

Agenda Item 7

Problems with the Definitive Map Modification Order Process

Derby and Derbyshire Local Access Forum (DADLAF) has been concerned for several years about the procedures for processing DMMOs, and the length of time taken to resolve many cases. The following paper has been discussed at the East Midlands Regional Chairs' meeting in October 2014, and recommended to be circulated nationally in order to ascertain whether authorities have different procedures and what the most effective processing procedure may be.

It is recognized that the processing of Definitive Map Modification Order (DMMO) applications is a defined legal procedure which must be carried out in the manner specified.

However, it is clear that many councils have an increasingly large backlog of these applications. The Ramblers recent publication "Paths in Crisis" includes lists of councils with the highest numbers of outstanding applications, the extreme example being Somerset with 279. Derbyshire does have a high number of applications. It is recognized that delays may also be caused by the process of referral to the Planning Inspectorate, and by the general process of seeking Planning Permission from District Councils.

The experience of DADLAF is that orders may take over 40 years to be resolved and the RoW opened. We have at least one example of such, which whilst not dealt with by a single DMMO, took this long to resolve through a series of DMMOs, Public Inquiry, Judicial Review and eventually lengthy works on the ground. Such examples have resulted in a concern that there is not sufficient will to tackle the backlog. DADLAF members have been unable to establish whether there are specific problems, which the local knowledge of LAF members could possibly help to prioritise or whether there are general difficulties with the process, as opposed to the legal procedure, which could be improved. Derbyshire County Council deny that there is any reluctance on the part of officers or members to tackle the issues raised by LAF members. DADLAF has invited members of the legal team to attend a meeting to debate the problem, but so far it has not been possible to arrange this within DADLAFs meeting schedule.

Since the discussion of this document at a full DADLAF meeting, the Derbyshire County Council legal team have met with members of the DADLAF Rights of Way sub group, and whilst assuring LAF members that there is no unwillingness to deal with any DMMO, there are budgetary constraints on resources which can be made available, and the legal process is lengthy and time consuming. However, they would welcome any examples of good practice from other authorities which could be helpful.

This has also been discussed at East Midlands Regional LAF, where a similar level of frustration exists in several areas. It is felt that DMMOs are seen as controversial, as indeed is the case as there is generally opposition to change, and that councils may not wish to address these situations for political reasons. Therefore procrastination is not seen as a problem, even if it is not actively encouraged.

As a different approach, it would be useful to know if there are councils which are processing DMMOs in a simpler and more effective way, and to this end we would like to gather evidence of good practice. LAF members in authorities who are doing well, processing DMMOs quickly and preserving their potentially lost ways, will hopefully have advice to offer which may help the councils facing greater challenges. It would also be useful to know if any LAFs have specific suggestions as to how things could be improved, or indeed if any LAF has actually been able to assist with simplifying the DMMO process.

We would intend to establish whether cases which have been resolved quickly may result in a less desirable route, bearing in mind that a DMMO should provide a route “not less commodious” than the original.

It would be useful to know whether any authorities prioritise DMMO applications in any way, rather than dealing with them in strict order of receipt. Does any authority select orders which are likely to be less controversial and provide a “quick win”, or by moving orders where the user evidence is from very elderly people to the front of the queue. If so, is this seen as helpful, or have other problems arisen as a result. Do the difficult orders ever get processed?

DADLAF members have suggested that we may be able to offer assistance with prioritizing orders, based on the local knowledge of individual members. Has any authority or LAF tried this? If so, did it help?

My intention is to collect any such responses which other LAFs are able to provide, and to discuss at regional and national level how we may collectively take this forward and begin to address the problem before the cut off date in 2026. To this end, I would ask that all LAFs consider this paper at their next meeting and respond by the end of February 2015.