

CHESHIRE EAST COUNCIL

Public Rights of Way Committee

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

1.0 Report Summary

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

2.0 Recommendations

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

3.0 Reasons for Recommendations

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

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All Members

6.0 Policy Implications including

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

7.0 Financial Implications

7.1 None arising.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 None arising

9.0 Risk Management

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

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

10.0 Background and Options

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

- Legally Defined
- Properly Maintained
- Well publicised

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

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

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

11.0 Network Management – Maintenance and Enforcement

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

12.0 Path Inspection

- 12.1 The Public Rights of Way Team does not have dedicated staff to carry out path inspections under section 58¹ of the Highways Act 1980 (see above at 9.1). Another form of path inspection exists in the form of the former national Best Value Performance Indicator 178: percentage of paths deemed ‘easy to use’. Although councils are no longer required to report on BVPI178, the national group, the County Surveyors’ Society, is keen that authorities continue to collect this data and in Cheshire it has been collected as a local indicator for the Local Transport Plan - LTP 13. The team duly carried out the BVPI178 inspection this year: the percentage pass rate was 85%, which compares very favourably with a pass rate of 84% for 2009.
- 12.2 Additionally a volunteer scheme is being developed for 2011 in conjunction with East Cheshire Ramblers which will involve members of the Rambler’s Association carrying out condition surveys of public

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

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

13.0 Rights of Way Improvement Plan - Access Development

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

14.0 Legal Orders Team

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

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

15.0 Policy development

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

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

16.0 Local Access Forum and ROW Consultative Group

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

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

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

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

16.5 The Consultative Group operates to achieve the following purposes:-

- to enable interest groups (users, landowners and others) to engage in constructive debate and discussion about issues of law, policy, principle and work programming with members and officers of the Cheshire East Council;
- to encourage understanding of each others' concerns
- to participate in the consultation process and ongoing monitoring associated with the Rights of Way Improvement Plan.

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

17.0 Budget

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

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

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

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

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

18.0 Conclusion

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

19.0 Access to Information

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

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