

# Public Rights of Way Sub Committee

## Agenda

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**Date:** Monday, 13th September, 2021  
**Time:** 2.00 pm  
**Venue:** Council Chamber, Municipal Buildings, Earle Street, Crewe  
CW1 2BJ

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**PLEASE NOTE – This meeting is open to the public and anyone attending this meeting will need to wear a face covering upon entering and leaving the venue. This may only be removed when seated.**

**The importance of undertaking a lateral flow test in advance of attending any committee meeting. Lateral Flow Testing:** Towards the end of May, test kits were sent to all Members; the purpose being to ensure that Members had a ready supply of kits to facilitate self-testing prior to formal face to face meetings. Anyone attending is asked to undertake a lateral flow test on the day of any meeting before embarking upon the journey to the venue. Please note that it can take up to 30 minutes for the true result to show on a lateral flow test. If your test shows a positive result, then you must not attend the meeting, and must follow the advice which can be found here: [https://www.cheshireeast.gov.uk/council\\_and\\_democracy/council\\_information/coronavirus/testing-for-covid-19.aspx](https://www.cheshireeast.gov.uk/council_and_democracy/council_information/coronavirus/testing-for-covid-19.aspx)

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

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

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

#### **1. Apologies for Absence**

To receive any apologies for absence.

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For requests for further information

**Contact:** Karen Shuker

**Tel:** 01270 686459

**E-Mail:** karen.shuker@cheshireeast.gov.uk

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 - 4)

To receive the minutes of the meeting of the Public Rights of Way Committee held on 8 March 2021.

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

In accordance with Public Speaking Appendix, members of the public may speak on a particular application after the Chair has introduced the report, provided that notice has been given in writing to Democratic Services by 12 noon three 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 2.24 of the Committee Procedural Rules a total period of 15 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 2 minutes but the Chair 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 speak are required to provide notice of this at least three clear working days' in advance of the meeting and should include the question with that notice.

5. **Wildlife & Countryside Act 1981 - Part III, Section 53 Application No. MA/5/249, for the Addition of a Public Footpath between FP13 Lyme Handley on the Macclesfield Canal to FP13 Lyme Handley to the south east of Throstlenest Farm, and also a link footpath from FP13 to FP8 Lyme Handley** (Pages 5 - 26)

To consider the application for the addition of a Public Footpath between FP13 Lyme Handley on the Macclesfield Canal to FP13 Lyme Handley to the south east of Throstlenest Farm; and also a link footpath from FP13 to FP8 Lyme Handle.

6. **Informative Report - Diversion of Henhull FP4 (HA80 S119) PPO** (Pages 27 - 32)

To note that the unopposed Order made to divert part of Henhull Public Footpath No. 4 under TCPA 90 s257, has been abandoned and the same diversion is now being progressed under HA80 s119.

7. **Informative Report - Public Rights of Way Annual Report 2020/21 and Work Programme 2021/22** (Pages 33 - 60)

To consider a report on the achievements of the Council in terms of its Public Rights of Way (PROW) functions during the year 2020 -21 and the proposed work programme for the year 2021 – 22.

8. **Informative Report - Uncontested Public Path Orders Determined under Delegated Decision** (Pages 61 - 64)

To note the Public Path Orders determined under Delegated Decision.

**Membership:** Councillors S Akers Smith, H Faddes, L Crane (Chair), S Edgar (Vice-Chair), L Gilbert, R Moreton and D Stockton

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## **CHESHIRE EAST COUNCIL**

Minutes of a virtual meeting of the **Public Rights of Way Committee**  
held on Monday, 8th March, 2021

### **PRESENT**

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

Councillors H Faddes, I Macfarlane, R Moreton, D Stockton and L Wardlaw

### **Officers in attendance**

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

### **14 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **15 DECLARATIONS OF INTEREST**

No declarations of interest were made.

### **16 MINUTES OF PREVIOUS MEETING**

#### **RESOLVED:**

That the minutes of the meeting held on 7 December 2020 be confirmed as a correct record.

### **17 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no public speakers.

### **18 PUBLIC RIGHTS OF WAY FEES AND CHARGES 2021-22**

The Committee received a report which detailed the proposed fees and charges for 2021-22 for charged-for services provided by the Public Rights of Way team.

The annual review of fees and charges had been conducted as part of the budget setting process of the Council. The charges for 2021-22 had been increased by inflation and rounded up.

One additional fee had been introduced in relation to Public Path Orders and was for those Orders which attracted objections which were not withdrawn. These cases required the completion of a case file to be

submitted to the Planning Inspectorate for determination in either an exchange of written representations, a public hearing, or a public inquiry. The fee had been introduced to reflect the time cost in preparation for and participation in such processes.

**AGREED:**

That the report be noted.

The meeting commenced at 2.00 pm and concluded at 2.15 pm

Councillor S Edgar (Chairman)



*Working for a brighter future together*

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

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**Date of Meeting:** 13<sup>th</sup> September 2021

**Report Title:** Wildlife & Countryside Act 1981– Part III, Section 53  
Application No. MA/5/249, for the Addition of a Public Footpath between FP13 Lyme Handley on the Macclesfield Canal to FP13 Lyme Handley to the south east of Throstlenest Farm; and also a link footpath from FP13 to FP8 Lyme Handley.

**Report of:** Frank Jordan, Executive Director Place

**Ward(s) Affected:** Poynton East and Pott Shrigley

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### **1. Executive Summary**

- 1.1.** This report outlines the investigation of an application made by Mr David Kitching to amend the Definitive Map and Statement by adding a public footpath. This report includes a discussion of the consultations carried out in respect of the claim, the historical evidence, witness evidence and the legal tests for a Definitive Map Modification Order to be made. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether an Order should be made to add the public footpath.
- 1.2.** The work of the Public Rights of Way team contributes to the three Corporate Plan aims “We will provide strong community leadership and work transparently with our residents, businesses and partners to deliver our ambition in Cheshire East”, “We aim to reduce inequalities, promote fairness and opportunity for all and support our most vulnerable residents” and “We will lead our communities to protect and enhance our environment, tackle the climate emergency and drive sustainable development”.

### **2. Recommendations**

- 2.1. 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 as a Public Footpath, the route as shown between points A-B-C-D-E on Plan No. WCA/022;
- 2.2. The application to modify the Definitive Map and Statement to record public footpath rights between points C and H as illustrated on Plan No. WCA/022 be refused on the grounds that there is insufficient evidence of use of that section.
- 2.3. Public notice of the making of the Order be given and, in the event of there being no objections within the specified period, or any objections received being withdrawn, the Order be confirmed in exercise of the power conferred on the Council by the said Act.
- 2.4. In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

### **3. Reasons for Recommendations**

- 3.1. The evidence in support of this claim must show, on the balance of probabilities, that public rights subsist or are reasonably alleged to subsist along the claimed route. It is considered there is sufficient use of the route without force, secrecy, or permission, that is without interruption and as of right; to support the existence of footpath rights along the route shown between points A-B-C-D-E on Plan No. WCA/022. It is also considered that some of the historical evidence discovered adds weight and supports the existence of footpath rights on this part of the claimed route.
- 3.2. User evidence is considered under section 31(1) of the Highways Act 1980, public footpath rights can come into existence by prescription unless there is evidence to the contrary. For the section of the claimed route between points C and H, as illustrated on Plan No. WCA/022, it is considered there is insufficient evidence to show the required use of that section on foot by the public. The requirements of Section 53 (3)(c)(i) have therefore not been met and it is recommended that that part of the application is refused.

### **4. Other Options Considered**

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

### **5. Background**

#### **5.1. Introduction**

- 5.1.1. The application was received in March 2015 by Mr David Kitching to modify the Definitive Map and Statement for the Parish of Lyme Handley by adding a footpath. The application was supported by user evidence. A total of 16 witnesses submitted evidence by completing user evidence forms which included a sketch of the route(s) they had used.

**5.1.2.** The Applicant sought a direction from the Secretary of State for a decision to be made on the application as it was still awaiting investigation. A direction decision dated 10<sup>th</sup> May 2019 was received from an Inspector representing the Secretary of State. The decision, pursuant to paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981, directed the Council to determine the application no later than 12 months from the date of the direction.

**5.2.** *Description of the Application Route*

**5.2.1.** The claimed route runs from just after the footbridge over the Macclesfield Canal (point A on Plan No. WCA/022) and follows a south easterly direction for approximately 43 metres to point B. At the field boundary at point B there was a stile in place, this had been there for as long as witnesses could remember. The claimed route continues across the field in a generally easterly direction, to point C and then to the corner of the field at point D, where there was originally a stile. The claimed route then cuts directly across the next field, in a generally easterly direction to point E, where there was another stile. All three stiles on the claimed route at points B, D and E were replaced with kissing gates in approximately 2012. The whole route has a grass/earth surface and is unenclosed. Aerial photos show a clear trodden path along the claimed route between points A-B-C-D-E on plan no. WCA/022. Part of the application includes a small link path from point C on the claimed footpath to the junction with FP8 Lyme Handley, point H on Plan No. WCA/022.

**5.2.2.** In approximately December 2014 the kissing gate at point B on Plan No WCA/022 was blocked off and the footpath relocated to the definitive alignment of Footpath No. 13 Lyme Handley at the field edge. An opening was made in the field boundary at point F, and the footpath was enclosed by fencing to the field edge between points F-G-H-D, on Plan No. WCA/022. As the footpath was now enclosed and this area of the field in parts was very wet, the footpath surface quickly degraded and became extremely muddy. During 2018 Cheshire East Council spent a considerable amount of money upgrading the surface of Footpath No. 13 Lyme Handley and installed a boardwalk with handrail across the wettest area.

**5.3.** *The Main Issues*

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

**5.3.2.** One such event, (section 53(3)(c)(i)) is where

“(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows:-

(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic

The evidence can consist of documentary/historical evidence or user evidence or a mixture of both. All the evidence must be evaluated and weighed and a conclusion reached whether, on the ‘balance of probabilities’ the alleged rights subsist or are reasonably alleged to subsist. Any other issues, such as safety, security, suitability, desirability or the effects on property or the environment, are not relevant to the decision.

**5.3.3.** Where the evidence in support of the application is user evidence, section 31(1) of the Highways Act 1980 applies. This states;-

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

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

**5.3.4.** In the case of, *R (on the application of Godmanchester Town Council) v Secretary of State for the Environment, Food and Rural Affairs (2007)*, the House of Lords considered the proviso in section 31(1) of the Highways Act 1980:

*“...unless there is sufficient evidence that there was no intention during that period to dedicate it”.*

The proviso means that presumed dedication of a way can be rebutted if there is sufficient evidence that there was no intention to dedicate the way, during the relevant twenty year period. What is regarded as ‘sufficient evidence’ will vary from case to case. The Lords addressed the issue of whether the “intention” in section 31(1) had to be communicated to those using the way, at the time of use, or whether an intention held by the landowner but not revealed to anybody could constitute “sufficient evidence”. The Lords also considered whether use of the phrase “during that period” in the proviso, meant during the whole of that period. The House of Lords held that a landowner had to communicate his intention to the public in some way to satisfy the

requirement of the proviso. It was also held that the lack of intention to dedicate means “at some point during that period”, it does not have to be continuously demonstrated throughout the whole twenty year period.

#### **5.4. *Investigation of the Claim***

**5.4.1.** An investigation of the evidence submitted with the application has been undertaken, together with some additional research. The application was made on the basis of user evidence from sixteen witnesses; with a further witness, the spouse of one witness, who had not previously completed a user evidence form, giving evidence to Officers during an interview. In addition to the user evidence submitted an investigation of any available historical documentation is also undertaken to establish whether the claimed route had an historical origin. The documentary evidence that has been examined is referred to below and a list of all the evidence taken into consideration can be found in Appendix 1.

#### **5.5. *Documentary Evidence***

##### *Tithe Maps and Apportionment*

**5.5.1.** Tithe Awards were prepared under the Tithe Commutation Act 1836, which commuted the payment of a tax (tithe) in kind, to a monetary payment. The purpose of the award was to record productive land on which a tax could be levied. The Tithe Map and Award were independently produced by parishes and the quality of the maps is variable. It was not the purpose of the awards to record public highways. Although depiction of both private occupation and public roads, which often formed boundaries, is incidental, they may provide good supporting evidence of the existence of a route, especially since they were implemented as part of a statutory process. Non-depiction of a route is not evidence that it did not exist; merely that it did not affect the tithe charge. Colouring of a track may or may not be significant in determining status. In the absence of a key, explanation or other corroborative evidence the colouring cannot be deemed to be conclusive of anything.

**5.5.2.** The Lyme Handley Tithe Map of 1850 shows a route from the canal in a south easterly direction to the position of Point B on Plan No. WCA/022, this is shown as a double dashed line, perhaps indicating that it was unenclosed. From point B to approximately point G there is an enclosed route shown to the field edge. The description given for plot 78, which is most of the enclosed section, is ‘Pond and road’ and the land use is described as ‘Freshwater and thoroughfare’. This is good supporting evidence that a route was in existence and considered public at the time. It appears to include the section A-B-F, which is not shown on the Definitive Map. The section of the claimed route A-B appears on the Tithe Map as a double dashed line but there is no reference to it in the

plot description in the Tithe Apportionment; the remainder of the claimed route is not shown.

*Ordnance Survey Maps*

**5.5.3.** Ordnance Survey mapping was originally for military purposes to record all roads and tracks that could be used in times of war. This included both public and private routes. These maps are good evidence of the physical existence of routes, but not necessarily of status. Since 1889 the Ordnance Survey has included a disclaimer on all of its maps to the effect that the depiction of a road or way is not evidence of the existence of a right of way. It can be presumed that this caveat applies to earlier maps also. These documents must therefore be read alongside the other evidence.

*O.S. County Series 25" to 1 mile, 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Editions*

**5.5.4.** On the first edition there is a footbridge indicated by 'FB' at the canal, then no route is shown for either A-F or A-B. An enclosed area is shown to the field edge, this extends from point B to point G and is numbered 114. There is no indication of a route on the claimed footpath. On the second and third editions the footbridge is annotated but there is no enclosed area shown; and no indication of either the Definitive alignment of Footpath No. 13 or the claimed footpath.

*O.S. County Series 6" to 1 mile, 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Editions*

**5.5.5.** As with the 25 inch map above the 1<sup>st</sup> edition shows an enclosed area to the field edge, which again extends from point B to point G. There is no indication of a route on the claimed footpath. The second and third editions, as with the 25 inch map, has the footbridge annotated but the enclosed area is not shown; therefore showing no indication of either route.

*National Parks and Access to the Countryside Act 1949*

**5.5.6.** The Definitive Map and Statement is based on surveys and plans carried out in the early 1950s by each parish in Cheshire of all the ways they considered to be public at that time. The surveys were used as the basis for the Draft Definitive Map. The survey was completed for the Lyme Handley parish between October 1949 and November 1951.

**5.5.7.** There are 4 maps contained in the file for Lyme Handley, unfortunately there are no schedules to accompany the plans. It is unknown whether they are missing or if none were produced. What appears to be the main parish survey map, has the names of those who completed the survey at the bottom on the map. The map shows a route on a similar line to the claimed path from point A-B-C-D on Plan No. WCA/022, but then from point D it appears to follow a rough line closer to the field boundary points D-I-E rather than cutting across the field. At point B, 'FG' is annotated for Field Gate; and at points D and E, 'FG S' for Field Gate and Stile.

- 5.5.8.** Another map annotated 'Parish Map' shows the line of the path following points A-B, it then curves into the field and re-joins the field edge near to point G. It then continues along the field edge from this point G-H-D-I-E. The path is not annotated with any path furniture on this map.
- 5.5.9.** The Peak and Northern Footpath Society also carried out footpath surveys at the time the parish surveys were being completed. The map which is annotated 'FPS. Soc. Map' shows the line of the footpath the same as the parish map referred to at 5.5.8 above. The field gate and stile annotations are shown on this map the same as the map referred to at 5.5.7 above.
- 5.5.10.** Finally there is a map annotated 'Rough Draft Map' this also shows the alignment of the path the same as the parish map referred to at 5.5.8 above. On this map the Footbridge at point A on Plan No. WCA/022 is annotated 'FB3'. There is a stile annotated 'S4' at the location of point B; and also stiles annotated 'S5' and 'S6' at points D and E.
- 5.5.11.** The Draft Definitive Map for Lyme Handley shows the alignment of Footpath No. 13 from the canal bridge to a point just south of point F, the line then follows the field boundary. The stiles are annotated the same as the 'Rough Draft Map'. It is not known why the Draft Definitive Map shows the line of the path differently from the Parish Map and Rough Draft Map. One possible explanation is that Officers at the time had viewed the Tithe Map and Ordnance Survey 1<sup>st</sup> Edition and believed that the footpath should follow the field boundary as that is where it appears to have been historically.
- 5.5.12.** The Provisional Definitive Map has a relevant date of 1<sup>st</sup> November 1954 and shows the line of the footpath following the field boundary as Footpath No.13 is shown on Plan No. WCA/022 between points A-F-G-H-I-E.
- 5.5.13.** The Definitive Map also shows Footpath No. 13 following the field boundary as it shown on Plan No. WCA/022. There is no evidence of any objections or representations being made regarding this path during the Definitive Map process at either the draft or provisional stage.

*Correspondence from 1954*

- 5.5.14.** Correspondence has been found from 1954 regarding a complaint by the Peak and Northern Footpath Preservation Society to the Cheshire County Council County Surveyor and Clerk of the County Council. The complaint concerns part of the footpath further to the east at Green Farm. However, a plan showing the footpath is included with the correspondence. This shows a blue line from the canal bridge to Green Farm. The alignment of the footpath is clearly shown as following the same line as the parish map referred to at 5.5.8 above, between points A-B-G-H-D-I-E on Plan No. WCA/022.

*Photos submitted by the applicant and Aerial Photos*

- 5.5.15.** The applicant submitted a CD containing 37 photos of the route taken in February 2015. One photo clearly shows point B where the path had been blocked off with wire fencing. A notice is shown, and another notice with just the word 'footpath' and a black arrow pointing to the left. Other photos show a clear trodden path in places. The applicant also submitted 3 copies of the 2010 aerial photo. One is a plain photo; one is marked with the photograph numbers and one is marked with the claimed route.
- 5.5.16.** The 1999-2003 aerial photo shows a trodden route on the line of the claimed path, although the path between points D-E is not shown as clearly. The 2010 aerial photo, which is the one submitted by the applicant, again shows a visible trodden path on the claimed route apart from D-E which is not so clear. On the 2015-2017 aerial photo both the claimed and definitive alignment can be seen. A path is visible between points A-B, and also A-F. A path can also be seen between points B-F and then the newly surfaced section along the field edge is clear. The claimed route through the field is not as visible on this later photo.

**5.6.** *Witness Evidence*

- 5.6.1.** A chart illustrating the user evidence is at Appendix 2. The chart indicates the relevant 20 year period which is 1994 - 2014. This is because no challenge to use of the route took place until 2014, when the claimed route was blocked off at point B, therefore 2014 is used as the date the route was 'brought into question'.
- 5.6.2.** Sixteen user evidence forms were completed and submitted with the application. All the witnesses completed these in January/February 2015. Sadly, two of the witnesses who completed forms have since passed away. Two witnesses made contact to say they did not wish to give any further evidence. Officers were unable to make contact with three of the witnesses. The evidence given in the user evidence forms is still taken into consideration even if the witness is not interviewed.
- 5.6.3.** Nine of the witnesses were interviewed by telephone and Officers also spoke to the spouse of one witness, who also gave a short statement. Therefore, there were ten interviews. Of these four people indicated they would not be willing to give their evidence at any subsequent public inquiry, although they would be happy for their statement to be submitted. One of the witnesses interviewed (witness 9) is the current landowner for part of the claimed route; he owns the field adjacent to the canal. Therefore, his evidence for the section A-B on Plan No. WCA/022 could not be considered as he owns the land for that section.
- 5.6.4.** All of the use of the claimed route is by foot; the first reported use as stated on the user evidence forms is from 1932 (witness 11), although the witness would only have been 4 years old at that time. Another

witnesses (witness 15) claims use from 1956 when she would have been 22 years old.

- 5.6.5.** With regard to the user evidence forms, fourteen of the sixteen witnesses have used it for the full relevant 20 year period, 1994 – 2014; one further witness has used it for 17 years during this period. The route has been used for a variety of recreational purposes; dog walking; visiting friends and leisure/exercise. One witness mentions using it with Poynton Rambling Club. Some witnesses state they used the claimed route ‘weekly’ or ‘monthly’, whilst others stated ‘occasionally’.
- 5.6.6.** Witnesses do not report being challenged; no obstructions have been reported other than when the path was re-routed. However, most of the witnesses mention that the route was in a very poor state when it was fenced to the field edge. At the time of the witnesses completing the forms the work to the surface of the path had not been completed.
- 5.6.7.** The witnesses numbered 1, 3, 6, 7, 9, 10, 12, 13 and 14 (on the user evidence chart at Appendix 2) have been interviewed by telephone and in addition to their completed user evidence forms have each signed a statement from their interview. An additional witness who had not previously completed a form was interviewed.
- 5.6.8.** Of the ten witnesses interviewed nine witnesses have used it for the full relevant 20 year period, 1994 – 2014; one further witnesses has used it for 17 years during this period. Four witnesses have said they would not wish to give evidence at a public inquiry; however, their statements could still be considered. As referred to above at paragraph 5.6.3 one of the witnesses interviewed owns land over which part of the claimed path runs.
- 5.6.9.** All the witnesses interviewed said they believed the path they had been using was the public right of way, as there were stiles and a definite trodden route. The witnesses numbered 1 and 3 said they believed the route was waymarked or they had seen waymarks in the past. Witness number 7 said he had seen a signpost as you came off the canal bridge.
- 5.6.10.** From the interviews it was clear that the witnesses had all used the route A-B-C-D; most witnesses had used D-E, but some had walked around the field edge. Not many witnesses mentioned the link to Footpath No. 8 Lyme Handley (between point C-H on Plan No. WCA/022). Witness 1 said he had used it, witness 13 and 14 had used it but only once or very infrequently as it was not their usual way to walk.
- 5.7. *Landowner Evidence***
- 5.7.1.** The landowner of the first field east of the canal (witness 9) has stated in his interview that the stile had always been at the position of point B on Plan No. WCA/022. His wife and her family moved to the farm in 1970, he has known his wife from the 1980s and they now own this field. He

said their land is permanent pasture and they sometimes have sheep on there. He said one day without any warning or consultation barbed wire was put across the opening into the field and another path created at the field edge (point F).

- 5.7.2. The landowner of the remainder of the claimed route has been consulted; however, at the time of writing he has not submitted any comments. This land is managed by a tenant farmer.
- 5.7.3. The tenants of the land have submitted comments. They state that it has been difficult for them to prevent trespass onto the fields as they live 3 miles away from the land. However, when they do see people straying, they have always requested that they return to the definitive path. They state they have done all they can to prevent incursion into the fields. They explain that any notices put up, including requesting dogs to be kept under control and Council notices have been destroyed or removed.
- 5.7.4. The tenants say that they understand people were upset about the definitive path when it was muddy, however those complaints have now been resolved and the footpath is in excellent condition. They explain that the definitive path was fenced because they have young bulls on the field; they state if this claimed path was added to the definitive map it too would need to be fenced to protect the public from young bulls. They request that the Council fence this path as they do not have the finances to do it themselves.
- 5.7.5. The tenants state it makes no sense to have another footpath which goes from the same entrance and exit points with only a few metres between the two paths. They say that the Council has spent a great deal of resources on improving the definitive path which is now wonderfully maintained; a second footpath would offer no extra benefit to walkers over and above what they already have.

## **5.8. Conclusions**

- 5.8.1. The user evidence submitted shows use of the claimed route from 1932 to 2014; however, the majority of use seems to be from the 1970s onwards. The relevant period to be considered is 1994 to 2014; as no challenge was made to the use of the route until 2014 when the kissing gate at point B on Plan No. WCA/022 was blocked off. Fourteen of the sixteen witnesses who completed user evidence forms claim use of the route on foot for the full twenty year period. Ten witnesses have been interviewed by Officers.
- 5.8.2. Under section 31(1) of the Highways Act 1980 public footpath rights can come into existence by prescription unless there is evidence to the contrary. Therefore the landowner must provide evidence to that effect, which is normally evidence of a challenge or notices put up during the relevant twenty year period. In this case there is no landowner registering an objection to the claimed path. However, the tenants of the

land have said they do challenge people when they see them but as they do not live close by this is difficult. All of the witnesses interviewed state they were not challenged at any time when using the route. There is no evidence of any challenge to the public during the relevant period.

**5.8.3.** There is documentary evidence to show that a route was in existence along the alignment of the definitive route of Footpath No. 13 in 1850. The Lyme Handley Tithe Map and 1<sup>st</sup> Edition Ordnance Survey Maps are good supporting evidence that public rights exist along the definitive route of Footpath No. 13. Although the entry point into the field may well have been at point B rather than point F on Plan No.WCA/022. There is also evidence from the early 1950s (parish walking survey maps and correspondence from the Peak and Northern Footpath Preservation Society) that it was believed Footpath No. 13 was on an alignment similar to the claimed path. However, when it came to the Definitive Map process the path has consistently been shown on the definitive alignment of Footpath No.13. (Draft, Provisional and Definitive Map).

**5.8.4.** The evidence in support of this application must show, on the balance of probabilities that public footpath rights subsist or are reasonably alleged to subsist along the claimed route. It is considered that there is sufficient user evidence to support the existence of footpath rights. On the balance of probabilities, the requirements of Section 53(3)(c)(i) have been met and it is recommended that the Definitive Map and Statement should be modified to add the claimed route between points A-B-C-D-E on Plan No. WCA/022 as a Public Footpath.

## **6. Consultation and Engagement**

**6.1.** The ward councillors, parish councils, user groups and statutory undertakers have been consulted.

**6.2.** There is no parish council for Lyme Handley, therefore the two closest local councils were consulted. Poynton Town Council submitted the following comments, *“Poynton Town Council were informed in 2015 of concerns about the state of part of Footpath 13 in Lyme Handley parish, and passed these onto Cheshire East. It was alleged that the path is often waterlogged and difficult to use, and walkers have often had to follow a roughly parallel route a short distance to the south. Due to the current coronavirus situation and “social distancing”, it has not been possible to visit the site, but we understand that Cheshire East have spent over £10K on remedial works to Footpath 13, designed to address the issues raised. Poynton Town Council would urge that Cheshire East inspect the footpath and, if it is now easily passable, take no further action. If the reported problems have been resolved, there would be no obvious need to provide a second path only a short distance from the existing route.”*

**6.3.** Pott Shrigley Parish Council submitted the following comments, *“Pott Shrigley Parish Council has no evidence of ever having discussed this*

*footpath, FP13 in Lyme Handley nor the claimed addition. However individual members of the Council have used this path which has been much upgraded in recent years, with two kissing gates, a very generous width fenced on one side, a gravelled surface for much of its route through the area and - not least - a (relatively recently installed) boardwalk of over 30 yards length (complete with handrail!) passing over what was the wettest section. In the past the condition and fencing which made it difficult for walkers to find a way past the water/marsh which was obstructing a section of the footpath not only, but particularly, in wet periods. It is not surprising therefore that at this time the applicant put in his request for adding this extra route. Whatever the justification may have been then, the Council finds it difficult to understand why the applicant is persisting with the application. The additional route seems to be unnecessary, being close to and almost parallel with, the established and much upgraded FP 13, and thus offers little or no apparent benefit to walkers or more generally to the local footpath network.”*

- 6.4. Councillor Jos Saunders made comments to Officers by email. Councillor Saunders states that the current footpath is in excellent condition and is accessible all year round. Councillor Saunders comments that the claim is unnecessary, and it would be a waste of resources to make any changes.
- 6.5. The Peak and Northern Footpath Society responded to the consultation and stated their inspector had visited the site. They have no adverse comments and state it would be a welcome addition to the network.

## **7. Implications**

### **7.1. Legal**

- 7.1.1. Under section 53 of the Wildlife & Countryside Act 1981 (WCA), the Council has a duty, as surveying authority, to keep the Definitive Map and Statement under continuous review. Section 53 (3) (c) allows for an authority to act on the discovery of evidence that suggests that the Definitive Map needs to be amended. The authority must investigate and determine that evidence and decide on the outcome whether to make a Definitive Map Modification Order or not.
- 7.1.2. Upon determination of this application, the authority must serve notice on the applicant to inform them of the decision. Under Schedule 14 of the WCA, if the authority decides not to make an order, the applicant may, at any time within 28 days after service of the notice, appeal against the decision to the Secretary of State. The Secretary of State will then consider the application to determine whether an order should be made and may give the authority directions in relation to the same.
- 7.1.3. The legal implications are contained within the report.

### **7.2. Finance**

**7.2.1.** If objections to an Order lead to a subsequent hearing/inquiry, the Council would be responsible for any costs involved in the preparation and conducting of such.

**7.3. Policy**

**7.3.1.** There are no direct policy implications.

**7.4. Equality**

**7.4.1.** The legal tests under section 53 of the Wildlife & Countryside Act 1981 do not include an assessment of the effects under the Equality Act 2010.

**7.5. Human Resources**

**7.5.1.** There are no direct implications for human resources.

**7.6. Risk Management**

**7.6.1.** There are no direct implications for risk management.

**7.7. Rural Communities**

**7.7.1.** There are no direct implications for rural communities.

**7.8. Children and Young People/Cared for Children**

**7.8.1.** There are no direct implications for children and young people/cared for children.

**7.9. Public Health**

**7.9.1.** There are no direct implications for public health.

**7.10. Climate Change**

**7.10.1.** 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.

**7.10.2.** 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.

<b>Access to Information</b>	
Contact Officer:	Jennifer Ingram Definitive Map Officer jennifer.ingram@cheshireeast.gov.uk
Appendices:	Appendix 1 – Documentary Evidence List Appendix 2 – User Evidence Chart

Background Papers:	The background papers/information relevant to this report are contained in file MA/5/249 and can be inspected by contacting the Officer above.
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**DMMO DOCUMENTARY RESEARCH CHECKLIST**

<b>District:</b> Macclesfield	<b>Parish:</b> Lyme Handley		<b>Application:</b> MA/5/249
<b>Document</b>	<b>Date</b>	<b>Reference</b>	<b>Notes</b>
<b>Tithe Records</b>			
Apportionment	1850	CRO EDT/252/1  Township: Lyme Handley	Plot No. 78 'Pond and Road'  Land use 'Freshwater and throughfare'
Map	1850	CRO EDT/252/2  Township: Lyme Handley	Enclosed route shown to field edge
<b>Ordnance Survey</b>			
25" County Series 1 <sup>st</sup> Edition	c.1875	PROW digital copies viewed	Enclosed route shown to field edge. Numbered '114'. No claimed route shown
25" 2 <sup>nd</sup> Edition 25"	c.1897		No route shown
3 <sup>rd</sup> Edition 25"	c.1909		No route shown
6" Ordnance Survey 1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> Editions	c.1872-5  c.1899		Enclosed route shown to field edge.  No route shown

	c.1910		No route shown
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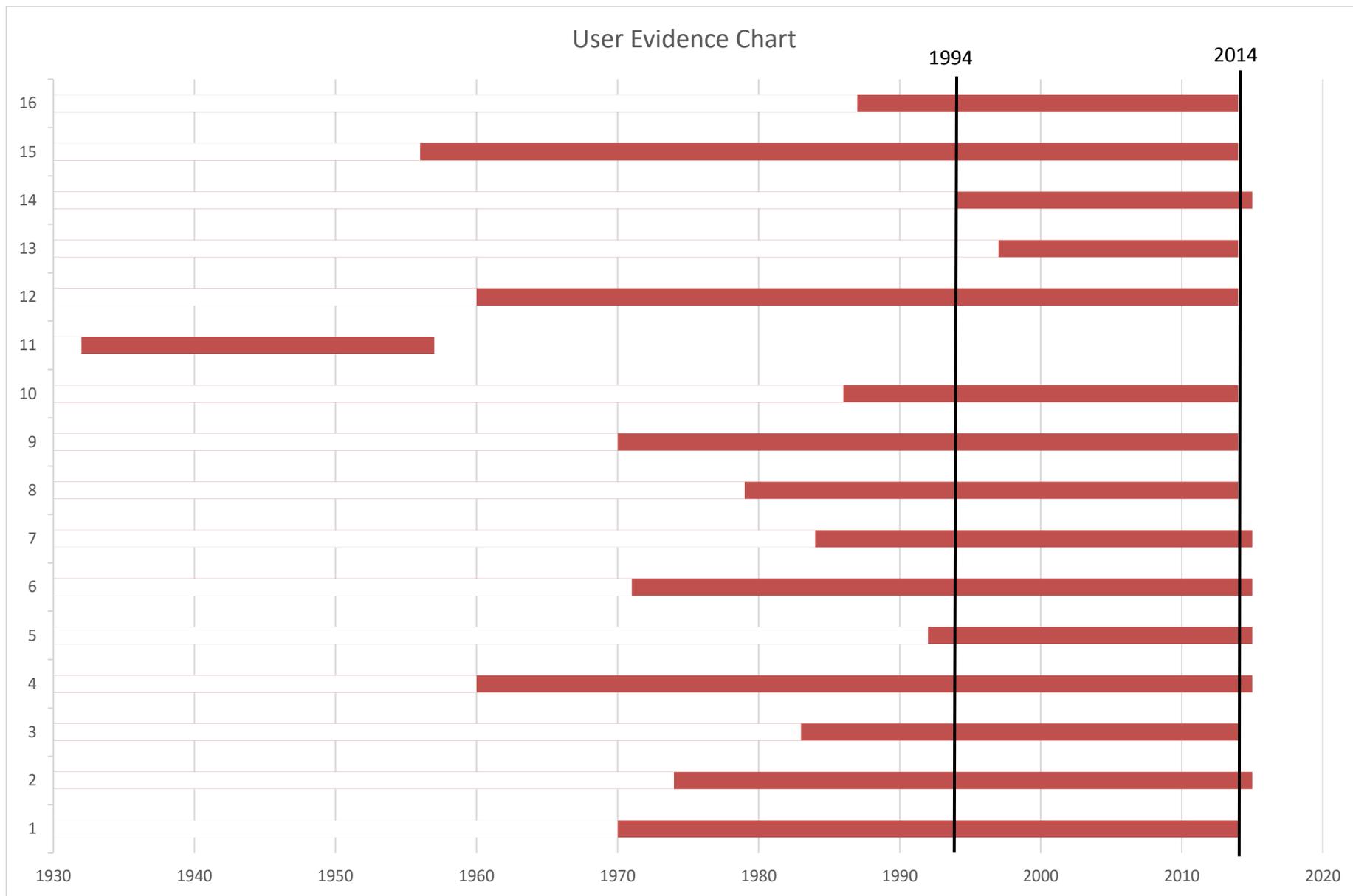
<b>Local Authority Records</b>			
Walking Survey Maps	1949-1951	PROW	A route is shown partly on alignment of the claimed route.
Draft Definitive Map	1953	PROW	Claimed route not shown.
Provisional Definitive Map	1968	PROW	Claimed route not shown.
Definitive Map	1971	PROW	Claimed route not shown.
<b>Other documents</b>			
Correspondence and Plan	1954	PROW	Claimed route partly shown on plan
Aerial Photos	1999-2003	PROW digital images viewed	Claimed route is visible
	2010		Claimed route is visible
	2015-17		Both FP13 and the claimed route can be seen

Photographs	2002 2008 2013 2015	Submitted by applicant	Claimed route is visible
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CRO – County Record Office

PROW – Public Rights of Way Unit

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Page 27



**Key**

- Footpath
- Bridleway
- - - Restricted Byway
- BOAT
- Claimed Footpath



1:2500

Wildlife & Countryside Act 1981 Application No. MA/5/249 Addition of a Public Footpath between FP13 Lyme Handley on the Macclesfield Canal to FP13 Lyme Handley to the south east of Throstlestone Farm; and also a link footpath from FP13 to FP8 Lyme Handley

Plan No.  
WCA/022

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<b>Date of Meeting:</b>	13 <sup>th</sup> September 2021
<b>Report Title:</b>	Highways Act 1980 s119 Public Path Diversion Order, Henhull Footpath No. 4 (part) Informative Report
<b>Report of:</b>	Brendan Flanagan, Head of Service, Rural and Cultural Economy
<b>Ward(s) Affected:</b>	Bunbury

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## 1. Executive Summary

- 1.1. This report is to inform the Committee that an unopposed Order made to divert part of Henhull Public Footpath No. 4 under section 257 of the Town and Country Planning Act 1990 (TCPA 90 s257) had to be abandoned and the same diversion of this footpath is now being progressed under section 119 of the Highways Act 1980 (HA80 s119) for reasons set out in this report.
- 1.2. The work of the Public Rights of Way team contributes to the three Corporate Plan aims “We will provide strong community leadership and work transparently with our residents, businesses and partners to deliver our ambition in Cheshire East”, “We aim to reduce inequalities, promote fairness and opportunity for all and support our most vulnerable residents” and “We will lead our communities to protect and enhance our environment, tackle the climate emergency and drive sustainable development”.

## 2. Recommendation/s

- 2.1. That the content of this report be noted and minuted. No committee decision is required.

### **3. Reasons for Recommendation/s**

- 3.1. To formally note that the unopposed Order made to divert part of Henhull Public Footpath No. 4 under TCPA 90 s257, has been abandoned and the same diversion is now being progressed under HA80 s119. The reason is that the developers breached the legal test of the diversion under TCPA 90 s257.

### **4. Other Options Considered**

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

### **5. Background**

- 5.1. In 2017, an application was received from Mr K Coyne of Taylor Wimpey (North West Ltd), Washington House, Birchwood Park, Warrington, WA3 6GR on behalf of a consortium of housing developers (the north west divisions of Taylor Wimpey, Redrow Homes Ltd and David Wilson Homes) requesting the Council make an Order under section 257 of the Town and Country Planning Act 1990 to divert parts of Public Footpath No. 4 in the Parish of Henhull.
- 5.2. The current alignments of the parts of Henhull Footpath No. 4 proposed for diversion, originally ran across grassland. This land was secured for residential development for which planning consent was granted on 20<sup>th</sup> January 2016 permitting construction of a residential development now known as Kingsbourne, on land between Waterlode and Mill Lane, Nantwich and comprising of 1,100 houses with associated business and community assets (Planning Permission reference: 13/2471N).
- 5.3. The Council progressed the diversion proposal under section 257 of the Town and Country Planning Act 1990, and the proposal was approved by the Public Rights of Way Committee on 12<sup>th</sup> March 2018.
- 5.4. The subsequent Order remained unopposed following formal advertising and the next stage of the diversion process was for the developers to install the new diversion routes.
- 5.5. In December 2020, a site visit revealed that a house, part of a garage and garden, had been built on the current alignment of one of the footpath sections proposed for diversion, and residents had moved in and were living there. This meant that development had already gone ahead before the footpath had been diverted. This situation does not meet the legal test of the TCPA 90 s257 legislation which is that it is necessary to firstly divert public right(s) of way affected by the development, so that when the planned development goes ahead, it does not cause obstruction to the public right(s)

of way. In obstructing part of Henhull Footpath No.4 by building the house and garage on the path alignment, the developers have breached the legal test and consequently voided the diversion.

5.6. Consequently, the developers abandoned the diversion of parts of Henhull Footpath No. 4 under TCPA 90 s257 and re-applied for the same diversion to be progressed under the HA80 s119. The diversion is shown on the attached plan titled 'Proposed diversion of parts of Henhull FP4'.

5.7. Currently, the pre-Order consultation stage is ongoing and once concluded, the diversion will be decided accordingly, either through this Committee or via delegated decision. Therefore, the Committee will be informed at a later date of the outcome of this current proposal under HA80 s119, either once decided by the delegated decision process or, if it needs to be presented and considered by the Committee members before they make the decision.

## **6. Consultation & Engagement**

6.1 Bunbury Ward: Councillor Sarah Pochin has been consulted as part of the ongoing pre-Order consultation.

6.2 Statutory and local user groups and statutory undertakers have been consulted as part of the ongoing pre-Order consultation.

## **7. Implications of the Recommendations**

### **7.1 Legal Implications**

7.1.1 There are no legal implications.

### **7.2 Finance Implications**

7.1.2 There are no financial implications.

### **7.3 Policy Implications**

7.3.1 There are no direct policy implications.

### **7.4 Equality Implications**

7.4.1 There are no direct equality implications.

### **7.5 Human Resources Implications**

7.5.1 There are no direct human resources implications.

### **7.6 Risk Management Implications**

7.6.1 There are no direct risk management implications.

**7.7 Rural Communities Implications**

7.7.1 There are no direct implications for rural communities.

**7.8 Children and Young People/Cared for Children**

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

**7.9 Public Health Implications**

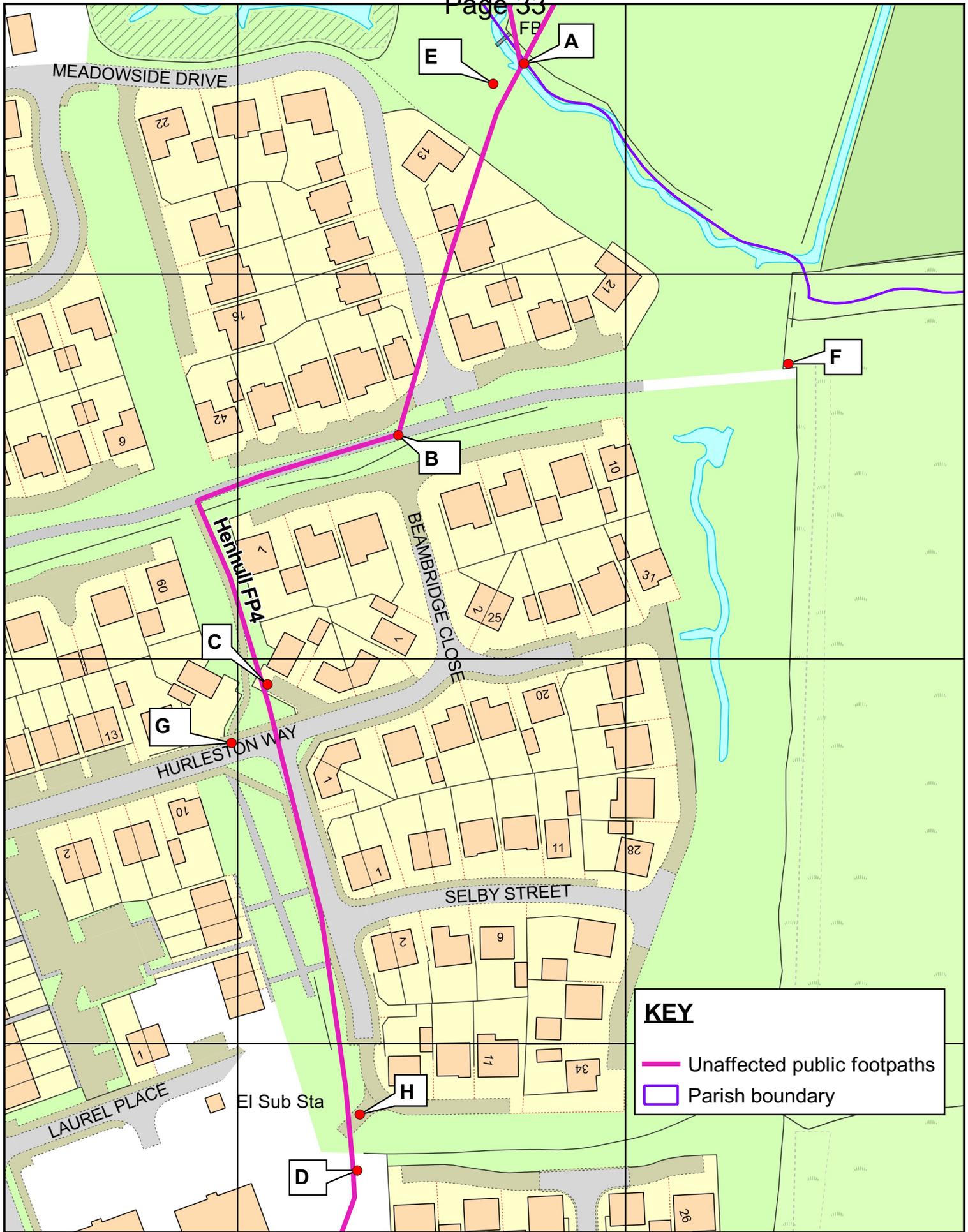
7.9.1 There are no direct implications for public health.

**7.10 Climate Change Implications**

7.10.1 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.

7.10.2 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.

<b>Access to Information</b>	
Contact Officer:	Marianne Nixon, Public Path Orders <a href="mailto:marianne.nixon@cheshireeast.gov.uk">marianne.nixon@cheshireeast.gov.uk</a> 01270 686 077
Appendices:	N/A
Background Papers:	The background papers relating to this report can be inspected by contacting Marianne Nixon and quoting the following file references:  File No. 154D/553 – original diversion under TCPA 90 s257  File No. 154D/595 - ongoing diversion under HA80 s119



**KEY**

- Unaffected public footpaths
- Parish boundary

Proposed diversion of parts of Henhull FP4

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## **Public Rights of Way Committee**

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<b>Date of Meeting:</b>	13 <sup>th</sup> September 2021
<b>Report Title:</b>	Public Rights of Way annual report 2020-21 and work programme 2021-22
<b>Report of:</b>	Brendan Flanagan, Head of Service, Rural and Cultural Economy
<b>Ward(s) Affected:</b>	All

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### **1. Executive Summary**

- 1.1. This report records the achievements of the Council in terms of its Public Rights of Way (PROW) functions during the year 2020-21 and sets out the proposed work programme for the year 2021-22. Details are set out in Appendices 1, 2 and 3.
- 1.2. The work of the Public Rights of Way team contributes to the three Corporate Plan aims “We will provide strong community leadership and work transparently with our residents, businesses and partners to deliver our ambition in Cheshire East”, “We aim to reduce inequalities, promote fairness and opportunity for all and support our most vulnerable residents” and “We will lead our communities to protect and enhance our environment, tackle the climate emergency and drive sustainable development”.
- 1.3. The work of the Public Rights of Way team also contributes to the policies and objectives of the Council’s statutory Rights of Way Improvement Plan and Cheshire East’s Quality of Place, with the network being both highly valued and regarded by residents. Contributing to transport, leisure, visitor economy and health and wellbeing functions across both the urban and rural areas of the borough, the Public Rights of Way network – together with wider networks of green infrastructure – form a key element of the Cheshire East landscape and policies related to the environment.

### **2. Recommendation/s**

- 2.1. That the report be noted.

### **3. Reasons for Recommendation/s**

- 3.1. The report is for information only.
- 3.2. The work of the Public Rights of Way team contributes to the three Corporate Plan aims “We will provide strong community leadership and work transparently with our residents, businesses and partners to deliver our ambition in Cheshire East”, “We aim to reduce inequalities, promote fairness and opportunity for all and support our most vulnerable residents” and “We will lead our communities to protect and enhance our environment, tackle the climate emergency and drive sustainable development”.

### **4. Other Options Considered**

- 4.1. Not applicable.

### **5. Background**

- 5.1 The work of the Public Rights of Way Team is reviewed an annual basis at and the forward work programme is outlined. The report covers both the duties and the powers of the Council as set out in highways legislation. The assessment is made in the context of the Natural England national targets for Public Rights of Way, which have as their aim that the network in England and Wales should be:

- legally defined,
- properly maintained; and,
- well publicised.

- 5.2 Each area is examined individually below, with the specific achievements of 2020-21, together with the work programme for 2021-22, contained in the relevant Appendices.

#### **5.3 The Covid-19 Pandemic and in-year changes**

- 5.3.1 The past year has been one of the most challenging years in many of our experiences, both in personal and working lives. Within this context, the team continued to deliver an excellent service across all functions, despite a number of long-term absences in the team. At the start of the pandemic, office tasks were relocated to mainly home-based remote working, an arrangement which can be efficient, but can also be quite isolated, impeding some aspects of communication and collaborative working. The arrangement involves many other challenges not least with regards to working space, broadband, home schooling and access to historic

documents, files and office functions. Officers have excelled in overcoming such challenges, however, and future working arrangements are likely to involve a form of hybrid office/home working.

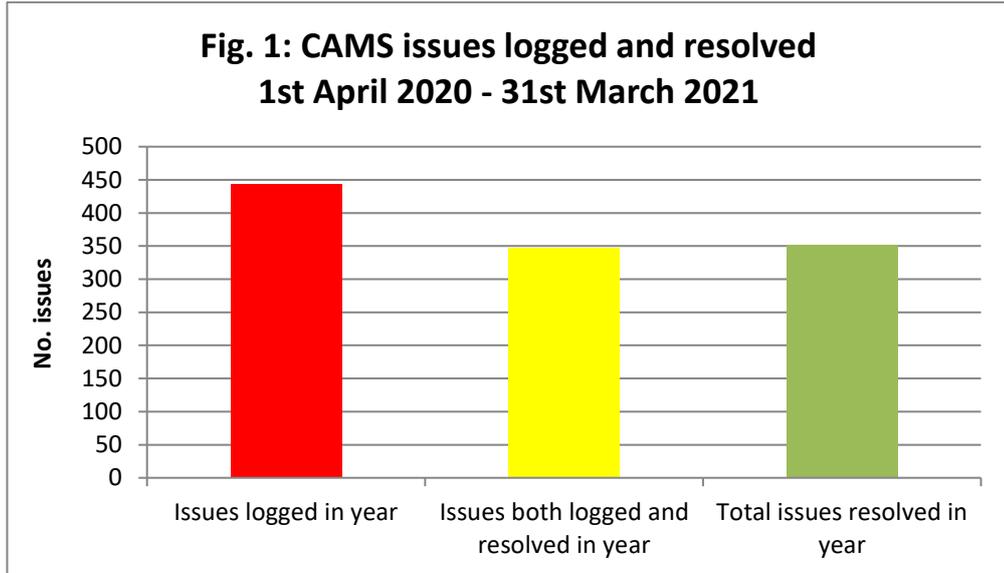
- 5.3.2 Visitor numbers to the countryside increased dramatically as a result of the lockdowns. Whilst figures vary depending on the specific location, and statistical datasets are few for the PROW network across the country, monthly data from countryside sites in Cheshire East showed average visitor numbers across 6 sites roughly doubling compared to pre-Covid levels. This increase in pressures on the PROW network itself, particularly path surfaces, on the land, and on landholders was, and still is, evident. The increase has generated a large number of enquiries from both landowners and users, often involving heightened tensions and users unfamiliar with rural walking routes. Advice for both groups of stakeholders was collated and kept up to date from national government guidance and close working with the NFU.
- 5.3.3 In addition this year, a number of ICT changes have affected the work of the team and colleagues across the Council. To facilitate remote working arrangements required by the pandemic, new hardware and software was quickly rolled out to enable video conferencing to be used. New finance software has also been introduced along with new GIS software, both of which have diverted a lot of Officer time, to add to the challenges of the year.

#### **5.4 Network Management and Enforcement**

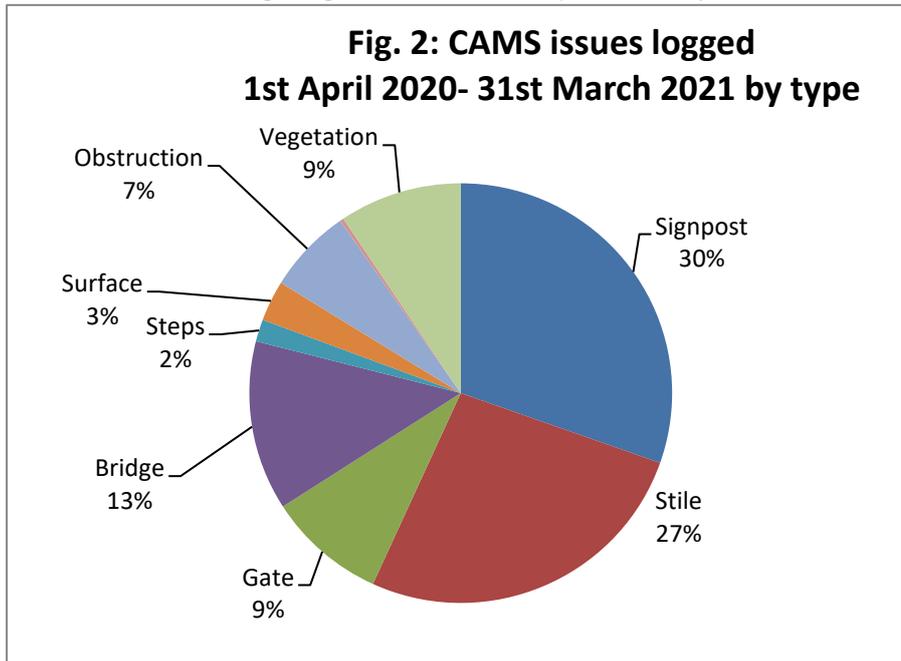
- 5.4.1 Three full time equivalent Network Management and Enforcement Officer positions cover the borough, dealing with the protection and maintenance of the network. Within each area, the Officers are responsible for maintenance and enforcement to remove obstructions and keep the path network available and easy to use. A report detailing the work undertaken in relation to Network Management and Enforcement is attached at Appendix 1, with a summary highlighted below. The Officers operate on an area basis, with each area covering around one third of the length of the 1946km network. The positions were covered during the year by 2 full time members of staff and 2 part time. During the year, one full time Officer retired, resulting in one part time Officer increasing their hours to full time and changing areas.
- 5.4.2 Only 1 case required the Council to undertake enforcement action during 2020-21, as all other reported obstructions were removed following conversations or exchange of letters. This indicates the good working relationships held with landowners and land managers, who, it is recognised, have many competing pressures and priorities to deal with,

particularly during the pandemic's lockdowns which caused additional problems due to increased path usage. The Covid pandemic initiated a number of attempted unofficial closures and signage which could have dissuaded users from using the route. These were resolved through dialogue, with only one having to be resolved through Officers proceeding through the enforcement protocol.

- 5.4.3 The number of long-term closures on the network due to legal, environmental or other reason remains at 3. The Council's Legal team is providing assistance to progress one of these cases relating to river erosion, whilst another case is being assessed by Highways England as it relates to a bridge over the M6. Progress has been made on the third case relating to a landslip in which a diversion solution has been agreed with the adjacent landowner, with support from user groups.
- 5.4.4 533 different Public Rights of Way benefitted from vegetation cutting either once, twice or three times in the year in order to keep the routes open and available for the public, a total length 165km of path.
- 5.4.5 443 path problem reports have been logged within the team's mapping and database software "CAMS" (Countryside Access Management System) during the year 2020-21, having been reported by the public, landowners or Officers. We are grateful for those who report such issues, and who undertake the Ramblers' regular surveys, in acting as our 'eyes and ears' out on the network so that such issues can be resolved and paths improved.
- 5.4.6 The charts below illustrate the numbers and types of problems reported recorded in the CAMS system. In Fig. 1 the shortfall between issues logged in year and issues both logged and resolved in year is due to the number of issues that become complex legal matters, taking longer to resolve, or those matters which span the end of the financial year. In addition, this year, due to the effects of the Covid-19 pandemic, we have had to prioritise work and have not been able to resolve all issues within the normal timescales.

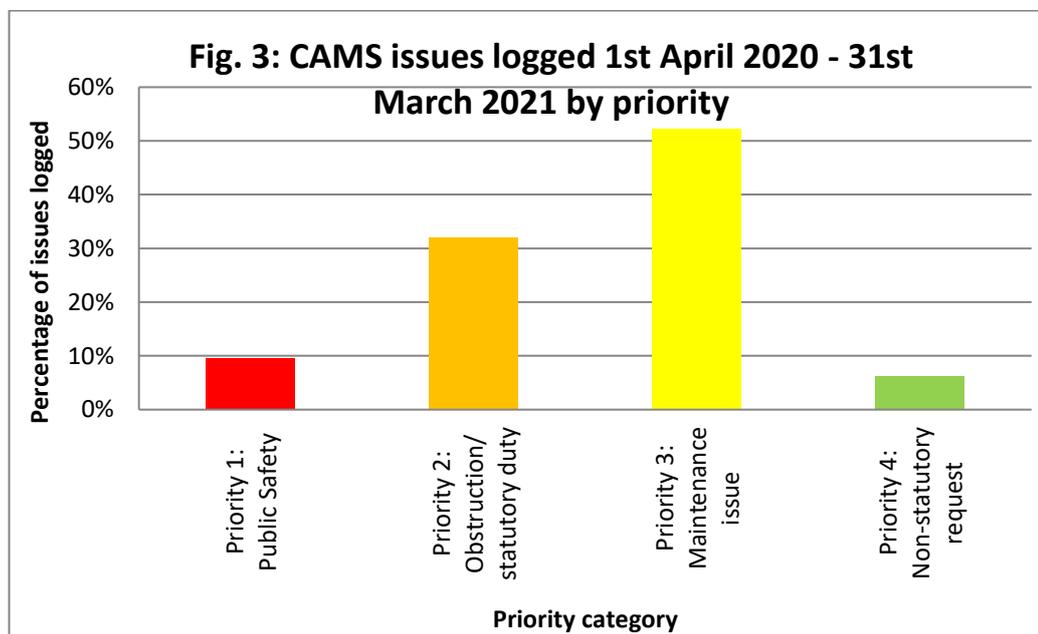


5.4.7 In Fig. 2 the numbers of different types of issues are very similar to previous years, showing relative consistency in the frequency of different types of issue being reported, with a significant decrease in issues relating to vegetation on paths, possibly due to increased path usage during the lockdowns causing vegetation to be kept down by footfall.



5.4.8 Fig. 3 shows a change in pattern to the previous year for the priority rating assigned to issues reported, with an increase in the percentage of priority 1 and 2 issues, those relating to public safety and obstruction/statutory duty, respectively. It should be noted that some urgent issues, such as fallen trees, are frequently reported but not entered into the database as they are resolved through by communication with landowners, rather than PROW contractors. Likewise, damaged bridges that cannot be repaired through

framework contractor arrangements will be dealt with by specialist contractors and therefore again are not logged through the CAMS system which is used to issue work to PROW framework contractors.



5.4.9 The numbers of items of furniture installed by the team during the year are given in the table below:

<b>Furniture item</b>	<b>No. installed</b>
Fingerposts	117
Waymark posts	93
Stiles	96
Pedestrian gates	9
Kissing gates	52
Bridleway gates	0
2-in-1 combination gates	7
Handrails	13
Bridges	16
<b>TOTAL</b>	<b>403</b>

5.4.10 It should be noted that the above figures do not include the large number of daily enquiries that the team receives and responds to by telephone, email, letter, web enquiry form and in person. Further, many issues are resolved without the need for them to be logged on the CAMS system and issued to contractors for remedy and therefore the above should be viewed simply as an indication of the range of matters dealt with by the team.

5.4.11 In addition to day-to-day path management, the team also prepare for, procure and manage the delivery of improvement projects including drainage works and surfacing works. Examples of work conducted in this

are given in Appendix 1. Further, works on the ground and Public Path Order cases can also resolve known mapping anomalies. The team works closely with the Legal Orders team on all legal processes affecting the network, as well as liaising closely with developers, landowners, user groups, Parish and Town Councils and other stakeholders with interests in the network.

## **5.5 Path Inspection**

5.5.1 Proactive inspection of the network is not feasible with the resources available. We are dependent on, and grateful for, the reporting of issues by members of the public and, in particular, user groups.

5.5.2 The path inspection scheme which the Council employs is 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 East it continues to be used as local performance indicator. The survey has previously been carried out on a randomly generated basis of 5% of the network per year.

5.5.3 The random survey was not carried out during 2020-21 due to the effects of the Covid-19 pandemic. Instead, we are grateful for the network survey results undertaken by the East Cheshire Ramblers which we can use as a proxy indicator. This volunteer group surveyed 100% of the network in the parishes that they cover which equates to 33% of the total borough's PROW network. Using their definitions of class A and B paths as equivalent to our 'ease of use' definition, this gives a result of 93% for the borough. Whilst this survey is not a random survey across the whole borough, it does involve a much greater percentage survey than the 5% previously used. This result demonstrates the very high quality of the network, with the Ramblers noting that the total of 7% of paths classed as C and D matches the lowest figures of the last 4 years and is a steady improvement over the preceding records of over 15 years.

## **5.6 Technical Administration**

5.6.1 The Public Rights of Way team benefits from the work of one Technical Administration Officer who undertakes numerous technical and financial tasks to ensure the efficient running of the team and office.

5.6.2 The Officer processes search requests from developers and solicitors requesting confirmation of the information recorded on the Definitive Map for specific areas of land. During 2020-21, 93 search requests were processed, a reduction from the 125 in the previous year, likely to be due to the Covid-19 pandemic.

5.6.3 The Officer also processed 363 applications for parking permits and 30 applications for canoe permits on behalf of the Countryside Ranger Service. The number of parking permits was a large increase over the 206 of the previous year, again likely to be due to the Covid-19 lockdowns. In addition, the post holder undertakes numerous procurement and administration tasks to support both teams.

5.6.4 In addition to assigned tasks, the Officer is also the public's first point of contact for the team, receiving and assigning general enquiries via phone (when the office is staffed), letter, email and web form. The team's central email account received 2,850 emails in the year compared to 1,630 in the previous year, again indicating the increased number of enquiries as a result of Covid-19 along with the fact that the office was not staffed, so that phone enquiries were diverted largely to email.

5.6.5 During the year, the team received and responded to 10 Freedom of Information requests, 17 enquiries from MPs and 71 enquiries received via the Members' Enquiries Service, Chief Executive Office, Portfolio Holder, Leader or Cheshire East Highways, all increased as a result of the Covid-19 pandemic over figures of the previous year.

## **5.7 Rights of Way Improvement Plan (ROWIP) - Access Development**

5.7.1 During the year, the Countryside Access Development Officer continued to cover the Acting Public Rights of Way Manager role. This has resulted in a reduced output in the implementation of the ROWIP, access development projects and proactive development of green space access opportunities.

5.7.2 However, whilst no new projects have been initiated, existing projects already in train have been progressed and leisure and active travel aspirations have been fed into strategic development proposals and other partnership work across the borough (see Appendix 2). The work of the whole team contributes to the delivery of the ROWIP and the aspirations and reality of improving the network.

5.7.3 The Countryside Access Development Officer role is also responsible for the administration of the Cheshire East Countryside Access Forum. In addition, the role facilitates the Rights of Way Consultative Group, advises local user groups, encourages the promotion of walks and rides and responsible access and responds to general enquiries and requests for information.

## **5.8 Legal Orders Team**

5.8.1 The team comprises six Officers (4 full-time and 2 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, landowner deposits and statements and planning applications as well as day to day enquiries from the public and landowners. Appendix 3 provides a review of work undertaken and the forward work programme.

- 5.8.2 The team has continued to benefit from the work of two of the Officers on a fixed term basis in order to process Public Path Orders and temporary closures. These two posts, as with the existing Public Path Order Officer post, are managed on a net nil basis, with the salaries covered by administration fees.
- 5.8.3 During 2020-21 the team assessed 349 planning applications in order to ensure the protection and seek enhancement of the PROW network. This number of applications was 10% higher than the preceding year. It is a task which has set deadlines and involves protracted tracking of the application processes and associated input. Whilst some responses are straightforward, others involve continued correspondence to seek the best possible outcome for the protection and enhancement of the PROW network.
- 5.8.4 Additionally, 193 temporary closures were processed, predominantly following application from developers and utility companies, as well as in-house requirements to protect the public, an increase from the 135 of the previous year. These processes can involve repeated negotiation and communications between applicants and Officers, involve public notice being made and also initiate large numbers of enquiries from the general public.
- 5.8.5 The team received and processed 19 deposits, statements and declarations from landowners under section 31 of the Highways Act 1980, again a dramatic increase on the 2 processed in the previous year, yet again likely due to pressures on land as a result of the Covid-19 lockdowns. The team also responds to enquiries for information following Local Land Charge searches, numbering 23 during the year, as well as internal requests for Definitive Map information.
- 5.8.6 7 Town and Country Planning Act section 257 Orders to enable development to go ahead were made during the year, with 7 Orders confirmed and 15 cases in progress. 1 case file was prepared and submitted to the Secretary of State for determination following the receipt of objections. These applications take precedence over conventional Highway Act 1980 diversions due to the tight timetables involved. The need to respond to these in parallel with the planning process and the

consequent work generated liaising with developers and colleagues in the Planning Department has a significant impact on other areas of work.

- 5.8.7 1 Highways Act 1980 Public Path Orders was made, and 1 Order confirmed, with 12 cases in progress. 2 case files were prepared and submitted to the Secretary of State for determination following the receipt of objections.
- 5.8.8 5 Definitive Map Modification Order application cases were in progress during the year, with 1 Order being made following determination, a reduction from the previous year for reasons already outlined, and 2 Orders confirmed.
- 5.8.9 During the year, the Council received 1 direction from the Secretary of State to determine a Definitive Map Modification Order application following appeal from the individuals who submitted the application because the Council had not determined the case within 12 months of registration.
- 5.8.10 At the end of the 2020-21 year, the waiting list of Definitive Map Modification Order applications stood at 41, with 4 new applications having been registered during the year.
- 5.8.11 In addition to the above work, each year a Legal Event Order is completed to collate all Order cases completed during the year; this is the administrative function which legally changes the Definitive Map and Statement. Due to the pressures posed by the Covid-19 pandemic this task was not undertaken, and all Orders will be collated into the next Legal Event Order.

## **5.9 Policies**

- 5.9.1 The policies currently in place reflect the following activity:
- Network management and enforcement protocol;
  - Policy for structures on Public Rights of Way;
  - Prioritisation system for different categories of maintenance & enforcement issues on Public Rights of Way;
  - Statement of Priorities for Definitive Map Modification Order applications – during the year this policy was reviewed and an updated Statement of Priorities adopted;
  - Charging policy for Public Path Orders, searches & temporary closures and Highways Act 1980 section 31 deposits and statements – reviewed annually; and,
  - Policy for determination of uncontested Public Path Order applications by Public Rights of Way Manager in consultation with the Chair and Vice Chair of the Public Rights of Way Committee.

## **5.10 Countryside Access Forum and ROW Consultative Group**

- 5.10.1 The primary purpose of the Forum is to provide advice to Cheshire East Borough Council, and other bodies, such as Government Departments, Natural England, the Forestry Commission, English Heritage, Sport England and Town and Parish Councils, on how to make the countryside more accessible and enjoyable for open air recreation, in ways which address social, economic and environmental interests. The Forum consists of volunteer members. Further details on the role of the Forum, the interest areas of its members and its annual reports can be found on the Forum's webpage at [www.cheshireeast.gov.uk/cecaf](http://www.cheshireeast.gov.uk/cecaf).
- 5.10.2 The Access Forum is complemented by the Cheshire East Rights of Way Consultative Group which meets twice yearly with Officers from the team. The 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.
- 5.10.3 The Consultative Group meetings are extended to allow user group representatives to meet Network Management Officers on a one to one basis in order to discuss work priorities and individual case issues. Meetings were not held during the year due to the pandemic, with updates being provided instead via email.

## **5.11 Budget**

- 5.11.1 The annual budget for the years 2020-21 and 2021-22 are set out in the table below. During 2020-21 financial year, as in the previous, the budgets remained as forecast throughout the year, and have remained level across the years, allowing the team to plan spending efficiently throughout the year.
- 5.11.2 However, the Covid-19 pandemic resulted in a huge financial pressure for the Council at the end of the financial year due to reduced income and increased expenditure. For the PROW team, income was dramatically reduced whilst costs increased by a small amount, resulting in an £82k pressure on the team's budget which was fortunately covered by a government grant.

- 5.11.3 As reported last year, budgets over recent years have remained static in contrast to increased costs from suppliers for items such as timber and metal path furniture. In recognition of this a business case was successful in securing a small amount of additional revenue for 2021-22. In addition, Officers have secured a range of external grant funding, particularly from user groups and Town and Parish Councils, for the improvement of the network, which helps to deliver great value and service for the public and landowners. However, recent price rises, particularly in materials due to the pandemic, Brexit and major infrastructure schemes, will have exceeded this value. Looking forwards then, the outputs of work on the PROW network will be effectively reduced year on year as budgets are not normally increased in line with costs. Stakeholder expectations will have to be managed accordingly along with further exploration of different models of delivery, such as increased use of volunteers and parish level involvement in prioritisation of investment.
- 5.11.4 The PROW team continue to secure competitive prices through a tendered framework of PROW contractors who undertake works on the ground at the direction of the Network Management and Enforcement Officers. We are always mindful of the great value for money we, the public and landowners, benefit from through good value and good working relationships within the tendered framework which consists of a relatively few, specialist contractors.
- 5.11.5 The PROW team's core capital budget was reduced by 20% for the financial year, with an obvious effect in terms of what was delivered on the network. This continues to be an area of concern. Funding was secured, however, for investment in our bridge structures and for paths damaged by the flooding events of previous years.

	<b>2020-21</b>	<b>2021-22</b>
<b>Length of PROW network</b>	1946km	1946km
<b>Total PROW revenue budget</b>	£428k	£443k
<b>Network maintenance budget</b>	£53k revenue + £80k capital	£63k revenue + £80k capital
<b>Maintenance budget per PROW km</b>	£68/km	£73/km

<b>Other funding</b>	<ul style="list-style-type: none"> <li>• £39k Structures</li> <li>• £40k LTP ROWIP 'Active Travel' capital budget</li> <li>• S106 funding: <ul style="list-style-type: none"> <li>○ £10k Wheelock Rail Trail</li> <li>○ £20k Disley FP66</li> <li>○ £1k Alsager FP3</li> <li>○ £12k non-PROW path in Nantwich</li> </ul> </li> <li>• £100k A6MARR PROW Complementary Measures package</li> </ul>	<ul style="list-style-type: none"> <li>• £107k Flood damage</li> <li>• £63k Structures</li> <li>• S106 funding: <ul style="list-style-type: none"> <li>○ £1k Alsager FP3</li> <li>○ £12k non-PROW path in Nantwich</li> </ul> </li> </ul>
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## 5.12 Conclusion

- 5.12.1 As in previous years, the Public Rights of Way team has delivered a very high standard of service to the public. The good condition of the network is highly regarded by user groups, the processing of legal orders continues to serve both users and landowners, and the high standard of response and service from the team as a whole is widely recognised. And this service continued during one of the most challenging periods of the Covid-19 pandemic.
- 5.12.2 The fixed term Officer appointments in the team, now extended for a further two years, continues to help to manage the Public Path Order waiting list. Prior to the pandemic, the Definitive Map Modification Order application waiting list was being actively addressed, and, although new applications continue to be registered, it is hoped that as the pandemic situation eases, this progress can be continued. The use of new methods of working has expedited processes for Public Path Order cases, though again the pandemic inhibited progress in new cases being initiated. Any indication that the delayed Deregulation Act 2015 is to be implemented will necessitate a fresh appraisal of resources, policies and procedures to deal this change in legislation, along with the timescales and workload implications that may result.
- 5.12.3 Again, the impact of the extreme weather events witnessed this year continues to highlight the vulnerability of the network to such events and the requirement for investment to be able to repair and protect paths and structures. The rainfall experienced in January 2021 was been reported by the Met Office as being extreme and more than double the amount experienced in a typical January. Storm Christoph was responsible for a

significant proportion of that rain meaning that it fell in a short space of time and hence caused flooding across the borough, on paths, roads and land, where it would not normally be experienced. This, coupled with the increased usage during lockdown, put path surfaces under pressure and caused landowners issues as users attempted to avoid muddy sections of paths.

- 5.12.4 In addition this year, a number of ICT changes have affected the work of the team and colleagues across the Council. To facilitate remote working arrangements required by the pandemic, new hardware and software was quickly rolled out to enable video conferencing to be used. New finance software has also been introduced along with new GIS software, both of which have diverted a lot of Officer time, to add to the challenges of the year.
- 5.12.6 The longer-term implications of Covid-19 will become clear with time, but will certainly involve a continued reduction of income. What the lockdown situations have reinforced are the vital importance of the network for our communities' physical and mental wellbeing, and in doing so, the validity of continuing to protect the necessary resources to maintain that asset.

## **6. Implications of the Recommendations**

### **6.1. Legal**

6.1.1. The implementation of the Deregulation Act 2015 represents a risk to the capability of the team to meet the duties of the Highway Authority with regards to Public Rights of Way. The effect of the Act, when implemented, will require an appraisal of processes and policies for dealing with Definitive Map Modification Orders and Public Path Orders. Tight timescales are to be introduced by the legislation requiring application processing within specified time limits and additionally the processing of Public Path Orders under the Highways Act 1980 will become a duty rather than a discretionary service, as it is at present.

6.1.2. In addition, the impact of the flooding events of this and previous years have created a requirement for investment in bridge structures which will need continued funding in order to avoid any further impact on the Council's ability to maintain the network and keep paths open.

### **6.2. Finance**

6.2.1 This report has been prepared using staffing resources covered by existing PROW budgets. However, additional resource will be required in order to continue maintaining the PROW network and services going forwards, given the increased use of the network and demand for legal

process together with increased supplies and services costs. To this end a growth bid has been submitted through the medium-term financial strategy budget setting process to seek additional resources.

**6.3. Policy**

6.3.1. There are no policy implications foreseen.

**6.4. Equality**

6.4.1. There are no equality implications.

**6.5. Human Resources**

6.5.1. There are no additional human resource implications foreseen.

**6.6. Risk Management**

6.6.1. The lack of resource for proactive network surveying puts the Council at potential risk of claims for accidents arising from users of the network. During the year 2 claims were registered with the Council's Insurance team and responded to by the PROW team.

**6.7. Rural Communities**

6.7.1. There are no direct implications for rural communities.

**6.8. Children and Young People/Cared for Children**

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

**6.9. Public Health**

6.9.1. There are no direct implications for public health.

**6.10. Climate Change**

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.

<b>Access to Information</b>	
Contact Officer:	Genni Butler, Acting Public Rights of Way Manager genni.butler@cheshireeast.gov.uk 01270 686059
Appendices:	Appendix 1 Network Management & Enforcement Appendix 2 ROWIP Appendix 3 Legal Orders
Background Papers:	N/a

## Appendix 1 – Network Management and Enforcement

Measure of Success	Source	Achievements 2020-21 (2019-20)	Anticipated work programme 2021-22
All footpaths, bridleways and byways correctly signposted where they leave a metalled road.	C/side Act 1968 NERC Act 2006	<ul style="list-style-type: none"> <li>210 signs erected across the borough (382)</li> </ul>	<ul style="list-style-type: none"> <li>Installation of additional signs and replacement signs following loss and damage to ensure the requirements of Countryside Act 1968 s 27 are fulfilled.</li> </ul>
All PROW clear of obstructions, misleading notices, other hindrances or impediments to use.	HA 1980 s130	<ul style="list-style-type: none"> <li>Enforcement actions saw 0 notices served for copping and 1 for general obstructions (4 and 3, respectively).</li> <li>Additionally 3 “7 day” warnings were issued in relation to cropping offences (23).</li> <li>1 enforcement action was required to physically remove obstructions on the PROW network (0).</li> </ul>	<ul style="list-style-type: none"> <li>Carry out necessary enforcement work in line with adopted protocols to ensure that the duty set out in Highways Act 1980 is fulfilled.</li> </ul>
Surface of every PROW is in proper repair, reasonably safe and suitable for the expected use.	HA 1980 s41	<ul style="list-style-type: none"> <li>A routine maintenance programme is in operation, with a total length of 165 km having received routine strimming during the year (201).</li> </ul>	<ul style="list-style-type: none"> <li>The annual maintenance programme will be rationalised across the borough to ensure consistency</li> <li>The development of the input of volunteers in the inspection and maintenance of PROW.</li> <li>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 PROW wherever possible.</li> </ul>
All PROW inspected regularly by or on behalf of	HA 1980 s58	<ul style="list-style-type: none"> <li>Small scale bridges are inspected every three years, with</li> </ul>	<ul style="list-style-type: none"> <li>Network Management Officers will continue to hold bi-annual meetings</li> </ul>

Measure of Success	Source	Achievements 2020-21 (2019-20)	Anticipated work programme 2021-22
the authority.		<p>larger/complex structures inspected more regularly by CEHighways, 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.</p> <ul style="list-style-type: none"> <li>• Network Management Officers hold bi-annual meetings with the relevant representative of the walking, cycling and equestrian user groups, are in regular contact with users throughout the year and receive Ramblers reports including Path Watch Reports.</li> </ul>	<p>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.</p>
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 1980 s130	<ul style="list-style-type: none"> <li>• All cropping obstructions were responded to within 4 weeks of reporting.</li> </ul>	<ul style="list-style-type: none"> <li>• Continue to adhere to the response times set out in the current standard.</li> </ul>
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"> <li>• Waymarking is undertaken by staff and contractors as appropriate. Additionally waymarkers are provided to registered PROW volunteers to enable them to replace missing and damaged waymarkers.</li> </ul>	<ul style="list-style-type: none"> <li>• Waymarking and signposting will be undertaken as appropriate.</li> </ul>

**Appendix 1 – Examples of improvement projects delivered**

**Weston Footpath No. 13:** A 6m footbridge replacement. Part of the Crewe and Nantwich Circular Walk and South Cheshire Way, this route forms an important link from Weston village to the wider Public Rights of Way network:

**Before**



**After**



**Before**



**After**



**Rainow Footpath No. 23:** With a financial contribution from the Peak and Northern Footpath Society, the 6 metre bridge was replaced, with additional features to extend its lifespan, including damp proof course, eco-grid and water-proof paint.

**Before**



**After**



**Congleton Footpath No. 70:** 20m revetment, surfacing and associated drainage works to improve a very muddy path near the urban fringe area, forming, with the canal towpath, a circular walk for local residents.

**Before**



**After**



**Mottram St Andrew Footpath No. 3:**

With a small financial contribution from the Council, the owners of this path have resurfaced a 100m section that was a very muddy. The owners removed over 80 tonnes of mud, installed land drains, laid weed suppressing membrane on which they put 40 tonnes of MOT hardcore. Alongside the path, they also planted 15 acer trees.

**Before**



**After**



**Disley Footpath No. 28:**

150m of this very popular path, which also forms part of the Gritstone Trail promoted route, has been resurfaced and a trench dug alongside to aid drainage.

**Accessibility improvements:** investment in durable metal path furniture, such as the following examples of a gate replacements of stiles on a Public Footpaths, results in reduced maintenance, reduced liabilities and more accessible routes:



**Betchton Footpath No. 19 Before**



**After**



**Gawsworth Footpath No. 11 Before**



**After**

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## RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2020-21

Policy Ref.	ROWIP Ref.	Achievements 2020-21	Ongoing targets 2021-22
H2 H3 S7 S8	Various	<p><b>Planning Applications, Pre-Applications and Developer Contributions</b></p> <ul style="list-style-type: none"> <li>• Planning applications and pre-applications commented upon from the perspective of active travel and leisure walking, cycling and horseriding, putting forward ROWIP aspirations.</li> <li>• Developer contributions sought and secured for off-site improvement through section 106 agreements and unilateral undertakings.</li> <li>• Completion of delivery of s106-funded improvement works in Disley.</li> <li>• Securing improvements to Public Rights of Way and other walking and cycling access routes, to be delivered by developers within sites.</li> </ul>	<ul style="list-style-type: none"> <li>• Ongoing, as arising.</li> </ul>
H2 H3 S7 S8	X15	<p><b>Publicity to promote walking, cycling and horse riding</b></p> <ul style="list-style-type: none"> <li>• Articles submitted for Connected Communities newsletters, other newsletters and social media feeds for all news items, as arising.</li> <li>• Suggestions for walks, cycle rides and horse riding routes published on <a href="http://www.discovercheshire.co.uk">www.discovercheshire.co.uk</a>.</li> <li>• Walks and countryside site leaflets distributed via country parks, visitor information centres, libraries and on request to members of the public.</li> <li>• Countryside Ranger Service events promoted via social media channels.</li> </ul>	<ul style="list-style-type: none"> <li>• Work ongoing.</li> </ul>

**RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2020-21**

Policy Ref.	ROWIP Ref.	Achievements 2020-21	Ongoing targets 2021-22
<p>H2 H3 S7 S8</p>	<p>n/a</p>	<p><b><u>Cheshire East Countryside Access Forum</u></b></p> <ul style="list-style-type: none"> <li>• Secretariat duties for Forum, a statutory body, whose members are volunteers, which advises the Council on matters relating to countryside access. The Forum:               <ul style="list-style-type: none"> <li>○ held meetings virutally as a result of the Covid-19 pandemic.</li> <li>○ gave tribute to former Chair Bob Anderson who sadly passed away.</li> <li>○ elected a new chair and vice chair.</li> <li>○ monitored the Rights of Way Improvement Plan delivery and Public Rights of Way team resources.</li> </ul> </li> <li>Commented on Network Rail proposals for PROW level crossings on the Alsager-Crewe line.</li> <li>○ received statistics of path use increases during Covid-19 lock down.</li> <li>○ submitted consultation responses on Public Space Protection Orders, Cheshire East Council’s Corporate Plan, the revision of the Countryside Code and the proposed Wilmslow Walking and Cycling Route.</li> <li>○ Considered Lindow Moss - prospects for restoration, conservation and countryside access,</li> <li>○ Discussed the draft contents of a position paper on Climate Change and the Visitor Economy,</li> <li>○ Received a presentation from HS2 Ltd. on the progress of Phase 2b of the project south of Crewe.</li> <li>○ Adopted the Forum’s Communications Strategy and set up a Forum FaceBook account in order to continue to generate publicity on a number of topics. A key area this year was encouraging responsible access to the countryside in light of the issues experienced during the Covid-19 lockdowns.</li> </ul> <div data-bbox="535 1098 1447 1426" data-label="Image"> </div> <p>The Forum’s logo</p>	<ul style="list-style-type: none"> <li>• Work ongoing.</li> </ul>

**RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2020-21**

Policy Ref.	ROWIP Ref.	Achievements 2020-21	Ongoing targets 2021-22
H3 S7 S8	Various	<p><b>Road and rail infrastructure schemes</b></p> <ul style="list-style-type: none"> <li>• Influencing road and rail infrastructure schemes through design development, the planning system and Side Road Orders to achieve best possible outcomes for non-motorised users, and ensuring delivery of infrastructure on the ground as well as legal records.</li> <li>• A556/M56 junction, SEMMMS A6-Manchester Airport Relief Road, Congleton Link Road, A500 dualling, M6 missing Restricted Byway Bridge, Middlewich Eastern Bypass and Poynton Relief Road.</li> <li>• Continued input of ROWIP aspirations into options and designs to maximise opportunities for improving routes for active travel and leisure walking, cycling and horse riding.</li> <li>• Response to consultation and negotiation with HS2 scheme designers for improved accommodation of Public Rights of Way and rural lanes, to protect and enhance leisure and active travel routes affected by HS2 proposals.</li> <li>• Continued liaison and input to the revision of the Local Transport Plan and delivery of active travel schemes under the Cycling Strategy.</li> </ul> <div data-bbox="539 815 994 1278" style="text-align: center;"> </div> <p>Diagram showing the priorities of the Local Transport Plan 2019-2024</p>	<ul style="list-style-type: none"> <li>• Work ongoing.</li> </ul>

**RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2020-21**

Policy Ref.	ROWIP Ref.	Achievements 2020-21	Ongoing targets 2021-22
H2 H3 S7 S8	n/a	<p><b>Rights of Way Consultative Group</b></p> <ul style="list-style-type: none"> <li>• Twice yearly liaison meetings between PROW team and user group representatives.</li> <li>• Updates provided on long term closures of Public Rights of Way due to legal or resource issues.</li> <li>• Updates on the impact of the Covid-19 pandemic.</li> <li>• Improvements to the online collection of information on issue reports.</li> <li>• Providing input into the identification of improvements to public rights of way linking the footway/cycleway alongside the A555 A6-Manchester Airport Relief Road.</li> <li>• Updates from local groups.</li> <li>• Ongoing management of register of volunteers and issuance of Letters of Authority for volunteers assisting with waymarking and minor vegetation cutting and additionally legal order notice checking.</li> </ul>	<ul style="list-style-type: none"> <li>• Work ongoing.</li> </ul>

### Appendix 3 - Legal Orders Team

Area of work	Source	Work completed 2020-21 (working completed during 2019-20)	Waiting list / backlog	Anticipated work programme 2021-22
<b>Legal event Orders - no backlog of legal events requiring orders to be made</b>	W&C Act 1981 s53(2) (a) & s53(3) (a)	Legal Event Modification Order not made for all legal events in 2019-20	n/a	Legal Event Modification Order to be made for all legal events in 2021-22
<b>Definitive Map Modification Orders - no backlog of applications to modify the Definitive Map</b>	W&C Act 1981 Sch 14	<ul style="list-style-type: none"> <li>• 5 applications under active investigation (14)</li> <li>• 1 Schedule 14 applications determined (4)</li> </ul>	41	6 cases in progress
<b>Definitive Map Modification Orders - no backlog of decided applications/other cases awaiting Definitive Map Modification Orders</b>	Former Countryside Agency national target	<ul style="list-style-type: none"> <li>• 2 Orders confirmed (3)</li> <li>• 0 Orders confirmed with modifications (0)</li> <li>• 0 refusal to make Order appealed (1)</li> <li>• 1 appeal against non-determination within 12 months (1)</li> <li>• 0 case referred to Planning Inspectorate (1)</li> </ul>	0	<ul style="list-style-type: none"> <li>• Continue to make orders as soon as reasonably practicable.</li> <li>• Contested Orders to be submitted to PINs as soon as reasonably practicable.</li> <li>• Directed applications/orders to be processed as required, within resource constraints.</li> </ul>
<b>Map consolidation - the authority has considered the need to consolidate the Map and take any necessary action</b>	W&C Act 1981 s56	On hold due to resource limitations.	n/a	On hold due to resource limitations.
<b>Definitive Map - no other matter affecting the Definitive Map outstanding</b>	Former Countryside Agency national target	1 anomaly corrected (4)	List of 448 known map anomalies	No progress can be made without additional staff resource, unless resolved through other legal process.
<b>Planning application consultations</b>	HA80 s130	349 (318)	n/a	As required

Area of work	Source	Work completed 2020-21 (working completed during 2019-20)	Waiting list / backlog	Anticipated work programme 2021-22
<b>Public Rights of Way searches</b>	WCA81 s57	93 – direct (125)  23 – following Local Land Charge results (18)	n/a	As required – reduction anticipated due to Covid-19
<b>Landowner deposits, statements and declarations</b>	HA80 s31	19 (2)	n/a	As required – increase anticipated due to Covid-19
<b>Temporary &amp; emergency closures</b>	RTRA84	193 (135)	n/a	As required – increase anticipated due to extreme weather events
<b>Public Path Orders</b>	HA80	<ul style="list-style-type: none"> <li>• 12 cases in progress (21)</li> <li>• 1 Orders made (9)</li> <li>• 1 Orders confirmed (8)</li> <li>• 0 Orders contested (2)</li> <li>• 2 case referred to Planning Inspectorate (1)</li> </ul>	46	10 Orders made – reduction anticipated due to Covid-19
<b>Public Path Orders</b>	TCPA90	<ul style="list-style-type: none"> <li>• 15 cases in progress (27)</li> <li>• 7 Orders made (5)</li> <li>• 7 Orders confirmed (0)</li> <li>• 0 Order contested (1)</li> <li>• 1 cases referred to Planning Inspectorate (0)</li> </ul>	n/a	As required – reduction anticipated due to Covid-19
<b>Deeds of Dedication</b>	LA11	0 (0)	n/a	1
<b>Cycle Tracks Orders</b>	CTA84	0 (0)	n/a	0

HA80: Highways Act 1980  
RTRA84: Road Traffic Regulation Act 1984  
LA11: Localism Act 2011

WCA81: Wildlife and Countryside Act 1981  
TCPA90: Town and Country Planning Act 1990  
CTA84: Cycle Tracks Act 1984



*Working for a brighter future together*

## **Public Rights of Way Committee**

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<b>Date of Meeting:</b>	13 <sup>th</sup> September 2021
<b>Report Title:</b>	Informative Report on Cases of Uncontested Public Path Orders Determined under Delegated Decision
<b>Report of:</b>	Frank Jordan, Executive Director Place
<b>Ward(s) Affected:</b>	High Legh

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### **1. Executive Summary**

- 1.1. The report informs Members of the uncontested Public Path Order cases that have been determined under delegated decision by the Executive Director of Place in consultation with the Chair and Vice Chair of the Sub Committee.
- 1.2 The work of the Public Rights of Way team contributes to the three Corporate Plan aims “We will provide strong community leadership and work transparently with our residents, businesses and partners to deliver our ambition in Cheshire East”, “We aim to reduce inequalities, promote fairness and opportunity for all and support our most vulnerable residents” and “We will lead our communities to protect and enhance our environment, tackle the climate emergency and drive sustainable development”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

### **2. Recommendation/s**

- 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 Under the Council's Constitution and Local Scheme of Delegation under the cascade principle, the Public Rights of Way Manager, in consultation with the Chair and Vice Chair of the Public Rights of Way Sub Committee, may determine Public Path Order cases which are not contested or contentious at the pre-order consultation stage.

5.2 This report provides an update on decisions taken under this delegation:

5.2.1 Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpath No. 9 in the Parish of High Legh (Part).

5.3 Reports for cases determined through this process can be viewed on the Public Rights of Way webpages at [https://www.cheshireeast.gov.uk/leisure\\_culture\\_and\\_tourism/public\\_rights\\_of\\_way/path\\_orders/Public-Path-Order-Delegated-Decision-Reports.aspx](https://www.cheshireeast.gov.uk/leisure_culture_and_tourism/public_rights_of_way/path_orders/Public-Path-Order-Delegated-Decision-Reports.aspx).

## 6. Consultation and Engagement

6.1. Consultation with Public Rights of Way user groups and statutory consultees is undertaken to inform the decision on each Public Path Order case.

## 7. Implications of the Recommendations

### 7.1. Legal

7.1.1. There are no legal implications.

### 7.2. Finance

7.2.1. There are no financial implications.

### 7.3. Policy

7.3.1. There are no policy implications.

### 7.4. Equality

7.4.1. There are no equality implications.

### 7.5. Human Resources

7.5.1. There are no human resource implications.

### 7.6. Risk Management

7.6.1. There are no risk management implications.

**7.7. Rural Communities**

7.7.1. There are no implications for rural communities.

**7.8. Implications for Children & Young People**

7.8.1. There are no implications for children and young people.

**7.9. Public Health**

7.9.1. There are no implications for public health.

**6.10 Climate Change**

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

<b>Access to Information</b>	
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Appendices:	N/a
Background Papers:	<a href="https://www.cheshireeast.gov.uk/leisure_culture_and_tourism/public_rights_of_way/path_orders/public-path-order-delegated-decision-reports.aspx">https://www.cheshireeast.gov.uk/leisure_culture_and_tourism/public_rights_of_way/path_orders/public-path-order-delegated-decision-reports.aspx</a>

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