

Minutes of an Extraordinary General Meeting of the Local Access Forum Held on Monday 14 December 2020 via remote meeting.

In attendance:

Anthony Francis-Jones (Chair), Fiona Smith (Vice-Chair), Katrina Baker, Councillor Eileen Callear, Bob Coalbran Paula Doherty, Alex Ford, Chris Hallam, Jane Hayes, Emily Holmes, Dave Hopkins, G Parkes, Gillian Steed, and Naomi Wrighton.

Also in attendance:

V Hulme (Development Management Service Delivery Manager), A Careless (Senior Rights of Way Officer), S Evans (Highway Technician), S Poole (Highway Technician), A Sharkey (Legal Advisor) and Jayne Clarke (Democratic & Scrutiny Officer).

The Chair welcomed all members of the Local Access forum to the remote meeting.

1. **Apologies for absence**

Councillors Carolyn Healy and Hilda Rhodes and Peter Holt

2. **Consultation**

Definitive Map

The Senior Rights of Way Officer gave the LAF Members a brief background to the Definitive Map. In 1949 National Parks and Access to Countryside Act made it obligatory for every highway authority to have a Definitive Map. The Definitive Map was published in 1965. Telford was in a special position as they had the 1965 base map and even older Rights of Way topography as this had altered beyond all recognition. Urban areas now barely related to what is on the ground. Telford New Town had special powers to extinguish rights of way and a lot happened between 1965 and the 1980s. There had also been an amendment to the scale of the map. The information that would be published by end of the week was a digital online Definitive Map. This would be placed on GIS system and would hold all of the changes that have happened since 1965 since last Definitive Map was published. In 1964 the Definitive Map contained around 400 kilometres of rights of way. Some 40-60 kilometres were recorded following distinguishments and some created by dedications. The process that was followed was to take the adopted 1965 Definitive Map and draft by hand all of the rights of way recorded onto GIS system. This had been a difficult process and officers had to refer to several historical documents ensuring the lines they were putting on were right and then to take every change and modification since that point and altered them individually one by one. The process took in all legal event changes, diversions, extinguishments and creations since 1998 prior to publishing the map. A huge amount of work had been undertaken to get ready the document ready and it would be a great achievement to have this as an online document by end of year. There would be a page for the Definitive Map which would be public and would show the rights of way and would be colour coded.

It would be a flexible document but what was seen would be legal fact, however it may look. It may show rights of way through buildings and some that don't match what appears on ground but all the information contained on the map will be legally accurate.

Modification orders reflected on the Definitive Map were those that had been confirmed and had followed due process and did not include those pending or open to investigation. Once new orders are confirmed or modification order and diversions, extinguishment and creations take place the Definitive Map becomes out of date. The Definitive Map register was an excel document containing very basic information, ie parish footpath number, grid reference. It would also contain a link to the scanned order which would show the effect of the order and a map. It was the intention to create a new Definitive Map every couple of years and incorporate any changes as there was no wish to return to the position the map was currently in and it was less onerous to incorporate information regularly rather than start again.

During the discussions some questions were raised regarding the amending of errors, how the Definitive Map would be kept up to date and the lapse in time. LAF Members were impressed with the amount of work it had taken to get the Definitive Map digitalised but wondered if a working copy could run parallel, would references to rights of way be visible as well as a maintenance recording tool on the Definitive Map, a link to a pending or potential change

The Senior Rights of Way Officer confirmed that errors would not be corrected, when the Definitive Map was published it would be set in stone and a legal process would be required to correct any errors and this would then be adjusted next time the Definitive Map was published. The register would provide details of any changes within a Parish it was felt that a separate working copy would lead to confusion. An annual review could be considered if not too onerous but he did not think that there would be a huge amount of changes undertaking during this length of time. With regards to reference numbers these would appear when the point was hovered over an area and the number of the right of way would also be visible. A base map would show the parishes and when clicking on the parish a shaded area would appear. The priority was to get the Definitive Map online but consideration would be given to categorisation and identifying items such as gates, footbridges and surfaces, the maintenance and background history of the points but there is a lot of work to undertake to get to this point, which ensuring the integrity of the Definitive Map. A link or register/alert is something that could be considered. Potential advantages would also include inquiries from search companies and developers who could access the link on the website to obtain information.

The Development Management Service Delivery Manager supported what the Senior Rights of Way Officer was aiming to achieve and felt that the digitalisation of the rights of way applications would be brought forward by bringing these forward in a transparent way and this would be supported by the separate layers which could be put on top of the Definitive Map.

Draft Policy

The Senior Rights of Way Officer explained that every council provide a statement of intent of how they would prioritise modification order applications and how they would be dealt with. Legal services reviewed the documents received and looked to produce an in depth document that set out how the backlog of DMMOs would be undertaken to modify the map. Outstanding applications were moderate compared to other neighbouring authorities although this was not about a comparison between Councils but about working towards addressing the backlog prior to 2026. Parish Councils were coming on board with concerns regarding the Public Rights of Way (PRoW) and those that may be lost. And it was hoped to address the applications at a much faster rate to meet the deadline of 1 January 2026. Officers had been mapping out what needed to be done as part of the process and those applications that didn't have much user evidence were previously being researched by the Council. The Council would now take a back seat on this work and applications coming forward would have to be supported with evidence for 20 years use for the order to be actioned.

Those of you have had chance to have a look – biggest changes made Council will potentially will take a back seat on may orders – you have to support 20 years use for the order – appendix

The Senior Rights of Way Officer asked in members of the LAF had any questions regarding the Policy

The Chair asked the LAF to consider the document prior to it becoming policy, although it was not radically different from other local authorities. Would the onus be on the member of public to field the cross examination at enquiries where the council had a neutral stance and where there was no benefit to the Council?

The Senior Rights of Way Officer explained that the neutral stance was based on user evidence. If an application were to come forward and say that it was supported by 12 people who have used this as of right, as an officer investigating there was very little could be done to deny that. Unless there was conclusive evidence to the contrary that was deposited such as a Statutory Declaration, the officer would have to take that as read as the evidence to be published and at this point you would be requested to stand up and back up the evidence.

The Chair asked if the Officers would continue to provide its services with regard to mapping as a back-up for applications?

The Senior Rights of Way Officer explained where applications provided details to substantiate the evidence

The Chair asked about where there was no change of ownership or lack of maintenance would these applications be taken on?

The Senior Rights of Way Officers explained that sometimes that would be a legal issue which could be supported such as a dedication as a Right of Way, but there was no obligation for the Council to evidence this.

The Chair asked how they would document ownership vested in the Council?

The Senior Rights of Way Officer explained that questions would be asked of legal services to clarify how this would be undertaken. Most of these applications had been written by legal with input from the Development Management Service and although the backlog needed to be cleared it needed to be done in a transparent, fair and robust way tied in with a process mapped on MIS where the public could see the application, what stage it was at, the next steps and what the Council had previously done. This gave greater clarity for the public.

The Chair suggested that the backlog was not rushed and some lost that did not have enough evidence.

The Senior Rights of Way officers suggested two tests to be undertaken – a threshold test for making the order which involved a review by the legal officers with regard to the legislation where they would decide if the threshold for making an order was low and unless there was incontrovertible evidence that rebutted the Right of Way then an order should be made. However that would be the Council determining the application – this when went to a higher test if objected to and the Secretary of State would make a decision on the balance of probabilities and would make a decision whether to confirm or not following the period of evidence presented at a public inquiry or by written representation and this is the point the applicant would have more input.

The Chair asked about the lack of definition of the width and size of a ProW

The Senior Rights of Way Officer confirmed that this came from legislation. The PRoW on the definitive map was just a line but that there would be features within the line ie where the PRoW crossed an unidentifiable farmer's field and there was no statement to back up then the law presumes a minimum width of 1m or 1.5m. Where there was no identified size the inspector would change that.

P Doherty was delighted with the register system and the new way of thinking about its new priorities – ie non-contentious DMMOs may be speeded up through process. A lot of work was involved in getting these statements and she had concerns that some of these may be lost.

The Senior Rights of Way Officer would during the coming 12 months go through and determine all of the outstanding applications and make the orders and supply the information on line so that the public are furnished with the information on line and they can see the point that their application is within the process.

The Chair asked if legal could help turn statements into Affidavits?

The Senior Rights of Way Officer would have to investigate what could be done as the onus on application was to support application as it goes forward

B Coalbran echoed P Doherty's comments and felt it would make a huge difference. He asked if the policy covered the processing of diversions from

Two queries on the policy – does the policy cover the processing of diversions and would the Council's policy in relation to the changing of styles to gates be clearer.

The Senior Rights of Way officer confirmed that it would be just the DMMOs and that he could not give any certainty at the moment with regards to the styles in place as it was not something he had control of. Negotiation with landowners with regard to the furniture and maintenance etc would need to be discussed as it was on third party land and would have to be looked at on an individual basis.

Categorisation in the Borough

The Senior Rights of Way Officer explained that categorisation was in response to covid and in response to increased awareness and demand for PRoW. There was 400k of RoW network 1,000 rights of way and officers have to look at and maintain those and we have obligation to do so. The categorisation was in place to look at the footpath/bridleway so that officers knew its status and find out their importance and if they were essential to the strategic routes ie the Shropshire Way and the T50 as people expect to be able to use these both locally or if they are the best route for getting to a-b. With that in mind the Senior Rights of Way Officer would like to audit the RoW network to value routes provided to the public and allocate a category within the Borough and use these categories to inform how we look for external funding. He intended to draft an initial categorisation of routes purely as a best guess, desktop survey undertaken by colleagues and then reference and publish information, reference past complaints and input from public and put together a spreadsheet of initial categorisation of routes. It was also the intention that the publication of the online map would be completed by the weekend. A consultation page would allow you to look and see where routes are. It was asked that members of the LAF look at process of categorisation and reasons for it and looking with reference to the map and let the Senior Rights of Way officer have comments where the categories where and what categories they considered them to be.

The Development Management Service Delivery Manager confirmed once the main routes were categorised a decision would be made on what would happen with a route ie s106 monies, looking at surveying, prioritising the PRoW assets in order to understand the way forward.

The Senior Rights of Way Officer confirmed that part of process of categorising the Rights of Way was an audit of the entire network. It was necessary to know what the network consist of ie surfaced or unsurfaced, type of surface ie tarmac, stone, where styles, gates and footbridges were placed in order to protect the assets. Officers could then ask partners ie developers to support and benefit the RoW network and the development of the wider community and find out what network looked like on the ground which would be fed back to build up the map ie what the route is, how it goes – ie gentle walk, kissing gates, styles etc so the community can plan their route.

The Chair confirmed that it was important to flag up routes.

The Senior Rights of Way Officer would consult with the public and a lot of work gone into to this. Public feedback from local councils, ward members, members of LAF user group and other representatives, consultees and to general public.

The Development Management Service Delivery Manager felt it was important to understand how people use the route, the impacts, what was sustainable and how open spaces was used. During the next quarter of the year time would be taken to understand the quantum of the green infrastructure and piece together the work to align into one document.

P Doherty asked where the online consultation could be found.

S Poole confirmed that the updated information had been put on the spreadsheet now and there were the last couple of things required before web services go live and it was expected by end of week.

The Chair asked what was the start and end date of the consultation

The Senior Rights of Way Officer confirmed it would be 18 December 2021 to 12 February 2022. The consultation for processes themselves would potentially look at this but it was a case of looking at the various areas and which area was thought to be important. It was hoped that providing all of the information people would be able to get through the routes quickly.

B Coalbran confirmed that Wellington Walkers are Welcome would help with the survey but raised concerns regarding the 3 categories and he felt this was “too big a bucket” to cover all different cases as the survey would pick up on routes covering several rights of way with their own characteristics ie one path being used by many routes.

The Senior Rights of Way Officer explained that there were 3 categories as they didn't want to subdivide too much. There were significant important, limited local importance, and others that don't fall within the first 2 categories. The primary focus was on the real significant rights of way within T&W but that they would continue to look at RoW routes.

B Coalbran expressed that Wellington was a gateway to the local area and all those routes should be Category A and he would put that forward as part of the consultation.

The Chair raised concerns that the process wouldn't capture all of the routes but some of the most well used when you say “use” do you mean footpath but with higher rights, would that be taken into account?

The Senior Rights of Way Officer feedback at this time would be one of the key things looked at and emphasis was on routes that may have more significance to one class of users than another ie it might be a route that is of limited significance to a footpath but connects bridleways which was strategically for horesriders.

The Chair asked if the officers would take on board the usage or was it just a “useful route”?

The Senior Rights of Way Officer asked for just a useful route. There was no intention to break up the categories into status just to stick to those which are primary importance.

The Development Management Service Delivery Manager express that this was an exercise to gain more infrastructure from monies that sat outside a S106 agreement and was a way to access alternative funding pots or find other ways to invest. The evidence allowed the officers to make applications for funding which was why it was important and going forward would be how investment be secured, what the priorities were and when they could be achieved by. It would also be used to redefine and prioritise rights of way and sustainable infrastructure as a sustainable Telford. Other categories set out structure major, minor, other. This was still quite wide. The consultation process was there for people to comment and feedback would be welcomed as to what was appropriate. It was asked that LAF members and the public gave their feedback.

The Senior Rights of Way Officer asked that a meeting take place prior to the end of the consultation in January/February 2022.

The Chair asked for an update on the Horton Lane closure document which was currently live but there was no mention of any use other than walking and cycling and the current Station Road, Horsehay DMMO.

The Legal Advisor confirmed that an Experimental Order by the Traffic Team was currently in place following a few years of consultation from people who live near Horton Road and asked for this to be stopped up. Vehicular use was currently restricted for 6-12 months during consultation.

The Senior Rights of Way Officer confirmed that the Horsehay DMMO Order’s deadline was today and that the documents had been sent in by Legal Services to the Secretary of State.

Meeting ended at 15.37