

**CYNGOR SIR POWYS COUNTY COUNCIL****RIGHTS OF WAY COMMITTEE****23<sup>rd</sup> September 2010****REPORT BY: COUNTRYSIDE SERVICES MANAGER****SUBJECT: Public path Orders: Workload and Prioritisation**

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**REPORT FOR: Information / Decision**

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**Background:**

The prioritisation of applications made to Powys County Council for Public Path Orders was last formally reviewed by the Rights of Way Committee on 6<sup>th</sup> October 2005. As noted in the minutes of the meeting (see Annex A), it was agreed that the decisions as the priority of individual cases should continue to be made by the Officer who processes them. It was noted that this prioritisation should take into account the need to give higher priority to applications made under the Town and Country Planning Act 1990, to ensure that legal time limits are adhered to.

Officer prioritisation of the public path Orders workload continues to be successful and Members are asked to continue to support this. The detail of the prioritisation of the public path Order workload has been reviewed by Countryside Services over the last year, to update this wider approach in the light of the current and likely future resource issues.

There remains a significant backlog of public path Order applications, of which an increasing proportion is related to permitted development. There are a total of 144 applications currently on file, which fall into the following groups:

1. Applications for which there are felt to be significant public benefits and for which the administration fee is waived: 83
  - Of these, 44 are proposals that would move paths out of existing working farmyards and cattle handling areas;
  - The remaining 39 proposals have other significant public benefits, for example those that resolve irretrievable loss of a path due to natural causes, such as riverbank erosion.
2. Applications that are felt to be primarily in the interests of the applicant: 61
  - Of these, 20 applications are related to permitted development;
  - The remaining 41 applications are other 'landowner-interest' proposals, with the most common reason for application being to move paths away from residential property.

There have been a number of enquiries recently, in terms of the timescale for processing and priority given to individual applications. On the basis that around 15 applications are processed per year, it is estimated that the backlog represents between 5 and 8 years work. However, applications continue to be submitted at a rate of between 15 and 20 per year. This does result in delays of up to 5 or 6 years following receipt of many applications, before they can be progressed further. This does lead to understandable frustration for applicants. The likelihood of there being a delay is made clear to applicants from the outset; they are also reminded that the making of public path Orders is a discretionary power of the Council, rather than a statutory duty.

It is of note that in Powys, a large proportion of applications are initiated by the area Rights of Way and Access Officers, through their work in priority communities. Such applications are initiated because the Area Officer has identified that there would be significant public benefits, in terms of the maintenance and accessibility of the rights of way network. This is significant when making decisions about the use of resources, because these proposals may reduce the Council's maintenance liabilities in the longer term.

There is clearly a need to ensure that there is maximum public benefit from and fairness in the use of the limited resources that are available for public path Order work. In practice, the workload has been broken down into various broad types of application; these are prioritised on the basis of the likely public benefits in terms of network gain and any health and safety considerations. It is felt that an awareness of the way in which this has been carried out would be useful to members of the public, to help them to better understand the working method of prioritisation of applications and the reasons for any delays.

### **The current working method of prioritisation:**

It is recognised that no two applications are identical in terms of the circumstances surrounding them; the overall merits of each proposal must be assessed in the light of all of the factors that affect it. The working method of prioritisation cannot be overly prescriptive, given the enormous variation and complexity of individual circumstances. Likewise, there needs to be flexibility to allow for re-prioritisation of applications where there is a change in the situation. This is necessary to ensure that the processing of public path Order proposals does continue to reflect the priorities for the management of the Rights of Way network.

The merits of individual public path Order applications are considered in the light of the priorities identified in the Rights of Way Improvement Plan and of other community needs and transport initiatives.

Applications are prioritised according to the following broad categories; proposals of equal merit within a category are processed in order of the date of application. The list below is in order of priority, with the highest priority first.

1. Proposals where a public path Order is necessary to allow for permitted development:  
Developers are always encouraged to incorporate any public rights of way into their site design, to avoid the costs and delays that may result from the need to divert or extinguish them. Where this is not possible, there is a need to process applications made under the Town and Country Planning Act 1990 as quickly as possible, in recognition of the financial implications for the developer and the economic considerations for the local community. To allow these applications to be prioritised without unduly affecting other applications, developers must carry out their own pre-Order consultation, to reduce the input needed from Council officers.
2. Proposals removing significant maintenance liabilities or those resolving immediate health and safety risks:  
Where there is an immediate safety risk, the affected path may be temporarily closed in the short term; however, a public path Order may be the only practicable way to re-open the path in the longer term. A public path Order may also allow routes to be opened up that have been physically inaccessible since they were first recorded on the Definitive Map, as a result of factors beyond the landowner's control and that cannot be resolved in any other way. There are a number of paths in Powys that are recorded as running down dangerously steep slopes and quarry faces that pre-date the Definitive Map, for example. Likewise, a public path Order may be the only way to allow access across a stream or river, if it is not economically or physically possible to repair or replace an existing crossing point.

3. Proposals resolving longer-term, potential health and safety risks and those resulting in overall improvement to the rights of way network:

Paths may be affected by health and safety risks that are being adequately managed in the short term, but where it would be of benefit to both path users and landowners to move the path in the longer term. An example of this would be proposals that move paths out of working farmyards and cattle handling areas; it was identified in the consultation for the Rights of Way Improvement Plan that both landowners and the public feel that this should be a priority. Other proposals that fall into this category include those that reduce the Council's long term maintenance responsibilities or improve accessibility e.g. by moving a path onto a route whose surface is less prone to waterlogging. Also included are proposals that resolve Definitive Map anomalies, in a way that improves the links in the rights of way network, e.g. by creating a connection between a path that ends as a cul-de-sac and another public path or road.

4. Proposals that are felt to be primarily in the interests of the applicant (but not related to permitted development):

These are proposals for which there is no identified need to change the route of the path from the perspective of the accessibility or maintenance of the path or surrounding network, but for which a request is made by a landowner or another member of the public. This would include proposals to move paths away from residential property, to increase the privacy of residents.

Given the current backlog and resources, considerable delays are likely to continue to be experienced for lower priority applications. Although an administration fee is payable for the proposals that are felt to be primarily in the applicant's interests, this currently only partially recovers the cost of officer time and other expenses incurred; such applications are therefore subsidised from Council resources. The above working system does maximise the benefits to the public, in terms of the way in which the resources available to process public path Order applications are used.

**RECOMMENDATION:** That the Rights of Way Committee continues to support the Officer prioritisation of the public path Order workload, which uses the working method outlined above.