

Supplement to the agenda for

Environment and Sustainability Scrutiny Committee

Monday 22 July 2024

10.00 am

**Conference Room 1 - Herefordshire Council, Plough Lane
Offices, Hereford, HR4 0LE**

7. PUBLIC RIGHTS OF WAY AND GREENWAY POLICY

Pages

3 - 96

Title of report: Public Rights of Way and Greenway Policy- Environment and Sustainability Scrutiny Committee

Meeting: Environment and Sustainability Scrutiny Committee

Meeting date: Monday 22 July 2024

Report by: Engineering Manager

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To provide an overview of Herefordshire Council's Public Rights of Way service, including information to the committee to enable it to:

- Understand the size of the public rights of way network in Herefordshire.
- Account for the current state of repair of the network.
- Explore the current and proposed models of management and operational delivery, including the role of the parish paths partnership including the Herefordshire Local Access Forum
- To explore opportunities to develop greenways through the county.

Recommendation(s)

That:

- a) **The committee review, and note, the progress the Public Right of Way Team; and**
- b) **The committee determines any other actions or recommendations it may seek to make.**

Alternative options

1. None identified, this report provides an update to the Environment and Sustainability Scrutiny Committee for review.

Key considerations

2. Public Rights Of Way (PROW) form an integral part of the wider highway network in Herefordshire and contribute towards quality of life for both residents and visitors, offering opportunities for active travel and recreational activities, supporting tourism and the rural economy.
3. As set out in Table 1 (below), Herefordshire's Public Rights of Way network comprises 3,483 km of public Footpaths, Bridleways, Restricted Byways, and Byways Open to All Traffic.

Table 1: Herefordshire's Public Rights of Way Network

Type	Definition	Length
Footpaths	Over which the right of way is on foot only	3014km
Bridleways	Over which the right of way is on foot and 'riding on or accompanied by a beast of burden', in some instances with a right to drive animals	414km
Restricted Byways	The public has a right of way on foot, on horseback or leading a horse, and a right of way in or on vehicles other than mechanically-propelled vehicles, thereby giving a right of way for pedal cyclists and drivers or horse-drawn vehicles	23km
Byways Open to All Traffic	A special category of way recorded on definitive maps. It is a carriageway and thus a right of way for vehicular traffic, but one used mainly for the purposes for which footpaths and bridleways are used, i.e. by walkers and horse-riders	32km

4. The Public Rights of Way network forms part of the wider highway network and is subject to similar legal requirements and restrictions as the ordinary road network. Managing and maintaining Public Rights of Way is a statutory responsibility for the Council, with the function being carried out by the Council's Public Rights of Way team, who are responsible for the following principal duties:
 - a. To ensure that Public Rights of Way are properly maintained
 - b. To assert and protect the rights of the public to use Public Rights of Way and prevent any obstructions to them
 - c. To keep the Definitive Map & Statement (DMS), the legal record of Public Rights of Way, accurate and up to-date
5. When undertaking their duties, the Council's Public Rights of Way team are governed by Public Rights of Way law, which is a mixture of common law and statute law, contained in Acts of Parliament. Over the past 70 years, eight Acts have made changes to the law of Public Rights of Way, as set out in Table 2:

Table 2: Acts of Parliament relevant to Public Rights of Way

Act	Purpose
Rights of Way Act 1932	Created a statutory framework within which the creation of a right of way could be presumed from evidence of use by the public.
National Parks and Access to the Countryside Act 1949	Introduced procedures for recording the public's rights on definitive maps, and for creating, diverting and extinguishing footpaths and bridleways by orders. It also made footpaths and bridleways maintainable at public expense, authorised the ploughing of footpaths and bridleways subject to their restoration for public use, and enabled the creation of long-distance routes.
Highways Act 1959 (consolidated into the Highways Act 1980)	Introduced a new procedure for enforcing a highway authority's duty to keep paths in good repair.
Countryside Act 1968	Revised the arrangements made in the 1949 Act for updating definitive maps, gave cyclists the right to ride on bridleways and required paths to be signposted and waymarked.
Wildlife and Countryside Act 1981	Made further substantial changes to definitive map procedures and also included legislation about ploughing, signposting of byways and the pasturing of bulls in fields crossed by public rights of way
Rights of Way Act 1990	Amended the duties and powers of farmers on ploughing and disturbing rights of way and introduced new duties to prevent crops inconveniencing users.
Countryside and Rights of Way Act 2000	Contains further wide ranging and substantial changes to rights-of-way law, including the reclassification of roads used as public paths and new rights for the public to seek the removal of obstructions and to prosecute where farmers fail to reinstate cross-field paths. Highway authorities have been required to draw up rights of way improvement plans and have been given additional powers to divert and extinguish rights of way for the purposes of school security and crime prevention.
Natural Environment and Rural Communities Act 2006	Introduced an exception to the principle of 'once a highway, always a highway' by providing for the automatic extinguishment of rights for mechanically propelled vehicles in certain cases.

6. In addition to common law and statute law, the Public Rights of Way team work within the Council's own policy framework, as set out in Table 3.

Table 3: Council Policies and Plans relevant to Public Rights of Way

Policy/Plan	Purpose
Corporate Plan	Supports the need for a well-managed Public Rights of Way Network. The sustainable and recreational use of the network enables: <ul style="list-style-type: none"> a. People: to be healthy, supports communities, b. Place: enhance our environment and ensures Herefordshire to be a great place to live. c. Growth: Sustainable access to business, employment and housing.
Local Transport Plan	Includes maintaining the Public Rights of Way network to help the tourist industry and local residents as a key strategy element for the County's market towns and rural areas
Highway Maintenance Plan	Sets out the reasonable system of inspection and repair that will be deployed by the Council to ensure that it meets its duty to maintain all publicly maintainable highways for which the Council is the highway authority
Rights of Way Improvement Plan	An objective and strategic view of the rights of way network in the county that looks at how to benefit different types of user – Appendix 2

The current state of the network

7. As stated previously, Public Rights of Way contribute towards quality of life for both residents and visitors, offering opportunities for active travel and recreational activities, supporting tourism and the rural economy. It is therefore important that the network is managed and maintained effectively.
8. The team receives a significant number of enquiries each year relating to the maintenance or enforcement of the Public Rights of Way network. Enquiries are typically received through the Council's website or contact centre, or in some cases through FixMyStreet, before being processed into the Public Rights of Way Confirm software system. In 2022/23, 1,322 enquiries were received with 1,253 enquiries being received in 2023/24. To date, 372 enquiries have been recorded for 2024/25.
9. Enquiries are allocated to a member of the team for further investigation and should further work be required, such as clearance, repairs, replacement of small bridges, then this is undertaken by Hoople Ltd, with the commission being managed through a Service Level Agreement.
10. Due to its size, it is inevitable that there will always be maintenance work or enforcement required on the Public Rights of Way network across Herefordshire. As a result of recent improvements to the Confirm software system the Public Rights of Way team now have a clearer understanding of open enquiries and Table 4 sets out the current workload being investigated by the team.

11. In some cases, the further investigation of enquiries can lead to Public Rights of Way being closed because of safety concerns. 49 Public Rights of Way are currently recorded as being closed, as set out in Table 5. Closures are reviewed on an ongoing basis and as a result of further financial investment in the network, in particularly bridges, it is hoped to reopen several routes during 2024/25.

Table 4: Current workload being investigated by the team.

Nature of Enquiry	No. of Open Enquiries
Animals/Livestock	1
Misleading Signs	4
PROW General Maintenance	8
PROW Signposts	205
Steps/Handrail/Safety Barrier	21
Surface/Drainage	38
Vegetation/Up growth	253
Bridge/Ditch Crossing	75
Ploughing/Cropping	7
PROW Other Enforcement Issues	151
PROW Waymarking	85
Structure in Disrepair	200
Urgent/Hazard	1
Wilful Obstruction	127

Table 5: List of reasons for current closures

Reason for closure	No. of closures
Badgers	1
Construction/Development	8
Damaged Bridge	29
Damaged Steps	1
Erosion	4
Fallen Tree	1
Landslide	2
Surface or Ground Condition	3

The current and proposed models of management and operational delivery, including the role of the parish path partnership

12. As set out in Appendix 1, the Public Rights of Way Team is made up of 8 posts, 2 of which are currently being recruited to. The team is managed on a day-to-day basis by a Team Manager, who also has responsibility for the Traffic Management Team.
13. 2 members of the Public Rights of Way team are responsible for inspecting the network and dealing with enquiries relating to it. As mentioned earlier in this report, should the investigation of matters raised by members of the public or inspections that are undertaken by the team identify the need for further work to be undertaken, such as clearance, repairs, replacement of small bridges, then this is undertaken by Hoople Ltd, with the commission being managed through a Service Level Agreement.
14. A further member of staff is responsible for dealing with enforcement matters and 2 members of staff are responsible for dealing with diversions and Definitive Map Modification Orders.
15. At the start of 2024, the Council appointed a Public Rights of Way Volunteer Development Officer. This member of staff is responsible for supporting the Local Access Forum and for developing a robust working relationship with Parish Councils, Parish Footpath Officers and affiliated groups.
16. Whilst Parish Footpath Officers have existed in Herefordshire for some time, the Council is keen to harness the benefits that such a role brings in helping to manage and maintain the Public Rights of Way network. The creation of a dedicated Volunteer Development Officer will help the Council to maximise the expertise of Parish Footpath Officers, as well as that of the wider volunteer network, with minor works such as way marking and localised clearance being passed for completion.
17. In recent years the Council has delivered a Parish Paths Partnership Scheme (P3). This scheme enabled parishes to carry out maintenance works on the rights of way network, which would normally be the responsibility of Herefordshire Council, and other improvement works. In May 2024 the Council wrote to Parish Council's with detail of how they could apply for funding from a further £250k investment in the Public Rights of Way network for replacement of minor PROW assets such as stiles, finger posts and gates. The scheme will also allow for funding for minor maintenance works on the PROW network by suitably qualified individuals. Applications were requested by 1st July 2024 and are currently being processed by the team.

The Herefordshire Local Access Forum

18. Local Access Forums (LAFs) advise decision-making organisations (such as local authorities) about making improvements to public access for outdoor recreation and sustainable travel. LAFs can set their own priorities depending on local issues. They also respond to consultations and draft policy documents. When making recommendations, LAF members need to consider land use, as well as the need to conserve flora, fauna, geological and physical features.
19. Members of LAFs are volunteers and include a range of people from the local community, including landowners and land managers, access users such as walkers, cyclists and horse riders, those representing other interests, such as health and conservation. New members are appointed by the local authority, known as the 'appointing authority' or 'access authority'.

20. In Herefordshire, the LAF typically meets up to 4 times a year and further information regarding meetings can be found via <https://www.herefordshire.gov.uk/public-rights-way/herefordshire-local-access-forum> . Members of the public can attend meetings as an observer, but only LAF members can participate in the discussions. There may be an opportunity after the meetings for non-members to ask questions.

To explore opportunities to develop greenways through the county.

21. Following successful bids in 2021 to Herefordshire Council's Covid Recovery Plan, community interest companies were awarded between £27,360 and £34,800 to assess the viability of creating three greenway routes across the county by using parts of the old, redundant rail network. All three studies were carried out by transport consultants ITP.
22. The studies found a number of issues that cannot easily be overcome and there has been no further progress with the schemes. There are no plans to date that include the creation of the greenways in a forward programme.
23. However, the council is developing a Local Cycling and Walking Infrastructure Plan (LCWIP) that will set out a prioritised list of cycling and walking schemes across the county. Notwithstanding the issues identified with the greenways, they will be considered alongside other identified schemes in developing the LCWIP programme for the future.

Community impact

24. There are no direct community impacts as a result of providing an update to the Environment and Sustainability Scrutiny Committee.
25. Public Rights of Way form an integral part of the wider highway network in Herefordshire and contribute towards quality of life for both residents and visitors, offering opportunities for active travel and recreational activities, supporting tourism and the rural economy.

Environmental Impact

26. Public Rights of Way offer opportunities for active travel and recreational activities. In turn this helps to:
- Work in partnership with others to reduce county carbon emissions
 - Improve the air quality within Herefordshire
 - Improve residents' access to green space in Herefordshire
 - Increase the number of short distance trips being done by sustainable modes of travel – walking, cycling, public transport

Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.

Equality duty

27. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

28. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation.

Resource implications

29. There are no direct resource implications associated with providing this report to the Environment and Scrutiny Committee.
30. Capital and revenue budgets for the service are set out below in Table 6 below.

Table 6 Capital and Revenue Budgets

Capital Budget	2024/25 £'000	2025/26 £'000	2026/27 £'000	Future Years £'000	Total £'000
PROW Capital Works - LTP	283	283	283		849
PROW Capital Works - Highways Infrastructure Investment	200	100	-		300
Capital cost of project	483	383	283	-	1,149
LTP Grant	(283)	(283)	(283)		(849)
Corporate Funded Borrowing	(200)	(100)			(300)
Funding sources	(483)	(383)	(283)	-	(1,149)

Revenue Budget	2024/25 Base Budget £'000
Employees	386
Capitalisation	(91)
Employee Costs	295
Transport	4
Supplies and Services	503
Third Party Payments	104
Gross Expenditure	906
Other Income	(30)
Income	(30)
Contribution From Reserves	(484)
Net Expenditure	392

31. Any recommendations arising from the Scrutiny Committee will require separate governance.

Legal implications

32. The Countryside and Rights of Way Act 2000 requires the council to have adopted a Rights of Way Improvement Plan and to update this at least every 10 years. The period of the current plan is until 2028.

Risk management

33. There are no risks associated with providing this progress report to the Environment and Sustainability Scrutiny Committee.
34. Any new projects arising as a result of recommendations from the Scrutiny Committee will require separate governance.

Consultees

35. None.

Appendices

Appendix 1 - Public Rights of Way Team Structure

Appendix 2 – Rights of Way Improvement Plan 2018 - 2028

Background papers

'None identified'.

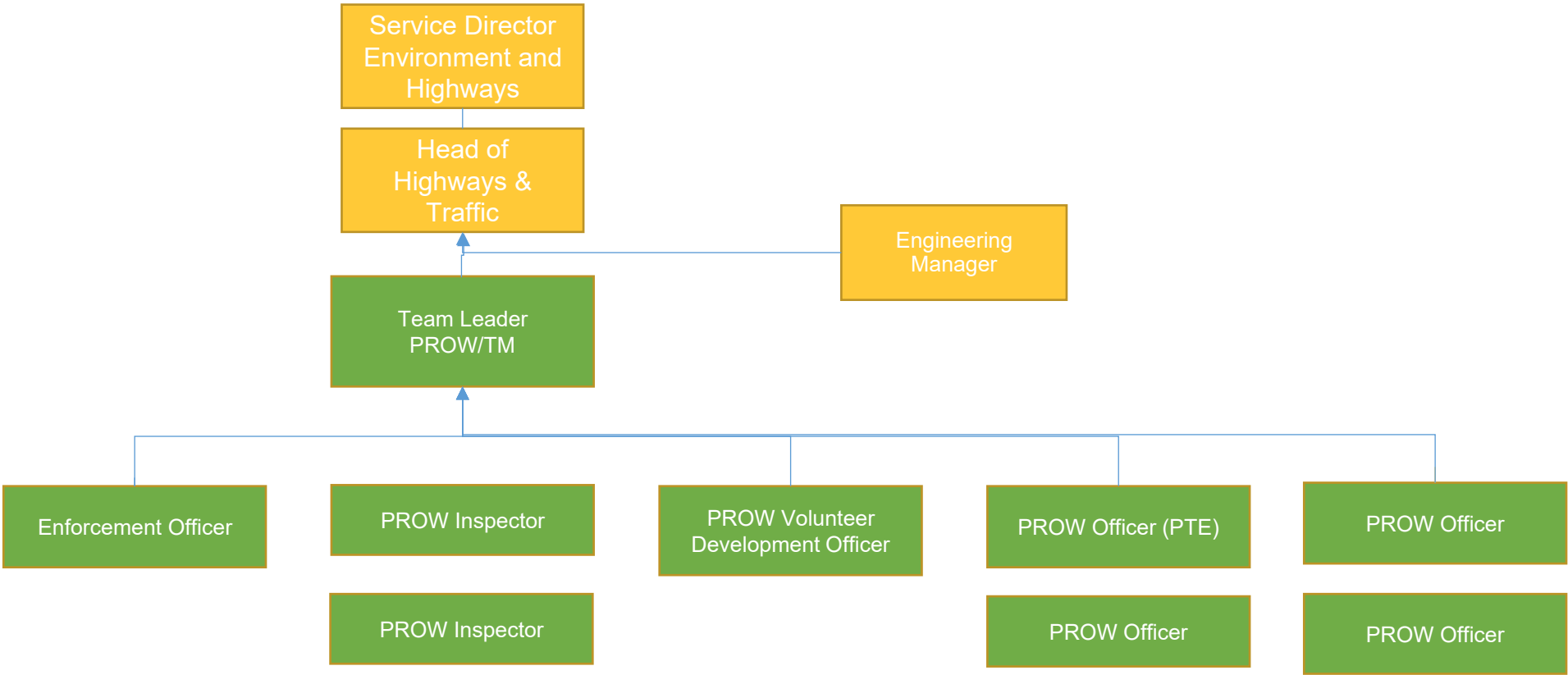
Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	John Coleman	Date 17/07/2024
Finance	Wendy Pickering	Date 18/07/2024
Legal	Sean O'Connor	Date 18/07/2024
Communications	Click or tap here to enter text.	Date Click or tap to enter a date.
Equality Duty	Click or tap here to enter text.	Date Click or tap to enter a date.
Procurement	Click or tap here to enter text.	Date Click or tap to enter a date.
Risk	Click or tap here to enter text.	Date Click or tap to enter a date.
Approved by	Ross Cook	Date 18/07/2024

[Note: Please remember to overtype or delete the guidance highlighted in grey]

Please include a glossary of terms, abbreviations and acronyms used in this report.

Public Rights of Way
Team Structure



Rights of Way Improvement Plan

2018-2028

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EXECUTIVE SUMMARY

Herefordshire Council produced its first Public Rights of Way Improvement Plan (ROWIP) in 2007 which set how the county's rights of way network and wider access to the countryside might develop over 5 years. In spite of limited resources a number of actions were completed and these have been set out in the document.

The first plan took a two pronged approach to access improvement. The first was to consider the network as a whole and look at improvements which would benefit a wide range and number of users. To achieve this, the current network was scrutinised and landowners, user groups and the Local Access Forum were asked "How can we make it better?" Out of this came a number of suggestions which were set against certain criteria to provide a number of projects which Herefordshire Council aimed to implement over the life of the plan.

The second approach was to seek the views of local communities as to how they would like to see access develop and to put forward practical suggestions. This resulted in a large number of suggestions to increase not only the number of rights of way but also their quality and accessibility. These improvements would not only benefit local users but would, in time, bring economic benefits to those communities.

Within the first ROWIP considerable work was carried out to develop policies for enforcement, maintenance, public path orders, and definitive map modification orders. Those policies have had to evolve and, as a consequence, those set out in this document have been amended accordingly. A new furniture standards policy has also been added.

It is intended that the improvement plan will be a practical working document, which can be monitored and referenced by users, the public, land managers, elected representatives and council staff.

Consultation with key stakeholders has been undertaken and it is agreed that the majority of the principles and aims in the first ROWIP are still relevant as is the research and findings. Consequently, this second ROWIP represents 'light touch' amendments and updating of the previous version.

It also re-establishes links with other relevant Herefordshire Council plans ensuring it is fully integrated with the council's overall policy framework and compliments other related plans. This is intended to be a fluid document which can be continually updated to reflect policy and legislative change and in order that it remains relevant.

Legislation and Government Guidance requires the Council to produce a document which addresses these issues. It is intentionally aspirational in its aims but reflects difficult financial circumstances, in particular the Council's ability to resource delivery. Accordingly, there is considerable reliance on working closely with all of the Council's partners and stakeholders, developing different methods of delivery whilst exploiting opportunities that might provide the finance or other support.

1.0 INTRODUCTION

Herefordshire's Rights of Way Improvement Plan (ROWIP) is an objective and strategic view of the rights of way network in the county and looks at how to benefit different types of user. Herefordshire Council recognises that local rights of way are a significant part of our heritage and a major recreational resource. They help to encourage tourism and contribute to local rural economies, whilst also fulfilling a convenient means of travel in the daily lives of local people.

The Countryside and Rights of Way (CRoW) Act 2000 requires all local authorities to critically assess their rights of way networks. Authorities are required to look at and consult the public on other issues that affect public access, and take a much broader view of the network and how it serves its use within the local transportation system, its effect on business, tourism, land management, health as well as recreation. It was therefore necessary to establish links with partnership groups, users, land managers, and other Local Authorities as these individuals and bodies are our primary consultees and stakeholders in the review and assessment process.

1.1 Herefordshire Local Access Forum

Herefordshire Local Access Forum (HLAF) which is a statutory body has been successfully supporting and challenging Herefordshire Council and other organisations involved in providing public rights of way and countryside access. It has achieved this by being involved in pilot schemes aimed at encouraging local communities to investigate unrecorded public rights of way, commenting on new policies and generally raising the profile of rights way through the scrutiny process within the Council. The HLAF continues to be active in commenting on new guidance and legislation from Government, representing the county at a regional and national level and taking part in national, regional and local working groups. It has also been closely involved in the preparation and consultation of this plan.

As part of the original ROWIP, HLAF provided advice on information gathering and project prioritisation. Working groups representing of a wide range of interests and experiences were set up to examine, in particular, project proposals submitted from parish councils.

1.2 Rights of Way Improvement Plan – Key Aims

The network assessment and demand highlighted five key aims which have become the guiding principles for the Improvement Plan. These aims are to: -

i. Enhance health, well-being and enjoyment of life

The use of public paths significantly increases a feeling of well-being through outdoor exercise and, indirectly, through mental stimulation provided by an interesting, beautiful and peaceful environment. Herefordshire Council's Local Plan **Core Strategy 2011-2031**, adopted in 2015, acknowledges the contribution that recreation can make to the quality of life. It has policies which support the enhancement of walking and cycling facilities in association with development, and the promotion of recreational routes. Rights of way contribute positively to local distinctiveness and the quality of the environment and, as such, should be protected. They help people to appreciate the county's historic and natural heritage and are part of that heritage themselves.

Herefordshire Council's **Local Transport Plan (LTP) 2016-2031** recognises the role of less polluting and more sustainable and energy efficient methods of transport in conserving and enhancing the county's environment and in the improvement of health.

ii. Increase economic prosperity

Public rights of way are an increasingly vital element in promoting the county as a tourist destination for the benefit of accommodation providers, eating establishments and shops, and for the wider economic benefits to other enterprises through an increased number of visitors. The use of local sources for work and materials and the provision of routes to allow cheap, sustainable methods of transport, also have economic benefits.

The visitor economy is very important to the prosperity of the county. In 2015 over 5 million visitors contributed £442 million to the economy which supported 6,688 jobs in Herefordshire. (Herefordshire Sustainable Destination Plan 2015)

Data supplied through the Herefordshire Perceptions and Awareness Survey January 2012 stated the gentler the outdoor activity, the more people enjoy it. River walks, forest trails and gentle stroll are the most appealing activities.

The scope for increasing the revenue from visitors to Herefordshire from the nearby centres of population, if the rights of way network were improved, is thus shown to be considerable.

A fast growing holiday segment includes people looking for quality countryside access which a rural and picturesque county such as Herefordshire which has in abundance. The contribution of tourism to local economic development, based on facilities which provide for the sustainable use of indigenous features and resources, is recognised in the Core Strategy.

iii. Improving local transport networks and travel choice

Rights of way can be very valuable in providing safe routes for walking and cycling to work, school and shopping as well as for leisure. They are free to use and do not require expensive and environmentally damaging equipment. **The Core Strategy** recognises that the safe, efficient and sustainable movement of people will be promoted by encouraging alternatives to the motor vehicle. One of the key themes of the **LTP** is the improvement of facilities for walking and cycling. In particular, policies stress the need to safeguard and improve walking and cycling (active travel) routes which are affected by development, so that their function as transport links can be maintained and enhanced.

A hierarchy of transport modes is recognised in the **LTP**, which seeks to ensure that the needs of pedestrians, people with mobility difficulties and cyclists are given the highest priority. Detailed transport objectives stress the importance of increasing the number, safety and convenience of walking and cycling trips by providing a high quality active travel network that is convenient, accessible, comfortable, safe and attractive to use. This specifically relates to the need for improvements in the rights of way network to encourage greater use of routes for utility purposes.

Public transport plays an important role in facilitating access to the countryside and there are a number of initiatives including Herefordshire's annual walking

Festival, which encourages the use of public transport to access the rights of way Network...

iv. Provide access for all

Public paths should be designed and maintained to provide safe and convenient routes for all people. The **Core Strategy** emphasises that promoted recreational routes should be established for cyclists, horse-riders, walkers and those less able. One of the detailed objectives of the **LTP** is to make the transport system in rural areas more accessible. Improvements would be made where a need is highlighted and identified.

v. Increase community involvement

The Localism Act 2011 underlined Government commitment to devolve power to the local level and this has been reinforced by Herefordshire Council's drive to deliver services based on local demand rather than a 'one size fits all' approach. The Council is committed to enabling local communities to exert a degree of control over their local rights of way network and this is something that will be developed.

In particular, the involvement of parish councils, user groups and local communities in the maintenance and promotion of local rights of way, according to their own local priorities, provides real opportunities for people to improve their local environment in the manner which they help to determine. In that respect, a 'locality-based' service is provided by the Council's service provider which puts delivery and communication with parish councils at its heart.

2.0 BACKGROUND

2.1 Legislation

The Countryside and Rights of Way Act 2000 (CROW Act) requires local authorities to prepare and publish an improvement plan for their Public Rights of Way. This should be reassessed and reviewed not more than ten years after publication and at intervals of not less than ten years thereafter.

The Plan should contain an assessment of: -

- The extent to which the local network (including footpaths, ~~bridleways~~, restricted byways, byways and cycle ways) meets the present and likely future needs of the public
- The availability of opportunities that the network provides for exercise and other forms of open-air recreation
- The accessibility of the network to blind and partially sighted persons ~~and~~ others with mobility problems

Guidance from the Department for Transport (DFT) states that rights of way improvement planning should be incorporated into the local transport planning process. This is intended to ensure an integration of rights of way as part of the overall management of the highway network.

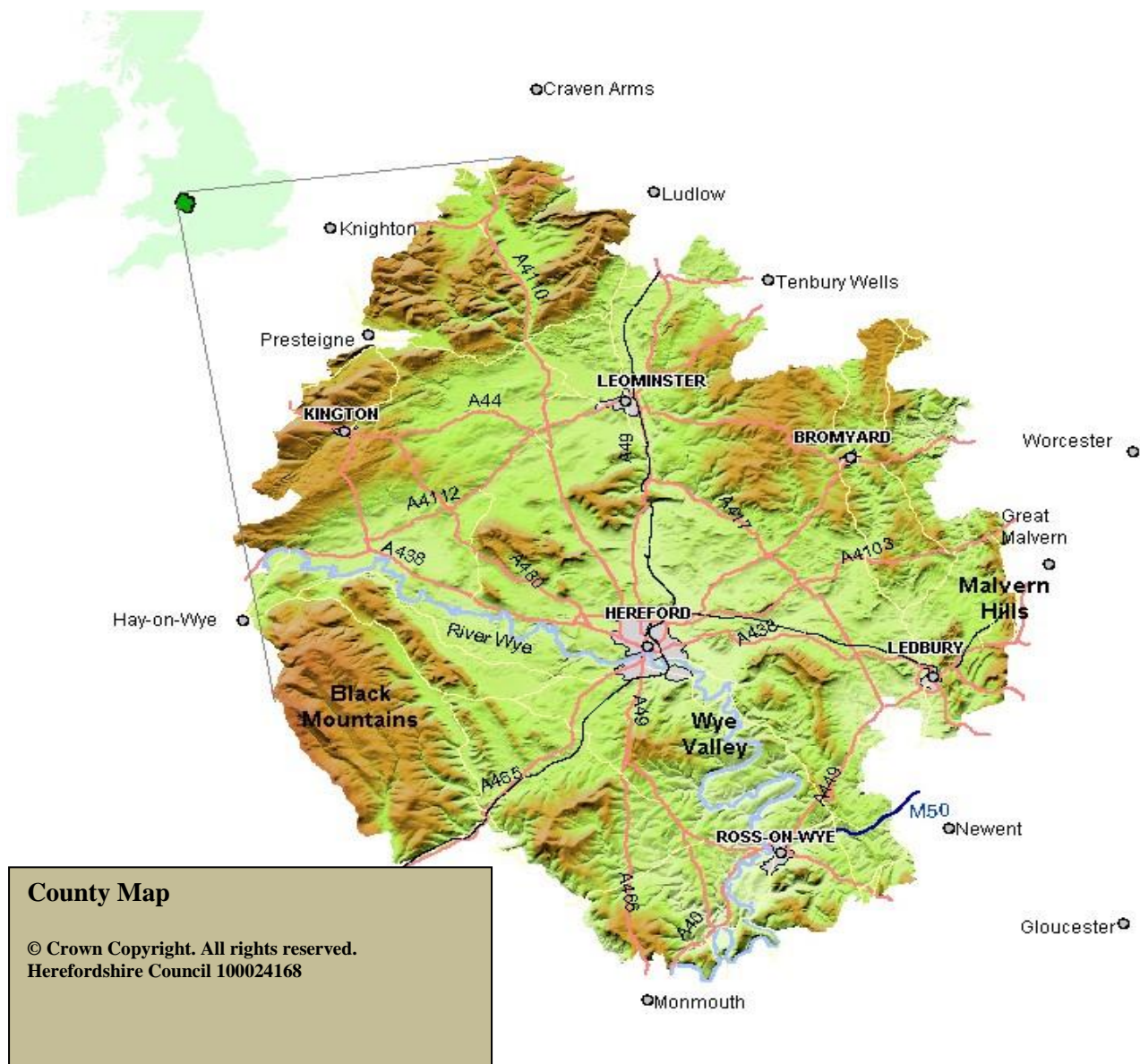
2.2 The County of Herefordshire

Herefordshire is a traditional rural area. It is located in the heart of the Marches to the south-west of the West Midlands region. It borders the counties of Shropshire to the north, Worcestershire to the east, Gloucestershire to the south-east and the Welsh counties of Monmouthshire and Powys over the Welsh border to the west.

The county covers an area of approximately 840 square miles (2,180 km²) and has an estimated population of around 188,100 (Office for National Statistics 2016).

Herefordshire is well known for one of the oldest British Native Breeds of cattle and for its fruit and cider production. Many orchards have historically survived in the landscape where fruit production has always been a major agricultural industry.

Rural Herefordshire boasts international designations such as the Wye Valley Area of Outstanding Natural Beauty (AONB) and the Malvern Hills AONB, registered parks and gardens, conservation areas, and Scheduled Ancient Monuments all of which illustrate its rich and varied character.



The main urban area is the historic city of Hereford. The County of Herefordshire

comprises of the smaller strategic market towns of Leominster, Bromyard, Ross-on-Wye, Kington and Ledbury. Hereford is the main administrative and industrial centre of the region.

Tourism in Herefordshire has always been an important factor in the region's economy. The area attracts millions of people per year and the tourist industry understandably makes an important contribution to employment in the county.

2.3 Policy Context

The ROWIP has functional links with, and contributes to, a wide range of documents, plans and strategies and it is important that the aims and objectives of these are recognised. As the ROWIP evolves, new links with other strategies and plans within and outside the authority will be identified and established. (In context with Offa's Dyke)

i. Herefordshire Council's Corporate Plan 2016-2020

Herefordshire Council recognises that it is in the unique position of acting as a hub for the public, private and 3rd sectors and accepts the responsibility to work with its partners and to provide leadership through the essential process of change in these most challenging of times.

Under the overall Corporate Plan aims the Council will work with the community to devolve services and assets where quality can be improved through local delivery. The ROWIP supports these aims whereby greater influence, decision making and control can emanate from a local level.

A well-managed public rights of way network contributes to the aim of promoting safe and secure neighbourhood environments, with attractive, safe surroundings, and good quality local amenities which enable people to enjoy life where they live and visit.

ii. Herefordshire Council – Local Transport Plan 2016-2031

Transport has a major role to play in facilitating the delivery of future investment and economic prosperity in Herefordshire. The Vision is for a transport network that supports growth enabling the provision of new jobs and houses, whilst providing the conditions for safe and active travel, which reduces congestion and increases accessibility by less polluting and healthier forms of transport than the private car.

The LTP has five key objectives:

- **Enable economic growth** - by building new roads linking new developments to the transport network and by reducing short distance car journeys.
- **Provide a good quality transport network for all users** – by being proactive in our asset management and by working closely with the public, Highways England and rail and bus companies.
- **Promote healthy lifestyles** – by making sure new developments maximise healthier and less polluting forms of transport by delivering and promoting active travel schemes and by reducing short distance single occupant car journeys on our roads.
- **Make journeys easier and safer** – by making bus and rail tickets compatible and easier to buy and use, by providing 'real time' information at well-equipped transport hubs, by improving signage to walking and cycling routes and by

helping people feel safe during their journey **sure access to services for those living in rural areas** – by improving the resilience of our road network and by working closely with all transport operators to deliver a range of transport options particularly for those without a car.

The role of the ROWIP is to manage the rights of way network within Herefordshire, and is recognised within LTP and will play a key role in the transport ambitions of the county. The LTP contains a policy statement specifically related to public rights of way

Policy LTP PRW1 – Policy B3 Managing Public Rights of Way

We will develop, promote, manage and maintain our public rights of way network by:

- Ensuring that the value of these assets and the links which they enable are identified and built into our planning, decision making and scheme appraisal processes.
- Recognise the value of and safeguard the National Byway.
- Further developing our asset management processes within the Highways Asset Management Plan to provide for planned, proactive maintenance of public rights of way.
- Developing and deploying the categorisation and prioritisation system in consultation with stakeholders, including local communities and organisations representing rights of way users.
- Consulting with all local communities, as part of our accessibility planning process, to identify key route improvements which will enhance their access to a range of destinations and to public transport.
- Building key strategic and local links into our Local Development Framework and infrastructure lists in order to ensure that they can be safeguarded and improved through the Planning and Development Control processes.
- Working with landowners, developers and designers to ensure that developments (including roads) do not fragment the rights of way network and that every opportunity is taken to introduce enhancements.
- Developing and agreeing with all relevant stakeholders a mechanism to address the maintenance of bridges on the rights of way network.

iii. Highways Maintenance Plan 2016

Herefordshire Council is the Highway Authority for all highways maintainable at the public expense within Herefordshire. With the exception of Trunk Roads and Motorways which are maintainable by Highways England (2018)

Overview and Purpose

The core purpose of the plan is to set out the reasonable system of inspection and repair that will be deployed by the Council to ensure that it meets its duty to maintain all publically maintainable highways for which the Council is the highway authority.

The plan is structured so that there is a core document which sets the overarching principles for the whole plan and applies to the entire service. Standards, policies and, where appropriate, processes for discrete areas are appended in the plan.

iv. Areas of Outstanding Natural Beauty (ANOB)

There are two AONBs within Herefordshire (Wye Valley ANOB and Malvern Hills ANOB) – The Wye Valley Management and The Malvern Hills have their own management plans, the key aims of the visions of which are reflected in the ROWIP including: -

- The conservation and enhancement of the natural beauty of our unique landscape
- Planning the protection through appropriate development and transport
- Safeguarding of rural industries and local socio-economic needs that maintain vital communities
- Promoting and ensuring that the general public are enjoying AONBs in a sustainable way
- Sustainable development
- Managing and governing AONBs in partnership to achieve success
- Community involvement
- An exemplar for tourism and high quality visitor experience
- Contributing to the local economy

3.0 DEMAND ASSESSMENT

The ROWIP must consider the needs of users and potential users. It seeks to identify and provide improvements to meet those needs. In order to identify the demand on the network, considerable evidence was gathered in advance of the production of the previous ROWIP aimed at user groups, landowners, visitors, the general public and parish councils.

Whilst no new survey has been undertaken ahead of the production of this Plan, the data has been continued to be monitored to the production of this plan. Herefordshire Local Access Forum, landowners, Parish Councillors, visitors and general public have been the subject of wide-ranging consultation. This, together with our own day to day professional experiences indicate that the earlier findings are very much still relevant and reflect many of the comments made during the consultation.

3.1 Satisfaction of current provision

3.1.1 Parish Councils

All parish councils were asked to outline any involvement with the rights of way network in their area, the state of the current network, and to set out on the map any improvements or additions they would like to see to their network.

Following consultation it was agreed that parish councils be provided with an opportunity to outline / create 1-2 circular routes or link routes that would benefit

the parish and the local area.

Key findings

Better provision for those that are less mobile or are blind / partially sighted within all types of rights of way is required.

- More bridleways are needed throughout the county, with an emphasis on creating circular routes for horse riders.
- It was recognised that the co-operation of landowners in keeping paths clear and replacing stiles with gates is important.

Parish councils were keen to: -

- Establish better access to specific sites (access land and commons)
- Establish car free links with nearby villages and amenities (including bus routes)
- Create safer routes away from major roads
- Create circular routes to increase local users and potential visitor numbers

Herefordshire Council's Locality Stewards will liaise closely with parish councils, landowners and other stakeholders to identify a suitable approach to the carrying out of projects.

3.1.2 User groups representing walkers, cyclists, horse riders, disabled user groups and vehicular users

Key findings

- Overall, the majority of respondents were fairly satisfied with the council's rights of way service provision.
- Maintenance of rights of way was rated as most important to groups
- Taking steps to identify and address missing links within bridleways and footpaths to create complete networks was an important future challenge

User groups expressed a need for: -

- Representation of all user types
- Identify and develop more connectivity and circular walks
- Safer areas to walk, cycle and ride

3.1.3 Landowners, including estates and representative organisation

Initially a questionnaire was devised for landowners within the previous ROWIP and was sent to the National Farmers Union (NFU), and the Country Landowners' and Business Association (CLA) for further distribution. It considered the effects of rights of way on land, an assessment of the current level of service, and sought opinion about the future challenges of countryside access.

Key findings

- The majority of landowners stated that one or more right of way crossed their

land

- Many landowners expressed interest in Agri-environment schemes
- It was recognised that rights of way can have both positive and negative effects. Education, tourism and holiday accommodation could boost income
- Impact on land values where footpaths cross arable / fruit production was a concern, as was an issue of conflicts with users
- The most important concern to landowners remains as maintenance/stock proofing and the control of dogs.
- The importance of a good relationship between landowners and users was stressed. It was seen as important to maintain a good understanding between those that visit, and those that live and work in the countryside.

Landowners were keen to: -

- Foster a greater understanding amongst visitors to the countryside about modern farming practises
- Emphasise the need for good control of dogs
- The importance of good stock control
- Work closely with users to improve access where appropriate

3.1.4 Visitors and the general public

Visitors and local people were encouraged to complete feedback. Issues such as how often people used rights of way, preferred locations, distances covered, where information regarding routes is obtained, and improvements they felt would benefit the local network were covered.

Key Findings

- Maintenance / vegetation clearance and better signage were improvements that were felt likely to benefit those who use rights of way
- Routes accessible to blind or partially sighted people and for less mobile people should be improved
- Better transport links to and from walking routes is important.

Visitors were keen to: -

- Have more information about walks available in the county¹
- See an increase in the number of promoted circular walks
- See an improvement in the maintenance of public rights of way

3.1.5 Summary of Key Findings

- Provision for walkers is quite extensive compared to other users. A large proportion of the network is public footpath - approximately 88% of the public rights of way network.
- Provision for riders, cyclists and off road drivers is poor with only 11% of the network made up of bridleways and 1% BOATs
- The bridleway network is very fragmented, especially in the south west part of the county
- There are no promoted walks in the north east of the county
- There are large areas of the county with limited forms of access provision for all users
- There are a number of areas where permissive access is granted through farming schemes

4.0 NETWORK ASSESSMENT

As detailed in the demand assessment, the public rights of way network is needed for a variety of purposes and the RoWIP will consider if those needs are met by the current network and, if not, identify the key areas of improvement for implementation through the action plan. The situation has been assessed following research in a number of the following areas: -

- Connectivity of the Network
- How and why the network is used
- Current principle access provision
- Non definitive network
- Network condition
- Publicity and promotion
- Promoted routes
- Inspection, maintenance and enforcement
- Changes to the network
- Views of the public and parish councils

4.1 Connectivity of the Network

Herefordshire, in common with many other counties, has a network largely made up of public footpaths, and with a fragmented bridleway network. The result of this is that users, especially horse riders and cyclists, need to use the county road network to make many of their journeys.

Herefordshire Network availability in miles/km: -

Footpath	1873	3015km
Bridleway	257	413km
Restricted Byway	20	23km
Byway open to all traffic	20	32km
(correct as of Jan 2018)		

This is a similar picture to many other authorities where more than 80% of the path network gives access on foot only.

There are also a number of cul-de-sac footpath and other routes where paths terminate at parish boundaries or unadopted / unrecorded roads which impacts connectivity and access. Some of the connectivity problems caused by these cul-de-sac routes is, in many cases, due to unrecorded (or under-recorded) highway rights. In accordance with the CROW Act 2000 and the Deregulation Act 2015, many of these unrecorded rights will be lost by 2026 unless interested parties action is taken to identify them before then.

4.2 How and why the network is used

4.2.1 Walkers

Walking is an extremely popular recreational activity. With the majority of the

network being footpaths, most users are walkers. The needs of walkers vary greatly depending on the individual or group.

Walking can offer a range of benefits from improving personal health and wellbeing to providing an important recreational resource for ramblers, dog walkers, runners etc. Walkers generally prefer circular routes due to transportation arrangements. The issue of car parking was a common feature in feedback as users required this facility to access the wider network more freely and more often. The maintenance of existing routes was identified as important to ensure the accessibility of the current network and sustain its future use.

Those utilising the network to access services expressed a need for safer areas to walk, including crossings of highways and improved routes to schools and other services. The need for better public transport links from urban centres, and increased promotion of key accessible sites and routes was also identified.

4.2.2 Cyclists

Cycling is a convenient and popular form of transport, certainly for journeys of less than 5 miles to reach places of employment, schools, shops and local services. The overall picture is that in recent years cycling on busy roads to work, shops and services has declined in favour of the car with recreational cycling growing in popularity.

Cyclists are entitled to use the same routes as horse riders on the public rights of way network (i.e. on bridleways, byways and restricted byways) and so are constrained by not being entitled to use the public footpaths.

Cyclists have varying needs depending on individual circumstance. Those using the network for more challenging recreational routes e.g. mountain bikers, will have different needs to those using the network for utilitarian purposes, such as accessing services, workplaces and schools. Evaluation and wider consultation has indicated that, in partnership with sustainable transport and safer routes to school, the creation of cycle routes should be a high priority.

4.2.3 Horse Riders

The British Horse Society estimates that 4% of households in Britain take part in equestrian activities with interest in horses, ponies and equestrianism in general, being greater than ever. Horse riders are not entitled to use the footpath network so are excluded from using 88% of the network in the county. Riders are often forced onto roads in order to gain access to routes or to complete circular rides.

Horse riders using the rights of way network again have needs that serve different levels and abilities. Much of the bridleway network is used in a recreational capacity, although some bridleways can be used for training purposes, offering a safer alternative to riding on busy roads.

The British Horse Society states there is a significant need for joining up a fragmented network and has also indicated a need to improve safety at access points linking highways.

4.2.4 Carriage Drivers

There are an estimated 20-25,000 people in Britain who drive horses. There are no specific figures for Herefordshire although it is purported that Herefordshire has a very active carriage driving community. Carriage drivers have similar needs to those of horse riders, although there are some obvious differences. They are entitled to use byways open to all traffic (BOAT), restricted byways and unclassified roads (UCRs).

4.2.5 Motorised Vehicle Users

In terms of public rights of way, off road motoring on both two and four wheels is legal on BOATs only. Although the use of 4x4's in the countryside can be controversial, they do offer opportunity for disabled users to explore the open spaces and they are a legitimate form of recreation.

In Herefordshire there are only 20 miles of recorded BOATs and these are supplemented by the county's UCR network.

4.2.6 Blind and Partially sighted and disabled users

The difficulties faced by users with disabilities and limited mobility using the current rights of way network are considerable. The most significant barrier on rights of way is often not the natural terrain but man-made barriers such as the estimated 8,500 stiles situated on footpaths throughout the county. Rights of way are a vital resource in providing those of limited mobility with opportunities for recreation and for accessing local services. There are different levels of disability including those visually impaired, wheelchair users and those less mobile.

These users require the network to be easily accessible. The main area of improvement identified by disabled users is the accessibility of routes and the restrictions faced due to physical barriers. There is also a need for increased information and promotion regarding routes suitably accessible to disabled users as is more information about the facilities available on site.

4.2.7 Older People

Herefordshire has an older age profile than England and Wales as a whole. People aged 65 or over constitute 23% of the county's population compared to 18% nationally and it is continuing to rise steadily (2014). There are 28 per cent more people aged 65+ than there were in 2001 compared with a 22 per cent increase nationally.

The former Countryside Agency's State of the Countryside 2005 report showed that visitors to the countryside tend to be mostly between the ages of 35-54. Its 2005 Diversity Review showed that across all excluded groups there were positive benefits to be gained from accessing the countryside including: -

- Physical health benefits – being in the outdoors, fresh air, taking exercise through informal recreation or from more active sports
- Psychological benefits – the countryside as somewhere to relax, gain peace and quiet, clear your mind and get away from it all.
- Personal identity – sense of place and belonging
- Social inclusion – sense of community

Older peoples' needs from the rights of way network may differ from younger people or families in that there may be a higher proportion who may have restricted mobility and therefore some of their needs may be similar to disabled users.

4.2.8 Young People

The former Countryside Agency's Diversity Review found that young people do not necessarily regard the countryside as a place to visit and enjoy, with other competing leisure interests such as cinema, sports, shopping, and computer games.

National recommendations for physical activity for children and young people are that they should achieve a total of at least 60 minutes of moderate intensity activity each day.

This may indicate a requirement to educate children and young people in using the rights of way network and increase its accessibility to this section of the population by creating more links to urban areas and to work to improve links to transport systems so that it is not necessary to drive to gain access to the countryside.

4.2.9 Potential Users

The visitor survey, completed mainly by local residents, indicated that only 4% of respondents did not use rights of way which might imply that non usage is not a great issue within the county. However, because the people who generally respond to questionnaires about rights of way are already likely to use them, this statistic is unlikely to be a good gauge.

The reasons why people do not use the rights of way network are probably reflected in the requested areas of improvement such as better way marking and signposting, more circular walks, improved accessibility and better promotion and education.

4.2.10 Conflict between Users

There are occasionally conflicts between users mainly on bridleways and BOATs, centred on the surface damage caused by equestrians and motorised users, the lack of awareness of other types of users and noise. Any developments to the network must take account of these potential conflicts and be planned accordingly.

4.3 Current Principle Access Provision

Herefordshire's rights of way network of 3380km includes a number of promoted routes running through the county. These include: -

Wye Valley Walk

The primary promoted route runs for 136 miles from mid-Wales near the source of the River Wye, through Herefordshire and ends in Monmouthshire. The route is promoted as a major attraction to those visiting the county and is supplemented by four loop walks leading off the main route.

Mortimer Trail

The county's other major route runs from Ludlow to Kington in north Herefordshire for a total of 30 miles. The trail promotes and provides 5 loop walks off the main route linking local villages to the main trail.

Herefordshire Trail

Set up in 2005 by The Ramblers using existing public rights of way to provide a circular route around the county, running for some 150 miles.

3 Rivers Ride

Developed by the British Horse Society and partner local authorities, including Herefordshire Council, starts in Worcestershire and terminates in the Brecon Beacons and is part of the National Bridleway Network.

Monnow Valley Walk

This route of 40 miles alongside the River Monnow from Monmouth to Hay-on-Wye passes through the Herefordshire, Monmouthshire and the Brecon Beacons.

Offa's Dyke National Trail

Sections of the Offa's Dyke National Trail pass the west of Herefordshire along the England / Wales Border. This is a national long distance route, attracting large numbers of users.

Three Choirs Way

A 100 mile route between Gloucester, Hereford and Worcester linking to the ancient music festivals still celebrated in these three cities.

A number of Local loop walks have been developed and promoted within the county and many parish councils have established local parish walks, which access local features and services. These are usually promoted locally but are an attractive resource for tourists and the local economies in rural Herefordshire.

4.3.1 Urban Rights of Way

One third of Herefordshire's Population live within Hereford City, and around a fifth in neighbouring market towns. Although predominantly rural, there are a number of rights of way within the built areas which form a vital element to the urban transportation network as well as providing a means of accessing the wider countryside.

4.3.2 Rivers

Rivers in the county provide both an opportunity and a threat to users of the rights of way network. Water provides a natural attraction for walkers and riders but it is also the cause of both gradual erosion and catastrophic loss when banks collapse. The action plan sets out a number of aims targeted at improving the network which will inevitably include access along rivers but this will also increase the maintenance liability on the council. There are various methods that can be employed when a right of way comes under threat from river erosion, including maintenance works, creation agreements, diversions and, occasionally, ceasing to maintain.

4.3.3 Access land and commons

5,912 hectares of land in Herefordshire became open access land following introduction of part 1 of the Countryside and Rights of Way Act 2000. This is made up of 62 hectares of new access land, 3,732 hectares of registered common land and 2,126 hectares dedicated as access land under Agreement, most of it forests. The public has a right to walk on access land but there are restrictions on other activities including the walking of dogs.

Although most areas of access land are accessible from a right of way or other public highway, there are a few which have no direct access. There is provision within the CROW Act which allows the council to create footpaths where necessary to these areas of land.

Details of access land, including location maps and any restrictions that might be in place are available at www.naturalengland.org.uk

4.4 The Non-Definitive Network

As well as the rights of way network, there are a number of forms of non-definitive access which are used by the public to gain access to the countryside. These include: -

The public highway network (roads) forms a large element of the connectivity for the public rights of way network

4.4.1 Permissive Paths

Used by walkers or riders on an informal basis with the permission of the landowner. Very often landowners will recognise that local people wish to access a particular route and will grant access. These vary from informal arrangements only identifiable on the ground to those that are actively promoted by organisations such as Herefordshire Nature Trust and the National Trust.

4.4.2 Countryside Stewardship & Agri-Environment Higher Level Scheme

DEFRA administered schemes whereby landowners could enter into an agreement to provide either linear or open access to areas of land they farm. These schemes are now closed to new entrants but there are 38 agreements currently operating in Herefordshire. Details of individual sites are available on cwr.defra.gov.uk. These agreements will all expire during the life of this ROWIP and future public access provision by this method is uncertain.

4.4.3 Unrecorded roads

Often referred to on Ordnance Survey maps as white roads over which there is no known public access, these provide a considerable opportunity to develop multi user paths and provide links within the current network. However, these routes may be private and carry no historic rights for the public and, accordingly, the council has developed a Protocol to address applications for adding these to its List of Streets or Local Street Gazetteer as maintainable highways should such evidence support this. This Protocol broadly mirrors the Definitive Map Modification Order process.

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4.5 Definitive Map and Statement

This is the legal record of public rights of way, prepared and maintained under the provisions of the National Parks and Access to the Countryside Act 1949, the Countryside Act 1968, the Wildlife and Countryside Act 1981, and now the Countryside and Rights of Way (CROW) Act 2000. The map and statement provide conclusive evidence of the existence of rights of way and are referred to whenever questions or disputes arise concerning rights of way. As they are used by the Ordnance Survey as its source of information for publicising rights of way on its Land ranger and Explorer maps, it is important that this record is kept as accurate and up to date as possible.

The Definitive Map and Statement can only be modified by legal Order which comes in two forms: -

4.5.1 Legal Event Modification Order (LEMO)

If a right of way is diverted, extinguished or created by means of a legal order (e.g. a diversion order under the Highways Act 1980), a LEMO needs to be made to officially modify the Definitive Map and Statement. This process is carried out after the change takes place on the ground and the order is certified. LEMOs can either be made individually at the time an order is made or by grouping a number of changes together and producing one LEMO.

4.5.2 Evidential Modification Order (EMO)

If, through user or documentary evidence, it can be shown that changes need to be made to the Definitive Map and Statement, an EMO can be made. These changes may involve a change of status, creation or deletion of a right of way. As EMOs are legal events in themselves, no further processes are required to update the Definitive Map and Statement.

Herefordshire Council's Definitive Map and Statement was originally compiled in the 1950s, with the latest version being published by the former Hereford and Worcester County Council in 1989. Since 1989, no LEMOs have been made and, as a consequence, the map and statement are very out of date. There is also a large backlog of EMOs to be considered and determined.

The existence of an accurate legal record of public rights of way underpins the public's use of the network. Achievement of the overall aims of the council depends on the public being certain about where paths exist and the ability of the council to assert the rights of the public to use those paths. Removal of the backlog of work needed to ensure that the map and statement are accurate is therefore fundamental to the effective provision of a public rights of way service.

The council has a priority system for dealing with applications for Definitive Map Modification Orders based on their adding benefit to the network and to maximise current resources (see Appendix 2).

4.6 Maintenance and Protection of the Network

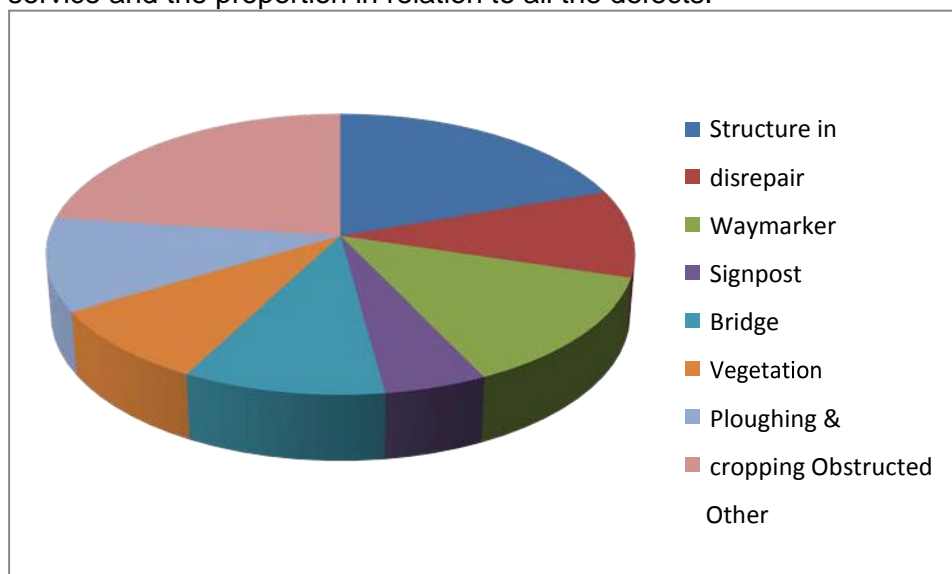
Section 36 of the Highways Act 1980 charges Herefordshire Council, as the highway authority for the county, to maintain all public highways which includes rights of way. Section 130 of the act provides for a further duty to assert and protect the rights of the public to the use and enjoyment of any highway.

The responsibility of maintaining the network falls to both landowners and Herefordshire Council. Landowners are responsible for maintaining stiles, gates and other structures used to enable access through hedges and fences. Landowners are also responsible for ensuring rights of way do not become blocked by obstacles such as crops, trees, and overgrowth. The council is responsible for maintaining signposts, way marking, watercourse crossings, steps and surface vegetation. They are also responsible for ensuring landowners meet their legal obligations.

Herefordshire Council has contracted out all Public Rights of Way maintenance functions to Balfour Beatty Living Places (BBLP) with Locality Stewards receiving the reports of problems on the network to investigate. At the same time they also identify potential access improvements such as replacing stiles with gates or improving surfaces. Once work has been identified either the landowner will be requested to carry out the work or the work will be carried out by BBLP depending on the nature of the problem, or referred to a network of parish council volunteers.

The undertaking of these works will be in accordance with the risk based approach set out in the **Highways Maintenance Plan** referred to above

The chart below sets out typically the main types of defects received by the service and the proportion in relation to all the defects.



In accordance with the Council's duty under section 130 of the Highways Act 1980 to assert and protect the rights of the public in their use and enjoyment of public rights of way, any actions required to secure the removal of obstructions are undertaken in accordance with the Council's Enforcement Guidance and Procedures (Appendix 3).

Duties placed on the Council under the Equality Act 2010 places an increasing emphasis on making the rights of way network more accessible to a wider section of the community. This has led to programmes of replacing stiles with gates, making promotional material more accessible to those with a visual impairment and bringing furniture up to British Standard.

As demand on the rights of way network increases so the expectation for a well maintained network rises. However, resources are under severe strain, hence a need for a well-structured approach to maintenance. The attached

maintenance strategy (Appendix 4) sets out in greater detail the Council's approach to specifically maintaining the network and using a prioritisation system which involves those paths with the most recreation or utilitarian value at the top.

4.7 Community support and engagement

The Council runs a very successful Parish Paths Partnership (P3) Scheme, which involves parish councils agreeing to manage the maintenance of some or all of the public rights of way within the parish in return for a grant from Herefordshire Council. There are currently 87 parishes that work with council officers to carry out practical works on rights of way and also to promote their own recreational routes. A Parish Footpaths Officer (PFO) scheme is also operated by the Council, under which a parish council or a group within the parish appoints a person to look after the rights of way in the area, including carrying out light clearance work and way marking, and liaising with the Locality Stewards on more difficult issues. There are 156 PFOs covering a total of 193 parishes (around 50% of the network). Training events for parishes in the P3 scheme and PFOs are also run. These schemes bring not only benefits to the rights of way network but also help to foster community involvement.

Following the opening of the Herefordshire Trail by the Ramblers Association, much of the maintenance work on the trail is carried out by its volunteers. Volunteers are also engaged in managing other areas of the network which is providing a number of benefits including improving health, cost savings, social interaction and developing new skills. It is estimated that 2,400 volunteer hours are contributed to the rights of way network over a year.

Parish councils and voluntary groups can also have very important roles in researching information that enables the Definitive Map to more accurately reflect historic rights as yet unrecorded. A full list of powers and roles available to parish councils in respect of public rights of way is included at Appendix 6.

4.8 Publicity and Promotion and Tourism

The realisation of the potential of the rights of way network as a key resource in the rural economy, and in improving the quality of life for all residents, depends on effective provision of information. Sustained use of the rights of way network will only take place if people have confidence that they know where they can go, and what to expect when they get there.

Promotional material also increases the enjoyment of the use of rights of way by helping people to understand the natural and historic environment, and help to ensure that they are aware of the need to protect this environment.

Information is also necessary so that both users of the network and landowners are aware of their rights and responsibilities, so that conflict can be minimised and the council's resources used more effectively.

4.8.1 Website

The target markets for tourism in Herefordshire, identified in the Tourism Strategy, include people who are very likely to use the internet and are looking for short breaks incorporating countryside access. Information concerning the full range of opportunities for all types of users can be included on the web site, as well as general information about rights of way and open access in the county. Links to county tourism web sites, including accommodation, transport, health and community sites, as well as to more general countryside access information sites, should be created.

4.8.2 Walking Festival

The Herefordshire Walking Festival (<http://www.walkingfestival.com/>) provides an opportunity for people to visit and walk in the county. The summer festival is a large scale event offering a range of led walks, which may incorporate long distance routes, shorter routes, and themed routes throughout the county. Feedback from participants indicates that walking tourism has increased in popularity in the county and therefore has an effect on the numbers using the local paths. The Festival is now organised and co-ordinated by Herefordshire Walking, a small social enterprise whose committee and members comprise enthusiastic walkers and local businesses.

4.8.3 Walkers are Welcome

Walkers are Welcome is an accreditation scheme aimed at strengthening a town's reputation as a place for visitors to come to enjoy the outdoors bringing useful benefits to the local economy. It also helps ensure the local rights of way network is in a good condition thus providing benefits to both visitors and locals. In Herefordshire, Bromyard, Leominster, Kington and Ross-on-Wye have all been successful in gaining the Walkers are Welcome accreditation.

4.9 Historical preservation

A number of rights of way have very early, possibly prehistoric, origins. In such cases, archaeological survey and potentially excavation may be a requirement ahead of any works. In certain cases it may also be necessary to use a protective geotextile matting prior to laying any new surfacing materials. There may also be a need to consider minor path diversions in order to avoid conflicts between access and protecting the archaeology, or take opportunities to undertake scrub clearance work to enhance the quality and visibility of features of interest.

These considerations will also apply where new paths are to be created where, in addition to protecting any archaeological features, there may also be opportunity to provide better access to sites of importance and interest together with on-site information panels.

Liaison with the County Archaeology service will take place in these matters.

4.10 Protected Sites

The Council will seek to increase awareness of its staff, contractors, public and land managers of the biodiversity impacts of managing the network. Consideration must be given to the protection of designated wildlife sites where the network runs through, alongside or adjacent to these sites. For example the council must inform Natural England before carrying out any operations which might impact on any Site of Special Scientific Interest (SSSI). This requirement

applies to operations within an SSSI as well as to operations outside the SSSI which may affect features of interest. The locations of designated sites are recorded in map form on the Council's GIS system.

Works to hedges, trees and scrub should be undertaken so as to avoid the bird nesting season (1st March to 31st July). However some birds may continue breeding into August. All wild birds, their young, eggs and active nests are legally protected.

The network and maintenance and control of natural vegetation such as grassland, hedges, scrub, trees and features alongside watercourses will be managed in a way that seeks to avoid damage and maintain and enhance biodiversity.

New structures such as bridges and gates will be sited in a sensitive way and, wherever possible, respecting the natural and historic environment and use of local materials.

An environmental impact assessment should be carried out before any new path or way is created, particularly if it is planned to re surface.

Public rights of way evolved principally as convenient means of access to work, church and neighbouring communities. The network was first legally defined as a consequence of legislation passed in 1949. It is inevitable that since that time many parts of the network have become unsuitable for their modern usage and for the use of the land across which paths run. It is reasonable that the routes of paths can be changed to better suit the current needs of the public and of land management.

The council has statutory powers under the Highways Act 1980 to divert, stop up and create public rights of way by means of the making of Public Path Orders and under the Town and Country Planning Act 1990 to stop up or divert public paths in order to allow permitted development to take place.

Changes in farming management practices, higher use of the network and other factors has meant that there are an increasing number of landowners who wish to make changes to rights of way on their land. As a consequence, the Council has needed to devote more resource to this order-making function. Priorities have been established for making these orders based on the overall council aims. The Council is able to recover the costs of making stopping up and diversion orders from the applicant, but not the costs of holding a public inquiry if one is necessary. Details are set out in Appendix 1.

4.11 Improvements requested by Parish Councils

Parish councils were invited to consult widely and involve a Parish Paths Officer if the parish had one. They were asked what involvement the parish council has in rights of way and for any improvements or additions to the rights of way network in their parish. This involved marking particular areas on the Definitive Map. The response rate was 68%.

The questionnaires asked how the respondents rated the current public rights of way network in terms of: -

1. Routes from centres of population which allows easy access to the countryside
2. Routes used in conjunction with public transport which allows easy

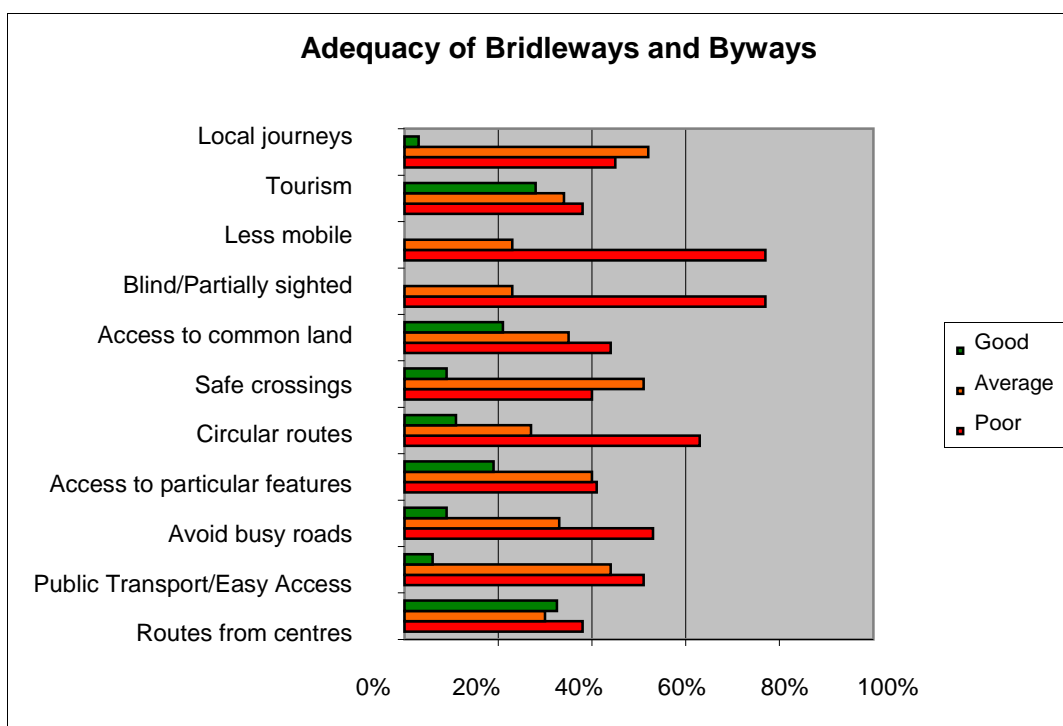
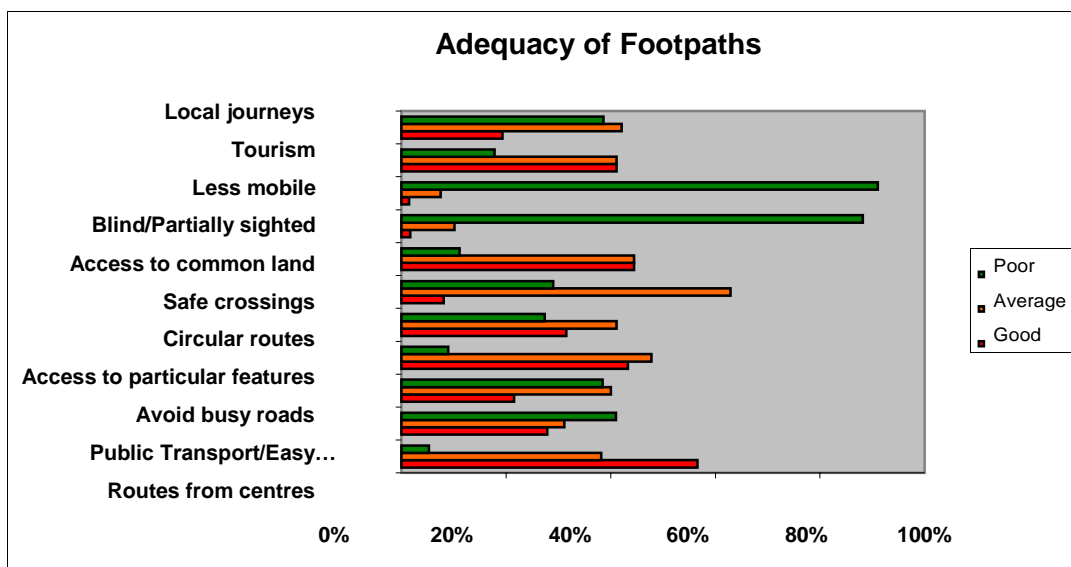
- access to the countryside
3. Routes to enable people to avoid busy roads or developments
 4. Access to and within areas of countryside or access to a particular feature, attraction etc.
 5. Links which create circular routes
 6. Convenient and safe crossings of roads, rivers, railways and canals
 7. Access to common land and open access land
 8. Routes accessible for blind or partially sighted people
 9. Routes accessible for less mobile (e.g. with wheelchairs or pushchairs) or less agile people
 10. Attractive routes which support local tourism
 11. Routes for local journeys such as walking to the shops, work, doctors and other local amenities

The results are summarised as follows: -

57% of parishes rated the provision of footpaths for access to population centres as 'good'. Access to common land was rated mostly 'good' or 'average'. The provision of footpaths in relation to access by blind / partially sighted and also less mobile people was rated as poor by about 90% of all respondent parishes.

The provision of bridleways had lower ratings overall than footpaths (higher proportion rating each criteria as 'poor' provision), particularly in relation to circular routes, access by blind / partially sighted and also less mobile people and local journeys e.g. to the local shop, doctor or work. 75% of respondent parishes rated the provision of bridleways for circular routes as 'poor'.

The provision of BOATs had higher proportions of 'average' ratings than footpaths and bridleways across most criteria. 70% of respondent parishes rated the provision of BOATs for local journeys as 'average' with the same rating given by 64% of parishes for safe crossings (e.g. over rivers).



4.12 Health and Exercise

It is well recognised that exercise can have long term benefits on health. This is particularly pertinent to Herefordshire which has an aging population. A number of schemes have been established by Herefordshire Council which involves the use of the rights of way network: -

4.12.1 Walking for Health

The Walking for Health scheme is run as a partnership by the Ramblers and McMillan Cancer Support. In Herefordshire the scheme is very active with a number of trained walks leaders taking out groups of walkers on a regular basis to help develop more active lifestyles

4.12.2 GP referrals

Projects that use recreation and exercise as a means to benefit health are being encouraged through doctors' surgeries and referral methods as preventative methods for certain illnesses and conditions. This can lead to more healthy lifestyles and therefore an increase in the use of local rights of way by individuals and groups recognising the benefits of outdoor exercise.

4.13 Encouraging use of the network

Putting the network in place and maintaining it is of little use if the paths are not used. There are various reasons why people do not use the network such as concerns about getting lost, unsure of their rights and availability of support services such as car parks. Therefore there are a number of ways the council currently encourages people to use the network as well as a number of actions set out in the action plan to promote more use.

4.12.3 Signs and Way marking

Signs and way marking are very important methods of promoting usage of the network. They indicate where a route starts and finishes and provide confidence along the way. The roadside signs also provide a constant reminder of the existence of public rights of way

The promoted routes throughout the county are all distinctively waymarked to identify them from the surrounding paths and to promote the route itself. Poor way marking is one of the most commonly reported problems on the network.

4.7.2 Interpretation boards

Interpretation boards with maps of local rights of way are located in a number of local communities throughout the county. They are extremely useful to people visiting or staying in the area especially when they are combined with local information. A number of information boards have been installed on the largest area of open access land in the county, the Black Mountains.

4.7.3 Increased access and car parking

One of the most widely used methods of accessing the current network is by car but, even then, this is limited due to lack of car parking on site. There is an increasing need for this issue to be addressed as part of a long term plan to encourage both local people and those visiting Herefordshire onto the network. An alternative approach is to identify highway verges which could be developed into informal parking areas if a maintenance regime were to be put in place.

4.7.4 Access to sites of specific interest

Findings through consultation indicate an interest in gaining access to various key sites in the county. This includes improved provision to access land and commons, increased and extended access to the River Wye (especially given its AONB status) and the River Lugg, better access to local villages / amenities and other historic interest sites.

5.0 CONCLUSIONS

The Rights of Way Improvement Plan is based firstly on the improvements identified following the consultations with parish councils, users, landowners and members of the public, secondly on the assessment of the current network and thirdly through the Local Access Forum and its working groups. The main improvements that were identified were: -

- Establish better access to specific sites (access land and commons)
- Establish car free links with nearby villages and amenities (including bus routes)
- Create safer routes away from major roads
- Create circular routes to increase local users and potential visitor numbers
- Representation of all user types
- Safer areas to walk, cycle and ride
- Foster a greater understanding amongst visitors to the countryside about modern farming practises
- Emphasise the need for good control of dogs
- The importance of good stock control
- Work closely with users to improve access where appropriate
- Have more information about walks available in the county
- See an improvement in the maintenance of public rights of way

The assessment of the network was again informed by the consultation but also by a frank appraisal of the current provision using performance figures and considering the usability and connectivity of the network as a whole. The findings were: -

- Provision for walkers is quite extensive compared to other users. A large proportion of the network is public footpath, approximately 88%
- Provision for riders, cyclists and off road drivers is poor with only 11% of the network made up of bridleways and 1% BOATs
- The bridleway network is very fragmented, especially in the south west part of the county
- There are no promoted walks in the north east of the county
- There are large areas of the county with limited forms of access provision for all users
- The provision of rights of way in relation to access by blind / partially sighted is poor

There is a strong reliance on county roads to make circular routes The Local Access Forum concentrated on the following areas which have had an increasing impact on the formation of the plan and the development of policies and working practises: -

- Procedure for recording unrecorded rights of way
- Tackling the backlog of anomalies
- Prioritisation of long term obstructions
- Communication with local councils and the public
- Appraisal of recording documents including Definitive Map, List of Streets and Local Street Gazetteer

6.0 STATEMENT OF ACTION

The action plan sets out a number of identified improvements both at a local and wider level. These range from replacing a stile with a gate to facilitate access improvements, to the carrying out of a complete condition survey of the whole network. A considerable number of such improvements were completed during the lifetime of ROWIP1 undertaken by the Council, by parish councils or by volunteers. The change in the Council's financial position since then inevitably means that progress in this area is likely to slow or stall, although opportunities will be taken to secure path improvements wherever this is achievable through the resources of other partners or as a consequence of development.

The initial demand assessment highlighted a number of areas where improvements both at a local level and at a wider strategic level could be made. These came under four headings: -

- Ensuring the Definitive Map and Statement accurately record all public rights of way
- Maintaining the public rights of way network so it is easy to use and clear of obstructions
- Seeking to improve access to the network wherever possible
- Encouraging the responsible use of public rights of way network through proactive promotion

STATEMENT OF ACTION

Key

Finance	£	Work within existing financial resource	££	Up to £5,000 above current financial resource
Staffing	£££	£5000 - £25,000 above current financial resource	££££	£25,000+ above current financial resource
	:	Work within current staff level	::	Up to one extra full time person required

Quick win



Ensure the Definitive Map and Statement accurately records all Public Rights of Way				
Action	When	Measure	Priority	Resource
In partnership with the Local Access Forum, develop and encourage research of unrecorded rights and high quality DMMO applications	2018 onwards	Recruitment and support of volunteers through the LAF 2026 Group	High	: (Advice)
		Provision of training to volunteers where necessary	Medium	: (Training to volunteers)
Increased throughput of DMMO applications	2018 onwards	<ul style="list-style-type: none"> Embrace anticipated legislative change Resetting priorities Challenging, outcome based targeting 	High	: (Staff Training)
Implement public path order policy	2018 onwards	<ul style="list-style-type: none"> Embrace anticipated legislative change Review charges on introduction of legislative change 	Medium	:

		<ul style="list-style-type: none"> Resetting priorities 		
Maintain the Public Rights of Way network so that it is easy to use and clear of obstructions				
Action	When	Measure	Priority	Resource
Tapering financial support to the Parish Paths Partnership Scheme to 2019	2018 – 2019	Encourage greater involvement of parish councils in local path maintenance	High	⋮ (Support)
Use of capital programme for structural maintenance within available resource	2018 onwards	<ul style="list-style-type: none"> Reduce number of outstanding and on-going structural defects Asset life increased Network made more accessible 	High	££££ (Resource requirement for deteriorating assets)
Target long term path obstructions	2017 onwards	<ul style="list-style-type: none"> Exploit all opportunities to secure solutions Seek diversions where appropriate Target achievable outcomes for quick wins Consideration of enforcement action where appropriate 	Medium	⋮ (Progress within existing constraints) £ (Work within resources) 😊 (Seek opportunities)

Maintain the path network	2017 onwards	<ul style="list-style-type: none"> • Work with partners and volunteers to aid delivery and manage problems • Improved management of path problems and use of current staffing organisation • Undertake limited, prioritised maintenance to keep the path network safe and usable 	High	<p>⋮ (Support)</p> <p>££££ (Resource requirement for deteriorating assets)</p>
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Seek to improve access to the network wherever possible				
Action	When	Measure	Priority	Resource
Work with Planning Services and developers to identify section 106 agreements and other ways of improving the network	2017 onwards	Secure path or network enhancements	High	⋮
Support and advise volunteers, parish councils and landowners to encourage and improve access	2017 onwards	Encourage local initiatives to develop and improve access	Medium	<p>⋮ (Advice and support)</p>

Encourage the responsible use of the Rights of Way network through proactive promotion				
Action	When	Measure	Priority	Resource
Support and promote the annual Walking Festival	2017 onwards	Work with volunteers and parish councils to ensure relevant routes are safely usable and signposted	High	: (Support) ££ (Small resource to meet the requirement)
Update and maintain website	2017 onwards	Maintain up to date mapping and online information	High	:
Work with partners to support the development and management of promoted routes	2017 onwards	Actively engage with relevant partners and management groups	Medium	: (Support)

7.0 IMPLEMENTATION AND MONITORING

7.1 Implementing the Plan

The projects arising out of the action plan will be prioritised and given timescales depending on the nature and scale of projects. The plan will be implemented over a ten year period and will allow for a focussed approach to implementing projects and achieving successful outputs at an early stage. Progress on objectives and projects will be monitored by the Herefordshire Local Access Forum, which will consider the need to review and update the statement of action and any other part of the plan as required.

A number of projects require further investment into the service. Where those investments are not forthcoming either through direct funding from Herefordshire Council or from an external source, they will be taken forward into the next Improvement Plan.

7.2 Key Stakeholders and Partners

Full delivery of the Rights of Way Improvement Plan will only be possible by working with key stakeholders and partners. Key amongst these are: -

- Effective working relationships with landowners will need to be developed to turn the aspiration set out in the action plan into reality on the ground.
- Local Members are encouraged to provide their support to proposed network improvements and mobilising local participation.
- Parish and town councils, which have already been involved in the preparation of the plan, will play a vital link between Herefordshire Council and local communities by setting local priorities and providing a mechanism through which outside funding can be focused
- User group and landowner representatives will need to work together to find an effective way for their interests to be taking into account when developing the access network for the benefit of the wider public
- The Herefordshire Local Access Forum which will continue to work with Herefordshire Council and Balfour Beatty Living Places (BBLP) to implement the action plan and advise on priorities.
- Natural England will provide a higher level support and advisory service.
- The general public and users of the rights of way network will need to utilise the rights of way network to provide justification for the money spent on improvements
- Key Services within the council including, Planning, Legal, ICT, Tourism, Walking the Way to Health, Highways and Transportation and a number of others will provide the support mechanisms for implementation

- Neighbouring and regional local authorities will need to work together to ensure their respective plans are co-ordinated and that the region as a whole is developed to maximise the potential for funding and investment
- Other government and non-government bodies such as the Malvern Hills and Wye Valley AONBs, Forestry Commission, National Trust, Environment Agency, DEFRA and Herefordshire Nature Trust will all have a supporting and enabling role to play.

7.3 Individual Projects

Site specific projects that are taken forward will be further researched. Consultation will take place with landowners, other relevant stakeholders, parish councils and Herefordshire Council before these schemes are taken forward.

7.4 Monitoring

The Rights of Way Improvement Plan will be continually monitored by: -

- Regular updates to Herefordshire Local Access Forum Meetings.
- Updates to the Local Transport Planning team of projects completed / underway that incorporate shared objectives
- Monitoring of satisfaction levels
- Performance monitoring
- The service delivery mechanism
- Progress in achieving the wider aims of the County

7.5 Constraints and Resources

Many of the actions set out in this plan are aspirational and will not be achieved without appropriate resources. However guidance from DEFRA encourages the development of partnership working to establish funding streams and to use the plan as a bidding document to be used both by the local authority and other organisations to attract funding for example Section 106 funding. Increasingly, agencies such as Natural England are requesting that a county's Improvement Plan supports proposals put forward by organisations such as parish councils for improved access in the countryside. Therefore to not have an action in the plan simply because it is unlikely to be funded by the Council should not be a reason for its exclusion. Given the appropriate support and funding all the actions are achievable.

7.6 Timescales

Each of the actions has a date by which it will be achieved. As set out above, resources could come either from allocated council budgets or from an external funding source made either directly to the council or through a separate organisation.

8.0 Key Outcomes from ROWIP 1

The first ROWIP set out a number of actions many of which were ambitious and would require significant extra resources. Although many of the actions have not been achieved due to the lack of resources, the table below sets out the key outcomes and achievements that were made in the first five years of ROWIP1.

Ensure the Definitive Map and Statement are an accurate record of all Public Rights of Way		
Ref from ROWIP 1	Action	Outcome
DM1	Implement the statement of priorities for dealing with Definitive Map Modifications applications and anomalies	Achieved – Statement of Priorities implemented
DM2	Produce a digitised definitive map and statement	Completed – Digitised Definitive Map now on Herefordshire Council Web site
DM4	Publish the digitised definitive map on the Council's web site	Completed - Definitive map on web site
DM5	Implement public path order policy and procedures	Completed - Reduction in backlog of applications

Maintain the Public Rights of Way network so it is easy to use and clear of obstructions		
Ref from ROWIP 1	Action	Outcome
MN1	Implement the approved maintenance strategy	Completed – all PROW now categorised and being used to prioritise resources
MN5	Provide clear advice to landowners of their responsibilities	Advice available in clear format which has raised awareness
MN6	Investigate more effective methods and alternative sources of funding	Alternative funding streams secured such as Wye Valley AONB, Welcome to our future, S.106, Neighbouring authorities
MN7	Develop and expand the Parish Paths Partnership Scheme	Completed current number of parishes is 83
MN8	Work with voluntary organisations as an alternative method of maintenance	Voluntary organisations involved in maintenance includes parishes, Ramblers Association, Probation service
MN9	Work with partners to develop and improve	Working with Ramblers Association to maintain Herefordshire Trail

	strategically important routes	
MN10	Work with Highways team to develop unclassified county roads into walking and riding links and make information widely available	Currently developing a protocol to improve maintenance of unused, unclassified county roads
MN11	Work with planning service to make sure rights of way are not obstructed as part of permitted development	Close working relationship with planning established which has reduced problems
MN13	Carry out prioritised surface improvements where a need has been identified.	Number of surface improvements carried out

Seek to improve access to the network wherever possible		
Ref from ROWIP 1	Action	Outcome
IA2	Investigate feasibility of access for all routes in market towns. Make improvements identified	Easy access routes established in Ross on Wye and Leominster
IA4	Identify and develop old railway lines into car free links between communities	Working with Walford Parish Council to develop link between Ross and Walford
IA5	Remove stiles and upgrade gates where appropriate and whenever the opportunity arises	Achieved
IA6	Continue to work with DEFRA to encourage Higher Level permissive access scheme	Scheme no longer running
IA7	Work with Planning Services and developers to identify section 106 agreements and other ways of improving the network	Successful in gaining s.106 money from developers
IA12	Carry out condition survey of all public rights of way	Survey completed by Ramblers Association and built into database
IA13	Work with land managers, commons committees and other bodies to improve access land and commons for informal recreation	Access and interpretation improved at Lugg Meadows and Black Mountains

Encourage the responsible use of the Rights of Way network through proactive promotion		
Ref from ROWIP 1	Action	Outcome
NP2	Update and maintain current website.	Website updated on a regular basis. Further pages added including digitised map
NP3	Ensure all guidance issued to land managers is clear and concise	Guidance notes completed and circulated to landowners
NP4	Continue to run and promote summer Walking Festival	Walking festival now delivered by Visit Herefordshire
NP5	Work with parishes to install path notice boards	Number of new notice boards installed
NP6	Take every opportunity to promote access, outdoor recreation and responsible use of the countryside	Countryside Code highlighted on all publications
NP7	Support the work of the Walking the Way to Health team	Number of routes developed in conjunction with Walking for health team
NP10	Develop a system of grading and providing relevant information about promoted routes	New grading system developed and introduced. All circular walks leaflets reproduced with new grading system

APPENDICES		
POLICY	KEY ASPECT	CONTRIBUTION TO ROWIP
Appendix 1 Public Path Order Statement of Priorities, Policy and Procedures	<ul style="list-style-type: none"> • Pre-order consultation by applicants • Fast Track Approach 	<ul style="list-style-type: none"> • Prioritise those diversions in public interest • Condition that gates are installed
Appendix 2 Definitive Map Modification Orders Policy and Statement of Priorities	<ul style="list-style-type: none"> • Claims prioritised based on evidence and public interest • Preparation for the closure of definitive map in 2026 	<ul style="list-style-type: none"> • Prioritise based on usefulness to network • Long term security • Complete missing links • Clear up anomalies
Appendix 3 Enforcement Guidance and Procedure	<ul style="list-style-type: none"> • Protect the public's right to use and enjoy the public rights of way network • Provide clear, concise guidance to land managers 	<ul style="list-style-type: none"> • Ensuring public access remains open and safe to users
Appendix 4 Inspection and Maintenance Strategy	<ul style="list-style-type: none"> • Prioritise network maintenance on routes with greater use • Prioritise maintenance on routes benefiting all types of access user • Problems more efficiently resolved including obstructed paths and those causing inconvenience 	<ul style="list-style-type: none"> • High use trails and routes remain problem free and easy to use • Improvements seen on the ground early • Reduction in barriers including stiles • Improved public access
Appendix 5 Policy on structures across public rights of way and the Equality Act 2010	<ul style="list-style-type: none"> • Setting out how Herefordshire Council will meet the Equality Act 2010 with regard to Public Rights of Way 	<ul style="list-style-type: none"> • Reductions in limitations across public rights of way • Improved access for all
Appendix 6 Parish Councils and Public Rights of Way	<ul style="list-style-type: none"> • Setting out powers available to parish councils in respect of public rights of way management and maintenance • Detailing how parish councils and local communities / volunteers can get involved 	<ul style="list-style-type: none"> • Localised input and monitoring • Local knowledge • Supporting local enthusiasm for the network • Assisting with research and development

Public Path Order Statement of Priorities, Policy and Procedures

For the purposes of this document the term “Public Path Order (PPO)” shall be taken to include: Orders made under section 257 of the Town and Country Planning Act 1990 (extinguishments and diversions); Orders made under sections 118, 118A, 118B, (extinguishments) or 119, 119A, 119B, 119D (diversions) Highways Act 1980

Significant changes to legislation, including the introduction of a “Right to Apply” for a PPO, will take effect when the relevant parts of the Deregulation Act 2015 are commenced and this Statement will be reviewed accordingly.

Statement of Priorities

PPO applications will normally be processed in the following order:

1. Where an Order is required to facilitate a development
2. Where an Order is expedient for the purposes of increasing school security or for the prevention or reduction of crime which would otherwise disrupt the community.
3. Where an Order is made in connection with the prevention of damage (by users of a PROW) to a Site of Special Scientific Interest.
4. Where, in the opinion of Herefordshire Council, following consultation with the Parish Council, an order would provide greater recreational or amenity value to local residents or visitors (the applicant will usually be the local authority).
5. Where, in the opinion of Herefordshire Council an Order would provide an improvement to the overall rights of way network (the applicant will usually be the local authority).
6. Where an Order is in the interest of a landowner or occupier. These Orders form the majority of applications and will be dealt with on a date of application basis.

Once applications are determined, they will be processed through order making following a similar priority except for Landowner interest applications which will be processed in order of date of determination rather than date of application.

Policy

Herefordshire Council has a discretionary power to make PPOs under both the Highways Act 1980 and the Town and Country Planning Act 1990. Before using these powers, Herefordshire Council will exercise its discretion and consider the merits of each application and the benefits obtained from an application for the users of the network, the applicant and the landowner if different. Herefordshire Council will aim to:

- Determine a PPO application within 6 months from the date of receiving a valid application form and plan.
- Make an order within a further 3 months unless objections are received which cannot be overcome.
- Ensure all costs are appropriate.

- Supply appropriate way marking.
- Provide appropriate help and advice both verbally and in writing.
- Determine applications in accordance with the statement of priorities set out for PPOs.

Applicants for PPOs will be expected to:

- Meet the factors set out below as appropriate.
- Agree in writing to pay all costs associated with making an order
- Pay all costs required to put a diverted route in place on the ground.
- Ensure the on-site welfare of any consultees during site visits.
- Ensure all affected landowners and tenants are aware of the possibility of site visits by consultees.
- Indemnify Herefordshire Council against any accidents or injuries which may occur to a consultee whilst on site inspecting a proposal.
- Ensure the existing route is clear of obstructions. In cases where it would be difficult to open up the legal line (e.g. where a building is the cause of obstruction) the applicant should ensure there is a clear convenient way around the obstruction.
- Set out as far as is reasonably practicable a proposed route on the ground at pre order consultation stage.

Given the significant benefit that the PROW network provides to both residents of and visitors to Herefordshire, Herefordshire Council will not normally accept applications to extinguish paths. An exception will be where the proposed extinguishment is part of a wider package that involves the creation of alternative rights of way. However, there are some limited circumstances where a stand-alone extinguishment may be considered appropriate. Where a person wishes to make an application for a s118 Extinguishment Order, they will need to provide robust evidence to demonstrate that the path “is not needed for public use” as set out in the legislation. Even where such a case is made, the Council may decide not to pursue an application, for instance, if it is considered it is likely to incur significant costs in so doing.

Decisions on accepting applications for a diversion will take account of the following factors affecting the public’s use and enjoyment of the path.

Condition

The condition of the proposed new route should be substantially as convenient as the original route.

Directness

The proposed new route should not unreasonably lengthen the path other than where it is in the interests of an overall improvement to the local network. The proposed new route should avoid introducing unnecessary “dog legs” into the path, or be overly circuitous. It should retain or improve a connection with another public right of way to reduce the distance travelled along metalled carriageways.

Width

The proposed new route should have a minimum width of 2m for a footpath, 3m for a bridleway and 4m for restricted byway. Greater widths may be required in some circumstances.

Landscape

The proposed new route should not result in lower quality or diversity of views for the path user. Where a path is being diverted for development purposes, the new route should not (as a general rule) follow estate roads.

Features of Interest

The proposed new route should generally not remove paths from significant features of interest, natural or man-made.

Financial

The proposed new route should not result in significant additional maintenance costs. Applicants may be required to enter into a maintenance agreement with Herefordshire Council.

Safety

The proposed new route must not subject users to any significant dangers or hazards. It should not introduce conditions (e.g. darkness, narrowness, poor visibility, and hiding places) likely to encourage antisocial or criminal behaviour against users, nor should it create a perception that this may be the case.

Needs of all Users

Proposed new routes should include features to improve access for the mobility impaired user. For example – gates rather than stiles, ramps rather than steps. Authority for the erection of stiles/ steps will be given only in exceptional circumstances.

Alternatives

The applicant will be required to demonstrate that they have considered alternatives to the altering of a right of way, i.e. amending proposals, changing boundary locations etc.

Herefordshire Council will be guided by appropriate legislation and statutory and departmental guidance for other factors to be considered in respect of applications for a specific purpose e.g. Section 119D of the Highways Act 1980, diversion for the protection of Sites of Special Scientific Interest.

Procedures

With the exception of seeking the views of the Local Member/s, an applicant will generally be responsible for carrying out work up to order making stage. This involves: -

- carrying out the pre order consultations,
- negotiating with consultees and seeking their agreement to the proposal
- supplying a plan at a scale of 1:2500
- ensuring full written agreement with other affected landowners.

Where an application receives objections at Pre-Order stage which have not been withdrawn following negotiation or by amending the route, it is at Herefordshire Council's discretion whether or not to accept the application and make an order in those circumstances. The Council is more likely to accept an application which has objections if there is an overall benefit to the public.

This approach would allow applicants to informally assess the likely support or opposition to a proposal. It is also likely to reduce objections at order making stage and speed up the whole process.

The vast majority of PPO applications received by Herefordshire Council are for orders to be made under section 257 of the Town and Country Planning Act 1990 and section 119 of the Highways Act 1980. The procedure for applications under these sections is as follows:

Stage 1 – Pre Order making

Herefordshire Council

1. Receipt of proposal by Herefordshire Council from the applicant in the form of a plan.
2. If at this stage Herefordshire Council judge that the proposal has little or no prospect of succeeding, it may decide not to pursue it.
3. An application pack, including a list of all consultees (including the Parish Council, user groups and statutory undertakers) who must be invited to comment, will be sent to the applicant by Herefordshire Council.

Applicant

4. Letters and two copies of the map sent to consultees for their observations and comments by applicant. The letter should contain a general invitation to the consultees to make an unaccompanied site inspection of the proposed route if they so wish. It should also explain the reasons for the diversion including why other alternatives were not being considered and how the proposal meets Herefordshire Council's criteria as set out above.
5. Receipt of consultee replies by applicant after a 2 month consultation period.
6. Consideration of replies – possible discussions and amendment of proposals by applicant.
The applicant may wish to invite all consultees to a site meeting in order to reach a consensus. (This may require a repeat of stages 2-5)
7. Completed application form and copies of all consultations (whether relevant or not) and written landowner agreements sent to Herefordshire Council. (This will be considered as a valid application).

Stage 2 – Order Making

Herefordshire Council

8. Prepare a plan and a draft order and schedule specific to the proposals and send to applicant for confirmation.
9. Receive confirmation from applicant.
10. Consult with Local Member.
11. Report prepared for submission to the relevant delegated officer.
12. Delegated officer considers and decides to accept or reject proposal.
13. If the proposal is accepted then Public Path Order is made (go to 15) (actioned by Legal Services).
14. If the proposal is rejected then applicant informed and no further action taken
15. Notice of the making of the Order will be posted on site and in a local newspaper and copies sent to those organisations / bodies notified at the pre-order consultation stage. Minimum period of 28 days allowed for representations or objections to be made.
16. If no objections or representations received or any received have been withdrawn, the applicant will be advised to complete any works required to set out the diversion route.
17. Diversion route inspected by PROW Officer and if satisfactory go to next stage.
18. New route is confirmed and certified and Notice of Confirmation and certification posted on site and in a local newspaper.
19. Minimum period of 42 days allowed for procedural challenge to the courts.
20. Case closed, working copy of definitive map and statement amended to show changes, Ordnance Survey informed.

If objections to an order are received, the following procedure will apply.

21. Objections are considered by PROW Officer and discussed with applicant.
22. If objections are considered to be minor or insignificant then an attempt is made to persuade the objectors to withdraw the objections.

23. If objections are considered to be significant then the PROW Officer may recommend amendment of the proposal or that the order is abandoned. If a new proposal is made then it will be necessary to repeat stages 3 onwards.
24. If objections are not withdrawn and Herefordshire Council is willing to support confirmation of the Order, it must be referred to the Secretary of State for a decision after which the Council will lose all jurisdiction/control over the process.
25. In the case of such a referral to the Secretary of State, the final decision will normally be made by an independent Inspector by means of either a "written representation" procedure, or by the holding of a public hearing or inquiry. (All parties must usually agree to the written representation procedure).
26. The decision of the Inspector is final and binding unless overturned by a court within the period specified.

Herefordshire Council's costs incurred when an Order is submitted to the Secretary of State cannot currently be recharged to the applicant. This is a relevant consideration for the Council in deciding whether to continue to support the confirmation of an order or to abandon it.

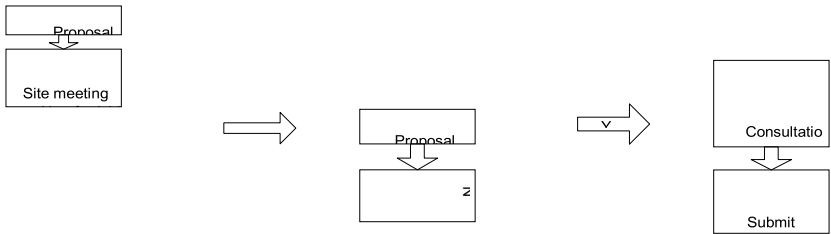
The applicant is required to provide appropriate support in promoting the order during decision making process. This may include appearing at a public inquiry in support of the order.

For PPOs carried out under the Town and Country Planning Act 1990, the developer must not carry out development works over or across the PROW until such time as the order is confirmed. The order cannot be confirmed if the development is already substantially complete.

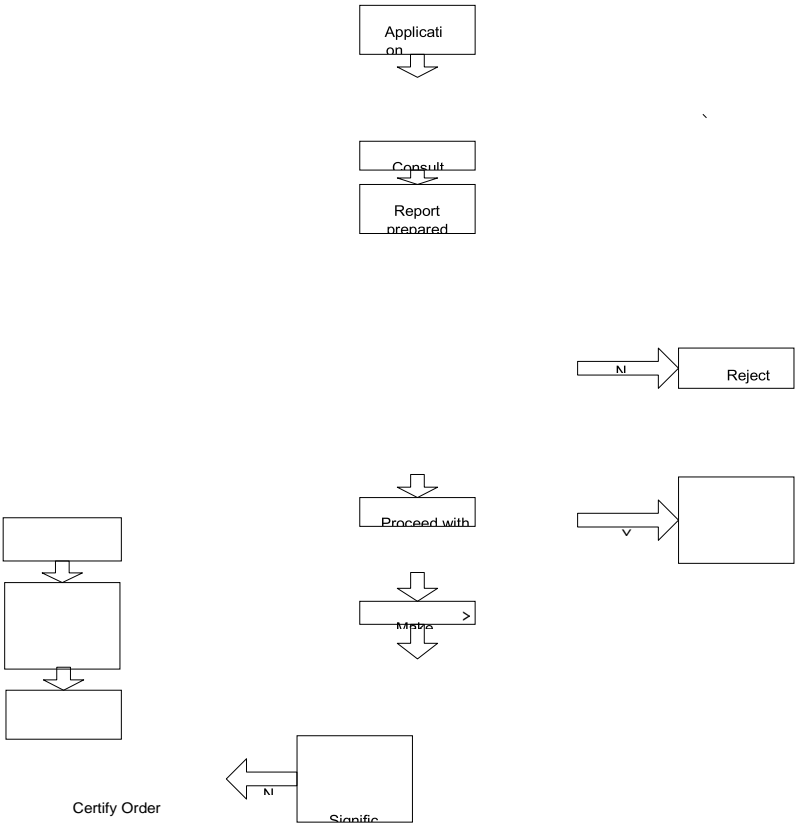
If objections are raised at either consultation stage or order advertising stage which are considered to be of major importance, then Herefordshire Council may decide not to proceed with the order making procedures.

A similar procedure will be adopted for consideration of applications for Public Path Extinguishment Orders to be made under s118 Highways Act 1980. For Public Path Order applications under sections 118A, 118ZA, 118B, 118C, 119A, 119ZA, 119B, 119C and 119D of the Highways Act 1980, (e.g. school security orders) separate procedures, in accordance with the relevant legislation and statutory guidance, will apply.

Stage 1 - Pre
Order Making



Stage 2 - Order
Making



Definitive Map Modification Orders Policy and Statement of Priorities

1. Introduction

- 1.1 Significant changes to Definitive Map legislation will take effect when the relevant parts of the Deregulation Act 2015 are commenced and this Policy and Statement will be reviewed accordingly.
- 1.2 Herefordshire Council has a duty under Section 53 of the Wildlife and Countryside Act 1981 (the Act) to keep the Definitive map and Statement of Public Rights of Way in Herefordshire under continuous review. The showing of a right of way on the Definitive Map and Statement is conclusive evidence of its existence at the relevant date. It is therefore extremely important the map is kept up to date and is as accurate as possible. If the Council itself discovers evidence, or whenever evidence is presented to the Council in an application to modify the Definitive Map and Statement, which indicates that the Map and Statement are wrong – most commonly because a claim has been made, it needs to investigate. If, having done so, the council concludes there to be a prima facie case that a right of way should be shown on the map, or where shown should be of a different status, or deleted, then it must make a Definitive Map Modification Order (DMMO) to effect that change to the Definitive Map and Statement.

2. The Legal Standpoint

- 2.1 The council is bound to accept applications even if they are supported by relatively little evidence. The law does not specifically set out what investigations should be made or what sources of evidence should be examined when the council determines an application.
- 2.2 Paragraph 3 of Schedule 14 of the Act requires an authority to investigate the matter stated in an application. Section 32 of the Highways Act 1980 requires the authority to take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence. Essentially, Herefordshire Council needs to consider evidence presented to it. There is nothing in the legislation that specifies what evidence or to what depth the authority has to research a claim. However as the council's decisions on these applications are subject to considerable public scrutiny, can be the subject of appeal, and frequently proceed to public inquiry, any investigations carried out have to be thorough and well documented.
- 2.3 This means that all valid applications must be researched to a basic minimum standard that is defensible, should the council's decision be challenged. However, it may well be that some of the applications made may warrant a more exhaustive standard of research in order to clarify or reinforce the decision to make an order.

3. Criteria for dealing with DMMO Applications

- 3.1 All new and current DMMO applications will be scrutinised against the criteria set out below:-

The application: -

Creates a useful route

An application will be considered a higher priority if it provides a useful addition to the rights of way network. Typically, useful routes will be historically or scenically interesting, add missing links, will have been identified on the Rights of Way Improvement Plan, accessible to a wide section of the public or provide a safe alternative to a road.

Does not provide a useful route

An application will be considered a lower priority if it does not provide a useful addition to the rights of way network. Typically these will be claims that are not in the public's interest, are for already existing routes of higher or equivalent status or mainly in the interest of a limited number of individuals.

The submitted evidence will be rated: -

Weak

An application will be considered weak if the applicant supplies little evidence at application stage.

Fairly robust

An application will be considered fairly robust if the applicant supplies good evidence but more is required to take the order to determination stage.

Very robust

An application will be considered very robust if it is clear that extensive research has been carried out by the applicant and little or no extra research by the council is required to take the application to determination stage.

- 3.2 Within each prioritisation bracket, applications will be dealt with on a date order basis.

- 3.3 Where an applicant is advised to produce more evidence, guidance notes about appropriate sources of evidence will be made available.

4. Method of dealing with backlog

- 4.1 There is currently a large backlog of Definitive Map modification applications. The main criteria for dealing with the DMMO applications backlog will be to weigh up the submitted evidence for each and assess the added value that would be provided to the network.
- 4.2 All existing DMMO applications for upgrades or additions to the network will be scrutinised and an assessment will be made based on the above criteria. The following procedures will then be adopted: -

***The application does not meet legal criteria** – the officer responsible for the case will reject the application.**

The application does not provide a useful route and is: -

Weak

Following consultation with the relevant Parish Council and a brief investigation of available evidence, a report will be submitted with a recommendation that the application is rejected if insufficient evidence is discovered to support the application.

Fairly robust

The applicant will be advised that it will be a low priority

Very Robust

The applicant will be advised that it is a low priority.

The application creates a useful route and is:-

Weak

The applicant will be advised that the application is a low priority and invited to submit additional information to support the application.

Fairly robust

The applicant will be advised that it is a medium priority and invited to submit more evidence so that the application can be fast tracked.

Very robust

These applications will be fast tracked. Emphasis will be placed on the applicant supplying evidence, which will allow an order to be made with limited input from officers.

- 4.3 The rejection of an application does not preclude the applicant from submitting a new application so long as new evidence is introduced. It is recognised however that the applicant would be required to repeat the whole application process.

5. Method for dealing with New Applications

- 5.1 Applications which fall short of the legal criteria* or are not in the prescribed form will be rejected by the officer responsible for the case. The criteria include applications accompanied by insufficient evidence to support a claim that the definitive map and statement are in error.

- 5.2 All new applications will follow the procedures set out below: -

The application does not provide a useful route and is:-

Weak

The application will be subject to a brief investigation of available evidence by the case officer. Consultation with the Parish Council will be carried out and a report will then be recommending rejection of the application, if insufficient evidence is discovered to support the application.

Fairly robust

* as set out by schedule 14 of the Wildlife and Countryside Act 1981

* as set out by schedule 14 of the Wildlife and Countryside ACT 1981

The applicant will be advised the application is a low priority.

Very robust

The applicant will be advised that the application is low priority.

The application creates a useful route addition and is: -

Weak

The applicant will be advised that the application will be a low priority and invited to submit further evidence to speed up the process.

Fairly robust

The applicant will be advised the application will be medium priority and invited to submit stronger evidence in order to fast track the application.

Very robust

The application will be fast tracked.

6. Downgrades and Extinguishments

- 6.1 An application to either downgrade a route or extinguish a right of way is unlikely to be of benefit to the network, but there remains a legal duty on Herefordshire Council to determine the application. The assessment of the application will therefore be based on the strength of evidence supplied with the application alone. Very robust evidence will result in an application being regarded as medium priority; fairly robust evidence will result in the application being regarded as low priority; and weak evidence will result in the application being subjected to a brief investigation of available evidence, consultation with the Parish Council being carried out, and recommended for rejection if insufficient evidence is discovered to support the application.

7. Anomalies

- 7.1 Herefordshire Council has approximately 300 known anomalies on the current Definitive Map and Statement. Anomalies come in various forms but some of the more common ones are: -

- Public rights of way that do not reach the county road (Cul-de-Sac)
- Discrepancies between the Definitive Map and Statement
- The presence of a physical feature on the ground which would make it impossible for the line shown on the Definitive Map to exist.
- Major drafting errors.

- 7.2 The resolution of an anomaly often requires the making of a legal order following research, similar to that required following the receipt of a Definitive Map Modification application made under schedule 14 of the Wildlife and Countryside Act 1981.

- 7.3 Anomalies will be dealt with in the following order:-

1. If it is in the interest of the public
2. If it would result in a network improvement
3. If it would assist permitted development

8. Dealing with applications outside the Statement of Priorities

8.1 In the case of all applications and anomalies, a DMMO application or anomaly may be dealt with outside the Statement of Priorities if: -

- Circumstances change the apparent usefulness of the claimed route.
- The claimed route is threatened by development works or other activities that may cause it to be destroyed.
- The claimed route is considered to be of strategic importance

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

WILDLIFE AND COUNTRYSIDE ACT 1981

STATEMENT OF PRIORITIES

Applications which fall short of the legal criteria* or are not in the prescribed form will be rejected by the officer responsible for the case.

Existing Applications

All existing applications, which have progressed to draft report stage by 31st July 2005, will be processed in date order.

All existing applications that have not progressed to draft report stage by 31st July 2005 will be considered against the following criteria.

The application does not create a useful addition to the rights of way network and is:-

Weak

The application will be subject to a brief investigation by the case officer. Consultation with the Parish Council will be carried out and a report will then be submitted recommending rejection of the application if insufficient evidence is discovered to support the application.

Fairly robust

The applicant will be advised that the application is low priority

Very robust

The applicant will be advised that the application is low priority.

The application creates a useful addition to the rights of way network and is:-

Weak

The applicant will be advised that the application will be a low priority and invited to submit further evidence in support of the application.

Fairly robust

The applicant will be advised the application will be a medium priority and invited to submit stronger evidence in order to fast track the application

* as set out by schedule 14 of the Wildlife and Countryside Act 1981

Very robust

The application will be fast tracked

New Applications

All new applications will be considered against the following criteria:

The application does not provide a useful route and is:-**Weak**

The application will be subject to a brief investigation by the case officer. Consultation with the Parish Council will be carried out and a report will then be submitted recommending rejection of the application if insufficient evidence is discovered to support the application.

Fairly robust

The applicant will be advised the application is a low priority

Very robust

The applicant will be advised that the application is a low priority.

The application creates useful route addition and is: -**Weak**

The applicant will be advised that the application will be a low priority and invited to submit further evidence to speed up the process.

Fairly robust

The applicant will be advised the application will be medium priority and invited to submit stronger evidence in order to fast track the application.

Very robust

The application will be fast tracked

Downgrades and Extinguishments

An application to either downgrade a route or extinguish a right of way is unlikely to be of benefit to the network, but there remains a legal duty on Herefordshire Council to determine the application. The assessment of the application will therefore be based on the strength of evidence supplied with the application alone. Very robust evidence will result in an application being regarded as medium priority; fairly robust evidence will result in the application being regarded as low priority; and weak evidence will result in the application being subjected to a brief investigation, consultation with the Parish Council being carried out and recommended for rejection if insufficient evidence is discovered to support the application.

Anomalies

Anomalies will be dealt with in the following order:

1. If it is in the interest of the public
2. If it would result in a network improvement
3. If it would assist permitted development

Determining applications outside the Statement of Priorities

In the case of all DMMO applications and anomalies, an application may be dealt with outside this sequence of priorities if: -

- i) Circumstances change the apparent usefulness of the claimed route.
- ii) The claimed route is threatened by development works or other activities that may cause it to be destroyed.
- iii) The claimed route is considered to be of strategic importance

Within each prioritisation bracket, applications will be dealt with on a date order basis.

Enforcement Guidance and Procedures

Introduction

The 3,400km of public rights of way within the county are a valuable resource and asset to the community. They are used by visitors who bring in income to the county and by local residents for sustainable travel, enjoyment and recreation.

This document is set in the context of Herefordshire Council's Overarching Enforcement and Prosecution Policy and identifies the specific processes that will followed to secure the removal of obstructions and nuisances from Public Rights of Way.

Herefordshire Council makes a substantial investment each year in rights of way infrastructure – stiles, gates, signposts, way markers and bridges around the county. Ironically as the quality of rights of way improves, usage has increased and the reported number of obstructions also tends to increase. The nature of the problems has moved from ones of missing furniture to ones of ploughing and cropping, badly maintained stiles and gates and overgrowth. To overcome these obstructions, the council, and members of the public are reliant on land occupiers to carry out their legal duties.

It is unfortunate but sometimes inevitable that the council has to resort to enforcement powers to ensure occupiers comply with legislation and fulfil their legal obligations to keep the paths open. Central to this document is a recognition of Herefordshire Council's duty in section 130, Highways Act 1980 that it must “...*assert and protect the rights of the public to the use and enjoyment of any highway for which [it is] the highway authority...*” Therefore it is important that the council has in place a robust enforcement guidance and a structured set of procedures to ensure consistency and openness. This will ensure that land occupiers are fully aware of their responsibilities to keep rights of way clear and sets out the likely implications of non-compliance.

This procedure is set out in the context of the wider ambitions of the Rights of Way Improvement Plan. The plan emphasises the importance of developing and improving accessibility to the network and increasing economic prosperity within the county. In carrying out enforcement activity this will be taken to mean that: -

- If, as a result of discussions with landowners, the opportunity arises to improve accessibility whilst recognising the boundaries set by the Highways Act 1980, Herefordshire Council will take positive steps towards facilitating that improvement, and
- Emphasis will be placed on ensuring that obstructions along promoted routes are dealt with as quickly as possible within the confines of the Highways Act 1980.

Throughout this document the term 'occupier' refers to both owner of the land or a tenant of the landowner.

REGULATORS' CODE

The effectiveness of legislation in protecting users of rights of way depends crucially on the compliance of those regulated. We recognise that most occupiers want to comply with the law. We will, therefore, take care to help occupiers and others meet their legal obligations without incurring unnecessary expense, while taking firm action, including

prosecution where appropriate. Everyone will reap the benefits of this procedure through better information, choice, enjoyment and safety. We have adopted the principles of The Regulators' Code.

Included in the term 'enforcement' are advisory visits and assisting with compliance as well as formal enforcement action

Escalation of Enforcement

The council will follow a proportionate escalation of enforcement wherever possible; this will follow an incremental approach and be reasonable, proportionate, risk-based and consistent with good practice, all options will be considered and will include: -

- Liaison and informal request
- Formal request by letter and / or service of notice(s)
- Enforcement remedial action and recovery of costs and / or
- Prosecution

The above sets out the general approach but, in some cases, the council may commence enforcement from or escalate enforcement action to any point in the above process where it is felt to be necessary.

NB. *The council reserves the right to exercise its common law power to remove an obstruction from the highway or abate a nuisance or other interference with the highway as preserved in Section 333 Highways Act 1980 e.g. removing locks on gates, and removing barbed wire which is a danger or nuisance.*

Enforcement procedure

- Advice from an Enforcement Officer or Locality Steward will be put clearly and simply and will be confirmed in writing, on request, explaining why any work is necessary and over what time-scale, and making sure that legal requirements are clearly distinguished from best practice advice.
- Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health and safety).
- Where immediate action is considered necessary, an explanation of why such action was required will be given at the time and also confirmed in writing
- Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the enforcement notice).

Occupiers will generally be given the opportunity to remove obstructions from paths without recourse to formal enforcement action by the Council. However, Herefordshire Council has a legal duty to ensure rights of way remain unobstructed and available to use and has a wide variety of enforcement powers which allow it to serve notice, reclaim costs for direct action and to prosecute.

Note: In all cases, Herefordshire Council may instigate prosecution procedures, in line with the prosecution guidelines below
Procedures for dealing with various obstructions

Wilful obstruction of the highway without lawful authority or excuse is an offence as defined in Section 137 Highways Act 1980. Herefordshire Council may exercise common law powers to remove some obstructions if it is safe and expedient to do so.

Where a person(s) is convicted of obstruction, they may have a court order made to remove the obstruction within a reasonable period of time under Section 137ZA Highways Act. If the obstruction is not removed within the time specified as well as the person committing a further offence, Herefordshire Council may remove the obstruction and recover costs from the person(s) responsible.

The following procedures set out the way breaches of legislation will be dealt with and provide a timescale for doing so. It is important to recognise that it may not be possible to strictly adhere to these timescales due to the individual circumstances of cases and factors beyond the council's control and resources.

In most cases, the occupier will be requested to remove an obstruction within 14 days or a time agreed with the officer dealing with the case. If, after the expiry of that period, the obstruction still remains, the occupier will generally be served a notice or the matter will be referred to the Magistrates' Court depending on the type of offence. The following are the procedures that will be applied to number of common obstructions; this list is not exhaustive.

1. Overhanging hedges, trees or shrubs

If a hedge, tree or shrub (commonly referred to as vegetation) overhangs a right of way to such an extent that it obstructs or endangers users such that an offence is committed under section 154 of the Highways Act 1980, the occupier of the land from which the offending vegetation is growing will be required, by notice, to cut back as much of the vegetation as is required to allow for free passage. In the event of non-compliance the council can arrange to have the work carried out and recover the costs incurred from the occupier.

2. Fallen trees

Generally trees that fall across rights of way belong to the occupier of the land adjoining the right of way. The occupier will normally be requested in writing to remove the tree within 14 days. If the occupier subsequently fails to comply, the matter will be regarded as an unlawful deposit (see 7 below), or as a wilful obstruction contrary to Section 137 Highways Act 1980.

3. Damage to the surface

Damage caused to the surface of a right of way that causes an inconvenience to users is an offence under section 131A of the Highways Act 1980. The person responsible will normally be asked to make good the damage within 14 days. If the person responsible fails to comply, the Council can serve a notice under Schedule 12A Highways Act 1980, undertake remedial works and recover costs from the person responsible and / or consider a prosecution.

4. Misleading signs

A person who erects a sign on or adjacent to a public right of way, aimed at deterring users, or provides misleading information, is committing an offence under either section 132 of the Highways Act 1980, or section 57 of the National Parks and Access to the Countryside Act 1949, depending on the circumstances. The occupier on whose land

the notice is erected will in most cases be required to remove the notice within 14 days. If the occupier fails to comply the council may consider arranging for the notice to be removed within a further 14 days after a notice under section 69 of the Road Traffic Regulation Act 1984 has been served. Costs will be recovered from the occupier under the said section 69 procedure.

5. Dangerous animals

Any reports of dangerous animals or attacks on users of a right of way by dangerous animals will be either reported to the Police to be dealt with or passed on to the Health & Safety Executive. Where appropriate, Herefordshire Council will advise occupiers of their potential liabilities under the Health & Safety Act & Dangerous Animals Act.

6. Bulls

Any reports of bulls at large in a field that is crossed by a right of way will normally be followed up within 2 working days to ascertain if an offence has been committed. Bulls are permitted in the following circumstances: -

- All breeds less than 10 months old, alone or with others.
- Non-dairy breeds over 10 months accompanied by cows or heifers.

The following are not permitted:

- Dairy breeds over 10 months alone or with others
- Non-dairy breeds over 10 months alone

Upon identification, or following discussion with the occupier, the occupier will be advised of the legislation and requested to comply. A letter will be sent confirming the discussion and advising the owner that any further offences will be reported to the Health & Safety Executive for action. If the landowner cannot be contacted, the matter will be referred directly to the Health & Safety Executive.

7. Unlawful deposit

In the event of report being received of something having been deposited on a right of way, which is considered a danger to users, the council will remove it immediately. If they consider it has been deposited deliberately or as a result of neglect, they may seek to reclaim the costs involved. In most other circumstances the occupier will be requested to remove the deposit within two weeks. In the event of the deposit not being removed, the Council may serve notice under either sections 149 or 150 of the Highways Act 1980. Costs will be recovered from the occupier of the land.

8. Unauthorised structures including gates & stiles

Gates and stiles across a right of way are unlawful unless properly authorised by Herefordshire Council. Generally, gates and stiles in new fence lines can only be authorised where they are necessary for livestock control. (A fence line will be regarded as being new if it is not on a boundary shown on the 1989 Definitive Map).

The Council has a separate Structures Policy (see Appendix 5) which provides further information on this. In the event of a report being received of some form of unauthorised structure being set up or placed on a right of way and causing an obstruction, the occupier will be asked to remove the structure within 14 days. In the event of non-compliance the council will serve a notice under section 143 of the Highways Act 1980.

If the structure remains after one month the council may carry out work to remove the structure and recover the costs from the occupier.

9. Damaged or inoperable gates & stiles

The occupier will be requested to make appropriate repairs within a reasonable time period of not more than 4 weeks. If the occupier fails to carry out the work, the council may serve notice under section 146 of the Highways Act 1980 on the occupier requiring them to comply within 14 days. Non-compliance may result in the council carrying out the work and recovering costs.

10. Dangerous situations

If Herefordshire Council considers an obstruction on a public right of way an immediate danger to the public, or it considers that something adjoining a right of way is a danger to users of the right of way, it reserves the right to remove the source of danger immediately and claim the costs for doing so from the occupier.

11. Ploughing and Cropping Offences (Sections 134 & 137A Highways Act 1980)

A large proportion of the Herefordshire countryside is cultivated and planted with various types of crops. All crops (except those exempted within the legislation i.e. grasses that are not a cereal crop) across a right of way have the effect of deterring use, causing an inconvenience and in many cases a total obstruction.

Ploughed surfaces that are not restored to a standard that make it reasonably convenient to exercise a right of way within the statutory period (14 days for the first disturbance and 24 hours for any subsequent disturbance), deter or prevent use and may well also be offences under Sections 131A & 137 Highways Act 1980.

For this reason legislation was passed in 1990 to provide local authorities with powers to deal with the problem. Experience has identified that in many cases occupiers will not comply with the legislation until requested to do so by the council. The council takes the issue of ploughing and cropping of rights of way seriously and land occupiers should be in no doubt that a robust and consistent approach will be adopted to keeping rights of way clear.

The essence of the procedure set out below is that occupiers will be notified of the issue, and in the first case be asked to rectify it. If the issue remains un-resolved the council will consider: -

- Service of Schedule 12A Highways Act 1980 notice, undertake the required work and bill the person(s) responsible.
- Whether a prosecution is also necessary in line with the council's Enforcement & Prosecution Policy.

Note: In cases of multiple offences, instances of repeat offending or where it is considered to be in the public interest, enforcement action may commence at a higher level.

Initial report of breach of legislation

The location will be visited by an officer and an assessment will be made as to whether a breach has actually been committed. If a breach is believed to have occurred, the occupier believed to be responsible will be contacted where possible in person, but otherwise by telephone or letter. The details of the breach will be made clear and acceptable remedial action explained. Where appropriate, consideration will be given to timescales for resolution dependent on each situation.

Council enforcement where Issues are not resolved after advice

Where the issue has not been resolved after initial contact, or it has not been possible to make contact with the occupier who is believed to be responsible for the breach, then a letter or enforcement notice and map, highlighting the allegation(s) will be sent to the person believed to be responsible. The letter or notice will formally request resolution within a specified time, and highlight Herefordshire Council enforcement options in the event of non-compliance; prosecution will also be considered.

Schedule 12A Enforcement Notice (In respect of surface disturbance offences: Sections 131A, 134, 135, & 137A Highways Act 1980)

An officer will inspect the location of the alleged breach, and confirm that an offence is still reasonably believed to be being committed. If that is the case, they shall write to the occupier detailing what work is required to resolve the issue and include a Schedule 12A Enforcement Notice. The Notice will set out the council's intention to take direct action to resolve the issue, and recover the cost of such work from the occupier, if the issue is not resolved within a specified period, normally 7 days.

The Notice will include: -

1. Not less than 24 hours' notice of the council's intention to enter land and carry out the necessary work.
2. The identity of the 'highway' to which the notice relates.
3. Specify the work to be carried out, and the equipment to be used for that purpose.
4. The line of access over the land in question (this does not have to be over the actual right of way)
5. The date and time when the power to enter on the land becomes exercisable.

If it has not been possible to positively identify the occupier, the council may post copies of the notice at either end of the section of highway referred to in the notice, at any points in the vicinity that the council feel is suitable, or at a point adjacent to a made-up carriageway from where equipment access is required.

The officer will advise the occupier that the reinstatement work by the council will only be cancelled subject to: -

1. The work having been carried out to the satisfaction of the council, and;
2. The officer being advised two working days prior to any enforcement action being carried out that the occupier has completed the works

A final inspection of the right of way will be undertaken the day before the enforcement works are to be carried out to ascertain whether or not the work has been completed.

In the event of the works having been completed and the council not informed, any costs that have been incurred will be recovered from the occupier.

Enforcement of Schedule 12A Notice

If the works have not been completed, the officer will meet the work team (and the police if requested) reasonably close to the site where the works are to be undertaken. The officer will brief the work team and, if present, provide the police with any documentation they require.

The following documentation / information will be made available: -

1. A copy of the Definitive Map and Statement relating to the right of way in question.
2. Copies of the schedule 12a notice(s).
3. Copies of all other relevant correspondence.

Once briefed, the work team will proceed to the prearranged access point while the officer and the Police, if present, contact the occupier of the land to inform them that the works are to be carried out. The work team will not enter onto the land or commence any work until authorised to do so by the officer.

Before any works are carried out, the correct line of the path to be reinstated will be marked out and clarified for the work team. This will include the width to be reinstated which will be within the maximum width but no less than minimum width as set out below.

Path type	Min width		Max width
Field edge footpath	1.5 metres	to	1.8 metres
Field edge bridleway	3.0 metres		
Cross-field footpath	1.0 metres	to	1.8 metres
Cross-field bridleway	2.0 metres	to	3.0 metres
Any other Highway	3.0 metres	to	5.0 metres

The officer will liaise with the work team at all times with particular attention being made to the correct line. In the event of any threat of violence, the officer and work team will take the advice of the Police if they are present, or withdraw from the site immediately to a pre-agreed location and contact the Police.

Once the works have been carried out, a letter and bill will be forwarded to the occupier of the land who will be recharged all reasonable costs incurred. The letter will advise whether or not in addition to the enforcement action, the council is considering prosecution.

Rural Payments Agency Notification

Where occupiers are believed to be in receipt of Basic Payment Scheme (BPS) payments for land and are obliged to meet all relevant Cross Compliance requirements including those requirements to keep land in Good Agricultural and Environmental Condition (GAEC 7B applies to PROW), Herefordshire Council, will notify the Rural Payments Agency (RPA) of any breaches of legislation resulting in formal enforcement action.

Prioritising Enforcement Work

There are a significant number of unresolved obstructions to the PROW network. Whilst only a small number seriously impact on the public's enjoyment of the network, it is important that all these issues are addressed so that users and landowners/occupiers have certainty about the extent of the public's rights. To balance the council responsibilities with reduced funding and resources it is necessary that a system of prioritising the enforcement work of the PROW Team is operated.

Non-seasonal obstructions (those not related to the cultivation of arable crops) coming to the attention of the council are categorised as follows: -

PRIORITY OBSTRUCTIONS	Obstructions where one or more of the criteria set out in Principle 2 below are met. These obstructions will be dealt with as a matter of urgency by the council.
ROUTINE & LONG TERM OBSTRUCTIONS	Obstructions, including those on the Council's "Long Term Obstruction List", which do not meet the criteria set out in Principle 2 but which nonetheless may have a negative impact on the public trying to use the path. These obstructions will remain on file and be dealt with as and when resources allow or if an opportunity arises, for instance if the obstructed path is identified on a search in the process of the sale of the surrounding land or if development is proposed for the affected land..
DE MINIMIS OBSTRUCTIONS	Obstructions which appear negligible in their impact on the public. These will be recorded on file but no further specific immediate action proposed. Resolution of the issue will be sought if an opportunity arises, for instance if the obstructed path is identified on a search in the process of the sale of the surrounding land or if development is proposed for the affected land.

In some cases, as time passes it becomes progressively more difficult to secure the removal of an obstruction. Herefordshire Council retains discretion to deal with 'new' obstructions immediately, regardless of the above prioritisation where that is considered an effective use of resources; this applies to all seasonal obstructions. Alternatively, 'new' obstructions may be placed at the top of the order of priority where that is more appropriate.

HEREFORDSHIRE COUNCIL PUBLIC RIGHTS OF WAY ENFORCEMENT PRINCIPLES

Principle 1

Wherever obstructions or other breaches of relevant legislation are identified, Herefordshire Council will utilise its various enforcement powers as set out in this document to remedy the problem.

Principle 2

In dealing with enforcement cases, priority will normally be given to cases where, in the view of Officers, one or more of the following criteria are met:

1. Where continuation of the obstruction provides an unacceptable health and safety risk
2. Where resolution of the obstruction will provide a significantly enhanced PROW network
3. Where resolution of the obstruction will contribute significantly to other Council objectives
4. Where the obstruction adversely affects a Herefordshire Council promoted route
5. Where a significant number of valid complaints have been received about the obstruction from a variety of independent sources

Principle 3

A Public Path Order will be considered as an acceptable alternative to enforcement action only where all of the following criteria are met: -

1. The obstruction does not appear to have been a deliberate attempt to interfere with the public's use of the route
2. The obstruction is not of recent origin (the use of PPOs to deal with obstructions placed after the date of adoption of this procedure will only be considered in exceptional circumstances)
3. In the opinion of the Network Regulation Manager, an alternative route exists that will fulfil the requirements of the relevant PPO legislation.

Nothing in this procedure in any way affects the powers available to the council to take direct action to remove unsafe or unauthorised obstructions or deposits in the highway. Herefordshire Council reserves the right to consider prosecution and / or enforcement action at any time and in all cases.

Use of Public Path Orders (PPOs)

A number of obstructions on PROW may be longstanding and of such a nature that successful enforcement action may be costly, difficult to achieve or undesirable. An example of this might be where buildings had been constructed over a PROW some years ago. Herefordshire Council will maintain a list of 'Long term Obstructions' as and when they come to light. In such cases the making of a PPO (e.g. a diversion order to circumvent or avoid the obstruction) may appear a more appropriate and efficient response.

Nonetheless, to act as an effective deterrent an enforcement procedure must avoid the danger of appearing to condone obstructing a PROW merely because it would be awkward or difficult to take direct action or prosecute. Consequently, the making of PPOs to deal with obstructions on PROW would be acceptable only in certain limited circumstances.

In cases where a PPO is considered acceptable normal PPO procedures will be applied including provisions for the recovery of the Council's costs. In the event of the application being unsuccessful for any reason, then the case will be dealt with as a standard enforcement issue.

Prosecution Guidelines

In all cases Herefordshire Council reserves the right to decide to prosecute individuals that break the law. The decision to prosecute will be made by the council in line with their current Enforcement and Prosecution Policy.

General principles

Prosecution as a means of enforcement will, in most cases, only be considered as a last resort and after other methods of persuasion and enforcement have failed. In some cases, legislation may dictate prosecution as the only option if negotiation has failed. In other cases direct action may have failed and the occupier persists in maintaining the obstruction.

Prosecutions will only be considered in accordance with the current Herefordshire Council Enforcement & Prosecution Policy.

In summary

A prosecution will be considered if there is *(all three of these tests need to apply)*

1. A realistic prospect of conviction against the defendant.
2. There is sufficient, admissible and reliable evidence
3. A prosecution is required in the public interest

A Formal Caution will be considered if: *(all four of these tests need to apply)*

1. The defendant fully admits the offence
2. There is a realistic prospect of conviction against the defendant.
3. There is sufficient, admissible and reliable evidence
4. A prosecution is required in the public interest

Prosecution Procedures

The Herefordshire Public Realm Partnership will be guided by the council's legal services as to the appropriate procedures to be adhered to for the prosecution of suspected offenders.

Inspection and Maintenance Strategy

Background

Herefordshire has a network of 3,400km of footpaths, bridleways, restricted byways and byways open to all traffic. These paths range from those heavily used by dog walkers, people accessing services and strategically important routes such as the Wye Valley Walk, to those used rarely or with limited public benefit. Although Herefordshire Council has a legal duty to maintain all rights of way within the county, there are only limited resources available. As a consequence, the network has been categorised and a system of priorities has been put in place, which provides the basis of the Inspection and Maintenance Strategy.

Path Categories

To enable a consistent approach to the prioritisation of issues that arise on the PROW network, all paths have been assessed and allocated to one of the following four categories. Where different sections of a path would fall into separate categories the path as a whole is allocated to the higher category.

Category 1	Herefordshire Council promoted routes namely Wye Valley Walk, Offa's Dyke National Trail, Mortimer Trail, Herefordshire Council Loop Walks
Category 2	Other selected published routes e.g. Herefordshire Trail, Three Rivers Ride
	Well used paths in or around a settlement
	Other paths known to be popular
	Paths made up specifically for disabled access
	Links to visitor attractions
Category 3	Paths not identified in categories 1, 2 and 4
Category 4	Paths with little or no amenity value e.g. paths with little value in terms of enjoyment, access or utility or cul-de-sac

Routine Inspections

Routine inspections will be carried out on Category 1 routes in the county to assess overall condition, signing and safety according to the principles set out in Herefordshire Council's Highways Maintenance Plan.

Reactive Inspections and Maintenance works

Other inspections will generally be conducted only when a defect is reported. When a report of a defect is received, it will be assigned for inspection, normally to the Locality

Steward responsible for the area concerned. Issues that appear to be hazardous to users of the right of way will be inspected & remedial action to make the path safe will be arranged as soon as possible and in any case within 48 hours.

For these purposes a hazard is defined as follows: -

Any defect to or on

- a bridge or other watercourse crossing on a public right of way
- the surface of the public right of way or structure on it
- land adjoining a right of way

which, in the view of a PROW Officer, is likely to cause serious injury or death to any person using the public right of way.

Consequently, whether a particular issue is deemed to be hazardous will depend not only on the nature of the defect but also its location and the expected level of use of the route.

The order in which other defects are inspected and remedial action or works arranged will normally be determined by the Locality Steward according to a number of factors which may include: -

- Safety e.g. defects such as defective stiles or gates which, whilst not considered to be a hazard as defined above, may still increase the risk of minor accidents / Injuries
- Category of path
- Status of the route – defects on higher status routes, e.g. bridleways, byways and restricted byways, will normally be given higher priority than defects on footpaths due to the shortage of such routes and their suitability for vulnerable users
- Inconvenience to the public e.g. whether the public are still able to use the path despite the defect
- Complaint volume – higher priority may be given to defects that have resulted in a greater number of service requests from independent sources
- Public benefit – higher priority may be given to defects where, in the opinion of a PROW Officer, resolution will be of particular public benefit
- Cost of works – inspection and resolution of defects may be of lower priority where the work required appears to be of a cost disproportionate to the benefit
- Work efficiency – a higher priority may be given to dealing with a number of defects located close together where individually they may not merit such a priority
- Seasonality - The practical work required to resolve a defect may need to be carried out at a particular time of year or in particular conditions. Examples being; large scale vegetation clearance is more efficient when leaves are off

trees and hedges, access to sites may need a period of dry weather or river levels need to be low to carry out bridge works

- Environmental - The practical work required to resolve the defect may need to be carried out at a particular time of year or in particular conditions to avoid damaging flora and fauna. Licences for work may be required from the Environment Agency or other body
- Enforcement – If a landowner has been requested to carry out their statutory responsibility such as reinstating a path, it is reasonable to expect Herefordshire to carry out their responsibility at the same time e.g. Install a ditch crossing where the path leaves the field that is subject to reinstatement
- Availability of Parish, Community or Volunteer contributions – higher priority may be given to defects where resources may be available via the Parish Paths Partnership scheme or other community / volunteer groups
- Other policies & guidelines

This strategy will also be followed for any new routes added to the Definitive Map including, for example, those added by Definitive Map Modification Order. New routes will be afforded a priority level according to the above criteria and any problems addressed accordingly.

Resources

The direct resources – budget and staff - available to Herefordshire Council for resolving defects is very limited. PROW staff must consider alternative methods of delivering works. This will include the Parish Paths Partnership Scheme, Parish Footpath Officers, volunteers, and private contractors.

Parish Paths Partnership Scheme (P3)

The Parish Paths Partnership Scheme enables parishes to carry out maintenance works on the rights of way network, which would normally be the responsibility of Herefordshire Council, and other improvement works. The parish can choose how they arrange the work and may involve the use of contractors, volunteers or the landowner.

The scheme offers local residents the opportunity of becoming involved in the maintenance of rights of way and offers excellent value for money. For these reasons the intention is to continue operating the scheme within the budget available.

Parish Footpath Officers

Minor works such as way marking and localised clearance can be passed through to the volunteer Parish Footpath Officer nominated by the parish council to be responsible for local paths. Parish Footpath Officers provide an essential contribution to the maintenance of the public rights of way network. Herefordshire Council will therefore seek to widen the coverage of Parish Footpath Officers and continue to offer training, support and expenses payments subject to resources.

Volunteers

Herefordshire Council will, whenever practically possible, make use of volunteer resources provided the necessary health; safety and insurance standards are met. Volunteers can undertake a variety of tasks from building bridges, clearance work and way marking.

Access Improvements

Under s.146 of the Highways Act 1980 landowners are responsible for the maintenance of stiles and gates and are entitled to claim a grant of a minimum of 25% towards the cost of the works. Under the same section, Herefordshire Council has the power to carry out all the work at their own expense if they so wish.

Herefordshire Council has adopted the principle of the least restrictive option when looking at access points along a path. This means consideration will be given to improving access along a route and upgrading furniture to remove as many obstacles as possible. In practical terms this means removing a stile or gate to leave a gap, replacing a stile with a gate, replacing a kissing gate with a pedestrian or fully accessible gate, or installing an easy access stile.

On receiving a report of a damaged or broken stile, efforts will be made to secure access improvements. To facilitate this, Herefordshire Council will, as far as budgets allow, offer to supply and install a gate if it replaces a stile, remove a stile or gate if it leaves a gap, install a cross step, or carry out any other work that is regarded as access improvement, at no expense to the landowner. If the landowner does not wish to have access improved, they will be requested to either install a gate or stile supplied by Herefordshire Council in lieu of the 25% statutory grant or requested to install a stile or gate to the satisfaction of the responsible officer and invited to claim a minimum of 25% of the costs incurred.

Policy on Structures across Public Rights of Way and the Equality Act 2010

Introduction

Herefordshire Council is committed to making the network of Public Rights of Way (PROW) in the county as accessible as possible to all legitimate users including people with mobility difficulties and those with small children.

At the same time, we recognise that Herefordshire is a rural county in which agriculture plays a vital role and that a balance has to be drawn between the needs of the public using PROW and the needs of farmers and landowners to manage their land effectively and to control the movement of animals / livestock.

To achieve this balance, Herefordshire Council applies the principle of '**Least Restrictive Access**' (**LRA**) in deciding what structures may be placed across a Public Footpath or Bridleway. LRA means that where a genuine need for a structure has been established, the design of structure chosen should be the least restrictive possible that still achieves the necessary purpose.

The LRA establishes a hierarchy of structures from least restrictive to most: -

GAP

GATE

KISSING GATE

STILE

Should a structure be required then a gap is preferable to a gate which in turn is preferable to a kissing gate; a stile would be acceptable only where no other option exists.

Scope

The policy has the aim of setting out the requirements that will normally be applied in the following circumstances: -

1. The provision of a structure as a limitation in a Public Path Order on a footpath, bridleway or restricted byway - a diversion Order under s119 Highways Act 1980 or a creation Order under s26 Highways Act 1980
2. The provision of a structure as a limitation in a Public Path Creation Agreement on a footpath, bridleway or restricted byway - a creation Agreement under s25 Highways Act 1980
3. The authorisation of a structure on a footpath or bridleway under s147 Highways Act 1980 - to control the movement of animals on agricultural land

4. The provision of a structure by Herefordshire Council under other statutory powers to safeguard users of the PROW (s66 Highways Act 1980) to provide a service for the benefit of the public (s115B Highways Act 1980)
5. The improvement of an existing structure to make it more accessible by agreement between Herefordshire Council and the landowner under s147ZA Highways Act 1980
6. The replacement of existing structures on PROW with more accessible designs as part of the improvement works routinely carried out by Herefordshire Council following negotiations with the landowners

In absolute terms structures installed under point 6 above probably vastly outnumber all the other circumstances combined. Records of limitations, either in the form of s147 authorisations or on Herefordshire Council's Definitive Statement are almost entirely absent and thus where appropriate the council may seek to use the opportunity provided by the installation of an improved structure to regularise this situation with a s147 authorisation.

Whilst in broad terms, the first four of the above six situations in which this policy applies are situations where Herefordshire Council can set requirements which the landowner is often obliged to accept, this is not the case with routine improvement to existing structures which must be negotiated individually with the landowner (situations 5 and 6). As noted above in terms of the number of structures affected, the vast majority fall within situation 6. In such situations, it may not be possible to secure agreement with all aspects of an approved standard.

British Standard

The British Standard for Gaps, Gates and Stiles (BS5709:2006) sets out measureable and functional performance criteria for these structures rather than a rigid specification and thus there may be a number of possible designs of structures that meet the standard.

"The selection of a gap, gate or stile, which permits people to use a path crossing a field boundary such as a hedge fence or stone wall, **shall result in as little restriction as possible for potential users**, while meeting the actual agricultural needs of the landowners" (BS5709:2006).

BS5709:2006 is not a statutory requirement and there is no specific duty to comply with it. DEFRA guidance on the matter states: -

"It would be good practice for authorities to develop, and work to, an approved policy on structures on rights of way: this may be part of their Rights of Way Improvement Plan or part of a wider policy on the Equality Act. This policy should include a standard for structures, incorporating the 'least restrictive access' principle. The standard and its associated designs may be an external one, such as BS 5709, or it may be one that has been developed locally with suitable expert advice. Following the standard put in place when specifying a new structure, or improving an existing structure, will help the authority meet its obligations under the Equality Act. Authorities may consider incorporating such a policy into their Rights of Way Improvement Plan"

Apart from some key dimensions of particular types of structure, the BS also sets out various general requirements that structures must comply with.

These general requirements include, amongst other things, the following: -

1. No barbed wire or electric fencing within 1 metre of the structure or associated manoeuvring space
2. scratching, stinging or common rash making within 1 metre of the structure

3. The ground within 2 metres of the structure to be free of surface water (except immediately after rain) and provide a firm surface
4. Where structures are next to a road, they need to be set back by 4 metres except for a footpath which does not continue the other side of the road and is unlikely to be used by large groups of walkers in which case

they would need to be set back by 2 metres.

5. All gates shall have a waymark or sign either side.

Whilst in many circumstances these requirements may be perceived as setting out an ideal structure, it is recognised that there is a cost in achieving and maintaining them. This cost is both financial – in terms of time and resources required – and also ecological, for instance in terms of length of hedgerow that requires removal to accommodate the structure. In some aspects the standard may have the effect of making access more difficult. A 2 metre or 4 metre set-back for instance may create a significant area of verge that is not grazed and consequently becomes overgrown.

The full British Standard would appear to be appropriate on certain popular and heavily used routes. However, Herefordshire is a largely rural county with relatively low levels of use of the rights of way network and adoption of the full British Standard is thus considered unnecessary. This policy, therefore, reflects a 'Herefordshire Standard' which is equivalent to the current British Standard (BS5709:2006) with the exception of elements 2-5 of the general requirements quoted above, unless explicitly included.

Policy

- SP1** Herefordshire Council will seek to minimise the number of structures across PROW subject to the reasonable needs of those managing the land over which the PROW runs and of the need to safeguard the public from hazards and illegal or inappropriate use of the PROW
- SP2** Where a structure is considered appropriate, Herefordshire Council will apply the principle of 'least restrictive access' in determining what type of structure is acceptable
- SP3** In determining what type of structure is acceptable, consideration may be given to the topography of the land through which the PROW passes and the expected extent and nature of the use to be made of the path. The nature of existing structures elsewhere on the PROW will not be taken into account
- SP4** Structures will normally be required to comply with the Herefordshire Standard in force at the time of the authorisation, as defined above
- SP5** In some circumstances, structures not compliant with the Herefordshire Standard may be considered to be acceptable - see exceptions

Exceptions

It is desirable to develop a policy that can be consistently applied in as many circumstances as possible but there may be a justifiable need for different standards in different situations. The Pittcroft Trust Guidance on this recommends that where complete compliance cannot be achieved then *"The Standard can still be cited but with the exception spelled out."*

The topography of the path in question and the implications that may have for accessibility of a route to people with mobility difficulties is a relevant consideration in the decision as to what type of structure would be acceptable at a location along it. However, the existence of more restrictive structures at other locations on a path would not be a reasonable ground for authorising a more restrictive structure than would otherwise be authorised as incremental improvements in the future may see the removal of those structures. In any event, many users may be able to negotiate a small number of 'difficult' structures but the cumulative effect of many would be restrictive.

In determining what type of structure is appropriate in any given location, the BS advocates applying a test of reasonableness.

"If a gate, kissing gate or stile is to be provided on a path an assessment shall be made of whether such action is reasonable. The assessment shall as a minimum include the following: -

- What alternative measures might be taken to avoid the need for a structure or a particular type of structure (e.g. a swathe of land including the path might be fenced-in so as to keep stock completely off the path's surface)
- The likelihood of the structure, taken in the context of its environment, causing some restriction to users (e.g. a gate will be difficult for some people with reach or dexterity difficulties)
- The extent of any restriction which will be created (e.g. a stile will create an absolute barrier to wheelchair users and many walkers with pushchairs as well as those with limited agility)"

Examples of Non-Herefordshire Standard compliant structures and settings that may be considered acceptable by Herefordshire Council

A: Kissing gate with internal diameter of 1.2m

Description: This structure has a smaller internal diameter than a fully compliant Herefordshire Standard kissing gate. However, it provides easy access for ambulant people with hip or joint problems who may struggle with a stile. As it is smaller than a Herefordshire Standard kissing gate, it is cheaper and may enable Herefordshire Council to maximise use of its budget for improvement works. It also requires a smaller gap in a hedge-line which has biodiversity / environmental benefits.

Circumstances: In areas that are less heavily walked and / or where the topography of the land through which the path runs indicates that use would be largely by ambulant people.

B: Pedestrian gate of width 0.7m

Description: This structure has a smaller gate width than a fully compliant Herefordshire Standard pedestrian gate. However, it provides easy access for ambulant people with hip or joint problems who may struggle with a stile. As it is smaller than a Herefordshire Standard pedestrian gate, it is cheaper and may enable Herefordshire Council to maximise use of its budget for improvement works. It also requires a smaller gap in a hedge-line which has biodiversity / environmental benefits.

Circumstances: In areas that are less heavily walked and / or where the topography of the land through which the path runs indicates that use would be largely by ambulant people. Where natural restrictions on available width mean that installation of a wider gate would be difficult.

C: 2-in-1 Field & Pedestrian Gate

Description: This structure has a smaller gate width (0.7m) than a fully compliant Herefordshire Standard pedestrian gate and also incorporates a step (0.2m height). However, it provides relatively easy access for ambulant people with hip or joint problems who may struggle with a stile. It also enables a landowner to lock the field gate part of the structure but retain access for walkers. It also requires a smaller gap in a hedge-line than separate field and pedestrian / kissing gates which has biodiversity / environmental benefits.

Circumstances: Where the landowner requires occasional vehicle access in areas that are less heavily walked and / or where the topography of the land through which the path runs indicates that use would be largely by ambulant people. Where natural restrictions on available width mean that installation of separate gates would be difficult.

Comparison between BS5709:2006 and Herefordshire Standard requirements	
BS5709:2006	Herefordshire Standard
Principle of 'least restrictive access'	Principle of 'least restrictive access'
Dimensions of structures to British Standard BS5709:2006	Dimensions of structures to British Standard except where SP7 applies
No barbed wire or electric fencing within 1 metre of the structure or associated manoeuvring space	No barbed wire or electric fencing within 1 metre of the structure or associated manoeuvring space
No brambles, nettles or similar plant within 1 metre of the structure	Ensure gap or structure is free of brambles, nettles or similar plant

The ground within 2 metres of the structure to be free of surface water (except immediately after rain) and provide a firm surface	The ground within 2 metres of the structure to be free of surface water (except immediately after rain) and provide a firm surface
Where structures are next to a road, they need to be set back by 4 metres except for a footpath which does not continue the other side of the road and is unlikely to be used by large groups of walkers in which case they would need to be set back by 2 metres.	Site will be risk assessed and installed ensuring usability and safety of the user.
All gates shall have a waymark or sign either side.	All gates shall have a waymark or sign either side

References

In the preparation of this policy, consideration has been given to the following documents: -

- Equality Act 2010
- British Standard for Gaps, gates and stiles - Specification (BS5709:2006, British Standards institute, April 2006)
- Authorising Structures (gaps, gates & stiles) on rights of way - Good Practice Guidance for local authorities on compliance with the Equality Act 2010 (Defra, version 1, October 2010) www.defra.gov.uk
- Understanding the British Standard for Gaps Gates and Stiles: BS5709:2006 explained (Pittecroft Trust, version 3gn, August 2007) www.pittecroft.org.uk/understanding.pdf
- Understanding the Defra guidance on Public Path Structures (Pittecroft Trust, version 3c, 2011) www.pittecroft.org.uk/understanding.pdf

Parish Councils and Public Rights of Way

The Public Rights of Way (PROW) network in Herefordshire is part of the wider highway network and subject to similar legal requirements and restrictions as the ordinary road network. However, there are specific legal requirements as to how PROW are recorded which do not necessarily apply to roads. Herefordshire Council (HC) is the Highway / Surveying Authority for the area and, in brief, has the following principal duties: -

1. To ensure that PROW are properly maintained (section 41, Highways Act 1980)
2. To assert and protect the rights of the public to use PROW and prevent any obstructions to them (section 130, Highways Act 1980)
3. To keep the Definitive Map & Statement (DMS), the legal record of PROW, accurate and up-to-date (Part III, Wildlife & Countryside Act 1981)

The PROW service is delivered by the Council's service provider, Balfour Beatty Living Places, as part of the Public Realm contract. Strategic objectives for the service are contained in a statutory document – the Rights of Way Improvement Plan (ROWIP).

Whilst the duties listed above apply to Hereford Council only, local parish and town councils have a range of powers available to them with regard to the PROW network. These include, amongst others: -

	Description of power	Legislation
Powers applying to local councils and to parish meetings where there is no council	To make representations to the highway authority that a highway has been unlawfully stopped-up or obstructed. The authority must act unless satisfied that the representations are incorrect	HA 1980 s 130(6)
	To hold for public inspection a copy of the Definitive Map for the parish, and copies of Orders made to modify it	WCA 1981 s 57(5)
	To veto a proposal by a highway authority to apply to a Magistrates' court for an Order stopping-up or diverting a highway	HA 1980 s 116
	To be consulted by a surveying authority on every application for a Definitive Map Modification Order	WCA 1981 Sch 14
	To be consulted by a surveying authority before a Definitive Map Modification order is made	WCA 1981 Sch 15
	To object to a Public Path Order or a Definitive Map Modification Order. A copy of every such Order, both when made and when confirmed, must be served upon the council	HA 1980 Sch 6 para 1(3)(b)(ii), WCA 1981 Sch 15 para 3(2)(b)(ii) and TCPA1990 Sch 14 para 1(2)(b)(ii)

Powers applying only to local councils	To undertake the maintenance of any footpath, bridleway or restricted byway	HA 1980 s43and s50
	To erect lighting on any footpath or bridleway	Parish Councils Act 1957 s3
	To erect notices on footpaths and bridleways warning of local dangers	RTRA 1984 s 72
	To erect seats and shelters in, or on any land abutting on, any road within the parish	Parish Councils Act 1957 s1
	To prosecute anyone who wilfully obstructs the free passage along any highway	HA 1980 s137
	To prosecute an occupier who fails to ensure that crops do not inconvenience users of footpaths, bridleways and unmetalled carriageways	HA 1980 s137A
	To prosecute if a footpath or bridleway has been lawfully ploughed or disturbed, but not restored, or if any highway has been unlawfully ploughed or disturbed	HA 1980 ss131A and 134
	To insist to the highway authority that a particular footpath, bridleway, restricted byway or byway should be signposted where it meets a metalled road	CA 1968 s 27
	To signpost and waymark footpaths, bridleways, restricted byways and byways on behalf of, and with the consent of, the highway authority	CA 1968 s 27
	To create new highways by agreement with the landowner over land in their own and adjoining parishes or communities	HA 1980 s30

The development of parish / neighbourhood plans provides the basis for parishes to adopt a considered and strategic approach to the management of the PROW in their area. Where appropriate the neighbourhood plan can seek to protect and enhance their networks of PROW as key assets for its recreational / tourism / health / landscape and wildlife value.

In particular, there appear to be two areas where parishes are best placed to contribute to a coherent and functional network: -

1. An accurate and up-to-date Definitive Map and Statement of PROW
2. An open and well-maintained PROW network.

Legislative change introduced by the Countryside & Rights of Way (CROW) Act 2000 meant that the DMS is to be closed in 2026 to claims for recording pre-1949 rights of way. There are a significant number of routes that carry public rights that are not currently recorded on the DMS, or are shown but the rights are under-recorded (e.g. a bridleway is only recorded as a footpath). Many of these rights will be extinguished unless they are recorded on the DMS by 2026 or are the subject of compliant formal applications (schedule 14 Definitive Map Modification Order (DMMO) applications) to be added to it.

Following the passing of the CRoW Act, the Department for the Environment, Food and Rural Affairs, the government department responsible for PROW legislation and policy,

sponsored several projects to examine how the proposed closure of the DMS in 2026 could be equitably and efficiently implemented. This led to the establishment of a Stakeholder Working Group (SWG), comprising representatives of PROW user groups, landowning and farming organisations and local authority interests, with the clear remit of bringing forward a set of proposals, based on a consensus, for reform of DMS legislation to enable the 2026 closure to happen. The SWG's final report, "[Stepping Forward](#)", was published in March 2010 with a list of 32 recommendations. The recommendations were accepted by Government and a set of measures were included within the [Deregulation Act 2015](#) to give effect to a number of them. Many of the recommendations and much of the detail will be implemented through secondary legislation and guidance with the aim to have this in place during 2016.

The Herefordshire Local Access Forum (HLAF) is a statutory, independent group of PROW stakeholders that provides advice to the council and other bodies on PROW and access to the countryside. The HLAF is concerned by the potential extinguishment of public rights and has been lobbying the Council to take a proactive approach to this issue. The council recognises its duty to record these rights and wishes to work with all interested parties to ensure that the process is effectively managed. The council and the HLAF agree that parishes have a key role to play in this regard.

Parish councils have more local knowledge of their PROW network and of any valuable missing links and the council will help to develop a project, in partnership with the HLAF, to train and support parish councils and local volunteers to research and submit high quality, formal DMMO applications to record valuable lost ways / missing links in the network.

Whilst these would be processed in priority order within limited resources available, as long as the applications are properly made then any rights identified should be protected from automatic extinguishment in 2026, thereby protecting the asset for future generations.

In support of this, the council has the following aims: -

- To run training sessions at the Herefordshire Archives and Record Centre for parish volunteers to explain the process of making a DMMO and to familiarise them with sets of records that they may commonly encounter.
- To investigate the feasibility of digitising and / or putting on-line some of the key sets of records held by HC.
- To encourage parishes to adopt a systematic and targeted approach to the research of unrecorded rights.

VERSION CONTROL

SUMMARY OF CHANGES MADE TO ORIGINAL DOCUMENT

Version	Paragraph Nos.	Summary of Changes	Date
1	-	Original Document	01-01-17

