

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 27 January 2011
Report of: Borough Solicitor
Subject/Title: Public Speaking at Public Rights of Way Committee

1.0 Report Summary

- 1.1 This report considers issues surrounding public question/speaking at the Public Rights of Way Committee.

2.0 Recommendation

- 2.1 That the Constitution Committee recommend to Council that Procedure Rule No. 35 be disapplied in respect of for the Public Rights of Way Committee and that the proposed public speaking arrangements for the Public Right of Way Committee, as detailed in Appendix 1 to the Report, be approved and the Constitution amended accordingly.

3.0 Reasons for Recommendations

- 3.1 The waiving of Procedure Rules No for the Public Rights of Way Committee and the adoption of the Procedure outlined in Appendix 1 would enable members of the public to address the Public Rights of Way Committee when the relevant application was being discussed.
- 3.2 This would allow the Committee to consider any issues raised by the speakers when dealing with the application and for Officers to respond to these issues.

4.0 Wards Affected

- 4.1 All Wards

5.0 Local Ward Members

- 5.1 All Ward Members

6.0 Policy Implications including - Climate change - Health

- 6.1 There are no direct policy implications arising from the proposals contained in the report.

7.0 Financial Implications

- 7.1 None can be identified.

8.0 Legal Implications

- 8.1 The Public Rights of Way Committee is acting in a quasi-judicial mode when considering applications for the diversion of public footpaths under section 257 of the Town and Country Planning Act and section 119 of the Highways Act 1980. The Committee has to ensure that the legal tests for making and confirming an Order are satisfied for each application.

9.0 Risk Management

- 9.1 Amending the public speaking rule will give members of the public the opportunity to present direct to the Committee the issues they wish to raise and ensure that the Committee gives proper consideration to these issues.

10.0 Background and Options

- 10.1 Public speaking at the Public Rights of Way Committee is currently in accordance with Procedure Rules No. 35, which allows a total period of 10 minutes for members of the public to address the Committee on any matter relevant to the work of the Committee. On the Agenda, the Public Speaking Time/Open Session is held before any of the applications are considered by the Committee.
- 10.2 The Public Rights of Way Committee deals with up to 10 applications at each meeting, with any speakers having to address the Committee before any of these applications are considered by the Committee. The 10 minutes must be shared between all speakers, so little time is available for representation. Also members of the public are not able to make representations at the time when the matter in question is under consideration.
- 10.3 It is therefore proposed that Procedure Rules No. 35 be disapplied in respect of the Public Rights of Way Committee and the Procedure outlined in Appendix 1 be adopted, which would enable members of the public to address the Public Rights of Way Committee when the relevant application was being discussed.
- 10.4 This would allow the Committee to consider any issues raised by the speakers when dealing with the application and for Officers to respond to these issues.
- 10.5 The proposed Public Speaking Rules are based on those used by other local authorities'; examples of these are attached at Appendix 2.
- 10.6 This change would also bring the Public Rights of Way Committee in line with the Council's other regulatory committees, as the Planning and Licensing Committees already have public speaking rules that allow members of the

public to address the Committee when considering each individual application on the agenda.

- 10.7 The proposed Public Speaking Procedure was trialled at the meeting of the Public Rights of Way Committee on 13 December 2010. This change proved to be a benefit to the conduct of the meeting.

11.0 Access to Information

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

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