

## **Public Rights of Way Committee**

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**Date of Meeting:** 11 June 2018

**Report Title:** Public Rights of Way annual report 2017-18 and work programme 2018-19

**Senior Officer:** Frank Jordan, Executive Director - Place

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### **1. Report Summary**

- 1.1. This report records the achievements of the Council in terms of its Public Rights of Way functions during the year 2017-2018 and sets out the proposed work programme for the year 2018-2019. Details are set out in Appendices 1, 2 and 3.
- 1.2. The work of the Public Rights of Way team contributes to the Corporate Plan Outcomes 4 “Cheshire East is a green and sustainable place” and 5 “People live well and for longer”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan. The work of the team also contributes to Cheshire East’s Quality of Place, with the network being both highly valued and regarded by residents. Contributing to transport, leisure, visitor economy and health and wellbeing functions across both the urban and rural areas of the borough, the Public Rights of Way network – together with wider networks of green infrastructure – form a key element of the Cheshire East landscape and policies related to the environment.

### **2. Recommendation/s**

- 2.1. That the report be noted.

### **3. Reasons for Recommendation/s**

- 3.1. The report is for information only.

### **4. Other Options Considered**

- 4.1. Not applicable.

## **5. Background**

5.1 The work of the Public Rights of Way Team is reviewed on an annual basis at the June meeting of the Committee and the forward work programme is outlined. The assessment is made in the context of the Natural England (former Countryside Agency) National Targets for Public Rights of Way, which have as their aim that the network in England and Wales should be:

- legally defined,
- properly maintained; and,
- well publicised.

5.2 In addition, and reflecting the range of duties imposed by the Countryside and Rights of Way (CROW) Act 2000, work in relation to the Rights of Way Improvement Plan (ROWIP) is also reviewed.

5.3 Each area is examined individually below with some contextual information provided, with the specific achievements of 2017-18, together with the work programme for 2018-19, contained within the relevant appendices.

### **5.4 Network Management and Enforcement**

5.4.1 Three full time Network Management and Enforcement Officers deal with the protection and maintenance of the network. They operate on an area basis, with each Officer responsible for approximately 649 kilometres of the network. Within their area, they are responsible for maintenance and enforcement to remove obstructions and keep the path network available and easy to use.

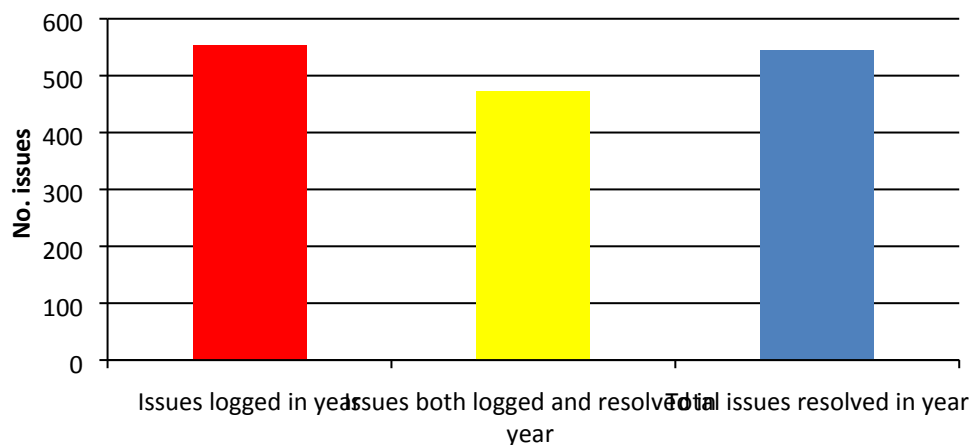
5.4.2 A report detailing the working undertaken in relation to Network Management and Enforcement is attached at Appendix 1. Three cases involved the Council undertaking enforcement action during 2017-18.

5.4.3 The number of long term closures on the network due to legal, environmental or reason other is currently 3. Instructions for Legal assistance to examine two of these cases have been issued, whilst the third case is being assessed by Highways England.

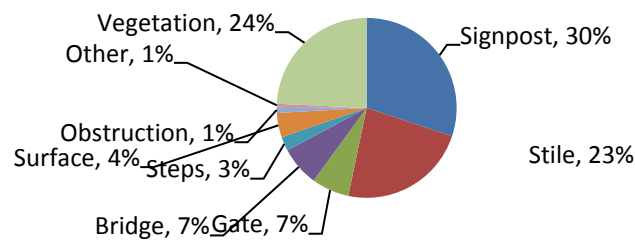
5.4.4 554 path problems have been logged throughout the year 2017-18, having been reported by the public, landowners or Officers. This is a lower number of issues compared to the 628 logged in the preceding year. The charts below illustrate the numbers and types of problems reported, as recorded in the team's mapping and database software "CAMS" (Countryside Access Management System). In Fig. 1 the shortfall between issues logged in year and issues both logged and resolved in year is due to the number of issues that become complex legal matters, taking longer to

resolve, or those matters which span the end of the financial year. In Fig. 2 the numbers of different types of issues are very similar to previous years, showing little change in the frequency of types of issue being reported. Fig. 3 indicates the geographic spread of issues reported across the borough. Fig. 4 shows a similar pattern to the previous year, again with no priority 1 public safety issues having been reported.

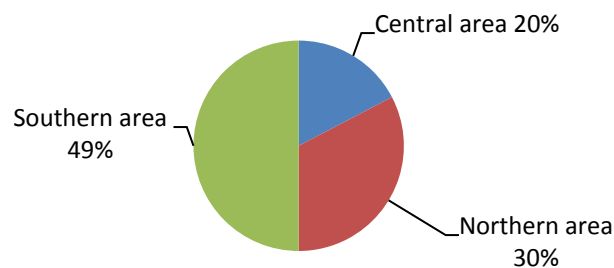
**Fig. 1 CAMS issues logged and resolved  
1st April 2017 - 31st March 2018**

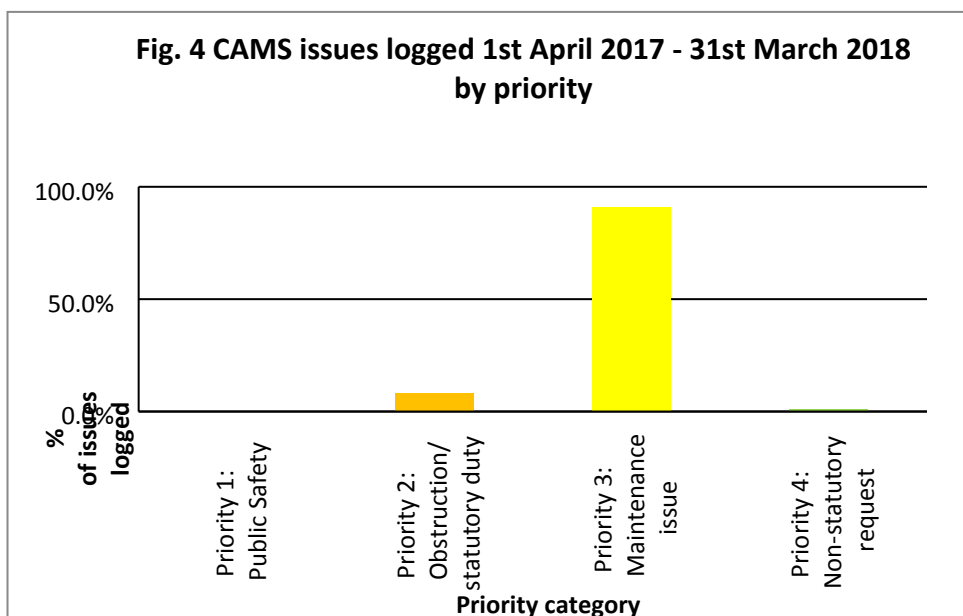


**Fig. 2 CAMS issues logged  
1st April 2017 - 31st March 2018 by type**



**Fig. 3 CAMS issues logged  
1st April 2017 - 31st March 2018  
by area**





## 5.5 Path Inspection

- 5.5.1 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 East it continues to be used as local performance indicator. 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 during year, with the percentage pass rate being 80%. Whilst the small nature of the sample may throw up inconsistencies or temporary spikes, the sequence of years 2009 to 2017 shows results averaging 82%.

## 5.6 Technical Administration

- 5.6.1 The Public Rights of Way team benefits from the work of one Technical Administration Officer who undertakes numerous technical and financial tasks to ensure the efficient running of the Public Rights of Way team, the Countryside Ranger Service's south team, and the office. In addition, the Officer processes search requests from developers and solicitors requesting confirmation of the Definitive Map for specific areas of land. During 2017-18, 162 search requests were processed, a significant increase from 114 in the previous year. The Officer also processes parking and canoe permits on behalf of the Countryside Ranger Service, of which there were 361 during the year, as well as dealing with general enquiries from the public via phone, letter, email and webform.

## 5.7 Rights of Way Improvement Plan (ROWIP) - Access Development

- 5.7.1 There is one full-time Officer working on the implementation of ROWIP and access development projects. Appendix 2 contains an outline report and work programme. Major areas of work during 2017-18 continue to be securing improvements to the PROW and non-PROW network of paths through developments and strategic infrastructure projects such as the dualling of the A500, Middlewich Eastern Bypass and HS2.
- 5.7.2 The Countryside Access Development Officer is also responsible for the administration of the Cheshire East Local Access Forum, now renamed the Countryside Access Forum. In addition, the post holder facilitates the Rights of Way Consultative Group, advises local user groups, encourages the promotion of walks and rides and responds to general enquiries and requests for information.

## **5.8 Legal Orders Team**

- 5.8.1 The team comprises six Officers (4 full-time and 2 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 owner deposits and statements and planning applications as well as day to day enquiries from the public and landowners. Appendix 3 provides a review of work undertaken and the forward work programme.
- 5.8.2 Maternity leave during the final 3 months of the financial year, and onwards into 2018-19, has resulted in increased pressures on the workload of the remaining Officers, particularly in the area of Definitive Map Modification Orders. However, in contrast, mid-way through the year two new Officers were appointed to the team on a fixed two-year basis in order to process Public Path Orders and temporary closures. These two posts as with the existing Public Path Order Officer post, are managed on a net nil basis, with the salaries covered by administration fees. .
- 5.8.3 During 2017-18, the team assessed 398 planning applications in order to ensure the protection and seek enhancement of the Public Rights of Way network. This number of applications was assessed between four Officers. The total was slightly lower than the 425 assessed in 2016-17, but indications in the first months of 2018-19 are that the demand will remain high. Additionally, 83 temporary closures were processed, predominantly following application from developers.
- 5.8.4 The team received and processed 11 deposits, statements and declarations from landowners under section 31 of the Highways Act 1980. The team also responds to enquiries for information following Local Land

Charge searches, numbering 44 during the year, as well as internal requests for Definitive Map information.

- 5.8.5 10 Town and Country Planning Act section 257 Orders to enable development to go ahead have been made and 8 Orders confirmed, with a further 8 in progress. These applications take precedence over conventional Highway Act 1980 diversions due to the tight timetables involved. 3 such cases underway will potentially resolve Definitive Map Modification Order applications. The need to respond to these and the consequent work generated liaising with developers and colleagues in the Planning Department has had a significant impact on other areas of work, reducing the amount of time available for core Definitive Map Modification Order investigations and Public Path Orders.
- 5.8.6 2 Highways Act 1980 Public Path Orders have been made, 1 Order confirmed, with a further 6 in progress.
- 5.8.7 No Definitive Map Modification Order cases have been determined during the year although 2 are under active investigation. Of note, 1 appeal against the Council's refusal to make an Order has granted, resulting in the Council being directed by the Secretary of State to make an Order. In addition, 2 appeals against non-determination by the Council within 12 months of the date of application have resulted in the Council being directed to determine one case within 12 months and another case within 6 months.
- 5.8.8 In order to address the high workloads, particularly related to Public Path Order and Definitive Map Modification Order applications, new working procedures are being explored to assist in management of work and efficiency of service delivery. One is the use of consultants to undertake investigation into Definitive Map Modification Order applications, initially for the cases for which a direction from the Secretary of State has been received. Another potential option being examined is the delegation of uncontested cases to Officer decision rather than full Public Rights of Way Committee. A scheme has been trialled under which applicants for Public Path Orders employed agents to process much of the administrative work associated with diversions. An initial evaluation has been undertaken, although the trigger where this approach would add value has yet to be reached due to the additional Officers who have joined the team in the meantime; the waiting list for Public Path Orders was 56 at the time of the annual report in 2017, whereas at present it has been reduced to 32. The waiting list will be monitored, along with the introduction of anticipated legislation. The trial may be extended in order that this option may be further developed and used to manage periods of high demand.

## **5.9 Policies**

- 5.9.1 The policies currently in place reflect the following activity:
- Network management and enforcement protocol;
  - Policy for structures on Public Rights of Way;
  - Prioritisation system for different categories of maintenance & enforcement issues on Public Rights of Way;
  - Statement of priorities for Definitive Map Modification Order applications; and,
  - Charging policy for Public Path Orders, searches & temporary closures and Highways Act 1980 section 31 deposits and statements.

## **5.10 Local Access Forum and ROW Consultative Group**

- 5.10.1 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. Further details on the role of the Forum, the interest areas of its members and its annual reports can be found on the Forum's webpage at [www.cheshireeast.gov.uk/cecaf](http://www.cheshireeast.gov.uk/cecaf). During the year, the Forum renamed itself the Cheshire East Countryside Access Forum in order to more accurately reflect its role and work.
- 5.10.2 The Access Forum is complemented by the Cheshire East Rights of Way Consultative Group which meets twice yearly with Officers from the team. The 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.
- 5.10.3 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 discuss the prioritisation of issues and works.

## **5.11 Budget**

- 5.11.1 The annual budget for the years 2017-18 and 2018-19 are set out below. During this current financial year, as in the previous, the budgets have remained as forecast throughout the year, and have remained level across the years, allowing the team to plan spending more efficiently.

|                                       | 2017-18                                                                                                                                                                                                                                                 | 2018-19                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Length of PROW network</b>         | 1946km                                                                                                                                                                                                                                                  | 1946km                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Total PROW revenue budget</b>      | £404k                                                                                                                                                                                                                                                   | £418k                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Network maintenance budget</b>     | £44k revenue<br>+ £100k capital                                                                                                                                                                                                                         | £52k revenue<br>+ £100k capital                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Maintenance budget per PROW km</b> | £73.9/km                                                                                                                                                                                                                                                | £78.1/km                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Other funding</b>                  | <ul style="list-style-type: none"> <li>•£300k LTP ROWIP/ Cycling 'Active Travel' capital budget</li> <li>•S106 funding: <ul style="list-style-type: none"> <li>○ £133k towpath &amp; Sandbach FP51</li> <li>○ £45k Wilmslow FP80</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>•£300k LTP ROWIP/ Cycling 'Active Travel'</li> <li>•S106 funding: <ul style="list-style-type: none"> <li>○ £15k Sandbach FP51</li> <li>○ £54k Edleston FP8</li> <li>○ £10k Edleston BR1</li> <li>○ £50k non-PROW paths in Nantwich</li> <li>○ £10k Wheelock Rail Trail</li> <li>○ £20k Disley FP66</li> <li>○ £1k Alsager FP3</li> <li>○ £9k Wilmslow FP80</li> </ul> </li> <li>•£100k A6MARR PROW Complementary Measures package</li> </ul> |

## 5.12 Conclusion

- 5.12.1 As in previous years, the Public Rights of Way team has delivered a high standard of service to the public. Budget stability has allowed this work to be reflected in the condition of the network.
- 5.12.2 The addition of fixed term appointments to the team has helped to reduce the Public Path Order waiting list. The Definitive Map Modification Order application waiting list is current 34 which at current workload levels exceeds 10 years. Measures are currently being considered to make this process more efficient and to reduce the backlog as has been achieved with



Public Path Orders. Any indication that the delayed Deregulation Act is to be implemented will necessitate a fresh appraisal of policies and procedures to deal this change in legislation, along with the timescales and workload implications that may result.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. The implementation of the Deregulation Act 2015 represents a risk to the capability of the team to meet the duties of the Highway Authority with regards to Public Rights of Way. The effect of the Act, when implemented, will require an appraisal of processes and policies for dealing with Definitive Map Modification Orders and Public Path Orders. Tight timescales are to be introduced by the legislation requiring application processing within specified time limits and additionally the processing of Public Path Orders under the Highways Act 1980 will become a duty rather than a discretionary service, as it is at present.

### **6.2. Finance Implications**

6.2.1. There are no additional financial implications foreseen.

### **6.3. Policy Implications**

6.3.1. There are no policy implications foreseen.

### **6.4. Equality Implications**

6.4.1. There are no equality implications.

### **6.5. Human Resources Implications**

6.5.1. There are no additional human resource implications foreseen.

### **6.6. Risk Management Implications**

6.6.1. The lack of resource for proactive network surveying puts the Council at potential risk of claims for accidents arising from users of the network. During the year 2 claims were reported to and investigated by the team

### **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

### **6.8. Implications for Children & Young People**

6.8.1. There are no direct implications for children and young people.

## **6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

## **7. Ward Members Affected**

7.1. All Wards. No Ward Member engagement is required as the report is for information only.

## **8. Access to Information**

8.1. Not applicable.

## **9. Contact Information**

9.1. Any questions relating to this report should be directed to the following officer:

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Job Title: Acting Public Rights of Way Manager

Email: [genni.butler@cheshireeast.gov.uk](mailto:genni.butler@cheshireeast.gov.uk)