

Open Report on behalf of Richard Wills - Executive Director - Communities

Report to:	Cllr W S Webb, Executive Councillor, Highways & Transport
Date:	1 March 2011
Subject:	Prioritisation of Definitive Map Modifications Orders (HAT 33)
Decision Reference:	01823
Key decision?	No

Summary:

Proposed amendments to the County Council's policy regarding the prioritisation of Definitive Map Modification Orders

Recommendation(s):

That the amendments be adopted by Lincolnshire County Council

Alternatives Considered:

1. That the amendments not be adopted by Lincolnshire County Council

Reasons for Recommendation:

The amendments to the current policy allow for the wider public to apply for the reprioritisation of cases and allows for greater flexibility in assessing the reasons for reprioritisation.

1. Background

- 1.1 The existing policy for the prioritisation of Definitive Map Modification Orders was adopted in October 2006 and was amended in February 2009 to reflect the inclusion of criteria based on the County Council's Countryside Access & Rights of Way Improvement Plan.
- 1.2 On review it has become apparent that it is possible that the eight exceptions to the processing of applications in date order of receipt might not extend wide enough to cover all eventualities. It is also proposed that the right to appeal against Officers decisions on prioritisation should be widened to include any interested party affected by the claimed right of way. This will now encompass users, landowners/land managers and Parish or Town Councils who are not applicants.

- 1.3 The proposed changes to the policy are highlighted in the Highways & Traffic Guidance Note 33-3-10 shown in Appendix A to this report. In summary, the changes are as follows:

Paragraph Number	Summary of Change
3.5	Change from “appeal to the Authority by <i>an applicant</i> ” to “appeal to the Authority by <i>any interested party</i> ”
3.6	Insert paragraph: “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.”
5.3	Delete reference to “Appendix C – Sample letter to existing applicants regarding change to criteria.” This process is complete and reference to it is no longer necessary.

2. Conclusion

- 2.1 The proposed changes reflect the need to allow any person within a community affected by a definitive map modification order application (or case initiated by the County Council on the discovery of evidence) to be able to appeal against its existing prioritisation.
- 2.2 In addition it is recognised that in very exceptional circumstances it may be in the public interest for the Authority to process a case out of turn even though the reasons for doing so are not aligned with the existing eight criteria. The proposed alteration to the policy will allow the members of the Definitive Map & Statement of Public Rights of Way sub-committee to approve the re-prioritisation of any case as necessary.
- 2.3 Of the existing members of the sub-committee the following comments have been received regarding the proposals:

Cllr Brookes – Supports the amendments

Cllr Williams – Supports the amendments

Cllr Hills – Supports the amendments in that they will improve the ability to work and extend probity.

Both the Mid-Lincolnshire Local Access Forum and the South Lincolnshire and Rutland Local Access Forum have been consulted and resolutions to support the proposals were made on the 12th and 13th of October 2010 respectively.

3. Legal Comments:

The Rights of Way Improvement Plan referred to in the background to this report is contained in the Council's current Local Transport Plan which, in turn, is part of the Policy Framework in the Constitution. This decision is therefore lawful and within the remit of the Executive Councillor provided he has the delegated authority of the Leader.

4. Resource Comments:

There are no financial consequences arising from this report.

5. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

n/a

c) Scrutiny Comments

That the proposed changes to the policy for the Prioritisation of Definitive Map Modification Orders detailed in the report be recommended for adoption by the Executive Councillor (Highways and Transport)

d) Policy Proofing Actions Required

n/a

6. Appendices

These are listed below and attached at the back of the report

Appendix A	Proposed Revised Policy on the Prioritisation of Definitive Map Modification Orders
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7. Background Papers

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

Document title	Where the document can be viewed
Highways, Transport & Technology Scrutiny Committee Minutes - 6 December 2010	County Offices, Newland

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