

Public Rights of Way Committee

Agenda

Date:	Monday 13th June 2011
Time:	2.00 pm
Venue:	Committee Suite 1,2 & 3, Westfields, Middlewich Road, Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

3. **Minutes of Previous Meeting** (Pages 1 - 16)

To approve the minutes of the meeting held on 17 March 2011 as a correct record.

4. **Public Speaking Time/Open Session**

Members of the public may speak on a particular application after the Chairman has introduced the report, provided notice has been given in writing to Democratic Services by 12 Noon, one clear working day before the meeting. A total of 6 minutes is allocated for each application, with 3 minutes for objectors and 3 minutes for supporters. If more than one person wishes to speak as an objector or supporter, the time will be allocated accordingly or those wishing to speak may agree that one of their number shall speak for all.

For any apologies or requests for further information, or to give notice of a question to be asked by a member of the public

Contact: Rachel Graves

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Also in accordance with Procedure Rules No. 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee. Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice of the intention to speak, however, as a matter of courtesy, a period of 24 hours notice is encouraged.

Members of the public wishing to ask a question should provide at 3 clear working days notice in writing, and should include the question with that notice. This will enable an informed answer to be given.

5. **Public Rights of Way Annual Report 2010-2011 and Work Programme 2011-2012**
(Pages 17 - 35)

To consider a report on the achievements of the Council in terms of its public rights of way functions during the year 2010-2011 and which sets out the proposed work programme for the year 2011-12.

6. **Highways Act 1980 Section 119: Application for the Diversion of Public Footpath Nos 1, 2, 3 and 11 (parts), Parish of Mobberley** (Pages 36 - 41)

To consider an application for the diversion of Public Footpath Nos 1, 2, 3 and 11 (parts) in the parish of Mobberley

7. **Highways Act 1980 Section 119: Application for the Diversion of Public Footpath No. 6 (part), Parish of Sandbach** (Pages 42 - 47)

To consider the application for the diversion of Public Footpath No. 6 (part) in the parish of Sandbach

8. **Highways Act 1980 Section 119: Application for the Diversion of Public Footpath No. 4 (part), Parish of Peover Inferior** (Pages 48 - 53)

To consider the application for the diversion of Public Footpath No. 4 (part) in the parish of Peover Inferior

9. **Highways Act 1980 Section 119: Application for the Diversion of Public Footpath No. 6 and Bridleway No. 1 (parts), Parish of Congleton** (Pages 54 - 59)

To consider the application for the diversion of Public Footpath No. 6 and Bridleway No. 1 in the parish of Congleton

10. **Highways Act 1980 Section 119: Application for the Diversion of Public Footpath No. 9 (part), Parish of Chorlton** (Pages 60 - 65)

To consider the application for the diversion of Public Footpath No. 9 (part) in the parish of Chorlton

11. **Highways Act 1980 Section 119: Application for the Diversion of Public Footpath No. 6 (part), Parish of Sound** (Pages 66 - 71)

To consider the application for the diversion of Public Footpath No. 6 (part) in the parish of Sound

12. **Highways Act 1980 Section 119: Application for the Diversion of Public Footpath Nos. 4 and 5 (parts), Parish of Great Warford** (Pages 72 - 76)

To consider the application for the diversion of Public Footpath Nos. 4 and 5 (parts) in the parish of Great Warford

THERE ARE NO PART 2 ITEMS

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Public Rights of Way Committee**
held on Thursday, 17th March, 2011 in Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor S Wilkinson (Chairman)
Councillor R Walker (Vice-Chairman)

Councillors D J Cannon, R Cartlidge, W S Davies and J Wray

OFFICERS PRESENT

Mark Wheelton, Leisure Services and Greenspaces Manager
Mike Taylor, Greenspace Manager
Genni Butler, Countryside Access Development Officer
Hannah Flannery, Definitive Map Officer
Clare Hibbert, Definitive Map Officer
Marianne Nixon, Public Path Orders Officer
Robert Wade, Legal Services Development Team Manager
Carol Jones, Democratic Services Officer

41 CHAIRMAN'S OPENING REMARKS

The Committee recorded its thanks to Amy Rushton, Rights of Way Manager, who had recently left the Authority. She had been an excellent Officer who had made a valuable contribution to the work of the Committee.

42 APOLOGIES FOR ABSENCE

Apologies were received from Councillor R Bailey.

43 DECLARATIONS OF INTEREST

Councillor D Cannon declared a personal interest in the meeting proceedings by virtue of his membership of the PALLGO Rambling Club in Crewe and Nantwich. In accordance with the code of conduct, he remained in the meeting during consideration of all items of business.

44 MINUTES OF PREVIOUS MEETING**RESOLVED:**

That the minutes of the meeting held on 13 December 2010 be approved as a correct record and signed by the Chairman.

45 PUBLIC SPEAKING TIME/OPEN SESSION

There was one member of the public in attendance and they did not wish to address the Committee.

46 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO 52, PARISH OF BOLLINGTON AND NOS 35 (PART) AND 48, PARISH OF ADLINGTON

The Committee received a report which detailed an application from Mr and Mrs S Wall, Tip Farm, Lodge Brow, Bollington (the applicant) requesting the Council make an Order under section 119 of the Highways Act 1980 to divert Public Footpath No.52 in the parish of Bollington and Public Footpaths No.35 (part) and 48 in the parish of Adlington.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path.

The applicant owned the land over which the current paths and proposed diversions ran. The sections of public footpath to be diverted lead to and ran through the property of the applicant. To provide security and privacy to the applicant's property, the proposed diversion route would take the path users away from the house and outbuildings and would allow better land management in relation to livestock.

The proposed route would be of benefit to the public as it would link Adlington Footpath No.35 with Adlington Footpath No.36, increasing user safety by providing a path parallel to but away from the narrow road – Lodge Brow. Also it would be more accessible to users since there would be no barriers.

The Committee noted that no objections had been received to the proposals and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpaths would be of benefit to the landowners, particularly in terms of privacy and security. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert Public Footpath No. 52 Parish of Bollington and Public Footpaths No.35 (part) and 48, Parish of Adlington by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/040 on the grounds that it is expedient in the interests of the owners of the land crossed by the path.

- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

47 HIGHWAYS ACT 1980 - SECTION 119: PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 32 (PART), PARISH OF WILDBOARCLOUGH AND PUBLIC FOOTPATH NO. 23 (PART), PARISH OF SUTTON

The Committee received a report which detailed an investigation by the Public Rights of Way Team into the alignment of Footpath No. 32, Wildboarclough and Footpath No.23, Sutton and proposed that an Order be made under Section 119 of the Highways Act 1980 to divert part of the footpaths to correct the situation on the ground.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The section of Public Footpath No.32 Wildboarclough and Public Footpath No.23 Sutton (265 metres in length) to be diverted ran across sloping terrain over several fields of upland pasture. It crossed a stone wall and stream just to the north of the parish boundary where there appears never to have been a stile/bridge to facilitate the path. The length of footpath appears never to have been available to the public and it may be that it was poorly drafted onto the Definitive Map at the time of the original surveys in the early 1950s.

As a consequence of the difficulty of the definitive routes a permissive line had developed on the ground. This route was the proposed diversion and followed more level terrain along the valley. Mr R May owned the land over which the current path and proposed path ran and had given his agreement to the proposals for diversion.

The Committee noted that no objections had been received to the proposal and considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpath would be of benefit to the public, particularly in terms of accessibility. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 1 That Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.32 Wildboarclough and part of Public Footpath No.23 Sutton by creating new sections of public footpath and extinguishing the current paths as illustrated on Plan No.HA/034 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

48 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PART OF PUBLIC FOOTPATH NO. 8 IN THE PARISH OF RAINOW

The Committee received a report which detailed a proposal to request the Council to make an Order under section 119 of the Highways Act 1980 to divert Public Footpath No.8 in the parish of Rainow to resolve long-standing problems with the footpath and to create a more accessible, usable route on the ground for the path users.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The existing definitive line of Public Footpath No.8 Rainow had been unavailable for numerous years. It was difficult for the public to use due to the nature of the terrain and it was possible that the path was inaccurately recorded on the Definitive Map and Statement in the first place.

The current line of the footpath ran in a northerly direction across a field and then through the garden to the rear of Burton Spring Farm and passed in extremely close proximity to the house, directly alongside numerous windows of the property. This section of the footpath was also very narrow, approximately 1metre, and enclosed on both sides by the wall of the house on the eastern side and a retaining garden wall to the west of the property.

As the footpath leaves the garden there was a steep bank to climb with a gradient of approximately 1:2. It then crossed another field with a cross slope which was difficult to traverse due to its gradient, which was

approximately 1:4. As it reached Bank Lane there was another steep bank for users to descend. The definitive line was obstructed by walls and fences in a number of places. Re-instating the footpath on the original alignment would be expensive for the Authorities maintenance budget, three stiles or gates would be required as well as approximately 15 steps up the bank leading from the garden.

The proposed route ran in a north easterly direction across a field to the east of Burton Springs Farm until it reached Bank Lane. There were no steep sections for walkers to traverse and it offered a level surface. It also required only one kissing gate providing a much more easily accessible route for walkers. The proposed route would be unenclosed with a width of two metres and would offer better open views of the surrounding countryside. Taking walkers away from Burton Springs Farm would allow the landowner to improve the privacy and security of their property considerably.

Mr Christopher Leek owned the land over which the current route and the proposed route ran and he had provided written consent and support for the proposal.

The Committee noted that no objections had been received and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpath would create a more accessible, usable footpath, with a level surface, less path furniture and an increased width. It would also provide better views of the surrounding countryside for walkers and lead to savings for the Authority's maintenance budget. In addition, moving the footpath away from Burton Springs Farm would allow the landowner to improve the privacy and security of the property. The diversion would resolve long-standing problems with the footpath and create a more accessible, usable route on the ground for the public. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.8 in the parish of Rainow by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/067 on the grounds that it is expedient in the interests of the public and in the interest of the owners of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.

- 3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

49 HIGHWAYS ACT 1980 - SECTION 119 - APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO 9 (PART), PARISH OF SUTTON

The Committee considered a report which detailed an application from Miss W Dignan, Higher Ridgeway Farm, Clarke Lane, Langley (the applicant) requesting the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.39 in the parish of Sutton.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path.

The current path ran across land owned by the applicant. The section of Public Footpath No.9 Sutton to be diverted ran through the property of the applicant and through pasture fields, giving rise to concerns relating to land management.

The proposed new route would pass through a gap at point C on Plan No.HA/043 from Clarke Lane and continue in a northerly direction alongside a wall to the east, to reach a kissing gate. This section would be fenced to a width of 2.5m. Past the kissing gate the route would descend in north-westerly direction to reach the current termination at point B. Apart from the fenced section, the new route would have a width of 2m and would not be enclosed on either side. The proposed route would be shorter by 71 metres, less obstructed – one kissing gate instead of three field gates, provide better views across the open countryside and would take path users away from livestock on the applicant's property and separate them from livestock on adjacent land owned by the applicant.

The Committee noted that no objections had been received and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpath would be of considerable benefit to the landowner in terms of improving land management. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.9 Sutton by creating a new section

of public footpath and extinguishing the current path as illustrated on Plan No.HA/043 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.

- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

50 HIGHWAYS ACT 1980 - SECTION 119 - PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 25 (PART), PARISH OF KETTLESHULME

The Committee received a report which detailed an application from Mr D Ketley, Dungle Farm (the applicant) requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.25 in the parish of Kettleshulme.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The alignment of Footpath No.25 Kettleshulme (part) had been the subject of previous investigations by Cheshire County Council in the early 1990's who considered that the original recording of this section of the path was probably an anomaly and that a Definitive Map Modification Order might be necessary to rectify the situation. In the meantime a permissive path was put on the ground that has been used by the public. The legal alignment had never been solved, hence the application by Mr Ketley.

The applicant owned the land over which the current path and the proposed path ran. The section of Public Footpath No.25 Kettleshulme to be diverted ran across steeply sloping terrain close to the rear of Dunge Farm and at the height of the first story window. This raised serious concerns with regards to privacy and security for the landowner and provided a very steep surface for walkers that was difficult to negotiate and liable to slippage.

Following investigation by Cheshire County Council and in lieu of a modification order being made, the landowner with the Council's agreement signed a permissive route which ran to the west and front of the farm and this route was now proposed as the diversion. It followed the driveway to the property for a short distance then crossed an open yard leading onto a grassed/stoned track that skirted the immediate property boundary and offered an attractive aspect over a small valley of rhododendron bushes. This was part of the Dunge Valley Gardens which

were open to the public during the summer season. There was a small sleeper footbridge on the route over Hodgel Brook and kissing gates would be installed at two points where there were currently stiles.

The Committee noted that no objections had been received to the proposals and considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpath would be of benefit to the landowner in terms of privacy and security and to the public in terms of accessibility and convenience. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.25 Kettleshulme by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/035 on the grounds that it is expedient in the interests of the owner of the land crossed by the path and the public.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

51 HIGHWAYS ACT 1980 - SECTION 119 - APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO 39 (PART), PARISH OF WINCLE

The Committee received a report which detailed an application from Mr E Stubbs, Tolls Farm, Danebridge, Nr Macclesfield (the applicant), requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.38 in the parish of Wincle.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make an Order if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The current path ran across land owned by the applicant and neighbouring landowners Mr & Mrs Blythe, Pear Tree Cottage; Mr A Hine, Mr D Riley, Mr F Cocker and Mr & Mrs N Heald who owned cottages 1, 2, 3 and 4

respectively along Chapmans Row. All adjacent landowners had registered their agreement to the proposed diversion. The proposed diversion ran across land owned solely by the applicant.

The section to Public Footpath No. 39 Winkle to be diverted ran through the property of the applicant, through the property of adjacent Pear Tree Cottage and between the houses and gardens of the properties along Chapmans Row, giving rise to concerns relating to security, safety and privacy.

The proposed new route would follow a south westerly direction along a semi-surfaced track through a pasture field, bypassing a cattle grid by entering the field via a field gate and then rejoining the track. The new route would have a recorded width of 2m and would not be enclosed on either side. Of benefit to the public the new route would be significantly more enjoyable as it would pass through a more open and scenic landscape bring users closer to the River Dane and taking away the need to pass between houses and corresponding gardens. The new route would be shorter in length and easier to navigate having only one surface type and was relatively flat and unobstructed except for a field gate.

The Committee noted that no objections had been received to the proposal and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpath would be of considerable benefit to the landowner in terms of enhancing the security and privacy of their property. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No. 39 Winkle by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/044 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections with the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

52 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PARTS OF PUBLIC FOOTPATH NOS 7, 8 AND 26, PARISH OF MOTTRAM ST ANDREW

The Committee received a report detailing an application from Mr and Mrs Holland, Woodside Cottage, Smithy Lane, Mottram St Andrew, Macclesfield (the applicant), requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert parts of Public Footpaths No 7, 8 and 26 in the parish of Mottram St Andrew.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path.

The current paths and the provided diversion ran across land owned by the applicant and neighbouring landowners, Mr Carden of Woodside Farm, Smithy Lane, Mottram St Andrew and De Vere Hotels Ltd, owners of Mottram Hall, Wilmslow Road, Mottram St Andrew. Both adjacent landowners had registered their agreement to the proposed diversion.

The sections of Public Footpaths No. 7, 8 and 26 Mottram St Andrew to be diverted ran through the property of the landowner giving rise to concerns relating to security and safety. The landowner also had planning permission to convert some of the outbuildings into living accommodation, adding to the need for increased privacy and security at the property.

The new route would be significantly more enjoyable as it would pass through more open and scenic landscape and would have fewer barriers – two kissing gates as opposed to three stiles, a pedestrian gate and a field gate. Also it would be less intimidating for users who were currently forced to pass between the buildings of Woodside Cottage and the busy livery yard at Woodside Farm.

The Alderely Edge Wilmslow and District Footpath Preservation Society had informed that Council that a claim had been submitted in April 2008 to upgrade Mottram St Andrew Footpath No.26 to a restricted byway (Definitive Map Modification Order No.MA/5/240). The applicants were aware of the implications of this claim in relation to the proposed diversion of part of this path and had instructed the Council to continue.

The Committee noted that no objections had been received and considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpaths would be of considerable benefit to the landowner in terms of enhancing security and privacy of their property. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert parts of Public Footpaths No.7, 8 and 26 Mottram St Andrew by creating a new section of public footpath and extinguishing the current paths as illustrated on Plan No.HA/041 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

53 HIGHWAYS ACT 1980 - SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 14 (PART), PARISH OF WILDBOARCLOUGH

The Committee received a report which detailed an application from Mr and Mrs J Pollard, Goosetree Farm, Wildboarclough, Macclesfield (the applicant), requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.14 in the parish of Wildboarclough.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make the Order if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The applicant owned the land over which the current path and the proposed diversion ran. The section of Public Footpath No.14 Wildboarclough to be diverted ran through the property of the landowner giving rise to concerns relating to security and safety. The proposed diversion route would take path users away from Goosetree Farm along a more direct route that was already available as a permissive path.

Starting a point A on Plan No.HA/039, the proposed new route would enter a field via a kissing gate and continue across the field in a south easterly direction close to the western field boundary to terminate at point D. The new route would have a recorded width of 2m and would not be enclosed on either side. The route was already used by walkers as a permissive path and afforded pleasant, open views of the countryside. The applicant would carry out surfacing improvements on the route by installing steps where necessary, building up the surface with stone where it was soft, and by removing some of the large stones in the surface of the route.

The Committee noted that no objections had been received to the proposals and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpath would be of considerable benefit to the landowner in terms of enhancing security and privacy of the property. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.14 Wildboardclough by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/039 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

54 HIGHWAYS ACT 1980 -SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO 128 (PART), PARISH OF WILMSLOW

The Committee considered a report detailing an application from Mr R Hurst, Dairy House Farm, Dairy House Lane, Woodford, SK7 1RA (the applicant) requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.128 in the parish of Wilmslow.

In accordance with Section 119(1) of the Highways Act 1980 it was within the Council's discretion to make an Order if it appeared to the Council to be expedient to do so in the interests of the public or the lessee or occupier of the land crossed by the path.

The current path ran across land owned by the applicant. The section of Public Footpath No.128 to be diverted ran to and through the busy working yard of Dairy House Farm, giving rise to concerns relating to security, safety and privacy.

The proposed new route would leave the metalled track at point A on Plan HA/042 to enter the adjacent western field via a gap. It would then

continue westerly along the northern field boundary and then southerly along the western field boundary to terminate at the south west field corner at point C on Plan HA/042. The new route would have a width of 2m, a length of 162m and would not be enclosed on either side. The new route would take path users away from the busy working yard and would be unobstructed.

The Ramblers Association had suggested that the surface of the proposed route across the field should be treated with stone. The Council's position was that as the current route to be diverted crossed pasture, and then continued into pasture until its termination, it would not be reasonable or necessary to expect the applicant to provide a stone surface for the new route. It was reported at the meeting that the Ramblers Association had now withdrawn their request and had accepted the Council's position.

The Committee noted that there were no outstanding objections and considered that the new route would not be substantially less convenient than the existing route. Diverting the footpath would be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

RESOLVED:

- 1 That an Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.128 Wilmslow by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/042 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**55 CHESHIRE EAST RIGHTS OF WAY IMPROVEMENT PLAN 2011-2026:
NOTIFICATION OF IMPLEMENTATION PLAN 2011-2015**

The Committee received a report on the first four year implementation plan under the Cheshire East Rights of Way Improvement Plan (ROWIP) 2011-2026.

The ROWIP had to set out a statement of action detailing how the authority would implement improvements. This would be set out in four-

yearly implementation plans. A copy of the first one for Cheshire East under the ROWIP 2011-2026 was attached as Appendix 1 to the report.

Suggestions for improvement projects had been submitted during the development of the ROWIP by officers, member of the public, user groups and community groups. These suggestions had been prioritised by the methodology selected by the Cheshire Local Access Forum. This methodology took into account the benefits of the scheme in the context of local need.

The highest priority suggestions had been selected for each category of suggestion: walking, cycling, horse riding, transport related and cross-cutting projects. It was intended that these suggestions be investigated and developed first, with the acknowledgement that some may not be feasible and other opportunities may arise through partnerships and developments that result in alternative projects being taken forward.

RESOLVED:

That the Improvement Plan 2011-2015 of the Cheshire East Rights of Way Improvement Plan 2011-2026 be noted.

56 PUBLIC INQUIRY TO DETERMINE DEFINITIVE MAP MODIFICATION ORDER - POYNTON WITH WORTH FOOTPATH NOS 92, 93 AND 94

The Committee received an information report on a recent public inquiry to determine Definitive Map Modification Order – Poynton with Worth Footpaths No. 92, 93 and 94, and its outcome.

An application had been made to Cheshire County Council in 2002 for three public footpaths to be added to the Definitive Map across land constituting a recreation ground called Brecon Park in Poynton. Cheshire County Council considered this application at its Rights of Way Committee in July 2007, when the making of an order was approved and a Modification Order to add these footpaths was made on 23 October 2007.

Poynton with Worth Town Council submitted a formal objection to the order, which was not withdrawn, based on the fact that there was no physical evidence of use of the paths across the grassed fields and that bye laws renewed in 2006 implemented opening times to the Park.

Since the Order was made, Local Government Reorganisation transferred responsibility for seeking resolution to this Order to Cheshire East Council. An inquiry was held on 25 January 2011 and the Inspector heard evidence from the Clare Hibbert, Definitive Map Office, nine witnesses and the applicant in support of the Order and from Councillor Howard Murray, Poynton with Worth Town Council in opposition.

The evidence in support was that under section 31 of the Highways Act 1980, the ways had been used for a full period of 20 years without force,

secrecy or permission and without sufficient evidence to indicate that there had been no intention to dedicate during that period. If these criteria were fulfilled then the way was deemed to have been dedicated.

The evidence in opposition to the Order was that there was not sufficient evidence of use as there was no physical line of tread on the ground to indicate a used line and that bye laws restricted the times of entry to the ground. During the course of questioning Councillor Murray accepted that, as far as he was aware, access to Brecon Park had never been subject to closing times. These times had never been made public on notices or signs around the Park.

The Inspector issues a decision letter on 4 February 2011 in which the Order was confirmed. The balance of the argument weighed in favour of the paths having been deemed to have been dedicated. The Council had advertised the confirmation Order and must allow 42 days for a High Court challenge to be made. This period expired on 8 April 2011.

RESOLVED:

That the outcome of the Public Inquiry be noted.

57 CHAIRMAN'S CLOSING REMARKS

On behalf of the Committee, the Chairman expressed thanks to Councillor Rodney Walker, Vice-Chairman, for his valuable contribution to the work of the Committee. Councillor Walker was not standing as a candidate in the forthcoming elections.

The meeting commenced at 2.00 pm and concluded at 3.10 pm

Councillor S Wilkinson (Chairman)

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CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting:	13 June 2011
Report of:	Greenspaces Manager
Subject/Title:	Public Rights of Way Annual Report 2010-2011 and Work Programme 2011-2012

1.0 Report Summary

- 1.1 This report records the achievements of the Council in terms of its public rights of way functions during the year 2010-2011 and sets out the proposed work programme for the year 2011-12. Details are set out in Appendices 1, 2 and 3.

2.0 Recommendations

- 2.1 That Members note the Annual Report for 2010-2011 and approve the proposed Work Programme for the Public Rights of Way Team 2011-2012.

3.0 Reasons for Recommendations

- 3.1 As set out in the background and options section of the report (Section 10).

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All Members

6.0 Policy Implications including

- 6.1 The development of the Rights of Way Improvement Plan (see Appendix 2) is aligned with the health and wellbeing objectives and priorities of the Council as stated in the Corporate Plan (2.1.1 Encouraging healthier lifestyles) and the Health and Wellbeing Service commitment to the Change4Life initiative.
- 6.2 In addition, the ROWIP, as an integrated part of the Local Transport Plan, is set within the context of indicators concerning sustainable transport, air quality and CO₂ emissions.

7.0 Financial Implications

7.1 None arising.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 None arising

9.0 Risk Management

9.1 Members are requested to note the fact that as was noted last year the Public Rights of Way Team does not currently have the staff resources to carry out path inspections under section 58 of the Highways Act 1980 (see 11.5.1. below). This function could assist the Authority in defending against insurance claims where individuals incur accidents on public rights of way. Bridges continue to be surveyed every 2 years, but paths in general are not surveyed for this purpose. This results in a lack of a legal defence to claim(s) for personal injury. Members should note that the proposed survey project involving volunteers described below at 12.2 will not replace this function.

9.2 There were two claims against the Council in 2010/11 for defects on the surface of a public right of way (claims relating to structures are referred to the landowner). Both claims have been successfully repudiated by the Council's insurance team.

10.0 Background and Options

10.1 The work programme for the Public Rights of Way Team is usually approved by the Rights of Way Committee at the commencement of the financial year, in the form of a series of targets. Targets are set in the context of the Countryside Agency's (now Natural England) National Targets for public rights of way, which have as their aim that the rights of way network in England and Wales should be:

- Legally Defined
- Properly Maintained
- Well publicised

10.2 In addition to those targets, and reflecting the range of new work imposed by the Countryside and Rights of Way (CROW) Act 2000, targets in relation to four other areas are also set:

- Implementation of the Rights of Way Improvement Plan
- Implementation of the CROW Act 2000: New Duties and Powers
- Countryside Access Development and Initiatives
- General Support and Administration

- 10.3 Each area is examined individually, below, with the successes of 2010/11 contained within the relevant appendices.

11.0 Network Management – Maintenance and Enforcement

- 11.1 The Maintenance and Enforcement Team comprises three full-time officers who deal with the protection and maintenance of the network. They operate on an area basis, with each officer responsible for approximately 630 kilometres of the network. Within their area, they are responsible for maintenance and enforcement to remove obstructions and keep the path network available for use.
- 11.2 An outline report and work programme for the Maintenance and Enforcement Team is attached at Appendix 1. The component tasks represent the “Milestones” identified in the former Countryside Agency’s National Targets.
- 11.3 The work of the maintenance and enforcement team is the area that is most easily influenced by changes in budget provision and their work has reflected most clearly the impact of budget reductions. One area that is difficult to accommodate is the provision of kissing gates in replacement of stiles. There is ever increasing pressure to install kissing gates in preference to stiles from a number of directions, landowners, user groups and the public and lastly equality legislation. However given that it costs £69 to purchase and install a stile compared to £295 to purchase and install a kissing gate it is clear to see how easy it is for budget pressures to emerge.

12.0 Path Inspection

- 12.1 The Public Rights of Way Team does not have dedicated staff to carry out path inspections under section 58¹ of the Highways Act 1980 (see above at 9.1). Another form of path inspection exists 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, the national group, the County Surveyors’ Society, is keen that authorities continue to collect this data and in Cheshire it has been collected as a local indicator for the Local Transport Plan - LTP 13. The team duly carried out the BVPI178 inspection this year: the percentage pass rate was 85%, which compares very favourably with a pass rate of 84% for 2009.
- 12.2 Additionally a volunteer scheme is being developed for 2011 in conjunction with East Cheshire Ramblers which will involve members of the Rambler’s Association carrying out condition surveys of public

¹ Section 58 HA80 = “Special defence in action against a highway authority for damages for non-repair of highway”. Under this section it is a defence to prove that the authority had taken such care as in all the circumstances was reasonably required to secure that the path of the highway to which the action relates was not dangerous to traffic. In other words, systematically inspecting the network for defects (and subsequently repairing them) provides the Council with a defence against claims for damages.

rights of way and inputting the data into our data base in the office. Initially this will comprise a pilot project in 5 parishes and if this is successful it will be extended across the whole borough.

13.0 Rights of Way Improvement Plan - Access Development

- 13.1 There is one full-time member of staff dedicated to the implementation of Rights of Way Improvement Plan (ROWIP) and access development projects. Work has continued this year in delivering access projects from the existing ROWIP: Appendix 2 contains an outline report and work programme.
- 13.2 During 2010-2011 the Countryside Access Development Officer has project-managed the development of the Cheshire East Rights of Way Improvement Plan 2011-2026 strategy and the first Implementation Plan 2011-2015. This has involved public consultation and publicity, together with internal liaison in order to raise the profile of the potential benefits of PROW. Close work continues with the Local Transport Team on the Local Sustainable Transport Fund bid application.
- 13.3 The Countryside Access Development Officer is responsible, jointly with a colleague from Cheshire West and Chester Council, for the administration of the Cheshire Local Access Form. The post holder also facilitates the Rights of Way Consultative Group, attends multiple groups and forums on behalf of Green Spaces, comments on planning applications, and responds to general enquiries and requests for information.
- 13.4 Through Green Spaces reorganisation in the spring of 2011, this post now sits back with the Public Rights of Way Team (previously having been line-managed by the Visitor Services and Community Manager).

14.0 Legal Orders Team

- 14.1 The legal orders team comprises four officers (3 x full-time, 1 x 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, land searches, planning applications and day to day enquiries. One post deals exclusively with Public Path Orders based on public applications. This post, created in 2010 is funded by the fees from those applicants and nets nil on the budget. Initially the post holder was appointed on a fixed term basis until we could assure ourselves that demand was sufficiently consistent to justify a permanent post.
- 14.2 One member of staff from this team recently returned from maternity leave and the team is now at full strength working towards reducing the backlog that developed last year. Details of the outstanding workload

and the forecast work programme for the Legal Orders Team are attached at Appendix 3 which includes a summary of this year's work.

15.0 Policy development

15.1 Cheshire East Council inherited a raft of County Council policies relating to the public rights of way function. Where necessary, these were amended for the new authority and approved by the Rights of Way Committee and are set out below. Policy development should always reflect the changing circumstances within which it has to work, considering the overall policies of the authority and changes in legislation. Officers are currently working on further developing the Statement of Priorities for Definitive Map Modification Orders in the light of changed ROWIP priorities and it is hoped to bring a paper on this to a future committee meeting for consideration.

- Amendments to the Maintenance and Enforcement Protocol
- Statement of Priorities for Definitive Map Modification Orders
- New Charging Policy for Public Path Orders, Searches & Temporary Closures
- Policy for Structures on Public Rights of Way
- Standard Response Times for Different Categories of Problem on the Network

16.0 Local Access Forum and ROW Consultative Group

16.1 The most recent Annual Report of the Cheshire Local Access Forum is attached as Appendix 4. During the year 2009-2010, the Forum was involved in the development of the ROWIP and Local Transport Plans for both Councils. It reviewed policies and advised the Councils accordingly. Members contributed to the development of walks leaflets and advised the Highways Agency on plans for road schemes.

16.2 The Forum established sub-groups to consider Health, under represented groups, Funding and the Spreading of best practice, in relation to access to the countryside.

16.3 Training was undertaken by new members ahead of the 2009 AGM and during the year as arranged by the North West region LAF coordinator. Two members also attended a training day on the Lancashire County Council Tramper Scheme (comprising the hire of all-terrain mobility vehicles at countryside facilities), and one member accepted an invitation to visit Cumbria's Local Access Forum to exchange best practice.

16.4 The Cheshire Local Access Forum is complemented by the Cheshire East Rights of Way Consultative Group which meets twice a year.

16.5 The Consultative 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
- to participate in the consultation process and ongoing monitoring associated with the Rights of Way Improvement Plan.

16.6 The ROW Consultative Group does not meet to discuss the facts, merits or demerits of individual cases.

17.0 Budget

17.1 The team has suffered, along with the rest of the Greenspaces Service, from a reduction in base budgets. Additionally an income target that was incorrectly inherited from the County Council has been removed and the consequent re-profiling of the budget by spreading the income target as a saving has caused an even greater budget reduction.

Centre	Type Costs	2009 - 10
		Budget £
Countryside Access Development	Employees	39,519
	Transport	3174
	Supplies/Services	4,463
	Capital (from LTP)	30,000
Maintenance and Enforcement Team	Employees	97,707
	Transport	8,110
	Contractors	112,938
	Materials	25,862
	Capital	0
	Income target (enforcement charges)	-4423
Legal Orders Team	Employees	141,719
	Transport	2448
	Contractors	0
	Materials	0
	Capital	0
	Income target (from PPOs and Temp closures)	-41,019
		420,498

17.2 The base revenue budget for contractors and materials has not now increased over the past 7 years and is in decline. The increasing demands on the budget and the reactive way that maintenance must work results in funds being completely committed significantly before the end of the financial year and consequently work other than planned

pre-allocated commitments has to be cut back. In addition, a moratorium on all non-essential spending was imposed over the Health and Wellbeing service in October 2010 until the end of the financial year. The consequences are that a back log of work is released at the commencement of the new financial year, compounding the problem of underfunding and speeding the time at which the budget becomes expired.

- 17.3 Cheshire East inherited a base budget that was insufficient for the maintenance demands placed upon it and it is of increasing concern that the budgets continue to decline. This will be reflected in the long term decline in standards of provision on the network of paths we are responsible for.

18.0 Conclusion

- 18.1 The Team have managed to deliver consistently high levels of service throughout a very difficult year which reflects their enthusiasm and professionalism. The high level of ease of use statistic returned by the annual random survey reflects the generally high standard of the network although it is anticipated that the continuing budget pressures will eventually be reflected in a decline in general standards.

19.0 Access to Information

- 19.1 The background papers relating to this report can be inspected by contacting the report writer:

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Designation: Greenspaces Manager
Tel No: 01606 271811
Email: mike.taylor@cheshireeast.gov.uk

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APPENDIX 1

SECTION 3: NATIONAL TARGET 2: "PROPERLY MAINTAINED"

Component Task		Source			Achievements April 2010 to March 2011	Targets 2011/12
No	Measure of Success					
3.1	All footpaths, bridleways and byways correctly signposted where they leave a metalled road.	C/side Act 68 NERC Act 06			<ul style="list-style-type: none"> 144 signs erected across the borough. 	<ul style="list-style-type: none"> Installation of additional signs and replacement signs following loss and damage to ensure the requirements of Countryside act 1968 s 27 are fulfilled.
3.2	All PROW clear of obstructions, misleading notices, other hindrances or impediments to use.	HA 80 s130			<ul style="list-style-type: none"> Enforcement actions saw 17 notices served for cropping and 3 for general obstruction. Additionally 37 "seven day" warnings were issued in relation to cropping offences. Officers have been involved in the removal of obstructions in 1 case where the offender did not comply with the enforcement notice. 	<ul style="list-style-type: none"> Amended protocols on enforcement (approved by ROW Committee June 2009) promoted/distribution to landowners. Carry out necessary enforcement work in line with adopted protocols to ensure that the duty set out in Highways act 1980 is fulfilled.
3.3	Bridges, stiles, gates etc are in place where required; all are safe and convenient to use.	HA 80 s41 and s146			<ul style="list-style-type: none"> In East Cheshire 253 stiles, 82 gates and 41 bridges have been installed. 	<ul style="list-style-type: none"> Renew and repair structures to ensure that they adequately allow the public to access all public paths in Cheshire East. Assist owners and occupiers to repair and replace stiles and gates on public rights of way. Replace structures with less limiting barriers wherever possible in line with ROWIP policies, DDA and Equality Act 2010.
3.4	Surface of every PROW is in proper repair, reasonably safe	HA 80 s41			<ul style="list-style-type: none"> A routine maintenance programme is in operation and 439 paths across the borough 	<ul style="list-style-type: none"> The routine maintenance programme will be extended as new paths requiring routine maintenance are

Component Task		Source			Achievements April 2010 to March 2011	Targets 2011/12
No	Measure of Success					
	and suitable for the expected use.				<p>were subject to routine strimming/ tractor flailing at least once during the growing season with many cut more frequently. This comprises 118.2 km of network.</p> <p>Special projects facilitated with additional funding from other departments and as part of ROWIP implementation:</p> <ul style="list-style-type: none"> Bunbury FP10: General surface repairs Wisaston FP1 & FP2: General surface repairs Shavington FP8: General surfacing repairs Wirswall BR 10 & 11: Drainage and resurfacing works Baddiley FP16: Drainage and resurfacing works Congleton FP 67 & 70: Reopened Macclesfield FP7: Resurfacing Tabley Superior FP6: Boardwalk Prestbury FP5: Boardwalk Mobberley RB 1: Surfacing Wilmslow RB 3: Surfacing Poynton RB52: Surfacing 	<p>encountered (e.g. paths created through ROWIP).</p> <ul style="list-style-type: none"> Officers will continue to work with colleagues in other departments and other partners in order to facilitate additional funding for special projects in relation to rights of way wherever possible.
3.5	All PROW inspected regularly by or on behalf of the authority.	HA 80 s58			<ul style="list-style-type: none"> The path inspection regime has ceased since the loss of the two Assistant Rights of Way Officer 	<ul style="list-style-type: none"> The maintenance officers will continue to hold bi-annual meetings with the relevant representatives of

Component Task		Source			Achievements April 2010 to March 2011	Targets 2011/12
No	Measure of Success					
					<p>posts in the team in 2007 who acted as path inspectors. It has not been possible to continue the survey in such a systematic and meticulous fashion as previously. Bridges continue to be surveyed, but paths in general do not. This could result in a lack of a legal defence to claim(s) for personal injury.</p> <ul style="list-style-type: none"> All maintenance officers hold bi-annual meetings with the relevant representative of the walking and equestrian user groups to agree priorities for work. 	<p>the walking, equestrian and other user groups to agree work priorities and to discuss the results of the survey work carried out by these groups.</p> <ul style="list-style-type: none"> Proposed volunteer survey scheme to be implemented on a pilot basis in 5 parishes.
3.6	The authority is able to protect and assert the public's rights and meet other statutory duties (e.g. to ensure compliance with the Rights of Way Act 1990).	HA 80 s130			<ul style="list-style-type: none"> All cropping obstructions were responded to within 4 weeks of reporting. A new 'response time' standard for dealing with different sorts of complaints in relation to PROW issues was implemented in 2010. 	<ul style="list-style-type: none"> Continue to adhere to the response times set out in the new standard.
3.7	Waymarks or signposts are provided at necessary locations and are adequate to assist users. Waymarking scheme/initiative in place.	C/side Act 1968 s27			<ul style="list-style-type: none"> Waymarking is undertaken by staff and contractors as appropriate. Additionally waymarkers are provided to partners such as Mid-Cheshire Footpaths Society and the Ramblers' Association to enable them to replace missing and damaged waymarkers. 	<ul style="list-style-type: none"> Waymarking and signposting will be undertaken as appropriate.

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APPENDIX 2**RIGHTS OF WAY IMPROVEMENT PLAN PROJECTS - COUNTRYSIDE ACCESS DEVELOPMENT**

Component Task		Achievements 2010-2011	Ongoing targets 2011-2012
No.	Description		
1	Bollington Canal Links - bridge over canal at Clarence Mill to link towpath (FP52 Bollington) with Clarence Road	<ul style="list-style-type: none">• Partners: Bollington Civic Society, Bridge Engineers, British Waterways, Friends of Bollington Recreation Ground• Liaison initiated with British Waterways and adjacent landowner.	<ul style="list-style-type: none">• Seeking dedication of a PROW across new structure and down British Waterways' track to recreation ground.
2	LTP Area Programme Connect2 Crewe to Nantwich Greenway - traffic-free cycle route between the two towns	<ul style="list-style-type: none">• Partners: Sustrans, Highways• Establishment of Stakeholder Group and public consultation exercises undertaken.• Elements 1 & 2 Queen's Park to Rising Sun completed.• Element 5 at Barony Park, Nantwich started.• Planning, Commons Land and Village Green applications submitted	<ul style="list-style-type: none">• Completion of creation agreement for a new public bridleway section to link the Crewe and Nantwich sections of the route• Completion of works, following granting of planning and common land permissions
3	Nantwich Riverside Loop - circular walking route linking riverside and canal.	<ul style="list-style-type: none">• Partners: Nantwich Riverside Stakeholders, British Waterways and multiple local organisations• Improved disabled access to lakeside path• Secured WREN funding with British Waterways to improve surface of towpath section of Loop walk• Development of leaflet to promote loop	<ul style="list-style-type: none">• Launch event held May 2011 and leaflet published, including evaluation questionnaire• Project completed

Component Task		Achievements 2010-2011	Ongoing targets 2011-2012
No.	Description		
4	www.discovercheshire.co.uk - Website promoting routes sites and visitor economy facilities in the countryside	<ul style="list-style-type: none"> Partners: Visitor Economy, CWAC New version of website launched and daughter website www.discoverthegritstonetrail.co.uk Many new walking and horse riding routes added to promote countryside access to all Country parks pages updated and added. 	<ul style="list-style-type: none"> Continued involvement in Content Working Group Continued adding of new routes, town parks and Ranger Events
5	Walks for All Leaflet - leaflet describing accessible walks	<ul style="list-style-type: none"> Partners: disability user groups Launch event held including leaflet and publicity 	<ul style="list-style-type: none"> .Project completed
6	Bollington FP17 - upgrade footpath to bridleway to connect with cul-de-sac route	<ul style="list-style-type: none"> Partners: Landowners and KRIV project volunteers S25 Creation Agreement secured Works completed on route and linking bridleway 	<ul style="list-style-type: none"> Project completed
7	Peckforton Estates - creation of two permissive paths for horse riders	<ul style="list-style-type: none"> Partners: Landowners and Habitats and Hillforts Landscape Partnership Scheme Agreements entered into to establish 2 new permissive paths for horse riders 	<ul style="list-style-type: none"> Project completed
8	Delivery of ROWIP Implementation Plan 2011-2015 projects	<ul style="list-style-type: none"> Preparation of ROWIP Implementation Plan: including consultation and prioritisation of suggestions 	<ul style="list-style-type: none"> Initiation of projects and delivery

Component Task		Achievements 2010-2011	Ongoing targets 2011-2012
No.	Description		
9	Promotion of PROW and countryside access	<ul style="list-style-type: none"> • May 2010 – Walks for All leaflet launch featured on CE website, CE News, CE internal staff newsletter and press releases, Housing Association newsletters, PCT staff newsletters, Disabled Holiday Information website, local third sector organisations, Ableworld etc. • May/June 2010 - Presentations on the potential of PROW for leisure, health and transport given to Local Area Partnerships and bulletin circulated to Members' • Autumn in Cheshire East' feature on home page of website listing Walks for All, Ranger events and cycling routes. • Summer and autumn 2010 - ROWIP press releases and consultation publicity, internal and external to Council • Autumn - Walks for All information shared on Peak and Northern Footpaths Society website • Autumn and winter 2010 - Walk4Life website: one mile routes added to website and way-marked on ground • Dec 2010 - Footpaths map prepared for and published as centre spread in Wistaston Community Council's Roundabout magazine Issue 120 • Jan 2011 - Cheshire walks feature article 	<ul style="list-style-type: none"> • May 2011: Nantwich Riverside Loop publicity including leaflet, evaluation survey and press coverage • May 2011: National Walking Month press releases giving suggestions of routes • Continued promotion of ROWIP • Continued promotion of PROW and Ranger Service

Component Task		Achievements 2010-2011	Ongoing targets 2011-2012
No.	Description		
		<p>published in national Country Walking magazine</p> <ul style="list-style-type: none"> • Feb 2011 - Ranger-led walks promoted on Walk4Life website and used as examples in demonstration of website at Outdoor Leisure Show at the NEC • March 2011- Walks leaflets prepared by Alsager Chamber of Trade to encourage walking and refreshment outlet trade. • April 2011 - Knutsford Local Area Partnership Rail Trails walks leaflet published 	

Appendix 3

Legal Orders Team

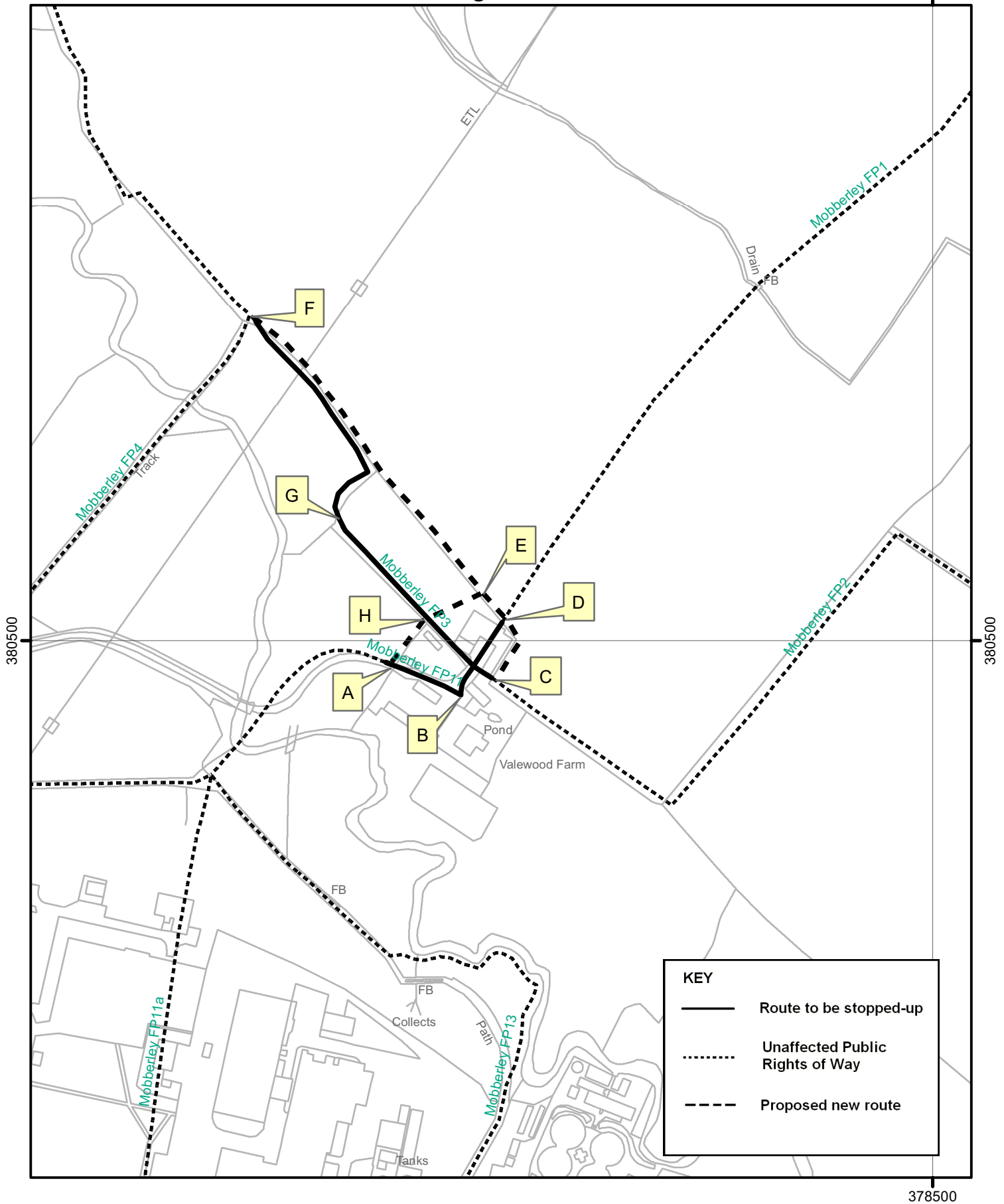
SECTION 2: NATIONAL TARGET 1: “LEGALLY DEFINED”

Component Task		Source	Achievements 2010/11	Targets 2011/12
No	Measure of Success			
2.1	Definitive Map and Statement to be completed for any previously unmapped area	WCA 81 S53(1) (c)	<ul style="list-style-type: none"> Complete 	<ul style="list-style-type: none"> Complete
2.2	No RUPPs remaining on Definitive Map	WCA 81 S54	<ul style="list-style-type: none"> No further reclassification required 	<ul style="list-style-type: none"> Complete
2.3	No backlog of legal events requiring orders to be made	WCA 81 S53(2) (a) & 53(3) (a)	<ul style="list-style-type: none"> Legal Event Modification Order made for all legal events in 2010/11 	<ul style="list-style-type: none"> Legal Event Modification Order to be made for all legal events in 2011/12 Schedule 5 Para 2 of CROW Act 2000, commenced April 2008, obviates need for separate legal event order where Definitive Map change cited. However, national debate about the technical aspects of this provision and advice to LAs is to continue making separate LEMOs for time being.
2.4	No backlog of applications to modify the Definitive Map	WCA 81 Sch 14	<ul style="list-style-type: none"> 2 Schedule 14 applications determined and a further 9 applications under active investigation during the year (see below). 22 applications remain in backlog (see below). The oldest of these dates to 2004. 	<ul style="list-style-type: none"> Following the recruitment of an income generation post to deal with PPOs this has freed-up officer time to deal with Schedule 14 applications. Target is to determine 6 cases.

Component Task		Source	Achievements 2010/11	Targets 2011/12
No	Measure of Success			
2.5	No backlog of other cases that may result in the need to change the Map	WCA 81 S53	<ul style="list-style-type: none"> Completion of last remaining 'Discovering Lost Ways' case following abandonment of project by Natural England. 	<ul style="list-style-type: none"> Complete.
2.6	No backlog of decided applications/other cases awaiting definitive map modification orders	CoAg	2 orders determined <ul style="list-style-type: none"> 1 DMMO order confirmed 1 DMMO order confirmed with modifications 0 appeals against refusal, awaiting decision 2 appeals against non-determination within 12mths 	<ul style="list-style-type: none"> Continue to make orders as soon as reasonably practicable. Contested DMMOs to be submitted to PINs. Directed applications/orders to be processed as required.
2.7	The authority has considered the need to consolidate the Map and take any necessary action	WCA 81 S56	<ul style="list-style-type: none"> Preparation of digital map for consolidation complete. Work to consolidate statements begun. 	<ul style="list-style-type: none"> On hold due to lack of staff.
2.8	Statement of Priorities published	CoAg	<ul style="list-style-type: none"> Statement of Priorities approved by ROW Committee on 1st June 2009. 	<ul style="list-style-type: none"> Continue to prioritise Definitive Map Work in accordance with the Statement of Priorities Review priorities in light of new ROWIP objectives
2.9	No other matter affecting the Definitive Map outstanding	CoAg	<ul style="list-style-type: none"> Electronic list of map anomalies was completed in 2008. 6 anomalies corrected during 2010/11. 	<ul style="list-style-type: none"> No progress can be made with rectifying anomalies without additional staff resources (in addition to PPO income generation post).

Summary of work from April 2011 to March 2012, backlog of work outstanding and forecasts for 2010/11

Area of work	Work completed/in progress April 2010 – March 2011	Backlog	Projected work 2011/2012
Planning application consultations	102	n/a	110
Rights of Way searches	60	n/a	50
Highways Act s31 deposits	6	n/a	6
Temporary & Emergency Closures	33	n/a	40
Gating Orders	0	n/a	0
Public Path Orders HA80	14 Orders confirmed, 28 cases in progress	14 applications on waiting list	30 Orders to confirmation stage.
Public Path Orders TCPA90	2 Orders confirmed, 3 cases in progress	n/a	5 cases likely to be dealt with.
Contested Orders referred to PINs	HA80 = 2 WCA81 = 5 TCPA90 = 0	1 contested WCA81 case to be referred to PINs	
Definitive Map Modification Order Applications – schedule 14 applications	2 Orders confirmed, 9 in progress	22	6 Cases to be targeted.
Definitive Map “List B” issues	3	8	2 cases targeted
Definitive Map Anomalies (investigation/legal orders required)	6 completed	260+	6 without additional staff resources or additional budget to commission consultants



Highways Act 1980
Proposed diversion of Mobberley FP1, FP2,
FP3 and FP11

Plan No.
HA/049

This is a working copy of the definitive map
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CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting:	13 June 2011
Report of:	Greenspaces Manager
Subject/Title:	Highways Act 1980 Section 119: Application for the Diversion of Public Footpath Nos 1, 2, 3 and 11 (parts), Parish of Mobberley

1.0 Report Summary

- 1.1 The report outlines the investigation to divert part of Public Footpath Nos 1, 2, 3 and 11 (parts), Parish of Mobberley. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way Unit as an application has been made by the landowner concerned. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an Order should be made to divert the section of each footpath concerned.

2.0 Recommendation

- 2.1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert parts of Public Footpaths No's 1, 2, 3 and 11, Parish of Mobberley by creating new sections of each public footpath and extinguishing the current path sections as illustrated on Plan No. HA/049 on the grounds that it is expedient in the interests of the owner of the land crossed by the paths.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

3.0 Reasons for Recommendations

- 3.1 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the paths. It is considered that the proposed diversion is in the interests of the landowner for the reasons set out in paragraph 10.4 & 10.5 below.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- Whether the paths are substantially less convenient to the public as a consequence of the diversion.

And whether it is expedient to confirm the Order considering:

- The effect that the diversion would have on the enjoyment of the paths or way as a whole.
- The effect that the coming into operation of the Order would have as respects other land served by the existing public rights of way.
- The effect that any new public rights of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

3.4 The proposed routes will not be 'substantially less convenient' than the existing route and diverting the footpaths will be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property. It is considered that the proposed routes will be a satisfactory alternative to the current routes and that the legal tests for the making and confirming of a diversion order are satisfied.

4.0 Wards Affected

4.1 Mobberley

5.0 Local Ward Members

5.1 Councillor Jamie Macrae

6.0 Policy Implications including

6.1 Not applicable

7.0 Financial Implications

7.1 Not applicable

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and may lead to a hearing/inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources

9.0 Risk Management

- 9.1 Not applicable

10.0 Background and Options

- 10.1 An application has been received from Mr and Mrs A Edgar, Vale Wood Farm, Smith Lane, Mobberley, Cheshire, WA16 7QE, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath no's 1, 2, 3 and 11 in the Parish of Mobberley.

- 10.2 Public Footpath No. 1, Mobberley, commences at its junction with Hobcroft Lane at OS grid reference SJ 7585 8092 and runs in a generally south westerly direction across pasture fields and then through a barn in the yard of Vale Wood Farm to terminate at OS grid reference SJ 7827 8048.

Public Footpath No. 2, Mobberley, commences at its junction with Church Lane at OS grid reference SJ 7891 8033 and runs in a generally north westerly direction along a track and then in a generally south westerly direction along the eastern boundary of a pasture field and then in a generally north westerly direction along the southern edge of a second pasture field to terminate in the yard of Vale Wood farm at OS grid reference SJ 7827 8048.

Public Footpath No. 3, Mobberley, commences from the drive to Bridge Farm at OS grid reference SJ 7802 8094 and runs in a generally south easterly direction across pasture fields to terminate in the yard of Vale Wood farm at OS grid reference SJ 7827 8048.

Public Footpath No. 11, Mobberley, commences at its junction with Town Lane at OS grid reference SJ 7800 7979 and runs in a generally northerly direction across a sports ground and then along the boundaries of property gardens and along the edge of Smith Lane before bearing in a generally easterly direction across pasture land to the drive of Vale Wood Farm which it then follows to terminate in the farm yard at OS grid reference 7827 8048.

- 10.3 Mr and Mrs A Edgar own the land over which the current paths and the proposed diversion run. Under section 119 of the Highways Act 1980 the Council may accede to an applicant's request, if it considers it expedient in the interests of the landowner to make an order to divert the footpaths.
- 10.4 The sections of each of Public Footpath No's 1, 2, 3 and 11 Mobberley to be diverted run through the property of the landowner giving rise to concerns

relating to security and safety, especially since Mobberley FP1 also runs through a barn.

10.5 The proposed new route would be in two sections:

- From point F on plan HA/049, the route would run across pasture land along field boundaries to terminate at point C.
- Via a pedestrian gate at point E, the route would cross a pasture field to enter a second field via an unlocked field gate at point H and terminate after exiting the second field via another unlocked field gate at point A.

The new route would have a recorded width of 2m and would not be enclosed.

Of benefit to the public, the new route would be significantly more enjoyable as it would pass through more open and scenic landscape and would be easier to navigate as it simplifies passage past the farmyard and buildings.

10.6 The Ward Councillor has been consulted about the proposal and no other comments were received.

10.7 Mobberley Parish Council has been consulted and did not raise any objections.

10.8 The statutory undertakers have also been consulted and have raised no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.

10.9 The user groups have been consulted. The Peak and Northern Footpath Society and the Vale Royal and Knutsford Ramblers Association registered no objections. However, a request was made by the Ramblers Association in relation to the current line of Mobberley FP11 which is unavailable to the south of Vale Wood Farm since a bridge is missing that would allow passage over a stream. This is a mapping anomaly. The legal line is not clear and the Council are working to resolve this.

10.10 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.

10.11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

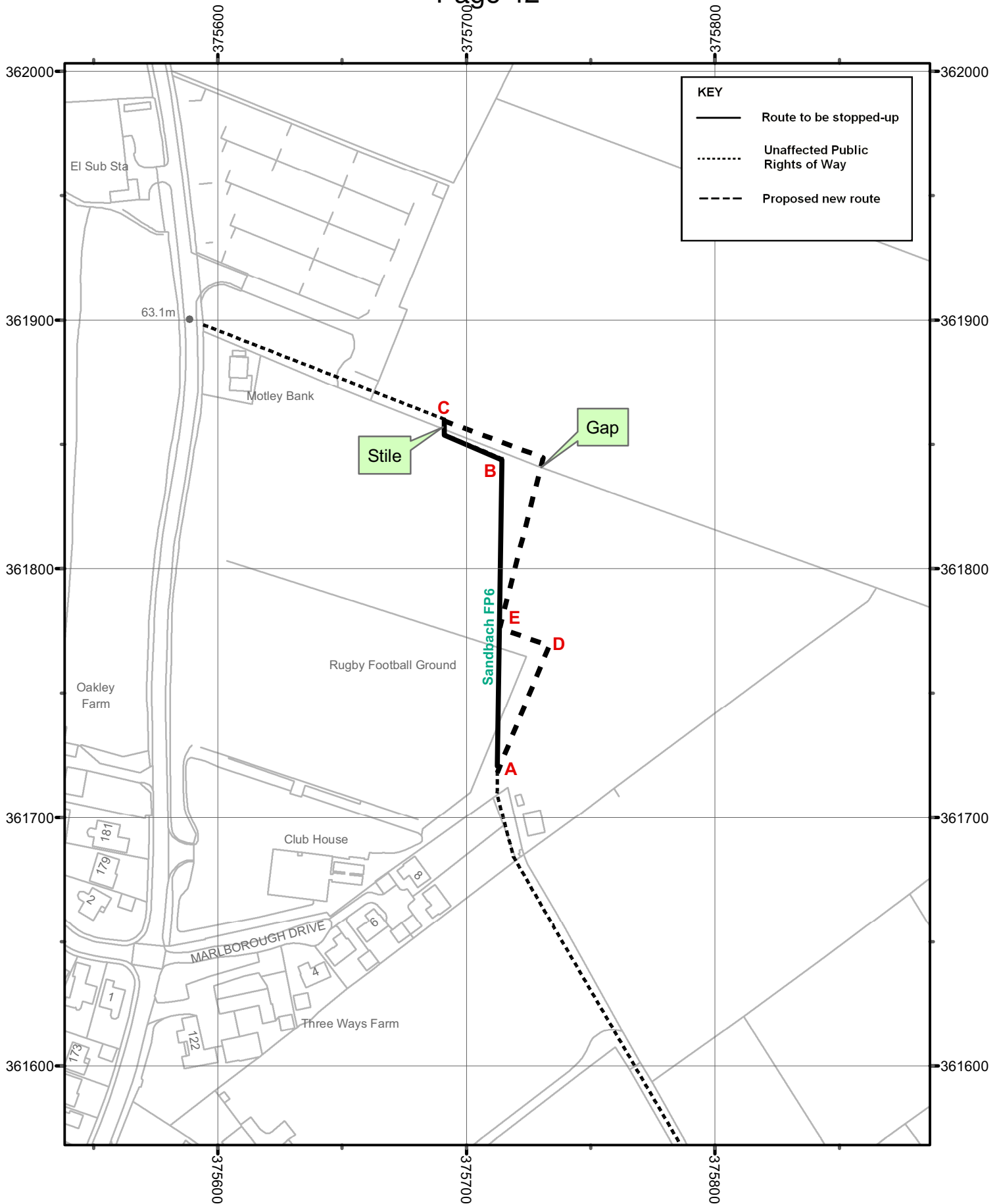
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Highways Act 1980
Proposed diversion of Sandbach FP6

Plan No.
HA/048

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CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting:	13 June 2011
Report of:	Greenspaces Manager
Subject/Title:	Highways Act 1980 Section 119: Application for the Diversion of Public Footpath No. 6 (part), Parish of Sandbach

1.0 Report Summary

- 1.1 The report outlines the investigation to divert part of Public Footpath No.6 in the Parish of Sandbach. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way Unit as an application has been made by the landowner concerned. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an Order should be made to divert the section of footpath concerned.

2.0 Recommendation

- 2.1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.6 Sandbach by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/048 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

3.0 Reasons for Recommendations

- 3.1 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. It is considered that the proposed diversion is in the interests of the landowner for the reasons set out in paragraph 10.4 & 10.5 below.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- Whether the path is substantially less convenient to the public as a consequence of the diversion.

And whether it is expedient to confirm the Order considering:

- The effect that the diversion would have on the enjoyment of the path or way as a whole.
- The effect that the coming into operation of the Order would have as respects other land served by the existing public right of way.
- The effect that any new public right of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

3.4 The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of considerable benefit to the landowner in terms of improving land management in relation to use and maintenance of the land on which lies the rugby pitches of Sandbach Rugby Union Football Club. It is considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

4.0 Wards Affected

4.1 Sandbach Town

5.0 Local Ward Members

5.1 Councillor Barry Moran

6.0 Policy Implications including

6.1 Not applicable

7.0 Financial Implications

7.1 Not applicable

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and may lead to a hearing/inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources

9.0 Risk Management

- 9.1 Not applicable

10.0 Background and Options

- 10.1 An application has been received from Mr R Astles, Chairman of Sandbach Rugby Union Football Club, Bradwall Road, Sandbach, Cheshire, CW11 1RA, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath no. 6 in the Parish of Sandbach.
- 10.2 Public Footpath No. 6, Sandbach, commences at its junction with Offley Road at OS grid reference SJ 7588 6141 and runs in a generally north westerly direction to the grounds of Sandbach Rugby Football Club where it then bears in a northerly direction across parts of two rugby pitches to a gap through a hedge before bearing in a west north westerly direction along this hedge to terminate at its junction with Bradwall Road at OS grid reference 7559 6189. The section of path to be diverted is shown by a solid black line on Plan No. HA/048. The proposed diversion is illustrated on the same plan with a black dashed line between points A-D-E-C.
- 10.3 The land over which the current path and the proposed diversion run belongs to Sandbach Rugby Union Football Club. Under section 119 of the Highways Act 1980 the Council may accede to an applicant's request, if it considers it expedient in the interests of the landowner to make an order to divert the footpath.
- 10.4 The section of Public Footpath No. 6, Sandbach to be diverted runs through the property of the landowner giving rise to concerns relating to land management since it traverses parts of two rugby pitches. To better manage use of the rugby pitches and the footpath, the landowner would like to divert the footpath to enable path users to walk between the pitches rather than across them.
- 10.5 The proposed new route (A-D-E-C) would follow the perimeter fencing of one of the rugby pitches cornering at point D. Upon reaching point E, the route would cross between two more pitches to a gap in the boundary hedge of the club ground to follow the northern side of the hedge to a stile in the same hedge at point C where it would terminate. The new route would have a recorded width of 2m and would not be enclosed. Of benefit to the public, the new route would be more convenient for users since it would pass between rugby pitches so separating path users from pitch users.

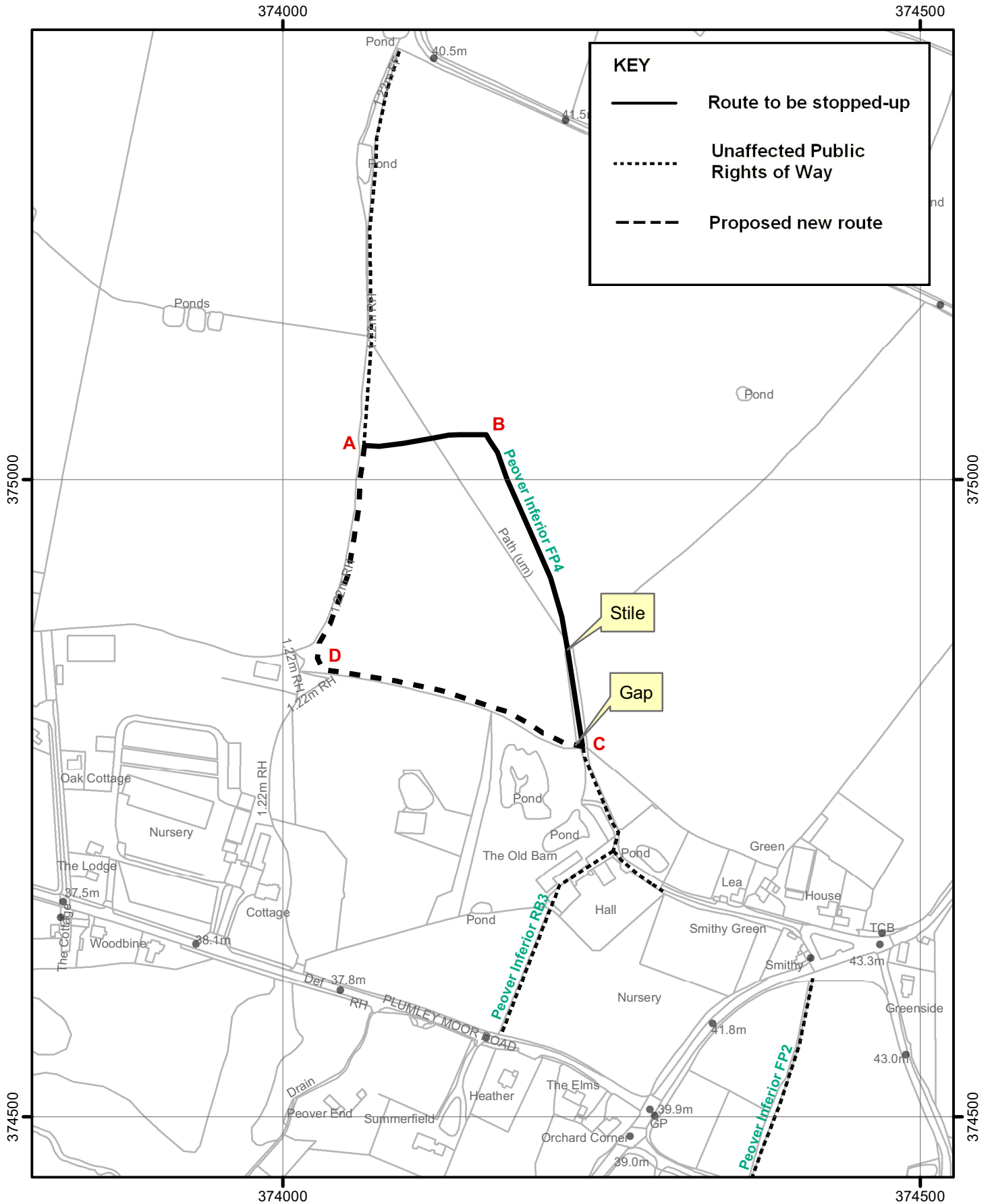
- 10.6 The Ward Councillor has been consulted about the proposal and Councillor Barry Moran responded that he had no comments. No other comments were received.
- 10.7 Sandbach Parish Council has been consulted and members have yet to respond. Their response will be reported verbally.
- 10.8 The statutory undertakers have also been consulted and have raised no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 10.9 The user groups have been consulted. No comments were received.
- 10.10 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 10.11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route because the proposed route has no barriers whereas the old route has a stile.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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Highways Act 1980
Proposed diversion of Peover Inferior FP4

Plan No.
HA/047

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CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting: 13 June 2011
Report of: Greenspaces Manager
Subject/Title: Highways Act 1980 Section 119:
Application for the Diversion of Public Footpath No. 4
(part), Parish of Peover Inferior

1.0 Report Summary

- 1.1 The report outlines the investigation to divert part of Public Footpath No.4 in the Parish of Peover Inferior. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way Unit as an application has been made by the landowner concerned. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an Order should be made to divert the section of footpath concerned.

2.0 Recommendation

- 2.1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.4 Peover Inferior by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/047 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

3.0 Reasons for Recommendations

- 3.1 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. It is considered that the proposed diversion is in the interests of the landowner for the reasons set out in paragraph 10.4 & 10.5 below.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- Whether the path is substantially less convenient to the public as a consequence of the diversion.

And whether it is expedient to confirm the Order considering:

- The effect that the diversion would have on the enjoyment of the path or way as a whole.
- The effect that the coming into operation of the Order would have as respects other land served by the existing public right of way.
- The effect that any new public right of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

3.4 The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of considerable benefit to the landowner in terms of management of land that is being developed for free range chicken farming. It is considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

4.0 Wards Affected

4.1 Chelford

5.0 Local Ward Members

5.1 Councillor George Walton

6.0 Policy Implications including

6.1 Not applicable

7.0 Financial Implications

7.1 Not applicable

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and may lead to a hearing/inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources

9.0 Risk Management

- 9.1 Not applicable

10.0 Background and Options

- 10.1 An application has been received from Mr B Wharfe, Whitehouse Farm, Plumley Moor Road, Knutsford, Cheshire, WA16 0UF, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath no. 4 in the Parish of Peover Inferior.
- 10.2 Public Footpath No. 4, Peover Inferior, commences at its junction with an unclassified road, UW2157/A, at OS grid reference SJ 7409 7534 and runs in a generally southerly direction along the western boundary of a pasture field to a pond where it bears in a generally easterly and then south easterly direction across the pasture field to exit the field into a hedge enclosed section before joining passing Smithy Green to terminate at OS grid reference 7430 7467. The section of path to be diverted is shown by a solid black line on Plan No. HA/047. The proposed diversion is illustrated on the same plan with a black dashed line between points A-D-C.
- 10.3 The land over which the current path and the proposed diversion run belongs to Mr SR Wharfe. Under section 119 of the Highways Act 1980 the Council may accede to an applicant's request, if it considers it expedient in the interests of the landowner to make an order to divert the footpath.
- 10.4 The section of Public Footpath No. 4 Peover Inferior to be diverted runs across a pasture field on which will be developed a free range chicken farm (see appended plan). For effective livestock management, the applicant requires that the path be diverted to separate livestock from path users.
- 10.5 The proposed new route (A-D-C) would follow the eastern boundary of the pasture field from point A on plan HA/047 to point D and continue along the southern field boundary to a gap between a hedge and fence to terminate just before a stile at point C. The new route would have a recorded width of 2m and would not be enclosed. Of benefit to the public, the new route would be as enjoyable as it would pass through similar scenic landscape.
- 10.6 The Ward Councillor has been consulted about the proposal and no comments were received.

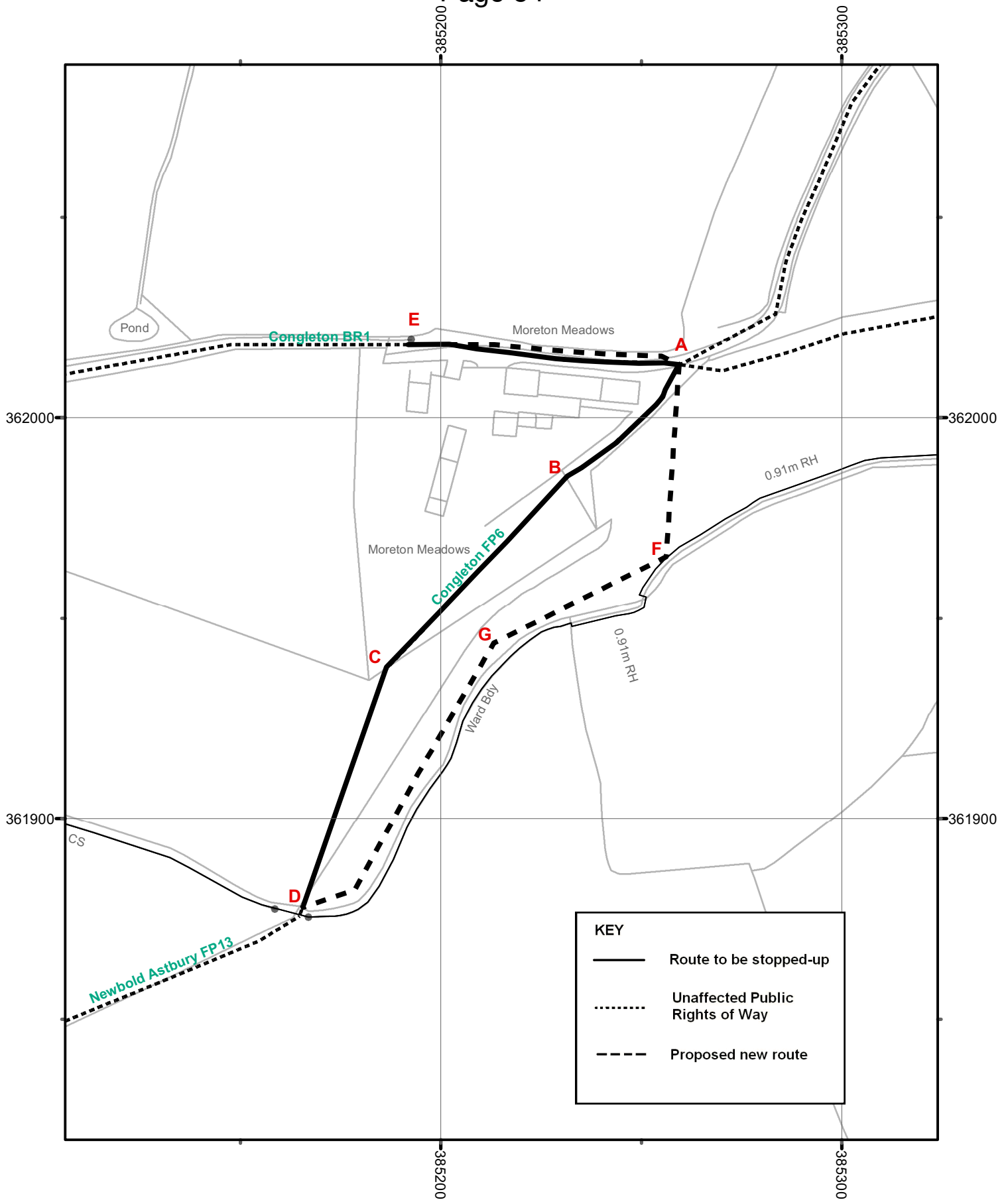
- 10.7 Peover Inferior Parish Council has been consulted and did not raise any objections.
- 10.8 The statutory undertakers have also been consulted and have raised no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 10.9 The user groups have been consulted. No comments have been received to date.
- 10.10 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 10.11 Objections were received from Mr JA Jackson and Mr and Mrs S Wade who live in The Smithy and Orchard Lea respectively at Smithy Green, Lower Peover, Knutsford, Cheshire, WA16 9PW. Both centred on the loss of scenic enjoyment if the footpath was diverted to follow the field edge rather than passing across the field and then through the enclosed section of hawthorn hedge and oak trees. However, development of the chicken farm will alter the landscape and subsequent scenic enjoyability. A hedge will bisect the field so it will no longer be the expanse of open space. Furthermore, the current path alignment would force users to enter the chicken farm in order to follow the legal line. Diverting the path around the field edge will benefit users by separating them from the livestock whilst still providing scenic views.
- 10.11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the current route since it will have no barriers whereas the current route has a stile and will have two kissing gates once the development has taken place.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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Highways Act 1980
Proposed Diversion of Congleton FP6
and Congleton BR1

Plan No.
HA/051

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CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting: 13 June 2011
Report of: Greenspaces Manager
Subject/Title: Highways Act 1980 Section 119:
Application for the Diversion of Public Footpath No. 6
and Bridleway No. 1(parts), Parish of Congleton

1.0 Report Summary

- 1.1 The report outlines the investigation to divert parts of Public Footpath No.6 and Public Bridleway No.1 in the Parish of Congleton. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way Unit as an application has been made by the landowner concerned. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an Order should be made to divert the section of footpath and bridleway concerned.

2.0 Recommendation

- 2.1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert parts of Public Footpath No.6 and Public Bridleway No.1 in the Parish of Congleton by creating new sections of path and bridleway and extinguishing the current path and bridleway as illustrated on Plan No. HA/051 on the grounds that it is expedient in the interests of the owner of the land crossed by both the path and bridleway.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

3.0 Reasons for Recommendations

- 3.1 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path and bridleway. It is considered that the proposed diversion is in the interests of the landowner for the reasons set out in paragraph 10.4 & 10.5 below.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- Whether the path and/or bridleway are substantially less convenient to the public as a consequence of the diversion.

And whether it is expedient to confirm the Order considering:

- The effect that the diversion would have on the enjoyment of the path and/or bridleway or way as a whole.
- The effect that the coming into operation of the Order would have as respects other land served by the existing public rights of way.
- The effect that any new public rights of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

3.4 The proposed route will not be 'substantially less convenient' than the existing route. Diverting the footpath will be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property. Diverting the bridleway will resolve an outstanding alignment issue. It is considered that the proposed routing will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

4.0 Wards Affected

4.1 Congleton West

5.0 Local Ward Members

5.1 Councillor Gordon Baxendale
Councillor David Topping
Councillor Roland Domleo

6.0 Policy Implications including

6.1 Not applicable

7.0 Financial Implications

7.1 Not applicable

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and may lead to a hearing/inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources

9.0 Risk Management

- 9.1 Not applicable

10.0 Background and Options

- 10.1 An application has been received from Mr P Chadwick, Moreton Meadows Farm, Waggs Road, Congleton Cheshire, CW12 4DA, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 6 and part of Public Bridleway No. 1 in the Parish of Congleton.

- 10.2 Public Footpath No. 6, Congleton, commences at the Stoney Lane along Waggs Road at OS grid reference SJ 8539 6245 and runs in a generally southerly and then south westerly direction along the broken metalled lane to its crossroads with Congleton Bridleway No. 1. It continues in a generally south westerly direction through the grounds of Moreton Meadows Farm and out through a pasture field to terminate at OS grid reference 8516 6188 immediately before a stile.

Public Bridleway No.1, Congleton, commences at its junction with Fol Hollow at OS grid reference SJ 8479 6204 and runs in a generally easterly direction along varied surfacing to pass along Lamberts Lane to its junction with Wolstenholme Close. The bridleway then bears south to the junction with Falmouth Road and then east to terminate at the junction with Leek Road at OS grid reference 8677 6196.

The sections of path and bridleway to be diverted is shown by a solid black line on Plan No. HA/051. The proposed diversion is illustrated on the same plan with a black dashed line between points E-A-F-G-D.

- 10.3 Mr P Chadwick owns the land over which the current path, bridleway and proposed diversion run. Under section 119 of the Highways Act 1980 the Council may accede to an applicant's request, if it considers it expedient in the interests of the landowner to make an order to divert the footpath and bridleway.
- 10.4 The section of Public Footpath No. 6, Congleton to be diverted runs through the property of the landowner giving rise to concerns relating to security and safety. The section of Public Bridleway No. 1, Congleton to be diverted will realign it to the currently used line so resolving an outstanding alignment issue.

- 10.5 The proposed new route (E-A-F-G-D) would run from point E along the currently used line of the bridleway to the crossroads with Congleton FP1 at point A. Here it would enter a pasture field via a kissing gate crossing the field to a hedge boundary at point F and then follow this boundary to point D just before the stile into the next field. The section between A-F-G will be treated with sand/hardcore since this stretch can become boggy.

The new routes would have recorded widths throughout of 3.5m along the bridleway and 2m along the footpath. The bridleway would be enclosed on both sides. The path would not be enclosed. Of benefit to the public, the alignment issue in relation to the bridleway would be resolved and the new footpath would be significantly more enjoyable as it would pass through more open landscape.

- 10.6 Ward Councillors have been consulted about the proposal and Cllr Gordon Baxendale and Cllr Roland Domleo did not register any objections. No other comments were received.
- 10.7 Congleton Parish Council has been consulted and have not raised any objections.
- 10.8 The statutory undertakers have also been consulted and have raised no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 10.9 The user groups have been consulted. No objections were received although concern was expressed from the Borders and Bridleways Association (BBA) in relation to whether the bridleway was going to physically change on the ground or if the diversion was administrative realignment of the legal line to reflect the route currently used. Once the latter was confirmed, the BBA registered no objection to the diversion. The Peak and Northern Footpath Society also registered no objection. No further comments were received.
- 10.10 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 10.11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

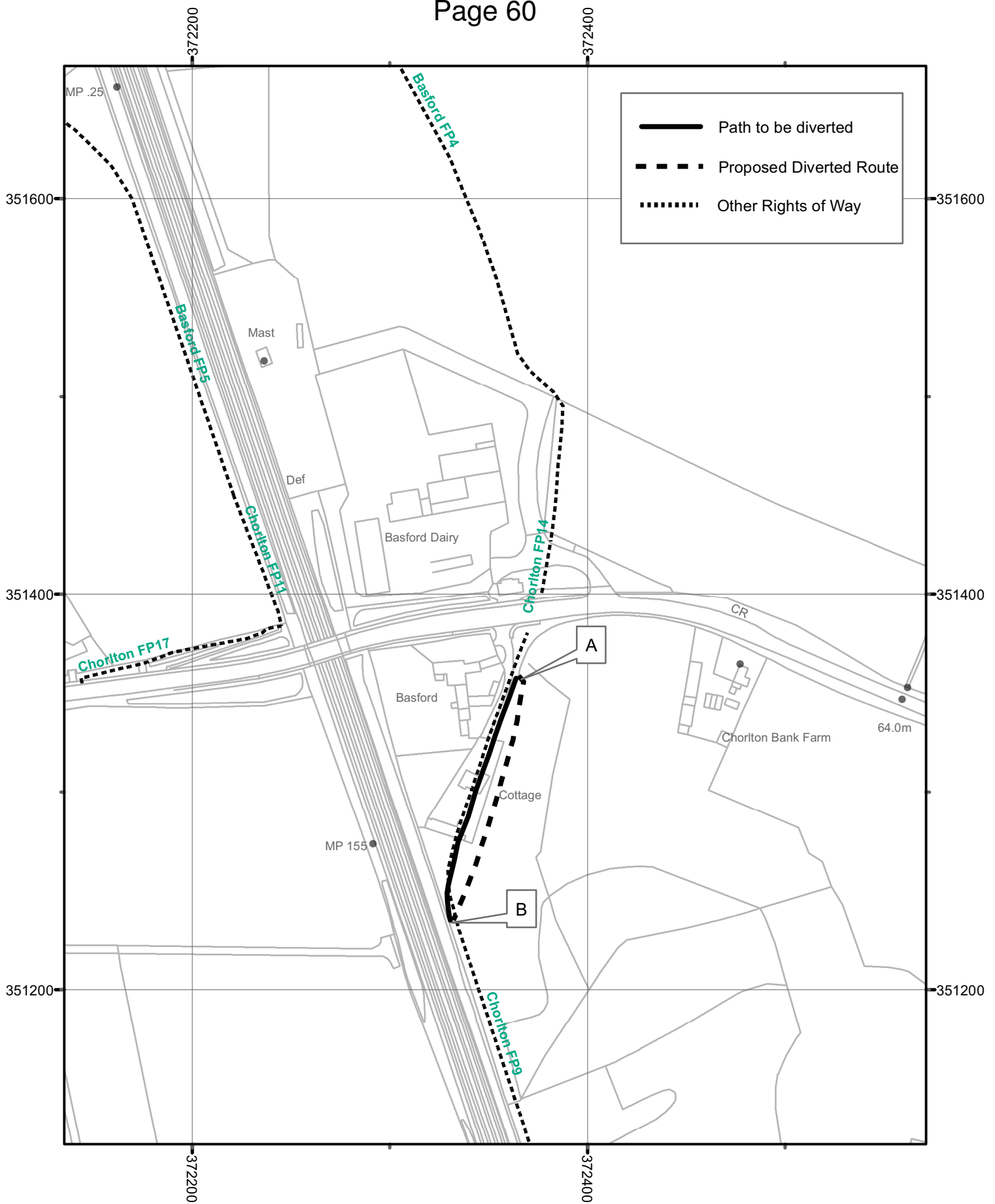
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PROW File: 090D/430



Highways Act 1980
Proposed diversion of Chorlton FP9

Plan No.
HA/050

This is a working copy of the definitive map
and should not be used for legal purposes



CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting:	13 June 2011
Report of:	Greenspaces Manager
Subject/Title:	Highways Act 1980 Section 119 Application for the Diversion of Public Footpath No. 9 (part), Parish of Chorlton

1.0 Report Summary

- 1.1 The report outlines the investigation to divert part of Public Footpath No.9 in the Parish of Chorlton. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way Unit as an application has been made by the landowner concerned. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an Order should be made to divert the section of footpath concerned.

2.0 Recommendation

- 2.1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.9 Chorlton by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/050 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

3.0 Reasons for Recommendations

- 3.1 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. It is considered that the proposed diversion is in the interests of the landowner for the reasons set out in paragraph 10.4 & 10.5 below.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- Whether the path is substantially less convenient to the public as a consequence of the diversion.

And whether it is expedient to confirm the Order considering:

- The effect that the diversion would have on the enjoyment of the path or way as a whole.
- The effect that the coming into operation of the Order would have as respects other land served by the existing public right of way.
- The effect that any new public right of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

3.4 The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property and realigning the path to be available for public use. It is considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

4.0 Wards Affected

4.1 Wybunbury

5.0 Local Ward Members

5.1 Councillor Janet Clowes

6.0 Policy Implications including

6.1 Not applicable

7.0 Financial Implications

7.1 Not applicable

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and may lead to a hearing/inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources

9.0 Risk Management

- 9.1 Not applicable

10.0 Background and Options

- 10.1 An application has been received from Mr and Mrs A Parker, Oakleigh Cottage, Newcastle Road, Chorlton, Crewe, Cheshire, CW2 5NG, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath no. 9 in the Parish of Chorlton.
- 10.2 Public Footpath No. 9, Chorlton, commences at its junction with Newcastle Road at OS grid reference SJ 7237 5138 and runs in a generally south south westerly direction along the surfaced drive and through the grounds of Oakleigh Cottage into a pasture field where it continues to the western field boundary bordering a railway line. From here, it follows a generally south south easterly direction along this field boundary before following a generally south easterly direction through further fields to terminate at its junction with Chorlton Lane at OS grid reference 7256 5084. The section of path to be diverted is shown by a solid black line on Plan No. HA/050. The proposed diversion is illustrated on the same plan with a black dashed line between points A-B.
- 10.3 The land over which the current path runs belongs to the applicants, Mr and Mrs Parker. The land over which the proposed diversion runs belongs to Mr and Mrs Sellars, Basford House, Newcastle Road, Chorlton, Crewe, CW2 5NG. Under section 119 of the Highways Act 1980 the Council may accede to an applicant's request, if it considers it expedient in the interests of the landowner to make an order to divert the footpath.
- 10.4 The section of Public Footpath No. 9, Chorlton to be diverted runs through the property of the landowner giving rise to concerns relating to security and safety and is also obstructed by buildings. Diverting the path will offer improved privacy and security whilst realigning the path to a usable line.
- 10.5 The proposed new route (A-B) would pass through a kissing gate at point A on plan HA/050 and continue along a level, surfaced path over pasture land to point B. Of benefit to the public, the new route would be significantly more enjoyable as it would pass through more open landscape and be unobstructed.

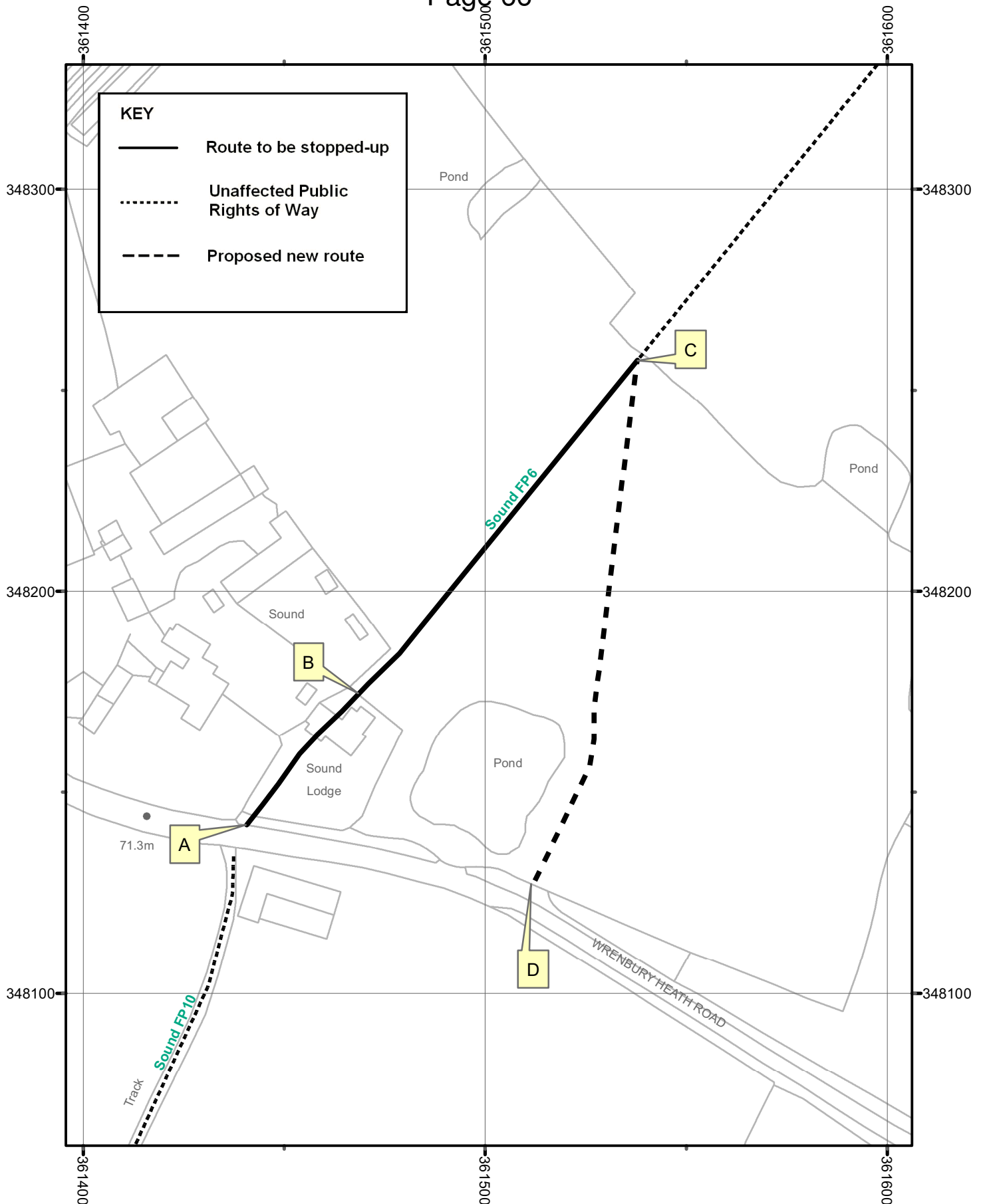
- 10.6 The Ward Councillor has been consulted about the proposal and no comments were received.
- 10.7 Hough and Chorlton Parish Council has been consulted and did not raise any objections.
- 10.8 The statutory undertakers have also been consulted and have raised no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 10.9 The user groups have been consulted. No comments have been received.
- 10.10 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 10.11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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PROW File: 075D/432

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Highways Act 1980
Proposed diversion of Sound FP6

Plan No.
HA/046

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CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting:	13 June 2011
Report of:	Greenspaces Manager
Subject/Title:	Highways Act 1980 Section 119: Application for the Diversion of Public Footpath No. 6 (part), Parish of Sound

1.0 Report Summary

- 1.1 The report outlines the investigation to divert part of Public Footpath No.6 in the Parish of Sound. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way Unit as an application has been made by the landowner concerned. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an Order should be made to divert the section of footpath concerned.

2.0 Recommendation

- 2.1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.6 Sound by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/046 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

3.0 Reasons for Recommendations

- 3.1 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. It is considered that the proposed diversion is in the interests of the landowner for the reasons set out in paragraph 10.4 & 10.5 below.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- Whether the path is substantially less convenient to the public as a consequence of the diversion.

And whether it is expedient to confirm the Order considering:

- The effect that the diversion would have on the enjoyment of the path or way as a whole.
- The effect that the coming into operation of the Order would have as respects other land served by the existing public right of way.
- The effect that any new public right of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

3.4 The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property whilst realigning the path to make it available for users. It is considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

4.0 Wards Affected

4.1 Audlem

5.0 Local Ward Members

5.1 Councillor Rachel Bailey

6.0 Policy Implications including

6.1 Not applicable

7.0 Financial Implications

7.1 Not applicable

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and may lead to a hearing/inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources

9.0 Risk Management

- 9.1 Not applicable

10.0 Background and Options

- 10.1 An application has been received from Mr WF Wright, Sound Lodge, Wrenbury Heath Road, Sound, Nantwich, CW5 8BT, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath no. 6 in the Parish of Sound.
- 10.2 Public Footpath No. 6, Sound, commences at its junction with Sound Lane at OS grid reference SJ 6195 4885 and runs in a generally south westerly direction over pasture fields and through the property of Sound Lodge to its junction with Wrenbury heath Road at OS grid reference 6144 4814. The section of path to be diverted is shown by a solid black line on Plan No. HA/046 between points A-B-C. The proposed diversion is illustrated on the same plan with a black dashed line between points D-C.
- 10.3 The land over which the current path and the proposed diversion run belongs to Mr WF Wright. Under section 119 of the Highways Act 1980 the Council may accede to an applicant's request, if it considers it expedient in the interests of the landowner to make an order to divert the footpath.
- 10.4 The section of Public Footpath No. 6, Sound to be diverted runs through the property of the landowner giving rise to concerns relating to security and safety. Furthermore, the bungalow belonging to the applicant is on the current alignment rendering it unavailable to users.
- 10.5 The proposed new route (C-D) would enter a pasture field via an unlocked field gate at point D on plan HA/046 and would run to the east of a pond and continue in a northerly direction across the field to terminate before a stile at point C. The new route would have a recorded width of 2m and would be unenclosed. Of benefit to the public, the new route would be significantly more enjoyable as it would pass through more open and scenic landscape.
- 10.6 The Ward Councillor has been consulted about the proposal. No comments were received.
- 10.7 Sound Parish Council has been consulted and their response will be reported verbally.

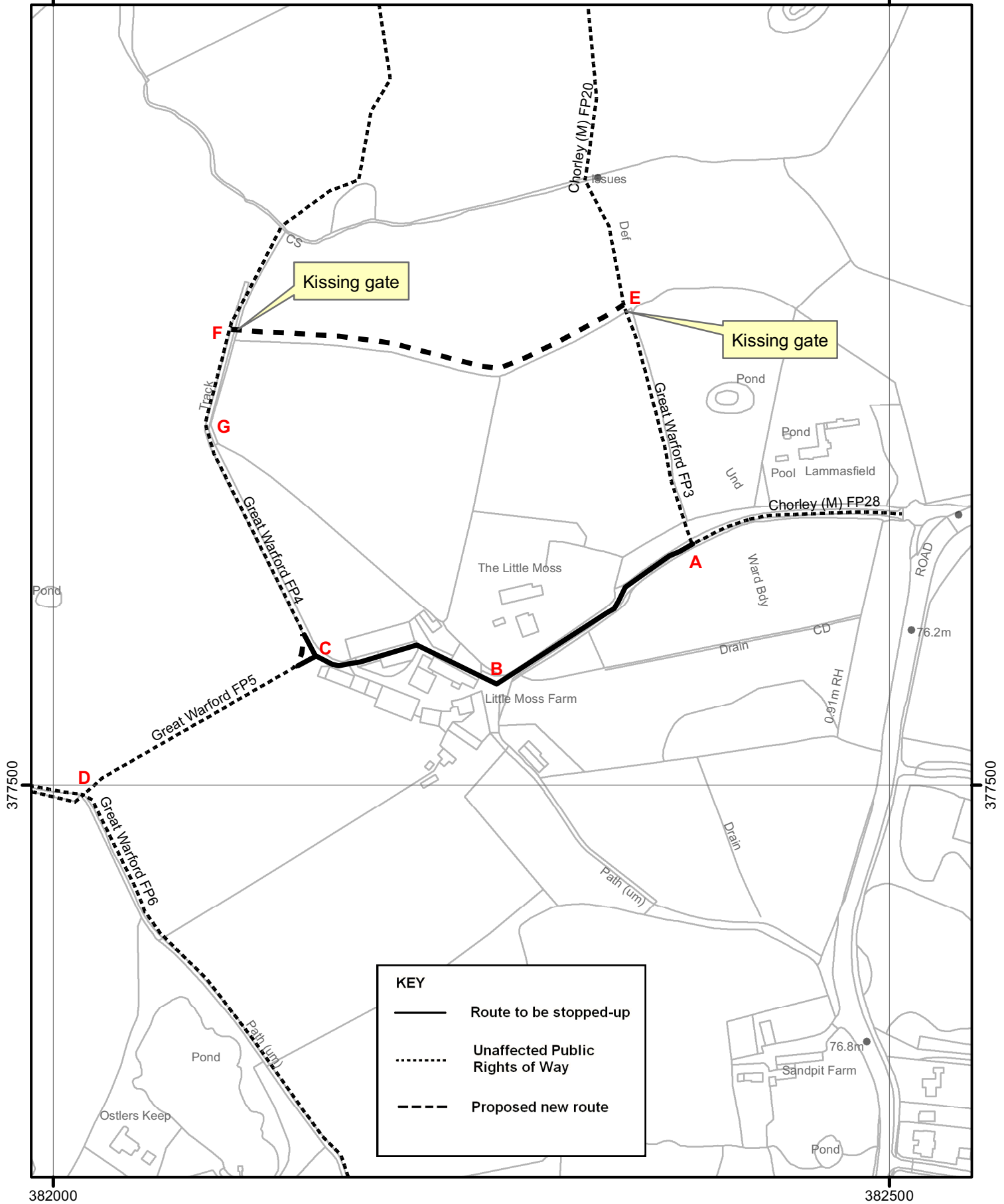
- 10.8 The statutory undertakers have also been consulted and have raised no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 10.9 The user groups have been consulted. No objections have been received.
- 10.10 The Council's Nature Conservation Officer has been consulted and has raised no objection to the proposals.
- 10.11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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Highways Act 1980
Proposed diversion of Great Warford FP's 4 and 5

Plan No.
HA/045

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CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting:	13 June 2011
Report of:	Greenspaces Manager
Subject/Title:	Highways Act 1980 Section 119: Application for the Diversion of Public Footpath Nos. 4 and 5 (parts), Parish of Great Warford

1.0 Report Summary

- 1.1 The report outlines the investigation to divert parts of Public Footpath Nos. 4 and 5 in the Parish of Great Warford. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The proposal has been put forward by the Public Rights of Way Unit as an application has been made by the landowner concerned. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an Order should be made to divert the section of footpath concerned.

2.0 Recommendation

- 2.1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert parts of Public Footpath Nos. 4 and 5 in the Parish of Great Warford by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No. HA/045 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- 2.2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 2.3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

3.0 Reasons for Recommendations

- 3.1 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. It is considered that the proposed diversion is in the interests of the landowner for the reasons set out in paragraph 10.4 & 10.5 below.

3.2 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 3.1 above, have regard to:

- Whether the path is substantially less convenient to the public as a consequence of the diversion.

And whether it is expedient to confirm the Order considering:

- The effect that the diversion would have on the enjoyment of the path or way as a whole.
- The effect that the coming into operation of the Order would have as respects other land served by the existing public right of way.
- The effect that any new public right of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

3.3 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 3.2 above.

3.4 The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of considerable benefit to the landowner in terms of enhancing the security and privacy of the property. It is considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

4.0 Wards Affected

4.1 Mobberley

5.0 Local Ward Members

5.1 Councillor Jamie Macrae

6.0 Policy Implications including

6.1 Not applicable

7.0 Financial Implications

7.1 Not applicable

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the local highway authority to confirm the order itself, and may lead to a hearing/an inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources

9.0 Risk Management

- 9.1 Not applicable

10.0 Background and Options

- 10.1 An application has been received from Mrs Byrom, Little Moss Farm, Chelford Road, Great Warford, SK9 7TS, requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert parts of Public Footpath nos. 4 and 5 in the Parish of Great Warford.

- 10.2 Public Footpath No. 4, Great Warford, commences at the Parish Boundary at OS grid reference SJ 8213 7783 and runs in a generally south easterly and then south westerly direction over pasture land and then a semi surfaced track to its junction with Public Footpath No. 5 Great Warford at OS grid reference SJ 8215 7758.

Public Footpath No. 5, Great Warford, commences at the Parish Boundary at OS grid reference SJ 8241 7765 and follows the metalled drive to Little Moss Farm in a south westerly direction before turning west north west and then west south west as it passes between the farm buildings to reach the corner of a field. Here, it continues west south west across fields to its junction with Merrymans Lane at OS grid reference SJ 8142 7724.

The section of path to be diverted is shown by a solid black line on Plan No. HA/045. The proposed diversion is illustrated on the same plan with a black dashed line between points A-E-F-G-C.

- 10.3 Mrs Byrom owns the land over which the current path and the proposed diversion run. Under section 119 of the Highways Act 1980 the Council may accede to an applicant's request, if it considers it expedient in the interests of the landowner to make an order to divert the footpath.
- 10.4 The sections of Public Footpath No. 5 in the Parish of Great Warford to be diverted runs through the property of the landowner giving rise to concerns relating to security and safety. The landowner also has planning permission to convert some of the outbuildings into leisure facilities adding to the need for increased privacy and security at the property.
- 10.5 The proposed new route (A-E-F-G-C) would follow Great Warford Footpath No. 3 from its junction with Great Warford Footpath No 5 on the metalled drive of Little Moss Farm (point A) in a north north westerly direction along the

eastern boundary of a pasture field to point E. Here, it would turn easterly across the southern boundary of a second pasture field to meet the semi-surfaced track of Great Warford Footpath No. 4 at point F. It would then run along this track along the western boundary of An arable field in a southerly direction to point G and then run in a south easterly direction to re-join Great Warford Footpath No. 5 at the western end of the buildings of Little Moss Farm at point C.

- 10.6 The Ward Councillor has been consulted about the proposal. No comments were received.
- 10.7 Great Warford Parish Council has been consulted and registered an objection to the length of the proposed diversion route.
- 10.8 The statutory undertakers have also been consulted and have raised no objections to the proposed diversion. If a diversion order is made, existing rights of access for the statutory undertakers to their apparatus and equipment are protected.
- 10.9 The user groups have been consulted. No objections have been received. The Ramblers Association, Peak and Northern Footpath Society and Alderley Edge Footpath Society have walked the proposed diversion route and accept it providing the surface of the section across pasture land between points E and F on plan HA/045 is treated to prevent water-logging and the route is appropriately waymarked.
- 10.10 Neighbouring landowners, Stuart & Alison Carthy, Chelford Road, Alderley Edge, Cheshire, SK9 7TJ support the diversion proposal. Great Warford Footpath Number 3 crosses their land.
- 10.11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is an improvement on the old route.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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