

Public Rights of Way Sub Committee

Date of Meeting:	1 st August 2022
Report Title:	Public Rights of Way Annual Report 2021-22 and Work Programme 2022-23
Report of:	Jayne Traverse, Executive Director Place
Ward(s) Affected:	All

1. Purpose of Report

- 1.1. The report aims to inform readers about the work of the Public Rights of Way (PROW) team, including achievements and challenges.
- 1.2. The work of the Public Rights of Way team contributes to the Corporate Plan priority “A thriving and sustainable place”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.
- 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. Executive Summary

- 2.1. This report records the achievements of the Council in terms of its PROW functions during the year 2021-22 and sets out the proposed work programme for the year 2022-23. Details are set out in Appendices 1, 2 and 3.

3. Recommendation/s

3.1. That the report be noted.

4. Reasons for Recommendation/s

4.1. The report is for information only.

5. Other Options Considered

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

6. Background

6.1 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.

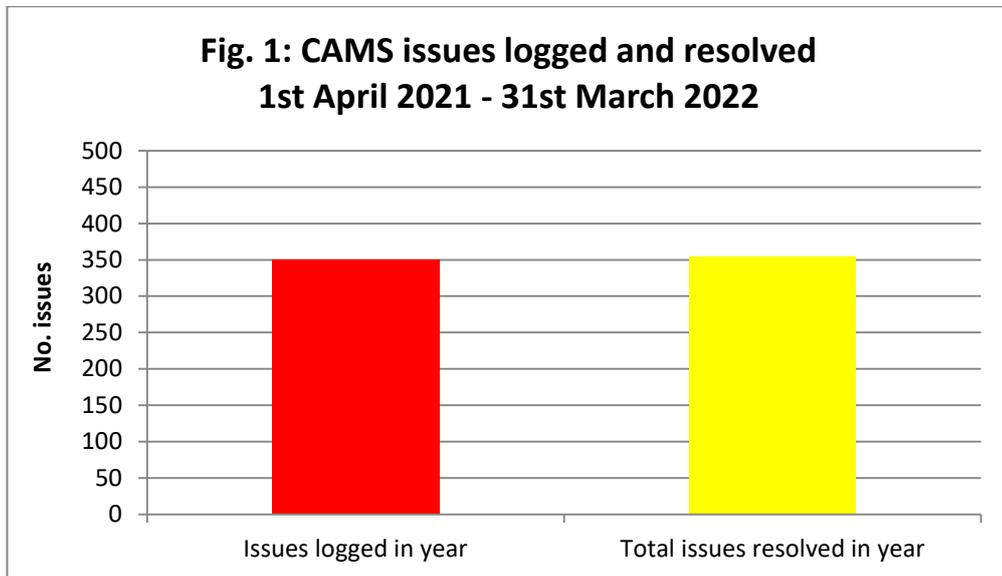
6.2 Each area is examined individually below, with the specific achievements of 2021-22, together with the work programme for 2022-23, contained in the relevant Appendices.

6.3 The past 2 years have been some of the most challenging times 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 continued long-term absence in the team. As at the start of the pandemic, office tasks remain 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. Officers have excelled in overcoming such challenges, however, and future working arrangements are likely to remain in the form of hybrid office/home working. Visitor numbers to the countryside increased dramatically as a result of the lockdowns, and whilst levels have fallen, the impacts of the pandemic remain, particularly on path surfaces, on the land, and on landholders. This continues to generate a large number of enquiries from both landowners and users.

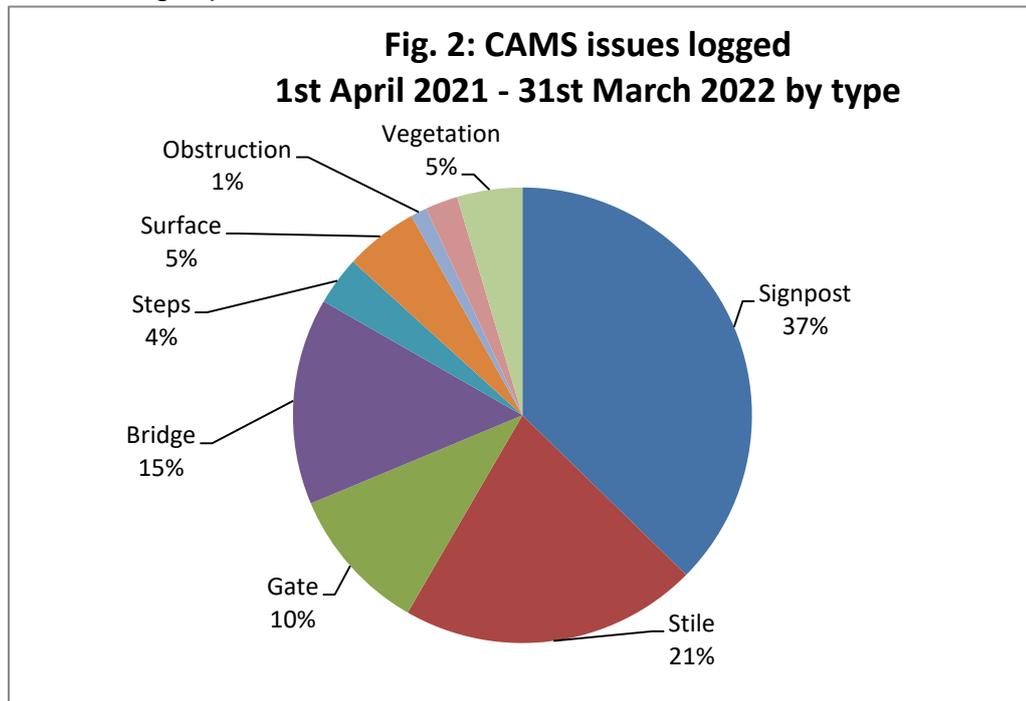
6.4 Network Management and Enforcement

- 6.4.1 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.
- 6.4.2 2 cases required the Council to undertake enforcement action during 2021-22, with all other reported obstructions being removed following conversations or exchange of correspondence. 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.
- 6.4.3 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 landslide in which a diversion solution has been agreed with the adjacent landowner, with support from user groups.
- 6.4.4 514 different Public Rights of Way benefitted from vegetation cutting in the year in order to help keep the routes open and available for the public, a total length 113km of path.
- 6.4.5 350 path problem reports have been logged within the team's mapping and database software "CAMS" (Countryside Access Management System) during the year 2021-22, having been reported by the public, landowners or Officers. We are grateful for those who report such issues, and user groups who undertake regular surveys, in acting as our 'eyes and ears' out on the network so that such issues can be resolved, and paths improved.
- 6.4.6 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 continued 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.

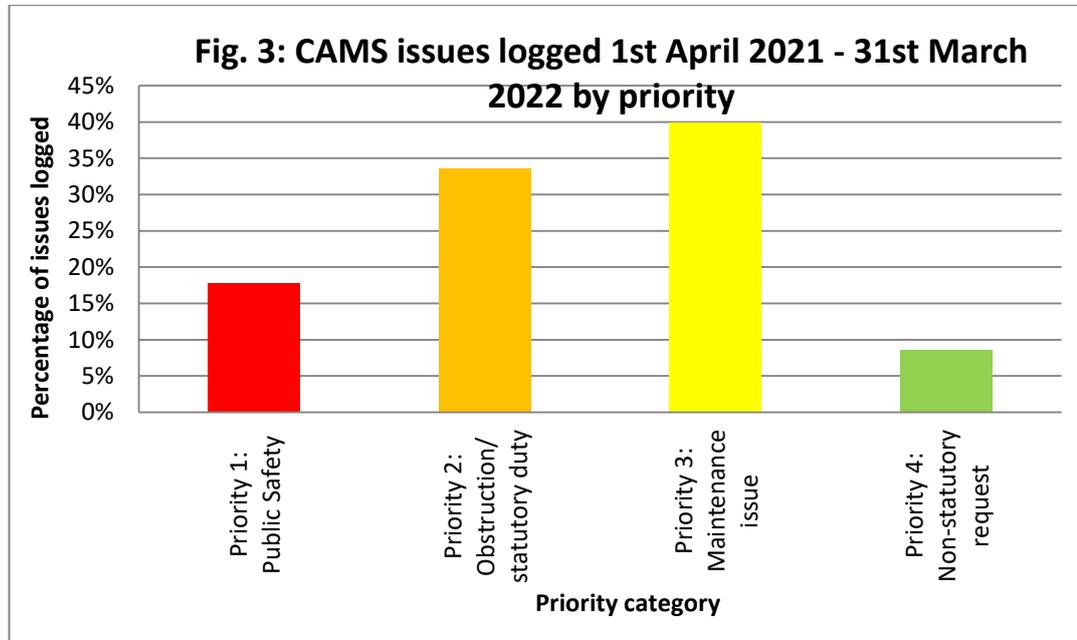


6.4.7 In Fig. 2 the numbers of different types of issues are very similar to previous years, showing relative consistency in the frequency of different types of issue being reported.



6.4.8 Fig. 3 shows a consistency with the previous year for the priority rating assigned to issues reported, with again an increased percentage of priority 1 issues, those relating to public safety. It should be noted that some urgent issues, such as fallen trees, are frequently reported but not entered onto 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.



6.4.9 The numbers of items of furniture installed by the team during the year are given in the table below, and record an increase as workstreams recover from the pandemic:

Furniture item	No. installed
Fingerposts	145
Waymark posts	85
Stiles	41
Pedestrian gates	15
Kissing gates	65
Bridleway gates	4
2-in-1 combination gates	9
Handrails	15
Bridges	35
TOTAL	424

6.4.10 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.

6.4.11 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. The Officers also work with a number of volunteer groups who undertake improvement projects on PROW, numbering 7 in the year. Such works are key to delivering improvements which would be hard to justify under current priorities and resources, and yet deliver results which the local communities are keen to see. Furthermore, works on the ground and Public Path Order cases can also resolve known mapping anomalies, of which 6 were concluded in the year. 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.

6.5 Path Inspection

6.5.1 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.

6.5.2 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.

6.5.3 An in-house random survey was again not carried out during 2021-22 in order to focus Officer time on work priorities. Instead, we are again 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 sampled through the in-house random survey. This result demonstrates the very high quality of the network. We are aware, however, of the continued high level of issue reports being received, regarding furniture, surfaces and vegetation, and the number of temporary closures whilst bridge or river bank repairs are required.

6.6 Technical Administration

- 6.6.1 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.
- 6.6.2 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 2021-22, 143 search requests were processed, an increase of 50% compared to the previous year.
- 6.6.3 The Officer also processed 607 applications for parking permits and 107 applications for canoe permits on behalf of the Countryside Ranger Service, showing a doubling and tripling of demand respectively, compared to the previous year. Parking permits are now available to purchase via an online system which has increased the efficiency of this task. In addition, the post holder undertakes numerous procurement and administration tasks to support both teams.
- 6.6.4 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, letter, email and web form. The team's central email account received 2,570 emails in the year comprising enquiries, requests for legal processes and network issue reports.
- 6.6.5 During the year, the team received and responded to 4 Freedom of Information requests, 7 enquiries from MPs and 28 enquiries received via the Members' Enquiries Service, Chief Executive Office, Portfolio Holder, Leader or Cheshire East Highways.

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

- 6.7.1 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.
- 6.7.2 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.
- 6.7.3 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.

6.8 Legal Orders Team

- 6.8.1 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.
- 6.8.2 The team has 3 Public Path Order Officers who process applications for diversions and extinguishments and temporary closures. These posts are managed on a net nil basis, with the salaries covered by administration fees. Unfortunately, a long-term absence has reduced the capacity of the team during the year.
- 6.8.3 During 2021-22 the team assessed 356 planning applications in order to ensure the protection and seek enhancement of the PROW network, a slight increase on the previous year. This 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.
- 6.8.4 Additionally, 114 temporary closures were processed, predominantly following application from developers and utility companies, as well as in-house requirements to protect the public, a reduction from the number processed in the previous year. These processes can involve repeated negotiation and communications between applicants and Officers, involve public notice being made and initiate large numbers of enquiries from the general public. Closures because of HS2 advanced works are now coming into effect and, whilst the Council does not grant such closures, Officer time is invested to seek to limit the impact of such closures.
- 6.8.5 The team received and processed 7 deposits, statements and declarations from landowners under section 31 of the Highways Act 1980, a decrease on the number seen in the previous year. The team also responds to enquiries for information following Local Land Charge searches, numbering

35 during the year, and increase on the preceding year, as well as internal requests for Definitive Map information.

- 6.8.6 Whilst no Town and Country Planning Act section 257 Orders to enable development to go ahead were made during the year, 3 Orders were confirmed, and 16 cases were in progress. No case files were 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 and has increased of recent years.
- 6.8.7 3 Highways Act 1980 Public Path Orders were made, and 8 Orders confirmed, with 9 cases in progress. 2 case files were prepared and submitted to the Secretary of State for determination following the receipt of objections. The waiting list for this area of work now sits at 67 applications due to complexities of current cases, other work priorities and a long-term absence in the team.
- 6.8.8 9 Definitive Map Modification Order application cases were in progress during the year, with 3 Orders being made following determination.
- 6.8.9 During the year, the Council received 2 directions 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.
- 6.8.10 At the end of the 2021-22 year, the waiting list of Definitive Map Modification Order applications stood at 48, with 6 new applications having been registered during the year, an increase from 4 in the previous year.
- 6.8.11 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.

6.9 Policies

- 6.9.1 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 Sub Committee.

6.10 Countryside Access Forum and ROW Consultative Group

- 6.10.1 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.
- 6.10.2 The Access Forum is complemented by the Cheshire East Rights of Way Consultative Group which meets twice yearly, now virtually, 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.

6.11 Budget

- 6.11.1 The annual budget for the years 2021-22 and 2022-23 are set out in the table below. During 202-22 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.

- 6.11.2 However, the Covid-19 pandemic continued to present 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 £108k pressure on the team's budget which was only partly covered by a government grant.
- 6.11.3 Budgets over preceding years had remained static in contrast to increased costs from suppliers for items such as timber and metal path furniture, the former at 70% above previous prices. 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 totaling £16.5k, particularly from user groups, for the improvement of the network, which helps to deliver great value and service for the public and landowners.
- 6.11.4 However, continued price rises are being seen and are yet anticipated, particularly in materials due to the ongoing effects of the pandemic, Brexit, major infrastructure schemes and fuel supply issues, as reflected in national prices indices and inflation rates. Looking forwards then, there will be a consequent reduction in outputs on the PROW network. 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.
- 6.11.5 The PROW team 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. This framework is in the process of being renewed, with a strong field of tenderers, though it is evident that, as anticipated, costs for services have increased significantly. We are always mindful of the value for money we, the public and landowners, benefit from through experience and good working relationships within the tendered framework which consists of a relatively few, specialist contractors.
- 6.11.6 The PROW team's core capital budget remained at a level 20% lower than previous years, impacting on what was delivered on the network. In contrast funding that had been secured for investment in bridge structures and for paths damaged by flooding events of previous years has been removed from the budget and further business cases are required in order to continue future investment and fund current schemes.
- 6.11.7 On the revenue budget, additional resource was secured for the employment of consultants and a new Definitive Map Officer to help address the waiting list of Definitive Map Modification Order applications.

That increase can be seen in the table below which summarises the budgets available.

	2021-22	2022-23
Length of PROW network	1946km	1952km
Total PROW revenue budget	£443k	£573k
Network maintenance budget	£63k revenue + £80k capital	£62k revenue + £87k capital
Maintenance budget per PROW km	£73/km	£76/km
Other funding	<ul style="list-style-type: none"> • £63k structures investment • £107k flooding investment • £20k STEPS active travel funding for Leighton FP2 • £12k PNFS gates for stiles grant • £9k donations including from BHS and East Cheshire Ramblers • S106 funding: <ul style="list-style-type: none"> ○ £12k non-PROW path in Nantwich 	<ul style="list-style-type: none"> • £48k flooding investment • £98k A6MARR PROW Complementary Measures package

6.12 Conclusion

- 6.12.1 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.
- 6.12.2 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. This, coupled with the increased usage during the lockdowns,

put path surfaces under pressure and caused landowners issues as users attempted to avoid muddy sections of paths. The Met Office predicts that the UK will in future see wetter winters, up to 30% wetter by 2070, and more frequent and intense weather extremes, including wind and rainfall; since 1998, the UK has seen six of the ten wettest years on record.

- 6.12.3 On the legal process side of the team's work, the Definitive Map Modification Order application waiting list is now again actively being addressed, supported by additional resources. In early 2022 it was announced that DEFRA had decided not to implement the 2026 cut-off date provisions in the CROW Act 2000 for historic evidence based Definitive Map Modification Order applications. It remains to be seen whether this will reduce the level of historic evidence applications submitted, though it would have no effect on the number of user evidence applications made.
- 6.12.4 In another area of legal processes undertaken by the team, demand for Public Path Orders continues to remain high, and this in an area of work which has been severely affected since the beginning of the pandemic. Further, the anticipated implementation of the Deregulation Act 2015 is likely to see DEFRA prioritising implementation of the right to apply for public path diversion and extinguishment orders; currently it is a power of the local authority, rather than a duty. Along with the right to apply is an 8-week determination timeframe for applications which will necessitate a fresh appraisal of resources, policies and procedures to deal with the resultant workload implications.
- 6.12.5 Whilst the implications of the Covid-19 pandemic reduce and society focusses on other challenges, including inflationary pressures, the experiences of the past 2 years have reinforced the vital importance of the PROW 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.

7. Consultation and Engagement

- 7.1 Consultation is not required. The annual report and its content is widely shared with interested parties.

8. Implications

8.1 Legal

- 8.1.1 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.

- 8.1.2 In addition, the impact of the further severe weather 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.

8.2 Finance

- 8.2.1 This report has been prepared based on 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, climate change and demand for legal process, together with increased supplies and services costs. To this end further business cases are being submitted to seek additional resources.

8.3 Policy

- 8.3.1 There are no policy implications foreseen.

8.4 Equality

- 8.4.1 There are no equality implications.

8.5 Human Resources

- 8.5.1 There are no additional human resource implications foreseen.

8.6 Risk Management

- 8.6.1 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 1 claim was registered with the Council's Insurance team.

8.7 Rural Communities

- 8.7.1 There are direct positive effects from the Public Rights of Way network for rural communities, through connectivity, access to services, leisure and active travel.

8.8 Children and Young People/Cared for Children

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

8.9 Public Health

8.9.1 There are direct positive effects from the Public Rights of Way network for public health, through mental and physical health and wellbeing.

8.10 Climate Change

8.10.1 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.

8.10.2 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