

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Public Rights of Way Committee**  
held on Monday, 2nd December, 2019 at Committee Suite 1,2 & 3,  
Westfields, Middlewich Road, Sandbach CW11 1HZ

### **PRESENT**

Councillor B Puddicombe (Vice-Chair, in the Chair)

Councillors H Faddes, I Macfarlane, D Stockton and L Wardlaw

### **Officers in Attendance**

Genni Butler, Acting Rights of Way Manager  
Sarah Fraser, Public Path Orders Officer  
Andrew Poynton, Planning and Highways Lawyer  
Rachel Graves, Democratic Services Officer

### **24 APOLOGIES FOR ABSENCE**

Apologies were received from Councillors S Akers Smith and S Pochin.

### **25 DECLARATIONS OF INTEREST**

No declarations of interest were made.

### **26 MINUTES OF PREVIOUS MEETING**

#### **RESOLVED:**

That the minutes of the meeting held on 9 September 2019 be approved as a correct record.

### **27 PUBLIC SPEAKING TIME/OPEN SESSION**

No members of the public present wished to speak.

### **28 VILLAGE GREEN APPLICATION: APPLICATION TO REGISTER LAND AT WOODSIDE, KNUTSFORD KNOWN LOCALLY AS COLLEGE WOOD**

The Committee considered a report which detailed an application made by Knutsford Town Council under section 15(2) of the Commons Act 2006 to register an area of land known as College Wood, Woodside, Knutsford as a new village green.

The Council was the registration authority for village greens and responsibility for this function had been delegated to the Public Rights of Way Committee.

The application was made pursuant to section 15(2) of the Commons Act 2006, which required the applicant to demonstrate on the balance of probabilities that the land was used:

- a. for lawful sports and pastimes for a period of at least 20 years and that this use continued to the date of the application
- b. by a significant number of the inhabitants of a locality or of a neighbourhood within a locality
- c. as of right.

The application, dated 27 June 2018, was received by the Council and validated on 27 July 2018. The application related to a piece of land known as 'College Wood', which was located adjacent to the junction of Woodside and Thorneyholme Drive in Knutsford. The application site consisted of unenclosed mixed woodland of an area of approximately 0.35 hectares, with a number of informal paths running through the site.

The application land was owned by the Shrewsbury Roman Catholic Diocesan Trustees and a copy of the public notice and application had been provided to them. No objection to the application had been received from them.

Public notice was placed in the Wilmslow and Knutsford Guardian on 30 May 2019 and two notices were placed close to the land on an adjacent lamppost and road sign. No objections had been received from any party by the deadline of 29 July 2019.

The fifty witness statements had been submitted by the applicant which confirmed that activities such as dog walking, bird watching, picnics, drawing and painting, community events, tree climbing, building dens, wildlife watching, people walking, team games and bicycle riding had all been undertaken on the application land for more than 20 years.

The applicant had confirmed that the locality of the land was the Over Ward parish and the neighbourhood within that ward could be defined as the Cross Town neighbourhood. The majority of witness statements received came from those who lived or had previously lived within the Cross Town neighbourhood.

The witnesses confirmed that they had used the application land for lawful sports and pastimes openly, without force and without permissions and that this fell within the definition of the uses being 'as of right'.

The Committee considered the report and concluded that the application complied with the three requirements of Section 15(2) of the Commons Act 2006 and that the land should be registered as a Town or Village Green.

The Committee unanimously

## **RESOLVED:**

That the application by Knutsford Town Council to register an area of land known as College Wood, Woodside, Knutsford be registered as a Town or Village Green.

### **29 HIGHWAYS ACT 1980 SECTION 119: APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO. 45 (PART), PARISH OF MOBBERLEY**

The Committee considered a report which detailed an application from Mr T Cummins of Saltersley Hall Farm, Wilmslow, requesting the Council to make an Order under Section 119 of the Highways Act 1980 to divert part of Public Footpath No.45 in the parish of Mobberley. The application was made on the grounds of privacy and security of the property.

In accordance with Section 119(1) of the Highways Act 1980, it was within the Council's discretion to make an Order to divert a public footpath if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The section of path proposed to be diverted ran along the driveway leading to Saltersley Hall Farm, close to various out buildings and the farmhouse to its junction with Public Footpath No.52 Mobberley.

The proposed diversion would run to the south of the Saltersley Hall Farm, along a field edge to connect to Public Footpath No. 52 Mobberley – as shown on Plan No.HA/146 between points A-C-D-E. The proposed path would be four metres wide, surfaced with stone chippings and sand dusting. The path between points A-C-D would be enclosed by a wooden railed fence as the landowner wished in future to restore and improve the land for agricultural purposes. The proposed diversion would take users away from the private driveway, the out buildings and the farmhouse, therefore increasing the privacy and security of the property.

The Committee considered the application and noted the comments received from the Open Spaces Society, North and Mid Cheshire Ramblers and the Peak and Northern Footpath Society along with the Public Rights of Way Officer's responses.

The Committee considered that the proposed route would not be substantially less convenient than the existing route. Diverting the footpath would be in the interest of the applicant as it would allow better privacy and security of the property. It was considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a Diversion Order were satisfied.

The Committee unanimously

**RESOLVED:** That

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.45 in the parish of Mobberley by creating a new section of Public Footpath and extinguishing the current path, as illustrated on Plan No.HA/146, on the grounds that it is expedient in the interests of the landowner.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order being received, Cheshire East Council be responsible for the conduct of any hearing or public inquiry.

**30 HIGHWAYS ACT 1980 SECTION 119: PROPOSED DIVERSION OF PUBLIC FOOTPATH NO.34 AND NO.35 (PARTS) IN THE PARISH OF MACCLESFIELD FOREST.**

The Committee considered a report which detailed an application from Mr Hurley of Whitehills Farm, Macclesfield Forest, requesting the Council to make an Order under Section 119 of the Highways Act 1980 to divert parts of Public Footpath No.34 and No.35 in the parish of Macclesfield Forest. The application was made on the grounds of privacy, security of the farm and improved management of the land.

In accordance with Section 119(1) of the Highways Act 1980, it was within the Council's discretion to make an Order to divert a public footpath if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The current line of the section of Public Footpath No.34 to be diverted passed within very close proximity to a residential property and through the middle of Whitehills farmyard and animal holding areas. Where the path passed through the farmyard there was an obstruction caused by a wall forming part of an animal holding area and an agricultural structure installed prior to legislation requiring planning permission. To avoid the obstruction walkers were able to use a permissive path that ran to the east of the farm.

The current line of the section of Public Footpath No. 35 to be diverted ran through an old barn erected sometime in the past, close to residential dwellings and through Whitehills farmyard. A short permissive path was in place for the section obstructed by the barn which had a number of gates and stiles to negotiate and took walkers within close proximity to the residential dwellings and the working areas of the farm.

The proposed diversions of Public Footpaths No.34 and No.35, as shown on Plan No.HA/145, would take the existing paths away from the residential properties and the working farm environment, through a safer more scenic route and would reduce the risks associated with walking through a working farm. The proposed diversions would offer improved views of the surrounding countryside.

The Committee noted the comments made by the Peak and Northern Footpath Society and the Public Rights of Way Officer's response.

The Committee considered that the proposed routes would not be sustainably less convenient than the existing routes. Diverting the footpaths would be in the interest of the applicant as it would improve the privacy and security of the dwellings and improve land management. It was considered that the proposed routes would be satisfactory alternatives to the current ones and that the legal tests for the making and confirming of a Diversion Order were satisfied.

The Committee unanimously

**RESOLVED:** That

- 1 An Order be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.34 and part of Public Footpath No.35 in the parish of Macclesfield Forest by creating new sections of Public Footpath and extinguishing parts of the current paths, as illustrated on Plan No.HA/145, on the grounds that it is expedient in the interests of the landowner.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**31 PUBLIC RIGHTS OF WAY PROPOSED FEES AND CHARGES 2020-21**

The Committee received a report which detailed the proposed fees and charges for 2020-21 for charged-for services provided by the Public Rights of Way team.

The annual review of fees and charges had been conducted as part of the budget setting process of the Council. The charges for 2020-21 had been increased by inflation, rounded and also take into account revised corporate recharge rates. In addition, the fees and charges had been amended to reflect revised assessments of costs incurred.

**AGREED:**

That the report be noted.

**32 WILDLIFE & COUNTRYSIDE ACT 1981- PART III, SECTION 53:  
APPEAL DECISION FOR APPLICATION NO. CO/8/34: CLAIMED  
FOOTPATH FROM BYLEY LANE TO CARVER AVENUE, PARISH OF  
CRANAGE**

The Committee received an information report on the outcome of an appeal against the decision not make a Definitive Map Modification Order.

Cranage Parish Council had appealed the decision of the Public Rights of Way Committee in December 2018 to refuse an application to add a public footpath between Carver Avenue and Byley Lane in Cranage, route A-B-C-D as shown on Plan No.WCA/016. Following further submissions of comments by all affected parties, the Secretary of State for Environment, Food and Rural Affairs had issued a letter directing the Council to make an Order. Consequently the Council had made an Order to add the Footpath to the Definitive Map and Statement as directed.

**AGREED:**

That the Report be noted.

The meeting commenced at 2.00 pm and concluded at 2.43 pm

Councillor B Puddicombe (Vice-Chair, in the Chair)