

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Public Rights of Way Committee**
held on Tuesday, 21st September, 2010 at Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor S Wilkinson (Chairman)
Councillor R Walker (Vice-Chairman)

Councillors Rhoda Bailey, D Cannon, R Cartlidge and S Davies

OFFICERS PRESENT

Mark Wheelton, Leisure Services and Greenspace Manager
Mike Taylor, Greenspace Manager
Amy Rushton, Public Rights of Way Manager
Genni Butler, Countryside Access Development Officer
Hannah Flannery, Definitive Map Officer
Clare Hibbert, Definitive Map Officer
Rachel Goddard, Solicitor
Rachel Graves, Democratic Services Officer

15 APOLOGIES FOR ABSENCE

No apologies were received.

16 DECLARATIONS OF INTEREST

Councillor D 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.

Councillors R Walker and S Davies both stated that they would not participate in the debate or voting for Item 5 – Application for the Diversion of Public Footpath No.2 in the Parish of Lea, as they were members of the Southern Planning Committee and did not wish to predetermine any related planning applications and would leave the meeting prior to consideration of this item.

Councillor Rhoda Bailey declared a personal interest in the meeting proceedings by virtue of her membership of CPRE. In accordance with the code of conduct, she remained in the meeting during consideration of all items of business.

17 MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting held on 10 June 2010 be approved as a correct record and signed by the Chairman.

18 PUBLIC SPEAKING TIME/OPEN SESSION

Grenham Ireland, representing the East Cheshire Group of the Ramblers' Association, addressed the Committee in relation to Item 6 – Proposed Extinguishment of Public Footpath No. 41 Parish of Sutton.

19 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 2 (PART) PARISH OF LEA

The Committee received a report which detailed an application from Hallettec Environmental, 52 Cheshire Street, Market Drayton, Shropshire on behalf of their client Anthony Construction Ltd (the applicant), requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 2 in the parish of Lea.

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 path and the proposed alternative route ran. The section of Public Footpath No. 2 Lea to be diverted had for some years been partially obstructed by the quarrying operations at Hough Mill Quarry. It also passed the derelict buildings of Lea Forge Farm which were unsightly and posed a potential hazard to the public. The applicant had applied for planning permission to extend the period allowed to restore the site which provided an opportunity to resolve these problems and to achieve a diversion which fitted in with the proposed restoration process for the site. On completion of the restoration process, the site would revert partly to agriculture and partly to habitat creation in accordance with the section 106 agreement.

The proposed new route would follow a semi-surfaced track for the majority of its length and would have a minimum recorded width of 2m throughout. It would be barrier-free save for one pedestrian gate beside the field gate at point C on the Plan No. HA/020, whereas the current route had a stile at point A and south of point C. The existing route also had a very steep bank which posed a problem for people with mobility difficulties and the proposed new route avoided this feature and was generally more accessible in terms of gradient and terrain.

The Committee noted that there were no objections to the proposal and considered that the proposed route would be as enjoyable as the existing route. The new route was not substantially less convenient than the existing route and diverting the footpath would be of benefit to the landowner, in terms of current and future land use, and of the public, in terms of accessibility. It was therefore considered that the proposed route would be as satisfactory as the current route and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 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. 2, as illustrated on Plan No. HA/020, on the grounds that it is expedient in the interests of the owner of the land crossed by the path and of the public.
- 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.
- 3 In the event of objections to the Order being received, the Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

(Note: Councillors S Davies and R Walker withdrew from the meeting prior to discussion and voting on this item)

20 HIGHWAYS ACT 1980 - SECTION 119: PROPOSED DIVERSION OF PUBLIC FOOTPATH NOS. 33 AND 34 (PARTS) PARISH OF GAWSWORTH; HIGHWAYS ACT 1980 - SECTION 118: PROPOSED EXTINGUISHMENT OF PUBLIC FOOTPATH NO. 41 PARISH OF SUTTON

The Committee received a report which detailed a proposal by the Public Rights of Way Team to resolve long standing problems with Public Footpaths Nos. 33 and 34 in the parish of Gawsworth by diverting parts of them, which would lead to the extinguishment the cul-de-sac path Public Footpath No. 41 in the parish of Sutton.

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.

In accordance with Section 118 of the Highways Act 1980 it was within the Council's discretion to make an Extinguishment Order if it appeared to the Council that it was expedient that the path or way should be stopped up on the grounds that it was not needed for public use.

The first section of Public Footpath No. 33 Gawsworth to be diverted commenced at its junction with Footpath No. 32 Gawsworth. The legal line of the path ran past the farm buildings at Rough Hey Farm and then ran along the eastern side of a canal feeder. As it progressed along the canal feeder, the route became steeper and narrower until eventually there was no discernable means of access on the east side of the feeder. Walkers tended to use the western side of the watercourse at this point as there was a track.

The second section of Public Footpath No. 33 Gawsworth to be diverted was located at the junctions with Public Footpath 34 Gawsworth and No. 41 Sutton. Here the definitive line crossed a weir via a precarious and narrow platform onto the weir bridge itself via a lifting handlebar. The definitive route then followed the narrow and uneven northern bank of the watercourse, before crossing sharply southwards and taking a straight line up a very steep, wooded bank.

The Public Rights of Way Team had secured the agreement of the landowners who owned the land over which the current and proposed alternative routes ran.

The proposed new route for Footpath No. 33 would follow an existing track to the west of the canal feeder for the majority of its length, which was already the preferred route for many walkers. It would be barrier-free except for a kissing gate to be installed beside a field gate, which would replace a stile.

The proposed new route for Footpath No. 34 would cross a new footbridge rather than utilising the weir and then take a line on a more level southern side of the water course. It would then tack up the slope in a gentler gradient. This route would be subject to works to level it and shore it up where needed.

The proposed diversion would leave the already cul-de-sac Footpath No. 41 Sutton with no connecting highway at its southern end and it was proposed that this footpath be extinguished on the grounds that it would not be needed for public use. The path served no purpose at present, crossed steep terrain and there was no realistic possibility of connecting it with another highway. The path was accessed by the precarious weir crossing on Footpath No. 33 and it was desirable that this be disposed of as part of the proposals.

The Committee noted that no objections had been received to the diversion of Public Footpath Nos. 33 and 34 Gawsworth. However, the Cheshire East Group of the Ramblers' Association had objected to the extinguishment of Public Footpath No. 41 Sutton on the grounds that it could be used as a cul-de-sac path if it were cleared and signed, and that there was always the possibility of some connection in the future, which would be lost if the path were extinguished. The Peak and Northern

Footpath Society had indicated that they reserve the right to object to the extinguishment order.

The Committee considered that the proposed diversions of Public Footpath No. 33 and 34 would be more enjoyable than the existing routes which were difficult to use by nature of the terrain. The new routes were not substantially less convenient than the existing routes and diverting the footpaths would be of benefit to the landowners, in terms of current and future use of the land, and of the public, in terms of accessibility. It was therefore considered that the proposed routes would be as satisfactory as the current routes and that the legal tests for the making and confirming of a diversion order were satisfied.

The Committee considered that Public Footpath No. 41 Sutton was not needed for public use as there would be no connecting footpath at its southern end. The path served no purpose at present and there was no realistic possibility of connecting it with another highway. It was considered that the legal tests for making and confirming of the extinguishment order were satisfied.

RESOLVED:

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert parts of Public Footpaths No. 33 and 34 Gawsorth, as illustrated on Plan No. HA/021, on the grounds that it is expedient in the interests of the owners of the land crossed by the path and of the public.
- 2 An Order be made under Section 118 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to extinguish Public Footpath No. 41 Sutton, as illustrated on Plan No. HA/021, on the grounds that it is not needed for public use.
- 3 Public notice of the making of the Orders be given and in the event of there being no objections to the Orders within the period specified, the Orders be confirmed in the exercise of powers conferred on the Council by the said Acts.
- 4 In the event of objections to the Orders being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

21 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO.13 SPURSTOW (PART) AND NO. 5 BRINDLEY (PART)

The Committee received a report which detailed an application from Thorn Construction Project Management on behalf of their client High Ash Farm Ltd (the applicant) requesting the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 13 in

the parish of Spurstow and part of Public Footpath No. 5 in the parish of Brindley.

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 public or of the owners, lessee or occupier of the land crossed by the paths.

The applicant owned the land over which the current path and the proposed alternative ran. The existing Public Footpath No. 13 Spurstow started at a point north west of High Ash Farm and ran in a generally south-easterly direction across pasture. At the parish boundary the path became Public Footpath No. 5 Brindley, and then passed through High Ash Farm where it was obstructed by a slurry lagoon and farm buildings.

The proposed new route began at the same point and takes a south-easterly line across pasture fields to join Footpath No. 13 Brindley. The path would have a natural/grass surface with a width of 2m and would be furnished with kissing gates at the three field boundaries it crossed.

The long standing obstruction to the existing route was inherited by the applicant when they purchased the property recently. The applicant had planning permission to develop the farm into a high intensity dairy facility and was keen to resolve the obstruction of the footpath at the same time as implementing their planning permission. The proposed new route for the footpath therefore took an alignment that would keep the public well clear of the development, which resolved the obstruction issue and yet still maintained a direct route to Footpath No. 13 Brindley.

The Committee noted that no objections had been received and considered that the proposed footpath would be as enjoyable as the existing route. The new route was not substantially less convenient than the existing route and diverting the footpath would be of benefit to the landowners, in terms of current and future land use, and of the public, in terms of accessibility. They therefore considered that the proposed route would be as satisfactory as the current route and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No. 13 in the parish of Spurstow and part of Public Footpath No. 5 in the parish of Brindley, as illustrated on Plan No. HA/022, 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 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.

- 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.

22 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 17 (PART) PARISH OF DODCOTT CUM WILKESLEY

The Committee received a report which detailed an application from Mr & Mrs C Sutton, Royals Green Farm (the applicant) via their Agents - Land Planning, requesting the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.17 in the parish of Dodcott cum Wilkesley.

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 public or of the owners, lessee or occupier of the land crossed by the paths.

The applicant owned the land over which the current path and the proposed diversion ran. The section of Public Footpath No. 17 to be diverted ran through a working farm yard where cattle were often corralled and fed, especially during the winter months. This created a hazardous environment for walkers to pass through as the ground was covered in slurry and the walker was in close confinement with large livestock. It was also a concern to the landowner that gates could be inadvertently left open. The landowner also had planning permission to convert the barns into residential dwellings and the footpath would run across the gardens and driveways of two of these units and would at that stage create a privacy and security concern for the occupants.

The proposed new route would leave the road just slightly south of the current path and cross open pasture to the south of the farm buildings and enclosed slurry pit, then curve gently east north easterly to rejoin the existing footpath on a track to the east of the farm. The path would have a recorded width of 2 metres throughout and would have two kissing gates – one at the road and another at a field boundary.

The Committee noted that no objections had been received to the proposal and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpath would be of benefit to the landowner, particularly in terms of current farm management and future development of the barns. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied

RESOLVED:

- 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. 17 Dodcott cum Wilkesley by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan No. HA/026, on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

23 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 16 PARISH OF LOWER WITHINGTON

The Committee received a report which detailed an application from Mr & Mrs G C Brooks of Lowndes Farm, Lower Withington, Macclesfield (the applicant) requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert Public Footpath No. 16 in the parish of Lower Withington.

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 public or of the owners, lessee or occupier of the land crossed by the paths.

The applicant owned part of the land over which the current and proposed route ran. Mr C R Kennerly, who owned the field to the west and east of Lowndes Farm over which part of the current path lay and proposed diversion would run, had provided written consent and supported the proposal.

The existing line of Public Footpath No. 16 Lower Withington passed directly alongside the windows of the main living room of Lowndes Farm, allowing walkers unrestricted views into the applicant's home.

The proposed route would enter the applicant's land approximately 50 metres south of the existing route. It would provide easier access for walker as the two stiles which users currently had to negotiate would be replaced by two kissing gates, paid for by the applicant. The new route would have a width of 2 metres, except where it was restricted by the kissing gates to 1.2 metres. Although the new route would be slightly longer than the existing route, diverting the route would benefit the

applicant in terms of privacy and security and walkers in terms of accessibility.

The Committee noted that no objections had been received to the proposal and considered that the new route was not be substantially less convenient than the existing route. Diverting the footpath would be of benefit to the landowner in terms of privacy and security. It would also benefit walkers in terms of accessibility. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 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. 16 Lower Withington by creating a new section of public footpath and extinguishing the current line, as illustrated on Plan No. HA/024, on the grounds that it is expedient in the interests of the owners of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of the 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.

24 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 70 (PART) PARISH OF CONGLETON

The Committee received a report which detailed a proposal to divert part of Public Footpath No. 70 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 public or of the owners, lessee or occupier of the land crossed by the paths

The existing line of Public Footpath No. 70 had been unavailable for many years, obstructed by mature hedges. Re-instating the footpath on the original alignment would be very expensive to the public purse as a bridge, six stiles or gates, plus steps down a steep bank to the canal towpath would be required.

The proposed route followed field boundaries in a westerly direction to the canal towpath, providing a scenic and picturesque route for walkers and

pleasant views of the countryside. The path would be 2 metres wide with three kissing gates as opposed to six, a bridge and steps on the original route thus improving accessibility for walkers.

Mr P Hudson owned the land over which the current route and proposed route would run and had provided written consent and support for the proposal.

The Committee noted that no objections had been received and considered that diverting the route onto the proposed path would create a more accessible footpath for users and would open up a route that had been unavailable for many years. It would also provide a scenic and picturesque route for walkers and lead to considerable savings for the public purse. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 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. 70 Congleton by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan No. HA/025, on the grounds that it is expedient in the interests of the public.
- 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.

25 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NOS. 14 AND 15 (PARTS) PARISH OF MOBBERLEY

The Committee received a report which detailed an application from Bilton Ward Developments Ltd on behalf of Mr & Mrs W Brown, Gleave House Farm, Pavement Lane, Mobberley, Knutsford (the applicant) requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath Nos. 14 and 15 (parts) in the parish of Mobberley.

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 public or of the owners, lessee or occupier of the land crossed by the paths.

The applicant owned the land over which the current paths and proposed alternative routes ran. The existing line of Public Footpath No. 14 ran straight through a working farmyard where heavy machinery was regularly used causing health and safety concerns for users. It also ran in very close proximity to the landowner's home, creating privacy and security concerns. The current definitive line was also obstructed by mature hedges and fences and had been unavailable for many years, before the existing landowner purchased the property, and a permissive route had been put in place.

The proposed route for Footpath No. 14 would leave the existing line north of Gleavehouse Farm, running in a south westerly direction across fields to connect with Gleavehouse Lane. It provided improved open views of the countryside and had a path width of 2 metres.

The existing line of Public Footpath No. 15 ran in a southerly direction from its junction with footpath No. 14 at Gleavehouse Farm, again through the working farmyard and in close proximity to the landowner's home, creating privacy and security concerns.

The proposed route for Footpath No. 15 would connect with the proposed diverted route of Footpath No. 14 at Gleavehouse Lane, running along the field boundaries in a south westerly and then south easterly direction to rejoin with the existing line of Footpath No. 15.

Neither of the proposed routes required any path furniture and therefore offered easily accessible routes for uses, and in addition the landowner had agreed to take on responsibility for the maintenance of the proposed routes, leading to savings for the authority's maintenance budget.

Since writing the report, an objection had been received from the Peak and Northern Footpaths Society, who had concerns that the proposed routes were longer than the existing routes and muddy in certain areas. Although the new routes were longer for walkers travelling in a northerly or southerly direction, for walkers travelling in an easterly or westerly direction the distance was considerably reduced due to the link that would be created at the end of Gleavehouse Lane. Additionally, Cheshire East Council could not confirm any Order before a new route was brought up to an acceptable standard and usable in all seasons. The Peak and Northern Footpath Society had subsequently withdrawn their objection.

The Committee noted that no objections had been received and considered that the proposed routes were not substantially less convenient than the existing routes. Diverting the footpaths would be of significant benefit to the landowner in terms of privacy and security and in terms of farm management. It would resolve the longstanding issue of the obstruction of footpath No. 14 and in addition, the proposal would create a useful link to the end of Gleavehouse Lane which was currently a cul-de-sac. There would also be an improvement to walkers in terms of safety. It

was therefore considered that the proposed routes would be satisfactory alternatives to the current ones and that the legal tests for making and confirming of a diversion order were satisfied.

RESOLVED:

- 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 Nos. 14 and 15 Mobberley by creating new sections of public footpaths and extinguishing the current paths, as illustrated on Plan No. HA/027, on the grounds that it is expedient in the interests of the owner of the land crossed by the paths.
- 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.

26 DRAFT CHESHIRE EAST RIGHTS OF WAY IMPROVEMENT PLAN STRATEGY 2011-2026

The Committee received a report on the Draft Cheshire East Rights of Way Improvement Plan (ROWIP) Strategy 2011-2026.

The current ROWIP covering Cheshire East expired in March 2011 and therefore a new ROWIP was required. It was 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. The Plan would be integrated into the Local Transport Plan 3.

The development of the ROWIP was 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.

The Portfolio Holder with responsibility for Health and Wellbeing would be asked to approve the draft document prior to public consultation as an integrated document of the Draft Cheshire East Local Transport Plan 2011-2026 Strategy.

RESOLVED:

That the Portfolio Holder for Health and Wellbeing be recommended to approve the document as the Draft Cheshire East Rights of Way Improvement Plan Strategy 2011-2026.

The meeting commenced at 2.00 pm and concluded at 2.55 pm

Councillor S Wilkinson (Chairman)