

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

**3<sup>rd</sup> July 2023**

### **Public Rights of Way Annual Report 2022-23 and Work Programme 2023-24**

**Report of: Peter Skates, Director of Growth and Enterprise**

**Ward(s) Affected: All**

#### **Purpose of Report**

1. The report aims to inform readers about the work of the Public Rights of Way (PROW) team, including achievements and challenges.
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.

#### **Executive Summary**

3. This report records the achievements of the Council in terms of its PROW functions during the year 2022-23 and sets out the proposed work programme for the year 2023-24. Details are set out in Appendices 1, 2 and 3.

#### **RECOMMENDATIONS**

The Public Rights of Way Sub Committee is recommended to:

1. Note the report.

#### **Background**

4. 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:

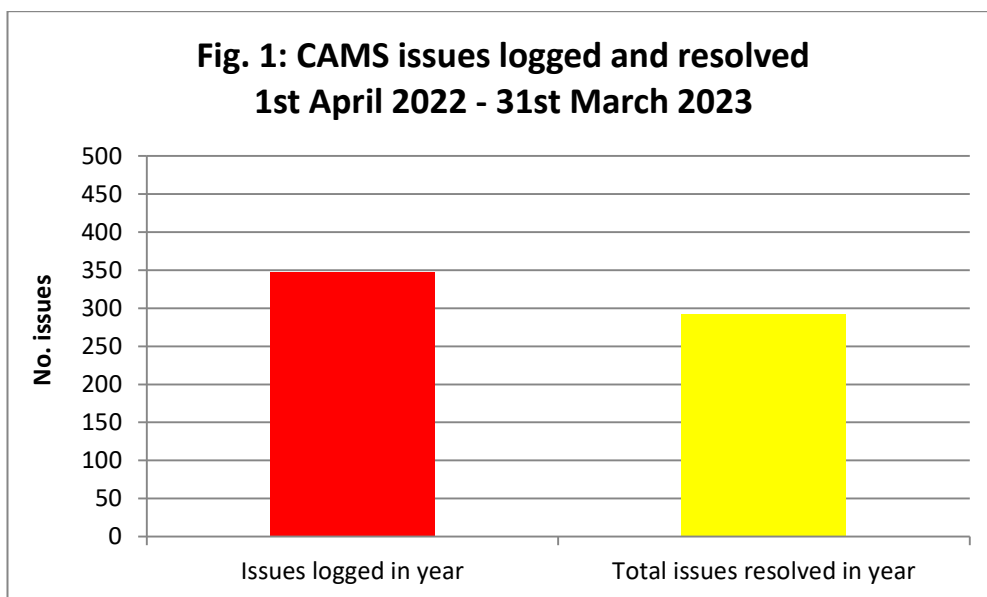
- legally defined,
- properly maintained; and,
- well publicised.

Each area is examined individually below, with the specific achievements of 2022-23, together with the work programme for 2023-24, contained in the relevant Appendices.

## **4.1 Network Management and Enforcement**

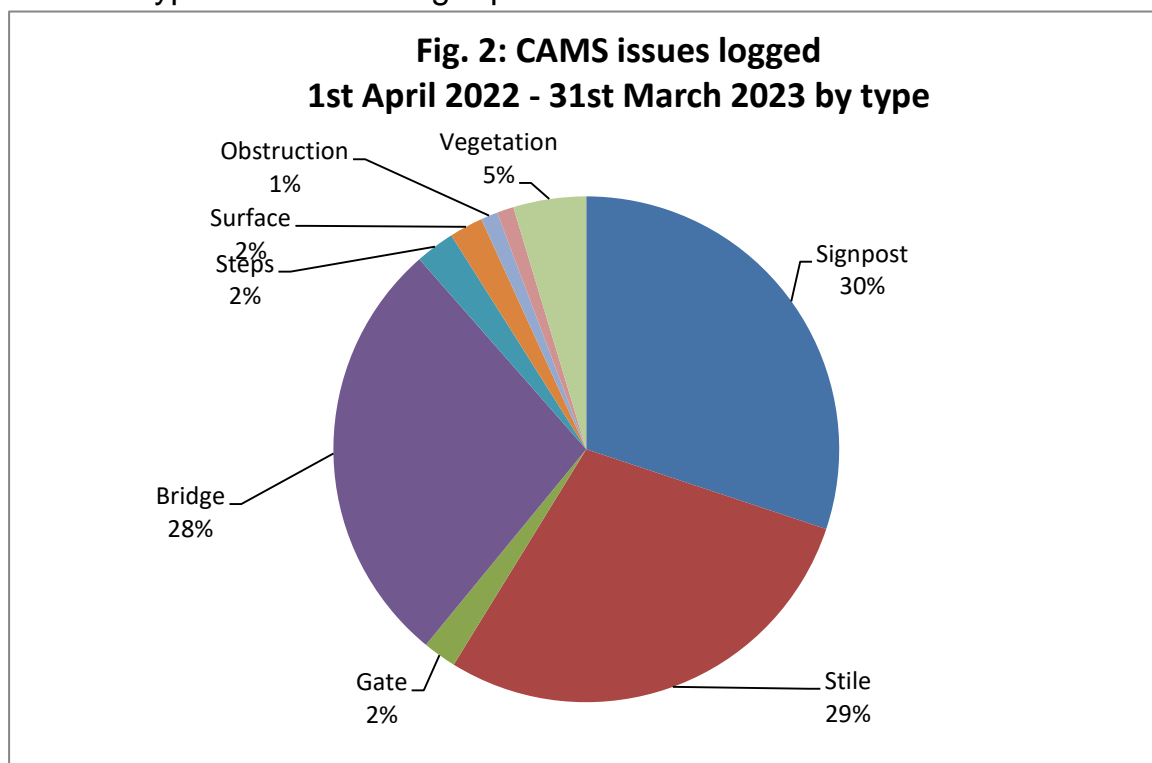
- 4.1.1 Three full time equivalent Network Management and Enforcement Officer positions cover the borough, dealing with the protection and maintenance of the network. Within each area, the Officers are responsible for maintenance and enforcement to remove obstructions and keep the path network available 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. During the year, 2 Officers left the Council to move onto jobs in other local authorities, resulting in a backlog of issues across the network.
- 4.1.2 No cases required the Council to undertake enforcement action during 2022-23, with all other reported obstructions being removed following conversations or exchange of correspondence including legal notice. This indicates the generally good working relationships held with landowners and land managers, who, it is recognised, have many competing pressures and priorities to deal with, particularly following the pandemic's lockdowns which caused additional problems due to increased path usage and dog ownership.
- 4.1.3 The previously reported 3 long-term closures on the network due to legal, environmental, or other reason remain. No further progress has been made in the resolution of 2 these due to staff resources, with the third case one that is in the hands of National Highways. In addition, a further 5 long-term closures are in place due to bridges and/or river bank erosion. More frequent extreme weather events are exacerbating such issues, which are complicated and costly to resolve.

- 4.1.4 528 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 115km of path.
- 4.1.5 348 path problem reports have been logged within the team’s mapping and database software “CAMS” (Countryside Access Management System) during the year 2022-23, 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.
- 4.1.6 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 staff vacancies, we have had to prioritise work and have not been able to resolve all issues within the normal timescales.



- 4.1.7 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.

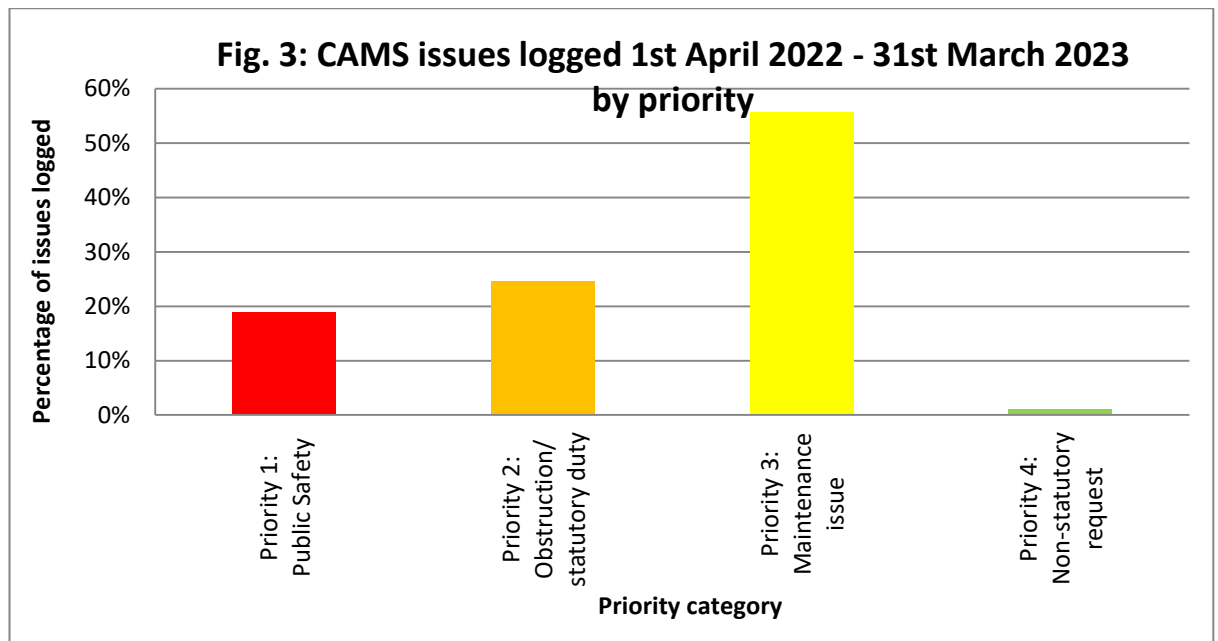


4.1.8 The numbers of items of furniture installed by the team during the year are given in the table below, and record an increase as workstreams continue to recover from the pandemic, despite staff vacancies:

<b>Furniture item</b>	<b>No. installed</b>
Fingerposts	119
Waymark posts	62
Stiles	39
Pedestrian gates	44
Kissing gates	76
Bridleway gates	8
2-in-1 combination gates	7
Handrails	47
Bridges	44
<b>TOTAL</b>	<b>446</b>

4.1.9 Fig. 3 shows a change compared to the previous year in relation to the priority assigned to issues reported: those relating to public safety, obstruction/statutory duty and non-statutory requests all were reduced, whilst those relating to maintenance increased to over 50% of issues logged.

4.1.10 It should be noted that many 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.



4.1.11 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 in order to be 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.

4.1.12 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 9 in the year. Such works are key to delivering improvements which would be hard to justify under current resources, and yet deliver results which our local communities are keen to see. Furthermore, works on the ground and Public Path Order cases can

also resolve known mapping anomalies, of which 3 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, utility companies, landowners, user groups, Parish and Town Councils and other stakeholders with interests in the network.

## **4.2 Path Inspection**

- 4.2.1 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.
- 4.2.2 The previous random survey undertaken annually by Officers has been removed from the work programme in order to focus Officer time on other priorities. Instead, we are grateful for the network survey results undertaken by the East Cheshire Ramblers and Peak and Northern Footpaths Society. In 2022-23, volunteers inspected 59% of the path network in the borough, a proportion far greater than could be achieved in house. The results for class A and B paths (good/no fault and acceptable/fault but not serious) was 94%, a very high statistic. 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. In addition, vacancies of 2 Officer posts on the Network Management team during 2022-23 and into 2023-24 have resulted in a backlog of issues requiring attention.

## **4.3 Technical Administration**

- 4.3.1 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 PROW team and office and assists with tasks for the Countryside Ranger Service.
- 4.3.2 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 2022-23, 43 search requests were processed, a large decrease in demand compared to the previous year.
- 4.3.3 The Officer also processed 310 applications for parking permits and 126 applications for canoe permits on behalf of the Countryside Ranger Service,

- 4.3.4 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 2,124 emails in the year comprising enquiries, requests for legal processes and network issue reports whilst 685 online problem report forms were received about issues on the path network.
- 4.3.5 During the year, the team received and responded to 7 Freedom of Information requests tasks which take large amounts of time to respond to. In addition, the team responded to 3 enquiries from MPs and 33 enquiries received via the Members' Enquiries Service, Chief Executive Office or Leader's office.

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

- 4.4.1 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, although the work of the whole team contributes to the delivery of the ROWIP.
- 4.4.2 However, a number of new projects have been initiated and existing projects already in train have been progressed. In addition, leisure and active travel aspirations have continued to have been fed into strategic development proposals and other partnership work across the borough (see Appendix 2).
- 4.4.3 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.

#### **4.5 Legal Orders Team**

- 4.5.1 By the end of the year, the team comprised seven Officers (5 full-time and 2 part-time). The Legal Orders team 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 application consultations, 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.

- 4.5.2 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. Recruitment to a vacancy has enabled the staffing of the team to return to 3 in number after a number of years of reduced capacity.
- 4.5.3 During 2022-23 the team assessed 311 planning applications in order to ensure the protection and seek enhancement of the PROW network, a slight decrease 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.
- 4.5.4 Additionally, 91 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.
- 4.5.5 The team received and processed 3 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 33 during the year, as well as internal requests for Definitive Map information.
- 4.5.6 With 26 cases in progress, 9 Town and Country Planning Act section 257 Orders to enable development to go ahead were made during



the year and 3 Orders were confirmed. No case files had to be submitted to the Secretary of State for determination following the receipt of objections. These applications take precedence over Highway Act 1980 diversions in the interest of landowners or the public due to the tight timetables involved in the planning and construction process. 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.

- 4.5.7 3 Highways Act 1980 Public Path Orders were made, and 5 Orders confirmed, with 8 cases in progress. No case files had to be submitted to the Secretary of State for determination following the receipt of objections. The waiting list for this area of work now sits at 64 applications, a slight reduction from the previous year.
- 4.5.8 The team also comprises 4 Definitive Map Officers, following the recruitment of an additional Officer to a newly created post, formed to help reduce the waiting list of Definitive Map Modification Order applications. 12 Definitive Map Modification Order application cases were in progress during the year, with 3 Orders being made following determination, and one determination not resulting in an Order.
- 4.5.9 During the year, the Council received no 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.
- 4.5.10 At the end of the 2022-23 year, the waiting list of Definitive Map Modification Order applications stood at 43, a reduction from 48 at the end of the previous year. 1 new application was registered during the year.
- 4.5.11 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 other priorities, this task was not undertaken, and all Orders will be collated into the next Legal Event Order.

## **4.6 Policies**

- 4.6.1 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;
  - 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.

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

- 4.7.1 The primary purpose of the Forum is to provide advice to Cheshire East Borough Council, and other bodies, such as Government Departments, Natural England, the Forestry Commission, English Heritage, Sport England and Town and Parish Councils, on how to make the countryside more accessible and enjoyable for open air recreation, in ways which address social, economic and environmental interests. The Forum consists of volunteer members. Further details on the role of the Forum, the interest areas of its members and its annual reports can be found on the Forum's webpage at [www.cheshireeast.gov.uk/cecaf](http://www.cheshireeast.gov.uk/cecaf).
- 4.7.2 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.

## **4.8 Budget**

- 4.8.1 The annual budget for the years 2022-23 and 2023-24 are set out in the table below. During 2022-23 financial year, as in the previous, the budgets remained as forecast throughout the year, allowing the team to plan spending efficiently.
- 4.8.2 However, income generated during the year continued to be dramatically below target due to the complexity of cases and hence reduced throughput, reduction in demand for searches, and a long term vacancy in the team.
- 4.8.3 Officers have secured a range of external grant funding totaling £13.9k, primarily from user groups, for the improvement of the network, which helps to deliver great value and service for the public.
- 4.8.4 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 was re-procured during the year with an experienced, though limited, field of tenderers. As was anticipated, costs for services increased significantly in line with inflation. 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.
- 4.8.5 The PROW team's core capital budget allocation from the Local Transport Plan remained at a level 20% lower than had been allocated previously, impacting on what was delivered on the network. Further business cases to secure the necessary capital funding are required, with over £700k of investment anticipated to be needed in order to continue current and future repair and replacement schemes on bridges and structures, and this remains a key concern going forwards.
- 4.8.6 In contrast, 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. In 2023-24, additional funding has been secured to cover increases in costs for supplies and services, and also to recruit an additional Network Management Officer to assist with the demands

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

	<b>2022-23</b>	<b>2023-24</b>
<b>Length of PROW network</b>	1952km	1952km
<b>Total PROW revenue budget</b>	£573k	£705k
<b>Network maintenance budget</b>	£62k revenue + £87k capital	£143k revenue + £87k capital
<b>Maintenance budget per PROW km</b>	£76/km	£118/km
<b>Other funding</b>	<ul style="list-style-type: none"> <li>• £48k flooding investment</li> </ul>	<ul style="list-style-type: none"> <li>• £176k Congleton FP28 towpath s106</li> <li>• £18.5k Wilmslow RB87 s106</li> <li>• £93k Alsager FP26 s106</li> <li>• £98k A6MARR PROW Complementary Measures package</li> </ul>

## **4.9 Conclusion**

- 4.9.1 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.
- 4.9.2 This year, the impact of extreme weather events has been limited, yet the vulnerability of the network to such events and the requirement for investment to be able to repair and protect paths and structures is not diminished. The continued high usage of paths and the pressures that puts on assets and the issues caused to landowners, particularly by irresponsible dog owners, adds to the impacts being experienced on the network.
- 4.9.3 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.

- 4.9.4 In another area of legal processes undertaken by the team, demand for Public Path Orders continues to remain high, with perpetual waiting lists.
- 4.9.5 The long-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.
- 4.9.6 Whilst the Covid-19 pandemic lockdowns fade into memories, and society focusses, understandably, on other challenges, the experiences of the past few 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.

## **Consultation and Engagement**

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

## **Reasons for Recommendations**

6. The report is for information only.
7. 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.

## **Other Options Considered**

8. Not applicable.

## **Implications and Comments**

*Monitoring Officer/Legal*

9. There are no direct financial implications.

*Section 151 Officer/Finance*

10. The Public Rights of Way service has a revenue and capital budget which is set during the Medium Term Financial Strategy (MTFS)

process. It has also accessed additional funding during 2022-23 which has been used for local path improvements and investment in paths and bridges following flooding and river erosion events.

### *Policy*

11. 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.

#### **A thriving and sustainable place**

- A great place for people to live, work and visit
- Welcoming, safe and clean neighbourhoods
- Reduce impact on the environment
- A transport network that is safe and promotes active travel
- Thriving urban and rural economies with opportunities for all
- Be a carbon neutral council by 2025

### *Equality, Diversity and Inclusion*

12. There are no direct implications for *Equality, Diversity and Inclusion*.

### *Human Resources*

13. There are no direct implications for Human Resources.

### *Risk Management*

14. 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 no claims were registered with the Council’s Insurance team.

### *Rural Communities*

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

### *Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)*

16. There are no direct implications for Children and Young People

### *Public Health*

17. The recommendations are anticipated to offer a positive overall impact on the health and wellbeing of Cheshire East residents.

*Climate Change*

18. 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.
19. The work of the Public Rights of Way team encourages a reduction in carbon emissions and increased environmental sustainability by reducing energy consumption and promoting healthy lifestyles through active travel.

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