

Audit and Standards Committee - Tuesday 11 July 2023

Updates to the Scheme of Delegation in relation to Staffordshire County Council's responsibilities under Section 53 of the Wildlife and Countryside Act 1981

Recommendation

I recommend that the Committee:

- a. Support the proposed changes to the Scheme of Delegation in relation to the Council's responsibilities under s53 of the Wildlife and Countryside Act 1981 as set out in paragraphs 4-9 of this report; and recommend to full Council that the Constitution and Scheme of Delegation be updated accordingly.

Local Member Interest:

N/A

Report of the Deputy Chief Executive and Director for Corporate Services

Report

Background

1. Staffordshire County Council, as surveying authority, has responsibility 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. Carrying out the duties of the Council in respect of s53 falls within the Terms of Reference of the Countryside and Rights of Way Panel.
2. The Countryside and Rights of Way Panel has to consider Definitive Map Modification Order (DMMO) applications submitted under s53 for modifications to the Definitive Map, which can be the addition, modification or deletion of a right of way. On receipt of an application the council has to investigate all evidence, including documentary and user evidence as soon as practically possible, determine if an Order should be made, carry out public consultation and, if necessary, submit the application to the Secretary of State which may lead to a Public Inquiry. If a DMMO application is not determined within 12 months of receipt the applicant can appeal to the Secretary of State against this non-determination which can result in a direction to the council to determine the application within a fixed timescale.

3. Each application involves an extremely labour intensive, lengthy period of researching, collating and examining evidence. The Council has committed considerable resources to address the backlog of DMMO applications. At the time of writing there is a backlog of 290 applications requiring determination. That number includes 67 which the Secretary of State has determined should be dealt with within 6 -12 months and a further 3 direction applications pending with the Secretary of State. I should highlight that research has shown that Staffordshire is in a similar position to many authorities in respect of the backlog although it has been directed by the Secretary of State in considerably more cases than any of the authorities surveyed. The reasons for this difference are unclear.

Proposed Changes to Scheme of Delegation

4. To address the backlog of applications I am constantly reviewing the processes for handling DMMO applications and at its meeting on 16 June 2023 the Countryside and Rights of Way Panel supported my proposals relating to:

(a) Revision of the existing Priority Scheme

5. The existing and proposed Priority Schemes are attached to this report as Appendix A and Appendix B respectively. One of the aims of the revised criteria is to enable prioritisation of those applications which would be considered to have a benefit to the public, such as those which meet certain council objectives (e.g. in relation to improving connectivity) and those which would be lost as a consequence of development.
6. Implementation of the criteria requires me to have delegated powers '*to exercise the County Council's discretion*' as set out in section 3 of the proposed Priority Scheme detailed at Appendix B'.

(b) Delegation of Staffordshire County Council's surveying authority powers in respect of any cross-boundary application to the appropriate neighbouring authority.

7. Occasionally, a DMMO application involves an alleged right of way that crosses the county border. In many cases it is beneficial for the whole of the application to be dealt with by one authority. Currently the Countryside and Rights of Way Panel has to approve the delegation of our surveying authority powers to the neighbouring authority. To help speed up processes I am requesting '*authority to delegate the County Council's surveying authority powers in respect of any cross-boundary application to the appropriate neighbouring authority as and when such*

action would prove beneficial both in terms of the effective use of resources and processing of the s53 application’.

(c) Update to existing delegation

8. As part of my review of the processes I have taken the opportunity to review my existing delegated power in respect of s53 applications.

I am currently authorised to:

*‘determine applications for Modification Orders under the Wildlife and Countryside Act 1981 unless, after consultation with the local County Councillor(s) for the area concerned and the Director for Economy, Infrastructure and Skills, they decide that the matter in question ought **properly** to be determined by the Countryside and Rights of Way Panel’.*

9. Members are asked to *approve the deletion of the word ‘properly’* as I am concerned that it implies that there are some criteria that inform the decision as to which matters should or should not “properly” be determined by the Panel. In reality the decision is based on the important consideration of whether the relevant local member(s) wishes the matter to be determined by the Panel.

Resource and Financial Implications

10. The proposals, particularly in relation to the delegation of powers to neighbouring authorities aim to make best use of the councils’ resources.

Risk and Legal Implications

11. The delegation of decision-making powers need to be properly justified and authorised to avoid challenge to any proposed action on a DMMO application.

List of Background Documents/Appendices:

Appendix A – Existing Priority Criteria (s53 DMMO applications)
Appendix B – Proposed Priority Scheme (s53 DMMO applications)

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