

Title: Council responsibilities for highways, drainage, public rights of way and land management

Meeting: Environment and Sustainability Scrutiny Committee

Meeting date: Wednesday 17 June 2026

Report by: Group Manager - Flood Risk Management

Classification

Open

Report purpose

To provide the committee with an overview of the council's role, remit and responsibilities in relation to highway protection, riparian responsibilities, drainage, enforcement and public rights of way, to support effective scrutiny of current arrangements.

Background

1. Appropriate land management and use are fundamental to maintaining Herefordshire's rural environment, infrastructure, and economy. As a rural unitary authority, the council relies on landowners, farmers and riparian owners fulfilling their statutory responsibilities.
2. While the council has a number of statutory responsibilities relating to highways, flood risk and public rights of way, its direct powers to control how land is managed are limited. The primary responsibility for land management rests with landowners and occupiers. The council's role is therefore focused on providing guidance, working collaboratively with partners, and using specific enforcement powers where statutory duties are not met.

Meeting objectives

3. To review the effectiveness, within the context set out in 1 and 2 above, of current council policy on enabling and enforcing appropriate land management and use across the county, including riparian responsibilities, highway protection, enforcement, public rights of way, and support for sustainable farming practices.

Report information

Highway protection

4. As Highway Authority, Herefordshire Council has a statutory duty under the Highways Act 1980 to maintain the highway network and to assert and protect the public's right to use and enjoy it. This includes safeguarding the highway from damage and deterioration and taking appropriate action to address obstruction or interference.
5. Obstructions may include the deposit of mud or debris, encroachment from adjacent land, overgrown vegetation, unauthorised structures or works within the highway boundary, and damage caused by vehicles or agricultural activities. These issues can present risks to public safety, restrict access, and contribute to the deterioration of highway assets.
6. The council therefore seeks to protect both highway users and infrastructure through a combination of inspection, engagement with landowners and developers, and the proportionate use of enforcement powers where necessary.

Riparian Responsibilities and Drainage

7. In addition to the highway drainage systems maintained by Herefordshire Council, a significant proportion of the county's drainage network relies on roadside ditches and other watercourses (ditches being a type of watercourse) owned and maintained by adjacent landowners (riparian owners).
8. Riparian owners have a legal responsibility, under common law and relevant legislation, including the Land Drainage Act 1991, to maintain these watercourses so that water can flow freely without obstruction, noting that failure to do so may also impact the highway and engage the council's duties under the Highways Act 1980.
9. Poor land management practices can result in highway damage, drainage failure and safety risks, as well as increased maintenance costs to the public purse and pressure on council resources.
10. Responsibilities of riparian owners include:
 - a) Keeping watercourses clear of obstructions (natural and man-made)
 - b) Maintaining banks and structures (e.g. culverts, outfalls)
 - c) Ensuring the free flow of water without pollution
 - d) Managing vegetation growth within channels
 - e) Accepting and managing flows from upstream land
 - f) Avoiding actions that increase flood risk elsewhere

Public Rights of Way

11. The impacts of land management extend beyond drainage and the adopted highway network, affecting the wider public rights of way (PROW) network, which forms part of the public highway system.
12. Appropriate land management and use directly impact the accessibility, safety, and legal compliance of Herefordshire's 2,100 miles of PROW, which serve as a critical network for active travel, rural tourism, and local health.
13. When landowners, farmers and riparian owners proactively manage their property in accordance with their statutory responsibilities in respect of Public Rights of Way, the network functions. Poor land practices can result in legal enforcement, safety hazards, and physical barriers for the public.
14. Responsibilities include:
 - a) Keeping routes open, available and unobstructed
 - b) Ensuring the network doesn't become overgrown by maintaining hedges and trees
 - c) Reinstatement following ploughing or cropping
 - d) Maintaining stiles, gates, bridges and related infrastructure
 - e) Ditch maintenance and drainage
 - f) Ensuring routes are well signed to prevent trespass
 - g) Ensuring aggressive animals are not kept in fields crossed by paths
 - h) Supporting responsible use of the network by the public

- i) Repairing damage to PROW surfaces caused by private use or development

Enforcement

15. While Herefordshire Council has statutory responsibilities as both the Lead Local Flood Authority (LLFA) and Highway Authority, not all drainage, flooding or land management issues fall within its direct control. Responsibilities are shared with the Environment Agency (main rivers), Internal Drainage Boards (where present), and National Highways (strategic road network), and primary responsibility for land management rests with landowners.
16. The council has limited direct powers to control land management practices and relies on a combination of guidance, partnership working and the proportionate use of enforcement powers where statutory duties are not met. Further information and guidance for landowners is available on the [council's webpages](#).
17. Poor land management practices can lead to deterioration of the highway, increased flood risk to properties, the highway and surrounding land, and may result in enforcement action or liability in the event of an incident or prosecution.
18. The riparian drainage enforcement process follows a staged, predominantly collaborative approach, based on two key tests – that there is sufficient evidence and that it is in the public interest to pursue action. This includes:
 - a) Routine inspections by locality stewards (council officers overseeing highways and public realm in defined areas) to identify issues
 - b) Logging and assessment of reported issues (e.g. mud on roads, blocked ditches, encroachment)
 - c) Initial engagement with landowners by locality stewards, the Highway Drainage Team or Flood Risk Management Team to raise awareness of responsibilities, encourage voluntary compliance, and provide advice and guidance to support resolution
 - d) Liaison with partner organisations where appropriate, depending on the nature of the issue
 - e) Risk-based escalation where issues persist, including repeat contact and defined timescales for action
 - f) Evidence gathering and case support by locality stewards, the Highway Drainage Team or Flood Risk Management Team to enable formal enforcement by the council where required
19. This approach seeks to resolve issues proportionately and collaboratively wherever possible, while retaining the ability to take formal action where risks to the highway, communities or infrastructure remain.
20. With changes to how Herefordshire Council delivers public realm services through M Group, and with a number of officers having transferred into the council from BBLP, the enforcement process is currently under review to consider how locality stewards, the Highway Drainage Team and the Flood Risk Management Team can work more effectively together.
21. The PROW enforcement process initially involves issues being reported to the PROW Inspector, who will attend site to assess the matter. Where the issue is identified as an enforceable breach, the Inspector will issue a formal letter to the landowner, setting out the required actions and a reasonable timeframe for compliance.
22. A follow up inspection will then be undertaken by the PROW Inspector. If the issue remains unresolved, the matter is escalated to the Highways and PROW Enforcement Officer, who will investigate accordingly. Should non-compliance persist, legal action will be considered in consultation with Legal Services.

To explore how the council can support adoption of sustainable farming methods

23. Sustainable farming is an approach to agriculture that balances environmental, social, and economic needs to produce food, fibre, and fuel in a way that does not compromise future generations' ability to do the same. Practices include but are not limited to those which

- improve soil health, support above and below ground biodiversity and make most efficient use of resources including water, fuel, and fertiliser.
24. Herefordshire Council's Farm Carbon Audit project, which began in 2023 and is ongoing, has delivered farm carbon audits on 46 farms across the county, alongside workshops designed to increase understanding of practices which support a reduction of farm emissions. Topics included soil and grassland management, composting, and understanding soil and manure analysis results. A further 46 farm carbon audits are due to be carried out in late 2026 to capture how practice changes may have influenced the carbon footprint of engaged farms.
 25. To support enhanced understanding of the nutrient values present in different manure types, Herefordshire Council have funded manure analysis totalling 45 analyses for 19 farms. Farmers typically rely on Fertiliser Manual RB209 values to determine appropriate application rates. This work has highlighted the high variability of manure nutrient content compared to RB209 values, and the value of manure analysis in the efficient and appropriate application of manure to land.
 26. Providing 1:1 support to 5 farms within the Farm Carbon Audit Project, Herefordshire Council has enabled the delivery of a mentorship through regenerative farmer and soil health specialist, Ben Taylor-Davies. Mentees have received an in-depth soil analysis and comprehensive guidance as to its interpretation, and tailored advice toward enhancing soil health and engaging in holistic, sustainable, farm management.
 27. The annual Rivers Conference, of which Herefordshire Council has facilitated three, offer a platform for discussion around best practice and innovation in reducing agricultural impact on Herefordshire's Rivers. Attendees have included representatives from regulatory and conservation organisations, citizen science and community groups, landowners, and farm managers.
 28. Herefordshire Council holds a position on the Farm Herefordshire Steering Group, and works with partners on delivery of projects that seek to enhance the health and condition of the Wye Catchment. This has included recent data collection in contribution to Herefordshire Rural Hub's Farm Gate Nutrient Balance project.
 29. Through partnership working with Lancaster University, Herefordshire Council delivered a short soil analysis project to determine the efficacy of using gypsum to reduce water soluble phosphate losses from Herefordshire Soils. Analysing 4 different soil types and 3 different application rates, the project highlighted the potential for gypsum applications to form part of a repertoire of practices that reduce nutrient loss to water.

Consultees

None

Appendices

None

Background papers and resources

None identified