

OXFORDSHIRE COUNTY COUNCIL

STATEMENT OF PRIORITIES FOR MAINTAINING THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY

The Definitive Map and Statement (DMS) of Public Rights of Way for Oxfordshire is the legal record of public rights of way in the county. The Council is the Surveying Authority for such purposes. In accordance with the Wildlife and Countryside Act 1981 section 56, the DMS is conclusive evidence of the existence of a public right of way and its status, width, position and any limitations or conditions that affect it.

It has a relevant date of 1 February 2006.

In accordance with the Wildlife and Countryside Act 1981 section 53, Oxfordshire County Council has a duty as the Surveying Authority to keep the DMS under continuous review and to modify it by way of Orders as and when relevant events occur.

The Council's priorities in respect of its DMS are to: -

- Process applications for Definitive Map Modification Orders
- Update and maintain the DMS, including addressing anomalies and errors

This Statement of Priorities replaces the previous version dated October 2007.

Processing Definitive Map Modification Orders (DMMOs)

Any person with substantive evidence of an error or omission in the DMS may apply to the Council for an Order to modify it to add or delete a right of way, to upgrade or downgrade one that is already shown, or to amend the particulars contained in the Map or Statement. Most are claims to add rights to the DMS on the basis that they legally exist but are not recorded. The procedure to do this is set out in schedule 14 of the Wildlife and Countryside Act 1981.

The Council is required, as soon as reasonably practicable after receipt of applications, to investigate and determine whether or not to make the Order sought. If after 12 months no such determination has been made, the applicant may appeal to the Secretary of State who may then direct the Council to determine the application and may impose a timescale for doing so. Government Guidance in the form of Circular 1/09 states that the Secretary of State, when considering a response to a request for a direction to determine an application for an Order within a specified period, will take account of any Statement made by the Surveying Authority setting out its priorities for bringing and keeping the DMS up to date and the reasonableness of such priorities.

There are a large number of applications outstanding, each requiring significant research and investigation and are frequently contentious, further extending the period of the process. A single application might take between 6 and 18 months, and sometimes longer, to conclude depending on the different factors that might impact on it. There is also a steady stream of new applications being received, the rate of which is anticipated will increase in the light of the impending legislative reforms which will introduce an end date for the making of applications based on historic evidence.

Details of all Definitive Map applications are contained in a statutory register published on the Council's website, alongside a 'Pending DMMO Case List' detailing the applications currently being progressed, updated on a monthly basis, and where progress can be tracked. These can be viewed at www.oxfordshire.gov.uk/modificationsanddiversions

Rationale for Prioritising Applications for DMMOs

Oxfordshire County Council finds itself in a similar position to many Surveying Authorities across the country where the volume and complexity of applications makes it unsustainable to determine them all within the 12 months before any appeal can be triggered. Backlogs can then accrue, further exacerbated by the continuous flow of new applications. The waiting list for new applicants currently stands at more than 10 years.

The County Council recognises that delays of this kind do not reflect the level of service it expects to provide and has reviewed its resourcing and processes to ensure a renewed rigour is applied to the way in which it addresses its existing and future caseloads. A recent restructuring of the Council's duties and responsibilities has resulted in a further investment into this activity. This Statement is reflective of that review and further sets out an intention to address its caseload and introduce much greater flexibility and discretion where this can improve its overall service to customers.

There remains a need to be as equitable as possible in determining the basis on which the list of applications is addressed. At its core, this necessitates addressing applications in chronological order of receipt; this being the fairest means of prioritising where no application is more important than any other. However, in certain instances, it will be necessary to address some applications out of turn where the impact of deferral could have consequences. For this reason, the Council must retain an element of discretion. If it considers that action of this kind is warranted and there are exceptional circumstances, the Council will consider if the circumstances of that case merit it being taken 'out of turn'.

Similarly, the Council may target an application if this helps achieve a greater efficiency or reduce backlogs faster.

This means that, in some cases, an application already on the register may be taken out of sequence where circumstances dictate, or for the purposes of expediency.

The Council's plan for dealing with applications may also be disrupted should the Secretary of State determine, on appeal, to direct the Council to address cases out of turn and within specific deadlines.

Updating and Maintaining the Definitive Map and Statement

The processing of Definitive Map applications must be addressed in parallel with other duties necessary to keep the DMS as up to date as possible.

The present Definitive Map, produced in 2006, was the culmination of significant investment to produce a modern map utilising digital mapping software replacing previous paper-based versions. This has many benefits, including improved management processes and a more straightforward means of physically amending and updating it when any changes occur.

This has also had the considerable added benefit of allowing an online version of the Map to be made available to view on the Council's website.

Managing the integrity of the Map data entails: -

- Addressing any issues of the accuracy of the DMS by systematically investigating discrepancies such as: -
 - Errors in drafting
 - Discrepancies between the Map and Statement

- Possible errors or omissions in the DMS (such as an unexplained change of status where a path crosses a parish boundary or where the route on the ground differs from that shown on the DMS).

Whilst these will be prioritised and researched as resources permit depending on their significance or impact, these are not matters that normally feature on Wildlife and Countryside Act 1981 s53b Registers of Applications. As such, any work undertaken will impact on the rate at which formal applications on the Register are addressed.

Undertaking an investigation on a particular 'anomaly' may have a degree of urgency where, for example, a sale of property is reliant on it. The DMS can usually only be amended by fully researching the case and making and advertising a DMMO. As such there is inevitable impact on priorities.

- Keeping the DMS up to date by making regular 'Legal Event' Modification Orders to modify it in respect of changes resulting from Public Path Orders, Agreements, etc.
- To periodically republish the DMS, currently dated 2006. The timing for such a major piece of work will be kept under review and carried out when appropriate and balanced against other workloads.

Prioritising Applications for Definitive Map Modification Orders

This approach is adopted with the agreement of the Oxfordshire Countryside Access Forum, a body representing a wide range of interest groups including user groups and landowning associations.

Whilst there are, essentially, two types of Definitive Map application (based either on historic documentary evidence or are, primarily, user-based) distinction could be made between the two in that user-based applications are more likely to be in contemporary use and may have been called into question by an action on the part of the owners of the land. The integrity of the user evidence may be at risk if there are inherent delays in dealing with them. Conversely, due to the potential introduction of a cut-off date, there is increasing pressure to record historic routes that have been 'lost' over time and remain unrecorded on the DMS. Frequently these can be routes that are (or would be) important links in the overall network.

On that basis, a priority system initially based on date of receipt is inherently simple and fair and does not discriminate between applicants.

The Council will, however, exercise discretion for purposes of expediency.

The prioritisation of applications is, therefore, as follows: -

1. As a principle, all applications will be investigated in date order of receipt.
2. The Council will exercise discretion to take cases out of the 'date order' sequence where, for example: -
 - There is a development proposal or planning application that affects or threatens the claimed route.
 - An affected party can demonstrate that they are experiencing exceptional problems due to the impact of an application on their property, such as where this potentially affects its sale.
 - The evidence in support – or geographical location – of an application is shared with another and, therefore, it would be efficient to investigate them concurrently.
 - The path would help fulfil one of the Council's strategic aims, such as where routes have been identified in a Transport Strategy or Rights of Way Improvement Plan.
3. With the aim of reducing its caseloads and bringing down waiting times, the Council uses discretion to identify any application on its Register where there may be opportunity to, for example: -
 - Address an application by some other means (such as a public path order or agreement).
 - Address an application where the extent of the evidence and / or the lack of opposition would involve minimal workload to conclude the matter.