

From: Director of Customer and Communities
To: Regulation Committee 7 September 2011

Subject: Update on the Definitive Map Team Casework

Classification: Unrestricted

Summary: A report updating the Regulation Committee on the Definitive Map Team casework.

Background – Register of cases

1.1 At the Regulation Committee on 18 May 2010 I provided an update on the schedule of outstanding public rights of way (PROW) cases and the work of the Definitive Map Team.

1.2 A hard copy of the Register of Applications to amend the Definitive Map and Statement (DMS) and Register of Diversion Applications is circulated with this report. The registers are also available on line at :
[https://shareweb.kent.gov.uk/Documents/environment-and-planning/public-rights-of-way/claims%20\(website\).pdf](https://shareweb.kent.gov.uk/Documents/environment-and-planning/public-rights-of-way/claims%20(website).pdf) and

<https://shareweb.kent.gov.uk/Documents/environment-and-planning/public-rights-of-way/diversion-schedule-for-web.pdf>

1.3 The production of a register of applications to amend the DMS was a requirement of the Countryside and Rights of Way Act 2000. The registers are regularly updated to reflect progress with case load.

1.4 The substantial progress made in recent years has been continued and currently there are 30 unallocated diversion applications and 9 unallocated applications to amend the DMS of Kent. The average wait between receipt of an application and allocation to an officer is currently 24 months for diversions and 18 months for amendments to the DMS.

The May 2010 report identified a number of pressures that had the potential to increase the backlog of cases. Fortunately there has been no appreciable increase in the submission of applications in the last twelve months primarily as:

- the construction sector appears static. The threat of construction as with Village Greens is frequently a catalyst for the public to seek to claim public rights of way that have been in use for 20 years, often specifically with the aim of thwarting or delaying development.
- work to introduce a continuous right of access on foot around the coast of England has slowed and will rely on the creation of a linear strip of access land rather than the creation of public rights of way

- the implementation of a statutory right for landowners to apply for the diversion of PROW has not yet been revisited by Government.

2.1 April 2010 to March 2011 saw 31 public path orders confirmed and 8 definitive map modification orders confirmed and the resolution of high profile cases at Adisham and Bayham Estate. 5 cases were referred to the Secretary of State with the Definition Team appearing at 4 public inquiries. Preparation of submission documents for public inquiries and appearance at inquiries continues to place a significant burden on the team. The recently closed public inquiry into the diversion of footpath MT392 at Shipbourne lasting 7 days, spanning two months and involving 2 venues.

2.2 The coming year will see the team continue to process cases and to work towards the production of a new edition of the DMS. However, the team are not immune to the savings¹ that must be found by the Countryside Access Service in the next three financial years. It is therefore intended to place greater emphasis on firstly completing the production of the new edition of the DMS; and processing applications to divert and extinguish PROW as the costs incurred through this work may be recharged.

2.3 Additionally planning authorities in Kent are being approached with a view to the team processing Town and Country Planning Act 1990 diversions and extinguishments orders on their behalf. The full cost of such work can be recharged to the applicant. Agreement is already in place to undertake this work on behalf of Ashford Borough Council. Tunbridge Wells Borough, Dartford Borough, Dover District and Canterbury City Councils have all expressed an interest in a service agreement..

2.4 If successful it is hoped to offer this service to other authorities in the South East contributing to the SE7 memorandum of understanding².

2.5 It is anticipated through this approach that it will be possible to deliver the necessary savings while safeguarding the knowledge, experience and expertise that exists within the team.

2.6 The change in emphasis will in all likelihood mean that less resource is dedicated to the statutory element of the team's work: dealing with applications to amend the DMS and that the backlog in this area will grow. Cases will still be progressed in line with the County Council's statement of priorities.

Gating Orders

3.1 Requests from the Kent Police, Community Safety Teams and the public for information about the gating of highways have been sporadic over the last 12 months. In the majority of instances there is insufficient evidence of the crime and anti-social behaviour being persistent, facilitated by the highway

or likely to be prevented by the installation of gates. Additionally it has not been possible to overcome the legislative restrictions placed on the making of gating orders for instance an application to gate public footpath AU79 Ashford Churchyard could not be pursued as although crime and antisocial behaviour in the area was persistent and could clearly be linked to the footpath, the footpath provided the only means of access to residential property and as such the criteria set out in the legislation could not be met. This despite the full support of the residents enjoying the access.

3.2 Proposals in Swale and Gravesham are currently being worked on with local Crime and Disorder Reduction Partnerships.

Where possible practical interventions will be supported that retain public access while contributing to the reduction of crime and antisocial behaviour: for instance the introduction of vehicle barriers.

Recommendations:

4.1 I recommend that members receive this report.

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1 £618K in total over three financial years.

2 Kent County Council, East Sussex County Council, Brighton and Hove City Council, Hampshire County Council, Medway Council, Surrey County Council and West Sussex County Council make up SE7.

All seven councils have signed a Memorandum of Understanding with the aim of achieving savings while improving the quality of local services.