
Report to
Planning Committee

31st August 2017

Report of
Deputy Chief Executive (Place)

Title:
Policy for the Prioritisation for the Determination of Definitive Map Modification Order Applications

Ward affected: N/A

Is this a key decision? No

Executive Summary:

The City Council has a statutory duty to keep its Definitive Map and Statement under constant review. As part of this duty the City Council has to review all applications that it receives for a Definitive Map Modification Order ('DMMO'). A DMMO application is submitted to the City Council when someone believes that a public right of way subsists over a way. The Council currently has a large backlog of DMMO applications to review which have been received over a number of years. With the limited resources available the Council needs to have a clear policy to explain how these applications are prioritised.

Recommendations:

That Planning Committee are recommended to:

That Planning Committee are recommended to adopt the policy for the determination of Definitive Map Modification Order applications as laid out in Appendix 1 of the report.

List of Appendices included:

None

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: - Policy for the Prioritisation of Definitive Map Modification Order Applications

1. Context (or background)

- 1.1 The City Council has a statutory duty to keep its Definitive Map and Statement under constant review. As part of this duty, the City Council has to review all applications that it receives for a Definitive Map Modification Order ('DMMO'). A DMMO application is submitted to the City Council when someone believes that a public right of way subsists over a way. The Council currently has 114 DMMO applications to review which have been received over a number of years. With the limited resources available the Council needs to have a clear policy to explain how these applications are prioritised.
- 1.2 The Council currently has an informal arrangement of dealing with the applications in date order of receipt. This means that the later applications could take a number years to be determined.
- 1.3 The Council should review and determine DMMO applications as soon as it is reasonably practical to do so. Where the Council hasn't been able to make a determination, the applicant can write to the Secretary of State requesting a direction to make a determination. The Secretary of State will take into consideration any policies the Council has regarding the prioritisation of DMMO applications.
- 1.4 The Countryside Rights of Way Act 2006 (CROW Act 2006) introduced a cut-off date of 2026 which means that any route that was in existence prior to 1949 but not recorded on the Definitive Map will be extinguished on the 1st January 2026.
- 1.5 As a result of this cut-off date 108 of the 114 applications we currently have pending are at risk of being stopped up in 2026, in other words the right of way would no longer exist after the 2026 cut-off date. It is currently unclear in the CROW Act if exemptions will be made for any of these routes but for now there are none. Currently 70 applications were received over 10 years ago, 37 applications were received between 10 and 5 years ago and one has been received in the last 12 months.
- 1.6 As a consequence of this cut-off date there is a need to review and process all DMMO's received in the chronological order that they have been received in. This report sets out a transparent and fair policy for Committee's consideration. This will enable the Council to continue to process the DMMO's and ensure that the applicants understand where their application sits within the queue.

2. Options considered and recommended proposal

- 2.1 The options that have been considered are to leave the existing informal arrangements in place or to adopt a policy to prioritise the review and

processing of the outstanding DMMO applications. By adopting the proposed policy it will enable the Council to demonstrate a transparent and fair process and provide clarity to applicants on how their DMMO applications will be prioritised.

2.2 The recommended proposal is:-

That Planning Committee approve and prioritise the policy for determining Definitive Map Modification Order applications as set out in Appendix 1

3 Results of consultation undertaken

3.1 None undertaken

4. Comments from Executive Director of Finance and Corporate Services

4.1 Financial implications

There are no specific financial implications: applications will be investigated and followed up using available officer time. No additional resource is being requested.

4.2 Legal implications

Under Section 53 of the Wildlife & Countryside Act 1981, the Council is under a duty to keep the Definitive Map & Statement under continuous review and to make modifications as required. Changes are dealt with by means of DMMOs which may be triggered on the discovery of evidence which shows that the map and/or statement is in error, or by any individual making a formal application for a DMMO under the provisions of Schedule 14 of the Wildlife & Countryside Act 1981 and presenting evidence to support their application.

The Council must accept applications for DMMOs which are completed correctly and law does not specifically set out what investigations should be made or what evidence should be examined when the Council determines an application. However, the Council's decisions on these applications are subject to public scrutiny and can be the subject of appeal to the Planning Inspectorate and so any investigations carried out should be thorough and well documented.

Although there is no legal requirement for the Council to prioritise the determination of DMMO it is considered to be good practice. It will also assist the Council if an applicant were to appeal to the Secretary of State because their application has not been determined within the appropriate timescale.

5. Other implications

5.1 **Equalities / EIA**

None

6.1 Implications for (or impact on) the environment

None

6.2 Implications for partner organisations?

None

Report author:

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Place

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Appendix 1

Criteria to be applied	Score
Application under 5 years	0
Application between 5 and less than 10 years old	2
Application over 10 years old	4
At risk of stopping up in to 2026	3
Link to rural area	2
Route currently obstructed	1
User based evidence (as not at risk of being stopped up in 2026)	0
Forms part of a longer route	1
Enables enforcement to take place more quickly	3

Level of priority	Score
High priority	8 and above
Medium priority	4 to 7
Low priority	3 or less

An application that scores 8 or more will be assessed as high priority, an application of between 4 to 7 will be assessed as medium priority and a score of 3 or less will be assessed as low priority.

Where there are a number of applications with the same score they will be dealt with in the date order of receipt.

The above scoring takes into account the priorities with the Coventry rights of way improvement plan.