

# Cheshire East Council

## Cabinet

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**Date of Meeting:** 18<sup>th</sup> October 2016

**Report of:** Kath O'Dwyer, Deputy Chief Executive & Executive Director - People

**Subject/ Title:** Available Walking Routes to School Programme

**Portfolio Holder:** Cllr Liz Durham – Children and Families Portfolio Holder

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### 1.0 Report Summary

1.1 On the 14<sup>th</sup> June 2016, Cabinet considered a report in relation to a 'review of the available walking routes to school'.

1.2 On that date Cabinet agreed to:-

a) note the reclassification of routes that have been re-assessed as available walking routes to school and agrees that free school transport for those routes be withdrawn from April 2017; and

b) authorise the Executive Director – People to spend £150,000 from the Local Transport Plan budget allocation for 2016/17 to improve further walking routes to school to bring them up to required standard so that free school transport for those improved routes may be subsequently withdrawn.

1.3 This decision was subsequently 'called in' on the basis that:

a) relevant information was not considered;

b) viable alternatives have not been considered; and

c) the decision taken by Cabinet could be open to challenge.

1.4 On the 19<sup>th</sup> July 2016, the Children and Families Overview and Scrutiny Committee considered the call in of the 14<sup>th</sup> June 2016 Cabinet decision. The Committee made a range of recommendations to Cabinet, as follows:-

#### Recommendation 1

- That the walking route from Bollington to Tytherington High via Middlewood Way be declared unavailable on the grounds that there are serious concerns about the personal safety of pupils on considerable stretches of the Middlewood Way which is isolated and hidden from view of the nearby Silk Road. In addition, there are concerns about access to emergency services to the whole of the Middlewood Way and significant road safety concerns relating to the only alternative route in the vicinity,

the Silk Road which would have to be used as an alternative walking route in the event that the Middlewood Way was closed for any reason. The committee therefore is of the opinion that it would not be possible to make the Middlewood Way safe, irrespective of any improvements that may be proposed;

#### Recommendation 2

- That in respect of the northern section of the Middlewood Way near to Poynton, improvements be made to the lighting and footpath surfacing which are currently uneven in places and prone to flooding thereby creating puddles and significant muddy patches;

#### Recommendation 3

- That in connection with the walking routes from Willaston to Malbank High and Willaston to Brine Leas School, the Committee believes that as they currently stand, these walking routes are not safe and would therefore ask the Executive Director - Place to:
  - Bring back to this Committee data regarding the collision rates at the roundabout on the A500/A51;
  - Install signage on the A500/A51 to indicate to motorists that they are approaching a pedestrian crossing
  - Request Network Rail to make improvements to the level crossing at Nantwich Road Willaston to install double barriers in the interests of pedestrian safety;
  - Ensure that street lighting is switched back on those sections of London Road that have been part of the Council's experimental scheme;
  - Review the speed limit on London Road with a view to it being reduced;
  - Carry out repairs to the footpath on London Road which has collapsed in places and to create a footpath where currently none exists.

#### Recommendation 4

- That in respect of the Elton Road Roundabout to Wheelock Primary School, the Executive Director - Place be requested install street lighting to the footway/cycle path which is located behind the hedge on Hind Heath Road;

#### Recommendation 5

- The Director of Education be requested to provide safety information on any future proposals relating to the availability of walking routes to school;

#### Recommendation 6

- That whilst the Council's current policy on available walking routes to school complies with national guidance in respect of road safety, the Committee believes that its failure to address issues of personal safety indicates that the policy is detached from modern life and the Committee therefore requests Cabinet to review the policy with a view to including specific reference to the need to take account of personal safety;

#### Recommendation 7

- That in respect of the five sites involved in this call-in and any future sites, decisions to withdraw free bus travel be undertaken on a phased basis in accordance with paragraph 53 of the Department of Education guidance 2014 so that no child currently in receipt of a bus pass will be disadvantaged by the decision;

#### Recommendation 8

- That the Committee's disappointment be placed on record regarding the fact that this matter was not brought to it for consultation by Cabinet before a decision was taken.

## **2.0 Recommendations**

### **2.1 It is recommended that Cabinet:-**

- a) Reconsider the original recommendations of the Cabinet decision of 14 June 2016 (appendix 1).
- b) Consider the minutes and recommendations of the Children and Families Overview and Scrutiny Committee meeting of 19 July 2016 (appendix 2).
- c) Consider the officer response to the Committee recommendations and the subsequent recommendations to Cabinet (appendix 3).

## **3.0 Reasons for the Recommendations**

- 3.1 At Cabinet on 14<sup>th</sup> June 2016, the report on the 'Review of the Available Walking Routes to School' (AWR) was approved. The decision was called in and the issues were considered in depth by the Children and Families Overview and Scrutiny Committee and officers have subsequently produced a report which provides a response to the Scrutiny review. (Appendix 3)
- 3.2 Cheshire East Council has welcomed the debate regarding the re-assessment of the 5 walking routes to school. We have engaged in the conversation and listened to the views of our schools and residents and have taken on board suggestions and comments raised in the on-going communications as demonstrated in the changes of the recommendations in this report. We would like to thank the Overview and Scrutiny committee for their assistance in this process and note that it was good to see so many parents and pupils participate in the OSC meeting.

- 3.3 Cheshire East Council has many difficult choices to make and withdrawing the right to free school transport has been a challenging decision. However, in this case, we find that we are in a position of inequity, where some pupils are receiving free transport because routes were historically classified as unavailable and that classification has changed. This means that there is unfairness in the provision of school transport thus making the Council exposed to criticism from the parents of children using other available routes for whom no free transport is provided.
- 3.4 However, it should also be noted that the road safety guidance is about assessing whether a route is assessed to see if it is walkable not whether it should be walked. A parent is responsible for deciding how their child travels to school whether it is on foot, cycle, car or bus. This is supported by case law which states an available route is one that can be reasonably walked; case law also states that it is reasonable to expect a child to be accompanied on their walking route to school. This provides evidence that it is the parent's responsibly to ensure their child's safety on the journey to and from school.

#### **4.0 Wards affected and Local Ward Members**

- 4.1 All wards may be affected by the proposals outlined in this paper.

#### **5.0 Implications of Recommendation**

##### **5.1 Policy Implications**

These proposals are in line with Cheshire East Council's adopted policy on Available Walking Routes to School which was approved on 15 October 2012.

##### **5.2 Legal Implications**

The council is required by both the Education Act 1996 and the Education and Inspections Act 2006 to make suitable travel arrangements for certain students to attend school. Case law has established that local authorities are required to make school travel arrangements where a child, lives under the statutory walking distance to school but does not have a route available that can be walked in reasonable safety.

- 5.2.1 For a route to be available, it must be a route to school, along which a child, accompanied as necessary, can walk with reasonable safety from traffic hazards.
- 5.2.2 Under the terms of the Council's policy, any parent who is dissatisfied with the Council's assessed route on the grounds that it contains unacceptable road safety hazards may make a request for reconsideration on certain specified grounds. The review will be undertaken by an officer of the Places Directorate and will be completed within 20 days wherever possible. Parents who remain dissatisfied can complain to the Local Government Ombudsman or, ultimately, bring a claim for judicial review if they consider that the Council has failed to follow its published Transport Policy or review procedure.

5.2.3 Parents who may suffer particular hardship of whatever nature as a result of the withdrawal of free transport also have a right to an appeal before the School Transport Appeals Sub Committee on the grounds that they have exceptional circumstances that merit consideration on an individual basis and justify the Council departing from its published policy.

5.2.4 If free transport is not withdrawn from those routes which have been classed as available to walk, the Council may be exposed to criticism from the parents of children using other routes across the borough which are also classed as available but for whom no free transport is provided.

5.2.5 If the Council declared the route unsafe for children attending school, it would suggest that we are allowing the general public to use an unsafe route and the logical next step would be to close the route to the public.

5.2.6 The Department for Education, Home to School Travel and Transport Guidance (July 2014) places, in part 1 of the guidance, a general duty on local authorities under section 508A of the Education Act 1996 to promote the use of sustainable travel and transport. In promoting the use of sustainable travel and transport an audit of the sustainable travel and transport infrastructure should be undertaken which should consider data relating to personal safety and security.

5.2.7 In part 2 of the guidance, Sections 508B and 508C of the Education Act 1996 make provision for local authorities to ensure that suitable arrangements are made, where necessary, to facilitate a child's attendance at school to make transport arrangements for all eligible children. The assessment of available walking are considered in relation to sections 508B and 508C of the Education Act 1996.

### 5.3 Financial implications

There are financial implications of offering a subsidy for transport until pupils conclude their education at their current school which although this would be in the spirit of the DfE good practice guidance, it is a significant challenge during a period of financial difficulties.

### 5.4 Equality Implications

A full equality impact assessment has been completed regarding the Available Walking Routes to school programme and is available to view on the Cheshire East Council Website.

### 5.5 Rural Community Implications

This proposal applies to pupils whose walking route to school is under 3 miles for secondary aged pupils and 2 miles for primary aged pupils. All pupils over this distance, travelling to their local or closest qualifying school would be eligible for transport.

## 5.6 Public Health Implications

The public health implications will be considered as part of the corporate sustainable mode of travel strategy update which will examine and promote the healthiest way of travelling to school.

## 6.0 Risk Management

- 6.1 Maintaining existing arrangements will result in inconsistency and inequity in the provision of transport across the borough.

## 7.0 Access to information / Bibliography

- 7.1 The Cheshire East Council Available Walking Routes to School Policy can be found at:  
[http://www.cheshireeast.gov.uk/public\\_transport/school\\_transport/walking\\_routes\\_to\\_schools.aspx](http://www.cheshireeast.gov.uk/public_transport/school_transport/walking_routes_to_schools.aspx)

## 8.0 Contact Information

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