

# Public Rights of Way Committee

## Agenda

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| <b>Date:</b>  | <b>Thursday 17th March 2011</b>  |
| <b>Time:</b>  | <b>2.00 pm</b>   |
| <b>Venue:</b> | <b>Committee Suite 1,2 &amp; 3, Westfields, Middlewich Road,<br/>Sandbach CW11 1HZ</b> |

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

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

1. **Apologies for Absence**

2. **Declarations of Interest**

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

3. **Minutes of Previous meeting** (Pages 1 - 15)

To approve the minutes of the meeting held on 13 December 2010 as a correct record.

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

Members of the public may speak on a particular application after the Chairman has introduced the report, provided notice has been given in writing to Democratic Services by 12 Noon, one clear working day before the meeting. A total of 6 minutes is allocated for each application, with 3 minutes for objectors and 3 minutes for supporters. If more than one person wishes to speak as an objector or supporter, the time will be allocated accordingly or those wishing to speak may agree that one of their number shall speak for all.

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

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Also in accordance with Procedure Rule No. 35, a 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. Members of the public are not required to give notice of their intention to speak; however, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question should provide at least three clear working days' notice in writing, and should include the question with that notice. This will enable an informed answer to be given.

5. **Highways Act 1980 - Section 119: Application for the Diversion of Public Footpath No 52, Parish of Bollington and Nos 35 (part) and 48, Parish of Adlington** (Pages 16 - 21)

To consider the application for the diversion of Public Footpath No. 52 in the parish of Bollington and Nos 35 (part) and 48 in the parish of Adlington

6. **Highways Act 1980 - Section 119: Proposed Diversion of Public Footpath No. 32 (part), Parish of Wildboarclough and Public Footpath No. 23 (part), Parish of Sutton** (Pages 22 - 27)

To consider the application for the diversion of Public Footpath No. 32 (part) in the parish of Wildboarclough and Public Footpath No. 23 (part) in the parish of Sutton

7. **Highways Act 1980 - Section 119: Application for the Diversion of part of Public Footpath No. 8 in the Parish of Rainow** (Pages 28 - 33)

To consider the application for the diversion of Public Footpath No. 8 in the parish of Rainow

8. **Highways Act 1980 - Section 119 - Application for the Diversion of Public Footpath No 9 (part), Parish of Sutton** (Pages 34 - 39)

To consider the application for the diversion of Public Footpath No. 9 (part) in the parish of Sutton

9. **Highways Act 1980 - Section 119 - Proposed Diversion of Public Footpath no. 25 (part), Parish of Kettleshulme** (Pages 40 - 45)

To consider the application for the diversion of Public Footpath No.25 (part) in the parish of Kettleshulme

10. **Highways Act 1980 - Section 119 - Application for the Diversion of Public Footpath No 39 (part), Parish of Wincle** (Pages 46 - 51)

To consider the application for the diversion of Public Footpath No.39 (part) in the parish of Wincle

11. **Highways Act 1980 - Section 119: Application for the Diversion of parts of Public Footpath Nos 7, 8 and 26, Parish of Mottram St Andrew** (Pages 52 - 59)  
  
To consider the application for the diversion of parts of Public Footpath Nos 7, 8 and 26 in the parish of Mottram St Andrew
12. **Highways Act 1980 - Section 119: Application for the Diversion of Public Footpath no. 14 (part), Parish of Wildboarclough** (Pages 60 - 65)  
  
To consider the application for the diversion of Public Footpath No.14 (part) in the parish of Wildboarclough
13. **Highways Act 1980 -Section 119: Application for the Diversion of Public Footpath No 128 (part), Parish of Wilmslow** (Pages 66 - 70)  
  
To consider the application for the diversion of Public Footpath No.128 (part) in the parish of Wilmslow
14. **Cheshire East Rights of Way Improvement Plan 2011-2026: Notification of Implementation Plan 2011-2015** (Pages 71 - 94)  
  
To consider a report on the first 4 year implementation plan under the Cheshire East Rights of Way Improvement Plan (ROWIP) 2011-2026
15. **Public Inquiry to Determine Definitive Map Modification Order - Poynton with Worth Footpath Nos 92, 93 and 94** (Pages 95 - 98)  
  
To receive, for information, a report on the outcome of a recent public inquiry

**THERE ARE NO PART 2 ITEMS**

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Public Rights of Way Committee**  
held on Monday, 13th December, 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 J Cannon, W S Davies and J Wray

**OFFICERS PRESENT**

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

**27 APOLOGIES FOR ABSENCE**

Apologies were received from Councillor R Cartlidge.

**28 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.

Councillor Rhoda Bailey declared a personal interest in the meeting proceedings by virtue of her membership of CPRE and as the representative for Cheshire East Council on the Cheshire Local Access Forum. In accordance with the code of conduct, she remained in the meeting during consideration of all items of business.

**29 MINUTES OF PREVIOUS MEETING****RESOLVED:**

That the minutes of the meeting held on 21 September 2010 be approved as a correct record and signed by the Chairman.

**30 PUBLIC SPEAKING TIME/OPEN SESSION**

The Chairman announced that a number of members of the public had registered to speak and that he would take these when the relevant application on the agenda was considered.

**31 VILLAGE GREEN APPLICATION NO. 48 - GORSEY BANK FIELD, WILMSLOW**

The Committee received a report seeking a decision on how to proceed with village green application No.48 – Gorsey Bank Field, Wilmslow.

The Council was the registration authority for village greens and responsibility for this function was delegated to the Public Rights of Way Committee under the Council's Constitution.

An application had been submitted in March 2009 to Cheshire County Council by Mr C Stubbs on behalf of the Friends of Gorsey Field. The land involved was at the rear of Gorsey Bank Primary School, Wilmslow and was bounded to the north by 23 to 33 Alton Road and to the west by 1 to 7 Gorsey Road.

The application alleged that the land was a village green because it had been used as of right for lawful sports and pastimes for a period of at least 20 years by a significant number of inhabitants of a locality or a neighbourhood within a locality.

An objection had been submitted by Cheshire East Borough Council as landowner and by the Governing Body of the Gorsey Bank Primary School.

The Public Rights of Way Committee had adopted a procedure for determining village green applications on 7 December 2009. Option 4 of the procedure stated that an application validly made may be referred to an independent person to either to consider the application on the basis of written representations or to hold a non-statutory public inquiry and to provide a report to the Committee.

The Committee agreed that a non-statutory public inquiry should be held into the application as objections had been received, because there were substantial disputes as to fact, and because Cheshire East Council was the landowner.

**RESOLVED:**

- 1 That a non-statutory public inquiry be held into the application.
- 2 The Borough Solicitor be authorised to appoint an appropriately qualified independent person to conduct that Inquiry and provide

the Public Rights of Way Committee with a report and a recommendation.

**32 TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 257:  
APPLICATION FOR THE STOPPING UP OF PUBLIC FOOTPATH NO.7  
(PART), PARISH OF HIGH LEGH**

The Committee received a report which detailed an application from SP Energy Networks of SP Power Systems Ltd, 1 Atlantic Quay, Glasgow, requesting the Council to make an Order under section 257 of the Town and Country Planning Act 1990 to extinguish part of Public Footpath No. 7 in the parish of High Legh.

In accordance with Section 257 of the Town and Country Planning Act 1990, the Borough Council, as Planning Authority, can make an Order stopping up a footpath or part of a footpath if it was satisfied that the necessary to do so to enable development to be carried out in accordance with a planning permission that had been granted.

The section of footpath No.7 to be closed was within a wide belt of grass and scrub and encompassed an area of approximately 8 metres length by 4 metres wide. Due to the location of an electricity pole on the edge of this area, the support stays for the pole would run at an angle across half of the width of this belt of land. From consideration of historical ordnance survey maps and internal records it was clear that the full width of this area had been available for use as the footpath; therefore the closure of a 4 metre width to accommodate the stays would leave a further 4 metres for the footpath to continue to the side. The full width was available before and after this slight constriction. On average footpaths were required to be 2 metres in width if altered by a legal order.

High Legh Parish Council had been consulted and after a site visit had objected to the proposal on the grounds that the path would be effectively blocked by the pole stays. They were also concerned about the visual impact the poles would have on an otherwise uncluttered landscape.

Considerations of enjoyment and user suitability of the proposed diversion route are not considerations under the Town and Country Planning Act. The only test to be met is that the footpath diversion was necessary to enable development to be carried out.

The Committee considered that the proposed extinguishment was necessary in order to enable the installation of a new electricity pole and stays as part of a much larger scheme installing and renewing an overhead electricity line between Carrington and Lostock sub stations and that the legal tests for the making and confirming of an extinguishment order were satisfied.

**RESOLVED:**

- 1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to stop up part of Public Footpath No.7 High Legh as illustrated on Plan No.TCPA/005 on the grounds that the Borough Council is satisfied that it is necessary in order to enable 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.
- 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.

**33 TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 257: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO.55 (PART), PARISH OF MOBBERLEY**

The Committee considered a report which detailed an application from Drivers Jonas Deloitte (the agent) on behalf of Ollerton Leisure LLP (the applicant) requesting that the Council make an Order under section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.55 in the parish of Mobberley.

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 was satisfied that it was necessary to do so to enable development to be carried out in accordance with a planning permission that had been granted.

Mr Graham Stock of Drivers Jonas Deloitte, representing the applicant, spoke in support of the application.

Planning permission had been granted to the applicant on 24 June 2010 – Planning Permission Ref: 09/2857M. The details of the decision notice are for the expansion and improvement of the existing 9 hole golf course and facilities including the installation of the a new practice range.

Part of the current line of Public Footpath No.55 (Mobberley) lay directly on the site of the construction of part of the new practice range. The practice range would be enclosed by a 10m high wire netted fence and the existing footpath would be obstructed by the fence. Therefore the footpath diversion was required to provide public access around the new practice range. The length of the footpath proposed to be diverted was approximately 50 metres.



Objections to the proposed diversion had been received from Mobberley Parish Council and adjacent landowners on the grounds that the proposed diversion was not included originally as the indicative or proposed route in the planning application and as such it was a material departure/conflict from the proposed diversion at that time; the safety of walkers would be brought into jeopardy and tension caused between them and the golfers; and that connection footpaths and rural issues had not been fully considered.

It was not for the Planning Committee to determine the merits of a diversion proposal – this was the function of the Public Rights of Way Committee. Considerations of enjoyment and user suitability of the proposed diversion route were not considered under the Town and Country Planning Act. The only test to be met was that the footpath diversion was necessary to enable development to be carried out.

The Committee 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 were satisfied.

**RESOLVED:**

- 1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.55 Mobberley as illustrated on Plan No.TCPA/004 on the grounds that the Borough 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.
- 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.

**34 TOWN AND PLANNING ACT 1990 - SECTION 257: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO.7 (PART), PARISH OF WARMINGHAM**

The Committee considered a report which detailed an application from Mr DS Varey (the applicant) requesting the Council to make an Order under section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.7 in the parish of Warmingham.

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 was satisfied that it was necessary to do so to

enable development to be carried out in accordance with a planning permission that had been granted.

Planning permission had been granted to the applicant on 20 August 2010 – Planning Permission Ref: 10/2307N: Change of Use of Former Worm Bed Area to Storage of Caravans and other Leisure Vehicles. The consent was granted subject to various conditions, one of which was that Public Footpath No.7 should be diverted under a formal diversion order.

The footpath would be moved to the east of the current route down an existing track, providing an improved surface for walkers, and then through the yard to connect with the existing line of the footpath, south of The Old Hough. No path furniture would be required on the proposed route which would also provide a more accessible route for walkers who have to negotiate three stiles on the present route.

The Committee noted that no objections had been received. It was considered that the legal tests for making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 were satisfied.

**RESOLVED:**

- 1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.7 Warmingham as illustrated on Plan No.TCPA/003 on the grounds that the Borough 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.
- 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.

**35 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO.20 (PART), PARISH OF DODCOTT CUM WILKESLEY**

The Committee received a report which detailed an application from Mr & Mrs Jackson, Lilac Cottage, Whitchurch Road, Audlem (the applicant) requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.20 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 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 ran. The proposed path ran over land owned by Mr Bailey, who had given his signed agreement to the diversion.

The section of Public Footpath No. 20 Dodcott cum Wilkesley to be diverted was a very short section of about 22 metres length that currently ran through the garden of Lilac Cottage between the house and an outbuilding in close proximity to the rear entrance to the house. This section of footpath had been unavailable for many years and an unofficial diversion existed which avoided the property. This seemed to have been used by the public as no complaints about the path being obstructed had been received in the past decade. Lilac Cottage was currently on the housing market and a recent search revealed the existence of the footpath. A sale had fallen through as the buyer's mortgage company would not proceed with the footpath affecting the property. This had caused significant concern to the landowner and in order to ensure that a future sale would not be similarly undermined, the diversion was being sought. The diversion would also be in the interests of the privacy and security of any future occupier.

The proposed new route would follow the boundary fence from the west around the south of the Lilac Cottage continuing in the pasture field it currently ran through and rejoining the current alignment to the east of the property. The path would have a recorded width of 2 metres throughout and was approximately 7 metres longer than the current route but with no requirement for gates or other path furniture.

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 privacy and security and for the purposes of selling the property. It was therefore considered that the proposed route would be a satisfactory alternative to the current one 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 No.20 Dodcott cum Wilkesley by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/033 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.

**36 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO.2 (PART), PARISH OF NEWHALL**

The Committee considered a report which detailed an application from Mr & Mrs Hutchins, Newhall Cross House, Wrenbury Road, Aston, Nantwich (the applicant) requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert Public Footpath No.2 in the parish of Newhall.

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

Mr Bernard Cook, representing Mid Cheshire Footpath Society, spoke in objection to the application.

The applicant owned the land over which the current and proposed diversion ran. The section of Public Footpath No.2 Newhall to be diverted ran in a generally easterly direction across the garden of the property to the west of a hedge what was broken only by the property drive. The garden to the east of the hedge was landscaped and furnished for use by the owners whereas to the west, it was open mowed grass. The impact of the layout was that some users misused the open area and others strayed from the definitive line to exit the garden via the drive onto Woodcott Hill Lane. The relative closeness of the current path to the property of the owner also created privacy and security concerns.

The proposed new route would enter the garden of Newhall Cross House through a gap/gate in the wall off Woodcote Hill Lane to run around the garden boundary in an easterly direction, turning right at a hedge to continue south to rejoin the present line of the path. The new route would be fenced along the southern and western edges of the footpath leaving a recorded width of 2.5m between the existing fence/hedge and the proposed new fence.

Newhall Parish Council, Peak and Northern Footpath Society, South Cheshire Ramblers and Mid Cheshire Footpath Society had expressed objections regarding the danger of negotiating the bend on Wrenbury Road when walking the section north from the current start point to reach the start point of the proposed new route on Woodcott Hill Lane.

In response to the objection it was stated that the speed limit at this point was 30 mph and the nature of the bend forced drivers to slow down; that no injury accidents had been reported to date along that stretch of road; and that the bend already existed for walkers travelling north from the west end of the existing route.

The Committee considered that the proposed route was not substantially less convenient than the existing route and that diverting the footpath would be of benefit to the landowner, especially in terms of privacy, security and the need to remove conflict between the landowner and the public over misuse of the garden area traversed by the current route. 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.2 Newhall by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/031 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.

**37 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO.34 (PART), PARISH OF SUTTON**

The Committee considered a report which detailed an application from Mr Stanley, Foxbank Farm, Sutton (the applicant) requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.34 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 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.

The applicant owned the land over which the current and the proposed alternative route ran. Public Footpath No.34 commenced at its junction

with Hollins Lane and ran in a generally westerly direction along the northern side of a field boundary up a steeply wooded slope for 64m where it joined the surfaced driveway to Foxbank Farm. This first section of the path was not available on the ground and may represent a mapping anomaly on the definitive map. The public used a permissive path along the southern side of the field boundary instead, through pasture.

The definitive line of the footpath then continued along the surfaced farm drive, which was steep and narrow. It continued to the end of the surfaced drive and passed the farm house to a field gate. This section of the path was available to the public but most chose to continue along the permissive path on the southern side of the boundary, along the edge of the pasture field, rejoining the definitive line at the aforementioned field gate.

The new proposed route would follow the aforementioned permissive alternative to the definitive line, along the northern edge of the pasture field, already much used by the public. It had a natural grass surface, which the applicant would improve with stone flags or gritstone where it was narrow. Although the path was completely unenclosed, it was along the edge of a steep slope and some work would be required to provide a level 1m width in front of the farm buildings.

The proposal would formalise the situation on the ground by making the route currently used by the public the legal line of the route. This would benefit the landowner in terms of security and privacy at the farm and reduce the potential for conflict between the public and farm vehicles using the steep narrow farm driveway. It would also create a more enjoyable route for the public, as the uninterrupted views of the valley to the south were not available from the definitive line. Also it would resolve the issue of the possible mapping anomaly of the section of the definitive route along the steep wooded slope up from Hollins Lane, which would be costly and problematic to install on the ground.

The Committee noted that no objections had been received and considered that the proposed footpath would be more convenient than the existing route. Diverting the footpath would be of benefit to the landowners, particularly in terms of security and privacy. 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.34 as illustrated on Plan No.HA/028 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, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**38 HIGHWAYS ACT 1980 - SECTION 119: DIVERSION OF PUBLIC FOOTPATH NO. 2 (PART), PARISH OF MOTTRAM ST ANDREW**

The Committee received a report which detailed an application from Mr AM Harle, Hunters Pool Farm, Mottram St Andrew, Macclesfield (the applicant) requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert Public Footpath No.2 in the parish of Mottram St Andrew.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the 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 diversion ran. The path to be diverted ran through the property of the landowner giving rise to concerns relating to security and safety. The landowner also had planning permission to convert some of the outbuildings into holiday apartments, adding to the need for increased privacy and security to the property.

The proposed new route, shown as A-B-C-D on Plan HA/030, would pass through a kissing gate at point A and continue along a level surfaced path though rough ground to point B where it would climb a slope to a pedestrian gate at point C. From point C, the remaining route would cross open pasture land to terminate at point D. The new route would have a recorded width of 2m and would not be enclosed on either side. The new route would be significantly more enjoyable as it would pass through more open and scenic landscape and would also provide a more direct link to Mottram St Andrew Footpath No. 22.

Concerns had been expressed regarding the effect of traffic noise on the enjoyment of the new route between points C-D by the Ramblers Association, Alderley Edge Footpath Society and the Peak and Northern Footpath Society. These concerns had been allayed after a site visit had allowed representatives of these organisations to see that this section of the path would provide good views and would take the path where it would naturally follow the dip in the land to and from point C. Diverting the path D-C by any other route would involve taking the users across land of steeper gradient.

The Committee noted that no further 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 considerable benefit to the landowner in terms of enhancing the security and privacy of the property. It was 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. 2 Mottram St Andrew by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/030 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.

**39 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO.5 (PART), PARISH OF MOSTON (FORMERLY TETTON)**

The Committee received a report which detailed an application from Mrs Maureen Keeble, 1 Colleys Lane, Willaston, Nantwich (the applicant) requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.5 in the parish of Moston (formally Tetton).

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the 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 and proposed diversion ran. The section of Public Footpath No.5 Moston (formerly Tetton) to be diverted ran along a farm drive and through a working farm yard where there was a barn suffering from subsidence. This posed safety issues to passing walkers and a temporary closure was already in place to divert the path along the proposed diversion route.

The proposed new route would leave the road west of the current start of the path. It would enter a pasture field to follow a northerly direction along



the west side of a fishing lake before joining the current path. The new path would have a recorded width of 2 metres throughout and would have two gates; a kissing gate at the road and a pedestrian gate at a field boundary.

The new route formed a more direct route for the public, as it disposed of the current 'dog leg' through the farmyard. It also disposed of the possible conflict between walkers and vehicular traffic on the driveway and formed a more pleasant walk for the public in terms of its proximity to the wildlife on the lakes and views of the same. For the landowner, the diversion would provide greater privacy and security and removed the possibility of danger to the public from the subsiding barn, which although temporary in nature, required substantial work to resolve in the long-term.

The Committee noted that no objections had been received and considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpath would be of benefit to the landowner and the public, particularly in terms of safety from the subsiding barn. 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.5 Moston (formerly Tetton) by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/029 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 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.

**40 CHESHIRE EAST RIGHTS OF WAY IMPROVEMENT PLAN 2011-2026:  
APPROVAL OF STRATEGY AND NOTIFICATION OF IMPROVEMENT  
PLAN PRIORITISATION METHODOLOGY**

The Committee considered a report on the Cheshire East Rights of Way Improvement Plan (ROWIP) 2001-2026.

Public consultation had been carried out on the draft ROWIP document, in compliance with Section 61(1), (2) and (3) of the Countryside and Rights

of Way Act 2000. Responses to the consultations had been assessed and changes made accordingly. The ROWIP document set out the strategy by which the Council aimed to improve the public rights of way over the next 15 years. The improvements to be made would be set out in the Implementation Plan.

Suggestions for improvement schemes had been submitted by members of the public. In order for these to be fairly assessed, a prioritisation methodology had been devised. Three options for this methodology had been put before the Cheshire Local Access Forum at its meeting on 10 December 2010. The Forum had selected Option 2 – Focus on Need, as the methodology to be used and had requested that an additional criteria be added in relation to safety for non motorised uses. The Forum had also suggested that the format be changed to a matrix and those improvement schemes which plotted high benefit/low cost be taken forward.

The Implementation Plan covering 2011-2015 would be drawn up using this methodology. Officer delegation was requested so that the final version of the Implementation Plan could be prepared for approval by the Portfolio Holder in March 2011. The Implementation Plan would be presented to the March meeting of the Public Rights of Way Committee for information.

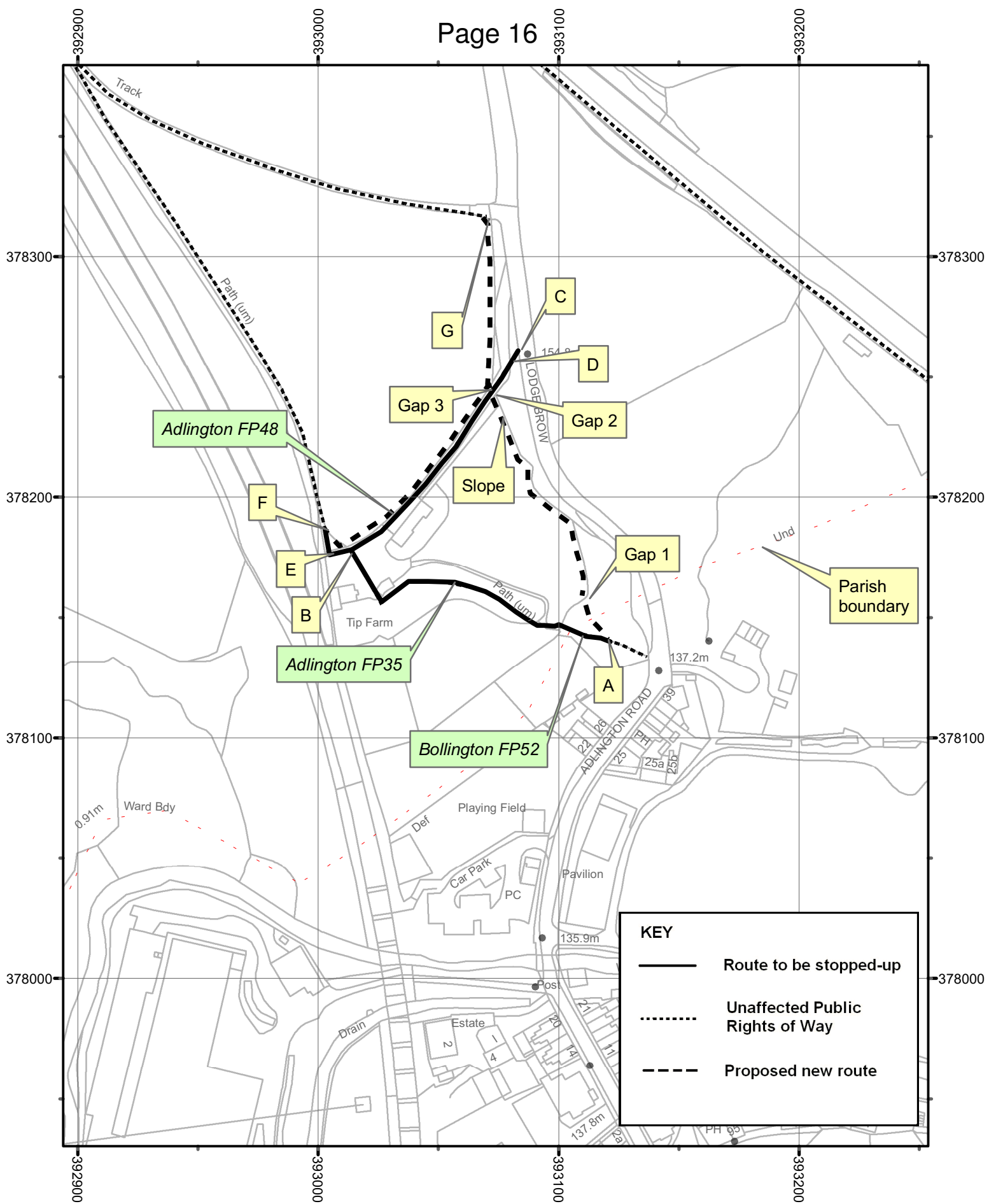
**RESOLVED:**

- 1 The Portfolio Holder for Health and Wellbeing be recommended to approve the Appendix to the Report as the Cheshire East Rights of Way Improvement Plan 2011-2026.
- 2 The prioritisation methodology for projects to be delivered under the Rights of Way Improvement Plan be noted.
- 3 Mike Taylor, Green Spaces Manager, in consultation with the Chairman of the Public Rights of Way Committee, to confirm the final form of the Implementation Plan for approval by the Portfolio Holder for Health and Wellbeing, taking into account the prioritisation methodology advised by the Cheshire Local Access Forum.

The meeting commenced at 2.00 pm and concluded at 3.15 pm

Councillor S Wilkinson (Chairman)

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1:2,000

Highways Act 1980  
proposed diversion of Bollington FP52,  
Adlington FP35 (part) and Adlington FP38

Plan No.  
HA/040

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



## **CHESHIRE EAST COUNCIL**

### **Public Rights of Way Committee**

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**Date of Meeting:** 17 March 2011  
**Report of:** Greenspaces Manager  
**Subject/Title:** Highways Act 1980 s.119  
Application for the Diversion of Public Footpath No 52,  
Parish of Bollington and Nos 35 (part) and 48, Parish of  
Adlington

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#### **1.0 Report Summary**

- 1.1 The report outlines the investigation to divert Public Footpath No. 52, Parish of Bollington and Nos 35 (part) and 48, Parish of Adlington. 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 an 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 section of footpath concerned.

#### **2.0 Recommendation**

- 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's 52, Parish of Bollington and No's 35 (part) and 48, Parish of Adlington by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/040 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 10.7 to 10.11 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 The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property. It is considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

#### **4.0 Wards Affected**

4.1 Prestbury and Tytherington  
Bollington and Disley

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

5.1 Councillor H Davenport, Councillor M Davies, Councillor D Thompson, Councillor P Findlow, Councillor T Jackson and Councillor B Livesley

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

6.1 Not applicable

#### **7.0 Financial Implications**

7.1 Not applicable

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and 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

## **9.0 Risk Management**

- 9.1 Not applicable

## **10.0 Background and Options**

- 10.1 An application has been received from Mr and Mrs S Wall, Tip Farm, Lodge Brow, Bollington, SK10 5SN requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert Public Footpath No's 52, Parish of Bollington and 35 (part) and 48, Parish of Adlington .
- 10.2 Public Footpath No 52, Parish of Bollington commences at its junction with Sugar Lane at OS grid reference SJ 9313 7813 and runs in a west north west direction through woodland to OS grid reference SJ 9312 7814.
- 10.3 Public Footpath No 35, Parish of Adlington, commences at OS grid reference SJ 9312 7814 and runs in a west north westerly direction continuing through the woodland, over a pasture field and bearing south westerly before turning north north westerly to pass between buildings through the yard of Tip Farm. Upon meeting a wall (point B), the path turns west and then north into a second pasture field to follow a generally north north westerly direction along the western field boundary crossing the Middlewood Way to continue in a generally north westerly direction across three further fields to its junction with Holehouse Lane at OS grid reference SJ 9240 7882.
- 10.4 Public Footpath No 48, Parish of Adlington, commences at OS grid reference SJ 9308 7826 and runs in a south westerly direction through woodland and along the metalled drive of Tip Farm, to terminate at OS grid reference SJ 9301 7817.
- 10.5 The sections of these paths to be diverted are shown by solid black lines on Plan No. HA/040. The proposed diversion is illustrated on the same plan with a black dashed lines.
- 10.6 Mr and Mrs S Wall own the land over which the current paths and the proposed diversion 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 landowner to make an order to divert the footpath.
- 10.7 The sections of Public Footpath No's 52, Parish of Bollington and No's 35 (part) and 48, Parish of Adlington to be diverted lead to and run through the property of the landowner. To provide security and privacy to the applicant's

property, the proposed diversion route will take path users away from the applicant's house and out-buildings and will allow better land management in relation to livestock.

- 10.8 The proposed diversion route would start at point A on plan HA/040, rising up steps in a northerly direction to a gap in the fence. From this point, it would be fenced to a width of 2.5m as it continues in a north north westerly direction alongside the eastern side of the first pasture field to leave the field via a slope to a second gap that leads onto the farm drive.
- 10.9 The route would then cross the farm drive to enter the next field via a third gap. This section would be similarly fenced to a minimum width of 2.5m and would continue in a northerly direction along the eastern side of the pasture field to terminate at fourth and final gap (point G) where it would join Adlington FP36.
- 10.10 Further to this, the current route of Adlington FP48 that follows the farm drive would be shortened to start at the third gap. The route would run parallel to the drive along the northern grass verge and terminate at point F gradually bearing north westerly over the final 11m (approx.). It would be fenced to a width of 2.5m.
- 10.11 Of benefit to the public, the new route would link Adlington FP35 with Adlington FP36 increasing user safety by providing a path parallel to but away from the narrow road, Lodge Brow. Furthermore, it would be more accessible to users since there would be no barriers.
- 10.12 Ward Councillors have been consulted about the proposal. No comments were received.
- 10.13 Bollington Town Council and Adlington Parish Council have been consulted and did not raise any objections.
- 10.14 The statutory undertakers have also been consulted and have raised 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.
- 10.15 The user groups have been consulted. The Ramblers Association and the Peak and Northern Footpath Society registered that they do not object to the proposal. No further comments were received.
- 10.16 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 10.17 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.



## **11.0 Access to Information**

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

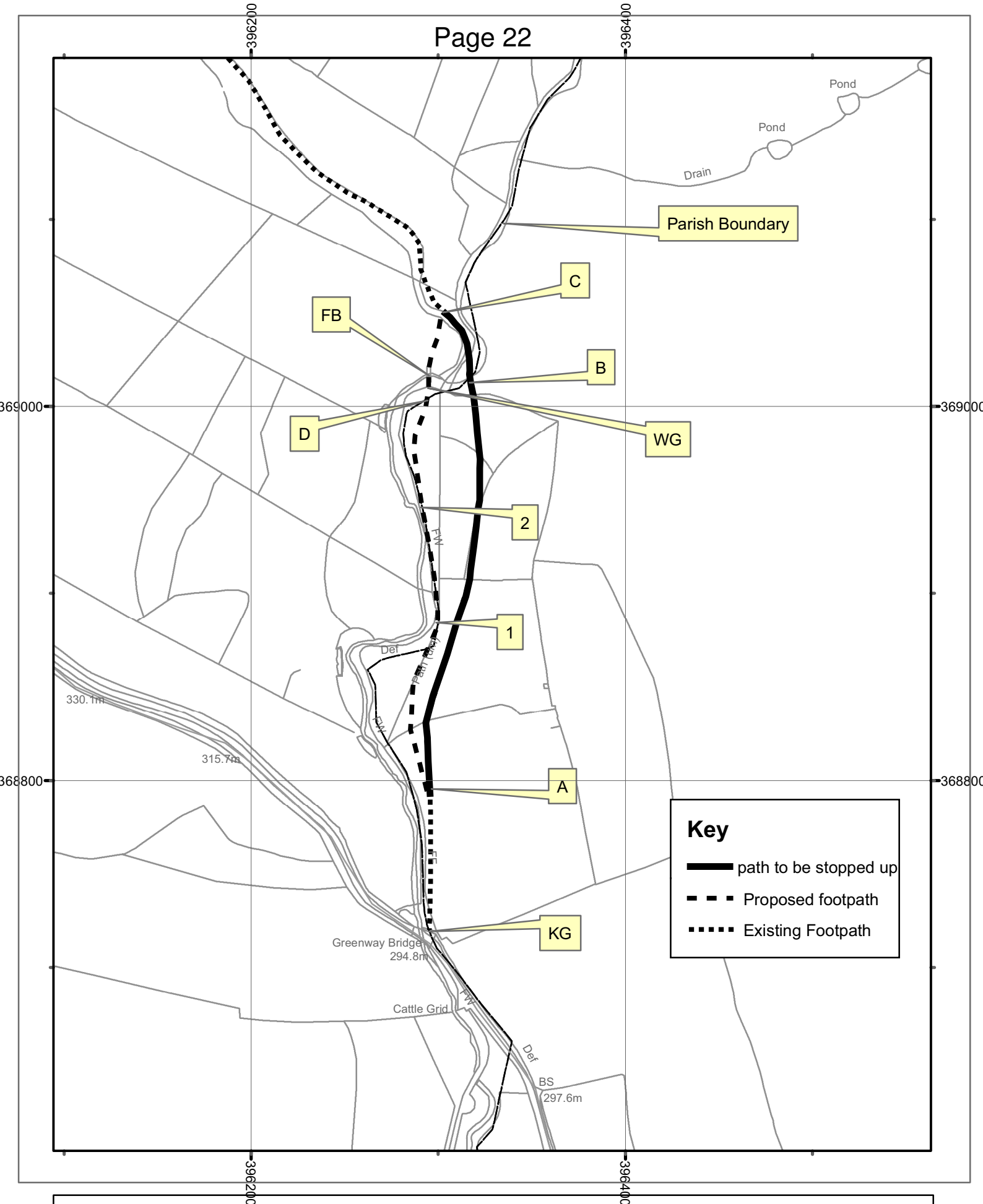
Name: Marianne Nixon

Designation: Public Path Orders Officer

Tel No: 01606 271843

Email: [marianne.nixon@cheshireeast.gov.uk](mailto:marianne.nixon@cheshireeast.gov.uk)

PROW File: 003D+028D/424



### Key

- path to be stopped up
- Proposed footpath
- Existing Footpath



## Proposed Diversion of Footpath Wildboarclough No. 32 (pt) & Footpath Sutton No. 23 (pt)

Scale 1:2,500

Plan No.  
HA/034

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



## **CHESHIRE EAST COUNCIL**

### **Public Rights of Way Committee**

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|                         |   |
|-------------------------|---|
| <b>Date of Meeting:</b> | <b>17 March 2011</b>  |
| <b>Report of:</b>       | <b>Greenspaces Manager</b>  |
| <b>Subject/Title:</b>   | <b>Highways Act 1980 s.119<br/>Proposed Diversion of Public Footpath No. 32 (part),<br/>Parish of Wildboardclough and Public Footpath No. 23<br/>(part), Parish of Sutton</b> |

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#### **1.0 Report Summary**

- 1.1 The report outlines the investigation to divert part of Public Footpath No.32 (pt) in the Parish of Wildboardclough and Public Footpath No. 23 (pt) in the Parish of Sutton. 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 means of remedying a long standing anomaly whereby the Definitive line has not been useable. 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 section of footpaths concerned.

#### **2.0 Recommendation**

- 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.32 Wildboardclough and part of Public Footpath No. 23, Sutton by creating a new sections of public footpaths and extinguishing the current paths as illustrated on Plan No. HA/034 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 public for the reasons set out in paragraph 10.4 and 10.5 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 No objections to the proposal have been received through the informal consultation process. The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of benefit to the public, particularly in terms of accessibility. It is therefore considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

#### **4.0 Wards Affected**

4.1 Macclesfield Forest Ward

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

5.1 Councillor M Asquith, Councillor H Gaddum and Councillor L Smetham

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

6.1 The proposal supports the following policies and initiatives of the Cheshire East Rights of Way Improvement Plan 2011-2026:

- Policy H3: Public rights of way and green infrastructure: Protect and enhance our public rights of way and green infrastructure and endeavour to create new links where beneficial for health, safety or access to green spaces. Initiative: 'Leisure routes for cyclists, horse riders and walkers'

- Policy H2: Promotion of active travel and healthy activities: Work in partnership to promote walking, cycling and horse riding as active travel options and healthy activities. Initiative 'Public information on the public rights of way network'

- 6.2 The development of new walking, cycling and horse riding 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) and the Health and Wellbeing Service commitment to the Change4Life initiative.

## **7.0 Financial Implications**

- 7.1 Not applicable

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and 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

## **9.0 Risk Management**

- 9.1 Not applicable

## **10.0 Background and Options**

- 10.1 The Public Rights of Way Unit has investigated the alignment of Footpath no. 32, Wildboarclough and Footpath no. 23, Sutton and in order to correct the situation on the ground is proposing that the Council make an Order under section 119 of the Highways Act 1980 to divert part of the footpath.
- 10.2 Public Footpath No. 32, Wildboarclough, commences at its junction with Greenway Road (UY 1319) at OS grid reference SJ 39629 36871 and runs in a generally northerly direction across pasture fields to its junction with Public Footpath no.23, Sutton at OS grid reference 39631 36871 just south of Oaken Clough stream. Footpath 23 continues northerly across the stream and rough ground for a short distance to OS grid reference SJ 39630 369051. The section of path to be diverted is shown by a solid black line on Plan No. HA/034 running between points A-B-C. The proposed diversion is illustrated on the same plan with a black dashed line between points A-D-C.
- 10.3 Mr R May owns the land over which the current path and the proposed path run. He has given his agreement to this proposal. Under section 119 of the Highways

Act 1980 the Council may make a Diversion Order if it considers it expedient in the interests of the public and/or the landowner to make an order to divert the footpath.

- 10.4 The section of Public Footpath No. 32, Wildboarclough and Public Footpath No. 23, Sutton to be diverted runs across sloping terrain over several fields of upland pasture, it crosses a stone wall and a stream just to the north of the parish boundary where there appears never to have been a stile/bridge to facilitate the path. It is about 265 metres in length. This length of footpath appears never to have been available to the public and it may be that it was poorly drafted onto the Definitive Map at the time of the original surveys in the early 1950's.
- 10.5 As a consequence of the difficulty of the Definitive routes a permissive line has developed on the ground. This route is the proposed diversion and follows more level terrain along the valley. A short footbridge would be required adjacent to the landowner's vehicular crossing shown by FB on plan no. HA/034 and a wicket gate adjacent to an existing field gate at the point marked WG. A short section between points 1 and 2 will be slightly widened and have a stoned surface. A new kissing gate will be put in to replace the current stile at the roadside on Greenway Road, this is not on the diversion. For reasons of ease of use and accessibility it is felt that the proposed route would be in the interests of the public.
- 10.6 Ward Councillors have been consulted about the proposal, no comments were received.
- 10.7 Wildboarclough & Macclesfield Forest and Sutton Parish Councils have been consulted and no comments received.
- 10.8 The statutory undertakers have also been consulted and have raised 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.
- 10.9 The user groups have been consulted and no objections have been received. East Cheshire Ramblers have commented that 'the proposed diversion is a suitable solution to regularise the alignment' and are happy providing the furniture and work specified is undertaken.
- 10.10 Natural England has been consulted and has no comment to make to the proposals.
- 10.11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

## **11.0 Access to Information**

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

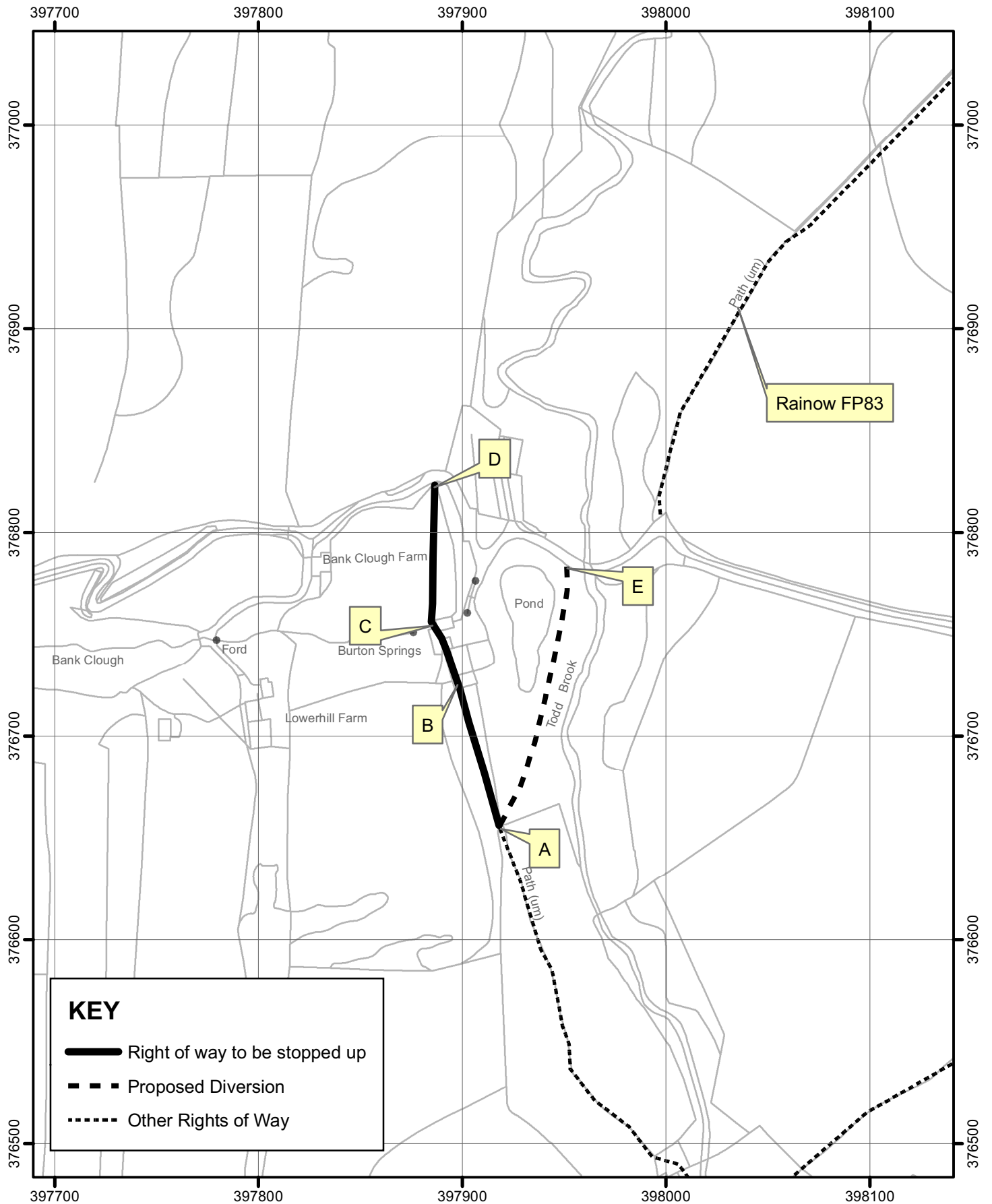
Name: Clare Hibbert

Designation: Definitive Map Officer

Tel No: 01606 271823

Email: [clare.hibbert@cheshireeast.gov.uk](mailto:clare.hibbert@cheshireeast.gov.uk)

PROW File: 315D/416



1:2,500

Proposed Diversion of part of  
Public Footpath Rainow No. 8

Plan No.  
HA/037

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 2010.



## **CHESHIRE EAST COUNCIL**

### **Public Rights of Way Committee**

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|                         |  |
|-------------------------|--|
| <b>Date of Meeting:</b> | <b>17 March 2011</b>   |
| <b>Report of:</b>       | <b>Greenspaces Manager</b>   |
| <b>Subject/Title:</b>   | <b>Highways Act 1980 S119<br/>Application for the Diversion of part of Public Footpath<br/>No. 8 in the Parish of Rainow</b> |

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#### **1.0 Report Summary**

- 1.1 The report outlines the investigation to divert part of Public Footpath No. 8 in the Parish of Rainow. 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 in the interests of the public and in the interests of the owner of the land crossed by the path. 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 section of footpath concerned.

#### **2.0 Recommendation**

- 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 in the parish of Rainow by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/037 on the grounds that it is expedient in the interests of the public and in the interests of the owner of the land crossed by the path.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

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

- 3.1 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. It is considered that the proposed diversion is in the interests of the public and in the interests of the owner of the land crossed by the path for the reasons set out in paragraph 10.7 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 Initial informal consultations have not indicated that objections to an order are likely. Diverting the footpath onto the proposed route would create a more accessible, usable footpath, with a level surface, less path furniture and an increased width. It would also provide better views of the surrounding countryside for walkers and lead to savings for the authority's maintenance budget. In addition, moving the footpath away from the landowners home (Burton Springs Farm) will allow him to improve the privacy and security of his property. The diversion has been sought by the Council to resolve long-standing problems with the footpath, and to create a more accessible, usable route on the ground for the public. It is considered that the proposed diversion follows the best possible route available. It is therefore considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

### **3.0 Wards Affected**

4.1 Bollington and Disley.

### **5.0 Local Ward Members**

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

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

6.1 The proposal supports the following policies and initiatives of the Cheshire East Rights of Way Improvement Plan 2011-2026:

- Policy H3: Public rights of way and green infrastructure: Protect and enhance our public rights of way and green infrastructure and endeavour to create new links where beneficial for health, safety or access to green spaces. Initiative: 'Leisure routes for cyclists, horse riders and walkers'
- Policy H2: Promotion of active travel and healthy activities: Work in partnership to promote walking, cycling and horse riding as active travel options and healthy activities. Initiative 'Public information on the public rights of way network'

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) and the Health and Wellbeing Service commitment to the Change4Life initiative.

## **7.0 Financial Implications**

7.1 Not applicable

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and 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

## **9.0 Risk Management**

9.1 Not applicable

## **10.0 Background and Options**

10.1 The agreement of the landowner to the diversion of part of Public Footpath No. 8 in the parish of Rainow has been obtained. Under Section 119 of the Highways Act 1980 the Borough Council may make a Diversion Order if it considers that it is expedient in the interests of the public or of the owner, lessee or occupier of the land crossed by the path.

10.2 Public Footpath No. 8 Rainow commences at its junction with Footpath No. 6 Rainow at OS grid reference SJ 9802 7646 and runs in a generally north westerly direction to OS grid reference SJ 9788 7682 and its junction with Bank Lane. The section of path to be diverted is shown by a solid black line

on Plan HA/037 running between points A-D. The proposed diversion is illustrated on the same plan between points A-E.

- 10.3 Mr Christopher Leek owns the land over which the current route and the proposed route would run. He has provided written consent and support for the proposal.
- 10.4 The existing definitive line of Public Footpath No. 8 Rainow has been unavailable for numerous years. It is difficult for the public to use due to the nature of the terrain and it is possible that the path was inaccurately recorded on the Definitive Map and Statement in the first place.
- 10.5 The current line of the footpath runs in a northerly direction across a field and then through the garden to the rear of Burton Springs Farm. It passes in extremely close proximity to the house, directly alongside numerous windows of the property. This section of the footpath is also very narrow, approximately 1 metre, and enclosed on both sides, by the wall of the house on the eastern side and a retaining garden wall to the west of the property.
- 10.6 As the footpath leaves the garden area there is a steep bank to climb, with a gradient of approximately 1:2. It then crosses another field with a cross slope which is difficult to traverse due to its gradient, which is approximately 1:4. As it reaches Bank Lane there is another steep bank for users to descend. The definitive line is obstructed by walls and fences in a number of places. Re-instating the footpath on the original alignment would be expensive for the authorities' maintenance budget, three stiles or gates would be required (at points B, C and D on Plan No. HA/037), as well as approximately 15 steps up the bank leading from the garden (point C on Plan No. HA/037). Approximately 4-6 steps down the steep bank to Bank Lane (at point D on Plan No. HA/037) would also be required. The length of the section of footpath to be diverted is approximately 171 metres.
- 10.7 The proposed route runs in a north easterly direction across a field to the east of Burton Springs Farm until it reaches Bank Lane. There are no steep sections for walkers to traverse and it offers a level surface. It also requires only one kissing gate (where the path reaches Bank Lane at point E on Plan No. HA/037) providing a much more easily accessible route for walkers. The proposed route would be unenclosed with a width of two metres, providing an increased width. It also offers better open views of the surrounding countryside. The length of the proposed route for the footpath is approximately 130 metres, 41 metres shorter than the current route. In addition, the proposal moves the footpath closer to Public Footpath Rainow No. 83, creating a useful link for walkers. Taking walkers away from Burton Springs Farm will allow the landowner to improve the privacy and security of his property considerably.
- 10.8 Ward Councillors have been consulted about the proposal. No comments have been received.
- 10.9 Rainow Parish Council has been consulted. They have responded to state that they agree to the proposed changes but stress the need for a stile/gate,

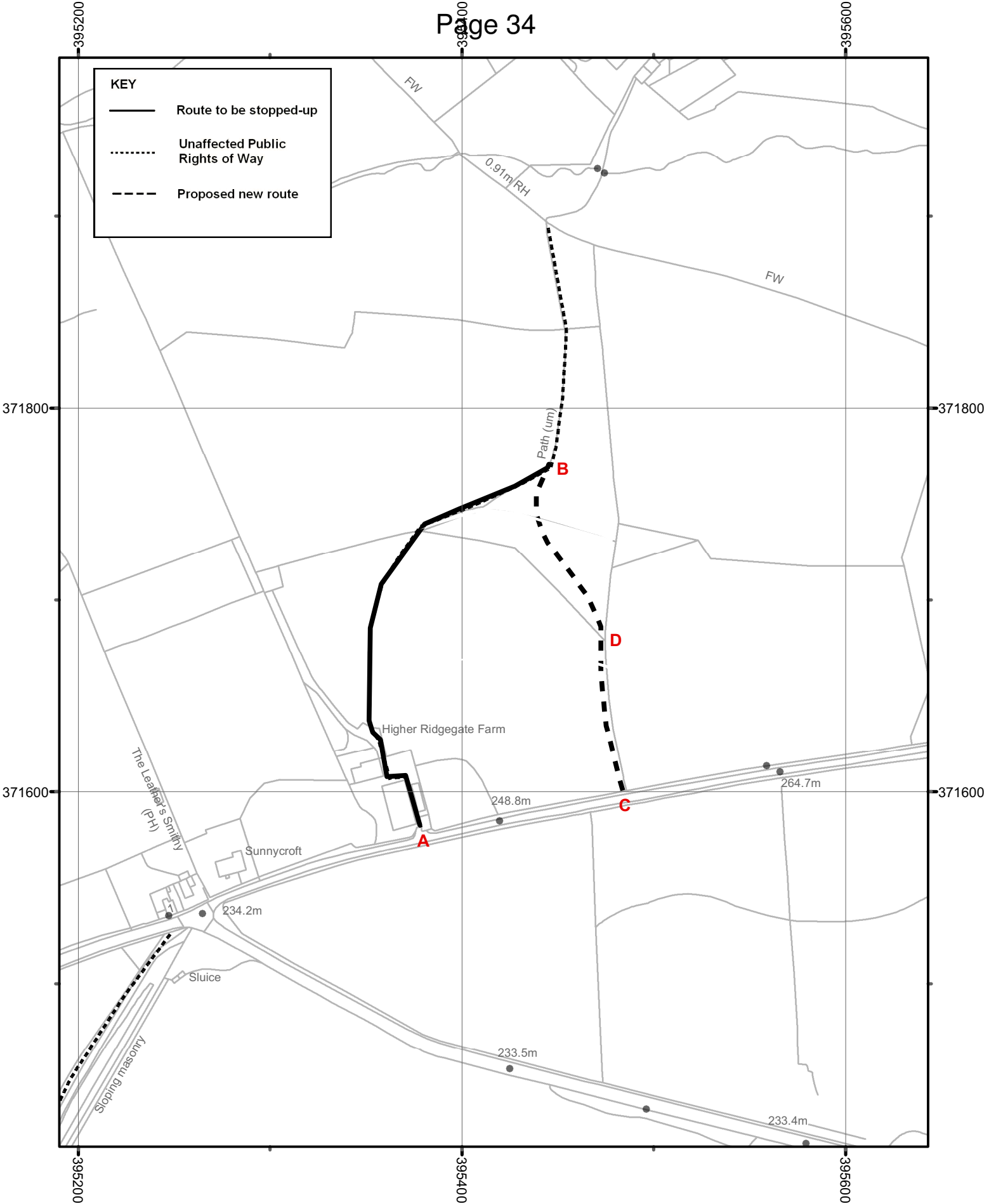
and for clear signposting at both ends of the diversion. If a diversion Order is made and is successful, a kissing gate will be installed at point E on plan no. HA/037 and the route will be appropriately signposted.

- 10.10 The statutory undertakers have also been consulted and have raised 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.
- 10.11 The user groups have been consulted. Peak and Northern Footpaths Society have responded to state that they have no objection to the proposal. The Ramblers Association have responded to state that they 'welcome this suggested solution to a long standing problem at Burton Springs Farm', provided that some improvement to the surface is carried out and the new route appropriately signed. Before signing the Article 2 'Certificate of Satisfaction' and confirming an Order, Cheshire East Council would ensure that any necessary surfacing works are carried out on the new route to bring it up to an acceptable standard and that the route is appropriately signed.
- 10.12 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 10.13 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Network and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

#### **11.0 Access to Information**

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

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Designation: Definitive Map Officer  
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PROW File: 253D/419



1:2,500

Highways Act 1980  
Proposed Diversion of Sutton FP9

Plan No.  
HA/043

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## **CHESHIRE EAST COUNCIL**

### **Public Rights of Way Committee**

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|                         |   |
|-------------------------|---|
| <b>Date of Meeting:</b> | <b>17 March 2011</b>  |
| <b>Report of:</b>       | <b>Greenspaces Manager</b>  |
| <b>Subject/Title:</b>   | <b>Highways Act 1980 s.119<br/>Application for the Diversion of Public Footpath No 9<br/>(part), Parish of Sutton</b> |

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#### **1.0 Report Summary**

- 1.1 The report outlines the investigation to divert part of Public Footpath No 9 in the Parish of Sutton. 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 an 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 section of footpath concerned.

#### **2.0 Recommendation**

- 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 9 Sutton by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/043 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 paragraph 10.5 to 10.9 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 The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property. It is considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

#### **4.0 Wards Affected**

4.1 Macclesfield Forest

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

5.1 Councillor M Asquith, Councillor H Gaddum, Councillor L Smetham

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

6.1 Not applicable

#### **7.0 Financial Implications**

7.1 Not applicable



## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and 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

## **9.0 Risk Management**

- 9.1 Not applicable

## **10.0 Background and Options**

- 10.1 An application has been received from Miss Wendy Dignan, Higher Ridgeway Farm, Clarke Lane, Langley, Cheshire, SK11 0NE, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No 39 in the Parish of Sutton.
- 10.2 Public Footpath No. 9, Sutton, commences at its junction with Clarke Road (point A on Plan No HA/043) at OS grid reference SJ 9537 7158 and runs in a generally northerly direction through the yard of Higher Ridgeway Farm and a pasture field before bearing east north easterly to descend within a second pasture field to OS grid reference SJ 9544 7177 (point B on Plan No. HA/043) covering a distance of 254m.
- 10.3 The section of path to be diverted is shown by a solid black line on Plan No. HA/043. The proposed diversion is illustrated on the same plan with a black dashed line between points C-D-B.
- 10.4 The current path runs across land owned by Miss W Dignan. 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 landowner to make an order to divert the footpath.
- 10.5 The section of Public Footpath No 9, Sutton to be diverted runs through the property of the landowner (Higher Ridgeway Farm) and through pasture fields, giving rise to concerns relating to land management.
- 10.6 The proposed new route (C-D-B) would pass through a gap at point C on Plan No HA/043, from Clarke Lane and continue in a northerly direction alongside a wall to the east, to reach a kissing gate (point D). This section would be fenced to a width of 2.5m and cover a distance of 183m.
- 10.7 Past the kissing gate, the route would descend in a north-north-westerly direction to reach the current termination at point B.
- 10.8 Apart from the fenced section, the new route would have a width of 2m and would not be enclosed on either side.

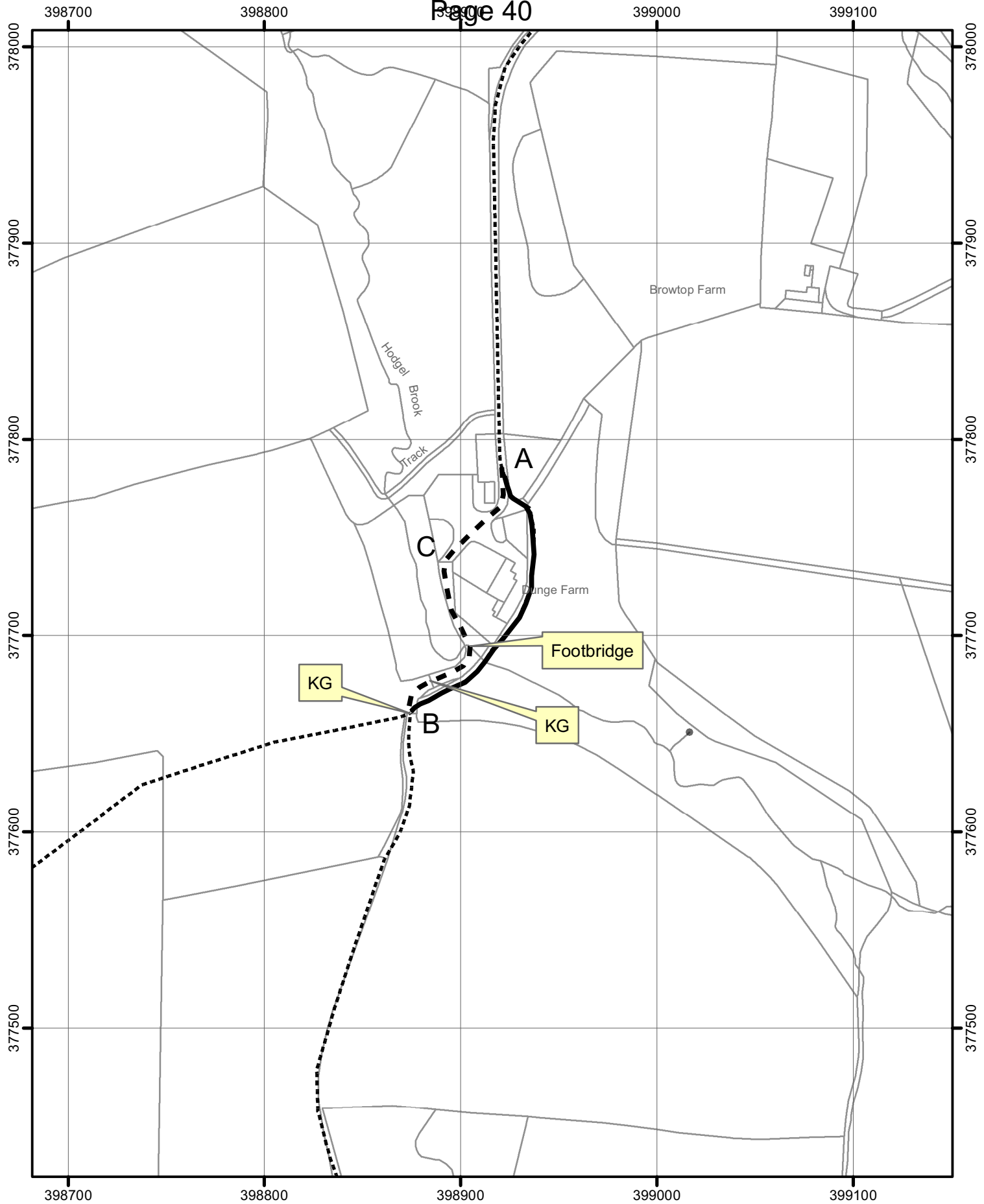
- 10.9 The proposed route would be shorter by 71m, less obstructed (one kissing gate to negotiate instead of three field gates), provide better views across the open countryside and would take path users away from livestock (horses) on the applicant's property and separate them from livestock on adjacent land owned by the applicant.
- 10.10 Ward Councillors have been consulted about the proposal. No comments have been received.
- 10.11 Sutton Parish Council has been consulted and registered no objection.
- 10.12 The statutory undertakers have also been consulted and have raised 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.
- 10.13 The user groups have been consulted. The Ramblers Association and the Peak and Northern Footpath Society registered no objections. No further comments were received in relation to the proposed diversion.
- 10.14 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 10.15 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

#### **11.0 Access to Information**

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

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PROW File: 248D/421

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Proposed Diversion of Public  
Footpath Kettleshulme no. 25 (part)

Plan No.  
HA/035

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## **CHESHIRE EAST COUNCIL**

### **Public Rights of Way Committee**

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|                         |  |
|-------------------------|--|
| <b>Date of Meeting:</b> | <b>17 March 2011</b>   |
| <b>Report of:</b>       | <b>Greenspaces Manager</b>   |
| <b>Subject/Title:</b>   | <b>Highways Act 1980 s.119<br/>Proposed Diversion of Public Footpath no. 25 (part),<br/>Parish of Kettleshulme</b> |

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#### **1.0 Report Summary**

- 1.1 The report outlines the investigation to divert part of Public Footpath No.25 in the Parish of Kettleshulme. 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 applied for by the landowner with the support of the Public Rights of Way Unit as a means of remedying a long standing anomaly whereby the Definitive line has been difficult to use. 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 section of footpath concerned.

#### **2.0 Recommendation**

- 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.25, Kettleshulme by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/035 on the grounds that it is expedient in the interests of the owner of the land crossed by the path and the public.
- 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 and the public for the reasons set out in paragraph 10.4 and 10.5 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 No objections to the proposal have been received through the informal consultation process. The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of benefit to the landowner, particularly in terms of privacy and security and to the public in terms of accessibility and convenience. It is therefore considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

#### **4.0 Wards Affected**

4.1 Bollington and Disley Ward

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

5.1 Councillor M Asquith, Councillor H Gaddum and Councillor L Smetham

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

6.1 The proposal supports the following policies and initiatives of the Cheshire East Rights of Way Improvement Plan 2011-2026:

- Policy H3: Public rights of way and green infrastructure: Protect and enhance our public rights of way and green infrastructure and endeavour to create new links where beneficial for health, safety or access to green spaces.  
Initiative: 'Leisure routes for cyclists, horse riders and walkers'

- Policy H2: Promotion of active travel and healthy activities: Work in partnership to promote walking, cycling and horse riding as active travel options and healthy activities. Initiative 'Public information on the public rights of way network'

6.2 The development of new walking, cycling and horse riding 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) and the Health and Wellbeing Service commitment to the Change4Life initiative.

## **7.0 Financial Implications**

7.1 Not applicable

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and 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

## **9.0 Risk Management**

9.1 Not applicable

## **10.0 Background and Options**

10.1 The alignment of Footpath no.25 Kettleshulme (part) has been the subject of previous investigations by Cheshire County Council in the early 1990's who considered that the original recording of this section of the path was probably an anomaly and that a Definitive Map Modification Order might be necessary to rectify the situation; in the meantime a permissive path was put in on the ground that has been used by the public. The legal alignment has never been resolved, hence this current application from Mr Ketley, the landowner.

10.2 Public Footpath No. 25, Kettleshulme, commences at its junction with Dunge Lane (UW 2547) at OS grid reference SJ 39892 37827 and runs in a generally southerly direction along the access road to Dunge Farm then across fields to the parish boundary with Rainow FP no. 10 at OS grid reference SJ 39887 37726. The section of path to be diverted is shown by a solid black line on Plan No. HA/035 running between points A- B. The proposed diversion is illustrated on the same plan with a black dashed line also between points A-C-B.

10.3 Mr D Ketley owns the land over which the current path and the proposed path run. Under section 119 of the Highways Act 1980 the Council may make a Diversion Order if it considers it expedient in the interests of the public and/or the landowner to make an order to divert the footpath.

- 10.4 The section of Public Footpath No. 25, Kettleishulme to be diverted runs across steeply sloping terrain close to the rear of Dunge Farm and at the height of the first story window. This raises serious concerns with regard to privacy and security for the landowner and provides a very steep surface for walkers that is difficult to negotiate and liable to slippage. It is about 156 metres in length.
- 10.5 Following investigations by Cheshire County Council and in lieu of a modification order being made, the landowner with the Council's agreement signed a permissive route which runs to the west and front of the farm; this is the route that is now proposed as the diversion. It follows the driveway to the property for a short distance then crosses an open yard leading onto a grass/ stoned track that skirts the immediate property boundary and offers an attractive aspect over a small valley of rhododendron bushes. This is a part of Dunge Valley Gardens that is open to the public during the summer season. There is a small sleeper footbridge on the route over Hodgel Brook and kissing gates will be installed at two points where there are currently stiles, marked KG on Plan no. HA/035. This route is approximately the same length as the current one. For reasons of the privacy and security of the landowner and occupier of Dunge Farm and for the improved accessibility the route offers to the public; it is felt that the proposed diversion would be in the interests of both the landowner and the public.
- 10.6 Ward Councillors have been consulted about the proposal, no comments were received.
- 10.7 Kettleishulme Parish Council has been consulted and no comments received.
- 10.8 The statutory undertakers have also been consulted and have raised 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.
- 10.9 The user groups have been consulted and no objections have been received. East Cheshire Ramblers have commented that the proposed diversion is satisfactory as it is the route currently used and welcome the replacement of stiles with kissing gates.
- 10.10 Natural England has been consulted and has no comment to make to the proposals.
- 10.11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.



## **11.0 Access to Information**

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

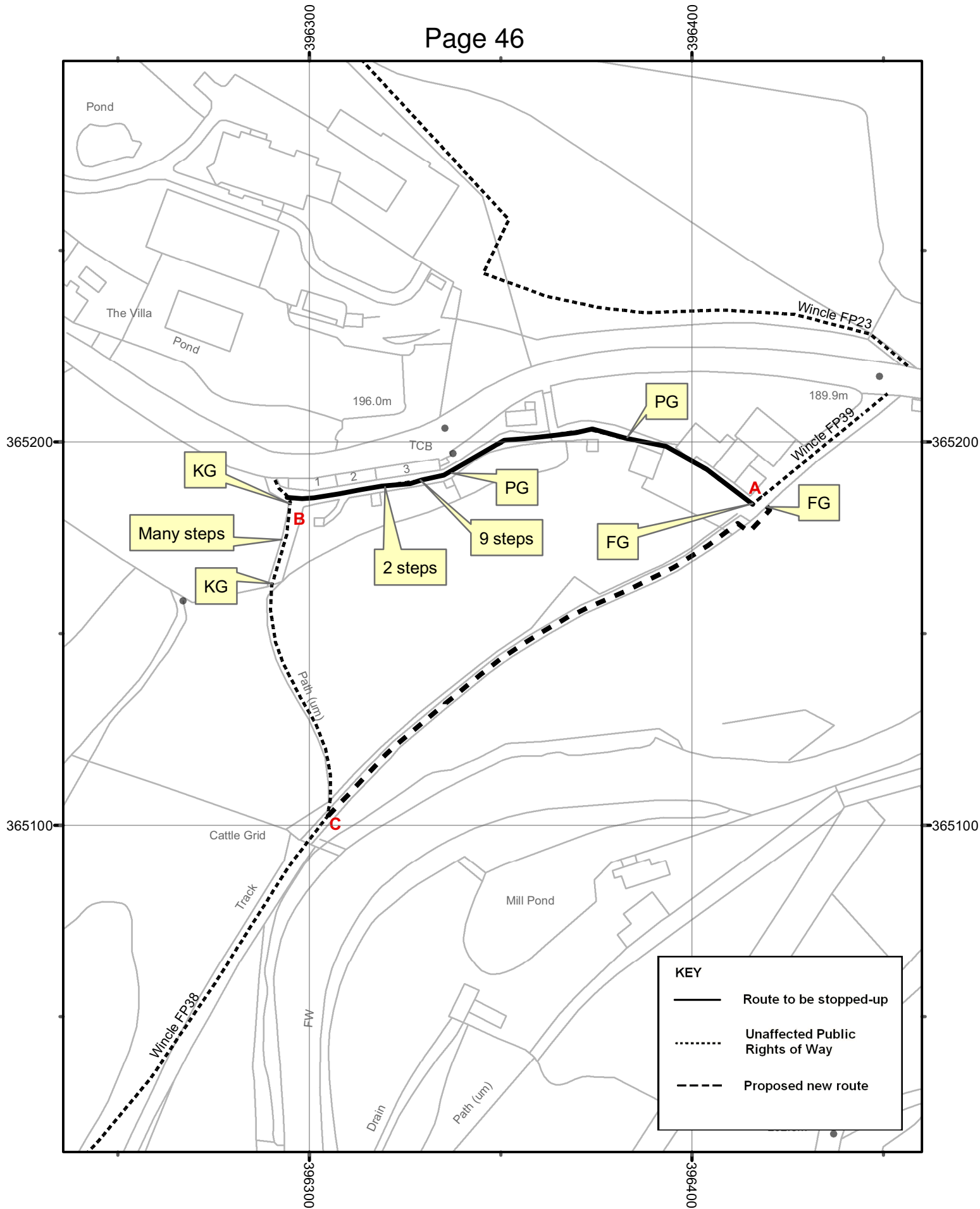
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PROW File: 170D/417



Highways Act 1980  
Proposed diversion of Wincle FP39

Plan No.  
HA/044

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## **CHESHIRE EAST COUNCIL**

### **Public Rights of Way Committee**

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|                         |   |
|-------------------------|---|
| <b>Date of Meeting:</b> | <b>17 March 2011</b>  |
| <b>Report of:</b>       | <b>Greenspaces Manager</b>  |
| <b>Subject/Title:</b>   | <b>Highways Act 1980 s.119<br/>Application for the Diversion of Public Footpath No 39<br/>(part), Parish of Wincle.</b> |

---

#### **1.0 Report Summary**

- 1.1 The report outlines the investigation to divert part of Public Footpath No 39 in the Parish of Wincle. 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 an 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 section of footpath concerned.

#### **2.0 Recommendation**

- 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 39 Wincle by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/044 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 paragraph 10.5 to 10.9 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 The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property. It is considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

#### **4.0 Wards Affected**

4.1 Macclesfield Forest

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

5.1 Councillor M Asquith, Councillor H Gaddum, Councillor L Smetham

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

6.1 Not applicable

#### **7.0 Financial Implications**

7.1 Not applicable

#### **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and 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

## **9.0 Risk Management**

9.1 Not applicable

## **10.0 Background and Options**

- 10.1 An application has been received from Mr E Stubbs, Tolls Farm, Danebridge, Nr Macclesfield, Cheshire, SK11 0QE, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No 39 in the Parish of Wincle.
- 10.2 Public Footpath No. 39, Wincle, commences at its junction with Barlow Hill at OS grid reference SJ 9645 6521 and runs in a south westerly direction along the semi-surfaced track to point A where it turns right to arc in a westerly direction passing through the yard and between buildings of Tolls Farm (the applicant's property) and Pear Tree Cottage to then run along a concrete path separating the houses beyond (Chapman's Row Cottages) from their gardens and terminating at OS grid reference 9629 6518 where it joins with Public Footpath No.38, Wincle (point B).
- 10.3 The section of path to be diverted is shown by a solid black line on Plan No. HA/044. The proposed diversion is illustrated on the same plan with a black dashed line between points A-C.
- 10.4 The current path runs across land owned by Mr Stubbs (applicant) and neighbouring landowners, Mr & Mrs Blythe of Pear Tree Cottage and Mr A Hine, Mr D Riley, Mr F Cocker and Mr & Mrs N Heald who own cottages 1, 2, 3 and 4 respectively along Chapmans Row. All adjacent landowners have registered their agreement to the proposed diversion. The proposed diversion runs across land owned solely by Mr Stubbs. 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 landowner to make an order to divert the footpath.
- 10.5 The section of Public Footpath No 39, Wincle to be diverted runs through the property of the landowner (Tolls Farm), through the property of adjacent Pear Tree Cottage and between the houses and gardens of the properties along Chapmans Row, giving rise to concerns relating to security, safety and privacy.
- 10.6 The proposed new route (A-C) would follow a south westerly direction along a semi-surfaced track through a pasture field from point A on Plan HA/044 to point C, bypassing a cattle grid at point A by entering the field via a field gate to the south and then re-joining the track.
- 10.7 The new route would have a recorded width of 2m and would not be enclosed on either side.

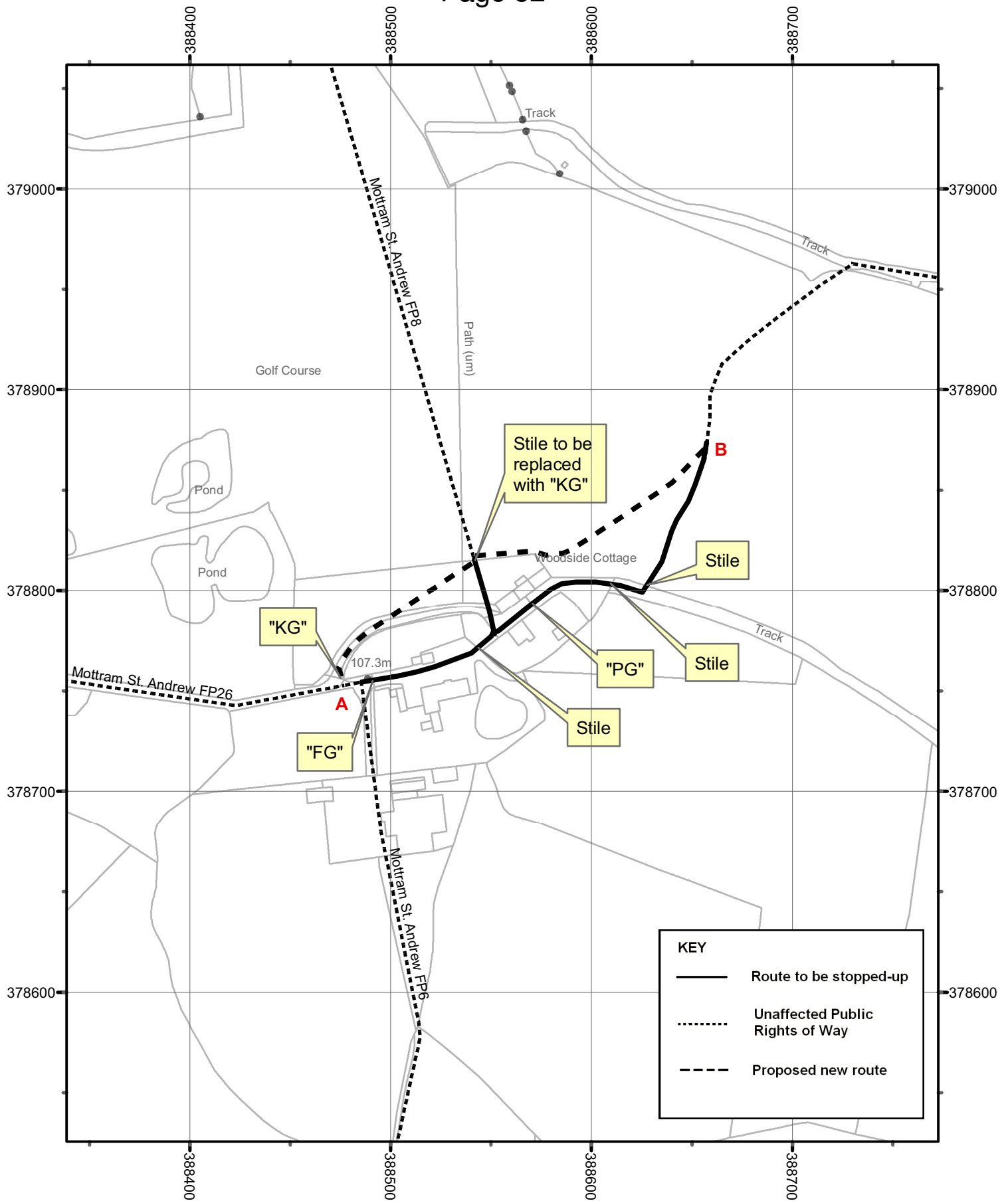
- 10.8 Of benefit to the public, the new route would be significantly more enjoyable as it would pass through a more open and scenic landscape bringing users closer to the River Dane and taking away the need to pass between houses and corresponding gardens.
- 10.9 It would be shorter in length by 78m and easier to navigate having only one surface type (semi-surfaced track), being relatively flat and unobstructed except for a field gate. The current route presents several surface types (concrete, dirt and grass), gradients, 11 steps, a field gate and two pedestrian gates. Furthermore, to reach point C, users of the current route must follow Wincle FP38 which descends via more steps and passes through two kissing gates.
- 10.10 Ward Councillors have been consulted about the proposal. No comments have been received.
- 10.11 Wincle Parish Council has been consulted and registered unanimous support.
- 10.12 The statutory undertakers have also been consulted and have raised 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.
- 10.13 The user groups have been consulted. The Ramblers Association and the Peak and Northern Footpath Society registered no objections. No further comments were received.
- 10.14 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 10.15 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

## **11.0 Access to Information**

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

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PROW File: 320D/422

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Highways Act 1990  
Mottram St Andrew FPs 7, 8 and 26

Plan No.  
HA/041

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## **CHESHIRE EAST COUNCIL**

### **Public Rights of Way Committee**

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|                         |  |
|-------------------------|--|
| <b>Date of Meeting:</b> | <b>17 March 2011</b>   |
| <b>Report of:</b>       | <b>Greenspaces Manager</b>   |
| <b>Subject/Title:</b>   | <b>Highways Act 1980 s.119</b><br><b>Application for the Diversion of parts of Public Footpath No's 7, 8 and 26, Parish of Mottram St Andrew</b> |

---

#### **1.0 Report Summary**

- 1.1 The report outlines the investigation to divert parts of Public Footpath No's 7, 8 and 26 in the Parish of Mottram St Andrew. 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 an 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 section of footpath concerned.

#### **2.0 Recommendation**

- 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 parts of Public Footpath No's 7, 8 and 26 Mottram St Andrew by creating a new section of public footpath and extinguishing the current paths as illustrated on Plan No. HA/041 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 10.7 to 10.10 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 The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property. It is considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

#### **4.0 Wards Affected**

4.1 Prestbury and Tytherington

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

5.1 Councillor P Findlow, Councillor T Jackson and Councillor B Livesley

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

6.1 Not applicable

#### **7.0 Financial Implications**

7.1 Not applicable

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and 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

## **9.0 Risk Management**

- 9.1 Not applicable

## **10.0 Background and Options**

- 10.1 An application has been received from Mr and Mrs Holland, Woodside Cottage, Smithy Lane, Mottram St Andrew, Macclesfield, Cheshire, SK10 4QJ, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert parts of Public Footpath No's 7, 8 and 26 in the Parish of Mottram St Andrew.
- 10.2 Public Footpath No. 7, Mottram St Andrew, commences at its junction with Public Footpath No. 26, Mottram St Andrew at OS grid reference SJ 8862 7879 and runs in a generally north westerly direction over Mottram Golf course to terminate at its junction with Public Footpath No. 9, Mottram St Andrew at OS grid reference 8905 7915.
- 10.3 Public Footpath No. 8, Mottram St Andrew, commences at its junction with Public Footpath No. 26, Mottram St Andrew at OS grid reference SJ 8822 7766 and runs in a generally northerly direction over Mottram Golf course to terminate at its junction with Public Footpath No. 9, Mottram St Andrew in the grounds of Mottram Hall at OS grid reference 8853 7950.
- 10.4 Public Footpath No. 26, Mottram St Andrew, commences at its junction with Wilmslow Road at OS grid reference SJ 8802 7853 and runs in a generally north easterly and then easterly direction along the metalled drive of Smithy Lane to Woodside Farm (point A). Here, it continues in the easterly direction through the flagged yard of Woodside Farm and over grassed land between Woodside Cottage and out-buildings to terminate within an enclosed path section at OS grid reference SJ 8862 7879.
- 10.5 The section of path to be diverted is shown by a solid black line on Plan No. HA/041. The proposed diversion is illustrated on the same plan with a black dashed line between points A-B.
- 10.6 The current path and the proposed diversion run across land owned by Mr and Mrs Holland (applicants) and neighbouring landowners, Mr Carden of Woodside Farm, Smithy Lane, Mottram St Andrew, Macclesfield, Cheshire, SK10 4QJ and De Vere Hotels Ltd, owner of Mottram Hall, Wilmslow Road, Mottram St Andrew, Cheshire, SK10 4QT. Both adjacent landowners have registered their agreement to the proposed diversion. 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 landowner to make an order to divert the footpath.

- 10.7 The section of Public Footpath No's. 7, 8 and 26, Mottram St Andrew to be diverted runs through the property of the landowner giving rise to concerns relating to security and safety. The landowner also has planning permission to convert some of the outbuildings into living accommodation, adding to the need for increased privacy and security at the property.
- 10.8 The proposed new route (A-B) would follow a generally north easterly direction from the metalled road (point A on Plan HA/04), through a kissing gate and along a semi-surfaced track that dissects a pasture field. Once the track starts to bear easterly, the route would leave it to continue north easterly over the pasture field to a kissing gate in the northern fence boundary where it would cross Mottram St Andrew Footpath No. 8. It would then turn easterly along the boundary and beyond to bear north easterly following a mown grass path over Mottram Golf Course, terminating at point B where it would join Mottram St Andrew FP7.
- 10.9 The new route would have a recorded width of 2m and would not be enclosed on either side.
- 10.10 Of benefit to the public, the new route would be significantly more enjoyable as it would pass through more open and scenic landscape and would have fewer barriers (two kissing gates as opposed to three stiles, a pedestrian gate and a field gate). Furthermore, it would be less intimidating for users who are currently forced to pass between the buildings of Woodside Cottage and the busy livery yard that is Woodside Farm.
- 10.11 Ward Councillors have been consulted about the proposal. No comments have been received.
- 10.12 Mottram St Andrew Parish Council has been consulted and did not raise any objections.
- 10.13 The statutory undertakers have also been consulted and have raised 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.
- 10.14 The user groups have been consulted. The Ramblers Association and the Peak and Northern Footpath Society registered no objections,
- 10.15 The Alderley Edge Wilmslow and District Footpath Preservation Society informed the Council that a claim had been submitted in April 2008 to upgrade Mottram St Andrew Footpath No. 26 to a restricted byway (Definitive Map Modification Order No MA/5/240). The applicants, Mr and Mrs Holland, are aware of the implications of this claim in relation to the proposed diversion of part of this path and have instructed the Council to continue.

10.16 No other comments were received.

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

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

#### **11.0 Access to Information**

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

Name: Marianne Nixon

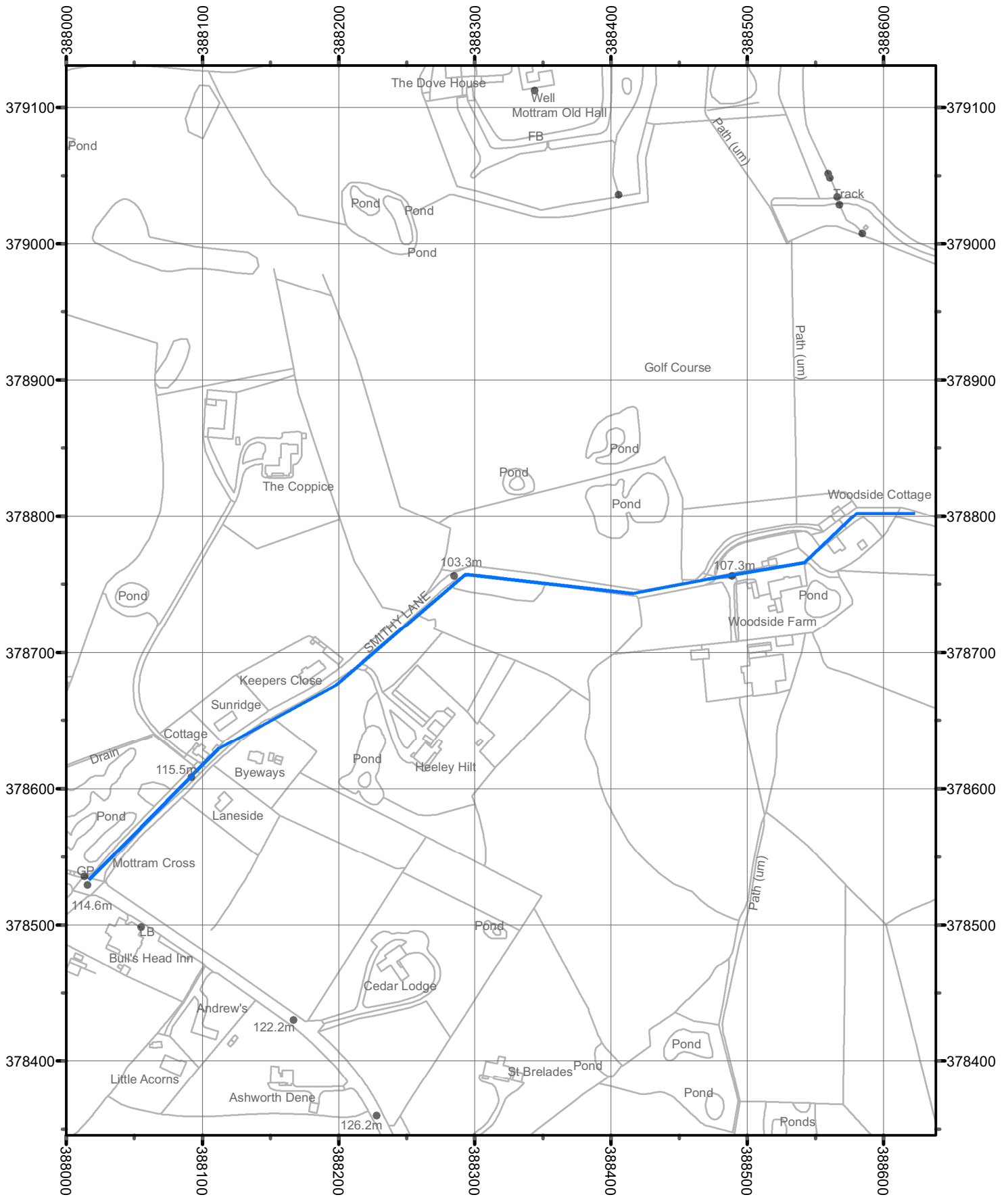
Designation: Public Path Orders Officer

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Email: [marianne.nixon@cheshireeast.gov.uk](mailto:marianne.nixon@cheshireeast.gov.uk)

PROW File: 216D/425

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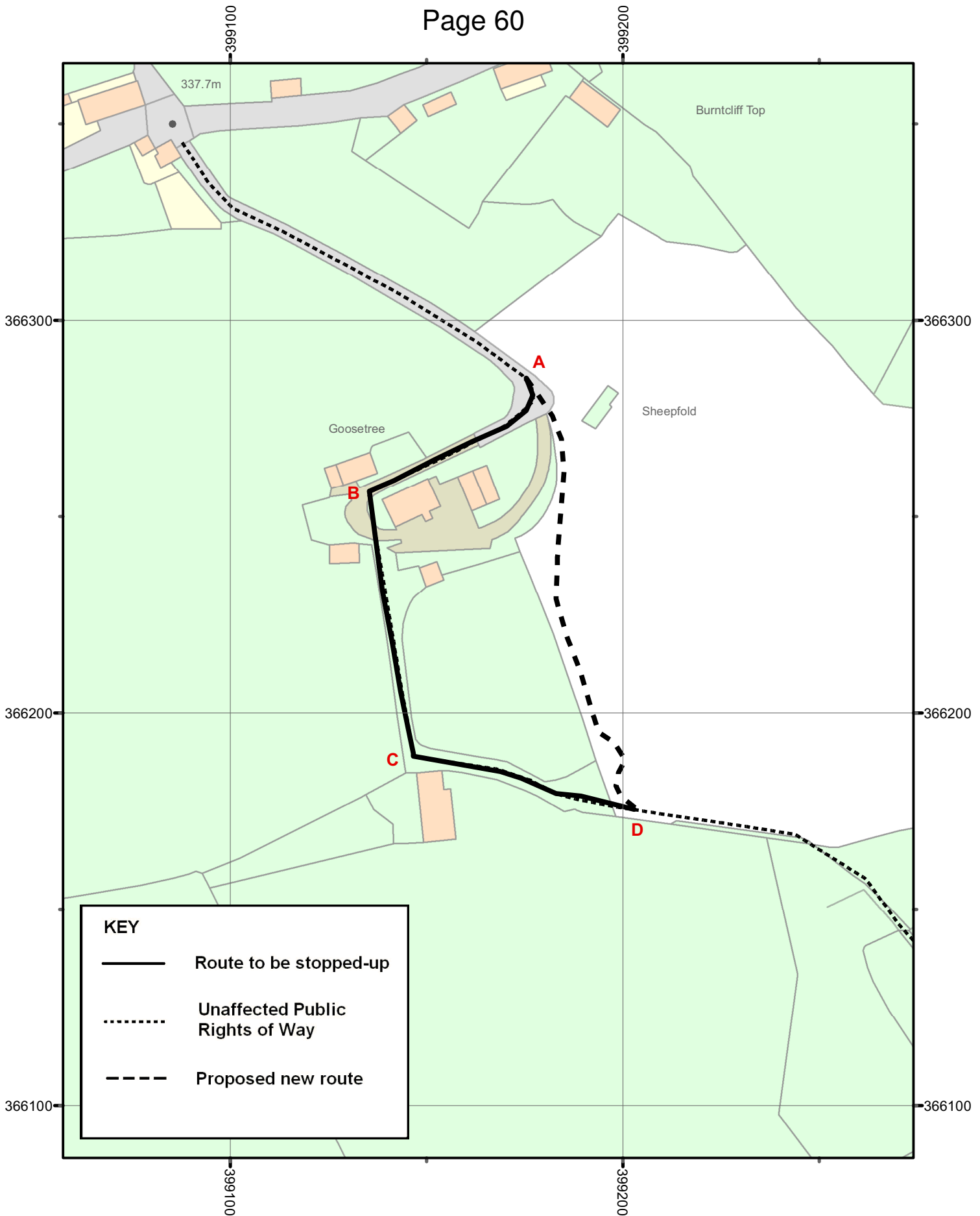
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Plan of DMMO application to upgrade  
Mottram St Andrew FP26 to a Restricted Byway  
(ref: MA/5/240) - blue line.

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Highways Act 1980  
Proposed diversion of Wildboardclough FP14

Plan No.  
HA/039

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and should not be used for legal purposes





## **CHESHIRE EAST COUNCIL**

### **Public Rights of Way Committee**

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|                         |   |
|-------------------------|---|
| <b>Date of Meeting:</b> | <b>17 March 2011</b>  |
| <b>Report of:</b>       | <b>Greenspaces Manager</b>  |
| <b>Subject/Title:</b>   | <b>Highways Act 1980 s.119</b><br><b>Application for the Diversion of Public Footpath no. 14</b><br><b>(part), Parish of Wildboarclough</b> |

---

#### **1.0 Report Summary**

- 1.1 The report outlines the investigation to divert part of Public Footpath No.14 in the Parish of Wildboarclough. 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 an 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 section of footpath concerned.

#### **2.0 Recommendation**

- 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.14 Wildboarclough by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/039 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 paragraph 10.4 and 10.5 below.

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

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

And whether it is expedient to confirm the Order considering:

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

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

3.4 Although concerns were expressed about the proposed route during the initial consultation process, these were resolved following a site visit where agreement of the reasons for the selected route was reached and a slight amendment to the proposed new route made at the request of the landowner. The amended route did not trigger any objections during a second informal consultation exercise.

3.5 The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property. It is considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

#### **4.0 Wards Affected**

4.1 Macclesfield Forest

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

5.1 Councillor M Asquith, Councillor H Gaddum, Councillor L Smetham

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

6.1 Not applicable

## **7.0 Financial Implications**

7.1 Not applicable

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and 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

## **9.0 Risk Management**

9.1 Not applicable

## **10.0 Background and Options**

10.1 An application has been received from Mr and Mrs J Pollard, Goosetree Farm, Wildboarclough, Macclesfield, Cheshire, SK11 0BH, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath no. 14 in the Parish of Wildboarclough.

10.2 Public Footpath No. 14, Wildboarclough commences at OS grid reference SJ 9908 6634 and follows a metalled track in a south easterly direction to turning south westerly (point A) and becoming stone and grass track as it passes between the farm buildings of Goosetree Farm, turning south at point B. From here, the route continues in a southerly direction down a steep grass track and then bears east south easterly (point C) to pass through a field gate into a pasture field. It continues into a second pasture field and then bears south easterly and then southerly and then easterly for the to terminate at OS grid reference SJ 9934 6609. The section of path to be diverted is shown by a solid black line on Plan No. HA/039. The proposed diversion is illustrated on the same plan with a black dashed line between points A-D.

10.3 Mr and Mrs J Pollard own the land over which the current path and the proposed diversion 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 landowner to make an order to divert the footpath.

10.4 The section of Public Footpath No. 14, Wildboarclough to be diverted runs through the property of the landowner giving rise to concerns relating to security and safety. The proposed diversion route would take path users away from Goosetree Farm along a more direct route that is already available as a permissive path.

10.5 Starting at point A on plan HA/039, the proposed new route would enter a field via a kissing gate and continue across the field in a south south easterly direction close to the western field boundary to terminate at point D. The new

route would have a recorded width of 2m and would not be enclosed on either side. The route is already used by walkers as a permissive path and affords pleasant, open views of the countryside. The applicant would carry out surfacing improvements on the route by installing steps where necessary, building up the surface with stone where it is soft, and by removing some of the large stones in the surface of the route.

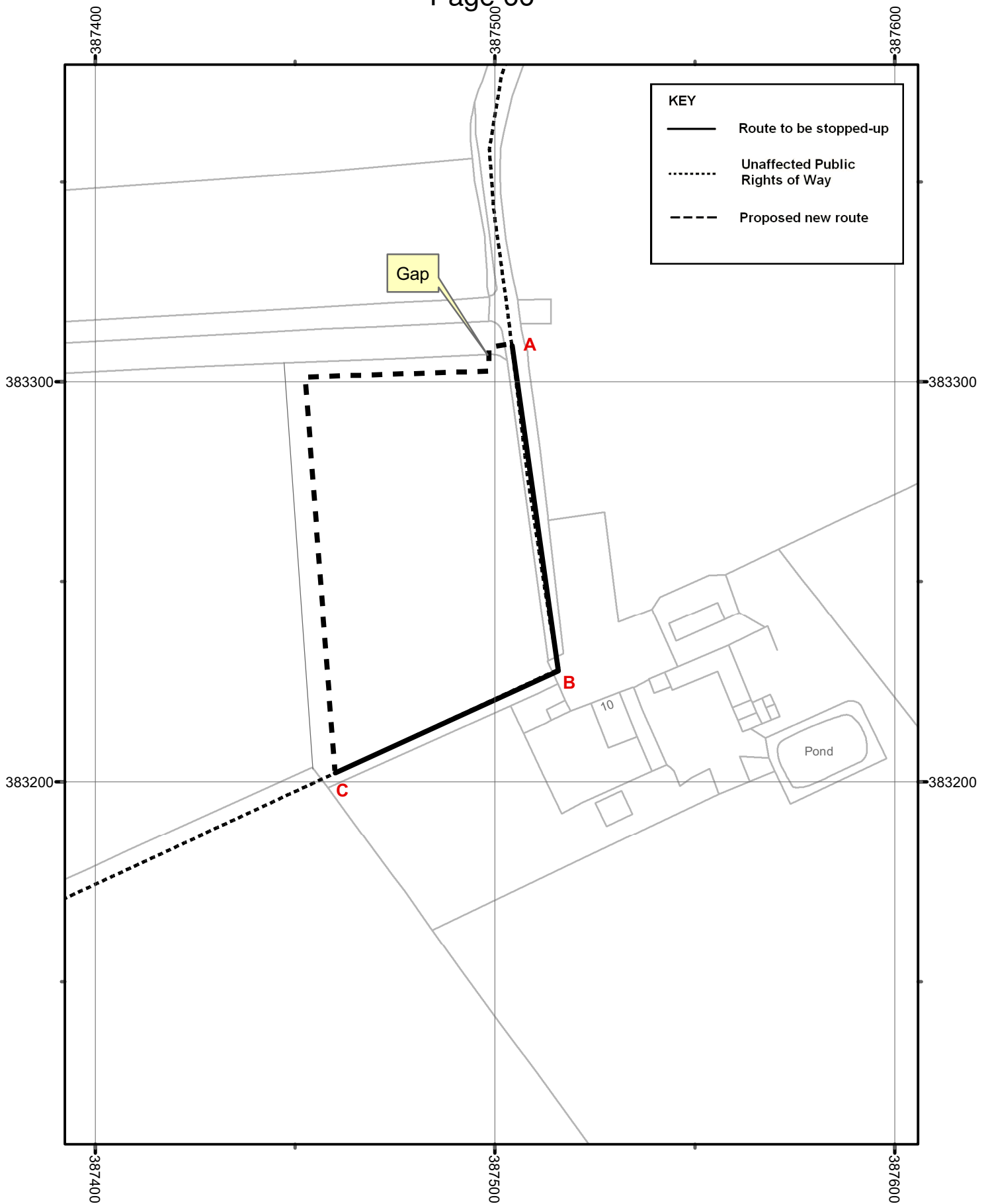
- 10.6 Ward Councillors have been consulted about the proposal and Councillor Smetham responded to register that she has no objection. Councillor Gaddum queried the need to contact the National Trust. No further comments were received.
- 10.7 Macclesfield Forest & Wildboardclough Parish Council has been consulted and did not raise any objections.
- 10.8 The statutory undertakers have also been consulted and have raised 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.
- 10.9 The user groups have been consulted. The Ramblers Association and the Peak and Northern Footpath Society registered that they have no objection. No further comments were received.
- 10.10 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 10.11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

#### **11.0 Access to Information**

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

Name: Marianne Nixon  
Designation: Public Path Orders Officer  
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PROW File: 315D/423

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Highways Act 1980  
Proposed diversion of Wilmslow FP128

Plan No.  
HA/042

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## **CHESHIRE EAST COUNCIL**

### **Public Rights of Way Committee**

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|                         |   |
|-------------------------|---|
| <b>Date of Meeting:</b> | <b>17 March 2011</b>  |
| <b>Report of:</b>       | <b>Greenspaces Manager</b>  |
| <b>Subject/Title:</b>   | <b>Highways Act 1980 s.119<br/>Application for the Diversion of Public Footpath No 128<br/>(part), Parish of Wilmslow</b> |

---

#### **1.0 Report Summary**

- 1.1 The report outlines the investigation to divert parts of Public Footpath No 128 in the Parish of Wilmslow. 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 an 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 section of footpath concerned.

#### **2.0 Recommendation**

- 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 128 Wilmslow by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/042 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 10.5 to 10.7 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 The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property. It is considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

#### **4.0 Wards Affected**

4.1 Wilmslow North

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

5.1 Councillor J Crockatt, Councillor D Stockton and Councillor P Whiteley

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

6.1 Not applicable

#### **7.0 Financial Implications**

7.1 Not applicable



## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and 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

## **9.0 Risk Management**

- 9.1 Not applicable

## **10.0 Background and Options**

- 10.1 An application has been received from Mr R Hurst, Dairy House Farm, Dairy House Lane, Woodford, Cheshire, SK7 1RA, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No 128 in the Parish of Wilmslow.
- 10.2 Public Footpath No. 128 Wilmslow covers a total distance of 1149m. It commences on a metalled drive at OS grid reference SJ 8774 8398 and runs in a southerly direction before crossing the A555 to follow the length of the metalled road opposite (Dairy House Lane) in a south south westerly direction to reach Dairy House Farm (point B on Plan No. HA/042). Here, it bears west south westerly and then southerly across pasture fields to terminate at OS grid reference SJ 8730 8297, its junction with Bridleway No. 92 Wilmslow that runs along Blossoms Lane.
- 10.3 The section of path to be diverted is shown by a solid black line on Plan No. HA/042. The proposed diversion is illustrated on the same plan with a black dashed line between points A-C.
- 10.4 The current path runs across land owned by Mr Stubbs. 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 landowner to make an order to divert the footpath.
- 10.5 The section of Public Footpath No 128, Wilmslow to be diverted runs to and through the busy working yard of Dairy House Farm, giving rise to concerns relating to security, safety and privacy.
- 10.6 The proposed new route would leave the metalled track at point A on Plan HA/042 to enter the adjacent western field via a gap. It would then continue westerly along the northern field boundary and then southerly along the western field boundary to terminate at the south west field corner at point C. The new route would have a width of 2m, a length of 162m and would not be enclosed on either side.
- 10.7 Of benefit to the public, the new route would take path users away from the busy working yard and would be unobstructed.

- 10.8 Ward Councillors have been consulted about the proposal. No comments have been received.
- 10.9 The statutory undertakers have also been consulted and have raised 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.
- 10.10 The user groups have been consulted. The Ramblers Association have suggested that the surface of the proposed route across the field should be treated with stone. The council's position is that as the current route to be diverted crosses pasture, and then continues into pasture until its termination, it would not be reasonable or necessary to expect the applicant to provide a stone surface for the new route. The resolution of this issue will be verbally reported at the committee meeting on 17<sup>th</sup> March.

No further comments were received.

- 10.11 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 10.12 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

## **11.0 Access to Information**

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

Name: Marianne Nixon  
Designation: Public Path Orders Officer  
Tel No: 01606 271843  
Email: [marianne.nixon@cheshireeast.gov.uk](mailto:marianne.nixon@cheshireeast.gov.uk)  
PROW File: 645D/426

## **CHESHIRE EAST COUNCIL**

### **Public Rights of Way Committee**

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|                         |  |
|-------------------------|--|
| <b>Date of Meeting:</b> | <b>17 March 2011</b>   |
| <b>Report of:</b>       | <b>Green Spaces Manager</b>  |
| <b>Subject/Title:</b>   | <b>Cheshire East Rights of Way Improvement Plan 2011-2026: Notification of Implementation Plan 2011-2015</b> |

---

#### **1.0 Report Summary**

- 1.1 This report presents the first 4 year implementation plan under the Cheshire East Rights of Way Improvement Plan (ROWIP) 2011-2026.

#### **2.0 Recommendation**

- 2.1 That the Implementation Plan 2011-2015, of the Cheshire East Rights of Way Improvement Plan 2011-2026, shown in Appendix 1, be noted.

#### **3.0 Reasons for Recommendation**

- 3.1 The Implementation Plan 2011-2015 was put before the Portfolio Holder for Health and Wellbeing on 14 March 2011 for approval. The report presents the Implementation Plan for information purposes.

#### **4.0 Wards Affected**

- 4.1 All Wards affected.

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

- 5.1 All Local Ward Members.

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

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

## **7.0 Financial Implications**

- 7.1 The ROWIP strategy document contains the policies and initiatives of the relevant sections of the Local Transport Plan (LTP3). The strategy sets out what the Council will aim to do during the period 2011-2026, although no financial commitment is made. Funding sources, which will include external grants, will be identified through the implementation plans for the ROWIP and LTP3.

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 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.
- 8.2 Non compliance with the requirement for the full integration of the ROWIP with the LTP3 could result in criticism from statutory monitoring bodies and agencies.

## **9.0 Risk Management**

- 9.1 No matters arising.

## **10.0 Background and Options**

- 10.1 In December 2010, the Committee saw the final ROWIP document which sets out the strategy by which the Council aims to improve the public rights of way over the next 15 years. This document was approved by the Portfolio Holder on 17 January 2011.
- 10.2 The ROWIP must set out a statement of action detailing how the authority will implement improvements: these will be set out in 4-yearly implementation plans, the first of which is shown in Appendix 1.
- 10.3 Suggestions for improvement projects have been submitted, during the development of the ROWIP, by officers, members of the public, user groups and community groups. These suggestions have then been prioritised by the methodology presented to the Committee in December 2010 which was selected and amended by the Cheshire Local Access Forum. This methodology takes into account the benefits of the scheme in the context of local need.
- 10.4 The highest priority suggestions have been selected for each category of suggestion: walking, cycling, horse riding, transport-related and cross-cutting projects. It is intended that these suggestions be investigated and developed first, with the acknowledgement that some may not be feasible and other opportunities may arise through partnerships and developments that result in alternative projects being taken forward.

- 10.5 Monitoring and reporting shall be undertaken through annual progress reporting.

**11.0 Access to Information**

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

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Email: [genni.butler@cheshireeast.gov.uk](mailto:genni.butler@cheshireeast.gov.uk)

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# Rights of Way Improvement Plan 2011 - 2026

## Implementation Plan 2011 - 2015

[www.cheshireeast.gov.uk/prow](http://www.cheshireeast.gov.uk/prow)





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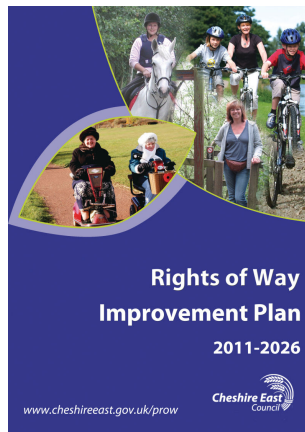
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## 1 ROWIP policies and initiatives

### Introduction

- 1.1** In April 2011, Cheshire East Council published its Rights of Way Improvement Plan (ROWIP) 2011-2026 which set out the strategy by which the Council aims to improve public rights of way and countryside access across the Borough.



- 1.2** The ROWIP has 5 chapters:-

1. Introduction - an explanation of what the ROWIP is and how it was produced;
2. Evaluation of Cheshire's ROWIP 2006-2011 - an assessment of successes and ongoing challenges;
3. Network assessment - a description of what countryside access is available to the public in Cheshire East;
4. Demand assessment - a description of what people want from public rights of way and countryside access at the present time and future demand trends; and,
5. What we need to do - listing policies and initiatives through which we aim to make improvements. These are common to the Local Transport Plan 3 (LTP3).

- 1.3** The policies and initiatives stated in chapter five state what we need to do and are repeated below. For full background details please read the ROWIP strategy available at [www.cheshireeast.gov.uk/prow](http://www.cheshireeast.gov.uk/prow).

- 1.4** The actual projects to be delivered under the ROWIP strategy will be set out in 4-yearly implementation plans, this being the first.

## 1 ROWIP policies and initiatives

### Policy H2: Promotion of active travel and healthy activities

#### Work in partnership to promote walking, cycling and horse riding as active travel options and healthy activities

**Promote opportunities and facilities:** highlight opportunities for active travel and healthy activity by promoting new and existing facilities using appropriate media such as signage, walking and cycling maps, leaflets, events, internet sites and other technologies. This will focus on routes and sites that are accessible by modes of active travel or public transport (such as important leisure routes or key employment locations) and will involve working with health agencies, help to promote active travel and other activities as a lifestyle choice for all ages amongst our residents and visitors. Close working with the Peak District National Park Authority and other visitor organisations to provide helpful information and promote a consistent and warm welcome to visitor attractions.

**Organised walks, rides and activities:** undertake and support organised walks, rides and other activities which encourage people to partake in healthy activities that they may not otherwise have the confidence or knowledge to do.

**Public information on the public rights of way network:** enhance the accuracy of the Definitive Map and Statement to provide an up to date and accessible format. This will facilitate changes to the network, through the necessary legal processes, for the benefit of landowners and the public.



## 1 ROWIP policies and initiatives

### Policy H3: Public rights of way and green infrastructure

**Protect and enhance our public rights of way and green infrastructure and endeavour to create new links where beneficial for health, safety or access to green spaces**

**Sustainable access to green spaces:** aim to improve access for all members of society, including disabled people, to and within green infrastructure, including the public rights of way network, town parks, public open space, the Peak District National Park and country parks.

**Link key services:** seek to improve the routes and green infrastructure that link key services (e.g. schools, community centres and tourism destinations) by routes and green infrastructure such as canal towpaths. Investments will include improving surfacing and signage, where appropriate, and creating links where gaps exist in the network.

**Leisure routes for cyclists, horse riders and walkers:** endeavour to create and enhance leisure routes for cyclists, horse riders and walkers on the public rights of way network and highway network.

**Litter, environmental health, safety and security:** encourage users to reduce litter and will improve environmental health, safety and other security concerns through education and clean-up campaigns.

**Country parks, town parks and public open space:** ensure adequate maintenance and improvement of land within the Council's ownership that is used for formal and informal public access and recreation, at a local level and sites which are tourism destinations.



## 1 ROWIP policies and initiatives

### Policy S7: Walking

**Work with stakeholders to improve facilities for walking so that it is attractive for shorter journeys**

**Footway and footpath improvements:** promote improvements to the condition of highway footways, footpaths and public rights of way. In particular, support the development, on safety grounds, of low cost measures, such as verge improvements. Consideration will also be given to resurfacing, removal of litter and other environmental health issues, provision of lighting and seating, where appropriate, and the removal of barriers and obstacles to open up more routes for more people, particularly those with pushchairs and disabled people. This initiative will also recognise the environmental and biodiversity benefits of creating attractive green spaces alongside walkways and cycleways.

**New walking routes:** support the development of new routes where required but not currently provided, such as on rural roads and in villages, and support initiatives to connect up the highway footway and public rights of way networks for greater pedestrian movement, including links to the canal system.

**Pedestrian crossing points:** support the provision of safe crossing points, wide pavements, dropped kerbs and other pedestrian facilities where necessary to encourage travel on foot and improve perceptions of safety along routes and make routes more accessible to disabled people.

**Route signing:** promote the signing of dedicated on- and off-road pedestrian routes to encourage greater use by pedestrians. Initiatives will include the provision of signs relaying destination, distance and time information.





## 1 ROWIP policies and initiatives

### Policy S8: Cycling

**Work with stakeholders to improve facilities for cycling so that it is attractive for shorter journeys**

**New cycle routes:** seek to provide appropriate highways improvements (e.g. on-road cycle lanes or wide nearside lanes) and off-road routes to make commuter cycling a safe and quick alternative to car use. Focus will be on creating a network of joined-up routes catering for a range of cycle skill levels and will capitalise on the potential of the canal system for cyclists.

**Junction and route improvements for cyclists:** promote the provision of filter lanes, advanced stop lines and toucan crossings, where applicable, to prioritise and enhance the safety of cyclists at junctions. Undertake surfacing and lighting improvements on existing key links. Such measures will be incorporated into the design of new or amended highways, as well as retrospectively to existing road junctions, where possible.

**Cycle facilities:** work to provide greater access to cycling facilities (e.g. cycle parking, changing facilities, showers, hire & ride schemes) in town centres, at community facilities (e.g. libraries) and service and employment centres.

**Route signing:** encourage a greater uptake of cycling through the provision of route signs which state the destination, distance and journey time to selected destinations, to complement other sources of information.



## 2 Prioritising improvements

### Prioritisation

- 2.1** The projects listed here have been collated from suggestions gathered from the public, user groups and other organisations and are recorded in both geographical and database format for ease of interrogation and sharing with other departments and organisations.
- 2.2** The suggestions have been assessed and scored through a prioritisation methodology which was selected and amended by the Cheshire Local Access Forum, the statutory body advising the Council on access to the countryside. The scoring reflects the policies of the ROWIP and the benefits offered by the suggestion in terms of need:
- improving access where current provision is poor;
  - improving access in a community where there is a high level of deprivation;
  - improving access for disabled people, horse riders and cyclists;
  - improving safety of non-motorised users on roads;
  - Improving access to services such as shops and schools
  - Improving access to areas of interest such as water bodies or woodland; and,
  - Improving access which will bring about a benefit to the visitor economy.
- 2.3** The prioritisation methodology also incorporates an assessment of the costs of the scheme in terms of capital and resources, and of the feasibility of delivering the suggestion. In the following tables, the amount of staff time required to deliver the project is indicated by stars: \* low, \*\* medium, \*\*\* high. Similarly, the estimated cost of the project is indicated by pound signs: £ low, ££ medium, £££ high.
- 2.4** Those suggestions scoring high in terms of delivering benefits and scoring low in terms of costs have been ranked to be taken forward. The top 5 suggestions in each of the leisure walking, leisure cycling, horse riding and cross-cutting categories have been selected. A large number of transport-related suggestions are listed in the statement of action as these tend to be large scale projects which run for a number of years and in which public rights of way will contribute one part of the whole.

### Statement of action

- 2.5** The following statement of action lists an indicative set of projects that the Council aims to deliver within the 4 year period 2011-2015. What can actually be achieved is dependent to varying degrees on the availability of funding and on landowner agreement. The Council will need to retain flexibility in order to take advantage of opportunities arising, for example, from future development proposals or other partnerships. It follows that the Council may deliver alternative projects to the schemes listed here.

## 2 Prioritising improvements

- 2.6** It is realised that funding from central government, local authority budgets and other sources are likely to be minimal in at least the short term future. Therefore, the importance of partnership working in improving the network and the need to draw in external funds from other sources must not be overlooked.
- 2.7** The delivery of projects will also be subject to the organisational changes occurring within Cheshire East Council. A review of the Council's functions and budgets across Green Spaces and the wider Health & Wellbeing service is anticipated as a result of the Comprehensive Spending Review and other pressures.
- 2.8** Alongside these ROWIP projects, ongoing maintenance works and smaller scale improvements will continue to be undertaken through the maintenance budget of the Public Rights of Way team. These works are aligned to the policies of the ROWIP as well as satisfying the authority's duty to maintain public rights of way. This duty is undertaken in accordance with the authority's prioritisation system for different categories of maintenance and enforcement issues on public rights of way.



## 3 Statement of action

Table 1 Prioritised projects 2011-2015 - leisure walking

| Ref. | Site name                               | Suggested improvement   | Partners  | Staff time | Estimated cost | Potential funding sources   |
|------|---|---|---|------------|----------------|---|
| W41  | Salt Line Country Park, Alsager         | Investigate improving access to the Alsager end of the Salt Line avoiding roads   | Alsager Town Council, Alsager Partnership                               | **         | ££             | Highways  |
| W67  | Nantwich Riverside Loop                 | Install additional signage at Water Lode bridge over the River Weaver to signal the Loop route to non-regular users                       | Nantwich Riverside Loop partners, Nantwich Local Area Partnership       | *          | £              | ROWIP budget  |
| W47  | Wood Park, Alsager                      | Improve the link path between the Salt Line and the ATC hut to provide a safe and attractive route for residents to access the facilities | Landowners, Alsager Town Council, Alsager Partnership                   | *          | ££             | ROWIP budget, External funding bid with partners                          |
| W35  | Odd Rode Footpath No. 41, Church Lawton | Improve access from footpath and Old Knutsford Road onto the Trent and Mersey Canal towpath, particularly for disabled people             | Congleton Disabled Access Group, Landowners, British Waterways          | *          | £              | ROWIP budget, External funding bid with partners                          |
| W45  | Dane Valley Way, Congleton              | Investigate the feasibility of improving the path between between Havannah Street and Havannah Lane                                       | Landowners, Community Group, Congleton Town Council, Environment Agency | **         | ££             | ROWIP budget, External funding bid with partners, Developer contributions |

### 3 Statement of action

Table 2 Prioritised projects 2011-2015 - leisure cycling

| Ref. | Site name                                    | Suggested improvement  | Partners  | Staff time | Estimated cost | Potential funding sources |
|------|--|--|---|------------|----------------|---------------------------|
| C4   | Cycle route to Brereton Local Nature Reserve | Set up a promoted route from Holmes Chapel and Congleton to reach Brereton Local Nature Reserve by bike, using quieter roads and public rights of way    | Highways, Landowners, Visitor Economy, Health Improvement | *          | £              | ROWIP budget              |
| C2   | Congleton Bridleway No. 34                   | Resolve drainage issues on bridleway which connects housing in Buglawton with the Macclesfield Canal towpath   | British Waterways, Community Group                        | *          | £              | ROWIP budget              |
| C3   | Poynton Footpath No. 7                       | Investigate the possibility of enabling cyclists to use this route on Princes Incline as a means to link Poynton and Hazel Grove with the Middlewood Way | Landowners, Poynton Town Council, CycleWilmslow           | **         | ££             | ROWIP budget              |
| C1   | Mobberley Footpath Nos. 45 & 52              | Investigate the possibility of upgrading these footpaths to bridleways to extend the network of routes available to cyclists                             | Landowners, CycleWilmslow                                 | **         | ££             | ROWIP budget              |
| C5   | Alsager Road, Hassall                        | Investigate making Alsager Road safer for cyclists to create a circular ride from Alsager  | Highways, Alsager Partnership                             | **         | ££             | Highways                  |

## 3 Statement of action

Table 3 Prioritised projects 2011-2015 - horse riding

| Ref. | Site name   | Suggested improvement   | Partners                                 | Staff time | Estimated cost | Potential sources of funding          |
|------|---|---|--|------------|----------------|---------------------------------------|
| H39  | Congleton Bridleway No. 31                                    | Create a connection between the bridleway and the Biddulph Valley Way to improve the network of rides available             | Border Bridleways Association, Landowner | ***        | ££             | ROWIP budget, Developer contributions |
| H38  | St John's Public Open Space, Congleton                        | Create a bridleway route to link with Havannah Lane and Tommy's Lane and the wider network                                  | Border Bridleways Association, Landowner | **         | ££             | Developer contributions               |
| H30  | Poynton Footpath No. 51                                       | Investigate the possibility of upgrading to bridleway status to give access onto the Middlewood Way and surrounding network | Landowners, Horse rider user groups      | **         | £              | ROWIP budget                          |
| H20  | Seven Sisters Lane, Ollerton                                  | Provide a verge path or field edge path to provide access to Ollerton Bridleway No. 6 for users using Seven Sisters Lane.   | Landowners, North Cheshire Riders        | **         | ££             | Highways                              |
| H23  | Specific footpaths in Ollerton Marthall, Moberley & Knutsford | Investigate the possibility of upgrading footpaths to bridleway status to create a valuable area of off-road riding.        | Landowners, North Cheshire Riders        | **         | £              | ROWIP budget                          |

### 3 Statement of action

Table 4 Prioritised projects 2011-2015 - cross cutting projects

| Ref. | Site name                    | Suggested improvement   | Partners  | Staff time | Estimated cost | Potential funding sources                        |
|------|------------------------------|---|---|------------|----------------|--|
| X14  | Towns                        | Develop publicity highlighting available walking and cycling routes within towns to encourage active travel                             | LTP, user groups, Local Area Partnerships, Town & Parish Councils, Health organisations | **         | ££             | ROWIP budget, External funding bid with partners |
| X15  | Horse riding promoted routes | Transfer North Cheshire Riders' promoted routes on to Discover Cheshire website   | North Cheshire Riders, Landowners   | *          | £              | ROWIP budget                                     |
| X1   | Mersey Life Project          | Mersey Life Project Improving access to the river for all   | Mersey Life Project, Environment Agency, Bollin Valley Partnership                      | ***        | £££            | External funding bid with partners               |
| X6   | Local leisure routes         | Develop and publish circular promoted routes with Local Area Partnerships   | Local Area Partnerships, Visitor Economy  | **         | £              | ROWIP budget, External funding bid with partners |
| X7   | Promoted 'green routes'      | Develop and/or reprint 'Green Walks': promoting routes which use public transport outwards and walking or cycling on the return journey | Public transport providers, Local Area Partnerships                                     | **         | £              | Public transport providers                       |

## 3 Statement of action

Table 5 Prioritised projects 2011-2015 - transport-related

| Ref. | Site name   | Suggested improvement   | Partners   | Staff time | Estimated cost | Potential funding sources          |
|------|---|---|--|------------|----------------|------------------------------------|
| T33  | Macclesfield Canal Towpath, Congleton                     | Improve the surface of the towpath in Congleton, bridges 66-78. The route offers links to the town centre as commuter and leisure route   | Congleton Town Council, Community Group, British Waterways   | ***        | £££            | External funding bid with partners |
| T44  | Macclesfield Canal Towpath, Macclesfield                  | Improve the surface of the towpath in Macclesfield, bridges 30-46 as a potential commuter and recreational route close to the town centre | British Waterways, Local community groups  | ***        | £££            | External funding bid with partners |
| T23  | Prestbury Footpath No. 37 and Macclesfield Riverside Park | Upgrade the footpath and route through the Country Park from Prestbury to Macclesfield as a joint use path for walkers and cyclists       | Prestbury Parish Plan, Local community groups, Bollin Valley Partnership, Sustrans, Local Area Partnership | ***        | £££            | External funding bid with partners |
| T45  | Macclesfield Canal Towpath, Bollington                    | Improve the surface of the towpath, bridges 26-28 to create good linkages to town and Discovery Centre                                    | Bollington Town Council, British Waterways, Visitor economy  | ***        | £££            | External funding bid with partners |

### 3 Statement of action

| Ref. | Site name  | Suggested improvement  | Partners   | Staff time | Estimated cost | Potential funding sources          |
|------|--|--|--|------------|----------------|------------------------------------|
| T1   | Peak Forest Canal Towpath, Disley                  | Improve the surface of the towpath to create an active travel route to the facilities in Disley and commuter destinations further afield | Disley Parish Council, Disley Footpaths Society, British Waterways | ***        | £££            | External funding bid with partners |
| T42  | Reaseheath College link to Crewe-Nantwich Greenway | Creation of an off-road shared use path between college and Crewe to Nantwich Greenway   | Reaseheath College, Sustrans, Highways                             | ***        | £££            | External funding bid with partners |
| T25  | Cranage to Holmes Chapel link                      | Creation of an off-road shared use path between Cranage village and playing fields with Holmes Chapel town and facilities                | Cranage and Holmes Chapel Parish Councils                          | ***        | £££            | External funding bid with partners |
| T21  | Salt Line to Wheelock Rail Trail link              | Creation of a connecting route between the country parks to create a longer leisure and transport route                                  | Landowners   | **         | ££             | ROWIP budget                       |
| T28  | Middlewich Branch towpath                          | Upgrade towpath condition as a link between communities and 3 schools  | British Waterways  | **         | £££            | External funding bid with partner  |
| T52  | Congleton Bridleway No. 31                         | Tommy's Lane, Congleton: improve surface, signage and maintenance  | Congleton Community Group  | *          | ££             | ROWIP budget                       |

## 3 Statement of action

| Ref. | Site name                  | Suggested improvement  | Partners  | Staff time | Estimated cost | Potential funding sources                        |
|------|----------------------------|--|---|------------|----------------|--|
| T29  | Middlewich Footpath No. 19 | Upgrade for use by cyclists commuting from town to Midpoint 18 employment centre | Landowner, Developer                                  | **         | ££             | ROWIP budget, Developer contributions            |
| T24  | Pickmere Footpath No. 13   | Upgrade footpath between Pickmere and Wincham linking school with community      | Pickmere Parish Plan, Cheshire West & Chester Council | **         | ££             | ROWIP budget, External funding bid with partners |

## 4 Monitoring

### Monitoring and assessment

- 4.1** We will monitor the progress of this ROWIP and the subsequent implementation plans through annual review assessing the delivery of projects against the ROWIP strategy and implementation plans. This review will note improvements made together with usage, travel mode and health statistics, where available. This reporting will be completed as part of LTP3 annual review and reported to the Council's Public Rights of Way Committee and the Cheshire Local Access Forum.
- 4.2** In addition, monitoring may be undertaken through national indicator sets as these are developed and through the results of the National Highways and Transport Network Satisfaction Surveys.
- 4.3** The 'Ease of use' random surveys following the Best Value Performance Indicator 178 methodology, will be conducted internally and used to monitor the maintenance condition of the public rights of way network.
- 4.4** Finally, the CROW Act 2000 set the requirement for ROWIPs to be reviewed at intervals of not less than 10 years. Given that the strategy extends beyond that timeframe, it is recognised that periodic review will be required and that these Implementation Plans will in effect enact that appraisal.





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This information is available in other formats on request

## **CHESHIRE EAST COUNCIL**

### **Public Rights of Way Committee**

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|                         |  |
|-------------------------|--|
| <b>Date of Meeting:</b> | <b>17 March 2011</b>   |
| <b>Report of:</b>       | <b>Greenspaces Manager</b>   |
| <b>Subject/Title:</b>   | <b>Public Inquiry to Determine Definitive Map Modification Order - Poynton with Worth Footpath Nos 92, 93 and 94</b> |

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#### **1.0 Report Summary**

- 1.1 This report is an informative item to brief the Committee on a recent public inquiry and the outcome.

#### **2.0 Recommendation**

- 2.1 No decision is required by Committee.

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

- 3.1 N/A

#### **4.0 Wards Affected**

- 4.1 Poynton

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

- 5.1 Councillor C Beard, Councillor H Murray and Councillor R West

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

- 6.1 Not Applicable

#### **7.0 Financial Implications**

- 7.1 Not Applicable

#### **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 Under section 53 of the Wildlife & Countryside Act 1981 (WCA), the Council has a duty, as surveying authority, to keep the Definitive Map and Statement under continuous review. Under schedule 14 of the WCA, applications can be made to the authority submitting evidence that suggests that the Definitive Map needs to be amended. The authority must investigate and determine that evidence and

decide on the outcome whether to make a Definitive Map Modification Order or not. When an order is made it is advertised and may be subject to objections. If objections are not withdrawn the Council cannot then confirm the order itself and must submit the order to the Secretary of State (Planning Inspectorate) for determination. Where a Parish/Town Council objects to an order it is policy for a local public inquiry to be held. The Council must provide a suitable venue and legal support to facilitate an inquiry.

## **9.0 Risk Management**

9.1 None

## **10.0 Background and Options**

- 10.1 An application was made to Cheshire County Council in 2002 for three footpaths to be added to the Definitive Map across land constituting a recreation ground called Brecon Park in Poynton and partly owned by Cheshire East Council (then Macclesfield Borough Council) and partly owned by Poynton Town Council.
- 10.2 The footpaths run between Park Lane in Poynton, Oakland's Road and Public Footpath no. 87 (Lady's Incline). They are shown on the Plan No. MO/536A.
- 10.3 Cheshire County Council considered this application in a report put before the Rights of Way Committee in July 2007. The making of an order was approved and a Modification Order to add these footpaths was made on the 23 October 2007. Poynton with Worth Town Council had indicated their opposition to the addition of the footpaths and submitted a formal objection to the order which was not withdrawn.
- 10.4 The objection was based on the fact that there was no physical evidence of use of the paths across the grassed fields and that bye laws renewed in 2006 implemented opening times to the Park.
- 10.5 Since the order was made Local Government Reorganisation transferred responsibility for seeking a resolution to this order to Cheshire East Council. Consequently a file of the relevant information was submitted to the Planning Inspectorate in May 2010.
- 10.6 The public inquiry was held in Poynton Civic Hall on Tuesday 25 January. The Council were represented by a barrister, Estelle Dehon from chambers in London and the Town Council were represented by Councillor Howard Murray acting in his capacity as a Town Councillor. The appointed Inspector was Helen Slade.
- 10.7 The inquiry heard evidence from the Council's Definitive Map Officer, Clare Hibbert and from nine witnesses and the applicant in support of the order and from Councillor Murray in opposition. The basis of the evidence in support was that under section 31 of the Highways Act 1980, the ways had been used for a full period of 20 years without force, secrecy or permission and without sufficient evidence to indicate that there has been no intention to dedicate during that period. If these criteria are fulfilled then the way is deemed to have been

dedicated. The relevant 20 year period was taken as being from 1982 to 2002 (when the application was made).

- 10.8 The evidence in opposition to the order was that there was not sufficient evidence of use as there was no physical line of tread on the ground to indicate a used line and that the Bye laws restricted the times of entry to the ground. During the course of questioning Councillor Murray accepted that, as far as he was aware, access to Brecon Park had never been subject to closing times. These times had also never been made public on notices or signs around the park. Reference was made to aerial photographs of various ages indicating that there was no visible line of tread recorded.
- 10.9 The inquiry was closed and concluded the same day. The Inspector issued a decision letter on the 4 February in which she confirmed the order. The balance of the argument weighed in favour of the paths having been deemed to have been dedicated. There was insufficient evidence to show a lack of intention on the part of the landowners to dedicate to satisfy the requirements of section 31 of the Highways Act 1980.
- 10.10 The Council has now advertised the confirmation of the order and allowed 42 days for a High Court challenge to be made. This period expires on the 8 April 2011. A challenge can only be made on the basis that the Inspector in reaching her decision has wrongly applied the relevant law.

#### **11.0 Access to Information**

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

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