

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

Report to: **Mid Lincolnshire Local Access Forum**
Date: **18 July 2017**
Subject: **Generic Advice to Planning Authorities**

Summary: Concern has been expressed by the Local Access Forums about the effect of planning applications on Public Rights of Way (PROWs). Consideration of this matter was deferred at the previous meeting of the Forum. (A copy of advice given by Leicestershire Local Access Forum to Leicestershire local authorities is also enclosed with this report).

Recommendation(s): That the views of the Forum be sought.

1. Background

On Friday 23rd June 2017 the Lincolnshire County Council Senior Definitive Map Officer and her colleague dealing with public path orders attended the meeting of the Development Management Officers' Group. Representatives from LCC and all the District Councils (Except South Kesteven) were present. The following topics were covered

1) Provision of mapping system updates.

- The County Council will send yearly electronic updates to GIS Public Rights of Way mapping layers held by District Councils for their use in processing planning applications and drafting Public Path Orders. These will include all legal changes made in the preceding year to the digitised public rights of way network. This will enable planners to ensure that PROW are properly recognised on the current lines.

2) Amendment made to Section 257 of the Town and Country Planning Act 1990 by Section 12 of the Growth and Infrastructure Act 2013.

- The amendment enables an order seeking to stop up or divert a public right of way to be made in anticipation of planning permission. The section also amends section 259 of the 1990 Act so that the competent authority or Secretary of State may not confirm a stopping up or diversion order until planning permission has actually been granted. It also amends section 259 so that the competent authority or Secretary of State may not confirm an order unless satisfied that it is necessary to enable the development to be carried out. This will enable developers to have surety concerning the intended locations for a PROW where it may be affected by development.

3) Town and Country Planning Act 1990 Orders and safe design principles.

- Where a path is being diverted for development purposes, it is imperative that designers, developers, planners and rights of way officers work in partnership to ensure that public rights of way are satisfactorily incorporated within the development.
- The needs of disabled people should be catered for at the outset by careful consideration of surfacing, widths and gradients.
- Rights of way on new development sites should provide direct, secure and visually attractive routes. They should be properly considered at the design stage and, wherever possible, preserved on an enhanced existing alignment.
- Opportunities to improve and extend the network should always be considered. Narrow paths running between houses and enclosed by close boarded fences are not desirable - these paths are not easily overlooked and therefore can be perceived as a haven for potential antisocial and criminal activities.
- Sharp changes in direction of paths should also be avoided so that no blind spots are created. Such routes may adversely affect householders' privacy and security and appear threatening to users.
- New routes should not follow estate roads/existing roads as this would effectively amount to an extinguishment of the path.

4) Other matters.

- Draft Public Path Orders under the Highways Act 1980 or Town and Country Planning Act 1990 should always initially be sent to the County Council at Countryside_access@lincolnshire.gov.uk for provision of any technical information necessary to assist in drafting the order.
- Section 23 of the Deregulation Act 2015 gives owners, lessees or occupiers the right to apply for a public path diversion or extinguishment order under the Highways Act 1980. The change will take effect once the regulations and guidance have been completed- there is no date for this as yet.
- The change will not increase the landowner's chances of achieving change (the application and order must still pass all the same tests), but the clause ensures that the application is at least considered by the authority.
- The authority must consider the application within four months and give the applicant notice in writing of the decision and the reasons for it. If the council doesn't consider the application within that time, the applicant can appeal to the Secretary of State for a direction requiring the council to determine the application. If the council refuses to make an order, the applicant can appeal to the Secretary of State to make the order. All the same criteria for making an order under the Highways Act apply.

2. Consultation

a) Scrutiny Comments

b) Executive Councillor Comments

c) Local Member Comments

d) Policy Proofing Actions Required

n/a

3. Background papers

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

None

This report was written by Chris Miller, Team Leader – Countryside Services, who can be contacted on 01522 782070 or countryside_access@lincolnshire.gov.uk.

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