

Public Rights of Way Sub Committee

Agenda

Date: Monday, 1st August, 2022
Time: 2.00 pm
Venue: Committee Suite 1,2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

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

It should be noted that Part 1 items of Cheshire East Council decision making 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**

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 5 - 8)

To approve the minutes of the meeting held on 14 March 2022.

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

For requests for further information

Contact: Karen Shuker

Tel: 01270 686459

E-Mail: karen.shuker@cheshireeast.gov.uk with any apologies

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 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 the Committee Procedural Rules and Public Speaking Appendix 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. **Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpaths No. 12 and 14 in the Parish of Wardle** (Pages 9 - 18)

To consider an application for the diversion of part of Public Footpath No. 12 and 14 in the Parish of Wardle.

6. **Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpath No. 3 in the Parish of Henhull** (Pages 19 - 28)

To consider an application for the diversion of part of Public Footpath No. 3 in the Parish of Henhull.

7. **Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpaths No. 2 in the Parish of Leighton.** (Pages 29 - 38)

To consider an application for the diversion of part of Public Footpath No. 2 in the Parish of Leighton.

8. **Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpath Moston 7Y (Part)** (Pages 39 - 48)

To consider an application to divert part of Public Footpath No. 7Y in the Parish of Moston.

9. **Informative Report - Public Rights of Way Annual Report 2021-22 and Work Programme 2022-23** (Pages 49 - 78)

To consider a report on the achievements of the Council in terms of its Public Rights of Way (PROW) functions during the year 2021-22 and the proposed work programme for the year 2022 – 23.

10. **Informative Report on Cases of Uncontested Public Path Orders Determined under Delegated Decision** (Pages 79 - 82)

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 meeting of the **Public Rights of Way Sub Committee**
held on Monday, 14th March, 2022 in the Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor L Crane (Chair)
Councillor S Edgar (Vice-Chair)

Councillors S Akers Smith, H Faddes, L Gilbert, R Moreton and D Stockton

OFFICERS IN ATTENDANCE

Genni Butler, Acting Public Rights of Way Manager
Vicky Fox, Planning and Highways Lawyer
Clare Hibbert, Definitive Map Officer
Andrew Poynton, Planning and Highways Lawyer
Karen Shuker, Democratic Services Officer

18 APOLOGIES FOR ABSENCE

There were no apologies for absence.

19 DECLARATIONS OF INTEREST

No declarations of interest were made.

20 MINUTES OF PREVIOUS MEETING

That the minutes of the meeting held on 6 December 2021 be confirmed as a correct record.

21 PUBLIC SPEAKING TIME/OPEN SESSION

There were no public speakers.

22 WILDLIFE & COUNTRYSIDE ACT 1981 - PART III, SECTION 53. APPLICATION NO. CN/7/27: APPLICATION FOR THE UPGRADING OF PUBLIC FOOTPATH NO.15 PECKFORTON TO A RESTRICTED BYWAY.

The Committee considered a report which detailed the investigation to amend the Definitive Map and Statement to upgrade public footpath Peckforton no.15 to a Restricted Byway.

Under Section 53(2)(b) of the Wildlife and Countryside Act 1981, the Council had a duty to 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:-

One such event under section 53(3)(c)(ii) was where

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

- (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description;
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 rights subsist. Any other issues, such as safety, security, suitability, desirability or the effects on property or the environment, are not relevant to the decision.

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”.

Documentary evidence included County Maps 18th/19th Century, Tollemache Estate Map c.1831, Title Records, Quarter Sessions, Ordnance Survey Records, Bartholomew’s Half Inch to a Mile, Pre Definitive Map Records, Definitive Map Process – National Parks and Access to the Countryside Act 1949, Land Registry Information and photographs submitted by witnesses.

It was noted that from the application submitted in January 2012 the user evidence forms demonstrated that the dominant users were considered to be cyclists, there had been no equestrian evidence put forward. There had been no direct challenge to cyclists who had used the route until notices advertising a permissive bridleway agreement in 2021 stated ‘no cyclists’.

The affected landowners, Ward Councillor, Parish Council, users groups, statutory undertakers, landowners and agent had been consulted and no objections to the application had been received.

Mr Matthews attended the meeting and spoke and answered questions in respect of access and vehicular use along the proposed route.

The Committee considered the user evidence submitted and the Definitive Map Officer's conclusion. It was considered that the requirements of Section 53(3)(c)(ii) had been met in relation to restricted byway rights and that the Definitive Map and Statement should be modified to show Public Footpath no.15, Peckforton as a Restricted Byway.

The Committee unanimously

RESOLVED: That

- (1) An Order be made under Section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by upgrading public footpath Peckforton no.15 to a restricted byway as shown on Plan No. WCA/023;
- (2) Public notice of the making of the Order be given and, in the event of there being no objections within the specified period, or any objections received being withdrawn, the Order be confirmed in exercise of the power conferred on the Council by the said Act;
- (3) In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

23 INFORMATIVE REPORT - HIGHWAYS ACT 1980 S119 PUBLIC PATH DIVERSION ORDER, MOBBERLEY FOOTPATH NO. 46 (PART)

The Committee received an information report which detailed the minor changes to the alignment of a proposed footpath diversion previously approved by the Committee on 12 March 2018. The resultant Order made was to divert part of Mobberley Public Footpath No.46 under section 119 of the Highways Act 1980.

Following an inspection which found that the path installed did not exactly match the route shown on the Order plan a revised diversion route was proposed. The revised diversion would follow a similar trajectory a little over 30 metres away from the route on the previous Order plan and with a width of 2.5 metres. It was noted that the diversion route had been installed and in use on the ground for a number of years and no issues had been raised.

RESOLVED:

That the report be noted.

24 PUBLIC RIGHTS OF WAY PROPOSED FEES AND CHARGES 2022-23

The Committee received a report which detailed the proposed fees and charges for 2022-23 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 2022-23 had been increased by inflation and rounded up.

It was noted that the following amendments had been made:

- The previous fee for a referral of a case to the Planning Inspectorate in relation to objections to Public Path Orders had been withdrawn following updated legal advice.
- The discretionary zero cost for charitable organisations who sought temporary closures of Public Rights of Way would be withdrawn, in order to achieve full cost recovery.

The Sub-Committee advised that it would be helpful to signpost charitable organisations to the Communities Team following the withdrawal of the discretionary zero cost, to check whether they would be eligible for any grants.

RESOLVED:

That the report be noted.

The meeting commenced at 2.00 pm and concluded at 2.40 pm

Councillor L Crane (Chair)



Working for a brighter future together

Public Rights of Way Sub Committee

Date of Meeting:	1 st August 2022
Report Title:	Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpaths No. 12 and 14 in the Parish of Wardle
Report of:	Jayne Traverse, Executive Director Place
Ward(s) Affected:	Wardle

1. Purpose of Report

- 1.1. The report outlines the investigation to divert part of Public Footpath No. 12 and 14 in the Parish of Wardle following receipt of an application for a developer.
- 1.2. The report makes a recommendation based on that information, for a quasi-judicial decision by Members as to whether or not a diversion Order should be made for that section of public footpath.
- 1.3. The work of the Public Rights of Way team contributes to the Corporate Plan priority "A thriving and sustainable place", and the policies and objectives of the Council's statutory Rights of Way Improvement Plan.

2. Executive Summary

- 2.1. This report outlines the investigation to divert part of Public Footpath No. 12 and 14 in the Parish of Wardle. This includes a discussion of the consultations carried out in respect of the proposal and the legal tests to be considered for a diversion Order to be made under Town and Country Planning Act 1990.

- 2.2.** The recommendation will be that a Public Path Diversion Order be made under Section 257 of the Town and Country Planning Act 1990 on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.

3. Recommendations

- 3.1.** A Public Path Diversion Order be made under Section 257 of the Town and Country Planning Act 1990 on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.
- 3.2.** Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, and in the event that planning consent has been granted, the Order be confirmed in the exercise of the powers conferred on the Council by the said Act.
- 3.3.** In the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or Public Inquiry.

4. Reasons for Recommendations

- 4.1.** In accordance with Section 257 of the Town and Country Planning Act 1990 (“TCPA”) as amended by Section 12 of the Growth and Infrastructure Act 2013:

“(1A) Subject to section 259, a competent authority may by Order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that—

(a) an application for planning permission in respect of development has been made under Part 3, and

(b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.”

- 4.2.** The Council, as the Local Planning Authority, can make an Order diverting a footpath if it is satisfied that it is necessary to do so to enable development to be carried out, providing that the application has been formally registered with the Council.
- 4.3.** It is considered that it is necessary to divert part of Footpath No. 12 and 14 in the Parish of Wardle as illustrated on Plan No. TCPA/070, to allow for the development of a spine road and other associated infrastructure works, as detailed within planning reference 21/6382N.

5. Other Options Considered

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

6. Background

- 6.1. An application has been received from AEW Architects on behalf of Philip Posnett requesting that the Council make an Order under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 12 and No. 14 in the Parish of Wardle as it is deemed necessary to allow for the second phase of the spine road construction and other associated infrastructure works as detailed within planning reference 21/6382N.
- 6.2. Public Footpath No. 12 in the Parish of Wardle commences at its junction with Public Footpath No. 1 in the Parish of Wardle and runs for approximately 1450 metres in a generally south westerly direction to its junction with the parish Boundary of Wardle and Haughton.
- 6.3. Public Footpath No. 14 in the parish of Wardle commences at its junction with Wardle Footpath No. 12 and runs in a generally southerly direction for approximately 642 metres to its junction with Public Footpath No. 10 in the Parish of Haughton.
- 6.4. The existing alignment of Public Footpath No. 12 and No. 14 in the Parish of Wardle will be directly affected by the construction of a new spine road and associated infrastructure, therefore the diversion is required to preserve the public rights of way. The associated planning application, 21/6382N, has not yet been approved, this proposed diversion will not come in to affect until such time that it is approved.
- 6.5. The length of Public Footpath No. 12 in the Parish of Wardle to be diverted is shown as a bold black line on Plan No. TCPA/70 between points A-C-B. It commences at point A and continues in a generally west south westerly direction for approximately 210 metres along an old track on site, at point C the definitive line then leaves the old track and crosses a ploughed field and continues in a generally south westerly direction for approximately 255 metres to point B.
- 6.6. The proposed diversion of Public Footpath No. 12 in the Parish of Wardle is shown as a dashed black line between points E-F-G-B. The diversion will run from point E to point F in a generally west south westerly direction for approximately 122 metres, it will be 2 metres in width with a compacted hardcore surface with a top dressing and will run through a green corridor of existing planting, it will be 10 metres away from the road in this section. It will then run from point F to point B in a generally south westerly direction for

approximately 360 metres. It will be 2 metres in width with a tarmac surface and will be within a 7 metre wide green corridor, it will be 5 metres away from the spine road. There will be one main road crossing with dropped kerbs for crossing, and will follow the road around a bus turning area. This road will remain private and will not be adopted highway.

- 6.7. The proposed diversion route commences at Point E, this will join with a previous diversion of Wardle Footpath No. 12 which is currently at confirmation stage. This will be completed before the proposed Order is signed and therefore the network will remain connected.
- 6.8. The length of Public Footpath No. 14 in the Parish of Wardle to be diverted is shown as a bold black line on Plan No. TCPA/70 between points C-D. It commences at point C and runs in a generally south westerly direction for approximately 70 metres along an old track.
- 6.9. The proposed diversion of Public Footpath No. 14 in the Parish of Wardle is shown as a dashed black line between points G-D. it runs in a generally south easterly direction for approximately 12 metres and will be a tarmaced crossing over the road, with dropped kerbs at the crossing.
- 6.10. It is proposed that a further diversion of the next section of Wardle Footpath No. 14 will be carried out under a future planning application for the site once the plans for the buildings have been completed..

7. Consultation and Engagement

- 7.1. The Ward member for Bunbury, the Wardle Parish Council, the user groups, statutory undertakers, adjacent residents and the Council's Nature Conservation Officer have been consulted and have raised no objections.

8. Implications

8.1. Legal

- 8.1.1. Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the Local Highway Authority to confirm the Order itself, and may lead to a hearing or Public Inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

8.2. Finance

- 8.2.1. If objections to the Order lead to a subsequent hearing or inquiry, this legal process would have financial implications for the Council.

8.3. Policy

8.3.1. There are no direct policy implications.

8.4. Equality

8.4.1. An assessment in relation to the Equality Act 2010 has been carried out by the PROW Network Management and Enforcement Officer for the area and it is considered that the proposed diversion would be no less convenient to use than the current one.

8.5. Human Resources

8.5.1. There are no direct human resource implications.

8.6. Risk Management

8.6.1. There are no direct risk management implications.

8.7. Rural Communities

8.7.1. There are no direct implications for rural communities.

8.8. Children and Young People/Cared for Children

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

8.9. Public Health

8.9.1. There are no direct implications for public health.

8.10. Climate Change

8.10.1. 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.

8.10.2. The diversion of the Public Footpath would enable better access to the public rights of way network by members of the public on foot with the potential for the improvement and promotion of active healthy lifestyles and wellbeing.

Access to Information	
Contact Officer:	Laura Allenet – Public Path Orders Officer Laura.allenet@cheshireeast.gov.uk 01270 686053
Appendices:	Plan No. TCPA/070 and developers plan

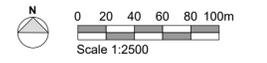
Background Papers:	The background papers and file relating to the report can be inspected by contacting the report writer.
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NOTES

- All dimensions and levels are to be checked on site.
- Any discrepancies are to be reported to the architect before any work commences
- This drawing shall not be scaled to ascertain any dimensions. Work to figured dimensions only.
- This drawing shall not be reproduced without express written permission from AEW.
- Title overlay drawings and ownership boundaries are produced using all reasonable endeavors. AEW cannot be responsible for the accuracy or scale discrepancy of base plans supplied to them.
- All works are to be undertaken in accordance with Building Regulations and the latest British Standards.
- All proprietary materials and products are to be used strictly in accordance with the manufacturers recommendations.

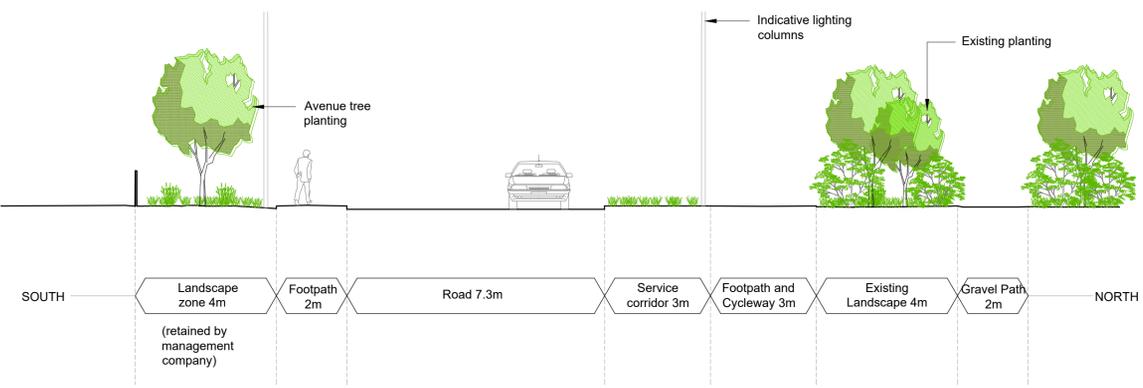
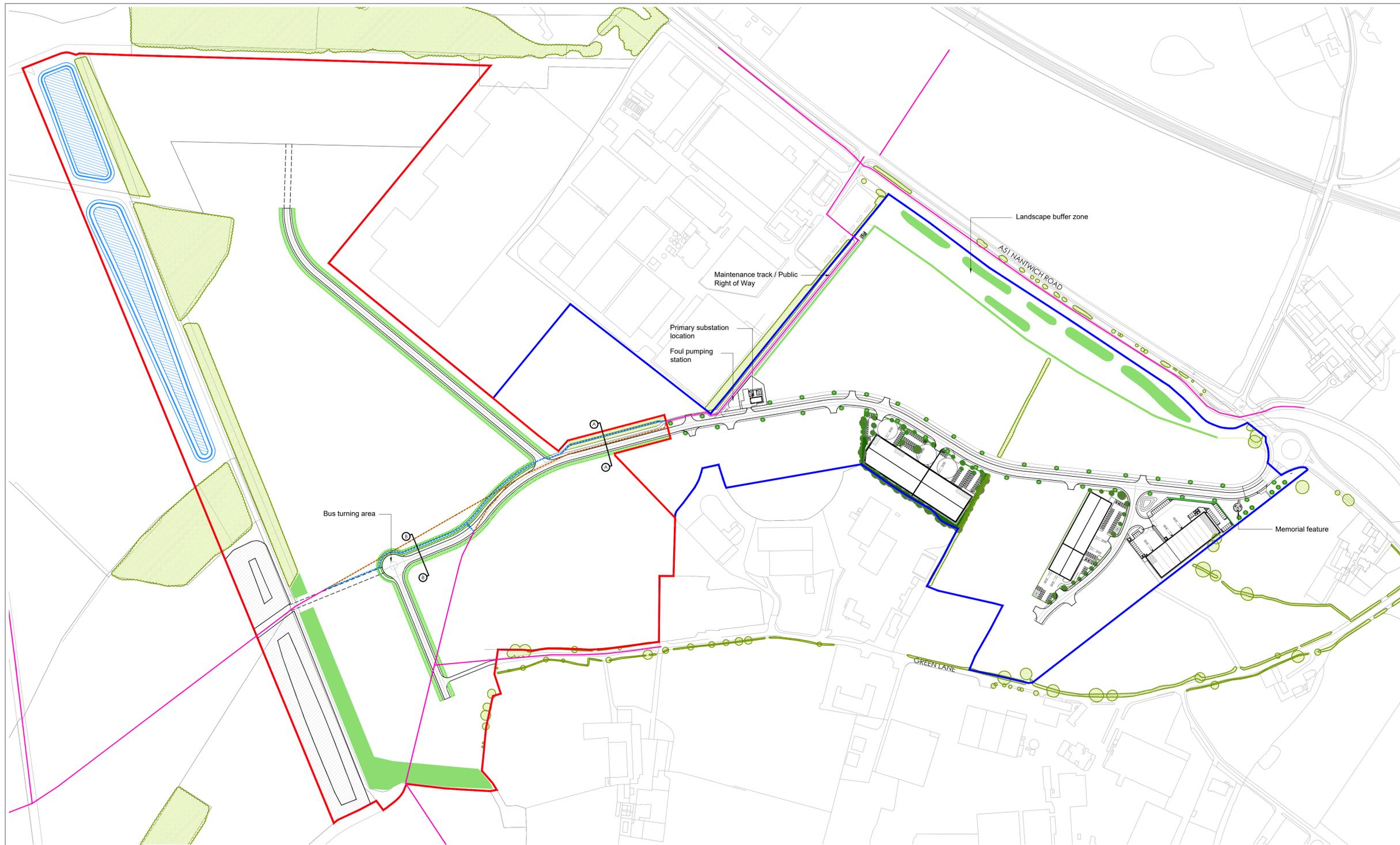
CDM 2015

Client notified of duties:
Principal Designer:
Unless noted below, all known hazards have been highlighted on the drawing:

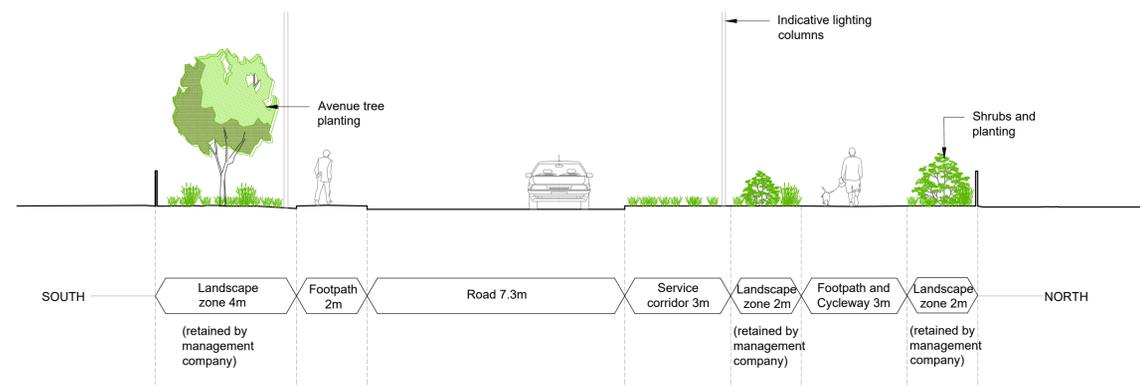


LEGEND

- Ownership Boundary
 - Site boundary
- PUBLIC RIGHTS OF WAY
- Existing to be retained
 - Existing to be diverted
 - Proposed route



Estate Road Section A-A
Scale 1:100



Estate Road Section B-B
Scale 1:100

P3	16/12/21	SG	AL
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Footpath and landscape zone along estate road revised. Gravel path added and footpath route revised on section A-A

P2	22/11/21	SG	AL
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Phase 2 infrastructure updated

P1	23/04/21	SG	AL
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Initial Issue

REV	Date	Drawn by	Checked by
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Status Purpose of Issue

S2	For Information
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drawing stage **Planning**

client

**Philip Posnett
Houghton Estate**

project

**Cheshire Green Employment Park
Wardle, Nantwich**

drawing title

**Phase 2
Public Rights of Way Strategy**

date	April 2021	drawn	SG
scale@A1	1:2500	checked	AL

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Key

- Route to be stopped up A-C-B and C-D
- Proposed new route E-F-G-B and G-D
- - - Unaffected Public Rights of Way



1:2500

Proposed Diversion of Wardle FP12 and FP14

Plan No.
TCPA/070

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



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Working for a brighter future together

Public Rights of Way Sub Committee

Date of Meeting:	1 st August 2022
Report Title:	Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpath No. 3 in the Parish of Henhull
Report of:	Jayne Traverse, Executive Director Place
Report Reference No:	<i>To be confirmed by Democratic Services</i>
Ward(s) Affected:	Bunbury

1. Purpose of Report

- 1.1.** The report outlines the investigation to divert part of Public Footpath No. 3 in the Parish of Henhull following receipt of an application from a developer.
- 1.2.** The report makes a recommendation based on that information, for a quasi-judicial decision by Members as to whether or not a diversion Order should be made for that section of public footpath.
- 1.3.** The work of the Public Rights of Way team contributes to the Corporate Plan priority "A thriving and sustainable place", and the policies and objectives of the Council's statutory Rights of Way Improvement Plan.

2. Executive Summary

- 2.1.** This report outlines the investigation to divert part of Public Footpath No. 3 in the Parish of Henhull. This includes a discussion of the consultations carried out in respect of the proposal and the legal tests to be considered for a diversion Order to be made under Town and Country Planning Act 1990.

- 2.2.** The recommendation will be that a Public Path Diversion Order be made under Section 257 of the Town and Country Planning Act 1990 on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.

3. Recommendations

- 3.1.** A Public Path Diversion Order be made under Section 257 of the Town and Country Planning Act 1990 on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.
- 3.2.** Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, and in the event that planning consent has been granted, the Order be confirmed in the exercise of the powers conferred on the Council by the said Act.
- 3.3.** In the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or Public Inquiry.

4. Reasons for Recommendations

- 4.1.** In accordance with Section 257 of the Town and Country Planning Act 1990 (“TCPA”) as amended by Section 12 of the Growth and Infrastructure Act 2013:

“(1A) Subject to section 259, a competent authority may by Order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that—

(a) an application for planning permission in respect of development has been made under Part 3, and

(b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.”

- 4.2.** The Council, as the Local Planning Authority, can make an Order diverting a footpath if it is satisfied that it is necessary to do so to enable development to be carried out, providing that the application has been formally registered with the Council.

- 4.3.** It is considered that it is necessary to divert part of Footpath No. 3 in the Parish of Henhull as illustrated on Plan No. TCPA/074, to allow for the replacement of an existing 3 rail timber fence, as detailed within planning application reference 21/4557N.

5. Other Options Considered

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

6. Background

- 6.1.** An application has been received from Malbank School and Sixth Form College requesting that the Council make an Order under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 3 in the Parish of Henhull as it is deemed necessary to allow for the replacement of an existing timber fence with 2.4m steel fencing, as detailed within planning application reference 21/4557N.
- 6.2.** Public Footpath No. 3 in the Parish of Henhull commences at its junction with Welshmans Lane (C518/A) and runs for approximately 440 metres in a generally south easterly direction to its junction with the parish boundary of Nantwich.
- 6.3.** The existing alignment of Public Footpath No. 3 in the Parish of Henhull will be directly affected by the construction of a new steel fence, therefore the diversion is required to preserve the public right of way. The associated planning application, 21/4557N, has been approved.
- 6.4.** The length of Public Footpath No. 3 in the Parish of Henhull to be diverted is shown as a bold black line on Plan No. TCPA/74 between points A-B. It commences at point A and continues in a generally south easterly direction for approximately 200 metres across the grass playing fields of Malbank School to Point B. The definitive line is currently obstructed by the sports field and has one stile where the highway verge meets the current boundary fence. Although the definitive line is currently obstructed, users can walk the proposed diversion route.
- 6.5.** The proposed diversion of Public Footpath No. 3 in the Parish of Henhull is shown as a dashed black line between points A-C-D. It commences at point A where the proposed diversion will now run alongside the sports field in a southerly direction for approximately 180 metres to point C. It will be enclosed at a width of approximately 8 metres with the footpath being 2.5 metres wide, this section will have a grass surface. The diversion will then run from point C to Point D in a generally easterly then north easterly direction for approximately 108 metres, the path will run over a grassed area before making use of an existing tarmac track.
- 6.6.** The proposed diversion now meets the highway verge of Waterlode (B5341/D/01) at a new location at point D. The current definitive line of Public

Footpath No. 3 in the Parish of Henhull predates the construction of Waterlode and as such is recorded as crossing the road, and is therefore proposed to be stopped up as part of this diversion. Users will still have the right to cross the road here as it is an adopted highway so no rights are lost. Safe crossing points can be accessed by walking north east or south west depending on the direction of onward travel. The Cheshire East Highways team have also agreed that the current barrier that runs north east of point D is no longer needed and they will either install a gap to make the crossing point more accessible or remove the barrier.

7. Consultation and Engagement

- 7.1. The Ward Member for Bunbury, Acton, Edleston and Henhull Parish Council, the user groups, statutory undertakers, and the Council's Nature Conservation Officer have been consulted and at the date of the writing of this report have raised no objections. Any comments received subsequently will be reported verbally to the Committee.

8. Implications

8.1. Legal

- 8.1.1. Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the Local Highway Authority to confirm the Order itself, and may lead to a hearing or Public Inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

8.2. Finance

- 8.2.1. If objections to the Order lead to a subsequent hearing or inquiry, this legal process would have financial implications for the Council.

8.3. Policy

- 8.3.1. There are no direct policy implications.

8.4. Equality

- 8.4.1. An assessment in relation to the Equality Act 2010 has been carried out by the PROW Network Management and Enforcement Officer for the area and it is considered that the proposed diversion would be no less convenient to use than the current one.

8.5. Human Resources

- 8.5.1. There are no direct human resource implications.

8.6. Risk Management

8.6.1. There are no direct risk management implications.

8.7. Rural Communities

8.7.1. There are no direct implications for rural communities.

8.8. Children and Young People/Cared for Children

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

8.9. Public Health

8.9.1. There are no direct implications for public health.

8.10. Climate Change

8.10.1. 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.

8.10.2. The diversion of the Public Footpath would enable better access to the public rights of way network by members of the public on foot with the potential for the improvement and promotion of active healthy lifestyles and wellbeing.

Access to Information	
Contact Officer:	Laura Allenet – Public Path Orders Officer Laura.allenet@cheshireeast.gov.uk 01270 686053
Appendices:	Plan No. TCPA/074 and developers plan
Background Papers:	The background papers and file relating to the report can be inspected by contacting the report writer.

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Notes

Figured dimensions are to be used in all cases. Dimensions should not be scaled from drawing. All existing dimensions should be checked on site before commencement of the work. Any discrepancies in dimensions should be clarified with the Architect prior to commencement of the work. No deviation from this drawing will be permitted without the prior written consent of the Architect. This drawing is to be read in conjunction with all the relevant Mechanical and Electrical drawings. This drawing is to be read in conjunction with the relevant Structural Engineer's drawings, structural calculations and recommendations. This drawing is to be read in conjunction with the relevant Fire Safety Strategy drawings.

This drawing must be read in conjunction with LMA drawing 7500_Strategy_DesignersRiskAssessment which indicates all current and active designers risks that have been identified by Lovelock Mitchell Architects in accordance with the CDM Regulations 2015.

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73m of 2.4m Palisade fencing to replace existing timber fence and infill gaps within hedge

60m of 2.4m Palisade fencing to replace existing timber fence and infill gaps within hedge

apparent possibility of diverted Henhull FP3 path currently under consideration by Cheshire East Council



1 Proposed site plan
Scale: 1 : 1000

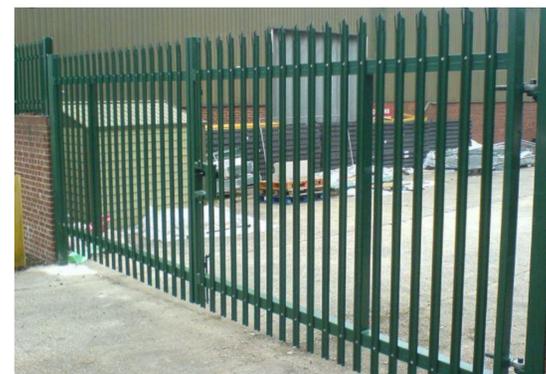
Proposed Boundary Treatments

- Proposed New palisade fencing 2400mm_green
- Proposed New palisade gate, 2400mm_green
- Line of existing 3 rail timber fence

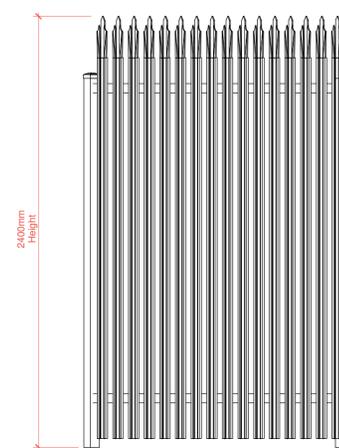
Legend_Boundary Treatments



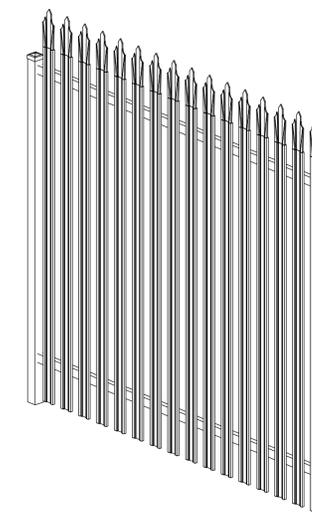
sample image, green powder coated palisade railing, 2.4m



sample image, green powder coated palisade gate, 2.4m



2 D section palisade, green powder coated fencing
Scale: 1 : 20



3 3D Ortho_palisade fencing
Scale:

P1	Issued for Planning Approval	SA	CR	25.08.21
Rev.	Revision description	Drawn	Checked	Date



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web: www.lovelockmitchell.com

Project
Malbank School_Fencing
Malbank school and sixth form

Title
External works_proposed

LMA Project	Drawing number						Rev.	
0000	XXX	LMA	XX	XX	DR	A	7503	P1

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Key

- Route to be stopped up A-B
- - - Proposed New Route A-C-D
- · · Unaffected Public Rights of Way



1:2500

Proposed Diversion of Henhull FP3

Plan No TCPA/074

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



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Working for a brighter future together

Public Rights of Way Sub Committee

Date of Meeting:	1 st August 2022
Report Title:	Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpaths No. 2 in the Parish of Leighton.
Report of:	Jayne Traverse, Executive Director Place
Ward(s) Affected:	Leighton

1. Purpose of Report

- 1.1.** The report outlines the investigation to divert part of Public Footpath No. 2 in the Parish of Leighton following receipt of an application from a developer
- 1.2.** The report makes a recommendation based on that information, for a quasi-judicial decision by Members as to whether or not a diversion Order should be made for that section of public footpath.
- 1.3.** The work of the Public Rights of Way team contributes to the Corporate Plan priority "A thriving and sustainable place", and the policies and objectives of the Council's statutory Rights of Way Improvement Plan.

2. Executive Summary

- 2.1.** This report outlines the investigation to divert part of Public Footpath No. 2 in the Parish of Leighton. This includes a discussion of the consultations carried out in respect of the proposal and the legal tests to be considered for a diversion Order to be made under Town and Country Planning Act 1990.

- 2.2.** The recommendation will be that a Public Path Diversion Order be made under Section 257 of the Town and Country Planning Act 1990 on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.

3. Recommendations

- 3.1.** A Public Path Diversion Order be made under Section 257 of the Town and Country Planning Act 1990 on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.
- 3.2.** Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, and in the event that planning consent has been granted, the Order be confirmed in the exercise of the powers conferred on the Council by the said Act.
- 3.3.** In the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or Public Inquiry.

4. Reasons for Recommendations

- 4.1.** In accordance with Section 257 of the Town and Country Planning Act 1990 (“TCPA”) as amended by Section 12 of the Growth and Infrastructure Act 2013:
- “(1A) Subject to section 259, a competent authority may by Order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that—
- (a) an application for planning permission in respect of development has been made under Part 3, and
- (b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.”
- 4.2.** The Council, as the Local Planning Authority, can make an Order diverting a footpath if it is satisfied that it is necessary to do so to enable development to be carried out, providing that the application has been formally registered with the Council.
- 4.3.** It is considered that it is necessary to divert part of Footpath No. 2 in the Parish of Leighton as illustrated on Plan No. TCPA/071, to allow for the construction of up to 400 dwellings and associated infrastructure, as detailed within planning references 20/3210N.

5. Other Options Considered

- 5.1.** Not applicable – this is a non-executive matter.

6. Background

- 6.1.** An application has been received from Knights Plc. on behalf of Torus62 Developments requesting that the Council make an Order under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 2 in the Parish of Leighton as it is deemed necessary to allow for the construction of up to 400 new dwellings and the associated infrastructure.
- 6.2.** Public Footpath No. 2 in the Parish of Leighton commences at its junction with Moss Lane (UY1445/B) and runs for approximately 715 metres in a generally westerly direction to its junction with Flowers Lane (B5076).
- 6.3.** The existing alignment of Public Footpath No. 2 in the Parish of Leighton will be directly affected by the construction of a new road and associated infrastructure, therefore the diversion is required to preserve the public rights of way.
- 6.4.** The length of Public Footpath No. 2 in the Parish of Leighton to be diverted is shown as a bold black line on Plan No. TCPA/71 between points A-B. It commences at point A and continues in a generally westerly direction for approximately 285 metres across an open pasture field to point B. At point B, the definitive line is obstructed by a hedge but a permissive route is available and goes through a kissing gate in the hedge.
- 6.5.** The proposed diversion of Public Footpath No. 2 in the Parish of Leighton is shown as a dashed black line between points A-C-D-B. It commences at point A where there is an existing footbridge, and will continue in a generally north westerly direction for approximately 65 metres to point C. It will then continue in a generally westerly direction for approximately 230 metres to point B. The section of the route between points D and B is to be diverted instead of being accommodated on its current definitive line in order to allow the route to pass through the existing kissing gate and around the existing trees that will form part of the landscaping, thereby resolving the anomaly.
- 6.6.** There are two road crossings along the proposed diversion and the best efforts, within the consented planning layout, have been taken to keep the proposed diversion from running along the estate roads, with only 65 metres out of 295 metres doing so. The path will be surfaced with tarmac and runs mainly through an open green space with a width of 2 metres throughout. Dropped kerbs will be installed at the road crossing.

7. Consultation and Engagement

- 7.1. The ward member for Leighton, Minshull Vernon and District Parish Council, the user groups, statutory undertakers, and the Council's Nature Conservation Officer have been consulted and have raised no objections.

8. Implications

8.1. Legal

- 8.1.1. Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the Local Highway Authority to confirm the Order itself, and may lead to a hearing or Public Inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

8.2. Finance

- 8.2.1. If objections to the Order lead to a subsequent hearing or inquiry, this legal process would have financial implications for the Council.

8.3. Policy

- 8.3.1. There are no direct policy implications.

8.4. Equality

- 8.4.1. An assessment in relation to the Equality Act 2010 has been carried out by the PROW Network Management and Enforcement Officer for the area and it is considered that the proposed diversion would be no less convenient to use than the current one.

8.5. Human Resources

- 8.5.1. There are no direct human resource implications.

8.6. Risk Management

- 8.6.1. There are no direct risk management implications.

8.7. Rural Communities

- 8.7.1. There are no direct implications for rural communities.

8.8. Children and Young People/Cared for Children

- 8.8.1. There are no direct implications for children and young people.

8.9. Public Health

- 8.9.1. There are no direct implications for public health.

8.10. Climate Change

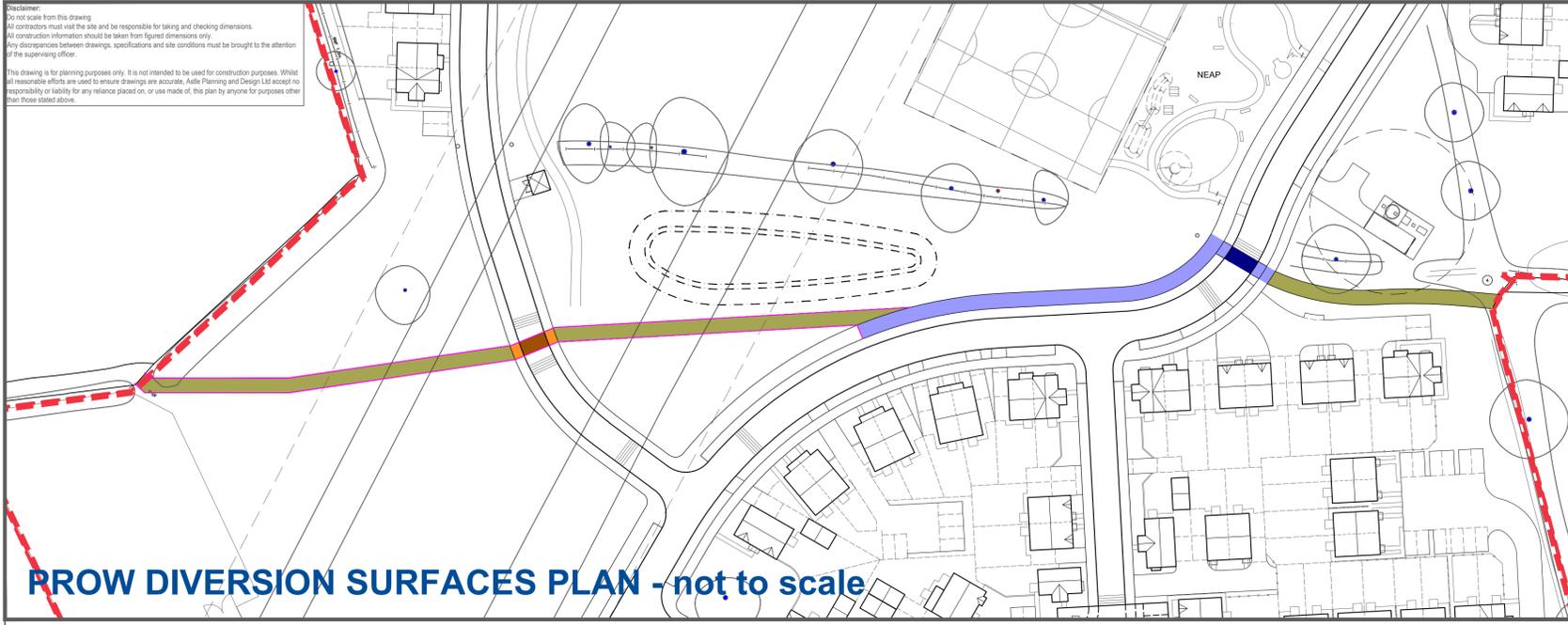
8.10.1. The Council has committed to becoming carbon neutral by 2025 and to encourage all businesses, residents and organisations in Cheshire East to reduce their carbon footprint.

8.10.2. The diversion of the Public Footpath would enable better access to the public rights of way network by members of the public on foot with the potential for the improvement and promotion of active healthy lifestyles and wellbeing.

Access to Information	
Contact Officer:	Laura Allenet – Public Path Orders Officer Laura.allenet@cheshireeast.gov.uk 01270 686053
Appendices:	Plan No. TCPA/071
Background Papers:	The background papers and file relating to the report can be inspected by contacting the report writer.

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Disclaimer:
Do not scale from this drawing.
All contractors must visit the site and be responsible for taking and checking dimensions.
All construction information should be taken from figured dimensions only.
Any discrepancies between drawings, specifications and site conditions must be brought to the attention of the supervising officer.
This drawing is for planning purposes only. It is not intended to be used for construction purposes. Whilst all reasonable efforts are used to ensure drawings are accurate, Astle Planning and Design Ltd accept no responsibility or liability for any reliance placed on, or use made of, this plan by anyone for purposes other than those stated above.



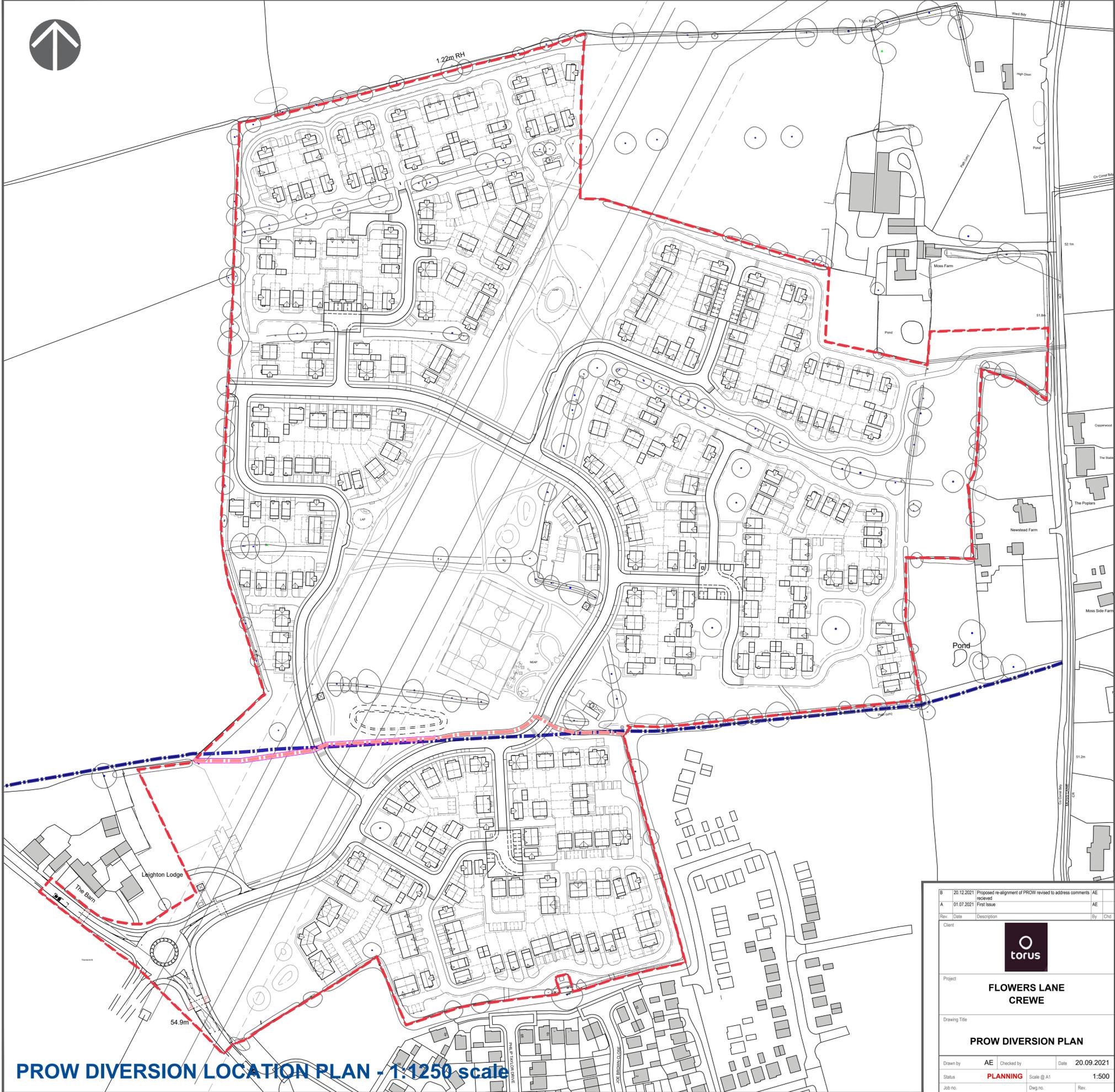
Legend

- - - Site boundary
- - - Official alignment of Public Right of Way footpath no. Leighton FP2
- - - Proposed diversion route of PROW Leighton FP2 through POS
- Adoptable Footpath 2.0m wide (Charcoal Stone Master Flags (medium grey) with Tegula Sett (Charcoal))
- Raised table (Clay Block paving in red multi)
- Adoptable Footpath 2.0m wide (Tegula (heather))
- Raised table (Clay block paving (red multi))
- Proposed Diverted PROW (Tarmac)

References

- Highways - WSP dwg no. 06408-FL-DR-001 dated June '20
- OS Plan - Licence no. 100022432
- Topographical Survey - Paragon Surveys dwg no. PS-1979-TS-2D dated 19/02/20
- Red Edge Boundary - Extracted from JB Planning Associates approved Location Plan dwg no. 735.02 dated 10/05/16

PROW DIVERSION SURFACES PLAN - not to scale



PROW DIVERSION LOCATION PLAN - 1:1250 scale

FLOWERS LANE - CREWE

PROW DIVERSION PLAN



Rev.	Date	Description	By	Chd
B	20.12.2021	Proposed re-alignment of PROW revised to address comments received	AE	
A	01.07.2021	First issue	AE	

Client: **torus**

Project: **FLOWERS LANE CREWE**

Drawing Title: **PROW DIVERSION PLAN**

Drawn by: AE Checked by: Date: 20.09.2021

Status: **PLANNING** Scale @ A1: 1:500

Job no. **M003** Dwg no. **PR02** Rev. **F**

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architecture
masterplanning
urban design

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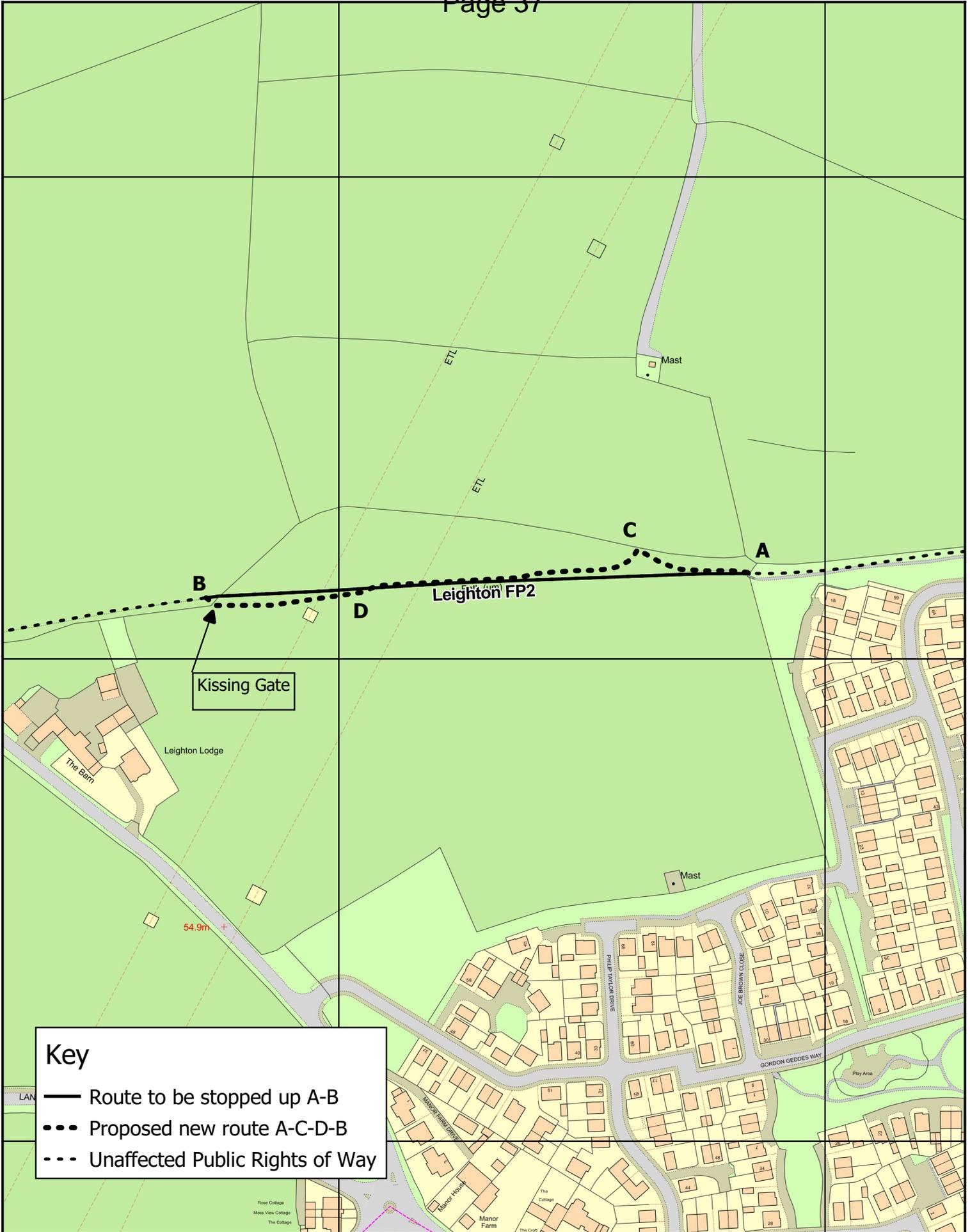
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Key

- Route to be stopped up A-B
- Proposed new route A-C-D-B
- - - Unaffected Public Rights of Way



Proposed diversion of Public Footpath No. 2 in the parish of Leighton

Plan No. TCPA/ 071

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



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Working for a brighter future together

Public Rights of Way Sub Committee

Date of Meeting:	1 st August 2022
Report Title:	Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpath Moston 7Y (Part)
Report of:	Jayne Traverse, Executive Director Place
Ward(s) Affected:	Brereton Rural

1. Purpose of Report

- 1.1. This report outlines the investigation to divert part of Public Footpath No. 7Y in the Parish of Moston following receipt of an application from a developer.
- 1.2. The report makes a recommendation based on that information, for a quasi-judicial decision by Members as to whether or not a diversion Order should be made for that section of public footpath.
- 1.3. The work of the Public Rights of Way team contributes to the Corporate Plan priority "A thriving and sustainable place", and the policies and objectives of the Council's statutory Rights of Way Improvement Plan.

2. Executive Summary

- 2.1. This report outlines the investigation to divert part of Public Footpath No. 7Y in the Parish of Moston. This includes a discussion of the consultations carried out in respect of the proposal and the legal tests to be considered for a diversion Order to be made under the Town and Country Planning Act 1990. The proposal has been put forward by the Public Rights of Way team on behalf of Taylor Wimpey, as a response to a planning application that has been approved by the Council's Planning Department. Consent was granted to Taylor Wimpey to redevelop land off Booth Lane, Moston, on which Albion

Inorganic Chemicals was previously located, and to construct up to 375 residential homes together with commercial, industrial and retail businesses and other associated infrastructure, and public open space.

3. Recommendations

- 3.1. A public path diversion Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 7Y in the Parish of Moston on grounds that the Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.
- 3.2. Public notice of the making of the Order be given and in the event of there being no objections within the period specified, and as a consequence of the granting of planning consent, the Order be confirmed in the exercise of the powers conferred on the Council by the said Act.
- 3.3. In the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

4. Reasons for Recommendations

- 4.1. In accordance with Section 257 of the Town and Country Planning Act 1990 (“TCPA”) as amended by Section 12 of the Growth and Infrastructure Act 2013:

“(1A) Subject to section 259, a competent authority may by Order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that—

an application for planning permission in respect of development has been made under Part 3, and if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.”

- 4.2. The Council as the Local Planning Authority can make an Order diverting a public footpath if it is satisfied that it is necessary to do so to enable development to be carried out, provided a planning application has been formally registered with the Council.
- 4.3. It is considered necessary to divert part of Public Footpath No. 7Y in the Parish of Moston as illustrated on Plan No. TCPA/072, to enable the development of residential homes and businesses with associated infrastructure and public open space as detailed within planning references 09/2083C, 14/4218C and 14/4212C.

5. Other Options Considered

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

6. Background

- 6.1. An application has been received from Taylor Wimpey requesting that the Council make an Order under section 257 of the Town and Country Planning Act 1990 to divert a section of Public Footpath No. 7Y in the Parish of Moston, to enable the residential development detailed within the decision notices granting consent for the initial and subsequently revised outline plan, and the reserved matters.
- 6.2. The initial outline planning consent (planning reference 09/2083C) for development of the land on which Albion Inorganic Chemicals was previously located, was granted on 14th May 2014 to Bluefield (Sandbach) Ltd, a company that undertakes development of building projects. Thereafter, following purchase of this land, on 27th February 2015, Taylor Wimpey was granted consent for a revision of the outline plan (planning reference 14/4218C) and associated reserved matters (planning reference 14/4212C).
- 6.3. Taylor Wimpey were also granted consent for the change of use of an area within the land, under the name of 'Yew Tree Farm complex', for residential and non-residential development in the future.
- 6.4. Public Footpath No. 7Y Moston commences at its junction with Booth Lane at O.S. grid reference SJ 7314 6274 and runs in a generally north, north easterly direction to O.S. grid reference SJ 7326 6288. It then bears in generally south, south easterly, then east, north easterly and then north westerly, directions before returning, at O.S. grid reference SJ 7328 6290, to the generally north, north easterly direction to continue over the railway to its termination point at the parish boundary of Moston and Bradwall at O.S. grid reference SJ 7334 6303. Moston Footpath No. 7Y runs for a total distance of approximately 437 metres.
- 6.5. The section of path to be diverted lies to the south of the railway within the development and is shown by an orange line on Plan No. TCPA/072 running between points A-B-C-D-E-F. The proposed diversion is illustrated with a blue dashed line on the same plan, running between points A-G-H-I-J-F.
- 6.6. Referring to Plan No. TCPA/072, the rear gardens of residential homes situated between points D-E-F will obstruct the current footpath. It is therefore considered necessary to realign the footpath via the diversion proposal such

that it passes outside the gardens and preserves the right of passage for the public.

- 6.7. Furthermore, the consented road layout will run across parts of the current footpath (see points a-b and c-C on Plan No. TCPA/072). The diversion will take users away from the road network within the development, reducing interaction with vehicular traffic and preserving the footpath rights separate from those of the roads, so the rights will then exist independently of each other, and one will not be subsumed into the other.
- 6.8. The diversion will by default, resolve an obstruction issue caused by the placement of an electricity sub-station on the current footpath alignment between points C-D on Plan No. TCPA/072.
- 6.9. Within the development is an area shown edged in green on the plan for which Taylor Wimpey has outline planning consent to redevelop. However, the company did not include it within the reserved matters planning application and as such the area comprising Yew Tree Farm, a listed property, will not be developed under the current reserved matters planning consent. However, it is the future intention of the developer that the building and land will be redeveloped. Plans for this are currently under consideration but until reserved matters planning consent has been applied for and consented for this area specifically, then any intentions in this area cannot be considered as part of this current diversion proposal. Despite this, the diversion route has been aligned to pass through the Yew Tree Farm area in the most direct way. A further application in future may be required to realign the path through this area in response to future proposed development.
- 6.10. Starting at its junction with Booth Lane (point A), the proposed new route would follow a generally east, north easterly direction, crossing an estate road at a designated pedestrian crossing point (point G), to continue in the same direction to the western perimeter boundary of Yew Tree Farm (point H). It would then enter the Yew Tree Farm area and continue in a generally north easterly direction through the area to exit through the eastern boundary (point I). It would then continue in a generally north easterly direction to pass between the southern boundary of housing plot no. 78, and an electricity substation to point J. It would then bear in a generally north westerly direction passing between gardens and the hedged boundary of the railway embankment, to terminate as it re-joined the current footpath at point F.
- 6.11. Ecogrid would be laid on the grass surfaces between Booth Lane and Yew Tree Farm, and the grassed section between the house and substation and the section running to the rear of the houses to the point where the footpath

will re-join the current route at point F. Through the Yew Tree Farm area, a harder surface would be laid. The specification for this has yet to be confirmed, though it is likely to be a compacted stoned surface. Throughout its length, the new route would have a width of 2 metres, be unenclosed and free of path furniture. The land over which the current route runs and over which the proposed route would run is owned by Taylor Wimpey and the company have set up a maintenance agreement with a management company for the development which includes the extent of which Moston Footpath No.7Y will run.

7. Consultation and Engagement

- 7.1. Brereton Rural Ward: Councillor John Wray has been consulted and registered no objection to the proposal.
- 7.2. Moston Parish Council have been consulted and did not comment.
- 7.3. The user groups have been consulted. No objections have been received. Peak and Northern Footpath Society registered no objection to the proposal.
- 7.4. Statutory Undertakers have been consulted and no objections to the proposal were registered.
- 7.5. Network Rail was consulted given the proximity of the development to the railway. An objection was received based on the expected increased use, and the change in the nature and profile of users of the level crossing that carries Moston Public Footpath No. 7Y over the railway, and that this is a direct result of the new development which has brought an increased number of people to the area.
- 7.6. Whilst it is acknowledged that there are more people in the area, the numbers reaching the rail crossing point will not change as a consequence of the proposed diversion because diverting the footpath, or leaving it in its current position, will only affect the route to the railway, not the numbers or user types, that choose to use it.
- 7.7. Further, the section of the footpath that crosses over the railway is not included in the diversion proposals so any issues relating to it, fall outside the scope of the legal tests of the diversion process.
- 7.8. As part of their objection Network Rail have submitted detailed information relating to various earlier planning applications at other locations involving developments adjacent to railways and involving the diversion of public rights of way. In these cases the planning process had not been exhausted and they

succeeded in changing a diversion proposal to make crossing a railway safer. However, in this case, the planning applications for this development were concluded in 2015 and since that time no appeals were registered within the time limit for doing so, and planning matters cannot be considered in relation to this diversion proposal.

7.9. Network Rail did not object to the Outline Plan but they did register an objection at the reserved matters stage of the planning process based on increased footfall over the current level crossing. However, no provision was made for this within the final planning decisions and a Grampian condition which may have been used to temporarily limit the development until the safety of the crossing point had been determined and any necessary action taken to meet safety requirements, was not included in the planning consent. This matter would have been part of the planning process, which is now closed and cannot be reopened. Whether or not to make a diversion Order must be based on the relevant legal tests of this case and is separate to the merits or otherwise of the planning permission.

7.9 For information, should Network Rail record data and make the case to confirm that there is a safety risk at this level crossing that could be mitigated by relocating it to a safer location, then Network Rail would need to submit a diversion proposal under section 119A of the Highways Act 1980 that is specifically designed to deal with rail crossing diversions. Such a diversion cannot be included within the current proposal being pursued by Taylor Wimpey under section 257 of the Town and Country Planning Act 1990, as the legislation and legal tests are completely different. Consequently, to affect a diversion of the crossing point, the current diversion would need to be concluded such that the new alignment of Moston Public Footpath No. 7Y through the development could then be diverted accordingly to the new crossing point should a rail crossing diversion be successful.

8. Implications

8.1. Legal

8.1.1. Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the Local Highway Authority to confirm the Order itself, and may lead to a hearing or Public Inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

8.2. Finance

8.2.1. If objections to the Order lead to a subsequent hearing or inquiry, this legal process would have financial implications for the Council.

8.3. Policy

8.3.1. There are no direct policy implications.

8.4. Equality

8.4.1. An assessment in relation to the Equality Act 2010 has been carried out by the PROW Network Management and Enforcement Officer for the area and it is considered that the proposed diversion would be no less convenient to use than the current one.

8.5. Human Resources

8.5.1. There are no direct human resource implications.

8.6. Risk Management

8.6.1. There are no direct risk management implications.

8.7. Rural Communities

8.7.1. There are no direct implications for rural communities.

8.8. Children and Young People/Cared for Children

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

8.9. Public Health

8.9.1. There are no direct implications for public health.

8.10. Climate Change

8.10.1. 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.

8.10.2. 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.

Access to Information	
Contact Officer:	Marianne Nixon, Public Path Orders Office Marianne.nixon@cheshireeast.gov.uk 01270 686077
Appendices:	Plan No. TCPA/072

Background Papers:	The Background papers and file 214D/593 relating to this report can be inspected by contacting the report writer.
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Proposed diversion of part of Moston Footpath No.7Y

Plan No. TCPA/072



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Working for a brighter future together

Public Rights of Way Sub Committee

Date of Meeting:	1 st August 2022
Report Title:	Public Rights of Way Annual Report 2021-22 and Work Programme 2022-23
Report of:	Jayne Traverse, Executive Director Place
Ward(s) Affected:	All

1. Purpose of Report

- 1.1. The report aims to inform readers about the work of the Public Rights of Way (PROW) team, including achievements and challenges.
- 1.2. The work of the Public Rights of Way team contributes to the Corporate Plan priority “A thriving and sustainable place”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.
- 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. Executive Summary

- 2.1. This report records the achievements of the Council in terms of its PROW functions during the year 2021-22 and sets out the proposed work programme for the year 2022-23. Details are set out in Appendices 1, 2 and 3.

3. Recommendation/s

3.1. That the report be noted.

4. Reasons for Recommendation/s

4.1. The report is for information only.

5. Other Options Considered

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

6. Background

6.1 The work of the Public Rights of Way Team is reviewed on an annual basis 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.

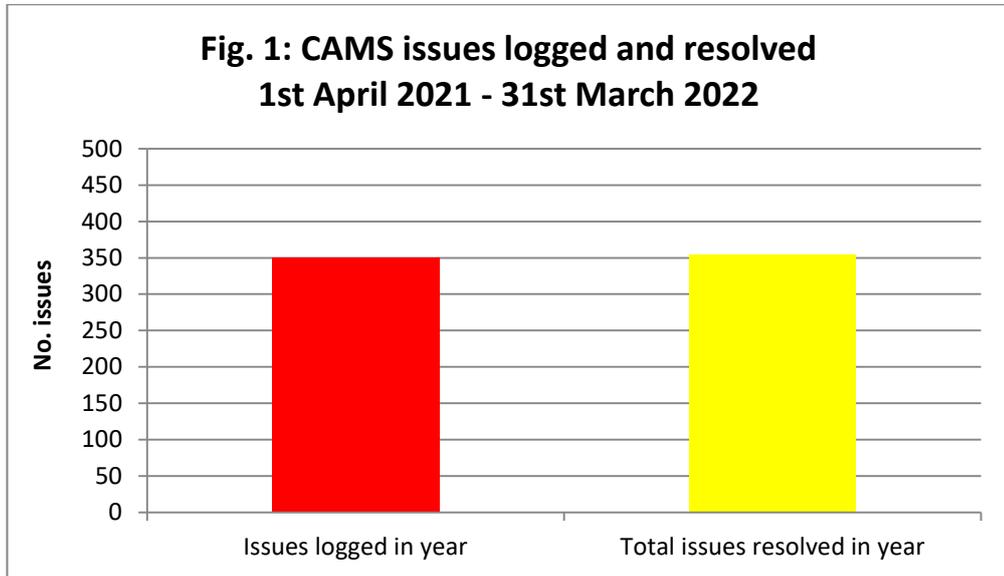
6.2 Each area is examined individually below, with the specific achievements of 2021-22, together with the work programme for 2022-23, contained in the relevant Appendices.

6.3 The past 2 years have been some of the most challenging times 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 continued long-term absence in the team. As at the start of the pandemic, office tasks remain 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. Officers have excelled in overcoming such challenges, however, and future working arrangements are likely to remain in the form of hybrid office/home working. Visitor numbers to the countryside increased dramatically as a result of the lockdowns, and whilst levels have fallen, the impacts of the pandemic remain, particularly on path surfaces, on the land, and on landholders. This continues to generate a large number of enquiries from both landowners and users.

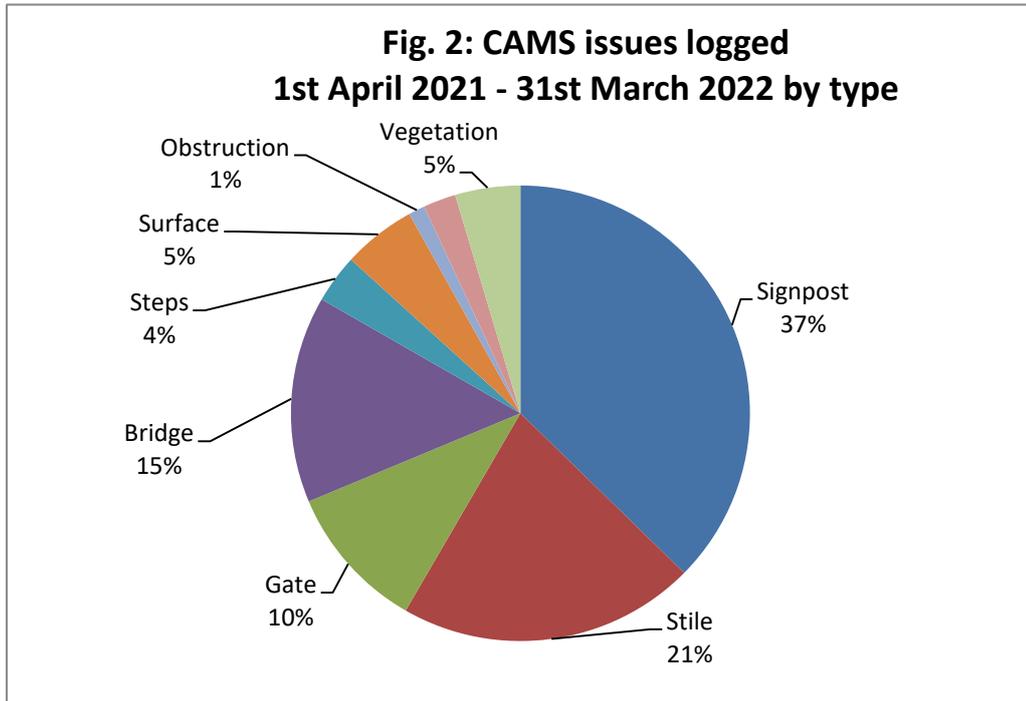
6.4 Network Management and Enforcement

- 6.4.1 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.
- 6.4.2 2 cases required the Council to undertake enforcement action during 2021-22, with all other reported obstructions being removed following conversations or exchange of correspondence. 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.
- 6.4.3 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 landslide in which a diversion solution has been agreed with the adjacent landowner, with support from user groups.
- 6.4.4 514 different Public Rights of Way benefitted from vegetation cutting in the year in order to help keep the routes open and available for the public, a total length 113km of path.
- 6.4.5 350 path problem reports have been logged within the team's mapping and database software "CAMS" (Countryside Access Management System) during the year 2021-22, having been reported by the public, landowners or Officers. We are grateful for those who report such issues, and user groups who undertake regular surveys, in acting as our 'eyes and ears' out on the network so that such issues can be resolved, and paths improved.
- 6.4.6 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 continued 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.

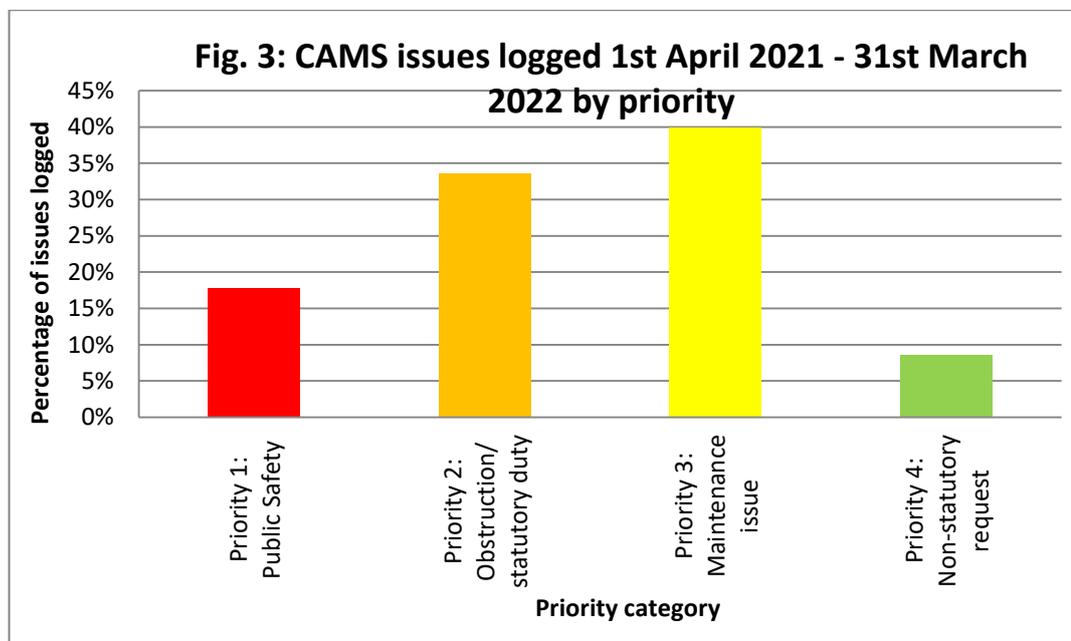


6.4.7 In Fig. 2 the numbers of different types of issues are very similar to previous years, showing relative consistency in the frequency of different types of issue being reported.



6.4.8 Fig. 3 shows a consistency with the previous year for the priority rating assigned to issues reported, with again an increased percentage of priority 1 issues, those relating to public safety. It should be noted that some urgent issues, such as fallen trees, are frequently reported but not entered onto 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.



6.4.9 The numbers of items of furniture installed by the team during the year are given in the table below, and record an increase as workstreams recover from the pandemic:

Furniture item	No. installed
Fingerposts	145
Waymark posts	85
Stiles	41
Pedestrian gates	15
Kissing gates	65
Bridleway gates	4
2-in-1 combination gates	9
Handrails	15
Bridges	35
TOTAL	424

6.4.10 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.

6.4.11 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. The Officers also work with a number of volunteer groups who undertake improvement projects on PROW, numbering 7 in the year. Such works are key to delivering improvements which would be hard to justify under current priorities and resources, and yet deliver results which the local communities are keen to see. Furthermore, works on the ground and Public Path Order cases can also resolve known mapping anomalies, of which 6 were concluded in the year. 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.

6.5 Path Inspection

6.5.1 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.

6.5.2 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.

6.5.3 An in-house random survey was again not carried out during 2021-22 in order to focus Officer time on work priorities. Instead, we are again 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 sampled through the in-house random survey. This result demonstrates the very high quality of the network. We are aware, however, of the continued high level of issue reports being received, regarding furniture, surfaces and vegetation, and the number of temporary closures whilst bridge or river bank repairs are required.

6.6 Technical Administration

- 6.6.1 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.
- 6.6.2 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 2021-22, 143 search requests were processed, an increase of 50% compared to the previous year.
- 6.6.3 The Officer also processed 607 applications for parking permits and 107 applications for canoe permits on behalf of the Countryside Ranger Service, showing a doubling and tripling of demand respectively, compared to the previous year. Parking permits are now available to purchase via an online system which has increased the efficiency of this task. In addition, the post holder undertakes numerous procurement and administration tasks to support both teams.
- 6.6.4 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, letter, email and web form. The team's central email account received 2,570 emails in the year comprising enquiries, requests for legal processes and network issue reports.
- 6.6.5 During the year, the team received and responded to 4 Freedom of Information requests, 7 enquiries from MPs and 28 enquiries received via the Members' Enquiries Service, Chief Executive Office, Portfolio Holder, Leader or Cheshire East Highways.

6.7 Rights of Way Improvement Plan (ROWIP) - Access Development

- 6.7.1 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.
- 6.7.2 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.
- 6.7.3 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.

6.8 Legal Orders Team

- 6.8.1 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.
- 6.8.2 The team has 3 Public Path Order Officers who process applications for diversions and extinguishments and temporary closures. These posts are managed on a net nil basis, with the salaries covered by administration fees. Unfortunately, a long-term absence has reduced the capacity of the team during the year.
- 6.8.3 During 2021-22 the team assessed 356 planning applications in order to ensure the protection and seek enhancement of the PROW network, a slight increase on the previous year. This 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.
- 6.8.4 Additionally, 114 temporary closures were processed, predominantly following application from developers and utility companies, as well as in-house requirements to protect the public, a reduction from the number processed in the previous year. These processes can involve repeated negotiation and communications between applicants and Officers, involve public notice being made and initiate large numbers of enquiries from the general public. Closures because of HS2 advanced works are now coming into effect and, whilst the Council does not grant such closures, Officer time is invested to seek to limit the impact of such closures.
- 6.8.5 The team received and processed 7 deposits, statements and declarations from landowners under section 31 of the Highways Act 1980, a decrease on the number seen in the previous year. The team also responds to enquiries for information following Local Land Charge searches, numbering

35 during the year, and increase on the preceding year, as well as internal requests for Definitive Map information.

- 6.8.6 Whilst no Town and Country Planning Act section 257 Orders to enable development to go ahead were made during the year, 3 Orders were confirmed, and 16 cases were in progress. No case files were 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 and has increased of recent years.
- 6.8.7 3 Highways Act 1980 Public Path Orders were made, and 8 Orders confirmed, with 9 cases in progress. 2 case files were prepared and submitted to the Secretary of State for determination following the receipt of objections. The waiting list for this area of work now sits at 67 applications due to complexities of current cases, other work priorities and a long-term absence in the team.
- 6.8.8 9 Definitive Map Modification Order application cases were in progress during the year, with 3 Orders being made following determination.
- 6.8.9 During the year, the Council received 2 directions 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.
- 6.8.10 At the end of the 2021-22 year, the waiting list of Definitive Map Modification Order applications stood at 48, with 6 new applications having been registered during the year, an increase from 4 in the previous year.
- 6.8.11 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.

6.9 Policies

- 6.9.1 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 Sub Committee.

6.10 Countryside Access Forum and ROW Consultative Group

- 6.10.1 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.
- 6.10.2 The Access Forum is complemented by the Cheshire East Rights of Way Consultative Group which meets twice yearly, now virtually, 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.

6.11 Budget

- 6.11.1 The annual budget for the years 2021-22 and 2022-23 are set out in the table below. During 202-22 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.

- 6.11.2 However, the Covid-19 pandemic continued to present 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 £108k pressure on the team's budget which was only partly covered by a government grant.
- 6.11.3 Budgets over preceding years had remained static in contrast to increased costs from suppliers for items such as timber and metal path furniture, the former at 70% above previous prices. 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 totaling £16.5k, particularly from user groups, for the improvement of the network, which helps to deliver great value and service for the public and landowners.
- 6.11.4 However, continued price rises are being seen and are yet anticipated, particularly in materials due to the ongoing effects of the pandemic, Brexit, major infrastructure schemes and fuel supply issues, as reflected in national prices indices and inflation rates. Looking forwards then, there will be a consequent reduction in outputs on the PROW network. 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.
- 6.11.5 The PROW team 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. This framework is in the process of being renewed, with a strong field of tenderers, though it is evident that, as anticipated, costs for services have increased significantly. We are always mindful of the value for money we, the public and landowners, benefit from through experience and good working relationships within the tendered framework which consists of a relatively few, specialist contractors.
- 6.11.6 The PROW team's core capital budget remained at a level 20% lower than previous years, impacting on what was delivered on the network. In contrast funding that had been secured for investment in bridge structures and for paths damaged by flooding events of previous years has been removed from the budget and further business cases are required in order to continue future investment and fund current schemes.
- 6.11.7 On the revenue budget, additional resource was secured for the employment of consultants and a new Definitive Map Officer to help address the waiting list of Definitive Map Modification Order applications.

That increase can be seen in the table below which summarises the budgets available.

	2021-22	2022-23
Length of PROW network	1946km	1952km
Total PROW revenue budget	£443k	£573k
Network maintenance budget	£63k revenue + £80k capital	£62k revenue + £87k capital
Maintenance budget per PROW km	£73/km	£76/km
Other funding	<ul style="list-style-type: none"> • £63k structures investment • £107k flooding investment • £20k STEPS active travel funding for Leighton FP2 • £12k PNFS gates for stiles grant • £9k donations including from BHS and East Cheshire Ramblers • S106 funding: <ul style="list-style-type: none"> ○ £12k non-PROW path in Nantwich 	<ul style="list-style-type: none"> • £48k flooding investment • £98k A6MARR PROW Complementary Measures package

6.12 Conclusion

- 6.12.1 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.
- 6.12.2 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. This, coupled with the increased usage during the lockdowns,

put path surfaces under pressure and caused landowners issues as users attempted to avoid muddy sections of paths. The Met Office predicts that the UK will in future see wetter winters, up to 30% wetter by 2070, and more frequent and intense weather extremes, including wind and rainfall; since 1998, the UK has seen six of the ten wettest years on record.

- 6.12.3 On the legal process side of the team's work, the Definitive Map Modification Order application waiting list is now again actively being addressed, supported by additional resources. In early 2022 it was announced that DEFRA had decided not to implement the 2026 cut-off date provisions in the CROW Act 2000 for historic evidence based Definitive Map Modification Order applications. It remains to be seen whether this will reduce the level of historic evidence applications submitted, though it would have no effect on the number of user evidence applications made.
- 6.12.4 In another area of legal processes undertaken by the team, demand for Public Path Orders continues to remain high, and this in an area of work which has been severely affected since the beginning of the pandemic. Further, the anticipated implementation of the Deregulation Act 2015 is likely to see DEFRA prioritising implementation of the right to apply for public path diversion and extinguishment orders; currently it is a power of the local authority, rather than a duty. Along with the right to apply is an 8-week determination timeframe for applications which will necessitate a fresh appraisal of resources, policies and procedures to deal with the resultant workload implications.
- 6.12.5 Whilst the implications of the Covid-19 pandemic reduce and society focusses on other challenges, including inflationary pressures, the experiences of the past 2 years have reinforced the vital importance of the PROW 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.

7. Consultation and Engagement

- 7.1 Consultation is not required. The annual report and its content is widely shared with interested parties.

8. Implications

8.1 Legal

- 8.1.1 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.

- 8.1.2 In addition, the impact of the further severe weather 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.

8.2 Finance

- 8.2.1 This report has been prepared based on 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, climate change and demand for legal process, together with increased supplies and services costs. To this end further business cases are being submitted to seek additional resources.

8.3 Policy

- 8.3.1 There are no policy implications foreseen.

8.4 Equality

- 8.4.1 There are no equality implications.

8.5 Human Resources

- 8.5.1 There are no additional human resource implications foreseen.

8.6 Risk Management

- 8.6.1 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 1 claim was registered with the Council's Insurance team.

8.7 Rural Communities

- 8.7.1 There are direct positive effects from the Public Rights of Way network for rural communities, through connectivity, access to services, leisure and active travel.

8.8 Children and Young People/Cared for Children

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

8.9 Public Health

8.9.1 There are direct positive effects from the Public Rights of Way network for public health, through mental and physical health and wellbeing.

8.10 Climate Change

8.10.1 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.

8.10.2 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.

Access to Information	
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

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Appendix 1 – Network Management and Enforcement

Measure of Success	Source	Achievements 2021-22 (2020-21)	Anticipated work programme 2022-23
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"> 230 signs erected across the borough (210) 	<ul style="list-style-type: none"> Installation of additional signs and replacement signs following loss and damage to ensure the requirements of Countryside Act 1968 s 27 are fulfilled.
All PROW clear of obstructions, misleading notices, other hindrances or impediments to use.	HA 1980 s130	<ul style="list-style-type: none"> Enforcement actions saw 0 notices served for copping and 1 for general obstructions (0 and 1, respectively). 0 “7 day” warnings were issued in relation to cropping offences (3). 2 enforcement actions were required to physically remove obstructions on the PROW network (1). 	<ul style="list-style-type: none"> Carry out necessary enforcement work in line with adopted protocols to ensure that the duty set out in Highways Act 1980 is fulfilled.
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"> A routine maintenance programme is in operation, with a total length of 113 km having received routine strimming during the year (165). 	<ul style="list-style-type: none"> The annual maintenance programme will be rationalised across the borough to ensure consistency The development of the input of volunteers in the inspection and maintenance of PROW. 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.
All PROW inspected regularly by or on behalf of the authority.	HA 1980 s58	<ul style="list-style-type: none"> Small scale bridges are inspected every three years, with larger/complex structures inspected 	<ul style="list-style-type: none"> Network Management Officers will continue to hold bi-annual meetings with the relevant representatives of

Measure of Success	Source	Achievements 2021-22 (2020-21)	Anticipated work programme 2022-23
		<p>more regularly by CE Highways. In practice, however, other priorities mean that such proactive work is not always achieved, and 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"> • 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 user group inspection reports. 	<p>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>
<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).</p>	<p>HA 1980 s130</p>	<ul style="list-style-type: none"> • All cropping obstructions were responded to within 4 weeks of reporting. 	<ul style="list-style-type: none"> • Continue to adhere to the response times set out in the current standard.
<p>Waymarks or signposts are provided at necessary locations and are adequate to assist users. Waymarking scheme/initiative in place.</p>	<p>C/side Act 1968 s27</p>	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • Waymarking and signposting will be undertaken as appropriate.

Appendix 1 – Examples of improvement projects delivered

Edleston Bridleway No. 1: Refurbishment of a 55m long raised causeway, using recycled plastic planks on the lower sections for sustainability. Partly funded by the British Horse Society, this route forms part of the popular Nantwich Riverside Loop which offers a circular route for visitors and residents alike, between the town centre, Riverside Park and Shropshire Union Canal.



Before



After

Church Lawton Footpath No. 1

8m bridge replacement on a popular circular walk from nearby residential areas.



Before



After

Lower Withington Footpath No.10: 6m bridge replacement after the collapse of the former bridge.



Before



After

Wybunbury Footpath No. 4: Working with the landowner, 98m of footpath was surfaced with compacted granite and edged with timber to improve access on this popular route around Wybunbury Moss Site of Special Scientific Interest.



Wardle Footpath No. 14: Replacement of a 6m bridge that had been washed off its abutments with an 8m bridge and timber pedestrian gates on either end to replace the previous less-accessible stiles.



Before



After

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:

Barthomley Footpath No.1: part of the long distance promoted Two Saints Way.



Before



After

Gawsworth Footpath No.1: forming part of a route to a local school.



Before



After

Smallwood Footpath No. 11: replacement of 5 stiles with gates, improving access to Brookhouse Moss, a Site of Special Scientific Interest.



Before



After

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RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2021-22

Policy Ref.	ROWIP Ref.	Achievements 2021-22	Ongoing targets 2022-23
H2 H3 S7 S8	Various	Planning Applications, Pre-Applications and Developer Contributions <ul style="list-style-type: none"> • Planning applications and pre-applications commented upon from the perspective of active travel and leisure walking, cycling and horseriding, putting forward ROWIP aspirations. • Developer contributions sought and secured for off-site improvement through section 106 agreements and unilateral undertakings. • Delivery of s106-funded improvement works in Nantwich • Securing improvements to Public Rights of Way and other walking and cycling access routes, to be delivered by developers within sites. 	<ul style="list-style-type: none"> • Ongoing, as arising.
H2 H3 S7 S8	X15	Publicity to promote walking, cycling and horse riding <ul style="list-style-type: none"> • Articles submitted for Connected Communities newsletters, other newsletters and social media feeds for all news items, as arising. • Suggestions for walks, cycle rides and horse riding routes published on www.discovercheshire.co.uk. • Walks and countryside site leaflets distributed via country parks, visitor information centres, libraries and on request to members of the public. • Countryside Ranger Service events promoted via social media channels. 	<ul style="list-style-type: none"> • Work ongoing.
H2 H3 S7 S8	n/a	Rights of Way Consultative Group <ul style="list-style-type: none"> • Twice yearly liaison meetings for PROW team and user group representatives. • Updates provided on long term closures of PROW due to legal / resource issues. • Updates on the impact of the Covid-19 pandemic. • Improvements to the online collection of information on issue reports. • Providing input into the identification of improvements to public rights of way linking the footway/cycleway alongside the A555 A6-Manchester Airport Relief Road. • Updates from local groups. • 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. 	<ul style="list-style-type: none"> • Work ongoing.

RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2021-22

Policy Ref.	ROWIP Ref.	Achievements 2021-22	Ongoing targets 2022-23
<p>H2 H3 S7 S8</p>	<p>n/a</p>	<p><u>Cheshire East Countryside Access Forum</u></p> <ul style="list-style-type: none"> • 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"> ○ continued to hold meetings virutally and elected a new chair and vice chair ○ continued to monitor the Rights of Way Improvement Plan delivery and Public Rights of Way team resources ○ received a presentation from The Trails Trust on the topic of Environmental Land Management Schemes, seeking to improve infrastructure for non-motorised users of rights of way and other paths. The Forum wrote a letter of support for such schemes to DEFRA as a result. ○ lobbied Cheshire East Council to support funding for the work of the PROW and Countryside teams ○ supported and was represented at the Lindow Moss Partnership project aiming to explain the history and value of Lindow Moss in its landscape character setting and proposals for its future protection ○ heard about a ministerial announcement which stated that the Sandstone Ridge had been shortlisted for designation as an Area of Outstanding Natural Beauty (AONB), a proposal that the Forum had supported ○ was attended by HS2 Ltd. Engagement Managers to receive updates on Phase 2a to the south of Crewe and Phase 2b to the north of Crewe. ○ continued to post on the Forum’s FaceBook account in order to promote sharing of information including on responsible access to the countryside. <div data-bbox="566 1066 1476 1394" style="text-align: center;">  </div> <p>The Forum’s logo</p>	<ul style="list-style-type: none"> • Work ongoing.

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Policy Ref.	ROWIP Ref.	Achievements 2021-22	Ongoing targets 2022-23
H3 S7 S8	Various	<p>Road and rail infrastructure schemes</p> <ul style="list-style-type: none"> • 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. • 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. • 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. • 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. • Continued liaison and input to the revision of the Local Transport Plan and delivery of active travel schemes under the Cycling Strategy. <div data-bbox="539 815 994 1273" style="text-align: center;"> </div> <p>Diagram showing the priorities of the Local Transport Plan 2019-2024</p>	<ul style="list-style-type: none"> • Work ongoing.

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Policy Ref.	ROWIP Ref.	Achievements 2021-22	Ongoing targets 2022-23
H2 H3 S7	n/a	<p>Sandbach Footpath No. 11 accessibility improvements</p> <ul style="list-style-type: none"> • Design, scope and delivery of improvements to path furniture and surfacing on 2 locations on a path which links new housing development to services and the town centre • Works involved replacement of stiles with accessible gates, tarmac surfacing and safety barriers • Delivered by Cheshire East Highways through the Sustainable Transport Enhancement Programme (STEPs) • The completed works increases the accessibility of the routes, particularly for those with buggies, pushchairs and wheelchairs and connects them with the highway footway network and onward connections. <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">  <p>Before (©Google 2020)</p> </div> <div style="text-align: center;">  <p>After</p> </div> </div>	<ul style="list-style-type: none"> •

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Policy Ref.	ROWIP Ref.	Achievements 2021-22	Ongoing targets 2022-23
H2 H3 S7	W127	<p>Leighton Footpath No. 2 Sustainable Travel Enhancement Programme (STEPS) project</p> <ul style="list-style-type: none"> • Project to improve accessibility to greenspace and the PROW network • Also improved access to the highway network as an active travel route • Delivered in partnership with developer <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  <p>Before</p> </div> <div style="text-align: center;">  <p>After</p> </div> </div>	<ul style="list-style-type: none"> • Scheme completed

RIGHTS OF WAY IMPROVEMENT PLAN ANNUAL REPORT 2021-22

Policy Ref.	ROWIP Ref.	Achievements 2021-22	Ongoing targets 2022-23
H2 H3 S7	W126	<p>Path between Shrewbridge Road and Wellington Road, Nantwich</p> <ul style="list-style-type: none"> • Delivery of s106 developer-contribution funded scheme • To improve access to an open green space as part of active travel route between housing development and railway station. • Delivered by Cheshire East Highways in partnership with Network Rail. • Improved surfacing to provide a permeable, year-round walking route, greatly enhancing the aesthetics of the route. <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">  <p>Before</p> </div> <div style="text-align: center;">  <p>After</p> </div> </div>	<ul style="list-style-type: none"> • Scheme completed • Aspiration logged for potential extension across park

Appendix 3 - Legal Orders Team

Area of work	Source	Work completed 2021-22 (work completed during 2020-21)	Waiting list / backlog	Anticipated work programme 2022-23
Legal event Orders - no backlog of legal events requiring orders to be made	W&C Act 1981 s53(2) (a) & s53(3) (a)	Legal Event Modification Order not made for all legal events in 2020-21	n/a	Legal Event Modification Order to be made for all legal events in 2022-23
Definitive Map Modification Orders - no backlog of applications to modify the Definitive Map	W&C Act 1981 Sch 14	<ul style="list-style-type: none"> 9 applications under active investigation (5) 3 Schedule 14 applications determined (1) 	48	6 applications determined
Definitive Map Modification Orders - no backlog of decided applications/other cases awaiting Definitive Map Modification Orders	Former Countryside Agency national target	<ul style="list-style-type: none"> 0 Orders confirmed (2) 0 Orders confirmed with modifications (0) 0 refusal to make Order appealed (0) 2 appeals against non-determination within 12 months (1) 0 case referred to Planning Inspectorate (0) 	0	<ul style="list-style-type: none"> Continue to make orders as soon as reasonably practicable. Contested Orders to be submitted to PINs as soon as reasonably practicable. Directed applications/orders to be processed as required, within resource constraints.
Map consolidation - the authority has considered the need to consolidate the Map and take any necessary action	W&C Act 1981 s56	On hold due to resource limitations.	n/a	On hold due to resource limitations.
Definitive Map - no other matter affecting the Definitive Map outstanding	Former Countryside Agency national target	3 anomalies corrected (1)	List of 450 known map anomalies	No progress can be made without additional staff resource, unless resolved through other legal process.
Planning application consultations	HA80 s130	356 (349)	n/a	As required
Temporary & emergency closures	RTRA84	114 (193)	n/a	As required

Area of work	Source	Work completed 2021-22 (work completed during 2020-21)	Waiting list / backlog	Anticipated work programme 2022-23
Public Rights of Way searches	WCA81 s57	143 – direct (93) 35 – following Local Land Charge results (23)	n/a	As required
Landowner deposits, statements and declarations	HA80 s31	7 (19)	n/a	As required
Public Path Orders	HA80	<ul style="list-style-type: none"> • 9 cases in progress (12) • 3 Orders made (1) • 8 Orders confirmed (1) • 0 Orders contested (0) • 2 cases referred to Planning Inspectorate (2) 	67	5 Orders made
Public Path Orders	TCPA90	<ul style="list-style-type: none"> • 16 cases in progress (15) • 0 Orders made (7) • 3 Orders confirmed (7) • 0 Order contested (0) • 0 cases referred to Planning Inspectorate (1) 	1	As required
Deeds of Dedication	LA11	0 (0)	n/a	2
Cycle Tracks Orders	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 Sub Committee

Date of Meeting:	1 st August 2022
Report Title:	Informative Report on Cases of Uncontested Public Path Orders Determined under Delegated Decision
Report of:	Jayne Traverse, Executive Director Place
Report Reference No:	To be confirmed by Democratic Services
Ward(s) Affected:	Brereton Rural

1. Purpose of Report

- 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 Corporate Plan priority "A thriving and sustainable place", and the policies and objectives of the Council's statutory Rights of Way Improvement Plan.

2. Executive Summary

- 2.1. 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.

3. Recommendation/s

- 3.1. That the report be noted.

4. Reasons for Recommendation/s

- 4.1. The report is for information only.

5. Other Options Considered

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

6. Background

6.1 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.

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

6.2.1 Town and Country Planning Act 1990 Section 257
Proposed Diversion of Public Footpath Hulme Walfield No. 3 (Part)

6.3 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.

7. Consultation and Engagement

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

8. Implications of the Recommendations

8.1. Legal

8.1.1. There are no legal implications.

8.2. Finance

8.2.1. There are no financial implications.

8.3. Policy

8.3.1. There are no policy implications.

8.4. Equality

8.4.1. There are no equality implications.

8.5. Human Resources

8.5.1. There are no human resource implications.

8.6. Risk Management

8.6.1. There are no risk management implications.

8.7. Rural Communities

8.7.1. There are no implications for rural communities.

8.8. Implications for Children & Young People

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

8.9. Public Health

8.9.1. 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

Access to Information	
Contact Officer:	Genni Butler, Acting Public Rights of Way Manager genni.butler@cheshireeast.gov.uk 01270 686059
Appendices:	N/a
Background Papers:	https://www.cheshireeast.gov.uk/leisure_culture_and_tourism/public_rights_of_way/path_orders/public-path-order-delegated-decision-reports.aspx

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