

BRISTOL CITY COUNCIL

PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE

15 October 2018

Report of:

Title: Timescales for delivering validated Definitive Map Modification Order (DMMO) applications under S 53 Wildlife & Countryside Act 1981

Ward: All

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RECOMMENDATION

Report for information only

Summary

With current resource levels it is the intention of the public rights of way team to investigate the outstanding validated DMMO applications for the public rights of way and greens sub-committee to initially consider by the end of 2020.

Each DMMO application brought before the PROWG committee will require a quasi-judicial decision on whether or not an order should be advertised. This may result in additional delays to the intended timetable, which will depend on several factors outside the authority's control.

Eg Public Inquiry or Hearing.

The significant issues in the report are:

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Policy:

It is the policy of the Rights of Way Team to investigate each DMMO application in chronological order starting with the oldest case. The exception to this policy is where a DMMO application relates to a planning application and therefore has to be resolved alongside any such application. The outcome of the DMMO application can then be accommodated within any future development.

Consultation

Internal:

The DMMO process follows a set statutory procedure and those parties required to be consulted as part of the process will be contacted. These parties may include internal land managers such as Parks.

External:

The DMMO process follows a set statutory procedure and those parties required to be consulted as part of the process will be contacted. These parties may include landowners and adjacent property owners

Context

The following DMMOs are awaiting investigation:

Claimed footpath at Argyle Place, Cliftonwood: This claim is close to resolution and is an internal matter. The land concerned is in the process of being transferred to Bristol City Council ownership at which point it will be classified as highway. This will result in full public pedestrians access rights over the land concerned. This matter requires action by Legal Services and the Property Portfolio Officer in order to resolve.

Claimed footpath at South Hayes and Parkside Gardens, Lockleaze: This claim is awaiting investigation and is expected to be started in Mid 2019 once the claim at Machin Road / Crow Lane has been completed.

Claimed footpath at Ridgehill, Henleaze: After a positive meeting with the landowner it is expected that this claim will be dealt with through express dedication. The landowner has received a formal letter requesting they enter into express dedication. Once the landowner writes to agree they will enter into an express dedication the matter can be resolved quickly – expected by mid 2019.

Claimed footpath near Shaldon Road and Morris Road, Lockleaze: Report being taken to October 2018 Public Rights of Way and Greens Committee for consideration.

Claimed footpath from Blackberry Hill (south of Frome) to public footpath BCC/153: The land to which this claim relates has now been registered as a town and village green so public access is now permissible along the claimed route. Legal advice is being sought on whether or not this claim should still be investigated given public access is now protected by town and village green legislation.

South Purdown, lockleaze, route B-C: This claim is currently being investigated and discussions are currently ongoing with Legal Services over a point of law.

Claimed footpath from Machin Road to Crow Lane, Henbury: This claim is to be investigated next following a direction from DEFRA. Work on this claim is expected to start in October 2018.

Claimed footpath Trymwood Close/Henbury Hill to Arnall Drive: This claim is awaiting investigation. Currently this expected to begin late 2019.

Claimed footpath Fishponds Road to Laburnam Grove: This claim is awaiting investigation. Currently this is expected to begin mid 2020.

Claimed footpaths West Dene to Stoke Lodge, Cheyne Road to Druid Hill, Cheyne Road to Stoke Lodge, Cheyne Road to West Dene: This claim is awaiting investigation. Current estimates are that this will begin late 2020. If these routes are affected by any future planning applications it will be brought forward although this will then have the effect of delaying others that were ahead of it.

PROPOSAL

The following timescales are based on best case. No DMMO applications are ever straight forward, so although an allowance of 6 months per claim is allowed, this can be shorter or significantly longer.

Claimed footpath at Argyle Place, Cliftonwood:
Completion 18/19

Claimed footpath at South Hayes and Parkside Gardens, Lockleaze:
Start mid 2019

Claimed footpath at Ridgehill, Henleaze:
Completion 18/19 if Express Dedication agreement

Claimed footpath near Shaldon Road and Morris Road, Lockleaze:
Completion October 2018

Claimed footpath from Blackberry Hill (south of Frome) to footpath 153:
Start late 2019 depending on legal advice

Claimed footpath South Purdown, lockleaze, route B-C:
Completion 18/19

Claimed footpath from Machin Road to Crow Lane, Henbury:
Start October 2018

Claimed footpath Trymwood Close/Henbury Hill to Arnall Drive:
Start late 2019

Claimed footpath Fishponds Road to Laburnam Grove:
Start mid 2020

Claimed footpaths West Dene to Stoke Lodge, Cheyne Road to Druid Hill, Cheyne Road to Stoke Lodge, Cheyne Road to West Dene:

Start late 2020

Other Options Considered:

It is possible to outsource elements of DMMO work such as investigation and the final reports although this is likely to run to thousands of pounds per claim. There is currently no revenue budget within Public Rights of Way to permit outsourcing of DMMOs although if revenue was made available further investigation into outsourcing could be undertaken.

Risk Assessment

Should no DMMO work be undertaken claimants would be within their rights to seek for the Secretary of State to make a direction to Bristol City Council to progress their claim within a given timescale, as is the case at Machin Road/ Crow Lane. If this occurred on a number of outstanding DMMO applications Bristol City Council would be forced to outsource work leading to considerable costs and revenue pressure.

The part of the Deregulation Act 2015 which covers processing Section 53 Wildlife and Countryside Act applications has not yet come into force. When this act does come into force, it will require a change to certain of the Councils processes and the outline timescales proposed.

Public Sector Equality Duties

1. Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
 - i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
 - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);

- encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.

The DMMO process follows set statutory procedure. Should a claim be successful any subsequent works to the footpath will take into consideration Equalities Act requirements in terms of accessibility.

Legal and Resource Implications

48 Legal

No comments provided

49 Financial

(a) Revenue

(b) Capital

Financial advice (Revenue) from
Financial advice (Capital)

Land

Any claim relating to Bristol City Council owned land will be discussed with the relevant land owning department

Personnel

There are no personnel implications to this report

Appendices:

None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers: