

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 overwrite or delete the guidance highlighted in grey]

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