

Public Rights of Way Sub Committee

Date of Meeting: 13th September 2021

Report Title: Wildlife & Countryside Act 1981– Part III, Section 53
Application No. MA/5/249, for the Addition of a Public
Footpath between FP13 Lyme Handley on the
Macclesfield Canal to FP13 Lyme Handley to the south
east of Throstlenest Farm; and also a link footpath from
FP13 to FP8 Lyme Handley.

Report of: Frank Jordan, Executive Director Place

Ward(s) Affected: Poynton East and Pott Shrigley

1. Executive Summary

- 1.1.** This report outlines the investigation of an application made by Mr David Kitching to amend the Definitive Map and Statement by adding a public footpath. This report includes a discussion of the consultations carried out in respect of the claim, the historical evidence, witness evidence and the legal tests for a Definitive Map Modification Order to be made. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether an Order should be made to add the public footpath.
- 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”.

2. Recommendations

- 2.1. An Order be made under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by adding as a Public Footpath, the route as shown between points A-B-C-D-E on Plan No. WCA/022;
- 2.2. The application to modify the Definitive Map and Statement to record public footpath rights between points C and H as illustrated on Plan No. WCA/022 be refused on the grounds that there is insufficient evidence of use of that section.
- 2.3. 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be given and, in the event of there being no objections within the specified period, or any objections received being withdrawn, the Order be confirmed in exercise of the power conferred on the Council by the said Act.
- 2.4. 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.

3. Reasons for Recommendations

- 3.1. The evidence in support of this claim must show, on the balance of probabilities, that public rights subsist or are reasonably alleged to subsist along the claimed route. It is considered there is sufficient use of the route without force, secrecy, or permission, that is without interruption and as of right; to support the existence of footpath rights along the route shown between points A-B-C-D-E on Plan No. WCA/022. It is also considered that some of the historical evidence discovered adds weight and supports the existence of footpath rights on this part of the claimed route.
- 3.2. User evidence is considered under section 31(1) of the Highways Act 1980, public footpath rights can come into existence by prescription unless there is evidence to the contrary. For the section of the claimed route between points C and H, as illustrated on Plan No. WCA/022, it is considered there is insufficient evidence to show the required use of that section on foot by the public. The requirements of Section 53 (3)(c)(i) have therefore not been met and it is recommended that that part of the application is refused.

4. Other Options Considered

- 4.1. Not applicable – this is a non executive matter.

5. Background

5.1. *Introduction*

- 5.1.1. The application was received in March 2015 by Mr David Kitching to modify the Definitive Map and Statement for the Parish of Lyme Handley by adding a footpath. The application was supported by user evidence. A total of 16 witnesses submitted evidence by completing user evidence forms which included a sketch of the route(s) they had used.

5.1.2. The Applicant sought a direction from the Secretary of State for a decision to be made on the application as it was still awaiting investigation. A direction decision dated 10th May 2019 was received from an Inspector representing the Secretary of State. The decision, pursuant to paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981, directed the Council to determine the application no later than 12 months from the date of the direction.

5.2. *Description of the Application Route*

5.2.1. The claimed route runs from just after the footbridge over the Macclesfield Canal (point A on Plan No. WCA/022) and follows a south easterly direction for approximately 43 metres to point B. At the field boundary at point B there was a stile in place, this had been there for as long as witnesses could remember. The claimed route continues across the field in a generally easterly direction, to point C and then to the corner of the field at point D, where there was originally a stile. The claimed route then cuts directly across the next field, in a generally easterly direction to point E, where there was another stile. All three stiles on the claimed route at points B, D and E were replaced with kissing gates in approximately 2012. The whole route has a grass/earth surface and is unenclosed. Aerial photos show a clear trodden path along the claimed route between points A-B-C-D-E on plan no. WCA/022. Part of the application includes a small link path from point C on the claimed footpath to the junction with FP8 Lyme Handley, point H on Plan No. WCA/022.

5.2.2. In approximately December 2014 the kissing gate at point B on Plan No WCA/022 was blocked off and the footpath relocated to the definitive alignment of Footpath No. 13 Lyme Handley at the field edge. An opening was made in the field boundary at point F, and the footpath was enclosed by fencing to the field edge between points F-G-H-D, on Plan No. WCA/022. As the footpath was now enclosed and this area of the field in parts was very wet, the footpath surface quickly degraded and became extremely muddy. During 2018 Cheshire East Council spent a considerable amount of money upgrading the surface of Footpath No. 13 Lyme Handley and installed a boardwalk with handrail across the wettest area.

5.3. *The Main Issues*

5.3.1. Section 53(2)(b) of the Wildlife and Countryside Act 1981 requires that the Council shall keep the Definitive Map and Statement under continuous review and make such modifications to the Map and Statement as appear requisite in consequence of the occurrence of certain events:-

5.3.2. One such event, (section 53(3)(c)(i)) is where

“(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows:-

(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic

The evidence can consist of documentary/historical evidence or user evidence or a mixture of both. All the evidence must be evaluated and weighed and a conclusion reached whether, on the ‘balance of probabilities’ the alleged rights subsist or are reasonably alleged to subsist. Any other issues, such as safety, security, suitability, desirability or the effects on property or the environment, are not relevant to the decision.

5.3.3. Where the evidence in support of the application is user evidence, section 31(1) of the Highways Act 1980 applies. This states;-

“Where a way.....has 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 it.”

This requires that the public must have used the way without interruption and as of right; that is without force, secrecy or permission. Section 31(2) states that “the 20 years is to be calculated retrospectively from the date when the right of the public to use the way is brought into question”.

5.3.4. In the case of, *R (on the application of Godmanchester Town Council) v Secretary of State for the Environment, Food and Rural Affairs (2007)*, the House of Lords considered the proviso in section 31(1) of the Highways Act 1980:

“...unless there is sufficient evidence that there was no intention during that period to dedicate it”.

The proviso means that presumed dedication of a way can be rebutted if there is sufficient evidence that there was no intention to dedicate the way, during the relevant twenty year period. What is regarded as ‘sufficient evidence’ will vary from case to case. The Lords addressed the issue of whether the “intention” in section 31(1) had to be communicated to those using the way, at the time of use, or whether an intention held by the landowner but not revealed to anybody could constitute “sufficient evidence”. The Lords also considered whether use of the phrase “during that period” in the proviso, meant during the whole of that period. The House of Lords held that a landowner had to communicate his intention to the public in some way to satisfy the

requirement of the proviso. It was also held that the lack of intention to dedicate means “at some point during that period”, it does not have to be continuously demonstrated throughout the whole twenty year period.

5.4. *Investigation of the Claim*

5.4.1. An investigation of the evidence submitted with the application has been undertaken, together with some additional research. The application was made on the basis of user evidence from sixteen witnesses; with a further witness, the spouse of one witness, who had not previously completed a user evidence form, giving evidence to Officers during an interview. In addition to the user evidence submitted an investigation of any available historical documentation is also undertaken to establish whether the claimed route had an historical origin. The documentary evidence that has been examined is referred to below and a list of all the evidence taken into consideration can be found in Appendix 1.

5.5. *Documentary Evidence*

Tithe Maps and Apportionment

5.5.1. Tithe Awards were prepared under the Tithe Commutation Act 1836, which commuted the payment of a tax (tithe) in kind, to a monetary payment. The purpose of the award was to record productive land on which a tax could be levied. The Tithe Map and Award were independently produced by parishes and the quality of the maps is variable. It was not the purpose of the awards to record public highways. Although depiction of both private occupation and public roads, which often formed boundaries, is incidental, they may provide good supporting evidence of the existence of a route, especially since they were implemented as part of a statutory process. Non-depiction of a route is not evidence that it did not exist; merely that it did not affect the tithe charge. Colouring of a track may or may not be significant in determining status. In the absence of a key, explanation or other corroborative evidence the colouring cannot be deemed to be conclusive of anything.

5.5.2. The Lyme Handley Tithe Map of 1850 shows a route from the canal in a south easterly direction to the position of Point B on Plan No. WCA/022, this is shown as a double dashed line, perhaps indicating that it was unenclosed. From point B to approximately point G there is an enclosed route shown to the field edge. The description given for plot 78, which is most of the enclosed section, is ‘Pond and road’ and the land use is described as ‘Freshwater and thoroughfare’. This is good supporting evidence that a route was in existence and considered public at the time. It appears to include the section A-B-F, which is not shown on the Definitive Map. The section of the claimed route A-B appears on the Tithe Map as a double dashed line but there is no reference to it in the

plot description in the Tithe Apportionment; the remainder of the claimed route is not shown.

Ordnance Survey Maps

5.5.3. Ordnance Survey mapping was originally for military purposes to record all roads and tracks that could be used in times of war. This included both public and private routes. These maps are good evidence of the physical existence of routes, but not necessarily of status. Since 1889 the Ordnance Survey has included a disclaimer on all of its maps to the effect that the depiction of a road or way is not evidence of the existence of a right of way. It can be presumed that this caveat applies to earlier maps also. These documents must therefore be read alongside the other evidence.

O.S. County Series 25" to 1 mile, 1st, 2nd and 3rd Editions

5.5.4. On the first edition there is a footbridge indicated by 'FB' at the canal, then no route is shown for either A-F or A-B. An enclosed area is shown to the field edge, this extends from point B to point G and is numbered 114. There is no indication of a route on the claimed footpath. On the second and third editions the footbridge is annotated but there is no enclosed area shown; and no indication of either the Definitive alignment of Footpath No. 13 or the claimed footpath.

O.S. County Series 6" to 1 mile, 1st, 2nd and 3rd Editions

5.5.5. As with the 25 inch map above the 1st edition shows an enclosed area to the field edge, which again extends from point B to point G. There is no indication of a route on the claimed footpath. The second and third editions, as with the 25 inch map, has the footbridge annotated but the enclosed area is not shown; therefore showing no indication of either route.

National Parks and Access to the Countryside Act 1949

5.5.6. The Definitive Map and Statement is based on surveys and plans carried out in the early 1950s by each parish in Cheshire of all the ways they considered to be public at that time. The surveys were used as the basis for the Draft Definitive Map. The survey was completed for the Lyme Handley parish between October 1949 and November 1951.

5.5.7. There are 4 maps contained in the file for Lyme Handley, unfortunately there are no schedules to accompany the plans. It is unknown whether they are missing or if none were produced. What appears to be the main parish survey map, has the names of those who completed the survey at the bottom on the map. The map shows a route on a similar line to the claimed path from point A-B-C-D on Plan No. WCA/022, but then from point D it appears to follow a rough line closer to the field boundary points D-I-E rather than cutting across the field. At point B, 'FG' is annotated for Field Gate; and at points D and E, 'FG S' for Field Gate and Stile.

- 5.5.8.** Another map annotated 'Parish Map' shows the line of the path following points A-B, it then curves into the field and re-joins the field edge near to point G. It then continues along the field edge from this point G-H-D-I-E. The path is not annotated with any path furniture on this map.
- 5.5.9.** The Peak and Northern Footpath Society also carried out footpath surveys at the time the parish surveys were being completed. The map which is annotated 'FPS. Soc. Map' shows the line of the footpath the same as the parish map referred to at 5.5.8 above. The field gate and stile annotations are shown on this map the same as the map referred to at 5.5.7 above.
- 5.5.10.** Finally there is a map annotated 'Rough Draft Map' this also shows the alignment of the path the same as the parish map referred to at 5.5.8 above. On this map the Footbridge at point A on Plan No. WCA/022 is annotated 'FB3'. There is a stile annotated 'S4' at the location of point B; and also stiles annotated 'S5' and 'S6' at points D and E.
- 5.5.11.** The Draft Definitive Map for Lyme Handley shows the alignment of Footpath No. 13 from the canal bridge to a point just south of point F, the line then follows the field boundary. The stiles are annotated the same as the 'Rough Draft Map'. It is not known why the Draft Definitive Map shows the line of the path differently from the Parish Map and Rough Draft Map. One possible explanation is that Officers at the time had viewed the Tithe Map and Ordnance Survey 1st Edition and believed that the footpath should follow the field boundary as that is where it appears to have been historically.
- 5.5.12.** The Provisional Definitive Map has a relevant date of 1st November 1954 and shows the line of the footpath following the field boundary as Footpath No.13 is shown on Plan No. WCA/022 between points A-F-G-H-I-E.
- 5.5.13.** The Definitive Map also shows Footpath No. 13 following the field boundary as it shown on Plan No. WCA/022. There is no evidence of any objections or representations being made regarding this path during the Definitive Map process at either the draft or provisional stage.

Correspondence from 1954

- 5.5.14.** Correspondence has been found from 1954 regarding a complaint by the Peak and Northern Footpath Preservation Society to the Cheshire County Council County Surveyor and Clerk of the County Council. The complaint concerns part of the footpath further to the east at Green Farm. However, a plan showing the footpath is included with the correspondence. This shows a blue line from the canal bridge to Green Farm. The alignment of the footpath is clearly shown as following the same line as the parish map referred to at 5.5.8 above, between points A-B-G-H-D-I-E on Plan No. WCA/022.

Photos submitted by the applicant and Aerial Photos

- 5.5.15.** The applicant submitted a CD containing 37 photos of the route taken in February 2015. One photo clearly shows point B where the path had been blocked off with wire fencing. A notice is shown, and another notice with just the word 'footpath' and a black arrow pointing to the left. Other photos show a clear trodden path in places. The applicant also submitted 3 copies of the 2010 aerial photo. One is a plain photo; one is marked with the photograph numbers and one is marked with the claimed route.
- 5.5.16.** The 1999-2003 aerial photo shows a trodden route on the line of the claimed path, although the path between points D-E is not shown as clearly. The 2010 aerial photo, which is the one submitted by the applicant, again shows a visible trodden path on the claimed route apart from D-E which is not so clear. On the 2015-2017 aerial photo both the claimed and definitive alignment can be seen. A path is visible between points A-B, and also A-F. A path can also be seen between points B-F and then the newly surfaced section along the field edge is clear. The claimed route through the field is not as visible on this later photo.

5.6. *Witness Evidence*

- 5.6.1.** A chart illustrating the user evidence is at Appendix 2. The chart indicates the relevant 20 year period which is 1994 - 2014. This is because no challenge to use of the route took place until 2014, when the claimed route was blocked off at point B, therefore 2014 is used as the date the route was 'brought into question'.
- 5.6.2.** Sixteen user evidence forms were completed and submitted with the application. All the witnesses completed these in January/February 2015. Sadly, two of the witnesses who completed forms have since passed away. Two witnesses made contact to say they did not wish to give any further evidence. Officers were unable to make contact with three of the witnesses. The evidence given in the user evidence forms is still taken into consideration even if the witness is not interviewed.
- 5.6.3.** Nine of the witnesses were interviewed by telephone and Officers also spoke to the spouse of one witness, who also gave a short statement. Therefore, there were ten interviews. Of these four people indicated they would not be willing to give their evidence at any subsequent public inquiry, although they would be happy for their statement to be submitted. One of the witnesses interviewed (witness 9) is the current landowner for part of the claimed route; he owns the field adjacent to the canal. Therefore, his evidence for the section A-B on Plan No. WCA/022 could not be considered as he owns the land for that section.
- 5.6.4.** All of the use of the claimed route is by foot; the first reported use as stated on the user evidence forms is from 1932 (witness 11), although the witness would only have been 4 years old at that time. Another

witnesses (witness 15) claims use from 1956 when she would have been 22 years old.

- 5.6.5.** With regard to the user evidence forms, fourteen of the sixteen witnesses have used it for the full relevant 20 year period, 1994 – 2014; one further witness has used it for 17 years during this period. The route has been used for a variety of recreational purposes; dog walking; visiting friends and leisure/exercise. One witness mentions using it with Poynton Rambling Club. Some witnesses state they used the claimed route ‘weekly’ or ‘monthly’, whilst others stated ‘occasionally’.
- 5.6.6.** Witnesses do not report being challenged; no obstructions have been reported other than when the path was re-routed. However, most of the witnesses mention that the route was in a very poor state when it was fenced to the field edge. At the time of the witnesses completing the forms the work to the surface of the path had not been completed.
- 5.6.7.** The witnesses numbered 1, 3, 6, 7, 9, 10, 12, 13 and 14 (on the user evidence chart at Appendix 2) have been interviewed by telephone and in addition to their completed user evidence forms have each signed a statement from their interview. An additional witness who had not previously completed a form was interviewed.
- 5.6.8.** Of the ten witnesses interviewed nine witnesses have used it for the full relevant 20 year period, 1994 – 2014; one further witnesses has used it for 17 years during this period. Four witnesses have said they would not wish to give evidence at a public inquiry; however, their statements could still be considered. As referred to above at paragraph 5.6.3 one of the witnesses interviewed owns land over which part of the claimed path runs.
- 5.6.9.** All the witnesses interviewed said they believed the path they had been using was the public right of way, as there were stiles and a definite trodden route. The witnesses numbered 1 and 3 said they believed the route was waymarked or they had seen waymarks in the past. Witness number 7 said he had seen a signpost as you came off the canal bridge.
- 5.6.10.** From the interviews it was clear that the witnesses had all used the route A-B-C-D; most witnesses had used D-E, but some had walked around the field edge. Not many witnesses mentioned the link to Footpath No. 8 Lyme Handley (between point C-H on Plan No. WCA/022). Witness 1 said he had used it, witness 13 and 14 had used it but only once or very infrequently as it was not their usual way to walk.

5.7. *Landowner Evidence*

- 5.7.1.** The landowner of the first field east of the canal (witness 9) has stated in his interview that the stile had always been at the position of point B on Plan No. WCA/022. His wife and her family moved to the farm in 1970, he has known his wife from the 1980s and they now own this field. He

said their land is permanent pasture and they sometimes have sheep on there. He said one day without any warning or consultation barbed wire was put across the opening into the field and another path created at the field edge (point F).

- 5.7.2.** The landowner of the remainder of the claimed route has been consulted; however, at the time of writing he has not submitted any comments. This land is managed by a tenant farmer.
- 5.7.3.** The tenants of the land have submitted comments. They state that it has been difficult for them to prevent trespass onto the fields as they live 3 miles away from the land. However, when they do see people straying, they have always requested that they return to the definitive path. They state they have done all they can to prevent incursion into the fields. They explain that any notices put up, including requesting dogs to be kept under control and Council notices have been destroyed or removed.
- 5.7.4.** The tenants say that they understand people were upset about the definitive path when it was muddy, however those complaints have now been resolved and the footpath is in excellent condition. They explain that the definitive path was fenced because they have young bulls on the field; they state if this claimed path was added to the definitive map it too would need to be fenced to protect the public from young bulls. They request that the Council fence this path as they do not have the finances to do it themselves.
- 5.7.5.** The tenants state it makes no sense to have another footpath which goes from the same entrance and exit points with only a few metres between the two paths. They say that the Council has spent a great deal of resources on improving the definitive path which is now wonderfully maintained; a second footpath would offer no extra benefit to walkers over and above what they already have.

5.8. Conclusions

- 5.8.1.** The user evidence submitted shows use of the claimed route from 1932 to 2014; however, the majority of use seems to be from the 1970s onwards. The relevant period to be considered is 1994 to 2014; as no challenge was made to the use of the route until 2014 when the kissing gate at point B on Plan No. WCA/022 was blocked off. Fourteen of the sixteen witnesses who completed user evidence forms claim use of the route on foot for the full twenty year period. Ten witnesses have been interviewed by Officers.
- 5.8.2.** Under section 31(1) of the Highways Act 1980 public footpath rights can come into existence by prescription unless there is evidence to the contrary. Therefore the landowner must provide evidence to that effect, which is normally evidence of a challenge or notices put up during the relevant twenty year period. In this case there is no landowner registering an objection to the claimed path. However, the tenants of the

land have said they do challenge people when they see them but as they do not live close by this is difficult. All of the witnesses interviewed state they were not challenged at any time when using the route. There is no evidence of any challenge to the public during the relevant period.

5.8.3. There is documentary evidence to show that a route was in existence along the alignment of the definitive route of Footpath No. 13 in 1850. The Lyme Handley Tithe Map and 1st Edition Ordnance Survey Maps are good supporting evidence that public rights exist along the definitive route of Footpath No. 13. Although the entry point into the field may well have been at point B rather than point F on Plan No.WCA/022. There is also evidence from the early 1950s (parish walking survey maps and correspondence from the Peak and Northern Footpath Preservation Society) that it was believed Footpath No. 13 was on an alignment similar to the claimed path. However, when it came to the Definitive Map process the path has consistently been shown on the definitive alignment of Footpath No.13. (Draft, Provisional and Definitive Map).

5.8.4. The evidence in support of this application must show, on the balance of probabilities that public footpath rights subsist or are reasonably alleged to subsist along the claimed route. It is considered that there is sufficient user evidence to support the existence of footpath rights. On the balance of probabilities, the requirements of Section 53(3)(c)(i) have been met and it is recommended that the Definitive Map and Statement should be modified to add the claimed route between points A-B-C-D-E on Plan No. WCA/022 as a Public Footpath.

6. Consultation and Engagement

6.1. The ward councillors, parish councils, user groups and statutory undertakers have been consulted.

6.2. There is no parish council for Lyme Handley, therefore the two closest local councils were consulted. Poynton Town Council submitted the following comments, *“Poynton Town Council were informed in 2015 of concerns about the state of part of Footpath 13 in Lyme Handley parish, and passed these onto Cheshire East. It was alleged that the path is often waterlogged and difficult to use, and walkers have often had to follow a roughly parallel route a short distance to the south. Due to the current coronavirus situation and “social distancing”, it has not been possible to visit the site, but we understand that Cheshire East have spent over £10K on remedial works to Footpath 13, designed to address the issues raised. Poynton Town Council would urge that Cheshire East inspect the footpath and, if it is now easily passable, take no further action. If the reported problems have been resolved, there would be no obvious need to provide a second path only a short distance from the existing route.”*

6.3. Pott Shrigley Parish Council submitted the following comments, *“Pott Shrigley Parish Council has no evidence of ever having discussed this*

footpath, FP13 in Lyme Handley nor the claimed addition. However individual members of the Council have used this path which has been much upgraded in recent years, with two kissing gates, a very generous width fenced on one side, a gravelled surface for much of its route through the area and - not least - a (relatively recently installed) boardwalk of over 30 yards length (complete with handrail!) passing over what was the wettest section. In the past the condition and fencing which made it difficult for walkers to find a way past the water/marsh which was obstructing a section of the footpath not only, but particularly, in wet periods. It is not surprising therefore that at this time the applicant put in his request for adding this extra route. Whatever the justification may have been then, the Council finds it difficult to understand why the applicant is persisting with the application. The additional route seems to be unnecessary, being close to and almost parallel with, the established and much upgraded FP 13, and thus offers little or no apparent benefit to walkers or more generally to the local footpath network.”

- 6.4. Councillor Jos Saunders made comments to Officers by email. Councillor Saunders states that the current footpath is in excellent condition and is accessible all year round. Councillor Saunders comments that the claim is unnecessary, and it would be a waste of resources to make any changes.
- 6.5. The Peak and Northern Footpath Society responded to the consultation and stated their inspector had visited the site. They have no adverse comments and state it would be a welcome addition to the network.

7. Implications

7.1. Legal

- 7.1.1. Under section 53 of the Wildlife & Countryside Act 1981 (WCA), the Council has a duty, as surveying authority, to keep the Definitive Map and Statement under continuous review. Section 53 (3) (c) allows for an authority to act on the discovery of evidence that suggests that the Definitive Map needs to be amended. The authority must investigate and determine that evidence and decide on the outcome whether to make a Definitive Map Modification Order or not.
- 7.1.2. Upon determination of this application, the authority must serve notice on the applicant to inform them of the decision. Under Schedule 14 of the WCA, if the authority decides not to make an order, the applicant may, at any time within 28 days after service of the notice, appeal against the decision to the Secretary of State. The Secretary of State will then consider the application to determine whether an order should be made and may give the authority directions in relation to the same.
- 7.1.3. The legal implications are contained within the report.

7.2. Finance

7.2.1. If objections to an Order lead to a subsequent hearing/inquiry, the Council would be responsible for any costs involved in the preparation and conducting of such.

7.3. Policy

7.3.1. There are no direct policy implications.

7.4. Equality

7.4.1. The legal tests under section 53 of the Wildlife & Countryside Act 1981 do not include an assessment of the effects under the Equality Act 2010.

7.5. Human Resources

7.5.1. There are no direct implications for human resources.

7.6. Risk Management

7.6.1. There are no direct implications for risk management.

7.7. Rural Communities

7.7.1. There are no direct implications for rural communities.

7.8. Children and Young People/Cared for Children

7.8.1. There are no direct implications for children and young people/cared for children.

7.9. Public Health

7.9.1. There are no direct implications for public health.

7.10. Climate Change

7.10.1. 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.

7.10.2. 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:	Jennifer Ingram Definitive Map Officer jennifer.ingram@cheshireeast.gov.uk
Appendices:	Appendix 1 – Documentary Evidence List Appendix 2 – User Evidence Chart

Background Papers:	The background papers/information relevant to this report are contained in file MA/5/249 and can be inspected by contacting the Officer above.
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