

HIGHWAYS AND ACCESS OPERATIONAL ISSUES

To: **Cabinet**

Date: **15th June 2010**

From: **Acting Executive Director: Environment Services**

Electoral division(s): **All**

Forward Plan ref: **Not applicable** *Key decision:* **No**

Purpose: **To consider proposed changes to operational Highways and Access policies associated with:**

- i. **the Local Access Forum (LAF)**
- ii. **prioritisation of Definitive Map investigations;**
- iii. **charges for highway development control agreements.**

Recommendation: **Cabinet is asked to agree the proposed changes to the following policies as follows:**

- i) **To reduce the number of members of the Local Access Forum from 22 to 12 and frequency of meetings from 6 to 4 each year (Detailed in Appendix A).**
- ii) **Alter the Statement of Priorities for Definitive Map investigations to better align these to corporate objectives as detailed in Appendix B.**
- iii) **Amend the wording relating to Highways Developmental Control Charges as detailed in Appendix C.**

Officer Contact:	Member Contact:
Name: Kate Day Post: Rights of Way & Access Manager Email: Kate.Day@Cambridgeshire.gov.uk Tel: 01223 715 615.	Name: Cllr Mac McGuire Portfolio Holder : Lead Member for Highways and Access Email: mac.mcguire@cambridgeshire.gov.uk Tel: 01223 699173

1. BACKGROUND

- 1.1 This report covers 3 areas of highway operations where changes to existing policies are proposed: the Local Access Forum (LAF), prioritisation of Definitive Map investigations and charges for highway development control agreements. Policies relating to Public Rights of Way are not currently part of the Highway Network Management Policies and Standards document. The request to amend the wording relating to Developmental Control charges was proposed by Cabinet on 27th April but needs approval in order to be properly implemented. Whilst it is normal to bring forward policy charges for Highways and Access on an annual basis these three specific changes are being brought forward now to achieve Integrated Plan efficiency savings, and to enable the County Council to complete activity in relation to the Rights of Way network and Development Control during this financial year.
- 1.2 The Countryside and Rights of Way Act (CROW) 2000 placed a new duty on the Council to establish a Countryside Access Forum for the purposes of monitoring and advising on their management of the local rights of way networks, Open Access Land and the Rights of Way Improvement Plan.
- 1.3 The Definitive Map and Statement (DMS) is the register of public rights of way within the County and is maintainable by the County Council under the Wildlife and Countryside Act 1981. The County Council has a statutory duty to determine applications for Definitive Map Modification Orders to add, downgrade, upgrade or delete paths shown on the DMS. The Council also has discretionary powers to deal with applications from landowners to divert existing paths and to make legal orders proactively to further its own policy objectives.
- 1.4 At its meeting on 27th April, Cabinet considered and approved changes to various highway related charges. This included an increase in the fee level for development control highway agreements (S38, S278 and S106) from 7.5% to 8.5% to ensure that the overall costs of the adoption process are fully met by the developer.

2. MAIN ISSUES

- 2.1 In order to meet the efficiencies identified in the Integrated Plan, it is proposed to cut the number of members on the Local Access Forum from 22 to 12 and to reduce the number of meetings from 6 to 4 each year. Full details are contained in Appendix A.
- 2.2 Government guidance recommends that councils publish a Statement of Priorities setting out the order in which they investigate their Definitive Map case work. Under the present prioritisation system new applications are dealt with in chronological order making it difficult to programme time to process cases which meet the council's own policy objectives. The proposed changes to our existing Statement of Priorities will seek to achieve greater benefits for the public whilst maintaining the council's statutory duties. Full details are contained in Appendix B.
- 2.3 Revised text is required to clarify the already agreed changes in charges for highway development control agreements, which is set out in Appendix C.

3. SIGNIFICANT IMPLICATIONS

3.1 Resources and Performance

- 3.1.1 Changing the way that Definitive Map casework is prioritised will improve the overall service delivery in this area and enable the authority to maximise the benefit to the community of its limited resources.
- 3.1.2 Changing the wording in relation to charges for highway development control agreements will clarify the authority's position and reduce the risk of exposure to challenge.

3.2 Statutory Requirements and Partnership Working

There are no significant implications for any of the headings within this category.

3.3 Climate Change

There are no significant implications for any of the headings within this category.

3.4 Access and Inclusion

Changing the way that the Definitive Map case work is prioritised will assist in the delivery of the Council's Rights of Way Improvement Plan, and hence contribute to the Accessibility Agenda.

3.5 Engagement and consultation

The LAF have been part of the consultation process in developing the revised arrangements identified in Appendix A.

Source Documents

Cabinet Agenda & Minutes 27/04/10
Countryside and Rights of Way Act
Cambridgeshire Local Access Forum: report to
the Environment Service Development Group
(10th July 2003)
Rights of Way Improvement Plan
DEFRA Rights of Way Circular 1/09

Location

Room C1305 and
ET1028 Castle Court,
Cambridge.

**CONSTITUTIONAL CHANGES TO CAMBRIDGESHIRE
LOCAL ACCESS FORUM (LAF)**

1.0 Background

- 1.1 The Countryside and Rights of Way Act (CROW) 2000 placed a new duty on Cambridgeshire County Council to establish a Countryside Access Forum for the purposes of monitoring and advising County Councils on their management of the local rights of way networks, Open Access Land and the County Council's Rights of Way Improvement Plan.
- 1.2 As part of savings identified through the wider Integrated Planning Process and after discussions with the LAF, we are now proposing to make efficiency savings of the order of £3,000 (30%), due to the changes set out below.
- 1.3 The Government's Regulations on the establishment of Local Access Forums came into force on the 7th August 2002 and the Cambridgeshire Local Access Forum (LAF) held its first meeting on 7th September 2003.
- 1.4 The regulations require a regular turnover of membership and the County Council is obliged to advertise externally once a year to achieve this.

2.0 Proposals

- 2.1 **Area:** The Cambridgeshire LAF covers the entire County and has developed links with neighbouring counties and regional networks. It is suggested that this remains the same.
- 2.2 **Membership:** The Regulations stipulate that the LAF should consist of between 10 and 22 individuals selected for their knowledge and interest of access issues rather than as representatives of particular organisations. Cambridgeshire currently has 22 members. LAF have recommended dropping the Membership to 10, the minimum requirement. In order to retain elected Member representation and sufficient expertise and geographical coverage, it is proposed to reduce Membership to 12 members with two seats being reserved for County Councillors.
- 2.3 **Period in office:** It is proposed that Members continue to be appointed for a period of 3 years.
- 2.4 **Constitution:** The LAF members will continue to appoint a Chairman and Vice-Chairman (neither of whom can be an elected Councillor) and have agreed a constitution.
- 2.5 **Location of meetings:** Meetings are open to the public and so are held in rotation at 3 locations around the County, 6 times a year. It is proposed to reduce the number of meetings to 4 annually.

- 2.6 **Appointment Process:** The appointment process for LAF members will remain as follows:
- New Members are to be selected through an external recruitment exercise. Members should represent both a geographical area and spread of relevant skills and interests in order to both inform and represent the Forum's work in accordance with the statutory guidance. Officers will compile a shortlist of nominations for consideration.
 - Nominated candidates and the Reserve List are to be approved by the Service Director of Highways & Access and the relevant Cabinet Member.
 - Officers are to notify candidates of their formal appointment to the LAF for a period of 3 years.
 - Where members leave prior to the end of their term of office and prior to the annual recruitment round, Officers are to appoint suitable candidates from the approved Reserve List for a limited period (not less than 6 months and not more than 11 months) to the next recruitment round as Provisional Members if possible.
 - As part of the next round of recruitment, Provisional Members and those Full Members whose term of Office is drawing to an end will be invited to submit an expression of interest for consideration along with any new applicants.
 - One place on the LAF will be reserved for a County Councillor who will be nominated by the Political Group Leader(s)
 - One place on the LAF will be reserved for a District Councillor who will be nominated by the Chief Executives' Forum.

DEFINITIVE MAP AND STATEMENT: REVIEW OF PRIORITIES

1. Background

1.1 Government guidance recommends that Councils publish a Statement of Priorities setting out the order in which they investigate their Definitive Map case work. Cambridgeshire County Council's current Statement of Priorities dates from 2003. It states that Definitive Map Modification Orders and Public Path Order applications from landowners will be dealt with in chronological order of receipt, regardless of merit. Processing these applications necessarily dominates the workload, as under the present system new applications are automatically dealt with on receipt. The County Council's current Statement of Priorities makes it difficult to programme time to process cases which meet its policy objectives.

1.2 In 2005 the County Council adopted the Rights of Way Improvement Plan ('ROWIP') as Policy. This commits the Council to: seeking opportunities to improve the public rights of way network to meet the needs of all users; improving public safety; and adding to the amenity value of the network (Appendix 1). Improvements which County Council policy supports under the ROWIP include:

- working with landowners to reorganise local public path networks to provide routes which meet the amenity needs of modern pedestrians, horse-riders and cyclists, and the needs of contemporary land-use.
- taking advantage of opportunities arising from development to provide new routes for cycling and walking
- diverting existing paths or creating new paths to provide walking and cycling routes taking users away from roads
- resolving problems arising from gaps in the existing public path network
- identifying historic routes which meet ROWIP objectives but which are at risk of extinguishment
- protecting routes at threat from encroachment by establishing a legal width
- consolidating the Definitive Map and Statement, and correcting legal errors.

1.3 These changes to the path network result in practical improvements that meet the following County Council strategic objectives:

- improving quality of life
- sustainable communities
- meeting the challenge of climate change
- enhancing the natural environment

The proposed changes seek to achieve a better balance between proactive work that achieves ROWIP objectives as opposed to reactive statutory work where public benefit may not be so great. Officers believe that a change in prioritisation of the caseload will make better use of resources and contribute more to the Council's Strategic objectives.

2. Proposed Revised Statement of Priorities

- 2.1 The new Statement of Priorities would have two key objectives:
- Ensuring that priority is given to cases that meet ROWIP objectives
 - Ensuring that duly made Definitive Map Modification Order applications *that have a reasonable chance of resulting in an Order* are processed within a reasonable timescale in light of the prioritisation criteria
- 2.2 Under the proposed system there will be two lists of outstanding work:
- (i) **The case list** of all cases other than Definitive Map Modification Order cases. Cases will be prioritised using a standard scoring sheet (see 'Scoring Matrix' at Appendix 2) according to:
- the Guiding Principles and/or Statements of Action set out in the ROWIP (as set out in Appendix 1)
 - the principle of achieving the greatest benefit for the greatest number of path users
 - achievability, with priority being given to cases where there is a short-term window of opportunity
 - affordability.
- (ii) **The application list**, comprising all *accepted* Definitive Map Modification Order applications. Under the revised Statement of Priorities, new Definitive Map Modification Order applications will be assessed on receipt (in contrast with the current system, in which all applications are automatically processed). Weak applications will be returned to the applicant to seek further evidence. Stronger applications will therefore be categorised as *accepted* and then dealt with in order of receipt
- 2.3 70% of available officer time will be programmed to the case list and 30% to the application list, keeping this proportion under review to ensure that consultation on all accepted Definitive Map Modification Order applications is commenced within 6 months of receipt and progressed to conclusion with due diligence, whilst maintaining a commitment to making significant progress with the case list.
- 2.4 The following points set out the proposed financial criteria to support the prioritisation of discretionary cases where there is a direct financial saving to the County Council, for instance where:
- the applicant/sponsoring party (e.g. Parish Council) is able to make a direct financial contribution, and/or carry out works so that the County Council is not required to fund these works
 - the cost of reinstating the existing legal line would be greater than the cost of the proposed changes, e.g. where an expensive new bridge would be required to re-open the existing path
 - the long-term maintenance burden to the County Council would be reduced by promoting the diversion package
 - working with other teams across the County Council to provide more cost-effective solutions, e.g. the provision of a soft-surfaced public right of way as an adequate alternative to hard-surfaced route.

- 2.5 In order to equitably and impartially assess the merits of each discretionary case, scoring criteria would be applied as set out in Appendix 2. Those cases with the higher scores would be given priority. Scores have been marginally weighted to reflect corporate priorities and Local Area Agreement (LAA) Performance Indicators.
- 2.6 The Council may be exposed to a greater risk of legal challenge if statutory timescales for considering applications are not met. This will be managed through greater scrutiny of applications to ensure they are properly made in accordance with the statutory requirements.

Appendix 1

ROWIP Guiding Principles

- GP1 Countryside access provision should be physically accessible to the widest possible range of people
- GP2 Countryside access provision should be safe for users
- GP3 New development should not damage countryside access provision. Where appropriate new development should contribute to the provision of new links and/or improvements of the existing rights of way network
- GP4 Up-to-date, accurate, comprehensive and integrated access information should be made available to all users
- GP5 Countryside access provision should build on the platform of the historical network to meet the needs of today's users and land managers
- GP6 Management and improvement of countryside access should consider the needs of land management, conservation, heritage and concern about rural crime
- GP7 The Definitive Map and Statement should be an accurate, comprehensive, up-to-date and accessible record
- GP8 The countryside access experience in Cambridgeshire should be straightforward, enjoyable and inspiring

ROWIP Statements of Action

- 2/2 Provide and publicise safe routes alongside busy roads
- 2/4 Implementing safer road crossings
- 3/3 Liaise with planners and developers to provide new countryside access provision to link new development into an enhanced network catering for increased population
- 5/1 Identify and prioritise missing links and actions required to close them
- 5/3 Prioritise path creations for new circular walks
- 5/4 Prioritise bridleway improvements
- 7/1 Consolidate changes from existing Definitive Maps onto a single map
- 7/2 Catalogue problems with existing definitive routes; determine preferred action and implement
- 7/4 Research and define path widths not recorded on the Definitive Statement; rights of way are important biodiversity corridors

Appendix 2 – Scoring Matrix

	Criteria	Score
a	Provides safer road crossing/link	2
b	Sustainable transport connection arising from new development	2
c	Completes a missing link	1
d	Creation of new circular route	1
e	New links for bridleway users (riders/cyclists)	1
f	Consolidation of data to provide accurate definitive mapping information to support wider sustainable transport delivery.	2
g	Define and record widths of routes, especially where opportunities exist to enhance biodiversity.	2
h	Limited window of opportunity e.g. time limited S106 Agreement	3
i	Unanimous support from interested parties.	3
j	Meets the requirements of CCC Public Path Order Policy & S119 of the Highways Act (landowner applications)	3
k	Affordability (where total scheme is affordable X1, unaffordable X 0)	X1 or X 0
NB Scoring will be applied to each list separately and schemes ranked in order of score, higher scores get priority.		

DEVELOPMENT CONTROL AGREEMENT CHARGES

1. Background

- 1.1 At its meeting on 27th April, Cabinet considered and approved changes to various highway related charges. This included an increase in the fee level for development control highway agreements (S38, S278 and S106) from 7.5% to 8.5% to ensure that the overall costs of the adoption process are fully met by the developer.
- 1.2 Cabinet also approved a higher fee level of 10% for S38 road adoption agreements where work on site has commenced prior to an agreement being sealed. The effect of these changes will be to:
- focus developers on completing an agreement prior to commencing on site
 - improve recovery of the Authority's actual administration, vetting and inspection costs
 - provide an opportunity to lessen the risk to residents of new streets being built without a secured adoption mechanism.

2. Proposal

- 2.1 However, the wording used in the table appended to the report, which set out the revised charges, was not as explicit as it should have been and Cabinet is asked to approve a modified section of the table shown below, to avoid any challenge from developers:

Highways Act Section 38 road adoption agreement	8.5% of the bond sum calculated by the County Council based on linear metre cost of works plus legal costs <i>Fee increased to 10% of the bond sum if site work commences prior to sealing of agreement</i>
Section 106 planning agreement	8.5% of the bond sum calculated by the County Council plus legal costs (Bond sum based on 110% of construction costs)