

**Meeting:** **SEFTON EAST PARISHES AREA COMMITTEE**

**Date of Meeting:** 21 JANUARY 2010

**Title of Report:** **WILDLIFE AND COUNTRYSIDE ACT 1981, SECTION 53, APPLICATION FOR THE ADDITION OF TWO FOOTPATHS TO DEFINITIVE MAP AND STATEMENT IN RESPECT OF SCHOOL LANE, AINTREE.**

**Report of:**  
Andy Wallis  
Director of Planning and Economic  
Regeneration

**Contact Officers:**  
Brian Goodwin 0151 934 4239

This report contains	Yes	No
<b>CONFIDENTIAL</b> Information/		√
<b>EXEMPT</b> information by virtue of paragraph(s).....of Part 1 of Schedule 12A to the Local Government Act, 1972 (If information <u>is</u> marked exempt, the Public Interest Test must be applied and favour the exclusion of the information from the press and public).		√
Is the decision on this report <b>DELEGATED?</b>		

### **Purpose of Report**

To seek approval to continue making a modification order under Section 53(2) and Section 53(3)(b) of the Wildlife and Countryside Act 1981 following amendments to the proposed order plan and worded description. Subsequent to the previous resolution made by this Committee on 22 March 2007 in this regard

### **Recommendation(s)**

It is recommended that the Legal Services Director:

- (i) be authorised to make a definitive map modification order under Section 53(2) and Section 53(3)(b) of the Wildlife and Countryside Act 1981 to add the ways shown as a pecked line A-B-C and D-E on drawing number DC0482 to the Councils Definitive Rights of Way Map and Statement;

## **Corporate Objective Monitoring**

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1.	Creating a Learning Community		✓	
2.	Creating Safe Communities		✓	
3.	Jobs and Prosperity		✓	
4.	Improving Health and Well-Being	✓		
5.	Environmental Sustainability	✓		
6.	Creating Inclusive Communities	✓		
7.	Improving the Quality of Council Services and Strengthening local Democracy		✓	
8.	Children and Young People		✓	

## **Financial Implications**

If a public inquiry is required then the cost of this will have to be met from the existing Public Rights of Way Revenue Budget and a further report will be submitted in due course in this regard. Previously, the parties at Hearings and Inquiries relating to public rights of way orders made by Local Authorities were expected to meet their own expenses, irrespective of the outcome. However, with effect from 2<sup>nd</sup> August 2004, if a person with an interest in land over which a path is to be created successfully objects to an order so that the same is not confirmed - an award of costs will be made in the persons favour, unless there are exceptional reasons for not doing so.

<b><u>CAPITAL EXPENDITURE</u></b>	<b>2009/ 2010 £</b>	<b>2010/ 2011 £</b>	<b>2011/ 2012 £</b>	<b>2012/ 2013 £</b>
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<b><u>REVENUE IMPLICATIONS</u></b>				
Gross Increase in Revenue Expenditure				
Funded by Sefton East Parishes Area Committee				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? N	When?			
How will the service be funded post expiry?				

## **Departments consulted in the preparation of this Report**

Legal Department - Peter Cowley

**List of background papers relied upon in the preparation of this Report**

Sefton East Parishes Area Committee report for the meeting on 22<sup>nd</sup> March, 2007 for the consideration of an application to add a footpath to the Council's Definitive Map and Statement in respect of School Lane, Aintree.

Certificate of service of notice of application for a modification order under Section 53(2) of the Wildlife and Countryside Act 1981.

Numerous evidence forms submitted in support of claim.

Land Registry Search dated 1<sup>st</sup> November, 2005

## **1.0 BACKGROUND**

- 1.1 At the meeting of this Committee on 22 March 2007. Members considered the report from the Director of Technical Services to consider the evidence for and against the footpath linking School Lane, Aintree to the Leeds Liverpool Canal Towpath being recorded as a public footpath.
- 1.2 This was following receipt of an application under Section 53(2) of The Wildlife and Countryside Act 1981 for the way to be recorded on the Council's Definitive Rights of Way Map and Statement.
- 1.3 The Committee authorised the Legal Director to make a definitive map modification order under Section 53(2) and Section 53(3)(b) of the Wildlife and Countryside Act.
- 1.4 The location and direction of the way was based on the evidence received and a plan and a written description of the path were included in the previous report.
- 1.5 During the administrative processes necessary to make the Order it came to light that the plan in the previous report, which was to be the Order plan, was not totally accurate.
- 1.6 The line drawn on the plan did not replicate the situation on the ground and differed slightly to the written description for the Order. Point A, the start of the path, shown on the map was nearly 10 metres north east of the actual start point.
- 1.7 The written description has also been rechecked and it was found that two of the lengths mentioned needed amending.

## **2.0 INFORMATION**

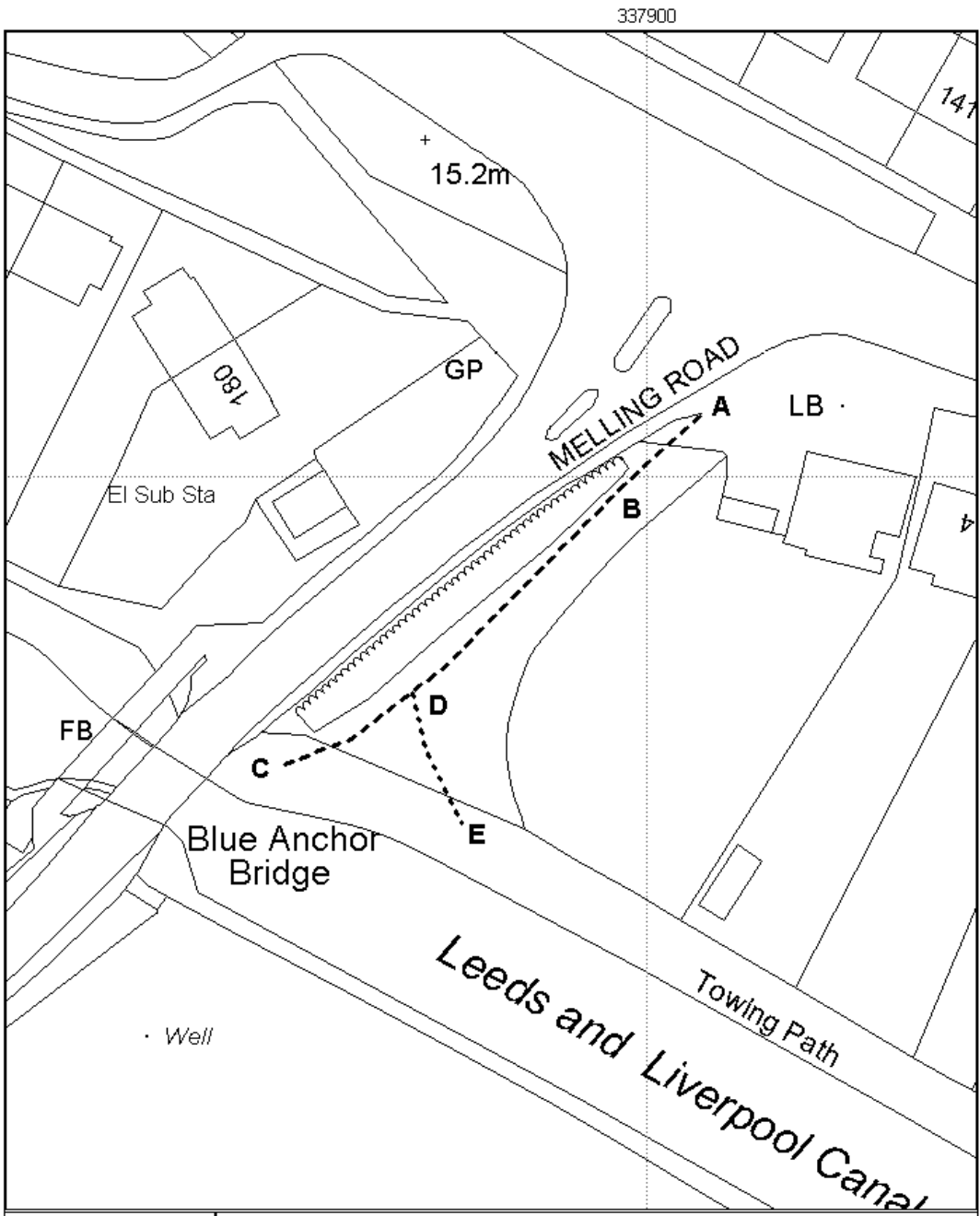
- 2.1 Should the Order be made with the plan and written description as per the original resolution it would invalidate the Order and subsequently the footpath could not be recorded on the Definitive Rights of Way Map and Statement.
- 2.2 As the description and plan were part of the previous Committee resolution, to alter them without receiving further Committee approval would again have the effect of invalidating the Order.
- 2.3 Therefore, a further report was required to amend the order plan to ensure robustness, particularly if the application was challenged at a later date.
- 2.4 The error on the original plan was one made whilst drafting. The slight error in the measurements detailed in the description came from the drafting error. This does not have any effect upon the claim and evidence of the existence of the footpath and as such, the resolution to make the Order is not being reconsidered.



### **3.0 PROPOSAL**

- 3.1 That approval for the Order to be made with the new plan DC0482 be given now that point A is correctly shown.
- 3.2 The description of the way to be amended to:

The path is shown on plan no. DC0482 (Appendix A) and commences at School Lane, Aintree, point A, grid ref. SJ 37919851 where it is a 1.5m wide path along the southerly base of the bridge embankment. It continues for a distance of 15m where it passes through a 1.5m wide gap between the embankment and a field gate at point B, grid ref. SJ 37909850. The way continues as a surfaced path for 20m and a trodden surface for 18m in a south westerly direction, with a width of 1.5m, until it meets the Leeds Liverpool Canal towpath at grid ref. SJ 37879847, shown as point C. The path also has a link in a southerly direction at point D, grid ref. SJ 37889848 with a width of 1.5m and a trodden surface the path meets the Leeds Liverpool Canal towpath after 14m at point E, grid ref. SJ 37889846.

**Andy Wallis**  
**Planning & Economic Regeneration Director**



SEFTON M.B.C.		<b>Wildlife &amp; Countryside Act 1981 Definitive Map Modification Order School Lane, Aintree</b>		
 HIGHWAYS DEVELOPMENT CONTROL Andy Vialls Director of Planning & Economic Regeneration Magdalen House 33 Trinity Road Bootle, L20 9JW	Drawn By: BG	Scale: 1:500	Date: 16/10/09	Checked: BAM
	Ward: Molyneux	OS: SJ3798SE		Plan: <b>DC0482</b>
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