

Individual Executive Member Decision

Title of Report:	Rights of Way Case Programmes
Report to be considered by:	Individual Executive Member Decision
Date on which Decision is to be taken:	29 October 2012
Forward Plan Ref:	ID2545

Purpose of Report: To report on progress towards completion of the Case Programmes for 2012/13.

Recommended Action: To note progress and the actions of the rights of way team in dealing with the cases assigned for 2012/13.

Reason for decision to be taken: To monitor progress on the Case Programme

Other options considered: N/A

Key background documentation: Public Rights of Way Case Programme
Report to Management Board - 11th September 2008
Statement of Prioritisation for Claims and Path Orders

Portfolio Member Details	
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Implications

Policy: Promoting and acting in the interests of the communities, people and businesses of the district.
Promoting a vibrant district.
Protecting the environment.
Putting people first.

Financial: None

Personnel: None

Legal/Procurement: None

Environmental: Limited environmental impact of maintenance and improvement works

Property: None

Risk Management: None

Equalities Impact Assessment: N/A

Consultation Responses

Members:

Leader of Council: Gordon Lundie

Overview & Scrutiny Management Commission Chairman: Brian Bedwell

Ward Members: N/A

Opposition Spokesperson: Jeff Brooks

Local Stakeholders: Tony Vickers

Officers Consulted: Paul Hendry, Jon Thomas, Sallie Jennings, Stuart Higgins

Trade Union: Rosemary Culmer

Is this item subject to call-in?	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	
Report is to note only	<input type="checkbox"/>	

Supporting Information

1. Background

- 1.1 The Council possesses statutory duties to maintain the public rights of way network; keep it open for public use; and to record it and then to keep the records under continuous review (the 'Definitive Map' process). These duties have been translated into three public rights of way case programmes, concerned with 'Maintenance and Improvement', 'Enforcement', and 'Path Orders'.
- 1.2 The Maintenance and Improvement Case Programme is concerned with ensuring that the standard of public rights of way is suitable for their public use. It is drawn up each year from requests and complaints from the public; from surveys; and incorporates strategic improvements which enhance the network in accordance with the objectives of the Rights of Way Improvement Plan.
- 1.3 The Enforcement Case Programme is concerned with ensuring that the network remains free from obstruction and interference. The Council possesses extensive legal powers to assist it to carry out enforcement work if necessary. The Enforcement Case Programme is compiled from complaints from the public; from surveys; and interferences noted by officers. Some categories of enforcement work can be grouped together so as to utilise economies of scale, and these are termed 'projects'. An example of an annually active project is ploughing and cropping.
- 1.4 The Path Order Case Programme comprises two processes: 1. the investigation of evidence to support the existence of a public right of way which has not yet been recorded on the Definitive Map (a 'claim'); 2. the legal diversion, extinguishment or creation of a right of way. Both processes are usually carried out on receipt of an application from the public. The Council is under a statutory duty to investigate claims, but only a discretionary power to divert, extinguish or create.

2. Details of the three case programmes

- 2.1 **Maintenance Case Programme.** There are many outstanding requests and needs for maintenance and improvements on the network, but limited resources require a method for prioritisation. As a general approach, relative priorities for attention are determined through a matrix, attached as Appendix A, through which benefits to the public and value for money are assessed. The priorities are listed in the recorded Cased Programme, attached at Appendix B. This Case Programme is updated continually as new requests and needs come to light. Funding comes via the annual revenue rights of way works budget, and the capital programme (including S.106). There are plans to seek increased external funds where appropriate. Most surface works projects are carried out by contractors. There is, however, a large amount of maintenance work carried out by the team of rights of way Rangers, e.g. vegetation clearances and winter signposting. Volunteers also carry out simple tasks to keep the network open and easily useable.
- 2.2 **Enforcement Case Programme.** There are many outstanding enforcement matters recorded on the rights of way network, and present resources do not allow the Council to resolve them all. A monthly prioritisation process takes place, from which the highest priorities are selected for attention. The prioritisation matrix used is attached at Appendix A. The present priorities are listed in the Enforcement Case

Programme, attached at Appendix C. Timescales for dealing with cases can sometimes become extended if legal procedures are required.

- 2.3 **Path Order Case Programme.** The Path Order Case Programme is determined each year with close reference to the prioritisation procedure which was agreed between Countryside and Environment and Legal Services in 2008/09 (see background papers). Claims are generally dealt with in chronological order of receipt. For diversion, extinguishment or creation of public rights of way, the case will only be accepted if it is clearly in the interests of the public.
- 2.4 Appendix D lists all path order cases being dealt with in the current year. Appendix E lists the path order cases yet to be processed - the case programme for 2013/14 will be compiled from this list. If a new case is presented in the current year which meets the Statement of Prioritisation for Claims and Path Orders, then officers have agreed to make a request to the portfolio and relevant ward member, for permission for it to replace an agreed lower-priority case in the current Case Programme.
- 2.5 For claims, the Council has 12 months, from the date that the landowner was notified of the possibility that a right of way exists, to decide whether the evidence is sufficient for a Definitive Map Modification Order to be made. This timescale allows for the due legal processes to be followed. There is a right of appeal to the Planning Inspectorate if the Council either declines to make an Order or if there is a delay of more than one year in reaching a decision. A public inquiry procedure will be required if an Order is made and objections received.
- 2.6 For diversions, extinguishments and creations, there is no right of appeal to the Planning Inspectorate, but a public inquiry procedure will be required if an Order is made and objections received.
- 2.7 In addition to the cases, a project to re-digitise the Definitive Map of Public Rights of Way has been added. The present Definitive Map is accurate to a scale of 1:10,000 only, and this restricts the scale at which it can be viewed accurately, therefore limiting its use for both the public and council staff. Re-digitisation at 1:1250 also is consistent with British Standard 7666 Pt. 4 and will be needed prior to the statutory re-publication of the Definitive Map so that legal changes can be incorporated at the correct scale. It will enable the rights of way to be shown on the National Street Gazetteer, which is used by utility companies to identify and protect highways planned for excavation. This project has been left for several years whilst the rights of way case programme backlog was reduced.

3. Equalities Impact Assessment Outcomes

- 3.1 There is no decision to be made and therefore no Equality Impact Assessment has been undertaken.

4. Conclusion

- 4.1 Progress on the three rights of way Case Programmes has been set out in this report. A further report is due early in 2013, where a decision will be requested as to the recommended content of the case programmes for 2013/14.

Appendices

Appendix A – Prioritisation matrix for maintenance and enforcement

Appendix B – Maintenance and Improvement Case programme

Appendix C - Enforcement Case Programme

Appendix D – Path Order Case Programme - path order cases being dealt with in the current year

Appendix E - Path Order Case Programme - path order cases yet to be processed