



**SANDBACH
TOWN COUNCIL**

PLANNING AND CONSULTATION COMMITTEE

Agenda for the meeting to be held on **Monday, 27th March 2023**
at **Sandbach Town Hall**, and commencing **7pm**.

Committee Members: Cllrs R Hovey (Chair), G Merry (Vice Chair), D Poole,
G Price Jones, M Muldoon, S Broad and S Crane.

1. APOLOGIES FOR ABSENCE

*The Meeting will be clerked by the Deputy Chief Officer.
Please ensure that all apologies are made directly to the meeting clerk no later
than 5pm on the day of the meeting.*

2. DECLARATIONS OF INTEREST

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

The Chair of the meeting will adjourn the meeting to allow questions from members of the public. After the questions, the Chair will reconvene the Planning and Consultation Committee Meeting.

**3. MINUTES OF THE PLANNING AND CONSULTATION COMMITTEE
MEETING HELD ON 8TH MARCH 2023**

[Attached: Draft minutes of the meeting]

Action: *To approve the minutes of the meeting of 8th March 2023.*

4. OBSERVATIONS ON PLANNING APPLICATIONS

Submitted WE 3.3.23 response to Cheshire East by 21.3.23

(Deadline for observations extended to 29.3.23)

23/0806C

30, MOSS LANE, SANDBACH, CHESHIRE, CW11 3JW

Two storey extension to the rear of the property and a single storey extension to the left hand side of the property.

Submitted WE 10.3.23 response to Cheshire East by 27.3.23

(Deadline for observations extended to 29.3.23)

23/0832C 5, WRIGHTS LANE, SANDBACH, CW11 2JX
Single and 1 & 1/2 storey side extension, comprising of a new entrance and staircase with study. Also with a garage and additional bedroom and en-suite over.

23/0910C 3, COLDMOSS DRIVE, SANDBACH, CW11 4HW
Proposed rear dormer extension.

Submitted WE 17.3.23 response to Cheshire East by 13.4.23

23/1001T 9, ANVIL CLOSE, SANDBACH, CW11 3RF
Tree works to oak tree to carry out a maximum 3.0m height and 2m lateral reduction of the overall crown.

23/1034C 22, COLDMOSS DRIVE, SANDBACH, CW11 4HW
Single storey rear/side extension and first floor extension.

5. CONSULTATIONS

Deferred from meeting held 8th March 2023

5.1 [Little Bollington NDP Regulation 16](#)

Email from Cheshire East Strategic Planning received 23 February regarding a Neighbourhood Development Plan 2022-2030 proposal submitted by Little Bollington Neighbourhood Forum. Consultation ends by 7pm 7 April 2023.

6. PLANNING CONSULTATION PROCESS

Action: *To review CEC consultation process routine and regulations.*

7. MEMBERS ITEMS

7.1 Cllr Muldoon

The Hill Crossing Campaign

Action: *Members are asked to support the pursuit of a response from three parties at Cheshire East Council, in reply to the Committee's original request (25 January 2023) relating to a Crossing on The Hill.*

8. CORRESPONDENCE

8.1 CEC Highways

[Attached: Email]

Email received 15th March 2023 in response to STC correspondence, relating to crossing on The Hill.

8.2 Strategic Planning Update

[Attached: Strategic Planning Update]

Strategic Planning Update received by email 1st March 2023, for reference.

8.3 Planning Inspectorate

[Attached: Correspondence from The Planning Inspectorate]

Notice received 8th March 2023 advising of decision following Inquiry, relating to ROW/3268692.

9. DATE/TIME AND PLACE OF NEXT MEETING

The next Planning Committee meeting will take place on Monday, 17th April 2023 at 7pm in Sandbach Town Hall.

3. MINUTES OF THE PLANNING AND CONSULTATION COMMITTEE MEETING HELD ON 13TH FEBRUARY 2023

Resolved: *The minutes are approved as a true record.*

2. OBSERVATIONS ON PLANNING APPLICATIONS

Submitted WE 10.2.23 response to Cheshire East by 8.3.23

23/0446C TAXMERE FARM, NEWCASTLE ROAD, ARCLID, SANDBACH, CHESHIRE, CW11 2SJ

Reconstruction of the existing barn to create a dwelling house with associated access, servicing and landscaping. Erection of Car Port

Resolved: *No objection, but Members are concerned about the issue raised by one of the neighbours regarding the proposed drainage scheme as it appears highly unlikely that mains drainage is available at that location, given that it is a remote farm.*

Submitted WE 17.2.23 response to Cheshire East by 15.3.23

23/0603C 81, MANOR ROAD, SANDBACH, CW11 2ND

Proposed extensions and alterations to existing dwelling.

Resolved: *No objection, though Members raise the following issues for the Planning Officer to consider:*

- *Lack of private amenity space*
- *Potentially over-developing the site*
- *How is access maintained to rear garden space?*
- *Development up to the boundary of the properties.*

23/0558T SANDBACH SCHOOL, CREWE ROAD, SANDBACH, CHESHIRE, CW11 3NS

- T1 - Quercus (t50 tree report) 2.5 -3m Crown Lift to low lateral limbs to remove damaged limbs. Also dead wood to make safe.
- T2 - Quercus (t1 tree report) 2.5m crown lift over foot path to remove as an obstruction.
- T3 - Quercus (t21 tree report 5m Latrell reduction on lowest limb over the road to lift tree and reduce lateral weight. Also to dead wood to make safe.
- T4 - Quercus (t23 tree report) Reduce lowest lateral limb over road way to suitable growth point to lift the canopy of the tree to avoid further damage by lorries. Also to deadwood the tree to make safe.
- T5 - Quercus (t25 Tree report) 3m Lateral reduction of over extended branches to reduce the weight of branches over carriageway. Also to dead wood and remove snapped hanging branches over road.
- T6 - Quercus (t27 Tree report) 3m Selective prune to reduce weight of over extended branches over the road, to reduce future concerns. Also to deadwood to make safe.

Chair Initials:

- T7 - Quercus (t28 tree report) 1m crown lift by removing the 2 lowest limbs over the road to lift out of the way of lorries. Also to dead wood to make safe.
- T8 - Quercus (t29 tree report) 2m Selective Lateral reduction over the road to lift the tree and reduce weight on lateral limbs over road. Also dead wood to make safe.
- T9 - Quercus (t153 tree report) Removal of two lowest limbs of 3 inch diameter to lift the canopy to avoid collision with sites tractor when mowing the grounds. Also along with these specific trees we are going to be dead wooding trees around site that are in high risk areas.

Resolved: *Members support the application to maintain the trees within the grounds of the Listed Building.*

Submitted WE 24.2.23 response to Cheshire East by 17.3.23

23/0753C 9, FIRTH CLOSE, SANDBACH, CHESHIRE, CW11 1JH
Proposed Photovoltaic Panels on Front Roof Pitch

Resolved: *No objection.*

Submitted WE 3.3.23 response to Cheshire East by 29.3.23

23/0606C MIDLAND INN, 5, NEW STREET, SANDBACH, CW11 3JF
Proposed conversion of first floor from one to two flats

Resolved: *Object, on the basis that:-*

- The creation of two independent flats, without any apparent off-street parking provision, will cause major problems to a sensitive area in terms of resident parking facilities.*
- The creation of two flats from a single apartment will result in very small rooms – can the Planning Officer confirm these are compliant with regulation requirements.*
- There is no available amenity space for the occupiers of proposed flats.*

3. CONSULTATIONS

3.1 [Little Bollington NDP Regulation 16](#)

Email from Cheshire East Strategic Planning received 23 February regarding a Neighbourhood Development Plan 2022-2030 proposal submitted by Little Bollington Neighbourhood Forum. Consultation ends by 7pm 7 April 2023.

The Chair and Vice-Chair of the Committee will review the document and report back to next meeting.

Chair Initials:

4. CORRESPONDENCE

4.1 HS2

Email of Letter from the Minister of State for Transport received 9 February detailing High Speed Rail (Crewe – Manchester) Bill update and the impact on Sandbach residents. A second Additional Provision (AP2) which relates to changes on the Public Right of Way, environmental mitigation, utility works along the HS2 of route focusing between Crewe and Manchester will be deposit in Parliament later this year. Enquiries about the HS2 project can be made via [email](#) or attending an online [webinars](#) on 16 March 6-7pm to meet with HS2 Ltd staff.

Cllrs Poole and Broad confirmed that they will attend the planned webinar 16th March 2023, 6-7pm, to receive an update on the plans for South and North Cheshire. Other Committee Members welcome to join the online information session.

A reminder note was requested for Members, to be issued from the Support Officer.

5. DATE/TIME AND PLACE OF NEXT MEETING

The next Planning Committee meeting will take place on Monday, 27th March 2023 at 7pm in Sandbach Town Hall.

Meeting closed 8pm

Cllr R Hovey
KP.

Councillor Hovey
Richard.Hovey@sandback.gov.uk

Westfields
c/o Municipal Buildings
Earle Street
Crewe
CW1 2BJ
www.cheshireeast.gov.uk

Date: 15th March 2023

Our Reference: 18940221

Dear Cllr Hovey

RE: Crossing on The Hill, Sandbach

Thank you for writing to Cheshire East Council on behalf of Sandbach Town Council regarding making a case for a pedestrian crossing at the Top of the Hill, Sandbach Heath and apologies for the length of time it has taken to respond.

You may be aware, that in 2018, following a request from Cllr Sam Corcoran and a petition being submitted, a survey was carried out on The Hill between Heath Road and the Co-Op. The final adjusted PV2 score was 0.27×10^8 and as per the current policy, a minimum of adjusted PV2 value of 0.60×10^8 is required for the introduction of a crossing.

The Persimmon S106 funding from the (Sandbach Heath, Hawthorne Drive development) has currently been allocated, alongside other s106 funding in the area, to a major improvement project to improve traffic flow on Old Mill Road by improving the Waitrose roundabout and the road between the Hill lights and the roundabout. These improvements, if they went ahead would also improve pedestrian access from Sandbach Heath over towards Sandbach Town Centre. Another key piece of funding to help the wider major improvement project is from the Muller scheme on land opposite Waitrose - there is currently an appeal being heard by the government Planning Inspectorate on that planning application.

At the Highways and Transport Committee meeting in January 2023, the response to the Notice of Motion relating to the Criteria used for Controlled Crossing was approved. A key element of this response was a commitment to review the policy for controlled crossings and it is anticipated that this will include wider consideration of latent demand, community support etc in the decision making around the suitability for a new crossing. The policy will be developed in 2023/24 and whilst I fully expect this will help with cases such as The Hill, implementation will be subject to funding and a variety of

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sources may be needed for project delivery.

The team are looking at the scope of works for the major improvement project with a view to wider improvements such as the crossing on The Hill to be included, this will give more flexibility in terms of funding and challenges around time limited funding specifically.

I appreciate the concerns raised about safety and have reviewed the recorded accident data for the last 5-years for The Hill and at its junction with Old Mill Road. In total there were 4 accidents with 6 casualties (all with slight injuries), 2 of these were at the Old Mill Road / The Hill junction with the others further up The Hill. There have been no accidents recorded at the proposed location of the crossing on The Hill between Heath Road and the Co-Op.

In order to move this forward, I would suggest that a site meeting is held with a representative from Town Council, Head of Highways and the Leader of Cheshire East Council Councillor Corcoran as the local ward member. The purpose of this would be to confirm the preferred location of the crossing to ensure any facility gets maximum benefit and to be realistic about any site constraints. From experience elsewhere, siting of crossings in built up areas can be challenging with the presence of services in the footways, drainage issues, proximity to properties (that may result in objections to the proposals) etc.

If a location is agreed, then a commitment can be made to a more detailed feasibility and design that will enable the new crossing to be fully costed. This will then enable the teams to consider the request fully in terms of funding availability and impact on the proposed improvements around Old Mill Road.

I will be in contact via email to arrange a site meeting.

In addition, a number of local residents have recently written in campaigning for a crossing. I will arrange for these to be responded too along the lines detailed above.

We trust this information is of assistance.

Kind regards

Mike Barnett
Head of Highways
Cheshire East Council

From: LOCAL PLAN <LocalPlan@cheshireeast.gov.uk>
Sent: 01 March 2023 17:01
Subject: [OFFICIAL] Strategic Planning Update - March 2023

Dear Sir/Madam

Please find attached, a copy of the 'Strategic Planning Update' for you to share with your Council.

It is one of the ways that we aim to keep local councils in touch with planning policy matters in the Borough.

We hope you find this information useful.

Regards

█

█ | Cheshire East Council
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Working for a brighter future together

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Strategic Planning Update March 2023

The Strategic Planning Update is one of the ways that we aim to keep local councils in touch with planning policy matters in the Borough.

In this edition:

- Adoption of the Site Allocations and Development Policies Document
- Update on the Minerals and Waste Local Plan
- The next Local Plan – a new planning framework into the 2040s
- Supplementary Planning Documents update
- Neighbourhood Planning progress
- Housing delivery and supply
- National planning reforms

Adoption of the Site Allocations and Development Policies Document (SADPD)

After an 18-month public examination conducted by independent government Planning Inspector Mike Hayden BSc DipTP MRTPI, the SADPD was adopted at the Full Council meeting on 14 December 2022.

The SADPD now forms part of the statutory development plan and its policies, along with those in the Local Plan Strategy (adopted 2017) and made Neighbourhood Development Plans, become the starting point for deciding planning applications. Planning law says that planning application decisions must be determined in accordance with the development plan unless there are over-riding planning reasons why this shouldn't be the case.

The adoption of the SADPD is another milestone for plan-making in Cheshire East. Importantly, the policies of the SADPD pick up key local priorities aimed at securing a more sustainable future for the borough. These include measures to tackle climate change, meet our diverse range of housing needs including affordable housing, protect valuable open spaces and support good health and well-being.

The adoption of the SADPD brings about the full withdrawal of the local plans prepared by the three former borough councils that existed prior to Cheshire East. It means that they will no longer be used in deciding planning applications. In their place is an up-to-date suite of planning policies covering the whole of Cheshire East.

You can read the adopted SADPD [here](#).

Update on the Minerals and Waste Local Plan (MWP)

A six-week public consultation took place on the draft MWP between 9 November and 21 December 2022. Around 250 comments were received from some 50 individuals / organisations. The Council also received comments on the Sustainability Appraisal and Habitats Regulations Assessment. These supporting documents were published alongside the draft MWP. In addition, several sites were also submitted through the call for sites exercise that was undertaken in parallel with the Draft MWP consultation. The Council will now consider all the received comments and seek to make changes to the Plan, where appropriate, before reconsulting on an updated version in due course.

Work is currently ongoing on updating the current Waste Needs Assessment so that it covers the full plan period to 2041. This key piece of evidence is required to be completed before the Council can produce the updated MWP.

The next Local Plan – a new planning framework into the 2040s

Planning law requires that all local plans must be reviewed within 5 years of their adoption. By 'review', this means assessed, to determine whether the plan needs updating. It involves checking if policies in the plan are being successfully implemented, whether they remain in line with national planning policy and whether there have been any other changes in circumstances requiring a different policy approach to be taken.

On 1 July 2022 the Council's Environment and Communities Committee considered the review of the Local Plan Strategy, which was adopted on 27 July 2017. It was decided that an update to the Plan should be commenced to address changes that have been made to national planning policy since its adoption and because of changes in local circumstances.

The new Local Plan will look ahead into the 2040s, well beyond the 2030 end date of the current Local Plan Strategy. It will consider the borough's future development needs and how they should be met, alongside how we meet other priorities. These include getting to 'net zero', enhancing nature and measures to support active lifestyles and good health.

The preparation of the new Local Plan will need to be supported by a range of new studies and reports. Its policies and proposals will also be informed by

feedback received through engagement and consultation with residents, local councils, businesses, developers and others.

In November 2022, the Council agreed a five-year programme to prepare and adopt the new Local Plan, however, this will now need to be reconsidered in the light of proposed changes to the planning system published by the government on 22 December 2022. These include proposed changes to the way that local plans will be prepared in the future.

More information about the new Local Plan and how you can get involved will be publicised later this year.

Supplementary Planning Documents update

Housing

A final draft Housing Supplementary Planning Document was consulted on and subsequently adopted in July 2022. Further details can be [viewed here](#).

The SPD will apply across the whole borough and provides additional planning guidance on a range of housing matters for developers, applicants, and other stakeholders. The guidance describes how the Council will expect policies in the Local Plan to be applied, for example giving more information on how financial contributions to affordable housing should be calculated and how specialist housing provision will be considered.

SPDs reliant on the SADPD

During 2021/2022, a number of first draft SPDs, described below, were prepared and consulted on. Their purpose is to assist in the delivery of policies contained in the SADPD, providing further advice, guidance and detail on a range of matters. Now that the SADPD has been completed and adopted by the Council, these draft SPDs will be published again in 2022/2023 for a final round of consultation. In preparing the final draft versions, account has been taken of the feedback already received about them.

Biodiversity Net Gain SPD

Provides advice that will apply across the borough and sets out how developers should demonstrate how they have considered habitats and biodiversity in their applications – for example how assets have been retained and improved on site and how offsite financial contributions will be calculated and used.

Sustainable Drainage Systems

Provides a guide and toolkit on how surface water should be dealt with in new development to slow down run-off, reduce flooding and integrate improved green design in development.

Environmental Protection

Provides guidance on a range of environmental issues including pollution, air quality, noise and odour. The SPD sets out the types of information and assessments that applicants will need to provide in planning applications where environmental issues may arise.

Jodrell Bank

Provides guidance on heritage and landscape matters affecting the observatory and how the electrical interference from new development will be assessed, including the type of information that applicants are required to submit to support their proposals.

Developer Contributions SPD

Provides advice and guidance to landowners and applicants on the type of contributions they may be required to make to address the impacts of new development - through 'Section 106' and 'Section 278' agreements.

Neighbourhood Plans

At the end of 2022 a referendum was held on the Sound and Broomhall neighbourhood plan. It returned a positive vote for the plan. Congratulations to the Parish Council and Steering Group for this important achievement. More information on neighbourhood plan referendums and previous results can be found [here](#).

We have the first formal neighbourhood plan submission of 2023 from Little Bollington – congratulations to the Group and the Plan will be submitted for examination in the coming weeks.

Over Alderley, Nether Alderley, Congleton, Cholmondeley and Chorlton, and Bunbury are making great progress towards preparing draft plans and reaching the Regulation 14 stage, whilst Weston and Crewe Green Community Council (formally Weston and Basford Parish) are similarly close to this stage with the review of their neighbourhood plan, originally made in 2017.

Now that the Council has formally adopted the SADPD, it's a great time for groups to start reviewing neighbourhood plans. Through its Statement of Community Involvement, the Council has set out how it can [support](#) neighbourhood plan groups to review and update their plans. We can advise on all aspects of the process and how groups can make the most of government support.

The current support package from government includes up to £10,000 financial assistance and technical support to prepare a variety of assessments

including housing needs reports, site allocations assessments and design codes. Although funding has not yet been confirmed for financial year 2023/24 and beyond, the Department for Levelling Up Housing and Communities is actively exploring an extension of the programme to March 2024. You can [check back here](#), for further updates on that position and we'll report any news once we hear what's happening.

We're looking forward to plenty of plans reaching completion this year and with local elections in May it's a good time to consider reviewing your parish or town council's neighbourhood plan. For more information, or to find out what type of support Cheshire East can provide for your neighbourhood plan please get in touch with the team. Contact details and further information are available via [this link](#).

Community Governance Review and Neighbourhood Plans

The community governance review of town and parish council boundaries along with numbers and arrangements for wards concluded last year. The changes will now come into effect in April 2022. For some communities this will mean changes to their parish boundaries, and you may be wondering how this affects your neighbourhood plan.

The short answer is that changes to the boundary of a parish won't automatically require a change to the neighbourhood plan area and all adopted plans will continue to apply to the area that was originally designated, even if part of the plan is now in a different parish. However, you may wish to re-designate the neighbourhood area to align to the new parish boundary and there is a process in place to make such changes if that's the case. If you'd like to find out more and understand the process, or the implications of the community governance review for your plan, then please do get in touch with us via neighbourhoods@cheshireeast.gov.uk to discuss your particular circumstances.

Housing delivery and supply

The Council continues to perform well in relation to housing delivery and maintaining a future supply of deliverable housing land ('5 year supply'). Where either of these falls short of the required levels, sanctions are imposed on councils which can include taking away their ability to make planning application decisions in line with its local plan.

During 2021/22 a total of 2,779 additional homes were built in Cheshire East, almost 1,000 homes above the Local Plan Strategy requirement for 1,800 homes/year. This is the fifth year in succession that housing delivery has exceeded the borough's annual housing requirement. This period coincides with the adoption of the Local Plan Strategy, underlining the key role that it plays, and continues to play, in maintaining adequate levels of housing delivery and supply.

Although the housing requirement has been exceeded in recent years, in every year between 2010 (the start of the period covered by the Local Plan Strategy) and 2017, delivery fell short of 1,800 homes, leading to a housing delivery shortfall. Since 2017, this has been reducing year on year and, as at 31 March 2022, this shortfall stood at 762 homes.

The Council's latest deliverable housing land supply figure was published in February 2023 and relates to the position at 31 March 2022. At 11.6 years, it is well above the 5 year threshold required under national planning policy. Those who keenly monitor the borough's 5 year supply will note that the latest figure represents a significant increase from the previously published figure of 6.3 years (at 31 March 2021). This is because national planning policy requires councils with a local plan over five years old to calculate their deliverable housing land supply using their 'local housing need' figure. The current 'local housing need' figure for Cheshire East is 1,070 homes/year and is worked out using a formula prescribed by the government. However, it is important to stress that the 'local housing need' figure is only relevant for calculating the council's deliverable housing land supply. It does not replace or over-ride the requirement to build at least 36,000 homes (equating to 1,800 homes/year) contained in the Local Plan Strategy between 2010 and 2030.

You can read more about the council's latest housing delivery and supply [here](#).

National planning reforms

In the last Strategic Planning Update we reported that a number of planning reforms had been introduced by the government, including giving greater freedoms to change the use of buildings in an effort to support the vitality of town centres. Further, more significant reforms are proposed. They are being brought forward through the [Levelling Up and Regeneration Bill](#) (LURB) and through changes to national planning policy.

Amongst other things, the LURB contains some major changes to the way that planning policy is prepared at a local level. These include:

- Speedier plan-making. In the future local plans will take 30 months to prepare, from start to adoption.
- Local plans will be subject to a series of additional 'gateway checks' by the Planning Inspectorate to address any problems with emerging policies and proposals at an early stage.
- Development management policies on issues that apply in most areas would be set out nationally in a suite of National Development Management Policies (NDMPs). They would not need to be repeated in local plans. NDMPs would have the same weight as local and neighbourhood plans in decision making, however any inconsistencies would be resolved in favour of the NDMPs.

- The current legal ‘duty to co-operate’ which requires local planning authorities to work together on strategic cross boundary issues would be replaced with an ‘alignment test’. Details of how this new test will work will follow.
- Powers in the Bill will allow more standardised and reusable data to inform plan-making. This is intended to enable both plans and underpinning data to be accessed and understood more easily by communities and other interested parties thereby helping them to better engage in the plan-making process.
- Local planning authorities will have a new power to prepare ‘supplementary plans’, which will be able to contain policies for specific sites or to set out design standards. These plans will replace ‘supplementary planning documents’. Supplementary plans will be subject to independent examination and will carry greater weight in decision-making once adopted.
- The current Community Infrastructure Levy (CIL) will be replaced by a new Infrastructure Levy. It will, similarly, be a means by which contributions are obtained from developers to fund local infrastructure. However, unlike CIL, which applies a set charge based on the floor area of buildings, it will be charged on the value of property when it is sold. All councils will be required to adopt the Infrastructure Levy and further details of how it will work will be set out in future regulations.
- Councils will be required to prepare infrastructure delivery strategies. These will set out a strategy for delivering local infrastructure and spending Infrastructure Levy proceeds.
- Community Land Auctions will be piloted. This will be an alternative way of identifying and allocating land for development in local plans. Landowners will be able to submit their land to the local planning authority offering an option on it at a price set by the landowner. The local authority will then take account of both planning considerations and the option price in deciding whether to allocate the land. If the land is allocated in the adopted plan, the local planning authority will then auction the development rights on to a successful bidder. The difference between the option price offered by landowner, and the price offered to develop allocated land, will be retained by the local authority and able to be spent locally.
- All local planning authorities would have a legal duty to produce a design code for their area, which will be given full weight in planning application decisions, either through forming part of the local plan or being prepared as a supplementary plan.
- The current system of Strategic Environmental Assessment and Sustainability Appraisals will be replaced by ‘Environmental Outcomes Reports’. The aim is to have a clearer and simpler process of assessing local plans which helps to achieve positive environmental outcomes.

As noted above, changes are also proposed to national planning policy, which is another important means by which the government will implement their reforms. The NPPF is expected to be revised twice over the next 12 months or so. Amongst other things, proposed shorter term changes relate to:

- how local plans should establish appropriate housing requirements;
- the operation of the housing delivery and the five-year housing land supply;
- simplifying the tests of 'soundness' through which plans are examined, which seeks a more proportionate approach towards evidence;
- measures to tackle slow build-out by housing developers;
- clarifying expectations around planning for older peoples' housing; and
- promoting more beautiful homes, including through 'gentle density'

The shorter-term changes are expected to take effect during Spring 2023. A fuller review of the NPPF is also proposed, details of which will be published later this year or into 2024. The content of the final NPPF will depend on the implementation of the government's proposals for wider changes to the planning system, including through the Levelling-up and Regeneration Bill.

You can find out more about the LURB [here](#) and more about the changes to national planning policy [here](#).



The Planning Inspectorate

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Email: caroline.baylis@planninginspectorate.gov.uk
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Sandbach Town Council

Your Ref:

Our Ref: ROW/3268692

08 March 2023

Dear Sir/Madam,

Town and Country Planning Act 1990 - Section 257
Order Making Authority: Cheshire East Council
Title of Order: The Cheshire East Borough Council (Footpath No. 14 Parish of Sandbach)
Public Path Stopping Up Order 2019

I enclose for your information a copy of the Inspector's decision on this Order following the Inquiry on 10 January 2023.

Also enclosed are two leaflets entitled *Our Complaints Procedure* and *Challenging the Decision in the High Court*.

If you have concerns or queries about the decision or the way we have handled the order, or you simply wish to provide feedback, please visit our Feedback and Complaints webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>. Please quote our reference number in any correspondence.

If you do not have internet access you may write to the Customer Quality Team, Room 3H Hawk Wing, at the address above. Alternatively, if you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service team on 0303 444 5000.

An electronic version of the decision will shortly appear on the Inspectorate's website <https://www.gov.uk/guidance/rights-of-way-order-information-decisions-and-maps>.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

Caroline Baylis
Caroline Baylis

<https://www.gov.uk/government/publications/planning-inspectorate-privacy-notice>



Order Decision

Inquiry held on 10 January 2023

by **Barney Grimshaw BA DPA MRTPI(Rtd)**

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 8 March 2023

Order Ref: ROW/3268692

- This Order is made under Section 257 of the Town and Country Planning Act 1990 (the 1990 Act) and is known as The Cheshire East Borough Council (Footpath No.14 Parish of Sandbach) Stopping Up Order 2019.
- The Order is dated 11 April 2019 and proposes to stop up part of a footpath as shown on the Order Map and described in the Order Schedule.
- There were 53 objections outstanding at the commencement of the inquiry.

Summary of Decision: The Order is confirmed subject to modifications that do not require advertising.

Procedural Matters

1. I held a public inquiry into this Order on 10 January 2023 at Holmes Chapel Community Centre. I made an unaccompanied visit to the site on 9 January when I was able to view the Order route. It was agreed by all parties at the inquiry that a further accompanied visit was not necessary.
2. In writing this decision I have found it convenient to refer to points on the Order route as shown on the Order Map. I therefore attach a copy of this map.

The Main Issues

3. Section 257 of the 1990 Act requires that I must consider whether it is necessary to divert the footpath in question in order to allow development to be carried out in accordance with a planning permission already given but not implemented.
4. In addition, Paragraph 7.15 of the Department of the Environment, Food and Rural Affairs, Circular 1/09 advises that consideration should also be given to any disadvantages or loss likely to arise as a result of the stopping up, either to members of the public, or to persons whose properties adjoin or are close to the existing footpath.

Reasons

Whether it is necessary to stop up the footpath to allow development to be carried out

5. The development that has been approved includes the construction of 50 houses, an area of public open space and a children's play area. The existing alignment of Footpath 14 between Points A and B runs through the corner of one of the

proposed houses and across the driveways/parking spaces and front gardens of 6 others. None of the 7 affected properties has yet been built.

6. The planning permission given requires the development to be carried out in total in accordance with approved plans and it was stated on behalf of the developer that, if the footpath remained on its current alignment, it would not be possible to proceed with the construction of the 7 houses affected by it.
7. It therefore seems clear that it is necessary to stop up the footpath to allow the approved development to be carried out.

The effect of the Order on members of the public, or persons whose properties adjoin or are close to the existing footpath

8. Footpath 14 was said to provide an important and well-used link between the built-up area and open countryside and other parts of the Rights of Way network and this was not contested. It might appear from the Order and the Order Map that this link would be lost if the Order is confirmed. However, this is not the case. Only part of Footpath 14, roughly 63m in length is affected by the Order and, although it appears from the Order Map that the stopping up of this section will leave two cul de sac sections of path with no link between them, this would also not be the case. Between Points A and B, an estate road and associated footway which will become an adopted public highway provides a link between the two sections of the footpath.
9. If the Order is confirmed, users of Footpath 14 will be able to use the footway alongside Larch Drive between Points A and B. This runs parallel to the existing line of the path a few metres to the south-east. This will add no significant distance to journeys. This means that the remaining sections of Footpath 14, along with the footway, would still provide walkers with a link between the built-up area and open countryside.
10. The footway is 2m wide with a hard even surface although with a shallow crossfall to the road edge. The existing path is unsurfaced and of undefined width.
11. The main perceived disadvantage of use of the footway rather than the existing path seemed to be the fact that it is alongside a road and subject to crossing by vehicles to access the drives of 6 houses. It was also feared that it might become obstructed by parked vehicles although such parking would be illegal and likely to obstruct private drives.
12. It was suggested that, if the Order is not confirmed, the developer will not be able to build the 7 houses affected and an opportunity would be created for the existing line of the footpath to be incorporated into an attractive landscaped open area which would provide a much more pleasant experience for path users. I understand this argument but, in fact, if the Order is not confirmed, the effect will be the maintenance of the line of the path in its current condition. That is an undefined route across what appears to be waste land. There would be no guarantee that this would be improved in the manner suggested.
13. I note that in a survey carried out for a period of 9 days in August 2021, when both the definitive line of the footpath and the footway alongside Larch Drive were available for use, all of the 607 recorded users walked on the footway rather than

the footpath. This is unsurprising given the relative condition of the two routes but does suggest that members of the public found use of the footway acceptable.

14. I have seen no evidence to suggest that the stopping up proposed would result in any disadvantage or loss to persons whose properties adjoin or are close to the existing footpath.
15. Overall, the proposed stopping up of the part of Footpath 14 included in the Order will result in little disadvantage or loss to members of the public or persons whose properties adjoin or are close to the existing footpath.

Other Matters

16. Cheshire East Borough Council, the Order Making Authority, has requested that, if the Order is confirmed, it be modified to add the word 'part' to the title of the Order. This would more accurately reflect the effect of the Order and would seem to be an entirely reasonable modification which will not adversely affect or mislead any party. I also note that the title of the Order Map already includes the word 'part'. I therefore propose to make the modification requested.
17. Concern was expressed by objectors regarding the processes leading to the making of the current Order and the possibility that, if there had been more or better consultation, a more satisfactory proposal might have emerged. Although I understand these concerns, they lie outside the criteria which I must take into account in determining the Order and I have accordingly been unable to give weight to them in reaching my conclusions. I was however satisfied that the proper statutory procedures had been followed in the making of the Order itself.

Conclusions

18. Bearing in mind the above, I conclude that the Order should be confirmed subject to the minor modification mentioned above.

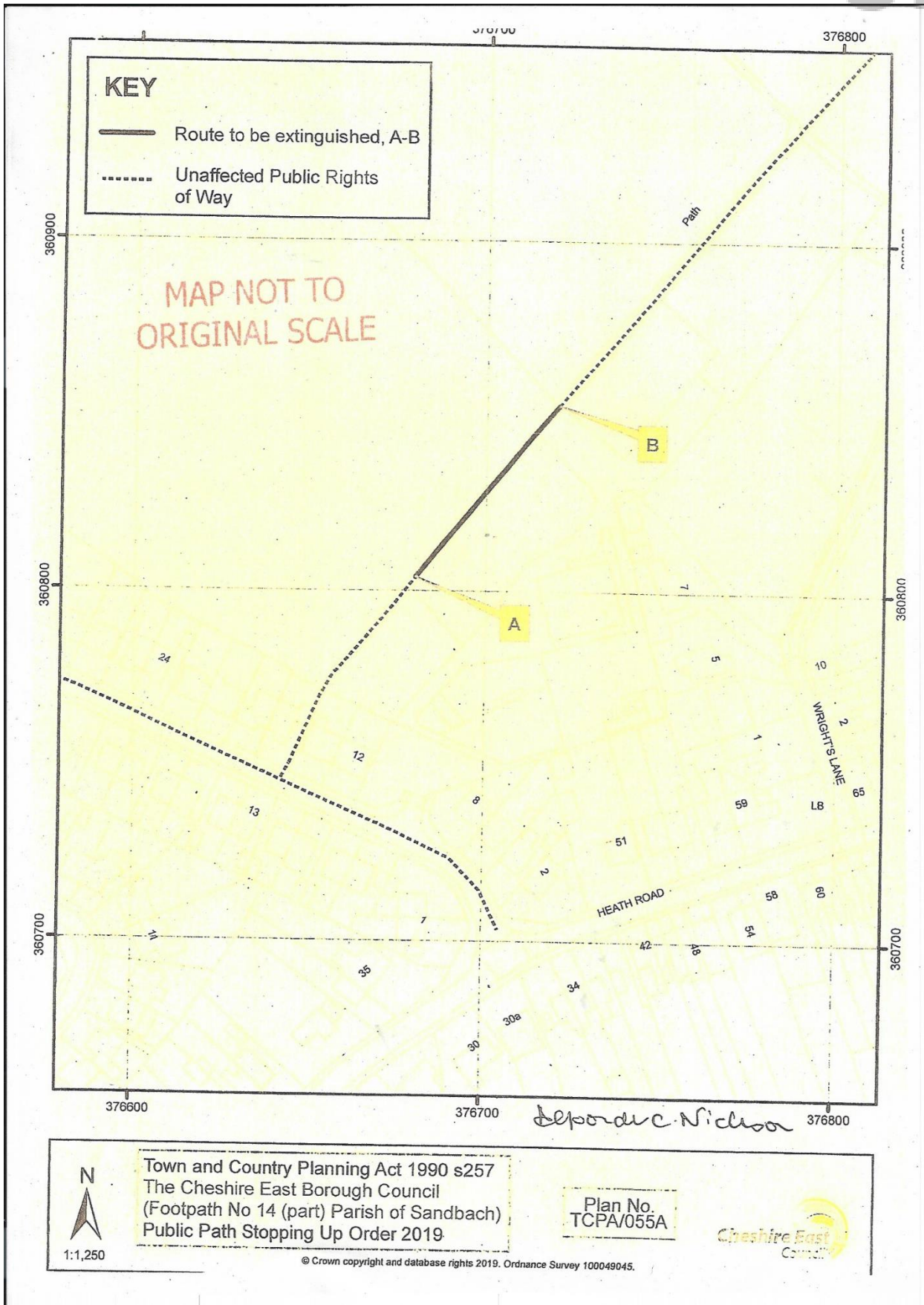
Formal Decision

19. I confirm the Order subject to the following modifications:

Insert "*(part)*" after the words "*Footpath No. 14*", in the title of the Order and paragraph 4 of the Order.

Barney Grimshaw

INSPECTOR





Challenging a Decision in the High Court

Important Note - This leaflet is intended for guidance only. It should be noted that there are different procedures involved for statutory challenges and judicial reviews and they follow different timetables. Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person such as a solicitor if you intend to proceed or are unsure about any of the guidance in this leaflet. Further information is available from the Administrative Court (see overleaf).

Challenging a decision

Once a decision is issued we have no power to amend or change it. Decisions are therefore final unless successfully challenged in the High Court. We can only reconsider a decision if a challenge is successful and the decision is returned to us for re-determination.

Grounds for challenging the decision

A decision cannot be challenged merely because someone disagrees with the Inspector's judgement. For a challenge to be successful, you would have to show that the Inspector had misinterpreted the law or that some relevant criteria had not been met. If, in relation to an order decision, a mistake has been made, and the Court considers it might have affected the decision, it will quash the decision and return the case to us for re-determination or it will quash the order completely. If the Court considers a mistake has been made on a Schedule 14 Appeal or Direction, it will quash the decision and return the case to us for re-determination.

Different order types

The Act under which the order decision has been **confirmed** will specify the conditions under which it can be challenged, and is thus a statutory right to challenge a confirmed order - often referred to as a Part 8 claim as it is brought under Part 8 of the Civil Procedure Rules 1998. There is no statutory right to challenge where an order is '**not confirmed**'; in these circumstances a judicial review under Part 54 of the Civil Procedure Rules 1998 of the decision not to confirm may be applied for. Both scenarios are set out in more detail below.

Challenges to confirmed orders made under the Wildlife and Countryside Act 1981

Any person aggrieved by the confirmed order can make an application to the High Court under paragraph 12 of Schedule 15 to the 1981 Act on the grounds i) that the order is not within the power of section 53 or 54; or ii) that any of the requirements of the Schedule have not be complied with. If the challenge is successful, the court will either quash the order or the decision. The Inspectorate will only be asked to re-determine the case if the decision only is quashed.

Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of publication of the notice of confirmation - this period cannot be extended.

Challenges to confirmed orders made under the Town and Country Planning Act 1990 and the Highways Act 1980

Any person aggrieved by the confirmed order can make an application to the High Court under paragraph 287, in the case of an order made under the 1990 Act, or paragraph 2 of Schedule 2 in the case of an order made under the 1980 Act, on the grounds that i) the order is not within the powers of the Act; or ii) that any of the requirements of the Act or regulations made under it have not been complied with. If the challenge is successful, the court will either quash the order or the decision. The Inspectorate will only be asked to re-determine the case if the decision only is quashed.

Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of publication of the notice of confirmation - this period cannot be extended.

Challenges to orders which are not confirmed and all Schedule 14 Appeal and Direction decisions

If an order made under any of the Acts is not confirmed, an aggrieved person can only challenge the decision by applying for a judicial review to the Administrative Court for a court order to quash the decision, the matter will then go back to the Inspectorate to re-determine. This also applies to an aggrieved person to a Schedule 14 Appeal or Direction decision as there is no statutory right to challenge.

For applications for judicial review, the Claim form must be filed with the Administrative Court promptly and in any event not later than 3 months after the date of the decision (for orders made under the Highways Act 1980 or the Wildlife and Countryside Act 1981) or 6 weeks (for orders made under the Town and Country Planning Act 1990), unless the Court extends this period.

Who should be named as Defendant in the claim form?

In order cases the Inspector is usually appointed on behalf of the Secretary of State for Environment, Food and Rural Affairs to confirm an order made by a local authority. In Schedule 14 appeal cases the Inspector is acting as the Secretary of State. The claim form for all types of proceedings should therefore be issued against the Secretary of State for Environment, Food and Rural Affairs and served upon: The Government Legal Department, One Kemble Street, London, WC2B 4TS. For telephone queries, please call the Government Legal Department on 020 7210 3000. Email: thetreasury solicitor@governmentlegal.gov.uk

Interested parties

Interested parties can find out whether a case has been challenged by contacting the Administrative Court. If you do not know the name of the likely claimant, you will need to provide the Court with the date of the decision and the full title of the order or appeal (including the name of the relevant local authority). The more information you can provide, the easier it will be for the Court to identify it. If a person wants to become a formal party to the Court proceedings then they can make representations to the Court under Part 19 of the Civil Court Procedure Rules 1998 (see overleaf). Should you wish to become a formal party you may wish to seek legal assistance or ask the court for guidance. To be a party to a judicial review a person would have to have a sufficient interest.

Frequently asked questions

"Who can make a challenge?" – In principle, a person must have a sufficient interest (sometimes called standing) in the decision to be able to bring a challenge. This can include statutory objectors, applicants, interested parties as well as the relevant local authority.

"Who is notified of the challenge?" – In Part 8 statutory claims, the claimant will serve proceedings on the named defendants. In Judicial Review claims the claimant will serve proceedings on the persons the challenge is against and anyone else they have identified as an interested party. The Planning Inspectorate will not notify anyone of the challenge. The claimant would be expected to identify and include the Council as an interested party. If the defendant and any interested party are aware that another party should be made aware of the proceedings as an interested party they should include the details of that party in the acknowledgment of service.

"How much is it likely to cost me?" – A relatively small administrative charge is made by the Court for processing your challenge (the Administrative Court should be able to give you advice on current fees – see 'Further information'). The legal costs involved in preparing and presenting your case in Court can be considerable though. It is usual for the costs of a successful party to be paid by the losing party, therefore if the challenge fails you will usually be ordered to pay the defendant's costs as well as having to cover your own. If the challenge is successful, the defendant may be ordered to pay your reasonable legal costs. However, the court ultimately has the power to issue whatever costs it sees fit.

"How long will it take?" – This can vary considerably.

"Do I need to get legal advice?" – You do not have to be legally represented in Court but it is advisable to do so, as you may have to deal with complex points of law.

"Will a successful challenge reverse the order decision?" – Not necessarily. The Court will either quash the order or quash the decision. Where the decision is quashed, we will be required to re-determine the order. However, an Inspector may come to the same decision again, but for different or expanded reasons. Where the order is quashed, jurisdiction will pass back to the Order Making Authority. They will need to decide whether to make a new order.

"Will a successful challenge reverse the appeal decision?"

Yes. We will be required to re-determine the appeal. However, an Inspector may come to the same decision again, but for different or expanded reasons.

"If the decision is re-determined will it be by the same Inspector?"

The same Inspector will be used unless there is a good reason not to do so.

"What can I do if my challenge fails?" – The decision is final. Although it may be possible to take the case to the Court of Appeal, a compelling argument would have to be put to the Court for the judge to grant permission for you to do this.

"What happens if the order is quashed?" – Jurisdiction will pass back to the Order Making Authority. They will need to decide whether to make a new order.

"What can I do if I am not listed as an interested party on the challenge but want to be involved?" – You can contact the Administrative Court and ask to be listed as an interested party (see Part 54.1(2) of the Civil Procedure Rules 1998 for the definition of an interested party).

"Can the Planning Inspectorate or the Department for Environment, Food and Rural Affairs, provide me with advice about making a challenge?" – Neither the Planning Inspectorate nor the Department for Environment, Food and Rural Affairs can advise you on a challenge or on becoming a formal party – you should seek advice from your own legal adviser.

"Where will I find the claim forms?"

The forms are available on the Administrative Court's website at www.justice.gov.uk/courts/procedure/civil/forms. The Part 8 Claim form is number N208 and the form for making a Judicial Review is N461. Guidance notes for claimants are also available.

"Where do I send the completed claim forms?"

They need to be filed with the Administrative Court at The Royal Courts of Justice, Queen's Bench Division, Strand, London, WC2A 2LL. They also need to be served on The Government Legal Department, One Kemble Street, London, WC2B 4TS.

Further Information

Further advice about making a High Court challenge can be obtained from the Administrative Court at the Royal Courts of Justice, Queen's Bench Division, Strand, London WC2A 2LL, telephone 020 7947 6000. Information can also be found on their website at www.justice.gov.uk/courts/rcj-rolls-building/administrative-court. Please see the attached flow charts setting out the main steps to be followed for both the statutory and judicial review procedures (please note that these charts do not contain the specific timelines for submitting evidence).

Inspection of order documents

We normally keep most case files for one year after the decision is issued, after which they are destroyed. You can inspect order documents at our Bristol office, by contacting the case officer dealing with the case, or our General Enquiries number to make an appointment (see 'Contacting us'). We will then ensure that the file is obtained from our storage facility and is ready for you to view. Alternatively, if visiting Bristol would involve a long or difficult journey, it may be more convenient to arrange to view the documents at the offices of the relevant local authority.

CONTACT INFORMATION

The Planning Inspectorate

Rights of Way Section

Mrs Annie Owen
Rights of Way Section Manager
The Planning Inspectorate
3A Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Phone: 0303 444 5466

E-mail: annie.owen@planninginspectorate.gov.uk

Information: <https://www.gov.uk/guidance/object-to-a-public-right-of-way-order>

General Enquiries

Phone: 0303 444 5000

E-mail: rightsofway2@planninginspectorate.gov.uk

Welsh Office

The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff CF10 3NQ
Phone: 0292 082 3866

E-mail: Wales@planninginspectorate.gov.uk

Complaints

Please refer to our website: <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure> Phone: 0303 444 5884

The Government Legal Department

102 Petty France
Westminster
London
SW1H 9GL
Phone: 020 7210 3000 Website:
<https://www.gov.uk/government/organisations/governmentlegal-department>

Administrative Court

Royal Courts of Justice
Queen's Bench Division
Strand
London
WC2A 2LL
Phone: 020 7947 6655
Website:
www.justice.gov.uk/courts/r-cj-rollsbuilding/administrative-court Email for enquiries:
administrativecourtoffice.generaloffice@hmcts.x.gov.uk

Parliamentary and Health Service Ombudsman

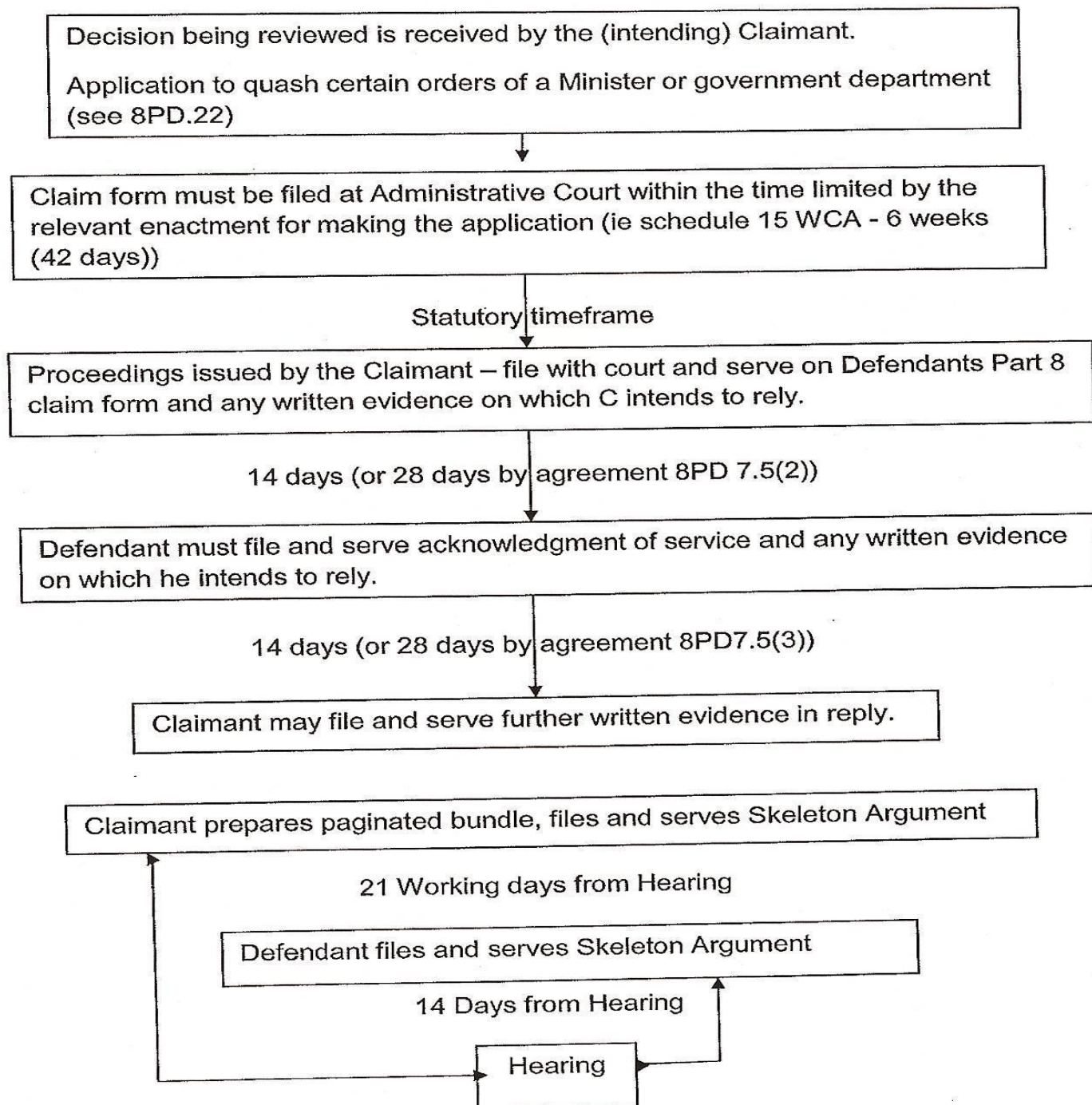
Parliamentary and health Service Ombudsman
Millbank Tower, Millbank
London SW1P 4QP

Complaints Helpline: 0345 015 4033

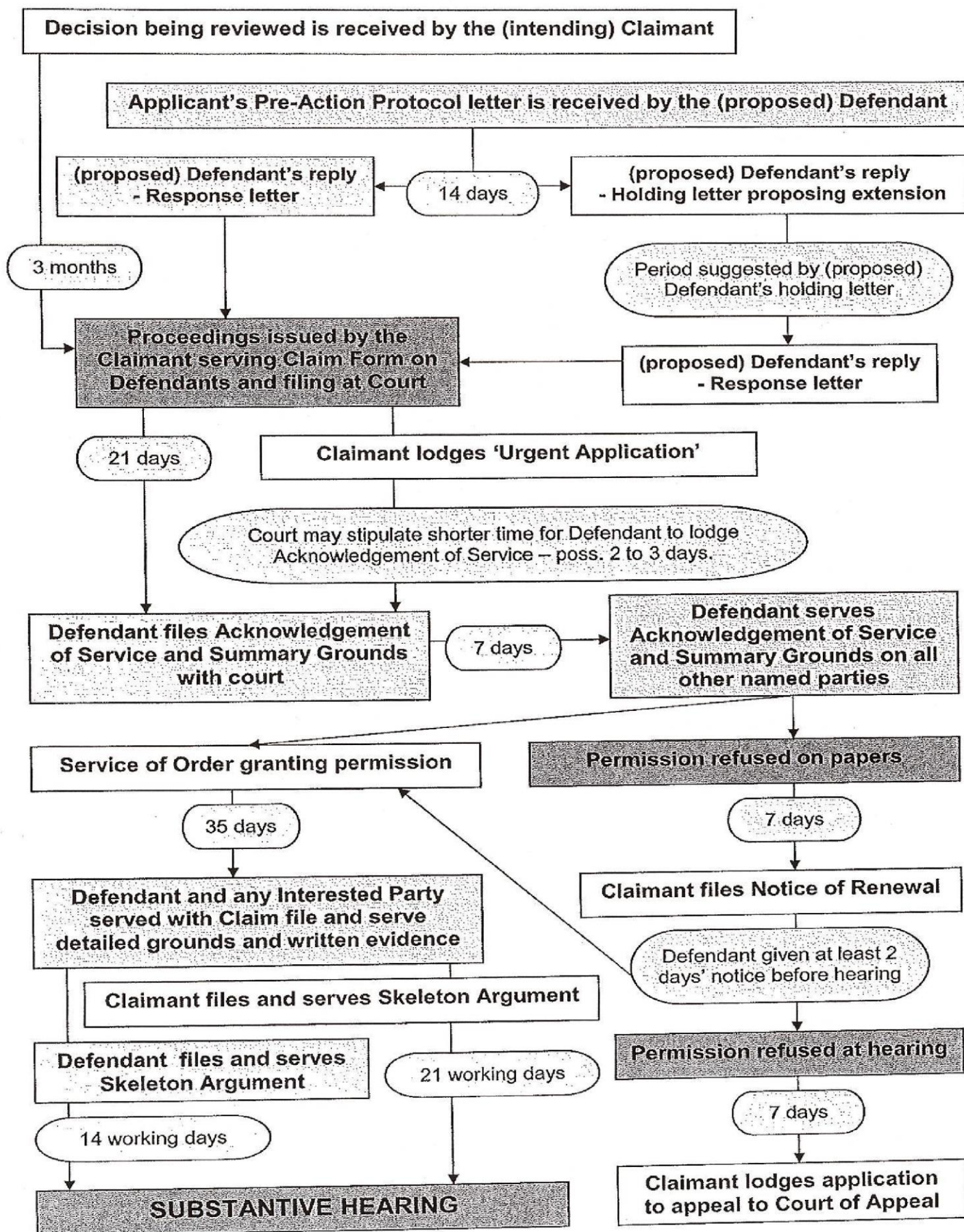
Website: www.ombudsman.org.uk



Timetable for Part 8 Claims



Timetable for Judicial Review





Our Complaints Procedures

Complaints

We try hard to ensure that everyone involved in the rights of way process is satisfied with the service they receive from us. Applications and orders to amend the rights of way network can raise strong feelings and it is inevitable that someone will be disappointed with the decision. This can sometimes lead to a complaint, either about the decision itself or the way in which the case was handled.

Sometimes complaints arise due to misunderstandings about how the system for deciding application appeals and orders works. When this happens we will try to explain things as clearly as possible. Sometimes the objectors, applicant, the authority or another interested party may have difficulty accepting a decision simply because they disagree with it.

Although we cannot re-open a case to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how long an order making authority took to submit an order to the Secretary of State) in which case we will explain why and suggest who may be able to deal with the complaint instead.

How we investigate complaints

Inspectors have no further direct involvement in the case once their decision is issued and it is the job of our Customer Quality Team to investigate complaints about decisions or an Inspector's conduct. We appreciate that many of our customers will not be experts on the system for deciding rights of way appeals and orders and for some, it will be their one and only experience of it. We also realise that your opinions are important and may be strongly held.

We therefore do our best to ensure that all complaints are investigated quickly, thoroughly and impartially, and that we reply in clear, straightforward language, avoiding jargon and complicated legal terms.

When investigating a complaint we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply we will quickly let you know.

What we will do if we have made a mistake

Although we aim to give the best service possible, we know that there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future. However, the law does not allow us to amend or change the decision.

Taking it further

If you are not satisfied with the way we have dealt with your complaint you can contact the Parliamentary Ombudsman, who can investigate complaints of maladministration against Government Departments or their Executive Agencies. If you decide to go to the Ombudsman you must do so through an MP. Again, the Ombudsman cannot change the decision.

Frequently asked questions

“Why can’t the decision be reviewed if a mistake has happened?” – The law does not allow us to do this because a decision is a legal document that can only be reviewed following a successful High Court challenge.

“If you cannot change a decision, what is the point of complaining?” – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve.

“How can Inspectors know about local feeling or issues if they don’t live in the area?” – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will be aware of local views from the representations people have submitted.

“I wrote to you with my views, why didn’t the Inspector mention this?” – Inspectors must give reasons for their decision and take into account all views submitted but it is not necessary to list every bit of evidence.

“How long will I have to wait for a reply to my complaint?” – We will aim to send a full reply within 20 working days. In some cases where the issues raised are complex, a more detailed investigation will be needed, often requiring the views of those involved with the case. This may mean that we cannot reply to you as quickly as we would like.

Further information

Each year we publish our Annual Report and Accounts, setting out details of our performance against the targets set for us by Ministers and how we have spent the funds the Government gives us for our work. We publish full statistics of the number of cases dealt with during the preceding year on our website, together with other useful information (see ‘Contacting us’).

Contacting us

Website

<https://www.gov.uk/guidance/object-to-a-public-right-of-way-order>

General Enquiries

Phone: 0303 444 5000

E-mail: enquiries@planninginspectorate.gov.uk

Complaints and Queries in England:

Please refer to our website:

<https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure> or write to:

Customer Quality Unit
The Planning Inspectorate
3H Hawk
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
Phone: 0303 444 5884

Cardiff Office

The Planning Inspectorate
Room 1-004
Cathays Park
Cardiff CF1 3NQ
Phone: 0292 082 3866
E-mail: Wales@planninginspectorate.gov.uk

Parliamentary and Health Service Ombudsman

Millbank Tower, Millbank
London SW1P 4QP

Complaints Helpline: 0345 015 4033

Website: www.ombudsman.org.uk

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