

# CHESHIRE EAST COUNCIL

## Public Rights of Way Committee

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<b>Date of Meeting:</b>	16 <sup>th</sup> September 2013
<b>Report of:</b>	Public Rights of Way Manager
<b>Subject/Title:</b>	Public Path Orders for Public Footpath No's 10 and 29 in the Parish of Wincle under the Highways Act 1980

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### **1.0 Report Summary**

- 1.1 This report is an informative item to brief members on a change in the legal processing of the diversion of Public Footpath No's 10 and 29 in the Parish of Wincle.

### **2.0 Recommendation**

- 2.1 No decision is required by Committee.

### **3.0 Reasons for Recommendations**

- 3.1 N/A

### **4.0 Wards Affected**

- 4.1 Sutton Ward

### **5.0 Local Ward Members**

- 5.1 Councillor Hilda Gaddum.

### **6.0 Policy Implications**

- 6.1 Not Applicable

### **7.0 Financial Implications**

- 7.1 Not Applicable

### **8.0 Legal Implications**

- 8.1 The route of a footpath cannot be diverted along an existing highway and therefore it is not possible to implement the Committee decision in strict compliance with the resolution. However, this does not prevent users from using the existing highway and consequently the proposed route can be achieved, albeit it will make use of the existing highway.

## **9.0 Risk Management**

9.1 None

## **10.0 Background and Options**

- 10.1 Referring to the Rights of Way Committee Item No.39 from the meeting held on 11<sup>th</sup> March 20013, it was resolved that the Council make an Order under Section 119 of the 1980 Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert parts of Public Footpaths No's 10 and 29 in the Parish of Wincle by creating new sections of each public footpath and extinguishing the current path sections, as illustrated on Plan No.HA/079, on the grounds that it was expedient in the interests of the owner of the land crossed by the paths.
- 10.2 Upon making the orders, it was noted that the diversion route for Public Footpath No. 10 Parish of Wincle would take the route along Minn End Lane which is an existing Highway. Legally, this is unacceptable since a public footpath cannot be diverted onto an existing highway.
- 10.3 To rectify this situation, since it was legally incorrect to divert the current route of Public Footpath No. 10, Parish of Wincle onto Minn End Lane as proposed, this section of path was extinguished under section 118 of the Highways Act 1980. Fundamentally, this is a legal administrative processing change and does not affect the changes on the ground for this path that were approved at the March committee meeting. The principle objectives of the diversion remain the same and the walking enjoyment/ experience of users remains the same.

## **11.0 Access to Information**

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 686 015

Email: [mike.taylor@cheshireeast.gov.uk](mailto:mike.taylor@cheshireeast.gov.uk)