

CHESHIRE EAST COUNCIL

PUBLIC RIGHTS OF WAY COMMITTEE

Date of Meeting: 17 December 2012
Report of: Public Rights of Way Manager
Subject/Title: Local Government Act 2000 – Section 2
Deed of Dedication for New Public Rights of Way in the
Parish of Holmes Chapel

1.0 Report Summary

- 1.1 This report presents a proposal to create new public rights of way on Cheshire East Council owned public open space in the Parish of Holmes Chapel.

2.0 Recommendations

- 2.1 That, subject to the entering into of a maintenance agreement with Holmes Chapel Parish Council, rights of way over Council owned land be dedicated to the public under Section 2 of the Local Government Act 2000 in the Parish of Holmes Chapel, the indicative lines of which are shown on Plan No. LGA/003, and that public notice be given of these public rights of way.

3.0 Reasons for Recommendations

- 3.1 Cheshire East Council is involved, as the owner of public open space, in a project to improve public access in the Dane Meadow area between Holmes Chapel and Cranage, alongside the River Dane. A Dane Valley Programme Board, comprising representatives from Holmes Chapel Parish Council, Holmes Chapel Partnership and Cheshire East Council are progressing the project.
- 3.2 The first phase of this project is being developed presently within which it is proposed to improve paths within Dane Meadow using externally sourced funding, a requirement of which is that the paths are dedicated as public rights of way. This will have the effect of securing the public's rights of access for perpetuity.
- 3.3 Consultation undertaken for the Council's statutory Rights of Way Improvement Plan (ROWIP) identified the need for local access to the countryside, safe off-road pedestrian and cyclist routes and circular routes close to people's homes. These needs are met by the proposed paths which will offer leisure and active travel facilities.

4.0 Wards Affected

- 4.1 Dane Valley Ward.

5.0 Local Ward Members

- 5.1 Councillor L Gilbert and Councillor A Kolker.

6.0 Policy Implications including - Carbon Reduction, Health

- 6.1 The proposal supports the following policies and initiatives of the Cheshire East Rights of Way Improvement Plan 2011-2026:
- Policy H3: Public rights of way and green infrastructure: Protect and enhance our public rights of way and green infrastructure and endeavour to create new links where beneficial for health, safety or access to green spaces. Initiative: 'Leisure routes for cyclists, horse riders and walkers'; and,
 - Policy H2: Promotion of active travel and healthy activities: Work in partnership to promote walking, cycling and horse riding as active travel options and healthy activities. Initiative 'Public information on the public rights of way network'.
- 6.2 The development of new walking routes for local residents and visitors alike is aligned with the health and wellbeing objectives and priorities of the Council as stated in the Business Plan 2012/2015, in particular Priority 5 Ensure a Sustainable Future and Priority 7 Drive out the causes of poor health, and the Council's commitment to the Change4Life initiative.

7.0 Financial Implications

- 7.1 The proposal would incur minimal immediate financial implications in the processing and advertising costs for a Deed of Dedication.
- 7.2 The proposal to create public rights of way would enable the Programme Board to access funding via Natural England's Paths for Communities Fund, one of the stipulations of which is that a new public right of way is created as a result of the project. The Programme Board have submitted an application following initial screening. The funding would be used to improve the surface of the paths, access furniture and interpretation around the Dane Meadow site.
- 7.3 The paths would become maintainable at the public expense on the date that the Deed of Dedication is sealed. The paths are already maintainable at the public expense as they are currently available to the public within the open space management regime, although the proposal will involve a greater maintenance liability than at present due to the improved surfaces of the routes.
- 7.4 The Programme Board has demonstrated a commitment to future maintenance and Holmes Chapel Parish Council are prepared to enter into a maintenance agreement with Cheshire East Council to cover the future long-term maintenance of the improved path surfaces.

- 7.5 The Asset Management Service has assessed the proposal with respect to the Council's landholding. The conclusion reached was that there are no negligible effects to the land as an asset of the Council because the land has no development potential due to the fact that the land is identified as an area of biological importance in the existing Congleton Local Plan and also has a steep and wooded topography.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Under Section 2 of the Local Government Act 2000, a local authority has the power to do anything to improve the economic, social or environmental wellbeing of their area. In accordance with this power, the Council may enter into a Deed of Dedication to create a public right of way.
- 8.2 The paths will become public rights of way and maintainable at the public expense on the date that the Deed of Dedication is sealed.
- 8.3 Under Section 2 of the Local Government Act 2000, there is no statutory right for objection to the proposal.
- 8.4 The use of the powers under Section 2 of the Local Government Act 2000 fall within the general powers of this Committee which are described in the Constitution: "The Public Rights of Way Committee shall discharge all the functions of the Council in relation to all matters relating to public rights of way."

9.0 Risk Management

- 9.1 Not applicable.

10.0 Background and Options

- 10.1 For a number of years, Cheshire East Council, Holmes Chapel Parish Council and Cranage Parish Council have been working on a project to improve access between the two parishes and within the public open space land known as Dane Meadow. This project was logged during consultation for the Council's ROWIP (Ref. T25).
- 10.2 The first phase of this project is currently being developed and includes a bid to Natural England's Paths for Communities Fund in order to improve the surfaces of, and access furniture on, the paths within the public open space. The funding bid also seeks finance for signposting and interpretation boards.
- 10.3 One of the stipulations of the funding stream is that the improved paths are dedicated as public rights of way, thereby securing public access rights for perpetuity. This also means that the paths can be shown on Ordnance Survey mapping as being available to the public. A plan of the indicative lines of the proposed public rights of way, Plan No. LGA/003, is appended.

- 10.4 It is planned that the proposed public bridleway will be surfaced in order to enable maintenance vehicles and disabled users to access the level part of Dane Meadow adjacent to the river. The proposed footpath on the east of the site would be improved to a bound gravel surface, whilst those on the west would remain as grass paths or woodland paths as at present.
- 10.5 A second phase of the project will be to seek to create an off-road route for pedestrians and cyclists linking the two villages via a bridge over the River Dane. The proposed public bridleway shown in Plan No. LGA/003 reflects this aspiration as bridleways may be used by walkers, cyclists and horse riders.
- 10.6 The proposed routes run as indicated in Plan No. LGA/003:
- a) a public footpath within Holmes Chapel parish from OS grid reference SJ 7577 6750 at its junction of Footpath No. 3 in the Parish of Holmes Chapel in a generally westerly direction for a distance of approximately 190m to its junction with the proposed public bridleway at OS grid reference SJ 7558 6753;
 - b) a public bridleway within Holmes Chapel parish from its junction with Daresbury Close (UY1951) at OS grid reference SJ 7547 6750 in a generally north-easterly direction for approximately 110m and then in a generally north-westerly direction for approximately 215m to its junction with the proposed public footpath at OS grid reference SJ 7538 6759; and,
 - c) a public footpath within Holmes Chapel parish from OS grid reference SJ 7538 6759 at its junction with the proposed public bridleway, in a generally south-westerly direction for a distance of approximately 240m to OS grid reference SJ 7519 6747, and then in a generally westerly direction for approximately 25m to OS grid reference SJ 7516 6746 and then in a generally south-easterly direction for approximately 150m to its junction with 'Footway Bramhall Drive' (FY1045) at OS grid reference SJ 7527 6736.
- 10.7 The landowner, Cheshire East Borough Council is in support of the proposed dedication; Cabinet Member for Prosperity and Economic Regeneration approval for the proposal to be put before this Committee was given on 22nd October 2012, subject to the Council and Holmes Chapel Parish Council entering into an agreement for the maintenance of the improved surfaces of the paths.
- 10.8 Colleagues in the Asset Management Service, Countryside Development, Parks Development and Streetscape have been consulted and are supportive of the proposal.
- 10.9 Holmes Chapel Parish Council, Cranage Parish Council and the local Ward Members have been consulted. Councillor Gilbert responded to say "I fully support the project and am happy with the proposed rights of way subject to any comments you may receive from the Parish Council, Holmes Chapel Partnership or the Project Programme Board."

10.10 If the Programme Board's application to the Paths for Communities fund is unsuccessful, the Programme Board would be unlikely to seek to continue the proposal to establish these paths as public rights of way as the improvements proposed could not be undertaken.

11.0 Access to Information

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

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