

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Public Rights of Way Committee**  
held on Monday, 13th June, 2011 at Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

### **PRESENT**

Councillor J Wray (Chairman)  
Councillor D Druce (Vice-Chairman)

Councillors Rhoda Bailey, R Cartlidge, M Parsons and W S Davies

### **In Attendance**

Councillor D Stockton, Executive Support Member for Environmental Services

### **Officers**

Mark Wheelton, Leisure Services and Greenspaces Manager  
Mike Taylor, Greenspaces Manager  
Rachel Goddard, Solicitor  
Rachel Graves, Democratic Services Officer

### **1 APOLOGIES FOR ABSENCE**

There were no apologies received.

### **2 DECLARATIONS OF INTEREST**

Cllr Rhoda Bailey declared a personal interest in Item 8 – Application for the Diversion of Public Footpath No.4 in the parish of Peover Inferior, as she knew the owner of the land. In accordance with the code of conduct, she remained in the meeting during consideration of this item.

### **3 MINUTES OF PREVIOUS MEETING**

#### **RESOLVED:**

That the minutes of the meeting held on 17 March 2011 be approved as a correct record and signed by the Chairman.

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

One member of the public had registered to speak in relation to Item 6 – Application for the Diversion of Public Footpaths Nos. 1, 2, 3 and 11 in the parish of Mobberley.

**5 PUBLIC RIGHTS OF WAY ANNUAL REPORT 2010-2011 AND WORK PROGRAMME 2011-2012**

The Committee received a report which detailed the achievements of the Public Rights of Way service during 2010-11 and set out the proposed work programme for 2011-12.

The Greenspaces Manager reported on the work carried out during 2010-11 by the Maintenance and Enforcement Team and the Legal Orders Team.

It was reported that:

- 33 temporary and emergency closures of rights of way had been made
- 14 public path orders had been confirmed, 28 cases were in the progress, with a backlog of 14 applications
- 7 Orders had been contested and referred to the Planning Inspectorate
- 2 Definitive Map Modification Orders had been confirmed, 9 were in progress, with a backlog of 22
- 6 Definitive Map Anomaly investigations had been completed, with a backlog of over 260

The Rights of Way team had suffered from a reduction in the base budget. The base budget for contractors and materials had not increased over the past 7 years and was in decline. The increasing demand on the budget and the reactive way that maintenance must work resulted in funds being completed committed significantly before the end of the financial year and consequently work other than planned pre-allocated commitments had 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 were that a back log of work was released at the commencement of the new financial year, compounding the problem of underfunding and speeding the time at which the budget becomes expired.

**RESOLVED:**

That the Annual Report for 2010-2011 be noted and the proposed Work Programme for the Public Rights of Way Team 2011-2012 be approved.

**6 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NOS 1, 2, 3 AND 11 (PARTS), PARISH OF MOBBERLEY**

The Committee received a report which detailed an application from Mr and Mrs A Edgar, Vale Wood Farm, Smith Lane, Mobberley (the applicant) requesting the Council to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath nos. 1, 2, 3 and 11 in the parish of Mobberley.

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

Mr John White, representing the Ramblers (Vale Royal and Knutsford Group), spoke in relation to Footpath No. 11 being unavailable on the ground and, as this had been the situation for a number of years, asked that the Council take action on this in the next 12 months.

The applicant owned the land over which the current paths and the proposed diversion ran. The sections of each Public Footpath to be diverted ran through the property of the landowner giving rise to concerns relating to security and safety, especially since Mobberley FP No.1 also ran through a barn.

The proposed new route would have a recorded width of 2m and would not be enclosed. Of benefit to the public, the new route would be significantly more enjoyable as it would pass through more open and scenic landscape and would be easier to navigate as it simplifies passage past the farmyard and buildings.

The Ramblers Association had made a request in relation to the current line of Mobberley FP No. 11, which was unavailable to the south of Vale Wood Farm since a bridge was missing that would allow passage over a stream. The legal line of the footpath was not clear and the Council was working to resolve this.

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

**RESOLVED:**

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert parts of Public Footpaths Nos. 1, 2, 3 and 11, Parish of Mobberley by creating new sections of each public footpath and extinguishing the current path sections, as illustrated on Plan No. HA/049 on the grounds that it was expedient in the interests of the owner of the land crossed by the paths.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order

be confirmed in the exercise of the powers conferred on the Council by the said Acts.

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

**7 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 6 (PART), PARISH OF SANDBACH**

The Committee considered a report detailing an application from Mr R Astles, Chairman of Sandbach Rugby Union Football Club, Bradwall Road, Sandbach (the applicant), requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 6 in the parish of Sandbach.

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

The land over which the current path and the proposed diversion ran belonged to the Sandbach Rugby Union Football Club. The section of Public Footpath No. 6 to be diverted traversed parts of two rugby pitches. To better manage use of the rugby pitches and the footpath, the applicant would like to divert the footpath to enable users to walk between the pitches rather than across them. The new route would have a recorded width of 2m and would not be enclosed. Of benefit to the public, the new route would be more convenient for users since it would pass between the pitches so separating path users from pitch users.

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

**RESOLVED:**

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.6 Sandbach by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan No. HA/048 on the grounds that it is expedient in the interests of the owner of the land crossed by the path.

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

**8 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 4 (PART), PARISH OF PEOVER INFERIOR**

The Committee received a report which detailed an application from Mr B Wharfe, Whitehouse Farm, Plumley Moor Road, Knutsford (the applicant) requesting the Order to make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.4 in the parish of Peover Inferior.

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

Mr SR Wharfe owned the land over which the current path and the proposed diversions ran. The section of path to be diverted ran across a pasture field on which a free range chicken farm was to be developed. For effective livestock management, the applicant was requesting that the path be diverted to separate livestock from path users. The new route would have a recorded width of 2m and would not be enclosed. Of benefit to the public, the new route would be as enjoyable as it would pass through similar scenic landscape.

Objections had been received from Mr JA Jackson and Mr and Mrs S Wade, who lived at The Smithy and Orchard Lea respectively at Smithy Green, Lower Peover, Knutsford. Their objections centred on the loss of scenic enjoyment if the footpath was diverted to follow the field edge rather than passing across the field and then through the enclosed section of hawthorn hedge and oak trees. However, the development of the chicken farm would alter the landscape and subsequent scenic enjoyment. A hedge would bisect the field so it would no longer be an expanse of open space. Furthermore, the current path alignment would force users to enter the chicken farm in order to follow the legal line. Diverting the path around the field edge would benefit users by separating them from the livestock whilst still providing scenic views.

The Committee considered that the new route would not be substantially less convenient than the existing route and that diverting the footpath would be of considerable benefit to the landowner in terms of management of the land which was being developed for free range chicken farming. It

was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

**RESOLVED:**

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

**9 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 6 AND BRIDLEWAY NO. 1 (PARTS), PARISH OF CONGLETON**

The Committee received a report which detailed an application from Mr P Chadwick, Moreton Meadows Farm, Waggs Road, Congleton (the applicant) requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No. 6 and part of Public Bridleway No.1 in the parish of Congleton.

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

The applicant owned the land over which the current path, bridleway and proposed diversion ran. The section of Public Footpath No.6 Congleton to be diverted ran through the property of the applicant giving rise to concerns relating to security and safety. The section of Public Bridleway No.1 Congleton to be diverted would realign it to the currently used line thus resolving an outstanding alignment issue. The new section of bridleway would be enclosed on both sides and have a recorded width of 3.5m along the new route and the new section of footpath would have a recorded width of 2m. Of benefit to the public, the alignment issue in relation to the bridleway would be resolved and the new footpath would be significantly more enjoyable as it would pass through more open landscape.

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

**RESOLVED:**

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

**10 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 9 (PART), PARISH OF CHORLTON**

The Committee received a report which detailed an application from Mr and Mrs A Parker, Oakleigh Cottage, Newcastle Road, Chorlton, Crewe (the applicant) requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.9 in the parish of Chorlton.

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

The applicant owned the land over which the current path ran. The land over which the proposed diversion ran belonged to Mr and Mrs Sellars, Basford House, Newcastle Road, Chorlton, Crewe, who had given agreement to the diversion. The section of Public Footpath No.9 Chorlton to be diverted ran through the property of the applicant giving rise to concerns relating to security and safety and was also obstructed by buildings. Diverting the path would offer improved privacy and security

whilst realigning the path to a useable line. Of benefit to the public, the new route would be significantly more enjoyable as it would pass through more open landscape and be unobstructed.

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

**RESOLVED:**

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

**11 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 6 (PART), PARISH OF SOUND**

The Committee received a report which detailed an application from Mr WF Wright, Sound Lodge, Wrenbury Heath Road, Sound, Nantwich (the applicant) requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert part of Public Footpath No.6 in the parish of Sound.

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

The Applicant owned the land over which the current path and the proposed diversion ran. The section of Public Footpath No.6 Sound to be diverted ran through the property of the applicant giving rise to concerns

relating to security and safety. Furthermore, the bungalow belonging to the applicant was on the current alignment of the path rendering it unavailable to users. The new route would have a recorded width of 2m and would be unenclosed. Of benefit to the public, the new route would be significantly more enjoyable as it would pass thorough more open and scenic landscape.

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

**RESOLVED:**

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

**12 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NOS. 4 AND 5 (PARTS), PARISH OF GREAT WARFORD**

The Committee received a report which detailed an application from Mrs Byrom, Little Moss Farm, Chelford Road, Great Warford (the applicant), requesting that the Council make an Order under section 119 of the Highways Act 1980 to divert parts of Public Footpath Nos. 4 and 5 in the parish of Great Warford.

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

The Applicant owned the land over which the current path and the proposed path ran. The section of Public Footpath No.5 in the parish of Great Warford to be diverted ran through the property of the Applicant giving rise to concerns relating to security and safety. The Applicant also had planning permission to convert some of the outbuildings into leisure facilities adding to the need for increased privacy and security at the property.

The Ramblers Association, Peak and Northern Footpath Society and Alderley Edge Footpath Society, having walked the proposed diversion route, had requested that the surface of the section across pasture land be treated to prevent water-logging and that the route was appropriately waymarked.

A letter of objection had been received from Great Warford Parish Council, in which they suggested a shorter diversion around the south side of the farm buildings. This alternative route had been discussed with the applicant, who felt that this route would still give rise to concerns relating to security and safety. The Greenspaces Manager stated that he would suggest to the Parish Council that he attends a future meeting to discuss the diversion and explain the process for the making of an Order under section 119 of the Highways Act 1980.

The Committee considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpath would be of considerable benefit to the landowner in terms of enhancing security and privacy of the property. It was therefore considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order were satisfied.

#### **RESOLVED:**

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

The meeting commenced at 2.00 pm and concluded at 3.25 pm

Councillor J Wray (Chairman)