

Public Rights of Way Committee

Agenda

Date: Monday 11th June 2012
Time: 2.00 pm
Venue: Committee Suite 1,2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

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

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

1. **Apologies for Absence**

2. **Declarations of Interest**

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

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

To approve the minutes of the meeting held on 12 March 2012 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.

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

Contact: Rachel Graves

Tel: 01270 686473

E-Mail: rachel.graves@cheshireeast.gov.uk

Also in accordance with Procedure Rule No.35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee. Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice of the 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 3 working days notice in writing, and should include the question with that notice. This will enable an informed answer to be given.

5. **Public Rights of Way Annual Report 2011-2012 and Work Programme 2012-2013** (Pages 9 - 38)

To consider report on the achievements of the Council in terms of its public rights of way functions during the year 2011-12 and the proposed work programme for the year 2012-13

6. **DEFRA Consultation, "Improvements to the Policy and Legal Framework for Public Rights of Way".** (Pages 39 - 47)

To consider a response to the Consultation Paper issued by DEFRA on a range of issues and proposals relating to changes to Rights of Way administrative processes

The Consultation Paper can be viewed on the Defra website - <http://www.defra.gov.uk/consult/open>

7. **Highways Act 1980 - Section 119: Application for the Diversion of part of Public Footpath No. 14 in the Parish of Sandbach** (Pages 48 - 53)

To consider the application for the diversion of Public Footpath No.14 in the parish of Sandbach

8. **Highways Act 1980 - Section 119: Application for the Diversion of Public Footpath no. 18 (part), Parish of High Legh** (Pages 54 - 59)

To consider the application for the diversion of Public Footpath No.18 (part) in the parish of High Legh

9. **Highways Act 1980 - Section 119: Application for the Diversion of Public Footpath No. 60 (part), Parish of Wilmslow** (Pages 60 - 65)

To consider the application for the diversion of Public Footpath No.60 (part) in the parish of Wilmslow

10. **Highways Act 1980 - Section 119: Application for the Diversion of Public Footpath no. 63 (part), Parish of Disley** (Pages 66 - 71)

To consider the application for the diversion of Public Footpath No.63 (part) in the parish of Disley

11. **Town and Country Planning Act 1990 - Section 257: Application for the Diversion of Public Footpath No.1 (Part) Parish of Hankelow** (Pages 72 - 78)

To consider an application for the diversion of Public Footpath No, 1 (part) in the parish of Hankelow

THERE ARE NO PART ITEMS

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Public Rights of Way Committee**
held on Monday, 12th March, 2012 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor J Wray (Chairman)

Councillors Rhoda Bailey, S Davies, L Jeuda, W Livesley and M Parsons

Officers

Mike Taylor, Greenspaces Manager

Hannah Duncan, Definitive Map Officer

Marianne Nixon, Public Path Orders Officer

Clare Hibbert, Definitive Map Officer

Julie Openshaw, Legal Team Leader (Places Regulatory and Compliance)

Rachel Graves, Democratic Services Officer

35 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R Cartlidge and D Druce.

36 DECLARATIONS OF INTEREST

Councillor J Wray declared that he was the Ward Member for Item 6 – Diversion of Public Footpath No.2 (part) in the parish of Arclid, and Item 7 – Claimed Footpath at Malkins Bank Golf Course, Parish of Hassall.

37 MINUTES OF PREVIOUS MEETING**RESOLVED:**

That the minutes of the meeting held on 12 December 2011 be approved as a correct record and signed by the Chairman.

38 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NOS. 20 AND 28 (PARTS), PARISH OF KETTLESHULME

The Committee received a report which detailed an application from Mr NJ Fogg, Tunstead Knoll Farm, Kettleshulme (the Applicant) requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert parts of Public Footpaths Nos. 20 and 28 (parts) in the parish of Kettleshulme.

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 paths.

The Applicant owned the land over which the current paths and the proposed diversions ran. The sections of each Public Footpath Nos. 20 and 28 Kettlethulme to be diverted ran through the property of the landowner giving rise to concerns relating to security and safety.

The proposed new route would be in two sections. With reference to Plan HA/065, the new route for Kettlethulme Footpath No.20 would, from point A in the pasture field, pass through a pedestrian gate (accessed by steps) to cross a second pasture field following a generally south easterly direction. On reaching steps, it would pass through a second pedestrian gate onto a stone surfaced track (point D) and would follow this track in a southerly direction to steps at point J. From here it would skirt a garage building by following an easterly direction to point K and then a south, south westerly direction to end by passing through sparse trees to terminate at point L on the metalled farm drive.

The new route for Kettlethulme Footpath No.28 would, from point F, leave the metalled farm drive to pass through a kissing gate and down steps into a pasture field to the south of the drive (point M). It would then cross the pasture field in a south, south westerly direction to pass through a metal kissing gate at point N before continuing in the same direction to terminate at point I.

The two new path sections would connect via a short stretch of existing line of Kettlethulme Footpath No.20.

The new path would have a width of 2m and would not be enclosed on either side except for a short section (D-J-K-L) which would be enclosed to a width of not less than 2.5m. One kissing gate and three pedestrian gates would be installed along with steps as appropriate on steeper gradients.

Of benefit to the public, the new route would be significantly more enjoyable as it would pass through more open and scenic landscape – reducing the need to pass between the farm buildings and along the private access track used by vehicles. The new route for Public Footpath No.20 would be approximately 61 metres shorter than the current route.

The Committee noted that no objections had been received from the informal consultations and considered that the proposed routes would not be substantially less convenient than the existing route. Diverting the footpaths would be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property. The new routes would be more enjoyable as they passed through more open and scenic landscape. It was therefore considered that the proposed routes would be a satisfactory alternative to the current ones 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 parts of Public Footpaths Nos. 20 and 28, Parish of Kettleshulme, by creating new sections of each public footpath and extinguishing the current path sections, as illustrated on Plan No. HA/065, on the grounds that it is expedient in the interests of the owner of the land crossed by the paths.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**39 TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 257:
APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 2
(PART) PARISH OF ARCLID**

The Committee received a report which detailed an application from Rowland Homes Ltd and Messrs Pace (the applicant) requesting the Council to make an Order under Section 257 of the Town and Country Planning Act 1990 to divert Public Footpath No. 2 in the parish of Arclid.

In accordance with Section 257 of the Town and Country Planning Act 1990, the Borough Council, as the Planning Authority, can make an Order stopping up or diverting a footpath or part of 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 on 16 November 2011 – Planning Permission Ref: 11/2394C, to the Applicant for the redevelopment of industrial/commercial premises and two detached garages and erection 18 dwellings (13 market/5 affordable), provision of Public Open Space and formation of replacement access for the dwelling Fairfield. The consent was granted subject to the prior signing of a Section 106 agreement and a number of conditions.

The current definitive line of the footpath had been unavailable for several decades. The path was obstructed by a large building and than ran across the forecourt of the garage site to the A50 Newcastle Road. A permissive route had been in place for many years. The section of footpath to be diverted was approximately 63 metres. When the development takes place, the current definitive line would be obstructed by two houses and run across the cartilage of a number of properties in the development.

The proposed route would leave Newcastle Road and run along a pavement for approximately 35 metres before turning to run in a south westerly direction across a public open space for approximately 17metres. As it left the open space, it then crossed a road and ran between houses for approximately 32 metres. It then turned to run in a south easterly direction for approximately 17 metres to rejoin the existing line of Public Footpath No.2 at the stile which led into the adjacent landowner's field.

The section of footpath from Newcastle Road to the southern side of the road (before it runs between the houses) would have a width of 2 metres. The section between the houses would have a width of 3 metres and then the final section which runs in a south easterly direction at the rear of two houses would have a width of 2.5 metres. The majority of the diverted paths surface would be tarmac, the short section through the public open space would be gravel. The length of the proposed route was approximately 102 metres.

The Committee noted that no objections had been received from the informal consultations and concluded that it was necessary to divert part of Public Footpath No. 2 Arclid to allow the development to be carried out. It was 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.2 Arclid, as illustrated on Plan No.TCPA/008, on the grounds that the Borough Council is satisfied that it is necessary 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.

**40 WILDLIFE AND COUNTRYSIDE ACT 1981 - PART III SECTION 53:
INVESTIGATION INTO CLAIMED FOOTPATH AT MALKINS BANK
GOLF COURSE, PARISH OF HASSALL, FROM MILL LANE TO
BRIDLEWAY NO.15, HASSALL**

The Committee received a report which detailed an investigation into a claimed footpath at Malkins Bank Golf Course, parish of Hassall, from Mill Lane to Bridleway No. 15 Hassall.

Under section 53 of the Wildlife and Countryside Act 1981, the Borough Council had a duty, as surveying authority, to keep the Definitive Map and Statement under continuous review. Section 53(c) allowed for an authority to act on the discovery of evidence that suggested that the Definitive Map needed 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.

With reference to Plan No.WCA/003, the claimed route commenced at Point A and ran in a northerly then north easterly direction crossing a stream and then running generally easterly to the north of the stream and continuing to its junction with Bridleway No.15. The surface was grassed. When the path left Mill Lane there was a post and rail fencing preventing access and further along the road to the south east there was a gap in the fencing/hedge. There was no bridge where the path crossed the stream although the remnant of a sleeper bridge can be seen.

The claim for the footpath came to the attention of Cheshire County Council in approximately 2005 when an inquiry was made by Mr C Meewezen regarding whether a right of way existed at Malkins Bank Golf Course and consequently an application pack to make a claim to record the footpath was sent out to Mr Meewezen. The existence of the footpath was being concurrently pursued by Mr Meewezen with the then landowner Congleton Borough Council.

In order to address this situation Congleton Borough Council instigated a Footpath Task Group who contributed to a report put by the Health Scrutiny Committee before the Council's Executive in April 2006. The report accepted that there was no evidence that the claimed route had been stopped up or diverted since 1941 and considered that there was no evidence to suggest the route was currently being used and that the 'used route' was some distance away. The report considered that the public attempting to use the route would be at considerable risk as it ran through the 6th and 7th fairways of the Golf Course. The report concluded that it was felt that the need of the public had been addressed by the previous dedication of a bridleway running north to south across the course (Bridleway 15) and that the correct procedure to have a footpath recognised was to submit any relevant evidence with an application for the Definitive Map Modification Order to the Public Rights of Way Team at the County Council.

Officers in the Public Rights of Way Team had now carried out additional research to see if available historical documentation supported the existence of the footpath or showed the route had been formally closed by statutory procedure.

It was found that the Bryant's Map of 1831 showed part of the route by a double pecked line indicated on the key as 'Lanes and Bridleways'. The Tithe Map and Award of Hassall dated 1841 showed most of the route in question as a double pecked line. A small part of the route had an apportionment number 14a which was described as Road and Waste, whilst the greater part fell under apportionment number 16 and was described as Meadow. The entire route appeared to be faintly shaded. The Ordnance Survey Map 1" to 1 Mile 1842 'Old Series' showed most of the route and was similarly depicted as on the Tithe Map.

The North Staffordshire Railway – Liverpool Extension 1845 plan depicted an intended railway which was subsequently built. The plan showed a corridor of land defining the limits of deviation either side of the intended railway, with plot numbers for the land and public and private routes. The part of the route shown within the limits of deviation is within plot number 172 which was recorded as 'Grass field and footpath'. This was the second route contained within this plot.

The ICI (Alkali Ltd) Statutory Declaration dated 1941, with a map dated 1935, indicated their areas of land ownership in Wheelock and Hassall. This document was deposited under the provisions of the Rights of Way Act 1932 which allowed land owner to declare those rights of way that they accepted affected their land at the date of deposit with a statement that they did not intend to dedicate any further rights of way. The document shows that the footpath in question had been dedicated as a public right of way.

The Cheshire County Council Green Book of annotated O.S Maps showed the claimed route with a reference to the Rights of Way Act 1932 deposited plan. There was also a reference to a file number within which there was a memorandum, dated 3 November 1955, from the County Surveyor to Congleton Rural District Council referring to the footpath as being shown on the map deposited by ICI and that "it will be necessary at some future date to make arrangements to have it included as a public footpath. It is well defined by stiles at either end and is a grass footpath in a good and clean condition."

No evidence had been found that the footpath had been formally extinguished. The Quarter Sessions Highway Index had been viewed at the Record Office and a wide search of the online records of the London Gazette had been undertaken. Nothing relating to a path closure on this route had been discovered.

The Committee considered that the evidence to support the claimed footpath showed, on the balance of probabilities that a reasonable

allegation had been made that public footpath rights subsisted along the claimed route. It was considered that there was sufficient evidence to prove the existence of a public footpath along the route A-B on Plan No.WCA/003 and therefore in line with the requirements of Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 recommended that the Definitive Map and Statement be modified to add the route depicted on the 1935 statutory declaration map as a public footpath.

RESOLVED:

- 1 An Order be made under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by adding a Public Footpath on the route shown between points A-B on drawing number WCA/003.
- 2 Public notice of the making of the Order be given and, in the event of there being no objections within the specified period, or any objections received being withdrawn, the Order be confirmed in exercise of the power conferred on the Council by the said Act.
- 3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

The meeting commenced at 2.00 pm and concluded at 2.35 pm

Councillor J Wray (Chairman)

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CHESHIRE EAST COUNCIL

REPORT TO: RIGHTS OF WAY COMMITTEE

Date of Meeting: 11 June 2012
Report of: Greenspaces Manager
Subject/Title: Public Rights of Way Annual Report 2011-2012 and Work Programme 2012-2013

1.0 Report Summary

- 1.1 This report records the achievements of the Council in terms of its public rights of way functions during the year 2011-2012 and sets out the proposed work programme for the year 2012-13. Details are set out in Appendices 1, 2 and 3.

2.0 Recommendations

- 2.1 That Members note the Annual Report for 2011-2012 and approve the proposed Work Programme for the Public Rights of Way Team 2012-2013.

3.0 Reasons for Recommendations

- 3.1 As set out in the background and options section of the report (section 10).

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All Members

6.0 Policy Implications including - Carbon Reduction - Health

- 6.1 The development of the Rights of Way Improvement Plan (see Appendix 2) 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 Council's 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 indicators concerning sustainable transport, air quality and CO₂ emissions.

7.0 Financial Implications

- 7.1 None arising.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 None arising

9.0 Risk Management

9.1 Members are requested to note the fact that as was noted last year the Public Rights of Way Team does not currently have the staff resources to carry out path inspections under section 58 of the Highways Act 1980 (see 11.5.1. below). This function could assist the authority in defending against insurance claims where individuals incur accidents on public rights of way. Bridges continue to be surveyed every 2 years, but paths in general are not surveyed for this purpose. This results in a lack of a legal defence to claim(s) for personal injury. Members should note that the proposed survey project involving volunteers described below will not replace this function.

9.2 There were no claims against the Council in 2011/12 for defects on the surface of a public right of way (claims relating to structures are referred to the landowner).

10.0 Background and Options

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

- Legally Defined
- Properly Maintained
- Well publicised

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

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

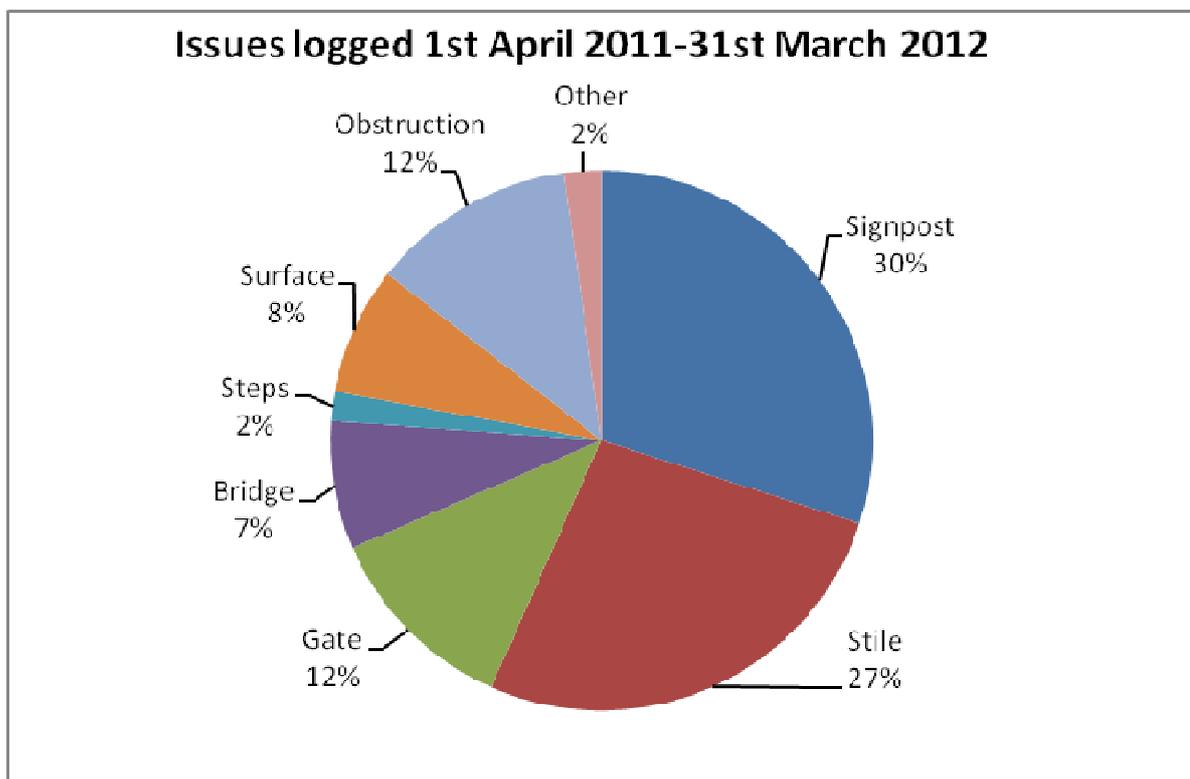
10.3 Each area is examined individually, below, with the successes of 2011/12 contained within the relevant appendices.

11.0 Network Management – Maintenance and Enforcement

11.1 The Network Management and Enforcement Team comprises three full-time officers who deal with the protection and maintenance of the network. They

operate on an area basis, with each officer responsible for approximately 630 kilometres of the network. Within their area, they are responsible for maintenance and enforcement to remove obstructions and keep the path network available for use.

- 11.2 An outline report and work programme for the Maintenance and Enforcement Team is attached at Appendix 1. The component tasks represent the “Milestones” identified in the former Countryside Agency’s National Targets.
- 11.3 Utilising additional reporting systems developed within the CAMS data base attached to the GIS system it is now possible to report logged problems, their characteristics and the number of problems resolved. 529 problems have been logged throughout the year 2011 2012, 375 have been resolved and 154 issues remain unresolved. This will partially reflect the revenue freeze imposed in October 2011 and the backlog of works will be addressed in the new financial year. The pie chart below illustrates the problems reported by percentage type.



- 11.4 The work of the maintenance and enforcement team is the area that is most easily influenced by changes in budget provision and their work has reflected most clearly the impact of budget reductions. One area that is difficult to accommodate is the provision of kissing gates in replacement of stiles. There is ever increasing pressure to install kissing gates in preference to stiles from a number of directions, landowners, user groups and the public and lastly equality legislation. However given that it costs £70 to purchase and install a stile compared to £285 to purchase and install a kissing gate it is clear to see how easy it is for budget pressures to emerge.

12.0 Path Inspection

- 12.1 The Public Rights of Way Team does not have dedicated staff to carry out path inspections under section 58¹ of the Highways Act 1980 (see above at 9.1). Another form of path inspection exists in the form of the former national Best Value Performance Indicator 178: percentage of paths deemed 'easy to use'. Although councils are no longer required to report on BVPI178 in Cheshire it has been collected as a local indicator for the Local Transport Plan - LTP 13. The team duly carried out the BVPI178 inspection this year: the percentage pass rate was 84%, which compares very favourably with a pass rate of 85% for 2010 and 84% for 2009.

13.0 Rights of Way Improvement Plan - Access Development

- 13.1 There is one full-time member of staff dedicated to the implementation of ROWIP and access development projects. Work has continued this year in delivering access projects from the existing ROWIP: Appendix 2 contains an outline report and work programme.
- 13.2 The Countryside Access Development Officer is responsible, jointly with a colleague from Cheshire West and Chester Council, for the administration of the Cheshire Local Access Form. The post holder also facilitates the Rights of Way Consultative Group, attends multiple groups and forums on behalf of PROW/Countryside, comments on planning applications and seeks planning gains, and responds to general enquiries and requests for information.

14.0 Legal Orders Team

- 14.1 The legal orders team comprises four officers (3 x full-time, 1 x part-time) who operate on a caseload basis and deal with public path orders, (diversions and extinguishments), definitive map modification orders, (changes to the definitive map) emergency and temporary closures, land searches, planning applications and day to day enquiries. One post deals exclusively with Public Path Orders based on public applications. This post, created in 2010 is funded by the fees from those applicants and nets nil on the budget.

15.0 Policy development

- 15.1 Cheshire East Council inherited a raft of County Council policies relating to the public rights of way function. Where necessary, these were amended for the new authority and approved by the Rights of Way Committee and are set out below. Policy development should always reflect the changing circumstances within which it has to work, considering the overall policies of the authority and changes in legislation.

¹ Section 58 HA80 = "Special defence in action against a highway authority for damages for non-repair of highway". Under this section it is a defence to prove that the authority had taken such care as in all the circumstances was reasonably required to secure that the path of the highway to which the action relates was not dangerous to traffic. In other words, systematically inspecting the network for defects (and subsequently repairing them) provides the Council with a defence against claims for damages.

15.2 With the publication of the latest ROWIP for CEC in 2010 the Statement of Priorities for Definitive Map Modification Orders was amended in the light of changed ROWIP priorities.

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

16.0 Local Access Forum and ROW Consultative Group

16.1 The most recent Annual Report of the Cheshire Local Access Forum is attached as Appendix 4.

16.2 The Forum's sub-groups considered Health, Under represented groups, Funding and the Spreading of best practice in relation to access to the countryside.

16.3 The Forum received presentations about and submitted advice on the A556 Knutsford to Bowden Environmental Improvement Scheme, the proposed Forestry Commission changes and other schemes affecting countryside access in the county.

16.4 Training was undertaken by members of the Forum on localism and the big society and a site visit was held to the footbridge over the Alderley Edge bypass which the Forum was instrumental in securing.

16.5 The Cheshire Local Access Forum is complemented by the Cheshire East Rights of Way Consultative Group which meets twice a year.

16.6 The Consultative Group operates to achieve the following purposes:-

- to enable interest groups (users, landowners and others) to engage in constructive debate and discussion about issues of law, policy, principle and work programming with members and officers of the Cheshire East Council;
- to encourage understanding of each others' concerns; and,
- to participate in the consultation process and ongoing monitoring associated with the Rights of Way Improvement Plan.

16.7 The ROW Consultative Group does not meet to discuss the facts, merits or demerits of individual cases.

17.0 Budget

17.1 The team has suffered, along with the rest of the council, from a reduction in base revenue budgets. The reactive way that maintenance must work results in funds being completely committed significantly before the end of the financial year and consequently work other than planned pre-allocated commitments has to be cut back. In addition, a moratorium on all non-essential spending was

imposed over the service in October 2011 until the end of the financial year for the second year in succession. The consequences are that a back log of work is released at the commencement of the new financial year, compounding the problem of underfunding and speeding the time at which the budget becomes expired.

- 17.2 Despite the pressures on the budget the team have managed to perform to an impressive level as evidenced by the consistency of the “ease of use” BVPI 178 percentage, (see 12.1 above) of 84%.

18.0 Conclusion

- 18.1 The team continues to deliver consistently high levels of service throughout a very difficult period which reflects their enthusiasm and professionalism. The high level of “ease of use” statistic returned by the annual random survey reflects the generally high standard of the network and its resilience to budget cuts although it is anticipated that continuing budget pressures will eventually be reflected in a decline in general standards.

19.0 Access to Information

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

Name: Mike Taylor
Designation: Public Rights of Way Manager
Tel No: 01270 686115
Email: mike.taylor@cheshireeast.gov.uk

APPENDIX 1

SECTION 3: NATIONAL TARGET 2: "PROPERLY MAINTAINED"

| Component Task | | Source | | | Achievements April 2011 to March 2012 | Targets 2012/13 |
|----------------|---|------------------------------|--|--|--|---|
| No | Measure of Success | | | | | |
| 3.1 | All footpaths, bridleways and byways correctly signposted where they leave a metalled road. | C/side Act 68 NERC Act 06 | | | <ul style="list-style-type: none"> 228 signs erected across the borough. | <ul style="list-style-type: none"> Installation of additional signs and replacement signs following loss and damage to ensure the requirements of Countryside act 1968 s 27 are fulfilled. |
| 3.2 | All PROW clear of obstructions, misleading notices, other hindrances or impediments to use. | HA 80 s130 | | | <ul style="list-style-type: none"> Enforcement actions saw 12 notices served for cropping and 4 for general obstruction. Additionally 24 "seven day" warnings were issued in relation to cropping offences. Officers have not been required to remove obstructions because offenders have responded successfully in all cases . | <ul style="list-style-type: none"> Amended protocols on enforcement (approved by ROW Committee June 2009) promoted/distribution to landowners. Carry out necessary enforcement work in line with adopted protocols to ensure that the duty set out in Highways act 1980 is fulfilled. |
| 3.3 | Bridges, stiles, gates etc are in place where required; all are safe and convenient to use. | HA 80 s41 and s146 | | | <ul style="list-style-type: none"> In East Cheshire 260 stiles, 97 gates comprising 18 kissing gates, 9 bridleway gates and 17 pedestrian gates have been installed. Additionally 38 bridges of varying lengths have been installed. | <ul style="list-style-type: none"> Renew and repair structures to ensure that they adequately allow the public to access all public paths in Cheshire East. Assist owners and occupiers to repair and replace stiles and gates on public rights of way. Replace structures with less limiting barriers wherever possible in line with ROWIP policies, DDA and Equality Act 2010. |
| 3.4 | Surface of every PROW is in proper repair, reasonably safe | HA 80 s41 | | | <ul style="list-style-type: none"> A routine maintenance programme is in operation and Paths comprising 123 km were | <ul style="list-style-type: none"> The routine maintenance programme will be extended as new paths requiring routine maintenance are |

| Component Task | | Source | | | Achievements April 2011 to March 2012 | Targets 2012/13 |
|----------------|------------------------------------|--------|--|--|--|--|
| No | Measure of Success | | | | | |
| | and suitable for the expected use. | | | | <p>subject to routine strimming/ tractor flailing at least once during the growing season with many cut more frequently to a maximum of 3 cuts per annum.</p> <p>Special projects facilitated with additional funding from other departments and as part of ROWIP implementation:</p> <ul style="list-style-type: none"> • Stapeley FP1, surfacing and improvement works funded by Sustrans / safe routes to school. • Wirswall BR 10 phase 2, (phase 1 last year) of a major surfacing and drainage scheme. • Wistaston FP 4 erosion repairs and installation of steps and bridge. • Disley FP19 installation of temporary bridge to replace collapsing masonry bridge. • Poynton FPs 7 and 50, surfacing and installation of steps and improved drainage. • Wilmslow FPs 89 and 134, improvement to surface and steps. • Bosley FP17 Provision of surfacing to improve drainage. • Wincle FP31 Drainage and | <p>encountered (e.g. paths created through ROWIP).</p> <ul style="list-style-type: none"> • Officers will continue to work with colleagues in other departments and other partners in order to facilitate additional funding for special projects in relation to rights of way wherever possible. |

| Component Task | | Source | | | Achievements April 2011 to March 2012 | Targets 2012/13 |
|----------------|--|---------------------|--|--|--|--|
| No | Measure of Success | | | | | |
| | | | | | surfacing to prevent flooding. | |
| 3.5 | All PROW inspected regularly by or on behalf of the authority. | HA 80 s58 | | | <ul style="list-style-type: none"> Bridges are inspected every two years, but paths in general are not inspected due to a lack of resources. This could result in a lack of a legal defence to claim(s) for personal injury. All maintenance officers hold bi-annual meetings with the relevant representative of the walking and equestrian user groups to agree priorities for work. | <ul style="list-style-type: none"> The maintenance officers will continue to hold bi-annual meetings with the relevant representatives of the walking, equestrian and other user groups to agree work priorities and to discuss the results of the survey work carried out by these groups. Proposed volunteer survey scheme to be implemented on a pilot basis in 5 parishes. |
| 3.6 | The authority is able to protect and assert the public's rights and meet other statutory duties (e.g. to ensure compliance with the Rights of Way Act 1990). | HA 80 s130 | | | <ul style="list-style-type: none"> All cropping obstructions were responded to within 4 weeks of reporting. | <ul style="list-style-type: none"> Continue to adhere to the response times set out in the new standard. |
| 3.7 | Waymarks or signposts are provided at necessary locations and are adequate to assist users. Waymarking scheme/initiative in place. | C/side Act 1968 s27 | | | <ul style="list-style-type: none"> Waymarking is undertaken by staff and contractors as appropriate. Additionally waymarkers are provided to partners such as Mid-Cheshire Footpaths Society and the Ramblers' Association to enable them to replace missing and damaged waymarkers. | <ul style="list-style-type: none"> Waymarking and signposting will be undertaken as appropriate. |

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RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2011-2012

| Policy | ROWIP Ref. | Achievements 2011-2012 | Ongoing targets 2012-2013 |
|----------------------|--------------------------|--|--|
| H2 H3 S7 S8 | T84 | <p>Stapeley Footpath No. 1</p> <ul style="list-style-type: none"> • A safe links to school project funded through the Local Transport Plan’s cycling projects with match funding from Sustrans. • The path runs through a park area in a housing estate and connects to the local primary school, shops and other facilities. • Previously muddy and rough surfaced, the path is now wider and tarmaced for all-year use. • Cycle shelters were installed at the school and publicity raised to encourage their use. <div style="display: flex; justify-content: space-around;">   </div> <p style="display: flex; justify-content: space-around;"> Before After </p> | <ul style="list-style-type: none"> • Project completed. • Linking paths may be improved through landowner and developer contributions, if available. |
| H2 H3 S8 | T82/95 T99 T43 | <p>LTP Cycling Schemes</p> <ul style="list-style-type: none"> • National Cycle Network routes 55 & 73 signage in Congleton. • Cycle route link from the new Alderley Edge bypass to Astra Zeneca employment site. • Leighton Greenway in Crewe. | <ul style="list-style-type: none"> • Project completed. • Completion of works. • Promotion of active travel options in Crewe through Local Sustainable Transport Fund (if bid is successful). |

RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2011-2012

| Policy | ROWIP Ref. | Achievements 2011-2012 | Ongoing targets 2012-2013 |
|----------------|------------|---|--|
| H2 H3 S7 | T24 | <p>Pickmere Footpath No. 7</p> <ul style="list-style-type: none"> • A safe links to school project in partnership with Pickmere Parish Plan and part funded by Cheshire West and Chester Council. • The path runs from Pickmere village to the local primary school in Wincham and avoids a busy road. • Previously un-surfaced, the path now has a compacted stone surface for all-year use. <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  <p>Before</p> </div> <div style="text-align: center;">  <p>After</p> </div> </div> | <ul style="list-style-type: none"> • Project completed. |
| H2 H3 | W73 | <p>Wilmslow Footpath Nos. 89 and 134</p> <ul style="list-style-type: none"> • A path linking housing with the countryside and also used by an annual sponsored run. • A compacted stone surface and steps were installed to resolve the muddy surface and slope problems. | <ul style="list-style-type: none"> • Project completed. |

RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2011-2012

| Policy | ROWIP Ref. | Achievements 2011-2012 | Ongoing targets 2012-2013 |
|----------------------|------------|--|---|
| H2 H3 S7 | W69 | Wistaston Joey-the Swan access <ul style="list-style-type: none"> An inaccessible restriction to park land along the Wistaston Brook. Access was improved through liaison between the Connect2 Crewe to Nantwich Greenway Stakeholder Group and Parks team. | <ul style="list-style-type: none"> Project completed. |
| H2 H3 S7 S8 | T100 | Connect2 Crewe to Nantwich Greenway <ul style="list-style-type: none"> The development of a traffic-free cycle route between the two towns, funded by Sustrans and developer contributions. Led by our Highways Department and monitored by a Stakeholder Group, the project has already delivered cycle routes within Crewe and Nantwich towns. The remaining link will be established as a public bridleway for pedestrians, cyclists and horse riders to use. Planning, Commons Land and Village Green applications submitted. Preparation of a creation agreement for a new public bridleway section to link the Crewe and Nantwich sections of the route. | <ul style="list-style-type: none"> Signing of creation agreement. Construction works. Promotion of route with third sector groups organising events. |
| H2 H3 | C2 | Congleton Bridleway No. 34 <ul style="list-style-type: none"> Resolved drainage issues on public bridleway which leads from Buglawton estate onto the Macclesfield Canal towpath. | <ul style="list-style-type: none"> Project completed. |
| H2 H3 S7 | W74 | Alderley Edge Bypass <ul style="list-style-type: none"> A stone surfaced path was installed to connect the rural footpath network and pedestrian overbridge with the roadside cycle track, as suggested by consultees. Delivered by Highways project. | <ul style="list-style-type: none"> Project completed. |

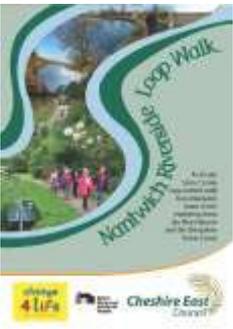
RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2011-2012

| Policy | ROWIP Ref. | Achievements 2011-2012 | Ongoing targets 2012-2013 |
|----------------------|---|--|--|
| H2 H3 S7 S8 | T56 | <p>Poynton Footpath No. 30 and Adlington No. 76</p> <ul style="list-style-type: none"> • A safe links to school project funded by Sustrans and delivered by Economic Development in partnership with Poynton High School and Poynton Village Improvement Scheme. • Routes have been widened, surfaced and drainage issues resolved. • Destination signage and interpretation boards to encourage active travel have been installed. <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  <p>Before</p> </div> <div style="text-align: center;">  <p>After</p> </div> </div> | <ul style="list-style-type: none"> • Project completed. |
| H3 | W15 W16 W18 W20 W22 H16 H17 | <p>Road Safety Schemes</p> <ul style="list-style-type: none"> • Consultees have raised a number of locations of road safety concern, including those on promoted routes. • Road Safety Officers in Highways consulted to assess risk and possible mitigation measures. • Requests to adjacent landowners for permissive paths so as to remove road walking or improve crossing locations have been made. | <ul style="list-style-type: none"> • Work ongoing. |

RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2011-2012

| Policy | ROWIP Ref. | Achievements 2011-2012 | Ongoing targets 2012-2013 |
|----------|------------|--|---|
| H2 H3 | X15 | <p>Long Distance Horse and Cycle Ride</p> <ul style="list-style-type: none"> Initiated by Laureen Roberts of North Cheshire Riders, this project sees the development of Cheshire East’s first long distance horse ride. Designed to offer a long distance ride bringing benefits to the local economy. The route, also being promoted to cyclists, consists of 2 loops: the Cheshire Cheese Loop and the Heritage Loop. Funded through a grants from the British Equestrian Federation , the British Horse Society, Hoof! Cheshire and contributions from local riding groups. <div style="text-align: center;">  </div> | <ul style="list-style-type: none"> Launch event for Cheshire Cheese Loop. Ongoing work for Heritage Loop. |
| H2 H3 | W75 | <p>Poynton Footpath No. 7 – Princes Incline</p> <ul style="list-style-type: none"> A popular wooded and relatively long route leading from Poynton village centre towards the Middlewood Way and Macclesfield Canal towpath. The only stile on the route was replaced by a medium mobility kissing gate in agreement with the landowner. A further section of the surface of the route was improved to resolve drainage issues and a muddy surface. | <ul style="list-style-type: none"> Ongoing access improvements as agreement and funding permit. |

RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2011-2012

| Policy | ROWIP Ref. | Achievements 2011-2012 | Ongoing targets 2012-2013 |
|----------|------------|---|--|
| H2 H3 | W67 X14 | <p>Nantwich Riverside Loop</p> <ul style="list-style-type: none"> • A promoted, circular walking route linking the riverside and canal and encouraging people to explore that little bit further. • Delivered with partners including Nantwich Riverside Stakeholders, British Waterways and multiple local organisations. • Part funded by WREN grant. • The project improved the route, installed signage and also improved disabled access to the lakeside path. • A launch event was held in May 2011 with associated publicity and an evaluation has been conducted on the value of the route and leaflet. • A revised leaflet was published in the summer of 2011. • Additional signage as suggested was installed to draw attention to the Loop from the northern riverside area. • Planting of saplings to strengthen the towpath hedge completed the project. <div style="display: flex; justify-content: space-around; align-items: center;"> <div data-bbox="499 963 938 1292">  </div> <div data-bbox="999 963 1232 1292">  </div> </div> <p data-bbox="499 1295 698 1326">Launch Event</p> <p data-bbox="999 1295 1232 1326">Reprinted leaflet</p> | <ul style="list-style-type: none"> • Project completed. |

RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2011-2012

| Policy | ROWIP Ref. | Achievements 2011-2012 | Ongoing targets 2012-2013 |
|----------|------------|---|---|
| H2 H3 | H20 | <p>Ollerton Bridleway No. 6</p> <ul style="list-style-type: none"> • A long route in a popular livery stable area, suffering from poor surface conditions in winter rendering it unusable. • Surface improvements made to create a year-round route. • 75% funded by contributions from local riders and riders' groups. <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  <p>Before</p> </div> <div style="text-align: center;">  <p>After</p> </div> </div> | <ul style="list-style-type: none"> • Project completed. • Connecting highways to be improved if possible. • This bridleway forms part of a long distance horse and cycle ride developed. |
| | X15 | <p>Discover Cheshire</p> <ul style="list-style-type: none"> • Website promoting routes, sites and visitor economy facilities in the countryside. • Partners include Visitor Economy, CWAC, Mersey Forest. • Many new walking and horse riding routes added including Knutsford Rail Walks and Wistaston Community Opportunities Group's walk.  | <ul style="list-style-type: none"> • Continued adding of new walking, cycling and horse riding routes. |

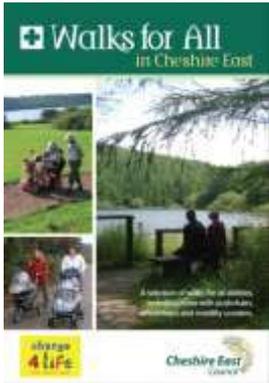
RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2011-2012

| Policy | ROWIP Ref. | Achievements 2011-2012 | Ongoing targets 2012-2013 |
|----------------------|------------------|---|---|
| H2 H3 | X7 X15 W75 | <p>Accessibility</p> <ul style="list-style-type: none"> • Various stiles across Cheshire East have been replaced with gates with landowners' permission. • This has included some promoted routes which has some routes stile-free, for example Chelford village walk and Ashley Rail Trail. <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  <p>Before</p> </div> <div style="text-align: center;">  <p>After</p> </div> </div> | <ul style="list-style-type: none"> • Ongoing improvements where suggested and landowners permission granted. |
| H2 H3 S7 S8 | n/a | <p>Planning Applications, Pre-Applications and Local Plan</p> <ul style="list-style-type: none"> • Planning applications are commented upon from the perspective of active travel and leisure walking, cycling and horseriding. • Aspirations for active travel and leisure routes are compiled for large developments at the pre-application stage and thereafter. • Developer contributions through S106 agreements and unilateral undertakings are sought and delivered. • Input from Public Rights of Way and Countryside perspective into Local Plan. | <ul style="list-style-type: none"> • Ongoing, as arising. |

RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2011-2012

| Policy | ROWIP Ref. | Achievements 2011-2012 | Ongoing targets 2012-2013 |
|----------|------------|--|---|
| | X15 | <p>Publicity to promote walking, cycling and horse riding</p> <ul style="list-style-type: none"> • Press releases achieved for various projects and events including National Walking Month and National Bike Week. • Feature article appeared in Cheshire East News on the Nantwich Riverside Loop. • Astbury Mere Walk4Life route ranked as the 6th most visited route on national website. <div style="display: flex; justify-content: space-around; align-items: center;">   </div> <p>Open Air Map Reading Event Walk4Life waymark</p> | <ul style="list-style-type: none"> • Work ongoing to coincide with national and local events and projects. |
| S7 S8 | n/a | <p>Local Sustainable Transport Fund</p> <ul style="list-style-type: none"> • A bid has been prepared by Highways to this national government fund, focusing on smarter travel within Crewe. • ROWIP suggestions and active travel included in bid. | <ul style="list-style-type: none"> • Awaiting bid results. |
| S7 S8 | n/a | <p>A556 and SEMMMS road schemes</p> <ul style="list-style-type: none"> • Input of aspirations and comments on designs given from the perspective of active travel and leisure walking, cycling and horseriding. | <ul style="list-style-type: none"> • Work ongoing. |

RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2011-2012

| Policy | ROWIP Ref. | Achievements 2011-2012 | Ongoing targets 2012-2013 |
|----------------------|------------|--|--|
| H2 H3 | X15 | <p>Walks for All Leaflet</p> <ul style="list-style-type: none"> • A popular leaflet describing accessible walks across Cheshire East. • Revised and republished in the summer of 2011.  <p>Revised leaflet</p> | <ul style="list-style-type: none"> • .Project completed. |
| H2 H3 S7 S8 | n/a | <p>Mapping</p> <ul style="list-style-type: none"> • Assistance with mapping provided to Cheshire East departments, for example for countryside grant applications, and third sector groups producing walks leaflets. | <ul style="list-style-type: none"> • Ongoing, as requested. |
| H2 H3 S7 S8 | n/a | <p>Rights of Way Consultative Group</p> <ul style="list-style-type: none"> • Preparation of reports and meetings. • Establishment of register of volunteers and issuance of Letters of Authority. | <ul style="list-style-type: none"> • Work ongoing. |

RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2011-2012

| Policy | ROWIP Ref. | Achievements 2011-2012 | Ongoing targets 2012-2013 |
|----------------------|------------|--|---|
| H2 H3 S7 S8 | n/a | <p>Cheshire Local Access Forum</p> <ul style="list-style-type: none"> • Secretariat duties for Forum, a voluntary body which advises the Council on matters relating to countryside access. <div style="display: flex; justify-content: space-around;">   </div> <p>CLAF Members on site visit to footbridge over Alderley Edge bypass</p> | <ul style="list-style-type: none"> • Work ongoing. |

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Appendix 3

Legal Orders Team

SECTION 2: NATIONAL TARGET 1: “LEGALLY DEFINED”

| Component Task | | Source | Achievements 2010/11 | Targets 2011/12 |
|----------------|---|-------------------------------|---|--|
| No | Measure of Success | | | |
| 2.1 | Definitive Map and Statement to be completed for any previously unmapped area | WCA 81 S53(1) (c) | <ul style="list-style-type: none"> Complete | <ul style="list-style-type: none"> Complete |
| 2.2 | No RUPPs remaining on Definitive Map | WCA 81 S54 | <ul style="list-style-type: none"> No further reclassification required | <ul style="list-style-type: none"> Complete |
| 2.3 | No backlog of legal events requiring orders to be made | WCA 81 S53(2) (a) & 53(3) (a) | <ul style="list-style-type: none"> Legal Event Modification Order made for all legal events in 2010/11 | <ul style="list-style-type: none"> Legal Event Modification Order to be made for all legal events in 2011/12 Schedule 5 Para 2 of CROW Act 2000, commenced April 2008, obviates need for separate legal event order where Definitive Map change cited. However, national debate about the technical aspects of this provision and advice to LAs is to continue making separate LEMOs for time being. |
| 2.4 | No backlog of applications to modify the Definitive Map | WCA 81 Sch 14 | <ul style="list-style-type: none"> 2 Schedule 14 applications determined and a further 9 applications under active investigation during the year (see below). 22 applications remain in backlog (see below). The oldest of these dates to 2004. | <ul style="list-style-type: none"> Following the recruitment of an income generation post to deal with PPOs this has freed-up officer time to deal with Schedule 14 applications. Target is to determine 6 cases. |

| Component Task | | Source | Achievements 2010/11 | Targets 2011/12 |
|----------------|--|------------|---|---|
| No | Measure of Success | | | |
| 2.5 | No backlog of other cases that may result in the need to change the Map | WCA 81 S53 | <ul style="list-style-type: none"> Completion of last remaining 'Discovering Lost Ways' case following abandonment of project by Natural England. | <ul style="list-style-type: none"> Complete. |
| 2.6 | No backlog of decided applications/other cases awaiting definitive map modification orders | CoAg | <p>2 orders determined</p> <ul style="list-style-type: none"> 1 DMMO order confirmed 1 DMMO order confirmed with modifications 0 appeals against refusal, awaiting decision 2 appeals against non-determination within 12mths | <ul style="list-style-type: none"> Continue to make orders as soon as reasonably practicable. Contested DMMOs to be submitted to PINs. Directed applications/orders to be processed as required. |
| 2.7 | The authority has considered the need to consolidate the Map and take any necessary action | WCA 81 S56 | <ul style="list-style-type: none"> Preparation of digital map for consolidation complete. Work to consolidate statements begun. | <ul style="list-style-type: none"> On hold due to lack of staff. |
| 2.8 | Statement of Priorities published | CoAg | <ul style="list-style-type: none"> Statement of Priorities approved by ROW Committee on 1st June 2009. | <ul style="list-style-type: none"> Continue to prioritise Definitive Map Work in accordance with the Statement of Priorities Review priorities in light of new ROWIP objectives |
| 2.9 | No other matter affecting the Definitive Map outstanding | CoAg | <ul style="list-style-type: none"> Electronic list of map anomalies was completed in 2008. 6 anomalies corrected during 2010/11. | <ul style="list-style-type: none"> No progress can be made with rectifying anomalies without additional staff resources (in addition to PPO income generation post). |

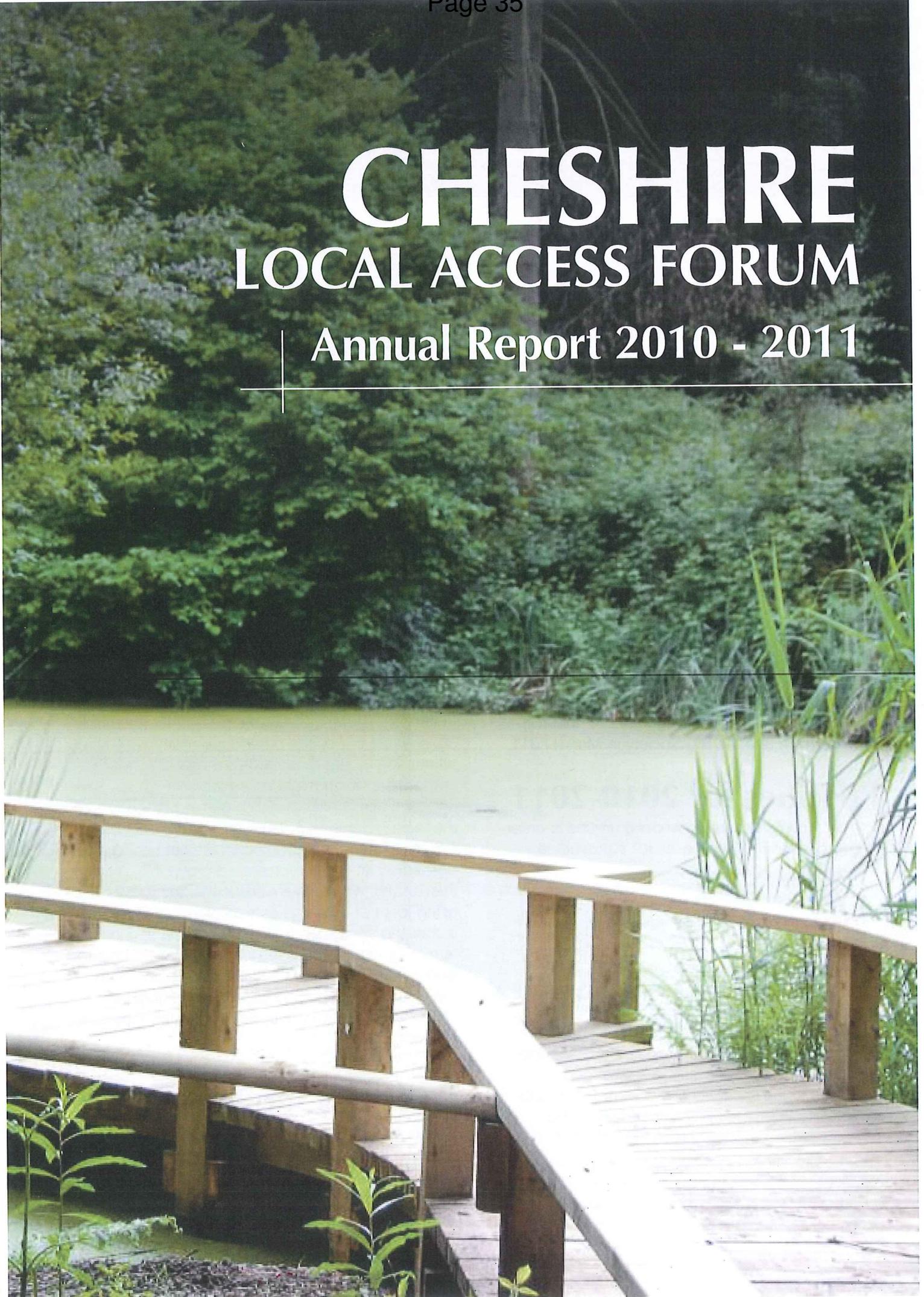
Summary of work from April 2011 to March 2012, backlog of work outstanding and forecasts for 2010/11

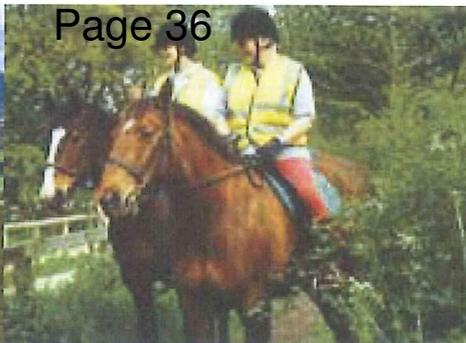
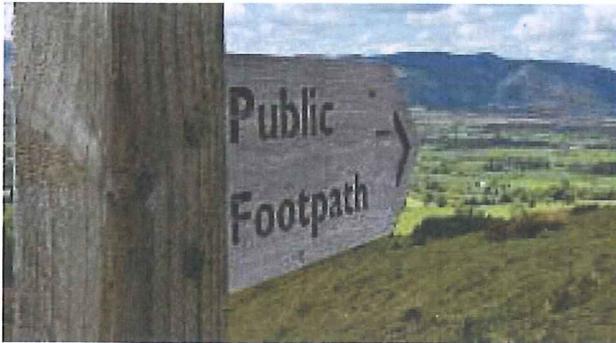
| Area of work | Work completed/in progress April 2010 – March 2011 | Backlog | Projected work 2011/2012 |
|--|---|---|---|
| Planning application consultations | 102 | n/a | 110 |
| Rights of Way searches | 60 | n/a | 50 |
| Highways Act s31 deposits | 6 | n/a | 6 |
| Temporary & Emergency Closures | 33 | n/a | 40 |
| Gating Orders | 0 | n/a | 0 |
| Public Path Orders HA80 | 14 Orders confirmed, 28 cases in progress | 14 applications on waiting list | 30 Orders to confirmation stage. |
| Public Path Orders TCPA90 | 2 Orders confirmed, 3 cases in progress | n/a | 5 cases likely to be dealt with. |
| Contested Orders referred to PINs | HA80 = 2 WCA81 = 5 TCPA90 = 0 | 1 contested WCA81 case to be referred to PINs | |
| Definitive Map Modification Order Applications – schedule 14 applications | 2 Orders confirmed, 9 in progress | 22 | 6 Cases to be targeted. |
| Definitive Map “List B” issues | 3 | 8 | 2 cases targeted |
| Definitive Map Anomalies (investigation/legal orders required) | 6 completed | 260+ | 6 without additional staff resources or additional budget to commission consultants |

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CHESHIRE LOCAL ACCESS FORUM

Annual Report 2010 - 2011





Chairman's introduction

The Forum has met 4 times this year using different venues around the 2 boroughs within Cheshire. Despite the large cutback in local government expenditure the Forum has been able to influence positively changes affecting access to the Cheshire countryside. The energy and enthusiasm of the Forum members and in particular the officers of Cheshire East and Cheshire West and Chester and Chester Councils have helped considerably. One of our priorities for next year will be to ensure that the respective Local Transport Plans provide resources for the recently published Rights of Way Improvement Plans

John White
Chairman.

Training

- Bob Anderson, John Taylor and John White attended the north west regional LAF training on localism and the Big Society in March 2011.

Priorities for 2010-2011

This year the Forum set up working groups in order to investigate more fully the issues surrounding:-

- Spreading best practice;
- Health;
- Under represented groups; and,
- Funding.

For example, the funding sub-group was set up to collect information on funding arrangements allocated to public rights of way within Cheshire East and Cheshire West and Chester Councils. The annual funding, in both resource and financial terms, has been summarised in a table and presented to the Local Access Forum. The simple format will allow trends in the spending by the Councils to be monitored on an annual basis.

The sub-group has also produced a paper which summarises possible sources of external funding for access projects so as to encourage local organisations to apply for such funding.

The under-represented groups sub-group has spent the first year in exploring the issue. Internet research showed a wide range of groups has been identified as under-represented. Although a factor common to many of them was lack of transport, we felt the scale of the problem, the cost involved, and current restrictions on expenditure made approaches to this difficult at present. We also concluded that it was realistic to recognise that many people do not wish to access the countryside; our focus therefore should be on those who might wish to do so, but lacked information, means, opportunity or stimulus.

We decided to try to identify a few possible projects, to test out how far new initiatives might increase countryside use by some of the underrepresented groups. We immediately encountered a major problem – lack of good base-line data on current use, against which to measure any changes. Despite this, we felt that our general approach offers the best way of making progress, and that we should continue with it.

In the coming year, we have decided that we should concentrate our efforts on a single countryside site, attempting to identify as wide a range of activities as possible which might be exploited at it. Although this implies a fairly broad approach, the main focus is likely to be on schools and schoolchildren. Though children are not necessarily defined as an under-represented group in themselves, we are interested in the possibility of using them as a means of reaching parents and increasing adult participation, both short and long term. Our aim is to use the information we gather to work with rangers and education professionals to develop a pattern for increasing the number of school visits to the countryside and to the footpaths network.

Priorities for 2011-2012

Continued progress through the working groups and ensuring the respective Local Transport Plans provide resources for the recently published Rights of Way Improvement Plans.

Items of interest

- The Forum received a presentation by Vernon Stockton, Delamere Forest Manager from the Forestry Commission on the proposed future changes to the management of the country's forests.
- The Forum continued to monitor the delivery of Rights of Way Improvement Plan (ROWIP) projects, the development of the new ROWIPs for Cheshire East and Cheshire West and Chester Councils, and annual reports for each. In particular, the Forum advised Cheshire East Council on the prioritisation methodology used to rank suggestions put forward during the consultation on the ROWIP.
- Members received a presentation on the Cheshire West and Chester Local Transport Plan from Jeanette Dodd and Sharon Blackshaw.
- The Forum received a presentation from member Ken Edwards on the proposed devolution of local services from the Borough Council to the Town Council, drawing on the experience of Bollington.
- Members contributed to the design and information provided within walks leaflets produced by Cheshire East Council
- Toni Proffitt attended the Forum's meeting in March 2011, visiting from Denbighshire County Council
- The Forum was consulted on the proposal for a Dog Control Order across the whole of Cheshire West and Chester Borough.
- A presentation was received from David Pott on the new 86 mile pilgrimage route called the Two Saints Way which runs between the two cathedral cities of Chester and Lichfield, linking the shrines of St Werburgh and St Chad.
- The Forum was informed about the results of the Countryside Access Management (CAMS) survey which has populated the Geographical Information System (GIS) of Cheshire West and Chester Council with details of path furniture and surfaces.
- Members received an update from Danny Moores of Natural England on the progress of the coastal path project.
- The Forum made recommendations to the Highways Agency about the A556 Bucklow Improvement Project following a presentation by the Highways Agency and contractors Jacobs Engineering.

North West LAF Chairs' Forum

Cattle free walking and 'walking for health' are emerging as concepts that Local Access Forums could be investigating more.

This was discussed at the regular meeting of the Chairs of each of the Local Access Forums across the North West of the country. Some experienced walkers thought that walking in areas where there is livestock is really a matter for individuals to do their own risk assessment. Others thought that some guidance would be helpful to encourage new walkers and to inform those who perceive a risk.

Chairs were also informed about the new internet based network 'HUDDLE' which will in due course be a source of information and discussion for all Forum members.

Alderley Edge Bypass site visit 23rd September 2011

The Forum's meeting this quarter was held at the historic Nether Alderley Parish Hall in the grounds of St Mary's Church. This gave the opportunity for members to take a short walk across the fields to the site of the new footbridge over the Alderley Edge bypass, pictured.



The Forum was instrumental in securing the footbridge to ensure that links in the public rights of way network were maintained following the construction of the bypass. The bridge is located on public footpath Nether Alderley No. 33. Further details were given in the Forum's annual report of 2008-9.

During the site visit, members debated the costs and benefits of the installation of the bridge. Further discussion focused on the provision of access ramps to either side of the bridge even though the footpaths either side currently feature kissing gates and stiles. The site visit provided an ideal opportunity to consider these issues on the ground.

Members and guests on a site visit to the footbridge over the Alderley Edge bypass.



Membership

| Member | Area of interest |
|-------------------------|---|
| Robert Anderson | Accessibility |
| Rhoda Bailey | Councillor, Cheshire East Council |
| Neil Collie | Walking |
| Helen Connolly | Horse riding |
| Ken Edwards | Walking, local government |
| Andy Gildon | Community involvement |
| Dale Langham | Cycling and walking as sustainable transport |
| Andrew Needham | Walking |
| Keith Osborn | Land management |
| Keith Pennyfather | Walking and sustainable transport |
| Kay Loch | Councillor, Cheshire West and Chester Council |
| John Taylor, Vice Chair | Land management, accessibility |
| John White, Chairman | Walking |
| Kath Wurcbacher | Horse riding |

DiscoverCheshire



CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting: 11 June 2012
Report of: Public Rights of Way Manager
Subject/Title: DEFRA Consultation, "Improvements to the Policy and Legal Framework for Public Rights of Way".

1.0 Report Summary

- .1 A Consultation Paper has been issued by DEFRA about a range of issues and proposals relating to changes to Rights of Way administrative processes. The full document is available at <http://www.defra.gov.uk/consult/open>. The closing date for comments is 6th August 2012.

2.0 Recommendation

- 2.1 Members approve a response to the consultation that takes into account the comments in the "Details and Comments" column in the table set out below.

3.0 Reasons for Recommendations

- 3.1 It is the view of officers that the proposals as set out in the consultation are largely positive. However it should be borne in mind that they are very much a set of aspirational objectives and the necessary changes to primary legislation and regulation to put them in place will take a considerable amount of detailed work.
- 3.2 The consultation response will support the proposals as set out in detail below with the additional rider that DEFRA should ensure that the necessary work, preferably including stakeholder working groups including representatives from users, landowners, practitioners and local authorities, is undertaken before the changes are implemented.
- 3.3 The report has been discussed with Councillor R Menlove, Portfolio Holder for Environment and his views will be relayed to the Committee verbally due to the tight time constraints involved.

3.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All wards.

**6.0 Policy Implications including – Carbon Reduction
- Health**

6.1 Not applicable

7.0 Financial Implications

7.1 Not applicable

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 Not applicable

9.0 Risk Management

9.1 Not applicable

10.0 Background and Options

10.1 These proposals affect three areas of Rights of Way work. Definitive Map Modification Orders and the Definitive Map, Public Path Orders and lastly the relationship between planning consents affecting rights of way and any necessary consequential Public Path Orders to allow development to proceed.

10.2 The principal proposals deal with measures to bring the Definitive Map up to date and effectively “close it” to the addition of new routes based on historical evidence. To achieve this, the Countryside and Rights of Way Act 2000 introduced a cut-off date, whereby after 25 years (i.e. in 2026) all rights of way already in existence in 1949 and not recorded on the definitive map and statement by 2026 would be extinguished, subject to the exceptions already provided for in the Act. In practice this means that a right of way that could be shown to have existed before 1 January 1949 could not be added to the Definitive Map and Statement (the local authority's legal record of public rights of way) and would cease to exist. The intention was that this would:

- remove uncertainty for landowners, who might otherwise have a ‘lost’ right of way discovered on their land at any point in the future;
- provide an incentive to complete the definitive map and statement before the 2026 deadline.

10.3 However, during efforts to expedite completion of the historical record and close the Definitive Map to such routes, it has become clear that neither a volunteer-led, nor a centralised, systematic approach to gathering evidence and making applications, has been shown capable of delivering the required number of applications within the required timeframe within the current legislative framework. Therefore completion of the definitive map and statement by 2026 would not be a viable proposition unless a streamlined approach to recording public rights of way was adopted. In order to develop such an approach Natural England established an independently-chaired

Stakeholder Working Group to develop a consensus among stakeholders, representing landowners, rights of way users and local authorities, about the best way forward.

10.4 The Stakeholder Working Group reported in March 2010 and published a report entitled, “Stepping Forward” which contained a package of 32 proposals designed to improve the various processes associated with identifying and recording historical public rights of way. This consultation document sets out how the Government intends to implement the group’s report.

10.5 Additionally the consultation sets out proposals for a wider package of improvements, including whether changes should be made to the procedures for extinguishing and diverting public rights of way and looking at barriers to growth which result from planning consents, as highlighted in the 2010 Penfold Report.

The Proposals

| Summary of Proposal | Details and Comments |
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| <p><i>1 The 2026 “cut off” date should be implemented with protection for potentially useful rights of way.</i></p> <ul style="list-style-type: none"> • Routes should be exempted if; they are identified on the list of streets or private streets carrying public rights, routes that can be shown to be in regular continuous use at the cut off date and routes that are already subject to DMMO applications. • LAs should have the power to make their own applications for routes they believe carry public rights. | <ul style="list-style-type: none"> • These are positive proposals that will contribute significantly to safeguarding routes that are clearly public but would otherwise be at risk of being extinguished. • This will allow potentially useful routes that can contribute to access development to be protected. |
| <p><i>2 Proposals to improve the process for identifying and recording rights of way on the Definitive Map in order to speed up the process using less resources.</i></p> <ul style="list-style-type: none"> • Transfer of ownership of applications, due to old age, infirmity etc. • Reduction in requirements for applicants to provide copies of common documents. | <ul style="list-style-type: none"> • Many applicants come from the user groups, a significant number of whom are retired. This would therefore be a sensible change. • This would significantly reduce the workload placed on applicants. |

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| <ul style="list-style-type: none"> • Authority rather than applicant responsible for approaching landowners and then only after passing a basic evidential test. • Minimising the requirement for newspaper advertising. • Orders successfully challenged at the High Court should remain the Secretary of State's allowing the original order to remain and be re-determined. • If parts of orders are opposed then PINs should have the ability to split orders. • Orders should be published in draft to allow minor technical corrections. • Objections that are made on the basis of new evidence which, if it comes to light was wilfully withheld should result in costs against the objector. • Reviews of cases based on documentary evidence should normally be by written representations rather than by a hearing. • Authorities should be able to reject applications that do not meet a basic evidential test. • Authorities should have powers | <ul style="list-style-type: none"> • This proposal will reduce potential conflict between applicant and landowner, allowing the LA to act as an objective middleman. • This will significantly reduce costs but could be discriminatory against those who do not have internet. A simplified advert with order details and location and advice where further information can be found may be preferable. • This will allow challenged orders to continue to a conclusion rather than having to start cases again from scratch. • Examining only the opposed element of an order will speed work flow and reduce timescales for PINs to deal with cases. • This will provide for a more flexible response, rather than having to re-make orders from scratch. • This will prevent tactical manoeuvring by objectors and promote a much more open analysis of all available evidence. • This will both reduce costs and improve timescales if hearings can be avoided. • This would allow LAs to reduce potential backlogs by dismissing at an early stage cases that are "no hoppers". • This is something that |
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| <p>to discount irrelevant objections.</p> <ul style="list-style-type: none"> • There should be provisions for basic factual corrections to the Definitive Map. • Landowners should be able to apply to erect new gates on restricted byways and byways open to all traffic. • Natural England should become a prescribed body on the list of consultees for DMMOs. | <p>practitioners have long felt was needed to remove spoiling objections that often have nothing to do with the merits of a case but more to do with neighbour relationships or in the case of PPOs attitudes to permitted development.</p> <ul style="list-style-type: none"> • This will allow simple changes to be made without the need for a full DMMO investigation. • The limitations on the installation of gates are currently very restrictive and this will allow more flexibility. • A sensible addition. |
| <p><i>3 Persons can apply to the Secretary of State if their application has not been determined in 12 months. The order can subsequently be sent to the Secretary of State if there are objections. Thus a case may be sent to the S of S a number of times and it would speed the process if this could be limited to once.</i></p> <ul style="list-style-type: none"> • In cases where an authority refuses to make an order no right of appeal at this stage would leave applicants with no means of redress. An alternative would be to require authorities to make an exhaustive assessment immediately, including landowner views and decide whether or not to determine the case on the balance of probability rather than the reasonably alleged test. There would be a right of appeal at this stage but if directed to make an order there would be no subsequent right of appeal. Alternately the S of S could | <ul style="list-style-type: none"> • Reducing the potential number of times that opposed orders can return to the S of S will be a positive change to speed up and reduce the costs of processing such cases. However the current system was developed to ensure that checks and balances were put in place to provide applicants with a reasonable means of redress. Work will need to be done to ensure that this is not lost. Requiring LAs to determine cases on the balance of probabilities rather than the weaker reasonably alleged test should reduce the number of cases going forward that are |

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| <p>make an order on appeal and re-charge the authority where it was judged that the authority should have made the order.</p> <ul style="list-style-type: none"> • Applicants should be able to appeal to Magistrates Court against authorities who do not determine cases in a reasonable timescale in a similar way that members of the public can appeal to Magistrates Court for an order to direct the authority to remove obstructions. | <p>opposed and have to be determined by PINs. However the notion of undertaking this work to this level immediately is unrealistic as this evidential test is best made after a thorough investigation to tease out witness and documentary evidence. The consideration that PINs may re-charge LAs if it was believed the LA avoided determining an order would introduce too much uncertainty in budget management.</p> <ul style="list-style-type: none"> • This would bring the order making process into line with the current provisions for the protection of the network. However it would create greater workloads for LAs defending themselves at court. |
| <p><i>5 It is proposed to introduce a single set of guidance relevant to all parties in order to help make the processes work.</i></p> <ul style="list-style-type: none"> • It is proposed to set up a further stakeholder working group to develop the guidance rather than imposing it from government downwards. | <ul style="list-style-type: none"> • This would be a very positive measure increasing the potential to work from a consensus position. |
| <p><i>6 The Stakeholder Working Group proposed that a similar group be constituted to monitor progress towards the cut off date.</i></p> <ul style="list-style-type: none"> • It is intended to implement a review group with an initial reporting date of 2015. • A baseline survey of authority back logs should be completed. • Close monitoring of authority | <ul style="list-style-type: none"> • As above this would be a positive step forward. • Performance monitoring in any way is positive and should be encouraged. • This is already available under |

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| <p>performance leading up to the implementation of the cut off date should be introduced.</p> | <p>CROW Act 2000 S 71 whereby the S of S can require authorities to report on any aspect of their functions.</p> |
| <p><i>7 Minor additional suggestions.</i></p> <ul style="list-style-type: none"> • Consideration be given to a national data management system for DMMO admin work. • DEFRA and DfT should work with stakeholders to review greater integration of the management and administration of the highway network. • Review how routes for cyclists could best fit into the network hierarchy. | <ul style="list-style-type: none"> • It is felt that it is best that individual LAs develop their own data management systems that they feel serves them best. Additionally, implementing a new system could cause a high degree of redundancy in existing systems. • This is already happening through a stakeholder working group discussing how best to modify changes to the way the List of Streets is maintained. • This would be positive because at the moment whilst a Cycle Track Order can be made it cannot be added to the Definitive Map. |
| <p><i>8 Extending some of the proposals to Public Path Order processes.</i></p> <ul style="list-style-type: none"> • Minimising the requirement for newspaper advertisements. • LAs should be able to discount irrelevant objections. • Review of cases based on documentary evidence should be by written representations. • The S of S should be able to split cases, reviewing only the objected aspect of the case. • Orders should be published in draft allowing the flexibility to make minor technical alterations. | <ul style="list-style-type: none"> • This is a positive cost and time saving proposal but see above at 2. • This will allow staff to progress cases when spoiling objections are made that would normally have to be sent to PINs. • This is ambiguous as PPO objections are invariably not based on documentary evidence. • This will become an additional administrative burden and should be discounted.. |

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| <ul style="list-style-type: none"> • Where an order is successfully challenged in the High Court it is the S of S's decision that is quashed leaving the original to be re-examined. | <ul style="list-style-type: none"> • This will allow a more rapid conclusion of cases without having to re start cases from the beginning. |
| <p><i>9 There is currently no duty placed on LAs to make Public Path Orders, similarly there is no right to apply for a PPO and as a consequence no right of appeal if an LA refuses to make a PPO. The CROW Act 2000 made provision for a right to apply and a right of appeal however the process had flaws and was not implemented. That is now being reconsidered to bring PPO processes closer to DMMO processes.</i></p> <ul style="list-style-type: none"> • Provide for LAs to recover all costs including dealing with opposed orders as an incentive to process PPOs. • Charges to cover but not exceed the LA costs. • The cost structure to be publically available. • A publicly available framework of service standards including timescales. • Splitting charges into stages. • A requirement to waive costs for orders in the public interest. • If this set of proposals were adopted then a right of appeal to the S of S for non determination would be introduced. | <p>This set of proposals does not apply to CEC as we have an effective system in place for dealing with PPO applications. However some of the proposed provisions can be of benefit to CEC and we should support them.</p> <ul style="list-style-type: none"> • This would be beneficial as at the moment we cannot recover costs for dealing with opposed orders. • CEC has systems in place to do this and they are currently under review to ensure that we recover full cost. • This is made available to potential applicants. • Timescales are discussed with applicants but we could add to this. • CEC already do this. • CEC already do this. • This would be a sensible addition. |
| <p><i>10 The Penfold Review of non-planning consents examined the impact of consents, other than planning permission, on a proposed development. It found that some,</i></p> | |

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| <p><i>specifically consent to extinguish or move rights of way added considerable risk and time to the process of development.</i></p> <ul style="list-style-type: none"> • Retain the existing legislation but encourage wider adherence to existing guidance. • Retain the existing ROW order making process but allow it to run concurrently with the planning process. • Create a new integrated process that allows the Planning Authority to decide upon development proposals and changes to ROW as a single package. • The second two options would allow applicants to include proposed changes to ROW in a single application through the Planning Portal website. | <ul style="list-style-type: none"> • The existing guidance should already be followed comprehensively and implemented. That it is not suggests that encouragement alone will not succeed. • This would significantly speed up the process, especially if the provision to dismiss irrelevant objections is introduced, (discussed above at 8). However there would be in increased risk to developers because they would be paying for a diversion order before they receive planning consent. • This could work in unitary authorities such as CEC where specialist PROW advice is available but it would be less successful in two tier authorities where the functions are in separate authorities. • Again this would work in unitary authorities but there would be considerable risk in separate authorities that the need for a PPO was not passed to the Highway Authority. |
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12.0 Access to Information

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

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 Email: mike.taylor@cheshireeast.gov.uk

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361300

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361200

361200

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377100

377200

377300

Heath Farm

72.8m

73.8m

70.4m

Coppersfield

KG

KG

KG

Church Lane

A

B

C

2

25

24

21

KEY

- Unaffected Rights of Way
- Path to be stopped up
- - - - Proposed Diversion
- KG Kissing Gate



Highways Act 1980 S119
 Proposed diversion of part of
 Public Footpath No. 14 in the
 Parish of Sandbach

Plan No.
 HA/064

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

Date of Meeting: 11 June 2012
Report of: Greenspaces Manager
Subject/Title: Highways Act 1980 Section 119
Application for the Diversion of part of Public Footpath No. 14 in the Parish of Sandbach

1.0 Report Summary

- 1.1 The report outlines the investigation to divert part of Public Footpath No. 14 in the Parish of Sandbach. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for 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 of the landowner at Heath Farm, Church Lane, Sandbach. 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 in the parish of Sandbach by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/064 on the grounds that it is expedient in the interests of the public and of the landowner at Heath Farm.
- 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 of the landowner at Heath Farm for the reasons set out in paragraph 10.6 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. The diversion has been sought by the Council to resolve the long-standing legal anomaly with the eastern end of the footpath not meeting a public highway. Diverting the footpath will provide a legal, usable route on the ground for the public thereby clarifying the situation for path users and the landowner at Heath Farm. It will also provide a more accessible route as it requires only one gate, whereas the current legal line requires two. 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 Sandbach Heath and East.

5.0 Local Ward Members

5.1 Councillor Sam Corcoran.

6.0 Policy Implications including – Carbon Reduction - 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 Council's objectives and priorities of the Council as stated in the Corporate Plan (2.1.1 Encouraging healthier lifestyles) and the Council's 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 landowners to the diversion of part of Public Footpath No. 14 in the parish of Sandbach has recently 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 and/or of the owner, lessee or occupier of the land crossed by the path

10.2 Public Footpath No. 14 Sandbach commences on Hawthorne Drive (UY803) at OS grid reference SJ 7647 6079 and runs in a generally north easterly direction for approximately 1006 metres to OS grid reference SJ 7724 6116. The section of path to be diverted is shown by a solid black line on Plan HA/064 running between points A-B. The proposed diversion is illustrated on the same plan between points A-C.

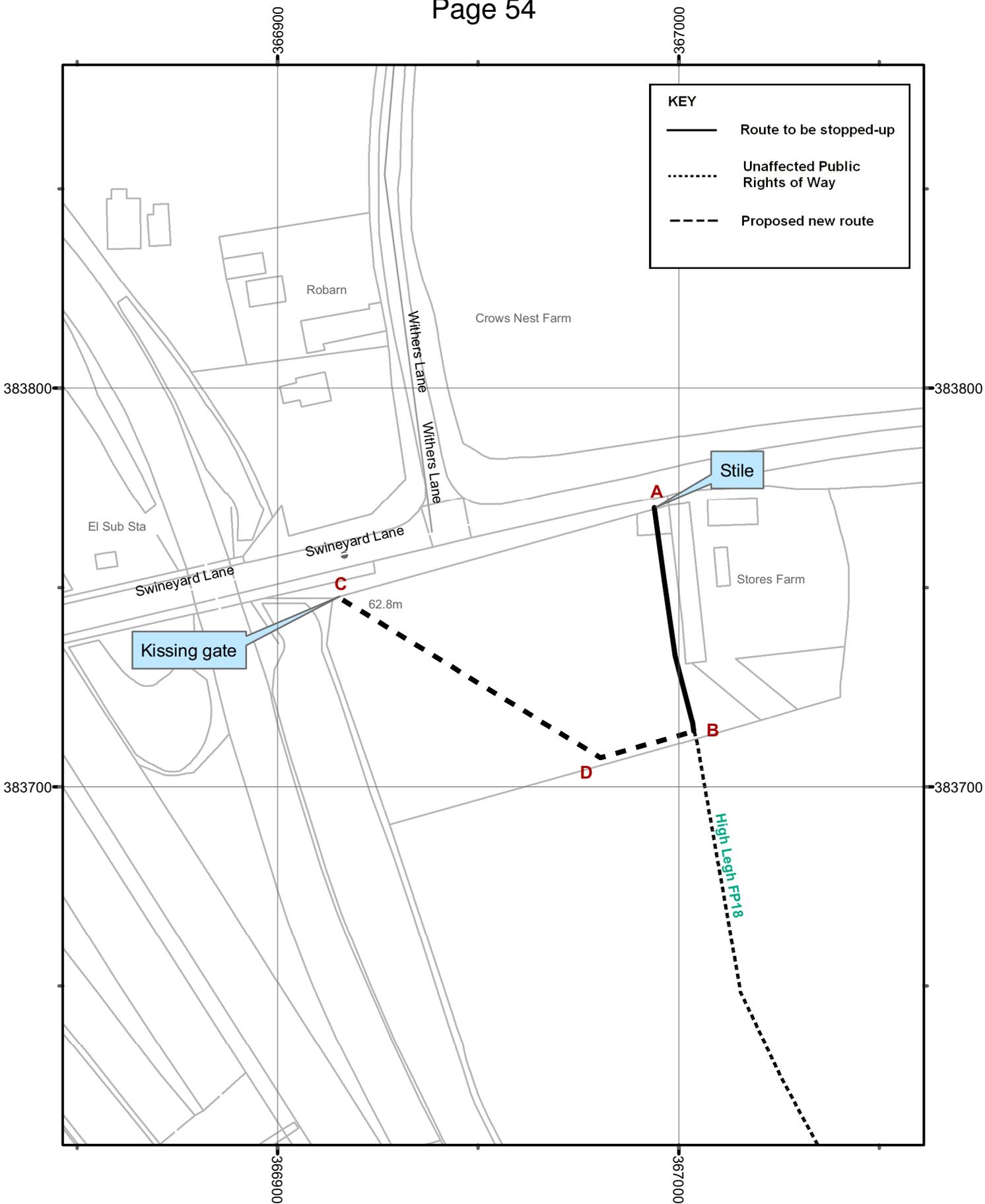
10.3 Mrs Smith of Heath Farm, Church Lane, Sandbach owns the land over which the current route runs. Mr Davenport of Top O The Town Farm, Heatley Lane, Broomhall owns the land over which the proposed route would run. They have both provided written consent and support for the proposal.

- 10.4 The current definitive line of the footpath was diverted on 8th October 1963 under the Town and Country Planning Act 1962 as part of “The Stopping up of Highways (County of Chester) (No. 10) Order 1963”. Due to an error in this order, the eastern end of the diverted footpath does not meet with the public highway, it stops as it reaches a private access track, and there is therefore no legal public access through to Church Lane at the moment.
- 10.5 The proposed diversion will be in the interests of the public as it will resolve the issue of the footpath not meeting a public highway, thereby providing public access through to Church Lane. It is also in the interests of the landowner at Heath Farm as it will move the footpath out of the paddock and allow them greater freedom in utilising the land, as well as increasing privacy and security at the farm by moving the footpath away from their buildings.
- 10.6 The proposed route has been used as a permissive route for a number of years. It runs along an existing track south west of the present route to join with Church Lane. To re-instate the footpath onto the current legal line, two gates or stiles would be required (as illustrated on the length A to B on Plan No. HA/064). The proposed diversion requires only one kissing gate (as illustrated on the length A to C on Plan No. HA/064) at the eastern end of the track, and the path will have a width of two metres.
- 10.7 The Ward Councillor has been consulted about the proposal. No comments have been received.
- 10.8 Sandbach Town Council has been consulted and has responded to state that they have no objection to the proposal.
- 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. Congleton Ramblers have responded to state that they “are delighted to register our support for the proposed diversion”.
- 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 Equality Act 2010 Legislation has been carried out by the PROW Network Management & Enforcement Officer for the area and it is considered that the proposed diversion would be no less easy to use than the existing 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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Email: hannah.duncan@cheshireeast.gov.uk
PROW File: 262D/446



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|  1:1,250 | <p>Highways Act 1980 s119 The Cheshire East Borough Council (Footpath 18 (part) Parish of High Legh) Public Path Diversion Order 2012</p> | <p>Plan No. HA/071</p> |  |
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CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting: 11 June 2012
Report of: Public Rights of Way Manager
Subject/Title: Highways Act 1980 Section 119
Application for the Diversion of Public Footpath no. 18 (part),
Parish of High Legh

1.0 Report Summary

- 1.1 The report outlines the investigation to divert part of Public Footpath No.18 in the Parish of High Legh. 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.18 High Legh by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/071 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 & 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 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 High Legh

5.0 Local Ward Members

5.1 Councillor Steve Wilkinson

6.0 Policy Implications including – Carbon Reduction - 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/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 Mrs MF Pallett, Stores Farm Barn, Swineyard Lane, High Legh. WA16 0SB, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath no. 18 in the Parish of High Legh.
- 10.2 Public Footpath No. 18, High Legh, commences at its junction with Swineyard Lane at OS grid reference SJ 6699 8376 and runs in a generally southerly direction through the applicant's property to exit into a rotational arable field which it crosses in an increasingly south, south easterly direction to an old field boundary near the buildings of Mossoaks Farm. From here, it continues in the same direction to the west of the buildings to terminate at its junction with High Legh FP33 at O.S. grid reference 6712 8342. The section of path to be diverted is shown by a solid black line on Plan No. HA/071 between points A-B. The proposed diversion is illustrated on the same plan with a black dashedline between points C-D-B.
- 10.3 The land over which the current path and the proposed diversion run belongs to Mrs MF Pallett. 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. 18, High Legh to be diverted runs through the property of the landowner giving rise to concerns relating to security and safety.
- 10.5 The proposed new route (C-D-B) would enter a pasture field via a kissing gate at point D on plan HA/071 and would run in a south easterly direction to the southern field boundary at point D. It would then follow this field boundary in an east, north easterly direction terminate on the current path at point B just before a stile. The new route would have a recorded width of 2m and would be unenclosed between points C-D and enclosed to a width of 2.5m between points D-B.
- 10.6 Ward Councillors have been consulted about the proposal. No comments were received.

- 10.7 High Legh Parish Council has been consulted and registered that they have no 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. No objections have been received. The North and Mid-Cheshire Ramblers Association expressed concerns that a stable and ménage (for which a planning application is duly being considered, planning reference: 12/1533M) if built, may cause damage to the surface of this alternative route and affect enjoyability. Following consideration of the response from the local authority, this concern was allayed since if the diversion was considered at a later date under the Town and Country Planning Act 1990, s257, the diversion route options would be less attractive to users. The current proposal would take users across a pasture field to the southern field boundary and then along that boundary between trees to the north of which is the proposed location for the ménage. Therefore, the ménage and stables would not affect the current proposal other than to force the need for a fenced section between points D-B.
- 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 Equality Act Legislation has been carried out by the PROW Network Management and Enforcement Officer for the area and it is considered that the proposed diversion is 'no less convenient' than the old route.

11.0 Access to Information

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

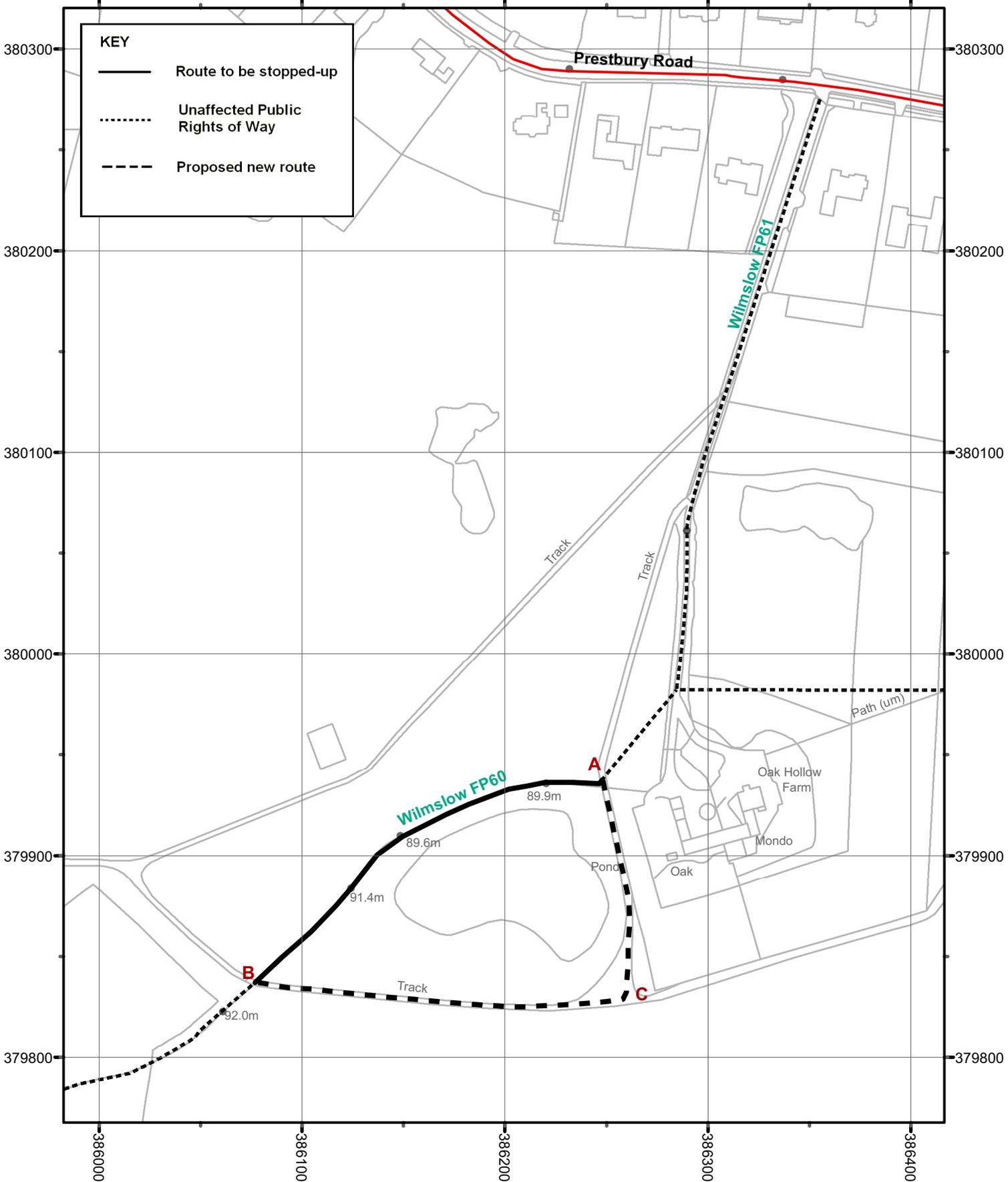
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KEY

-  Route to be stopped-up
-  Unaffected Public Rights of Way
-  Proposed new route



1:2,500

Highways Act 1980 s119
 The Cheshire East Borough Council
 (Footpath 60 (part) Parish of Wilmslow)
 Public Path Diversion Order 2012

Plan No.
 HA/070



CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting: 11 June 2012
Report of: Public Rights of Way Manager
Subject/Title: Highways Act 1980 Section 119
Application for the Diversion of Public Footpath No. 60
(part), Parish of Wilmslow

1.0 Report Summary

- 1.1 The report outlines the investigation to divert part of Public Footpath No.60 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.60 Wilmslow by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/070 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 & 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 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 offering enhanced security and privacy once the land over which the path runs is sold for development of a private dwelling. Planning permission for this development has been granted (see Planning Reference: 10/1798M). 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 East

5.0 Local Ward Members

5.1 Councillor Rod Menlove

6.0 Policy Implications including – Carbon Reduction - 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/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 Fowler (“agent”) of MBW Developments on behalf of Mr RN Scott (“applicant”) of Moat Hall Farm, Chelford Road, Marthall, Nr Knutsford, Cheshire, WA16 8SU, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath no. 60 in the Parish of Wilmslow.
- 10.2 Public Footpath No. 60, Wilmslow, commences at its junction with Prestbury Road at OS grid reference SJ 8666 8018 and runs in a generally south westerly direction through fields, then through the grounds of Oak Hollow Farm and Hollow Barn, then around the north western edge of a small lake and then through more fields to its junction with Hough Lane at OS grid reference 8566 7958. The section of path to be diverted is shown by a solid black line on Plan No. HA/070 between points A-B. The proposed diversion is illustrated on the same plan with a black dashed line between points A-C-B.
- 10.3 The land over which the current path and the proposed diversion run belongs to Mr R Fowler of MBW Developments and the intention is that ownership will transfer to the buyer, Mr Scott on whose behalf Mr Fowler is acting upon. 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. 60, Wilmslow to be diverted skirts around the north western edge of a small lake. A private dwelling will be built on the land over which the path runs giving rise to concerns relating to security and safety.
- 10.5 The proposed new route (A-C-B) would skirt the small lake starting at point A and would run in a southerly direction to point C and then in a westerly direction to terminate at point B. The new route would have a recorded width of 2m and would be unenclosed although it would be bounded by a hedge to the east between points A-C.
- 10.6 Ward Councillors have been consulted about the proposal. No comments were received.

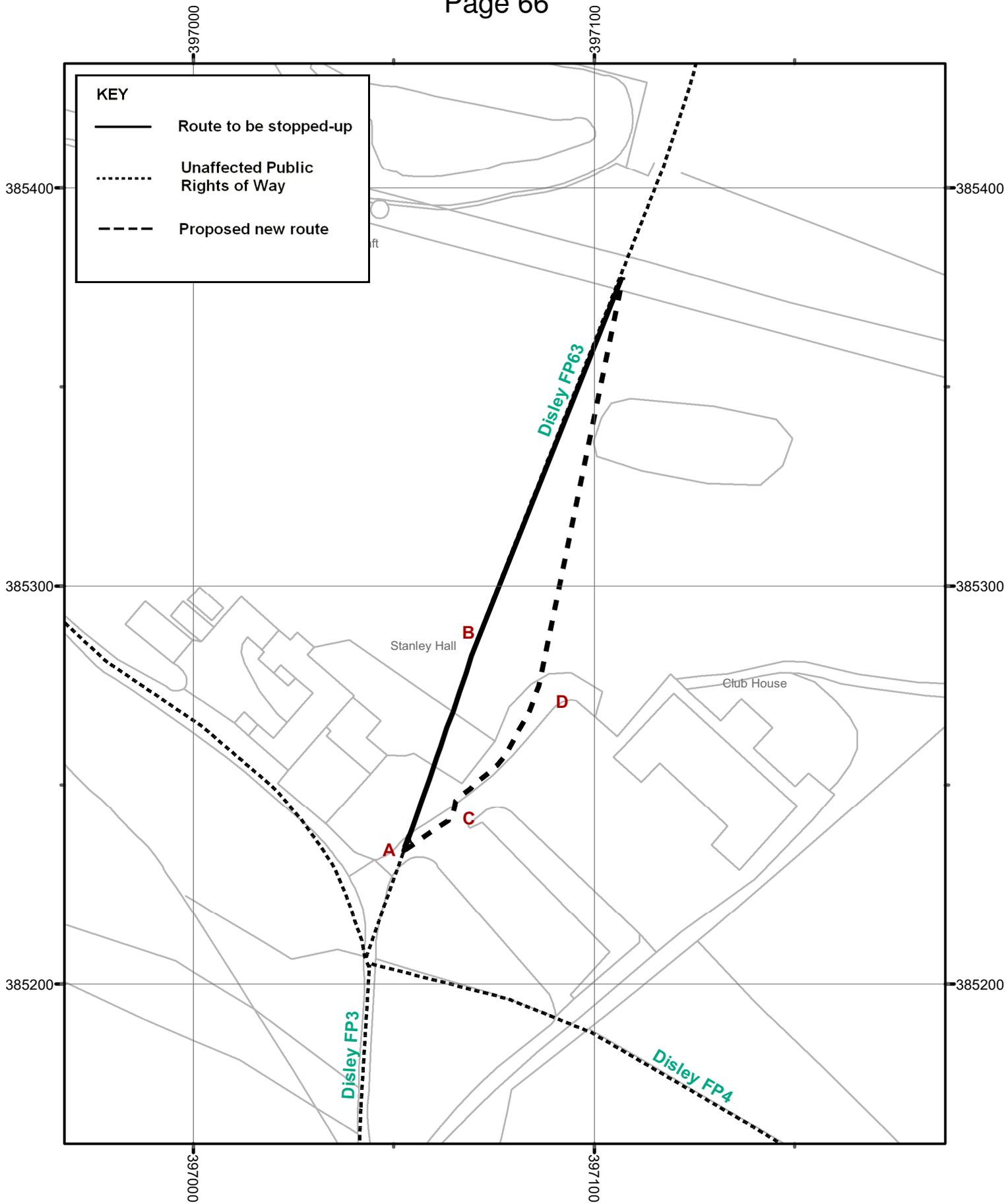
- 10.7 Wilmslow Parish Council has been consulted. Although they registered an objection to the proposal but this is under reconsideration and their final response will be reported verbally.
- 10.8 The statutory undertakers have also been consulted and have raised no objections to the proposed diversion. 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. No objections have been 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 the Equality Act Legislation has been carried out by the PROW Network Management 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: 355D/449

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1:1,250

Highways Act 1980 s119
 The Cheshire East Borough Council
 (Footpath 63 (part) Parish of Disley)
 Public Path Diversion Order 2012

Plan No.
 HA/069



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CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting: 11 June 2012
Report of: Public Rights of Way Manager
Subject/Title: Highways Act 1980 Section 119
Application for the Diversion of Public Footpath no. 63 (part),
Parish of Disley

1.0 Report Summary

- 1.1 The report outlines the investigation to divert part of Public Footpath No.63 in the Parish of Disley. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way Unit as 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.63 Disley by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/069 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 & 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 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 Disley

5.0 Local Ward Members

5.1 Councillor Harold Davenport

6.0 Policy Implications including – Carbon Reduction - 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/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 Maclean (“agent”) of Mattin Maclean Ltd. on behalf of Disley Golf Club Ltd, Stanley Hall Lane, Disley, Cheshire, SK12 2JX, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath no. 63 in the Parish of Disley.
- 10.2 Public Footpath No. 63, Disley, commences at its junction with Public Footpath No’s 3 and 4, Disley at O.S. grid reference SJ 9704 8520 and runs in a generally north, north westerly direction across the grounds of Stanley Hall and then across the grassed golf course to then run across fields where it gradually changes to follow a northerly direction to terminate at its junction with Public Footpath No’s 18 and 64, Disley at O.S. grid reference 9712 8580. The section of path to be diverted is shown by a solid black line on Plan No. HA/069 between points A-B. The proposed diversion is illustrated on the same plan with a black dashed line between points D-C-D-B.
- 10.3 The land over which the current path and the proposed diversion run belongs to Disley Golf Club. 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. 63, Disley to be diverted runs through unused grounds of Stanley Hall Farm (owned by the landowner) and it is the intention to landscape this land into gardens as part of wider developments to the farm property. This gives rise to privacy and security concerns.
- 10.5 The proposed new route (A-C-D-B) would start on the access road to the golf club carpark at point A on plan HA/069 and would run in a north easterly direction along the western edge of this road to point C before descent down a slope to continue in the same direction between trees to point D. It would then bear in a northerly direction across the grassed golf course to rejoin the current line of Disley FP63 at point B where there is a metal signed railway air vent.

The new route would have a recorded width of 2m and would be unenclosed.

- 10.6 The Ward Councillor has been consulted about the proposal. No comments were received.
- 10.7 Disley Parish Council has been consulted and their response will be reported verbally.
- 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. No objections have been received. The Peak and Northern Footpath Society registered no objection nor did the East Cheshire Ramblers and Disley Footpath Society. However, the latter two user groups requested that consideration be give to surfacing of the diversion route between points C-D along with installation of steps at point D to ease the short descent from the tarmac road.
- 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 the Equality Act has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is no less convenient than 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

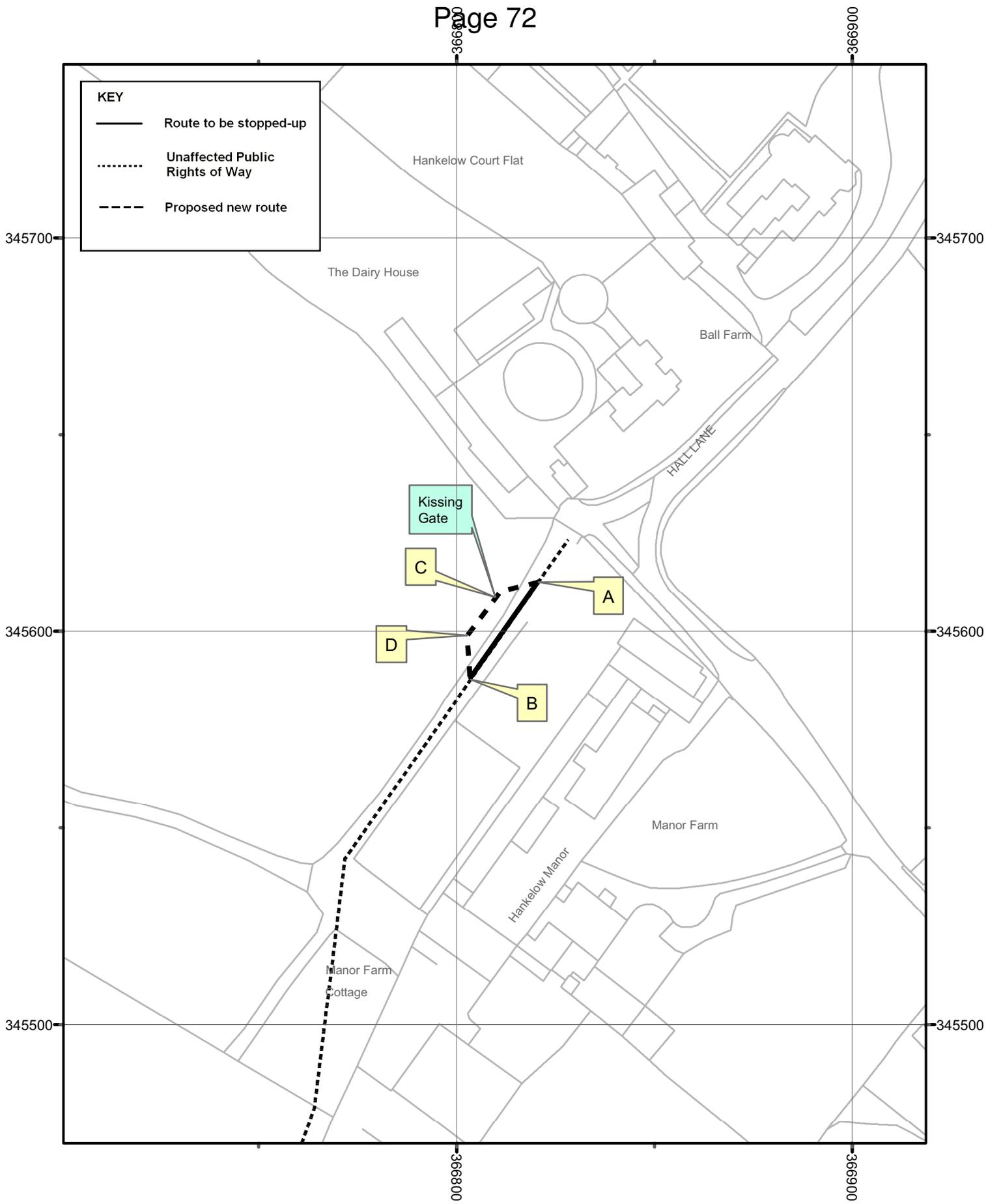
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PROW File: 108/D/441

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KEY

- Route to be stopped-up
- Unaffected Public Rights of Way
- - - Proposed new route



1:1,250

Town and Country Planning Act 1990 s257
 The Cheshire East Borough Council
 (Footpath 1 (part) Parish of Hankelow)
 Public Path Diversion Order

Plan No.
 TCPA/009



CHESHIRE EAST COUNCIL

Public Rights Of Way Committee

Date of Meeting: 11 June 2012
Report of: Public Rights of Way Manager
Subject/Title: Town and Country Planning Act 1990 Section 257
Application for the Diversion of Public Footpath No.1 (Part) Pari
of Hankelow

1.0 Purpose of Report

- 1.1 The report outlines the investigation to divert part of Public Footpath No. 1 in the Parish of Hankelow. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way Unit as a response to an application for planning approval submitted by Mr Ian Glennister of Lanyon Bowdler Solicitors for the redevelopment of existing barns at Manor Farm, Hall Lane, Hankelow, including construction of a garage block. 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 Recommendations

- 2.1 Subject to planning permission being issued in relation to planning application reference 11/3818N, approval is given for an Order to be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 1, Hankelow as illustrated on Plan No. TCPA/009 on the grounds that the Borough Council is satisfied that it is necessary to do so to allow development to take place on the condition that planning consent is given.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received and not resolved, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

3.0 Financial Implications

- 3.1 Not applicable

4.0 Legal Implications

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

5.0 Risk Assessment

- 5.1 Not applicable

6.0 Background and Options

- 6.1 An application has been received from Mr Andrew Jones of CAS Estates (“agent”) on behalf of Mr Ian Glennister (“the Applicant”) of Lanyon Bowdler Solicitors, 39-41 Church Street, Oswestry, SY11 2SZ requesting that the Council make an Order under section 257 of the Town and County Planning Act 1990 to divert part of Public Footpath No. 1 in the Parish of Hankelow.
- 6.2 Public Footpath No. 1 Hankelow commences at its junction with Hall Lane at OS grid reference SJ 6683 4562 and runs in a generally south westerly direction through the grounds of Manor Farm after which it bears south, south westerly and then southerly through fields to its junction with Audlem Road at OS grid reference SJ 6664 4497. The section of path to be diverted is shown by a solid black line on Plan No. TCPA/009 running between points A-B. The proposed diversion is illustrated with a black dashed line on the same plan, running between points A-C-D-B.
- 6.3 The existing alignment of the footpath would be directly affected by the proposed construction of a garage block which will be developed in the interests of Mr Glennister (“applicant”) who owns the land over which runs this section of the footpath, once planning permission is granted.
- 6.4 A planning application has been submitted but not yet granted for proposed barn conversions at Manor Farm, Hall Lane, Hankelow, Nantwich, CW3 0JB, cited as Planning Permission Ref: 11/3818N.
- 6.5 Part of the current line of Public Footpath No.1 Hankelow (A-B) lies directly on the site of the construction of the garage as shown on the plan submitted by the applicant’s agent (Hank07) and would be obstructed by it. Therefore, the footpath diversion is required to provide public access around the garage. The length of footpath proposed to be diverted is approximately 30 metres.
- 6.6 The proposed route for the footpath is approximately 37 metres long and would move the footpath from point A to bypass the garage by entering a field to the north (point C) and then following the southern field boundary before re-entering the property grounds (point D) to rejoin the current route at point B on Plan No. TCPA/009.
- 6.7 The local Councillor, Councillor Rhoda Bailey, has been consulted about the proposal. No comments were received.

- 6.8 Hankelow Parish Council has been consulted about the proposal and registered no objection to the diversion.
- 6.9 The statutory undertakers have also been consulted and have no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 6.10 The user groups have been consulted. No responses have been received.
- 6.12 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 6.13 An assessment in relation to Equality Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion would be not be significantly less easy to use than the current route.

7.0 Reasons for Recommendation

- 7.1 In accordance with Section 257 of the Town and Country Planning Act 1990, the Borough Council, as Planning Authority, can make an Order diverting a footpath if it is satisfied that it is necessary to do so to enable development to be carried out in accordance with a planning permission that has been granted.
- 7.2 It is considered that it is necessary to divert part of Footpath No. 1 Hankelow as illustrated on Plan No. TCPA/009, to allow for the construction of a garage block in accordance with the pending planning permission; reference number 11/3818N.
- 7.3 Consultations have not elicited any objections to the proposal and it is considered that the legal tests for the making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 are satisfied and be considered for approval on condition that Planning Application reference number 11/3818N is granted.

For further information:

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Background Documents: PROW file 142D/443

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Project

Proposed Barn Conversions at
Hankelow Manor Farm, Hall Lane,
Hankelow, Nantwich CW3 0JB

Drawing

Footpath Diversion Plan

Rev.

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**Drawing
Number**

Hank07

Scale

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