

Public Rights of Way Committee

Date of Meeting:	13 th September 2021
Report Title:	Public Rights of Way annual report 2020-21 and work programme 2021-22
Report of:	Brendan Flanagan, Head of Service, Rural and Cultural Economy
Ward(s) Affected:	All

1. Executive Summary

- 1.1. This report records the achievements of the Council in terms of its Public Rights of Way (PROW) functions during the year 2020-21 and sets out the proposed work programme for the year 2021-22. Details are set out in Appendices 1, 2 and 3.
- 1.2. The work of the Public Rights of Way team contributes to the three Corporate Plan aims “We will provide strong community leadership and work transparently with our residents, businesses and partners to deliver our ambition in Cheshire East”, “We aim to reduce inequalities, promote fairness and opportunity for all and support our most vulnerable residents” and “We will lead our communities to protect and enhance our environment, tackle the climate emergency and drive sustainable development”.
- 1.3. The work of the Public Rights of Way team also contributes to the policies and objectives of the Council’s statutory Rights of Way Improvement Plan and Cheshire East’s Quality of Place, with the network being both highly valued and regarded by residents. Contributing to transport, leisure, visitor economy and health and wellbeing functions across both the urban and rural areas of the borough, the Public Rights of Way network – together with wider networks of green infrastructure – form a key element of the Cheshire East landscape and policies related to the environment.

2. Recommendation/s

2.1. That the report be noted.

3. Reasons for Recommendation/s

3.1. The report is for information only.

3.2. The work of the Public Rights of Way team contributes to the three Corporate Plan aims “We will provide strong community leadership and work transparently with our residents, businesses and partners to deliver our ambition in Cheshire East”, “We aim to reduce inequalities, promote fairness and opportunity for all and support our most vulnerable residents” and “We will lead our communities to protect and enhance our environment, tackle the climate emergency and drive sustainable development”.

4. Other Options Considered

4.1. Not applicable.

5. Background

5.1 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.

5.2 Each area is examined individually below, with the specific achievements of 2020-21, together with the work programme for 2021-22, contained in the relevant Appendices.

5.3 The Covid-19 Pandemic and in-year changes

5.3.1 The past year has been one of the most challenging years in many of our experiences, both in personal and working lives. Within this context, the team continued to deliver an excellent service across all functions, despite a number of long-term absences in the team. At the start of the pandemic, office tasks were relocated to mainly home-based remote working, an arrangement which can be efficient, but can also be quite isolated, impeding some aspects of communication and collaborative working. The arrangement involves many other challenges not least with regards to working space, broadband, home schooling and access to historic

documents, files and office functions. Officers have excelled in overcoming such challenges, however, and future working arrangements are likely to involve a form of hybrid office/home working.

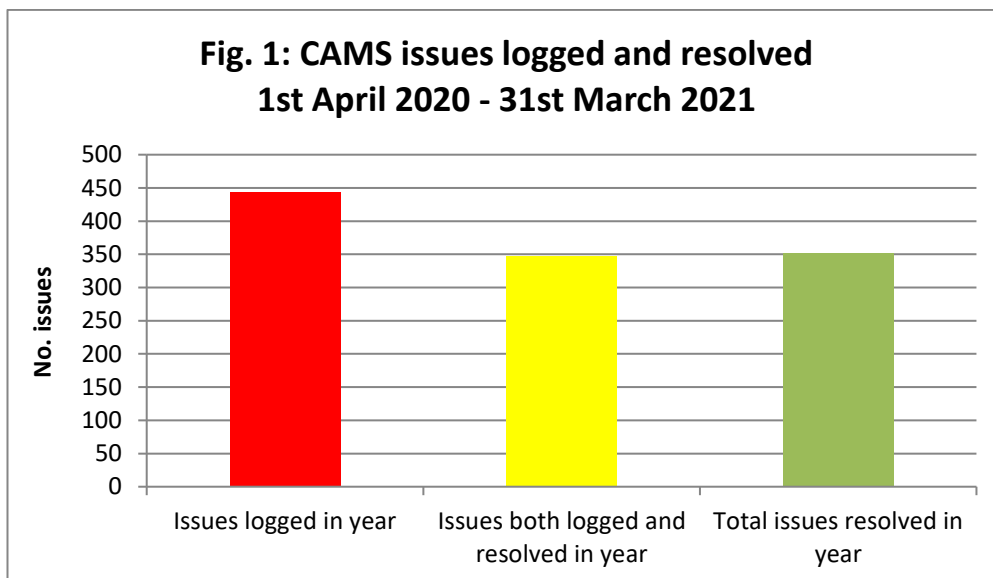
- 5.3.2 Visitor numbers to the countryside increased dramatically as a result of the lockdowns. Whilst figures vary depending on the specific location, and statistical datasets are few for the PROW network across the country, monthly data from countryside sites in Cheshire East showed average visitor numbers across 6 sites roughly doubling compared to pre-Covid levels. This increase in pressures on the PROW network itself, particularly path surfaces, on the land, and on landholders was, and still is, evident. The increase has generated a large number of enquiries from both landowners and users, often involving heightened tensions and users unfamiliar with rural walking routes. Advice for both groups of stakeholders was collated and kept up to date from national government guidance and close working with the NFU.
- 5.3.3 In addition this year, a number of ICT changes have affected the work of the team and colleagues across the Council. To facilitate remote working arrangements required by the pandemic, new hardware and software was quickly rolled out to enable video conferencing to be used. New finance software has also been introduced along with new GIS software, both of which have diverted a lot of Officer time, to add to the challenges of the year.

5.4 Network Management and Enforcement

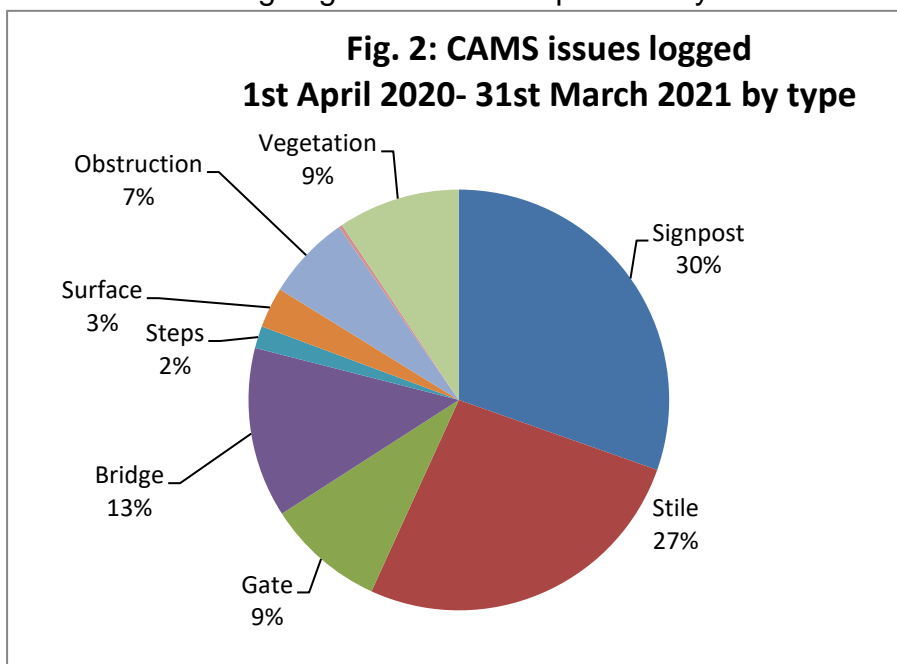
- 5.4.1 Three full time equivalent Network Management and Enforcement Officer positions cover the borough, dealing with the protection and maintenance of the network. Within each area, the Officers are responsible for maintenance and enforcement to remove obstructions and keep the path network available 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. The positions were covered during the year by 2 full time members of staff and 2 part time. During the year, one full time Officer retired, resulting in one part time Officer increasing their hours to full time and changing areas.
- 5.4.2 Only 1 case required the Council to undertake enforcement action during 2020-21, as all other reported obstructions were removed following conversations or exchange of letters. This indicates the good working relationships held with landowners and land managers, who, it is recognised, have many competing pressures and priorities to deal with,

particularly during the pandemic's lockdowns which caused additional problems due to increased path usage. The Covid pandemic initiated a number of attempted unofficial closures and signage which could have dissuaded users from using the route. These were resolved through dialogue, with only one having to be resolved through Officers proceeding through the enforcement protocol.

- 5.4.3 The number of long-term closures on the network due to legal, environmental or other reason remains at 3. The Council's Legal team is providing assistance to progress one of these cases relating to river erosion, whilst another case is being assessed by Highways England as it relates to a bridge over the M6. Progress has been made on the third case relating to a landslip in which a diversion solution has been agreed with the adjacent landowner, with support from user groups.
- 5.4.4 533 different Public Rights of Way benefitted from vegetation cutting either once, twice or three times in the year in order to keep the routes open and available for the public, a total length 165km of path.
- 5.4.5 443 path problem reports have been logged within the team's mapping and database software "CAMS" (Countryside Access Management System) during the year 2020-21, having been reported by the public, landowners or Officers. We are grateful for those who report such issues, and who undertake the Ramblers' regular surveys, in acting as our 'eyes and ears' out on the network so that such issues can be resolved and paths improved.
- 5.4.6 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 the effects of the Covid-19 pandemic, we have had to prioritise work and have not been able to resolve all issues within the normal timescales.

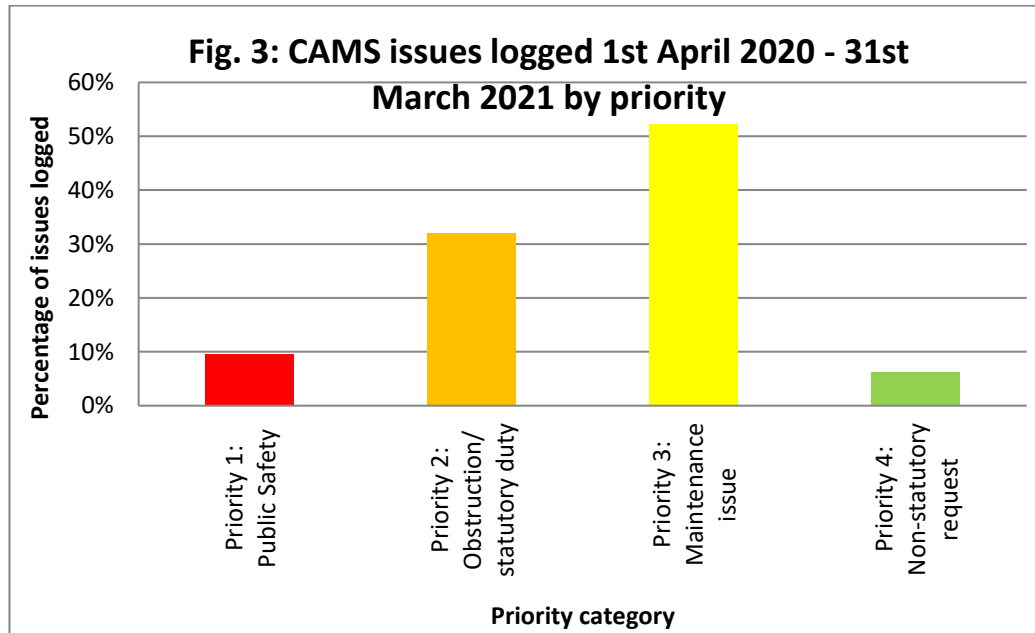


5.4.7 In Fig. 2 the numbers of different types of issues are very similar to previous years, showing relative consistency in the frequency of different types of issue being reported, with a significant decrease in issues relating to vegetation on paths, possibly due to increased path usage during the lockdowns causing vegetation to be kept down by footfall.



5.4.8 Fig. 3 shows a change in pattern to the previous year for the priority rating assigned to issues reported, with an increase in the percentage of priority 1 and 2 issues, those relating to public safety and obstruction/statutory duty, respectively. It should be noted that some urgent issues, such as fallen trees, are frequently reported but not entered into 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.



5.4.9 The numbers of items of furniture installed by the team during the year are given in the table below:

Furniture item	No. installed
Fingerposts	117
Waymark posts	93
Stiles	96
Pedestrian gates	9
Kissing gates	52
Bridleway gates	0
2-in-1 combination gates	7
Handrails	13
Bridges	16
TOTAL	403

5.4.10 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 and 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.

5.4.11 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. Further, works on the ground and Public Path Order cases can also resolve known mapping anomalies. The team works closely with the Legal Orders team on all legal processes affecting the network, as well as liaising closely with developers, landowners, user groups, Parish and Town Councils and other stakeholders with interests in the network.

5.5 Path Inspection

5.5.1 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.

5.5.2 The path inspection scheme which the Council employs is in the form of the former National Best Value Performance Indicator 178: percentage of paths deemed 'easy to use'. Although councils are no longer required to report on BVPI178, in Cheshire East it continues to be used as local performance indicator. The survey has previously been carried out on a randomly generated basis of 5% of the network per year.

5.5.3 The random survey was not carried out during 2020-21 due to the effects of the Covid-19 pandemic. Instead, we are grateful for the network survey results undertaken by the East Cheshire Ramblers which we can use as a proxy indicator. This volunteer group surveyed 100% of the network in the parishes that they cover which equates to 33% of the total borough's PROW network. Using their definitions of class A and B paths as equivalent to our 'ease of use' definition, this gives a result of 93% for the borough. Whilst this survey is not a random survey across the whole borough, it does involve a much greater percentage survey than the 5% previously used. This result demonstrates the very high quality of the network, with the Ramblers noting that the total of 7% of paths classed as C and D matches the lowest figures of the last 4 years and is a steady improvement over the preceding records of over 15 years.

5.6 Technical Administration

5.6.1 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 team and office.

5.6.2 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 2020-21, 93 search requests were processed, a reduction from the 125 in the previous year, likely to be due to the Covid-19 pandemic.

- 5.6.3 The Officer also processed 363 applications for parking permits and 30 applications for canoe permits on behalf of the Countryside Ranger Service. The number of parking permits was a large increase over the 206 of the previous year, again likely to be due to the Covid-19 lockdowns. In addition, the post holder undertakes numerous procurement and administration tasks to support both teams.
- 5.6.4 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 (when the office is staffed), letter, email and web form. The team's central email account received 2,850 emails in the year compared to 1,630 in the previous year, again indicating the increased number of enquiries as a result of Covid-19 along with the fact that the office was not staffed, so that phone enquiries were diverted largely to email.
- 5.6.5 During the year, the team received and responded to 10 Freedom of Information requests, 17 enquiries from MPs and 71 enquiries received via the Members' Enquiries Service, Chief Executive Office, Portfolio Holder, Leader or Cheshire East Highways, all increased as a result of the Covid-19 pandemic over figures of the previous year.

5.7 Rights of Way Improvement Plan (ROWIP) - Access Development

- 5.7.1 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.
- 5.7.2 However, whilst no new projects have been initiated, existing projects already in train have been progressed and leisure and active travel aspirations have been fed into strategic development proposals and other partnership work across the borough (see Appendix 2). The work of the whole team contributes to the delivery of the ROWIP and the aspirations and reality of improving the network.
- 5.7.3 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.

5.8 Legal Orders Team

- 5.8.1 The team comprises six Officers (4 full-time and 2 part-time) who 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 applications 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.
- 5.8.2 The team has continued to benefit from the work of two of the Officers on a fixed term basis in order to process Public Path Orders and temporary closures. These two posts, as with the existing Public Path Order Officer post, are managed on a net nil basis, with the salaries covered by administration fees.
- 5.8.3 During 2020-21 the team assessed 349 planning applications in order to ensure the protection and seek enhancement of the PROW network. This number of applications was 10% higher than the preceding year. It 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.
- 5.8.4 Additionally, 193 temporary closures were processed, predominantly following application from developers and utility companies, as well as in-house requirements to protect the public, an increase from the 135 of the previous year. These processes can involve repeated negotiation and communications between applicants and Officers, involve public notice being made and also initiate large numbers of enquiries from the general public.
- 5.8.5 The team received and processed 19 deposits, statements and declarations from landowners under section 31 of the Highways Act 1980, again a dramatic increase on the 2 processed in the previous year, yet again likely due to pressures on land as a result of the Covid-19 lockdowns. The team also responds to enquiries for information following Local Land Charge searches, numbering 23 during the year, as well as internal requests for Definitive Map information.
- 5.8.6 7 Town and Country Planning Act section 257 Orders to enable development to go ahead were made during the year, with 7 Orders confirmed and 15 cases in progress. 1 case file was prepared and submitted to the Secretary of State for determination following the receipt of objections. These applications take precedence over conventional Highway Act 1980 diversions due to the tight timetables involved. 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.

- 5.8.7 1 Highways Act 1980 Public Path Order was made, and 1 Order confirmed, with 12 cases in progress. 2 case files were prepared and submitted to the Secretary of State for determination following the receipt of objections.
- 5.8.8 5 Definitive Map Modification Order application cases were in progress during the year, with 1 Order being made following determination, a reduction from the previous year for reasons already outlined, and 2 Orders confirmed.
- 5.8.9 During the year, the Council received 1 direction 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.
- 5.8.10 At the end of the 2020-21 year, the waiting list of Definitive Map Modification Order applications stood at 41, with 4 new applications having been registered during the year.
- 5.8.11 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 the pressures posed by the Covid-19 pandemic this task was not undertaken, and all Orders will be collated into the next Legal Event Order.

5.9 Policies

- 5.9.1 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 – during the year this policy was reviewed and an updated Statement of Priorities adopted;
 - 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 Committee.

5.10 Countryside Access Forum and ROW Consultative Group

- 5.10.1 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.
- 5.10.2 The Access Forum is complemented by the Cheshire East Rights of Way Consultative Group which meets twice yearly 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.
- 5.10.3 The Consultative Group meetings are extended to allow user group representatives to meet Network Management Officers on a one to one basis in order to discuss work priorities and individual case issues. Meetings were not held during the year due to the pandemic, with updates being provided instead via email.

5.11 Budget

- 5.11.1 The annual budget for the years 2020-21 and 2021-22 are set out in the table below. During 2020-21 financial year, as in the previous, the budgets remained as forecast throughout the year, and have remained level across the years, allowing the team to plan spending efficiently throughout the year.
- 5.11.2 However, the Covid-19 pandemic resulted in a huge financial pressure for the Council at the end of the financial year due to reduced income and increased expenditure. For the PROW team, income was dramatically reduced whilst costs increased by a small amount, resulting in an £82k pressure on the team's budget which was fortunately covered by a government grant.

- 5.11.3 As reported last year, budgets over recent years have remained static in contrast to increased costs from suppliers for items such as timber and metal path furniture. In recognition of this a business case was successful in securing a small amount of additional revenue for 2021-22. In addition, Officers have secured a range of external grant funding, particularly from user groups and Town and Parish Councils, for the improvement of the network, which helps to deliver great value and service for the public and landowners. However, recent price rises, particularly in materials due to the pandemic, Brexit and major infrastructure schemes, will have exceeded this value. Looking forwards then, the outputs of work on the PROW network will be effectively reduced year on year as budgets are not normally increased in line with costs. Stakeholder expectations will have to be managed accordingly along with further exploration of different models of delivery, such as increased use of volunteers and parish level involvement in prioritisation of investment.
- 5.11.4 The PROW team continue to 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. We are always mindful of the great value for money we, the public and landowners, benefit from through good value and good working relationships within the tendered framework which consists of a relatively few, specialist contractors.
- 5.11.5 The PROW team's core capital budget was reduced by 20% for the financial year, with an obvious effect in terms of what was delivered on the network. This continues to be an area of concern. Funding was secured, however, for investment in our bridge structures and for paths damaged by the flooding events of previous years.

	2020-21	2021-22
Length of PROW network	1946km	1946km
Total PROW revenue budget	£428k	£443k
Network maintenance budget	£53k revenue + £80k capital	£63k revenue + £80k capital
Maintenance budget per PROW km	£68/km	£73/km

Other funding	<ul style="list-style-type: none"> • £39k Structures • £40k LTP ROWIP 'Active Travel' capital budget • S106 funding: <ul style="list-style-type: none"> ○ £10k Wheelock Rail Trail ○ £20k Disley FP66 ○ £1k Alsager FP3 ○ £12k non-PROW path in Nantwich • £100k A6MARR PROW Complementary Measures package 	<ul style="list-style-type: none"> • £107k Flood damage • £63k Structures • S106 funding: <ul style="list-style-type: none"> ○ £1k Alsager FP3 ○ £12k non-PROW path in Nantwich
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5.12 Conclusion

- 5.12.1 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. And this service continued during one of the most challenging periods of the Covid-19 pandemic.
- 5.12.2 The fixed term Officer appointments in the team, now extended for a further two years, continues to help to manage the Public Path Order waiting list. Prior to the pandemic, the Definitive Map Modification Order application waiting list was being actively addressed, and, although new applications continue to be registered, it is hoped that as the pandemic situation eases, this progress can be continued. The use of new methods of working has expedited processes for Public Path Order cases, though again the pandemic inhibited progress in new cases being initiated. Any indication that the delayed Deregulation Act 2015 is to be implemented will necessitate a fresh appraisal of resources, policies and procedures to deal this change in legislation, along with the timescales and workload implications that may result.
- 5.12.3 Again, the impact of the extreme weather events witnessed this year continues to highlight the vulnerability of the network to such events and the requirement for investment to be able to repair and protect paths and structures. The rainfall experienced in January 2021 was been reported by the Met Office as being extreme and more than double the amount experienced in a typical January. Storm Christoph was responsible for a

significant proportion of that rain meaning that it fell in a short space of time and hence caused flooding across the borough, on paths, roads and land, where it would not normally be experienced. This, coupled with the increased usage during lockdown, put path surfaces under pressure and caused landowners issues as users attempted to avoid muddy sections of paths.

- 5.12.4 In addition this year, a number of ICT changes have affected the work of the team and colleagues across the Council. To facilitate remote working arrangements required by the pandemic, new hardware and software was quickly rolled out to enable video conferencing to be used. New finance software has also been introduced along with new GIS software, both of which have diverted a lot of Officer time, to add to the challenges of the year.
- 5.12.6 The longer-term implications of Covid-19 will become clear with time, but will certainly involve a continued reduction of income. What the lockdown situations have reinforced are the vital importance of the 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.

6. Implications of the Recommendations

6.1. Legal

6.1.1. The implementation of the Deregulation Act 2015 represents a risk to the capability of the team to meet the duties of the Highway Authority with regards to Public Rights of Way. The effect of the Act, when implemented, will require an appraisal of processes and policies for dealing with Definitive Map Modification Orders and Public Path Orders. Tight timescales are to be introduced by the legislation requiring application processing within specified time limits and additionally the processing of Public Path Orders under the Highways Act 1980 will become a duty rather than a discretionary service, as it is at present.

6.1.2. In addition, the impact of the flooding events of this and previous years have created a requirement for investment in bridge structures which will need continued funding in order to avoid any further impact on the Council's ability to maintain the network and keep paths open.

6.2. Finance

6.2.1 This report has been prepared using staffing resources covered by existing PROW budgets. However, additional resource will be required in order to continue maintaining the PROW network and services going forwards, given the increased use of the network and demand for legal

process together with increased supplies and services costs. To this end a growth bid has been submitted through the medium-term financial strategy budget setting process to seek additional resources.

6.3. Policy

6.3.1. There are no policy implications foreseen.

6.4. Equality

6.4.1. There are no equality implications.

6.5. Human Resources

6.5.1. There are no additional human resource implications foreseen.

6.6. Risk Management

6.6.1. 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 2 claims were registered with the Council's Insurance team and responded to by the PROW team.

6.7. Rural Communities

6.7.1. There are no direct implications for rural communities.

6.8. Children and Young People/Cared for Children

6.8.1. There are no direct implications for children and young people.

6.9. Public Health

6.9.1. There are no direct implications for public health.

6.10. Climate Change

6.10.1 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.

6.10.2 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.

Access to Information

Contact Officer:	Genni Butler, Acting Public Rights of Way Manager genni.butler@cheshireeast.gov.uk 01270 686059
Appendices:	Appendix 1 Network Management & Enforcement Appendix 2 ROWIP Appendix 3 Legal Orders
Background Papers:	N/a