

# Public Document Pack

## CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Public Rights of Way Committee**  
held on Monday, 19th September, 2011 at Committee Suite 1,2 & 3,  
Westfields, Middlewich Road, Sandbach CW11 1HZ

### **PRESENT**

Councillor J Wray (Chairman)

Councillors Rhoda Bailey, R Cartlidge, M Parsons, S Davies and L Jeuda

### **Officers**

Mark Wheelton, Leisure Services and Greenspaces Manager

Mike Taylor, Greenspaces Manager

Marianne Nixon, Definitive Map Officer

Clare Hibbert, Definitive Map Officer

Hannah Duncan, Definitive Map Officer

Genni Butler, Countryside Access Development Officer

Rachel Goddard, Solicitor

Rachel Graves, Democratic Services

### **13 APOLOGIES FOR ABSENCE**

No apologies were received.

### **14 DECLARATIONS OF INTEREST**

All Members of the Committee declared that they had received correspondence regarding Item 13 – Village Green Application No.47 – Field between Birtles Road and Drummond Way, Whirley, Macclesfield.

### **15 MINUTES OF PREVIOUS MEETING**

#### **RESOLVED:**

That the minutes of the meeting held on 13 June 2011 be approved as a correct record and signed by the Chairman, subject to the following amendment:

Item 7 - Highways Act 1980 Section 119: Application for the Diversion of Public Footpath No.6 (part) Parish of Sandbach.

Paragraph 3 line 2 - 'Sandbach Rugby Union Footpath Club' be amended to read 'Sandbach Rugby Football Club'

### **16 PUBLIC SPEAKING TIME/OPEN SESSION**

Members of the public spoke following the Chairman's introduction of the relevant item of business.

**17 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257:  
APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 8  
(PART) PARISH OF ALPRAHAM**

The Committee received a report which detailed an application from P&L Agriconsulting (the Agent) on behalf of Mr David Symms (the Applicant) requesting the Council to make an Order under section 257 of the Town and Country Planning Act 1990 to divert Public Footpath No.8 in the parish of Alpraham.

In accordance with Section 257 of the Town and Country Planning Act 1990, the Borough Council, as Planning Authority, can make an Order stopping up a footpath or part of a footpath if it was satisfied that the necessary to do so to enable development to be carried out in accordance with a planning permission that had been granted.

Planning permission had been granted on 22 June 2011 – Planning Permission Ref: 11/1061N, to the Applicant for the development of a slurry lagoon to store slurry and dirty water from Rookery Farm.

The existing alignment of Public Footpath No.8 would be directly affected by the development of the slurry lagoon which was required by the Applicant to enable compliance with Nitrate Vulnerable Zone Regulations that regulate environmental nitrate concentrations.

The current line of Public Footpath No.8 lay directly on the site designated for development of the slurry lagoon and therefore a footpath diversion was required to provide public access around the new lagoon. The length of footpath proposed to be diverted was approximately 79 metres.

The Committee noted that no objections had been received from the informal consultations and concluded that it was necessary to divert part of Footpath No.8 Alpraham to enable the development of the slurry lagoon to go ahead. It was considered that the legal tests for making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 were satisfied.

**RESOLVED:**

- 1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.8 Alpraham, as illustrated on Plan No.TCPA/058, on the grounds that the Cheshire East Borough Council is satisfied that it is necessary to do so to allow development to take place.
- 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 Act.

- 3 In the event of objections to the Order being received and not resolved, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**18 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257:  
APPLICATION FOR THE DIVERSION OF PUBLIC BRIDLEWAY NO. 7  
(PART) PARISH OF ALPRAHAM**

The Committee received a report which detailed an application from P&L Agriconsulting (the Agent) on behalf of Mr David Symms (the Applicant) requesting the Council to make an Order under section 257 of the Town and Country Planning Act 1990 to divert Public Bridleway No.7 in the parish of Alpraham.

In accordance with Section 257 of the Town and Country Planning Act 1990, the Borough Council, as Planning Authority, can make an Order stopping up a footpath or part of a footpath if it was satisfied that the necessary to do so to enable development to be carried out in accordance with a planning permission that had been granted.

Planning permission had been granted on 22 June 2011 – Planning Permission Ref: 11/1061N, to the Applicant for the development of a milking parlour at Rookery Farm.

The existing line of Public Bridleway No.7 would be directly affected by the development of the milking parlour which was required by the Applicant to enable the milking of an increasing number of cows.

Part of the current line of Public Bridleway No.7 lay directly on the site designated for development of the milking parlour and therefore a bridleway diversion was required to provide public access around the new milking parlour. The length of bridleway proposed to be diverted was approximately 180 metres.

The Committee noted that no objections had been received from the informal consultations and concluded that it was necessary to divert part of Bridleway No.7 Alpraham to enable the development of the milking parlour. It was considered that the legal tests for making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 were satisfied. The Committee also requested that Plan No. TCPA/059 was amended to show correctly the unaffected public rights of way.

**RESOLVED:**

- 1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Bridleway No.7 Alpraham, as illustrated on Plan No.TCPA/059 as amended by the Greenspaces Manager as authorised by the Committee, on the

grounds that the Borough Council is satisfied that it is necessary to do so to allow development to take place.

- 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 Act.
- 3 In the event of objections to the Order being received and not resolved, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**19 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257:  
PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 6 (PART)  
PARISH OF KNUTSFORD**

The Committee received a report which detailed an application from Knight Frank (the Applicant) on behalf of the Crown Estate (the landowner) requesting the Council to make an Order under section 257 of the Town and Country Planning Act 1990 to divert Public Footpath No.6 in the parish of Knutsford.

In accordance with Section 257 of the Town and Country Planning Act 1990, the Borough Council, as Planning Authority, can make an Order stopping up a footpath or part of a footpath if it was satisfied that it was necessary to do so to enable development to be carried out in accordance with a planning permission that had been granted.

Planning permission had been granted on 24 June 2011 – Planning Permission Ref: 11/0613M, to the Applicant for permission to change the use of a redundant barn at Blackhill Farm, Bexton Road to provide four dwellings including the demolition of outbuildings.

The existing alignment of the footpath would be adversely affected by the creation of a residential courtyard with parking spaces and vehicular movements to the front of the dwellings. The land to be developed and the surrounding fields were all owned by the Crown Estate.

The length of the path to be closed was approximately 100 metres in length. The proposed route for the footpath was approximately 139 metres long and would move the footpath to the outside of the south easterly and south westerly boundaries of the site, along the edge of the adjacent arable field. The field edge would be levelled/rolled to provide an even surface and a gap would be left to the side of the current field gate where the path left Bexton Road.

The Committee noted that no objections had been received from the informal consultations and concluded that it was necessary to divert part of Footpath No.6 Knutsford to allow the development of the existing redundant barn. It was considered that the legal tests for making and

confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 were satisfied.

**RESOLVED:**

- 1 An Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.6 Knutsford, as illustrated on Plan No.TCPA/006, on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so to allow development to take place.
- 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 Act.
- 3 In the event of objections to the Order being received and not resolved, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**20 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PART OF PUBLIC FOOTPATH NO. 11 PARISH OF MOBBERLEY**

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.11 in the parish of Mobberley to resolve long-standing problems with the definitive line of footpath and create an 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 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 definitive line of footpath had been unavailable for approximately 20-30 years. It was difficult for the public to use due to the nature of the terrain and it was possible that the path had been originally incorrectly recorded on the Definitive Map and Statement. Re-instating the footpath on its definitive alignment would be very costly to the public purse. An 8 metre footbridge across Mobberley Brook plus steps up a very steep bank would be required, costing in the region of £15-20,000. In addition, a stile would need to be installed where the path crossed the driveway and entered the field at the northern section of the route.

Mr and Mrs A Edgar owned the land over which the current route and the proposed route would run and they had provided written consent and supported the proposal.

The proposed route would run through a pleasant wooded area with open views of the Cheshire countryside to the west. It would then require steps, surfacing and revetment as the route ran adjacent to the river before descending a slope to join an access track. Stone steps would be installed on the descent, providing a low maintenance, long lasting and resilient surface. No path furniture would be required. The works on the proposed route would cost approximately £5000.

It was noted that Peak & Northern Footpaths Society and the Ramblers Association supported the proposed diversion. No objections had been received from the initial informal consultations. The Committee considered that the proposed route would be a satisfactory alternative to the current one and would resolve the long standing problem with the footpath and create an accessible, usable route on the ground where none had existed for several decades. 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. 11 in the parish of Mobberley by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan No.HA/052, on the grounds that it is expedient in the interests of 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.

**21 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PART OF PUBLIC FOOTPATH NOS. 12 AND 33 PARISH OF MACCLESFIELD FOREST**

The Committee received a report which detailed an application from Mr CR Hobson, 27 Ryle Street, Macclesfield (the applicant) requesting the Council to make an Order under Section 119 of the Highways Act 1980 to divert part of Public Footpath Nos.12 and 33 in the parish of Macclesfield.

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 alternative routes ran. The existing route of Public Footpath No.12 ran in very close proximity to Higher Ballgreave Farm, which was undesirable in terms of privacy and security. Higher Ballgreave Farm was an old unoccupied property owned by the Applicant, who was preparing to renovate the property and eventually intended to live there. The length of Footpath No.12 proposed to be diverted was 189 metres.

The current route of Public Footpath No.33 began at its junction with Footpath No.12 to the rear of Higher Ballgreave Farm and also ran in close proximity to the property. The length of Footpath No.33 proposed to be diverted was 170 metres.

The proposed route for Footpath No.12 would run in a southerly direction to the east of and to the front of the property. Due to the natural gradient here, the route would not be visible from the property as it would be on lower ground than the farm. Diverting the footpath onto this route would provide impressive views for walkers of the surrounding Cheshire countryside which are not visible from its current alignment.

The new route for Footpath No.33 followed the natural terrace along the hillside that ran to the west of and to the rear of Higher Ballgreave Farm. This provided a more level surface for users and also improved panoramic views of the surrounding countryside.

The Committee noted that no objections had been received from the informal consultations and considered that the proposed routes would not be substantially less convenient than the existing routes. Diverting the footpaths would be of considerable benefit to the landowner in terms of privacy and security. It was therefore considered that the proposed routing would be a satisfactory alternative to the current ones 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 Nos.12 and 33 Macclesfield Forest by creating a new section of public footpath and extinguishing the current paths as illustrated on Plan No.HA/038 on the grounds that it is expedient in the interests of the owner of the land crossed by the paths.
- 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.

## **22 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PART OF PUBLIC FOOTPATH NO. 16 PARISH OF ASTON BY BUDWORTH**

The Committee received a report which detailed an application from Mr M Preston, 43 Redacre Close, Dutton, Cheshire (the applicant) requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.16 in the parish of Aston by Budworth.

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 Applicant owned the land over which the current path and alternative route ran. Public Footpath No.16 Aston by Budworth ran across land at Walthall Farm, Colliers Lane, Aston by Budworth. This Farm was previously a County Farm which was sold to the Applicant in November 2010. The legal line of the footpath had been obstructed by a slurry pit and fence for many years and a permissive route had been in place. A condition had been placed in the sale particulars for the farm that the buyers must apply for a diversion of the footpath and that the Council would indemnify the new owners against the cost of the diversion.

The Committee noted that no objections had been received from the informal consultations and considered that diverting the route would solve the long standing problem with the footpath. Diverting the footpath onto the proposed route would create a legal, accessible, usable footpath on the ground where none had existed for many years. It would also be of benefit to the landowner as moving the footpath away from the farmyard would help them to improve the privacy and security 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 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.16 in the parish of Aston by Budworth by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan No.HA/053 on the grounds that it is expedient in the interests of the public and 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.

**23 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 51 PARISH OF RUSHTON SPENCER, COUNTY OF STAFFORDSHIRE, TO BECOME PUBLIC FOOTPATH NO. 83 PARISH OF CONGLETON**

The Committee received a report which detailed an application from Mr & Mrs C Goodfellow, Bridestone, Dial Lane, Congleton (the applicant) requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.51 in the parish of Rushton Spencer, County of Staffordshire to become Public Footpath No.83 in the parish of Congleton.

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. Section 120 of the Highways Act 1980 made additional provision in the exercise of powers of Highways Authorities under section 119. Section 120(1) provided that where a footpath lies partly within and partly outside the area of a council, powers conferred under section 119 extend to the whole path "as if it lay wholly within their area". Section 120(1) requires consultation with, and the consent of, the council in whose area the other part of the path was.

The Applicant owned the land over which the current path lay and the over which the proposed diversion ran. Following a site meeting with the landowners, user groups and a representative from Staffordshire County Council it was agreed that Cheshire East Council would act as the agent and progress the application.

Rushton Spencer Public Footpath was previously a cul de sac route. An application had been received in April 2001 to add Public Footpath No.82 Congleton to the definitive map. An Order was made and received a number of objections and a public inquiry was held in January 2011. The Order was subsequently confirmed by the Planning Inspectorate subject to modifications. An objection was received to the modified Order based on a number of technical errors and was currently being dealt with by the Planning Inspectorate using the written representations procedure. Congleton Public Footpath No.82 created a link between Rushton Spencer Public Footpath No.51 and Rushton Spencer Public Footpath No.50.

The definitive line of Rushton Spencer Public Footpath No.51 ran along the drive to the quarry and Bridestones Farm. It then ran through a large pipe which was installed by the previous landowner a number of years ago and was an illegal obstruction. When the path left the pipe it then passes through a working farmyard where livestock were kept for six months of the year. This could be intimidating for some walkers and caused issues with animal waste creating a muddy surface which was difficult to cross. The Applicants had also had issues with walkers wandering away from the definitive line of the footpath and entering the busy quarry yard. The length of the footpath to be diverted was approximately 375 metres.

The Committee noted that no objections had been received from the informal consultations and considered that the proposed route would not be substantially less convenient than the existing route. Moving the footpath away from the farm and quarry would help the landowners with the running of their businesses and allow them to increase the privacy and security of the site. The proposed route would offer a less intimidating footpath for walkers and provided enhanced, panoramic views of the Cheshire countryside and the Bridestones monument. 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.51 Rushton Spencer to become Public Footpath No.83 Congleton by creating a new section of public footpath and extinguishing the current path as illustrated on Plan No.HA/055 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.

**24 EVALUATION OF NANTWICH RIVERSIDE LOOP PROJECT**

The Committee received a report which summarised the findings of an evaluation of the Nantwich Riverside Loop project, which was completed in May 2011.

The Nantwich Riverside Loop was a three-mile circular walking route which had been designed to encourage people to walk a bit further than

they normally walk. The route, signposted in both directions, ran along the River Weaver, then across fields to the Shropshire Union Canal where it followed the improved towpath up to the aqueduct over the Chester Road, before returning to the town via the historic Welsh Row

The Riverside Loop was a partnership project involving Cheshire East Council and British Waterways with support from voluntary organisations including Riverside Concern, Nantwich in Bloom, Nantwich Civic Society, Shropshire Union Canal Society, Nantwich Town Council, Acton, Edleston and Henhull Parish Council. The towpath improvement works were funded by a grant secured from Waste Recycling Environmental Ltd (WREN).

To guide walkers around the Loop a new leaflet had been published. The leaflet included a map, directions and information on the history of the riverside, canal and other features along the route. An evaluation card had been inserted in the first tranche of leaflets to gather evidence as to the value of the route and the usefulness of the leaflet.

Eighty responses had been received so far and of these responses:

- 95% said that the leaflet encouraged them to walk the route
- 90% said that having walked the route they are more likely to explore other walks in the area
- 94% said they preferred to find information on walks in a leaflet
- 29% stated the internet as a preferred source of information
- 94% said they feel healthier having been out for a walk
- 98% know that walking could improve their physical and mental health
- 68% of respondents reported that they were trying to exercise more or had been recommended by their doctor or health professional to exercise more

#### **RESOLVED:**

That the report and conclusions therein be noted and the development of future similar projects be supported.

#### **25 VILLAGE GREEN APPLICATION NO.47 - FIELD BETWEEN BIRTLES ROAD AND DRUMMOND WAY, WHIRLEY, MACCLESFIELD**

The Committee received a report which detailed an application by Birtles Conservation Forum to register the field between Birtles Road and Drummond Way, Whirley, Macclesfield as a new village green under section 15 of the Commons Act 2006.

The village green application was dated 30 September 2008 and had been submitted to Cheshire County Council on 2 October 2008 by the Birtles Conservation Forum. Cheshire East Council was the successor authority to Cheshire County Council.

The application was made pursuant to section 15(2) of the Commons Act 2006, which required the applicant to demonstrate that the land was used:

- a. for lawful sports and pastimes for a period of at least 20 years and that this use continued to the date of the application
- b. by a significant number of the inhabitants of a locality or of a neighbourhood within a locality
- c. as of right

Macclesfield Borough Council, as owner of the land, had objected to the application and Cheshire East Council, as its successor as landowner, had objected in that capacity. Cheshire East Council was also the Registration Authority for Village Greens.

The Public Rights of Way Committee, at its meeting on 7 December 2009, had adopted a procedure for dealing with village green applications. In pursuance of that procedure, the Committee had decided in relation to this Application to authorise the Borough Solicitor to appoint a suitably qualified independent person to hold a non statutory public inquiry. Douglas Edwards QC was appointed as the Inspector. Both the applicant and objector supported the choice of Inspector.

A public inquiry was held on 12 to 14 October and 21 October 2010. Mrs Peggy Bentham represented the applicant and Miss Ruth Stockley of counsel represented the objector. The inquiry was held in order to hear all the evidence from both the applicant and objector. It was agreed between parties that the qualifying period for the purpose of the application was a 20 year period between 30 September 1998 and 30 September 2008.

The Inspector's Report, outlining his conclusions and providing his recommendation, was attached to the report. The report took account of the written information produced to the Inspector and evidence received during the Inquiry. The Inspector had given less weight to written evidence than to oral evidence which had been tested by cross examination at the Inquiry.

The Inspector had found as a matter of fact that there were periods, albeit short, when the land was fenced off by the objector to prevent access. He had also found on a balance of probabilities that a temporary access for construction traffic had been laid across the land in 1999 to 2000.

The Inspector concluded that from the early to mid 1990s there had been significant use of the land as a cut through connecting Birtles Road and Drummond Way and that this had given rise to the path or track which was now a noticeable feature on the land. Beyond use of the track and its margins, the Inspector had found that evidence of use of the remainder of the land so as to support the Applicant's case was distinctly lacking. He had concluded that use of the land beyond the path and its margins had not occurred to any material extent during the qualifying period at least until the clearance work of the last year to 18 months.

The Applicant had advanced Whirley as a neighbourhood rather than a locality but the Inspector had not found evidence supportive of this.

The Inspector had found that fencing had been erected to exclude trespassers and repeatedly damaged and removed. There was evidence of a contest between users and the landowner which led him to conclude that any use of the land for lawful sports and pastimes after the erection of the fences should be regarded as forcible and not as of right.

The Inspector found that beyond the path which crossed the land and its margins, the use of the land was limited to the occasional trespasser and did not comprise anything approaching use by the general community for recreation purposes. Furthermore the Inspector found that there had not been use by a significant number of the inhabitants of a neighbourhood within a locality for the whole of the qualifying period and he could not find evidence to support the Applicant's contention that Whirley was a neighbourhood or to support it being a locality.

Based on his findings the Inspector recommended to the Registration Authority that the application should be rejected.

Mrs Peggy Bentham, on behalf of the Birtles Conservation Forum, had registered to speak in support of the application but unfortunately was unable to attend the meeting. On her behalf, her speech and the text of two emails dated 14 February and 18 September 2011 were read out to the Committee.

During discussion, Members asked questions about the appointment of the Inspector, the conduct of the hearing and whether witnesses were under oath, the recording of evidence presented at the public inquiry, the quality of the documents produced at the inquiry, the placing of the picnic bench on the land and the state of the land at present

The Chairman asked Members to consider the report's recommendation and to decide whether to accept the Inspector's recommendation that the Committee reject the application to register the land as a village green.

Members voted by majority to reject the application

#### **RESOLVED:**

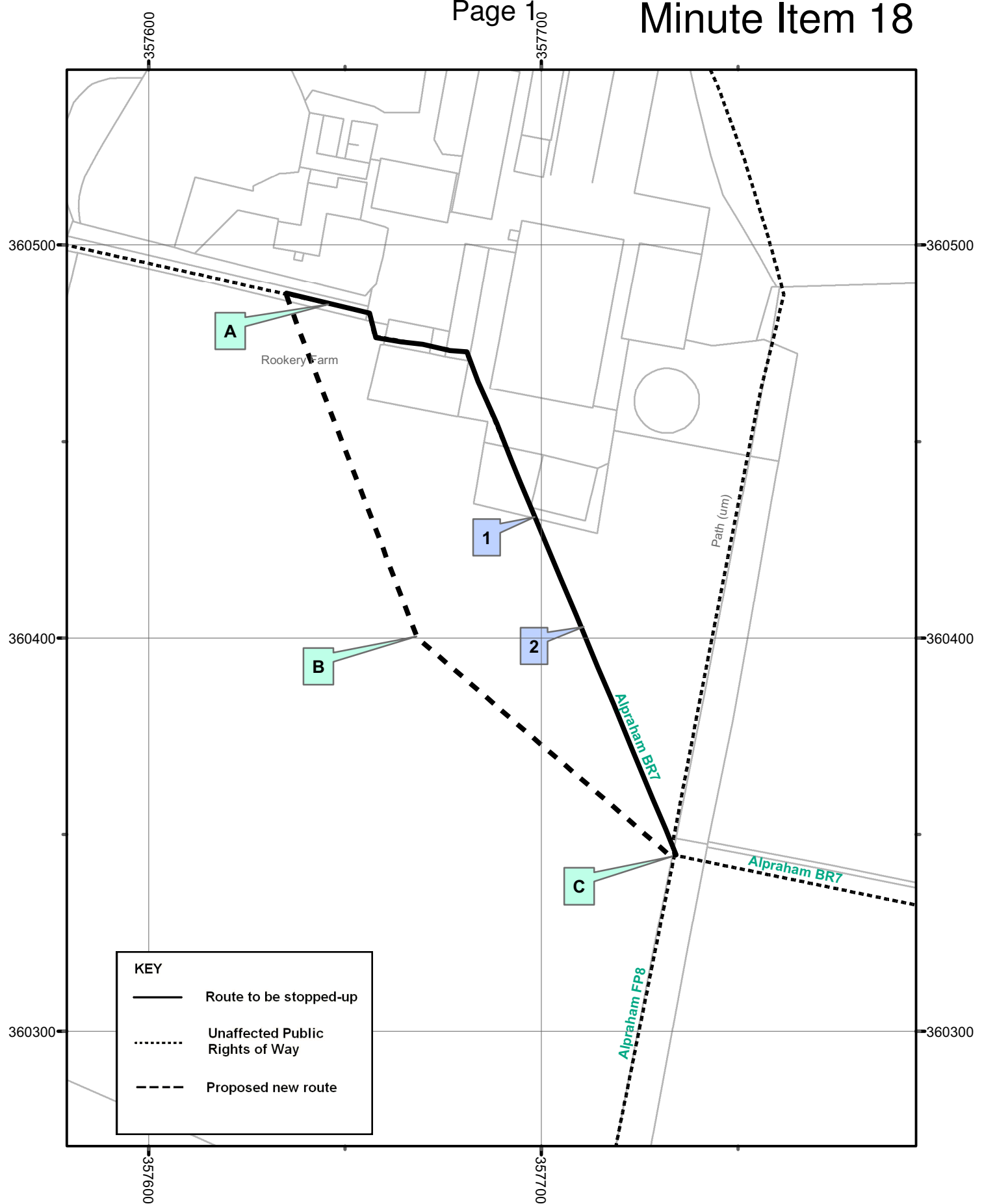
The Committee agreed to accept the recommendation of the Inspector to reject the application to register as a village green the field between Birtles Road and Drummond Way, Whirley, Macclesfield, on the grounds that the statutory criteria for registration under section 15 of the Commons Act 2006 have not been satisfied because

1. the Applicant has not demonstrated that the land was capable of being use or was used as of right during the qualifying period by reason of the fencing works carried out by the landowner, and

2. on the balance of probabilities, it has not been demonstrated that the land was used for lawful sports and pastimes to any material extent during the qualifying period, and
3. the Applicant has not demonstrated a qualifying neighbourhood.

The meeting commenced at 2.00 pm and concluded at 3.40 pm

Councillor J Wray (Chairman)



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Town and Country Planning Act 1990 s257  
The Cheshire East Borough Council  
(Bridleway 7 (part) Parish of Alpraham)  
Public Path Diversion Order

Plan No.  
TCPA/059



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