

# CHESHIRE EAST COUNCIL

## REPORT TO: RIGHTS OF WAY COMMITTEE

---

**Date of Meeting:** 11 June 2012  
**Report of:** Greenspaces Manager  
**Subject/Title:** Public Rights of Way Annual Report 2011-2012 and Work Programme 2012-2013

---

### **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 2011-2012 and sets out the proposed work programme for the year 2012-13. Details are set out in Appendices 1, 2 and 3.

### **2.0 Recommendations**

- 2.1 That Members note the Annual Report for 2011-2012 and approve the proposed Work Programme for the Public Rights of Way Team 2012-2013.

### **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 - Carbon Reduction - Health**

- 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 Council's 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 CO<sub>2</sub> 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 will not replace this function.

9.2 There were no claims against the Council in 2011/12 for defects on the surface of a public right of way (claims relating to structures are referred to the landowner).

## **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

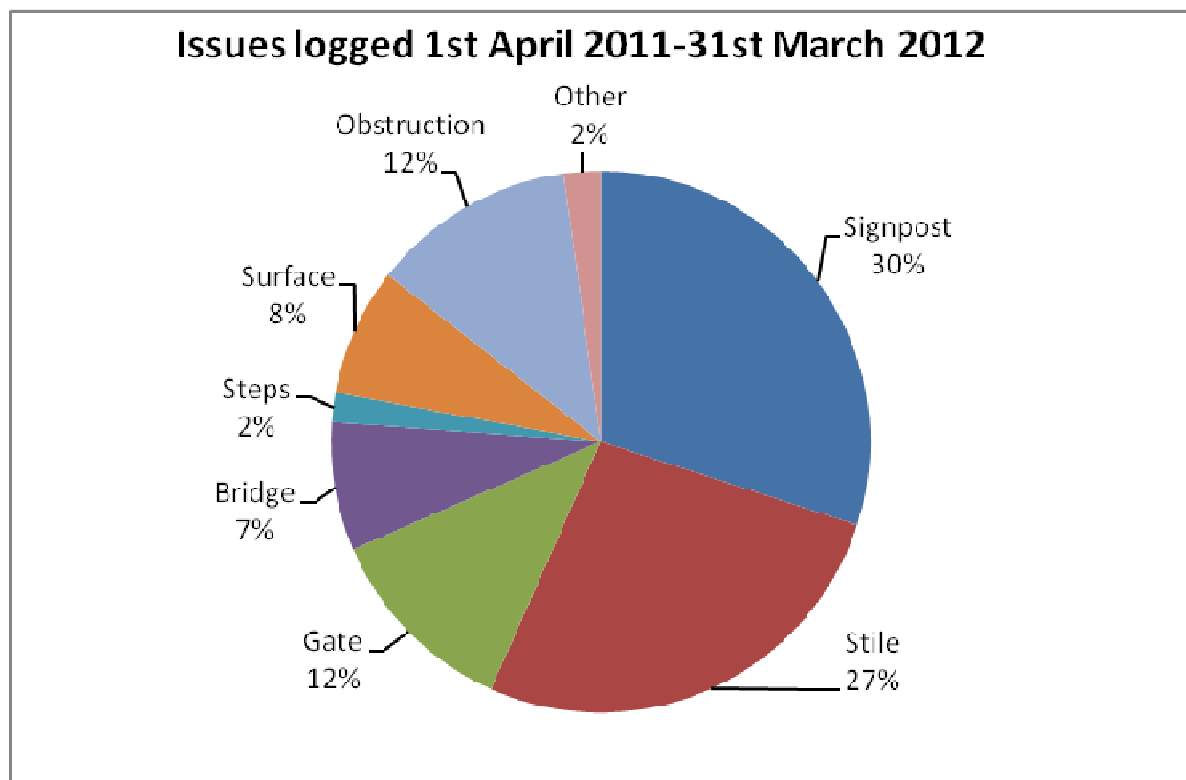
10.3 Each area is examined individually, below, with the successes of 2011/12 contained within the relevant appendices.

## **11.0 Network Management – Maintenance and Enforcement**

11.1 The Network Management 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 Utilising additional reporting systems developed within the CAMS data base attached to the GIS system it is now possible to report logged problems, their characteristics and the number of problems resolved. 529 problems have been logged throughout the year 2011 2012, 375 have been resolved and 154 issues remain unresolved. This will partially reflect the revenue freeze imposed in October 2011 and the backlog of works will be addressed in the new financial year. The pie chart below illustrates the problems reported by percentage type.



- 11.4 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 £70 to purchase and install a stile compared to £285 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 58<sup>1</sup> 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 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 84%, which compares very favourably with a pass rate of 85% for 2010 and 84% for 2009.

## **13.0 Rights of Way Improvement Plan - Access Development**

- 13.1 There is one full-time member of staff dedicated to the implementation of 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 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 PROW/Countryside, comments on planning applications and seeks planning gains, and responds to general enquiries and requests for information.

## **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.

## **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.

---

<sup>1</sup> 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.

15.2 With the publication of the latest ROWIP for CEC in 2010 the Statement of Priorities for Definitive Map Modification Orders was amended in the light of changed ROWIP priorities.

- Maintenance and Enforcement Protocol
- Statement of Priorities for Definitive Map Modification Orders
- 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.

16.2 The Forum's sub-groups considered Health, Under represented groups, Funding and the Spreading of best practice in relation to access to the countryside.

16.3 The Forum received presentations about and submitted advice on the A556 Knutsford to Bowden Environmental Improvement Scheme, the proposed Forestry Commission changes and other schemes affecting countryside access in the county.

16.4 Training was undertaken by members of the Forum on localism and the big society and a site visit was held to the footbridge over the Alderley Edge bypass which the Forum was instrumental in securing.

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

16.6 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; and,
- to participate in the consultation process and ongoing monitoring associated with the Rights of Way Improvement Plan.

16.7 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 council, from a reduction in base revenue budgets. 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 service in October 2011 until the end of the financial year for the second year in succession. 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.

- 17.2 Despite the pressures on the budget the team have managed to perform to an impressive level as evidenced by the consistency of the “ease of use” BVPI 178 percentage, (see 12.1 above) of 84%.

## **18.0 Conclusion**

- 18.1 The team continues to deliver consistently high levels of service throughout a very difficult period 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 and its resilience to budget cuts although it is anticipated that 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:

Name: Mike Taylor  
Designation: Public Rights of Way Manager  
Tel No: 01270 686115  
Email: [mike.taylor@cheshireeast.gov.uk](mailto:mike.taylor@cheshireeast.gov.uk)