

CHESHIRE EAST COUNCIL

RIGHTS OF WAY COMMITTEE

Date of meeting: 12th June 2017
Report of: Public rights of Way Manager
Title: Public Rights of Way Annual Report 2016-2017 and Work Programme 2017-2018

1.0 Report Summary

- 1.1 This report records the achievements of the Council in terms of its public rights of way functions during the year 2016-2017 and sets out the proposed work programme for the year 2017-18. Specific performance details and targets are set out in Appendices 1, 2, and 3. It follows the same format and layout as previous years with similar commentary to allow ease of statistical comparison year on year.
- 1.2 Last year the report went on to be considered by Informal Cabinet and it is intended that this report will initially be considered by the Environment Senior Management Team.

2.0 Recommendations

- 2.1 That Members note the Annual Report for 2016-2017 and approve the proposed Work Programme for the Public Rights of Way Team 2017-2018.

3.0 Reasons for Recommendations

- 3.1 As set out in the background and options section of the report (section 10).

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All Members

6.0 Policy Implications

- 6.1 The development of the Rights of Way Improvement Plan (see Appendix 3) is aligned with the health and wellbeing objectives and priorities of the Council as stated in the Corporate Plan (2.1.1 Encouraging healthier lifestyles) and the Council's commitment to the Change4Life initiative.

- 6.2 In addition, the ROWIP, as an integrated part of the Local Transport Plan, is set within the context of indicators concerning sustainable transport, air quality and CO₂ emissions.

7.0 Financial Implications

- 7.1 None arising.

8.0 Legal Implications

- 8.1 None arising

9.0 Risk Management

- 9.1 There has been one claim against the Council in 2016/17 for an injury to a cyclist on a bridleway in Bollington caused by an adjacent landowner placing a large boulder at the edge of the bridleway to protect their property. The matter has not been resolved.
- 9.2 The implementation of the Deregulation Act 2015 represents a real risk to the service which will require an appraisal of processes and policies for dealing with Definitive Map Modification Orders and Highways Act diversions. Tight timescales are to be introduced by the legislation requiring their processing within time limits and additionally the processing of Highways Act diversion will become a duty rather than a discretionary service. A policy response to these changes was being developed, however there is currently no identified timetable for the introduction of this legislation which appears to have fallen victim within the government to the pressures generated by responding to Brexit. Officers will monitor this situation and if a new forecast for its implementation emerges then work will be renewed on proposed policy and procedure changes to accommodate it.

10.0 Background

- 10.1 The work programme for the Public Rights of Way Team is usually approved by the Rights of Way Committee at the first committee meeting of the financial year, in the form of a series of targets. Targets are set in the context of the former Countryside Agency's (now Natural England) National Targets for public rights of way, which have as their aim that the rights of way network in England and Wales should be:
- Legally Defined
 - Properly Maintained
 - Well publicised
- 10.2 In addition to those targets, and reflecting the range of new work imposed by the Countryside and Rights of Way (CROW) Act 2000, targets in relation to three other areas are also set:

- Implementation of the Rights of Way Improvement Plan
- Implementation of the CROW Act 2000: New Duties and Powers
- Countryside Access Development and Initiatives

10.3 Each area is examined individually below with some contextual information provided but with the specific successes of 2016/17 together with targets for 2017/18 are contained within the relevant appendices.

11.0 Network Management – Maintenance and Enforcement

11.1 The Network Management and Enforcement Team consists of three full-time officers who deal with the protection and maintenance of the network. They operate on an area basis, with each officer responsible for approximately 630 kilometres of the network. Within their area, they are responsible for maintenance and enforcement to remove obstructions and keep the path network available for use.

11.2 An outline report and target work programme for the Maintenance and Enforcement Team is attached at Appendix 1. The component tasks represent the “Milestones” identified in the former Countryside Agency’s National Targets.

11.3 628 path problems have been logged throughout the year 2016/2017 which is an increase on the 601 problems that were logged throughout the year 2015/2016. The charts below illustrate the numbers and types of problems reported. In Fig 1 the shortfall between issues logged in year and issues logged and resolved in year is due to the number of issues that become complex legal matters, taking longer to resolve. In Fig 2 the numbers and distribution of different types of issues are very similar to previous years, showing virtually no change in the frequency of types of issue. Fig 3 shows a similar pattern to last year although reassuringly no priority 1 (public safety) issues were reported.

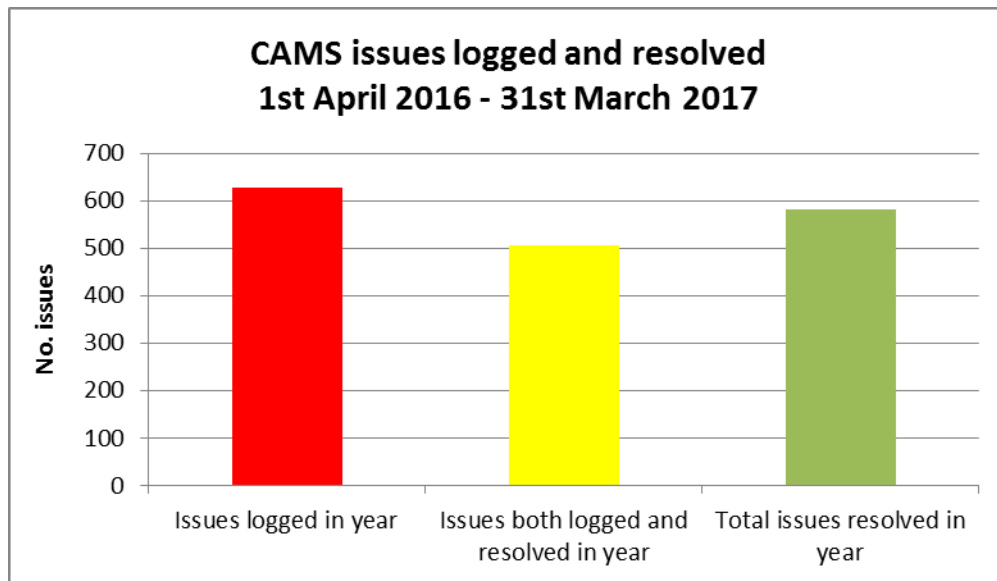


Fig 1.

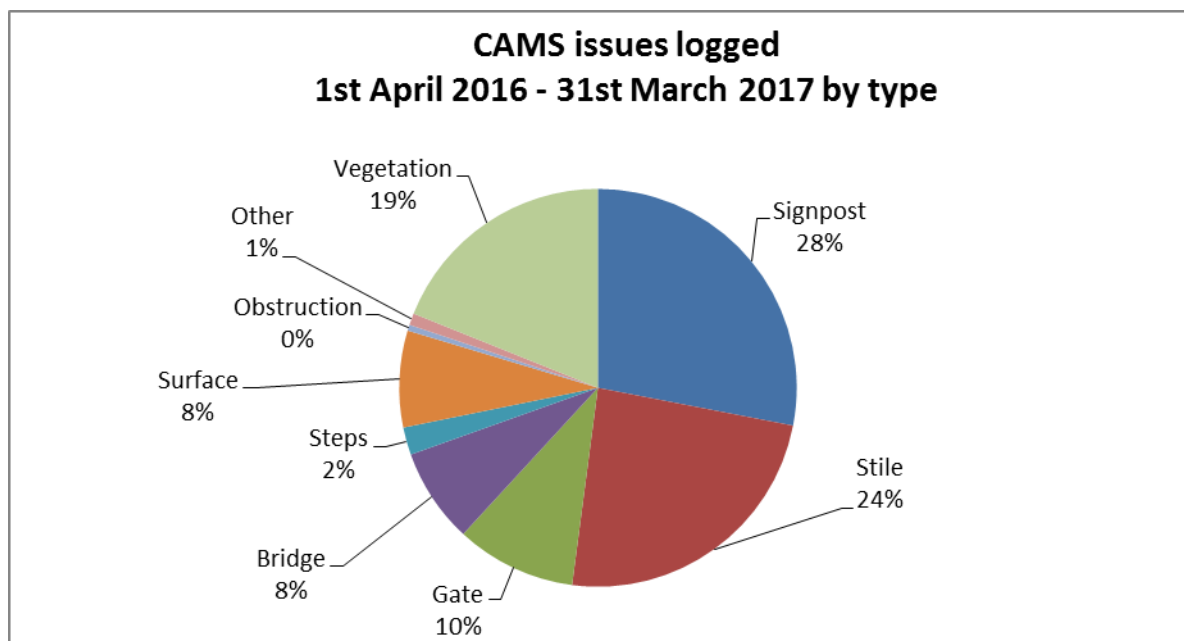


Fig 2.

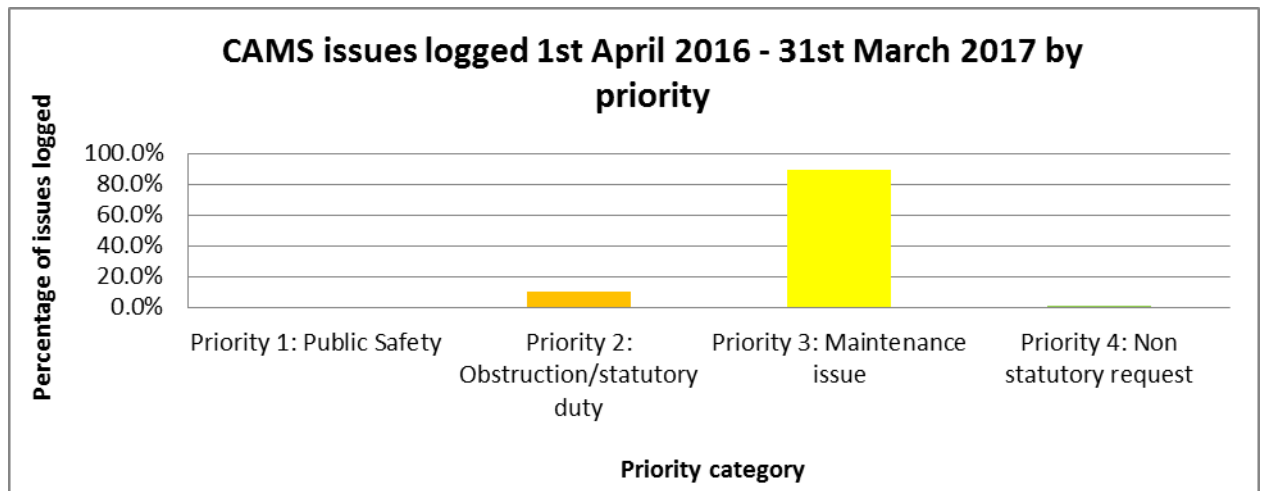


Fig. 3

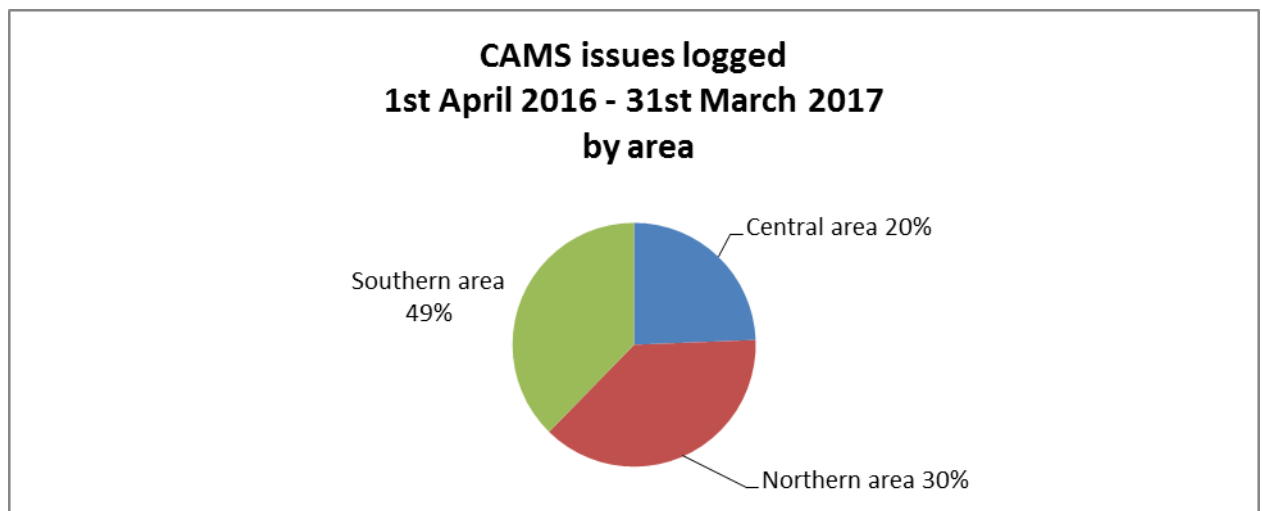


Fig 4.

12.0 Path Inspection

- 12.1 The path inspection scheme which the Council employs is in the form of the former National Best Value Performance Indicator 178: percentage of paths deemed 'easy to use'. Although councils are no longer required to report on BVPI178 in Cheshire it has been collected as a local indicator for the Local Transport Plan. Most other authorities have also continued to use this methodology as it allows performance benchmarking to occur. The survey is carried out on a randomly generated basis of 5% of the network. The team duly carried out the BVPI 178 inspection this year: the percentage pass rate was 82%, which compares with an average of 82% over the last five years. Whilst the small nature of the sample may throw up inconsistencies or temporary spikes the sequence of years 2010 to 2016 shows results overall that are normally in the low 80%.

13.0 Rights of Way Improvement Plan - Access Development

- 13.1 There is one full-time member of staff dedicated to the implementation of ROWIP and access development projects. Work has continued this year in delivering access projects from the existing ROWIP: Appendix 3 contains an outline report and work programme.
- 13.2 The Countryside Access Development Officer is responsible for the administration of the Cheshire East Local Access Form. The post holder also facilitates the Rights of Way Consultative Group, attends multiple groups and forums on behalf of PROW/Countryside, comments on planning applications and seeks planning gains, and responds to general enquiries and requests for information.

14.0 Legal Orders Team

- 14.1 This is the area of work where the team have had to meet the greatest number of challenges. The legal orders team comprises four officers (2 x full-time, 2 x part-time) who operate on a caseload basis and deal with public path orders, (diversions and extinguishments), definitive map modification orders, (changes to the definitive map) emergency and temporary closures, land searches, planning applications and day to day enquiries. One post deals exclusively with Public Path Orders and temporary closures based on public applications. This post, created in 2010 is funded by the fees from those applicants and nets nil on the budget.
- 14.2 The year has seen the previous increase in planning applications that the team have been consulted on continuing at ever higher levels and increasing from 253 to 425 and 114 land search requests were processed following developers and solicitors enquiries. Additionally 89 temporary closure orders were processed (a 50% increase), predominantly on behalf of developers and 9 Town and Country Planning Act S257 diversion orders have been confirmed with a further 15 in progress to enable development to go ahead. These applications take precedence over conventional Highway Act diversions due to the tight timetables involved. The need to respond to these and the consequent work generated liaising with developers and colleagues in the Planning Department has had a significant knock on effect on other areas of work, reducing the amount of time available for core Definitive Map Modification Orders investigations and Highways Act diversions. As a consequence new policies have been developed to deal with the demand.
- 14.4 During the year discussions have continued with Legal Services towards extending the team's areas of responsibility to include the Council's duties with regard to the Commons and Town and Village Green Register and Village Green applications but this has not yet achieved any outcome.

- 14.5 The team's fee generating capacity has been extended to include pre-application meetings and consultations with developers in order to generate additional income. Following investigations assessing the true cost of processing diversions, especially associated with development which tends to generate a greater amount of work the fees structure for the service has been overhauled and new fees, realistically reflecting the true cost of processing orders are to be introduced with the start of the new 2017 2018 financial year.

15.0 Policy development

- 15.1 The policies currently in place reflect the following activity.

- Maintenance and Enforcement Protocol
- Statement of Priorities for Definitive Map Modification Orders
- Charging Policy for Public Path Orders, Searches & Temporary Closures and HA 80 S31 declarations.
- Policy for Structures on Public Rights of Way
- Standard Response Times for Different Categories of Problem on the Network

- 15.2 As discussed at 14.2 above new policies are to be introduced to deal with the increased pressure on the legal orders team. They include the recruitment of two members of staff to process diversions and temporary closures. The staff will initially be employed on a two year fixed term and their costs will be covered by applicant's fees. Additionally a scheme will be introduced to work with applicant's agents who will process much of the administrative work associated with diversions. This will provide the team with a "safety valve" system that will enable additional cases to be processed when demand from applicants is high.

16.0 Local Access Forum and ROW Consultative Group

- 16.1 The primary purpose of the Forum is to provide advice to Cheshire East Borough Council, and other bodies, such as Government Departments, Natural England, the Forestry Commission, English Heritage, Sport England and Town and Parish Councils, on how to make the countryside more accessible and enjoyable for open air recreation, in ways which address social, economic and environmental interests. The Forum consists of volunteer members. Details on the role of the Forum and the interest areas of its members can be found on the Forum's webpage at www.cheshireeast.gov.uk/laf.
- 16.2 The Forum has continued to pursue its stated priorities of strengthening the Forum's identity and public awareness of the Forum and its work, improving safety on rural lanes and promoting access for all. Work included engaging with the Police and Crime Commissioner, the Council's Highways and Infrastructure Portfolio Holder, HS2 Ltd, and Highways England. Further details of the work of the Forum can be

found on its webpage which features its [Annual Report 2016-17](#) and in Appendix 3, the Rights of Way Improvement Plan annual report.

- 16.3 The Cheshire East Local Access Forum is complemented by the Cheshire East Rights of Way Consultative Group which meets twice yearly.
- 16.4 The Consultative Group operates to achieve the following purposes:- to enable interest groups (users, landowners and others) to engage in constructive debate and discussion about issues of law, policy, principle and work programming with Members and Officers of the Cheshire East Council; to encourage understanding of each others' concerns; and, to participate in the consultation process and ongoing monitoring associated with the Rights of Way Improvement Plan.
- 16.3 The Consultative Group meetings are extended to allow user group representatives to meet Network Management Officers on a one to one basis in order to discuss work priorities and individual case issues. This allows user groups and the Council to understand agree prioritisation of issues and works.

17.0 Budget

- 17.1 The annual budget for the years 2017/18 and 2018/19 are set out below. During this year, as in the previous year the budgets have remained as set throughout the year allowing the team to both plan spending and clear previous backlogs that had arisen.

	2016/17	2017/18
Total PROW revenue budget	£394,000	£403,000
Network maintenance budget	£57k revenue + £100k capital	£44k revenue +£100k capital
Maintenance budget per PROW km	£81/km	£75/km
Other funding	•£300k LTP ROWIP/ Cycling capital budget	•£300k LTP ROWIP/ Cycling capital budget

18.0 Conclusion

- 18.1 As with previous years the team has delivered a high standard throughout the year. The budget stability has allowed the current hard work to be reflected in the condition of the network. However there are pressures imposed by the increasing amount of work dealing with development that has had a major impact on the output of work associated with DMMOs and Highways Act diversions. The backlog for Highways Act diversions is now over 50 cases which equates to at least a 4 year waiting list whilst the DMMO backlog is now over 30 which at current performance levels now exceeds 10 years. These backlogs and the pressure sustained by staff dealing with this workload are not regarded as sustainable and as a consequence the introduction of additional resources is very welcoming. The current situation of limbo regarding the implementation of the Deregulation Act will hopefully allow a period of consolidation to introduce new staff members and start to reduce pressures and deal with the increased backlogs. Any indication that the Act is to be implemented will necessitate a fresh appraisal of policies and procedures to deal with the implications of the Deregulation Act.

19.0 Access to Information

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

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