

Report to: Environment Committee

Report Ref: ENV1914
Meeting Date: 13th January 2020
Agenda Item: 7
Prepared By: Town Clerk



Subject: PROW / Town Green Updates

1.0 BACKGROUND

The committee has previously overseen three applications to register public rights of access to footpaths/land through applications to Cheshire East Council, the registration authority.

1.2 INTRODUCTION TO PUBLIC RIGHTS OF WAY

A public right of way is a path which the public has a general right of access over; most commonly these are footpaths but can include bridleways (horses and bikes) and byways (cars). PROW can be established in two ways, firstly through the legal principal of 'once a highway, always a highway' which means that if a footpath has existed historically and it has never been disclaimed as a highway, it is likely a public right of way. Secondly, they can be established using user evidence of a twenty-year period through where users have used a path as of right. The 'as of right' test is that the path is used without permission or secrecy and without being told by the landowner that permission is not allowed (e.g. through signage) – i.e. used as though one has the right to do so even though one doesn't. Applications to add new footpaths are dealt with as modifications to the 'definitive map' of footpaths as a Definitive Map Modification Order (DMMO) application.

Knutsford has a number of public rights of way, both within the town and leading from surrounding parishes into the town.

1.3 INTRODUCTION TO TOWN GREENS

A Town/Village Green is an open space that inhabitants can use for 'lawful sports and pastimes' and is registered under the Commons Act 2006. Once registered, the public's right to enjoy the land is safeguarded in perpetuity. Like applications to register a public right of way, success relies on demonstrating that the land has been used 'as of right' for a period of 20 years, but for 'lawful sports and pastimes'. Examples of lawful sports and pastimes are walking around, playing, den building, blackberry picking and birdwatching etc.

Knutsford now has two Town Greens; Higher Town Green on Chelford Road and now, College Wood.

2.0 UPDATES

2.1 95-97 KING STREET DMMO APPLICATION

The council made an application to Cheshire East Council in May 2016 to register the claimed footpath between 95 and 97 King Street to Old Market Place. In March 2017 the Cheshire East Council Public Rights of Way Committee rejected the application (against the recommendation of the Public Rights of Way Officer's Report). The Town Council appealed the decision to the Planning Inspectorate which, in a July 2017 decision allowed the appeal and directed Cheshire East Council to make an order.

The PROW Officer presented a report to the December 2017 PROW committee informing them of the appeal outcome and setting out that they would now progress with the Modification Order. Other priorities overtook the progression of this order; the Town Clerk has routinely chased for an update from the PROW Officer. In January 2020 the PROW Officer stated that they are aiming to submit the order to the Planning Inspectorate by 10th January. The Town Clerk hopes to have a further update at the meeting.

2.2 BEGGARMAN'S LANE TO BEXTON FP2 DMMO APPLICATION

The council made an application to Cheshire East Council in March 2019 to register the claimed footpath between Beggarman's Lane and Bexton Footpath 2. This application is in priority position 29 out of 36 and it is likely to be some time before it is considered.

This footpath passes through Sandfield Wood. Whilst the woodland is situated just outside the Knutsford parish boundary in Toft, the access to it is from Knutsford via the claimed path. The resident who led the campaign to submit a DMMO application reported to the Town Clerk in November that signage had been installed in the woodland to deter access. The resident stated that she had always enjoyed use of the woodland as an open space. The Town Clerk contacted those who submitted evidence for the DMMO application to enquire if they had also used the woodland as an open space (i.e. not solely to walk through on the claimed path) and responses indicate that the woodland could be a candidate to be registered as a Town Green as users report activities such as climbing trees, building dens, watching wildlife and walking dogs – all defined as lawful sports and pastimes. 5th Knutsford Scouts have also stated they regularly use the woods for games, den building and hiking. Its registration as a Town Green would support the application to register the footpath and ensure perpetual public access.

The committee should consider whether to submit an application to register the woodland as a Town Green.

2.3 COLLEGE WOOD TOWN GREEN APPLICATION

The council made an application to Cheshire East Council in June 2018 to register College Wood as a Town Green. The application was considered by the Cheshire East Council Public Rights of Way Committee in December 2019 where it resolved to register it as a Town Green. The Town Clerk has written to the owner of the woodland, the Shrewsbury Roman Catholic Diocese, requesting a meeting with to discuss how improvements could be made to the area. A response is awaited.

3.0 DECISIONS REQUIRED

The committee should note the updates and consider whether to pursue an application to register Sandfield Wood as a Town Green.