting (indicative)	■		■		■	■		■		■			
	LTP steering group meeting (indicative)		■	■	■	■	■	■		■		■	■	■
	Report to CLAF meeting			■			■	■		■			■	
Engagement	Identify internal & external engagements													
	SCS/LTP/LDF shared consultation													
	SCS agreed			■										
	LDF core strategy consultation							■	■	■				
	LDF core strategy agreed										■	■		
Evaluation of ROWIP1	evaluate ROWIP1													
Network assessment	update analysis of current network													
Demand assessment	update analysis of present/future demand													
Gap analysis	identify gap and means to address	■	■											
Strategy plan	consultation events	■	■	■	■	■	■	■						
	preparation of strategy document				■	■	■	■						
	ROWIP strategy to ROW committee						■							
	Portfolio Holder approves ROWIP strategy						■	■						
	LTP pre-strategy public consultation				■	■	■	■						
	LTP Members' Workshop proposed					■								
	LTP draft strategy to Cabinet							■						
	LTP draft strategy public consultation							■	■	■				
	LTP draft strategy to Cabinet again									■				
	LTP strategy to Full Council for approval											■		
Implementation plan	prioritise projects, assign times & costs						■	■	■	■				
	ROWIP imp. Plan to ROW committee									■				
	Portfolio Holder approve ROWIP imp. plan									■				
	LTP Implementation plan writing									■	■	■	■	
	LTP Implementation plan to Cabinet												■	
Full ROWIP	internal promotion											■	■	
	advertise and external promotion											■	■	■
Implementation	monitoring & reporting													■

Appendix 3

Legal Orders Team

SECTION 2: NATIONAL TARGET 1: “LEGALLY DEFINED”

Component Task		Source	Achievements 2009/10	Targets 2010/11
No	Measure of Success			
2.1	Definitive Map and Statement to be completed for any previously unmapped area	WCA 81 S53(1) (c)	<ul style="list-style-type: none"> Complete 	<ul style="list-style-type: none"> Complete
2.2	No RUPPs remaining on Definitive Map	WCA 81 S54	<ul style="list-style-type: none"> No further reclassification required 	<ul style="list-style-type: none"> Complete
2.3	No backlog of legal events requiring orders to be made	WCA 81 S53(2) (a) & 53(3) (a)	<ul style="list-style-type: none"> Legal Event Modification Order made for all legal events in 2009/10 	<ul style="list-style-type: none"> Legal Event Modification Order to be made for all legal events in 2010/11 Schedule 5 Para 2 of CROW Act 2000, commenced April 2008, obviates need for separate legal event order where Definitive Map change cited. However, national debate about the technical aspects of this provision and advice to LAs is to continue making separate LEMOs for time being.
2.4	No backlog of applications to modify the Definitive Map	WCA 81 Sch 14	<ul style="list-style-type: none"> 2 Schedule 14 applications determined and a further 7 applications under active investigation during the year (see below). 	<ul style="list-style-type: none"> Target depends on recruitment of an income generation post to deal with PPOs and free-up officer time to deal with Schedule 14 applications. If recruited, target is to determine 10 cases. If not,

Component Task		Source	Achievements 2009/10	Targets 2010/11
No	Measure of Success			
			<ul style="list-style-type: none"> 24 applications remain in backlog (see below). The oldest of these dates to 2002. 	<p>target is 4.</p> <ul style="list-style-type: none"> Resources will not permit investigation of "List B" cases or internal investigations.
2.5	No backlog of other cases that may result in the need to change the Map	WCA 81 S53	<ul style="list-style-type: none"> Completion of last remaining 'Discovering Lost Ways' case following abandonment of project by Natural England. 	<ul style="list-style-type: none"> Complete.
2.6	No backlog of decided applications/other cases awaiting definitive map modification orders	CoAg	<ul style="list-style-type: none"> 1 DMMO order made during the year 2 applications determined Part of 1 application refused 1 DMMO order confirmed 0 appeals against refusal, awaiting decision 0 appeals against non-determination within 12mths 	<ul style="list-style-type: none"> Continue to make orders as soon as reasonably practicable. Contested DMMOs to be submitted to PINs. Directed applications/orders to be processed as required.
2.7	The authority has considered the need to consolidate the Map and take any necessary action	WCA 81 S56	<ul style="list-style-type: none"> Preparation of digital map for consolidation complete. Work to consolidate statements begun. 	<ul style="list-style-type: none"> On hold due to lack of staff.
2.8	Statement of Priorities published	CoAg	<ul style="list-style-type: none"> Statement of Priorities approved by ROW Committee on 1st June 2009. 	<ul style="list-style-type: none"> Continue to prioritise Definitive Map Work in accordance with the Statement of Priorities
2.9	No other matter affecting the Definitive Map	CoAg	<ul style="list-style-type: none"> Electronic list of map anomalies was completed in 2008. 2 anomalies 	<ul style="list-style-type: none"> No progress can be made with rectifying anomalies without additional staff resources (in addition to PPO income

Component Task		Source	Achievements 2009/10	Targets 2010/11
No	Measure of Success			
	outstanding		corrected during 2009/10.	generation post).

Summary of work from April 2009 to March 2010, backlog of work outstanding and forecasts for 2010/11

Area of work	Work completed/in progress April 2009 – March 2010	Backlog	Projected work 2010/11
Planning application consultations	115	n/a	150
Rights of Way searches	34	n/a	40
Highways Act s31 deposits	6	n/a	10
Temporary & Emergency Closures	45	n/a	60
Gating Orders	0	n/a	0
Public Path Orders HA80	20 Orders confirmed, 17 cases in progress	28 applications on waiting list	30 Orders to confirmation stage if income generation post recruited, 15 if not
Public Path Orders TCPA90	1 Order confirmed, 5 cases in progress	n/a	10 if income generation post recruited, 5 if not
Contested Orders referred to PINs	HA80 = 8 WCA81 = 0 TCPA90 = 0	6 contested WCA81 cases to be referred to PINs	
Definitive Map Modification Order Applications – schedule 14 applications	CH = 1 Order confirmed, 5 in progress	24	10 if income generation post recruited, 4 if not

Definitive Map “List B” issues	0	11	2 if income generation post recruited, 0 if not
Definitive Map Anomalies (investigation/legal orders required)	2 completed	260+	0 without additional staff resources or additional budget to commission consultants

Access to the countryside without the car

One issue to which the Forum has not given much attention hitherto is ensuring that the Cheshire countryside is accessible to all residents and visitors irrespective of their means of travel. With increasing attention rightly being given to climate change and the need to cut greenhouse gas emissions, the need for people to be able to reach the countryside easily in a more sustainable way than by car perhaps merits being placed higher up the Forum's agenda. The Forum has a duty to improve public access, and this should extend equally to those who are socially excluded, or who suffer disability, or who for various reasons either cannot or do not drive a car, as well as car owners who might decide not to drive if they are made aware of the other options available.

The two new unitary authorities are responsible for co-ordinating public transport, thus relevant aspects the Forum might press for the Councils to consider could include the existence and viability of local bus services which provide access to key countryside sites (or could perhaps easily be tweaked to do so), the adequacy of information, marketing and promotion about such services, and in some cases the need for shuttle services from nearby railway stations or special recreational journeys such as those which have operated in recent years to Tatton park, Jodrell Bank, National Trust properties and the Sandstone and Gritstone Trails.



The Forum might equally lobby for the introduction of new multi-modal tickets, along the lines of the one-time Sunday Adventurer Ticket which was valid on buses throughout Cheshire, or for the extension of the area of validity of some existing leisure tickets such as the Wayfarer Ticket, which for almost 30 years has provided a cheap and flexible means of access by bus and rail to the northern part of the Forum's area. The Forum might also emphasise the importance of Council-sponsored guided walks and events being planned to start from bus stops or stations and being deliberately timed to accommodate those arriving by 'greener' means of transport than by car. All these are issues relevant to the Forum's agenda.

Keith Pennyfather

Safety Improvements on Rural Roads

The Forum is concerned about the safety of vulnerable road users who have to use sections of rural roads to complete journeys on foot, by bicycle or on horseback. Traffic using rural roads has grown steadily and many roads carry significant traffic volumes. Many rural roads are narrow, have no footway and may not even have a verge. In these locations there is a potential conflict between pedestrians forced to walk along the carriageway and fast moving traffic. In many cases the visibility is poor and accidents, or near-misses, may occur.

The Forum considers that minor improvements could bring significant safety benefits and improve the accessibility of people living in rural areas.

These improvements may be as simple as cutting the verges so that they can be brought into use, constructing narrow footways, or providing a footway behind the boundary fence or hedge. The rural roads to be considered first should include short lengths where a narrow road has been used to connect parts of the public rights of way network or where there are rural businesses or other developments along the road.

The Forum is campaigning to ensure that potential schemes are identified and that the concept is included in the next Local Transport Plan due to start in 2011. Please contact the Local Access Forum if you know of sections of rural road where these low cost safety improvements would make a difference.

Membership

Member	Area of interest		
John White, Chairman	Walking	John Mitchell	Land management
Barbara Smith, Vice-chair	Land management	Keith Pennyfather	Sustainable transport
Peter Chapman	Walking	David Robinson	Cycling, local government
Neil Collie	Walking	John Taylor	Land manager, accessibility
Evelyn Cragg-Hine	Walking, education	Eleanor Johnson	Councillor, Cheshire County Council;
Ken Edwards	Walking, local government	Alan Litton	Councillor, Warrington Borough Council
Dale Langham	Cycling and walking as sustainable transport	Andrew Knowles	Councillor Cheshire East Council
John Lilley	Walking, planning strategy	Richard Short	Councillor, Cheshire West and Chester Council

CHESHIRE & WARRINGTON LOCAL ACCESS FORUM

Public
Footpath

Annual Report
July 2008- September 2009



Chairman's Introduction

2008/2009 has been a year of change and consolidation as the Cheshire County authority became two unitary authorities; Cheshire East and Cheshire West and Chester. Also Warrington Borough Council decided it would be better served by joining the Merseyside Local Access Forum.

Consequently the supporting officers have all changed roles and in some case retired. However the officers have throughout continued to work to further the aims of the Forum despite the uncertainty. I am pleased to say that the two new Cheshire councils have agreed to support the new Cheshire Local Access forum.

Our agendas have covered presentations, consultations and specific issues that have arisen during the year within our remit.

We have continued to monitor and support the Rights of Way Improvement plans and discussed any gating orders affecting access. The formation of a regional and an English national access forum will provide us with support from Defra and Natural England. It will also enable us to share issues with neighbouring forums and influence national proposals.

This year we will be recruiting new members to serve for the next three years of the forum. I would like to thank those who have retired for their contribution and companionship and look forward to working with the new and continuing members on the priorities for 2010.

John White

What I like about the Cheshire Countryside

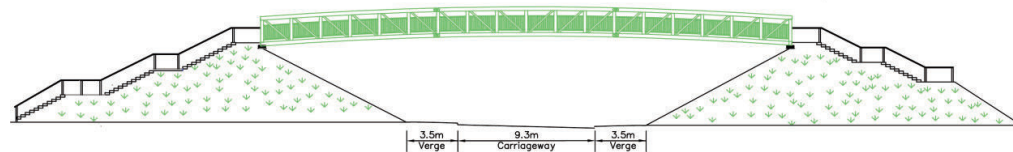
I walk about 600 miles of the rights of way in Cheshire each year as a member and leader of walking groups. The main benefit I get from this is getting out into open spaces with rolling hills, valleys, waterways, trees wildflowers and attractive buildings. How else can you get fresh air, become an expert on cattle, stiles, footpath lore and improve physical and mental fitness.

I am responsible for monitoring a section of Cheshire's footpaths and this adds an understanding of the legal aspects, liaison with officers and undertaking some minor physical improvements myself. Getting an overgrown, badly signed path improved (yes there are some!) is quite satisfying!

One of the main concerns this year has been walking through cattle. Groups of young heifers or bullocks in the spring can be quite intimidating and bulls have a bad reputation. The only difficulties we have had is with penned-in animals on a right of way or cows with young calves. Usually a small diversion will avoid the hazard.

Landowners vary from the welcoming who want a chat to the obstructive and rude - a copy of the Rights of Way protocol with diplomacy can help!

The replacement of stiles with gates is very welcome particularly as one ages but nettles and brambles in the autumn, mud in winter and horse tape all the time are a nuisance. Those responsible for maintenance budgets please note! However the benefits of walking through this varied countryside make these inconveniences bearable.



Alderley Edge and Nether Alderley Bypass

The Local Access Forum has taken a keen interest in the development of this major road scheme. In particular, it has commented on the provision of facilities for walkers and cyclists.

The new bypass of Alderley Edge & Nether Alderley will be a fast single carriageway road and will not have any junctions with side roads. Overbridges will be provided where the existing roads cross the line of the bypass. The Forum has welcomed the inclusion of separate cycle tracks and footways which are being provided on both sides of the new road and which will link to the existing road network by sloping ramps.

In addition, a number of footpaths that cross the line of the bypass could conveniently be diverted to use the bridges being built for the side roads. However, there was no convenient diversion for two footpaths one in Chorley Parish and the other in Nether Alderley Parish. The designers insisted that walkers could safely cross the new carriageway 'at-grade' that is, by walking across the road between traffic travelling at sixty miles per hour in both directions.

In January 2005, the Local Access Forum opposed the County Council at the Public Inquiry into the proposed Alderley Edge & Nether Alderley Bypass. In evidence to the Inquiry the chairman of the Forum stated:

'Bridges provide a safe crossing for walkers of all ages as well as for people with disabilities. Also, a bridge is visible from a distance, making it obvious to people using the footpath that there is a safe crossing facility. It can also be seen as a feature of aesthetic merit in the landscape setting.'

On publication of the independent Inspector's report, he concluded that 'in the interests of good practice' a pedestrian footbridge should be provided to take the footpath over the bypass, but left the final decision to the County Council.

Having received this encouragement from the Inspector's report the Forum continued to press for a footbridge. In April 2008 the County Council finally agreed that a footbridge would be provided as part of the scheme. Construction of the bypass commenced in October 2008 and the footbridge has received planning permission from Cheshire East Council. It will be an elegant single span steel structure painted green and seated on the landscaping mounds on each side of the new road. In this case, the persistence of the Forum has paid off and walkers of all abilities will be able to use the local footpaths in safety.

The priorities 08-09

- Influencing Town and Parish Councils. To this end, the Forum invited a representative from the Cheshire Association of Local Councils to give a presentation at a recent meeting to clarify how the Forum might engage with and influence these groups.
- Carried over - To seek clarification nationally on the definition of the term 'cycleway' and the possible implications where work is conducted to 'upgrade' public footpaths without proper legal work to change their status.
- The ongoing situation with regard to budgets and funding for the PROW Teams of the new Unitary Authorities in Cheshire and Warrington Borough Council.
- Influencing the new Unitary Authorities in Cheshire to ensure that the Local Access Forum remains vibrant and meaningful and that it has a seat on the Area Boards once they are created.
- Safety on rural roads with particular regard to the needs of vulnerable road users who wish to use rural roads as part of a journey by walking, cycling or horse riding.

Priorities for 09-10

- Involvement in ROWIP2 and LTP3; safety on rural roads; urban rural access; how does access better raise the health and wellbeing of the residents of the county

CHESHIRE EAST COUNCIL

REPORT TO: PUBLIC RIGHTS OF WAY COMMITTEE

Date of Meeting: 10 June 2010
Report of: Mike Taylor, Green Spaces Manager
Subject/Title: Update on Development of the Rights of Way Improvement Plan (2011-2026)

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).

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 ROWIP, as an integrated part of the Local Transport Plan (LTP3), will be set within the context of the Local Area Agreement indicators concerning air quality and CO₂ emissions.
- 6.2 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.

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

7.1 None arising.

8.0 Financial Implications 2010/11 and Beyond (Authorised by the Borough Treasurer)

8.1 An allocation has been designated within the Greenspaces Community and Visitor Services Development budget for the development of the ROWIP documents, to cover research, consultation and publishing costs.

8.2 Delivery against the projects set out in the ROWIP implementation plans will require further funds starting in April 2011. Work is currently being undertaken to establish how funding for these projects can be secured from within the Local Transport Plan and other sources.

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 Local Transport Plan 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 was prepared by Cheshire County Council and expires in March 2011. A new ROWIP is therefore being developed to reflect the new geographic area of Cheshire East and to coincide with the preparation of the new Local Transport Plan, into which the ROWIP must be fully integrated.

11.2 The project management system employed for the ROWIP has seen a Project Board and Steering Group established to assist with the process of developing the plan. The Project Board consists of a broad range of officers from different Council services, who contribute their expertise and knowledge in helping to define the scope and focus of the new ROWIP as well as improving links between departments. The Steering Group consists of elected Members from the Rights of Way Committee, together with the Portfolio Holder for Health and Wellbeing. Their role is to direct the project programme and to monitor progress against the project time plan.

- 11.3 The ROWIP encompasses an assessment of the rights of way network and the wider access to the countryside that the public currently enjoys. The ROWIP then goes on to consider the demand in using that rights of way network and the wider countryside. The difference between the provision of access and the current and potential demand is then analysed with a view to drawing up a programme of projects by which to bridge this gap.
- 11.4 In line with the Local Transport Plan, the ROWIP will comprise a 15-year strategy spanning 2011-2026 with 3-year implementation plans. The Local Transport Plan chapters are intended to be structured around the priorities of the Sustainable Community Strategy, with a geographic focus on the large towns of Crewe and Macclesfield, the market towns and the villages of the Borough.
- 11.5 An extensive consultation process for the ROWIP and Local Transport Plan have been developed spanning the spring, summer and autumn of this year. This work includes engagement through Town and Parish Councils, Local Area Partnerships, web based consultation and direct contact with user groups and the wider public. Members are invited to comment through the aforementioned consultations. Further engagement with Members is being planned, to include a Members' workshop event. Consultation is initially concentrating on confirmation that the priorities for the ROWIP identified for the County Council plan remain valid for Cheshire East.
- 11.6 It is intended that the ROWIP strategy be presented to this Committee at its September meeting seeking recommendation to the Portfolio Holder for approval. This would be prior to the draft Local Transport Plan strategy being presented to Cabinet in October 2010 before being put out to public consultation and returning to Cabinet in December. Implementation plans for the ROWIP within those for Local Transport Plan will be developed when the funding for the 3 year period is known, early in 2011.

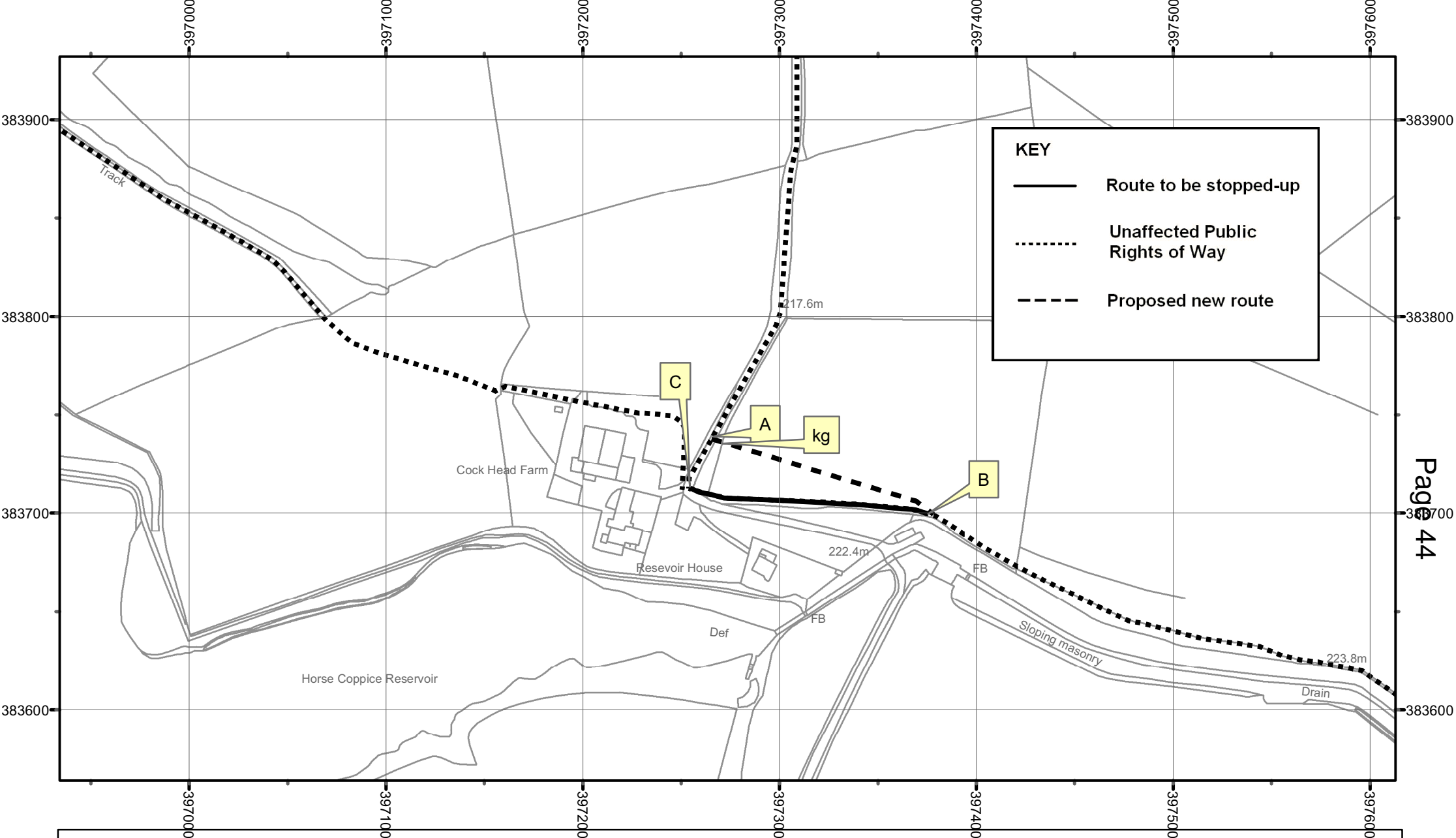
12.0 Overview of Year One and Term One Issues

- 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: Genni Butler
Designation: (Acting) Countryside Access Development Officer
Tel No: 01606 271817
Email: genni.butler@cheshireeast.gov.uk



1:2,500

Proposed Diversion of Public Footpath No.24 (part) Town & Country Planning Act 1990 s.257

Plan No.
TCPA/002

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CHESHIRE EAST COUNCIL

REPORT TO: PUBLIC RIGHTS OF WAY COMMITTEE

Date of meeting: 10 June 2010
Report of: Greenspaces Manager
Title: Town and Country Planning Act 1990 Section 257
Application for the Diversion of
Public Footpath No. 24 (Part) Parish of Disley

1.0 Purpose of Report

- 1.1 The report outlines the investigation to divert part of Public Footpath No. 24 in the Parish of Disley. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way Unit as a response to planning approval granted to United Utilities for the construction of a new spillway at Bollinhurst Reservoir. 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 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 24, Disley as illustrated on Plan No. TCPA/002 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 and not resolved, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

3.0 Reasons for Recommendation

- 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. 24 Disley as illustrated on Plan No. TCPA/002, to allow for the construction of a new spillway to Bollinhurst Reservoir. Planning consent was granted on the 15th January 2010 by Cheshire East Council; reference number 09/3537M.
- 3.3 Informal consultations have elicited 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 Ward Affected

- 4.1 Bollington and Disley

5.0 Local Ward Members

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

6.0 Financial Implications

- 6.1 Not applicable

7.0 Legal Implications

- 7.1 s257 of the Town and Country Planning Act 1990 ("TCPA") allows the council to make and confirm orders authorising the stopping up or diversion of a footpath if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted. There are requirements of public notice and if objections are received to the proposed order and not withdrawn, the order must be submitted to the Secretary of State for confirmation, who must either call for a local inquiry or give the objectors an opportunity of being heard before making his decision. This would require attendant legal involvement and use of resources. It follows that the Committee decision may be confirmed or not confirmed.
- 7.2 The procedure in making an order is detailed in Schedule 14 to the TCPA and the Town and Country Planning (Public Path Orders) Regulations 1993, which are made under the TCPA.

8.0 Risk Assessment

- 8.1 Not applicable

9.0 Background and Options

- 9.1 An application has been received from United Utilities ('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. 24 in the Parish of Disley.

- 9.2 Public Footpath No. 24 Disley commences at Cock Head Farm at OS grid reference SJ 9725 8371 and runs in a generally east south easterly direction to its junction with Mudhurst Lane (C413) at OS grid reference SJ 9821 8291. The section of path to be diverted is shown by a solid black line on Plan No. TCPA/002 running between points A-B. The proposed diversion is illustrated with a black dashed line on the same plan, running between points C-B.
- 9.3 The existing alignment of the footpath would be directly affected by the construction of the new spillway which is required in the interests of safety. The land is entirely owned by United Utilities.
- 9.4 Planning permission was granted to the applicant on 15th January 2010. The application is cited as Planning Permission Ref: 09/3537M. The details of the decision notice are for a new Reservoir Spillway, Borrow Pit area for obtaining spill material use in the embankment stability works, new permanent access road, new Fisherman's hut and temporary access from Red Lane; These works will ensure the safety of the Reservoir during times of flooding.
- 9.5 Part of the current line of Public Footpath No.24 Disley (A-B) lies directly under the site of the construction of part of the new spillway as shown on the plan submitted by the applicant. In addition due to the location of the new spillway, the access road, which is required by operatives to undertake maintenance works on the reservoir must be moved and fenced off. Part of the existing footpath, FP24 Disley, would run along this boundary and therefore within the fenced area. Therefore, the footpath diversion is required to provide public access outside the United Utilities operational area. The length of footpath proposed to be diverted is approximately 123 metres.
- 9.6 The proposed route for the footpath is approximately 118 metres long and would move the footpath to the north of its current location out of the area of construction and across the same pasture field. It would require a kissing gate where it leaves Footpath no. 22.
- 9.7 The local Councillors have been consulted about the proposal.
- 9.8 Disley Parish Council have been consulted about the proposal and responded to state that they have no objections.
- 9.9 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.
- 9.10 The user groups have been consulted.
- 9.11 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 9.12 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 would be easier to use due to the replacement of a stile with a kissing gate.

10 Access to Information

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

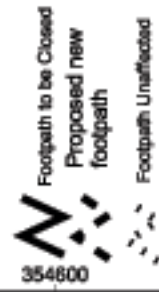
Officer: Clare Hibbert/ Amy Rushton

Tel No: 01606 271823

Email: clare.hibbert@cheshireeast.gov.uk

Background Documents: PROW file 108D/440

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Scale
1:2500Proposed Diversion of Public Footpath
Haslington 49

CHESHIRE EAST COUNCIL

REPORT TO: RIGHTS OF WAY COMMITTEE

Date of meeting: 10 June 2010
Report of: Greenspaces Manager
Title: Town and Country Planning Act 1990 Section 257
Request To Formally Abandon
“The Cheshire County Council (Footpath No.49 (Part)
Parish Of Haslington, Borough of Crewe and
Nantwich) Public Path Diversion Order 2009”

1.0 Purpose of Report

- 1.1 The report seeks Committee approval to formally abandon this diversion order, following a request for the same from the applicant (Land Recovery Limited, c/o Mineral Planning Group).

2.0 Recommendations

- 2.1 That the diversion order “The Cheshire County Council (Footpath No.49 (part) Parish of Haslington, Borough of Crewe and Nantwich) Public Path Diversion Order 2009” be abandoned in accordance with the request of the applicant through their agent.

3.0 Reasons for Recommendation

- 3.1 The diversion order attracted a number of objections from local people, largely due to the fact that the original line is an attractive “green lane” and has perceived high wildlife value. The original line of the path is open and available on the ground and has not, in fact, been affected by the quarry development, as the applicant undertook other works to meet other planning obligations, which ultimately mitigated against any adverse effect on the path.
- 3.1 The applicant’s agent has therefore requested that the diversion order be abandoned, as it is no longer required. It is therefore appropriate to abandon the order and for the path to remain on its original alignment.

4.0 Wards Affected

- 4.1 Doddington

5.0 Local Ward Councillors

Councillor David Brickhill, Councillor John Hammond and Councillor Rodney Walker.

6.0 Financial Implications

- 6.1 As the diversion order is contested and would normally require sending to the Secretary of State for confirmation, to formally abandon it avoids the costs associated with any Public Inquiry.

7.0 Legal Implications

- 7.1 Under s259 of the Town and Country Planning Act 1990, no order shall take effect unless confirmed by the Secretary of State, or unless confirmed, as an unopposed order, by the council. As the order has not been submitted to the Secretary of State for confirmation, the council may at this stage make a decision to abandon the proposed order, as a result of new evidence being supplied that the order is no longer necessary to enable development to be carried out.

8.0 Risk Assessment

- 8.1 Not applicable

9.0 Background and Options

- 9.1 Under the Town and Country Planning Act 1990, Planning Authorities have the power to make Orders to extinguish (close) or divert Public Rights of Way, if they grant a Planning Permission which will affect a Public Right of Way. In this case, the Cheshire County Council was satisfied that the Order was necessary and complied with the following legal grounds and tests laid down in Section 257 of the Town and Country Planning Act 1990 :

A competent authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted under Part III of the Act.

- 9.2 The Cheshire County Council made the Order on 29th January 2009, following an application from The Mineral Planning Group on behalf of Mr Beecroft of White Moss Quarry, Radway Green, Alsager. It had been approved by Cheshire County Council's Rights of Way Committee on 24th October 2008, as per the Report at Appendix 1.
- 9.3 The diversion related to the County Council granting planning consent (no. 7/2008/CCC/8) to develop an aggregate recycling and storage operation at White Moss Quarry. The original line of Footpath No. 49 Haslington runs along the south easterly edge of the development area and it was believed it would be affected by the proposal. The current line also crosses the haul road at the entrance and exit points to the site where vehicles were manoeuvring; the new route was to cross the road at a point where visibility is better. The new route was to run along the boundary of an adjacent field and have a mostly grass surface with a width of 2 metres.

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

Officer: Clare Hibbert/ Amy Rushton

Tel No: 01606 271823

Email: amy.rushton@cheshireeast.gov.uk

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MEETING : RIGHTS OF WAY COMMITTEE
DATE : 24th October 2008

REPORT OF : COUNTY MANAGER TRANSPORT AND REGENERATION
Contact : Clare Hibbert, Public Rights of Way Officer
Officer : Tel (01606) 271823 e-mail clare.hibbert@cheshire.gov.uk

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 257
APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO.49 (PART),
PARISH OF HASLINGTON, BOROUGH OF CREWE AND NANTWICH

INTRODUCTION

1 An application has been received from The Mineral Planning Group acting as agents on behalf of the landowner Mr D Beecroft of White Moss Quarry, Radway Green, Alsager requesting that the Council makes an order under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 49 (part) in the Parish of Haslington, Borough of Crewe and Nantwich.

2 Public Footpath No. 49 Haslington commences at its junction with Close Lane at OS grid reference SJ 7786 5513 and runs in a generally south south westerly then generally south westerly direction to Crewe Road (B5077) at OS grid reference SJ 7744 5446.

3 The section of path to be diverted is illustrated by a solid black line on Plan No. SD/572 between the points marked A and B. The proposed diversion is illustrated on the same plan as a black dashed line, between the points marked A, C and B.

GROUND'S OF APPLICATION

5 The footpath is affected by the proposed development of an aggregate recycling operation at White Moss Quarry. The operational nature of moving and storing aggregates along the edge of the footpath will present a health and safety hazard to users of the footpath and therefore the footpath needs to be diverted before development can take place.

4 Planning permission for the proposal was considered at the County Council Development Regulatory Committee on the 8th September 2008. The application was approved against officer recommendations and four members of the committee voted against. Procedures allow for the matter to be referred up to the Full Council meeting if three or more members vote against a proposal and therefore this matter will be decided on the 16th October. Once a decision is reached the application must still be referred to the Secretary of State who has 21 days within which to call the matter in for an inquiry. The decision of Full Council will be verbally related to committee at the meeting. The application is cited as Application Ref. 07/2008/CCC/8.

5 The current line of Footpath No. 49 Haslington runs across the south easterly edge of the quarry and lies in a north north easterly to south south westerly alignment. It is proposed that the new route will be diverted along the edge of an adjacent field with an open aspect and running mostly parallel with the current route but just outside the proposed development boundary. The current route has an earth and grass surface; the new footpath will mostly be along a grass surface and will be 2 metres wide.

6 The proposed new footpath is already used as an alternative on a permissive basis and at the southern extent, point C, the path will cross the current haul road at a point where visibility is better than the current footpath which crosses the entrance and the exit points to the site adjacent to the main operational area.

CONSULTATIONS

7 Haslington Parish Council, Crewe and Nantwich Borough Council and the local County Councillor have been consulted about the proposal. Crewe and Nantwich Borough Council have replied that they have no comments to make on the proposal. No other response has been received.

8 The statutory undertakers have also been consulted. Scottish Power has lodged an objection to the proposal due to the existence of overhead power cables in the vicinity of the existing footpath which they suggest could be affected by the proposed operational activities on the quarry site. This is a matter that should be considered by the planning department and I have forwarded their comments to the planning officer concerned. The diversion of the footpath would not affect the existence or safety of the power lines for if the Order is made existing rights of access for the statutory undertakers to their apparatus and equipment are protected. Other statutory undertakers have responded that they have no objection to the proposal.

9 The user groups have been consulted. The Peak and Northern Footpath Society have commented that current waymarking and the crossing of the haul roads presents a safety issue but nevertheless the proposed alternative is a considerable improvement on the existing route. The Mineral Planning Group have stated that they will provide additional signage where the proposed route is to cross the haul road. No further comments have been received.

10 The County Council's Natural and Historic Environmental Team has been consulted. The team has indicated that although adjacent to the White Moss site of biological importance the proposed diversion in isolation would be unlikely to have any adverse impact. However Natural England had made contact to ask whether we could investigate the possibility of badgers being active in the vicinity of the existing footpath. An ecological assessment was undertaken by two members of the Rights of Way Team and the conclusion was drawn that badgers are more likely active in the area than not. This was reported back to Natural England and again it was suggested that this is a matter for liaison with the planning department as the development might impact on their habitat.

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 no less easy to use.

CONCLUSIONS

12 In accordance with section 257 of the Town and Country Planning Act 1990 the County 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.

13 It is considered that it is necessary to divert part of Footpath No. 49 Haslington as illustrated on Plan No. SD/572 to allow for the extension of aggregate storage/ recycling operations on the quarry site. Committee will be informed at the meeting whether permission has been granted.

14 The comments/ objection that have been received do not directly relate to the footpath diversion itself and are issues for the Planning department to consider. In view of that 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.

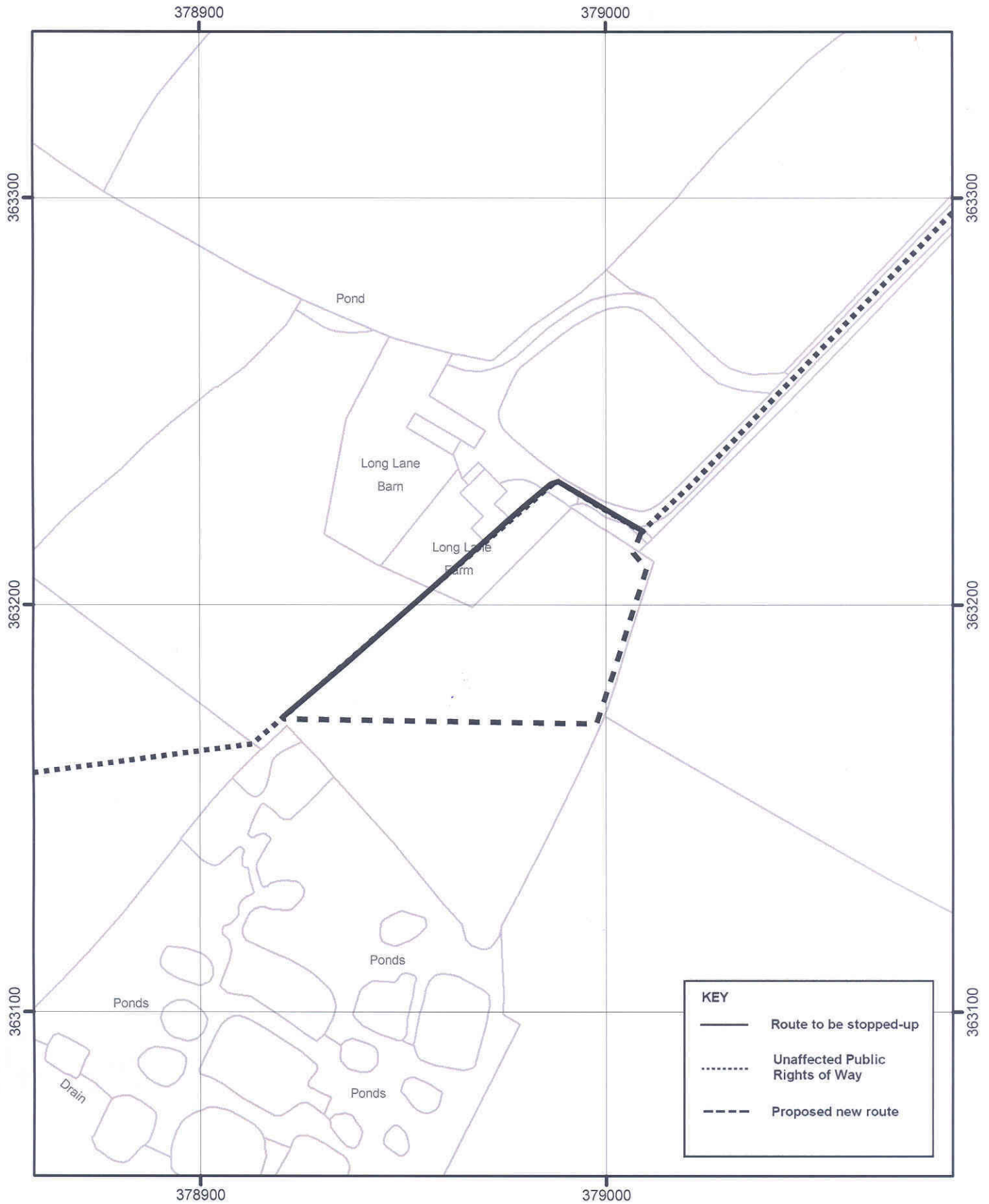
RECOMMENDED that:

- 1) **in the event that the planning permission referred to is ultimately granted following the conclusion of any review or appeals process that may flow, an Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 49 Haslington as illustrated on Plan No. SD/572 on the ground that the County Council is satisfied that it is necessary to do so to allow development to take place;**
- 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 and;**
- 3) **in the event of objections to the Order being received, the County Council be responsible for the conduct of any hearing or public inquiry.**

complete item

This report has been prepared with regard to the Checklist for Members Reports and due consideration has been given to the relevant matters in its preparation

Local Member	<i>Councillor D Brickhill</i>
Background Documents	Public Rights of Way Files
Available for Inspection at	PROW Unit, Phoenix House, Winsford



Proposed Diversion of Public Footpath
Brereton No. 29

Plan No.
HA/016

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and should not be used for legal purposes



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Cheshire East Council, 100049045 2010.

CHESHIRE EAST COUNCIL

REPORT TO: RIGHTS OF WAY COMMITTEE

Date of meeting: 10 June 2010
Report of: Greenspaces Manager
Subject/Title: Highways Act 1980 – Section 119
Application for the Diversion of Public
Footpath No. 29 (Part) Parish of Brereton

1.0 Report Summary

- 1.1 The report outlines the investigation of an application to divert part of Public Footpath No. 29 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 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. 29 Brereton, by creating a new section of public footpath and extinguishing the old part, as illustrated on Plan No. HA/016 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. The new route is not 'substantially less convenient' than the existing route and will be of huge benefit to the landowner. Moving the footpath away from the garden and house will allow the applicant to improve her privacy and security considerably. It will also deal with the long standing issue of the legal line of the footpath being partially obstructed. The proposed route also offers improved views for users. 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 and 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 Section 119(1) of the Highways Act 1980 allows the council to make a public path diversion order as detailed within the body of this Report. The Order effectively creates a new way and extinguishes the old. Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the council's power to confirm the order itself, which may lead to a hearing/an inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

10.0 Risk Management

10.1 Not applicable.

11.0 Background and Options

11.1 An application has been received from Mrs Emma Bromley-Davenport of Long Lane Farm, Davenport Lane, Brereton, CW11 2SR ('the Applicant') requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 29 in the Parish of Brereton.

11.2 Public Footpath No. 29 Brereton commences on Davenport Lane at OS grid reference SJ 7916 6337 and runs in a generally south westerly direction to Newcastle Road (A50) at OS grid reference SJ 7836 6289. The section of path to be diverted is shown by a solid black line on Plan No. HA/016 running between points A-B. The proposed diversion is illustrated with a black dashed line on the same plan, again running between points A-B.

11.3 The Applicant owns the land over which the current path and the proposed alternative route 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 existing line of Public Footpath Brereton No. 29 runs through the applicant's garden and extremely close to the applicant's house. The definitive line of the footpath has been partially obstructed for a number of years (before the current owner, Mrs Bromley-Davenport purchased the property). Diverting the footpath will deal with this long standing issue.
- 11.5 The proposed diversion would leave the driveway and pass through a small wooded area before entering the field to the south east of Long Lane Farm. It would run in a south south westerly direction along the field boundary and then in a westerly direction across the field to join the existing line of the footpath. The proposed diverted route for the footpath is slightly longer than the current route, however, it passes through open countryside providing better views than the current route. Moving the footpath out of the garden and away from the house would provide a less intimidating route for users and be of huge benefit to the landowner in terms of privacy and security.
- 11.7 The local Councillors have been consulted about the proposal. Councillor Gilbert has responded to state that he has no objection to the proposal.
- 11.8 Brereton Parish Council have been consulted about the proposal and have responded to state that they support the application.
- 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 to the proposal.
- 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 is an improvement on the existing route.

12.0 Overview of Year One and Term One Issues

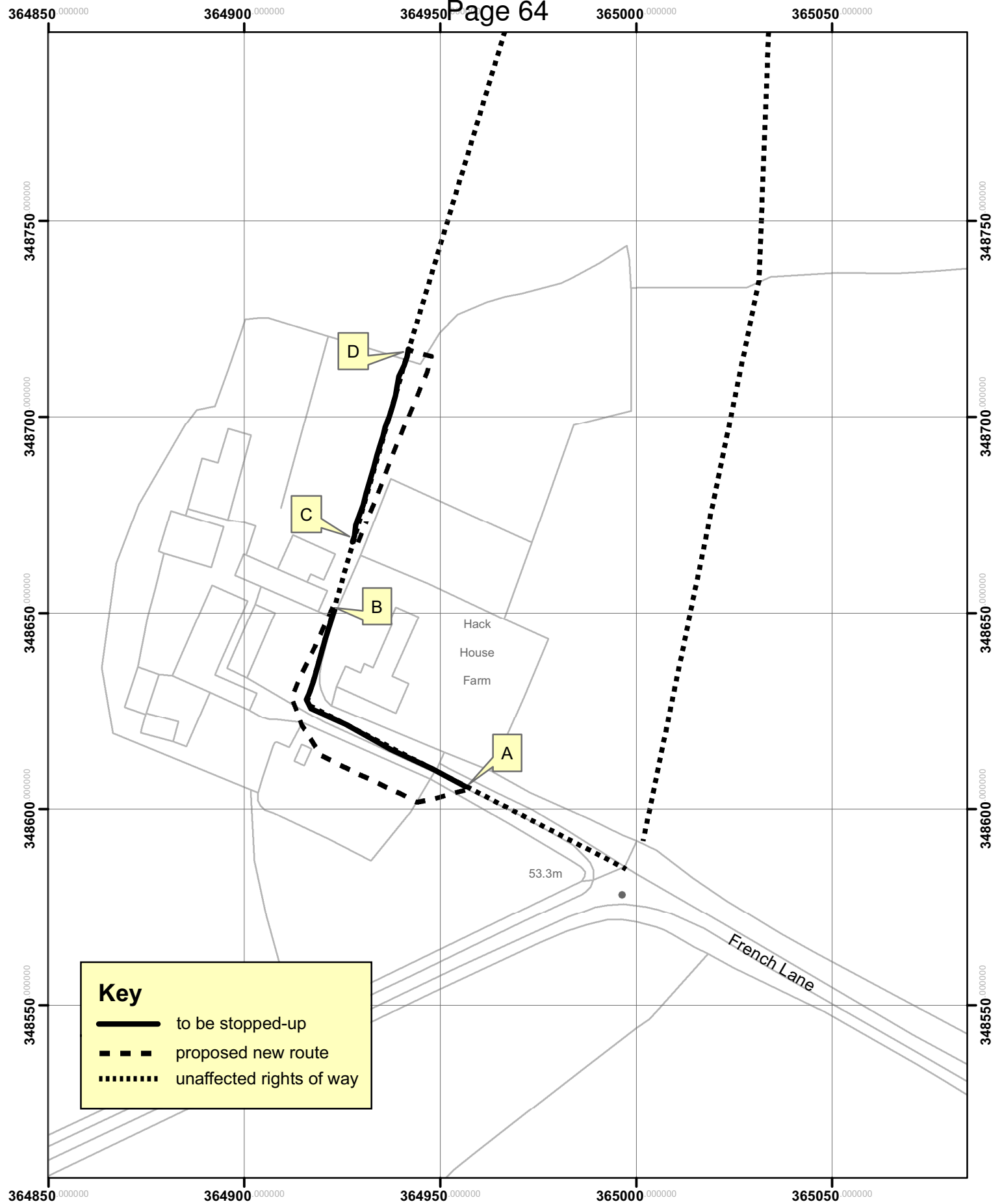
- 12.1 Not applicable.

13.0 Access to Information

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

Name: Hannah Flannery
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PROW File: 045D/399



1:1,250

Baddington FP8

Plan No. HA/015

This is a working copy of the definitive map and should not be used for legal purposes



CHESHIRE EAST COUNCIL

REPORT TO: RIGHTS OF WAY COMMITTEE

Date of meeting: 10 June 2010
Report of: Greenspaces Manager
Subject/Title: Highways Act 1980 – Section 119
Application for the Diversion of Public
Footpath No. 8 (Parts) Parish of Baddington

1.0 Report Summary

- 1.1 The report outlines the investigation of an application to divert part of Public Footpath No. 8 in the Parish of Baddington. 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. 8, by creating a new section of public footpath and extinguishing the old part, as illustrated on Plan No. HA/015 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 to the Order 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 landowners 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 as enjoyable as the existing route. The new route is not 'substantially less convenient' than the existing route and diverting the footpath will be of benefit to the landowners, particularly in terms of current and future land use. It is therefore considered that the proposed route will be as satisfactory as 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 Stan Davies

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 Section 119(1) of the Highways Act 1980 allows the council to make a public path diversion order as detailed within the body of this Report. The Order effectively creates a new way and extinguishes the old. Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the council's power to confirm the order itself, which may lead to a hearing/an inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

10.0 Risk Management

10.1 Not applicable.

11.0 Background and Options

11.1 An application has been received from Messrs Williamson via their agents Hibberts LLP Nantwich ('the Applicant') requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.8 in the Parish of Baddington.

11.2 Public Footpath No. 8 Baddington commences at its junction with French Lane at O.S. grid reference SJ 6499 4858 and runs in a generally north westerly direction along the farm drive to O.S. grid reference SJ 6491 4862 where it takes a 90 degree turn and continues in a north-easterly direction, past the farm buildings, and exits the applicant's property at OS grid reference SJ 6494 487. The sections of path to be diverted are shown by a solid black line on Plan No. HA/015 running between points A-B and C-D. The proposed diversions are illustrated with black dashed lines on the same plan, running between points A-B and C-D.

11.3 The Applicant owns the land over which the current path and the proposed alternative routes 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 footpaths.

- 11.4 The first section of the current line of Public Footpath No. 8 Baddington to be diverted (A-B) runs in a north westerly direction across land which is currently used as a driveway, but which the applicant intends to turn back into garden, by realigning the driveway to the property. The applicant has received planning permission for the driveway alteration (reference P09/0004). The proposed new route for the footpath follows the realigned driveway.
- 11.5 The second section of Footpath No. 8 to be diverted (C-D) takes a slight diagonal line across the length of a paddock; this is undesirable in terms of land management and is problematic from the point of view of the applicant's wish to possibly extend gardens along the length of part or all of the paddock, from the farm buildings which may be converted into dwellings at a future date.
- 11.6 The proposed new route of this section of the path (C-D) takes a straight line along a wide, grass track to the edge of the applicant's property. It would exit into the adjacent field at a new point (D) where the applicant will install a new kissing gate. This would be more accessible for users than the current arrangement on the existing line of the path, which enters the field via a field-gate.
- 11.7 The local Councillors have been consulted about the proposal, no objections have been received.
- 11.8 Sound and District Parish Council have been consulted and no objection has been received.
- 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 has responded to state that it has no objection the proposal, as has the Mid-Cheshire Footpath Society.
- 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 a slight improvement on the old route.

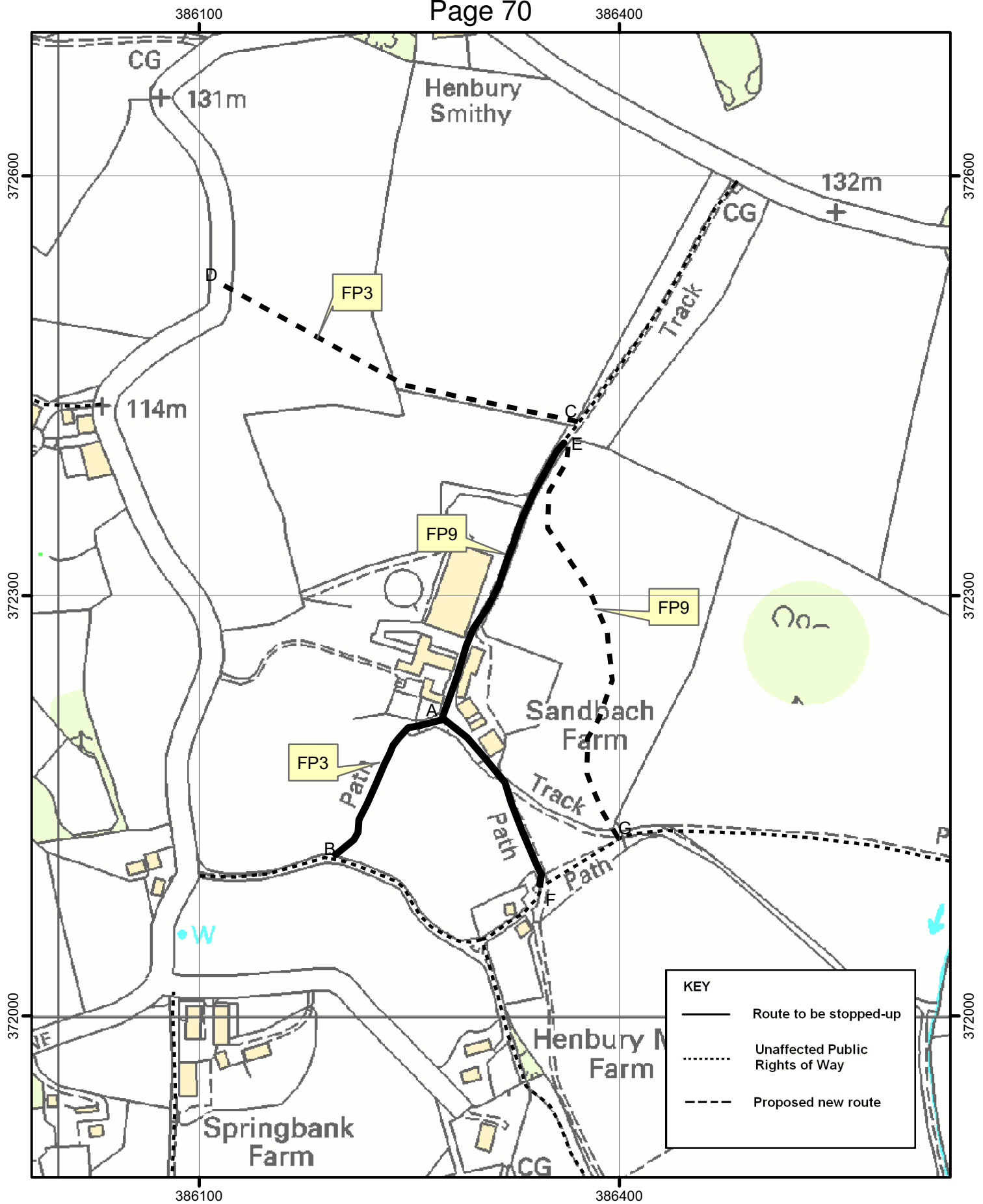
12.0 Overview of Year One and Term One Issues

- 12.1 Not applicable.

13.0 Access to Information

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

Name: Amy Rushton
Designation: Public Rights of Way Manager
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PROW File: 037D/398



Proposed Diversion of Public Footpaths
Henbury Nos. 3 and 9 (Part)

Plan No.
HA/017

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Cheshire East Council. 100049045 2010.

CHESHIRE EAST COUNCIL

REPORT TO: RIGHTS OF WAY COMMITTEE

Date of meeting: 10 June 2010
Report of: Greenspaces Manager
Subject/Title: Highways Act 1980 – Section 119
Application for the Diversion Of Public
Footpath Nos. 3 and No. 9 (Part) Parish of Henbury

1.0 Report Summary

- 1.1 The report outlines the investigation of an application to divert Public Footpath No. 3 and part of Public Footpath No. 9 in the Parish of Henbury. 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 footpaths.

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 Public Footpath No. 3 and part of Public Footpath No. 9 Henbury, by creating new sections of public footpath and extinguishing the old parts, as illustrated on Plan No. HA/017 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 landowners for the reasons set out in paragraphs 11.6 and 11.8 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 footpaths will be more enjoyable than the existing routes, providing much improved open views of the Cheshire countryside. The new routes are not 'substantially less convenient' than the existing routes and diverting the footpaths will be of huge benefit to the landowner, particularly in terms of security and privacy and also in terms of farm management. It is therefore considered that the proposed routes will be more satisfactory than the current routes and that the legal tests for the making and confirming of a diversion order are satisfied.

4.0 Wards Affected

4.1 Alderley

5.0 Local Ward Members

5.1 Councillor Carolyn Andrew, Councillor Liz Gilliland and Councillor Frank Keegan.

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 Section 119(1) of the Highways Act 1980 allows the council to make a public path diversion order as detailed within the body of this Report. The Order effectively creates a new way and extinguishes the old. Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the council's power to confirm the order itself, which may lead to a hearing/an inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

10.0 Risk Management

10.1 Not applicable.

11.0 Background and Options

11.1 An application has been received from Mr Simon Taylor of Henbury House, Pexhill Road, Henbury, Macclesfield, SK11 9PY ('the Applicant') requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert Public Footpath No. 3 and part of Public Footpath No. 9 in the Parish of Henbury.

11.2 Public Footpath No. 3 Henbury commences at its junction with Public Footpath No. 9 Henbury at Sandbach Farm, at O.S. grid reference SJ 8627 72210 and runs in a generally south westerly direction to join Public Footpath No. 1 Henbury at O.S. grid reference SJ 8619 72211. The section of path to be diverted is shown by a solid black line on Plan No. HA/017 running between points A-B. The proposed diversion is illustrated with a black dashed line on the same plan, running between points C-D.

11.3 Public Footpath No. 9 Henbury commences at its junction with School Land (C410) at O.S. grid reference SJ 8648 7259 and runs in a generally south westerly and then south easterly direction to join Public Footpath No. 1 Henbury at O.S. grid reference SJ 8634 7209. The section of path to be diverted is shown by a solid black line on Plan No. HA/017 running between points E-F. The proposed diversion is

illustrated with a black dashed line on the same plan, running between points E-G.

- 11.4 The Applicant owns the land over which the current paths and the proposed alternative routes 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 footpaths.
- 11.5 Public Footpath No. 3 Henbury (A-B) runs in a south westerly direction from Sandbach Farm to Public Footpath No. 1 Henbury. If a diversion order for Public Footpath No. 9 Henbury is made and is successful this would result in Footpath No. 3 becoming a cul de sac route. This is very undesirable in terms of the public rights of way network. It is therefore proposed to divert Footpath No. 3 concurrently with Footpath No. 9.
- 11.6 The proposed route for Footpath No. 3 would run in a north westerly direction across open pasture, north of Sandbach Farm, creating an extremely useful link between Footpath No. 9 and Footpath No. 5 (Lingards Farm), where none has existed before. It would exit the field approximately 120 metres north of Lingards Farm on Fanshawe Lane. Leaving the field at this point avoids users having to traverse a steep bank down onto Fanshawe Lane. Presently, the nearest footpath link to Footpath No. 5 is Footpath No. 1 (near Fanshawe Cottage), which is approximately 370 metres south of Lingards Farm. If a diversion order is made and is successful the distance that users have to walk along Fanshawe Lane would be significantly reduced.
- 11.7 The existing section of Public Footpath No. 9 Henbury to be diverted (E-F) follows the driveway to Sandbach Farm, passing through the farmyard, very close to the house and then across the field to Henbury Moss. Planning permission has recently been granted (application no. 08/1005P) to redevelop Sandbach Farm. Sandbach farm will be reconstructed, together with a new pond and equestrian facilities. The line of the existing footpath will pass through the garden and pond of the new property and very close to the equestrian facilities, where the breeding and training of horses will take place.
- 11.8 The proposed route for Public Footpath No. 9 Henbury (E-G) would leave the driveway north of Sandbach Farm, running in a generally south easterly direction across a field to join Public Footpath No. Henbury. It crosses slightly higher ground than the existing route and provides much improved open views of the Cheshire countryside. It will run adjacent to a new landscaped area of woodland to the east of Sandbach Farm, also providing pleasant woodland views for walkers. Moving the footpaths away from the house and yard would allow the applicant to significantly improve the privacy and security of his property. It would also be of benefit in terms of farm management and

in addition, avoid any conflict or risk of accidents between members of the public and the horses.

- 11.9 The local Councillors have been consulted about the proposal, no objections have been received.
- 11.10 Henbury Parish Council have been consulted and have responded to state that “the minor change in route at the Lingard’s farm end is an improvement, and we support the proposal with enthusiasm”.
- 11.11 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.
- 11.12 The user groups have been consulted. The Peak and Northern Footpaths Society have responded to state that they have no objection the proposals.
- 11.13 The Council’s Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 11.14 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 diversions are an improvement on the old routes.

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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CHESHIRE EAST COUNCIL

REPORT TO: PUBLIC RIGHTS OF WAY COMMITTEE

Date of Meeting: 10 June 2010
Report of: Green Spaces Manager
Subject/Title: Highways Act 1980 Section 25 & Section 26
Proposal to Enter a Creation Agreement and to Make a
Creation Order for a Bridleway; Public Footpath No. 6
Parish of Eaton

1.0 Report Summary

- 1.1 The report outlines a previous agreement reached with the landowner of a development site off Malhamdale Road, Eaton and Cheshire County Council, to create a bridleway over an existing public footpath, Eaton no. 6, in 2004. This agreement was never concluded. The current proposal is to enter into a new agreement on the same basis as the previous one and to seek Committee approval to do so. Approval is also sought to make a creation order for a short section of the path for which no landowner has been identified.

2.0 Recommendations

- 2.1 That a creation agreement be entered into under Section 25 of the Highways Act 1980 to create a new public bridleway over public footpath no. 6 in the Parish of Eaton (as shown A-B-C on plan C011A at Appendix 1) and that public notice be given of this agreement.
- 2.2 That a Creation Order be made under Section 26 of the Highways Act 1980 to create a bridleway for an adjoining section of public footpath no. 6 (between point A and BOAT 8 on plan C011A at Appendix 1) on the grounds that there is a need and it is expedient that the path should be created.
- 2.3 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.
- 2.4 In the event of objections to the Creation Order being received and not resolved, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

3.0 Reasons for Recommendation

- 3.1 In accordance with Section 25 of the Highways Act 1980, the Borough Council has the power to enter into an agreement with any person/landholding body having the capacity to dedicate a public right of way.

They also have the power to make a creation order where it appears there is a need for a public right of way over land in their area.

- 3.2 As can be seen from the previous report, there was originally a bridleway in this area that was closed to allow development in the 1960's; FP no. 6 was created as an alternative. The requirement for a horse route has been demonstrated by the application to upgrade the path and acknowledged by the County Council's Rights of Way Committee in 2004 by approving the making of a creation agreement and order.

4.0 Wards Affected

- 4.1 Alderley

5.0 Local Ward Members

- 5.1 Councillor Carolyn Andrews, Councillor Liz Gilliland and Councillor Frank Keegan.

6.0 Financial Implications

- 6.1 There may be a claim for compensation for loss caused by a public path creation order if it is shown that the value of an interest of a person in the land is depreciated. The area of land concerned in this case is currently a public footpath, enclosed between boundaries and with a width of 2 – 2.5 metres. It has no other productive use and is unregistered; therefore it is felt to be unlikely that a compensation claim of any significance would be forthcoming.

7.0 Legal Implications

- 7.1 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 right of way. The path will become a public bridleway and maintainable at the public expense on a specific date as stated in the agreement.
- 7.2 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. .
- 7.3 Under Section 25 of the Highways Act 1980, there is no statutory right for objection to the proposal.
- 7.4 Section 26 of the Highways Act 1980 gives the local authority the power to create footpaths or bridleways by order, imposing the path on the landowner. Before making the order, in addition to the duty referred to in paragraph 4.2 above, the Committee must be satisfied that it is expedient that the bridleway should be created after having regard
- 7.4.1 to the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and

- 7.4.2 the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation.

- 7.5 Compensation is payable in respect of an Order if a claim shows that the value of a person's interest in the land is depreciated or that the person has suffered damage by being disturbed in his enjoyment of the land, as a consequence of the order. The compensation payable by the council is equal to the amount of the depreciation or damage.
- 7.6 Once the order has been proposed, should any objections be received, if not withdrawn, it could lead to a public inquiry or hearing with attendant legal involvement and use of resources. If no objections are received, the local authority can confirm the order. In considering the confirmation of the order it must have regard to any material provision of the Rights of Way Improvement Plan.

8.0 Risk Assessment

- 8.1 Not applicable

9.0 Background and Options

- 9.1 Members will see from the previous Committee Report and Minutes appended (Appendices 1 and 2 respectively) that a creation agreement was originally pursued and approved following the investigation into a claim for a bridleway. The land changed hands and through negotiations with the developers of the site (Fairclough Homes), the creation of a bridleway was agreed. A formal agreement was drawn up and signed and sealed by the developers but was never signed and subsequently advertised by the County Council. The path was made up to a bridleway standard on the ground by the developers and has been used and accepted by horseriders for the past 5 years.
- 9.2 A short section of the public footpath fell outside the ownership of Fairclough Homes and a Land Registry search revealed it to be unregistered. This is a section approximately 15 metres in length and linking to Byway Open to All Traffic no. 8 (Havannah Lane).

10 Access to Information

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

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MEETING : RIGHTS OF WAY COMMITTEE
DATE : 29 MARCH 2004

REPORT OF : JULIAN PELLATT, COUNTY RURAL AND RECREATION OFFICER

Contact : Clare Hibbert, Public Rights of Way Officer
Officer (Tel No: Chester (01244) 606784)
E-mail: clare.hibbert@cheshire.gov.uk

HIGHWAYS ACT 1980: SECTION 25
DEDICATION OF PUBLIC BRIDLEWAY NO.6, IN THE PARISH OF EATON,
MACCLESFIELD

INTRODUCTION

1. An agreement has been reached with Fairclough Homes, a residential development company whose northwest base is in Sale, Cheshire, to dedicate a public bridleway over existing footpath no.6 in Eaton in the Borough of Macclesfield. The route to be dedicated is shown as a black dashed line between points A and B and will run along a new estate road between points B and C on the attached plan no. C/011A.

BACKGROUND

2. An application was received in 1994 from Mrs P.Amies on behalf of the Border Bridleways Association for a modification order to upgrade public footpath no. 6 Eaton to a bridleway. The application was based on user evidence. The then landowner, Mr. Harper, indicated that he would object to the application.

3. Footpath no. 6 was created by a Town & Country Planning Act diversion made by the Minister of Transport in 1968 which stopped up an existing bridleway to allow for residential development and provided this length of public footpath. The bridleway had formed part of the original Havannah Lane, the continuation of which was evidently used by the public but had no recorded status.

3. Footpath no.6 now links with Havannah Lane. An order to record Havannah Lane as a Byway Open to all Traffic was confirmed at Public Inquiry in 2002.

4. This now meant that the application for the bridleway claim could be considered in light of it linking to a byway. Negotiations were undertaken with Mr. Harper, who was intending to sell the site with planning permission, to investigate whether he would be prepared to dedicate the path as a bridleway rather than go through the modification application process which might delay any approved development. At that time Mr. Harper was reluctant to enter this process as he felt it might reduce the value of the site. The planning application for the site was refused and Mr. Harper then sold the land to Fairclough Homes.

5. Fairclough Homes have agreed to dedicate the footpath as a bridleway and they included this proposal in their recent planning application which was approved in late January this year. The bridleway will form part of the new estate road for half of its length between points C and B, on the attached plan C/011A, and then will run along a 3 metre wide path between points B and A.

6. A section of the footpath between point A and Byway Open to All Traffic no.8 does not belong to Fairclough Homes and a Land Registry search has shown that the land is not registered. This section would need to be the subject of a further creation agreement, if the landowner can be identified or if not, a creation order would be necessary.

7. The applicant for the modification order is satisfied with the proposal and has indicated her willingness to withdraw this application on the satisfactory completion of the creation of a bridleway to link with Byway no.8

CONCLUSION

8. Section 25 of the Highways Act 1980 provides that a local authority can enter into an agreement with a landowner to create a footpath or bridleway over their land. Where such an agreement is entered into, the local authority has a duty to secure the dedication of the route in accordance with the agreement. The dedication of this bridleway is in the interests of the public as it will provide a useful link for cyclists and horse riders to Byway no. 8 and replace the original bridleway that was closed in 1968. This proposal would also supersede the modification application and lead to it being withdrawn.

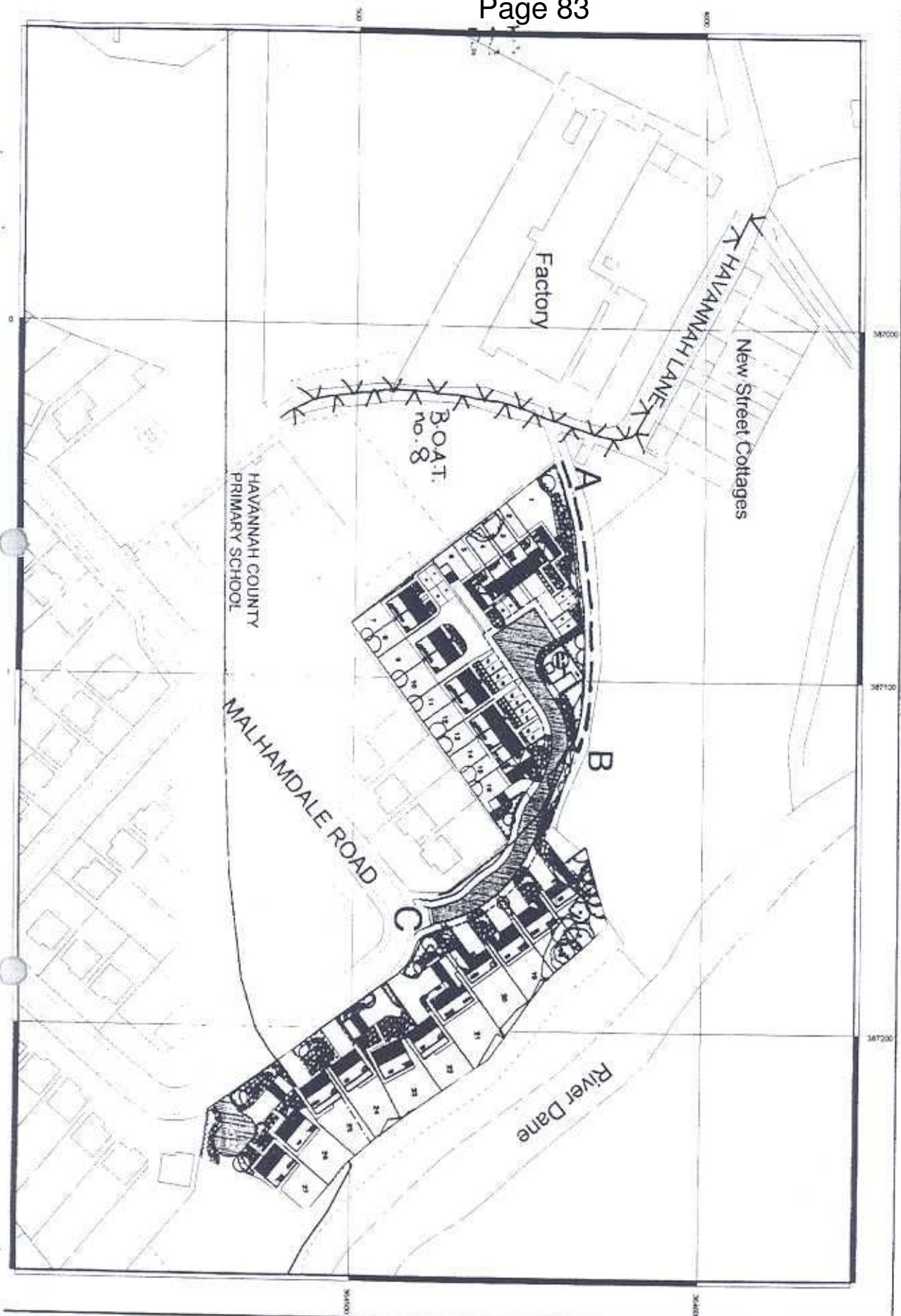
RECOMMENDED: That

(1) approval be given to the making of a public path creation agreement in accordance with the provisions of Section 25 of the Highways Act 1980 for the dedication of Public Bridleway no. 6 Eaton as shown on the plan C/011A, subject to the path being in a condition satisfactory to the County Council prior to the agreement being concluded.

(2) approval be given to a public path creation agreement/order being sought with landowner/s at present unknown, to connect Bridleway no.8, to be created in (1) to Byway no.8

Local Member	<i>Cllr Marc Asquith</i>
Background Documents	PROW file no.5/180
Available for Inspection at	PROW Unit, Goldsmith House, Hamilton Place, Chester

HIGHWAYS ACT 1980 S.25
AGREEMENT FOR THE DEDICATION OF A PUBLIC BRIDLEWAY IN THE PARISH OF EATON,
BOROUGH OF CONGLETON



KEY

Bridleway to be dedicated

Parish & borough
boundary

Scale
1:1500

Plan No.
C/011A

March 2004

Grid References
of path:

387162 364517

This is an extract from a working copy of the Definitive Map and should not be used for legal purposes

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100019582/2004



CHESHIRE
COUNTY COUNCIL

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**28 WILDLIFE AND COUNTRYSIDE ACT 1981 - PART 111, SECTION 53:
MODIFICATION OF THE DEFINITIVE MAP AND STATEMENT FOR THE
BOROUGH OF MACCLESFIELD: SCHEDULE 14 APPLICATION No. 5/190:
ADDITION OF PUBLIC FOOTPATH BETWEEN HAWTHORN STREET AND
LINDFIELD ESTATE SOUTH, WILMSLOW**

An application had been made in 1997 by Mr E Dyer of 87 Lindfield Estate South, Wilmslow to modify the Definitive Map and Statement for the Borough of Macclesfield by adding a footpath between Lindfield Estate South and Hawthorn Street, Wilmslow. The application was based on user evidence of a period in excess of twenty years. Use of the route had been challenged by Macclesfield Borough Council, who as the landowners had erected gates at the entrance to Lindfield Estate South.

A consultation letter had been sent to Macclesfield Borough Council, who had responded with information relating to the site and stated that they would object to the route becoming a public right of way. Wilmslow South Residents Association had also been consulted and the Chairman had responded stating their support for the application and the importance of the route for local residents. User evidence had been collected from 15 witness statements, whose individual usage varied from 22 to 52 years and covered the period 1945 to 1997, when the gates were put up. Witnesses had stated that the gates had been locked for only one day in 1997 and had been continuously open since. The user evidence covers the twenty year period as required under Section 31 of the Highways Act 1980.

RESOLVED: That

- (1) an Order be made under Section 53 (3)(b) of the Wildlife & Countryside Act 1981 to modify the Definitive Map and Statement to show the route between Hawthorn Street and Lindfield Estate South, A - B as shown on the plan MO/504, as a Public Footpath; and
- (2) public notice of the making of the Order be given, and in the event of there being no objections within the specified period, or any objections received being withdrawn, the Order be confirmed in exercise of the power conferred on the County Council by the said Act.

**29 HIGHWAYS ACT 1980: SECTION 25
DEDICATION OF PUBLIC BRIDLEWAY No. 6, IN THE PARISH OF EATON,
MACCLESFIELD**

Members were informed that an agreement had been reached with Fairclough Homes to dedicate a public bridleway over existing footpath No 6 in Eaton.

Footpath No 6 had been created by a Town and Country Planning Act diversion made by the Minister of Transport in 1968, which stopped up an existing bridleway to allow for residential development and provided the present footpath. Footpath No 6 now linked to Havannah Lane. An order to record Havannah Lane as a Byway Open to All Traffic had been confirmed at a Public Inquiry in 2002.

Fairclough Homes had included the proposal for the bridleway in their planning application, which had been approved in January 2004. Part of the bridleway would run along part of the new estate road.

The section of the Footpath, between point A and the Byway Open to All Traffic No 8, as shown on plan C/011a, did not belong to Fairclough Homes and a Land Registry search had shown that the land was not registered. This section would need to be subject to a further creation agreement/order.

RESOLVED: That

- (1) approval be given to the making of a public path creation agreement in accordance with the provisions of Section 25 of the Highways Act 1980 for the dedication of Public Bridleway No 6 Eaton as shown on the plan C/011A, subject to the path being in a condition satisfactory to the County Council prior to the agreement being concluded; and
- (2) approval be given to a path creation agreement/order being sought with landowner/s at present unknown, to connect Bridleway No 6, to be created in (1) to Byway No 8.

**30 HIGHWAYS ACT 1980: SECTION 118
APPLICATION FOR THE EXTINGUISHMENT OF PUBLIC FOOTPATH No
10 (PART) PARISH OF WARMINGHAM, BOROUGH OF CREWE AND
NANTWICH
HIGHWAYS ACT 1980: SECTION 119
APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH No 14
(PART), PARISH OF WARMINGHAM, BOROUGH OF CREWE AND
NANTWICH**

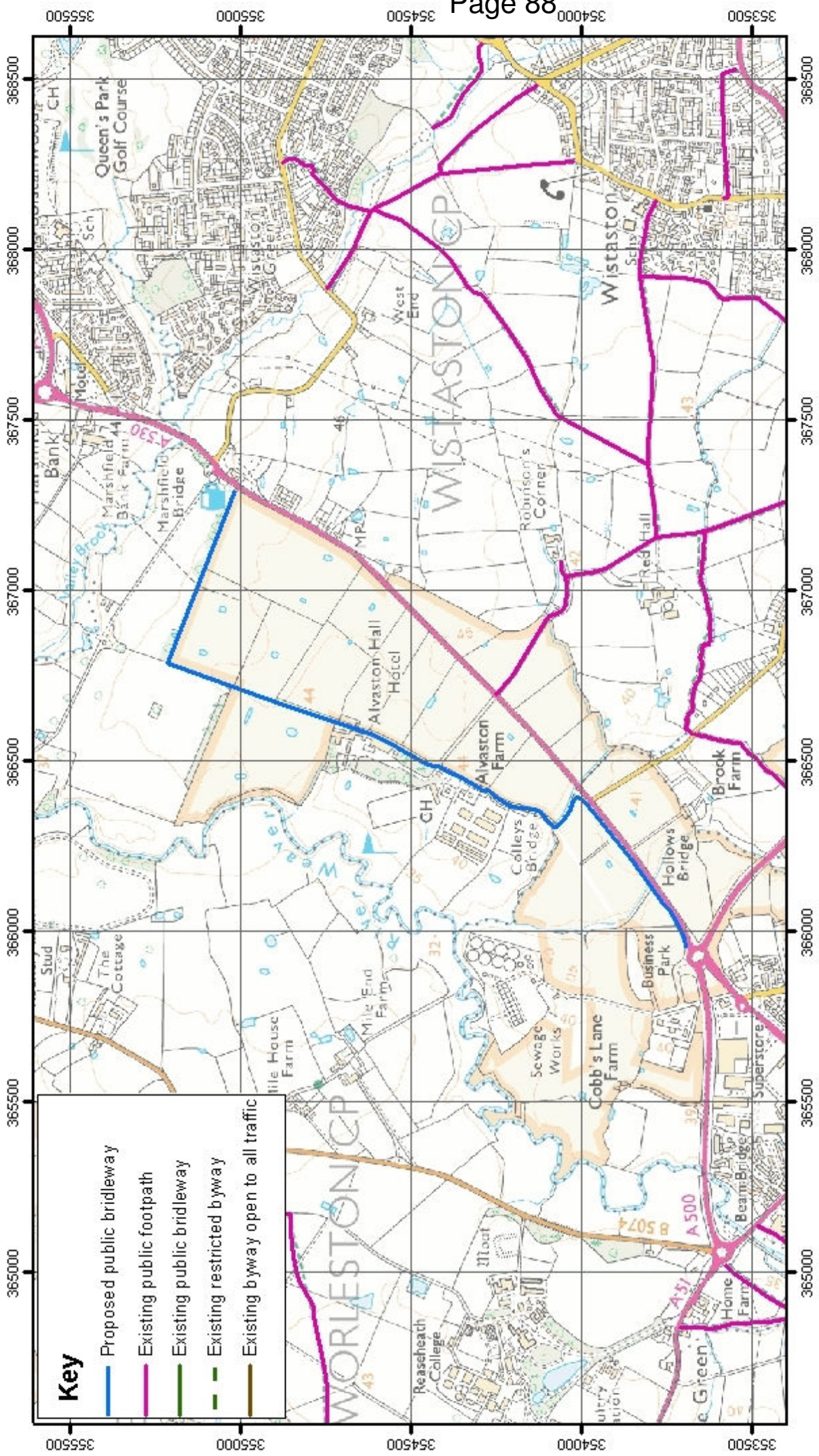
An application had been made by Mr C Woodward of Bottoms Farm, Warmingham Road, Warmingham for Orders under Section 118 and 119 of the Highways Act 1980 to extinguish part of Public Footpath No 10 and divert part of Public Footpath No 14 in the Parish of Warmingham, as shown on plan SD/484.

Members had approved the diversion of these footpaths at its meeting on 14 July 2003 but because of the position of the footpaths it had been found to be technically very difficult to produce a sensibly drafted order to divert both footpaths. The new application was to divert part of Footpath 14 and to extinguish part of Footpath No 10.

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 SD/484, on the grounds that it is expedient in the interests of the owner of the land crossed by the path;
- (2) an Order be made under Section 118 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to extinguish part of Public Footpath No 10 Warmingham as illustrated on Plan No SD/484,

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This is a working copy of the definitive map and should not be used for legal purposes.

Plan No.
13.01.10

Highways Act 1980 S25 Proposed Creation Agreement
Public Bridleway in the Town of Nantwich and Parish of Wistaston



1:15,000

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CHESHIRE EAST COUNCIL

REPORT TO: PUBLIC RIGHTS OF WAY COMMITTEE

Date of Meeting: 10 June 2010
Report of: Green Spaces Manager
Subject/Title: Highways Act 1980 – Section 25
Creation Agreement for a New Public Bridleway in
the Parishes of Nantwich and Wistaston

1.0 Report Summary

- 1.1 The Connect2 Crewe to Nantwich Greenway project proposes to create an off-road cycle route between the two towns. It is proposed that the Council enter into creation agreements with the landowner(s) who has agreed to dedicate part of this route as a public bridleway so that pedestrians, cyclists and horseriders may use the route.

2.0 Recommendations

- 2.1 That creation agreement(s) under Section 25 of the Highways Act 1980 be entered into with the appropriate person(s) with capacity to dedicate to create a new public bridleway in the Parishes of Nantwich and Wistaston, as illustrated on Plan No. 13.01.10, and that public notice be given of these agreement(s).

3.0 Reasons for Recommendations

- 3.1 The landowner has agreed to dedicate the proposed route as a public bridleway as part of the Connect2 Crewe to Nantwich Greenway project.
- 3.2 Consultation undertaken for the statutory Rights of Way Improvement Plan of the former Cheshire County Council identified the need for an increase in the number of bridleways available for local people to use. This need has arisen due to the lack of bridleways in the Borough and the high traffic volume and speed on rural roads on which users have to ride.

4.0 Wards Affected

- 4.1 Nantwich and Rope Ward.

5.0 Local Ward Members

- 5.1 Councillor Brian Dykes, Councillor Andrew Martin, Councillor Arthur Moran, Councillor Brian Silvester, Councillor Margaret Simon and Councillor Ray Westwood.

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

- 6.1 The development of active travel options for travel between Crewe and Nantwich will also contribute to Local Area Agreement indicators concerning air quality and CO₂ emissions.
- 6.2 The development of new walking, cycling and horseriding 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 2010/11 and Beyond (Authorised by the Borough Treasurer)

- 8.1 All funding for the project is being sourced from external grants and planning gain. Maintenance for the proposed route will be undertaken by Highways.

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 right of way. The path will become a public bridleway and maintainable at the public expense on a specific date as stated in the agreement.
- 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, part of the route is on an existing track, with the route alignment and necessary works being agreed with the landowner.
- 9.3 Under Section 25 of the Highways Act 1980, there is no statutory right for objection to the proposal.

- 9.4 Planning permission for this element of the Connect2 Crewe to Nantwich Greenway project is being sought by Highways. This is due to the considerable length of the route and the fact that the route will, once legally established, be surfaced with bitumen tarmacadam.

10.0 Risk Management

- 10.1 No risks are foreseen.

11.0 Background and Options

- 11.1 The proposed route runs from OS grid reference SJ 6594 5367 off the A51 (known as the Sainsbury's roundabout) in the Town of Nantwich and travels in a generally north-easterly direction for a distance of approximately 2.5 km to its junction with the A530 Middlewich Road by Wistaston Green Road (known as the Rising Sun junction) in the Parish of Wistaston, at OS grid reference SJ 6729 5501, as shown in Plan No. 13.01.10 (showing the indicative route subject to final negotiations with the landowner).
- 11.2 The route will be established to Sustrans' Connect2 Greenway Design Guide standards for multi-user routes: this includes a tarmac surface of 2.5 - 3 metres width for cyclists and pedestrians and a verge for equestrian use of 2.5 metres width. Part of the route runs along existing tracks which will be upgraded to this standard.
- 11.3 The Connect2 Crewe to Nantwich Greenway project is being funded by external grants secured from a range of sources including Sustrans Connect2, North West Development Agency, Department for Transport Links to School, Waste Recycling Environmental and planning gain. The project, including the proposed public bridleway element, has the support of the above bodies.
- 11.4 The proposed bridleway element forms the central spine of the Connect2 project. Works have already been undertaken, or are in progress, on the project in Nantwich (a new bridge over the River Weaver and cycle route links from Welsh Row) and in Crewe (cycle route links from Queens Park to Wistaston Green Road via King George V playing fields and Valley Brook public open space areas).
- 11.5 The landowner is in full support of the proposed creation agreements.
- 11.6 Nantwich Town Council, Wistaston Parish Council and the local Members have been consulted; no responses have been received.
- 11.7 A stakeholder group has been established. A number of events have been held to promote the Connect2 project: a public consultation event was held at the Nantwich Festival in October 2009 at which a

questionnaire survey returned 99% of respondents in support of the project. Further engagement is planned during 2010.

- 11.8 Three residential properties lie adjacent to the proposed route. Each has been contacted with responses from two having been received to date. The property owners are concerned about the proposal and wish to object given the proximity of the route to their properties. The residents state that the proposal would reduce the seclusion and privacy of their homes and devalue the properties. The residents suggested alternative options for the project including possible route amendments. These are being discussed with the landowner, their agent and their tenant with the aim of reaching a conclusion which is reasonably satisfactory to all parties.

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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