

Public Rights of Way Committee

Agenda

Date: Monday 8th March 2021

Time: 2.00 pm

Venue: Virtual Meeting

How to Watch the Meeting

For anybody wishing to view the meeting live please click on the link below:

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or dial in via telephone on 141 020 3321 5200 and enter Conference ID: 705 496 369# when prompted.

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 top of each report.

It should be noted that Part 1 items of Cheshire East Council decision meetings are recorded and the recordings are uploaded to the Council's website.

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 disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Minutes of Previous Meeting** (Pages 3 - 6)

To approve as a correct record the minutes of the meeting held on 7 December 2020.

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

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

In accordance with paragraph 9 of Appendix 7 of the Procedure Rules, members of the public may speak on a particular application after the Chairman has introduced the report, provided that 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.

Also in accordance with paragraph 2.32 of the Committee Procedural Rules and Appendix 7 of the Procedural Rules 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 body in question. 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 wishing to ask a question or make a statement at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

5. **Public Rights of Way Fees and Charges 2021-22** (Pages 7 - 12)

To note the fees and charges for 2021-22 for charged-for services provided by the Public Rights of Way team.

THERE ARE NO PART 2 ITEMS

Membership: Councillors S Edgar (Chairman), H Faddes, I Macfarlane, R Moreton, B Puddicombe (Vice-Chairman), D Stockton and L Wardlaw

CHESHIRE EAST COUNCIL

Minutes of a virtual meeting of the **Public Rights of Way Committee**
held on Monday 7th December 2020

PRESENT

Councillor S Edgar (Chairman)
Councillor B Puddicombe (Vice-Chairman)

Councillors S Akers Smith (substitute for Cllr R Moreton), H Faddes,
I Macfarlane, D Stockton and L Wardlaw

Officers in Attendance

Genni Butler, Acting Public Rights of Way Manager
Andrew Poynton, Planning and Highways Lawyer
Rachel Graves, Democratic Services Officer

8 APOLOGIES FOR ABSENCE

Apologies were received from Councillor R Moreton.

9 DECLARATIONS OF INTEREST

No declarations of interest were made.

10 MINUTES OF PREVIOUS MEETING**RESOLVED:**

That the minutes of the meeting held on 8 June 2020 be confirmed as a correct record.

11 PUBLIC SPEAKING TIME/OPEN SESSION

There were no public speakers.

12 DEFINITIVE MAP MODIFICATION ORDER APPLICATIONS: REVISION OF STATEMENT OF PRIORITIES

The Committee considered a revised Statement of Priorities for dealing with Definitive Map Modification Order (DMMO) applications.

It was best practice for Councils to publish a statement of its priorities for processing DMMO applications. The current Statement of Priorities had been adopted by the Public Rights of Way Committee in December 2011. Since then the Council had made several changes to corporate policy which needed to be reflected in the Statement.

The revised Statement of Priorities continued to take account of the objectives of the Council's statutory Public Rights of Way Improvement Plan 2011 – 2026. Also included were the relevant objectives of the revised Cheshire East Local Transport Plan 2019-24, which replaced the former Sustainable Community Strategy policies featured in the previous Statement of Priorities. The Statement of Priorities also supported the outcomes of the Council's Corporate Plan.

The revised Statement of Priorities also recognised the length of the time the DMMO application had been on the waiting list, the value of an application in resolving a known mapping anomaly, any claim linked to a Discovering Lost Way route and gave additional weight to applications where witnesses were over the age of 70 years.

RESOLVED: That

- 1 the revised Statement of Priorities, as set out in Appendix 1 to the report, be approved; and
- 2 the Statement of Priorities to be reviewed on a four-yearly basis.

13 INFORMATIVE REPORT - HIGHWAYS ACT 1980 S.119: PUBLIC PATH DIVERSION ORDER, GOOSTREY PUBLIC FOOTPATH NO.12 (PART)

The Committee received an information report which detailed the outcome of a Public Inquiry on an Order made to divert part of Goostrey Public Footpath No.12.

Objections had been received to the Order made by the Public Rights of Way Committee on 13 June 2016. Two objections were sustained, and the case was therefore referred to the Planning Inspectorate for determination.

A Public Inquiry was held on 4-5 February 2020 to consider the evidence presented and the Inspector did not confirm the Order on the basis that despite the diversion route being more accessible, the enjoyment to be derived from experiencing the listed farmhouse and associated buildings in their proper context outweighed the enjoyment to be gained from the new path, such that the new path was less enjoyable as a whole. The Inspector concluded that the loss of enjoyment outweighed the benefits to the landowners.

AGREED:

That the report be noted.

The meeting commenced at 2.00 pm and concluded at 2.51 pm

Councillor S Edgar (Chairman)

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Working for a brighter future together

Public Rights of Way Committee

Date of Meeting: 08 March 2021

Report Title: Public Rights of Way Fees and Charges 2021-22

Senior Officer: Frank Jordan, Executive Director – Place

1. Report Summary

- 1.1. This report outlines the fees and charges for 2021-22 for charged-for services provided by the Public Rights of Way team.
- 1.2. The work of the Public Rights of Way team contributes to the Corporate Plan Outcomes 4 “Cheshire East is a green and sustainable place” and 5 “People live well and for longer”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

2. Recommendation

- 2.1. That the report be noted.

3. Reasons for Recommendation/s

- 3.1. The report is for information only.

4. Other Options Considered

- 4.1. Not applicable – this is a non-executive matter.

5. Background

- 5.1 Charges are made for services provided by the Public Rights of Way team in six principle areas where recovery of costs is permissible within the relevant legislation:
 - Public Path Orders
 - Temporary Closures
 - Land Searches
 - Landowner declarations, deposits and statements
 - Enforcement action cost recovery

- Meetings, site visits and notice posting at the request of landowners/developers.
- 5.2 Powers for the recovery of costs are set out in various pieces of statutory legislation and reflect full cost recovery of all reasonable costs involved in pursuing the matter, including overheads. Costs are based on time analysis of staff based on the final scale point of salary grade with overheads included at the corporate agreed rate. Legislation does not permit the making of a profit. Advertising costs are recovered direct from the applicant, where applicable.
- 5.3 An annual review of the fees and charges has been conducted. The charges for 2021-22 have been increased by inflation and rounded up. In addition, one additional fee has been introduced in relation to Public Path Orders.
- 5.4 Charges for Public Path Orders are set to recover all administrative costs of the process, with charges made in accordance with “The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993” as amended by “The Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996”. The new additional fee introduced from 2021-22 is payable for Public Path Order cases which attract objections which are not withdrawn. Such cases then necessitate the compilation of a case file to be submitted to the Planning Inspectorate for determination on behalf of the Secretary of State. Determination can take the form of exchange of written representations, a public hearing or a public inquiry. The fee has been introduced to reflect the time cost in preparation for and participation in such processes.
- 5.5 Charges for temporary closures of Public Rights of Way are also set to recover all administrative costs of the process, separated into those requiring only notices to be processed and those requiring legal orders to be made, again to reflect the different tasks involved in each process.
- 5.6 Land Searches are a discretionary task in which a request is made for formal confirmation of whether or not there are Public Rights of Way recorded on the Definitive Map within a defined area. Charges are set to recover all administrative costs, and to reflect similar charges levied by Cheshire East Highways for similar services.
- 5.7 Landowner declarations, deposits and statements made under the Highways Act 1980 section 31(6) attract a charge set to recover all administrative costs, and are made under the provisions of Commons Act 2006 S15A and S15B.
- 5.8 Enforcement action costs are charged on the basis of actual costs incurred by the Public Rights of Way team, contractors and police, as applicable.

5.9 Costs for meetings, site visits and notice posting at the request of a landowner or developer are charged on the basis of Officer time and mileage.

5.10 The fees and charges for the 2021-22 financial year are detailed below.

Service	2020-21	2021-22
Public Path Order		
Highways Act 1980	£4,900.00	£4,944.50
Town & Country Planning Act 1990 – single property / mineral application	£5,250.00	£5,297.50
Town & Country Planning Act 1990 – multiple properties	£5,800.00	£5,852.50
Additional fee payable for Public Path Order cases which attract objections and have to be referred to the Secretary of State for determination via written representations/hearing/inquiry	N/a	£1,860.00
Temporary Closure		
3 day event closure	£430.00	£434.00
Motor event closure	£200.00	£202.00
5 day or 21-day closure or extension	£150.00	£151.50
6-month temporary closure Order	£430.00	£434.00
6-month extension Order via Secretary of State	£300.00	£303.00
Land Search	£85.00	£86.00
Highways Act 1980 S31(6) deposits and statements on behalf of landowner applicants:		
•deposited statement and plan with consecutive statutory declaration	£300.00	£303.00
•a statutory declaration relating to a current, valid statement and plan	£150.00	£151.50
Meetings, site visits, notice posting at request of landowner/developer - rate per Officer per hour plus mileage	£50.00	£50.50
Enforcement cost recovery - rate per Officer per hour plus mileage, plus any contractor and police fees	£50.00	£50.50

6. Implications of the Recommendations

6.1 Legal Implications

6.1.1 There are no legal implications.

6.2 Finance Implications

6.2.1 There are no additional financial implications foreseen.

6.3 Policy Implications

6.3.1 The Public Rights of Way Charging Policy will be updated when the revised fees and charges come into operation in 2021-22.

6.4 Equality Implications

6.4.1 There are no equality implications.

6.5 Human Resources Implications

6.5.1 There are no human resource implications foreseen.

6.6 Risk Management Implications

6.6.1 There are no risk management implications foreseen.

6.7 Rural Communities Implications

6.7.1 There are no direct implications for rural communities.

6.8 Implications for Children & Young People

6.8.1 There are no direct implications for children and young people.

6.9 Public Health Implications

6.9.1 There are no direct implications for public health.

6.10 Climate Change Implications

6.10.1 The Council has committed to becoming carbon neutral by 2025 and to encourage all businesses, residents and organisations in Cheshire East to reduce their carbon footprint.

6.10.2 The work of the Public Rights of Way team encourages a reduction in carbon emissions and increased environmental sustainability by reducing energy consumption and promoting healthy lifestyles through active travel.

7. Ward Members Affected

- 7.1 All Wards. No Ward Member engagement is required as the report is for information only.

8. Consultation & Engagement

- 8.1 Approval for the changes has been obtained from the Portfolio Holder, Executive Director and Head of Service who have the appropriate delegated powers. The revised fees and charges schedule has been submitted as part of the Council-wide fees and charges process.

9. Access to Information

- 9.1 Contact the report writer.

10. Contact Information

- 10.1 Any questions relating to this report should be directed to the following Officer:

Name: Genni Butler

Job Title: Acting Public Rights of Way Manager

Email: genni.butler@cheshireeast.gov.uk

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