

Highways and Transport Committee

Agenda

Date: Thursday, 23rd November, 2023
Time: 10.00 am
Venue: The Capesthorpe Room - Town Hall, Macclesfield SK10 1EA

1. **Apologies for Absence**

To note any apologies for absence from Members.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Minutes of Previous Meeting** (Pages 5 - 10)

To approve as a correct record the minutes of the previous meeting held on Thursday 21 September 2023.

4. **Public Speaking/Open Session**

In accordance with paragraph 2.24 of the Council's Committee Procedure Rules and Appendix on Public Speaking, set out in the [Constitution](#), a total period of 15 minutes is allocated for members of the public to put questions to the committee on any matter relating to this agenda. Each member of the public will be allowed up to two minutes each to speak, and the Chair will have discretion to vary this where they consider it appropriate.

Members of the public wishing to speak are required to provide notice of this at least three clear working days' in advance of the meeting.

5. **Response to the Petition to install a Pedestrian Crossing on The Hill, Sandbach**
(Pages 11 - 18)

To consider a report in response to a Petition on the installation of a pedestrian crossing on The Hill, Sandbach.

For requests for further information

Contact: Nikki Bishop, Democratic Services Office

Tel: 01270 686462

E-Mail: Nikki.bishop@cheshireeast.gov.uk

6. **Notice of Motion: Access to the National Parking Platform** (Pages 19 - 26)
To consider a report in response to a Notice of Motion to Full Council in July 2023.
7. **Pedestrian Crossing Strategy** (Pages 27 - 54)
To receive and consider the draft Crossing Facilities Strategy.
8. **Engine Idling Enforcement - Business Case** (Pages 55 - 78)
To receive a report which sets out options to help reduce instances of engine idling.
9. **Local Bus Support Criteria - Consultation Outcomes** (Pages 79 - 142)
To receive an update following consultation on the bus support criteria.
10. **Second Financial Review 2023/24 (Highways and Transport Committee)** (Pages 143 - 176)
To receive the report on the second financial review of 2023-24.
11. **Medium Term Financial Strategy Consultation 2024/25 - 2027/28 (Highways and Transport Committee)** (Pages 177 - 190)
To consider a report on the Medium Term Financial Strategy Consultation for 2024/25 – 2027/28.
12. **Town and Country Planning Act 1990, Section 257: Proposed Diversion of Public Footpath No.32 in the Town of Crewe (Part)** (Pages 191 - 198)
To consider an application to divert part of Public Footpath No. 32 in the Town of Crewe.
13. **Wildlife & Countryside Act 1981, Part III, Section 53: Application no. MA/5/264, for the Addition of a Restricted Byway, Mill Lane, Rainow** (Pages 199 - 232)
To consider an application for the addition of a Restricted Byway, Mill Lane, Rainow.
14. **Wildlife & Countryside Act 1981, Part III, Section 53: Application No.MA/5/227: Application to add a Public Footpath between Alderley Road and Grove Street, Wilmslow** (Pages 233 - 250)
To consider an application to amend the Definitive Map and Statement to add a public footpath between Alderley Road and Grove Street, in the town of Wilmslow.
15. **Wildlife & Countryside Act 1981, Part III, Section 53, Application No: MA/5/247: Application for the part Addition of a Bridleway and part Upgrading of public Footpath no: 13, Bollington to a Public Bridleway** (Pages 251 - 272)

To consider an application to amend the Definitive Map and Statement to add part addition of a Bridleway and part upgrading of public Footpath no: 13, Bollington to a Public Bridleway.

16. **Highways Act 1980, Section 119: Proposed Diversion of Public Footpath No. 6 (part) and Public Bridleway No.1 (part) in the Town of Congleton** (Pages 273 - 282)

To consider an application to divert part of Public Footpath No. 6 and part of Public Bridleway No. 1 in the Town of Congleton.

17. **Work Programme** (Pages 283 - 286)

To consider the Work Programme and determine any required amendments.

THERE ARE NO PART 2 ITEMS

Membership: Councillors C Browne (Chair), L Braithwaite, R Chadwick, P Coan, A Coiley, L Crane (Vice-Chair), H Faddes, A Gage, C Hilliard, R Moreton, H Moss, J Priest and M Sewart

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Highways and Transport Committee**
held on Thursday, 21st September, 2023 in the Capesthorne Room - Town
Hall, Macclesfield SK10 1EA

PRESENT

Councillor C Browne (Chair)
Councillor L Crane (Vice-Chair)

Councillors P Coan, A Coiley, H Faddes, A Gage, C Hilliard, R Moreton,
H Moss, J Priest, M Sewart, A Burton and A Kolker

OFFICERS IN ATTENDANCE

Tom Moody, Director of Highways and Infrastructure
Richard Hibbert, Head of Strategic Transport and Parking
Chris Hindle, Head of Infrastructure
Matthew Davenhill, Contract Asset Manager
Steve Reading, Principal Accountant
Mandy Withington, Solicitor
Nikki Bishop, Democratic Services Officer

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Russell Chadwick
and Councillor Liz Braithwaite.

Councillor Andrew Kolker and Councillor Anna Burton were present as
substitutes.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 MINUTES OF PREVIOUS MEETING**RESOLVED:**

That the minutes of the meeting held on Thursday 20 July 2023 be agreed
as a correct record and signed by the Chair.

4 PUBLIC SPEAKING/OPEN SESSION

Mr Tim Campling, on behalf of the residents of Bennettshitch Road,
addressed the Committee in relation to item 5 (Winter 2022/23 End of
Season Review). Mr Campling highlighted that local residents were
dependent upon Bennettshitch Road for access and services including

emergency service vehicles and stated the impact that ongoing drainage issues had on the surface of the road. Mr Campling highlighted the safety hazards that surface water and ice represented to residents and visitors and that a number of injuries had been reported over the last five years. Mr Campling questioned if Bennettshitch Road would be included in the gritting schedule for 2023-24, what steps were taken to ensure that the quality of repairs carried out by contractors were satisfactory and how the current scoring system took into account extreme weather conditions and visitor footfall. The Chair highlighted that the Council spent approximately 17% of its highway revenue budget on the highway winter service and that any increase in winter service costs had to be managed through the reduction of other maintenance activities such as gully emptying. It was confirmed that the Council undertook regular audit inspections of work carried out by contractors but would however ask the appropriate officers to further review the road repairs and drainage issues on Bennettshitch Road.

5 WINTER 2022/23 END OF SEASON REVIEW

The Committee considered the report which provided an update on the Council's Highways Winter Service Operations during the 2022-23 winter season and also outlined the service for the winter 2023-24. The Committee noted that the Council did not have sufficient funds to treat every road within the Borough however the network was managed with less funding than what was required to deliver the highest service levels across all the various highway assets and services.

An update was provided on the winter service routes for 2023-24. The Committee noted that the only amendments to the winter service routes would be those which addressed changes to bus routes which were eligible for gritting. The Committee sought assurance that, should the weather conditions become severe during the winter period, consideration would be given to reviewing the winter service routes for 2023-24, particularly those routes used for the FlexiLink/Go-too bus services. It was confirmed that the FlexiLink/Go-too bus services were demand-responsive services and during a period of severe weather conditions, the services would be restricted to suitable routes. Officers confirmed that the changes and impact on bus routes would be closely monitored during the winter period and highlighted that, ahead of the 2024-25 winter season, a member engagement session would be undertaken to allow members the opportunity to highlight criteria that they felt should be considered for inclusion in future risk assessments.

The Chair thanked the Town and Parish Councils (Bollington Town Council, Wilmslow Town Council, Macclesfield Town Council and Alderley Edge Parish Council) who had entered into agreements to top up gritting for roads considered to be locally important by the Town and Parish Councils. It was highlighted to the Committee the estimated costs of reducing the threshold which sees roads included for treatment in the winter service routes and the costs to treat all primary schools across the

borough. The Committee were informed that any amendments in future years to the winter service gritting criteria would likely have to be funded through the reduction of other key revenue activities such as drainage works and grass cutting.

RESOLVED (unanimously):

That the Highways and Transport Committee:

1. Note the findings of the 2022-2023 Winter End of Season Review.
2. Note the proposed process for highlighting issues that may lead to a new criteria for the scoring matrix.

6 ELECTRIC VEHICLE INFRASTRUCTURE PROGRAMME - UPDATE

The Committee considered the report which provided an update on Electric Vehicle Infrastructure across the borough and the use of funding secured from the Office for Zero Emission Vehicles which would lead to the delivery of additional electric vehicle chargepoints across Cheshire East. The Committee welcomed the report and were pleased that, under the On Street Residential Chargepoint Scheme, the Council had been awarded £151,100 towards investment in chargepoints.

The Committee queried how many electric vehicle chargepoints would need to be installed in existing Cheshire East car parks, as a result of the government's proposals to phase out petrol and diesel cars by 2035. It was reported that approx. 25% of spaces in Cheshire East carparks would need to become EV chargepoints. It was confirmed that future updates on the proposed sites would be added to the Committee Work Programme.

RESOLVED (unanimously):

That the Highways and Transport Committee:

1. Note the update provided in the report.
2. Note that the Director of Infrastructure and Highways will take actions to increase staff resources to support EVI expansion, utilising the LEVI Capability Fund grant received by Cheshire East Council.
3. Agree that the Director of Infrastructure and Highways, in consultation with the Chair of Highways and Transport Committee, finalise and submit a business case to Government to secure the Council's LEVI Fund grant.

7 MIDDLEWICH EASTERN BYPASS - SUBMISSION OF A FULL BUSINESS CASE TO THE DEPARTMENT FOR TRANSPORT

The Committee considered the report which sought approval of a funding strategy for the Middlewich Eastern Bypass scheme and to submit a Full Business Case to the Department for Transport. It was highlighted that the Middlewich Eastern Bypass scheme would improve the highway network in Middlewich by relieving congestion and road safety concerns in Middlewich town centre, improving journey times on the wider highway network and would enable the full development of Strategic Location LPS 44 (Midpoint 18) in the adopted Local Plan Strategy. The scheme would also support economic growth, employment and housing delivery in the town and the surrounding area.

The Committee welcomed the report and highlighted the positive impact that this scheme would have particularly for Middlewich residents. The Committee thanked officers for the ongoing hard work that had been done to progress the scheme. The Committee queried the level of risk associated with the project. It was highlighted that some level of risk should be accepted and that NEC3 Option C (target cost approach) would be utilised within the contract with the appointed contractor. It was noted that the Council had recent and ongoing successful experience of delivering major projects using this procurement option.

RESOLVED (unanimously):

That the Highways and Transport Committee:

1. Approve the Draft Full Business Case for the Middlewich Eastern Bypass, annexed to the report.
2. Authorise the Executive Director – Place in consultation with the Committee Chair to make minor modifications to the Draft Full Business case prior to submission of the Full Business Case to the Department for Transport (DfT).
3. Approve the submission of the Full Business Case for the Middlewich Eastern Bypass (Appendix 1) to the DfT seeking a grant contribution of £46.80 million towards the total scheme cost.
4. Subject to approval of the Full Business Case by the DfT, approve the release of the Department for Transport grant funding to the value of £46.80 million for a contribution towards the delivery of the scheme.
5. Note that the total estimated scheme cost has increased from £92.50 million to £95.74 million.

6. Recommend that a virement for £3.24 million is considered by the Director for Finance and Customer Services in consultation with the Chair of the Highways and Transport Committee and the Chair of the Finance Sub-Committee, from the Strategic Capital Projects programme, increasing the Council contribution to £24.81 million towards the scheme.
7. Approve the forward funding and underwriting at risk of the agreed contribution to the scheme from HS2 in accordance with Assurance C6.22 the Phase 2b (Crewe - Manchester) Draft Register of Undertakings and Assurances v1.4
8. When the HS2 contribution is paid, approve the reimbursement of the Strategic Capital Programme budget with that contribution.
9. Approve the ongoing forward funding of expenditure on the scheme, including all costs of entering into the construction contract, in advance of Section 106 (S106) developer contributions, and note that this presents financial risks as outlined in the financial implications of the report.
10. Note the authorisation already given by Cabinet on 15 January 2019 to delegate to the Executive Director – Place in consultation with the Finance and Communications Portfolio Holder, exercise powers to undertake all the Page 39 necessary and prudent preparatory site clearance and general construction works in advance of Stage 2 Construction phase before funding approval from DfT.
11. Note the authorisation given by Cabinet on 15 January 2019 to delegate to the Executive Director – Place in consultation with the Finance and Communications Portfolio enter into a two stage Delivery Agreement with the Contractor for the delivery of the MEB via the Scape Framework.

8 **WORK PROGRAMME**

The Committee considered the Work Programme. It was noted that the following items had been added to the Work Programme:

- Street Lighting Energy Saving Proposals – for consideration in January 2024.
- Notice of Motion: Access to the national parking platform – for consideration in November 2023.
- Cheshire East HS2 Programme Update – for consideration in January 2024.
- Response to the petition to install a pedestrian crossing on the Hill, Sandbach – for consideration in November 2023.

RESOLVED:

That the Work Programme be received and noted.

The meeting commenced at 10.00 am and concluded at 11.00 am

Councillor C Browne (Chair)

OPEN

Highways and Transport Committee

23 November 2023

Petition: The Hill Sandbach Controlled Crossing

Report of: Thomas Moody, Director of Infrastructure and Highways

Report Reference No: HTC/29/23-24

Ward(s) Affected: Sandbach Heath and East

Purpose of Report

- 1 The purpose of this report is to receive a petition and determine what course of action is appropriate in respect of the petition.

Executive Summary

- 2 The Council has received a petition regarding the installation of a pedestrian crossing on The Hill, Sandbach.
- 3 In accordance with the Council's Constitution, petitions signed by over 5000 petitioners may be submitted to Full Council or a Committee for consultation.
- 4 The report outlines the Council's current position regarding the matters outlined in the petition and gives recommendations to the Highways and Transport Committee as a result of the petition.
- 5 The location has been considered previously in 2018 and did not meet the policy criteria for a controlled crossing. A new assessment will be undertaken due to the time elapsed and new development/s in the locality.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

1. Receive the petition.
2. That the petition is noted and recorded by the Council

Background

- 6 The current pedestrian crossing policy was approved by the Cabinet Member for Environmental Services in December 2011. This is based around advice in the Local Transport Note (LTN) 1/95: The Design of Pedestrian Crossings.
- 7 The policy uses a formula called “PV²” (Calculated from surveyed numbers of pedestrian and vehicle traffic) to assess demand. Following initial request, sites are assessed through a manual count to calculate an initial PV². A full survey assessment is undertaken on any sites where the initial manual count assessment figure is greater than 0.1x10⁸. Following a full survey assessment, sites with values under 0.6x10⁸ are not considered for a formal crossing however, alternative measures may be considered where appropriate.
- 8 The Hill, Sandbach received an initial manual count assessment on the 25th May 2018 enabling the location to proceed to a full survey assessment.
- 9 On the 5th September 2018 the site received a full survey assessment and scored 0.23 x 10⁸ and an adjusted PV² of 0.27x10⁸ as a result, it was not prioritised for further consideration.
- 10 Additionally, a school crossing patrol assessment was conducted in April 2023. This site was not prioritised for consideration under this assessment.
- 11 Prior to the submission of this petition, a meeting was held on 6th June 2023 between residents, the Locally Elected Ward Councillor, and the Head of Highways to discuss the provision of a crossing at The Hill, Sandbach.
- 12 The Council is developing a new pedestrian crossing strategy, the aim of which is to identify any suppressed demand for crossings and consider a broader range of local factors. Following Public Consultation,

the new approach will be considered for adoption by the Highways and Transport Committee from late spring 2024.

- 13 Due to the Council’s current financial position and the review of strategy, committing resources to assessing the need for a crossing is recommended to be deferred. Should the Highways and Transport Committee accept the petition, the site will be considered as soon as possible following the review of strategy, with any assessment considered against the approved policy criteria.
- 14 If the site meets the criteria following the assessment, then it will be prioritised and considered against all other identified sites in the Borough for funding.

Consultation and Engagement

- 15 There are no consultation and engagement implications of this paper.

Reasons for Recommendations

- 16 In accordance with paragraph 4.29 of Chapter 3 of the Constitution (July 2023) and Chapter 7 and the Petitions Scheme of the Constitution, petitions signed by over 5000 petitioners may be accepted at the start of a meeting of a committee.
- 17 Other Options Considered

Option	Impact	Risk
Do nothing	Council would be seen not to open and transparent	The Council Could be open to Challenge

Implications and Comments

Monitoring Officer/Legal

- 18 In accordance with paragraph 4.29 of Chapter 3 of the Constitution (July 2023) and Chapter 7 and the Petitions Scheme of the Constitution, petitions signed by over 5000 petitioners may be accepted at the start of a meeting of a committee.
- 19 Petitions regarding matters affecting the area or the functions of the Council or relating to consultation exercises or pursuant to specific legislation, may be accepted at the start of an ordinary Council meeting or a service committee. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council unless the Extraordinary Council Meeting is convened to consider the subject matter of the petition.

20 The petition organiser must register the petition with the Head of Democratic Services and Governance. Petitions must relate to the functions of the Council and the area of Cheshire East.

21 There are no other direct legal implications arising from the recommendations of this report currently. Any decision of the committee which gives rise to the need for a further report may have legal implications, which will be assessed at that time.

Section 151 Officer/Finance

22 There are no direct financial implications arising from the recommendations of this report. Any decision of the committee which gives rise to the need for a further report may have financial implications.

Policy

23 There are no direct policy implications, however there may be such implications as a consequence of any further action taken.

Equality, Diversity and Inclusion

24 There are no direct equality implications, however there may be such implications as a consequence of any further action taken.

Human Resources

25 There are no direct human resource implications, however there may be as a consequence of any further action taken.

Risk Management

26 There are no direct risk management implications, however there may be as a consequence of any further action taken.

Rural Communities

27 There are no direct implications on rural communities, however here may be as a consequence of any further action taken.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

28 There are no direct implications of the decision to receive the petition, however there may be as a consequence of any further action taken.

Public Health

29 There are no direct implications of the decision to receive the petition, however there may be as a consequence of any further action taken.

Climate Change

30 There are no direct implications of the decision to receive the petition, however there may be as a consequence of any further action taken.

Access to Information	
Contact Officer:	Simon Wallace Contract Asset Manager
Appendices:	Appendix 1 – Redacted copy of the Hill Sandbach Pedestrian Crossing Campaign Petition.
Background Papers:	

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The Hill, Sandbach – Pedestrian Crossing Campaign

A petition has been received with over 5000 signatures to install a pedestrian crossing on The Hill, Sandbach. The petition states:

The Hill has become increasingly affected by the impact of the new Persimmon estate with 188no. Homes now occupied and approximately 400no. Vehicles entering and exiting the estate via The Hill.

A new CO-OP store opened in recent years which is extremely busy and popular amongst local residents and people passing to and from work and has also negatively impacted the level of congestion, parked cars on double yellow lines and safety of any pedestrians trying to cross the road, especially around the junction with Heath Rd and Hassall Rd.

Families with young children are particularly adversely affected as it is very dangerous especially at school times.

A crossing would benefit everyone whilst in use and not unduly affect motorists who should be keeping to a 30mph limit, which unfortunately at present is not the case.

Motorists would of course not be affected when the crossing is not in use.

Please install one before an accident happens.

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OPEN

Highways and Transport Committee

23 November 2023

Notice of Motion – Access to the National Parking Platform (NPP)

Report of: Tom Moody, Director of Infrastructure & Highways

Report Reference No: HTC/26/23-24

Ward(s) Affected: All

Purpose of Report

- 1 The purpose of this report is to outline a response to the Notice of Motion proposed at Full Council on 19th July 2023 that stated: -
 - (a) 'This council joins the National Parking Platform (NPP) Pilot expansion project for Q2/Q3 2023, with immediate effect.
 - (b) 'That this council, in joining the NPP pilot, incorporates current NPP evidential learning and practices into any future Car Park Charging Strategy for Cheshire East.'
- 2 This report explains what the pilot of the NPP seeks to achieve.
- 3 This report also details the effects, particularly financial impacts, which joining the NPP pilot expansion project either in Q2 or Q3 2023 would have on service budgets.

Executive Summary

- 4 The Notice of Motion to Council relates to a project currently funded by the Department for Transport (DfT) and co-managed by Manchester City Council with its partner agency 'Parking Matters.'
- 5 Further details about the NPP can be found at the link: <https://npp-uk.org/assets/images/intro/concept.png>, but are also summarised below.
- 6 The NPP is a local authority owned and DfT funded pilot project.

- 7 The NPP is a service that enables the exchange of standardised, reliable, up-to-date national parking data (parking space numbers and occupancy levels where available) through a data platform. It is not a public facing service, but citizens will benefit from improved service provision: real time availability, access to more reliable and detailed parking information, and multi-vendor payment options (from those suppliers who are signed up).
- 8 The Council currently operate and manage 111 public car parks of which 3 are multi storey car parks (MSCPs). There are currently no operational digital parking space counting machines, and it would require significant investment to install/enable this technology in the MSCPs and other public car parks.
- 9 The NPP pilot uses data from mobile payment app transactions. In Cheshire East, 33% of parking sessions are purchased by users of a mobile app – the remaining being card and cash payments.
- 10 The Council's current mobile app contract is at zero cost to the Council as no financial processing transaction fees are charged. Joining the NPP pilot would incur a transaction processing service charge estimated at £43,000 per annum. There would also be an additional transaction charge which would increase the fee for customers.
- 11 The Council's current mobile payment app contract does not end until October 2024 and it is therefore not possible to join the NPP before this date. However, it is proposed to engage with the NPP pilot local authorities and understand the lessons learnt, which could feed into future business cases as part of the Council's business planning cycle.
- 12 It is therefore considered to be premature to join the NPP pilot at this stage due to the financial implications and the existing contract arrangement which will expire in October 2024.
- 13 However; it is sensible that the Council continues to engage with NPP in order to form a view on the optimum time for joining its expansion. This will ensure we are fully informed of the requirements for joining and any potential opportunities for car park users in Cheshire East.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

1. Note the National Parking Platform (NPP) pilot project.

2. Endorse that joining the NPP in its pilot phase is believed to be premature at this stage due to the financial implications and the existing contract arrangement which will expire in October 2024.
3. Note that the NPP pilot project will be monitored to explore potential future opportunities for the Council.

Background

- 14 A Notice of Motion was submitted to Council on 19/7/2023 that stated: -

‘This council joins the National Parking Platform (NPP) Pilot expansion project for Q2/Q3 2023, with immediate effect.

‘That this council, in joining the NPP pilot, incorporates current NPP evidential learning and practices into any future Car Park Charging Strategy for Cheshire East.’
- 15 The National Parking Pilot (NPP) was initiated by the Department for Transport (DfT) in 2019 as a joint project, hosted by Manchester City Council, DfT and Parking Matters. Over time, numerous additional partners have joined, including Liverpool City Council and CIPFA comparator authorities Cheshire West & Chester, Cornwall and Oxfordshire. The most recent NPP report was published in March 2023 and following the success of phases 1 to 3 of the pilot, the DfT has opened the Platform (Phase 4), to all Local Authorities and other interested parties for Q2/Q3 2023; (32 councils are now currently engaged).
- 16 We understand that it has the potential to simplify parking payment options for motorists. For example, it can enable those with the PayByPhone app on their android device to park in another local authority area that uses a different app, without having to download the alternative app. The council would receive its parking fees regardless of which app was used.
- 17 A meeting was arranged with representatives of the NPP (Parking Matters) on 1 August 2023 to discuss potential access to the pilot scheme. We were advised that the pilot scheme may end in March 2024 and that DfT expect the NPP to be self-funding by the start of the next financial year.
- 18 During the pilot, there would be no ‘on-boarding’ fee but transactional and service operational charges do apply for each parking session

purchased through the NPP via the mobile payment app providers. This cost is passed on to the council.

- 19 Currently, the council's incumbent supplier processes some 40,000 purchased parking sessions per fortnight and there are no financial processing transactions fees charged to the Council. Joining the NPP pilot could mean a charge of at least circa £43,000 to the council based on a 2.5% charge of the income turnover per annum.
- 20 If the council joined the NPP pilot, additional costs would apply, payable by the council, for the changeover of server for the current enforcement software system to a new IP address required from the incumbent supplier.
- 21 Further charges would be incurred for new signage required to direct motorists to the available suppliers of the payment app and new location codes of the car parks on each pay and display machine and in and around the peripheral area of the car parks.
- 22 It should be noted that central government are only willing to provide support for the back office functions at a national level.
- 23 The NPP is not in itself in possession of a financial bank account to facilitate the required end-to-end monetary transactional services. They cannot currently act on behalf of the suppliers to collect and collate payments for parking sessions. This leaves councils in a position where they are still currently dealing with multiple mobile payment app suppliers.
- 24 To find parking space availability, car parks must be electronically linked to a digital counter provision. Cheshire East does not currently have this facility apart from on the Grosvenor Centre MSCP – Macclesfield (counter out of use – deemed not cost effective to repair as usage is not near maximum levels). Only one future car park - Royal Arcade in Crewe – is proposed to have this system in place when operational.
- 25 No other data is currently held by the NPP that is not already on our Council web pages i.e., location of car parks, stay duration, charges and number of actual spaces on the ground.
- 26 The NPP is not involved in, nor has any plans to be involved in, a parking strategy nor is linked to any form of parking strategy.

Consultation and Engagement

- 27 Engagement was undertaken with representatives from the NPP (Parking Matters) on 01 August 2023.

Reasons for Recommendations

- 28 The council currently has an incumbent mobile payment app supplier, the contract for which does not expire until October 2024.
- 29 The terms of the current contract are far more favourable both to the Council and motorist than those as described in the NPP discussion on financial terms.
- 30 The council does not have the budget to support the subscription to the NPP pilot in its 23/24 forecast.
- 31 The data offered is limited to that which is already set out on the council's web pages.
- 32 The council does not have the budget to install digital parking space counters on its current estate.
- 33 The council does not have the budget to support the changeover marketing materials, nor the software system changes require.

Other Options Considered

- 34 To join the pilot scheme within Q2/Q3 of 2023 which the NPP advise it may take between 4 and 5 months to on-board the council.
 - (a) This option will also incur substantial revenue charges to the Council for which there is no current budget.
 - (b) The motorist would also incur an increase in the current convenience fee level.
 - (c) This may compel them to consider alternative payment options such as coinage (increasing cash collection charges) or use at the pay and display machine itself of the chip/pin/debit/credit/contactless payment methods for which there are higher transaction processing costs to the Council.
- 35 To join the NPP now as there would be no onboarding charges.
- 36 Options appraisal:

Option	Impact	Risk
Do nothing – (Current recommended option)	Maintain the status quo – no changes in revenue cost or fee to the motorist. 4/5 month on-boarding process. Incur	N/A

Join the NPP Pilot	significant revenue costs. Motorist faces increased convenience fees. But no onboarding charges	Further budgetary pressures.
Join NPP leading up to the expiration of the current mobile app contract.	Obtain a value for money multi-vendor app – contract is with NPP and no procurement by the Council is needed	Incur on-boarding charges with the NPP. Must accept the transactional processing and service charges from the suppliers which may not be at the competitive rate of an open competition procurement exercise.

Implications and Comments

Monitoring Officer/Legal

- 37 The recommendation to only consider joining the National Payment Platform (“NPP”) at a later date (if at all) is noted. Legal has yet to see the contract documents that the Council would be required to sign up to if it were to join the NPP; if a decision to join is subsequently taken Legal would complete its review work at that juncture and advise accordingly.

Section 151 Officer/Finance

- 38 The approach recommended (not to join the NPP in 23/24) has no impact on the Council’s approved budget/ Medium Term Financial Strategy (MTFS).
- 39 The proposal to consider on-boarding with the NPP immediately prior to the current contract expiration will increase budgets by a potential of £43,000 per annum and would need to be considered in the next business planning cycle for MTFS approval in a future year namely 24/25.

Policy

40 This report has no current policy implications.

Equality, Diversity and Inclusion

41 There are no equality implications because of this response to the Notice of Motion.

Human Resources

42 There are no Human Resource implications because of this response to the Notice of Motion.

Risk Management

43 There are no risk management implications because of this Notice of Motion.

Rural Communities

44 There are no specific implications because of this Notice of Motion.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

45 There are no specific implications because of this Notice of Motion.

Public Health

46 *The result of this Notice of Motion has no implications on Public Health, that being either: -*

- *a positive, neutral or negative overall impact on the health and wellbeing of Cheshire East residents*
- *a greater (positive or negative) impact on some groups compared to others (e.g., rural vs urban; younger vs older; poorer vs more affluent; etc.)*

Climate Change

47 The result of this response to the Notice of Motion will continue to help the council to reduce its carbon footprint and achieve environmental sustainability by reducing energy consumption and promoting healthy lifestyles. No additional cash collections are envisaged, thus reducing carbon footprint of the service.

Access to Information	
Contact Officer:	Richard Hibbert Head of Strategic Transport & Parking Richard.hibbert@cheshireeast.gov.uk
Appendices:	None
Background Papers:	

OPEN

Highways and Transport Committee

23 November 2023

Pedestrian Crossing Strategy

Report of: Thomas Moody, Director of Infrastructure and Highways

Report Reference No: HTC/06/23-25

Ward(s) Affected: All Wards

Purpose of Report

1. This report seeks approval to consult on the draft Crossing Facilities Strategy (Appendix 1).
2. The Strategy aims to enhance active travel and promote high-quality asset management principles within the Boroughs highway network.

Executive Summary

3. Consulting on the draft Crossing Facilities Strategy supports key Council objectives by:

Open – updating and clarifying procedures for deciding on pedestrian crossings, including the role of external agencies.

Fair – Prioritising the needs of all road users and the wider community, with a focus on pedestrians and cyclists.

Green – aligning road safety with sustainable and active travel, encouraging healthier choices and reducing carbon emissions.

4. The Draft Strategy helps the Council improve the way it manages and maintains the local highway network.

5. A Notice of Motion proposed at Council in October 2022 requested changes to the pedestrian crossing process. A report outlining actions required to address the issues was provided in January 2023.
6. A draft Crossing Facilities Strategy has been written which sets out a consistent approach which the Council will take to managing new and existing pedestrian crossings on the highway network.
7. The draft Strategy provides a process for handling requests and the assessment procedure for determining the priority for funding.
8. The draft Strategy will contribute to the Council's priority of a transport network that is safe and promotes active travel.
9. The current pedestrian crossing approach was approved by the Cabinet Member for Environmental Services in December 2011. The approach is based around advice in the Local Transport Note (LTN) 1/95: The Design of Pedestrian Crossings which was withdrawn in December 2019.
10. The report recommends that the Strategy is published for consultation purposes and a further report comes back to committee on the outcome of the consultation prior to formal adoption of the Strategy.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

1. Approve the publication of the Draft Crossing Facilities Strategy for a 6-week consultation process.
2. Note that a report on the outcome of the consultation process which will seek approval for the adoption of an updated Crossing Facilities Strategy will be presented to this committee at a future date.

Background

11. The current Pedestrian Crossing Policy, approved in December 2011, serves as the foundation for selecting controlled crossings.
12. This policy is based around advice in the Local Transport Note 1/95 and uses the PV2 method as to the degree of conflict between vehicles and pedestrians.

13. Utilising the PV2 method to measure conflict between vehicles and pedestrians, the policy has limitations.
14. Due to high demand for pedestrian crossings and limited funding, a more considered prioritisation approach is required.
15. The current criterion for selecting a controlled crossing is based around the existing Pedestrian Crossing Policy that was approved by the Cabinet Member for Environment Services in December 2011.
16. This means that pedestrian crossing assessments are currently based on a numerical score that measures the degree of conflict between vehicles and pedestrians. PV2 where P is the number of pedestrians crossing per hour over 100m section and V is the number of vehicles per hour.
17. Currently, following initial request, sites are assessed through a manual count to calculate the site specific PV2. Sites with low values are not taken forward for further consideration.
18. Other factors including feasibility of construction, local representations, local interest groups and relative priority with other sites are considered at this initial stage. However, the PV2 calculation is the overriding factor. This approach is a somewhat quantitative only taking into account existing site demand.
19. The demand for pedestrian crossings exceeds the Council's available funding each year resulting in a need for a consistent approach to the prioritisation of locations to be put forward for funding.
20. A new approach and priority matrix has been produced to change the criteria for prioritisation. It also includes a formalised qualitative assessment and informal consultation with the ward Councillor/s and relevant Town or Parish Council. This new approach will also enable greater consideration to trip generators such as shop locations, schools and other community facilities. Developing a scoring matrix to prioritise sites and identify latent demand.
21. The aim of this approach is to identify suppressed demand for crossings and to factor in local support for the proposals. It is considered that this information will help give wider consideration at an earlier stage in the assessment, determination to the type of crossing and help establish relative priority with other sites.
22. The Traffic Signs Manual – Chapter 6 – Traffic Control (2019) supersedes the previous advice given in documents such as Local Transport Note 1/95 and promotes a more qualitative approach to assessing potential controlled pedestrian crossing points.

23. In the past, nationally, the approach to traffic signal design has tended to prioritise vehicular movement over that of pedestrians. With the advent of design documents such as Manual for Streets and Manual for Streets 2 focus has shifted to considering the wider street scape and the types of users in an area.
24. The setting of traffic signal timings is intrinsically linked to traffic conditions and pedestrian movements, as such timings are outlined in the Traffic Signal Manual – Chapter 6 – Traffic Control (2019). Any future amendments to traffic signal timing in the Borough must be linked to this.

Consultation and Engagement

25. Consulting the below identified stakeholders on key issues within the Strategy should help to deliver the outcomes of the Corporate Plan with regards to:

Open

Ensure that there is transparency in all aspects of council decision making.

Listen, learn and respond to our residents, promoting opportunities for a two-way conversation.

Green

A transport network that is safe and promotes active travel.

26. The intention is to undertake a Public Consultation following approval being given; this is currently expected to be from 05/02/24; however, may vary slightly to account for other Council consultations.
27. A 6-week consultation period is proposed.
28. The plan is to engage with the following key stakeholders alongside the public:
 - Members
 - Town and Parish Councils
 - Emergency Services
 - Cycling Groups
 - Schools
 - Cheshire Road Safety Group
 - Bus Operators
 - Road Haulage Association
 - AA

- RAC
 - Internal Departments – Planning, Highways, Development Management, Passenger Transport and Air Quality
29. An online questionnaire with a background information page will be set up. The questionnaire and background information are being developed with input from members of the Council’s Research and Consultation Team. The questionnaire will have a link from the Council’s consultation webpage.
 30. A dedicated email address will be set up to communicate with key stakeholders this will allow responses and comments to be submitted.
 31. A press statement is to be prepared to advertise the launch of the consultation period to encourage participation.
 32. Social media will be used throughout the consultation period to ensure the profile is maintained.

Reasons for Recommendations

33. To inform members about the pedestrian crossing strategy and gather initial feedback before the formal consultation.
34. To align with the Council’s strategic aims and objectives, emphasising transparency, equity, and sustainability.

Other Options Considered

35. An options appraisal was conducted, and it is strongly recommended not to maintain the status quo. A consistent and inclusive approach is imperative.

Option	Impact	Risk
Do nothing	The Council will continue to discount pedestrian crossing locations where there may be latent demand	Prevent the Council from being an enabling authority.

Implications and Comments

Monitoring Officer/Legal

36. There is no statutory duty to consult on proposals to change or amend the Council’s Pedestrian Crossing Strategy.

- 37. Two of the principles that the Council adheres to when decision making is to carry out appropriate consultation and approach decision-making on a transparent and open basis. Where there is no statutory duty to carry out consultation and the Council chooses to consult, they must ensure that any consultation is adequate and fair and takes into account the responses from stakeholders and members of the public when final proposals are being formed for decision.
- 38. Consultation should follow the Gunning Principles (consultation must be at a time when proposals are still at a formative stage, adequate information must be given to those consulted, adequate time given for response, the product of consultation must be taken into account when decision making) and should involve those directly affected by such changes together with the relevant representative groups. The responses to the consultation will need to be considered when the Highways and Transport Committee makes any future decisions on the Strategy.

Section 151 Officer/Finance

- 39. The development work and consultation are being funded through existing highway revenue budgets. The application of the Strategy will also be funded through the existing highway budgets. The schemes identified would be managed through a prioritisation process to ensure existing highway budgets aren't exceeded.
- 40. It is necessary to evaluate and prioritise requests for new installations as the whole life costs of crossings needs to be considered. The Councils budget constraints can limit the number of crossing facilities being provided and maintained.

Policy

- 41. This Strategy aligns with the following strategic aims and priorities in the Council's Corporate Plan 2021-25:

<p>An open and enabling organisation. Ensure that there is transparency in all aspects of council decision making. Listen, learn and respond to our residents, promoting opportunities for a two-way conversation.</p>	<p>A council which empowers and cares about people Work together with residents and partners to support people and communities to be strong and resilient. Reduce health inequalities across the borough.</p>	<p>A thriving and sustainable place A transport network that is safe and promotes active travel</p>
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Promote and develop the services of the council through regular communication and engagement with all residents	Increase opportunities for all children and young adults with additional needs	
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Equality, Diversity and Inclusion

- 42. An Equality Impact Assessment (Appendix 2) has been conducted to ensure that the policy considers the needs of all community members and avoids discrimination. This assessment will guide policy development and implementation.
- 43. Where pedestrian crossings are to be considered, this will benefit vulnerable road users with protected characteristics such as children, the elderly and those with disabilities, both visible and non-visible.

Human Resources

- 44. There are no HR implications of this paper.

Risk Management

- 45. Completing a public consultation will help shape the Strategy reducing the risk of the Council being seen as non-transparent.

Rural Communities

- 46. There are no specific rural community impacts arising from the strategies reported in this paper.
- 47. The Committee should note that the strategies related to the whole of the local roads network in Cheshire East, recognising the differences between urban and rural roads.

Children and Young People/Cared for Children

- 48. There are no specific children and young people/cared for children impacts associated with the implementation of the Crossing Facilities Strategy. Committee should note that children and young people are a recognised group of vulnerable road users. As such, this group is expected to benefit from improved pedestrian crossings in Cheshire East.

Public Health

49. There are no specific Public Health impacts associated with the proposed consultation.
50. Improved pedestrian crossings can positively contribute to public health improvements by reducing road accidents and encouraging active travel.

Climate Change

51. There are no specific Climate Change impacts associated with the implementation of these strategies. Improved pedestrian crossings can encourage greater levels of active travel, as an alternative to motorised travel, thereby contributing to the Council's objectives for reducing transport-related carbon emissions.

Access to Information	
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Appendices:	Appendix 1 Draft Crossing Facilities Strategy
Background Papers:	None

Crossing Facilities Strategy

First Draft

September 2023

Document history and status

Rev	Date	Description	By	Review	Approved
R1	Sept 2022	DRAFT Crossing Facilities Strategy	<i>F Price</i>		

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1. Strategy background

1.1 Overview

The Council recognises that having a strategy for the provision of pedestrian crossings is important for the safe movement of those crossing the highway. It also lends support to realising the councils Local Transport Plan objectives of enabling greater active travel and promoting a healthier active lifestyle.

This Pedestrian Crossing Strategy governs the installation of both controlled and uncontrolled pedestrian crossings to aid the safe passage of pedestrians, cyclists and horse riders. The Council receives many requests for pedestrian crossings, and it is important that the most deserving locations are prioritised against the available budgets under the various programs of work the Council identify.

This document is termed a pedestrian crossing strategy, but this is an umbrella term and includes cyclists and horse riders whilst accommodating vulnerable road users.

Crossings are provided as amenities to give access and easier movement across our highways. Generally, the provision of crossings should be targeted to assist those who experience the most difficulty and potential danger whilst also providing higher quality facilities that encourage walking and cycling wherever possible.

The type of crossing installed depends on several factors and should be appropriate to the circumstances of the location. There are many advantages and disadvantages to each type of available crossing facility with the demands and behaviour of road users being a key consideration.

To protect crossing users and to help them cross the highway, we provide different types of crossings at road junctions and busy crossing points.

These include:

- uncontrolled crossings
- Pedestrian island
- Zebra
- Puffin
- Toucan
- Pegasus
- Parallel

To cross the highway safely, sufficient crossing opportunities in traffic flow are required, along with pedestrians being able to estimate vehicle speeds. Most people can cross without the provision of a controlled crossing if there are sufficient crossing opportunities. At locations with higher vehicular flows, particular groups of pedestrians, may require a crossing facility before they feel it is safe enough to cross.

2. Introduction

2.1 Background

Creating safer crossing points plays a crucial role in encouraging pedestrian activity, especially for vulnerable road users.

The right type of crossing in the right location is key as different types of crossing are appropriate at different locations. The factors such as road character, traffic speed, along with vehicle and pedestrian numbers should be taken into consideration.

It is necessary to evaluate and prioritise requests for new installations as the whole life costs of crossings needs to be considered. The Councils budget constraints can limit the number of crossing facilities being provided and maintained.

Propensity for active travel is greatly linked to local affluence of an area.

This Strategy aims to achieve consistency in the assessment and provision of pedestrian crossings across the Borough prioritising locations where they are most needed.

2.2 Scope

This Strategy shall apply to:

- Cheshire East's existing road network
- New roads constructed by or on behalf of Cheshire East Council; and
- New roads constructed by others for adoption by Cheshire East Council

3. Policy Context

3.1 National Guidance

For roads with a speed limit of 40mph or under, we adhere to the current government guidance on the assessment and design of crossings outlined in 'Traffic Signs Manual Chapter 6 Traffic Control'. This supersedes the previous guidance given in Local Transport Note (LTN) 1/95 The Assessment of Pedestrian Crossings and LTN 2/95 The Design of Pedestrian Crossings.

For roads with speed limits above 40mph, the Design Manual for Roads and Bridges (DMRB) may be more appropriate. The current standards for the design and assessment of crossings are; GG 142 - Walking, Cycling and Horse-riding Assessment and Review and CD 143 - Designing for Walking, Cycling and Horse-riding.

Where a crossing is desired to support a cycle route the requirements of the guidance set out in Cycle Infrastructure Design (LTN1/20) should be considered.

Additionally, where a crossing is desired, the Department for Transport (DfT) guide titled Inclusive Mobility, A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure, should be considered.

Traffic Signs Manual Chapter 6 Traffic Control, recommends that authorities develop their own policy to set out which types of crossing are to be provided in what circumstances, and why to ensure local policy is applied consistently and road users are clear of what is expected of them.

The choice of crossing type and their design is also complemented by further advice in Manual for Streets.

3.2 Cheshire East Council context

This policy recognises that the highway network is for use by all. Its strategic aims are promoting sustainable active travel, help create healthy communities and reduce carbon emissions through the introduction of crossing facilities to support our local communities.

3.3 Local Transport Plan

The Local Transport Plan sets out a framework for how transport will support wider policies to improve our economy, protect our environment, make attractive places to live, work and play and the role transport will play in supporting the long-term goals of the Council.

This strategy helps deliver the priorities of the Local Transport Plan by setting out how the Council manage requests for crossing facilities and the types of crossing facility that can be accommodated in the Borough. This is alongside the active travel aspirations of the Council when considering implementation of a crossing.

The Strategy also recognises that to support economic growth some locations should be prioritised for the consideration of crossing facilities. This is illustrated in the Prioritisation Matrix identified in Section 5.

4. Crossing Types

4.1 Introduction

There are two categories of formal pedestrian crossings: Uncontrolled and Controlled. The following sections outline the categories and illustrate the crossing types in each category.

4.2 Uncontrolled Crossings

An uncontrolled crossing can significantly benefit wheelchair or motorised scooter users as the kerb is lowered to be in line with the carriageway. They are usually used in areas of high footfall, low traffic and where a controlled crossing cannot be justified.

The two main types of uncontrolled pedestrian crossing points are:

- Dropped kerbs
- Dropped kerbs with a pedestrian refuge

Before implementing uncontrolled crossings, site assessments will be undertaken and considered alongside the engineering judgement of the assessing highway engineer.

4.2.1 Dropped Kerbs



Figure 1 Example of a dropped kerb

Dropped kerbs are used in low-traffic areas to support pedestrian routes.

A dropped kerb is mainly to be used when traffic volume and speed is low. Although they are subject to site constraints, they can be introduced without a formal consultation.

Dropped crossings support pedestrian routes for vulnerable road users. New dropped crossings will include tactile paving to assist visually impaired people to locate the dropped crossing point.

The tactile paving also provides a warning to help pedestrians differentiate between where the footway ends, and the carriageway begins.

Tactile paving should be installed in accordance with the latest revision of DfT guidance Document 'The use of Tactile Paving Surfaces' guidance, wherever possible, whilst ensuring the 'right solution' in the 'right location'.

Drivers should give way to those waiting to cross a road.

4.2.2 Dropped Kerb with a pedestrian refuge



Figure 2 Example of a dropped kerb with a pedestrian refuge

A dropped kerb with a pedestrian refuge is considered where the road width exceeds 10 metres. They provide a refuge for pedestrians and cyclists and narrow the carriageway which may also reduce speed of traffic.

This type of crossing may help pedestrians cross quicker as a gap in traffic is only required from one direction at a time. However, capacity can be an issue if a large number of pedestrians need to stand on the refuge.

4.3 Controlled Crossings

Controlled crossings use a combination of road markings and signals as the control mechanism for pedestrians and traffic.

For all new controlled crossings, the asset register should include notes on the reason for the installation of the crossing facility.

The introduction of a controlled crossing should be in line with the latest Department for Transport, DfT, guidance such as Traffic Signs Manual chapter 6 or Local Transport Note LTN 1/20.

All new or upgraded crossing facilities should include:

- adequate drainage,
- ducting for cabling with sufficient capacity for future upgrades,
- adequate lighting levels in line with national guidance or standards
- low energy consumption equipment
- Tactile paving

Signalised crossing facilities may include audible 'bleepers', if this has been assessed as necessary by a suitably qualified and experienced design engineer. They should also consider the use of assistive technology to support vulnerable road users.

The waiting time for pedestrians at signalised crossing facilities will be no more than 30 seconds at peak times unless the crossing facilities are linked to junction signals.

When considering the installation of controlled crossing facilities the Council will use the most appropriate type for the location in line with national guidance such as Local Transport Note, LTN, 1/20 and Design Manual for Roads and Bridges, DMRB.

The types of crossing outlined in sections 4.3.1 to 4.3.8 are the most commonly used types.

4.3.1 Zebra Crossing



Figure 3 Example of a zebra crossing

Zebra crossings are usually considered where pedestrian flows are relatively low and traffic flows are no more than moderate, as well as considering wider context and design factors.

The likely effect of a Zebra crossing can be tested by checking the availability of gaps in the traffic. Gaps of around five seconds are needed for an able person to cross a 7-metre carriageway.

Vehicle delays are typically five seconds for a single able person crossing but can be much

more where irregular streams of people cross over extended periods.

Where gaps in traffic flows are few, and waiting times long because people feel it may be hazardous to establish precedence, a Zebra crossing is likely to be unsuitable. Where traffic speeds are higher than 30 m.p.h., people will require longer gaps in the traffic flow or be exposed to the risk of more serious injury if precedence is not conceded for any reason.

Zebra crossings should not be installed on roads with an 85th percentile speed of 35 m.p.h. or above.

Zebra crossings should not be considered where there are significant numbers of vulnerable road users.

Additional LED lighting in posts and around the flashing beacon may also be considered.

4.3.2 Parallel Crossing



Figure 4- Example of a parallel crossing

Parallel crossings operate similar to zebra crossings. However, they also include the provision for cyclists to cross without having to dismount. The parallel crossing consists of a standard zebra crossing as above, however, an adjacent area to the zebra is marked with a broken white line for cyclists to cross to provide a continuous route for cyclists.

Those on the road must stop when they see a crossing user about to cross.

4.3.3 Signalised control crossings

Signalised Controlled Crossings are more suitable where:

- vehicle speeds are high, and other options are thought unsuitable;
- there is normally a greater than average proportion of vulnerable road users
- vehicle flows are very high and pedestrians have difficulty in asserting precedence
- there is a specific need for a crossing for cyclists or equestrians;
- the crossing could be confused by traffic management measures such as a contra-flow bus lane;
- there is a need to link with adjacent controlled junctions or crossings;
- The numbers of people crossing are high and delays to vehicular traffic would otherwise be excessive.

The Council does not install count down timers for crossing users at standalone controlled crossings.

4.3.4 PUFFIN Crossings (Pedestrian User Friendly Intelligent Crossing)



Figure 5- Example of a Puffin Crossing

Puffin crossings can take account of the overall crossing time, which is established each time by on crossing pedestrian detectors. The green man signal only represents an invitation to cross and is followed by an adjustable 'all red period'. This period is determined by the on-crossing pedestrian detectors and is extended sufficiently to allow a pedestrian to safely cross the carriageway.

The demand for the crossing is triggered by the push button unit but kerbside pedestrian detectors can be fitted to cancel demands that are no longer required (when a person crosses before the green man lights). At some crossings a demand can also be registered through use of a 'Smart app' or 'Smart Cross' device to support those with visual impairments.

Puffin crossings have the red man/green man signals above the push button unit on the approaching traffic side of the crossing. This layout encourages pedestrians waiting at the crossing to look at the approaching traffic at the same time as looking at the red man/green man signal.

4.3.5 TOUCAN Crossings (Two can cross)



Figure 6 Example of Toucan crossing

Toucan crossings are designed for both pedestrians and cyclists and are typically used adjacent to a cycle-path (Cyclists should dismount to cross the road using Zebra, Pelican or Puffin crossings).

There is a green/red cycle symbol alongside the green/red man. At Toucan crossings the crossing time is established each time by on-crossing detectors in the same way as Puffins. The cost of a Toucan is similar to that of a Puffin however a Toucan crossing has four pushbuttons and the crossing point is wider in order to accommodate cyclists and pedestrians simultaneously.

A toucan crossing can only be sited where it links sections of a cycle route.

The installation of a Toucan crossing is determined following assessment against LTN1/20.

4.3.6 Pegasus Crossings



Figure 7 Example of a pegasus crossing

Pegasus crossings are similar to Toucan crossings but have a separate corralled area with a higher mounted red/green horse symbol and push buttons to allow horse riders to cross.

This type of crossing is only used where many equestrian crossing movements are made across a busy main road.

A pegasus crossing can only be sited where it links sections of bridleway.

4.3.7 Crossing facilities at signalised junctions



Figure 8 Example of crossing facilities at signalised junction

Crossing facilities should be considered at all signalised junctions by default, supporting safe pedestrian movement.

4.3.8 Advanced Cycle Signals



Figure 9- Example of Advanced cycle signals

These are used to connect cycle routes across or through junctions. The distinguishing feature is the use of detectors which differentiate for cyclists at an advanced stop line.

These crossings are purely for use by cyclists and are only found at signal controlled junctions.

4.3.9 Other crossing types

The Council may consider the installation of alternative crossing types which support modal shift and active travel. The type of crossing will be informed following assessment and consideration against national design guidance.

5. Prioritisation of Crossing Requests

5.1 Introduction

The Council receives many requests for pedestrian crossings, both controlled and uncontrolled each year. It is often not possible to consider every location in detail within the available budgets. Therefore, a mechanism for prioritising locations for further consideration is important. This ensures all requests are considered against consistent criteria, allowing the impact of limited budgets to be maximised.

5.2 Prioritisation

A prioritisation matrix, Appendix A, will be used to determine a score for each location. The top percentile of locations will be investigated further for location assessment, possible crossing type and deliverability within the budgets available.

The top percentile of locations will be determined annually and taken forward for further investigation as the annual program the following financial year. Locations that are then progressed to detailed design and implementation will be informed by the budgets available.

A specific location request for crossing facilities will only be prioritised once every 3 years unless a material change to the local environment, such as development or highway infrastructure changes warrants the location to be reconsidered sooner.

Locations that remain on the prioritised list for more than 3 years will be reassessed to determine whether the location has changed in priority for further investigation.

The prioritisation matrix considers various elements and features across 8 key areas of:

- casualty reduction,
- sustainable travel,
- accessibility and capacity,
- amenity,
- neighbourhood engagement
- local concern,
- supporting growth and
- protects and improves the environment

6. Further Investigations for prioritised requests

6.1 Introduction

There are three criteria that should be used when assessing what type of crossing is most appropriate: safety, convenience and accessibility.

The decision whether or not to provide a crossing, and its type, should be a balanced judgement based on consideration of:

- the location
- national guidance
- the benefits of installing a crossing facility,
- the likely implementation and future maintenance costs
- latent demand
- proximity of alternative crossing points
- engineering judgement of a professional traffic or design engineer

Should it appear that the location does have a record of collisions resulting in injury to vulnerable road users then the location may be considered for inclusion in the Casualty Reduction programme.

7. Changes to crossing type

7.1 Introduction

Legislation changes to Traffic Signs, Regulations and General Directions (TSRGD) 2016 have resulted in pelican crossings no longer being best practice to support the Equality Act 2010. Therefore, once such assets reach end of life, they must be reviewed to determine the most suitable crossing type for the location.

Other instances where a review of crossing type could be undertaken are:

- where controller equipment at the roadside is obsolete
- Changes in the local environment which changes the nature and use of the highway

Despite signalised crossings being implemented, pedestrians often choose to cross the road when there are gaps in traffic rather than waiting for the signal. This can not only increase the risk of an accident happening at the crossing, but also question the general need for signalised crossings in certain locations where a zebra crossing would also suffice.

7.2 Review process

Regardless of the reason for reviewing the crossing provision at a location, the review should consider the following points alongside design guidance or requirements and the engineering judgement of a highway engineer undertaking the review:

- Visibility- the location needs to be clear of obstructions (trees, buildings, junctions, railings, etc.)
- Pedestrian activity levels
- Ratio between vehicles and pedestrians at peak hours
- Classification of pedestrians and proportion of vulnerable road users
- Collision data
- Type and proximity of other crossings in the area
- Gaps in traffic for crossing opportunities
- Crossing time
- Waiting time to cross
- Crossing desire lines
- Route linkage
- Active travel priorities for the location

The outcome of the review will be a reasoned conclusion on the actions to be taken converting it to a PUFFIN signalised crossing or a zebra crossing.

8. Development Sites

The need for controlled crossing facilities where development sites are planned or have taken place are identified following a Transport Assessment requested by the Local Highway Authority as part of the planning process.

However, all development sites will include at least one uncontrolled crossing, with tactile paving, on the adjacent adopted highway network to support pedestrian routes to destinations such as town centres, schools, health care facilities and other local amenities.

Where a crossing is implemented by, or on behalf of, a developer a commuted sum for future maintenance must also be provided.

Appendix A – Prioritisation Matrix

Prioritisation Matrix for requests for crossing facilities to progress for further investigation								
Please ensure all light grey cells are set to "Blank" and the final score is ZERO before starting a new location score. Type only in the Light Grey Cells Please create a COPY of this sheet for each location and all questions								
Assessment by:							Ref No:	
Date of assessment								
Location								
Has this location been assessed in the past 3 years?	Blank							
Road Classification:	Blank	Speed Limit:	Blank	Environment:	Blank			
CEC Political Ward	Blank	Is the location within a Conservation area?	Blank	Is this for an aids to pedestrian movement program?	Blank			
DO NOT LEAVE ANY BOX AS 'BLANK'								
Pre 1	Will this location be considered through a current alternative programme of work? (E.g. Road Safety, S106, STEPS, Active Travel, S106 etc.) (If Yes all scores 0, No = 3)	Blank					0	
		Blank						
A - CASUALTY REDUCTION								
1	Have there been any collisions (Excluding DUI's) that have involved pedestrians or cyclists crossing the road? (Yes = 3, No = 0)	Blank					0	
2	Have there been any claims at this location? (Yes = 10, No = 0)	Blank					0	
B – SUSTAINABLE TRAVEL								
3	On a cycle route in the Transport Development Plans? (Yes in the TDP = 2, Cycle route but not in the TDP = 1, No cycle route = 0)	Blank					0	
4	Propensity for cycling in the local area https://www.pct.bike/ (Over 30% = 5, Between 20% and 30% = 3, Less than 20% = 1)	Blank					0	
5	Is there a shared use path at this location (Yes = 1, No = 6)	Blank					0	
C - ACCESSIBILITY AND CAPACITY								
6	Footway Provision (No footways = 0, Footway on 1 side only = 1, Footway on both sides- 1 side wider than the other = 2, Footway on both sides- Equal width both sides = 3)	Blank					0	
7	Are there any obstructions to the footways ? (e.g. street furniture) (Yes = 0, No = 4)	Blank					0	
8	Are there any civil engineering constraints at this location? (Yes = 0, No = 6)	Blank					0	
D - AMENITY								
9	How many Retail facilities are in close proximity? (I.E. Shops, Supermarkets, Hair & Beauty establishments.) (Under 3 = 0, 4 to 12 = 1, 13 or More = 2)	Blank					0	
10	How many Education facilities are in close proximity? (I.E. Nurseries, Schools, Colleges, Universities.) (0 = 0, 1 to 2 = 5, 3 or More = 10)	Blank					0	
11	How many Health Care Institutions are in close proximity? (I.E. Doctors, Hospitals, Care homes, Dentists) (0 = 0, 1 to 3 = 5, 4 or More = 10)	Blank					0	
12	How many Hospitality facilities are in close proximity? (I.E. Cafes, Restaurants, Takeaways, Bars, Hotels) (0 = 0, 1 to 10 = 1, 11 or More = 2)	Blank					0	
13	How many Places of Worship are in close proximity? (0 = 0, 1 to 2 = 1, 3 or More = 2)	Blank					0	
14	How many Tourist Attractions or Leisure Facility are in close proximity? (E.g. Museums, Garden Centre, Gardens, Historic Houses, Gyms, Parks, ect.) (0 = 0, 1 to 3 = 1, 4 to 6 = 2, 7 or More = 3)	Blank					0	
15	Would a crossing facility provide access to an educational establishment (Yes = 10, No = 0)	Blank					0	

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OPEN

Highways and Transport Committee**23 November 2023****Engine Idling – Options Report****Report of: Tom Moody, Director of Infrastructure and Highways****Report Reference No: HTC/15/23-24****Ward(s) Affected: All****Purpose of Report**

- 1 The current Air Quality Action Plan (AQAP) contains an action to educate and, where possible, enforce requirements to switch off idling engines to help improve air quality. The report reviews options that could be implemented to help reduce instances of engine idling, including whether legislation should be adopted.
- 2 The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 allows councils to issue Fixed Penalty Notices (FPNs) against drivers who leave their engine idling and refuse to turn off their engines when asked to do so by an Officer. The legislation applies to all vehicles on public roads, including buses, taxis, and private vehicles. It does not apply to vehicles that are:
 - (a) Stationary at traffic lights or because of congestion;
 - (b) Broken down and under test or repair;
 - (c) Need to refrigerate fresh goods or run a compactor on a refuse vehicle; or
 - (d) Any other situations deemed acceptable (e.g., defrosting a windscreen or cooling the inside of a vehicle down on a hot day for a few minutes).

- 3 The need to reduce air pollution is identified as a key priority within the council's Environment Strategy (2020 – 2024), the Corporate Plan (2021 – 2025), our Air Quality Strategy (2018) and the Carbon Neutral Action Plan (2020 – 2025).
- 4 The purpose of this report is to update the Committee on potential revenue and costs associated with adopting legislative powers.

Executive Summary

- 5 On 24 November 2022, the committee resolved to:
 - (a) Continue internal and external promotional / educational public information campaigns in accordance with the findings of the Feasibility Study (Appendix A).
 - (b) Adopt additional legislative powers under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.
 - (c) Write to government with respect to fixed penalty notices and the level of fine applicable.
- 6 During 2022, a working group of officers from strategic transport, parking services, air quality, licensing and public health was formed to develop an evidence-based feasibility report to understand issues and identify options in relation to the matter of engine idling. A copy of the feasibility report is included as Appendix A.
- 7 The report identified and assessed options that the council could implement to try and change behaviours and reduce instances of engine idling, while making the most efficient use of council resources. Results from a survey completed by Civil Enforcement Officers (CEOs) in September 2022 shows that less idling occurring outside schools when compared with 2020. It has also demonstrated that idling could be more prevalent in winter, when drivers keep engines running to help retain heat within their vehicles (see 1.2.4 above). This scenario is permitted under the current legislative powers.
- 8 The number of Air Quality Management Areas (AQMA) has reduced across the borough, suggesting that campaigns are effective and progressively changing driver behaviours. Additionally, funding is available from central government to support promotion/ education campaigns, which means that these campaigns can continue in the future.

RECOMMENDATIONS

The highways and transport committee is recommended to:

1. Agree to continue internal and external promotional / educational public information campaigns in accordance with the findings of the Feasibility Study (Appendix A).
2. Agree to set aside the opportunity to adopt additional legislative powers under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002, at this time due to costs for adopting legislative powers (Appendix B) and potential adverse impact on education/ promotional campaigns.
3. Note that air quality across the whole borough is reported annually, in accordance with the Council's statutory responsibilities and that, should evidence indicate a need, the opportunity for engine idling fixed penalties can be reviewed as part of that process.

Background

- 9 On 24 November 2022, the committee resolved to:
 - (a) Continue internal and external promotional / educational public information campaigns in accordance with the findings of the Feasibility Study (Appendix A).
 - (b) Adopt additional legislative powers under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.
 - (c) Write to government with respect to fixed penalty notices and the level of fine applicable.
- 10 Air pollution can cause both short- and long-term effects on health and contribute to climate change. Under the Environment Act 1995, the council has a duty to review and assess air quality across the borough to check concentrations against a set of health-based objectives for specific air pollutants.
- 11 Air quality across most of the borough is good and seven AQMAs were revoked in 2021. 12 AQMA's that have demonstrated a breach of the annual mean concentration for nitrogen dioxide (40 µg/m³) remain across the borough and are included within the Cheshire East AQAP. These AQMAs have been declared largely because of emissions from road traffic. Based upon the most recent Air Quality Statement for Cheshire East, it is expected that 7 current AQMA will be revoked in 2024, reflecting continued improvement in local air quality.

- 12 The council currently raises awareness of air quality issues through its 'Show the Air you Care' webpage. This explains how air pollution is caused and ways that everyone can contribute to improving air quality. This includes information on what engine idling is, how it worsens air quality and potential issues of idling in modern vehicles. There are plans for more campaigns to be launched in the near future following receipt of funding from Defra.

Consultation and Engagement

- 13 No external or public consultation or engagement has been completed. Relevant council services have been engaged with the working group that prepared the Feasibility Study.

Reasons for Recommendations

- 14 Overall, Cheshire East has good air quality and it is improving. The number of AQMAs has reduced from 18 to 12. Since the report in 2022, the number of AQMAs has remained the same. This suggests that the current promotion/ education campaigns are effective; contributing to reduced health inequalities across the borough, and reducing the impact on the environment, which are key priorities within the Corporate Plan.
- 15 Results from the 2022 survey suggest that the promotion/ education campaigns run by the council over the past two years have helped to change behaviours, with less idling occurring outside schools. It has also demonstrated that idling could be more prevalent in winter, when drivers keep engines running to help retain heat within their vehicles.
- 16 Continuing promotion/ education campaigns demonstrates to the public and businesses that the council is taking the matter seriously by raising awareness and providing training to staff, contractors, and supply chain partners. It will also help to continue the work that the council has done to date in educating drivers on the adverse impacts of engine idling on the environment and their vehicles.
- 17 Adopting legislative powers may adversely impact the level of engagement from the public and businesses with council-led promotion/ education campaigns. Additionally, it could contradict the messaging of past and current campaigns, which aim to educate people on the issues of engine idling in the borough and better publicise current idling issues across the borough.
- 18 Adopting legislative powers would incur significant setup and ongoing annual costs that would need to be funded from within the highways & transport budget. A short technical note is provided in Appendix B.

- 19 Adopting legislative powers would draw upon already limited resources within the Parking Services team, which could reduce the level of enforcement across the borough and incur a consequential loss of income from Penalty Charge Notices.
- 20 Funding is available from central government to support promotion/ education campaigns, which means that they can continue in the future.

Other Options Considered

- 21 The alternative options that were considered are appraised in the table below.

Option	Impact	Risk
Do nothing	This option would allow measure GN12/2020 in the approved AQAP to continue being delivered and allow opportunities to engage with the public and businesses on the issue of air pollution and engine idling.	The council would lack the legislative powers to effectively deal with idling engines and any complaints that may arise.
<p>Stop Campaigns</p> <p>The council would stop running promotion/ education campaigns and would also not adopt the legislation.</p>	<p>This option would mean that measure GN12/2020 in the approved AQAP could not be delivered and limit the impetus and opportunities to engage with the public and businesses on the issue of air pollution and engine idling.</p> <p>The council would also lack the legislative powers to effectively deal with idling engines and any complaints that may arise.</p>	Air quality worsens outside local hotspots such as schools due to unnecessary vehicle idling.
<p>Adopt Legislation Only</p> <p>The council would adopt the legislation but cease all promotion/</p>	This option provides the council with the legal powers to effectively deal with idling engines and any complaints that may arise.	Extra resources would be needed for enforcement alongside training, or this could apply additional pressure on existing resources.

Option	Impact	Risk
education campaigns.		Due to the confrontational nature of issuing FPNs, enforcement officers may choose not to issue them, particularly in hostile environments.
<p>Adopt Legislation and Continue Promotion/ Education Campaigns</p> <p>The council would adopt the legislation and continue promotion/ education campaigns.</p>	<p>This option provides the council with the legal powers to effectively deal with idling engines and any complaints that may arise.</p> <p>It also enables the council to continue engaging with the public and businesses over air quality.</p>	<p>The public and businesses do not engage as well with the promotion/ education campaigns.</p> <p>Due to the confrontational nature of issuing FPNs, enforcement officers may choose not to issue them, particularly in hostile environments.</p>

Implications and Comments

Monitoring Officer/Legal

- 22 The powers under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 permit the Council to authorise officers to enforce the Regulations in accordance with Part 6 (Stopping of Engines). The current fixed penalty for an engine idling offence is £20.00 and can only be issued if none of the exemptions in paragraph 2 of this report apply.
- 23 Should the Council decide to adopt the powers under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 a member of the public may on being issued a FPN request a hearing to be held in respect of the FPN. This would have resource implications for the Council above and beyond the penalty permitted to be issued.
- 24 As the recommendation does not propose to adopt the Regulations, maintaining the status quo, there are no new legal implications associated with this recommendation.

Section 151 Officer/Finance

- 25 The recommendation proposes that current promotion/ education campaigns continue, which are accounted for within the existing Regulatory Services and Health budget and through funding by Defra.
- 26 If legislation was introduced, this is likely to require additional financial support/ resources for, including but not limited to: adoption and training/ recruiting CEOs and notice processing officers. There is no budget available for that within the parking service. It would either need to be found from existing budgets or a bid made through the MTFS process. Appendix B highlights that enforcement income is unlikely to recover costs.

Policy

- 27 The recommendation is consistent with the councils Corporate Plan as shown below.

An open and enabling organisation (Include which aim and priority)	A council which empowers and cares about people	A thriving and sustainable place (Include which aim and priority)
Ensure there is transparency in all aspects of the council decision making.	Reduce health inequalities across the borough	Welcoming, safe and clean neighbourhoods Reduce impact on the environment

- 28 The recommendation is also consistent with the councils Air Quality Strategy, AQAP and Carbon Neutral Action Plan. Therefore, there are no policy implications.

Equality, Diversity and Inclusion

- 29 There are no equality implications, as the recommendation proposes that the council continues to adopt the same approach, with promotion/ education campaigns taking place across the borough.
- 30 AQMAs are monitored continuously for pollutants and specific interventions to improve air quality within each area are contained within the AQAP.

Human Resources

- 31 There are no human resources implications.

Risk Management

- 32 There will be a small proportion of drivers who will continue to idle while stationary and the council will be unable to issue FPNs to repeat offenders.
- 33 Council employees, contractors and supply chain partners need to complete their training and lead by example when representing the council and turn off their engines when stationary (unless there is a need to keep vehicles on). Failure to do so could potentially damage the reputation and reduce the credibility of the council's promotion/ education campaigns.

Rural Communities

- 34 There are no specific implications for rural communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 35 The recommendation proposes to continue promotion/ education campaigns, which includes visiting schools to educate teachers and children about ways they can improve air quality.

Public Health

- 36 The recommendation proposes to continue promotion/ education campaigns that encourages changes in behaviours amongst drivers. Through changing behaviours, this will help to improve air quality and lead to a reduction of pollutants from vehicular traffic. The implementation of the AQAP also aims to improve public health.

Climate Change

- 37 The council has already launched an eco-driving course for all council staff who drive for work. This outlines techniques that drivers can use to reduce emissions generated by the existing council and grey fleet, as well as educate drivers about issues of vehicle idling. This course is also available to contractors and the wider supply chain who deliver services on behalf of the council.
- 38 In response to ongoing promotion/ education campaigns, some schools across the borough are starting to invest in, and deploy, no parking/ stopping signs around the school entrances to encourage parents to park further away and walk their children to the school entrance, which reduces the volume of nitrogen dioxide and particulate matters being emitted in the vicinity of schools.

Access to Information	
Contact Officer:	Richard Hibbert, Head of Strategic Transport and Parking Richard.hibbert@cheshireeast.gov.uk
Appendices:	Appendix A - Idling Vehicle Engines Options Review v1 Appendix B – Engine Idling Estimated Revenue and Costs
Background Papers:	There are no background papers appended to this report.

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ENGINE IDLING – FEASIBILITY REPORT FOR CHESHIRE EAST COUNCIL

Purpose

In March 2022, the Council's Highways and Transport Committee requested that options to help reduce instances of engine idling were reviewed, including whether additional provisions in legislation should be adopted.

A small working group comprising officers from strategic transport, parking services, air quality, licensing and public health was formed to develop an evidence-based report to understand existing air quality issues, lessons learnt from other councils who have adopted and currently enforce the legislation, and to identify options that the council could implement to tackle engine idling.

Background

Air pollution can cause short- and long-term effects on health and contribute to climate change. The need to reduce air pollution is identified as a key priority within the Council's Environment Strategy (2020 – 2024), Corporate Plan (2021 – 2025, *a council which empowers and cares about people and a thriving and sustainable place*), Air Quality Strategy (2018) and Carbon Neutral Action Plan (2020 – 2025).

Under the Environment Act 1995, the council has a duty to review and assess air quality across the borough to check concentrations against a set of health-based objectives for specific air pollutants. Air quality across most of the borough is good and seven Air Quality Management Areas (AQMAs) were revoked in 2021. However, 12 AQMA's remain across the borough that have demonstrated a breach of the annual mean concentration for nitrogen dioxide (NO₂) (40 µg/m³)¹, which are mostly associated with vehicular traffic. Interventions for each area are included within the Cheshire East Air Quality Action Plan (AQAP).

The AQAP contains an action to educate and, where possible, enforce requirements to switch off idling engines to help improve air quality. Progress is currently being made on the launch of an anti-idling campaign because unnecessary idling increases fuel use and emissions of pollutants.

Engine Idling Legislation

The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 allows councils to issue Fixed Penalty Notices (FPNs) against drivers who leave their engine idling and refuse to turn off their engines once asked by an Officer. The legislation applies to all vehicles on public roads, including buses, taxis, and private vehicles. It does not apply to vehicles that are:

- Stationary at traffic lights or because of congestion;
- Broken down and under test or repair;
- Need to refrigerate fresh goods or run a compactor on a refuse vehicle; or
- Any other situations deemed acceptable (e.g., defrosting a windscreen or cooling the inside of a vehicle down on a hot day for a few minutes).

Over 30 local authorities have adopted anti-idling enforcement legislation, including Cheshire West & Chester Council, in a bid to improve air quality. AirQualityNews submitted freedom of information

¹ Air Quality Management Area Maps (Cheshire East, 2022). URL: https://www.cheshireeast.gov.uk/business/environmental_health/local_air_quality/aqma_area_maps.aspx. Last accessed 26 August 2022.

requests to Reading, Camden, Westminster, Southwark, and Norwich Councils to ask how many FPNs they issued during 2018². Reading, Camden, and Norwich issued no FPNs, while Southwark Council issued nine and Westminster, 20. It has raised questions over how effective council strategies are when it comes to enforcing vehicle idling.

Baseline

To date, the council has chosen to educate drivers about the importance of switching off engines, rather than adopting legislation that could allow enforcement to be undertaken. Education has been primarily focused on known hotspots for engine idling, including schools.

Throughout the year, the council's Air Quality Awareness Group³ plan and execute various activities for national and international awareness campaigns.

Schools

2020 Engine Idling Survey

Due to direct approaches made by schools and parents, Civil Enforcement Officers (CEOs) recorded the number of idling vehicles whilst undertaking routine school patrols during a seven-week period in January and February 2020. Given the time of year, this provided a robust worst-case scenario.

49 idling cases were recorded (an average of seven cases per week). There were also a few locations where vehicle idling was recorded on more than one occasion.

2022 Engine Idling Survey

To supplement the 2020 survey, a 'snap survey' was completed by CEOs as part of routine school patrols between Wednesday 07 September and Friday 16 September 2022. Of the 18 schools that were patrolled, idling cases were only observed at eight schools (with 15 cases in total across the survey period). This is lower than 2020, which is likely to be a combination of the time of year (September is much warmer) and the promotion/ education campaigns run over the past two years. This latest data also provides an opportunity to provide more focused promotion/ education campaigns going forward.

Buses

Currently, 99% of commercial and subsidised bus services are operated by vehicles to a Euro 4 or Euro 5 specification (30% and 69% respectively)⁴. Across the borough, approximately 70% of bus services receive funding support/ subsidy from the council. Where services are subsidised, such as for some public routes and home to school transport, the council can specify the maximum age of a vehicle and minimum euro standards as part of contract procurement.

The remaining 30% of services operate on a fully commercial basis (i.e., no subsidy/ support from the council), which reduces the influence that the council has on the age of the vehicles used to provide those services.

² Exclusive: Idling enforcement branded 'not fit for purpose' as just a handful of fines issued during 2018, (AirQualityNews, 2018). URL: [Exclusive: Idling enforcement branded 'not fit for purpose' as just a handful of fines issued during 2018 - AirQualityNews](#). Last accessed 01 September 2022.

³ The Steering Group comprises officers from Air Quality, Public Health, Communications and Media, Parking Services, Highways and Strategic Infrastructure, Children and Families and Health Protection

⁴ 1% operate with Euro 3 specifications.

Taxis

Taxis include Hackney Carriages as well as Private Hire Vehicles. The council will adopt its new Hackney Carriage and Private Hire Licensing Policy from 01 November 2022, running for five years. This will mandate:

- Hackney Carriages and Private Hire Vehicles to be manufactured to a Euro 5 or higher specification from 01 November 2022. The council will not issue or renew licenses for older vehicles from this date. From 01 November 2024, this will mandate Euro 6 or higher specifications; and
- For Private Hire Vehicles, no vehicle shall be more than four years old when granted an initial license and no vehicle more than eight years old will be relicensed.

Prior to being granted a license, all vehicles are tested by the council at depots in either Middlewich or Macclesfield. Vehicles are licensed annually, to ensure that each vehicle meets the appropriate emissions standards. Licensed vehicles are tested every six months once they reach their fifth anniversary.

Taxi drivers are required to renew their license every three years from the date of issue. They must comply with the licensing policy and code of conduct. Currently, the code of conduct does not require drivers to switch off engines; however, this will be a requirement within the new Joint Hackney Carriage and Private Hire Driver's License Conditions that that will be adopted from 01 November 2022.

Current Projects

The council raises awareness through its 'Show the Air you Care' webpage⁵. This explains how air pollution is caused and ways that everyone can contribute to improving air quality. This includes information on what engine idling is, how it worsens air quality and potential issues of idling in modern vehicles.

The Air Quality team were successful in their grant application to the Department for Environment, Food and Rural Affairs (Defra) in March 2022 to run an awareness campaign focusing on vehicle idling and domestic solid fuel burning. With this funding, it is hoped to develop campaigns that are continuous rather than adhoc, which should improve their effectiveness. The grant will be spent on facilitating communication methods, including:

- Visuals/ posters/ leaflets/ press releases;
- Radio campaigns – utilising four local radio stations to reach different demographics;
- Online:
 - On our awareness webpage;
 - A dedicated page for idling and domestic burning; and
 - Social media platforms.
- Schools Toolkit around vehicle idling;
- Advertising on pay and display parking tickets; and
- Installation of anti-idling signage around the borough, focusing on schools, taxi ranks and recreational areas.

⁵ Show the Air You Care (Cheshire East Council, 2022). URL: [Air quality awareness \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk/air-quality-awareness). Last accessed 01 September 2022.

Schools

Air Quality officers have produced an education package for schools to raise awareness within Key Stage 2 year groups. They are visiting schools around the borough (on a request basis) to educate them on what they can do to help improve air quality around their school. On the same webpage, there are also links to other important information and toolkits, such as the Sustainable Modes of Travel to Schools (SMOTS) strategy and to Modeshift STARS, which aim to increase the number of trips made to school by sustainable and active modes of transport.

Some schools across the borough are starting to invest in, and deploy, no parking/ stopping signs around their respective entrances. Static cameras are also being trialled at some schools where there are persistent parking issues to help CEOs with enforcement during the start and end of the school day. Both initiatives support, and reinforces, the messages within the councils' campaign and encourages parents to park further away and walk their children to the school entrance.

Taxis

Due to reports/ concerns about idling at taxi ranks across the borough, diffusion tubes monitoring NO₂ were installed during 2020 on three taxi ranks at railway stations in Wilmslow, Macclesfield, and Crewe. Data is available for 2020 and 2021 and shows that the highest annual mean concentration of NO₂ occurred at Crewe Railway Station (27.8 µg/m³) during 2021, while levels of 20.3 µg/m³ were recorded at Wilmslow and Macclesfield Railway Stations. All three sites have higher concentrations of NO₂ than 2020, but this is likely to be associated with increases in traffic following national lockdowns.

Future Opportunities

Following a review of the baseline, this section outlines future opportunities for the council that could help future anti-idling campaigns, while reducing emissions from its current fleets' operations.

A More Co-ordinated Approach

There are several projects across the council that directly/ indirectly help to improve air quality and tackle engine idling. While the AQAP demonstrates there is some cross working between different services within the council (e.g., Air Quality and Highways Officers meet every six weeks to discuss air quality issues and how the Local Transport Plan funding should be allocated), this approach could be co-ordinated through the existing Programme Management Office (PMO) to maximise benefits from projects. This also extends to the private sector partners, who are continuously developing innovative solutions and bringing them to the market.

Continuing to expand existing working relationships between designers and planners and making them aware of where air quality issues exist may help to influence the design during early stages of scheme development.

Buses

Although the council was unsuccessful with its Bus Service Improvement Plan (BSIP) funding bid, an Enhanced Partnership has operated since May 2022, which applies to all commercial and subsidised bus services. A key element of this Partnership is to develop an action plan within 12 months of the commencement date (by May 2023), which will include a requirement for the existing bus fleet to be retrofitted to Euro 6 standards. This Partnership provides a framework to encourage bus operators

to use lower emission vehicles⁶ and to share best practise (e.g., driving techniques and turning off engines at layover areas/ bus stations).

Taxis

With the new licensing policy being adopted from 01 November 2022, and with some protection rights for existing licence-holders, any changes will come into effect gradually over the course of the policy period. However, monitoring data for 2022⁷ shows small increases in NO₂ at the taxi ranks outside Wilmslow, Macclesfield and Crewe Railway Stations when compared with 2021. Therefore, the council should continue monitoring these sites so that appropriate interventions can be put in place if needed.

Awareness Campaigns

Internal

The AQAP states that an eco-driving course has been developed for all council staff who drive for work. This outlines techniques that drivers can use to reduce emissions generated by their vehicles, which will help to improve air quality and reduce carbon emissions from the existing council and grey fleet. This course is also available to contractors and the wider supply chain who deliver services on behalf of the council.

It is important for staff representing the council to set an example on the public network to demonstrate that the council is leading the way. Going forward, all staff should be required to complete a refresher training course, which will capture any changes/ development in technology. The council could also consider extending the training to family members of employees, contractors, and the wider supply chain to improve driving efficiency across the borough and to support promotion/ education campaigns.

External

The council should continue working closely with schools to educate children about the impact that engine idling has on the environment. The council should also consider whether more emphasis can be placed on the effectiveness of School Travel Plans.

Anti-idling signage could be considered, using Defra grant funding, with a focus on schools, taxi ranks and recreational areas. This signage would need to be located appropriately/ sensitively to minimise street clutter.

The council could consider working with neighbouring local authorities (e.g., Cheshire West and Chester Council) to promote, and educate on, the negative impacts of vehicle idling and myth busting campaigns. This would allow resources to be shared and potentially increase the reach of promotion and education campaigns.

⁶ Includes monitoring future opportunities to acquire funding from central government to help with the transition of the existing bus fleet to lower emission vehicles. An application for funding to ZEBRA or an equivalent funding source should be considered in the future, if eligible.

⁷ Diffusion Tubes (NOx) and Air Quality Management Areas (Cheshire East Council, 2022). URL: <https://opendata-cheshireeast.opendata.arcgis.com/maps/58a0da9395064b16a8ff52be80c3e5af/explore>. Last accessed 06 September 2022.

Potential Options

Following liaison with the working group, and a review of baseline conditions and current projects, the potential options that the council could consider are summarised in the table below, alongside their benefits and disbenefits.

Option	Benefits	Disbenefits
<p>1</p> <p>“Do Nothing”</p> <p>The council would continue running promotion/ education campaigns but would not adopt the legislation.</p>	<ul style="list-style-type: none"> • Delivery of one of the measures in the approved AQAP. • Educates the Council’s fleet, employees using their own cars for Council business and contractors. • No extra finance or resource implications involved with adopting the legislation. • Potential opportunities to collaborate with neighbouring local authorities and delivery partners, which could increase the reach of campaigns. • Highlights the adverse impacts on the environment of unnecessary vehicle idling. • On-going community engagement through campaign work to encourage behavioural change. • Targeted patrols and campaigns could be run outside schools, taxi ranks, construction sites and other relevant areas to try and change behaviour. • Use of social media, schools bulletin, website, local press, etc to deliver the campaign. • No need for new FPNs to be printed. 	<ul style="list-style-type: none"> • Messaging needs to be clear for council employees, contractors, and supply chain. Potential for adverse social media if council/ contractor/ supply chain vehicles are seen idling (e.g., during a lunch break). • Resourcing required to plan and implement the campaigns. • Cost implications associated with the design and production of leaflets and posters etc, although central government funding is available to help prepare and run campaigns. • The council would lack the legislative powers to effectively deal with idling engines and any complaints that may arise.
<p>2</p> <p>“Stop Campaigns”</p> <p>The council would stop running promotion/</p>	<ul style="list-style-type: none"> • No extra finance or resource implications for adopting legislation. 	<ul style="list-style-type: none"> • The council would lack the legislative powers to effectively deal with idling engines and any complaints that may arise.

Option	Benefits	Disbenefits
<p>education campaigns and would also not adopt the legislation.</p>	<ul style="list-style-type: none"> Removes costs associated with running the promotion/ education campaigns (e.g., production of leaflets). 	<ul style="list-style-type: none"> Limits the impetus and opportunities to engage with the public and businesses on the issue of air pollution. Would not deliver measure GN12/2020 in the approved AQAP.
<p>3 “Adopt Legislation Only” The council would adopt the legislation but cease all promotion/ education campaigns.</p>	<ul style="list-style-type: none"> Provides the council with the legal powers to effectively deal with idling engines and any complaints that may arise. Removes costs associated with running the promotion/ education campaigns (e.g., production of leaflets). 	<ul style="list-style-type: none"> Signs needed to help enforce the legislation. More street clutter and cost. Cost of training CEOs who would carry out enforcement. Extra resources needed for enforcement. The method for issuing FPNs is very confrontational, and CEOs may face additional abuse because of enforcing this legalisation. Potential for a reduction in engagement from the public and businesses with council-led promotion/ education campaigns. Could be seen as a ‘money making’ exercise for the council. More resources required within notice processing team due to challenges arising from FPNs and chasing unpaid fines etc.
<p>4 “Adopt Legislation and Continue Promotion/ Education Campaigns” The council would adopt the legislation and continue promotion/ education campaigns</p>	<ul style="list-style-type: none"> Delivery of one of the measures in the approved AQAP. Potential to combine media campaigns with day(s) of action utilising the FPN only for those not turning off the engine when asked. See benefits for Options 1 and 3. 	<ul style="list-style-type: none"> See Disbenefits for Options 1 and 3.

Conclusions and Recommendations

The purpose of this review is to identify options that help to change behaviours and reduce instances of engine idling, while making the most efficient use of resources. The borough generally has good air quality, and it is improving, as shown by the number of AQMAs reducing from 18 to 12.

Results from the 2022 survey suggest that the promotion/ education campaigns ran by the council over the past two years have started to change behaviours, with less idling occurring outside schools. It has also demonstrated that idling could be more prevalent in winter, when drivers keep engines running to help retain heat within their vehicles.

Issuing FPNs is very confrontational for CEOs, as they must ask drivers to turn their engine off and only issue an FPN if the driver refuses to do so. This confrontational approach is likely to be a reason why other local authorities that have adopted the legislation issue so few each year.

Additionally, legislation is considered as a last resort when promotion and education campaigns are ineffective. As the number of AQMAs has reduced (and are linked with emissions from vehicular traffic), this suggests that these campaigns are effective and gradually changing driver behaviours. Developments in technology and more efficient vehicles are also helping to reduce emissions from vehicular traffic. Funding is also available from central government to support promotion/ education campaigns, which means that campaigns can continue in the future.

It is recommended that Option 1, “Do Nothing” (the council would continue running promotion/ education campaigns but would not adopt the legislation), is implemented. Continuing promotion/ education campaigns demonstrates to the public and businesses that the council is taking the matter seriously by raising awareness and providing training to staff, contractors, and supply chain partners. It also will help to continue the work that the council has done to date in educating drivers on the adverse impacts of engine idling on the environment and their vehicles.

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ENGINE IDLING – ESTIMATED REVENUE AND COSTS

Purpose

On 24 November 2022, the committee resolved to:

1. Continue internal and external promotional / educational public information campaigns in accordance with the findings of the Feasibility Study (Appendix A).
2. Adopt additional legislative powers under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.
3. Write to government with respect to fixed penalty notices and the level of fine applicable.

To inform the committee meeting in November 2023, estimated costs and revenues have been identified based on:

- Research, which is limited to a couple of freedom of information requests published online;
- Correspondence with other local authorities who are members of the British Parking Association; and
- An internal review on the likely cost of setting up systems if legislative powers were introduced.

Revenue

Online Research

Online research identified three articles related to freedom of information requests. These were from Wandsworth Borough Council, Westminster Council and an article published in the Telegraph about freedom of information requests made to a number of councils.

In all cases, the number of fines issued is small, resulting in very low revenue being generated. Additionally, nearly all drivers comply if/ when spoken to by a Civil Enforcement Officer, which removes the requirement for issuing a Fixed Penalty Notice under the legislative powers.

Council	URL/ Weblink	Key Points
Wandsworth Borough Council	Idling fines - a Freedom of Information request to Wandsworth Borough Council - WhatDoTheyKnow	<ul style="list-style-type: none"> • During 2019, 212 vehicles were logged where the driver was spoken to. • No Fixed Penalty Notices issued as all drivers complied when spoken too, meaning no revenue was generated.
Westminster Council	Just 0.1% of idling drivers fined in central London, data reveals Air pollution The Guardian	<ul style="list-style-type: none"> • Shows number of fines issued was low despite the number of reports made.
Not specific	Only 59 motorists have been fined for idling despite councils having the powers for 17 years, FOI reveals (telegraph.co.uk)	<ul style="list-style-type: none"> • Drivers generally comply when spoken to. • 10 councils have only issued 59 Fixed Penalty Notices over the period they have adopted legislative powers.

Feedback from Other Local Authorities

Feedback was sought from other local authorities via the British Parking Association forum. The correspondence is reported in the table below, which outlines some of the challenges about costs vs income.

Council	Key Points
Feedback from British Parking Association Forum	"We looked into this, but it would require substantial funding as a service, requiring revenue which we don't have. The legislation is geared up around driver education and advice in the first instance, with a very low-value penalty able to be issued as a last resort - meaning that you'd need to fund any officers completely - income might pay for equipment and uniform."
Feedback from British Parking Association Forum	"From memory, Hounslow did it and reported negligible income to cover the resourcing required."
Feedback from British Parking Association Forum	"I believe London Borough of Hounslow did that, but also remember that the statistics were of negligible income for the resource cost."

Resourcing

If legislative powers are adopted by the council, this could create an additional pressure on an already limited resource pool of Civil Enforcement Officers. This means that the amount of enforcement action for civil matters could reduce. Consequently, this could reduce income from Penalty Charge Notices (PCNs).

Costs

An internal review of the estimated costs for adopting the legislative powers was conducted by the parking services team. The estimated costs are summarised in the table below.

Based on the estimated costs, the adoption of legislative powers would likely cost the council in the region of £75,000 to £80,000 during the first year (based on items 1, 3 and 4). Each year, there would be ongoing costs (item 2) plus officer time each year, estimated to be in the region of £23,000 to continue being able to enforce engine idling.

Item	Ballpark Cost per Annum	Basis of Estimate	
1	Software for processing Fixed Penalty Notices	£40,000	This includes purchasing, licensing and setting up software in the first year only.
2	Software License per annum	£23,000	Based on current licensing fee for processing Penalty Charge Notices.
3	Training of Staff	£35,000	Assumed Grade 6 staff based on average costs for training staff for issuing PCNs. Training is required because the process

Item	Ballpark Cost per Annum	Basis of Estimate
		for issuing Fixed Penalty Notices is a separate appeals route from PCNs.
4	£1,500	Based on cost of specialist stationary for issuing PCNs.

Conclusion

Overall, the amount of revenue that is likely to be generated from the adopting legislative powers is small and feedback from other local authorities suggests that it is very unlikely that revenue would cover the costs of adopting notice processing systems, officer training and other costs.

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Highways and Transport Committee

23 November 2023

Local Bus Support Criteria – Consultation Outcomes

Report of: Tom Moody, Director of Infrastructure and Highways

Report Reference No: HTC/16/23-24

Ward(s) Affected: All Wards

Purpose of Report

- 1 The Council provides financial support to local bus services which are not commercially viable but are considered to be socially necessary. To guide these investment decisions, the Council prioritises revenue expenditure using a set of bus support criteria adopted in August 2011.
- 2 In November 2022, Committee agreed to review the criteria and launch a public consultation to seek the views of residents and stakeholders on proposals to update the bus support criteria.
- 3 The purpose of this report is to update Committee on the consultation results and seek approval of an updated set of bus support criteria.
- 4 The report also provides an update on proposals to spend the first year funding awarded to the Council's Bus Service Improvement Plan (BSIP+) in 2023/24, following engagement with operators engaged in our Enhanced Partnership.

Executive Summary

- 5 The bus network in Cheshire East plays a key role in providing access to jobs and services and connecting people and places. Local bus services support the delivery of the Council's strategic priorities for economic growth, environmental sustainability, social inclusion and health and wellbeing.

- 6 The Council's bus support criteria provide a methodology for evaluating bus services and their contribution to the strategic priorities of the Council. The criteria are framed around three key objectives – 1) economy and environmental sustainability, 2) access and social inclusion, and 3) bus service performance.
- 7 A consultation was launched on 26 June 2023 for a six-week period. In total, 995 responses were received. The consultation sought views on additional criteria proposed for our approach, as well as asking respondents to prioritise and rank the overall objectives for locally supported bus services.
- 8 In summary, there was broad agreement to the introduction of three new criteria, which reflect issues of increased importance/relevance since the criteria-based approach was adopted in 2011. These additional criteria are:
 - Contribution to carbon reduction
 - Bus provision in areas of deprivation
 - Post Covid patronage recovery (fare paying & concessions)
- 9 When respondents were asked how important they consider each objective to be, 'access and social inclusion' was seen as the most important (93% either 'extremely important' or 'very important'). When asked to rank the objectives in priority order, 'access and social inclusion' was ranked highest, followed by 'economy and environmental sustainability' and 'bus service performance'. In the criteria assessment it is therefore proposed to weight the objectives as follows:
 - Access and social inclusion – weighted 50%
 - Economy and environmental sustainability – weighted 30%
 - Bus service performance – weighted 20%
- 10 Appendix 1 presents the proposed new bus support criteria which is recommended to Committee for approval. The notes describe the proposed changes to methodology that is used to ensure that each criteria is based on a robust dataset to enable objective assessment and a consistent, fair and equitable process. The previous criteria approved in 2011 is included at Appendix 2 for comparison.
- 11 The report also provides an update on the BSIP / BSIP+ funding allocated to Cheshire East from the Department for Transport (DfT). This funding is intended to deliver measures that will grow long-term patronage and revenues, and importantly maintain essential social and

economic connectivity for local communities. DfT guidance states that the Council should work in partnership with local bus operators to make best use of this funding to increase bus patronage in the borough.

- 12 For 2023/24, the first year of BSIP+ funding, the Cheshire East Council allocation is £1,187,596. The six proposed initiatives are listed at paragraph 24 and an indicative apportionment of funding has been proposed at Appendix 4. However, this is subject to further development of project costs, through engagement with local bus operators and suppliers.
- 13 For 2024/25, the Council have been allocated a further £1,187,596 in BSIP+ funding. In October 2023, the DfT also announced a third round of BSIP funding allocations for 2024/25 and the indicative allocation for Cheshire East is £2,268,000. A delivery plan for next financial year is currently being developed, upon the publication of further advice from DfT and will be reported in due course. Members are advised to note that DfT intends to publish further guidance to local authorities on the use of funding for future years and we intend to brief members further on future years allocations when this guidance is available.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

1. Approve the proposed new bus support criteria included at Appendix 1 as a basis for prioritising the Council's revenue expenditure on local bus services.
2. Approve the proposals for spending the Council's first allocation of BSIP+ funding for the current financial year (2023/24) and delegate the authority to spend the funding to the Director of Infrastructure and Highways, in consultation with the Enhanced Partnership Board. The projects delivered through this initial programme will inform the development of future programmes across the borough.
3. Note that future year programmes for BSIP / BSIP+ funding are still to be finalised and will be reported to Committee in due course. A briefing will be provided for the Committee upon publication of DfT's updated guidance for 2024/25, to ensure members have opportunity to guide the development of future year's programmes.

Background

- 14 The bus network in Cheshire East is made up of 37 bus services of which 26 services (70%) are financially supported by the Council and 11 services (30%) are operated commercially. The Council currently spends £2.5m supporting bus services which are not commercially viable but are deemed important to run and are socially necessary.

New Criteria – Rationale

- 15 A detailed review of the existing 10 criteria found that they all remain relevant and have an important role in evaluating and prioritising supported bus services. However, to bring the criteria up to date and reflect current strategic priorities, it was proposed to add 3 new criteria.
- 16 The first addition is a metric to reflect the contribution of local bus travel to carbon reduction. The Council has committed to becoming carbon neutral in its own operations by 2025 and in January 2022 a further pledge was made to become a carbon neutral borough by 2045. The emission standard of vehicles used to deliver particular services has been included as a new criteria. Services will be scored based on whether they use Full or Hybrid EV/Hydrogen, Euro 6, or Euro 5 and below.
- 17 The second new criteria incorporate the Indices of Multiple Deprivation (IMD) and recognises that areas of deprivation typically rely on bus services for access to facilities and amenities. This metric ensures that the social value of bus services is considered, particularly in the context of the general rise in cost of living.
- 18 The third new criteria recognise the challenge for the bus industry in returning to pre-Covid patronage levels. While fare paying patronage on average has returned to around 80% of pre-covid levels, concessionary travel (which constitutes half of total passengers for many services) still remains at around 60%. The lower levels of patronage are affecting the viability of services going forward.

Consultation Results

- 19 In total there were 995 responses to the survey. 39% of respondents stated that they typically travel by bus once / twice a week or more often. 18% travelled by bus once / twice a month, 33% did not travel by bus very often and 9% not at all. The consultation therefore attracted responses from a significant number of infrequent / occasional bus passengers, as well as those who use buses every week.
- 20 The consultation found broad support for the inclusion of the 3 new criteria with the majority in agreement (see table below).

Proposed New Criteria	Strongly Agree or Tend to Agree
Contribution to carbon reduction	64%
Bus provision in areas of deprivation	79%
Number of fare-paying passengers since the Covid pandemic (compared to 2019)	53%
Number of concessionary fare passengers since the Covid pandemic (compared to 2019)	56%

- 21 Respondents were also asked the relative importance of the three overarching objectives around which the criteria are framed, and it was clear that 'access & social inclusion' was the highest priority for respondents. Whilst most respondents could see the importance of the other two objectives ('economy & environmental sustainability' and 'bus service performance') they were considered less important.

Considering all the information that you have received about the objectives and their associated criteria; how would you rank them in terms of priority for supported funding?



Base for score = 910. Score is a weighted calculation. Items ranked first are valued higher than the following ranks, the score is a sum of all weighted rank counts.

- 22 A full breakdown of the consultation results can be found at Appendix 3.

Bus Service Improvement Plan Plus (BSIP+) – Funding

- 23 BSIP+ funding has been awarded to the Council to target improvements to the bus network in Cheshire East. Requirements for the funding have been set out by the Department for Transport (DfT) to deliver measures

that will grow long-term patronage and revenues, and importantly maintain essential social and economic connectivity for local communities.

- 24 The BSIP refresh is currently awaiting revised DfT guidance. However, the aspirations within the original BSIP (published in October 2021) have been considered, as well as a review of recent changes to the bus network and engagement with local bus operators (as part of the Cheshire East Enhanced Partnership), which has led the Council to develop initial priorities for the BSIP+ funding in 2023/24.
- 25 The six initial priorities for 2023/24 will ensure that the year 1 allocation can be utilised within the timescales for expenditure defined by DfT (12 months from September 2023) and include:

Initiative 1	Develop a “Buses in Cheshire East” website, to provide a one-stop shop for bus service information.
Initiative 2	Trial a young person’s concessionary fare pass, providing cheaper bus fares for 16-19 year olds within Cheshire East. Also, develop a concessionary fare offers for Cheshire East Care-leavers (16-25 years) by working alongside officers in Childrens Social Care.
Initiative 3	Introduce a multi-operator ticket in Macclesfield and surrounding area, with the subsequent development of a similar Crewe-area product if the concept in Macclesfield proves to be successful.
Initiative 4	Promote the Greater Manchester ‘System One’ ticketing options available to residents in the north of Cheshire East, enabling them the purchase access to local public transport services throughout Greater Manchester.
Initiative 5	Develop ‘hub stops’ along the service 38 route (Macclesfield – Crewe), to complement the introduction of new vehicles by the bus operator. This will demonstrate improved quality and a better bus passenger experience on a core inter-urban route within Cheshire East. The approach will provide a template for other key bus routes to be improved with funding in future years.
Initiative 6	Local bus service enhancements – deliver minor service adjustments put forward by operators and elected representatives (Cheshire East Council and Town & Parish Councils) and prioritised in conjunction with the Enhanced Partnership Board.

- 26 These priorities have been identified jointly with our local operators in the Enhanced Partnership. They align with both the national BSIP objectives of 'cheaper fares', 'easier to use for passengers' and 'easier to understand services', as well as the Cheshire East BSIP principles of 'simplification of fares' and 'make services easier to understand and improve information provision'. These initial projects are capable of providing templates and proofs-of-concept for wider application within Cheshire East whilst also ensuring our 2023/24 funding allocation can be deployed before September 2024, as required by DfT.
- 27 The DfT published a Memorandum of Understanding (MoU) regarding the BSIP+ funding, which provides guidance on the types of schemes that can be funded. Extracts below:
- The authority may use the funding to target it on the actions that they and the local operators through their Enhanced Partnership (where relevant) believe will deliver the best overall outcomes in growing long term patronage, revenues and thus maintaining service levels, whilst maintaining essential social and economic connectivity for local communities. In some places that may involve ensuring existing connections are maintained (either by conventional services or DRT).
 - We expect you to use the funding to maintain existing service levels or measures that are consistent with Departmental guidance on BSIPs, bearing in mind that we have changed the BSIP rules, enabling BSIP and BSIP+ allocations to be used for supporting existing services, as set out in the 17 May 2023 announcement. Funding decisions should be based on local circumstances and need. The Authority can enhance the frequency of existing services, expand routes or provide new services using this funding.
 - The funding should not be used to support generic marketing or advertising costs that are not directly related to specific improvements (such as fares change or new services). We would expect bus operators to fund routine marketing costs.
- 28 Therefore, the funding of the priorities has been considered against these requirements, and those proposed for BSIP+ are outlined in Appendix 4. An indicative split of funding for 2023/24 has been proposed; however, this is subject to further development of costs, through engagement with local bus operators.

Consultation and Engagement

- 29 The Council conducted a 6-week consultation on the bus support criteria from 26 June until 6 August 2023. The consultation was held online with paper copies being made available at Libraries and Contact Centres throughout Cheshire East. The consultation was promoted to:
- Residents of Cheshire East
 - The Cheshire East Digital Influence Panel
 - Local stakeholders including relevant community groups and organisations.
 - Local bus operators
- 30 In total, 995 responses were received during the consultation (988 survey responses and 7 email responses). A report providing a summary of the consultation results is included as Appendix 3. The consultation has informed the new proposed bus support criteria.

Reasons for Recommendations

- 31 The criteria enable bus services to be scored and prioritised using a fair, transparent and accountable process to manage contracts within budget constraints, provide maximum value for money and support wider strategic priorities of the Council set out in the Corporate Plan.
- 32 The recommendations relating to use of the first allocation of BSIP+ funds (2023/24) have been developed to reflect priorities shared by the local bus operators whilst also enabling full utilisation of funding to DfT’s stated timescales.

Other Options Considered

- 33 The alternative option is to do nothing and continue with the existing scoring criteria which was developed in 2011. However, the criteria would not fully reflect corporate priorities, strategic transport framework and the significant challenges to the bus industry following the Covid-19 pandemic. The needs of local communities have changed in terms of the way people work, commute and socialise, so it is important that the scoring criteria reflects a changing bus network.

Option	Impact	Risk
Do nothing	The bus support criteria will be outdated (adopted in August 2011).	The criteria will not reflect the demands of the current bus network, the

		changing needs of local people, or the strategic priorities of the Council.
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Implications and Comments

Monitoring Officer/Legal

- 34 The BSIP+ funding has been allocated primarily to those Council's which did not receive BSIP funding. The conditions of the BSIP+ funding is that it will be spent in accordance with the Enhanced Partnership Plan and Scheme adopted by the Council. BSIP+ funding can also be used for supporting existing services. Failure to spend the BSIP+ funding in line with the Enhanced Partnership Plan and Scheme and/or the MoU would likely lead to a reduction or suspension in funding in future years.
- 35 BSIP+ funding must be spent on bus service improvements and cannot be used for other measures which primarily benefit other modes of transport.
- 36 In implementing the new bus service support criteria, the Council must have due regard to the transport needs of all of the residents in the borough, which includes disabled persons, persons who are elderly or have mobility problems and persons with young children. The new bus support criteria must have due regard for the EqIA and the Council's adopted Enhanced Partnership Plan and Scheme.

Section 151 Officer/Finance

- 37 In 2023/24 the Council has a budget of £2,562,396 for supported local bus services. These costs will be funded by the Council's supported bus budget, DfT Local Transport Fund (LTF) grants, DfT Bus Service Operator Grant (BSOG) allocation, other fee income and the Council's revenue budget.
- 38 The budget for 2024/25 is subject to the Council's Medium Term Financial Strategy (MTFS) review and will be agreed in February 2024.
- 39 The Council has been awarded £1,187,596 from the BSIP+ funding from central government. DfT make clear in the associated Memorandum of Understanding that to be eligible for future funding, including 2024/25 BSIP+ funding, the overall authority bus budget must be maintained at least at the same level. DfT expect the grant funding to

be spent within a reasonable timeframe and outputs delivered within 12 months of funding receipt.

- 40 The DfT have also announced BSIP / BSIP+ funding allocations for 2024/25 which are set out in the table below. A delivery plan for next financial year is currently being developed and will be reported to Committee in due course.

Cheshire East – Funding Allocations	2023/24	2024/25
BSIP +	£1,187,596	£1,187,596
BSIP	£0	£2,268,000

Policy

- 41 Cheshire East’s Corporate Plan recognises the importance of the bus network in supporting key strategic objectives such as reducing air pollution, reducing carbon emissions, enabling housing and employment growth, improving quality of place, and protecting the environment.
- 42 The Local Transport Plan (2019-2024) outlines the role transport will play in supporting the long-term goals to improve the economy, protect the environment, improve health and wellbeing and the quality of place. The proposed bus support criteria reflect this framework, to deliver social, economic and environmental improvements.
- 43 Cheshire East’s Bus Service Improvement Plan (BSIP) sets out the ambition for the bus network to improve the speed, reliability and quality of public transport, to encourage more residents to choose bus, make fewer car journeys and contribute to carbon reduction targets.

<p>An open and enabling organisation</p> <p>(Include which aim and priority)</p> <ul style="list-style-type: none"> • Ensure that there is transparency in all aspects of council decision making. • Support a sustainable financial future for the council, through 	<p>A council which empowers and cares about people</p> <p>(Include which aim and priority)</p> <ul style="list-style-type: none"> • Work together with our residents and partners to support people and communities to be strong and resilient. 	<p>A thriving and sustainable place</p> <p>(Include which aim and priority)</p> <ul style="list-style-type: none"> • A great place for people to live, work and visit. • To reduce the impact on our environment.
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<p>service development, improvement and transformation.</p> <ul style="list-style-type: none"> Promote and develop the services of the council through regular communication and engagement with all residents. 	<ul style="list-style-type: none"> Reduce health inequalities across the borough. 	<ul style="list-style-type: none"> A transport network that is safe and promotes active travel. Thriving urban and rural economies with opportunities for all. To be carbon neutral by 2025.
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Equality, Diversity and Inclusion

- 44 The Council has fully evaluated the equality implications of the proposed changes through an Equality Impact Assessment (EqIA). An EqIA is appended to this report (see Appendix 5).
- 45 The Council has engaged with protected equality groups, including people with disabilities and mobility problems. 54% of respondents to the consultation survey were aged 65+ and 35% of respondents felt their activity is limited due to a health problem / disability. There responses have been analysed and incorporated into the EqIA.

Human Resources

- 46 There are no direct implications for Human Resources.

Risk Management

- 47 There are risks associated with not having a suitable set of criteria in place – continuing with the 2011 criteria would mean we are not considering the current challenges and priorities for the bus network.
- 48 In terms of governance and corporate oversight, a Bus Strategy Programme Board has been established including colleagues from key enabling services, namely legal, finance, research & consultation and communications. This will ensure that the process of applying the bus support criteria is robust, as well as oversight of the BSIP+ funding.

Rural Communities

- 49 The Corporate Plan outlines targets to reduce areas of the borough not served by public transport. The Council has already demonstrated a commitment to this through its successful bid for DfT funding as part of the Rural Mobility Fund, subsequent operation of the Go-too service and continued delivery of the boroughwide FlexiLink service.

50 The Corporate Plan also identifies the desire for thriving and active rural communities by 2025. The importance of local buses for rural communities has been reflected within the scoring criteria ensuring that bus services remain accessible for those who need them most. Accessibility indicators are included within the support criteria to ensure areas with no reasonable travel alternatives score highly.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

51 The Corporate Plan outlines the significant pressures in Children’s Services, particularly placements for looked after children and services for children with special educational needs, including home to school transport. A significant number of school children across the borough use buses to access educational establishments and this is considered as part of the prioritisation process.

Public Health

52 There are pockets of deprivation in Cheshire East related to income, health and life chances. Bus services enable a greater proportion of residents to access important services such as health care facilities. The continued delivery of these services therefore helps to address the Corporate Plan target to reduce health inequalities across the borough. The Index of Multiple Deprivation (IMD) is used to prioritise services based on their ability to serve highly deprived areas.

Climate Change

53 Cheshire East Council have committed to be carbon neutral by 2025 and to influence carbon reduction across the borough in order to become a carbon neutral borough by 2045 – the decarbonisation of the transport network is a key component of this programme of work. The scoring criteria considers the emission standards of vehicles in operation with EV/Hydrogen and Euro 6 vehicles looked at more favourably.

Access to Information	
Contact Officer:	Richard Hibbert Richard.hibbert@cheshireeast.gov.uk
Appendices:	1 – New Proposed Bus Support Criteria (November 2023) 2 – Original Bus Support Criteria (August 2011) 3 – Consultation Summary Report

	4 – BSIP+ Indicative Budget Allocation 5 – Equality Impact Assessment
Background Papers:	None

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Appendix 1: New Bus Support Criteria

Objective	Criteria	Scoring	Score
Supporting the economy & environmental sustainability	Economic growth - journey purpose ¹	Both peak periods, evenings and weekends	5
		Both peak periods plus evenings (Mon-Fri)	4
		Both peak periods (Mon-Fri)	3
		Morning or evening peak period (Mon-Fri)	2
		Service operates off-peak/evenings only (Mon-Fri)	1
	Sustainable economic growth ²	The route serves a significant (>1000 jobs) employment area	4
		The route serves a moderate (500-1000 jobs) employment area	2
		The route serves a low (<500 jobs) employment area	0
	Impact on Air Quality Management	The route directly serves an Air Quality Management Area (AQMA) and congestion hotspot	4
		The route passes nearby an AQMA or congestion hotspot	2
		No AQMA or congestion hotspots are served by the route	0
	Contribution to carbon emissions based on vehicle type and age ³	Full EV and Hydrogen	4
Hybrid EV and Hydrogen		3	
Euro 6 diesel		2	
Euro 5 diesel or below		1	
Improving access & social inclusion	Integration - transport interchange ⁴	More than 3 interchange points on route	4
		1-3 interchange points on route	2
		No interchange points on route	0
	Accessibility - travel choice ⁵	No reasonable alternative	4
		Alternative rail service available (1km walking distance)	2
		Alternative bus service available	0
	Areas of deprivation ⁶	Over 50% of the route length serves an area within 30% most deprived in the borough	4
		Under 50% of the route length serves an area within 30% most deprived in the borough	2
		The route does not serve an area within the 30% most deprived in the borough	0
Bus service performance	Cost per passenger ⁷	Subsidy per passenger is less than £2	5
		Subsidy per passenger is more than £2, but no more than £3	4
		Subsidy per passenger is more than £3, but no more than £4	3
		Subsidy per passenger is more than £4 but no more than £5	2
		Subsidy per passenger is more than £5	1
	Alternative / external funding options ⁸	External funding contributions or cost sharing secured	4
		Potential for cost sharing or external funding	2
		No funding / resource alternatives	0
	Service usage ⁹	More than 50,000 passenger journeys per annum	5
		More than 40,000 but less than 50,000 passenger journeys per annum	4
More than 30,000 but less than 40,000 passenger journeys per annum		3	
More than 20,000 but less than 30,000 passenger journeys per annum		2	
Up to 20,000 passenger journeys per annum		1	
Patronage trends - commercial potential	Passenger numbers increasing	0	
	Passenger numbers stable	2	
	Passenger numbers decreasing	4	

Appendix 1: New Bus Support Criteria

Objective	Criteria	Scoring	Score
	Fare paying patronage recovery post-covid (compared to 2019) ¹⁰	>100% 90-100% 80-90% <80%	4 3 2 1
	Concessionary patronage recovery post-covid (compared to 2019) ¹¹	>90% 80-90% 70-80% <70%	4 3 2 1

Post-consultation updates to the criteria

1. In the absence of detailed journey purpose data for each supported service in the borough, timetable information has been used to show service availability. This helps to identify whether a service operates during peak periods (serving employment and education journey purposes) or predominantly during off-peak/interpeak periods (serving leisure and retail trips).
2. Census 2021 data is still in the process of being released, and there is uncertainty around the validity of journey to work data owing to the Census data collection taking place during the COVID-19 pandemic. For this reason, employment statistics for Lower Super Output Areas (LSOAs) within Cheshire East have been used to identify whether supported services serve significant employment areas across the borough.
3. The scoring criteria has been updated to incorporate hybrid vehicles.
4. The scoring has been updated to include narrower thresholds (connections to 3 interchange points needed for the highest possible score).
5. The number of criteria sitting under this heading has been reduced, focusing on whether there is a rail or bus alternative to the route being scored.
6. The scoring metric has been adjusted to 30% in accordance with Index of Multiple Deprivation (IMD) deciles.
7. Narrower thresholds have been included as subsidy per passenger journey should not be greater than £6.
8. The criterion has been updated to differentiate between funding that is secured and potential funding.
9. Following an assessment of passenger numbers, this scoring criteria has been uplifted to better differentiate between services. In most cases, services are expected to have over 20,000 passenger journeys per annum as a minimum.
10. Bands have been adjusted in line with recovery to date.
11. Bands have been adjusted in line with recovery to date.

Appendix 2 – Current Bus Support Criteria, August 2011

Criteria				
Objective	Criteria	Scoring		
LTP Priority Themes Weighting 35%	Business growth - journey purpose (max. score of 10)	Employment	5	
		Education / training	4	
		Health / medical / welfare	4	
		Shopping / personal business	2	
		Leisure (social / recreation)	1	
	Sustainable economic growth	The route serves a significant (>1000 trips) travel to work area	4	
		The route serves a moderate (500-1000 trips) travel to work area	2	
		The route serves a low (<500 trips) travel to work area	0	
	Impact on carbon emissions	The route directly serves an Air Quality Management Area (AQMA) and/or congestion hotspot	4	
		The route passes nearby an AQMA and/or congestion hotspot	2	
No AQMA or congestion hotspots are served by the route		0		
Accessibility Weighting 40%	Integration - transport interchange	More than 1 interchange point or major interchange point on route	4	
		One interchange point on route	2	
		No interchange points on route	0	
	Accessibility - travel alternative	No reasonable alternative	5	
		Alternative within 2 hours during daytime within no more than 800 metres	4	
		Alternative within 2 hours during daytime at same location	3	
		Alternative within 1 hour during daytime within no more than 800 metres	2	
	Access for older & disabled people	Alternative within 1 hour during daytime at same location	1	
		More than 50% passenger journeys by concessionaires	5	
		Between 33% and 50% passenger journeys by concessionaires	3	
		Less than 33% passenger journeys by concessionaires	1	
	Financial Considerations Weighting 25%	Cost per passenger	No passenger journeys by concessionaires	0
			Subsidy per passenger is no more than £1	5
Subsidy per passenger is more than £1, but no more than £2.50			4	
Subsidy per passenger is more than £2.50, but no more than £5			3	
Subsidy per passenger is more than £5 but no more than £10			2	
Funding options / alternatives		Subsidy per passenger is more than £10	1	
		Potential for external funding contributions	4	
		Potential for sharing of internal resources (e.g. cross-departmental)	2	
Service Usage		No funding / resource alternatives	0	
		More than 100,000 passenger journeys per annum	5	
		More than 25,000 but not more than 99,999 passenger journeys per annum	4	
		More than 10,000 but not more than 24,999 passenger journeys per annum	3	
		More than 5,000 but not more than 9,999 passenger journeys per annum	2	
Patronage trends - commercial potential		Up to 4,999 passenger journeys per annum	1	
		Passenger numbers increasing	4	
		Passenger numbers stable	2	
		Passenger numbers decreasing	0	



**A summary of responses to Cheshire East Council's
Bus Support Criteria Consultation**

DRAFT

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Executive summary and recommendations

Introduction

During June / August 2023 Cheshire East Council conducted a consultation to seek views on additional criteria to its bus support prioritisation process. The consultation was held online with paper copies being made available at Libraries and Contact Centres throughout Cheshire East. In total 995 responses were received.

The objectives

The majority of respondents felt that all the objectives were important. It was clear however that 'access & social inclusion' was seen as the most important objective (93% selected either extremely or very important). Both 'bus service performance' and 'economy & environmental sustainability' received similar results (70% and 69% respectively selected either extremely or very important).

The most important objective for respondents was re-iterated at the end of the survey when respondents were asked to rank the objectives in order of priority considering all the information, they had received on them and their associated criteria. Access & social inclusion was again ranked as the highest priority receiving a score of 2339 out of a maximum possible score of 2730.

The criteria

A set of criteria is used to assess the contribution a bus service makes to each objective. Over half of respondents agreed with each additional criterion proposed:

- 64% agreed (stating either strongly agree or tend to agree) with the addition of the 'contribution to carbon reduction' criterion to support our 'economy & environmental sustainability' objective and 15% disagreed,
 - The main reasons given when asked why they disagreed to this criterion were: contribution to carbon reduction' is lower priority / shouldn't be used to determine a bus routes requirement, general negative comment on costs / effect on the environment and buses are better than car journeys.
- 79% agreed with the addition of the 'bus provision in areas of deprivation' criterion to support our 'access & social inclusion' objective and 7% disagreed,

- The main reasons given when asked why they disagreed to this criterion were: depends on how the areas of deprivation are defined / should include rural & social deprivation and bus provision is important in all areas.
- 56% agreed with the addition of the 'number of concessionary passengers since Covid' criterion and 53% agreed with the addition of the 'number of fare-paying passengers since Covid' criterion to support our 'bus service performance' objective. Both received 18% disagreement.
 - The main reasons given when asked why they disagreed to this criterion were: irrelevant comparison / duplicates passenger trends, need to encourage more people to use bus services again, bus services should be provided regardless of performance.

Each additional criteria was considered as the least important compared to the current criteria used under each objective.

As part of the business growth criteria - In determining whether bus services support the economy, we currently give highest priority to bus services that support access to jobs / employment whilst those that support access to leisure are given the lowest priority.

- 62% agreed (answering either 'strongly agree' or 'tend to agree') with the current order of priority whereas 27% disagreed.
 - The main reasons given when asked why they disagreed to this order of priority were: access to health / medical / welfare should be higher up, leisure (social / recreation) should be higher, others stated that the order of priority will vary person to person.

Conclusions and recommendations

It was clear that 'access & social inclusion' was the highest priority for respondents, respondents highlighted the importance of this, in particular, to rural areas, those with no other alternative transport options, the elderly and those with a disability. Whilst most respondents could see the importance of the other two objectives (economy & environmental sustainability and bus service performance) they were considered less important, and respondents did not want the criteria under these objectives to be considered over the needs of those people to which the service is considered vital.

The Research and Consultation Team recommend that the details of this report are considered alongside any other supporting information when reviewing the bus support criteria.

Introduction

Purpose of the consultation

During June / August 2023 Cheshire East Council conducted a consultation to seek views on additional criteria to its bus support prioritisation process.

Bus companies are free to operate services on any route which they consider to be commercially viable - costs for these services are covered by the fares collected from passengers or by concessionary travel reimbursement. Bus services that are not seen as commercially viable but still deemed as important to run are supported (part-funded) by the Council. Cheshire East Council has a budget of £2.4m to spend on such supported bus services. Despite this, there is never enough money to fund all services that residents might wish to access. For this reason, we need to prioritise the bus services that we provide funding to.

Consultation methodology and number of responses

The consultation was held online with paper copies being made available at Libraries and Contact Centres throughout Cheshire East. The consultation was promoted to:

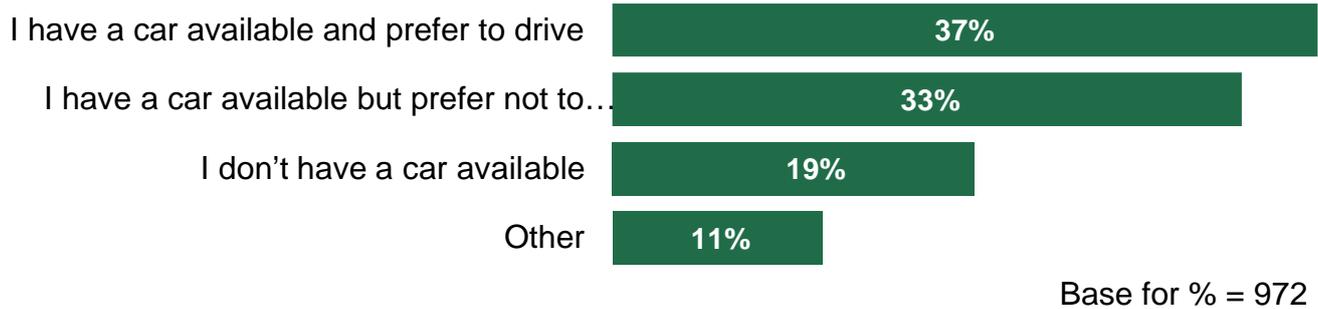
- Residents of Cheshire East
- The Cheshire East Digital Influence Panel
- Local stakeholders including relevant community groups and organisations

In total, 995 responses were received during the consultation (988 survey responses and 7 email responses).

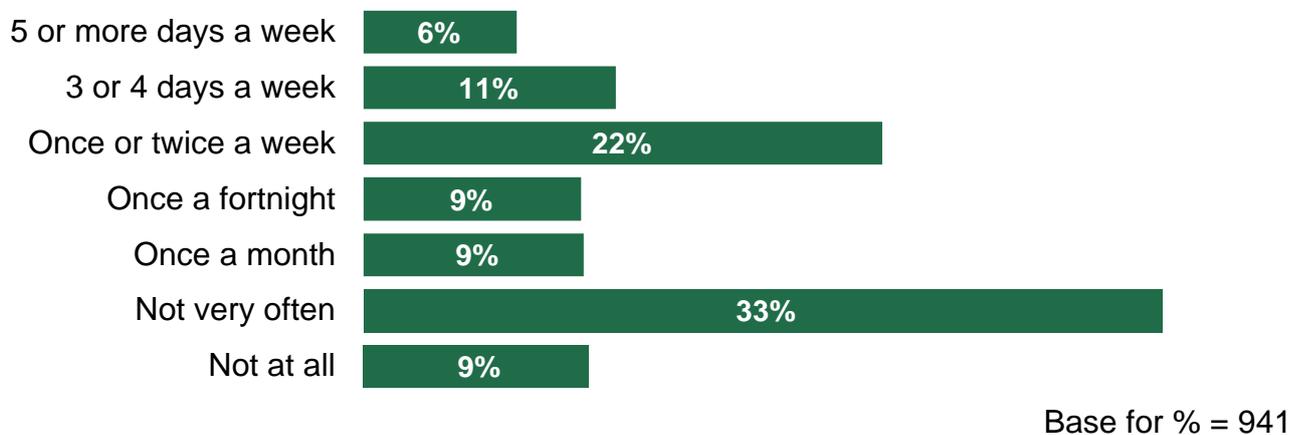
Respondent Characteristics

The majority of respondents who answered the survey were answering as an individual e.g., local resident (920, 93%). 40, 4% were answering as an elected Cheshire East Ward Councillor or Town/Parish Councillor. 12, 1% answered on behalf of a business, group, organisation or club and 14, 1% stated 'other'.

37% had a car available and preferred to drive, 33% had a car available but preferred not to drive and 19% did not have a car available as Figure1 shows.

Figure 1: Do you own or use a car?

39% of respondents stated that they typically travel by bus once / twice a week or more often. 18% travelled by bus once / twice a month, 33% did not travel by bus very often and 9% not at all. The full breakdown of response can be seen in Figure 2.

Figure 2: How often do you typically travel by bus?

A breakdown of respondent demographics e.g., age and gender, can be seen in Appendix 2, and a map of respondent postcodes can be seen in Appendix 3.

Section 1: The objectives

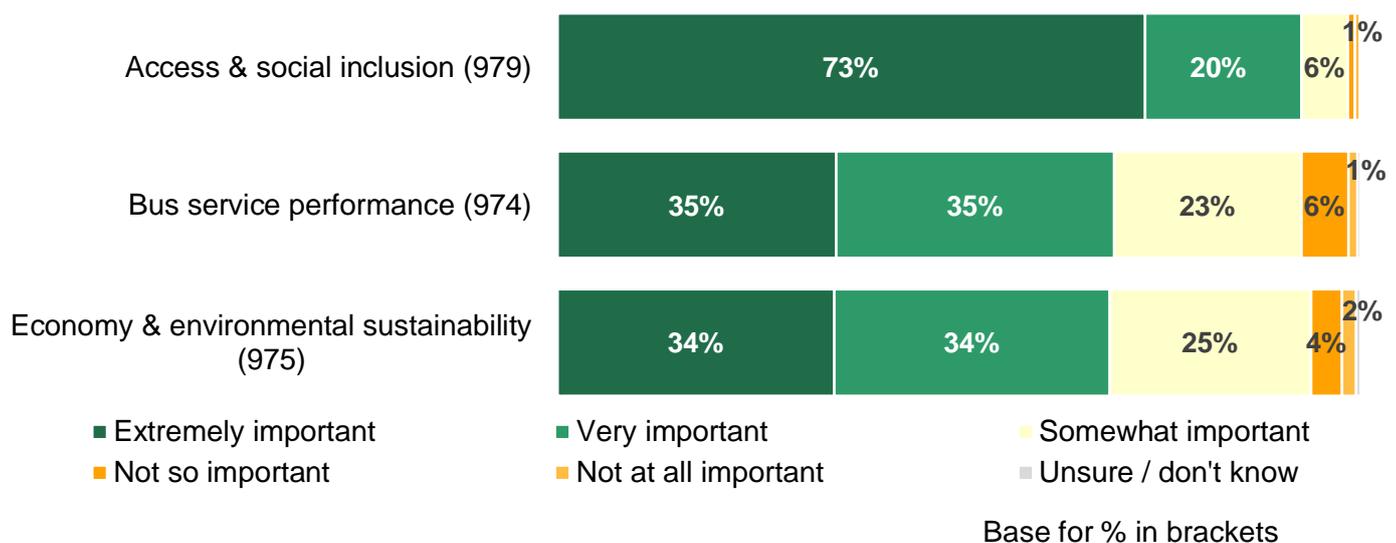
The majority of respondents felt that all the objectives were important with access & social inclusion being identified as the most important.

Respondents were presented with a set of objectives and were asked how important they thought they were when determining which bus services receive funding support. The objectives were as follows:

- **Economy & environmental sustainability:** We assess the extent to which bus services support the economy and help towards environmental sustainability, e.g., provide access to jobs and aid carbon reduction
- **Access & social inclusion:** We assess the extent to which bus services improve access and social inclusion, e.g., provide connections to other people and places
- **Bus service performance:** We look at how the bus service is performing in terms of value for money for taxpayers, e.g., passenger numbers and the cost to run service.

The majority of respondents felt that all the objectives were important (69% or more selected extremely or very important for each objective). It was clear however that 'access & social inclusion' was seen as the most important objective with 93% selecting either 'extremely important' or very important' for this. Both 'bus service performance' and 'economy & environmental sustainability' received similar results as Figure 3 shows.

Figure 3: How important do you think the objectives are when determining which bus services receive funding support?



If respondents answered 'not so important' or 'not at all important' to any of the objectives, they were asked to let us know why. 103 respondents chose to leave a comment. The three main reasons provided were as follows:

- 'Bus service performance' is a poor metric / not as important as the other objectives, 39 mentions,
- Consider access and social inclusion to be more important, 25 mentions,
- Environmental sustainability shouldn't be a factor (more buses mean less cars), 12 mentions.

Other comments provided included:

- General suggestions on improving the bus service, 8 mentions,
- Economy and environment should not be linked, 4 mentions,
- All the objectives are important, 4 mentions.

Some respondents will have referred to more than one theme therefore total mentions won't add up to the total number of respondents who left a comment. The full summary of the comments received on the objectives by theme is presented in Appendix 1, Table 1.

The most important objective for respondents was re-iterated at the end of the survey when respondents were asked to rank the objectives in order of priority considering all the information they had received on them and their associated criteria. Access & social inclusion was again ranked as the highest priority receiving a score of 2339 out of a maximum possible score of 2730, 643 more than the next ranked objective economy & environmental sustainability with a score of 1686. Bus service performance was ranked as the lowest priority with a score of 1444, 242 less than economy & environmental sustainability. See Figure 3.

Figure 3: Considering all the information that you have received about the objectives and their associated criteria; how would you rank them in terms of priority for supported funding?

Access and social inclusion

Rank 1: Score 2329

Economy & environmental sustainability

Rank 2: Score 1686

Bus service performance

Rank 3: Score 1444

Base for score = 910. Score is a weighted calculation. Items ranked first are valued higher than the following ranks, the score is a sum of all weighted rank counts. Maximum score possible is 2730 and lowest 910.

Section 2: Economy & environmental sustainability

64% agreed with the addition of the ‘contribution to carbon reduction’ criterion to support our economy & environmental sustainability objective.

To assess the contribution a bus service makes to the economy & environmental sustainability objective we currently use the following set of criteria:

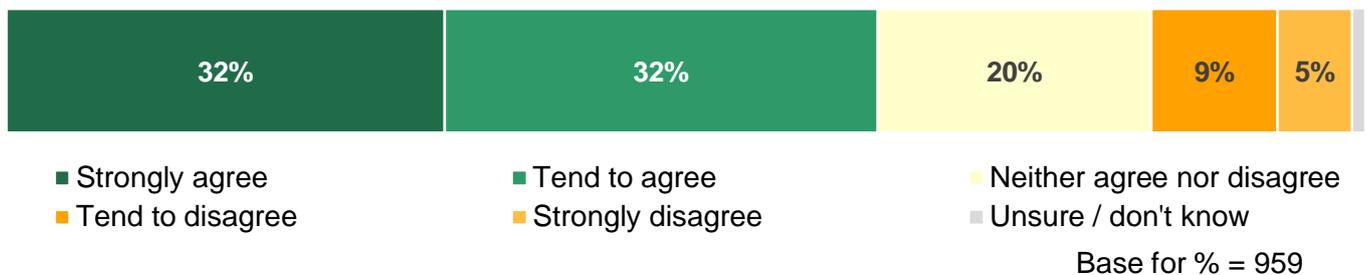
- **Business growth - main journey purpose:** We assess the extent to which the bus service support business growth by looking at passenger's main journey purpose e.g., for employment, education, health services, shopping, leisure etc.
- **Sustainable economic growth:** We assess the extent to which the bus service supports key travel to work routes e.g., key employment centres
- **Impact on carbon emissions:** We assess the extent to which the bus service reduces the impact on carbon emissions e.g., reducing the impact on air quality and the reliance on car journeys

As part of the consultation, we proposed an additional criterion to further support our economy & environmental sustainability objective:

- **Contribution to carbon reduction:** We want to assess the extent to which bus services contribute to carbon reduction e.g., low emission vehicles

Respondents were asked to what extent they agreed or disagreed with the additional criterion. 64% agreed (stating either strongly agree or tend to agree) with the addition of the ‘contribution to carbon reduction’ criterion and 15% disagreed (stating either ‘strongly disagree’ or ‘tend to disagree’) as Figure 4 shows.

Figure 4: To what extent do you agree or disagree with the addition of the 'contribution to carbon reduction' criteria?



If respondents answered that they ‘tend to disagree’ or 'strongly disagree' with the addition of the ‘contribution to carbon reduction’ criterion they were asked to let us know why. 156 respondents chose to leave a comment. The three main reasons provided were as follows:

- ‘Contribution to carbon reduction’ is lower priority / shouldn’t be used to determine a bus routes requirement, 55 mentions,
- General negative comment on costs / effect on the environment, 39 mentions
- Buses are better than car journeys, 34 mentions,

Other comments provided included:

- Environmental sustainability is important, 15 mentions,
- ‘Impact on carbon emissions’ & ‘carbon reduction’ are similar, 11 mentions.

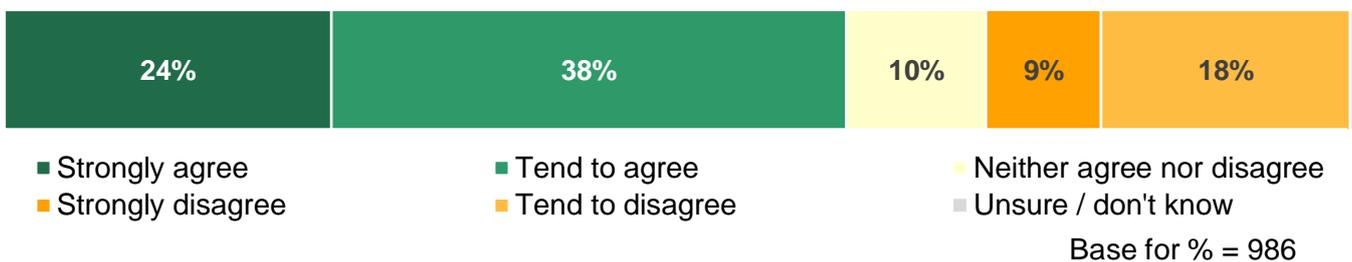
The full summary of the comments received on the addition of the ‘contribution to carbon reduction’ criterion by theme is presented in Appendix 1, Table 2.

Business growth - main journey purpose: In determining whether bus services support the economy we currently give highest priority to bus services that support access to jobs / employment whilst those that support access to leisure are given the lowest priority as indicated below:

1. Employment (Highest priority)
2. Education / training
3. Health / medical / welfare
4. Shopping / personal business
5. Leisure (social / recreation) (Lowest Priority)

Respondents were asked how strongly they agree or disagree with this order of priority. 62% agreed (answering either ‘strongly agree’ or ‘tend to agree’) whereas 27% disagreed (stating either strongly disagree or tend to disagree) as Figure 5 shows.

Figure 5: How strongly do you agree or disagree with this order of priority??



If respondents answered that they ‘tend to disagree’ or ‘strongly disagree’ with the priority of order under the ‘business growth – main journey purpose’ criterion they were asked to let us know why. 270 chose to leave a comment. The three main reasons provided were as follows:

- Access to health / medical / welfare should be higher up, 72 mentions,
- Leisure (social / Recreation) should be higher, 62 mentions,

- Priorities will vary person to person, 50 mentions.

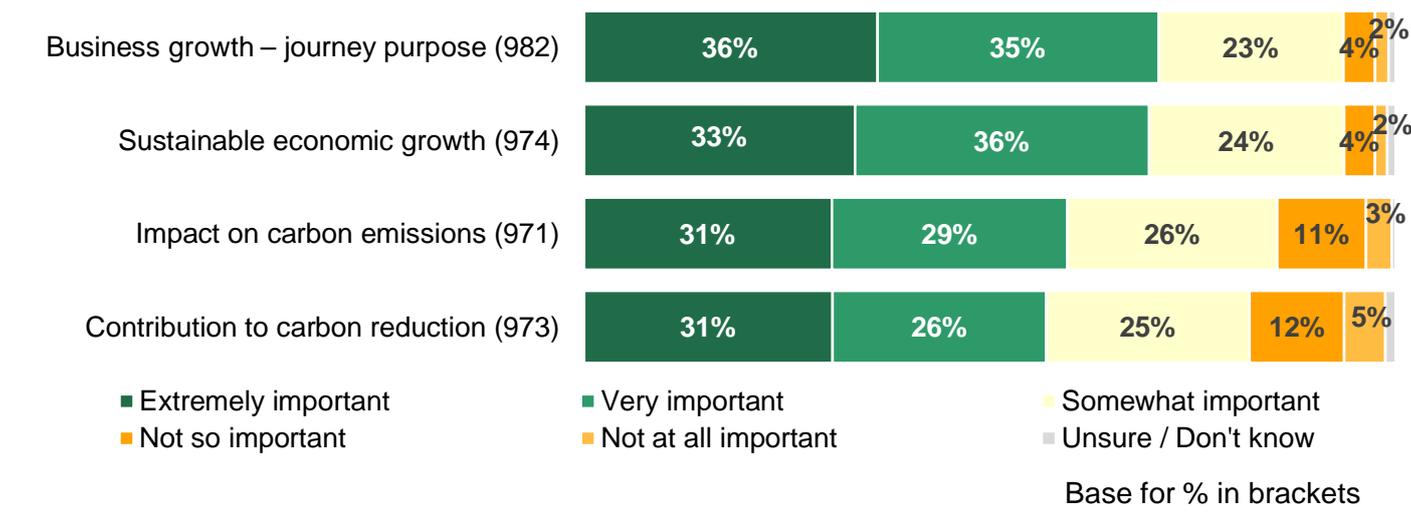
Other comments provided included:

- All have fairly even priority, 38 mentions,
- Workers use cars / more people working at home now, 23 mentions,
- Education / training should be higher, 17 mentions,
- Shopping / personal business should be higher, 13 mentions.

Some respondents will have referred to more than one theme therefore total mentions won't add up to the total number of respondents who left a comment. The full summary of the comments received on the order of priority by theme is presented in Appendix 1, Table 3.

Respondents were asked how important they felt each criterion was in supporting our economy & environmental sustainability objective. The criteria used to measure the economy aspect of the objective, 'business growth' and 'sustainable economic growth', were considered as slightly more important (71% and 69% selected extremely or very important respectively) than the criteria to measure the environmental aspect, 'impact on carbon emissions' and 'contribution to carbon reduction' (60% and 57% selected 'extremely important' or 'very important' respectively). The additional criterion proposed 'contribution to carbon reduction' was considered the least important. See Figure 6.

Figure 6: How important do you think each criterion is in supporting our economy and environmental sustainability objective?



Respondents were asked if any other criteria should be considered to demonstrate a bus service's ability to support our economy and environmental sustainability objective. 159 respondents chose to leave a comment. The main criteria that respondents thought should be considered included:

- Ability of residents to access services / workplace / education, 42 mentions,
- Extent to which the bus route reduces the number of cars on the road, 21 mentions,
- Specific environmental suggestion impact or concern, 17 mentions
- Ability to support communities /rural areas and reduce social isolation, 16 mentions,
- Cost of each journey / employer contributions, 9 mentions,
- Assess car ownership rates, demand and potential for growth, 7 mentions.

Other comments provided included:

- Bus services are important especially to particular groups of people, 18 mentions,
- Suggestion to improve the bus service to encourage use, 14 mentions.

Some respondents will have referred to more than one theme therefore total mentions won't add up to the total number of respondents who left a comment. The full summary of the comments received on the order of priority by theme is presented in Appendix 1, Table 4.

Section 3: Access and social inclusion

79% agreed with the addition of the 'bus provision in areas of deprivation' criterion to support our access & social inclusion objective.

To assess the contribution a bus service makes to the access and inclusion objective we currently use the following set of criteria:

- **Connecting to a transport interchange point:** We assess the extent to which the bus service connects to rail stations or other bus services
- **Accessibility / travel choice:** We assess whether there is an alternative bus service available in the area e.g. access in rural areas

As part of the consultation, we proposed an additional criterion to further support our access and social inclusion objective:

- **Bus provision in areas of deprivation:** We want to assess the extent to which the buses serve areas of deprivation.

Respondents were asked to what extent they agreed or disagreed with the additional criterion. 79% agreed (stating either strongly agree or tend to agree) with the addition of the 'bus provision in areas of deprivation' criterion and 7% disagreed (selected either 'strongly disagree' or 'tend to disagree') as Figure 7 shows.

Figure 7.: To what extent do you agree or disagree with the addition of the 'bus provision in areas of deprivation' criteria?



If respondents answered that they 'tend to disagree' or 'strongly disagree' with the addition of the 'bus provision in areas of deprivation' criterion they were asked to let us know why. 101 respondents chose to leave a comment. The three main reasons provided were as follows:

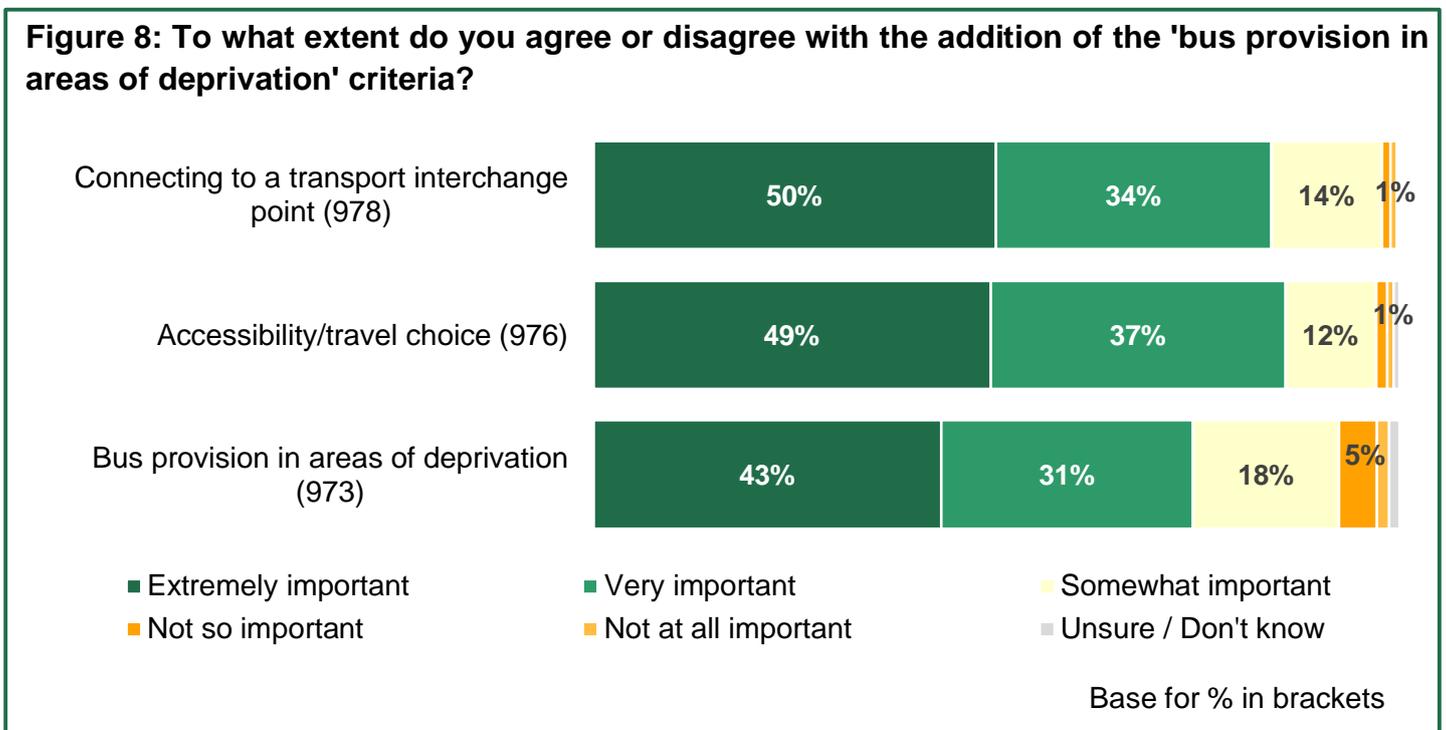
- Depends on how the areas of deprivation are defined / should include rural & social deprivation, 31 mentions,
- Bus provision is important in all areas, 26 mentions,
- General agreement / suggestion for consideration, 21 mentions.

Other comments provided included:

- Areas of deprivation already served by transport / general negative comment (14 mentions).

The full summary of the comments received on the order of priority by theme is presented in Appendix 1, Table 5.

Respondents were then asked how important they felt each criterion was in supporting our access and inclusion objective. ‘Accessibility / travel choice’ and ‘connecting to a transport interchange point’ were considered the most important criteria under this objective (86% and 84% selected either extremely or very important respectively). The additional criterion proposed, ‘bus provision in areas of deprivation’, was considered less important (75% selected ‘extremely important’ or ‘very important’). See Figure 8.



Respondents were asked if any other criteria should be considered to demonstrate a bus service’s ability to support our access and social inclusion objective. 145 respondents chose to leave a comment. The main criteria that respondents thought should be considered included:

- Enables an adequate, frequent, and reliable service, 45 mentions,
- Extent to which the bus service enables access for particular groups of people, 24 mentions,
- Serves those with no alternative public transport /in rural areas, 21 mentions,
- Actual demand for buses / car ownership rates, 11 mentions.

Other comments provided included:

- Improve bus services generally, 22 mentions,
- Public transport important for all areas, 13 mentions.

Some respondents will have referred to more than one theme therefore total mentions won't add up to the total number of respondents who left a comment. The full summary of the comments received on the order of priority by theme is presented in Appendix 1, Table 6.

Section 4: Bus Service performance

56% agreed with the addition of the ‘number of concessionary passengers since Covid’ criterion and 53% agreed with the addition of the ‘number of fare-paying passengers since Covid’ criterion to support our bus service performance objective.

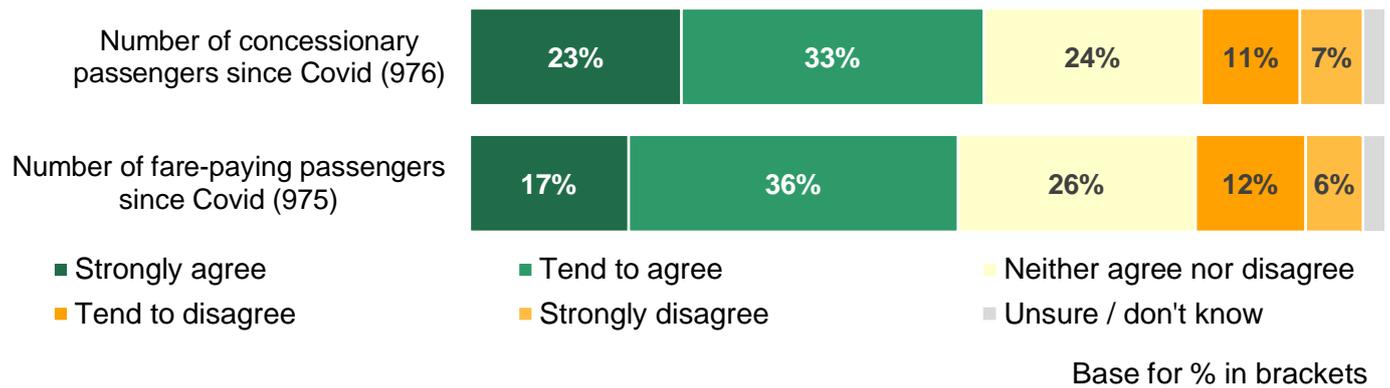
To assess the bus performance objective in terms of value for money to tax payers we currently use the following set of criteria:

- **Cost per passenger:** We assess the cost of the bus service per passenger
- **External funding support:** We look at whether the bus service receives funding from other sources e.g., funding could be provided by developers or neighbouring authorities
- **Service usage:** We look at the number of passengers per service
- **Passenger trends:** We look at passenger trends per service e.g., are passenger numbers stable, increasing or falling

As part of the consultation, we proposed two additional criteria to further support our bus service performance objective:

- **Number of fare-paying passengers since the Covid pandemic:** We want to assess the fare-paying passenger recovery since Covid by comparing current passenger numbers to 2019
- **Number of concessionary passengers since the Covid pandemic:** We want to assess the concessionary passenger (e.g., older persons or disabled passholder) recovery since Covid by comparing current concessionary passenger numbers to 2019

Respondents were asked to what extent they agreed or disagreed with the additional criteria. 56% agreed (stating either ‘strongly agree’ or ‘tend to agree’) with the addition of the ‘number of concessionary passengers since Covid’ criterion and 53% agreed with the addition of the ‘number of fare-paying passengers since Covid’ criterion. Both received 18% disagreement. See Figure 9.

Figure 9: To what extent do you agree or disagree with the addition of the following criteria?

If respondents answered that they 'tend to disagree' or 'strongly disagree' with the addition of the 'number of fare-paying passengers since the covid pandemic' or the 'number of concessionary passengers since the covid pandemic' they were asked to let us know why. 192 respondents chose to leave a comment. The three main reasons provided were as follows:

- Irrelevant comparison / duplicates passenger trends (55 mentions)
- Need to encourage more people to use bus services again (44 mentions)
- Bus services should be provided regardless of performance (37 mentions)

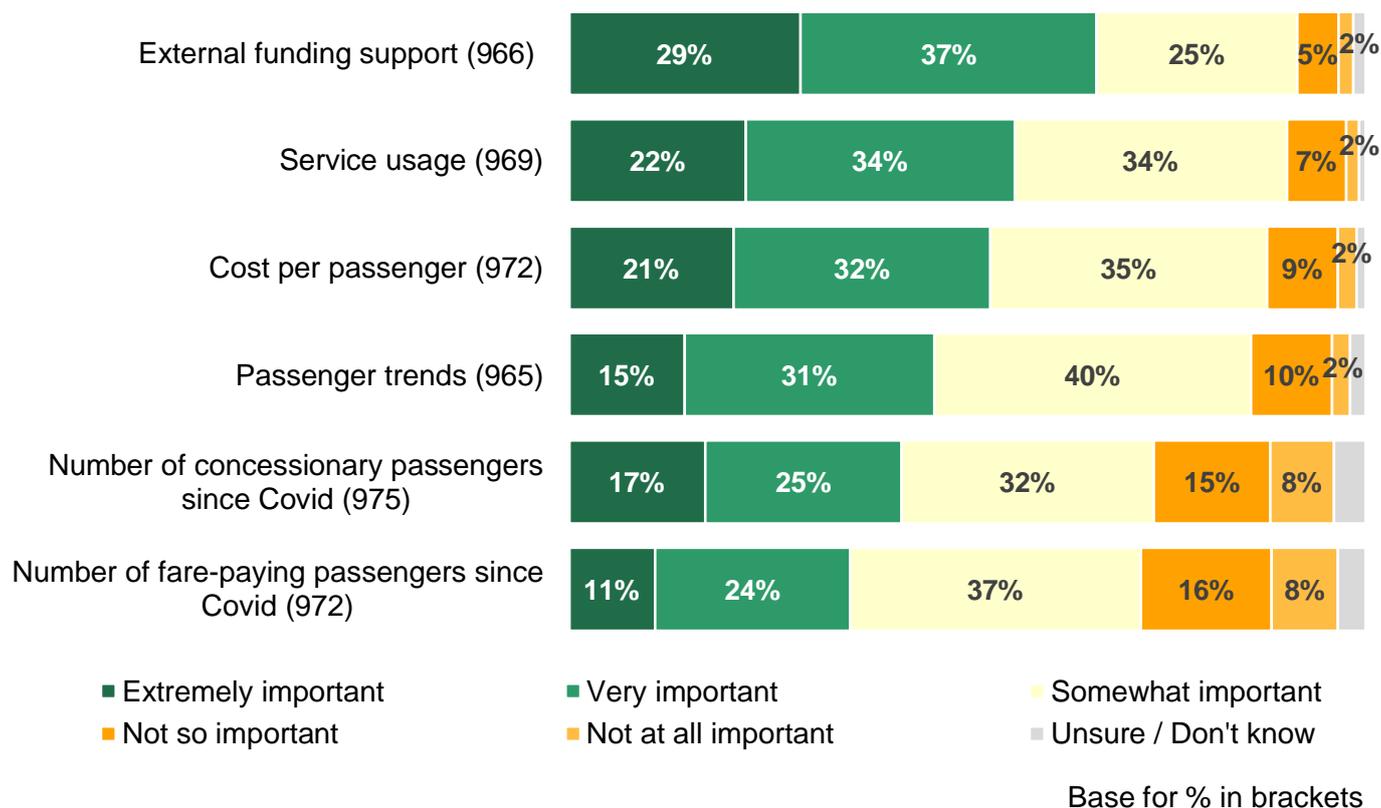
Other comments provided included:

- Potential inaccuracy of numbers / too soon to measure recovery since Covid (30 mentions)
- The number of concessionary passengers should not count (13 mentions)

Some respondents will have referred to more than one theme therefore total mentions won't add up to the total number of respondents who left a comment. The full summary of the comments received on the order of priority by theme is presented in Appendix 1, Table 7.

Respondents were then asked how important they felt each criterion was in supporting our bus service performance objective. 'External funding support' was considered the most important criterion (66% selected 'extremely important' or 'very important') whereas the two additional criteria proposed 'number of concessionary passengers since covid' and 'number of fare-paying passengers since covid' were considered as the least important (42% and 35% selected 'extremely important' or 'very important' respectively). See Figure 10.

Figure 10: How important do you think each criterion is in supporting our bus performance objective?



Respondents were asked if any other criteria should be considered to demonstrate a bus service's performance in terms of value for money to taxpayers. 177 respondents chose to leave a comment. The main criteria that respondents thought should be considered included:

- Assess actual demand / needs for the service (33 mentions),
- Cost per journey / efficiency of vehicles (22 mentions),
- Satisfaction from users/ reliability of service (21 mentions),
- Reduction in car use / effect on the environment (12 mentions).

Other comments provided included:

- Shouldn't be about money / need bus service regardless (43 mentions),
- Suggestions on increasing bus use (27 mentions).

Some respondents will have referred to more than one theme therefore total mentions won't add up to the total number of respondents who left a comment. The full summary of the comments received on the order of priority by theme is presented in Appendix 1, Table 8.

Section 5: Other comments

At the end of the survey respondents could leave any additional comments on the bus prioritisation objectives or criteria. 192 respondents chose to leave a comment, the comments provided were grouped into the following themes:

- Suggestions to improve the bus service (60 mentions)
- Bus services are important and play a vital role in communities (52 mentions)
- A good / affordable service will help people to use it more (30 mentions)
- Look long term / at the bigger picture / assess demand (15 mentions)
- All the objectives are equally important (11 mentions)

Some respondents will have referred to more than one theme therefore total mentions won't add up to the total number of respondents who left a comment. The full summary of the comments received on the order of priority by theme is presented in Appendix 1, Table 9.

Emails Received

In total 7 emails were received in relation to the bus criteria consultation, 4 from individuals and 3 from Town / Parish Councils.

One response was concerning the bus criteria in summary:

- Education and training is just as important as employment when sorting priorities for subsidising buses. Health/medical and welfare is an essential journey – should be higher. Leisure and Social are at the bottom of the list of priorities but positive Health and wellbeing is an important consideration for the strength of communities.
- Welcome the encouragement of EV and Hydrogen buses on subsidised routes and the need to serve areas of deprivation (but it is important to have buses that link rural areas)
- No consideration seems to be given for transport for New Homes and to specific timings / getting people to railway stations at peak commute times.
- Surprised that a bus that requires a subsidy of £10 or more per passenger is getting any points isn't there a more cost-effective ways of supporting travel.
- The criteria are aimed at supporting routes already in existence, rather than encouraging new routes to set up. Bus service that doesn't have current patronage is discriminated against.
- Concerned about the lack of funding for bus services. Need a more proactive approach to applying for more funds to retain / expand bus transport options, work harder to proactively promote bus services

Six responses were concerning specific bus routes / suggestions to improve a bus route. In summary:

- Bus route is a lifeline to elderly people those in rural areas and those who may not have access to a vehicle, (1 reference), buses are a vital resource to enable workers, visitors and residents to get around (1 reference). Hope there is still a bus service in my area, please keep our service, please reinstate our service, need a service to Leighton Hospital (5 references).

Appendix 1 – Open comment analysis

The objectives

Table 1: Comments received on the objectives		
Overall theme	Summary of comments received	Number of mentions
'Bus service performance' is a poor metric / not as important as the other objectives	Bus service performance is a poor metric / poor indicator of a bus services value for money to communities esp. in rural areas where buses play a vital role. The other two objectives are more important, concerned this would mean withdrawal of a bus service which would go against the other objectives. The needs of people are far more important than performance, bus services should run regardless.	39
Consider access and social inclusion to be more important	Access and social inclusion for the community is the most important objective / is the main criteria esp. for those with no alternative means of transport, the vulnerable and to those within rural areas. It is more important that economic sustainability/ environment and performance. Buses may be the only affordable transport and essential for some.	25
Environmental sustainability shouldn't be a factor (more buses mean less cars)	Buses are better for the environment than numerous private car journeys so should be encouraged rather than discouraged simply because the buses are older. Environment should not be a factor; the impact on pollution from buses is negligible. Concerned this will cost money, no money should be spent on EV, don't want the cost of EV to be considered.	12
General suggestions on improving the bus service	The model of public transport needs re-thinking / improving. Could digitalise the request for service so limited resources can be optimised, provide smaller buses as many run with very few passengers. Need a reliable affordable service to encourage use of public transport and reduction of cars on the road. More bus lanes, Sunday / evening services to e.g., Leighton Hospital, Town centres.	8
Economy and environment should not be linked	Economy and environment should be split they are not the same goal. Feel that economy is important but not necessarily environment, should be need, then environment.	4
All the objectives are important	All of these are important / a fully integrated bus service will cater for all the objectives.	4
Other comments	Other comments provided include statements of personal use of a specific bus / its importance and general negative comments.	7

Economy and environmental sustainability

Table 2: Comments received on the addition of the 'contribution of carbon reduction' criterion		
Overall theme	Summary of comments received	Number of mentions
'Contribution to carbon reduction' is lower priority / shouldn't be used to determine a bus routes requirement	Carbon footprint reduction is desirable but not the most important objective to providing transport. Concerned this will lead to removal of a service. Having access to a bus service esp. for those without other transport and those in rural areas is more important than not having one for carbon reduction reasons. This criterion shouldn't be used to determine a bus route's requirement/ should be part of scoring tender bids. Should be obvious more up to date vehicles are needed without needed a criterion to judge it. Transport policy is about providing a service to those who need it not about climate change.	55
General negative comment on costs / effect on the environment	Seems like 'box ticking'. Not possible without affecting costs / environmental targets are costly. Would need to fund / support bus operators in switching to electric vehicles. Electric vehicles are heavier and cause more road damage. Buying a new vehicle causes more carbon emissions, should only apply to new vehicles. Batteries are bad for the environment and cannot be re-used. No money should be spent on EV – wait until hydrogen engines are widely available. We are not a massive carbon produce, whatever we do is a 'drop in the ocean' compared to the effect other countries have on the impact to the environment. Don't believe the hype.	39
Buses are better than car journeys	It is important to encourage bus journeys over car journeys, a more reliable frequent bus service will reduce the number of cars on the road and will result in a decrease in carbon emissions. Agree if it means more buses especially electric or hydrogen but not if it means reducing services, not all bus companies are profitable enough to update their vehicles. Need to compare impact on carbon reduction if a bus exists or not / the number of car journeys it removes on the roads.	34
Environmental sustainability is important	Environmental sustainability is more important than ever / vital for future generations. Often see big diesel-powered busses, belching out black smoke with only 1 passenger. Bus companies could make use of smaller / lower emission vehicles to reduce carbon footprint. Should be moving towards lower emission transport (electric / hydrogen) where possible. Need to clean air / save the planet.	15
"Impact on carbon emissions' & 'carbon reduction' are similar	Seems like a repeat of the current "Impact on carbon emissions" criterion, the existing criterion should be included / reworded to cover the addition.	11
Other comments	Other comments include suggestion to put the parking costs up to meet the extra cost of buses, question on how performance is measured against this criterion.	2

Table 3: Comments on the main journey purpose – business growth order of priority		
Overall theme	Summary of comments received	Number of mentions
Access to health / medical / welfare should be higher up	Access to health & medical is the most important aspect / should be higher up above education & training / joint top with employment. It is a universal / essential need which people should be able to access whether they have a car or not. It can also link into employment e.g.; Leighton Hospital has a very large workforce should be a bus service to here.	72
Leisure (social / Recreation) should be higher	Leisure should be higher priority; we should be encouraging use of buses for leisure; it is a good way to get people to change behaviours and start using public transport. Use for leisure contributes to people's health and wellbeing. Connectivity cannot be deemed lowest priority; buses can provide a lifeline to help prevent social isolation esp. in rural areas. Should be combined with health and welfare. Leisure helps boost local economies, employment in the hospitality, tourism, and small business industries is supported by leisure activities.	67
Priorities will vary person to person	Can't put these in order, priorities are different to different people and to different areas. The main purpose must be related directly to those who need the bus service, whatever their purpose, rather than for an agreed need. Would need to reflect both age profile and the time of day of the journeys. A one size fits all approach is unsuitable. Rural areas have differing priority, those who are elderly, disabled, without alternate transport, in deprived areas rely on access to a bus service and their needs are generally for shopping, leisure and health over access to employment.	50
All have fairly even priority	All points should have equal weight, they are all equally as important for individual wellbeing, the environment and a growing economy esp. to those without a car. They are all connected, employment is not inclusive. Should be access for all.	38
Workers use cars /more people working at home now	More people are working at home now so doesn't make sense for access to employment to be first. Most employed people have access to a car to get to work now. Buses often do not take suitable / convenient routes to work, aren't reliable enough or the timetables do not meet needs.	23
Education / training should be higher	Education should be the highest priority / combined with employment. Those in education more likely to be non-drivers and be on low incomes.	17
Shopping / personal business should be higher	Shopping should be a much higher priority if we want town centres to thrive, people who go to shops are supporting businesses. Grading this as higher, would increase patronage, resulting in improved frequency and reliability and increase bus usage overall.	13
Other comments	Other comments include general positive comments / agreement, general negative comments, those in education have dedicated bus services already.	12

Table 4: Suggestions for other criteria that could be considered to demonstrate a bus service's ability to support our economy and environmental sustainability objective		
Overall theme	Summary of comments received	Number of mentions
Ability of residents to access services / workplace / education	Ability of residents to access services e.g., town centre, shopping, hospital, GP, dentist appointments, and workplaces / education establishments. Do buses offer the right routes at the right time, are they reliable, are services offered early morning / late evening / on a Sunday. How long does it take on average to reach key destination. Ease of use and connectivity to other transport options.	48
Extent to which the bus route reduces the number of cars on the road	Adopt a measure of reduction in car journeys as a carbon reduction target. Does the bus route decrease the number of car journeys being taken and reduce traffic / congestion, does reducing the bus service increase the reliance on home deliveries. Encourage kids on buses / not in cars - reducing congestion round schools at key times. If there was a decent bus service people would use the bus more reducing traffic congestion / pollution.	21
Bus services are important especially to particular groups of people	Buses are needed, all the objectives impact on one another. Public funding of bus services should focus on routes that will never be commercially viable, focus on growth is not relevant with regard to bus services. Cheshire East should take over the running of the buses with an integrated transport policy, we want service and not private profit. Buses provide vital transport solutions for women with small children, for those who are elderly, disabled, do not drive or on low income. Many of these users rely on the bus service and can add to the economic growth.	18
Specific environmental suggestion impact or concern	How many buses are electric / use hydrogen, what are the emission levels or age of the bus. Assess levels of congestion & air quality. Bus emissions v usage, use a model of carbon off setting. Should encourage use of electric vehicles but not at the detriment to the number of routes companies can afford to run - needs to be introduced gradually over time to reduce the financial burden on bus companies. Smaller buses may be more efficient. Need to assess lifetime emissions / environmental impact, batteries are extremely bad for the environment and cannot be reused.	17
Ability to support communities /rural areas and reduce social isolation	It's not all about business growth, need to consider how the bus service supports the needs of the community. How many people were able to get out and be socially mobile because they have a reliable bus service. Does it support rural deprivation, reduce social isolation and increase wellbeing / independence.	16
Suggestion to improve the bus service to encourage use	A more frequent, reliable and affordable service would encourage higher use. Being encouraged to use local facilities without a car bus transport is the only way to support local businesses, need transport options for the night-time economy, encourage school journeys on buses. A lot of new housing estates have been built a review of bus routes and siting of bus stops would lead to more passengers on buses.	14

Cost of each journey / employer contributions	What is the cost of each journey, cost is an important factor in the current climate, keep costs down whilst supplying an adequate service, the £2 fare has been a great help. A transferable ticket to different companies covering the area would also be a big advantage. Add contribution to GVA as measured by income or productivity, e.g., GVA per capita. Look at whether third party funding is an option to support costs and whether an employer contributes / encourages use of public transport e.g. providing transportation, supporting cycle schemes, walking initiatives.	9
Assess car ownership rates, demand & potential for growth	Assess car ownership rates, demand for bus services and of routes (suitable vehicles for the customer demand can then be provided). 'Potential for growth during contract term' should be included.	7
Other comments	Other comments include those stating that no money should be spent on EV, carbon should be only considered once in the criteria, all criteria is important, favour local run bus companies over big national ones, assess what business would be impacted if cuts are made.	9

Access and social inclusion

Table 5: Comments received on the addition of the 'bus provision in areas of deprivation' criterion

Overall theme	Summary of comments received	Number of mentions
Depends on how the areas of deprivation are defined / should include rural & social deprivation	How are areas of deprivation defined? Deprivation is not always financial. Depends on if this also includes social deprivation, should also include areas that have no bus services due to location or areas where there are a number of people who do not drive (inc. the elderly & disabled community). Rural deprivation will be ignored / concerned that areas of deprivation will receive funded support over rural areas.	31
Bus provision is important in all areas	Encouraging greater use of public transport generally is surely the aim. Bus travel is important in all areas and should be available to everyone not just those in areas of deprivation, affordable transport for all. There are people in supposed wealthier areas that also struggle / require buses / cannot drive. If this extra criterion means diverting funding/services away from other, existing routes/services, then it should not be included.	26
General agreement / suggestion for consideration	Agree, vitally important, deprived areas need better, more affordable services / access and more than likely have no car. Child poverty is high, should also include new build areas for younger families.	21
Areas of deprivation already served by transport / general negative	In most areas of deprivation there is already a good bus route, these areas are close / within town centres. Solve deprivation out first / this amounts to levelling down.	14
Other comments	Other suggestions include a suggestion on how to improve the bus, general statement.	8

Table 6: Suggestions for other criteria that could be considered to demonstrate a bus service's ability to support our access and social inclusion objective		
Overall theme	Summary of comments received	Number of mentions
Enables an adequate, frequent, and reliable service	Enables an adequate, frequent and reliable service to e.g. hospitals, schools, shops. What needs to be accessible and at what times? Running earlier, later or on a Sunday. Average wait time at the interchange station, direct connections.	45
Extent to which the bus service enables access for particular groups of people	Extent to which the bus service enables access to services for those that are elderly and/or disabled. Whether a bus passes through areas where such users are more likely to live. The elderly need a good bus service whether or not they are in an area considered deprived. Does the service provide good wheelchair access, visual and verbal passenger information systems, what is the distance needed to walk to a bus stop.	24
Improve bus services generally	Integrated ticketing could be something to consider. Weekend buses are needed, must be affordable, frequent. Need more direct buses.	22
Serves those with no alternative public transport /in rural areas	If there is no realistic alternative public transport, particularly in rural areas, this should be a criterion for funding. Rural area deprivation needs to be considered / support rural communities. Areas of deprivation must also include areas where people are unable to drive.	21
Public transport important for all areas	Depends on how deprivation is measured / what does it mean. The IMD statistics provide a partial view of areas of deprivation. Bus transport is important to everyone to help prevent isolation. Need to support all residents equally.	13
Actual demand for buses / car ownership rates	Compare car availability in areas of deprivation, car ownership rates. How much need there is for buses. How many people who use these buses. Potential number of passengers that could use a route. Look at residents by age group and with/ without access to car or driver licence to asses need for buses and times of day buses needed.	11
Other comments	Other comments include measure your social responsibility, keep bus provision where it already is, must be cost effective, statements of personal use of a specific bus,	9

Bus service performance

Table 7: Comments received on the addition of the 'number of fare-paying / concessionary passengers since the covid pandemic'		
Overall theme	Summary of comments received	Number of mentions
Irrelevant comparison / duplicates passenger trends	Do not see the relevance, particularly as we move away from that period. Covid is immeasurable / was a one-off-event. Irrelevant comparison, there were more services before Covid so it is not comparing like for like / the frequency of services has not returned to pre Covid levels. Not sure why past performance should impact on current decisions, numbers currently matter. Should not be using covid as an excuse to reduce services. These appear to duplicate other criteria – e.g., cost per passenger, service usage and patronage trends.	55
Need to encourage more people to use bus services again	A regular, affordable and reliable service would encourage use again and lead to a greater number of passengers paying / lower emissions. Buses were cut during covid / now offer a reduced service leading to more people taking their car. If buses are reduced, it will never recover; investment / marketing should be used to promote bus services to get more people to switch from their car, need to take a longer-term view.	44
Bus services should be provided regardless of performance	Buses serve a necessary service to allow people to access vital services and should be provided regardless esp. in rural areas where passenger numbers will be fewer, the needs of the rural communities should be high on the list of priorities. It will also be vital to the elderly, disabled and those with no other means of transport. Inclusion is more important than performance.	37
Potential inaccuracy of numbers / too soon to measure recovery since Covid	If you include date since the bus service has reduced, then this will not be accurate. The number of concessionary passengers indicated will have fallen since Covid however as an ageing population the number of concessionary passengers will be increasing. Arriva ceasing their service will have had an impact on the number of passengers also. How do you know the accuracy of passenger numbers, Bus service often do not give tickets, therefore can invent the number of each type of passenger. To change people's habits and behaviours requires long term consistency you are not providing the opportunity for numbers to return to pre-Covid levels / it is too soon to measure recovery of passenger numbers post Covid.	30
Number of concessionary passengers should not count	Concessionary users tend to be from the groups who are totally reliant on bus services / can least afford travel. A high number of concessionary users should not be used in isolation as a measure for the viability of a bus route. Concerned that the authority will use this information to cease concessionary travel, bus concessions are vital and should not count.	13
Other comments	Other comments include those asking what the benefit is to collecting this data, some stating there are too many criteria already, suggestion to assess demand and encouraging people back to work.	13

Table 8: Suggestions for other criteria that could be considered to demonstrate a bus service performance objective		
Overall theme	Summary of comments received	Number of mentions
Shouldn't be about money / need bus service regardless	Just because numbers may be low doesn't mean service isn't needed there is a danger that, by relying on numbers and trends the social importance of a route would be overlooked. Value for money isn't the essential criteria. It's about providing a service to improve quality of life & support health & wellbeing. Social inclusion is very important to the elderly and those in rural areas. Consideration should be given to people without cars / availability of alternative public transport. There should be more buses not less.	43
Assess actual demand / needs for the service	Should be aimed at the needs of the local residents, actual / potential demand for the service. 'Passenger numbers increasing' should be 5 points as it shows that there is clearly potential for the route. Review the bus route, ongoing survey to the public for missing or suggested routes/times. Assess what the impact would be should the service be withdrawn. Do the buses go to places at expected times, provide access to employment and healthcare. Better planning to rural areas and new estates. Linking in arrival times with services leaving from bus station.	33
Suggestions on increasing bus use	Try to increase bus usage. Provide a service at the right cost at the right times and numbers might come back. Later service needed in the evenings and at weekends. The £2 fare has been good over the last few months. Advertise the bus services more and provide timetables. Address the reasons why things may have changed since covid. New funding required. New ideas.	27
Cost per journey / efficiency of vehicles	Cost per journey / family compared with other transport options / cost per km. Subsidies should be based on miles covered. Promotional spend per bus route. Maintenance / running costs of the vehicle. Is the bus operator financially responsible. Efficiency of vehicles used for service, occupancy of vehicles, bus mileage without passengers on board. External funding support should be sought from a wider range of businesses. Concessionary passengers could pay a small fee for the service, flat rate £1 journey fee for bus pass holders.	22
Satisfaction from users/ reliability of service	Customer satisfaction surveys. Measure reliability, regularity of service, journey time, condition of bus, helpfulness of drivers, value for money. May need qualitative measurements as well as quantitative.	21
Reduction in car use / effect on the environment	Assess the number of car journeys reduced. Would like to see a significant investment in getting more people using buses and out of cars which would lead to less traffic congestion. Measure traffic generally and then estimate the impact of removing a particular bus time / route. Include carbon footprint and air quality. Assess the usage of a new electric passenger vehicle against an old diesel fumed vehicle.	12
Other comments	Other comments include Demonstrable commitment to people with disabilities, number of children to adults for each journey, it's the balance of these considerations that counts, general negative comments, general suggestion to improve buses, statements of personal use of a specific bus.	17

Any Other comments

Table 9: Any other comments on the bus prioritisation objectives or criteria		
Overall theme	Summary of comments received	Number of mentions
Suggestions to improve the bus service	Bus provision is out of date, need to review demand for services / routes, need new ideas. Bring bus routes back. Need more frequent and reliable buses. Sunday service, services in the evening. Connectivity with railways, new housing estates, hospitals. Follow the Greater Manchester model. Subsidy should not be the only means of support - promote other models of transport in rural areas inc. volunteer driver schemes and community-based transport. Many bus stop do not have bus shelters & timetables are often destroyed / damaged problems in identifying times of buses as timetables are often difficult to read,	60
Bus services are important and play a vital role in communities	People should be your highest priority, it's all about inclusion, it shouldn't be about money / service before profit. Bus services play a vital role in many communities not just those in deprived areas and are a lifeline for many people, especially those without access to a car, those in rural areas, those with mobility impairments and the elderly. In order to give people equal opportunities and prevent isolation you need to give them access to transport. Benefits those who need to get to work, getting to schools, shopping, medical appointments, and socialising.	52
A good / affordable service will help people to use it more	A good / affordable service will help people to use it therefore should be prioritised and then everything else will follow. A well-run bus service can be economical and environmentally friendly. The reason why so many people drive is because there are no buses travelling useful routes. We should be encouraging more public transport, use of buses significantly reduces carbon emissions by reducing the number of cars being used. Priorities should be on routes useful to the public and advertising them, measure performance through customer satisfaction	30
Look long term / at the bigger picture / assess demand	Think about the long term / big picture in a joined-up way. Need to think strategically about why journeys are made and how to optimise services to meet those needs. The award criteria needs updating to include potential growth. A network approach is needed, bus provision needs to be assessed alongside overall transport strategy & infrastructure. Consider social and geographic changes, particularly the move of retail away from town centres. Assessment should be over time as it takes a while for travel behaviours to change. It would be helpful to know how many people would be affected by cutting each specific bus journey compared with retaining a bus journey.	15
All the objectives are equally important	All 3 objectives are equally important.	11
Other comments	Other comments include, economy & environment should be two separate items, no CEC money should be spent on EV - very heavy electric vehicles will increase the road damage and general negative comments.	24

Appendix 2 – Respondent Demographics

A number of demographic questions were asked at the end of the survey to ensure there was a wide range of views from across different characteristics. All of the questions were optional and therefore won't add up to the total number of responses received.

Table 10: Number of survey respondents by gender

Category	Count	Percent
Female	464	50%
Male	433	47%
Prefer not to say	33	4%
Grand Total	930	100%

Table 11: Number of survey respondents by age group

Category	Count	Percent
16-34	31	3%
35-44	61	6%
45-54	116	12%
55-64	187	20%
65-74	308	32%
75 and over	207	22%
Prefer not to say	38	4%
Grand Total	948	100%

Table 10: Number of survey respondents by ethnic origin

Category	Count	Percent
White British / English / Welsh / Scottish / Northern Irish / Irish	842	91%
Any other White background	19	2%
Mixed or multiple ethnic groups	8	1%
Asian / Asian British	5	1%
Black African / Caribbean / Black British	5	1%
Other ethnic groups	<5	<5%
Prefer not to say	50	5%
Grand Total	930	100%

Table 11: Number of survey respondents by religious belief

Category	Count	Percent
Christian	514	56%
Buddhist	6	1%
Jewish	<5	<5%
Other religion	12	2%
No religion	282	31%
Prefer not to say	101	11%
Grand Total	924	100%

Table 12: Number of survey respondents by limited activity due to health problem / disability

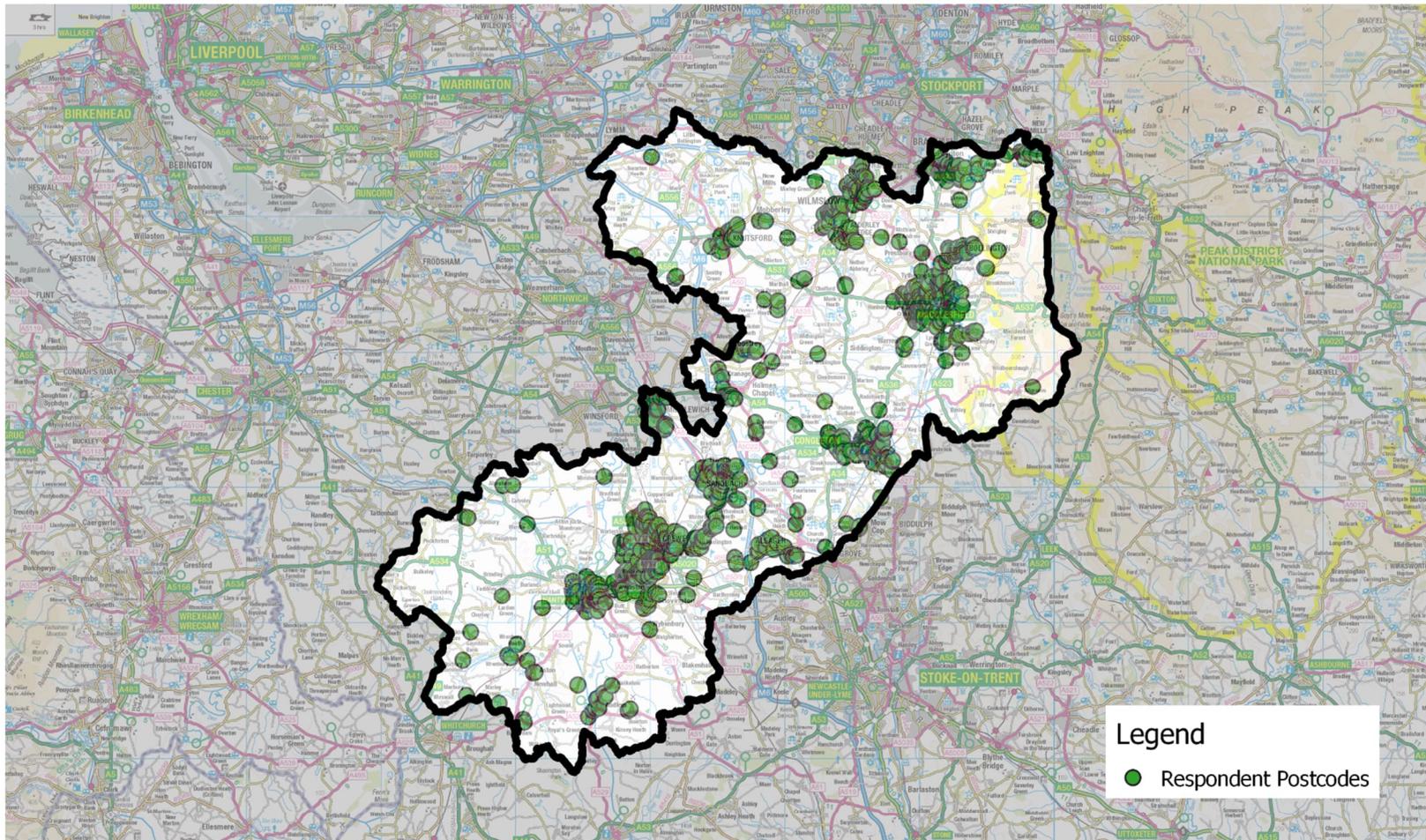
Category	Count	Percent
Yes, a lot	92	10%
Yes, a little	232	25%
Not at all	565	60%
Prefer not to say	52	6%
Grand Total	941	100%

Table 13: Number of survey respondents stating that their disability affects how they travel

Category	Count	Percent
Yes	158	50%
No	161	50%
Grand Total	319	100%

Appendix 3 – Map of Respondent Postcodes

The following map plots respondent postcodes that were provided and that are within Cheshire East (821 postcodes).



 **Bus criteria review map of respondent postcodes**

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Appendix 4 – BSIP+ Indicative Funding Allocations

The funding of the priorities have been considered against DfT requirements, and those proposed for BSIP+ are outlined in the table below. An indicative split of funding has been proposed, however this is subject to further development of costs, through engagement with local bus operators.

Priority	Potential scheme cost	Funding source
1: introduce a multi-operator ticket in Macclesfield and surrounding area, with local bus operators <ul style="list-style-type: none"> - includes £35k for feasibility study on fare and revenue implications, with £20-30k marketing/back room costs for setting up the multi-operator ticketing. 	£55,000-£65,000	BSIP+
2: trial a young person's concessionary fare pass for 16-19 year olds <ul style="list-style-type: none"> - assumes 15% of all 16-19 year olds in Cheshire East receiving 50% reduction on local 28 consecutive day pass price (currently circa. £49) for one year. - includes £30-50k costs for initial admin and marketing 	£700,000-£725,000	BSIP+
3: develop a "Buses in Cheshire East" website, to provide a one-stop shop for bus service information <ul style="list-style-type: none"> - options for external provision of website - does not account for ongoing operational costs (assumed to be around £5k per annum) 	£20,000-£25,000	Outside of BSIP+
4: promote the 'System One' ticketing for north Cheshire East residents <ul style="list-style-type: none"> - includes updated information at bus stops and promotional advertising in paper and digital formats 	£20,000-£25,000	BSIP+
5: creation of 'hub stops' along the service 38 route <ul style="list-style-type: none"> - improved quality of stops and information provision at bus stops along the 38 route 	£57,000-£82,000	BSIP+
BSIP+ funding total	£833,000-£897,000	
Priorities total	£853,000-£922,000	

EQUALITY IMPACT ASSESSMENT

TITLE: Cheshire East Bus Support Criteria

VERSION CONTROL

Date	Version	Author	Description of Changes
27.10.2023	2	Chris Taylor	Post Consultation

EQUALITY IMPACT ASSESSMENT 0026

CHESHIRE EAST COUNCIL - EQUALITY IMPACT ASSESSMENT

Stage 1 Description: Fact finding (about your policy / service / service users)

Department	<i>Place</i>
Service	<i>Strategic Infrastructure</i>
Lead officer responsible for assessment	<i>Chris Taylor</i>
Other members of team undertaking assessment	<i>Jenny Marston Richard Hibbert</i>
Date	12.10.2023
Version	2
Type of document	Procedure
Is this a new/ existing/ revision of an existing document	Revision

<p>Title and subject of the impact assessment (include a brief description of the aims, outcomes, operational issues as appropriate and how it fits in with the wider aims of the organisation)</p> <p>Please attach a copy of the strategy/ plan/ function/ policy/ procedure/ service</p>	<p>Bus Support Criteria for Prioritisation of Services</p> <p>Background</p> <p>Significant challenges have been posed to the bus industry in recent years on a national level. Following the outbreak of the COVID-19 pandemic bus services within Cheshire East have witnessed a sharp decrease in patronage which remains lower than pre-pandemic levels.</p> <p>For the bus industry, there is continued uncertainty surrounding passenger and revenue recovery, coupled with cost increases associated with fuel and driver wage rates. These uncertainties alongside slow patronage recovery have further undermined the viability of the current network.</p>
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Due to these challenges, the Department for Transport (DfT) have provided the Bus Recovery Grant (BRG) for operators and the Local Transport Fund (LTF) for Local Transport Authorities to aid the delivery of the existing bus network.

As BRG/LTF funding comes to a close and concessionary reimbursement aligns with actual patronage (rather than 2019 values) commercial operators will begin to evaluate the viability of their commercial services. At the moment it is uncertain what this might mean for the bus industry nationally and locally. This could lead to commercial services being withdrawn and supported contracts being handed back. For this reason the DfT has proposed that Local Transport Authorities should conduct detailed Bus Network Reviews, to understand services that are at risk and the support that would be required to provide a sustainable public transport network.

At the moment within Cheshire East, around 70% of services are supported by the council which costs £2.3m per annum.

In accordance with the Government's guidance on Network Reviews issued in April 2022, analysis has been conducted with operators to help identify which services within Cheshire East are deemed to be commercial, marginal or non-viable after the cessation of the BRG and LTF funding support. Conducting this network review is a condition of gaining access to the next phase of the BRG/LTF funding.

As services adapt to changing funding arrangements, there is a need to prioritise services. Cheshire East utilises a set of criteria which are used to score and prioritise bus services based on their ability to meet LTP priority themes, accessibility requirements for users and financial considerations.

The current criteria are summarised below:

- LTP Priority Themes: Including business growth (journey purpose), sustainable economic growth and impact on carbon emissions.
- Accessibility: Including transport interchange and travel choice
- Financial Considerations: Including cost per passenger, funding options/alternatives, service usage and patronage trends (commercial potential).

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	<p>This set of criteria was developed in 2011 and used as a reference case in 2017 during the bus service review to reflect the key themes and aspirations contained within the LTP.</p> <p>The bus network and industry within Cheshire East has witnessed significant challenges and changes since the adoption of this support criteria in 2011. For this reason, a refresh has been proposed in order to ensure services are scored based on relevant criteria as of 2022.</p> <p>The new criteria includes the following additions which are being presented for consideration:</p> <p>Decarbonisation – Cheshire East Council aims to be carbon neutral in its own operations by 2025, as outlined within the council’s Environment Strategy (2020-2024). Cheshire East made a further pledge in January 2022 to be a carbon neutral borough by 2045. With these targets in place, there is a need to ensure bus services contribute to their attainment. The emission standard of vehicles being used has been suggested as a new criterion, here services will be scored based on whether EV/Hydrogen, Euro 6, 5 or 4 vehicles are in operation.</p> <p>Indices of Multiple Deprivation (IMD) – For this metric, the percentage of route length that sits within the top 25% most deprived areas will be used to score each bus service. Areas of deprivation typically rely on bus services for access to facilities and amenities, therefore this metric ensures that the social value of bus services is considered during decision making.</p> <p>Fare Paying and Concessionary Patronage Recovery post-covid (compared to 2019) – Recovery post-covid is still ongoing and significantly impacting the viability of bus services across the borough. While fare paying patronage on average has returned to around 80% of pre-covid levels, concessionary travel (which constitutes half of total passengers for many services) still remains at around 60%. These metrics therefore score services based on their rate of recovery for all ticket types.</p>
<p>Who are the main stakeholders and have they been engaged with? (e.g. general public, employees, Councillors, partners, specific audiences, residents)</p>	<p>A survey was published online alongside hard copies delivered to customer contact centres and libraries across the borough. At the launch of this survey key stakeholders including, Ward Members, Town and Parish Councils, Neighbouring Authorities and Bus Operators were made aware of the survey and encouraged to partake and circulate far and wide.</p> <p>Following analysis survey responses, it is apparent that a good mix of participants were captured through public consultation process. Vulnerable groups are seen to have partaken in the consultation, with 54% of respondents aged 65 or over and 35% identified as having limited activity due to health problems/disabilities.</p>

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New criteria have been added to better represent the current bus network and its duties to serve the people of Cheshire East. In particular, the support criteria have been expanded to consider indices of multiple deprivation (IMD). This provides a measure of relative deprivation for small areas based on seven distinct domains of deprivation: income, employment, education, health, crime, barriers to housing and services and living environment. IMD has been introduced to limit the impact of bus service alterations on vulnerable groups. Conversations with vulnerable groups will be conducted to ensure impacts on those with protected characteristics are minimised.

Key stakeholders encouraged to partake in the consultation include:

- The general public (including residents and visitors to the Borough);
- Cheshire East Council stakeholders;
- Public transport operators;
- Local businesses/organisations;
- Schools and education establishments;
- Neighbouring local authorities;
- Governmental bodies (e.g. Local Enterprise Partnership);
- Statutory transport bodies (e.g. Department for Transport and Transport for the North).
- Partner organisations
- Town and Parish Councils;
- Umbrella organisations for people with specialist transport needs; such as:
 - * Space4Autism
 - * Disability Information Bureau (DIB)
 - * Cheshire Centre for Independent living
 - * Cheshire Eye Society
 - * Deafness Support Network
 - * ADCA Medical Transport Service
 - * Congleton Disabled Club
 - * Care4CE
 - * Leonard Cheshire Disability
 - * The Stroke Association
- Transport interest groups; Such as:
 - Crewe & District Bus Users Group
 - Transition Wilmslow
 - Active Travel Congleton

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	<ul style="list-style-type: none"> • Travel Cheshire • Environmental groups; • MPs
<p>What consultation method(s) did you use?</p>	<p>Early conversations held with key stakeholders (vulnerable groups and bus operators).</p> <p>It is important for the council to be open and transparent on the purpose of this engagement/consultation, which is to review the proposed criteria as a framework for decision making going forward. The consultation will need to clearly describe why the criteria are suitable for forming a framework that guides decision making. It is noted that the consultation will not propose any direct changes to the network.</p>

Stage 2 Initial Screening

<p>Who is affected and what evidence have you considered to arrive at this analysis? (This may or may not include the stakeholders listed above)</p>	<p>There will not be a direct impact on individuals who share one or more protected characteristic as a result of this revised support criteria. The future of the bus industry within Cheshire East remains uncertain, this criteria will be used as a tool to help manage future changes to the network. The criteria itself will not have an impact on the public or bus operators.</p> <p>On a national level the old, young and disabled are recognised as regular bus users and therefore most likely to be impacted by service alterations as a result of the updated criteria. Findings of the survey have been used to understand the impacts of the proposals are upon those who share one or more protected characteristic.</p>
<p>Who is intended to benefit and how?</p>	<p>There will be no direct benefits associated with having this set of criteria in place. The criteria will serve as a tool for assessing the future bus network as it continues to evolve using more up to date and relevant criteria.</p>
<p>Could there be a different impact or outcome for some groups?</p>	<p>No</p>
<p>Does it include making decisions based on individual characteristics, needs or circumstances?</p>	<p>No</p>

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Are relations between different groups or communities likely to be affected? (e.g. will it favour one particular group or deny opportunities for others?)	No
Is there any specific targeted action to promote equality? Is there a history of unequal outcomes (do you have enough evidence to prove otherwise)?	There is no specific targeted action to promote equality other than to ensure that the importance of the challenges faced and the absence of strategic guidance on the matter recognise the need for CEC to develop a strategic approach to bus passenger transport
Is there an actual or potential negative impact on these specific characteristics	Yes/ No
Age	No
Disability	No
Gender reassignment	No
Marriage & civil partnership	No
Pregnancy & maternity	No
Race	No
Religion & belief	No
Sex	No
Sexual orientation	No

The outlined criteria will not lead to any direct changes to the bus network within Cheshire East. This is simply a scoring mechanism to evaluate bus services operating within the borough.

What evidence do you have to support your findings? (quantitative and qualitative) Please provide additional information that you wish to include as appendices to this document, i.e., graphs, tables, charts

Characteristic	Findings	Mitigation	Consultation carried out
Age	No particular negative impacts have been identified at this stage. However, there may be positive or adverse impact on older and younger people who tend		

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	<p>as groups to use public transport more than other age groups. Nationally the proportion of trips made by bus is highest amongst those aged between 17 and 20. Young people also face barriers to transport, include the availability and cost of public transport, particularly to further and higher education. Bus use is higher for those aged 60 and over than those in middle aged groups.</p> <p>Results of the consultation reveal a general acceptance of the new criteria, with 64% of the respondents agreeing with the addition of the contribution to carbon reduction criteria, 79% agreeing with the addition of the bus provision in areas of deprivation criteria and 56% agreeing with the addition of a covid recovery criteria.</p> <p>Of these responses, 31 respondents were aged 16-44, these agreed with the new criteria as follows: carbon reduction criteria: 62% of respondents agreed Bus provision in areas of deprivation: 82% of respondents agreed Covid recovery criteria: 48% of respondents agreed</p> <p>There were 515 respondents who engaged with the survey aged 65 or over. Respondents aged over 65 agreed with the new criteria as follows: carbon reduction criteria: 68% of respondents agreed Bus provision in areas of deprivation: 82% of respondents agreed Covid recovery criteria: 63% of respondents agreed</p> <p>Qualitative responses from the survey outlined that the criteria should reflect an age profile to ensure those who use and need the service most retain access. Priority should not be given to employment and education journeys as often elderly residents rely on access to a bus service and their needs are generally for shopping, leisure and health. It was suggested that an assessment of the number of residents by age group and with/ without access to car or driver licence should be undertaken to assess the need for buses.</p>		
<p>Disability</p>	<p>No particular negative impacts have been identified at this stage. However positive or adverse impacts are possible depending on how the criteria is implemented. Key challenges faced by disabled people on the transport system include being able to access accurate and relevant travel information both before and during the journey, being able to access public transport</p>		

EQUALITY IMPACT ASSESSMENT 0026

	<p>interchanges, especially at night when these may be poorly lit, being able to access public transport vehicles and concerns regarding safety and comfort on the public transport network.</p> <p>There were 324 people who took part in the survey and identified as having a disability. 35% of respondents identified as having a disability of which 50% identified that this disability affects how they travel.</p> <p>These respondents agreed with the new criteria as follows: carbon reduction criteria: 62% of respondents agreed Bus provision in areas of deprivation: 83% of respondents agreed Covid recovery criteria: 59% of respondents agreed</p> <p>Survey results have been analysed to understand whether respondents with a disability agree with the proposed criteria. Qualitative results identify that ‘access & social inclusion’ was the highest priority for respondents. Respondents highlighted the importance of this, in particular, to rural areas, those with no other alternative transport options, the elderly and those with a disability.</p>		
<p>Gender reassignment</p>	<p>No particular negative impacts have been identified at this stage. However it is widely accepted that gendered abuse and sexual harassment are particularly associated with public transport with concerns around personal safety when travelling. This will be considered in future EqlAs following application of the criteria.</p>		
<p>Marriage & civil partnership</p>	<p>No particular negative impacts have been identified at this stage.</p>		
<p>Pregnancy & maternity</p>	<p>No particular negative impacts have been identified at this stage, however a lack of adequate public transport provision creates further barriers to accessing medical establishments providing essential maternity services. This will be considered in future EqlAs following application of the criteria.</p>		
<p>Race</p>	<p>No particular negative impacts have been identified at this stage however it is important to recognise that Bus Services are aimed at all potential users regardless of ethnicity.</p>		

EQUALITY IMPACT ASSESSMENT 0026

Religion & belief	No particular negative impacts have been identified at this stage however, consideration needs to be given to how fears and risks of violence associated with public transport disproportionately affect people because of their religion or religious beliefs.		
Sex	No particular negative impacts have been identified at this stage however, it is widely recognised that women are very often constrained by several barriers that shape how they travel. Women are also more likely to travel by bus and less likely to travel by rail than men.		
Sexual orientation	No particular negative impacts have been identified at this stage however, it is crucial to consider how fears and risks of violence associated with public transport proportionately affects people from the LGBT community.		

Proceed to full impact assessment?	No	Date: 27/10/2023
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If yes, please proceed to Stage 3. If no, please publish the initial screening as part of the suite of documents relating to this issue

EQUALITY IMPACT ASSESSMENT 0026

Stage 3 Identifying impacts and evidence

This section identifies if there are impacts on equality, diversity and cohesion, what evidence there is to support the conclusion and what further action is needed

Protected characteristics	<p>Is the policy (function etc....) likely to have an adverse impact on any of the groups?</p> <p>Please include evidence (qualitative & quantitative) and consultations</p> <p>List what negative impacts were recorded in Stage 1 (Initial Assessment).</p>	<p>Are there any positive impacts of the policy (function etc....) on any of the groups?</p> <p>Please include evidence (qualitative & quantitative) and consultations</p> <p>List what positive impacts were recorded in Stage 1 (Initial Assessment).</p>	<p>Please rate the impact taking into account any measures already in place to reduce the impacts identified</p> <p>High: Significant potential impact; history of complaints; no mitigating measures in place; need for consultation</p> <p>Medium: Some potential impact; some mitigating measures in place, lack of evidence to show effectiveness of measures</p> <p>Low: Little/no identified impacts; heavily legislation-led; limited public facing aspect</p>	<p>Further action (only an outline needs to be included here. A full action plan can be included at Section 4)</p> <p>Once you have assessed the impact of a policy/service, it is important to identify options and alternatives to reduce or eliminate any negative impact. Options considered could be adapting the policy or service, changing the way in which it is implemented or introducing balancing measures to reduce any negative impact. When considering each option you should think about how it will reduce any negative impact, how it might impact on other groups and how it might impact on relationships between groups and overall issues around community cohesion. You should clearly demonstrate how you have considered various options and the impact of these. You must have a detailed rationale behind decisions and a justification for those alternatives that have not been accepted.</p>
Age				
Disability				
Gender reassignment				
Marriage & civil partnership				

EQUALITY IMPACT ASSESSMENT 0026

Pregnancy and maternity				
Race				
Religion & belief				
Sex				
Sexual orientation				

Stage 4 Review and Conclusion

Summary: provide a brief overview including impact, changes, improvement, any gaps in evidence and additional data that is needed

Acceptance of the proposed criteria for bus service support prioritisation will be determined as a result of Committee review and detailed consultation. The Council will continue to work with specific groups and focus groups to monitor the impact of all future alterations. At this stage there will not be a direct impact on bus services as a result of this revised support criteria and therefore no material change for members of the public who share one or more protected characteristic. The future of the bus industry within Cheshire East remains uncertain, this criteria will be used as a tool to help manage future changes to the network. The criteria itself will not have an impact on the public or bus operators. Application of this criteria will require additional Equality Impact Assessments to be conducted.

EQUALITY IMPACT ASSESSMENT 0026

Specific actions to be taken to reduce, justify or remove any adverse impacts	How will this be monitored?	Officer responsible	Target date
Review consultation findings following the close of the consultation period	Results of consultation	Chris Taylor & Jenny Marston	September 2023
Undertake future consultation to further determine the impacts on groups identified as having a significant impact	Through stakeholder engagement.	Chris Taylor & Jenny Marston	TBC following application of criteria.

When will this assessment be reviewed?	This will be reviewed at following acceptance of the criteria and during future application of the criteria.
Are there any additional assessments that need to be undertaken in relation to this assessment?	Yes, when the criteria is required and applied to existing services for prioritisation.

Lead officer sign off	Jenny Marston	Date	27/10/2023
Head of service sign off	Richard Hibbert	Date	13/11/2023

Please publish this completed EIA form on the relevant section of the Cheshire East website

OPEN

Highways and Transport Committee

Thursday, 23 November 2023

Second Financial Review 2023/24 (Highways and Transport Committee)

Report of: Director of Finance and Customer Services (s151 Officer)

Report Reference No: HTC/21/23-24

Ward(s) Affected:

Purpose of Report

- 1 This report provides Members with the second review of the Cheshire East Council forecast outturn for the financial year 2023/24. Members are being asked to consider the serious financial challenges being experienced by the Council (and other councils) and to recognise the important activities aimed at minimising the impact on services.
- 2 Members of the Committee are being asked to consider the financial performance of the Services relevant to their terms of reference.

Executive Summary

- 3 The Council operates a financial cycle of planning, monitoring and reporting. This review is part of the monitoring cycle and provides a forecast outturn position for the 2023/24 financial year. The information in this report also supports planning for next year's budget. This report supports the Council priority of being an open and enabling organisation, ensuring that there is transparency in all aspects of Council decision making.
- 4 The full report was received by Finance Sub Committee on 2 November 2023. Service Committees will receive the sections relevant to their committee.

RECOMMENDATIONS

The Highways and Transport Committee:

1. Consider the report of the Finance Sub Committee: [Finance Sub-Committee, 2nd November, 2023](#)
2. Consider the factors leading to a forecast adverse Net Revenue financial pressure of £1.2m against a revised budget of £11.2m (10.7%).
3. Consider the forecast and further mitigations needing to be identified, aimed at bringing spending back in line with budget.
4. Consider the in-year forecast Capital Spending of £70.3m against an approved MTFS budget of £63.9m.
5. Scrutinise the contents of Annex 1 and Appendix 6 and note that any financial mitigation decisions requiring approval will be made in line with relevant delegations.

Reasons for Recommendations

- 5 Committees are responsible for discharging the Council's functions within the Budget and Policy Framework provided by Council. The Budget will be aligned with Committee and Head of Service responsibilities as far as possible.
- 6 Budget holders are expected to manage within the budgets provided by full Council. Committee and Sub-Committees are responsible for monitoring financial control and making decisions as required by these rules.

Access to Information

Contact Officer:	Alex Thompson, Director of Finance and Customer Services (s151 Officer) alex.thompson@cheshireeast.gov.uk Paul Goodwin, Head of Finance & Deputy Chief Finance Officer paul.goodwin@cheshireeast.gov.uk
Appendices:	1 Second Financial Review 2023/24 2 Annex 1 – Second Financial Review 2023/24
Background Papers:	Medium Term Financial Strategy 2023-27 First Financial Review 2023/24 Second Financial Review 2023/24

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Finance Sub Committee

2 November 2023

Second Financial Review 2023/24

Report of: Alex Thompson, Director of Finance and Customer Services

Report Reference No: [To be provided by Democratic Services]

Ward(s) Affected: Not applicable

Purpose of Report

- 1 This report provides Members with the second review of the Cheshire East Council forecast outturn for the financial year 2023/24. Members are being asked to consider the serious financial challenges being experienced by the Council (and other councils) and to recognise the important activities aimed at minimising the impact on services.
- 2 The report highlights the ongoing negative impact of high inflation, rising interest rates and increasing demand for services since the Council set its budget in February 2023. Annex 1 of the report highlights in detail what the Council is forecasting to achieve as part of the 2023/24 budget. Tables include updates to items identified in the MTFS plus further items identified in-year.
- 3 Reporting the financial forecast outturn supports the Council's vision to be an open Council as set out in the Corporate Plan 2021 to 2025. In particular, the priorities for an open and enabling organisation, ensure that there is transparency in all aspects of Council decision making.
- 4 The report also requests Member approval for amendments to the Council's budget in line with authorisation levels within the Constitution.

Executive Summary

- 5 The Council operates a financial cycle of planning, monitoring and reporting. This review is part of the monitoring cycle and provides a forecast outturn position for the 2023/24 financial year. The information

in this report also supports planning for next year's budget. This report supports the Council priority of being an open and enabling organisation, ensuring that there is transparency in all aspects of Council decision making.

- 6 The Council set its 2023/24 annual budget in February 2023. The budget was balanced, as required by statute, and included important assumptions about spending in the year. The budget is part of the Medium-Term Financial Strategy (MTFS) 2023 to 2027.
- 7 The MTFS for 2023/24 included £70m of service growth and £42m of service savings. The equivalent figures for 2022/23 were £21m of growth and £7m of savings. This highlights the challenge of delivering the 2023/24 budget even before the impact of increased demand, prevailing high inflation and rising interest rates.
- 8 The first financial review of 2023/24, reported to Corporate Policy Committee in October 2023, reported a pressure of £12.8m, reduced from £26.6m through potential mitigations. The report highlighted further activities that would be instigated to address current spending forecasts and income levels.
- 9 Prices, and demand, for services to support children and adults that require Council services continue to rise, reflecting complexity of care needs and market conditions.
- 10 Despite further savings of £4.3m being identified the overall spending forecasts have increased. The second financial review of 2023/24 is forecasting a pressure of £18.7m by 31 March 2024, an increase of £5.9m compared to first financial review.
- 11 The financial pressures being experienced by Cheshire East Council are not unique. Headlines published about local government finance including the BBC highlight that:
 - (a) councils will be £5.2bn short by April 2026 (after making £2.5bn of planned reductions),
 - (b) the average council facing a £33m deficit,
 - (c) £1.1bn of reserves will be required to balance in 2023/24.
- 12 Local authorities that have committed, or are likely to commit to, financial activities beyond their legal means must issue a s.114 notice. This has already happened for various reasons at eight local authorities to date (Birmingham, Northamptonshire, Nottingham, Northumberland, Croydon, Woking, Thurrock, and Slough). The pressures quoted in these councils are between £35m and £1.5bn.

- 13 Please see Financial Implications section for risks and consequences relating to a s.114 notice.
- 14 Press articles continue to report that more councils are concerned about further s.114 notices being issued. A search of such reports identifies Coventry, Derby, Havering, Medway, Leeds, Cheshire West and Chester, Warrington, Middlesbrough, Kirklees, Hastings, Kent, Stoke, Somerset, Guildford, Southampton as well as Bournemouth, Christchurch and Poole, as all being linked to financial stress and potential s.114 notices. The pressures quoted in these councils range from £8.5m to £47m. This list has got longer since the First Financial Review and continues to grow.
- 15 Local authorities, including Cheshire East Council, therefore continue to liaise with Government departments over the severity of so many emerging financial issues. The Council achieves this liaison either directly or through professional or political networks. The focus of this lobbying for Cheshire East Council is on the following important local issues:
- (a) **High needs / special educational needs deficit.** The Council reported a cumulative deficit of £47m from 2022/23, which is set to rise to £85.8m by March 2024 and to £243.5m by 2027. The cost of maintaining this deficit in interest payments is forecast to exceed £3m in 2023/24. The Council is also funding transport costs of over £1m in excess of the 2023/24 budget to manage demand. The Council has now begun conversations on entry to the DfE's Safety Valve Scheme.
 - (b) **Capital Funding and HS2.** Major infrastructure schemes are at risk due to construction costs inflation of 15% to 20%. Associated Government grants have not been revised to keep pace and do not reflect up to date costs forecasts. The Council is therefore having to manage all additional costs. The announcement of the cancellation of phase 2 of the HS2 project referred to escalating costs, and this also impacts on the Council's finances. Letters have been sent to Government ministers and officials to highlight the £11.2m spent by the Council on this project. The Government is looking at this issue as well as developing wider plans to provide additional funding for infrastructure projects in the North of England following the announcements about HS2.
 - (c) **Children's Services.** Although Government has previously provided additional funding for Adult Social Care, the costs of Children's Services are not being addressed. New burdens funding is not being provided, nor are capital grants that could potentially create new

provision of services reducing the reliance on private sector placements.

- (d) **Local Government Settlement.** Longer term settlements that address business rate retention, rurality and growth in demand are essential to providing longer term stability. Late and short-term settlements do not support the development of sustainable financial strategies.
- 16 The First Financial Review highlighted local mitigations that would be implemented to reduce expenditure. In October 2023, the Cheshire East Budget Response Team (CEBERT) was set up to lead on coordinating this work across the organisation. Weekly meetings are chaired by the Chief Executive with updates relating to the workstreams identified in the review.
- 17 The workstreams include:
- (a) Establishment Management: a full review of the Council's establishment is near completion. Recruitment controls have reduced the number of vacancies approved for recruitment from an average of over 20 per week to around 3 per week, with approved posts relating to essential safeguarding posts. All agency placements are also under review.
 - (b) Spending Control Panel: all Procurement Engagements are subject to additional review. Procurement has been rejected, with several others on hold requiring enhanced information as to the essential nature of the spending.
 - (c) Pricing Strategies: in many cases the cost of providing charged-for services has increased. This workstream is looking at price increases that may be required to reduce subsidising services that are unaffordable via local taxation.
 - (d) Capital Spending: a further £2.1m of transformation activity previously funded from revenue budgets is now being legitimately funded from Capital Receipts. Re-profiling Capital Expenditure has already reduced interest payments by £0.6m.
- 18 The impact of this work, as well as focused activity on services within each committee is reflected in Annex 1. Now that CEBERT has been established the Chief Executive will develop opportunities for frequent Member updates on progress. The results of further mitigations will also be factored into the third financial review.
- 19 The MTFs highlights that the Council has relatively low levels of reserves as annual funding is required to manage ongoing service demand. This means financial pressure requires changes to ongoing spending and income rather than relying on management via reserves.

Notwithstanding this issue all reserves held for specific purposes are under review through CEBERT.

20 **Annex 1: Second Financial Review 2023/24**

21 **Financial Stability:** Provides information on the overall financial stability and resilience of the Council. It demonstrates how spending in 2023/24 is being funded, including the positions on overall service budgets, centrally held budgets, council tax and business rates. Further details are contained in the appendices.

22 **Appendices:**

Appendix 1 Adults and Health Committee.

Appendix 2 Children and Families Committee.

Appendix 3 Corporate Policy Committee.

Appendix 4 Economy and Growth Committee.

Appendix 5 Environment and Communities Committee.

Appendix 6 Highways and Transport Committee.

Appendix 7 Finance Sub-Committee.

Appendix 7a Update to the Treasury Management Strategy.

Appendix 7b Update to the Investment Strategy.

RECOMMENDATIONS

The Finance Sub Committee:

1. Consider the factors leading to a forecast adverse Net Revenue financial pressure of £18.7m against a revised budget of £353.1m (5.3%).
2. Consider the forecast and further mitigations needing to be identified, aimed at bringing spending back in line with budget.
3. Consider the in-year forecast Capital Spending of £181.4m against an approved MTFS budget of £214.7m, due to slippage that has been re-profiled into future years.
4. Scrutinise the contents of Annex 1 and each of the appendices and note that any financial mitigation decisions requiring approval will be made in line with relevant delegations.

5. Approve capital virements up to and including £5,000,000 in accordance with Financial Procedure Rules as detailed in **Appendix 7 Finance Sub-Committee, Section 5 Capital Strategy, Table 5.**
6. Note that Council will be asked to:
7. Approve fully funded supplementary revenue estimates over £1,000,000 in accordance with Financial Procedure Rules as detailed in **Appendix 1 Adults and Health Committee, Section 3 Corporate Grants Register, Table 2** and **Appendix 4 Economy and Growth Committee, Section 3 Corporate Grants Register, Table 2.**

Background

- 23 Managing performance is essential to the achievement of outcomes. This is especially important in evidencing the achievement of value for money across an organisation the size of Cheshire East Council. The Council is the third largest local authority in the Northwest of England, responsible for approximately 500 services, supporting over 398,000 local people. Gross annual spending is over £750m, with a revised net revenue budget for 2023/24 of £353.1m.
- 24 The management structure of the Council is organised into four directorates: Adults, Health and Integration; Children's Services; Place; and Corporate Services. The Council's reporting structure provides forecasts of a potential year-end outturn within each directorate during the year, as well as highlighting activity carried out in support of each outcome contained within the Corporate Plan.
- 25 The political structure of the Council is organised into six committees, with a single sub-committee, all with financial responsibilities acutely aligned to the management structure. Performance against the 2023/24 Budget within each Committee, and the sub-committee, is outlined in Table 1 below.

Table 1 – Revenue Outturn Forecast split by the Six Service Committees and the Finance Sub-Committee

2023/24	Revised Budget	Forecast Outturn	Forecast Variance FR2	Forecast Variance FR1	Movement from FR1 to FR2
	(NET)				
	£m	£m	£m	£m	£m
Service Committee					
Adults and Health	136.5	141.2	4.7	0.3	4.4
Children and Families	80.3	91.0	10.8	7.0	3.8
Corporate Policy	41.2	40.7	(0.5)	0.9	(1.4)
Economy and Growth	24.8	22.9	(1.9)	(1.8)	(0.1)
Environment and Communities	48.7	52.3	3.5	4.2	(0.7)
Highways and Transport	11.2	12.4	1.2	1.2	(0.0)
Sub-Committee					
Finance Sub	(342.7)	(341.8)	0.9	1.1	(0.2)
TOTAL	-	18.7	18.7	12.8	5.9

National Key issues causing the pressures

- 26 The national economic position of the UK has seen prevailing high inflation. The Office for Budget Responsibility (OBR) forecast that inflation should reduce to 2.9% by quarter 4 of 2023. However, quarter 2 inflation was still at 7.7%, which is higher than the OBR forecast of 6.9% at this stage in the year. The Council is affected by inflation in wages (for Council staff and staff of contracted services), utilities and fuel. But the Council cannot inflate in-year income from Council Tax, Business Rates or Government Grants. The forecast impact of additional pay inflation above the estimates in February is £2.8m.
- 27 The national economic position of the UK is seeing increasing interest rates. In January 2023, when the current MTFs was drafted, interest rates were at 3.5%. Current interest rates are 5.25%. The Council has loans of £242m, mainly acquired to support important Highway and Regeneration schemes, and is therefore exposed to financial pressure from increasing borrowing costs. The Council is receiving more money from investments, but this does not offer adequate compensation. Interest rates are forecast to reduce once inflation is controlled which means a shift to long-term borrowing at this point is not a favourable option.
- 28 Demand for public services, particularly those that are required to support the health and wellbeing of local residents, has increased since the pandemic. Temporary grants associated with the pandemic have ended though. The Council is experiencing demand for care for more

individuals, which is driving up costs, as well as experiencing more complex demand that requires more hours of support in each case.

Consultation and Engagement

- 29 As part of the budget setting process the Pre-Budget Consultation provided an opportunity for interested parties to review and comment on the Council's Budget proposals. The budget proposals described in the consultation document were Council-wide proposals and that consultation was invited on the broad budget proposals. Where the implications of individual proposals were much wider for individuals affected by each proposal, further full and proper consultation was undertaken with people who would potentially be affected by individual budget proposals.

Reasons for Recommendations

- 30 The overall process for managing the Council's resources focuses on value for money, good governance and stewardship. The approach to these responsibilities is captured in the Medium-Term Financial Strategy.
- 31 The budget and policy framework sets out rules for managing the Council's financial affairs and contains the financial limits that apply in various parts of the Constitution. As part of sound financial management and to comply with the Constitution any changes to the budgets agreed by Council in the MTFS require approval in line with the financial limits within the Finance Procedure Rules.
- 32 This report provides strong links between the Council's statutory reporting requirements and the in-year monitoring processes for financial and non-financial management of resources.
- 33 In approving the Cheshire East Council Medium-Term Financial Strategy Members of the Council had regard to the robustness of estimates and adequacy of reserves as reported by the s.151 Officer. The s.151 Officer's report highlighted the importance of each element of the MTFS and the requirement to achieve all the proposals within it. The recommendations of this report highlight the need for ongoing activity to manage the financial pressure being experienced by the Council.

Other Options Considered

- 34 None. This report is important to ensure Members of the Committee are sighted on the financial pressure the Council is facing and the activity to date to try and mitigate this issue. Activity is required to ensure the Council balances its expenditure and income without serious impact on essential Council services.

- 35 Do nothing. Impact – Members are not updated on the financial position of the Council. Risks – Not abiding by the Constitution to provide regular reports.

Implications and Comments

Monitoring Officer/Legal

- 36 The legal implications surrounding the process of setting the 2023 to 2027 Medium-Term Financial Strategy were dealt with in the reports relating to that process. The purpose of this paper is to provide a progress report for 2023/24. Implications arising from individual proposals regarding service growth and savings have and will continue to be the subject of ongoing advice and support.
- 37 Implications arising directly from this report relating to the internal processes of approving supplementary estimates and virements referred to are governed by the Constitution and in particular the Finance Procedure Rules.
- 38 In relation the proposed review to ensure that all available resources are directed towards the delivery of statutory functions, savings and efficiency plans, it should be noted that local authorities are creatures of statute. They are created by statute and are regulated through the legislative regime and whilst they have in more recent times been given a general power of competence, this must operate within that regime. Within the statutory framework there are specific obligations placed upon a local authority to support communities. These duties encompass general and specific duties and there is often significant local discretion in respect of how those services or duties are discharged. These will need to be assessed and advised on as each circumstance is considered.

Section 151 Officer/Finance

- 39 The Council's financial resources are agreed by Council and aligned to the achievement of stated outcomes for local residents and communities. Monitoring and managing performance helps to ensure that resources are used effectively, and that business planning and financial decision making are made in the right context.
- 40 Reserve levels are agreed, by Council, in February each year and are based on a risk assessment that considers the financial challenges facing the Council. If spending associated with in-year delivery of services is not contained within original forecasts for such activity it may be necessary to vire funds from reserves.

- 41 The unplanned use of financial reserves could require the Council to deliver a greater level of future savings to replenish reserve balances and/ or revise the level of risks associated with the development of the Reserves Strategy in future.
- 42 As part of the process to produce this report, senior officers review expenditure and income across all services to support the development of mitigation plans that will return the outturn to a balanced position at year-end.
- 43 Forecasts contained within this review provide important information in the process of developing the Medium-Term Financial Strategy. Analysis of variances during the year will identify whether such performance is likely to continue, and this enables more robust estimates to be established.
- 44 The risk associated with the scale of these challenges is that the Council could act illegally, triggering the requirement for a s.114 report from the Chief Financial Officer. Illegal behaviour in this context could materialise from two distinct sources:
- i) Spending decisions could be made that exceed the available resources of the Council. This would unbalance the budget, which is unlawful.
 - ii) Spending decisions to restrict or hide pressures could be made that avoid an immediate deficit, but in fact are based on unlawful activity.
- 45 The consequences of the Council undermining a budget with illegal activity, or planned illegal activity, is the requirement to issue a s.114 report. Under these circumstances statutory services will continue and existing contracts and commitments must be honoured. But any spending that is not essential or which can be postponed must not take place.
- 46 Further consequences would be highly likely and could include the appointment of Commissioners from the DLUHC, and potential restrictions on the decision-making powers of local leaders.

Policy

- 47 This report is a backward look at Council activities and predicts the year-end position. It supports the Corporate Plan aim Open and priority to be an open and enabling organisation.
- 48 The forecast outturn position, ongoing considerations for future years, and the impact on general reserves will be fed into the assumptions underpinning the 2024 to 2028 Medium-Term Financial Strategy.

- 49 The approval of supplementary estimates and virements are governed by the Finance Procedure Rules section of the Constitution.

Equality, Diversity and Inclusion

- 50 Any equality implications that arise from activities funded by the budgets that this report deals with will be dealt within the individual reports to Members or Officer Decision Records to which they relate.

Human Resources

- 51 This report is a backward look at Council activities at outturn and states the year end position. Any HR implications that arise from activities funded by the budgets that this report deals with will be dealt within the individual reports to Members or Officer Decision Records to which they relate.

Risk Management

- 52 Financial risks are assessed and reported on a regular basis, and remedial action taken if required. Risks associated with the achievement of the 2022/23 budget and the level of general reserves were factored into the 2023/24 financial scenario, budget, and reserves strategy.

Rural Communities

- 53 The report provides details of service provision across the borough.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 54 The report provides details of service provision across the borough and notes the pressure on Children in Care.

Public Health

- 55 This report is a backward look at Council activities at the first review and provides the forecast year end position. Any public health implications that arise from activities funded by the budgets that this report deals with will be dealt within the individual reports to Members or Officer Decision Records to which they relate.

Climate Change

- 56 There are no direct implications for climate change.

Access to Information	
Contact Officer:	<p>Alex Thompson</p> <p>Director of Finance and Customer Services (Section 151 Officer)</p> <p>alex.thompson@cheshireeast.gov.uk</p> <p>01270 685876</p>
Appendices:	<p>Annex 1 including:</p> <p>Section 1 provides information on the overall financial stability and resilience of the Council. Further details are contained in the appendices.</p> <p>Appendix 1 Adults and Health Committee.</p> <p>Appendix 2 Children and Families Committee.</p> <p>Appendix 3 Corporate Policy Committee.</p> <p>Appendix 4 Economy and Growth Committee.</p> <p>Appendix 5 Environment and Communities Committee.</p> <p>Appendix 6 Highways and Transport Committee.</p> <p>Appendix 7 Finance Sub-Committee.</p> <p>Appendix 7a Update to the Treasury Management Strategy.</p> <p>Appendix 7b Update to the Investment Strategy.</p>
Background Papers:	<p>The following are links to key background documents:</p> <p>Medium Term Financial Strategy 2023-2027</p>



Second Financial Review 2023/24

November 2023

This report receives scrutiny and approval from Members of Cheshire East Council. As a public report, the Council welcomes feedback to the information contained here.

Anyone wanting to comment is invited to contact the Council at:

RandC@cheshireeast.gov.uk

Introduction

Cheshire East Council is the third largest Council in the Northwest of England, supporting over 398,000 local people with annual spending of over £750m.

Local government is going through a period of financial challenges, with a combination of the impact of increasing demand for services and rising costs due to inflation and interest rates. There is also increasing uncertainty associated with income from business rates and government grants.

Demand for Council services is increasing, with more individuals and families needing support and services than ever before. This reflects an increase in population but also reflects changes in demographics and the national cost of living increases. This demand is resulting in a forecast outturn of £18.7m against a net revenue budget of £353.1m. The most significant impact is within the rising costs of Children's Social Care. Further activity is required to identify other mitigating measures.

When the 2023/24 budget was set, in February 2023, it was highlighted that the use of reserves was not sustainable in the medium term. Net spending therefore needs to be contained within the estimates of expenditure that form the budget. The forecasts at first review highlight pressures due to demand, inflation, interest rates and pay negotiations. These will almost certainly affect the medium term finances of the Council. This situation must be addressed now and as part of the MTFS process for 2024 to 2028.

To support openness and transparency, and provide evidence of strong governance, the report has a main section, to provide background and context, and then nine supporting appendices with detailed information about allocation and management of public money during 2023/24.

The **Financial Stability** section provides information on the overall financial stability and resilience of the Council. It demonstrates how spending in 2023/24 is being funded, including the positions on overall service budgets, centrally held budgets, Council Tax and Business Rates. Further details are contained in the appendices.

- **Appendix 1** Adults and Health Committee.
- **Appendix 2** Children and Families Committee.
- **Appendix 3** Corporate Policy Committee.
- **Appendix 4** Economy and Growth Committee.
- **Appendix 5** Environment and Communities Committee.
- **Appendix 6** Highways and Transport Committee.
- **Appendix 7** Finance Sub-Committee.
- **Appendix 7a** Update to the Treasury Management Strategy.
- **Appendix 7b** Update to the Investment Strategy.

Alex Thompson

Director of Finance and Customer Services
(Section 151 Officer)

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2023/24 Outturn Forecast - Financial Position

2023/24	Revised Budget (NET) £m	Forecast Outturn £m	Forecast Variance £m	For further information please see the following sections
SERVICE DIRECTORATES				
Adults, Health and Integration	136.5	141.2	4.7	Appendix 1
Children's Services	80.3	91.0	10.8	Appendix 2
Place - Directorate/Growth & Enterprise	24.8	22.9	(1.9)	Appendix 4
Place - Environment & Neighbourhood Services	48.7	52.3	3.5	Appendix 5
Place - Highways & Infrastructure	11.2	12.4	1.2	Appendix 6
Corporate Services	41.2	40.7	(0.5)	Appendix 3
Total Services Net Expenditure	342.7	360.5	17.8	
CENTRAL BUDGETS				
Capital Financing	19.0	19.4	0.4	Appendix 7 Section 5
Transfer to/(from) Earmarked Reserves	(7.4)	(7.4)	-	Appendix 7 Section 6
Transfer from MTFs Earmarked Reserve	-	-	-	Appendix 7 Section 6
Corporate Contributions / Central Budgets	(1.2)	(0.7)	0.5	Appendix 7
TOTAL NET EXPENDITURE	353.1	371.9	18.7	
Business Rates Retention Scheme	(55.3)	(55.3)	-	Appendix 7 Section 2
Specific Grants	(26.8)	(26.8)	-	Appendix 7 Section 3
Council Tax	(271.1)	(271.1)	-	Appendix 7 Section 2
Net Funding	(353.1)	(353.1)	-	
NET (SURPLUS) / DEFICIT	-	18.7	18.7	

Financial Stability

Introduction

- The Council has a track record of sound financial management. Nevertheless, in common with all UK local authorities the Council finds itself in a position where pressures on the revenue budget are intensifying as a result of inflation, the legacy impact of the Coronavirus pandemic on people and on the economy and increasing cost of living pressure on households. These issues have the effect of increasing the demand for services and increasing costs of services.
- Complexity and market sustainability in Adults' and Children's Social Care remains the most significant financial pressure for the Council in the medium term. The affects of inflation on contracts, utilities and wage levels are affecting costs across all services.
- Table 1** provides a service summary of financial performance. The current forecast is that services will be £18.7m over budget in the current year which includes mitigating actions identified to date. The 2023/24 Approved Budget Policy Changes and Forecast Variances provide further details and changes to service net budgets since the Medium-Term Financial Strategy (Section 2 in the **Appendices 1-6**).
- It also shows that central budgets are forecast to be £0.9m over budget resulting in an overall forecast outturn of £18.7m against a net revenue budget of £353.1m.
- Further items impacting on the level of the Council's balances are detailed in **Appendix 7**.

Table 1 - Service Revenue Outturn Forecasts

2023/24	Revised Budget (NET) £m	Forecast Outturn £m	Forecast Variance £m	Forecast Variance FR1 £000	Movement from FR1 to FR2 £000
SERVICE DIRECTORATES					
Adult Social Care - Operations	137.9	142.6	4.7	0.2	4.4
Commissioning	(1.4)	(1.4)	0.1	0.1	-
Public Health	-	-	-	-	-
Adults and Health Committee	136.5	141.2	4.7	0.3	4.4
Directorate	0.2	0.4	0.1	0.7	(0.6)
Children's Social Care	49.4	58.8	9.4	4.8	4.6
Strong Start, Family Help and Integration	7.4	6.8	(0.6)	(0.6)	0.0
Education & 14-19 Skills	23.2	25.0	1.8	2.1	(0.3)
Children and Families Committee	80.3	91.0	10.8	7.0	3.8
Directorate	0.2	(0.0)	(0.2)	(0.2)	-
Growth & Enterprise	24.6	22.9	(1.7)	(1.7)	0.0
Economy and Growth Committee	24.8	22.9	(1.9)	(1.9)	0.0
Environment & Neighbourhood Services	48.7	52.3	3.5	4.2	(0.7)
Environment and Communities Committee	48.7	52.3	3.5	4.2	(0.7)
Highways & Infrastructure	11.2	12.4	1.2	1.2	0.1
Highways and Transport Committee	11.2	12.4	1.2	1.2	0.1
Directorate	0.6	0.5	(0.1)	0.2	(0.3)
Finance & Customer Services	12.8	12.9	0.2	0.5	(0.3)
Governance & Compliance Services	10.8	10.3	(0.4)	0.1	(0.5)
Communications	0.7	0.7	0.0	(0.0)	0.0
HR	2.6	2.4	(0.2)	-	(0.2)
ICT	11.8	12.0	0.2	0.3	(0.2)
Policy & Change	2.0	1.9	(0.1)	(0.1)	0.0
Corporate Policy Committee	41.2	40.7	(0.5)	0.9	(1.4)
TOTAL SERVICES NET EXPENDITURE	342.7	360.5	17.8	11.7	6.2
CENTRAL BUDGETS					
Capital Financing	19.0	19.4	0.4	0.4	0.0
Transfer to/(from) Earmarked Reserves	(7.4)	(7.4)	-	-	-
Corporate Contributions / Central Budgets	(1.2)	(0.7)	0.5	0.7	(0.2)
Finance Sub-Committee - Central Budgets	10.4	11.3	0.9	1.1	(0.2)
TOTAL NET EXPENDITURE	353.1	371.9	18.7	12.8	5.9
Business Rates Retention Scheme	(55.3)	(55.3)	-	-	-
Specific Grants	(26.8)	(26.8)	-	-	-
Council Tax	(271.1)	(271.1)	-	-	-
Finance Sub-Committee - Net Funding	(353.1)	(353.1)	-	-	-
NET (SURPLUS) / DEFICIT	-	18.7	18.7	12.8	5.9
General Reserves Balance					
2023/24 Budget					
	£m				
Opening Balance April 2023	14.1	Actual			
2023/24 Impact on Reserves (see above)	(18.7)	Forecast			
Closing Balance March 2024	(4.6)	Forecast			

Appendices to Second Financial Review 2023/24

November 2023

Appendix 6 : Highways and Transport Committee

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- 1. Changes to Revenue Budget 2023/24 since First Financial Review**
- 2. 2023/24 Approved Budget Policy Changes and Forecast Variances**
- 3. Corporate Grants Register**
 - Table 1: Highways and Transport Committee Grants**
 - Table 2: Delegated Decision Additional Grant Funding (Specific Purpose) £500,000 or less**
- 4. Debt Management**
- 5. Capital Strategy**
- 6. Reserves Strategy**

Appendix 6

Highways and Transport Committee

1. Changes to Revenue Budget 2023/24 since First Financial Review

	First Review Revised Net Budget	Adjustments to FR1 Budget	Second Review Revised Net Budget	Uringfenced Grants to be Actioned
	£000	£000	£000	£000
PLACE				
Highways & Infrastructure	10,991	189	11,180	-
Highways and Transport Committee	10,991	189	11,180	-

Note the unringfenced grants to be actioned column includes the expenditure part of centrally held unringfenced grants. These budget adjustments will take place once all first quarter approvals have been given. No adjustments are required as part of this review.

Highways and Transport Committee

2. 2023/24 Approved Budget Policy Changes and Forecast Variances

Forecast Outturn Commentary:

Highways & Infrastructure are reporting a pressure of £1.2m against a net budget of £11.1m. £1.6m of this pressure is attributed to a reduction in income generation from parking services, which was part of the 2022/2023 MTFS. The programme of parking initiatives, subject to consultation, is intended to be implemented from April 2024. There are £0.3m of pressures within Strategic Transport relating to an unachievable historic saving from the ASDV review and pressures within Ansa Transport. The expected pay rise above budget rates is forecast to lead to an additional pressure in-year of £0.1m. There are staffing savings across the majority of services as vacancies are held to help with the overall financial position. Higher income in Highways is also helping to offset increased energy costs due the time required to implement the energy saving for Street Lighting MTFS proposal. In addition, significant capital investment will be required to implement the Street Lighting MTFS proposal details of which will be provided shortly. Due to wet weather conditions experienced over the past few months there has been a significant increase in road defects (potholes) applying pressure to highways budgets.

Some deliverable in-year mitigations are included in the forecast outturn position reflecting the partial release of the flooding and depot reserves. Further mitigations to be determined include stopping non-essential spending, continued vacancy management and lobbying government on recognition of inflation on highway schemes funded from grants.

MTFS Ref No	Detailed List of Service Budget Changes	2023/24 £m	2023/24 Variance £m	Commentary
	Highways and Transport Committee	-0.842**		** Totals will not match to MTFS as Place Restructuring items all moved under E&G. No.98 moved to H&T.
98	Move to a single contractor to maintain all Council owned green spaces	-0.075	-	Works are continuing to migrate the grounds maintenance functions from highways to with ANSA Environmental Services Ltd as the single provider of these services. There is a slippage on delivery to 2024/25. This is being mitigated within Highways.

MTFS Ref No	Detailed List of Service Budget Changes	2023/24 £m	2023/24 Variance £m	Commentary
102	Pay inflation	0.265	0.094	The total cost of pay inflation may exceed 5% based on national pay negotiations. This may be mitigated through management of vacancies.
103	Local Bus	0.080	0.353	Additional government funding to support local bus allocation to be determined with local Operators and H&T representatives.
104	Highways	-0.579	-	Budget adjustment on track as a result of a number of internal changes including greater capitalisation of highways maintenance works.
105	Energy saving measures from streetlights	-0.242	0.242	Market engagement underway to understand cost and complexity to acquiring a Central Management System (CMS) which will enable various policy changes to streetlights in the borough to realise energy savings. This will need to be added to the capital programme est. £7–£10m. September consultation. The £0.242m saving is expected to be made in 2024/25 if the capital investment is made.
106	Pension Costs Adjustment	-0.172	-	On track, subject to ongoing monitoring, dependent on in-year staffing costs.
108	Parking	-0.119	1.575	Town by town analysis on parking well underway to inform consultation exercise. Car park usage monitoring now complete. The majority of the £1.575m income is expected in 2024/25 subject to committee decision.
	Increased Highways income to mitigate the energy saving from streetlights savings pressure		-0.242	
	Salary savings across HS2 and Infrastructure		-0.100	
	In-year savings across Highways & Transport		-0.429	

MTFS Ref No	Detailed List of Service Budget Changes	2023/24 £m	2023/24 Variance £m	Commentary
	Mitigating Actions Partial release of flooding reserve and depot reserve		-0.253	
	TOTAL FORECAST VARIANCE		1.240	
	Further Mitigating Actions		TBD	Stop non-essential spend and continued vacancy management Lobby government on recognition of inflation on highway schemes funded from grants.
	REVISED FORECAST VARIANCE		1.240	

Highways and Transport Committee

3. Corporate Grants Register

- 3.1 Cheshire East Council receives two main types of Government grants; specific purpose grants and general use grants. Specific purpose grants are held within the relevant service with a corresponding expenditure budget. Whereas general use grants are held in central budgets with a corresponding expenditure budget within the allocated service area.
- 3.2 Spending in relation to specific purpose grants must be in line with the purpose for which it is provided.
- 3.3 The increase in specific purpose grants relates to a Local Transport Fund grant. Details of this grant are provided in **Table 2**.
- 3.4 **Table 1** provides a detailed listing of all Highways & Transport related grants, their movements between the reporting period and the treatment of the grant.
- 3.5 **Table 2** shows additional specific purpose grant allocations that have been received which are £500,000 or less and are for noting only.

Table 1 – Corporate Grants Register

Grants 2023/24	Original Budget	Revised Forecast FR1	Revised Forecast Mid-Year	Change from FR1	Treatment of Grant
	2023/24 £000	2023/24 £000	2023/24 £000	2023/24 £000	Notes 2 - 5
HIGHWAYS & TRANSPORT					
Specific Purpose (Held within Services)					
Bus Service Operators Grant	0	348	348	0	
Bus Capacity Grant - brought-forward	0	179	179	0	
Local Transport Fund - brought-forward	0	219	219	0	
Local Transport Fund	0	198	390	191	SRE
Better Deal for Buses - Supported Bus Services - brought-forward	0	320	320	0	
Better Deal for Buses - Rural Mobility Grant - brought-forward	0	5	5	0	
Bus Support Grant - brought-forward	0	147	147	0	
Local Authority Capability Fund - brought-forward	0	154	154	0	
LTA Enhanced Partnership Grant - brought-forward	0	171	171	0	
Local Electric Vehicle Infrastructure (LEVI)	0	70	70	0	
Bus Service Improvement Plan+ (BSIP+)	0	1,188	1,188	0	
Bus Fare Cap Grant	0	1	1	0	
Total Highways & Transport - Specific Purpose	0	2,999	3,191	191	
General Use (Held Corporately)					
TOTAL HIGHWAYS & TRANSPORT	0	2,999	3,191	191	

Notes

- 1 The Dedicated Schools Grant, Pupil Premium Grant, Sixth Form Grant and Other School Specific Grant from the Education Funding Agency (EFA) figures are based on actual anticipated allocations. Changes are for in-year increases/decreases to allocations by the DfE and conversions to academy status.
- 2 SRE - Supplementary Revenue Estimate requested by relevant service.
- 3 ODR - Officer Decision Record to approve immediate budget change to relevant service.
- 4 Reserves - transfer to reserves at year end.
- 5 Balances - amount will be included as a variance to budget.

Table 2 – DECISION DELEGATED TO OFFICERS

Supplementary Revenue Estimate Requests for Allocation of Additional Grant Funding (Specific Purpose) £500,000 or less

Committee	Year	Type of Grant	£000	Details
Highways and Transport	2023/24	Local Transport Fund (Specific Purpose)	191	This grant is from the Department for Transport (DfT). The Local Transport Fund (LTF) has been extended from 1 April 2023 to 30 June 2023. The LTF is a successor grant scheme to the Bus Recovery Grant paid to local authorities (hereafter LTA BRG). This funding is provided to Local Transport Authorities (LTAs) for the provision of bus services which require local authority support, including tendered bus services.
Total Specific Purpose Allocations less than £500,000			191	

Highways and Transport Committee

4. Debt Management

	Outstanding Debt £000			Over 6 months old £000		
	Jun-23	Sep-23	Increase / (Decrease)	Jun-23	Sep-23	Increase / (Decrease)
Highways and Transport Committee						
Highways and Infrastructure	968	1,000	32	596	650	54

Note: Outstanding debt increase mainly due to two invoices of £10,000 each. Increase in over 6 months old debt mainly due to invoice of £47,000

Highways and Transport Committee

5. Capital Strategy

Highways & Transport											CAPITAL		
CAPITAL PROGRAMME 2023/24 - 2026/27													
Scheme Description	Forecast Expenditure							Forecast Funding					Total Funding £000
	Total Approved Budget £000	Prior Years £000	Forecast Budget 2023/24 £000	Forecast Budget 2024/25 £000	Forecast Budget 2025/26 £000	Forecast Budget 2026/27 £000	Total Forecast Budget 2023-27 £000	Grants £000	External Contributions £000	Revenue Contributions £000	Capital Receipts £000	Prudential Borrowing £000	
Committed Schemes in progress													
Highways													
A532 Safer Road Fund Scheme	1,223	346	877	0	0	0	877	778	0	0	0	99	877
A536 Safer Road Fund Scheme	2,404	1,817	587	0	0	0	587	493	0	0	0	94	587
A537 Safer Road Fund Scheme	2,733	2,001	732	0	0	0	732	489	0	0	0	243	732
Air Quality Action Plan	473	339	99	35	0	0	134	108	10	0	0	15	134
Alderley Edge Bypass Scheme Implementation	60,611	60,358	100	153	0	0	253	0	0	0	0	253	253
Bridge Maintenance Minor Wks	9,869	7,641	2,228	0	0	0	2,228	1,524	0	0	0	703	2,228
Client Contract and Asset Mgmt	1,243	393	792	59	0	0	850	680	0	0	0	170	850
Crewe Rail Exchange	6,702	6,693	9	0	0	0	9	9	0	0	0	0	9
Highway Maintenance Minor Wks	52,505	36,919	15,585	0	0	0	15,585	11,404	0	0	0	4,181	15,585
Highway Pothole/Challenge Fund	8,353	8,074	279	0	0	0	279	0	0	0	0	279	279
Jack Mills Way Part 1 Claims	300	285	15	0	0	0	15	0	15	0	0	0	15
Local Highway Measures	7,602	6,531	871	200	0	0	1,071	695	0	0	0	376	1,071
Programme Management	1,211	967	244	0	0	0	244	244	0	0	0	0	244
Road Network & Linked Key Inf	83	78	0	5	0	0	5	5	0	0	0	0	5
Road Safety Schemes Minor Wks	6,128	5,528	599	0	0	0	599	374	0	0	0	225	599
Traffic Signs and Bollards - LED Replacement	1,250	913	337	0	0	0	337	0	0	0	0	337	337
Winter Service Facility	999	577	163	130	130	0	423	0	0	0	0	423	423
Infrastructure													
A500 Dualling scheme	89,456	10,415	1,062	1,353	28,135	48,491	79,041	53,284	4,300	0	0	21,457	79,041
A50 / A54 Holmes Chapel	603	92	10	501	0	0	511	0	511	0	0	0	511
A54 / A533 Leadsmyth Street, Middlewich	563	152	50	361	0	0	411	0	411	0	0	0	411
A6 MARR CMM Disley	1,722	1,657	65	0	0	0	65	0	11	0	0	54	65
A6 MARR CMM Handforth	1,200	505	385	310	0	0	695	213	48	0	0	434	695
A6 MARR Technical Design	473	277	196	0	0	0	196	70	127	0	0	0	196
A556 Knutsford to Bowdon	504	361	45	98	0	0	143	0	143	0	0	0	143
Peacock Roundabout Junction	750	0	0	750	0	0	750	0	750	0	0	0	750
Congleton Link Road	88,443	71,453	822	3,375	4,229	8,565	16,991	316	14,130	0	0	2,545	16,991
Crewe Green Link Road	26,624	26,607	18	0	0	0	18	0	18	0	0	0	18
Crewe Green Roundabout	7,500	7,056	57	190	197	0	444	0	444	0	0	0	444
Flowerpot Phs 1 & Pinchpoint	10,037	1,437	500	5,835	2,265	0	8,601	2,139	726	0	0	5,736	8,601

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CAPITAL PROGRAMME 2023/24 - 2026/27

Scheme Description	Forecast Expenditure							Forecast Funding					Total Funding £000
	Total Approved Budget £000	Prior Years £000	Forecast Budget 2023/24 £000	Forecast Budget 2024/25 £000	Forecast Budget 2025/26 £000	Forecast Budget 2026/27 £000	Total Forecast Budget 2023-27 £000	Grants £000	External Contributions £000	Revenue Contributions £000	Capital Receipts £000	Prudential Borrowing £000	
Committed Schemes in progress													
Future High Street Funding - Adaptive Signals	509	276	233	0	0	0	233	29	203	0	0	0	233
Future High Street Funding - Flag Lane Link	1,558	358	825	345	30	0	1,200	1,200	0	0	0	0	1,200
Future High Street Funding - Southern Gateway	4,631	443	1,800	2,387	0	0	4,187	4,187	0	0	0	0	4,187
Highways & Infrastructure S106 Funded Schemes	2,677	1,236	1,167	274	0	0	1,441	283	1,157	0	0	0	1,441
Infrastructure Scheme Development	325	0	163	163	0	0	325	325	0	0	0	0	325
Middlewich Eastern Bypass	91,157	20,247	11,266	19,360	25,785	14,499	70,910	46,779	12,816	0	0	11,315	70,910
North-West Crewe Package	42,351	22,374	19,859	118	0	0	19,977	0	12,249	0	1,730	5,997	19,977
Old Mill Road / The Hill Junction	1,325	173	140	1,012	0	0	1,152	0	1,152	0	0	0	1,152
Poynton Relief Road	52,657	43,682	3,285	1,708	396	3,587	8,976	2,236	5,740	0	1,000	0	8,976
Sydney Road Bridge	10,501	10,105	59	140	198	0	396	0	396	0	0	0	396
Strategic Transport and Parking													
Active Travel Fund	2,187	575	963	649	0	0	1,612	1,612	0	0	0	0	1,612
Active Travel (Cycling / Walking Route) Investment	3,000	2,570	430	0	0	0	430	365	0	0	0	65	430
Available Walking Routes	1	0	1	0	0	0	1	1	0	0	0	0	1
On-street Residential Charging	451	41	410	0	0	0	410	310	0	0	0	100	410
Route 55 Middlewood Way on Black Lane	669	116	552	0	0	0	552	552	0	0	0	0	552
Sustainable Travel Access Prog	3,574	1,626	375	1,574	0	0	1,948	1,401	309	0	0	238	1,948
Sustainable Modes of Travel to Schools Strategy (SMOTSS)	746	625	121	0	0	0	121	121	0	0	0	0	121
Public Transport Infrastructure	1,269	1,006	263	0	0	0	263	263	0	0	0	0	263
Local Access - Crewe Transport Access Studies	400	88	312	0	0	0	312	312	0	0	0	0	312
Local Access - Macclesfield Transport Access Studies	300	61	239	0	0	0	239	239	0	0	0	0	239
Middlewich Rail Study	20	0	20	0	0	0	20	20	0	0	0	0	20
Local LTP Strategy Studies	750	430	320	0	0	0	320	320	0	0	0	0	320
Digital Car Parking Solutions	140	93	20	27	0	0	47	0	0	0	0	47	47
Pay and Display Parking Meters	620	607	13	0	0	0	13	0	0	0	0	13	13
Car Parking Improvements (including residents parking)	322	266	30	26	0	0	56	0	0	10	0	46	56
HS2													
Crewe HS2 Hub Project Development	12,700	8,598	100	1,500	1,150	1,352	4,102	0	0	0	0	4,102	4,102
Total Committed Schemes	626,403	375,067	69,690	42,638	62,515	76,494	251,337	133,380	55,667	10	2,730	59,549	251,337

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CAPITAL PROGRAMME 2023/24 - 2026/27

Scheme Description	Forecast Expenditure							Forecast Funding					Total Funding £000
	Total Approved Budget £000	Prior Years £000	Forecast Budget 2023/24 £000	Forecast Budget 2024/25 £000	Forecast Budget 2025/26 £000	Forecast Budget 2026/27 £000	Total Forecast Budget 2023-27 £000	Grants £000	External Contributions £000	Revenue Contributions £000	Capital Receipts £000	Prudential Borrowing £000	
New Schemes													
Highways													
Footpath Maintenance - Slurry Sealing & Reconstruction Works	1,319	0	650	669	0	0	1,319	1,319	0	0	0	0	1,319
Managing and Maintaining Highways	9,331	0	0	4,619	4,712	0	9,331	0	0	0	0	9,331	9,331
Pothole Funding	17,397	0	0	5,799	5,799	5,799	17,397	17,397	0	0	0	0	17,397
Integrated Block - LTP	6,009	0	0	2,003	2,003	2,003	6,009	6,009	0	0	0	0	6,009
Maintenance Block - LTP, plus CE funding for inflationary rise	21,287	0	0	7,609	7,878	5,799	21,287	17,397	0	0	0	3,890	21,287
Incentive Fund - LTP	4,350	0	0	1,450	1,450	1,450	4,350	4,350	0	0	0	0	4,350
Total New Schemes	59,693	0	650	22,149	21,842	15,051	59,693	46,472	0	0	0	13,221	59,693
Total Highways & Transport	686,096	375,067	70,340	64,787	84,357	91,545	311,029	179,852	55,667	10	2,730	72,770	311,029

Highways and Transport Committee

6. Reserves Strategy

Highways and Transport Committee

Name of Reserve	Opening Balance 1 April 2023 £000	Forecast Movement in Reserves 2023/24 £000	Forecast Closing Balance 31 March 2024 £000	Notes
<u>Highways and Infrastructure</u>				
HS2	785	0	785	To support the Council's ongoing programme in relation to Government's HS2 investment across the borough and Transport for the North's Northern Powerhouse Rail Business Case.
Flood Recovery Works	400	(200)	200	To support locations identified for repair works as a result of the 2019 flood events.
Parking Pay and Display Machines / Parking Studies	178	(178)	0	To cover contract inflation for P&D machines and for new regulation from DfT on role of parking in decarbonising transport.
Highways Procurement Proj	104	(69)	35	To finance the development of the next Highway Service Contract. Depot mobilisation costs, split over 7 years from start of contract in 2018.
LEP-Local Transport Body	19	(19)	0	To fund the business case work for re-opening the Middlewich rail line. The remaining reserve will be fully required in 2023/24.
HIGHWAYS AND TRANSPORT TOTAL	1,486	(466)	1,020	

OPEN.

Highways and Transport Committee

Thursday, 23 November 2023

Medium-Term Financial Strategy Consultation 2024/25 - 2027/28 (Highways and Transport Committee)

Report of: Alex Thompson, Director of Finance and Customer Services (s151 Officer)

Report Reference No: HTC/24/23-24

Ward(s) Affected: All Wards;

Purpose of Report

- 1 The Highways and Transport Committee is being asked to note the indicative financial envelope for this committee to support consultation on the development of the Cheshire East Medium-Term Financial Strategy 2024/25 to 2027/28.
- 2 The Medium-Term Financial Strategy (MTFS) sets out how the Council will resource the achievement of the Corporate Plan and is subject to consultation and approval on an annual basis. The Finance Sub-committee approved the financial assumptions for the future MTFS at their meeting in June 2023, and this report goes further in recognising the need for financial targets that enable further development of the MTFS.
- 3 Developing the MTFS requires a wide range of stakeholder engagement. Members are key stakeholders in their capacity as community leaders, but also in their capacity as decision makers in setting the Council's budget. During this financial planning cycle there has been a series of all Member events to look at the current and future financial position. The Finance-Sub Committee formed a working group to scrutinise the financial assumptions underpinning the current MTFS.

- 4 Individual Committees are being asked to review the in-year budget positions and consider how this performance, and achieving the MTFS financial envelopes, will impact on services they are responsible for.
- 5 Public engagement will follow when financial proposals have been identified that could balance the Council's budget. The January cycle of Committee meetings will be the forum to scrutinise the draft balanced proposals put forward, alongside other feedback from consultees. All feedback will be collated and provided as evidence to the Corporate Policy Committee on 8 February 2024.
- 6 Final approval of the 2024/25 budget will take place at full Council on 27 February 2024 following recommendation from the Corporate Policy Committee.

Executive Summary

- 7 Financial strategies underpin how Cheshire East Council will allocate resources, achieve the Corporate Plan and provide in the region of 500 local services every day. The strategies must be affordable, based on robust estimates and balanced against adequate reserves.
- 8 In February 2021 the Council approved the Corporate Plan 2021-2025 which articulates the vision of how these services will make Cheshire East an Open, Fair and Green borough:
- 9 Open - We will provide strong community leadership and work transparently with our residents, businesses and partners to deliver our ambition in Cheshire East.
- 10 Fair - We aim to reduce inequalities, promote fairness and opportunity for all and support our most vulnerable residents.
- 11 Green - We will lead our communities to protect and enhance our environment, tackle the climate emergency and drive sustainable development.
- 12 A new Corporate Plan, referred to now as the Council Plan, is being developed to meet new criteria. These are identified as being: challenging but achievable; reflecting manifesto commitments to ensure that they are delivered to the electorate; to be co-created by a diverse range of stakeholders including Members, officers, residents, and partners; to be recognisable as uniquely Cheshire East, and; to have an outcomes framework that will allow measurement of results and review of success. The plan is expected to be approved alongside the budget in February 2024.

- 13 Committees are responsible for overseeing the achievement of the Council's priorities. Resources, including Revenue, Capital and Reserves were allocated by the Finance Sub-Committee in March 2023, following the budget Council. All resources are allocated to a specific Service Committee or the Finance Sub-Committee. This report sets out an early indication of the allocation of resources to support financial planning for the MTFS.
- 14 Each Committee is issued a separate report on the current forecast in-year financial position. As set out in the Second Financial Review report, at this point the forecast adverse variance of £18.7m represents a combination of the several issues:
- (i) National economic pressures facing all councils (such as pay inflation and interest rates).
 - (ii) Growing local demand for services which represents a permanent pressure, also being experienced locally in other councils.
 - (iii) Revised forecasts related to budget changes agreed through the MTFS process in 2022/23. This is a mix of additional growth pressures, or savings taking longer to achieve than originally envisaged.
- 15 The Second Financial Review forecasts are shown in the table below:

2023/24	Revised Budget	Forecast Outturn	Forecast Variance FR2	Forecast Variance FR1	Movement from FR1 to FR2
	(NET)				
	£m	£m	£m	£m	£m
Service Committee					
Adults and Health	136.5	141.2	4.7	0.3	4.4
Children and Families	80.3	91.0	10.8	7.0	3.8
Corporate Policy	41.2	40.7	(0.5)	0.9	(1.4)
Economy and Growth	24.8	22.9	(1.9)	(1.8)	(0.1)
Environment and Communities	48.7	52.3	3.5	4.2	(0.7)
Highways and Transport	11.2	12.4	1.2	1.2	(0.0)
Sub-Committee					
Finance Sub	(342.7)	(341.8)	0.9	1.1	(0.2)
TOTAL	-	18.7	18.7	12.8	5.9

- 16 Analysis of the in-year forecasts and reflecting on the outturn performance against the 2022/23 budget indicates that the most significant prevailing financial pressure is within Services that are the responsibility of the Children and Families Committee. This position is in line with top-tier Local Authorities across England where similar issues are being experienced.

- 17 The Second Financial Review also highlights the potential for very low levels of reserves being retained by the Council at year-end, with a potential £18.7m reduction being forecast. Any positive variations to the financial assumptions reviewed by the Committee should therefore be allocated to recover reserves in the first instance.
- 18 The adverse impacts in the financial review therefore need to be addressed through a re-allocation of resources from within the assumed budget for 2024/25 onwards. The immediate short-term risk to the Council's financial resilience must lead to a focus on budget setting for the 2024/25 budget only. Subsequent years of the medium term will present indicative values, with significant further work required to ensure a sustainable position can be achieved in the medium term. This is a position being widely experienced by councils across the country.
- 19 The initial reallocation of resources responds to pressure in the Children and Families committee, increasing the revenue budget for the committee by £7m compared to the MTFS presented to Council in February 2023. This transfer of resources results in a savings requirement in other Committee budgets to maintain the balanced budget requirement.
- 20 The Financial Reviews presented to Members raise awareness of the current financial position. The reports highlight that the Council has set up a series of Cheshire East Budget Emergency Response Team (CEBERT) workstreams to focus on various elements of spending and pricing controls. The work of CEBERT is focused on both the in-year position and the development of the 2024/25 budget.
- 21 This report sets out the indicative budget envelopes for all Committee budgets for 2024/25 and recommends that officers work with Members to develop further proposals to enable budgets to be set within each envelope for 2024/25.
- 22 The budget envelopes for 2024/25 for all Committees have been set as follows:

	2023/24 Original Approved budget £m	2024/25 Policy proposals* (as included in MTFS Feb 23) £m	2023/24 Pay inflation shortfall £m	2024/25 Target growth / savings £m	2024/25 Revised budget envelope £m
Adults and Health	136.3	+6.1	+0.8	-5.5	137.7
Children and Families	79.1	+2.9	+0.6	+6.4	89.0
Corporate	41.0	+1.0	+0.4	-1.2	41.2

Policy					
Economy and Growth	25.0	+2.4	+0.2	-0.7	27.0
Environment and Communities	48.3	-0.3	+0.7	-1.6	47.2
Highways and Transport	11.0	+1.5	+0.1	-0.4	12.3
Finance Sub (Central)	12.4	+6.1	-	-	18.4
TOTAL	353.1	+19.6	+2.8	-2.8	372.7

*full list of existing budget proposals for 2024/25 is included at Appendix A

Note – there may be roundings present in the table due to the presentation to one decimal place

- 23 It is proposed that a more detailed report of service budgets is shared with Members, to support their further engagement and understanding of service-level expenditure and income, over the coming weeks.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

- (a) Note the indicative budget envelope for this committee, as approved at the Finance Sub-Committee on 2 November, as a way of setting financial targets in support of achieving a balanced budget for 2024/25.
- (b) Note that officers will develop further proposals in consultation with Members to enable wider stakeholder consultation prior to approval by Council.
- (c) Note that Committees will be presented with the opportunity to further review financial proposals, designed to achieve a balanced budget, as part of their January cycle of meetings prior to recommendations being made to Council for approval.

Background

- 24 The Council's financial resources are provided from a combination of local taxes, government grants, investment returns on assets and other direct contributions from individuals or organisations. Financial plans are based on estimated spending and income over the next four years and the report of the Chief Finance Officer brings Members' attention to the processes and risks associated with developing these estimates.
- 25 The Council aims to achieve value for money based on Economy (how much we pay for things), Efficiency (how well we use things) and Effectiveness (how we use things to achieve outcomes). Public feedback and internal and external scrutiny create the necessary framework to hold the Council to account for achieving these aims.
- 26 All councils are legally required to set a balanced budget each year and the immediate focus will be on balancing the 2024/25 financial year rather than on the whole medium term as has been the case previously. This reflects the extremely challenging circumstances all councils are facing currently.
- 27 Finance Sub-Committee received a report on 7 June setting out the MTFS 2024-28 planned timetable and budget assumptions underpinning the current MTFS. A working group from that Sub-Committee then met on 6 September to discuss these assumptions and their suitability for the medium term. Feedback from this session was then provided verbally to the Sub-Committee on 7 September.
- 28 The Budget Setting Process 2024-2028 has so far identified additional pressure on budgets across all committee areas, especially within the Children and Families area as reported in the First and Second Financial Reviews. We are not anticipating additional funding to be announced as part of the Provisional Local Government Finance settlement due to be announced, at the earliest, in December 2023.
- 29 Should any benefits emerge from the Local Government Settlement the Council should look to recover reserves that are likely to be depleted based on the current year forecasts. Service budgets must be therefore balance within the current funding envelope as reported in the MTFS in February 2023.
- 30 In response to local financial pressure, identified in the financial reviews, and reflected in a national trend, the Children and Families committee will be allocated an additional £7m compared to the current MTFS to support a response to demand in this area. Allocations have also been made across all committees to address the shortfall in the pay inflation budgeted for 2023/24. It must be noted that the final pay offer has not been agreed yet for "Green Book" employees, but the

calculation is based on the announced offer of an additional £1,925, or 3.88% (whichever is the greater) per employee.

- 31 To accommodate the changes related to the Children and Families Committee budget the remaining service committees have been reduced pro rata based on net spending to rebalance the Council's budget.
- 32 This has resulted in revised budget envelopes for 2024/25 for each service committee when compared to the published MTFS in February 2023. The revised budget envelope for the Highways and Transport Committee is included in the table above and at Appendix A – 2024/25 Budget Proposals as per MTFS February 2023, plus revised budget envelope.

Consultation and Engagement

- 33 This report forms part of the consultation process for Members on the budget setting for 2024/25. Each committee will receive a similar report covering their own area of responsibilities.
- 34 Once a set of draft budget change proposals have been agreed upon there will be further opportunity during the January cycle of Committee meetings to give formal feedback from each Committee to the Corporate Policy Committee which will then lead on to the full Council meeting in February 2024.
- 35 There are plans for a series of engagement events with wider stakeholders to gather opinion and collate ideas on the final budget for 2024/25.

Reasons for Recommendations

- 36 In accordance with the Constitution, Committees play an important role in planning, monitoring and reporting on the Council's finances. Each Committee has specific financial responsibilities.
- 37 The Council's annual budget must be balanced. The proposals within it must be robust and the strategy should be supported by adequate reserves. The assessment of these criteria is supported by each Committee having the opportunity to help develop the financial proposals before they are approved by Full Council.

Other Options Considered

- 38 The Council has a legal duty to set a balanced annual budget taking regard of the report from the Chief Finance Officer. As such options cannot be considered that would breach this duty. Any feedback from

the Committee must still recognise the requirement for Council to fulfil this duty.

- 39 There is no option to “do nothing”. The Council has statutory obligations to provide certain services, which would be unaffordable if the Council failed to levy an appropriate Council Tax.

Implications and Comments

Monitoring Officer/Legal

- 40 The Council should have robust processes so that it can meet statutory requirements and fulfil its fiduciary duty.

Section 151 Officer/Finance

- 41 The Council’s financial resources are agreed by Council on an annual basis and aligned to the achievement of stated outcomes for local residents and communities. Monitoring and managing performance helps to ensure that resources are used effectively, and that business planning and financial decision making are made in the right context.
- 42 Reserve levels are agreed, by Council, in February each year and are based on a risk assessment that considers the financial challenges facing the Council. If spending associated with in-year delivery of services is not contained within original forecasts for such activity it may be necessary to vire funds from reserves.
- 43 The unplanned use of financial reserves could require the Council to deliver a greater level of future savings to replenish reserve balances and/ or revise the level of risks associated with the development of the Reserves Strategy in future.
- 44 The risk associated with the scale of the current financial challenges both in year and in the setting of the 2024/25 budget is that the Council could act illegally, triggering the requirement for a s.114 report from the Chief Financial Officer. Illegal behaviour in this context could materialise from two distinct sources:
- (a) Spending decisions could be made that exceed the available resources of the Council. This would unbalance the budget, which is unlawful.
 - (b) Spending decisions to restrict or hide pressures could be made that avoid an immediate deficit, but in fact are based on unlawful activity.

- 45 The consequences of the Council undermining a budget with illegal activity, or planned illegal activity, is the requirement to issue a s.114 report. Under these circumstances statutory services will continue and existing contracts and commitments must be honoured. But any spending that is not essential or which can be postponed must not take place.
- 46 Further consequences would be highly likely and could include the appointment of Commissioners from the DLUHC, and potential restrictions on the decision-making powers of local leaders.

Policy

- 47 The existing Corporate Plan and the new Council Plan due to be approved in February 2024 will drive and inform Council policy and priorities for service delivery. The priorities and actions may have direct policy implications and will be considered on a case-by-case basis.

Equality, Diversity and Inclusion

- 48 Under the Equality Act 2010, decision makers must show “due regard” to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between those who share a protected characteristic and those who do not share it; and
 - (c) Foster good relations between those groups.
- 49 The protected characteristics are age, disability, sex, race, religion and belief, sexual orientation, gender re-assignment, pregnancy and maternity, and marriage and civil partnership.
- 50 Having “due regard” is a legal term which requires the Council to consider what is proportionate and relevant in terms of the decisions they take.
- 51 The Council needs to ensure that in taking decisions on the Medium-Term Financial Strategy and the Budget that the impacts on those with protected characteristics are considered. The Council undertakes equality impact assessments where necessary and continues to do so as proposals and projects develop across the lifetime of the Corporate Plan. The process assists us to consider what actions could mitigate any adverse impacts identified. Completed equality impact assessments form part of any detailed Business Cases.

- 52 The proposals within the MTFS include positive and negative impacts. A separate Equality Impact Assessment for the budget as a whole is routinely included in the full MTFS report each year.
- 53 The Corporate Plan's vision reinforces the Council's commitment to meeting its equalities duties, promoting fairness and working openly for everyone. Cheshire East is a diverse place and we want to make sure that people are able to live, work and enjoy Cheshire East regardless of their background, needs or characteristics.

Human Resources

- 54 Consultation on the budget change proposals will include staff. Any changes involving staff will be managed in consultation with staff and Trade Unions.

Risk Management

- 55 Cheshire East recognises that in pursuit of its objectives and outcomes it may choose to accept an increased degree of risk. Where the Council chooses to accept an increased level of risk it will do so, subject always to ensuring that the potential benefits and threats are fully understood before developments are authorised, that it has sufficient risk capacity and that sensible measures to mitigate risk are established.
- 56 The Council also establishes a level of reserves that are adequate to protect the Council against financial risks, such as emergencies, which are not specifically budgeted for in individual years.
- 57 The Council will continue to be flexible about investing revenue funding in maintaining sustainable services and reflecting changes to the risks facing the Council. The full Budget Report will include a revised Reserves Strategy for 2024/25 to provide further detail on estimated balances and the application of reserves in the medium term.

Rural Communities

- 58 There are no direct implications for rural communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 59 Budget change proposals and further mitigations that need to be identified which will affect the Children's area of the budget have been set out in the report to the Children and Families Committee.

Public Health

- 60 There are no direct implications for Public Health due to the nature of this budget being ringfenced.

Climate Change

- 61 The current Corporate Plan has a very strong environmental thread throughout with a specific aim for the Council to be 'Greener'.
- 62 Budget change proposals which will support the Council's commitment of being carbon neutral by 2025 will be included in the relevant Committee report to which they relate.

Access to Information	
Contact Officer:	Alex Thompson, Paul Goodwin, Honor Field alex.thompson@cheshireeast.gov.uk, paul.goodwin@cheshireeast.gov.uk, honor.field@cheshireeast.gov.uk
Appendices:	Appendix A –2024/25 proposals as per MTFS February 2023, plus revised budget envelope (separate Appendix A per Committee area)
Background Papers:	Outturn Report 2022/23 Medium Term Financial Strategy 2023-27 First Financial Review 2023/24 Second Financial Review 2023/24

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Appendix A – 2024/25 budget proposals as per MTFS February 2023, plus revised budget envelope

Highways and Transport Committee Budget Change Proposal	See note below	2024/25 £m	2025/26 £m	2026/27 £m	2027/28 £m
Local Bus	Existing MTFS 103	+2.500			
Highways	Existing MTFS 104	-0.031			
Energy saving measures from streetlights (revenue implications of capital)	Existing MTFS 105	-0.243			
Pension Costs Adjustment	Existing MTFS 106	-0.052	-0.055		
Parking (revenue implications of capital)	Existing MTFS 108	-0.725			
Restructuring Potential (*all Place committee proposals for this item to be managed within E&G committee)	Existing MTFS 75, 96, 107	-0.132*			
Pay inflation	Existing MTFS 4,25,46,65,81,82,102	+0.177	+0.152	+0.156	
TOTAL CHANGE PROPOSALS FOR HIGHWAYS AND TRANSPORT COMMITTEE		+1.494	+0.097	+0.156	

SUMMARY					
2023/24 Approved Budget		11.0			
Proposals for 2024/25 @ Feb 2023	As above	+1.5			
Additional pay inflation required for 23-24 shortfall	Revised MTFS 4,25,46,65,81,82,102	+0.1			
Savings still to find		-0.4			
2024/25 Revised Budget Envelope		12.3			

2023/24 FORECAST POSITION					
Adverse variance as per FR2		1.2			

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Highways and Transport Committee

23rd November 2023

Town and Country Planning Act 1990 Section 257 Proposed Diversion of Public Footpath No. 32 in the Town of Crewe (Part)

Report of: Peter Skates, Director of Growth and Enterprise

Report Reference No: HTC/35/23-24

Ward(s) Affected: Crewe East

Purpose of Report

- 1 The report outlines the investigation to divert part of Public Footpath No. 32 in the Town of Crewe following receipt of an application from a developer.
- 2 The work of the Public Rights of Way team contributes to the Green aim of the Corporate Plan, the “A thriving and sustainable place” priority and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

Executive Summary

- 3 This report outlines the investigation to divert part of Public Footpath No. 32 in the Town of Crewe and includes a discussion of the consultations carried out in respect to the proposals and the legal tests to be considered for a diversion order to be made under the Town and Country Planning Act 1990.
- 4 The recommendation will be that a public path diversion order be made under section 257 of the Town and Country Planning Act 1990 on the grounds that Cheshire East Council is satisfied that it is necessary to do so in order to enable development to be carried out.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

- 1 Decide that a public path diversion order be made under section 257 of the Town and Country Planning Act 1990 for part of Public Footpath No. 32 in the Town of Crewe as shown on Plan No. TCPA/022 on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development to be carried out.
- 2 Decide that 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 Note that in the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or Public Inquiry.

Background

- 5 An application has been received from Crewe Youth Club – Registered Charity 1167350 requesting that the Council make an Order under section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 32 in the Town of Crewe as it is deemed necessary to allow for the construction of a new indoor sports facility, gymnasium and associated access, car parking and landscaping works. Planning documents can be accessed via the Planning Portal using reference 23/2182N. Planning consent was approved on the 27th October 2023.
- 6 Public Footpath No. 32 in the Town of Crewe commences off Greystone Road (UY2178) at the north east corner of the religious hall and runs in a north east direction for approximately 50 metres, and then in a generally north direction for 150 metres to its junction with Henry Street (UY377).
- 7 The existing alignment of Public Footpath No. 32 in the Town of Crewe will be directly affected by the construction of a sports facility, gymnasium and associated infrastructure (23/2182N) therefore the diversion is required to preserve the public right of way.
- 8 That length of Public Footpath No. 32 in the Town of Crewe to be diverted is shown as a bold black line on Plan No. TCPA/022 between points A to B. The definitive line commences at point A and continues

to point B in a generally north east direction for 50 metres. Access between points A and B has been obstructed since the 1960s when the former youth club buildings were constructed. Following a fire in 2014 the youth club building has been demolished but the route remains obstructed by a boundary chain link fence around the site.

- 9 The proposed diversion of part of Public Footpath No. 32 in the Town of Crewe is shown as a dashed black line between points C, D, E and B. It commences at point C at the junction with Greystone Road and the proposed entrance to the sporting complex and will continue north for approximately 17 metres to point D and then east for approximately 45 metres to point E and then north north east to point B for approximately 38 metres before re-joining the definitive alignment of Crewe Footpath No. 32.
- 10 The proposed diversion route currently exists on the ground and is likely to have done so for a number of decades. The Diversion application offers an opportunity to resolve this longstanding anomaly. No change is proposed to the surface or width of the diversion route. The diversion route is surfaced with tarmac with a varying width no less than 2 metres along its length. The existing chain link fence between the new indoor sports facility and the path is to be replaced with a green mesh fence in order to offer a degree of natural surveillance of the path.

Consultation and Engagement

- 11 The Ward Members for Crewe East, Crewe Town Council, the user groups, statutory undertakers, and the Council's Nature Conservation Officer have been consulted.
- 12 Peaks and Northern Footpath Society commented 'there are no concerns' with the proposed diversion.
- 13 Councillor Faddes replied 'I am happy with this proposed diversion'.
- 14 One objection has been received from Cadent stating that an easement is required to protect the gas mains infrastructure located on the current definitive line. Crewe Youth club have accepted this requirement and aim to this in place by February 2024 are working with Cadent. Once an easement is in place Cadent has signalled an intention to remove the objection.

Reasons for Recommendations

- 15 In accordance with section 257 of the Town and Country Planning Act 1990 (“TCPS”) as amended by section 12 of the Growth and Infrastructure Act 2013:
- 16 “(1A) Subject to the section 259, a competent authority may by Order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that-
- 17 An application for planning permission and respected development have been made under Part 3, and
- 18 if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.”
- 19 The Council, as the Local Planning Authority, can make an Order diverting a footpath if it is satisfied that it is necessary to do so to enable development to be carried out, providing that the planning application has been formally registered with the Council.
- 20 It is considered that it is necessary to divert part of Public Footpath No. 32 in the Town of Crewe as illustrated on Plan No. TCPA/022, to allow the construction of a new indoor sports facility, gymnasium and associated access, car parking and landscaping works as detailed within the planning reference 23/2182N.
- 21 The work of the Public Rights of Way team contributes to the Green aim for the Corporate Plan, the “thriving and sustainable place” priority and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

Other Options Considered

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

Implications and Comments

Monitoring Officer/Legal

- 23 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the Local Authority to confirm the Order itself, and may lead to a hearing or Public Inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

Section 151 Officer/Finance

- 24 If objections to an Order lead to a subsequent hearing/inquiry, the Council would be responsible for any costs involved in the preparation and conducting of such. Under existing arrangements maintenance of the Public Right of Way would borne by Cheshire East Highways from existing Council budgets.

Policy

- 25 The work of the Public Rights of Way team contributes to the Green aim of the Corporate Plan, the “thriving and sustainable place” priority, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

A thriving and sustainable place

A great place for people to live, work and visit

Welcoming, safe and clean neighbourhoods

Reduce impact on the environment

A transport network that is safe and promotes active travel

Thriving urban and rural economies with opportunities for all

Be a carbon neutral council by 2025

Equality, Diversity and Inclusion

- 26 An assessment in relation to the Equality Act 2010 has been carried out and it is considered that the proposed diversion is no less convenient to use than the current one.

Human Resources

- 27 There are no direct implications for Human Resources.

Risk Management

- 28 There are no direct implications for risk management.

Rural Communities

- 29 There are no direct implications for Rural Communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

30 There are no direct implications for Children and Young People

Public Health

31 The recommendations are anticipated to offer a positive overall impact on the health and wellbeing of Cheshire East residents.

Climate Change

32 The recommendations will help the Council to reduce its carbon footprint and achieve environmental sustainability by reducing energy consumption and promoting healthy lifestyles.

Access to Information	
Contact Officer:	Richard Chamberlain – Public Path Orders Officer Richard.chamberlain2@cheshireeast.gov.uk
Appendices:	Plan No. TCPA 022
Background Papers:	The background papers and file relating to the report can be inspected by contacting the report writer.

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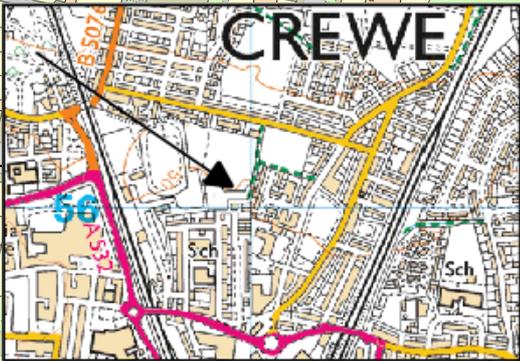
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Key

- - - Unaffected Public Right of Way
- Route to be stopped up A-B
- Proposed New Route C-D-E-B



1:2500

Town and Country Planning Act 1990 s257
 Proposed Diversion of Crewe Footpath No. 32 (part)

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



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OPEN

Highways and Transport Committee

23rd November 2023

Wildlife and Countryside Act 1981– Part III, Section 53 Application no. MA/5/264, for the Addition of a Restricted Byway, Mill Lane, Rainow.

Report of: Peter Skates, Director of Growth and Enterprise

Report Reference No: HTC/36/23-24

Ward(s) Affected: Sutton

Purpose of Report

- 1 The report outlines the investigation of an application made by Sarah Giller, Clerk and Responsible Financial Officer (RFO) for Rainow Parish Council, to amend the Definitive Map and Statement by adding a restricted byway. This includes a discussion of the consultations carried out in respect of the claim, the historical evidence, witness evidence and the legal tests for a Definitive Map Modification Order to be made. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether an Order should be made to add a restricted byway to the Definitive Map and Statement.
2. The work of the Public Rights of Way team contributes to the Green aim of the Corporate Plan, the “thriving and sustainable place” priority and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

Executive Summary

3. The report considers the evidence submitted and researched in relation to the application to add a restricted byway along Mill Lane in the parish

of Rainow. The evidence consists of historical documents and use on foot, bicycles and horseback by individual witnesses . The report determines whether on the balance of probabilities the status of restricted byway has been shown to subsist.

The depiction of the route as a historical physical feature in full or in part, is demonstrated through various maps such as County Maps and Ordnance Survey maps, Finance Act plans and Tithe Map and apportionment. The historical evidence investigated has clearly shown the existence of the route over a significant time period.

The user evidence amounts to 18 separate witnesses spanning a total of approximately 87 years. There is a reasonable amount of user evidence indicating use of the route on foot, with a number of witnesses having used the route for over 20 years with some dating back to the 1930s and 1940s.

The witness evidence indicates that a public footpath can be reasonably alleged to subsist along Mill Lane. The historical evidence is indicative of higher rights of access, and it can be reasonably alleged that restricted byway rights can, on the balance of probabilities, be shown to subsist along Mill Lane.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

1. Decide that a Definitive Map Modification Order be made under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 adding a restricted byway along Mill Lane as show on Plan No. WCA/032.
2. Decide that 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. Note that in the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or Public Inquiry.

Background

4. *Introduction*

- 4.1 This application was submitted on the 20th May 2021 by Sarah Giller, Clerk and RFO for Rainow Parish Council to amend the Definitive Map and Statement by adding a restricted byway. The application consisted of user evidence from 18 individuals claiming use on foot, bicycle and horseback.

5. *Description of the Application Route.*

- 5.1 Mill Lane runs from OS grid reference SJ 9425 7785 at Ingersley Road (C406) for a distance of approximately 397 metres to OS grid reference SJ 9410 7751 at its junction with Rainow Footpath No. 39 at Ingersley Vale (see Plan No. WCA/032 in **Appendix 1**).

Travelling north to south and using Plan No. WCA/032 in **Appendix 1** as a reference, the Lane commences from Ingersley Road, at the Poachers Inn pub at point A and heads in a south easterly direction along a well-defined bounded track of an unbound gravel/stone surface and is of a variable width ranging between 3 and 4.5 metres. At point B there is a stone squeeze stile and an official signpost where Bollington Footpath No. 33 joins from the west. Between point B and point C there are bungalows on the eastern side of the lane; Mill Lane provides vehicular access to these properties. The lane is approximately 3 metres wide between point B and C and remains bounded on each side. From point C the lane heads in a southerly direction and is generally around 1.5 metres in width and of a natural earth finish that is characterised by an uneven surface with loose stones from the dilapidated adjoining stone walls, roots in places and occasional wet/damp areas that have become a little poached by traffic. The route is bounded on both sides by remnants of the stone walls and hedgerow trees. The route continues to Rainow Mill Cottages passing in between a shed and the cottages before widening to a splay where it meets Footpath No. 39 at Point D.

5.2 *Investigation of the Claim*

An investigation of the available evidence has been undertaken. The evidence that has been examined is referred to below and a list of all

the documentary evidence taken into consideration can be found in **Appendix 3**.

5.3 *Documentary Evidence*

County Maps 18th/19th Century

5.3.1 These are small scale maps made by commercial mapmakers, some of which are known to have been produced from original surveys and others are believed to be copies of earlier maps. All were essentially topographic maps portraying what the surveyors saw on the ground. They included features of interest, including roads and tracks. It is doubtful whether mapmakers checked the status of routes or had the same sense of status of routes that exist today. The maps do not provide conclusive evidence of public status, although they may provide supporting evidence of the existence of a route.

5.3.2 *Bryants 1831*: This is a map of the County palatine of Chester from an actual survey made in the years 1829, 1830 and 1831. The map shows the route throughout and is identified under 'Lanes and Bridleways' on the key.

5.3.3 *Swire & Hutchings 1829*: A map of the County palatine of Chester, divided into hundreds and parishes, from an accurate survey, made in the years 1828 and 1829. The map shows the route at its northern end extending down so far as a building on the western side as you travel north to south. Beyond this point there is no indication of a lane or path of any type.

5.3.4 *Stuart, James Burdett, Peter Perry 1777*: The County palatine of Chester: reduced from the large survey in four sheets 1794. The map is somewhat difficult to decipher; some features are consistent with the later maps and modern road layout however it is not possible to say with any degree of certainty that a route is shown to exist.

Tithe Records

5.4 Tithe Awards were prepared under the Tithe Commutation Act 1836, which commuted the payment of a tax (tithe) in kind, to a monetary payment. The purpose of the award was to record productive land on which a tax could be levied. A map was produced by the Tithe

Commissioners which showed parcels of land with unique reference numbers, and these were referred to in the apportionment document, which contained details of the land including its ownership, occupation and use. The Tithe Map and Award were independently produced by parishes and the quality of the maps is variable. It was not the purpose of the awards to record public highways. The depiction of both private occupation and public roads, which often formed boundaries, is incidental, they may provide good supporting evidence of the existence of a route, especially since they were implemented as part of a statutory process. Non-depiction of a route is not evidence that it did not exist; merely that it did not affect the tithe charge. Colouring of a track may or may not be significant in determining status. In the absence of a key, explanation or other corroborative evidence the colouring cannot be deemed to be conclusive of anything.

The Tithe Map for Bollington is a second class map dated 1842. First class maps had the Commissioners' seal attached, showing them to be reliable as a true record of matters relating to the purposes for which the map was designed. However, second class maps, which failed in some, often minor, way to meet the stringent test for first class status, are not necessarily inferior from a cartographic point of view. Both first and second class maps have been accepted by the courts as evidence.

Tithe maps are generally good evidence of the topography of the roads they portray, especially those which form boundaries of tithable land. They may not necessarily be strong evidence either of public rights or the nature of any public right that may exist.

As statutory documents, where they do provide evidence, it should be given the appropriate weight bearing in mind the original purpose of the documents concerned and the issues identified above.

The southern end where it reaches Rainow Mill Cottages joins what would be the current day Rainow Footpath No. 39 in what appears to be a more northerly position. It appears that Footpath No. 39 also followed a slightly different alignment than its present day route.

Mill Lane is recorded in the same way as other routes in the Parish, some are now roads, some are footpaths and others are bridleways.

The Tithe Map shows the route throughout its length with solid continuous lines either side separating it from neighbouring land. It has no plot name nor number and appears to be excluded from tithes throughout its length. This is consistent with it being considered a public highway; albeit other possibilities exist.

Whilst there may be a variety of reasons for a route to be exempt from tithe payments it adds support to the evidence in favour of Mill Lane being a public highway.

Highway Board Map

- 5.5 The Highways Act 1862 compelled parishes to join together to become Highway Districts and Boards. This established Highway Districts as the norm for areas where parishes had not become Urban Sanitary Districts.

A copy of the Prestbury Highway Board Map 1865, believed to have been produced pursuant to the Highways Act 1862 has been obtained from Cheshire Archives.

The key for the map shows turnpike roads, district highways and all other roads. The map shows Mill Lane in its entirety, depicted as one of the uncoloured "other roads". No evidence has been provided to indicate that the route has been stopped up.

The Prestbury Highway Board Map provides further evidence of Mill Lane having carriageway rights; this is a map prepared under statutory authority specifically to identify public highways. Within the Authority this document is considered good evidence of the route being a publicly maintainable carriageway.

Ordnance Survey Records

- 5.6 Ordnance Survey (O.S.) mapping was originally for military purposes to record all roads and tracks that could be used in times of war; this included both public and private routes. These maps are good evidence of the physical existence of routes, but not necessarily of status. Since 1889 the Ordnance Survey has included a disclaimer on all of its maps to the effect that the depiction of a road is not

evidence of the existence of a right of way. It can be presumed that this caveat applied to earlier maps.

O.S. Survey 1 inch to 1 mile 1842

The route is shown throughout bounded on both sides by solid lines indicating that it is separate from adjoining land. It is obscured somewhat by the name "Bollington".

O.S. 1st Edition 1:25 inch c.1870

The map shows the route throughout. Solid lines alongside both sides of the route for its entire length. The parish boundary runs visibly along the western boundary for most of its length save for the southern end. Bollington Footpath No. 33 is shown joining from the west. Near point C (on Plan No. WCA/032, **Appendix 1**) the map is annotated with the letters "Tr" indicating the location of a trough; this could be an indication that the route was used to drive animals or for riding.

O.S. 2nd Edition 1:25 inch c.1890

The route is shown throughout in the same way as on the 1st edition with the exception that Mill Lane is now written on the map. At the southern end near Rainow Mill Cottages a pecked line runs across the route near its modern day junction with Rainow Footpath No. 39. This indicates that the route was open at the junction. It could also indicate a change of surface.

O.S. 3rd Edition 1:25 inch c.1910

The route is shown throughout in the same way as on the 1st and 2nd editions. As with the 2nd edition, the title Mill Lane is again identified on the map. At the southern end near Rainow Mill Cottages a faint pecked line runs across the route near its modern day junction with Rainow Footpath No. 39.

Object Name book for Cheshire sheet XXIX SW (6 inch) 1908

The object name book was obtained from The National Archives, but it did not contain any reference to Mill Lane.

Boundary Remark Books for Cheshire sheet XXIX SW (6 inch) 1908

It was not possible to identify the specific items in these books without direct research at The National Archives.

In summation all four editions of the Ordnance Survey maps show the route throughout, with solid lines alongside both sides of the route for its entire length. This indicates that it was separate from land on either side. Bollington Footpath No. 33 is shown joining from the west. Bollington Footpath No. 33 is depicted as "FP" on the 2nd and 3rd edition maps.

Of relevance with regards to Ordnance Survey Maps is that the annotation, Mill Lane, is included in the maps in both the second and third editions. The Ordnance Survey were keen to ensure the accuracy of detail included in maps and this not only related to alignment of physical features but also to names included on maps.

Bartholomew's Half Inch to a Mile

- 5.7 These maps were produced for the benefit of tourists and cyclists with help from the Cyclists' Touring Club (CTC). Local CTC members would generally have cycled every available route in their area, and it is subsequently assumed that any route that appeared on these maps had initially at least, been used without hindrance. These maps were well used by cyclists for their outings so the depiction here is likely to have led to it being used.

The earlier edition maps (1902 and 1904) for both Cheshire and Liverpool and Manchester depict both Mill Lane and adjoining Rainow Footpath No. 39 as routes that are either secondary class roads in good condition (1902) or indifferent/passable (1904). The exception is the Sheffield edition which only shows Rainow Footpath No. 39.

The later edition maps of 1920, 1923, 1941 and 1943 depict neither Mill Lane nor Rainow Footpath No. 39 other than to show it as a physical 'lane' feature.

The Planning Inspectorate's Wildlife and Countryside Definitive Map Modification Orders Consistency guidelines indicate the commercial maps (such as Bartholomew's) are rarely sufficient in their own right to permit the inference to be drawn that a route is a highway. However, combined with evidence from other sources, they can tip the balance of probability in favour of such status.

Finance Act 1910

- 5.8 The Finance Act of 1910 involved a national survey of land by the Inland Revenue so that an incremental value duty could be levied when ownership was transferred. Land was valued for each owner/occupier and this land was given a hereditament number. Landowners could claim tax relief where a highway crossed their land. Although the existence of a public right of way may be admitted it is not usually described or a route shown on the plan. This Act was repealed in 1920.

Two sets of plans were produced: the working plans for the original valuation and the record plans once the valuation was complete. Two sets of books were produced to accompany the maps; the field books, which record what the surveyor found at each property and the so-called 'Domesday Book', which was the complete register of properties and valuations.

The exclusion of vehicular roads stems from s.35 of the Finance Act 1910 which provided that no duty under this part of the act shall be charged in respect any land or interest in land held by or on behalf of a Rating Authority. A Highway Authority was considered to be a Rating Authority.

The Planning Inspectorate's Wildlife and Countryside Act Definitive Map Orders Consistency Guidelines indicate that:

"..if a route in dispute is external to any numbered hereditament, there is a strong possibility that it was considered a public highway,

normally but not necessarily vehicular, since footpaths and bridleways were usually dealt with by deductions recorded in the forms and Field Books.”

In the case of *Fortune v Wiltshire CC* [2012] Lewison J gave consideration to the interpretation of routes excluded from adjacent hereditaments. In essence he concluded that the Finance Act records are not definitive; they are “simply one part of the jigsaw puzzle” to be considered along with other relevant material particular to each case.

Reinforcing the view of Lewison J, the Consistency Guidelines concluding comment states:

It should not be assumed that the existence of public carriageway rights is the only explanation for the exclusion of a route from adjacent hereditaments although this may be a strong possibility, depending on the circumstances.

5.8.1 Working Plans

Three sets of plans were available at Cheshire Archives; these are considered to be the working plans. All three maps are drawn on an O.S base map 3rd edition and Mill Lane is consequently shown in the same way.

Map A – the hereditaments that are shown are all shown outlined in red ink. The southern end of the route is shown as a separate entity from abutting land holdings and no hereditament number is included. There are no details on the map in terms of hereditaments abutting the northern part of the lane. The Lane itself has no hereditament number.

Map B - the hereditaments that are shown are all outlined in red ink. There are no hereditaments shown in the vicinity of Mill Lane on this map. The lane has no hereditament number.

Map C – the hereditaments that are shown are all outlined in different colours. For most part the route is shown as a separate entity from abutting land which are shown with hereditament numbers. The lane has no hereditament number. The land abutting

to the south of the lane along the north eastern section has no hereditament number.

5.8.2 *Record Plans*

The Record Plans were not available in The National Archives.

5.8.3 *Field Book*

Mill Lane is shown as separate from the abutting hereditaments and as such no reference is included in the field book.

5.8.4 *Bollington Index*

The “Bollington Index” which purports to list roads and streets, and accompanied the map makes reference to Mill Lane. The index refers to page 52 in the assessment book which indicates that there were some properties along Mill Lane that were subject to duty.

Evidence of the possible existence of a public right of way in Finance Act documentation usually arises in one of two ways:

Reference to it in one or more of the various documents forming part of the valuation process, or

Exclusion of a route from the assessable parcels of land shown on the map record.

The Finance Act documents inspected shows that Mill Lane is excluded from assessable parcels of land. Routes that are uncolored are sometimes referred to as “white roads” as they are separate from abutting hereditaments.

Much debate surrounds the value of Finance Act maps and documents in the determination of cases for Definitive Map Modification Order applications. In this case we must also be alive to the fact that the maps available are considered working copies rather than record copies.

The general position in terms of Finance Act maps and documents is that they are considered good evidence of public rights (normally of vehicular status) particularly in the absence of any contemporary evidence to indicate otherwise.

Definitive Map Records

- 5.9 The Definitive Map and Statement is based on surveys and plans produced in the early 1950s by each parish in Cheshire, of all the ways they considered to be public at that time. The surveys were used as the basis for the Definitive Map.

An extract from Bollington Town Council Survey Map and notes (undated) from survey information shows Footpath No. 33 in Bollington linking into Mill Lane. Mill Lane itself is coloured blue; the notes state "*The FP Pres. Soc. shows the following paths in addition to those shown by the UDC (coloured blue on U.D map)*". UDC refers to Bollington Urban District Council. It then includes a reference to Mill Lane with "Inspect" followed by "Omit". This is believed to be a contemporaneous annotation made by an officer from Cheshire County Council.

An extract from the Footpath Society Survey Map (undated) shows the route in part coloured red which would indicate a public footpath. The letter "S" denoting a stile is shown where Bollington Footpath No. 33 joins.

The date of the Draft Maps for the Borough of Macclesfield is 7th December 1954 and the route is not shown. The Provisional Map for the Borough of Macclesfield is dated the 17th May 1968 and the route is not shown. The Definitive Map for the Borough of Macclesfield is dated the 15th January 1971 and the route is not shown.

Aerial photographs

- 5.10 All aerial photos are sourced from the Historic England website. Aerial imagery is useful for showing the physical existence of routes and changes over time.

Flight: AFL192704. Aerial Photo - EPW017791. Date flown: 1 Apr 1927

This oblique photo looking north shows the southern end of the route by Rainow Mill Cottages. Rainow Footpath No. 39 towards Ingersley Vale is a wide open track. The hedge line on the eastern side of the track appears less pronounced.

Flight: AFL192704. Aerial Photo - EPW017792. Date flown: 1 Apr 1927

This oblique photo looking south shows the most of the route bar the very northern section. It appears as a wide bounded track throughout. Mirroring the previous photos, the hedge line on the eastern side of the track as it approaches Rainow Mill Cottages appears less pronounced. Bollington Footpath No. 33 appears to be a well-established surfaced path bounded on one side.

Sortie: RAF/106G/UK/645. Date flown: August 11, 1945

Mill Lane is shown throughout on this photo and bounded on both sides for most part, albeit obscured by trees for the northern section. Bollington Footpath No. 33 appears to be shown on ground as possibly being surfaced or at least distinguishable on the ground with a hedge line on one side.

Witness Evidence

5.11 There were 18 user evidence forms submitted with the application. Telephone interviews were held with 12 of the witnesses during a two week period in mid-August 2023. All 18 witnesses stated in their forms that they had used the route on foot; 14 of which indicating that they had used it for periods exceeding 20 years. The use as a whole spans a period of over 80 years with the earliest use dating back to the late 1930s.

Five of the witnesses have indicated they have used the route on horseback or on a bicycle. Use on horseback and bicycle is far less frequent and of much shorter duration than that on foot. One person used it on horseback between 1990 and 1994 but only infrequently

or occasionally. Another who used on bicycle used it between 1985 and 2000 to visit his son and grandson who lived at Rainow Mill cottages; that use was said to be frequent. Given the date of use and the submission of the application this use is likely to be outside the relevant period. Two others used it on bicycle up to the date of application with one using it monthly from 2010 onwards and the other using it occasionally from 2014 onwards. Finally, one person stated to have used it on bicycle and on horseback on occasion from the late 1950s onwards; however, they ceased to use the route in around 2005. It does not appear that any one witness has used the route on horseback nor on bicycle for a period of twenty years, with the longest amounting to 11 years' use. On face value this level of use would not be sufficient to suggest a level capable of claiming restricted byway or bridleway rights under S.31(1) of the Highways Act 1980.

All the witnesses claim also to have seen others using the route, again mainly on foot but also on bicycle and on horseback. Many referred to use in vehicles which amounted to those accessing properties along the northern end of the route. One witness indicated that they had heard the route was once used by the milkman who took his milk float along the route but that would have been some time ago given that southern of the route has become narrow, overgrown and rougher under foot. Another witness makes reference to having seen the route used by horse and cart many years ago.

It is clear from the interviews that most if not all have always considered the route to be publicly accessible and the characteristics of the route are similar to other recognised and registered public rights of way in the area. None have ever considered asking for permission with many not being aware that there was an owner or someone who would be able to grant permission.

Many of the witnesses make reference to the erection of a fence on the land adjoining the lane at the site of the old Bowling Green (located to the east of Mill Lane between points C and D on Plan No. WCA/032) and how this had been placed onto/or over the adjoining stone wall. This had caused some upset locally but did not impede access along the route; the fence was subsequently

removed/relocated. One witness referred to the developer at the Bowling Green attempting to turn people back, but this seemed to be short-lived and unsuccessful as people continued to use it. Other than this instance it appears that none of the witnesses have ever been challenged while trying the route nor told that it was not public.

None of the witnesses ever recall there ever being any gates, stiles or other obstruction on the route nor any signs or notices that might indicate its status. The only sign that is referred to is the “no through road, re-set sat navs” sign in between Mill Lane and Savio Drive at the northern end. A number of witnesses also refer to the sign “Mill Lane” on the wall of the Poachers Inn pub.

Analysis of the user evidence is included in the charts in **Appendix 2**.

5.11.1 Relevant period

To meet the tests under the Highways Act 1980 there must be 20 years’ continuous use by the public; this 20 years period is termed the “relevant period”. The relevant period for considering the 20 year use is to be taken from the point when the right was called into question and calculating retrospectively. In cases where no act of calling into question has occurred, Highways Act 1980, s31(7a) and s31(7b) are relevant in that the matter bringing the right of the public to use a way into question is an application under section 53 of the Wildlife and Countryside Act 1981 for an order making modifications so as to show the right on the Definitive Map and Statement.

One witness referred to the developer at the Bowling Green attempting to turn people back, but this seemed to be an isolated, short lived incident. Other than this instance it appears that none of the witnesses have ever been challenged while using the route nor told that it was not public.

A number of witnesses mentioned the erection of a fence which encroached onto the path boundary however it didn’t have the effect of restricting access as such there has been no overt action that has resulted in the right to use the lane being into question. The relevant

period will therefore be calculated using the application date and is considered to be 2001-2021.

5.11.2 Intention to dedicate by the landowner

Consideration must be given to whether during the period in question there was sufficient evidence that there was no intention during that period to dedicate it (see 7.2 below). The route is not registered with the Land Registry and whilst notices were placed on site during the informal consultation, no owner came forward. There is no indication that the landowner has undertaken any acts that would indicate to the public that they were not using a public right of way and as such there appears to have been no rebuttal of the rights.

6. Consultation and Engagement

Consultation letters/emails and a plan of the claimed route were sent out to the Ward Member; Parish Council; User Groups/Organisations; statutory undertakers and abutting landowners on 10th August 2023.

A response from Rainow Parish Council was received confirming that they supported the application. This is unsurprising given that they were the applicants. A response from Bollington Town Council also indicated their support for the application.

Responses were submitted from a number of residents living along Mill Lane. These representations all focused on private rights of access to properties and the impact that the recording of a public restricted byway would have. Responses were sent to those residents with concerns outlining that the current process was solely focussed on the recording of public rights and would not affect any private right of access that exist or are likely to exist.

There were no representations that questioned the validity of the application in terms of public rights nor submitted in rebuttal of the evidence being put forward by the applicants and the witnesses.

7. Main Issues

7.1 Wildlife and Countryside Act 1981

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

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

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

(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates

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

7.2 *Highways Act 1980*

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

“Where a way.....has been actually enjoyed by the public as of right and without interruption for a full period of twenty years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.”

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

In cases where no act of calling into question has occurred, Highways Act 1980, s31(7a) & s31(7b) are relevant in that the

matter bringing the right of the public to use a way into question is an application under section 53 of the Wildlife and Countryside Act 1981 for an order making modifications so as to show the right on the Definitive Map and Statement.

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

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

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

Where the evidence in support of the application is documentary evidence, section 32 of the Highways Act 1980 applies. This states;

A court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place, shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or

compiled, and the custody in which it has been kept and from which it is produced.

7.3 Common law dedication

The establishment of highway rights under the common law is not bound by the “20 year rule”, with the courts having ruled that rights can be established in a very short period of time.

Both dedication by the owner and user by the public must occur to create a highway otherwise than by statute. At common law, the question of dedication is one of fact to be determined from the evidence. User by the public is no more than evidence, and is not conclusive evidence, any presumption raised by that user may be rebutted. Where there is satisfactory evidence of user by the public, dedication may be inferred even though there is no evidence to show who was the owner at the time or that he had the capacity to dedicate. The onus of proving that there was no one who could have dedicated the way lies on the person who denies the alleged dedication”. Halsbury’s Laws of England (Volume 55 ‘Highways’)

7.4 Countryside and Rights of Way (CROW) Act 2000

The Countryside and Rights of Way Act 2000 redesigned all routes formerly classified as Roads Used as Public Paths as Restricted Byways. The rights on a restricted byway are as follows — a right of way on foot, a right of way on horseback or leading a horse, and a right of way for vehicles other than mechanically propelled vehicles.

7.5 Natural Environment and Rural Communities Act (NERC) 2006

Where evidence points toward a route with Restricted Byway rights it is necessary to give consideration to section 67 (a-e) of the NERC Act 2006 and any exemptions that might apply.

Section 67(1) of the NERC Act 2006 extinguished, on commencement, public motor vehicular rights over every highway that is not already shown on the Definitive Map and Statement, or is there shown as a footpath, bridleway, or restricted byway.

Subsection 67(2) introduced a series of exceptions to protect certain highways from such extinguishment under subsection 67(1). The five exceptions may be summarised as follows:

- 67(2)(a) excepts ways that have been lawfully used more by motor vehicles than by other users, e.g. walkers, cyclists, horse riders and horse-drawn vehicles, in the five years preceding commencement.
- Subsection 67(2)(b) excepts ways that are both recorded on the “list of streets” as being maintainable at public expense and are not recorded on the definitive map and statement as rights of way.
- Subsection 67(2)(c) excepts ways that have been expressly created or constructed for motor vehicles.
- Subsection 67(2)(d) excepts ways that have been created by the construction of a road intended to be used by mechanically propelled vehicles.
- Subsection 67(2)(e) excepts from extinguishment ways that had been in long use by mechanically propelled vehicles before 1930, when it first became an offence to drive ‘off-road

8. *Conclusion*

There is no standard bar or prescribed detail on sufficiency of evidence with regards the making of Definitive Map Modification Orders. The Deregulation Act 2015 proposes a “Basic Evidential Test” as a pre-assessment for Surveying Authorities to consider when deciding whether to investigate an application. There appears to be no regulatory guidance prepared on the matter and as such sufficiency is still largely a subjective matter.

The approach to considering evidence was considered in the criminal case *R v Exall and Others* (1866) 4 F & F 922: *"It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in the chain, but that is not so, for then if any one link broke the chain would fall. It is more like the case of a rope composed of several cords. One strand of a cord might be insufficient to sustain the weight, but three stranded together maybe of quite sufficient strength"*.

User Evidence

The tests outlined under s31 of the Highways Act 1980 (see 7.2 above) have been met with regards to use of the route on foot. All 18 witnesses stated that they had used the route on foot; 14 of whom indicated that they had used it for periods exceeding 20 years. The use as a whole spans a period of over 80 years with the earliest use dating back to the late 1930s. None of the witnesses have sought or been given permission to use the route and there has been no rebuttal of such rights from any known landowner.

The claim is to register a restricted byway; however, there is insufficient evidence to show that public rights of a higher status have reasonably alleged to subsist under statute. Only 5 witnesses have indicated use on bike or horseback and none of these have spanned 20 years or are entirely within the relevant period.

As the statutory tests have been met with regards to footpath status, there is no requirement to assess the common law test. However, the statutory tests have not been met in regards to higher rights of access, so it is necessary to consider the common law position with regards to higher rights of access. The evidence of use by the public is not considered sufficient to show that higher rights have become established at common law.

Documentary Evidence

Whilst the user evidence points towards a public right of way on foot it is also necessary to consider the documentary evidence to determine whether a public right of way of a higher status exists, whereupon the common law maxim of “once a highway always a highway” would be relevant.

It is clear from the mapping evidence that Mill Lane has existed physically for some time, the 1 inch to 1 mile OS map indicates it was present in 1842, with the Byrant Map indicating its presence to c. 1829-1831. The Tithe Map also indicates that it was present from the 1840's. The aerial imagery shows what appears to be a wide well-constructed route adjoining other similar looking routes in the area which are now vehicular highways.

The documentary evidence considered as part of the application is indicative of there being public carriageway rights on Mill Lane. There are rarely cases where once single piece of evidence provides the conclusive status of a route, and this case is no different. The evidence taken as a whole is sufficient to make an order on the ground that a public right of way of carriageway status is reasonably alleged to subsist.

Of particular relevance in coming to this conclusion is the Finance Act documents that appear to indicate that Mill Lane is excluded from surrounding hereditaments; whilst not in itself conclusive it is regarded as a “strong indicator”. Despite not being record copies which weren’t available at The National Archives, they are still viewed as good evidence, particularly in the absence of any contradictory evidence and when viewed as part of the evidence as a whole.

The index accompanying the Finance Act map, indicates that Mill Lane was regarded as a road or street at the time the documents were being produced.

The Prestbury Highway Board Map provides further evidence of Mill Lane having carriageway rights; this is a map prepared under statutory authority specifically to identify public highways.

The Tithe maps show Mill Lane as a through route with no plot number; similarly other routes are depicted in the same way, and these are now public rights of way depicted on the Definitive Map and Statement. Whilst the tithe map evidence is certainly not conclusive it does provide further indication that the route was public. It does not provide conclusive evidence of status; however, it is supportive of a public highway of a higher status than a public footpath.

The early edition Bartholomew maps show both Mill Lane and adjoining Rainow Footpath No. 39 as secondary class roads in good condition with later editions as indifferent/passable. These maps were well used by cyclists so the depiction here is likely to have led to it being used. Whilst again this evidence cannot be considered conclusive, it does add some weight to Mill Lane being a public carriageway.

Ordnance Survey Maps (second and third editions) show the route as Mill Lane. Whilst no information was available from the object name book this adds to the evidence of carriageway status as OS surveyors were careful to use names based on established local knowledge in order to ensure accuracy. Many old roads would have names, providing evidence of the reputation of the named route.

Bollington Footpath No. 33 is shown on the OS maps and it is consistently shown terminating at Mill Lane and travels no further; this route is included in the current Definitive Map and Statement and whilst the statement for the route identifies it terminating at the parish boundary (i.e. Mill Lane) it is unlikely that this would have been registered as a dead end or “cul de sac” route and the assumption is the Mill Lane was a highway at the time of the preparation of the Definitive Map, albeit this does not provide any indication of status.

Whilst the conclusion in this section focuses on the documentary evidence it is also noteworthy that some of the older witnesses recall the lane being used by horses and horse and cart and that one witness recalls undertaking maintenance work to the route as part of a post war effort to “re-open” public rights of way in the area. Whilst the user evidence submitted does not meet the criteria under s31 or common law for restricted byway rights, the route certainly appears to have the reputation of a route of higher public status.

In concluding that Mill Lane is a likely a carriageway it is appropriate to consider the Natural Environment and Rural Communities Act 2006 with regards to its current status regarding mechanically propelled vehicles: it does not appear that any of the exemptions in s.67 (a-e) are relevant in this instance and in summation, on the balance of probability, it is reasonable to allege that Mill Lane is a restricted byway.

Other matters

The evidence in support of Mill Lane being a restricted byway may also be supportive of a similar status for part of Rainow Footpath No. 39 in so far as the Finance Act Maps, the Highway Board Map, Bartholomew Maps and the Tithe Maps are concerned.

The courts have long recognised that, in certain circumstances, cul-de-sacs in rural areas can be highways. (e.g. *Eyre v New Forest Highways Board* 1892, *Moser v Ambleside* 1925, *A-G and Newton Abbott v Dyer* 1947 and *Roberts v Webster* 1967).

Most frequently, such a situation arises where a cul-de-sac is the only way to or from a place of public interest or where changes to the highways network have turned what was part of a through road into a cul-de-sac. It is possible that Rainow Mill could be considered a place of public interest.

In *Eyre v New Forest Highway Board* 1892 Wills J also covers the situation in which two apparent cul-de-sacs are created by reason of uncertainty over the status of a short, linking section. In that case it was held that, where a short section of uncertain status exists it can be presumed that its status is that of the two highways linked by it.

Reasons for Recommendation

9. The evidence in support of this application must show, on the balance of probabilities, that restricted byway rights subsist along the claimed route. On the balance of probabilities, the historic evidence supports the case that a restricted byway can be reasonably alleged to subsist; therefore, it is considered that the requirements of Section 53(3)(c)(ii) have been met and it is recommended that this application be accepted.
10. The work of the Public Rights of Way team contributes to the Green aim of the Corporate Plan, the “thriving and sustainable place” priority and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

Other Options Considered

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

Implications and Comments

Monitoring Officer/Legal

12. Upon determination of this application, the authority must serve notice on the applicant to inform them of the decision. Under Schedule 14 of the Wildlife and Countryside Act 1981, if the authority decides not to

make an order, the applicant may, at any time within 28 days after service of the notice, appeal against the decision to the Secretary of State. The Secretary of State will then consider the application to determine whether an order should be made and may give the authority directions in relation to the same.

Section 151 Officer/Finance

13. If an appeal is successful and the subsequent Order objected to this may lead to a subsequent hearing/inquiry, for which the Council would be responsible for any costs involved in the preparation and conducting of such although as a directed Order the Council would be at liberty to take a neutral stance. The maintenance of the Public Right of Way, if added to the Definitive Map and Statement, would fall to the landowner and Council in line with legislation. The associated costs would be borne within existing Public Rights of Way revenue and capital budgets

Policy

14. The work of the Public Rights of Way team contributes to the Green aim of the Corporate Plan, the “thriving and sustainable place” priority, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

A thriving and sustainable place

- A great place for people to live, work and visit
- Welcoming, safe and clean neighbourhoods
- Reduce impact on the environment
- A transport network that is safe and promotes active travel
- Thriving urban and rural economies with opportunities for all
- Be a carbon neutral council by 2025

Equality, Diversity and Inclusion

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

Human Resources

16. There are no direct implications for Human Resources.

Risk Management

17. There are no direct implications for risk management.

Rural Communities

18. There are no direct implications for Rural Communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

19. There are no direct implications for Children and Young People

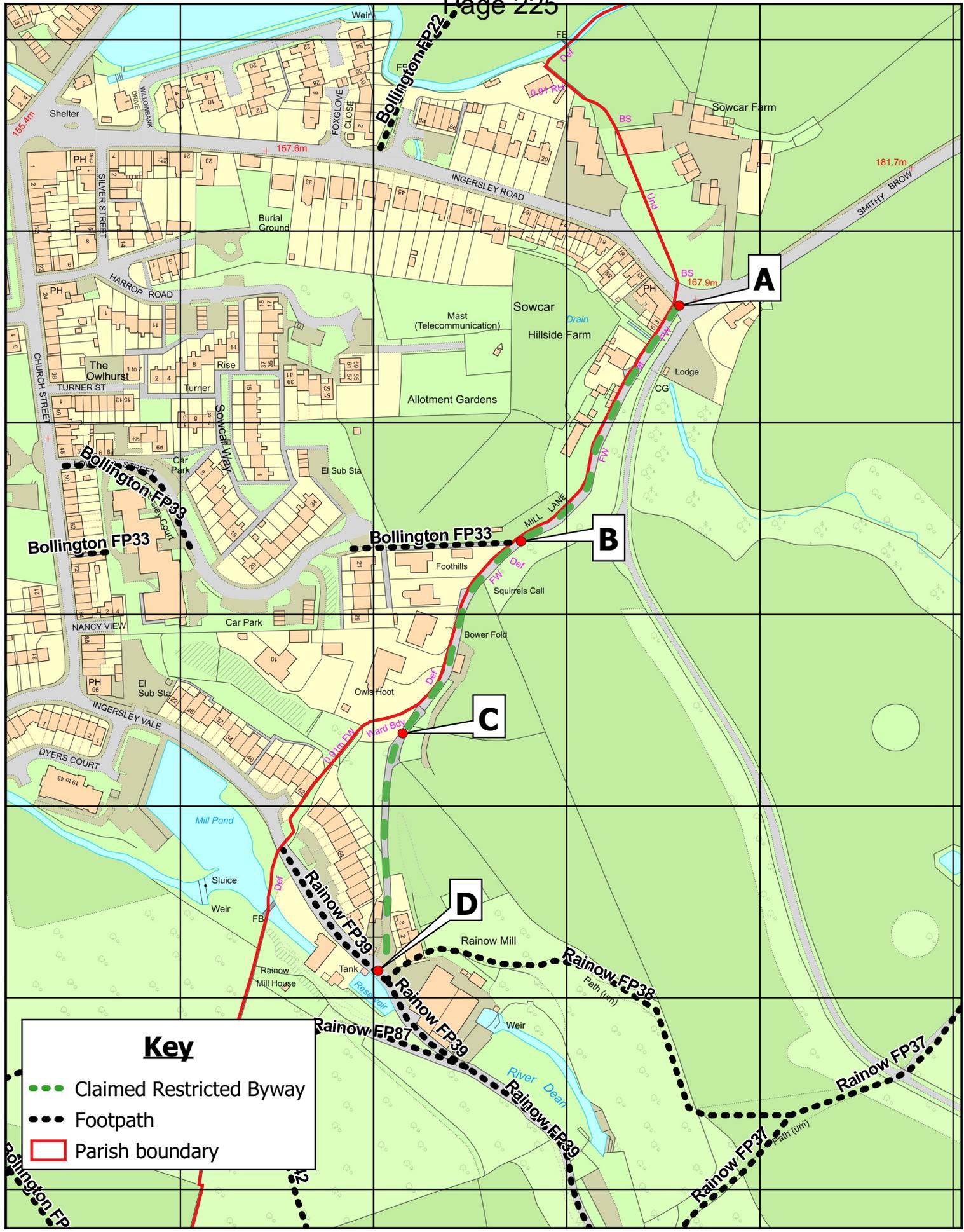
Public Health

20. The recommendations are anticipated to offer a positive overall impact on the health and wellbeing of Cheshire East residents.

Climate Change

21. There are no direct implications for Climate Change.

Access to Information	
Contact Officer:	Clare Hibbert clare.hibbert@cheshireeast.gov.uk
Appendices:	Appendix 1 - Map of route Appendix 2 – User chart Appendix 3 – Documentary evidence list
Background Papers:	MA/5/264



Key

- Claimed Restricted Byway
- Footpath
- Parish boundary



1:2500

Wildlife & Countryside Act 1981 s.53
Application to add a Restricted Byway,
Mill Lane, Rainow

Plan No.
 WCA/032

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



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Appendix 2

Section 53 Application No. MA/5/264. Application for the addition of Restricted Byway, Mill Lane, Rainow

Chart 1 – All use

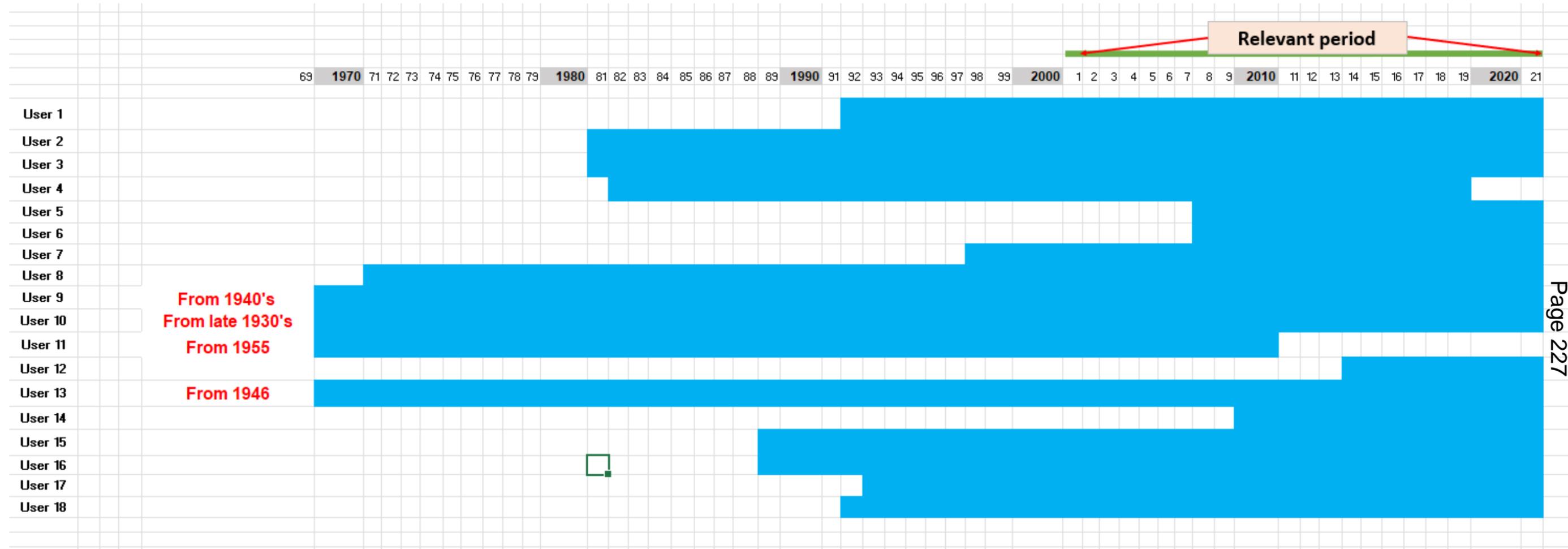
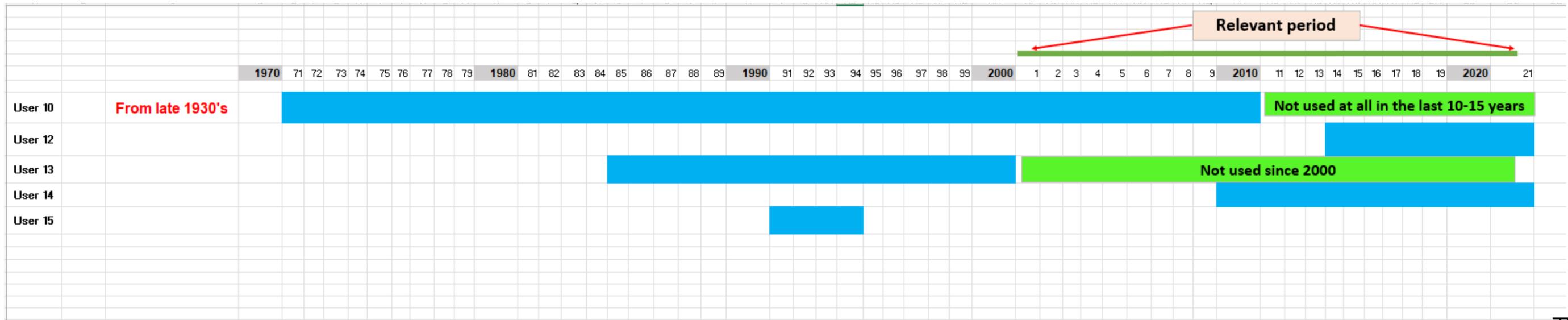


Chart 2 – Use on bicycle & horseback



APPENDIX 3

Section 53 Application No. MA/5/264. Application for the addition of Restricted Byway, Mill Lane, Rainow

List of Archive Documents

PROW = Public Rights of Way Unit

CRO = Cheshire Record Office

Primary Sources	Date	Site Shown/Mentioned	Reference Number/Source
Tithe Records			
Tithe Map	1842	Route shown throughout. The southern end where it reaches Rainow Mill Cottages joins what would be the current day FP39 Rainow in what appears to be a more northerly position.	https://maps.cheshireeast.gov.uk/tithemaps/
Tithe Apportionment	1841	Excluded from tithes throughout	CRO EDT 56/1
Ordnance Survey Maps			
O.S Survey 1 inch to 1 mile 1842	1842	The route is shown throughout bounded on both sides by solid lines. It is obscured somewhat by the name "Bollington"	PROW/Cheshire East Council
O.S. 1 st Edition 1:25 inch	c.1870	Route shown throughout. Solid lines on both sides. Pecked line on one side along FP 33 joining from Bollington	PROW/Cheshire East Council
O.S. 2 nd Edition 1:25 inch	c.1890	Route shown throughout. Referred to as "Mill Lane" on map. Pecked line on one side along FP 33 joining from Bollington	PROW/Cheshire East Council
O.S. 3 rd Edition 1:25 inch	c.1910	Route shown throughout. Referred to as "Mill Lane" on map. Pecked line on one side along FP 33 joining from Bollington	PROW/Cheshire East Council
OS Object name book for Ordnance Survey	1907-1908	No reference to Mill Lane	The National Archives https://discovery.nationalarchives.gov.uk/details/r/C5501829
Bartholomew's Maps			
Bartholomew's half inch map published 1902. Sheet 12 Cheshire.	1902	Route shown as indifferent, passable. Adjoining FP 39 Rainow also shown as the same status	Map Finder - with Outlines - National Library of Scotland (nls.uk)
Bartholomew's half inch map published 1904 Sheet 8 Liverpool & Manchester.	1904	Route shown as indifferent, passable. Adjoining FP 39 Rainow also shown as the same status	" "
Bartholomew's half inch map published 1904 Sheet 9 Sheffield	1904	Route not shown. Adjoining FP 39 Rainow shown as indifferent, passable	" "

Bartholomew's half inch map published 1920. Sheet 9 Sheffield	1920	Route not shown nor FP 39 Rainow	“ “
Bartholomew's half inch map published 1923. Sheet 12 Cheshire	1923	Route not shown nor FP 39 Rainow	“ “
Bartholomew's half inch map published 1941. Sheet 28 Merseyside	1941	Route not shown nor FP 39 Rainow	“ “
Bartholomew's half inch map published 1943. Sheet 29 Peak District	1943	Route not shown nor FP 39 Rainow	“ “
Finance Act			
Working Plans	1910	<p>Three separate maps were available at Cheshire Archives and all are considered to be the working plans. Only Map 3 was available when I visited the archive with map 1 & 2 being sent later.</p> <p>Map 1 – the hereditaments that are shown are all shown outlined in red ink. The southern end of the route is shown as a separate entity from abutting land holdings and no hereditament number included. There are no details on the map in terms of hereditaments abutting on the northern part of the lane. The lane has no hereditament number.</p> <p>Map 2 - the hereditaments that are shown are all shown outlined in red ink. There are no hereditaments shown in the vicinity of Mill Lane on tis map. The Lane has no hereditament number.</p> <p>Map 3 – the hereditaments that are shown are all shown outlined in different colours. For most part the route shown as a separate entity from abutting land which are shown with hereditament numbers. The Lane has no hereditament number.</p> <p>The land abutting to the south of the lane along the north eastern section has no hereditament number.</p>	CRO NVA 4/4

Valuation Book	1910	No hereditaments along Mill Lane	“ “
Index	No date	“Bollington Index” is a list of roads and streets, which accompanies the maps. Mill Lane is included within this list	“ “
Local Authority Records			
Rainow Council Walking Survey Map	undated	Route is not shown. Nearby paths in Rainow Parish shown; paths 37, 38 and 39	PROW Unit
Extract from Footpath Society Survey Map	undated	Route not shown	PROW Unit
Extract from Bollington Town Council Survey Map and Notes from Survey information submitted by Bollington Town Council	undated	The survey map shows FP 33 in Bollington linking into the route. The route itself is coloured blue. The notes states “The FP Pres. Soc. Shows the following paths in addition to those shown by the UDC (coloured blue on U.D map). It then includes a reference to Mill Lane with “Inspect” followed by “Omit”.	PROW Unit
Extract from Footpath Society Survey Map	undated	Route in part coloured red but this appears to show the parish boundary as it leaves Mill Lane on its southern end to follow the boundary line. The letter “S” demoting a stile is shown where FP 33 joins.	PROW Unit
Draft Map extract Bollington		Route is not shown. Nearby paths in Bollington Parish shown.	PROW Unit
Draft Map Extract – Rainow		Route is not shown. Nearby paths in Rainow Parish shown.	PROW Unit
Provisional Map extract sheet 97NW		Route is not shown	PROW Unit
Definitive Map Extract		Route is not shown	PROW Unit
County Maps			
Bryants	1831	The map shows the route throughout and is identified under ‘Lanes and Bridleways’ on the key.	Map of the county palatine of Chester from an actual survey made in the year 1819 - National Library of Scotland (nls.uk)
Swire & Hutchings	1830	The map shows the route at its northern end extending down so far as a building on the right hand side as you travel north to south. Beyond this point there is no indication of a lane or path of any type.	View map: Swire, William. ; Hutchings, W. F., A map of the county palatine of Chester, divided into hundreds & parishes, from ... - Counties of Scotland, 1580-1928 (nls.uk)

Stuart, James Burdett, Peter Perry	1794	The map somewhat is difficult to decipher; some features are consistent with the later maps and modern road layout however it isn't possible to say with any degree of certainty that a route is shown to exist.	View map: Stuart, James ; Burdett, Peter Perry, The county palatine of Chester: reduced from the large survey in four sheets - Counties of Scotland, 1580-1928 (nls.uk)
Highway Board			
Prestbury Highway Board Map	1865	A copy of the Prestbury Highway Board Map 1865, believed to have been produced pursuant to the Highways Act 1862 has been obtained. The Highways Act 1865 compelled parishes to join together to become Highway Districts and Boards. The key for the map shows that it indicates turnpike roads, district highways and all other roads. The map shows Mill Lane in its entirety, depicted as one of the uncoloured "other road"	CRO CH 1 2 17
Aerial Photos			
Date flown: August 11, 1945 Sortie: RAF/106G/UK/645 Photographer: RAF	1945	Mill Lane is shown bounded on both sides for most part albeit it is obscured by trees for the northern section. FP33 appears to be shown on ground as possibly being surfaced or at least distinguishable on the ground with a hedge line on one side	Historic England RAF 106G UK 645 RS 402 3 - Aerial Photo Historic England
Date flown: 1 Apr 1927 Flight: AFL192704 Photographer: Aerofilms A.J. King and Co Ltd Ingersley Vale Bleach Works, Rainow, 1927	1927	This oblique photo looking north shows the southern end of the route by Rainow Mill Cottages. FP 39 towards Ingersley Vale is a wide, open track. The hedge line on the eastern side of the track appears less pronounced.	Historic England - EPW017791 - Aerial Photo Historic England
Date flown: 1 Apr 1927 Flight: AFL192704 Photographer: Aerofilms A.J. King and Co Ltd Ingersley Vale Bleach Works, Rainow, 1927	1927	This oblique photo looking south shows the most of the route bar the very northern section. It appears as a wide, bounded track throughout. Mirroring the previous photos, the hedge line on the eastern side of the track as it approaches Rainow Mill Cottages appears less pronounced.	Historic England - EPW017792 - Aerial Photo Historic England

Highways and Transport Committee

23rd November 2023

Wildlife & Countryside Act 1981 – Part III, Section 53.

**Application No.MA/5/227: Application to add a Public Footpath
between Alderley Road and Grove Street, Wilmslow**

Report of: Peter Skates, Director of Growth and Enterprise

Report Reference No: HTC/33/23-24

Ward Affected: Wilmslow East

Purpose of Report

- 1 This report outlines the investigation into an application made by Mr Davenport to amend the Definitive Map and Statement to add a public footpath between Alderley Road and Grove Street, in the town of Wilmslow. The report includes a discussion of the consultations carried out in respect of the claim, the historical evidence, user evidence and legal tests for a Definitive Map Modification Order to be made. The report makes a recommendation based on that information, for quasi-judicial decision by Members, as to whether an order should be made to add a Public Footpath to the Definitive Map and Statement.
2. The work of the Public Rights of Way team contributes to the Green aim of the Corporate Plan, the “thriving and sustainable place” priority and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

Executive Summary

- 3 The report considers the evidence submitted and researched into the application to add a public footpath between Alderley Road and Grove Street, Wilmslow. The evidence submitted consisted of user evidence forms and historical documents.

- 4 The report determines whether on the balance of probabilities the status of public footpath has been acquired. The documentary evidence considered in this case does not demonstrate the existence of the route. The user evidence investigated and discussed provides insufficient evidence of use by foot over the relevant 20 year period and, in conjunction with the historical evidence, leads to the assertion that footpath rights do not exist, the rationale for this being explained in the report.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

1. Decide that a Modification Order not be made under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement to add a footpath as shown between points A and B on Plan No. WCA/035 at Appendix 1.
2. The application be refused on the grounds that there is not any robust evidence to overturn the legal presumption that the Definitive Map and Statement are correct.

Background

- 5 The application was made to Cheshire East Council on 29th March 2004 by Mr David Davenport, a local resident of Wilmslow, ('the Applicant') to add a footpath between Alderley Road and Grove Street in the town of Wilmslow. The application consisted of user evidence forms, maps and photos. A total of 12 user evidence forms were submitted claiming use on foot.
- 6 Evidence was submitted in the form of a copy of an article in the Wilmslow Express newspaper, an abstract from an Ordnance Survey map and a photograph of the Lady Luncheon Club dated 1953.
- 7 The arcade, a covered area and as described by the applicant and in user evidence forms, replaced a garden and fountain understood to be presented to the people of Wilmslow by the Ladies Luncheon Club in the Coronation year 1953. The arcade was described as a short cut, a regular meeting place and resting place for the residents of Wilmslow,

until Barclays Bank Plc, the site leaseholder, fenced off the area in January 2004 due to antisocial behaviour.

- 8 Shortly after the fencing off of the area, the former Cheshire County Council received a number of letters from concerned residents and local councillors resulting in the application under section 53 Wildlife and Countryside Act 1981 being submitted. Shortly after the application was made, the fence was removed by Barclays Bank.
- 9 The County Council contacted the Applicant shortly after the removal of the fence, asking if they would like to withdraw their application. Their response was that they would like to continue with the application to its conclusion.

Description of the application route

- 10 The claimed route commences on the public highway known as Alderley Road (A538) and runs in a north westerly direction for a length of approximately 7.6 metres, to its termination at the junction with Grove Street (UW1516), a pedestrianised highway.
- 11 The route is located at the junction of Water Lane (A538) and Alderley Road (A538) and is directly at the front of and within the curtilage of a property which formerly housed Barclays Bank. The surface at this point is blocked paving, very similar to the adopted highway network.

Main issues

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

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

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

- (i) that a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over

land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic.

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

14 Where the evidence in support of the application is user evidence, section 31(1) of the Highways Act 1980 applies. These state; -

"Where a way.....has been actually enjoyed by the public as of right and without interruption for a full period of twenty years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

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

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

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

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

of that period. The House of Lords held that a landowner had to communicate his intention to the public in some way to satisfy the requirement of the proviso. It was also held that the lack of intention to dedicate means “at some point during that period”, it does not have to be continuously demonstrated throughout the whole twenty-year period.

- 17 For public rights to have come into being through long use, as stated above, a twenty-year period must be identified during which time use can be established. Where no challenge to the use has occurred, this period can be taken as the twenty years immediately prior to the date of the application. In this case the date of challenge can be identified as the date on which the fence was erected, being January 2004, the user period is therefore 1984 – 2004.

Consultation and Engagement

- 18 Consultation letters and a plan of the claimed route were sent out to the Ward Member; Town Council; user groups/organisations; statutory undertakers and registered landowners. The following responses were received:
- 19 The footpath secretary for East Cheshire Ramblers responded stating that they have no comments to make on the application. None of the other user groups responded to the consultation.
- 20 The registered leaseholder, Barclays Bank Plc. replied through their managing agent, by referring the Council to the registered freeholder/landlord, and making the following response:
- “Barclays Bank are the leaseholder for the property..... In terms of the banks view they have no objection, from a lease perspective. But any change would have to be documented in a tri party agreement/licence with Barclays landlord and Barclays”.*
- 21 The Landlord responded through their agent, requesting details of the claim, but no further responses has been received from the landlord’s agent at the time of writing this report.
- 22 Cadent formally objected to the proposed application pending further consultations due to Cadent gas apparatus in the immediate vicinity.

Reasons for Recommendation

- 23 An investigation of the available evidence has been undertaken. The documentary evidence that has been examined is referred to below and a list of all the evidence taken into consideration can be found in Appendix 2.

Documentary Evidence

County Maps 18th/19th Century

- 24 These are small scale maps by commercial mapmakers, some of which are known to have been produced from original surveys and others are believed to be copies of earlier maps. All were essentially topographical maps portraying what the surveyors saw on the ground. They include features of interest, including roads and tracks. It is doubtful whether mapmakers checked the status of the routes or had the same sense of status of routes that exist today. There are known errors on many mapmakers work and private estate roads and cul-de-sac paths are sometimes depicted as cross-roads. The maps do not provide conclusive evidence of the existence of a route.
- 25 The claimed route was not shown on any of the early commercial maps.

Tithe Records

- 26 Tithe Awards were prepared under the Tithe Commutation Act 1836, which commuted the payment of tax (tithe) in kind, to a monetary payment. The purpose of the award was to record productive land on which a tax could be levied. The Tithe Map and Award were independently produced by parishes and the quality of the maps is variable. It was not the purpose of the awards to record highways. Although depiction of both private occupation and public roads, which often formed boundaries, is incidental, they may provide good supporting evidence of the existence of a route, especially since they were implemented as part of a statutory process. Non-depiction of a route is not evidence that it did not exist; merely that it did not affect the tithe charge. Colouring of a track may or may not be significant in determining status. In the absence of a key, explanation, or other corroborative evidence the colouring cannot be deemed to be conclusive of anything.
- 27 The Bollin Fee Township Tithe Map and Apportionment 1841 in the parish of Wilmslow shows the area where the claim is, but not the claimed route.

Ordnance Survey Records

- 28 Ordnance Survey (O.S.) mapping was originally for military purposes to record all roads and tracks that could be used in times of war; this included both public and private routes. These maps are good evidence of the physical existence of routes, but not necessarily of status. Since 1889 the Ordnance Survey has included a disclaimer on all of its maps to the effect that the depiction of a road is not evidence of the existence of a right of way. It can be presumed that this caveat applied to earlier maps.

O.S. One inch 1872 – 1914, England & Wales

The map shows the junction of roads where the claim is located but does not show the claimed route.

O.S. Cheshire Sheet XXVIII.NW. Six-inch, 1899,

The map shows the junction of roads where the claim is located but does not show the claimed route.

O.S. Sheet 11. Quarter inch to the mile of England 1st Edition 1901

The map shows the junction of roads where the claim is located but does not show the claimed route.

Definitive Map Process – National Park and Access to the Countryside Act 1949.

- 29 The Definitive Map and Statement is based on surveys and plans produced in the early 1950s by each parish in Cheshire, of all the ways they considered to be public at that time. The surveys were used as the basis for the Draft Definitive Map.
- 30 The walking survey map and provisional map did not identify the claimed route, but clearly show the area. Whilst the surveys of the early 1950s do not show the claimed route, they do show the junction of roads where the route is claimed.

Deposit plan

- 31 These relate to turnpike, railways and canals, each of which required an Act of Parliament to authorise construction. Detailed plans were submitted showing the effect on the land, highways, and private accesses

crossed by the proposed route. The Acts, plans and accompanying books of reference should be considered together.

- 32 Railway and Canal developments from 1794 onwards it was a requirement for detailed plans of the proposed development to be drawn up and placed on deposit for public consultation. Plans were accompanied by a book of reference which itemised fields, houses, roads etc. on the line of the utility and identified owners and occupiers. These documents are generally regarded as strong evidence however, many proposed lines were never constructed, some proposals could have failed or been rejected because of poor and inaccurate plans.
- 33 The Railway plan of Birmingham and Manchester, county palatine of Chester 1845, shows the junction where the claim is but shows no details of any footpaths in that area.

Photographs and other evidence

- 34 During the investigation into this claim photographs were taken in 2023. The photographs of the route demonstrate that there is no significant use by the public by the evidence of any clear defined route on the ground.
- 35 Aerial photographs from 1971 to 2015 show the claimed area but provide no evidence of usage.

Witness Evidence

- 36 The application, when made on 29th March 2004, was accompanied by 12 user evidence forms, of which 2 forms were incomplete. Since the time of the submission, 1 of the users has deceased (the Applicant) and another 1 no longer lives at the address stated on their form. Out of the 12 users only 9 claim to have used the route for a full 20 year period. The use is plotted on the chart at Appendix 3.
- 37 The witnesses were all written to on 2nd August 2023 inviting them to a follow up interview to establish their use of the route. None of the witnesses responded.
- 38 In their initial user evidence forms 7 witnesses describe their use of the claimed route as being to sit and rest on the bench (which is no longer there), and to shelter from the rain. 4 witnesses refer to the area as a

meeting place, meeting up with friends, with 1 witness referring to it as a 'special feature'. None of the witnesses provide a clear description and only 5 witnesses provided a diagram of the area, but not details of the exact route they had taken. Out of the 5 diagrams, 4 were copies of each other.

39 The gifting of the area in 1953 by the Ladies Luncheon Club to the people of Wilmslow was mentioned by 6 witnesses.

40 It appears likely that the arcade has been a well-known and used area, but without any further evidence having been able to be examined by the undertaking of detailed interviews, there is insufficient evidence to suggest a single particular route was used to pass and re-pass. Therefore, there is insufficient evidence of use to satisfy the statutory test,

Conclusion

41 The balance of user evidence combined with documentary evidence does not support the case that a public footpath subsists along the route between points A-B as shown on Plan No. WCA/035 at Appendix 1.

42 It is therefore considered that the requirements of Section 53(3)(c)(i) have not been met and it is recommended that the application is refused on the grounds that there insufficient evidence to make a Definitive Map Modification Order to record a Public Footpath between Alderley Road and Grove Street, Wilmslow.

43 The work of the Public Rights of Way team contributes to the Green aim of the Corporate Plan, the "thriving and sustainable place" priority and the policies and objectives of the Council's statutory Rights of Way Improvement Plan.

Other Options Considered

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

Implications and Comments

Monitoring Officer/Legal

45 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the Local Authority to

confirm the Order itself and may lead to a hearing or Public Inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

Section 151 Officer/Finance

- 46 If objections to an Order lead to a subsequent hearing/inquiry, the Council would be responsible for any costs involved in the preparation and conducting of such. The maintenance of a Public Right of Way, if added to the Definitive Map and Statement, would fall to the landowner and Council in line with legislation. The associated costs would be borne within existing Public Rights of Way revenue and capital budgets.

Policy

- 47 The work of the Public Rights of Way team contributes to the Green aim of the Corporate Plan, the “thriving and sustainable place” priority, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

A thriving and sustainable place

- A great place for people to live, work and visit
- Welcoming, safe and clean neighbourhoods
- Reduce impact on the environment
- A transport network that is safe and promotes active travel
- Thriving urban and rural economies with opportunities for all
- Be a carbon neutral council by 2025

Equality, Diversity and Inclusion

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

Human Resources

- 49 There are no direct implications for Human Resources.

Risk Management

- 50 There are no direct implications for risk management.

Rural Communities

51 There are no direct implications for Rural Communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

52 There are no direct implications for Children and Young People.

Public Health

53 There are no direct implications for Public Health.

Climate Change

54 There are no direct implications for Climate Change.

Access to Information	
Contact Officer:	John Lindsay John.lindsay@cheshireeast.gov.uk
Appendices:	Appendix 1 Application Plan No. WCA/035 Appendix 2 Historical document list Appendix 3 User Chart
Background Papers:	The background papers are available by contacting the report author

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APPENDIX 2

List of Archive Documents – Application No. MA/5/227
Claim for Footpath in the Town of Wilmslow

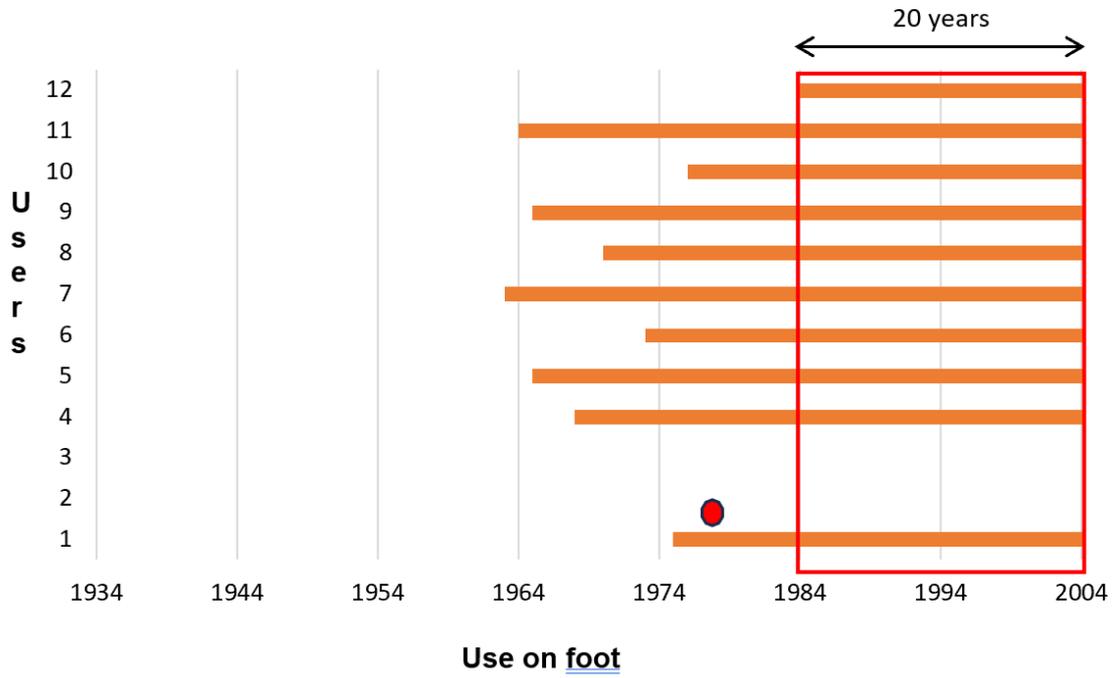
PROW = Public Rights of Way

CRO = Cheshire Record Office

Primary Sources	Date	Site Shown/Mentioned	Reference Number/Source
Burdett	1794	Claimed Route not shown	https://maps.nls.uk/counties/cheshire
Greenwoods	1819	Claimed Route not shown	https://maps.nls.uk/counties/cheshire
Swire & Hutching	1830	Claimed Route not shown	https://maps.nls.uk/counties/cheshire
Bartholomew Half-inch to a mile	1902 - 1906	Claimed Route not shown	https://maps.nls.uk/counties/cheshire
Bartholomew Half-inch to a mile	1937 - 1961	Claimed Route not shown	https://maps.nls.uk/counties/cheshire
Tithe Map	1841	Claimed Route not shown	CRO EDT 53/2
Tithe Apportionment	1841	Claimed route not described in plot numbered.	CRO EDT 53/2
Enclosure Records		None available	N/A
Finance Act		None available	N/A
Ordnance Survey 1 inch, England & Wales	1872	Claimed Route not shown	Ordnance Survey Maps - National Library of Scotland (nls.uk)
Ordnance Survey, 6 inch, Cheshire Sheet XXVIII.NW	Published 1899	Claimed Route not shown.	Ordnance Survey Maps - National Library of Scotland (nls.uk)
Ordnance Survey 1 st Edition, Quarter inch to a mile of	Published 1901	Claimed route not shown.	Ordnance Survey Maps - National Library of Scotland (nls.uk)

England. Sheet 11.			
Aerial Photographs	1971 to 2015	Area shown but claimed route not shown	CRO Cheshire Tithe Maps Online (cheshireeast.gov.uk)
The Green Book, Pre-Definitive Map Record, Sheet No 14 SW		Claimed route not shown..	PROW/Cheshire East Council
Draft Definitive Map	1950	Claimed route not shown.	PROW/Cheshire East Council Offices
Parish survey sheets	1952	Claimed route not shown.	PROW/Cheshire East Council Offices
Provisional Definitive Map	1953	Claimed route not shown.	PROW/Cheshire East Council Offices
Definitive Map & Statement	1953	Claimed route not shown.	PROW/Cheshire East Council Offices

APPENDIX 3



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Public Rights of Way Sub Committee

23rd November 2023

**Wildlife & Countryside Act 1981 –Part III,
Section 53, Application No: MA/5/247:
Application for the part Addition of a
Bridleway and part Upgrading of public
Footpath no: 13, Bollington to a Public
Bridleway.**

Report of: Peter Skates, Director of Growth and Enterprise

Report Reference No: HTC/32/23-24

Ward(s) Affected: Bollington

Purpose of Report

- 1 This report outlines the investigation into the application made by Andrea Longden to amend the Definitive Map and Statement to add part of a Public Bridleway (A-B) and partly upgrade existing Public Footpath no:13 (A-B-C) to a Bridleway in the Parish of Bollington thus creating a through public bridleway from A-B-C-D from Oak Lane to Greenfield Road as shown on the plan No WCA/36 (**see Appendix 1**). This report includes a discussion of the consultations carried out in respect of the claim, historical documentary evidence, witness evidence and the legal tests for a Definitive Map Modification Order to be made. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether an Order should be made to add a Public Bridleway to the Definitive Map and Statement.
- 2 The work of the Public Rights of Way team contributes to the Corporate Plan priority “A thriving and sustainable place”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

Executive Summary

- 3 The report considers the evidence submitted and researched in the application to add a Public Bridleway in the parish of Bollington. The evidence consists of use on foot, horseback and bicycle by individual witnesses over a period of over twenty years and historical documents that demonstrate the existence/status of a physical track feature for the whole claimed route for well in excess of 30 years. The report determines whether on the balance of probabilities the status of public bridleway or higher rights has been acquired. The reputation of the route as a thoroughfare linking two adopted roads is demonstrated through the Tithe Map and Ordnance Survey maps and others and provides good reputational evidence of a route with rights of bridleway status at least. The user evidence investigated and discussed provides evidence of use by those on foot, horseback and pedal cycle over a relevant 20-year period leading to the assertion that at least Public Bridleway rights have been acquired over time.

RECOMMENDATIONS

The Public Rights of Way Sub Committee is recommended to:

1. Decide that a Definitive Map Modification be Order be made under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 adding a Public Bridleway as shown on Plan No: WCA/36
2. Decide that 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. Note that in the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or Public Inquiry.

Background

4.1 The Application

4.1.1 The Application was made to Cheshire East Council on 10th April 2012 by Andrea Longden to add a Public Bridleway from near Dawson Farm off Oak Lane heading northwest to join Greenfield Road in the parish of Bollington. The application consisted of user evidence forms and a few letters. A total of 22 user evidence forms were submitted demonstrating use on foot, horseback and pedal cycle.

4.1.2 The claimed route commences at Point A on Plan No. WCA/36 (Grid Ref: SJ93534,76882) off Oak Lane just north of Dawson

Farm and proceeds in a westerly direction along an open gravel track across fields but enclosed on both sides via Point B (Grid Ref: SJ 93439,76850) before turning in a more north westerly direction continuing past various other public right of way intersections before approaching abutting dwellings. The route then heads closer to Bollington canal with numerous properties abutting its western side to its junction with Public Footpath no: 51 at Point C (Grid Ref: SJ 93061,77008). The claimed route then turns in a north easterly direction passing the southern edge of various other dwelling and past a stable block to the south before exiting onto Greenfield Road at Point D (Grid Ref: SJ 93201 77073).

- 4.1.3 The width of the route is approximately 3 metres wide and is a physical track construction of light-coloured fine stone locally referred to as the “white track”.
- 4.1.4 Photographs of the claimed route and include includes photographs of the existing signs up at both ends of the claimed route.
- 4.1.5 There are 3 landowners along the claimed route plus one unknown landowner according to recent land registry searches. Landowner 1 owns the majority of the route from Point A near Dawson Farm off Oak Lane running west to adjacent to Bobbin Cottage. Landowner 2 owns from Point C west to parallel with The Stables property and stable block. Landowner 3 owns from adjacent to The Stables to Point D where the claimed route joins Greenfield Road. The section from near Bobbin Cottage to Point C is registered as unknown. There are also numerous abutting landowners as there are several properties immediately abutting the route at the northern end.
- 4.1.6 Near Point A at the Dawson Farm end of the route it is noted that the legal line of existing public footpath no.13 actually runs through the yard and across a small paddock on the legal Definitive Map and modern Ordnance survey mapping. Interestingly from examining highways minutes and the London Gazette from the 1950's it appears an historical attempt was made to divert the public footpath out of Dawson farmyard in 1959 as it is recorded in minutes it was decided to make an order and an Order was made by Macclesfield Borough Council in 1959 as it was displayed in the London Gazette. However, no confirmed order has been found on council record files to prove it was ever legally confirmed.

4.2 Legal matters

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

In regards to section C-D of the claimed route one such event, (section 53(3)(c)(i) is relevant where

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

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

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

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

“Where a way.....has been actually enjoyed by the public as of right and without interruption for a full period of twenty years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.”

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

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

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

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

For public rights to have come into being through long use, as stated above, a twenty-year period must be identified during which time use can be established. Where no challenge to the use has occurred, this period can be taken as the twenty years immediately prior to the date of the application. In this case the date of challenge can be identified as the date on which the application was submitted being 10th April 2012.

The case of *Whitworth v Secretary of State for the Environment, Food and Rural Affairs (2010)* is often quoted where there is evidence of use on horseback and pedal cycle. Section 30 of the Countryside Act 1968 gave pedal cyclists the right to ride on a bridleway; consequently, any use from 1968 onwards is said to be “by right”. In *Whitworth* the route was found to have pre-existing bridleway status, i.e., it was decided the status was a bridleway prior to 1968. It was suggested that subsequent use by cyclists of an

accepted, but unrecorded, bridleway, where use of the bridleway would have been permitted by virtue of section 30 of the Countryside Act 1968, could not give rise to anything other than a bridleway.

In relation to the existing public footpath no: 13 (A-B-C) Section 53 c (ii) applies and states:

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

- (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description.

In this case the question is whether for the existing footpath section of the claimed route there has been a discovery of evidence to prove higher rights of a bridleway.

Consultation and Engagement

- 5.1 Four objection letters were initially sent to the council regarding the claimed route in 2012 from locals in the area when the application was made. The objections primarily focused on surface and practical issues of the route which as per the legislation section of this report already stresses such maintenance / desirability matters that cannot be considered in relation to the decision making as to the legal status of the route but could be considered and managed in a suitable way at a later date if the case is successful.
- 5.2 More recently in 2023 consultation letters and plan of the claimed route were sent out to the Ward Member, Parish Council, User Groups/Organisations; statutory undertakers and landowners (including abutting landowners). Extensive responses were received especially from the users. Seven users responded to state that they had used the route extensively on horseback over many many years some going back 40 years and sated that they did not want to lose the route as it enabled them to keep off the busy roads.
- 5.3 The Peak and Northern Footpath Society responded to say they had no evidence to add to the case but generally positively supported the application. East Cheshire Ramblers and Rainow Parish Council responded to say they also had no information or

comments and United Utilities also said they had no objections to the application. Bollington Town Council have not responded.

- 5.4 Interviews were also carried out during September 2023 with as many landowners and users as possible and this is discussed in the user evidence section of this report.
- 5.5 Landowners 1& 2 also sent in objection and concern letters regarding the application, and this is discussed in more detail on page 11 of this report, paragraphs 6.2.20 & 6.2.21.

Reasons for Recommendations

- 6. An investigation of the available evidence has been undertaken. The documentary evidence that has been examined is referred to below and a list of all the evidence taken into consideration can be found in **Appendix 1**.

6.1 Historical Evidence

Ordnance Survey (O.S.) Records

- 6.1.1 Ordnance Survey (O.S) mapping was originally for military purposes to record all roads and tracks that could be used in times of war; this included both public and private routes. These maps are good evidence of the physical existence of routes, but not necessarily of status. Since 1889 the Ordnance Survey has included a disclaimer on all of its maps to the effect that the depiction of a road is not evidence of the existence of a right of way. It can be presumed that this caveat applied to earlier maps.
- 6.1.2 Ordnance Survey mapping has been examined and the earliest edition seen (6-inch), published in 1881, shows the route from Dawson Farm leading west to Beehive Mill by the canal, and a bridge to the west side of the canal at Tinkers Clough.
- 6.1.3 By 1909 the mill was disused, but the route continued to lead there at least until 1946 (6-inch). The housing estate along Greenfield Road had begun to spread southwards towards the mill, but no connection is shown to the claimed route. A 1-inch edition of 1964 shows Greenfield Road at roughly the current extent but still no connection, however it is a much smaller scale.
- 6.1.4 It seems likely that with the earliest user evidence in the application dating to 1969, public use of the route may have started very soon after the full length came into being as a connection between

Greenfield Road and Oak Lane. On interviewing the applicant, they believed the section of the claimed route connecting to Greenfield was constructed approximately 60 years ago.

- 6.1.5 Overall Ordnance survey mapping demonstrates that the track route has been in situ as a physical route for decades most likely as an entire route from the late 1960's. This also ties in which the long time span of user evidence outline below.

Tithe Map 1846

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

The Tithe Map of 1848 does not show a track or feature and the claimed area is exempt from tithe payments for an unknown reason.

- 6.1.7 The Definitive Map records only show the route of Public Footpath No13 from Dawson Farm to the Canal dated in the 1950's as the route was only historically claimed as a Public Footpath.

6.2 User evidence

- 6.2.1 There are 22 user evidence forms supporting the claim. They give a picture of a route unchanged over the last 50 years or so, known locally as the "white track", with widespread use by many local people as well as the witnesses. It appears that no landowner questioned their right to use the route until about 2010. Detailed user evidence charts showing year of use can be seen at **Appendix 3**.

- 6.2.2 Many of the witnesses mention 2 gates along the route that were always kept open, and some mentioning signs that were put up around 2010. Recollection of the wording varies from preventing vehicles from using the route to just horse-riders and cyclists.
- 6.2.3 All the witnesses are horse-riders, who mention that it is one of the few routes locally that is safe and allows them to get away from road traffic. Almost all the witnesses have seen other people using the route – by horse, bicycle, on foot and even by vehicle – many of whom they knew. Of course, walkers are already permitted to use the existing Footpath 13 which makes up at least 50% of the length of the claimed route.
- 6.2.4 All the bridleway use is claimed along “the white track”, which has not changed its’ position or nature throughout the period of claimed user (1968-2011).
- 6.2.5 From the information provided by the application and user evidence, the first challenge to public use appears to be around 2010 when some witnesses mention a previous owner at Bobbin Cottage (near the canal at the western part of the route) telling riders that they were not allowed to use the track and referring them to signs prohibiting public use. This prompted the gathering of user evidence and the application to be made in 2012. Therefore, there are two potential challenge dates of usage – the first being around 2010 when the previous owner of Bobbin Cottage verbally challenged horserides and closed but not locked a gate across the route, the second date of challenge being the application submission. The challenge by the previous owner of Bobbin Cottage however was mentioned by a number of those interviewed and seems to be the main challenge date.
- 6.2.6 The Google Streetview image from 2009 shows that a sign was already in place by Dawson Farm, attached to a telegraph pole. The wording of the notice as a “private road”, listing the properties served by the track, and ending with the phrase “no through access” could be interpreted as only seeking to deny public vehicular access, particularly since the north-western end of the route is at the housing estate of Greenfield Road. During interviewing it was said that a now deceased landowner erected the sign stating “private road” at the Greenfield road end around approx. late 1990’s.

- 6.2.7 Therefore the 20-year period for a presumption of dedication to have occurred under Section 31 of the Highways Act 1980 is taken to be 1989-2009 but could have occurred earlier as well.
- 6.2.8 Throughout the period 1989-2009, there was never less than 12 of the users claiming use in any given year, with all 22 of them in the period 2003-2006. This is clearly sufficient to meet the statutory requirements in terms of numbers of use. Even when user nos. 02 & 04 are excluded from the calculation (for reasons given below) there is still ample evidence of use.
- 6.2.9 Nearly all the users claim a frequency of use more than monthly – just one described his use as “occasionally”. Many were at least weekly. This is because they were almost all regularly exercising their horses on a route that kept them, at least in part, away from vehicular highways.
- 6.2.10 All the witnesses live in the local area, between Macclesfield and Bollington, and can be reasonably said to represent “the public at large”. The applicant, Mrs Andrea Longden, has included evidence from one family member, as has another witness and her family member. There is some overlap in this evidence since when their family members were young, they were using the route with their parents. However, the user evidence overall is likely to be representative of the general public.
- 6.2.11 None of the users have asked permission from any landowner or occupier to use the route, and until challenged in about 2009-10 nobody objected to their usage. However, one user was once the owner of Dawson Farm from 1973 to 1994 and ran a livery yard. The applicant Mrs Longden (user 02) also admits to knowing other previous landowners and helping with their riding school. Therefore, their use must be regarded, at least in large part, as being by right or permission rather than “as of right”. The overall picture, from the other users, remains one of use by the public “as of right”.
- 6.2.12 No interruption to public use of the route has been identified from the user evidence at any time between 1989 and 2009. Indeed, it seems to have been very regularly used.
- 6.2.13 Until the verbal challenges mentioned by witnesses in about 2010, and the abovementioned sign erected at the Dawson Farm

end, no positive acts by landowners to disabuse the public users have been identified.

6.2.14 Analysis is complicated by the fact that over 50% of the claimed bridleway follows an existing footpath on the Definitive Map and Statement. The user evidence statements don't define where footpath user might differ from bridleway. As a general analysis, footpath use just meets a minimum level of 6-10 users for every year between 1989 and 2009, but that if user nos. 02 & 04 are excluded for possible private usage, this drops to only 4 in 1989 and is only above 6 from 1993 to 2009. However, from recent interviewing it is clear that users have used this route both on foot and horseriding regularly for a considerable number of years in time.

6.2.15 All user evidence by bicycle coincides with equestrian use in time and individual, so does not add further evidence to the claim for a bridleway.

6.2.16 Use by vehicle is claimed by only 2 users – who both have apparent private use – only one of whom defined the time period she used the route by vehicle. This is obviously insufficient to count as vehicle user, and the provisions of the NERC Act 2006 need not be considered.

6.2.17 Interviews have taken place during September 2023 with the main landowner being interviewed along with the applicant and 5 of the users who originally submitted forms. Some of the users since the application was made had moved away from the area and were uncontactable or other reasons why we couldn't interview them. Non the less very detailed information was obtained from all parties and what was very clear is that horse use has historically been obvious and well-known on this route with some use continuing today.

6.2.18 All those interviewed remember a clear through route that has been used by people on foot, horse and pedal cycle for centuries and different generations of families in the area and a few still used the route today on horse. It was evident from talking to many who had been born and lived in the area a long time that this was a well-known route on horse as well as foot. Everyone mentioned that there were no issues with horses using the route until around 2009 the previous owner of Bobbin Cottage (now deceased) shut (but

didn't lock) a gate and caused a clear confrontation between landowner's and users.

6.2.19 All mentioned also that the current "private road" signage erected at either end of the route was inferring and meant for non-residents in cars and to try and deter public use of the route in vehicles. In addition, at least 2 people during interviews also mentioned they briefly remember a sign at the Dawson Farm end along the lines of "no horses, no cyclists" but this was in situ for a max of 6 months and in relatively recent history i.e., 2000's.

6.2.20 Landowner 1 during interviewing acknowledged there had been long standing bridleway use of the route for well over 20 years. They did express some concerns regarding surface and practicalities of the route becoming a permanent bridleway given dual use with private farm vehicles, walkers and the enclosed nature of the route. This would obviously be a matter that would need consideration if the application resulted in a confirmed order, but cannot be taken into account in the determination of the application. Since their interview they have also submitted an objection letter which expands on their concerns regarding health and safety of the route for horses and maintenance liability worries and expands on the details of some of their agricultural activities. They appear to be concerned, however believing the title of the land would remain in the same ownership should the application result in a confirmed order; instead it would be an upgrade of status of the existing public footpath over their land.

6.2.21 Landowner 2 who has lived at The Stables for 9 years between Point C & D has responded to questions via email and appears to be objecting to the route becoming a public bridleway. They mention the claimed route has been used by walkers, cyclists and horse riders during their time but this has been under understanding that the route remains private road and use is at their discretion. They are aware the Private road signs have been in place for 29 years or more. They state that people approach them to ask to go over route and whilst it's been taken advantage of locally, maintained that the message remains clear that the route is private. The landowner makes multiple other comments about safety of the route, activities that might take place in the future such as increasing livestock numbers, increased traffic from deliveries to her business, neighbouring land with on-going planning ambitions to develop houses that would increase private traffic on route as well as maintenance concerns about potholes increasing

with horse traffic. Such issues however cannot be taken into account with such cases.

6.2.22 Despite the signs and even with the shut gate by the previous owner of Bobbin Cottage there appears there has historically been extensive use of the full length of the claimed route uninterrupted by horse riders for well over 20 years going back to the late 1960's with no overt actions on the part of landowners to rebut the usage. The case therefore clearly meets the 20-year test of use uninterrupted and for the majority of users "as of right" and meets both the legal tests in section 53(c)(i) and 53(c)(ii) of the Wildlife and Countryside Act 1981.

7. Conclusion

7.1 The balance of user evidence combined with documentary evidence does support the case that a Public Bridleway subsists along the route between points A-B-C-D as shown on Plan No. WCA/36 at **Appendix 1**.

7.2 It is therefore considered that the requirements of Section 53(3)(c)(i) have been met and it is recommended that a Definitive Map Modification Order is made to record a Public Bridleway between Oak Lane to Greenfield Road and amend the Definitive Map and Statement.

7.3 The work of the Public Rights of Way team contributes to the Corporate Plan priority "A thriving and sustainable place", and the policies and objectives of the Council's statutory Rights of Way Improvement Plan.

Other Options Considered

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

Implications and Comments

Monitoring Officer/Legal

9. Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the Local Authority to confirm the Order itself and may lead to a hearing or Public Inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

Section 151 Officer/Finance

10. If objections to an Order lead to a subsequent hearing/inquiry, the Council would be responsible for any costs involved in the preparation and conducting of such. The maintenance of the Public Right of Way, if added to the Definitive Map and Statement, would fall to the landowner and Council in line with legislation. The associated costs would be borne within existing Public Rights of Way revenue and capital budgets.

There are no financial implications.

Policy

11. The work of the Public Rights of Way team contributes to the Corporate Plan priority “A thriving and sustainable place”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

A thriving and sustainable place

- A great place for people to live, work and visit
- Welcoming, safe and clean neighbourhoods
- Reduce impact on the environment
- A transport network that is safe and promotes active travel.
- Thriving urban and rural economies with opportunities for all
- Be a carbon neutral council by 2025

Equality, Diversity and Inclusion

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

Human Resources

13. There are no direct implications for Human Resources.

Risk Management

14. There are no direct implications for risk management.

Rural Communities

15. There are no direct implications for Rural Communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

16. There are no direct implications for Children and Young People

Public Health

17. The recommendations are anticipated to offer a positive overall impact on the health and wellbeing of Cheshire East residents.

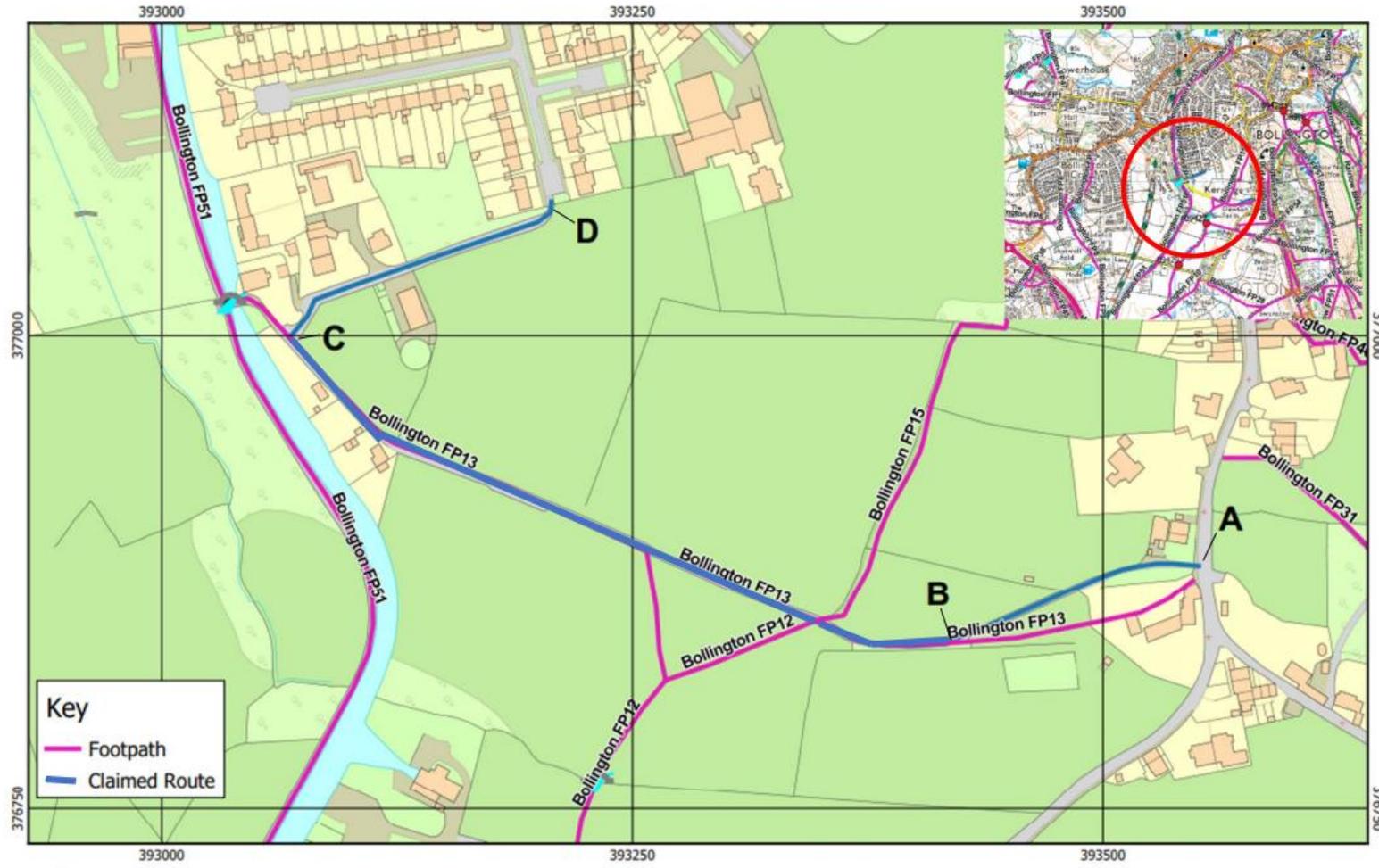
Climate Change

18. The recommendations will help the Council to reduce its carbon footprint and achieve environmental sustainability by reducing energy consumption and promoting healthy lifestyles.

Access to Information	
Contact Officer:	John Lindsay John.Lindsay@cheshireeast.gov.uk
Appendices:	Appendix 1 –Plan No WCA/36 Appendix 2 – Archive List Appendix 3 – User Evidence Chart & Usage Type Chart
Background Papers:	File no: MA/5/247

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APPENDIX 1



Key

- Footpath
- Claimed Route



1:2500

Wildlife & Countryside Act 1981 – Application No: MA/5/247: Application for the part Addition of a Bridleway and part Upgrading of public Footpath no: 13, Bollington to a Public Bridleway.

Plan No. WCA/36

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



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APPENDIX 2**List of Archive Documents – Application No. MA/5/247**

Application for the part Addition of a Bridleway and part Upgrading of Public Footpath no: 13, Bollington (Oak Lane to Greenfield Road)

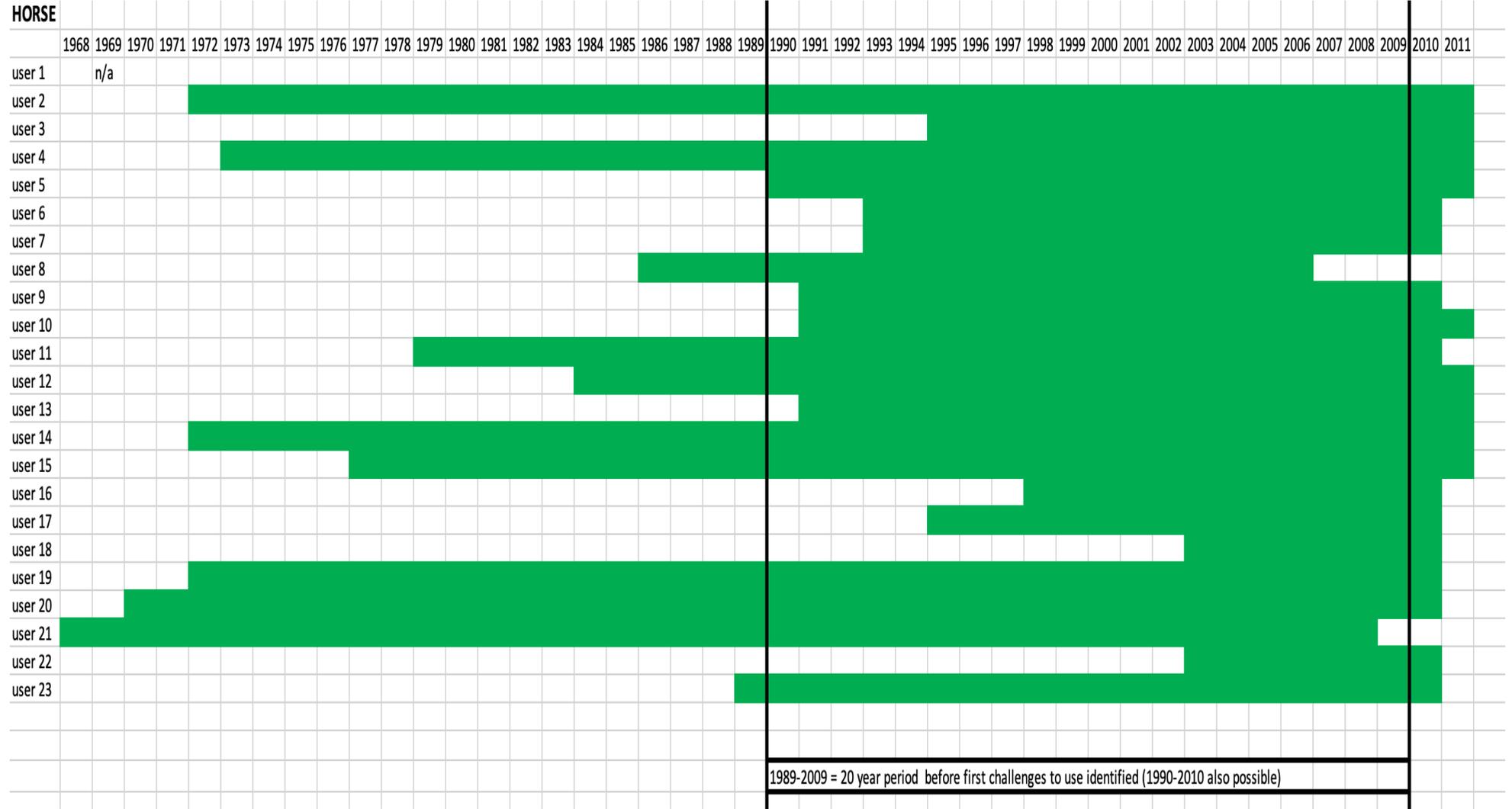
PROW = Public Rights of Way Unit CRO = Cheshire Record Office TNA = The National Archives, Kew

Primary Sources	Date	Site Shown/Mentioned	Reference Number/Source
Tithe Records			
Tithe Map	1848	The claimed area is exempt from tithe payments and is therefore blank	CRO EDT 339/12
Ordnance Survey Maps			
O.S. 1" to 1 mile 1 st Edition	1881	Shows route from Dawson Farm leading west to Beehive Mill by canal	PROW/Cheshire East Council
O.S. 2 nd Edition 1:25 inch	1890	Shows clear track feature from Dawson Farm to Beehive Mill by canal	PROW/Cheshire East Council
O.S 3 rd Edition 1:25inch	1946	Shows clear track feature from Dawson Farm to Beehive Mill (although Mill is now annotated disused)	PROW/Cheshire East Council
O.S. 1" to 1 mile New Series	1964	Shows clear track again and shows Greenfield road now. Housing must of come post 1964 but not long after.	PROW/Cheshire East Council
Local Authority Records			
Draft Map	1950's	FP 13 shown clearly as far as canal	PROW Unit
Provisional Map	1952	FP 13 shown clearly as far as canal	PROW Unit
Definitive Map & Statement	1953	FP 13 shown clearly as far as canal	PROW Unit
Additional records			

Photos	2023	Site photos taken in 2023 of clamed route	PROW Unit – see photo sheet at Appendix 3
London Gazette advertisement	1959	Advert from Macclesfield Borough Council 1959 for a diversion order at Dawson Farm	PROW Unit

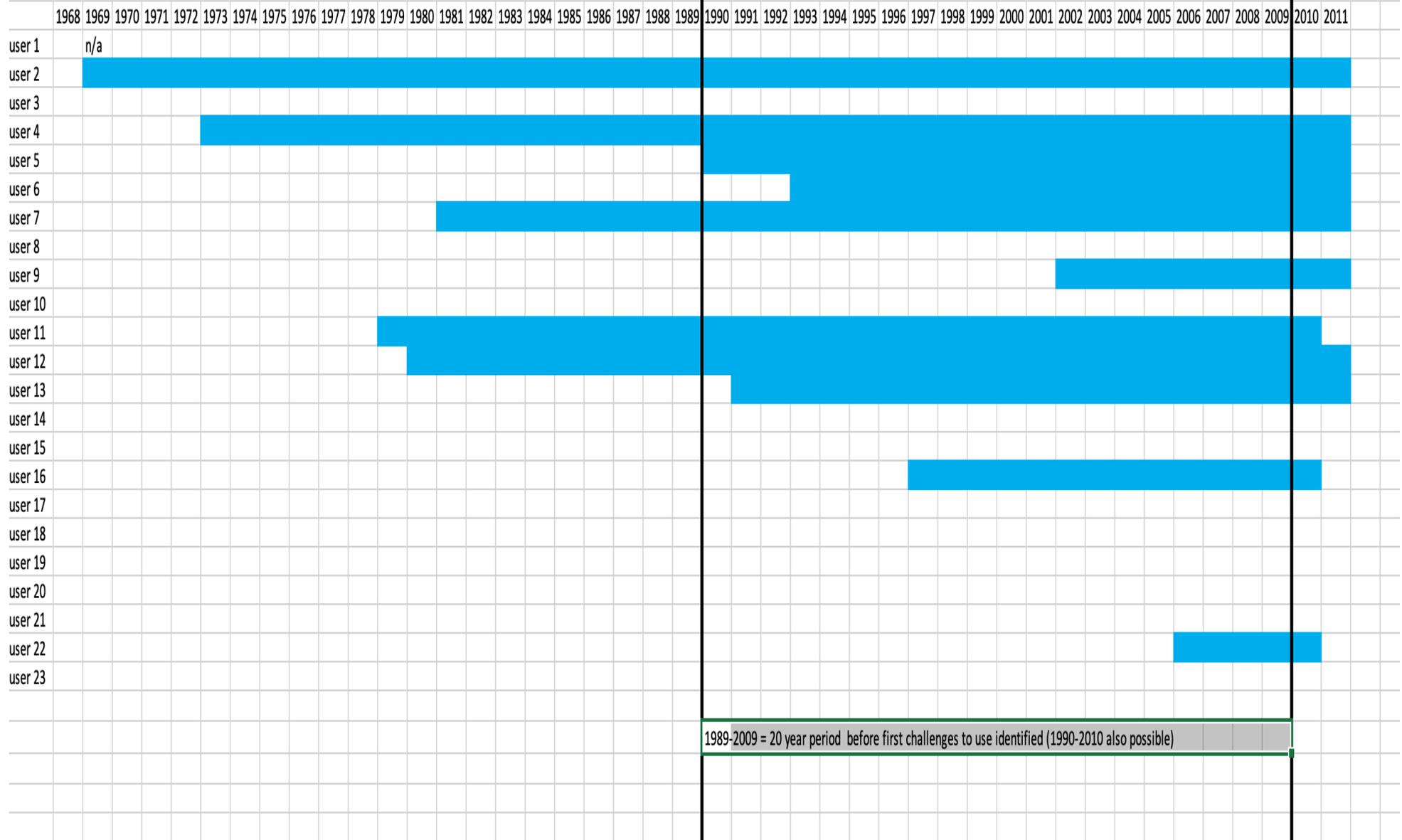
Appendix 3 – Horse and Foot Usage re: Bollington DMMO

claim



1989-2009 = 20 year period before first challenges to use identified (1990-2010 also possible)

FOOT



OPEN**Highways and Transport Committee****23 November 2023****Highways Act 1980 Section 119 Proposed
Diversion of Public Footpath No. 6 (part) and
Public Bridleway No. 1 (part) in the Town of
Congleton****Report of: Peter Skates, Director of Growth and Enterprise****Report Reference No: HTC/37/23-24****Ward(s) Affected: Congleton West****Purpose of Report**

- 1 The report outlines the investigation to divert part of Public Footpath No. 6 and part of Public Bridleway No. 1 in the Town of Congleton following receipt of an application from the landowner.
- 2 The report makes a recommendation based on that information, for a quasi judicial decision by Members as to whether or not a diversion Order should be made for these sections of public footpath and bridleway.
- 3 The work of the Public Rights of Way team contributes to the Green aim of the Corporate Plan, the “thriving and sustainable place” priority and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

Executive Summary

- 4 This report outlines the investigation to divert part of Public Footpath No. 6 and part of Public Bridleway No. 1 in the Town of Congleton. This includes a discussion of the consultations carried out in respect of the proposal and the legal tests to be considered for a diversion Order to be made under the Highways Act 1980.
- 5 The recommendation will be that a Public Path Diversion 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 and part of Public Bridleway No. 1 in the Town of Congleton by creating new sections of public footpath and bridleway, and extinguishing the current sections as illustrated on Plan No. HA/149 on the grounds that it is expedient in the interests of the landowner.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

1. Decide that a Public Path Diversion 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 and part of Public Bridleway No. 1 in the Town of Congleton by creating a new section of public footpath and bridleway and extinguishing the current sections of footpath and bridleway as illustrated on Plan No. HA/149, on the grounds that it is expedient in the interests of the landowner.
2. Decide that 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. Note that in the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or Public Inquiry.

Background

- 6 An application has been received from Mr Paul Chadwick and Mrs Jacqueline Chadwick of 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 Town of Congleton.
- 7 The applicant owns the land over which run the sections of Congleton Public Footpath No. 6 and Public Bridleway No. 1 proposed for diversion and the diversion routes.
- 8 To provide privacy and security to the applicant's property, the proposed diversion route for Congleton Footpath No. 6 would take path users away from the applicant's garden, and the proposed diversion route for Congleton Bridleway No.1 would rectify a mapping anomaly by moving the recorded bridleway section several metres to the north along a similar alignment so that it is recorded as the same alignment currently used by the public.

Diversion of Congleton Footpath No. 6

- 9 Congleton Footpath No. 6 Congleton commences at its junction with Waggs Lane (UY1059) and runs in a generally southerly and then south westerly direction along Stoney Lane (unadopted) to the junction with Congleton Bridleway No. 1 which it continues in a south westerly direction across uncultivated land to its junction with Newbold Astbury Public Footpath No. 13 at the parish boundary. A section of approximately 170 metres of this 663 metre footpath is proposed for diversion as shown by a **solid black line** on Plan No. HA/149 between points A-B-C-D.

- 10 The section of Congleton Footpath No. 6 proposed for diversion starts at its junction Congleton Bridleway No. 1 at point A and follows a south westerly direction over an unmade path to the garden of Moreton Meadows Farm which it then enters and exits via pedestrian gates at points B and C. From point C, it bears in a south, south westerly direction over a pasture field to terminate immediately before a field boundary (point D).
- 11 The proposed new route of Congleton Footpath No. 6 would also start at point A but would then run in a southerly direction to point E before bearing in a west, south westerly direction to point F and then in a south, south westerly direction to point G and then in a west, south westerly direction to terminate at point D immediately before a kissing gate. This route is shown by a **dashed black line** on Plan No. HA/149.
- 12 The footpath section would be 3 metres wide and free of path furniture. A 1.2 metre wide compacted stoned surface would be installed along the diversion route between points A-E-F. Thereafter, the surface will be a grass between points F-G-D.
- 13 The applicant may install a hedge to the north of the footpath between points A-E-F and to fence the field to the north between points F-G-D. It is for this reason that the footpath will be 3 metres throughout, to meet best practice for width when enclosed as in future, the path may be enclosed between hedge/fence to the north, and the ditch/established hedge to the south.
- 14 In summary, the proposed new footpath route would follow a line that would:
- be considered to be more enjoyable for users as it would pass through more open landscape and avoid the need to walk through a private garden. Diverting public rights of way out of gardens is a recognised desire within the recent government guidance issued by DEFRA in August this year entitled 'Government guidance on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises.
 - Would be easier to navigate and walk as there will be a laid hard surface to follow for part of the route.
 - Be free of footpath furniture whereas the current route has two pedestrian gates.
 - Would afford improved privacy and security for the applicant.

Diversion of Congleton Bridleway No.1

- 15 Congleton Public Bridleway No. 1 commences at its junction with Fol Hollow (UY774) and runs in a generally easterly direction along Lamberts Lane (unadopted) to its junction with Astbury Lane Ends (UY621/A). A section of approximately 68 metres of this 2055 metre bridleway is proposed for diversion and is shown by a **solid purple line** on Plan No. HA/149 between points A-H.
- 16 From its junction with Congleton Footpath No. 6 at point A, the section of Congleton Bridleway No. 1 proposed for diversion runs in a generally westerly direction to terminate at point H.
- 17 The proposed new route would also start at point A and would also run in a westerly direction but would be aligned to the north of the current route, and generally parallel to it such that it would align along the route used by walkers

- 18 The diverted section of bridleway would be enclosed to a width of 3 metres and run along a semi-surfaced track, as currently used.
- 19 The diversion of the footpath and bridleway would be made in the interests of the landowner and it is also in the interests of the public to divert the bridleway in that it resolves a long standing alignment anomaly.

Consultation and Engagement

- 20 Consultation was undertaken with former ward councillor, Councillor Suzie Akers-Smith, Congleton Parish Council, user groups, the Council's Nature Conservation Officer and statutory undertakers.
- 21 Congleton Town Council members registered their support for the diversion stating that the diversion was considered an improvement.
- 22 The statutory undertakers 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.
- 23 A number of concerns were received from a number of consultees and members of the public, including Councillor Suzie Akers Smith, Astbury Parish Council and Peak and Northern Footpath Society.
- 24 All reported concerns were distilled and identified and are listed as follows (in italics) together with the Council's responses.

Objections and concerns

- 25 ***The diversion is so close to the location of the current legal public right of way, that it isn't necessary.***

A number of comments were made that demonstrated a misreading of the consultation plan. These were discussed and rectified.

- 26 ***Is there intention to develop houses***

The Council are not aware of any intention to develop the land over which runs the section of the current route proposed for diversion, and over which the diversion route would run. The diversion of the footpath is intended to move that section out of the applicant's garden to afford them greater privacy and security. Of benefit to the public, users of the footpath will no longer need to walk through the applicant's property which can feel intimidating and intrusive, and they will not have path furniture to negotiate in terms of gates.

The Council has been made aware that it is the intention of the applicant to rebuild an existing building near to the exit of the applicant's property, into a residential property but that will not affect the current footpath. The proposed alignment of the footpath is designed to take the footpath away from the residential property, to afford increased privacy and security to that property.

- 27 ***Concerns about flooding of the diversion route given its proximity to the stream.***

- 28 The diversion route would be a raised, stoned surfaced path which would be similar in height to a permissive route that the public use at the moment. The raised nature of the diversion route and the hard surface would make it more usable year-round compared to the permissive route currently used .
- 29 It is accepted that part of the proposed diversion route runs through an area which is deemed to be at high risk of flooding by the Environment Agency (the permissive route also appears to pass through this high risk area in part). Despite this, no reports about flooding in this area that make footpaths impassable, have been received by the Council, and no evidence or photos of flooding in this area have been submitted from those objecting to this proposal to date. Recent unprecedented heavy rains have not caused it to flood. The only flood event reported which again, did not leave the paths impassable in the area, was caused by a burst water main in 2012.
- 30 Concerns were also raised regarding the water that used to run down the field to the north of Lamberts Lane and then into the ditch. This no longer occurs as leaking lead pipes feeding the applicant's property from Meadow Avenue were stopped up at the connection in Meadow Avenue, and a new connection was made to the water mains running beneath the bridle path (Lamberts Lane) adjacent to the applicant's property. Also, any water now running in a similar direction from the field that is natural runoff from rain events, is channelled into the ditch away from the area of land over which the diversion route would run.
- 31 In response to the above, further comments were received from consultees who were still concerned about flood risk.
- 32 The Council discussed the flooding concerns further with the applicant who agreed to revise the proposal for the footpath and to realign the diversion route further away from the ditch between point E-F on Plan No. HA/149.
- 33 A substantial land drain/ditch would be put in at the bottom of Stony Lane at the intersection of the paths and bridleways to catch and direct water coming from land to the north, **via a cross drain/culvert from the low area directly to the ditch directly to the south**, relieving most of the land near to Congleton Footpath No. 6. The drain would run to the east of the new revised diversion route between points A-E (see Plan No. HA/149).
- 34 ***Reducing water by closing the natural spring in the area has resulted in a reduction of frogs and toads in the local gardens and probably other less evident amphibians***

Within the legislation of section 119 of the Highways Act 1980, only comments on the land over which the section of footpath proposed for diversion, and the proposed diversion route run, can be considered. Any comments about land over which they do not run, cannot be taken into account. Consequently, the area of land that was affected by water from the natural spring cannot be considered as neither the current route or the proposed diversion route, run across this land.

The consultation included consulting with the Council's Nature Conservation Officer, and no comments were received.

36 The proposed diversion, should it become the legal right of way for the public, will be installed and all costs borne by the applicant.

37 The specification of the route has been agreed with Council Officers who are experienced in advising on the best solutions with consideration also given to the future maintenance of the footpath by the Council. Consequently, it is best to lay a solid stoned route rather than create a boardwalk which is more costly to maintain and less robust, and attracts higher liabilities.

38 The kissing gate initially proposed at point G is not required and will not form part of the proposals going forward.

39 ***Loss of the medieval history of the route being a footpath for priests to walk from Astbury Church to St Peter's Church in Congleton***

Within the legislation of section 119 of the Highways Act 1980, the legal tests that must be met by the diversion are convenience and enjoyment. Whilst the history of the area is appreciated, no evidence has been provided in relation to any historic physical feature of this particular section of footpath. The diversion of public pedestrian rights does not necessarily have any effect on any physical underlying archaeological remains.

Reasons for Recommendation

40 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.

41 Section 119 of the Act also stipulates that a public path diversion order shall not alter the point of termination of the path if that point is not on a highway, or, where it is on a highway, otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.

42 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 this section of the report.

43 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.

44 In considering whether or not to confirm the Order, in addition to the matters discussed at paragraphs 6 to 19 above, the Secretary of State where the Order is opposed, or the Council where the Order is unopposed, must be satisfied that the path or way is not substantially less convenient as a consequence of the diversion having regard to the effect:

- The diversion would have on the public enjoyment of the path 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.

45 In confirming an Order the Secretary of State where the Order is opposed, or the Council where the Order is unopposed, will also have regard to any material provision of the Rights of Way Improvement Plan prepared by the local highway authority and the effect of the path or way on the needs of agriculture, forestry and biodiversity.

46 The work of the Public Rights of Way team contributes to the Green aim of the Corporate Plan, the “thriving and sustainable place” priority and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

Other Options Considered

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

Implications and Comments

Monitoring Officer/Legal

48 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 or Public Inquiry. It follows

that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

Section 151 Officer/Finance

49 If objections to an Order lead to a subsequent hearing/inquiry, the Council would be responsible for any costs involved in the preparation and conducting of such. The maintenance of the Public Right of Way would continue to be the responsibility of the landowner and Council in line with legislation. The associated costs would be borne within existing Public Rights of Way revenue and capital budgets.

Policy

50 The work of the Public Rights of Way team contributes to the Green aim of the Corporate Plan, the “thriving and sustainable place” priority and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan

<p>A thriving and sustainable place</p> <ul style="list-style-type: none"> • A great place for people to live, work and visit • Welcoming, safe and clean neighbourhoods • Reduce impact on the environment • A transport network that is safe and promotes active travel • Thriving urban and rural economies with opportunities for all • Be a carbon neutral council by 2025
--

51 An assessment in relation to the Equality Act 2010 has been carried out by a Public Rights of Way Network Management and Enforcement Officer and it is considered that the proposed diversion would be no less convenient to use than the current one.

Human Resources

52 There are no direct human resource implications.

Risk Management

53 There are no direct risk management implications.

Rural Communities

54 There are no direct implications for rural communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

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

Public Health

56 There are no direct implications for public health.

Climate Change

57 The Council has committed to becoming carbon neutral by 2025 and to encourage all businesses, residents and organisations in Cheshire East to reduce their carbon footprint.

58 The recommendations will help the Council to reduce its carbon footprint and achieve environmental sustainability by reducing energy consumption and promoting healthy lifestyles.

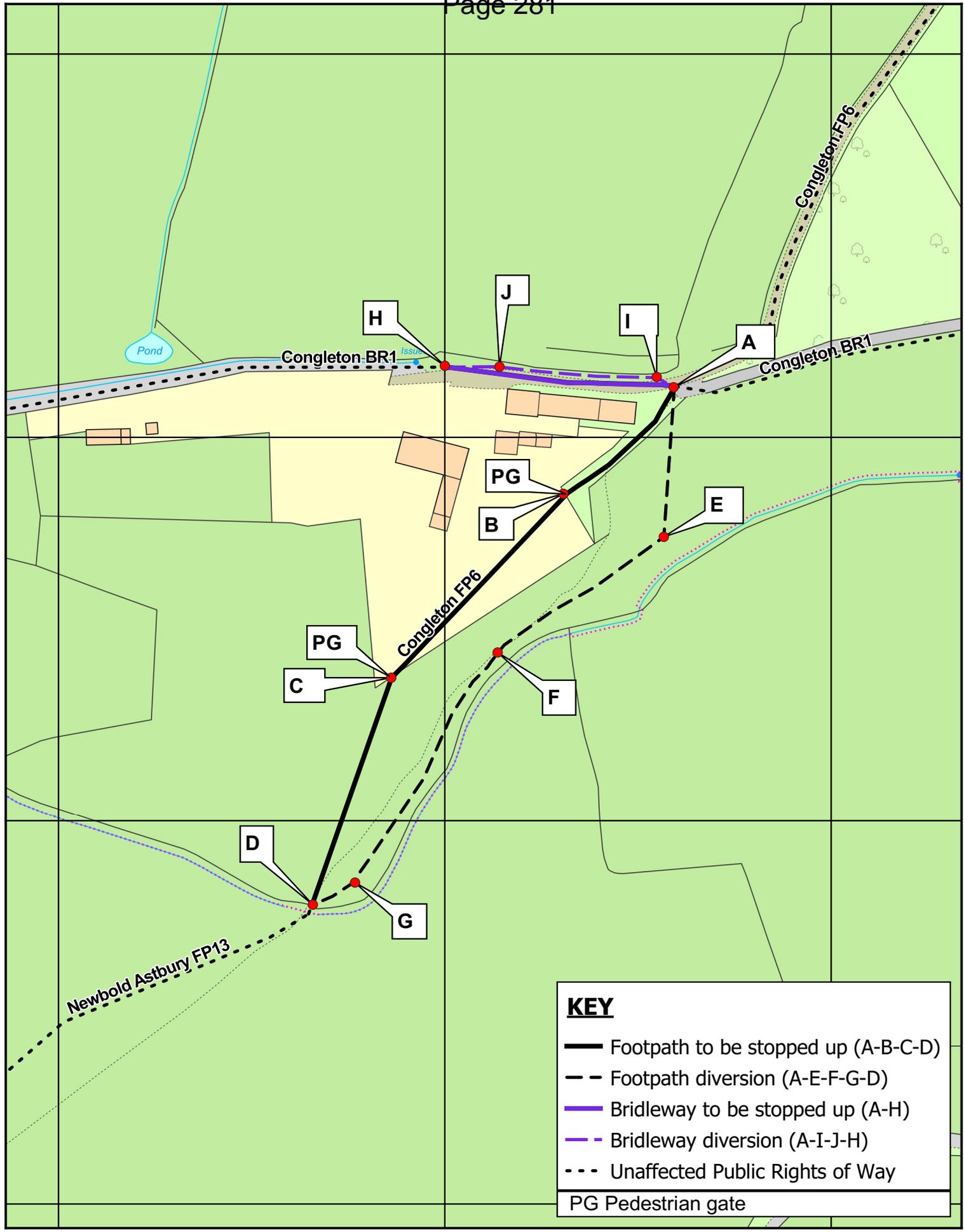
Access to Information	
Contact Officer:	Marianne Nixon – Public Path Orders Officer Marianne.nixon@cheshireeast.gov.uk 01270 686077
Appendices:	Plan No. HA/149
Background Papers:	The background papers and file relating to the report can be inspected by contacting the report writer.



1:1250

Proposed diversion of parts of Congleton Bridleway No. 1 and Congleton Footpath No.6.

Plan No. HA/149



KEY

- Footpath to be stopped up (A-B-C-D)
- - Footpath diversion (A-E-F-G-D)
- Bridleway to be stopped up (A-H)
- - Bridleway diversion (A-I-J-H)
- - - Unaffected Public Rights of Way
- PG Pedestrian gate

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Highways and Transport Committee Work Programme 2023-24

Report Reference	Highways & Transport Committee	Title	Purpose of Report	Lead Officer	Consultation	Equality Impact Assessment	Corporate Plan Priority	Part of Budget and Policy Framework	Exempt Item
HTC/06/23-25	23/11/2023	Pedestrian Crossings (Uncontrolled and Controlled) Policy	To seek approval for highways to consult on a draft pedestrian crossings (uncontrolled and controlled) policy/strategy allowing further informed development following the consultation with a view to bringing an updated policy/strategy to the Highways and Transport Committee in late spring 2024.	Director of Highways and Infrastructure	Yes	No	Open	Yes	No
HTC/15/23-24	23/11/2023	Engine idling enforcement - business case	To advise committee of the outcomes of work to assess the business case for the Council to adopt powers to enforce against engine-idling under provisions in the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.	Director of Highways and Infrastructure	No	Yes	Green	No	No
HTC/16/23-24	23/11/2023	Local Bus Support Criteria - Consultation Outcomes	To recommend to committee changes in the Council adopted criteria for supporting (subsidising) local bus services, following public consultation.	Director of Highways and Infrastructure	Yes	Yes	Green	Yes	No
HTC/21/23-24	23/11/2023	Second Financial Review of 2023/24 (Highways and Transport Committee)	This report outlines how the Council is managing resources to provide value for money services during the 2023/24 financial year. The purpose of the report is to note and comment on the Second Financial Review and Performance position of 2023/24 and approve Supplementary Estimates and Virements.	Director of Finance and Customer Services	No	No	Open	Yes	No
HTC/24/23-24	23/11/2023	Medium Term Financial Strategy Consultation 2024/25 - 2027/28 (Highways & Transport Committee)	All Committees were being asked to provide feedback in relation to their financial responsibilities as identified within the Constitution and linked to the budget alignment approved by the Finance Sub-Committee in March 2023. Responses to the consultation would be reported to the Corporate Policy Committee to support that Committee in making recommendations to Council on changes to the current financial strategy.	Director of Finance and Customer Services	Yes	No	Open	Yes	No
HTC/26/23-24	23/11/2023	Notice of Motion: Access to the	To respond to the Notice of Motion proposed at Council on 19 July 2023.	Director of Highways and Infrastructure	No	No	Green	No	No

Highways and Transport Committee Work Programme 2023-24

		National Parking Platform							
HTC/29/23-24	23/11/2023	Response to the petition to install a pedestrian cross on The Hill, Sandbach	To respond to the petition received to install a pedestrian crossing on The Hill, Sandbach. The petition has over 5000 signatures and is referred to the Highways and Transport Committee as per the petition procedure.	Director of Highways and Infrastructure	TBC	Yes	Open	TBC	No
HTC/36/23-24	23/11/2023	PROW: Mill Lane, Rainow Definitive Map Modification Order Application	The report outlines the investigation of an application to amend the Definitive Map and Statement by adding a restricted byway. This includes a discussion of the consultations carried out in respect of the claim, the historical evidence, witness evidence and the legal tests for a Definitive Map Modification Order to be made. The report makes a recommendation based on that information, for quasi-judicial decision by Members.	Executive Director, Place	Yes	No	Green	No	No
HTC/35/23-24	23/11/2023	PROW: Crewe Footpath No. 32 Diversion Application	Determination of Town and Country Planning Act 1990 Public Path Order Application for Diversion of Crewe Footpath No. 32	Executive Director, Place	Yes	No	Green	No	No
HTC/33/23-24	23/11/2023	PROW: Barclays Bank, Wilmslow Definitive Map Modification Order Application	The report outlines the investigation of an application to amend the Definitive Map and Statement by adding a public footpath. This includes a discussion of the consultations carried out in respect of the claim, the historical evidence, witness evidence and the legal tests for a Definitive Map Modification Order to be made. The report makes a recommendation based on that information, for quasi-judicial decision by Members.	Executive Director, Place	Yes	No	Green	No	No
HTC/32/23-24	23/11/2023	PROW: Definitive Map Modification Order Application to add a public bridleway and to upgrade part of Bollington Footpath No. 13 to public bridleway	The report outlines the investigation of an application to amend the Definitive Map and Statement by adding a public bridleway. and upgrading part of a public footpath to public bridleway. This includes a discussion of the consultations carried out in respect of the claim, the historical evidence, witness evidence and the legal tests for a Definitive Map Modification Order to be made. The report makes a recommendation based on that information, for quasi-judicial decision by Members.	Executive Director, Place	Yes	No	Green	No	No

Highways and Transport Committee Work Programme 2023-24

HTC/37/23-24	23/11/2023	PROW: Congleton Public Footpath No. 6 and Public Bridleway No. 1 Diversion Application	Determination of Highways Act 1980 Public Path Order Application for Diversion of Public Footpath No. 6 and Public Bridleway No. 1 in the Town of Congleton	Executive Director, Place	Yes	No	Green	No	No
HT/26/21-22	25/01/2024	Flowerpot Junction Improvement Scheme	Authorise to make Compulsory Purchase Orders and Side Roads Orders for the delivery of the Flowerpot Junction Improvement Scheme. Approve the forward funding of the additional developer contributions in accordance with the capital programme	Director of Highways and Infrastructure	No	No	Green	Yes	Yes
HTC/07/23-24	25/01/2024	Highways and Infrastructure: 2023/24 Mid Year Review	Update Committee on performance and activity across the Highways and Infrastructure directorate for 2023/24 (Quarter 1 and 2)	Director of Highways and Infrastructure	No	No	Open	Yes	No
HTC/08/23-24	25/01/2024	Lead Local Flood Authority: 2023/24 Annual Review	Update Committee on performance and activity relating to the Council's responsibility as Lead Local Flood Authority for 2023/24 (Quarter 1 and 2)	Director of Highways and Infrastructure	No	No	Open	Yes	No
HTC/17/23-24	25/01/2024	Moving Traffic Offences - Local Authority Enforcement	To inform committee of the opportunity for the local highway authority to adopt powers for enforcement of a limited number of moving traffic offences under provisions in the Traffic Management Act 2004 (Section 8). The report will seek a decision on how to proceed based upon a review of the business case and policy implications for Cheshire East Council.	Director of Highways and Infrastructure	Yes	Yes	Green	No	No
HTC/18/23-24	25/01/2024	Parking Review Implementation Plan	This report seeks a decision to implement outcomes of the boroughwide review of Cheshire East Council car parks, in accordance with measures defined in the adopted Medium Term Financial Strategy and taking account of the outcomes of public consultation on proposals relating to both on-street and off-street parking provision.	Director of Highways and Infrastructure	Yes	Yes	Green	Yes	No
HTC/20/23-24	25/01/2024	Third Financial Review of 2023/24 (Highways & Transport Committee)	This report outlines how the Council is managing resources to provide value for money services during the 2023/24 financial year. The purpose of the report is to note and comment on the Third Financial Review and Performance	Director of Finance and Customer Services	No	No	Open	Yes	No

Highways and Transport Committee Work Programme 2023-24

			position of 2023/24 and approve Supplementary Estimates and Virements.						
HTC/25/23-24	25/01/2024	Medium Term Financial Strategy Consultation 2024/25 - 2027/28 Provisional Settlement Update (Highways & Transport Committee)	All Committees were being asked to provide feedback in relation to their financial responsibilities as identified within the Constitution and linked to the budget alignment approved by the Finance Sub-Committee in March 2023. Responses to the consultation would be reported to the Corporate Policy Committee to support that Committee in making recommendations to Council on changes to the current financial strategy.	Director of Finance and Customer Services	Yes	No	Open	Yes	No
HTC/21/23-24	25/01/2024	Street Lighting Energy Savings Proposal - Decision Paper	Decision paper on street lighting energy saving proposal to achieve delivery of MTFS reduction in highways street lighting energy saving budget, the first phase of which was applied in 2023/24.	Director of Highways and Infrastructure	Yes	Yes	Open	Yes	Yes
HTC/38/23-24	25/01/2024	Notice of Motion - £2 Bus Fares	Purpose of the report is to consider the proposal to develop and launch a publicity strategy to locally promote the extension and usage of the £2 bus fare cap.	Director of Highways and Infrastructure	No	No	Open	No	No