

## Record of officer decision

<b>Decision title:</b>	Wildlife and Countryside Act 1981 Application for Modification Order in the Parish of Stoke Prior M341
<b>Date of decision:</b>	12 May 2020
<b>Decision maker:</b>	Acting Assistant Director Highways and Transport / Head of Infrastructure Delivery
<b>Authority for delegated decision:</b>	Directorate scheme of delegation: updated 20 March 2020 Directorate: Economy and Place, section 75. To act on behalf of the council in respect of the legislation specified in the foregoing:  Traffic Management Act 2004, Road Traffic Act 1988, Cycle Tracks Act 1984, Highways Act 1980, National Parks and Access to the Countryside Act 1948, New Roads and Street Works Act 1991, Road Traffic Regulation Act 1984, Town and Country Planning Act 1990, Town Police Clauses Act 1847, Traffic Calming Act 1992 Wildlife and Countryside Act 1981
<b>Ward:</b>	Hampton
<b>Consultation:</b>	The Local Ward Member Councillor Harrington was sent a copy of the draft investigation report and consulted for his views on 3 <sup>rd</sup> July 2019. At the same time, Stoke Prior Parish Council and the affected landowners were also consulted, and the landowners sent Questionnaires. The Parish noted the report. A summary of the completed landowner questionnaires and additional comments are set out in appendix 3.
<b>Decision made:</b>	An order be made under the provisions of section 53(2)(b) of the Wildlife and Countryside Act 1981, in consequence of an event under section 53(3)(b) and section 53(3)(C)(i) of that Act to Add a Restricted Byway, with an average width of between four and nine metres, to the Definitive Map and Statement along the route shown A-B-C-D-E on the Plan in Appendix 1.
<b>Reasons for decision:</b>	To seek a decision to make a Definitive Map Modification Order to record a Restricted Byway in the parish of Stoke Prior in consequence of the duty set out in section 53(2)(b) and 53(3)(c)(i) of the Wildlife and Countryside Act 1981 ("the 1981 Act") to keep the Council's Definitive Map and Statement under continuous review.
<b>Highlight any associated risks/finance/legal/equality considerations:</b>	<p><b>Community impact</b></p> <p>Whilst there is considered to be no adverse community impact in respect of this decision, it cannot be a relevant consideration under section 53 of the 1981 Act.</p> <p>Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:</p> <p>A public authority must, in the exercise of its functions, have due regard to the need to –</p> <ul style="list-style-type: none"> <li>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;</li> <li>(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;</li> </ul>

	<p>(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</p> <p><b>Resource implications</b> This is not a relevant consideration under section 53 of the 1981 Act. The council cannot take financial considerations into account in determining Definitive Map applications. Following the making of the order it will be advertised as required by Schedule 15, paragraph 3 of the Act 1981. Should the route be added to the Definitive Map in due course, it would be publicly maintainable which would place an additional burden on the public rights of way budget although this is likely to be very minimal. Any future management, maintenance and improvements will be prioritised in accordance with the criteria set out in the Public Realm Annual Plan and the Council's Rights of Way Improvement Plan.</p> <p><b>Legal implications</b> If the council receives objections to any Order it makes, which are not subsequently withdrawn, it must submit the Order to the Secretary of State for confirmation as required by the provisions of Schedule 15(7)(1) of the 1981 Act. This may result in the holding of a public inquiry or hearing.</p> <p><b>Risk management</b> Given the outcome of the initial consultations on this application, it is possible that an Order to record the route would receive objections from the affected landowners and may, therefore, have to be submitted to the Secretary of State for confirmation. As stated above, this could result in a public inquiry or an informal hearing or the matter might be determined by written representations. This is part of the normal, legal procedure for dealing with applications under section 53 of the 1981 Act.</p>
<p><b>Details of any alternative options considered and rejected:</b></p>	<p>There are no alternative options. The decision is whether, on the balance of probabilities, public rights subsist (or are reasonably alleged to subsist). In determining this matter, the council is carrying out a quasi-judicial function in accordance with the provisions of section 53 of the 1981 Act.</p>
<p><b>Details of any declarations of interest made:</b></p>	

I am an officer delegated to make the decision

Signed:  
Print Name: Mairead Lane  
Job Title: Acting Assistant Director Highways & Transport /  
Head of Infrastructure Delivery