

Local Members' Interest	
N/A	

## Countryside and Rights of Way Panel – 17 September 2021

### Wildlife and Countryside Act 1981

#### Adoption of Policy for dealing with Submissions made on Section 53 reports scheduled to be heard by the Panel

#### Report of the Director of Corporate Services

#### Recommendation

1. That the Countryside and Rights of Way Panel adopts the proposed policy
2. That the final decision on whether the submissions on a report should be included rests with the Panel

#### PART A

#### Why is it coming here – what decision is required?

1. 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”).
2. The decision on policies to deal with applications is a matter for the Panel and is not delegated to officers.

#### Background

1. At present the Authority 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.
2. The amount of directions received from the Secretary of State means that those applications are dealt with ahead of others.
3. As part of the process in dealing with applications interested parties are invited to make comments, representations or submissions on receipt of an application. After the matter has been investigated and a report drafted this is circulated to owners and applicants with a date by which any comments should be made. If officers know what date the matter is going to be laid in front of the Panel we include that date. It is usually a minimum of three weeks before a meeting that the report is circulated.
4. Members will be aware that often late submissions are made either a couple of days before the Panel meets or in some cases on the morning of the meeting.

5. This has led to matters being deferred to a later date and on occasion to the meeting actually being cancelled. Last month this was the case as submissions were received on all the reports including one submitted that morning.
6. At present it is the practice to ensure the Panel has all available material at hand to make a fully informed decision. The consequence of this is that late representations mean there is no alternative to deferment as the material provided has to be evaluated.
7. Officers consider that it would assist and perhaps focus interested parties towards making earlier responses if a deadline was set after which time any material submitted may not be considered by the Panel. A decision may well be taken without reference to that information.
8. Whilst this is a significant step experience over the recent months has shown that in the majority of cases the “evidence” submitted does not relate to the existence or not of a route but to irrelevant considerations.
9. Members should also be aware that if the decision is to reject the application then the applicant has a right of appeal and can submit additional evidence. Similarly other interested parties can do the same. Where a decision is to make an Order there is a right to object to that Order and again in any appeal additional material can be submitted. In essence therefore any of the interested parties do not lose the opportunity to place that submission before a decision maker.
10. Officers would suggest that the deadline for representations being made should be two days before any Panel meeting. This would allow officers sufficient time to evaluate the material and present an informed opinion to the Panel. Anything received after that time may well not be considered.
11. Obviously if the representation does include fresh evidence then officer’s recommendation would be to defer matters to allow other interested parties as well as officers to properly address it.
12. Conversely if the response consists of comments that are irrelevant or add nothing to the substance of the report officers would summarise this for the Panel who then have the chance to decide whether to defer or go ahead and determine the matter.
13. This would ensure that the Panel has applications to determine and avoid cancelling meetings due to having no business to deal with.

### **Conclusion**

14. That setting a definite deadline and communicating that to all interested parties informing them that after that point in time any material will not necessarily be considered will assist in moving applications forward.

### **Recommended Option**

15. To adopt a policy of setting a deadline for last comments, representations or other material to be submitted at least 48 clear hours before the day that the Panel meets.
16. That any material received later may not fall to be considered by the Panel.

### **Other options Available**

17. To decide to continue with the arrangements as currently set out.

### **Legal Implications**

18. The legal implications are contained within the report.

## **Resource and Financial Implications**

19. The costs of determining applications are met from existing provisions.
20. There are, however, additional resource and financial implications if decisions of the Registration Authority are challenged by way Judicial Review

## **Equal Opportunity Implications**

21. There are no direct equality implications arising from this report.

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J Tradewell

Director of Corporate Services

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