



meeting **ENVIRONMENT AND SUSTAINABILITY SELECT COMMITTEE**

date **30 JANUARY 2006**

agenda item number

REPORT OF THE DIRECTOR OF ENVIRONMENT

DEFINITIVE MAP MODIFICATION ORDERS

Purpose of report

1. To outline the procedures adopted by the County Council with regard to the processing of Definitive Map Modification Orders (DMMOs).

Background

2. Nottinghamshire's network of public rights of way is formally recorded in legal documents known as the Definitive Map and Statement. Anyone who believes that the Map and Statement should be altered, either by adding or deleting a right of way or changing the status of an existing right of way, can apply to the County Council for a DMMO to be made to implement the required alteration.

The DMMO process

3. Upon receipt of a valid application for a DMMO, the Authority writes to the applicant to inform them that their Application should be determined within the next twelve months, a statutory requirement .
4. An application can be based on documentary evidence, evidence provided by users of the claimed rights of way, or a combination of both types. The case officer examines the available documentary evidence at the Nottinghamshire Archives and at other depositories such as the Public Records Office, and considers the validity of the user evidence by interviewing members of the public and seeking the views of the owners and occupiers of the affected land. Discussion on the case also takes place with officers of the County Council's Legal Services Division.
5. An informal consultation exercise is carried out, setting out the details of the proposed alteration to the Map and Statement and inviting comments. The list of consultees includes the District and Parish Councils and the relevant County Councillor.

6. The evidence for and against the proposed alteration to the Map and Statement is assessed, and a decision made whether or not to proceed with the application. The applicant is informed of the decision and of his/her right to lodge an appeal if the application is turned down.
7. If the decision is to proceed, a DMMO is drawn up setting out the legal details of the proposed alteration to the Map and Statement. After being sealed by Legal Services, the Order is placed on deposit for six weeks at Trent Bridge House, the relevant District Council offices and local library. Copies of the Order are also sent to statutory consultees, owners and occupiers of affected land, the relevant County Councillor and the applicant. Associated paperwork specifies the due date by which objections to the Order must be lodged with the County Council.
8. If a DMMO is not objected to, it is confirmed by being legally sealed for a second time, and the Map and Statement are duly altered. Copies of the confirmed Order are sent to all relevant parties, including at this stage the Ordnance Survey.
9. If objections are made to a DMMO and not withdrawn, the County Council must refer the Order to the Secretary of State. The relevance of the objection or abandonment of the Order is not a consideration. The matter is then resolved by holding a local public inquiry. The inquiry is held in a venue local to the path issue. All interested parties, including the relevant County Councillor, are invited to the inquiry and to speak, if they wish, either for or against the Order. The case for confirming the Order is made by the Environment Department with advocacy provided by Legal Services. Those parties objecting to the Order are then invited to put their case. Proceedings are concluded with a site visit.
10. After some weeks the Inspector produces his/her final decision. If it is believed that the relevant legal test has been met, the Order will be confirmed. Copies of the confirmed Order are sent to all relevant parties, and the Map and Statement are duly altered. The Inspector may however decide not to proceed with the Order in which case the Map and Statement remain unchanged. The cost of an inquiry is met by the Planning Inspectorate, apart from the cost of the venue and any professional legal costs that third parties may incur.
11. The procedure for applying for a DMMO is summarised in Appendix 1, the Order making and public inquiry procedure in Appendix 2.

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Director of Environment

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