

CHESHIRE EAST COUNCIL

Public Rights of Way Committee

Date of Meeting: 13th March 2017
Report of: Mike Taylor, Public Rights of Way Manager
Subject/Title: Highways Act 1980, Section 26 – Proposed Creation Order for a Public Footpath in the town of Sandbach

1.0 Report Summary

- 1.1 This report presents a proposal to make a Public Path Creation Order for a Footpath in the town of Sandbach.

2.0 Recommendation

- 2.1 That approval be given for the proposal, to make a Creation Order under Section 26 of the Highways Act 1980, to create a Public Footpath in the Town of Sandbach, as illustrated on Plan No. HA/113.

3.0 Reasons for Recommendation

- 3.1 Cheshire East Council is involved in a project to improve public access on a path between Clifton Road and Station Road in Sandbach. The path, whilst appearing to be set out for and used by the public, does not have formal Public Right of Way status by being recorded on the Definitive Map along its full length. In order to rectify this anomaly, to provide clarity for the public and to enable investment to improve the path, it is proposed to add the route as a Public Footpath on the Definitive Map, the legal record of Public Rights of Way.

4.0 Wards Affected

- 4.1 Sandbach Elworth Ward.

5.0 Local Ward Members

- 5.1 Councillor G Merry.

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'.

- 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'.
- Policy S7: Work with stakeholders to improve facilities for walking so that it is attractive for shorter journeys.

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 Corporate Plan 2016-2020, in particular Outcome 4 'Cheshire East is a green and sustainable place'.

7.0 Financial Implications

7.1 The proposal would incur minimal immediate financial implications in the advertising costs for a Creation Order.

7.2 The proposal, if approved by the Public Rights of Way Committee, would enable investment in the route to improve the accessibility, safety and attractiveness of the route. This works would be funded by s106 developer contributions and/or the Local Transport Plan Active Travel budget, depending on the cost of the required works, which is being estimated at present.

7.3 The path would become maintainable at the public expense on the date that the Creation Order becomes operative. The proposal will involve a greater maintenance liability than at present due to the increased length, 128m, of the public highway. As a sealed surface path in an urban area, Cheshire East Highways would undertake maintenance of the route.

8.0 Legal Implications

8.1 Under Section 26 of the Highways Act 1980, where it appears to a local authority that there is a need for a footpath, bridleway or restricted byway over land in their area and they are satisfied that having regard to:

a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public or to the convenience of persons resident in the area; and

b) the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provision as to compensation contained in section 28 of the Act,

it is expedient that the path or way should be created, the authority may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed by them as an unopposed order, create a footpath, bridleway or restricted byway over the land.

9.0 Risk Management

9.1 There is a risk that a representation may be made by a person claiming an interest in the land. Under section 28 of the Highways Act 1980, if it is shown that the value of an interest in the land is depreciated, or that a

person has suffered damage by being disturbed in his enjoyment of land, as a consequence of the coming into operation of a public path creation order, the authority shall pay to that person compensation equal to the amount to the depreciation or damage.

- 9.2 The known landowners are Cheshire East Council and Network Rail. Cheshire East Council consent to the Creation Order proposal has been obtained through a Portfolio Holder for Regeneration decision taken on 6th February 2017. Network Rail consent, and agreement not to claim compensation, has been secured from its Liability Negotiations team.
- 9.3 Part of the route is on unregistered land. Notices have been posted on site during the 6 week informal consultation ahead of this Committee meeting, to bring this proposal to the attention of anyone with an interest in the land. No such interest has been raised. As the route is set out and used as a path, it is considered unlikely that, should any person come forward, that any depreciation or damage would be deemed to have occurred as a result of the proposal.

10.0 Background and Options

- 10.1 Cheshire East Council's Partnerships Team is leading a project to improve public access on a path between Clifton Road and Station Road in Sandbach. The route connects Sandbach Station with residential areas. The residential area is increasing through development, with the need for improvement to this route identified through the planning process. The improvements being proposed include signage, surfacing, lighting and the removal of vegetation. The project involves Network Rail as an adjacent landowner and as a landowner of part of the path and owner of the footbridge over the railway.
- 10.2 The path, whilst appearing to be set out for and used by the public, does not have Public Right of Way status along its full length. In order to rectify this anomaly, to provide clarity for the public and to enable investment to improve the path, it is proposed to add the route as a Public Footpath on the Definitive Map, the legal record of Public Rights of Way.
- 10.3 In considering this matter, the authority must have regard to the needs of agriculture, forestry, and the desirability of conserving flora, fauna and geological and physiographical features. These matters are not relevant to the proposal as the route is set out as an urban path.
- 10.4 The authority must, before confirming an order, have regard to any material provision of a Rights of Way Improvement Plan prepared by the local highway authority. As stated in above, the proposal is supportive of the policies of objectives of the Cheshire East Council Rights of Way Improvement Plan 2011-2026. Consultation undertaken for the Council's statutory Rights of Way Improvement Plan (ROWIP) identified the need for safe off-road pedestrian routes. This need is met by the path as it offers a direct link between expanding residential areas of the town and the railway station and town centre.

- 10.5 The legislation requires the authority to consult with Sandbach Town Council with regards to the proposal; no response has been received from the Town Council to the proposal.
- 10.6 The legislation does not require any wider consultation prior to an Order being made. However, the local Ward Member, statutory consultees, statutory undertakers, user groups, adjacent property owners and local interest organisations have also been consulted on the proposal in order to inform the Public Rights of Way Committee ahead of its decision on the matter.
- 10.7 The statutory undertakers have no objection to the proposal. The Peak and Northern Footpaths Society and one adjacent resident responded to say that they have no objection to the proposal. Support for the proposal has been received from the Open Spaces Society and one member of the public.

11.0 Access to Information

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

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