

# Cheshire East Council

## Cabinet Member for Regeneration

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<b>Date of Meeting:</b>	6 <sup>th</sup> February 2017
<b>Report of:</b>	Brendan Flanagan, Head of Rural and Cultural Economy
<b>Subject/Title:</b>	Dedication of new Public Right of Way on Cheshire East Council land in the town of Sandbach
<b>Portfolio Holder:</b>	Councillor Stockton

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### 1. Report Summary

- 1.1. This report presents a proposal to create a Public Right of Way on a 22m long stretch of Cheshire East Council owned land in the town of Sandbach.
- 1.2. Cheshire East Council is involved in a project to improve public access on a path between Clifton Road and Station Road in Sandbach, in accordance with the health and wellbeing objectives and priorities of the Council as stated in the Corporate Plan 2016-2020, and the Council's commitment to 'Residents First'.
- 1.3. The path, whilst appearing to be set out for and used by the public, does not have Public Right of Way status along its full length. In order to rectify this anomaly, to provide clarity for the public and to enable investment to improve the path, it is proposed to add the route as a Public Footpath on the Definitive Map, the legal record of Public Rights of Way.

### 2. Recommendation

- 2.1. That approval be given for the proposal, to make a Creation Order under Section 26 of the Highways Act 1980, to create a Public Right of Way on Cheshire East Council owned land in the Town of Sandbach, as illustrated on Plan No. HA/113, to be put before the Public Rights of Way Committee for decision.

### 3. Other Options Considered

- 3.1. Other than 'do nothing', no alternatives are available.

### 4. Reasons for Recommendation

- 4.1 The decision to create a Public Right of Way is taken by the Public Rights of Way Committee under the Council's Constitution.

- 4.2 The proposal is to create a Public Right of Way on Cheshire East Council land and therefore the approval of the Cabinet Member, as Portfolio Holder for the Asset Management Service, is also required.

## **5. Background/Chronology**

- 5.1 Cheshire East Council's Partnerships Team is leading a project to improve public access on a path between Clifton Road and Station Road in Sandbach. The route connects Sandbach Station with residential areas. The residential area is increasing through development, with the need for improvement to this route identified through the planning process. The path, whilst appearing to be set out for and used by the public, does not have Public Right of Way status along its full length. In order to rectify this anomaly, to provide clarity for the public and to enable investment to improve the path, it is proposed to add the route as a Public Footpath on the Definitive Map, the legal record of Public Rights of Way.
- 5.2 In considering this matter, the authority must have regard to the needs of agriculture, forestry, and the desirability of conserving flora, fauna and geological and physiographical features. These matters are not relevant to the proposal as the route is set out as an urban path.
- 5.3 The authority must, before confirming an order, have regard to any material provision of a Rights of Way Improvement Plan prepared by the local highway authority. As stated above, the proposal is supportive of the policies and objectives of the Cheshire East Council Rights of Way Improvement Plan (ROWIP) 2011-2026. Consultation undertaken for the ROWIP identified the need for safe off-road pedestrian routes. This need is met by the path as it offers a direct link between expanding residential areas of the town, the railway station and town centre.
- 5.4 The legislation requires the authority to consult with Sandbach Town Council with regards to the proposal. The legislation does not require any wider consultation. However, Network Rail as part landowner, the local Ward Member and adjacent residents are also being consulted on the proposal in order to inform the Public Rights of Way Committee ahead of its decision on the matter.
- 5.5 Network Rail own part of the land and the footbridge over which the route runs. Network Rail has confirmed its agreement to the Creation Order process and is working in partnership with the Council to improve the aesthetic environment of the path and adjoining land.

## **6. Wards Affected and Local Ward Members**

- 6.1 Sandbach Elworth Ward, Cllr Merry.

## **7. Implications of Recommendation**

## **7.1. Policy Implications**

- 7.1.1 The proposal supports the following policies and initiatives of the Cheshire East Rights of Way Improvement Plan 2011-2026:  
Policy H3: Public rights of way and green infrastructure: Protect and enhance our public rights of way and green infrastructure and endeavour to create new links where beneficial for health, safety or access to green spaces. Initiative: 'Leisure routes for cyclists, horse riders and walkers'.  
Policy H2: Promotion of active travel and healthy activities: Work in partnership to promote walking, cycling and horse riding as active travel options and healthy activities. Initiative 'Public information on the public rights of way network'.  
Policy S7: Work with stakeholders to improve facilities for walking so that it is attractive for shorter journeys.
- 7.1.2 The development of new walking routes for local residents and visitors alike is aligned with the health and wellbeing objectives and priorities of the Council as stated in the Corporate Plan 2016-2020, in particular Outcome 4 'Cheshire East is a green and sustainable place'.

## **7.2. Legal Implications**

- 7.2.1 Under Section 26 of the Highways Act 1980, where it appears to a local authority that there is a need for a footpath, bridleway or restricted byway over land in their area and they are satisfied that having regard to:
- a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public or to the convenience of persons resident in the area; and
  - b) the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provision as to compensation contained in section 28 of the Act,
- it is expedient that the path or way should be created, the authority may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed by them as an unopposed order, create a footpath, bridleway or restricted byway over the land.

## **7.3. Financial Implications**

- 7.3.1 The proposal, if approved by the Public Rights of Way Committee, would incur minimal immediate financial implications in the advertising costs for a Creation Order.
- 7.3.2 The proposal, if approved by the Public Rights of Way Committee, would enable investment in the route to improve the accessibility, safety and attractiveness of the route. This works would be funded by s106 developer contributions and/or the Local Transport Plan Active Travel budget. Estimates are currently being sourced for the required works.

- 7.3.3 The path would become maintainable at the public expense on the date that the Creation Order becomes operative. The proposal will involve a greater maintenance liability than at present due to the increased length of the public highway.
- 7.3.4 The Asset Management Service has assessed the proposal with respect to the Council's landholding (title No. CH488931 as shown in the attached plan HA/113a). The response confirmed that "*the Asset Management Service has no objection to your proposed use for the land highlighted on the attached plan as being in Council ownership*".
- 7.3.5 Network Rail, which owns part of the land over which the route runs, has confirmed its agreement to the Creation Order process and confirmed that it would not seek compensation under that process.

#### **7.4. Equality Implications**

- 7.4.1. The proposal would enable investment in the footpath to increase the accessibility of the route.

#### **7.5. Rural Community Implications**

- 7.5.1. No matters arising.

#### **7.6. Human Resources Implications**

- 7.6.1. No matters arising.

#### **7.7. Public Health Implications**

- 7.7.1. Encouraging walking will assist in contributing to health benefits derived from physical activity. Encouraging walking and the use of public transport will result in an improvement in air quality and congestion alleviation.

#### **7.8. Implications for Children and Young People**

- 7.8.1. No matters arising.

#### **7.9. Other Implications (Please Specify)**

- 7.9.1. No matters arising.

### **8. Risk Management**

- 8.1. A further part of the land over which the path runs is unregistered. There is a risk that a representation may be made by a person claiming an interest in the land. Under section 28 of the Highways Act 1980, if it is shown that

the value of an interest in the land is depreciated, or that a person has suffered damage by being disturbed in his enjoyment of land, as a consequence of the coming into operation of a public path creation order, the authority shall pay to that person compensation equal to the amount to the depreciation or damage.

## **9. Access to Information/Bibliography**

9.1. N/a

## **10. Contact Information**

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