

Annex 1 Policies

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Each of these will have three strands, roughly described as;

- **Policy** – the rules
- **Background** – the reason for the rules

Note

The Policies do not seek to set out the law, and may be reviewed as a consequence of significant changes in legislation.

Policy CA1 : Definitive Map review

In compliance with the duty under Section 53 of the Wildlife and Countryside Act 1981, WCC is carrying out a review of the Definitive Map and Statement of public rights of way. We are doing this in the following order of priority:

A geographic progression across the County - in the sequence;

- (i) North Warwickshire Borough,
- (ii) Nuneaton and Bedworth Borough,
- (iii) Rugby Borough,
- (iv) Stratford on Avon District,
- (v) Warwick District,

followed by;

- (vi) The former Excluded Areas (urban centres) of Bedworth, Kenilworth, Leamington Spa, Nuneaton, Rugby, Stratford upon Avon & Warwick,
- (vii) Unclassified County Roads (UCR).

Within the above priorities, WCC will prepare Definitive Map Modification Orders in response to (in no particular order):

- Proposals made under the 1977 Draft Review which are unresolved.
- Applications made to the County Council.
- The discovery of anomalies within the Definitive Map and Statement.
- The discovery of evidence.

A case may be dealt with outside the sequence of priorities if;

- a route is threatened by development, or
- processing a case will significantly progress a specific CAROWIP target, or
- where there is an overriding operational need to do so.

Background

Modification Orders are made where evidence points to an error of fact in the Definitive Map and Statement. This can result in orders which have the following effects:

- (a) **Adding** routes not previously recorded.
- (b) **Upgrading** routes (i.e. footpath to bridleway or byway) where a route already recorded is found to have higher rights.
- (c) **Downgrading** routes (i.e. bridleway to footpath) where a route already recorded is found to have lesser rights.
- (d) **Deleting** routes found not to be public.
- (e) **Correcting errors** found in the Definitive Map and Statement.

Each case requires extensive research to ensure that the evidence is fully examined before an order is made. Evidence can either be documentary, demonstrating the existence or otherwise of a public right of way and/or its status, width or limitations, or it can be the testimony of people who have collectively used a route, or a combination of both.

The progression detailed above allows evidence to be collected on a parish by parish basis. This is the most time-efficient way since users within a localised area are more likely to have used or to have knowledge of most of the claimed routes in the area. A further benefit is that

user groups, parish councils, amenity groups, local landowners and others can develop an understanding of the issues and better engage in the review process. Similarly, the relevant documents, for example Tithe maps, held in the County Record Office were largely drawn up on a parish basis and a geographic progression allows research to be carried out efficiently.

New applications will still be processed in areas already considered under the geographic progression. This will ensure that uncertainty in these areas is kept to a minimum. However, as the impact of the Discovering Lost Ways project is, as yet, an unknown quantity, this decision may need to be reviewed.

Policy CA2 : Landowner declarations

We will enable and assist landowners to make deposits under Section 31(6) Highways Act 1980 via a straightforward process using standard forms.

Deposits will only be accepted where all currently recorded highways affecting the land in question are shown on the accompanying plan.

In the case of current disputes as to the existence of any public path or other highway, the disputed highway must be shown. Reference can be made to the dispute and in such cases the deposit will not be held as evidence for the existence of the disputed highway.

NOTE : A deposit under Section 31(6) Highways Act 1980 is a public document and we will keep details of the deposits in a register which is open to public inspection.

Background

Section 31(6) Highways Act 1980 allows landowners to deposit with the highway authority a map and statement which identifies and accepts public rights of way and public roads crossing their land, followed by a declaration that they have not dedicated any additional public rights of way.

This provides landowners with an effective way to demonstrate that they do not intend to dedicate a public right of way and thereby protect their land against claims made under Section 31(1) Highways Act 1980 (that a public right of way is presumed to have been dedicated based on twenty years of public use). It must be renewed at intervals specified by legislation.

It does not act retrospectively i.e. prior to the date of deposit, nor prevent paths being recognised as public through documentary evidence, nor prevent paths being created through Agreement or other legal order.

As the highway authority, WCC accepts Section 31(6) Highways Act 1980 deposits for land within Warwickshire and hold these on file. Once lodged with WCC the deposit becomes a public document and is available for public inspection.

Many land agents acting for larger estates and holdings are aware of the procedure and have already made Section 31(6) Highways Act 1980 deposits. WCC has taken a similar decision in respect of all land in its ownership not to allow new public rights of way to come into being through public use.

In addition to maintaining the asset value of land, a further advantage of making a deposit is that owners and occupiers can allow levels of informal (permissive) access without the worry that by doing so the public may acquire rights over their land.

Policy CA3 : Public Path Orders (PPOs) for footpaths and bridleways

We will prioritise applications for PPOs (creations, diversions, and extinguishments) according to the following criteria, and deal with them accordingly;

Any one of the following will be treated as **High Priority**:

- PPO applications processed by WCC in its capacity as Planning Authority.
- Where there is a clear benefit to public safety e.g. at-grade rail level crossings, major road crossings etc.
- Where a path runs through school grounds and a special diversion is needed for school security.
- Where an area has been designated by the Secretary of State as an area of high crime.
- Where a path runs through a Site of Special Scientific Interest (SSSI) and where the SSSI will benefit from the PPO.
- Where a path is in danger of being (naturally) eroded.
- Where a PPO (or combination of PPOs) will help to fulfil targets within the CAROWIP.

Any one of the following will be treated as **Medium Priority**:

- Where an additional link, higher status or new path is dedicated (or created) which will have a significant positive impact on the local network.
- Where processing a PPO could save significant costs incurred in processing other orders.
- Where a PPO will significantly benefit members of the public using public rights of way, i.e. where a PPO is in the public interest.
- Where the town/parish council or district/borough council actively support the proposal.
- Where a PPO is, in the opinion of WCC heritage or ecology professionals, necessary to safeguard an archaeological or ecological feature.

Any one of the following will be treated as **Low Priority**:

- Where a PPO is principally in the landowner's interest and meets none of the above criteria.
- PPOs promoted by WCC Countryside Access Team and which meet none of the above criteria.
- PPOs which resolve Definitive Map and Statement anomalies but which meet none of the medium or high priority criteria.

For each application we will make a full charge for the recovery of our costs from the applicant unless the PPO resolves a Definitive Map and Statement issue or where the application results in significant additional rights for the public, e.g. new paths, higher status, in which case a proportion of the costs may be borne by WCC.

We will make a number of PPOs each year in order to further CAROWIP targets. Whilst we will try to reach agreement with persons who have an interest in the affected land, it will inevitably mean progressing orders contrary to the wishes of some individuals or landowners.

The minimum width normally acceptable for routes created by PPOs will be

- 2m for unenclosed footpaths
- 3m for enclosed footpaths
- 4m for unenclosed bridleways
- 5m for enclosed bridleways

except

- where immovable physical features preclude this e.g. old buildings
- at pinch points

where a lesser width may be accepted.

Background

The County Council, as the Highway Authority, has the ability to make legal orders to divert, extinguish, and create rights of way. The most frequently used of these abilities is the power to divert a public right of way under the Highways Act 1980. In each case a basic test must be satisfied, and a number of other (subjective) circumstances must be considered.

Historically, we have processed applications in the order in which they have been received and made very few orders proactively to improve the network. In order to achieve CAROWIP targets we will have to devote some resources to proactive improvements via diversions and creations. Prioritisation allows us to move away from working purely in date order to a merit based system. In addition, the CAROWIP offers us an opportunity to improve the network for the public by setting down greater widths for diverted and created paths.

Whilst we work closely with landowners and will seek solutions which are acceptable, inevitably there will be some circumstances when landowners will oppose our improvement proposals and we will have to make orders without their agreement. Even so, opposed orders can only be determined by the Secretary of State and there are mechanisms for compensation.

See also Policy CA4, covering Development.

Policy CA4 : Development and public rights of way

We will seek improvements, both within a development site and in the surrounding area, where the development is likely to lead to an increase in use of the local path network or where the development impacts on the existing path network. These improvements may include;

- practical works on existing paths
- new paths and upgraded paths
- promotional materials
- use of agreements under Section 106 Town and Country Planning Act 1990.

It will not generally be acceptable to divert a footpath or bridleway along a road or immediately beside a road (whether new or existing).

WCC will ask for bridleway status where there is existing or potential equestrian demand and where routes for cyclists are proposed.

Where a route within a development site is claimed, with supporting evidence, as a public right of way under Section 53 Wildlife and Countryside Act 1981, the developer will be asked to treat the route as if it was a public right of way.

Where development has given rise to the permanent obstruction of a public right of way, WCC, as the Highway Authority, will require the Planning Authority to make remedial Public Path Orders at their own expense. In the event of continued failure to resolve matters WCC may seek the removal of the obstruction.

The following minimum widths will apply to all new and diverted routes. Ideally additional width up to the following minimums will also be provided on existing paths;

- 5m for all shared use footpath/cycleways
- 2m for unenclosed footpaths
- 3m for enclosed footpaths
- 4m for unenclosed bridleways
- 5m for enclosed bridleways.

NOTE : See also LTP policies WS9 and CY8

Background

Public rights of way are a material consideration in the determination of planning applications. In the main we are consulted on individual planning applications which affect paths, and we are able to influence any changes to paths which are affected by having notes attached to the consents. However, where there are larger scale developments such as new green field developments, we have not been as proactive as we could have been in seeking planning gain. Our intention is to improve this by seeking involvement at an early stage and working in partnership with planners and developers to negotiate the best possible outcome for the path network, including agreements under Section 106 Town and Country Planning Act 1990.

Often, we discover that obstructions on the network are there because planning consent has not been sought, e.g. field shelters for horses, maneges, stable blocks and fences over 2m, or have been constructed under permitted development rights e.g. barns, small house extensions. It is important that we continue to work with the district and borough councils to prevent, so far as is possible, similar incidents occurring in the future.

Policy CA5 : Enforcement and public rights of way

Where rights of way are obstructed WCC will, in the first instance, seek to resolve the issue through goodwill and co-operation.

Where enforcement is necessary WCC will follow the DTI Enforcement Concordat.

Background

Our policy is based on the principles of fairness, proportionality, transparency and objectivity and complies with the Government's Enforcement Concordat. The decision to prosecute will always take account of the Code For Crown Prosecutors and the Attorney General's guidelines. The range of formal actions that will be considered include the following:

Written Warnings

These will normally only be used for a first offence. For a subsequent or continuing offence a Legal Notice, Formal Caution or Prosecution may be issued. Full details of the problem are included in the warning, together with the course of action which is required to resolve the problem.

Statutory (legal) Notices

Used as appropriate in accordance with relevant legislation and includes the taking of direct action to resolve the problem on the ground (with the landowner being required to reimburse WCC accordingly).

Formal Cautions

Used to deal quickly and simply with less serious offences and to avoid unnecessary criminal court appearances. There must be evidence of guilt sufficient to give a realistic prospect of conviction, and the party concerned must admit the offence. Declining a formal caution will result in a prosecution. Formal cautions can be referred to in court following convictions for a subsequent offence within a prescribed period.

Prosecution

This will be considered for a subsequent or continuing offence. It will be used as a way to secure, and / or to draw attention to the need for, compliance with the law, or where landowners may be deterred from offending through the conviction of others. The decision to prosecute shall be taken with regard to the evidence and the public interest. In looking at the public interest in taking a prosecution the following will be taken into account:

- The risk to the public and animals.
- Obstruction of an authorised officer.
- Failure to comply with statutory Notice or advice.
- The prevalence and type of offence.
- The need for suitable deterrent.
- A history of similar offences by the same party.
- Persistent breaches of legislation.
- Minor breaches of a number of statutes.
- Inconvenience to the public.

Policy CA6 : Non-Definitive alternative routes (unofficial diversions)

Unofficial diversions will not be sanctioned.

Landowners may set out alternative (additional) routes on their own land but

- WCC house style waymarks shall not be used **and**
- the Definitive route must be open and available for use **and**
- the Definitive route must be correctly waymarked where alternative routes diverge and rejoin.

Where a significant physical problem affects a route, such as a lake, landslip or an established building, an interim unofficial diversion may be waymarked while WCC pursues a satisfactory legal solution.

Background

Unofficial diversions cannot be sanctioned since the powers of the Highway Authority relate to the legal line of a right of way as shown in the Definitive Map and Statement. Landowners who provide alternative routes risk those routes being added to the legal record by virtue of use by the public (in addition to the legal line). Public liability on non-Definitive routes remains solely with the landowner/occupier, whereas on a public right of way the liability for the surface rests with the highway authority.

If an owner or occupier wishes a path to be moved they must go through the correct legal process and bear the costs themselves.

A non-Definitive alternative route is one which can be used as an alternative to the line shown on the Definitive Map. These routes are sometimes referred to as “landowners’ preferred routes”.

WCC House Design waymarkers will be removed from unofficial diversions once we become aware of them.

Policy CA7 : Path reports and inspections on public rights of way and UCRs

WCC will encourage the public and landowners to report path defects. Personal details of people reporting defects will be kept confidential.

Reports of situations which are considered by the Countryside Access Team to be a danger to the public on the path network will be inspected within one working day of receiving the report.

Reports of problems which prevent the public using a Recognised Promoted Route* will be inspected within 10 working days of receiving the report.

Reports of ploughing problems will be inspected within 10 working days of receiving the report. Reports of cropping problems will be inspected within 15 working days of receiving the report.

Other reports of problems will be inspected within 3 months of receiving the report.

Following inspection, appropriate action will be taken regarding the issues and the person reporting the defect will be notified.

Unclassified county roads managed by the Countryside Access Team will be inspected every 10 years.

Every path will be inspected at least once every 10 years in line with BVPI criteria.

** see Policy CA14 on Promoted Routes and Trails*

Background

Traditionally, inspections of rights of way have been carried out in response to reports from the public, landowners and user groups. Routine inspections of the complete network have never been carried out and could not be justified as they would take up most of the team's resources. We therefore do not know the location, quantity and condition of all structures on the network, such as bridges, gates and stiles. For this reason, and to ensure that all paths are inspected at least once, we have included a full network survey to be carried out at intervals.

The purpose of this policy is to formalise the current arrangements as well as introducing timescales for inspecting paths.

Arrangements exist between the Countryside Access Team and WCC Highways Divisions over the inspection and maintenance of paths with tarmac surfaces. Tarmac paths shown in the Definitive Map and Statement will be included in the periodic full network survey carried out by the Countryside Access Team, but inspections of tarmac footpaths resulting from reports by the public will be carried out by Highways Divisions.

Policy CA8 : Signing and waymarking of public rights of way and UCRs

We will use standardised waymarking and signing in the WCC House Design across the County unless working in partnership with a local council or other organisation, for example, to promote local distinctiveness or named trails.

We will not normally sign routes wholly within built up areas unless, for example, they lead to the wider countryside, are part of a recognised promoted route or we have requests from the local community.

We will aim to maintain advisory signs on site for 5 years after any significant path diversion, creation or extinguishment order which we make.

Background

The Countryside Act 1968 (as amended by subsequent legislation) placed a duty on a highway authority to signpost rights of way where they leave a metalled road. The signpost must show the status and direction of the right of way. Details such as distance and destination can also be included at the authority's discretion. The only exception to the duty to signpost is if both the Highway Authority and the local council agree that such a signpost is unnecessary.

Our current House Design for signposting rights of way where they leave metalled roads is to use a combination of waymark discs; one gives the status and another the direction (see Appendix VII). Both these discs use the standard colours (yellow arrows for footpaths, blue arrows for bridleways and red arrows for byways open to all traffic). Guidance has been issued by the Countryside Agency on the design of waymarkers, and specifications are set out in the Road Signs Regulations and General Direction Order 2002.

An authority also has a duty to signpost rights of way along their length where it considers it necessary to assist persons unfamiliar with the locality, and has a general power which enables them to put up and maintain signposts along a right of way. We also have a responsibility to ensure that there are no misleading signs along routes – for example, a 'private road' sign on a public footpath must make it clear that there is a public right of way on foot.

We use waymark discs with direction arrows in the appropriate colour, where necessary, to signpost rights of way along their length. In addition, some promoted routes carry custom waymarkers along their length. This aspect is covered in Policy CA14 - Promoted Routes and Trails.

In general, we do not waymark paths, or links between paths, which follow the verges or footways of carriageways. The exception to this is on certain Recognised Promoted Routes.

We will provide a range of free information signs for landowners, e.g. 'keep dogs on the path', and we offer advice on the wording of landowners' own signs.

Policy CA9 : Gaps, gates and stiles on footpaths and bridleways

We will only authorise the least restrictive option for **new boundary crossings** and will always aim for the least restrictive option when landowners replace or install structures in **existing boundary crossings**. “Least restrictive option” means that:

- A gap is the preferred option.
- If a gap is not practicable for reasons of stock control, then a field gate or wicket gate shall be used. Gate latches on bridleways must be usable by a competent rider from horseback.
- If a gate is not practicable and the route is a footpath, then a kissing gate may be used.
- Stiles are not acceptable and will not be permitted unless a stile is already in existence and has been there since the date of the first Definitive Map. We will seek by negotiation to replace these stiles with gates.

Wherever possible, **we will seek to replace stiles with gates or gaps**, and to make gates easier to open/close. In order to achieve this, we will normally bear the cost of improvement.

We will normally only authorise one structure per boundary so that, for example, double fenced boundaries will only have one structure.

In authorising structures under Highways Act 1980 section 147 **we will seek to restrict the number of structures** in sub divided or strip grazed fields and horse paddocks.

We will allow existing structures of historical or cultural significance to remain for reasons of local distinctiveness, but will seek where appropriate to increase accessibility by installing a gate or creating an adjacent gap.

Electric/automatic gates, will only be acceptable if they are easy to open for all lawful users and clearly waymarked, from both directions.

Background

There are six types of boundary crossing structures;

1. Authorised structures

Authorised under Section 147 Highways Act 1980 to ‘prevent the ingress or egress of animals onto agricultural land’ and applies to footpaths and bridleways only.

We can attach reasonable conditions to an authorisation, e.g. must meet current British Standard, must be maintained by the landowner or expires at a certain time. We can revoke these authorisations at any time.

2. Highway authority structures

Provided under Section 66 Highways Act 1980 (as amended by CROW Section 70) ‘to safeguard persons using footpaths or bridleways’ and includes barriers, rails, fences and posts. These are our responsibility and can be installed or removed as we see fit.

3. “Limitations” *(not just structures)*

This is the legal right of the landowner to do or have something which limits the public's rights e.g. closing Warwick racecourse paths on race days, having a stile or gate in a hedge. Can apply to all types of highway. These are normally legally defined in an order (DMMO or PPO) and must (on the balance of probabilities) have been in place since the path came into existence. We have no automatic power to revoke limitations.

4. Presumed limitations

At WCC we make the assumption that if a structure was in place at the time of the parish survey, and has been there without a significant break since, then it is a limitation and the landowner has the right to have it there. Without a DMMO we cannot add it into the statement, but we are presuming that it is the same type of limitation as no 3 above.

5. Traffic Regulation Order barriers

Barriers and other structures may be in place to enforce a TRO which prohibits a certain class of user. These are most commonly found at the junction with another highway.

6. Illegal Obstructions

By default these are the stiles, gates etc which do not fall into any of the other five categories.

Definitive Maps and Statements should include those structures which are limitations (no. 3 above) but not any other types of structure.

The Disability Discrimination Act 1995 gives disabled people important rights of access to everyday services that others take for granted. The Act identified a wide range of disabilities, not just reduced mobility, and we have to take all of them into account. For some time we have been aiming to reduce the number of barriers which disabled people face whilst visiting the countryside. This principle is also enshrined in the British Standard (BS 5709). The Disability Discrimination Act 2005 extends our obligations to disabled people to include our functions as a highway authority.

Historically, stiles were the most common type of boundary crossing to be found in the Warwickshire countryside. These often remained even where the need for them had gone e.g. pasture land turned over to arable.

Warwickshire's network has an estimated 5,500 stiles. At a conservative figure of £150 for a new gate, gates would cost £825,000 (excluding bridleways), although this figure would be spread over many years. We therefore concentrate initially on popular paths, routes close to population, easy access trails and health walks, as well as routes where removal of one or more stiles would open up a stile free walk and instances where a stile requires repair or replacement. Targets within the CAROWIP aim to build on this and improve access for everyone.

Our aim should be to avoid filling the countryside with path furniture. Nothing is easier to use than a waymarked gap.

Policy CA10 : Surfacing of public rights of way and UCRs

We will only normally maintain a surface to the standard needed for public use. Where a footpath or bridleway co-exists with a private vehicular route, we may make a contribution of up to £500 or 10% (whichever is the lesser) towards repairs or resurfacing by a third party provided it is agreed in advance.

We will only consent to third parties changing the surface type of a route (or part of a route) where the proposed surface type will be compatible with the public uses AND where there is a legal agreement for its future maintenance.

The type of surfacing material will be chosen to balance the needs of all path users, cost, sustainability, local distinctiveness and the local ecology. This will apply whether we are carrying out the surfacing or consenting to third parties carrying out the works.

Routes with predominantly utility use, or those unclassified county roads which serve as the sole means of access to inhabited property, will generally be surfaced, or partially surfaced, to a higher standard than those with predominantly recreational use. The exception will be where a recreational route has been targeted for improvement as a result of a CAROWIP action.

Background

Traditionally, very little work has been done to proactively improve the surface of the rights of way network, and works have been carried out in response to reports from the public relating to poor ground conditions or specific improvements requested by the local community.

Where public footpaths have coexisted with private routes such as driveways and farm tracks, an inconsistent approach has been taken where the action very much depends on the officer covering an area. For some time WCC has been concerned that routes have been surfaced on an ad hoc basis by private owners and occupiers, and that the maintenance liability thereafter is unclear.

The above policy will ensure that the approach taken is consistent, and that the maintenance burden placed on WCC is consistent with the public use of the route.

In general;

- WCC will only normally undertake works to improve the surface of rights of way where the new surface is suitable for all lawful public users.
- The full legal width of the path will not necessarily be surfaced but a sufficient width for users, normally at least 1.5m for footpaths and 3m for bridleways, byways and UCR's will be surfaced.

Policy CA11 : Electric fences on footpaths and bridleways

This policy applies to all electric fences whether 'live' or not.

Electric fences across paths (including temporary stock fences) are obstructions to the use of the public path network unless insulated and tied in to an acceptable boundary crossing, are needed to contain livestock, and authorised by us.

Acceptable boundary crossings are;

- for a footpath – a wicket gate, kissing gate or a field gate, provided insulation extends half a metre from the latch, with the electrified strand buried at least 30cm deep under the right of way, or taken at least 3 metres above the path on wooden poles,
- for a bridleway – a bridle gate or a field gate, provided the fence is insulated for 2 metres on either side of the gate with the electrified strand buried at least half a metre deep under the right of way.

Insulated handles are not an acceptable crossing unless

- the route is a footpath AND
- the crossing will be in position for less than two weeks AND
- the electrified strand is insulated either side of the insulated handle for a minimum of half a metre AND
- the electrified strand is made clearly visible AND
- there are no more than two such crossings in a single field

Electric fences adjacent to public rights of way must allow for a minimum width of 2m for footpaths, 4m for bridleways and 5m for byways (unless the legally recorded width is different). Greater widths should be provided where ground conditions are poor.

All electric fences crossing or adjacent to public rights of way must be signed at regular intervals by the landowner/occupier.

Background

Over recent years, the subdivision of fields and the double fencing of fields with poorly maintained boundaries has become more common – this includes temporary electric fencing for strip grazing. Left uncontrolled, this can result in a path having multiple electric fences across it within a short distance. Although the shock from an electric fence is unpleasant, it is not usually dangerous to people. However, shocks can be dangerous for the elderly or infirm, particularly those with pacemakers, and for people on horseback.

Our concern is to ensure the safety of all path users by adopting a set of clear standards for electric fences crossing or adjacent to public paths. We also endorse the advice and requirements of the Health and Safety Executive in respect of the need for the clear labelling of electric fences with warning notices.

If the electric fence is required for controlling animals then we cannot prevent it being put in place, although we can control the type of crossing which we will authorise. It is our intention that by setting down our requirements and publicising them within the landowner community we can seek to minimise the impact of such fences on users of the path network.

Policy CA12 : Roads and railways, and public rights of way and UCRs

Where paths cross trunk roads at-grade, we will work pro-actively with the Highways Agency to divert those paths onto overbridges or through underpasses (where possible).

Where new trunk roads are proposed all footpath and bridleway crossings shall be grade-separated (i.e. an underpass or overbridge will be required). Wherever possible we shall attempt to get improved diversions through Side Roads Orders (instead of minimal orders which have an adverse affect on the network).

Where paths cross existing fast and busy roads at-grade we will explore opportunities for improving safety for non-motorised users (NMUs). Solutions for routes which form part of a Recognised Promoted Route will take priority.

Where there is a gap in the non-motorised user network, caused by a road which is too busy and/or unsafe to be walked, ridden or cycled along, we will consider appropriate solutions including the following;

- where a suitable verge exists, working with others within WCC to try to make the verge available for NMUs and free from unnecessary clutter,
- where no verge exists, exploring the possibility of 'behind-the-hedge' schemes or diversions to achieve better connectivity.

Solutions for routes which form part of a Recognised Promoted Route will take priority.

The only substitute we will normally accept for an at-grade railway crossing (as part of a rail crossing diversion order) is an overbridge or underpass. Where it is proposed to construct new railway lines or re-open closed railway lines, at-grade crossings will not normally be acceptable.

Background

Historically, when new roads have been built, and existing ones improved, little thought has been given to the needs of NMUs. Consequently there are paths which are effectively severed by roads, such as the A46, and others where the increase in traffic volume and speed has resulted in an unsafe environment for NMUs.

In some cases, a path crossing a motorway has been diverted and users must walk beside the motorway fencing for several hundred metres to a crossing point, then several hundred metres back on the other side of the motorway to rejoin the original path. It is our intention to become more involved in the highway planning process so that future diversions can be made in such a way as to minimise any adverse impact on the network.

There are numerous places in the County where the speed and volume of traffic, and nature of the roads, make it unsafe and unpleasant to walk, ride or cycle along the road but where the road forms a vital link in the path network. Where there is space to create a safe strip for NMUs, we will work with highways teams to create the key links, and where there is no verge, we will approach neighbouring landowners with a view to creating 'behind the hedge' routes adjacent to the roads, or promote diversions to achieve better connectivity.

There are also many places where paths cross fast and busy roads and railways, or where sight lines mean it may be unsafe for NMUs to cross. Wherever possible we will work with those responsible for the roads and railways to enable them to create safer crossing points.

Policy CA13 : Volunteers working on public rights of way and UCRs

Volunteer groups and partners working on our behalf will be bound by the policies contained in the CAROWIP. We will ensure that the necessary skills are in place and that volunteer groups are trained in safe working practices. Volunteers working on the path network must follow and comply with WCC Countryside Recreation Risk Assessments. They must also carry public liability insurance complying with our requirements (£5 million for 2005/06). Volunteers signed up to P3 or a similar partnership will be covered by insurance paid for by WCC.

We will support and enable volunteer groups and partners to further the CAROWIP targets and the delivery of our countryside and rights of way functions

Volunteers may only carry out works agreed in advance with WCC Countryside Recreation unless they are signed up to the Parish Paths Partnership (P3) scheme or similar partnership.

Parishes and volunteer groups may only remain in the P3 scheme and similar partnerships if an active contribution (above simply reporting problems to us) is being made. Support for other volunteer groups will depend on the output/outcomes being sufficient to justify support from our officers.

Volunteer groups must always contact the landowner (or arrange for WCC CAT to contact the landowner) to get agreement prior to carrying out works.

Background

We work with many town and parish councils, user groups, community groups and sources of unpaid labour such as the Probation Service. There are many benefits to participating individuals and groups, and it can be an effective means of opening, maintaining, improving and promoting public paths and access to the countryside. Farmers and land managers also benefit from tasks which would ordinarily be their responsibility being undertaken at no cost to them in time or labour.

We will set clear expectations at the outset about the support we give in training, tools, equipment, insurance cover, and the minimum levels of participation in order to remain in a 'supported partnership'. We recognise that not all groups have the skills or inclination to cover all aspects of works and that for some groups participation may be linked to the delivery of a single project or goal.

Land managers will be kept informed of works being completed by volunteers on behalf of the highway authority and agreement will be sought on works being completed on behalf of landowners. On completion of any works, the responsibilities of the highway authority and the landowner/occupier remain unchanged. As a matter of good practice landowners are informed of works completed, with a reminder to check anything that is their responsibility.

Policy CA14 : Promoted routes and trails

We will maintain and publish a list of “Recognised Promoted Routes” (“the List”) and review the List in conjunction with the Local Access Forum.

We will support the route-specific signing and waymarking of the routes identified in the List. Route-specific waymarks which do not use the conventional colours for directional arrows (yellow = footpath, blue = bridleway, red = byway, black = UCR, white = permissive) are not acceptable.

We will routinely inspect those routes in the List which have been published by WCC Countryside Access Team, and encourage regular inspections of other routes on the List by their responsible bodies (e.g. A Coventry Way Association). Routes not subject to routine inspection by their promoters may be removed from the List.

We will support the development of a new long-distance bridle route through the County.

We will provide a free checking service for any promoted and published routes if the author or publisher contacts us. This will cover the legal status of the proposed promoted route(s) and any known legal issues.

Background

There are hundreds of published and promoted routes in the County. Many of these have no permanent presence on the ground and no group or association to take ongoing responsibility for them. They are often devised and published as short life projects without any intent to update them. Whilst we do offer a free paper-based checking service for all proposed promoted routes, to ensure that the information is as accurate as possible, we cannot routinely allocate resources to their ongoing promotion or waymarking.

There are some routes within Warwickshire which have dedicated associations or groups of volunteers who inspect and look after them, and it is in the main these routes which we will recognise and support, as well as those routes for which we have published leaflets and guides ourselves e.g. the Centenary Way.

It is our intention that by creating a list of recognised routes, we establish a quality standard for promoted trails in the County. We also wish to:

- ensure a good standard of waymarking
- ensure that directional markers follow the national colour convention
- encourage others to monitor the routes they have promoted.

We will also consider waymarking promoted routes where they follow the verges or footways of metalled carriageways. This is particularly important for cycle trails which follow country lanes.

The bridleway network in Warwickshire is very fragmented and unlike other counties there are few organised pressure groups. Most other midlands counties have some long distance or circular bridle routes, e.g. the Sabrina Way and the Midshires Way, and Warwickshire is a notable exception. The introduction of such a route is likely to attract some level of horse-tourism and raise the profile of Warwickshire as an equestrian destination, as well as benefiting local riders, particularly if circular routes can be linked to a strategic long distance route. We will therefore work with and support the BHS and other organisations working towards this aim.

Policy CA15 : Permissive paths

We will only enter into permissive path agreements where

- there is a significant gap in provision OR
- there is a significant safety issue

AND

- where other efforts to secure public access have been unsuccessful

AND

- where the public benefit outweighs the additional burden on WCC

We will normally only enter into permissive path agreements with other public bodies or national organisations, unless an agreement with someone else will significantly forward CAROWIP targets.

Background

This section relates solely to permissive path agreements to which we are a party.

Permissive paths may be used to provide links where the rights of way and highway networks do not exist, and where the creation of new rights of way is not practicable and/or possible.

Examples where permissive paths may satisfy a need include:

- Linking existing rights of way to create circular routes
- Linking existing rights of way with canal walks
- Enabling trails to be created in areas of natural beauty
- Providing safer and more agreeable alternatives to roadside walking, by opening routes in fields adjacent to roads.
- Providing permissive bridleway rights over a public footpath

Although we may enter into permissive path agreements, it is often done at a local level by either the district or parish council. Permissive paths also exist under other schemes such as agri-environment schemes, and some landowners unilaterally provide permissive paths.

Such paths are created by agreement with landowners, normally with the express intention that they should not become public rights of way. Landowners are able to prevent permissive paths from becoming public by making clear their intention not to dedicate a path. This can be done by putting up signs on the route, or by entering into a signed and dated agreement which explicitly states that the path remains permissive. The most effective way is to make a declaration under Section 31 Highways Act 1980.

Maintenance liability and public liability for permissive paths rests by default with the occupier (landowner or tenant). In exceptional circumstances we may take on part of the maintenance burden. However the public liability will remain with the occupier according to the law.

Policy CA16 : Antisocial behaviour and crime

In addition to the criteria set out in the Clean Neighbourhoods and Environment Act 2005, WCC will only consider gating orders across public rights of way, or routes reasonably alleged to be rights of way (including adopted footpaths), as a last resort i.e. where other means of dealing with antisocial behaviour and crime have been exhausted or have no realistic prospect of success (as envisaged by the legislation).

Where gating orders are made, the principle of 'least restrictive option', consistent with achieving a significant reduction in antisocial behaviour and crime, will be applied on a case-by-case basis, e.g. gates to be locked only between specified times of day and/or the order to be for a limited period of operation.

Gating orders in force will be reviewed periodically, and varied or revoked where the situation allows.

WCC will consult with its Local Access Forum and, through local advertising, those people in the locality who may benefit from the route as a utility path, as well as those people occupying properties in the immediate vicinity of the way in question.

Background

It is recognised that the gating of alleys and cut-throughs can be an effective means of reducing crime and antisocial behavior. However, in certain areas of the country, residents and local authorities have been frustrated by being unable to gate those back alleys that coincide with public rights of way (highways).

Government has recently introduced the Clean Neighbourhoods and Environment Act 2005 that introduces the power for local authorities to make gating orders that will restrict public use. This new legislation clearly provides for the gating of highways in circumstances where other measures to control crime and antisocial behavior have been exhausted. However, it is not hard to envisage circumstances where the need to introduce such orders can be in conflict with other Council priorities contained within the LTP and the CAROWIP relating to sustainable travel, safer routes to school, health, and recreation. It is the responsibility of the Council to balance these interests in an evenhanded way. In particular the Council must fully research the facts before initiating any action.

Previously the Countryside and Rights of Way Act 2000 introduced powers whereby routes could be permanently extinguished within areas designated by the Secretary of State as "high crime areas". To date these designations have largely been applied to inner city areas, and it is not envisaged that the use of these powers will be necessary in Warwickshire.