

## **Public Rights of Way Committee**

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**Date of Meeting:** 11 June 2018

**Report Title:** Changes to Processes Associated with Diversion Orders and Definitive Map Modification Order Applications-

**Senior Officer:** Frank Jordan, Executive Director - Place

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### **1. Report Summary**

- 1.1. The report provides members with background information relating to proposed changes to the way that some applications for diversion orders and definitive map modification orders are processed and determined.
- 1.2. The work of the Public Rights of Way ("PROW") team contributes to the Corporate Plan Outcomes 4 "Cheshire East is a green and sustainable place" and 5 "People live well and for longer", and the policies and objectives of the Council's statutory Rights of Way Improvement Plan.

### **2. Recommendation/s**

- 2.1. That the report be noted.

### **3. Reasons for Recommendation/s**

- 3.1. The report is for information only.

### **4. Other Options Considered**

- 4.1. Not applicable.

### **5. Background**

- 5.1. The introduction of a system to allow applicants' agents to undertake a considerable amount of the processing work associated with diversion orders is to be introduced.
- 5.2. Uncontested and non-controversial cases are to be determined by the Public Rights of Way Manager in consultation with the Committee Chair and

Vice Chair rather than necessarily waiting for the next quarterly formal committee meeting.

- 5.3 A system using external consultants to investigate Definitive Map Modification Order (“DMMO”) applications is to be introduced to reduce backlogs and deal with cases set against tight timetables.
- 5.4 The introduction of an option to work with applicant’s agents is intended to assist the PROW team to manage large backlogs of applications by acting as a “safety valve” and allowing a greater number of applications to be dealt with when backlogs increase or when it is deemed expedient to deal with an urgent Town and Country Planning Act 1990 diversion application. Several pilot cases have been tested and it is intended to continue this trial.
- 5.5 Determining non contentious cases without waiting to bring them to quarterly committee meetings will even out workflow demands and ensure a more regular inflow of fees throughout the year.
- 5.6 The PROW team are currently experiencing resource pressures in the DMMO area of work due to a member of staff being on maternity leave. This causes problems processing DMMOs especially when directions from the Secretary of State are received. Currently we have two such cases requiring to be determined within timescales imposed by the Secretary of State.
- 5.7 The proposed changes will better equip the Council to deal with growing pressures in these areas of work by providing increased flexibility. It will also provide a greater ability to deal with the imposition of strict time limits for determining applications in both the areas of diversion order and definitive map modification order applications when the Deregulation Act 2015 is finally implemented.
- 5.8 It is possible for applicants for Public Path Orders (“PPO”) under the Highways Act 1980 and Town and Country Planning Act 1990 to instruct agents to act on their behalf. The process proposed is designed to keep the input of the Council to a minimum and allow applicants a choice in the way that their applications are processed either directly by a Council case officer or through their own agent working with a Council case officer. However the Council must be involved at certain stages of the process as required by the legislation and also to ensure that the interests of the public are maintained. The Council will also reserve the right to determine the extent of the involvement of an agent.

- 5.9 The previous pilot scheme will continue and the PROW team will exercise discretion in all cases as to whether or not to accept an applicant's request to use an independent agent.
- 5.10 Charges will be made for the input of officer time in the production of material such as plans, proof reading draft reports, Orders and notices and dealing with any queries from the agent or applicant. The charges for the above work will be calculated on a full cost recovery basis and invoiced in stages to the applicant in the same way that charges are currently recovered for cases handled entirely in-house. If the Council's costs have not been paid in full prior to the making of an Order or prior to that Order's confirmation the Council will not process the application until the costs have been paid in full.
- 5.11 Currently all PPO cases are presented to the quarterly Public Rights of Way committee for determination. This however can have a knock on effect on the speed with which they can be processed, Orders made and advertised, Orders confirmed and costs recovered by creating a log jam of cases waiting determination. It is intended to make changes to the council's constitution to allow for cases that are not contested or contentious at the pre- Order consultation stage to be determined by the Public Rights of Way Manager in consultation with the committee chair and vice-chair. A brief report will be taken to each committee following the determination of any cases by the Public Rights of Way Manager, committee chair and vice chair to advise committee.
- 5.12 Members will be aware that the investigation of applications to make changes to the Definitive Map, (Wildlife and Countryside Act 1981 S53 applications) can be complex and there is currently a backlog of 34 applications awaiting investigation. If an applicant's case has not been determined within 12 months of registration they can appeal to the Secretary of State for a direction, requiring their case to be investigated and determined to a given timescale. Due to current staffing pressures it is difficult to both meet the timescales imposed by the Secretary of State directions and investigate cases on the existing backlog. The intention is to commission external consultants to undertake discrete projects to investigate the cases subject to directions. It is also intended to commission consultants in a similar way to investigate a number of "user evidence" cases that require significantly less investigative work than "documentary evidence" cases. The Statement of Priorities would need to be amended to accommodate these changes.

## **6. Implications of the Recommendations**

## **6.1. Legal Implications**

6.1.1. The use of agents by applicants may entail contractual arrangements between the Council, applicant and agent.

## **6.2. Finance Implications**

6.2.1. Budget for the use of consultants to undertake DMMO investigations will be managed under existing resources.

## **6.3. Policy Implications**

6.3.1. The Statement of Priorities under which Definitive Map Modification Order applications are prioritised would require amendment if consultants are used to undertake user evidence cases.

## **6.4. Equality Implications**

6.4.1. There are no equality implications.

## **6.5. Human Resources Implications**

6.5.1. There are no additional human resource implications foreseen.

## **6.6. Risk Management Implications**

6.6.1. There are no risk management implications foreseen.

## **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

## **6.8. Implications for Children & Young People**

6.8.1. There are no direct implications for children and young people.

## **6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

## **7. Ward Members Affected**

7.1. All Wards. No Ward Member engagement is required as the report is for information only.

## **8. Consultation & Engagement**

8.1. Engagement with Public Rights of Way user groups will be undertaken through the twice-yearly Rights of Way Consultative Group meetings.

## **9. Access to Information**

9.1. Not applicable.

## **10. Contact Information**

10.1. Any questions relating to this report should be directed to the following officer:

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