

SURREY COUNTY COUNCIL

CABINET

DATE: 21 OCTOBER 2014



REPORT OF: MR MIKE GOODMAN - CABINET MEMBER FOR ENVIRONMENT AND PLANNING

LEAD OFFICER: TREVOR PUGH - STRATEGIC DIRECTOR ENVIRONMENT AND INFRASTRUCTURE

SUBJECT: RIGHTS OF WAY PRIORITY STATEMENT

SUMMARY OF ISSUE:

To approve the revised Rights of Way Priority Statement annexed to this report.

The Rights of Way Priority Statement sets out how the County Council prioritises and sets targets for undertaking legal orders associated with keeping the Definitive Map of Public Rights of Way in Surrey up to date.

RECOMMENDATIONS:

It is recommended that the revised Rights of Way Priority Statement, included as Annex A of this report, is approved by the Cabinet and recommended to Council for approval.

REASON FOR RECOMMENDATIONS:

The revision alters the document to better reflect the Council's statutory duties, address public safety issues and maximise opportunities to improve the rights of way network.

DETAILS:

1. As surveying authority for public rights of way, the County Council is required under the Wildlife and Countryside Act 1981 to keep the Definitive Map of Public Rights of Way under continuous review.
2. The Council's statutory duties are to: investigate claims for Map Modification Orders where evidence indicates the map should be changed, publicise lists of all legal orders and publish updated map sheets. Statutory powers are available to the Council to alter rights of way and manage traffic for reasons such as public safety, environmental impact or improvement of the path network.
3. The proposed changes are shown in bold in the attached as Annex A. The revision changes the Priority Statement in three ways:
 - a. To allow Map Modification Orders to be dealt with as a priority where a claimed and as yet unrecorded path is likely to: be obstructed following

the granting of planning permission, contribute significantly to public safety, form part of the Rights of Way Improvement Plan or resolve a long-standing path anomaly.

- b. To allow Rail Crossing Orders and Traffic Regulation Orders to be undertaken for the purposes of public safety.
- c. To allow landowner - led and funded Public Path Diversion Orders to be progressed where significant public benefit can be secured.

RISK MANAGEMENT AND IMPLICATIONS:

- 4. Risk of the Council failing to fulfil its statutory duties in relation to keeping the Definitive Map of rights of way up to date. This could result in complaints from members of the public and legal challenge, if statutory work is not given a high priority.
- 5. Risk of unrecorded paths being obstructed following the granting of planning permission, if Map Modification Orders cannot be undertaken out of date order.
- 6. Risk of Map Modification Orders, that could make a contribution to public safety, not being undertaken for long periods if they cannot be undertaken out of date order.
- 7. Risk of opportunities for public safety improvements not being taken if Rail Crossing and Traffic Regulation Orders are not given a high priority.
- 8. Risk of opportunities for improvements to rights of way being missed if landowner - led and funded path diversion orders are not given a high priority.

Financial and Value for Money Implications

- 9. There are no direct budgetary implications of the review, although by allowing landowner - led public path diversion orders, where there is a public benefit, improvements to the path network can be undertaken without cost to the council.

Section 151 Officer Commentary

- 10. The Section 151 Officer confirms that all material financial and business issues and risks have been considered in this report. There are no direct financial implications to the council as a result of the revised priority statement. However, the higher priority given to landowner-led public path diversion orders creates the opportunity for an increased number of improvements to paths to be undertaken at no cost to the council.

Legal Implications – Monitoring Officer

- 11. Section 53 of the Wildlife and Countryside Act 1981 makes it a legal duty of the County Council, as surveying authority, to keep the Definitive Map and Statement under continuous review. It is also a requirement of the Act for the council to investigate, and determine, properly certificated applications to modify the map as soon as reasonably practicable. In the event that an application has not been determined within 12 months of receipt, the applicant can make representations to the Secretary of State who can direct the authority

to determine the matter. DEFRA's rights of way guidance states that in considering any such request, the Secretary of State will take into account any statement made by the authority which sets out its priorities for bringing and keeping the definitive map up to date and the reasonableness of such priorities. As the section 53 duty is a council function, the Priority Statement also needs approving by full Council. The Public Sector equality duty (Section 149 of the Equality Act 2010) applies to the decision to be made by Cabinet in this report. There is a requirement to have due regard for the need to advance equality of opportunity for people with protected characteristics, foster good relations between such groups and eliminate any unlawful discrimination. These matters are dealt with in the equalities paragraphs of the report and in the attached equalities impact assessment.

Equalities and Diversity

12. The Countryside Access Equality Impact Assessment (2009) sets out activities and issues affected by changes to the rights of way network, as prioritised by the Rights of Way Priority Statement. These mainly relate to accessibility of the path network and how changes should make a positive contribution for people with mobility issues. Different legal orders offer varying potential for improvements. Processing of Map Modification Orders, where only historical and user evidence can be used to assess whether a path can be recorded or not, offers relatively little scope to improve accessibility. Public Path (Diversion) Orders can contribute positively to accessibility improvements and by following the principles set out in the Countryside Access Equality Impact Assessment (2009), individual path changes can make the rights of way more accessible to all. The revised priority statement will not alter the overall impacts on protected groups. The Countryside Access Equality Impact Assessment (2009) is included as Annex B of this report.

WHAT HAPPENS NEXT:

13. If approved:
- The priority statement will be republished on the County Council website to inform members of the public.
 - New legal orders will be processed in accordance with the priorities set out.

Contact Officer:

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Consulted:

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Annex A: The revised (2014) Rights of Way Priority Statement

Annex B: The Countryside Access Equality Impact Assessment (2009)

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