

# **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Public Rights of Way Committee**  
held on Thursday, 17th March, 2011 in Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

## **PRESENT**

Councillor S Wilkinson (Chairman)  
Councillor R Walker (Vice-Chairman)

Councillors D J Cannon, R Cartlidge, W S Davies and J Wray

## **OFFICERS PRESENT**

Mark Wheelton, Leisure Services and Greenspaces Manager  
Mike Taylor, Greenspace Manager  
Genni Butler, Countryside Access Development Officer  
Hannah Flannery, Definitive Map Officer  
Clare Hibbert, Definitive Map Officer  
Marianne Nixon, Public Path Orders Officer  
Robert Wade, Legal Services Development Team Manager  
Carol Jones, Democratic Services Officer

## **41 CHAIRMAN'S OPENING REMARKS**

The Committee recorded its thanks to Amy Rushton, Rights of Way Manager, who had recently left the Authority. She had been an excellent Officer who had made a valuable contribution to the work of the Committee.

## **42 APOLOGIES FOR ABSENCE**

Apologies were received from Councillor R Bailey.

## **43 DECLARATIONS OF INTEREST**

Councillor D Cannon declared a personal interest in the meeting proceedings by virtue of his membership of the PALLGO Rambling Club in Crewe and Nantwich. In accordance with the code of conduct, he remained in the meeting during consideration of all items of business.

## **44 MINUTES OF PREVIOUS MEETING**

### **RESOLVED:**

That the minutes of the meeting held on 13 December 2010 be approved as a correct record and signed by the Chairman.

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

There was one member of the public in attendance and they did not wish to address the Committee.

#### **46 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO 52, PARISH OF BOLLINGTON AND NOS 35 (PART) AND 48, PARISH OF ADLINGTON**

The Committee received a report which detailed an application from Mr and Mrs S Wall, Tip Farm, Lodge Brow, Bollington (the applicant) requesting the Council make an Order under section 119 of the Highways Act 1980 to divert Public Footpath No.52 in the parish of Bollington and Public Footpaths No.35 (part) and 48 in the parish of Adlington.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path.

The applicant owned the land over which the current paths and proposed diversions ran. The sections of public footpath to be diverted lead to and ran through the property of the applicant. To provide security and privacy to the applicant's property, the proposed diversion route would take the path users away from the house and outbuildings and would allow better land management in relation to livestock.

The proposed route would be of benefit to the public as it would link Adlington Footpath No.35 with Adlington Footpath No.36, increasing user safety by providing a path parallel to but away from the narrow road – Lodge Brow. Also it would be more accessible to users since there would be no barriers.

The Committee noted that no objections had been received to the proposals and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpaths would be of benefit to the landowners, particularly in terms of privacy and security. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

#### **RESOLVED:**

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert Public Footpath No. 52 Parish of Bollington and Public Footpaths No.35 (part) and 48, Parish of Adlington by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/040 on the grounds that it is expedient in the interests of the owners of the land crossed by the path.

- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 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.

**47 HIGHWAYS ACT 1980 - SECTION 119: PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 32 (PART), PARISH OF WILDBOARCLOUGH AND PUBLIC FOOTPATH NO. 23 (PART), PARISH OF SUTTON**

The Committee received a report which detailed an investigation by the Public Rights of Way Team into the alignment of Footpath No. 32, Wildboarclough and Footpath No.23, Sutton and proposed that an Order be made under Section 119 of the Highways Act 1980 to divert part of the footpaths to correct the situation on the ground.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The section of Public Footpath No.32 Wildboarclough and Public Footpath No.23 Sutton (265 metres in length) to be diverted ran across sloping terrain over several fields of upland pasture. It crossed a stone wall and stream just to the north of the parish boundary where there appears never to have been a stile/bridge to facilitate the path. The length of footpath appears never to have been available to the public and it may be that it was poorly drafted onto the Definitive Map at the time of the original surveys in the early 1950s.

As a consequence of the difficulty of the definitive routes a permissive line had developed on the ground. This route was the proposed diversion and followed more level terrain along the valley. Mr R May owned the land over which the current path and proposed path ran and had given his agreement to the proposals for diversion.

The Committee noted that no objections had been received to the proposal and considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpath would be of benefit to the public, particularly in terms of accessibility. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

## **RESOLVED:**

- 1 That Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.32 Wildboarclough and part of Public Footpath No.23 Sutton by creating new sections of public footpath and extinguishing the current paths as illustrated on Plan No.HA/034 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 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.

### **48 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PART OF PUBLIC FOOTPATH NO. 8 IN THE PARISH OF RAINOW**

The Committee received a report which detailed a proposal to request the Council to make an Order under section 119 of the Highways Act 1980 to divert Public Footpath No.8 in the parish of Rainow to resolve long-standing problems with the footpath and to create a more accessible, usable route on the ground for the path users.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The existing definitive line of Public Footpath No.8 Rainow had been unavailable for numerous years. It was difficult for the public to use due to the nature of the terrain and it was possible that the path was inaccurately recorded on the Definitive Map and Statement in the first place.

The current line of the footpath ran in a northerly direction across a field and then through the garden to the rear of Burton Spring Farm and passed in extremely close proximity to the house, directly alongside numerous windows of the property. This section of the footpath was also very narrow, approximately 1metre, and enclosed on both sides by the wall of the house on the eastern side and a retaining garden wall to the west of the property.

As the footpath leaves the garden there was a steep bank to climb with a gradient of approximately 1:2. It then crossed another field with a cross slope which was difficult to traverse due to its gradient, which was

approximately 1:4. As it reached Bank Lane there was another steep bank for users to descend. The definitive line was obstructed by walls and fences in a number of places. Re-instating the footpath on the original alignment would be expensive for the Authorities maintenance budget, three stiles or gates would be required as well as approximately 15 steps up the bank leading from the garden.

The proposed route ran in a north easterly direction across a field to the east of Burton Springs Farm until it reached Bank Lane. There were no steep sections for walkers to traverse and it offered a level surface. It also required only one kissing gate providing a much more easily accessible route for walkers. The proposed route would be unenclosed with a width of two metres and would offer better open views of the surrounding countryside. Taking walkers away from Burton Springs Farm would allow the landowner to improve the privacy and security of their property considerably.

Mr Christopher Leek owned the land over which the current route and the proposed route ran and he had provided written consent and support for the proposal.

The Committee noted that no objections had been received and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpath would create a more accessible, usable footpath, with a level surface, less path furniture and an increased width. It would also provide better views of the surrounding countryside for walkers and lead to savings for the Authority's maintenance budget. In addition, moving the footpath away from Burton Springs Farm would allow the landowner to improve the privacy and security of the property. The diversion would resolve long-standing problems with the footpath and create a more accessible, usable route on the ground for the public. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

**RESOLVED:**

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.8 in the parish of Rainow by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/067 on the grounds that it is expedient in the interests of the public and in the interest of the owners of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.

- 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.

**49 HIGHWAYS ACT 1980 - SECTION 119 - APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO 9 (PART), PARISH OF SUTTON**

The Committee considered a report which detailed an application from Miss W Dignan, Higher Ridgegate Farm, Clarke Lane, Langley (the applicant) requesting the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.39 in the parish of Sutton.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path.

The current path ran across land owned by the applicant. The section of Public Footpath No.9 Sutton to be diverted ran through the property of the applicant and through pasture fields, giving rise to concerns relating to land management.

The proposed new route would pass through a gap at point C on Plan No.HA/043 from Clarke Lane and continue in a northerly direction alongside a wall to the east, to reach a kissing gate. This section would be fenced to a width of 2.5m. Past the kissing gate the route would descend in north-westerly direction to reach the current termination at point B. Apart from the fenced section, the new route would have a width of 2m and would not be enclosed on either side. The proposed route would be shorter by 71 metres, less obstructed – one kissing gate instead of three field gates, provide better views across the open countryside and would take path users away from livestock on the applicant's property and separate them from livestock on adjacent land owned by the applicant.

The Committee noted that no objections had been received and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpath would be of considerable benefit to the landowner in terms of improving land management. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

**RESOLVED:**

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.9 Sutton by creating a new section

of public footpath and extinguishing the current path as illustrated on Plan No.HA/043 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.

- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 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.

**50 HIGHWAYS ACT 1980 - SECTION 119 - PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 25 (PART), PARISH OF KETTLESHULME**

The Committee received a report which detailed an application from Mr D Ketley, Dungle Farm (the applicant) requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.25 in the parish of Kettleshulme.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The alignment of Footpath No.25 Kettleshulme (part) had been the subject of previous investigations by Cheshire County Council in the early 1990's who considered that the original recording of this section of the path was probably an anomaly and that a Definitive Map Modification Order might be necessary to rectify the situation. In the meantime a permissive path was put on the ground that has been used by the public. The legal alignment had never been solved, hence the application by Mr Ketley.

The applicant owned the land over which the current path and the proposed path ran. The section of Public Footpath No.25 Kettleshulme to be diverted ran across steeply sloping terrain close to the rear of Dunge Farm and at the height of the first story window. This raised serious concerns with regards to privacy and security for the landowner and provided a very steep surface for walkers that was difficult to negotiate and liable to slippage.

Following investigation by Cheshire County Council and in lieu of a modification order being made, the landowner with the Council's agreement signed a permissive route which ran to the west and front of the farm and this route was now proposed as the diversion. It followed the driveway to the property for a short distance then crossed an open yard leading onto a grassed/stoned track that skirted the immediate property boundary and offered an attractive aspect over a small valley of rhododendron bushes. This was part of the Dunge Valley Gardens which

were open to the public during the summer season. There was a small sleeper footbridge on the route over Hodgel Brook and kissing gates would be installed at two points where there were currently stiles.

The Committee noted that no objections had been received to the proposals and considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpath would be of benefit to the landowner in terms of privacy and security and to the public in terms of accessibility and convenience. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

**RESOLVED:**

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.25 Kettleshulme by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/035 on the grounds that it is expedient in the interests of the owner of the land crossed by the path and the public.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 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.

**51 HIGHWAYS ACT 1980 - SECTION 119 - APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO 39 (PART), PARISH OF WINCLE**

The Committee received a report which detailed an application from Mr E Stubbs, Tolls Farm, Danebridge, Nr Macclesfield (the applicant), requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.38 in the parish of Wincle.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make an Order if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The current path ran across land owned by the applicant and neighbouring landowners Mr & Mrs Blythe, Pear Tree Cottage; Mr A Hine, Mr D Riley, Mr F Cocker and Mr & Mrs N Heald who owned cottages 1, 2, 3 and 4

respectively along Chapmans Row. All adjacent landowners had registered their agreement to the proposed diversion. The proposed diversion ran across land owned solely by the applicant.

The section to Public Footpath No. 39 Winkle to be diverted ran through the property of the applicant, through the property of adjacent Pear Tree Cottage and between the houses and gardens of the properties along Chapmans Row, giving rise to concerns relating to security, safety and privacy.

The proposed new route would follow a south westerly direction along a semi-surfaced track through a pasture field, bypassing a cattle grid by entering the field via a field gate and then rejoining the track. The new route would have a recorded width of 2m and would not be enclosed on either side. Of benefit to the public the new route would be significantly more enjoyable as it would pass through a more open and scenic landscape bring users closer to the River Dane and taking away the need to pass between houses and corresponding gardens. The new route would be shorter in length and easier to navigate having only one surface type and was relatively flat and unobstructed except for a field gate.

The Committee noted that no objections had been received to the proposal and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpath would be of considerable benefit to the landowner in terms of enhancing the security and privacy of their property. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

**RESOLVED:**

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No. 39 Winkle by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/044 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections with the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 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.

**52 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PARTS OF PUBLIC FOOTPATH NOS 7, 8 AND 26, PARISH OF MOTTRAM ST ANDREW**

The Committee received a report detailing an application from Mr and Mrs Holland, Woodside Cottage, Smithy Lane, Mottram St Andrew, Macclesfield (the applicant), requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert parts of Public Footpaths No 7, 8 and 26 in the parish of Mottram St Andrew.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path.

The current paths and the provided diversion ran across land owned by the applicant and neighbouring landowners, Mr Carden of Woodside Farm, Smithy Lane, Mottram St Andrew and De Vere Hotels Ltd, owners of Mottram Hall, Wilmslow Road, Mottram St Andrew. Both adjacent landowners had registered their agreement to the proposed diversion.

The sections of Public Footpaths No. 7, 8 and 26 Mottram St Andrew to be diverted ran through the property of the landowner giving rise to concerns relating to security and safety. The landowner also had planning permission to convert some of the outbuildings into living accommodation, adding to the need for increased privacy and security at the property.

The new route would be significantly more enjoyable as it would pass through more open and scenic landscape and would have fewer barriers – two kissing gates as opposed to three stiles, a pedestrian gate and a field gate. Also it would be less intimidating for users who were currently forced to pass between the buildings of Woodside Cottage and the busy livery yard at Woodside Farm.

The Alderely Edge Wilmslow and District Footpath Preservation Society had informed that Council that a claim had been submitted in April 2008 to upgrade Mottram St Andrew Footpath No.26 to a restricted byway (Definitive Map Modification Order No.MA/5/240). The applicants were aware of the implications of this claim in relation to the proposed diversion of part of this path and had instructed the Council to continue.

The Committee noted that no objections had been received and considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpaths would be of considerable benefit to the landowner in terms of enhancing security and privacy of their property. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

## **RESOLVED:**

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert parts of Public Footpaths No.7, 8 and 26 Mottram St Andrew by creating a new section of public footpath and extinguishing the current paths as illustrated on Plan No.HA/041 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 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.

### **53 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 14 (PART), PARISH OF WILDBOARCLOUGH**

The Committee received a report which detailed an application from Mr and Mrs J Pollard, Goosetree Farm, Wildboarclough, Macclesfield (the applicant), requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.14 in the parish of Wildboarclough.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The applicant owned the land over which the current path and the proposed diversion ran. The section of Public Footpath No.14 Wildboarclough to be diverted ran through the property of the landowner giving rise to concerns relating to security and safety. The proposed diversion route would take path users away from Goosetree Farm along a more direct route that was already available as a permissive path.

Starting a point A on Plan No.HA/039, the proposed new route would enter a field via a kissing gate and continue across the field in a south easterly direction close to the western field boundary to terminate at point D. The new route would have a recorded width of 2m and would not be enclosed on either side. The route was already used by walkers as a permissive path and afforded pleasant, open views of the countryside. The applicant would carry out surfacing improvements on the route by installing steps where necessary, building up the surface with stone where it was soft, and by removing some of the large stones in the surface of the route.

The Committee noted that no objections had been received to the proposals and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpath would be of considerable benefit to the landowner in terms of enhancing security and privacy of the property. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

**RESOLVED:**

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.14 Wildboarclough by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/039 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**54 HIGHWAYS ACT 1980 -SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO 128 (PART), PARISH OF WILMSLOW**

The Committee considered a report detailing an application from Mr R Hurst, Dairy House Farm, Dairy House Lane, Woodford, SK7 1RA (the applicant) requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.128 in the parish of Wilmslow.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make an Order if it appeared to the Council to be expedient to do so in the interests of the public or the lessee or occupier of the land crossed by the path.

The current path ran across land owned by the applicant. The section of Public Footpath No.128 to be diverted ran to and through the busy working yard of Dairy House Farm, giving rise to concerns relating to security, safety and privacy.

The proposed new route would leave the metalled track at point A on Plan HA/042 to enter the adjacent western field via a gap. It would then

continue westerly along the northern field boundary and then southerly along the western field boundary to terminate at the south west field corner at point C on Plan HA/042. The new route would have a width of 2m, a length of 162m and would not be enclosed on either side. The new route would take path users away from the busy working yard and would be unobstructed.

The Ramblers Association had suggested that the surface of the proposed route across the field should be treated with stone. The Council's position was that as the current route to be diverted crossed pasture, and then continued into pasture until its termination, it would not be reasonable or necessary to expect the applicant to provide a stone surface for the new route. It was reported at the meeting that the Ramblers Association had now withdrawn their request and had accepted the Council's position.

The Committee noted that there were no outstanding objections and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpath would be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

**RESOLVED:**

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.128 Wilmslow by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/042 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 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.

**55 CHESHIRE EAST RIGHTS OF WAY IMPROVEMENT PLAN 2011-2026:  
NOTIFICATION OF IMPLEMENTATION PLAN 2011-2015**

The Committee received a report on the first four year implementation plan under the Cheshire East Rights of Way Improvement Plan (ROWIP) 2011-2026.

The ROWIP had to set out a statement of action detailing how the authority would implement improvements. This would be set out in four-

yearly implementation plans. A copy of the first one for Cheshire East under the ROWIP 2011-2026 was attached as Appendix 1 to the report.

Suggestions for improvement projects had been submitted during the development of the ROWIP by officers, member of the public, user groups and community groups. These suggestions had been prioritised by the methodology selected by the Cheshire Local Access Forum. This methodology took into account the benefits of the scheme in the context of local need.

The highest priority suggestions had been selected for each category of suggestion: walking, cycling, horse riding, transport related and cross-cutting projects. It was intended that these suggestions be investigated and developed first, with the acknowledgement that some may not be feasible and other opportunities may arise through partnerships and developments that result in alternative projects being taken forward.

**RESOLVED:**

That the Improvement Plan 2011-2015 of the Cheshire East Rights of Way Improvement Plan 2011-2026 be noted.

**56 PUBLIC INQUIRY TO DETERMINE DEFINITIVE MAP MODIFICATION ORDER - POYNTON WITH WORTH FOOTPATH NOS 92, 93 AND 94**

The Committee received an information report on a recent public inquiry to determine Definitive Map Modification Order – Poynton with Worth Footpaths No. 92, 93 and 94, and its outcome.

An application had been made to Cheshire County Council in 2002 for three public footpaths to be added to the Definitive Map across land constituting a recreation ground called Brecon Park in Poynton. Cheshire County Council considered this application at its Rights of Way Committee in July 2007, when the making of an order was approved and a Modification Order to add these footpaths was made on 23 October 2007.

Poynton with Worth Town Council submitted a formal objection to the order, which was not withdrawn, based on the fact that there was no physical evidence of use of the paths across the grassed fields and that bye laws renewed in 2006 implemented opening times to the Park.

Since the Order was made, Local Government Reorganisation transferred responsibility for seeking resolution to this Order to Cheshire East Council. An inquiry was held on 25 January 2011 and the Inspector heard evidence from the Clare Hibbert, Definitive Map Office, nine witnesses and the applicant in support of the Order and from Councillor Howard Murray, Poynton with Worth Town Council in opposition.

The evidence in support was that under section 31 of the Highways Act 1980, the ways had been used for a full period of 20 years without force,

secrecy or permission and without sufficient evidence to indicate that there had been no intention to dedicate during that period. If these criteria were fulfilled then the way was deemed to have been dedicated.

The evidence in opposition to the Order was that there was not sufficient evidence of use as there was no physical line of tread on the ground to indicate a used line and that bye laws restricted the times of entry to the ground. During the course of questioning Councillor Murray accepted that, as far as he was aware, access to Brecon Park had never been subject to closing times. These times had never been made public on notices or signs around the Park.

The Inspector issues a decision letter on 4 February 2011 in which the Order was confirmed. The balance of the argument weighed in favour of the paths having been deemed to have been dedicated. The Council had advertised the confirmation Order and must allow 42 days for a High Court challenge to be made. This period expired on 8 April 2011.

**RESOLVED:**

That the outcome of the Public Inquiry be noted.

**57 CHAIRMAN'S CLOSING REMARKS**

On behalf of the Committee, the Chairman expressed thanks to Councillor Rodney Walker, Vice-Chairman, for his valuable contribution to the work of the Committee. Councillor Walker was not standing as a candidate in the forthcoming elections.

The meeting commenced at 2.00 pm and concluded at 3.10 pm

Councillor S Wilkinson (Chairman)