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Item/Paper
17
Public

THE DEFINITIVE MAP AND PUBLIC RIGHTS OF WAY PRIORITIES STATEMENT

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Summary

The Council has a legal obligation to maintain a Definitive Map describing the public's right to access the countryside via the Public Rights of Way network. The Council is required to keep the Definitive Map under review and up to date and to have available a Statement describing how they intend to do this and in which order of priority.

Following the ending of the Discovering Lost Ways project by Natural England this report proposes a new Statement of Priorities in order to facilitate the review of the Definitive Map within Shropshire.

The approach described will ensure that the Council continues to fulfil its legal requirements and by prioritising the order in which the updating of the Definitive Map takes place ensure that the maximum public benefit is achieved.

Recommendation

- A. That Cabinet recommend to Council the approval of the Statement of Priorities for reviewing Rights of Way and maintaining the Definitive Map for Shropshire (as set out in Appendix A).

REPORT

1. Legislative background

The Definitive Map is the record of all public rights of way within the county. Under the provision of the Wildlife and Countryside Act 1981, Shropshire Council is legally required to keep the Definitive Map of public rights of way under continuous review and to make modifications where it appears that routes should be added, regraded or deleted. The Council achieves this by carrying out a parish by parish review across the county. The Formal Application process allows anyone to apply for a modification of the Definitive

Map if they have evidence which proves that the map is inaccurate or incomplete, and to appeal if a decision on an application is not made within twelve months.

The evidence needed to effect a change to the Definitive Map is based on historical use, on current public use, or a mixture of the two. Whenever a claim or issue is being investigated, consultations are undertaken with the landholders concerned and statutory consultees, such as user groups, the relevant parish council and other bodies. This enables all viewpoints to be taken into account, but the decisions made are based on the actual evidence uncovered. All the information on the process and how to object to or apply for a modification is available on the Council's website or by application to the Countryside Access Team.

Authorities are required by guidance to have a Statement of Priorities which details how they intend to carry out the review of the Map. A copy of Shropshire Council's current Statement of Priorities is attached at Appendix B. This Statement has been amended and approved by Council over the years to take account of changing priorities and working practices, it was last reviewed in December 2007. The Statement is taken into account in the event of appeals to the Secretary of State for the Environment Food and Rural Affairs for the non determination of Formal Applications within the timeframe.

Without a clear statement of the priority order in which applications will be dealt with, appeals on the grounds of timings are more likely. The current statement was approved by Shropshire County Council on December 14th 2007. The Council agreed that the statement would be reviewed again in December 2012, or when the Lost Ways Project ended. Natural England called this project to a halt in 2008, therefore the statement must be reviewed.

2. The Countryside Access Strategy and the future review of the Definitive Map

Shropshire County Council, in December 2007, approved the Shropshire Countryside Access Strategy, 2008 - 2018. This plan describes how access to the countryside in Shropshire will be improved over the next 9 years. The review of the Definitive Map has a major contribution to make to this.

The consultation for the Strategy told us that people wanted better access close to where they lived, especially in North Shropshire and Shrewsbury and Atcham, and improved access to attractive areas of the countryside and from urban areas out to the surrounding countryside. These are the areas of the County which have not yet been reviewed, and where the Definitive Map is incomplete.

The overall Map review can help fill these gaps in public access by prioritising those areas identified by the public consultation. Within these areas Officers would then also look at others ways of enhancing access to overcome any gaps by negotiating permissive access agreements with landowners.

The following order of priority for the systematic parish by parish map review work is being recommended.

Priority area 1 - North Shropshire and the remaining un-reviewed Parishes in Oswestry.

This priority represents the main area of the county which has not been reviewed by the Council

Priority area 2 - All other outstanding areas that have as yet not been reviewed. This covers those areas of Shrewsbury and Atcham and other parishes which were also identified within the Access Strategy.

Priority area 3 - The remaining sections of the county in relation to key historic document resources.

In addition within the three priority areas specific Parishes will be prioritised according to the key local demands identified through the Countryside Access Strategy.

Formal Applications

There may be occasions when applications for a change to the Definitive Map may fall outside this list of priorities. Such instances may apply where the application is for a route that is being compromised by potential development work or where an amendment to a route would significantly improve public safety. In these instances such applications will be dealt with in order of receipt.

The map attached at Appendix D shows the priority areas described above.

Consultation

The proposals detailed within this report were discussed at Shropshire's Local Access Forum meeting held on 23 October 2008 and are based on the outcomes of the extensive consultations regarding the Shropshire Countryside Access Strategy.

The forum is a statutory body which the Council has to take into account its views on matters such as this. It consists of a wide range of members both landowner and user group representatives and others who have an interest in any policies or procedures which result in the amendment of the Definitive Map.

At this meeting members of the forum were in agreement to the proposed changes to the review of the Definitive Map and the Statement of Priorities.

3. Summary

The Statement of Priorities (14th December 2007) attached at Appendix B relates to the short term situation created by the Lost Ways Project. This meant the previous ongoing parish by parish review was put on hold and the prioritisation of Formal applications was revised in order to progress those applications based on user evidence.

Now that the Lost Ways Project has been halted by Natural England, there is a requirement for a new Statement of Priorities to reflect the recommencement of the required ongoing county wide parish by parish review and a system of prioritising Formal Applications outside of that review.

There is also a need, following the public consultation, to target future work to accord with the Countryside Access Strategy priorities.

The revised new Statement of Priorities at Appendix A outlines how geographically the ongoing parish by parish review and Formal Applications will be prioritised in the future in accordance with the needs identified in the Countryside Access Strategy. The consultation for the Strategy told us that people wanted better access close to where they lived, especially in North Shropshire and Shrewsbury and Atcham. The Statement prioritises these areas.

In addition the Statement recognises that there may in occasions where it is in the public interest to consider a Formal Application outside of the geographical programme and allows for this.

4. Conclusion

The approach described above will ensure that the Council continues to fulfil its legal requirements and prioritises the review of the Definitive Map where the maximum public benefit can be achieved. A proposed Statement of Priorities revised in accordance with the Shropshire Countryside Access Strategy is attached at Appendix A.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Shropshire Countryside Access Strategy, 2008 – 2018

Policy Statement 8, Definitive Map and Statement Modification Orders

Human Rights Act Appraisal

The service works to provide access opportunities for everyone so there are no implications for the Human Rights Act.

Environmental Appraisal

The service works to minimise its impact on the local environment.

Risk Management Appraisal

Customer satisfaction may decline in response to a poorly maintained network.

Community / Consultations Appraisal

Extensive consultation has taken place in preparation for the Countryside Access Strategy. Additional consultation has taken place with other authorities and local stakeholders including Parish Councils as part of a Value for Money Review.

Cabinet Member

Councillor Steve Charmley

Local Member

All – Countywide

Appendices

Appendix A - Revised Statement of Priorities

Appendix B - Current Statement of Priorities

Appendix C – Map showing extent of progress with the review of the Definitive Map

Appendix D – Map showing proposed future review of the Definitive Map priorities

Decision(s)

Appendix A – Statement of Priorities 2009

POLICY STATEMENT Definitive Map and Statement Modification Orders

The Definitive Map and Statement is a legal document which provides conclusive evidence that the rights of way shown on it exist. The Map and Statement is not a complete record of all rights of way and more unrecorded public rights may exist. Under the Wildlife and Countryside Act 1981 anyone may apply to have routes added to the Definitive Map or to have it altered in some way. Due to the volume of claims and evidence which is discovered to amend the Definitive Map, it is common practise for all Highway Authorities to have a policy which details the order in which applications will be processed as resources do not allow for all claims to be dealt with at once. The policy is also necessary to defend any appeals which are made to the Secretary of State by applicants due to non determination within the specified time.

The Council:

- Recognises the legal requirement for a Definitive Map and Statement that correctly records the legal status of all public rights of way.
- Recognises the need and value to the network of recording all highways where historical documentation and user evidence supports their existence.
- Recognises the importance of the Countryside Access Strategy 2008-2018 to develop and improve access to the Countryside.

The Council will prioritise applications to amend the Definitive Map as follows:-

1. Applications received that fall within an area which has not undergone the review process to date will be dealt with in accordance with the priorities detailed below:-
Priority Area 1 – North Shropshire and the remaining un-reviewed Parishes within Oswestry.
Priority Area 2 – All other outstanding areas which have not yet been reviewed.
Priority Area 3 – The rest of the County in relation to key historic document resources.
2. In addition applications within the three priority areas will be prioritised in accordance with key local demands identified through the Countryside Access Strategy.
3. It is recognised however, that there may be occasions when applications outside of this programme need to be determined in the public interest. Such instances may apply where the application is for a route that is being threatened by potential development work or where an amendment to a route would significantly improve public safety. In these instances such applications will be dealt with in order of receipt.

Further Considerations

This approach will ensure that the Council continues to fulfil its legal requirements and prioritises the Review of the Definitive Map to obtain maximum public benefit in accordance with the Countryside Access Strategy

References

Cabinet xxxxxxxxx

Full Council xxxxxxxxx

Countryside Access Strategy for Shropshire 2008-2018

Approval and Review

This Policy statement was approved by Council on xxxxxxx. This Policy statement will be reviewed a minimum of every five years, the next review occurring in xxxxxxx.

Appendix B – Current Statement of Priorities

POLICY STATEMENT 8 Definitive Map and Statement Modification Orders

The Definitive Map and Statement is a legal document which provides conclusive evidence that the rights of way shown on it exist. The Map and Statement is not a complete record of all rights of way and many more unrecorded public rights may exist. Under the Wildlife and Countryside Act 1981 anyone may apply to have routes added to the Definitive Map or to have it altered in some way. Due to the volume of claims and evidence which is discovered to amend the Definitive Map, it is common practise for all Highway Authorities to have a policy which details the order in which applications will be processed as resources do not allow for all claims to be dealt with at once. The policy is also necessary to defend any appeals which are made to the Secretary of State by applicants.

The Council:

- Recognises the legal requirement for provision of a Definitive Map and Statement that correctly records the alignment and legal status of all public rights of way.
- Recognises the need and value to the network of recording all 'Lost Ways' where historical documentation supports their existence.

The Council will prioritise applications to amend the Definitive Map as follows:-

1. Applications received based solely on user evidence will be a first priority. Those that fall within an area which has not undergone the district review process to date will be dealt with first; the remainder will be dealt with in order of receipt.
2. If the application is for a route that is being threatened by potential development works.
3. If the application is for a route which is very contentious locally. This does not include routes which have simply been called into question due to them becoming blocked or actions having been taken by the landowner which have resulted in a claim being made.
4. If the application is for a route of 'strategic importance' or forms part of a Council supported promoted route.
5. Where an amendment to a route would significantly improve public safety.
6. Where the application would resolve a significant gap in the network.
7. Where the application is for a route of a higher status than that of a footpath.
8. Where an application assists in meeting other objectives within the Countryside Access Strategy
9. Where an application resolves an error on the current Definitive Map.

Further Considerations

Following the Countryside and Rights of Way (CROW) Act 2000 Natural England was tasked by the government to find the best way to record all lost rights of way in England. It has been estimated that nearly 10% of England's rights of way do not appear on Definitive Maps. These could be lost forever if the Definitive Maps are not brought up to date by 2026. The Discovering Lost Ways Project, coordinated by Natural England, has been developed to identify these historic routes. The purpose of this project is to examine the key historic documents, to record the existence of historic ways and to use this information to submit claims to amend the Definitive Maps.

References

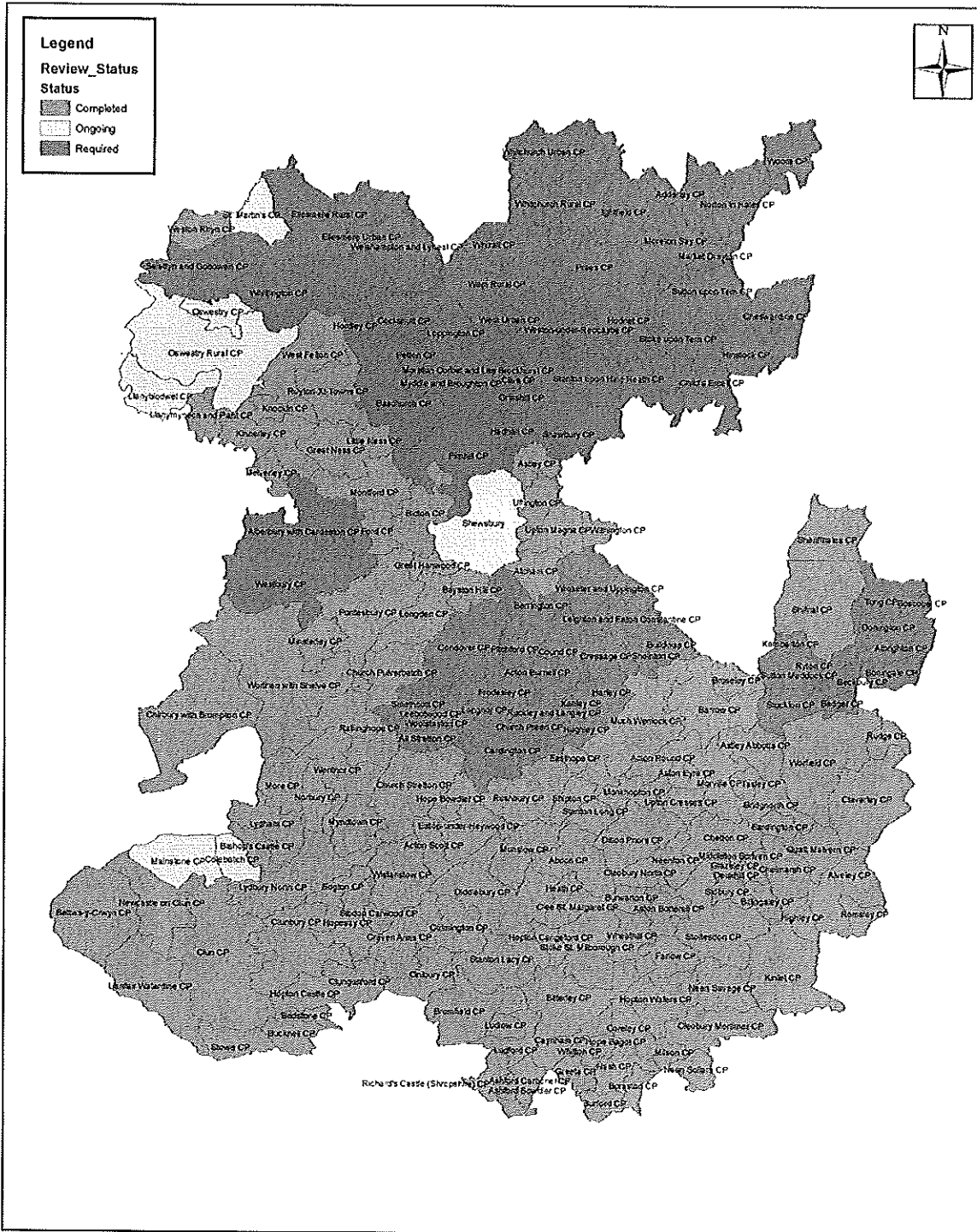
Council meeting 24th February 2006
Cabinet 7th February 2006
Rights of Way Committee 5th April 2006
Countryside Access Strategy for Shropshire 2008-2018

Approval and Review

This Policy statement was approved by Council on 14th December 2007. This Policy statement will be reviewed a minimum of every five years, the next review occurring in December 2012 or on completion of the Lost Ways Project if this is sooner.

Appendix C - Extent of existing progress with the systematic review of the Definitive Map

Cabinet 23-9-09: The Definitive Map and Statement of Public Rights of Way & Priorities Statement



Shropshire
 County Council
 The Shirehall, Abbey Foregate
 Shrewsbury, Shropshire, SY2 6ND

**Title: Definitive Map Review
 Status June 2009**

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Scale: 1:375,000

Appendix D – Proposed future review of the Definitive Map showing area priorities

