

Delegated Decision

14 February 2020



PUBLIC RIGHTS OF WAY

Updating the Definitive Map and Statement of Public Rights of Way for County Durham

Ordinary Decision

Report of Regeneration and Local Services

Adrian White, Head of Transport and Contract Services

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 To authorise the making of a Modification Order to update the Definitive Map and Statement for County Durham.

Executive summary

- 2 A legal event modification order is required to modify the Definitive Map and Statement for a minority of legal events which do not incorporate a provision to alter these records.
- 3 The proposed legal event modification order will deal with such outstanding legal events.

Recommendation

- 4 It is recommended that the Definitive Map and Statement are updated under the provisions of the Wildlife and Countryside Act 1981 Sections 53(3)(a)(i),(ii) & (iii), and that the Corporate Director of Resources be informed accordingly to arrange for the making of the Order.

Background

- 5 The Wildlife and Countryside Act 1981 (WCA) places a duty on the County Council to continuously update the Definitive Map and Statement (DMS) and provides the legal means to do so by the making of Modification Orders. The DMS provide conclusive evidence in law as to the existence, location, status and other features of public rights of way. It being up to date goes hand in hand with the Council properly discharging its duties as highway and surveying authority.

- 6 Changes to the path network normally arise due to the diversion, creation or closure of paths. Most of these 'legal events' automatically modify (via a 'combined order') the Definitive Map and Statement by virtue of Section 53A of the WCA, however, a number of exceptions exist whereby the legal event does not include this provision. These include events outside the 'combined order' legislation such as creation agreements made under Section 25 of the Highways Act 1980 or orders made by the Secretary of State for Transport.
- 7 Between February 2010, when the County Council republished its map for the whole of County Durham, and February 2019 a yearly 'legal event' Modification Order has been made to update the Definitive records and deal with the exceptions mentioned above. However, since February 2019 only 1 legal event has occurred to require a legal event Modification Order and are proposed for inclusion in such an Order at this time.
- 8 A 'legal event' Modification Order is an administrative process to update records as the legal events that it deals with have already occurred and been subject to a separate legal/democratic process.
- 9 It is anticipated that a legal event Modification Order will be made during February 2020.

Options

- 10 An alternative option could be to do nothing which would however be a disregard of the Council's duties under the WCA.

Conclusion

- 11 Agree to authorise the making of a Modification Order under the provisions of WCA Section 53(3)(a)(i),(ii) & (iii) to bring the Definitive Map and Statement up to date.

Background papers

- F:\Rights of Way\AMO\Feb 2019 - Feb 2020

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Appendix 1: Implications

Legal Implications

The Modification Order ensures that the Definitive Map is properly kept updated as required by Section 53 of the Wildlife and Countryside Act 1981.

Finance

The Modification Order does not need to be advertised in the press and is just sealed by Legal Services.

Consultation

Appropriate consultations take place for each legal event which have already occurred. The Modification Order only requires the advice of Legal Services as it is an administrative process.

Equality and Diversity / Public Sector Equality Duty

None.

Climate Change

None.

Human Rights

Each legal event will have followed a due process which will allow for the submission of representations as provided for by the appropriate legislation.

Crime and Disorder

None.

Staffing

Routine officer responsibilities.

Accommodation

None.

Risk

Reduces risks, the Modification Order reflects the Council properly performing its legal duty to keep the Definitive Map and Statement up to date.

Procurement

None.