

Public Rights of Way Committee

Date of Meeting: 10 June 2019

Report Title: Public Rights of Way Annual Report 2018-19 and Work Programme 2019-20

Senior Officer: Frank Jordan, Executive Director - Place

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 2018-2019 and sets out the proposed work programme for the year 2019-2020. 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 report covers both the duties and the powers of the Council as set out in highways legislation. 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 Each area is examined individually below with some contextual information provided, with the specific achievements of 2018-19, together with the work programme for 2019-20, contained within the relevant appendices.

5.3 Network Management and Enforcement

5.3.1 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. A report detailing the working undertaken in relation to Network Management and Enforcement is attached at Appendix 1

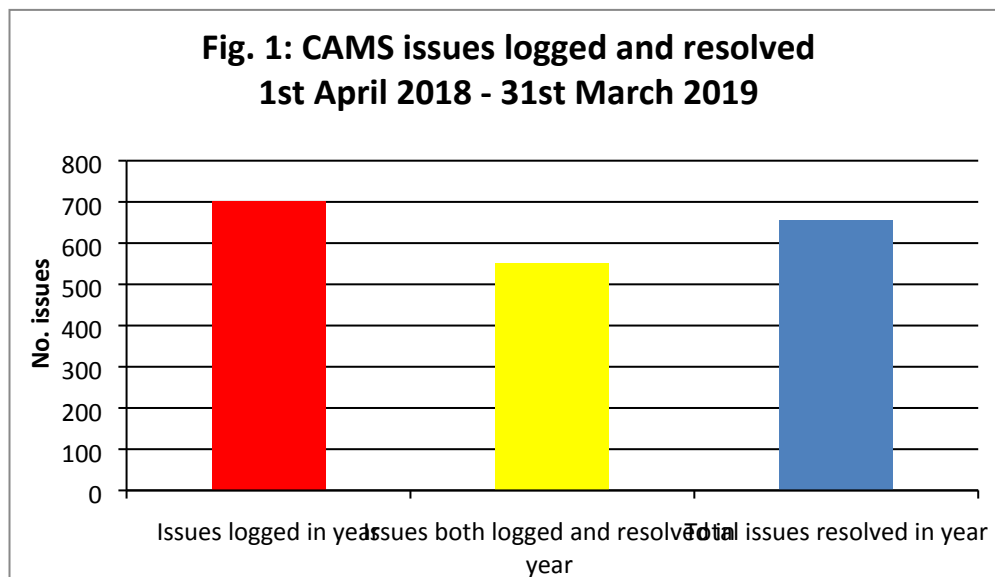
5.3.2 No cases required the Council to undertake enforcement action during 2018-19, as all reported obstructions were removed following receipt of warning letters or telephone calls.

5.3.3 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.

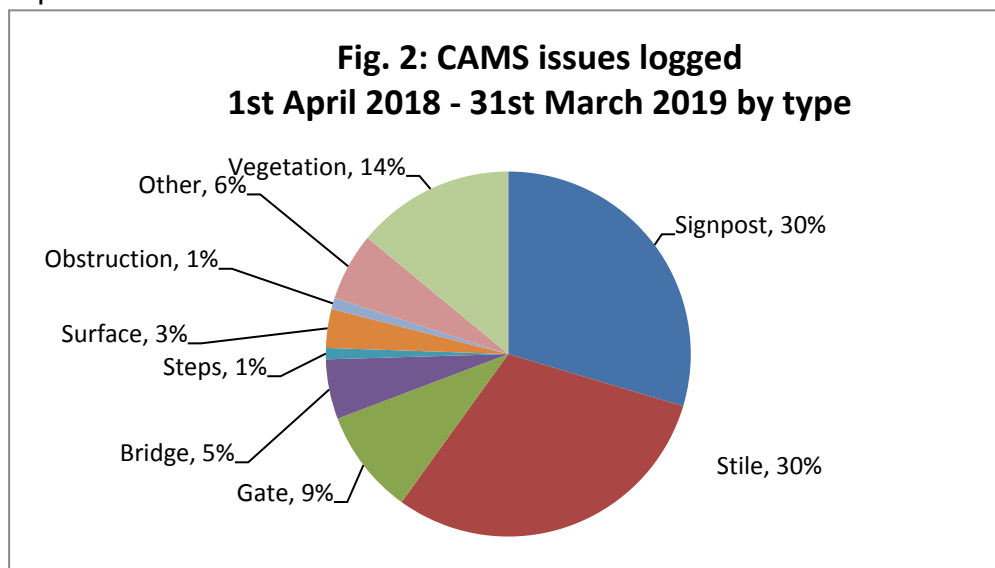
5.3.4 554 different Public Rights of Way benefitted from vegetation cutting either once, twice or three times in the year in order to keep the routes open and available for the public, a total length 190km of path.

5.3.5 703 path problems have been logged throughout the year 2018-19, having been reported by the public, landowners or Officers. This is a higher number of issues compared to the 554 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.

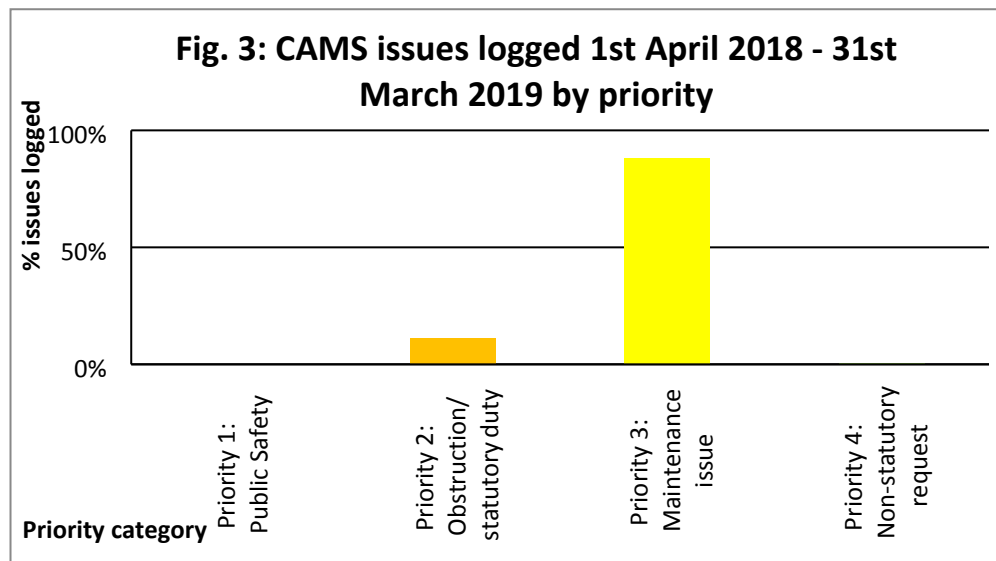


5.3.6 In Fig. 2 the numbers of different types of issues are very similar to previous years, showing little change in the frequency of types of issue being reported.



5.3.7 Fig. 3 shows a similar pattern to the previous year, again with no priority 1 public safety issues having been reported, though urgent issues, such as fallen trees, are frequently reported but not entered into the database as they are resolved largely by communication with landowners, not contractors. Likewise, damaged bridges that cannot be repaired through framework contractor arrangements will be dealt with by specialist

companies and therefore again are not logged through the CAMS system which is used to issue work to framework contractors.



5.3.9 The numbers of items of furniture installed by the team during the year are given in the table below:

Furniture item	No. installed
Fingerposts	260
Waymark posts	133
Stiles	136
Pedestrian gates	42
Kissing gates	152
Bridleway gates	9
2-in-1 combination gates	13
Bridges	47

5.3.10 It should be noted that the above figures do not include the large number of daily enquiries that the team receives and responds to by telephone, email, letter, web enquiry form and in person. Further, many issues are resolved without the need for them to be logged on the CAMS system and issued to contractors for remedy and therefore the above should be viewed simply as an indication of matters dealt with by the team.

5.3.11 In addition to day to day path management, the team also prepare for, procure and manage the delivery of improvement projects including drainage works and surfacing works. Examples of work conducted in this are given in Appendix 1. Works on the ground can also resolve known anomalies, such as has been the case on Sound Footpath No. 4: following a change of landowners and demonstration of the definitive alignment of the path, works to reinstate the definitive line were undertaken.

5.4 Path Inspection

- 5.4.1 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 86%. Whilst the small nature of the sample may result in inconsistencies or temporary spikes, the sequence of years 2009 to 2018 shows results averaging 87%.

5.5 Technical Administration

- 5.5.1 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 2018-19, 155 search requests were processed, only marginally less than the 162 in the previous year. The Officer also processes applications for parking and canoe permits on behalf of the Countryside Ranger Service, of which there were 287 and 104 respectively during the year, an 8% increase on the preceding year. The Officer is also the public's first point of contact for the team, dealing with general enquiries via phone, letter, email and web form.
- 5.5.2 During the year, the team received and responded to 32 Freedom of Information requests and enquiries from MPs.

5.6 Rights of Way Improvement Plan (ROWIP) - Access Development

- 5.6.1 The retirement of the Public Rights of Way Manager during the year saw the Countryside Access Development Officer appointed to the Acting Manager role, an arrangement which continues at the time of report writing. This has resulted in a reduced output in the implementation of ROWIP and access development projects. However, whilst no new projects have been initiated, existing projects already in train have been progressed, such as the Twin Trails project of granted-funded investment on the Gritstone Trail and Sandstone Trail in partnership with Cheshire West and Chester Council. Although Appendix 2 contains an outline report and work programme, the

work of the whole team contributes to the delivery of the ROWIP and the aspirations and reality of improving the network.

- 5.6.2 The Countryside Access Development Officer role is also responsible for the administration of the Cheshire East Countryside Access Forum. In addition, the role 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.

5.7 Legal Orders Team

- 5.7.1 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.
- 5.7.2 Maternity leave during the first 8 months of the financial year resulted in increased pressures on the workload of the remaining Officers, particularly in the area of Definitive Map Modification Orders. However, the Officer returned to work during the last 3 months of the year and therefore the full capacity of the team was returned. The team has continued to benefit from the work of the two Officers 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. The contracts for the two fixed term Officers has been extended to run for a further two years in recognition of the work required of the team.
- 5.7.3 During 2018-19, the team assessed 409 planning applications in order to ensure the protection and seek enhancement of the Public Rights of Way network. This number of applications, a slight increase on the preceding year, was assessed largely between 2 Officers and is a task which has set deadlines. Whilst some responses are straightforward, others involve continued correspondence to seek the best possible outcome for the protection and enhancement of the Public Rights of Way network.
- 5.7.4 Additionally, 95 temporary closures were processed, predominantly following application from developers and utility companies. Both of these processes can involve repeated negotiation and communications between applicants and Officers, and also initiate enquiries from the general public.

- 5.7.5 The team received and processed 8 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 40 during the year, as well as internal requests for Definitive Map information.
- 5.7.6 9 Town and Country Planning Act section 257 Orders to enable development to go ahead have been made and 7 Orders confirmed. These applications take precedence over conventional Highway Act 1980 diversions due to the tight timetables involved. The need to respond to these in parallel with the planning process and the consequent work generated liaising with developers and colleagues in the Planning Department has a significant impact on other areas of work.
- 5.7.7 9 Highways Act 1980 Public Path Orders have been made and 7 Orders confirmed. The completion of a diversion order on Pott Shrigley Footpath No. 12 has resolved an anomaly and also satisfied a suggestion logged under the Rights of Way Improvement Plan.
- 5.7.8 5 Definitive Map Modification Order application cases were in progress during the year, with 1 Order being made and 2 cases resulting in no order being made. 1 Definitive Map Modification Order application was resolved through a Public Path Extinguishment Order.
- 5.7.9 During the year, the Council was directed by the Secretary of State to determine 2 cases following appeals from the individuals who submitted the applications because the Council had not determined the cases within 12 months of registration. One direction was for determination within 12 months, and the other within 9 months, the latter being presented to the Public Rights of Way Committee for determination at the date of this report.
- 5.7.10 The use of external consultants has enabled the progression of two Definitive Map Modification Order cases on which directions for determination had been received from the Secretary of State and for which at the time of direction, internal staff resource was already fully committed.
- 5.7.11 The waiting list of Definitive Map Modification Order applications currently stands at 36, as 5 new applications were registered during 2018-19.
- 5.7.12 In addition to the above work, each year a Legal Event Order is completed to collate all Order cases completed during the year; this is the administrative function which legally changes the Definitive Map and Statement.

5.8 Policies

5.8.1 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.

5.8.2 An additional procedure has been put in place this year in order to expedite some Public Path Order cases: a delegated decision process is now in place for uncontested Public Path Order cases to be determined by the Public Rights of Way Manager in consultation with the Chair and Vice Chair of the Public Rights of Way Committee. The report of each case considered in this way will be made available on the PROW team webpages and a brief summary report will be taken to the Committee listing cases determined by this method. This process will enable the team to process applications for diversions more efficiently by removing the restriction of adhering to, and preparing for, the Committee cycle of quarterly meetings.

5.9 Countryside Access Forum and ROW Consultative Group

5.9.1 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.

5.9.2 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.

5.9.3 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.

5.10 Budget

5.10.1 The annual budget for the years 2018-19 and 2019-20 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, though costs from suppliers for items such as timber and metal furniture have increased.

	2018-19	2019-20
Length of PROW network	1946km	1947km
Total PROW revenue budget	£405k	£418k
Network maintenance budget	£44k revenue + £100k capital	£44k revenue + £100k capital (tbc)
Maintenance budget per PROW km	£73.9/km	£73.9/km
Other funding	<ul style="list-style-type: none"> • £300k LTP ROWIP/ Cycling 'Active Travel' • S106 funding: <ul style="list-style-type: none"> ○ £15k Sandbach FP51 ○ £54k Edleston FP8 ○ £10k Edleston BR1 ○ £50k non-PROW paths in Nantwich ○ £10k Wheelock Rail Trail ○ £20k Disley FP66 ○ £1k Alsager FP3 ○ £9k Wilmslow FP80 • £100k A6MARR PROW Complementary Measures package 	<ul style="list-style-type: none"> • £tbc LTP ROWIP/ Cycling 'Active Travel' capital budget • S106 funding: <ul style="list-style-type: none"> ○ £41k Alsager FP10 ○ £10k Wheelock Rail Trail ○ £20k Disley FP66 ○ £1k Alsager FP3 ○ £12k non-PROW path in Nantwich • £100k A6MARR PROW Complementary Measures package

5.11 Conclusion

- 5.11.1 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 which is generally highly regarded by user groups.
- 5.11.2 The fixed term Officer appointments in the team, now extended for a further two years, continue to help to manage the Public Path Order waiting list. With the return to full strength of Officers in the Legal Orders team, the Definitive Map Modification Order application waiting list is being actively addressed, though new applications continue to be registered. The use of new methods of working has expedited processes across DMMO and PPO. 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 no 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:

Name: Genni Butler

Job Title: Acting Public Rights of Way Manager

Email: genni.butler@cheshireeast.gov.uk