

RIGHTS OF WAY SUB-COMMITTEE

SUBJECT: TREATMENT OF CLAIMED RIGHTS OF WAY

REPORT BY: DIRECTOR OF TECHNICAL SERVICES

1. Under the terms of the Wildlife and Countryside Act 1981 members of the public and landowners may make application to modify the definitive rights of way map and/or statement to either add, delete or amend particulars contained therein. This process is called "a claim" in this report. This is a continuous exercise and therefore the map and statement is under continuous review.
2. Upon receipt of an application the highway authority is obliged to investigate and fully consider it.
3. The process is in 6 parts:
 - i Prepare evidence on the claim.
 - ii Members consider the evidence and make a decision on the claim.
 - iii A modification order as appropriate is made public.
 - iv Objections may be lodged and orders and objections forwarded to the Secretary of State.
 - v A public inquiry may be held and the Order confirmed with or without modification.
 - vi The order is finalised.
4. Due to the complexity of some claims it is very difficult to put a timescale to determining a particular case. On average however, 12 months is an approximate period from commencement of investigations. These may reveal that it is not always appropriate to process a claim by means of a modification order. If a landowner can be persuaded to enter into a creation agreement with the Council, the claimant's requirements for a path can be met.
5. The applications awaiting to be investigated are summarised as follows:
 - i Rhymney Valley area: 31 of which two have been registered on the definitive map, one is the subject of a creation and two orders are being prepared.
 - ii Islwyn area - presently 25 claims remain to be completed.
6. The backlog of claims is substantial and priorities must be set in treating claims. At the current rate of progress, it will take at least 5 years to clear the current backlog, by which time new claims will have been lodged.
7. It is sensible to treat claims in the order which they are made. An exception to this should be considered, and that is when a claim has an effect on building development. It is only fair to the developer, and also in the Council's own interest to prevent subsequent possible litigation, to consider such claims quickly. It is therefore proposed that claims be processed in order of receipt but that claims affecting or affected by development be given priority.

RECOMMENDATION

1. That claims be processed in order of receipt but that claims affecting or affected by development be given priority.