

# **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Public Rights of Way Committee**  
held on Monday, 7th December, 2015 at Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

## **PRESENT**

Councillor D Flude (Vice-Chair, in the Chair)

Councillors Rhoda Bailey, W S Davies, S Edgar, T Fox and J Wray

## **Officers**

Mike Taylor, Public Rights of Way Manager

Genni Butler, Countryside Access Development Officer

Jennifer Tench, Definitive Map Officer

Clare Hibbert, Definitive Map Officer

Marianne Nixon, Public Path Orders Officer

Patricia Evans, Lawyer- Highway

Neil Weeks, Planning and Highways Lawyer

Rachel Graves, Democratic Services Officer

## **11 APOLOGIES FOR ABSENCE**

Apologies were received from Councillors M Hardy and M Deakin.

## **12 DECLARATIONS OF INTEREST**

In the interest of openness Councillor S Edgar declared that Public Footpath No.11 parish of Basford was within his Ward.

## **13 MINUTES OF PREVIOUS MEETING**

### **RESOLVED:**

That the minutes of the meeting held on 15 June 2015 be confirmed as a correct record and signed by the Chairman.

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

No members of the public present wished to speak.

## **15 VILLAGE GREEN APPLICATION - LAND AT WOOD PARK, ALSAGER, CHESHIRE**

The Committee considered the report of the Independent Person on the application to register land know as Wood Park, Alsager as a village green.

The Public Rights of Way Committee at its meeting on 16 March 2015 had resolved:

*“The Head of Legal Services be authorised to appoint an independent expert to consider the application on the basis of written representations and provide a report.*

*The Head of Legal Services be given delegated authority to determine if a non-statutory public inquiry should take place upon the recommendation of the independent expert, after consulting the Chairman of this Committee.”*

In April 2015, James Marwick, Barrister of Trinity Chambers, Newcastle upon Tyne was provided with all necessary documentation and instructed to consider the Application. Mr Marwick advised that the legal question of whether the use of the land was ‘by right’ or ‘as of right’ was likely to be the determinative of the application. He advised that the application could be dealt with by way of written representations and invited the parties to submit further evidence representations and replies on the question of whether use was ‘as of right’. Further evidence, responses and replies were passed to Mr Marwick for consideration.

In accordance with instructions Mr Marwick produced a report in which he concluded that:

“Para 26 - It follows that the application must fail, in my view, because any user of the land has been “by right” and not “as of right” at material times. The Applicant must prove his case on the balance of probabilities. In my view, he has no real prospect of success of doing so in relation to this issue.

Para 27 - The Applicant cited a number of examples such as the user by motor cyclists of the land which may fall outside use ‘by right’. Such user falls to be discounted from the test as it would not amount to a user for lawful sports and pastimes as regards the activities undertaken. To put it another way, it is very difficult to envisage any users by members of the public for recreational use of the land which would not be use under the statutory right but user “as of right” for lawful sports and pastimes under the Commons Act 2006”

Para 29 - Suffice it to say, that the Land owners actions prima facie are consistent with the Land being held as open space for public recreational use and further weigh against any user being “as of right.”

The report was circulated to the parties, who were invited to submit any further representations by 23 October 2015. Any representations will be provided to the Committee by the way of update.

Members of the Committee considered the report of the Independent Person and during the discussions asked questions about the definition of

“by right” and “as of right”, allocation of the land as open space and commented on the scale of development in Alsager.

The Committee then consider the recommendation of the report and unanimous

**RESOLVED:**

That the report of the Independent Person – Mr James Marwick, be accepted and that the application to register the land at Wood Park, Alsager, as a village green be rejected for the reasons as stated in the Independent Person’s report.

**16 WILDLIFE AND COUNTRYSIDE ACT 1981 PART III, SECTION 53 - APPLICATION TO UPGRADE PUBLIC FOOTPATH NOS. 71 & 11(PART) CONGLETON TO BRIDLEWAYS.**

The Committee received a report which detailed an investigation into an application for the upgrading of Public Footpath Nos. 71 and 11 (part) Congleton to Bridleway.

Under Section 53 of the Wildlife and Countryside Act 1981, the Borough Council had a duty, as surveying authority, to keep the Definitive Map and Statement under continuous review. Section 53 (3)(c) allowed the Authority to act on the discovery of evidence that suggests that the Definitive Map and Statement needed to be amended. The Authority must investigate and determine the evidence and decide on the outcome whether to make a Definitive Map Modification Order. The event relevant to the application was section 53(3)(c)(ii), which required modification of the map by change of status of a right of way:

“(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.”

Where the evidence in support of the application is user evidence, section 31(1) of the Highways Act 1980 applied:-

“Where a way..... had 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.”

Section 31(2) states that “the 20 years is calculated retrospectively from the date when the right of the public to use the way is brought into question.”

The application had been submitted in November 2007 by Mrs P Amies on behalf of the Border Bridleway Association to amend the Definitive Map and Statement by upgrading two footpaths in Congleton to bridleways. The application was based on user evidence; a total of 14 user evidence forms were submitted with the application.

A detailed investigation of all the evidence submitted with the application had been undertaken, together with additional research. In addition to the user evidence, an investigation of the available historical documentation had been undertaken to establish whether the claimed route had an earlier origin.

From the historical documentation investigation it was found that Footpath No.71 Congleton had been created in 1958 as an alternative route to Footpath No.10, which was stopped up in 1957 and 1958 for the purposes of quarrying. The Tithe Map of Astbury dated 1845 showed a dotted line on a route very similar to that of Footpath No.11 and the original line of Footpath No.10 is also shown. The Ordnance Survey Maps of 1872, 1898 and 1909 showed the line of Footpath Nos.10 and 11. Both Footpaths were identified on the Parish Walking Survey plan for Congleton carried out in the early 1950s.

A total of fourteen user evidence forms had been submitted, nine of which claimed to have ridden the routes on a horse; three had cycled and two had used the route on both horseback and cycle. Twelve had used the whole of the claimed routes (A-B-C and B-C on Plan No. WCA/011) and two witnesses had only used route A-B-C.

A member of the Border Bridleway Association had been challenged in 2007 while using the route on horseback and therefore the relevant twenty year period to be considered was 1987 to 2007. All fourteen witnesses had provided evidence of use during this period, with three claiming use for the full twenty year period and a further two had used it for nineteen of those years.

Ten of the witnesses were interviewed. All described the route in the same way, between two hedges from Astbury Street; then along the outside edge of the playing fields or out onto Bank Fields Crescent. Two witnesses reported that they had been stopped or challenged but these had not been until 2007.

Consultation letters had been sent to local Councillors, Congleton Town Council, adjacent landowners, users groups and statutory consultees. The Council's Assets department commented that the surface of the route would require improving to cater for horse and cyclists. The Astbury Mere Trust had objected to the application on safety grounds, stating that Footpath No.11 was too narrow for pedestrians and horses to pass. The Countryside Range at Astbury Mere Country Park stated he had challenged horse riders on these paths, particularly Footpath No.71, but not cyclists. Local residents were concerned on safety issues, particularly

the width of the path. The Peak and Northern Footpath Society had commented that the path was too narrow in places to enable horses and walkers to pass each other.

The report concluded that a decision on the application had to be made on the basis of user evidence. During the relevant period 1987-2007, from user evidence forms and witnesses interviews showed that both routes were being used on a fairly regular basis by horse riders and cyclists. Despite the Countryside Ranger stating he infrequently challenged horse riders, none of the witnesses had been challenged until 2007. There was sufficient user evidence to support the allegation that a bridleway subsisted along the routes A-B-D and B-C on Plan No. WCA/011.

The Committee considered the historical and user evidence outlined in the report and the Definitive Map Officer's conclusions and considered that there was sufficient user evidence to support the existence of public bridleway rights along the route A-B-D and B-C. The Committee considered that, on the balance of probabilities, the requirements of Section 53(3)(c)(ii) had been met in relation to bridleway rights and the Definitive Map and Statement should be modified to show the route as a Public Bridleway.

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 Nos. 71 and 11 (part), Congleton to bridleway along the route shown between points A-B-D and B-C on Plan Number WCA/011.
- 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 Orders be confirmed in exercise of the power conferred on the Council by the said Acts.
- 3 In the event of objections to the Orders being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**17 HIGHWAYS ACT 1980 SECTION 119 - APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 11, PARISH OF BASFORD**

The Committee considered a report which detailed an application from Mr P Heslop of Goodman Real Estate (UK) Ltd requesting the Council to make an Order to divert part of Public Footpath No.11 in the parish of Basford.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make an Order to divert a public footpath 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 land over which the current path and the proposed diversion ran belonged to the Applicant. At the Public Rights of Way Committee meeting in September 2013, the part of Public Footpath No.11 Basford proposed for diversion was approved to be diverted under section 257 of the Town and Country Planning Act 1990 to allow for development approved in Planning Application 13/0336N. The development and associated landscaping had now been completed. It had been the intention to confirm the unopposed legal orders to make the necessary path changes required to preserve the public right of way between the A500 and Crewe Road. However, further consideration of the diversion route had resulted in the Applicant submitting a new proposal that would allow the footpath to be better aligned through the landscaped area, which was required to be processed under section 119 of the Highways Act 1980.

Informal consultation had been undertaken on the proposed diversion. The Peak and Northern Footpath Society had responded making reference to section 7.8 of the Rights of Way Circular which gave guidance on the avoidance of using of estate roads for alternative alignment of public footpaths. It was confirmed that the proposed diversion was not aligned along any estate roads.

The Committee noted that no objections had been received during informal consultations and considered the proposed route would not be substantially less convenient than the existing route. Diverting the footpath would be of benefit to the landowner to allow completing of the new public right of way between A500 and Crewe Road using Basford Footpath No.11 (part) and the recently adopted road network. It was therefore considered that the proposed route would be a satisfactory alternative to the current route and that the legal tests for the making and confirming of a diversion order were satisfied.

The Committee unanimously

**RESOLVED:** That

- 1 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.11 Basford by creating a new public footpath and extinguishing the current path, as illustrated on Plan No.HA/102, 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.

**18 HIGHWAYS ACT 1980 SECTION 119 - APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NOS. 1 & 9 (PARTS), PARISH OF HENBURY**

The Committee considered a report which detailed an application from Robin Carr Associates (agents) on behalf of Mr & Mrs Harrison of Sandbach Farm, Henbury, Macclesfield, requesting the Council to make an Order to divert parts of Public Footpath Nos.1 and 9 in the parish of Henbury.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make an Order to divert a public footpath 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 land over which the current path and the proposed diversion ran belonged to Mr & Mrs Harrison. The proposal would move Public Footpath No.9 away from the Applicant's property and drive, increasing the security and privacy of the property and reduce the chance of unintentional trespass.

The proposed route ran along the field boundaries rather than diagonally crossing the field and would be 376 metres in length. The path would be 2 metres wide, unenclosed, have a grass surface and two kissing gates along the route. Some stoning in the vicinity of any gateways would be provided if necessary.

The Committee noted that no objections had been received during the informal consultations and considered that the proposed route would not be substantially less convenient than the existing route. The Peak and Northern Footpath Society and the Ramblers Association had requested that the new route be waymarked and maintained appropriately. Diverting the footpath would be of benefit to the landowner in terms of offering enhanced security and privacy to their property and reduce the chance of unintentional trespass. It was therefore considered that the proposed route was a satisfactory alternative to the current route and that the legal tests for the making and confirming of the diversion order were satisfied.

The Committee unanimously

**RESOLVED: That**

- 1 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 Footpath No.1 and 9 Henbury by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan NO.HA/103, on the grounds that it is expedient in the interests of the owner of the land crossed by the paths.
- 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, and not subsequently withdrawn the Order be referred to the Secretary of State to be determined.

**19 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 19 (PART), PARISH OF MIDDLEWICH**

It was reported that the final sentence of paragraph 6.6 of the report - "The diversion would be made in the interests of the landowner" should be deleted.

The Committee considered a report which detailed an application from Mr B Nicholson of Pochins Developments Ltd, Brooks Lane, Middlewich, requesting the Council to make an Order under Section 257 of the Town and Country Planning Act 1980 to divert part of Public Footpath No.19 in the parish of Middlewich.

In accordance with Section 257 of the Town and Country Planning Act 1980, the Borough Council, as the Planning Authority, can make an Order diverting a footpath if it was satisfied that it was necessary to do so to enable development to be carried out in accordance with a planning permission that had been granted.

Planning Permission had been granted for development of warehousing (including yard and office) – Planning Reference 15/2609C. The section of Footpath No.19 to be diverted would be obstructed by the offices, warehousing and yard and a diversion would be required to preserve public access around the development. The length of footpath proposed for diversion was approximately 262 metres of which 118 metres would be directly affected by the development.

The proposed diversion would skirt the perimeter of the new development, going through a landscaped area and then over grassland to exit via a kissing gate to ERF Way The route would continue on an unenclosed 2.5



metre strip of grassland to the north of the pavement terminating at a kissing gate.

Re-alignment of the footpath as proposed along the 2.5 metre of grassland would resolve a current mapping anomaly that routes the current definitive alignment to cross ERF Way twice, eliminating the need for the public to negotiate vehicular traffic on EFR Way.

The reason for not placing the new route on the pavement was the two public highways could not be placed on the same alignment. One would need to be extinguished. By placing the footpath to the north of the pavement, separated the two and preserved the public footpath rights.

The Committee concluded that it was necessary to divert part of Public Footpath No.19 Middlewich to allow the development to be carried out. It was considered that the legal tests for the making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 were satisfied.

The Committee unanimously

**RESOLVED:** That

- 1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.19 Middlewich, as illustrated on Plan No.TCPA/025, on the grounds that the Borough Council is satisfied that it is necessary to do so to allow development to take place.
- 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 and not resolved. Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**20 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257:  
APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO.11  
(PART) PARISH OF SANDBACH**

The Committee considered a report which detailed an application from Weightmans LLP as Agent for Barratt Homes requesting the Council to make an Order under Section 257 of the Town and Country Planning Act 1980 to divert part of Public Footpath No.11 in the parish of Sandbach.

In accordance with Section 257 of the Town and Country Planning Act 1980, the Borough Council, as the Planning Authority, can make an Order diverting a footpath if it was satisfied that it was necessary to do so to

enable development to be carried out in accordance with a planning permission that had been granted.

Planning Permission had been granted for the construction of 246 houses and associated infrastructure – Planning Applications 12/3948C and 15/3531C. The proposed diversion was required to accommodate the layout of the housing development which directly affected the footpath.

When the Reserved Matters stage of the development was first applied for the proposal for accommodating the footpath was to divert it along the footways of the highways network within the site, which was objected to as it was contrary to the Defra Guidance that *“any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic.”*

A meeting was held with representatives from the developers and their agents to agree a revised proposal based upon the best achievable outcome within the limits of the development layout and substantially reduced the extent of the diversion corresponding with the highway network.

As far as possible the diversion had been designed to take the public footpath along estate paths, separate from the highways infrastructure. The section of path A to B, as shown on Plan No.TCPA/024, would be a 2 metres wide tarmacked path within a green corridor separated from the A534 by an existing hedge line and approximately 6 metres of highway verge on the roadside and 3 metres on the development side. Section B to C would be along a footway and across an estate road to link with a woodland edge path from point C to D. This section would mostly be 2 metre tarmacked surface becoming timber edged ‘hoggin’ surfaced path for the last 20 metres with a width of 1.5 metres. The path then re-joined the existing Public Footpath No.11 crossing the estate road and followed a 2 metre wide tarmacked path to its junction with Old Mill Road.

Councillor S Corcoran had initially objected to the proposal as the new route took the path closer to the A534 and along a less natural route. Details of the specifics of the proposed path, its background and the criteria for diversion under the Town and County Planning Act were provided to Councillor Corcoran, who responded that he welcomed the additional on-site informal woodland paths that were to be included as part of the site development but wished to see these paths taken on and managed by Cheshire East and without this assurance he would maintain his objection. The woodland paths did not form part of the diversion application.

Sandbach Town Council objected to the proposals on the basis that the information provided was inadequate and moving the path closer to the A534 would be detrimental to the quality of the walk. Additional details of the alignment of the proposed new path and the criteria for a diversion

under the Town and Country Planning Act were supplied to the Town Council.

The Ramblers' Association objected to the proposal as they felt the diversion would fail for not complying with Defra guidelines and the information they had was rather poor. There had been some confusion as the Council's Planning Website had not been updated to show the updated proposed footpath diversion.

Sandbach Footpath Group had objected to the proposal on the grounds of it becoming 'negated' as a field or country path; the path directly adjacent to the A534 was merely a 'pavement' and elsewhere as an 'estate road footway' and there being no access to the continuation of the path that ran through the estate to the west of Old Mill Road. The Footpath Group also had a desire to see enhancements to the proposal by linking into new paths that could be included through Offley Wood, on the southerly fringes of the site and also linking across the larger expanse of the 'Capricorn' development site to join Public Footpath No.14 Sandbach to the south west. Offsite road improvement work would include a traffic island opposite to the point where the footpath joins Old Mill Road (A534) which would assist people crossing the road to link with the footpath continuation to the west. Barratt Homes were not involved in the whole of the Capricorn development and did not have control over the interlinking land between the site and the land where Footpath No.14 ran. The Footpath Group welcomed the woodland paths planned within the development and said they would withdraw their objection provided these were taken on and managed by Cheshire East Council.

The Committee considered the application and concluded that it was necessary to divert part of Public Footpath No.11 Sandbach to allow the development to be carried out. It was considered that the legal tests for the making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 were satisfied.

The Committee by majority

**RESOLVED:** That

- 1 An Order is made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.11 Sandbach, as illustrated on Plan No.TCPA/024, on the grounds that the Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.
- 2 Public Notice of the making of the Order is 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 and not resolved, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**21 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 29 (PART), PARISH OF SANDBACH**

It was reported that the final sentence of paragraph 6.6 of the report - "The diversion would be made in the interests of the landowner" should be deleted.

The Committee received a report which detailed an application from Ms Hannah Chadwick (agent) of JRC Architects on behalf of Mr Michael Barrow, Picframes.co.uk, Unit 7, Gate Farm, Wettenhall Road, Nantwich requesting the Council to make an Order under Section 257 of the Town and Country Planning Act 1980 to divert part of Public Footpath No.29 in the parish of Sandbach.

In accordance with Section 257 of the Town and Country Planning Act 1980, the Borough Council, as Planning Authority, can make an Order diverting a footpath if it was satisfied that it was necessary to do so to enable development to be carried out in accordance with a planning permission that had been granted.

Planning permission had been granted on 17 August 2015 for the development of an industrial unit and associated car parking – Planning Permission Ref: 15/2960C. The current line of Public Footpath No.29 Sandbach would be obstructed by the industrial unit. Therefore a footpath diversion was required to preserve public access through the development. The length of footpath to be diverted was 87 metres.

The proposed diversion would run along the southern perimeter of the development area and would be enclosed within a 3 metre wide corridor by a 2.4 metre high palisade security fencing and would be surfaced with compacted hardcore. The corner along the new route would have a 3 metre radius to ensure good visibility for users. The proposed diversion would have a length of approximately 82 metres.

Councillor Gail Wait had expressed concern about the placement of a 2.4 metre fence along the rear of neighbouring properties and recommended that residents be consulted. This concern was exacerbated from a previous situation whereby a metal fence bounding a local scrapyards was increased in height. The fencing would be the same type and height as the fencing that was in place at present although it would be moved 2 metres further away from the rear of the properties.

Sandbach Town Council had been consulted on the proposal but their meeting would not be taking place until after the Public Rights of Way had considered the application.

The Committee considered that application and concluded that it was necessary to divert part of Public Footpath No.29 Sandbach to allow the development to be carried out. It was considered that the legal tests for the making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 were satisfied.

The Committee unanimously

**RESOLVED:** That

- 1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.29 Sandbach, as illustrated on Plan No.TCPA/026, on the grounds that the Borough Council is satisfied that it is necessary to do so to allow development to take place on condition that no adverse comments are received from Sandbach Town Council.
- 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 and not resolved, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

## **22 BRIEFING REGARDING THE DEREGULATION ACT 2015**

The Committee received an information report on Deregulation Act 2015 which would affect the way many public rights of way processes operated.

The Act had 14 parts and 116 sections, with sections 20 to 26 affecting Public Rights of Way. Within these sections were a multitude of changes in procedure and processes which in brief intended to act as a package of legislative reform to set a start date for the operation of:

- The provisions in Countryside and Rights of Way Act 2000 for the 'cut off' date for extinguishing certain rights of way if they were not recorded on definitive maps
- The provisions of the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) to prevent any additional routes being added to definitive maps as BOATs
- The provisions of Highways Act 1980 (as amended by the Countryside and Rights of Way Act 2000 and further amended by Deregulation Act) to provide a formal right to apply for certain Public Path Orders, with associated rights of appeal.
- The provisions of the Highways Act 1980 (as amended by the Deregulation Act) to extend the power to authorise gates to apply to Restricted Byways and BOATs

- The amendments being made by the Deregulation Act to other provisions in Wildlife and Countryside Act 1981 relating to the procedure for Definitive Map Modification Orders (e.g. removal of 'reasonably alleged', preliminary assessment procedure, new procedure for appeals, changes in publicity, disregarding certain objections).
- The amendments being made by the Deregulation Act to other provisions in the Highways Act 1980 relating to the procedure for Public Path Orders (e.g. changes to publicity, disregarding certain objections).
- The provisions in Highways Act 1980 (as amended by Countryside and Rights of Way Act 2000) to provide extended powers for farmers to make temporary diversions of rights of way.

Supplementary procedure were required for the commencement of the provisions referred to above and in order implement these statutory guidance was required. DEFRA had stated that their timetable for the production of the supplementary procedures and guidance would allow the legislation to meet its commencement target of 1 April 2016.

A briefing session would be held for the Committee members once the supplementary procedures and guidance had been produced.

#### **RESOLVED:**

That the report be noted.

#### **23 CHESHIRE EAST RIGHTS OF WAY IMPROVEMENT PLAN 2011-2026: IMPLEMENTATION PLAN 2015-2019**

The Committee received an information report on the Cheshire East Rights of Way Improvement Plan 2011-2026 Implementation Plan 2015-2019.

The Cheshire East Rights of Way Improvement Plan 2011-2026 had been approved in 2011. The Improvement Plan was required to contain a statement of the action which the authority proposed to take for the management of local Public Rights of Way, and for securing an improved network of those routes. This was set out in the rolling 4 year Implementation Plans, which detailed projects through which the policies and initiatives stated in the Improvement Plan would be delivered.

The first 4 year Implementation Plan for 2011-2015 had now expired and the second Implementation Plan covering 2015-2019 was now being prepared – a draft of which was shared with Committee members. The new Plan assessed the delivery of the preceding Plan and set out the intentions of the Council in relation to the period 2015-2019. Once finalised, the Implementation Plan 2015-2019 would be presented to the Portfolio Holder for Open Spaces for approval.

**RESOLVED:**

That the report be noted.

The meeting commenced at 2.00 pm and concluded at 3.45 pm

Councillor D Flude (Vice-Chair, in the Chair)