

CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting: 9 December 2013
Report of: Public Rights of Way Manager
Subject/Title: Changes to Rights of Way Law and Procedures - the Growth and Infrastructure Act 2013

1.0 Report Summary

- 1.1 Members will recall that a similar paper to this was brought to Committee at the June 2012 meeting. The paper discussed consultations undertaken by DEFRA about a range of issues and proposals relating to changes to Rights of Way administrative processes. Amongst them were a set of complementary proposals from the Penfold Report dealing with Public Rights of Way issues associated with planning and development. Those elements have now passed into law as part of the Growth and Infrastructure Act 2013. The remaining proposals are still going through the Parliamentary process as part of the Deregulation Bill and are likely to pass into law in 2014.

2.0 Recommendation

- 2.1 That Members note the information contained in the report.

3.0 Reasons for Recommendations

- 3.1 It is the view of officers that the proposals as set out in the Act are largely positive and will provide greater flexibility to the way we work.
- 3.2 The report has been discussed with Councillor David Topping, Environment Portfolio Holder, and his views will be relayed to the Committee verbally due to the tight time constraints involved.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 Not applicable

7.0 Financial Implications

7.1 Not applicable

8.0 Legal Implications

8.1 Not applicable

9.0 Risk Management

9.1 Not applicable

10.0 Background

10.1 The Penfold Report dealt with making changes to the planning process and the areas of that process impacting on Public Rights of Way.

10.2 Currently the legal work to process diversions or stopping up orders for paths that are being affected by development can only start after planning consent has been granted. This creates uncertainty for developers and it also slows the development process timescale.

11.0 The Legislative Changes

11.1 Amendments have been made to the Town and Country Planning Act 1990 to allow competent authorities to make stopping up and diversion orders if they are satisfied that –

- A planning application has been made; and;
- If the application were granted it would be necessary to stop up or divert the path in order to enable the development to go ahead.

11.2 Additionally any order so made cannot be confirmed unless the Secretary of State or the Order Making Authority are satisfied that –

- Planning permission has been granted: and;
- It is necessary to stop up or divert the path in order to enable the development to go ahead.

11.3 Consequentially Order Making Authorities will be able to contribute to speeding up the planning process by making orders for stopping up and diverting public rights of way prior to planning consent being granted.

11.4 Members may recall that this Committee has previously resolved to make orders to divert paths under the provisions of Town and Country Planning Act 1990 s257 prior to the granting of planning permission, but with the proviso that the order will only be made on the confirmation of the granting of planning permission. The legislative changes now made by the Growth and Infrastructure Act 2013 provide statutory authority for that approach.

12.0 Access to Information

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

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