

Local Members' Interest	
N/A	

Countryside and Rights of Way Panel – 14th October 2022

Wildlife and Countryside Act 1981

Section 53 application policy

Report of the Director for Corporate Services

Recommendation

1. That the Countryside and Rights of Way Panel adopts the proposed policy.

PART A

Why is it coming here – what decision is required?

2. Staffordshire County Council is the authority responsible for maintaining the Definitive Map and Statement of Public Rights of Way as laid out in section 53 of the Wildlife and Countryside Act 1981 (“the 1981 Act”). Determination of applications made under the Act to modify the Definitive Map and Statement of Public Rights of Way, falls within the terms of reference of the Countryside and Rights of Way Panel of the County Council’s Regulatory Committee (“the Panel”).
3. The decision on policies to deal with applications is a matter for the Panel and is not delegated to officers.

Background

- 1) The Panel determined at its meeting on 17th September 2021 to adopt a policy of dealing with applications for which a direction from the Secretary of State had been made in order of date set by the Secretary of State unless a report for an application with a later due date had been finalised and is ready to be heard by the Panel.
- 2) At present the Council deals with and works on applications, as far as is practicable, in the order in which applications were originally received. This is considered to be the fairest and most equitable mechanism with regard to all parties in the current circumstances.
- 3) This mechanism has been altered in recent years by the number of applications which the Council has been directed to determine by the Secretary of State.
- 4) The Council also recognised that in some instances the existence of an application that was awaiting determination could, in certain circumstances have consequences for both users and owner/occupiers.

The impact of delay may have consequences that are significant for the parties involved.

- 5)** Consequently, the Panel determined at its meeting on 4th July 2019 to adopt amended priority criteria, which would allow for applicants or owner/occupiers to apply to have the application determined ahead of other applications that had been received before it. If priority status is granted, the application affecting that particular applicant or owner/occupier would be dealt with as a priority.
- 6)** Officers consider that as there are a number of factors which determine when an application is dealt with, it would be helpful to have a policy which clearly sets out the order in which applications are dealt with. The proposed policy is set out below:
 - a)** The County shall endeavour to deal with applications in the order in which they have been accepted by the County, unless in the case of any particular application(s), the County has been directed by the Secretary of State to deal with such application(s) by a specified date or within a specified timescale. These directed applications will then be prioritised, and the County will endeavour to deal with those applications in the order of the date set or timescale imposed ahead of other accepted applications, subject to b) below.
 - b)** The County also has a policy which allows applicants to apply for priority status. Applications for priority will be determined by the Countryside and Rights of Way Panel and, if priority is granted, the County will endeavour to prioritise those applications ahead of any applications on which the County has been directed by the Secretary of State.
 - c)** The nature of the work means that some applications take longer to deal with than others and it is not always possible to deal with the applications strictly in the order set out above for that reason. Consequently, some of these applications will inevitably be determined before others which may have a higher priority. This more flexible approach is considered to be a more efficient way of dealing with the backlog.
 - d)** In summary, the County would endeavour to deal with applications in the following order, subject to the flexibility of taking applications out of order as explained above:
 - i)** Applications which have been granted priority status by the Countryside and Rights of Way Panel following an application for priority based on the County's priority criteria.
 - ii)** Applications on which the County has been directed by the Secretary of State in the order of the date or timescale set out by the Secretary of State.
 - iii)** Remaining applications not falling within the above two categories, in the order that they have been accepted by the County.

Conclusion

- 7) That the Council deals with applications in the manner referred to above as it is the fairest and most efficient use of resources.

Recommended Option

- 8) To formally adopt the policy of dealing with applications as referred to in the report above.

Other options Available

- 9) To decide another way of dealing with applications.

Legal Implications

- 10) In respect of those applications that have received direction the Council is bound to deal with those before others that have not received similar. However, it is still open to the authority to decide to fast track an application where it deems it is only just, fair and equitable to do so.

Resource and Financial Implications

- 11) The costs of determining applications are met from existing provisions.
- 12) There are, however, additional resource and financial implications if decisions of the Registration Authority are challenged by way of appeal to the Secretary of State for Environment, Food and Rural Affairs or a further appeal to the High Court for Judicial Review.

Equal Opportunity Implications

- 13) There are no direct equality implications arising from this report.

J Tradewell

Director for Corporate Services

Report Author: Clare Gledhill

Ext. No: 854935

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