

Open Report on behalf of Richard Wills - Executive Director for Environment & Economy

Report to: **Mid Lincolnshire Local Access Forum**
Date: **19 January 2016**
Subject: **Definitive Map Modification Orders - Ongoing**

Summary:

A report on the progress of Definitive Map Modification Order Currently being undertaken

Recommendation(s):

That the report is noted & formal written advice provided as required.

1. Background

As Surveying Authority the County Council has a statutory duty to keep under continuous review the Definitive Rights of Way Map and Statement for Lincolnshire and to make orders to take account of events requiring the map to be modified. This is carried out by the processing of Definitive Map Modification Orders (DMMOs) which are either applied for by the public or initiated by the Authority on the discovery of evidence.

Highways & Traffic Guidance Note HAT33/3/11 sets out that such cases will be dealt with in order of receipt/initiation unless one or more of the eight "exception criteria" apply.

The criteria are as follows:

1. Where there is sustained aggression, hostility and ill feeling within a community that is causing severe disruption to the life of that community, and that in processing the case early there is a strong likelihood that this will reduce.
2. Where there is a significant threat to the route, likely to cause a permanent obstruction (e.g. a building, but not, for example, a locked gate or residential fencing).
3. Where there is, or has been, a finding of maladministration by the Local Government Ombudsman on a particular case and that in

processing the case the County Council will discharge its duty to the Ombudsman's decision.

4. Where legal proceedings against the County Council are instigated or are likely to be instigated and it is possible that the Authority has a liability.
5. Where there is a risk to children on County Council owned property and land or where the claimed route would provide for a safer alternative route to a school, play area or other amenity for children.
6. Where there is a significant financial saving to the County Council (and therefore taxpayers) through the processing of an Order.
7. Where a new application is received that relies on evidence of a case already received or, if the new application forms part of or is adjoining to an existing claim, the new claim will be dealt with at the same time as the older application.
8. Where the route will significantly assist in achieving a Countryside and Rights of Way Improvement Plan Objective or Statement of Action.

The above numbered exception criteria do not cover every eventuality and it is recognised that in exceptional circumstances there may be other reasons why it would benefit the public for a case to be considered out of normal order. Officers will not prioritise any case under such circumstances and any appeal will only be considered by the Definitive Map & Statement of Public Rights of Way Sub-Committee.

Initially the priority of a case is set by Officers however there is a right of appeal for any affected persons whereby a decision is made by the Definitive Map & Statement of Public Rights of Way Sub-Committee.

Appendix A, provides an outline of the position of cases currently deemed to be "active" within the prioritisation policy.

2. Consultation

- a) Scrutiny Comments**
- b) Executive Councillor Comments**
- c) Local Member Comments**
- d) Policy Proofing Actions Required**

n/a

3. Appendices

These are listed below and attached at the back of the report	
Appendix A	Outline summaries of "active" modification order cases
Appendix B	Appeals against prioritisation – Q3 2015-16
Appendix C	Outstanding Modification Order Cases (Link) – Paper copies available on request

4. Background papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Highways & Traffic Guidance Note 33 – Prioritisation of Definitive Map Modification Orders - HAT 33/3/11
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This report was written by Chris Miller, Team Leader – Countryside Services, who can be contacted on 01522 782070 or countryside_access@lincolnshire.gov.uk.

APPENDIX A - Outline Summaries of "active" modification order cases

PARISH	CASE No.		CASE TITLE	FORMAL APP?	Date	UPDATE
Ancaster	2	BOAT	Regrade from RB to BOAT	Yes	13/11/91	Currently revisiting extensive file work from long standing case
Alford	344	BOAT	Claimed BOAT from Hanby Lane to New Cemetery	Yes	01/04/93	Order made for footpath status only. One objection received concerning limitation. LCC intends to submit to Secretary of State with a request to modify the order by removal of reference to the limitation
Colsterworth / Gunby & Stainby	259	PF	Colsterworth FP14 & Stainby PF 1(pt)	No	19/05/04	Submitted to Secretary of State 21/12/2015 Order made to delete part of PF 14 and realign a section of PF 1
Ancaster	309	BOAT	Addition of a BOAT along Heath Lane in the parish of Ancaster	Yes	23/03/06	Submitted to Secretary of State 17/8/2015. Public Inquiry date set as 5-6/4/2016.
Utterby	354	PF	Claimed Footpath from Grange Lane to Holy Well Lane	Yes	08/05/12	Submitted to the Secretary of State 8/12/2015
Utterby	355	PF	Claimed Footpath from Grange Lane to former railway and beyond	Yes	08/05/12	Submitted to the Secretary of State 8/12/2015
New Leake	353	PF	Claimed Footpath from Spilsby Rd to Spilsby Rd	Yes	30/05/12	Submitted to the Secretary of State 18/11/2015
Skegness	364	PF	Claimed Footpath from PF 969 to PF 301 along sea defence	Yes	30/05/13	Analysis of user evidence and an apparent lack of intention to dedicate. LCC Decision due Quarter 4 of 2015-16
Belton / Gt. Gonerby	12	PF	Belton to Great Gonerby (Gads Lane)	Yes	01/11/83	Documentary evidence currently under review
North Somercotes / Marshchapel / Grainthorpe	374	PF	Upgrade of PF 18 to PB between Stonebridge Cottages, North Somercotes & Keyholme Lane, Marshchapel	Yes	4/8/2014	User evidence being evaluated alongside submission of a lack of intention to dedicate by the Environment Agency (through bylaws). LCC Decision due Q4 2015-16
South Willingham / Benniworth	96	PF	Claimed PF from Grange farm, Low Barns to road south of Skirbeck House	Yes	30/04/86	Submitted to the Secretary of State 26/11/2015
South Willingham	97	PF	Hainton Rd to High St	Yes	30/04/86	Awaiting information from owner's agents. Land affected was held in trust and it is possible that it can be demonstrated that there was no capacity to dedicate the route
South Willingham / Hainton	98	PF	Moors Lane to A157	Yes	30/04/86	Awaiting information from owner's agents. Land affected was held in trust and it is possible that it can be demonstrated that there was no capacity to dedicate the route
South Willingham	99	PF	Moors lane to Poplar Fm	Yes	30/04/86	Awaiting information from owner's agents. Land affected was held in trust and it is possible that it can be demonstrated that there was no capacity to dedicate the route
Woodhall Spa	193	PF	Mill Lane to R.Witham Bank	Yes	12/05/98	Original Order found to be fatally flawed (notation errors) – New order to record the route as a RB made 9/12/2015 – objection period ends 8/2/2016 – As the order route has been built over by a dwelling the case is linked to an accompanying diversion order should the route be added to the Definitive Map & Statement

APPENDIX A - Outline Summaries of "active" modification order cases

Coningsby	182	PF	School Lane to Dogdyke Road	Yes	06/11/97	Evaluation of user and documentary evidence ongoing alongside pre decision consultation
Louth	363	PF	Claimed deletion of part of PF5 and addition of PF	Yes	08/03/13	Documentary Evidence being evaluated. Support for application withdrawn by applicant – LCC Decision due Q4 2015-16
Caythorpe & Frieston / Fenton / Fulbeck/ Leadenham	383	PB	Claimed bridleway from Fenton to Fulbeck Grange (routes around former Fulbeck Airfield)	Yes	05/03/15	Review of User evidence. Routes across airfield stopped up legally. Review of lack of intention to dedicate (Statutory Declaration) ongoing.
Navenby	384	PB	Claimed bridleway from Grantham Road to Doncaster Gardens	Yes	16/04/15	Review of evidence ongoing – route subject to dwelling obstructions and proposed development

BOAT – Byway Open to All Traffic

RB – restricted Byway

PB – Public Bridleway

PF – Public Footpath

- **2015-16 cases completed - 8**

(Submission to Secretary of State, order confirmed unopposed or where a decision not to make an order has been made)

- **2015-16 new cases received – 2**

- **Total Number of cases (Formal application or Self-initiated) - 158**

APPENDIX B – Appeals against prioritisation Q3 2015-16

There have been no appeals in this quarter.

Appendix C – Outstanding Modification Order Cases

Parish	File	Status	Proposal	Further details	Formal applicatio
Ancaster	2	RB	Claim	to BOAT	Yes
Alford	344	BOAT	Claim	Claimed BOAT from Hanby Lane to to New Cemetery	Yes
Colsterworth / Gunby & Stainby	259	PF	Deletion / Realignment	Colsterworth FP14 & Stainby FP 1(pt)	No
Ancaster	309	BOAT	Claim	Addition of a BOAT along Heath Lane in the parish of Ancaster	Yes
Utterby	354	PF	Claim	Claimed Footpath from Grange Lane to Holy Well Lane	Yes
Utterby	355	PF	Claim	Claimed Footpath from Grange Lane to former railway and beyond	Yes
New Leake	353	PF	Claim	Claimed Footpath from Spilsby Rd to Spilsby Rd	Yes
Heapham	360	PF	Variation of Particulars	Variation of Statement for PF 57	Yes
Skegness	364	PF	Claim	Claimed Footpath from PF 969 to PF 301 along sea defence	Yes
Belton / Gt. Gonerby	12	PF	Claim	Belton to Great Gonerby (Gads Lane)	Yes
South Willingham / Benniworth	96	PF	Claim	Claimed PF from Grange farm, Low Barns to road south of Skirbeck House	Yes
South Willingham	97	PF	Claim	Hainton Rd to High St	Yes
South Willingham / Hainton	98	PF	Claim	Moors Lane to A157	Yes
South Willingham	99	PF	Claim	Moors lane to Poplar Fm	Yes
Woodhall Spa	193	PF	Claim	Mill Lane to R.Witham Bank	Yes

ACTIVE CASEWORK

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