

CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting:	9 th December 2013
Report of:	Public Rights of Way Manager
Subject/Title:	Local Government Act 2000 – Section 2 Deed of Dedication for a new Public Bridleway in the Parish of Wilmslow

1.0 Report Summary

- 1.1 This report presents a proposal to create a new public bridleway on Cheshire East Council owned public open space in the Parish of Wilmslow.

2.0 Recommendations

- 2.1 That a public bridleway over Council owned land be dedicated to the public under Section 2 of the Local Government Act 2000 in the Parish of Wilmslow, as shown on Plan No. LGA/006a, and that public notice be given of this public bridleway.

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 Carrs park in Wilmslow. Specifically, the project aims to create a multi-user route through the park for the public to use to walk or cycle the length of the park throughout the year and also for use as an off-road route for people travelling beyond the park. The Bollin Valley Partnership, the Friends of the Carrs and the Parks Development team are progressing the project with the Asset Management Service.
- 3.2 To construct a multi-user route through the park, externally sourced funding has been secured, a requirement of which is that the path is dedicated as a public right of way. This would 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, off-road pedestrian and cyclist routes and circular routes close to people's homes. These needs are met by the proposed path which would offer both leisure and active travel facilities.

4.0 Wards Affected

- 4.1 Wilmslow West and Chorley Ward.

5.0 Local Ward Members

5.1 Councillor Fitzgerald and Councillor Barton.

6.0 Policy Implications

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 and cycling 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 creation of a public bridleway would enable the use of £124.6k of funding secured from 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 funding would be used to create a year-round accessible surfaced route through the park, plus signage and interpretation. £37.5k of funding has also been secured for the project through a Section 106 planning contribution and £500 has been contributed by the Friends of the Carrs group.

7.3 The surfaced path would become maintainable at the public expense on the date that the Deed of Dedication is sealed. The path is already maintainable at the public expense as it is currently used and available to the public within the open space of the site, albeit as an unsurfaced route.

7.4 Whilst the estimated future maintenance cost associated with the proposed surfaced route may be greater than the current annual maintenance spend, it may be anticipated that a surfaced route would reduce the liability of the Council in relation to trip related insurance claims. The investment proposed, using externally sourced funds, would create an asset with minimum maintenance requirements in the immediate future, and an asset available to the public for the longer term.

- 7.5 The Asset Management Service has assessed the proposal with respect to the Council's landholding. There are negligible effects to the land holding as an asset of the Council because the land is already managed as public open space.

8.0 Legal Implications

- 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 path would become a public right 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 and local user groups have been working to improve access within the public open space land known as the Carrs. The creation of a multi-user route through the park has been a long held aspiration and was registered (Ref. T9) by the local user group CycleWilmslow during consultation for the Council's Rights of Way Improvement Plan.
- 10.2 The route would create a year-round and accessible path for people visiting the park. It is planned that the proposed public bridleway would be surfaced with a bitumen spray and chip surface. The route currently is unsurfaced, uneven and suffers from flooding due to high water table levels. In addition, bank erosion by the highly mobile River Bollin is likely to result in sections of the current path being unavailable in the future. The proposed multi-user route would be located away from such areas to protect the investment being made.
- 10.3 The route would also offer an off-road link for pedestrians and cyclists from the town centre and railway station towards places of interest, such as the National Trust property at Styal, and places of employment, such as Stamford Lodge and Manchester Airport.
- 10.4 The proposal has been submitted in a bid to Natural England's Paths for Communities Fund in order to create a year-round multi-user surface through

the public open space. Funding has also been secured for the project through a Section 106 planning contribution.

- 10.5 One of the stipulations of the Paths for Communities funding stream is that the path created is dedicated as a public right of way, thereby securing public access rights for perpetuity. This also means that the path can be shown on Ordnance Survey mapping as being available to the public. .
- 10.6 The proposed route runs as indicated in Plan No. LGA/006a:
a public bridleway within Wilmslow parish from OS grid reference SJ 8447 8158 at its junction with public footpath No. 29 in the Parish of Wilmslow in a generally north-westerly direction for a distance of approximately 900 metres to its junction with restricted byway No. 3 in the Parish of Wilmslow, at OS grid reference SJ 8393 8213.
- 10.7 For a distance of approximately 240m the proposed public bridleway would run along the same alignment as public footpath No.23 in the Parish of Wilmslow. It is proposed that the status of this section of the public footpath be dedicated as public bridleway within the Deed of Dedication.
- 10.8 The landowner, Cheshire East Borough Council, is in support of the proposed dedication with Cabinet Member for Resources and Cabinet Member for Environment approval for the proposal having been granted in April 2013.
- 10.9 Colleagues in the Asset Management Service, Bollin Valley Partnership, Countryside Development, Parks Development and Streetscape teams are supportive of the proposal.
- 10.10 Wilmslow Town Council and the local Ward Members have been consulted. Councillor Fitzgerald responded to say "I am delighted that this multi use access is being provided. It has my full support." No further comments were received.
- 10.11 The Development Management department has confirmed that planning permission for the proposal is not required, as the proposed works constitutes permitted development.
- 10.12 The classification of public bridleway means that the public right of way would be available to pedestrians, horse riders and cyclists. The intention of the multi-user route within the Carrs park was that the route would be available to both pedestrians and cyclists. To secure the external funding, the public right of way must be dedicated as a public bridleway and there are some concerns that the use of the route by horse riders would create potential conflict with other users and damage the surface of the route. As can be seen in Plan No. LGA/006a, the public bridleway proposed is a cul-de-sac route which connects with existing public footpaths within the park. Cyclists would be allowed, by the Council as landowner, to use these connecting public footpaths on a permissive basis to continue their journey. Horse riders, however, would not be permitted to use these paths which connect to the town centre and residential streets. Whilst no physical barriers are proposed to restrict onward access for horseriders, it is anticipated that the attractiveness of the proposed bridleway to this category of

user be minimal. Should an issue arise in the future, the Council could investigate the use of a traffic regulation order to restrict the access of horse riders along the route.

11.0 Access to Information

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

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