

**Department of the
Environment, Transport
and the Regions**

‘Making the Best of Byways’

A Practical Guide on
Managing the Use of Vehicles
on Public Rights of Way



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Transport and the Regions

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Introduction

There has been growing controversy over the use of motor vehicles on rights of way and over the recording of public vehicular rights on definitive maps.

This Practical Guide on Managing the Use of Vehicles on Public Rights of Way has been prepared with the aim of helping those who have to deal with this difficult area.

Its preparation follows a programme of research which included consultation with highway authorities, user groups, landowners, farmers, parish and community councils and other interested organisations, together with a review of relevant information.

Although the Guide is of primary interest to highway authorities it is written for a wider audience which will include user groups, parish and community councils, farmers and landowners.

Objective of the Guide

11
1.1

The core objective of the Guide is to provide advice for highway authorities on the effective management of shared use of unsealed ways in the countryside which carry public vehicular rights.

The Guide is intended to assist and encourage the development of clear management strategies for these ways and to set out specific measures which can be taken to protect them as a resource and to benefit a variety of users. The intent has been to produce advice and guidance which is widely accepted and applied.

- rights of way on byways are available to all recreational users including walkers, cyclists, horse riders, carriage drivers, motorcyclists and drivers of other motor vehicles;
- byways can be easier to find and to follow than footpaths and bridleways;
- byways are generally free from gates and stiles as well as vegetation, making them more accessible than footpaths and bridleways particularly for the disabled, small children and the elderly as well as horse riders and cyclists; and
- byways are not normally cultivated and are more likely to have a firm all weather surface than footpaths or bridleways.

Background to the Guide

1.2

The focus of the Guide is upon unsealed ways which carry public vehicular rights. These include:

- Roads Used as Public Paths (RUPPs) (where rights of way for vehicles exist);
- Byways Open to All Traffic (BOATs); and
- routes formerly defined as Unclassified County Roads (UCRs).

The word byway has been used in the Guide to cover all three classes. Unsealed surfaces exclude maintained concrete and tarmac surfaces but include surfacing with permeable materials.

Byways form an important part of the heritage of our countryside. The hedgerows which sometimes line them are a significant contribution to the 'patchwork quilt' character of the countryside, particularly where other field boundary hedgerows have been removed. They are a haven for wildlife often providing diverse habitats for a multitude of species.

Over time the function of byways has changed. They are now valued as a recreational resource along with footpaths and bridleways. They are of particular value because:

Byways can be as attractive as footpaths and bridleways and may also be of educational and cultural value as a result of their historic and/or ecological interest.

Many byways continue to provide an important function for farmers, giving vehicular access to fields and property. Some byways provide access to residential property.

People use byways for a variety of purposes and reasons. Recreational use clearly stands out. However, the Guide tries to take on board the full spectrum of users and their needs and to emphasise workable ways of making the best of byways.

Structure of the Guide

1 3

The Guide has the following structure:

- In **Section 2** key issues relating to byways are discussed.
- **Section 3** sets out a proactive approach for authorities considering the management of the use of vehicles on public rights of way with vehicular rights.
- **Section 4** looks at the legal status of routes and discusses ways of minimising and handling objections to reclassification and modification orders.
- **Section 5** provides details about establishing a maintenance programme and an outline of maintenance measures.
- In **Section 6** voluntary agreements, traffic regulation orders and extinguishment of rights are discussed.
- **Section 7** presents information on the provision of facilities for four wheel drive vehicles and other vehicles including motorcycles
- **Section 8** discusses the need for, and the benefits of, consultation, information and education.
- A recommended management strategy for dealing with specific problems is put forward in **Section 9**.
- Sources of further information are set out in **Appendix A**.

The research has identified practical examples which have been found by authorities to be useful in managing the use of vehicles on public rights of way. These have been used throughout this Guide to illustrate particular aspects of management. The examples may not be exclusive to the authorities

cited and the aim is to convey ideas and information to those authorities who have not previously used such measures.

Finally the Guide is not intended as a detailed manual of implementation. Users of this Guide would benefit from consulting the sources of further information set out in Appendix A and to discuss alternatives with their peers in other authorities and with wider interests. It is clear from the research that with:

- consultation;
- some flexibility on the part of the interests involved; and
- an enlightened approach on the part of the highway authorities;

many of the concerns can be addressed for the benefit of all.

Issues:

What are the Problems?

Byways can be found throughout England and Wales, both on urban fringes and in more remote rural areas. They are important features of our landscape to which they add form, scale and variety. Byways sometimes form part of recognised long distance trails, such as The Ridgeway; others provide important links between footpaths and bridleways in promoted walks, cycle rides and horse rides.

Key Issues

2.1

The research has identified three key issues:

- the recording of the status of byways and the communication of this information to users and others;
- conflicts between users largely focused on the alleged impact of some users on amenity; and
- physical deterioration of byways as a result of use and of weather and the growth of vegetation.

Status and Information

2.2

Problems relating to legal status arise where there is uncertainty about precisely what rights exist.

This uncertainty may be because of wrong recording on the definitive map. It may also arise where UCRs are recorded on the list of streets maintainable at public expense, and shown as “white roads” on the Ordnance Survey map (thus suggesting that vehicular rights may exist), yet are recorded as a footpath or bridleway on the definitive map.

There may also be uncertainty about what rights exist along a RUPP which has not yet been reclassified by the highway authority. Residents adjacent to a RUPP may fear a sudden invasion by all types of motorised vehicles, not just four wheel drive vehicles, if the RUPP is reclassified as a “byway open to all traffic”. Some residents may believe that reclassifying a RUPP to a BOAT is the

next step to building a new bypass or motorway; others may fear an increase in crime. Such concerns and misconceptions are often due to a lack of information or to misinformation.

User Conflicts

2.3

Byways attract a wide range of users by virtue of the rights which exist. The focus of this Guide is on the use of byways by motorised traffic.

Although there are many motorised recreation activities, those using byways tend to be trail drivers or riders who enjoy seeking out and motoring along 'vintage' or 'classic' routes away from tarmac and cats-eyes. Many such users are members of clubs, such as the Trail Riders Fellowship or the All Wheel Drive Club. The research seems to confirm that on the whole this group of users is considerate of others, aware of the potential damage which motor vehicles can cause to byways and amenable to positive management measures aimed at safeguarding the byway resource.

Some users, however, may have other interests. It is evident that some drivers, the 'mudpluggers', revel in the muddiness of a byway and the opportunity to get bogged down. While it is clear that there is some "antisocial" motorised use of byways the research seems to suggest that this is not a widespread problem although it may be severe locally. For example, on the edge of urban areas, byways may provide a resource for illegal use by underage motorcyclists.

Byways are important to walkers, horse riders carriage drivers and cyclists who wish to escape the hazards, noise and pollution associated with trafficked roads and to experience what they consider to be the 'peace and tranquillity' of the countryside. Such peace is often subject to some disturbance, e.g. noise from farm vehicles, aircraft overhead or traffic on nearby roads. However, disturbance of this 'perceived' peace and tranquillity

by the inconsiderate use of recreational motor vehicles on a route can cause anger and upset among other users and lead to conflict. Convoys of motor vehicles may cause particular concern and the problem may be made worse where other users do not anticipate meeting recreational motor traffic.

Little evidence has been found to suggest that problems of conflict between motorised vehicles and other users has increased with the rise in sales of four wheel drive vehicles in recent years. The use of recreational motor vehicles seems to be centred on a number of 'honeypot' areas, typically a network of several interesting routes and often located in a scenic area. Routes in the Yorkshire Dales, Peak District and North York Moors National Parks, and a number of areas in the Home Counties are examples.

Where conflict arises it is often due to misunderstanding or lack of knowledge about the rights which exist on a route, the use of routes for activities other than the legitimate activity of "passing and repassing", or more often a lack of courtesy towards others using the route.

Physical Deterioration

2.4

The use of byways by all users creates some wear and tear, including damage to the surface of the byway and subsequent impacts on drainage at surface and sometimes subsurface level. For motor vehicles the axle loading, the width of the vehicle and the speed of the vehicle all influence wear and tear. At the extreme, a heavy agricultural tractor towing a large wide trailer at perhaps 15-20 mph represents the worst case situation for wear and tear. Motorcycles generally represent less of a problem. Other users are not without blame in this respect. Horses and livestock may cause severe surface damage as they tend to cut up soft surfaces.

Where maintenance has been neglected, the surface of the byway may become rutted and waterlogged

and make the byway impassable to all users. The extent of damage will depend upon soil type and bedrock; for example, byways crossing peat or clay soils are more vulnerable than those on sandy soils or chalk.

Rutted and waterlogged conditions may attract those drivers who enjoy the challenge of such conditions. Becoming bogged down in mud and winching out the vehicle is part of the enjoyment. These users may cause further damage to the surface of the route and possible damage to the surrounding vegetation; for example, trees damaged by the use of winches. They may be liable at law for such damage if responsibility can clearly be assigned to them. This tends to be

hard to prove as an argument can be put forward that such damage is only the result of the original neglect of maintenance by the highway authority.

Weather and the growth of vegetation play their part in physical deterioration. At the very least maintenance needs to be sufficient to combat these if the byway resource is to be safeguarded. Drainage is essential, particularly in areas of high rainfall, if waterlogging is to be avoided.

Providing sufficient funds to cover the minimum level of maintenance needed to maintain the resource is an important issue even in the absence of motorised use.



FREE DRAINING SANDY SOIL IS LESS SUSCEPTIBLE TO RUTTING AND WATERLOGGING AND IS NOT ATTRACTIVE TO "MUDPLUGGERS" (LINCOLNSHIRE)



POORLY DRAINED CLAY SOIL
SUSCEPTIBLE TO RUTTING AND WATERLOGGING
(OXFORDSHIRE)



SOFT PEATY SOIL SUSCEPTIBLE TO
RUTTING AND WATERLOGGING
(LAKE DISTRICT NATIONAL PARK)



WHERE POOR DRAINAGE IS
COMBINED WITH SHADE, RUTTED
AND WATERLOGGED CONDITIONS
MAY REMAIN THROUGHOUT THE
SUMMER (SURREY, SUMMER 1996)

Proactive Management

Highway authorities are responsible for most aspects of byways.

The effective management of the use of vehicles on public rights of way depends on highway authorities, often in conjunction with planning authorities, being proactive in establishing policies and practices designed to make the best of the byway resource.

It is a key conclusion of the research that minimising or avoiding problems from the use of vehicles on public rights of way can be achieved by proactive management on the part of highway authorities.

Developing a Policy Framework

3.1

Highway authorities are already likely to have a policy framework for their wider responsibilities. Rights of way responsibilities may well be addressed within this. Some authorities have well developed policy frameworks for rights of way. There is a need to ensure that the policy issues relating to byways are addressed within such frameworks. Authorities need to establish a broad view of their responsibilities, of the range of byway users and of the resource which byways represent. Only by taking such a view can the authority fully appreciate the benefits of management measures both for conserving the resource and benefitting users of byways. The policy framework needs to include:

- an understanding of the authority's legal responsibilities for byways;
- an appreciation of the extent and nature of the byways within the authority's area;
- an appreciation of the use made of byways within the authority's areas, and the rate of change of that use: and
- knowledge of the full range of byway maintenance and management measures available to the authority.

Developing the policy framework for byways is more likely to be a case of ensuring that their special requirements are recognised in the wider framework

of rights of way and highway policy than in creating a specific framework for byways.

Checklist of Specific Measures for Proactive Management

3.2

In developing their approach to byways, authorities have open to them a number of specific measures which will actively assist with managing the use of vehicles on public rights of way. The following have been identified:

- Ensure definitive map and list of streets are consistent with each other.
(Reference Section 4.1).
- Properly define the legal status of all routes and accurately record on the definitive map and list of streets where appropriate.
(Reference Section 4.2)
- Devise and implement policy on consultation and handling objections to reclassification and definitive map modification orders.
(Reference Section 4.3)
- Understand the use made of byways in their area.
(Reference Section 5.3)
- Draw up and implement a maintenance programme.
(Reference Sections 5.3-5.5)
- Encourage volunteers to assist with maintenance work.
(Reference Section 5.6)
- Devise policy on the use of voluntary restraint and traffic regulation orders.
(Reference Sections 6.1 and 6.2)
- Liaise with planning officers, user groups, landowners, and farmers to identify suitable sites

for users to practice their driving skills away from byways.

(Reference Sections 7.1-7.3)

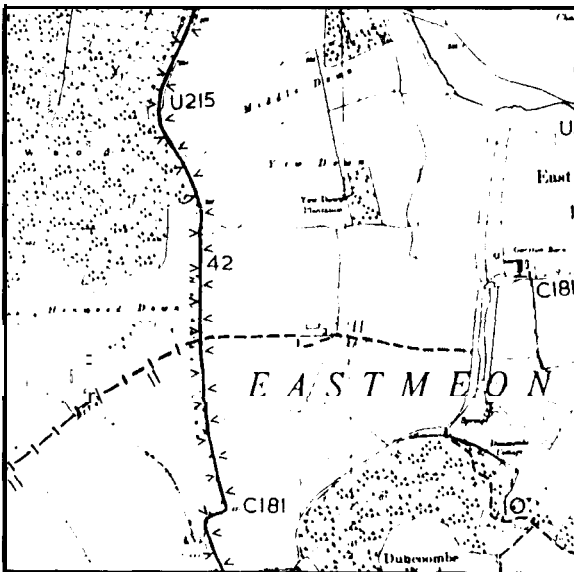
- Establish links with relevant user groups, landowners, farmers, parish or community councils and the local constabulary.
(Reference Section 8.1)
- Publicise codes of conduct and other relevant information.
(Reference Section 8.2)
- Inform non vehicular users that vehicles may be encountered on promoted walks, cycle rides, horse rides, where appropriate.
(Reference Section 8.2)
- Devise strategy for dealing with individual problems.
(Reference Sections 9.1 and 9.2)

Further details about each of these measures is provided in the sections of this Guide referenced at the end of each point.

Authorities are encouraged to draw up an overall policy for vehicular use on byways within which these initiatives can be fitted. The more proactive an authority is in establishing such a policy framework and implementing measures the less likely it is to encounter individual problems.

Status

Clarifying the rights which exist and ensuring that the definitive map, list of streets and other relevant documents are as complete, accurate and consistent as possible is in everybody's interest. Users, landowners and highway authorities will then have no excuse for not knowing their rights and/or obligations.



DEFINITIVE MAP EXTRACT

Legislative Requirements

4.1

The key legislative requirements relating to the status of byways are:

- Section 53 of the Wildlife and Countryside Act 1981 under which every surveying authority is required to maintain and make available a definitive map of public rights of way and an accompanying statement and to keep these under continuous review. They should be amended to show alterations to route or to status, additions and deletions to the network or to correct errors.
- Section 54 of the Wildlife and Countryside Act 1981 under which every surveying authority is under a duty to reclassify RUPPs as either BOATS, bridleways or footpaths, depending upon the rights shown to exist.
- Section 36(6) of the Highways Act 1980 under which highway authorities are required to have a correct and up to date list of streets which are maintainable at public expense.

These requirements are important areas of work for authorities. Rights perceived to exist, whether vehicular or not, lie at the heart of many problems. In order to comply with these legislative requirements authorities should ensure that the definitive map and list of streets are both accurate and up to date. It is also good practice to ensure that the definitive map and list of streets are consistent with each other.

Changes to Legal Status

4.2

Where there is doubt about the status of a route, proper investigations must be carried out before any amendments are made to the definitive map or list of streets. During the investigative process an authority should consult appropriate sources of published information.

Details of possible relevant sources of information are outlined in *“Definitive Map Modification and Reclassification Orders - Guidance Notes on Evidence”*, available from the Planning Inspectorate (Publication 4 Appendix A). Information should also be gained from relevant local organisations and individuals. Where an authority collects information it may usefully be recorded in an inventory held in a computerised database. This is discussed further in Section 5.3.

Before carrying out any research it is essential to carefully consider who, and/or what, should be consulted and how the process will be carried out. Research should be carried out in a consistent and logical way. Consultees should be clearly informed about why they are being consulted.

Reclassification and Definitive Map Modification Orders

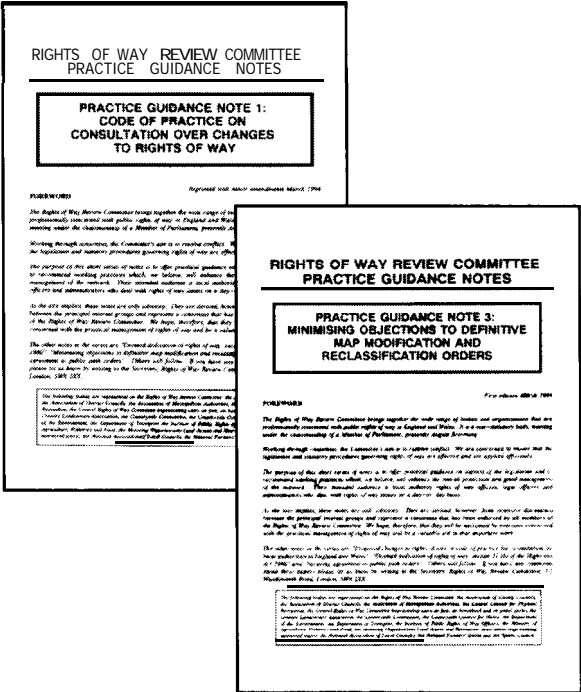
4.3

Reclassification and Definitive Map Modification Orders can arouse concern and misunderstanding amongst residents. There may be fears that the local environment will be ruined by an influx of motor vehicles as a result of a RUPP being reclassified as a BOAT or a bridleway being re-recorded as a BOAT. Such anxiety may result in an authority receiving a large number of objections to an order. This, in turn, can lead to much time and money being spent attempting to resolve the objections and in connection with any subsequent public inquiry.

Minimising Objections

The Rights of Way Review Committee provides useful advice in its *“Practice Guidance Note 3: Minimising objections to Definitive Map Modification and Reclassification Orders”* (PGN3) (Publication 6 Appendix A). PGN3 suggests that consultation with potential objectors prior to the making of an order can help avoid objections being lodged and reduce the need to hold a public inquiry at a later stage. In addition to statutory consultees, authorities should consult local user groups, affected residents and other relevant interests.

Advice about who to consult and how to carry out the consultation is provided by the Rights of Way Review Committee in *“Practice Guidance Note 1: Code of Practice on Consultation over Changes to Rights of Way”*, (PGN 1) (Publication 5 Appendix A).



However, once an order has been made and publicised, objections may still be received. PGN3 suggests that one approach to minimising objections at this stage is to produce a statement to accompany

an order. The statement should include the following information:

- an explanation of the authority's reasons for making the order;
- basic details of the evidence and where it may be consulted;
- the grounds on which objections may be made (i.e. whether there is, or is not, evidence that the public have a right of way in vehicles over the route) and examples of irrelevant objections, such as damage to wildlife, safety, amenity; and
- details of who is dealing with the order within the authority.

The statement should be made as widely available as possible. PGN3 suggests that statements should be:

- placed on deposit with the order when and where it is made available for public inspection;
- sent to recipients of the order;
- given to anyone purchasing a copy of the order; and
- available on request from the authority.

Notices placed on village notice boards and in local newspapers should include reference to the availability of a statement.

Persuading objectors to withdraw irrelevant objections can be a time consuming and costly business. Therefore, time spent at the outset on informal consultation and producing an explanatory statement may result in savings later.

Handling Objections

An authority should devise a policy on handling objections which all officers are aware of and follow. This will ensure that each objection is dealt with in an appropriate and consistent manner.

For each objection it is important:

- to establish the grounds on which the objection is made; and
- to see if the objection can be overcome by providing further information.

If it is decided that an objection is relevant, it is important to determine whether there is other information which the authority has not adequately considered during its investigations.

If an authority decides to pursue an order then all objections must be forwarded to the Secretary of State. Ideally all objections forwarded should be relevant objections. However, there will sometimes be other objections that cannot be resolved by the authority.

Maintenance

In this section maintenance is interpreted in its broadest sense to include improvements. In decisions on maintenance it is essential to appreciate the nature and extent of the byway resource and the constraints, legal, financial and other within which the highway authority operates.

Legal Context

5.1

In law, highway authorities have both duties and powers in relation to byways. However they also have a number of practical reasons for maintaining byways:

- to provide opportunities for access to and enjoyment of the countryside for all, including people with restricted mobility who need to use a motor vehicle;
- to increase opportunities for cyclists, horse riders, carriage drivers and others to avoid road traffic;
- to retain or increase ecological diversity; and
- to reduce conflicts between byway users.

It is not the role of the Guide to set out in detail the legal situation on maintenance, improvement and

the prevention of obstructions. However, the legal situation can be summarised in broad terms as follows:

- Under S41 of the Highways Act 1980 all highway authorities are under a duty to maintain highways maintainable at public expense. Highways maintainable at public expense should be on the list of streets. The legal situation of individual byways varies but it seems likely that the vast majority of byways are highways maintainable at public expense if only because the majority were in existence prior to 31 August 1835.
- Under S54(4) of the Wildlife and Countryside Act 1981 BOATs reclassified from RUPPs are publicly maintainable.
- Highway authorities have specific powers to effect various improvements to byways including:
 - signposting (Countryside Act 1968 S27)
 - widening (Highways Act 1980 S72)
 - alteration of levels (Highways Act 1980 S77)
 - construction/reconstruction of bridges (Highways Act 1980 S91 and S92)
 - planting trees and shrubs (Highways Act 1980 S96)
 - drainage (Highways Act 1980 S100)
 - mitigating nuisance of dust (Highways Act 1980 S104)

This list is not comprehensive and there is also a general power of improvement under Section 62 of the Highways Act 1980. It should be emphasised that all these provisions are enabling powers rather than duties. Under some circumstances compensation may be payable to the landowner or occupier.

- Under S130 of the Highways Act 1980 it is:
“The duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority including any roadside waste which forms part of it”
- Under common law a highway authority is under a duty to seek, prevent and remove obstructions.

Standards of Maintenance

5.2

Department of the Environment Circular 2/93: Public Rights of Way (paragraph 18) (Publication 1 Appendix A) advises that there are no fixed standards of maintenance for byways. The main consideration is that the standard of maintenance should be commensurate with the purpose for which byways are primarily used throughout the year. It follows that highway authorities need an appreciation of the purposes for which byways are used in order to determine appropriate standards of maintenance.

Excessive maintenance can be as harmful as lack of maintenance; in the extreme the route may become ‘urbanised’ in appearance. Circular 2/93 advises that work should harmonise with the general appearance and character of the surroundings.

Highway authorities should ensure that the standard of maintenance is consistent with the purposes for which byways are used, the level of the amenity

of the area, the conservation of the countryside and historical maintenance methods.

Programmed Maintenance

5.3

One of the major problems flagged up by the research has been the lack of planned maintenance for byways. Too often byways are accorded a low priority and maintenance is undertaken on an ad hoc basis, or simply not done.

Highway authorities need to develop a byway maintenance programme if byways are to be effectively maintained.

In order to establish a maintenance programme sufficient information needs to be available to highways authorities to identify needs and allocate resources. The argument is sometimes put forward that minimal funds are available for maintenance and that collecting further information is pointless. However, without such information it is difficult to justify even the existing budget quite apart from arguing for an increased budget.

Building an Information Database

Sources of information will include the statement which accompanies the definitive map, case files on particular byways and surveys.

The statement which accompanies the definitive map provides a useful starting point. The statement contains:

“such particulars appearing to the authority to be reasonably alleged as to position and width or as to any limitations or conditions affecting the public right of way, as in the opinion of the authority it is expedient to record”.

Some highway authorities have interpreted this to include a detailed description of the byway. Others have provided minimal information.

Other relevant information includes:

- the level of use;
- the construction of a byway;
- the condition of the byway;
- major features such as bridges and fords; and
- the ecology of the byway.

A Geographical Information System (GIS) linked to a database, or a stand alone database, are convenient ways of recording information on byways. At a later date stand alone databases can be linked into a GIS, but this would involve digitising all relevant map based byway information.

It may be useful to extend a computer database to include other information such as details of complaints received, of remedial measures carried out, and of relevant landowners / occupiers. Personal information may have to be registered with the Data Protection Registrar. Information will prove useful when investigating individual complaints about a byway. Using a computer system with suitable software enables information to be readily available and easily accessed and monitored.

British Standard BS 7666 Part 4 (Publication 20 Appendix A) was launched in November 1996 and defines a standard data set for recording and maintaining definitive maps and statements using a database and / or GIS.

Further information about using a database and GIS to record information relating to rights of way, in accordance with BS 7666, can be obtained from the Association of Geographical Information and the Local Government Management Board.

PRACTICAL EXAMPLE

The definitive map information covering the county of Wiltshire was digitised onto Ordnance Survey base maps within a 12 month period. The work was carried out by a temporary junior employee at a cost of approximately £12,000 (excluding capital equipment). The County Council used its existing GIS software.

The following information is included in a database linked to the GIS:

- name and address of landowners/ occupiers;
- complaints received;
- maintenance required; and
- maintenance carried out, including date.

The information is used to instruct three wardens, who are responsible for all physical works to the rights of way network, about maintenance requirements. Each warden has a small gang under contract to carry out physical tasks and each has a network of parish contacts and volunteers to assist with inspections and minor works.

When enquiries about work are made by the general public, the authority has a fast and effective way of checking whether the work is due to be carried out, is already supposed to have been done, or has been identified as unnecessary.

Source: Wiltshire County Council

Byway Surveys

Much of the aforementioned information can only be collected by on the ground surveys. This can be time consuming where an authority has a substantial length of byways.

Where resources are limited or a full survey is not considered necessary, a partial survey may initially be appropriate focusing on heavily used or sensitive routes.

Views on priorities for survey should be sought from sources within the authority, from parish or community councils, and from user groups. These can assist in drawing up a list of byways needing work now or potentially needing work in the future.

PRACTICAL EXAMPLE

During the summer of 1995, 33 "sensitive" stretches from the total of 511 byways in Wiltshire were surveyed to establish the causes of specific problems. "Sensitive" lengths of paths were identified by users, owners, environmental groups and parish councils thus providing a broad perspective from a wide range of interests.

The survey involved site inspection, discussions with local wardens, area highway maintenance engineers, soil engineers and, where appropriate, with representatives of users, owners, environmental groups and parish councils. The survey was successful in identifying the causes of any problems insofar as these could be ascertained and a particular course of action was recommended for each byway.

Source: Wiltshire County Council

Where byways are to be surveyed, site visits should be carried out but this can be costly and time consuming. Officers may require help in carrying out the survey depending upon the number/length of byways involved. Volunteers from local user groups, parish or community council representatives, or residents may be able to provide assistance. In some instances it may be appropriate for a joint survey to be carried out by officers and volunteers in order to ensure that an impartial view is obtained.

PRACTICAL EXAMPLE

In 1991 Hampshire County Council carried out a survey of all byways (a total of 565 RUPPs and BOATS) in order to devise a maintenance programme for the County's byway network. The survey was carried out by user groups (ramblers, cyclists, horse riders, trail riders and so on). Each surveyor was provided with a map of the byway(s) to be surveyed, equipment to be taken, such as a tape measure, and detailed instructions of what to do.

The results of the survey were used to establish the financial resources required to maintain each byway and to draw up a maintenance priority list.

Source: Hampshire County Council

For all surveys, and particularly those using voluntary assistance, it is important to carefully brief all surveyors in advance to ensure that they are fully aware of what is required. Table 5.1 on page 17 provides a checklist of information that could be included in a survey.

TABLE 5.1 - SURVEY INFORMATION CHECKLIST

- | | |
|---|--|
| <ul style="list-style-type: none"> ○ Name of parish ○ Name of RUPP / BOAT / UCR ○ 1:10,000 OS grid reference ○ Details of owners / occupiers ○ Length of route (km or m) ○ Width of route (m) <ul style="list-style-type: none"> - Width of narrow sections (m) - Usable width ○ Extent and type of waymarking ○ Length and condition of each type of surface:- <ul style="list-style-type: none"> - hardcore / gravel (m) - other rock / riverbed / sand (m) - grass / earth
(clay, sand, chalk, peat, etc) (m) - other (specify) (m) ○ Gradients (flat, moderate or steep) ○ Evidence of use and frequency of use (in broad terms) by:- <ul style="list-style-type: none"> - farm animals - tractors and other agricultural vehicles - cars - four wheel drive recreational vehicles - motorcycles - horse drawn carriages - horses - bicycles - walkers - other traffic | <ul style="list-style-type: none"> ○ Details and location of problems:- <ul style="list-style-type: none"> - locked / narrow gates - fences - cultivation - vegetation - other ○ Estimate of remedial work required:- <ul style="list-style-type: none"> - total length of surface vegetation to be cleared - total length of overhead vegetation to be cleared - total length of ditches to be cleared - total length of surface affected by ruts - total length of surface affected by deep mud - other problems ○ Remedial work requires:- <ul style="list-style-type: none"> - excavator - chainsaw - brush cutter - drainage material - surfacing material ○ Number of signposts and waymarks required ○ Historical information ○ Ecological information |
|---|--|

Source:

Hampshire County Council and Entec UK Ltd

PRACTICAL EXAMPLE

In 1988 the Lincolnshire Green Lanes project was established with the aim of finding out the status, historical and ecological significance and general condition of the county's lanes. 1,920 kilometres of lanes have been surveyed by volunteers from various user groups.

The project arose when a wide 'green lane' which was not recorded on either the Definitive Map or List of Streets, was ploughed out. The existence of all green lanes in the County is now carefully recorded and each lane has since been catalogued according to its historical / ecological importance and legal status. It is hoped that this will avoid the potential for further lanes to be ploughed out or closed off.

Source: Lincolnshire County Council

The condition and level of use of a byway will vary during the year. Some byways may attract significant traffic during the winter but the majority are likely to be used most intensively between spring and autumn. Most users are likely to be more active during this part of the year particularly with longer daylight hours. Horse riders will use byways all year if the conditions are suitable. Byways which provide access for farmers and residents will also be used all year round. In some cases farmers may use tracks more intensively in winter when feed needs to be taken out to stock.

Ideally surveys should be carried out twice a year; in summer, when traffic and vegetation growth peak, and towards the end of winter, when drainage problems and surface damage are at their greatest.

Surveys may be used to identify maintenance, improvement and other physical measures which can be prioritised on the basis of a range of criteria which should include:

- benefits / disbenefits to users;
- benefits / disbenefits to environmental resources e.g. resources of ecological, scientific, historical or landscape interest;
- cost;
- longer term benefits e.g. avoidance of more expensive measures at a later date;
- ease of implementation; and
- availability of volunteer assistance.

The resulting priorities can then be used to develop a programme of works preferably covering an extended period.

PRACTICAL EXAMPLE

Maintenance measures are carried out by Surrey County Council on a priority basis. Factors taken into consideration include:

- objective assessment of the condition of the surface in comparison with other routes;
 - importance of the byway in the overall network;
 - level of complaints;
 - level of use; and
- whether the byway is part of a promoted walk, cycle route or horse ride.

Source: Surrey County Council

Maintenance Works

5.4

The following key maintenance measures have been identified as the most valuable for byways:

- Vegetation clearance and drainage cleaning;
- Drainage improvement; and
- Sub-base / surfacing.

In general lower cost measures will offer greater benefit per pound spent but there are occasions where higher cost measures should have priority. Maintenance of structures has not been covered in the Guide.

Vegetation Clearance and Drainage Cleaning

Vegetation clearance and drainage cleaning are likely to produce the greatest benefits at least cost.

Benefits will include easier passage and a better byway surface.

Vegetation Clearance

This is particularly important when the byway is subject to waterlogging and ruts develop with the passage of traffic. The exclusion of sun and wind will increase the likelihood of waterlogging.

Vegetation clearance may take the form of:

- clearance from the surface of the byway, which is the responsibility of the highway authority; or
- clearance of vegetation overhanging from land adjoining the byway, which is the responsibility of the owner of the land.

Clearance will:

- facilitate the passage of users;
- assist with drying out the byway surface; and
- help with maintenance of particular wildlife habitats.

Care needs to be exercised to ensure that vegetation clearance does not impact on resources

of landscape, ecological and historical interest such as hedgerow trees adjoining the byway. Under Section 11 of the Countryside Act 1968 authorities should endeavour to safeguard wildlife and geologically and physiographically important features whilst exercising their functions relating to land under any enactment. Before carrying out any vegetation clearance, trees protected by Tree Preservation Orders should be identified through consultation with the local planning authority.

In sensitive areas it may be necessary to carry out surveys e.g. to identify rare species before work is carried out. Such surveys will usually need to be carried out in spring and summer. It will be appropriate to consult the relevant country conservation agency (English Nature or the Countryside Council for Wales, addresses on page 57) if a protected species is found, or a tree specialist for advice when major tree surgery or felling is proposed.

The clearance of woody growth, scrub, hedgerows and brambles should be avoided during the bird nesting season, from early March until August. Lush non-woody growth should be cut back twice per annum in May / June and again in August / September. When this is not possible, an annual cut back should be carried out in June.

Woody vegetation clearance work should be carried out during the winter months to minimise disturbance to the flora and fauna. October and November are often the best months for major clearance work as working conditions should still be pleasant and the ground not yet at its wettest.

Under Section 136(1) of the Highways Act where the surface of a byway is being damaged due to the exclusion of sun and wind by a hedge or tree, a highway authority may apply to a magistrates court for an order to be served on an occupier or owner of the land on which the hedge or tree is growing requesting cutting, pruning, plashing or lopping in

VEGETATION CLEARANCE ALLOWS SUN AND WIND TO
DRY OUT THE SURFACE OF THE BYWAY (BERKSHIRE)



SUNKEN LANE WITH OVERHANGING BRANCHES: CUTTING BACK BRANCHES
WOULD ALLOW MORE SUN AND WIND TO REACH THE BYWAY (HAMPSHIRE)



order to remove the cause of the damage. If a person fails to comply with the order within 10 days of the date specified, he / she is guilty of an offence and liable to a fine.

A highway authority may also carry out the work and recover costs reasonably incurred in carrying out the work.

Vegetation clearance may encourage species diversity. Byways, in particular sunken lanes and water lanes, are often of ancient origin providing unique wildlife habitats which have not recently been disturbed. They often provide a rare mix of dense to light shade, open gaps, steep to gentle banks and shelter from wind and agricultural spray drift. They may provide corridors along which butterflies, other insects and small animals can move. Flora is more varied than on adjoining agricultural land but may depend on sufficient light for its survival. Other species may, however, be harmed by the clearance of

vegetation. If in doubt consult the relevant country conservation agency.

Neglect of these ancient routes can lead to trees and shrubs becoming too heavy for roots to support. Roots torn from banks can damage the bank's structure and lead to erosion. Dead, damaged or fallen timber may pose a danger to users of the route. Neglect may also lead to dense, dark, damp conditions along the route. Most plant and insect species thrive best in a mixture of light and shade. Dense, dark conditions can lead to depletion of plant and insect populations.

Drainage Cleaning

Effective drainage is critical to maintaining byways. It should be considered the number one priority particularly on clay soils where blocked ditches or failed culverts can often be a major cause of surface damage through rutting, flooding or washouts.



DRAINAGE DITCH
REQUIRES REGULAR
CLEARANCE TO
PREVENT BLOCKAGE
BY LEAVES, SOIL AND
OTHER MATTER
(SURREY)

Where old drainage ditches exist they should be cleared. Drainage pipes should be unblocked and any defective pipes replaced. The most effective means of reinstating or digging new ditches is to use a machine with a ditch bucket or wide cleaning bucket. Where the clearance is mainly of vegetation or access by machine is difficult, hand clearing may be cheaper. Spoil from the ditch is often soft and silty and should not be spread onto the surface of the byway.

PRACTICAL EXAMPLE

Reinstating ditches by machine, assuming that a machine is available on site and that 10 metres is dug per hour, costs approximately £1,300 per kilometre.

Source: Hampshire County Council 1996

An authority should allow time for the drainage and/or vegetation clearance to take effect before considering any further action. During this period of time it may be necessary to restrict the use of the route by voluntary restraint or traffic regulation order. Further details about these measures are provided in Chapter 6.

At the end of this period the route should be assessed to see if the initial clearance work has been successful. If it has not been successful the need for improvements such as drainage installation, foundations and surfacing should be considered. Authority to carry out such improvements will generally fall under S62, S100 and other provisions in the Highways Act 1980.

Drainage Improvement

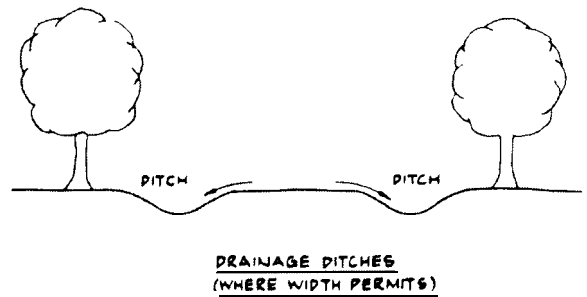
Drainage improvement is generally less expensive than sub-base and surfacing work. It can be very

effective particularly on clay soils. Granular soils such as sands and gravels are relatively free draining and will tolerate a higher water table. However, even on these soils additional drainage is important where gradients are steep. Heavy rain can cause erosion of byway surfaces wherever drainage is inadequate.

For all soils it is necessary to shape the surface of the track to shed water rapidly and to arrange for the surface water to be conveyed away from the track. For clay soils it may also be necessary to improve the subsoil drainage.

Longitudinal Drainage Ditch

The traditional form of drainage is by means of longitudinal ditches clear of the sides of the track combined with a camber. This is still the cheapest and most effective form in the majority of cases and should be adopted whenever possible. Where the camber is one way, only one ditch is required.



Ditches 500mm or 600mm deep will be suitable in most cases. Deeper ditches may be necessary where outfalls are not readily available or where the track is gently undulating. The minimum width of a ditch should be about 2.5 times the depth except in rock or other hard material. Ditches constructed with width to depth ratios less than this will usually collapse. This effectively reduces the depth of the ditch and thus its ability to reduce the local water table. The sides of ditches should be sloped to avoid collapse especially in soft soils.

The disposal or re-use of spoil from newly excavated ditches needs careful consideration. Simply dumping spoil on the surface of a route may lead to rutting and the growth of nettles and thistles where none previously existed.

Wherever possible, the surface of a route should be a little above the surrounding ground to allow the most effective camber into the ditch. If there is insufficient camber, the route may require reprofiling to restore or create an effective camber.

Transverse Grips

Where the track is lower than the surrounding ground there will be a tendency for a raised verge to form at the ditch, and transverse grips will need to be dug through this verge to allow surface water to reach the ditch without softening the track edges. Grips are short, narrow, shallow drainage ditches, positioned perpendicularly to the edge of the byway. They are relatively cheap to install but require regular clearance to be effective. On flat ground grips will typically be positioned about 15 to 30 metres apart. Any existing grips need to be cleared and dug out to a width of at least 300 mm.

PRACTICAL EXAMPLE

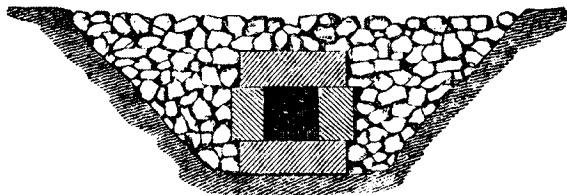
Establishing grips on the Ridgeway using a machine and two men (at a cost of £200 per day) with grips roughly every 20-30 metres costs £300 - £400 per kilometre.

Reinstating grips, i.e. digging out already established grips costs £200 per kilometre, with grips on average every 20-30 metres.

Source: The Ridgeway Officer

Pipe Drainage System

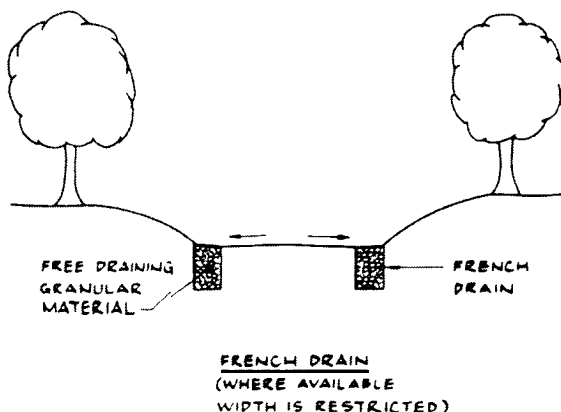
If there is insufficient width available for ditches, or the ground conditions are unsuitable, a pipe drainage system may have to be used. A French drain,



with a porous pipe in a stone-filled trench, will be effective in collecting both surface and sub-surface water. The depth of a French drain will need to be greater than that of a ditch. Pipe sizes will normally be 150mm to 300mm, and the minimum depth should be 750mm. Further advice about suitable pipes, their installation and maintenance should be obtained from an engineer with local experience.

French Drain

In granular soils a French drain without a pipe may be used. This will effectively collect surface run-off and allow it to disperse into the granular sub-soil. However this system will convey water into the sub-soil and should not normally be used across a byway; instead it should be positioned along its length.



Drainage Capacity

For all drainage, it is important to ensure that capacity of the drainage system will be sufficient to cope with the likely amount of surface water run-off. The availability of outfalls into the wider land drainage system will be the main consideration. Where outfalls are widely spaced or not available, the size of ditches or French drains will need to be sufficient to enable water to be stored while it slowly disperses.

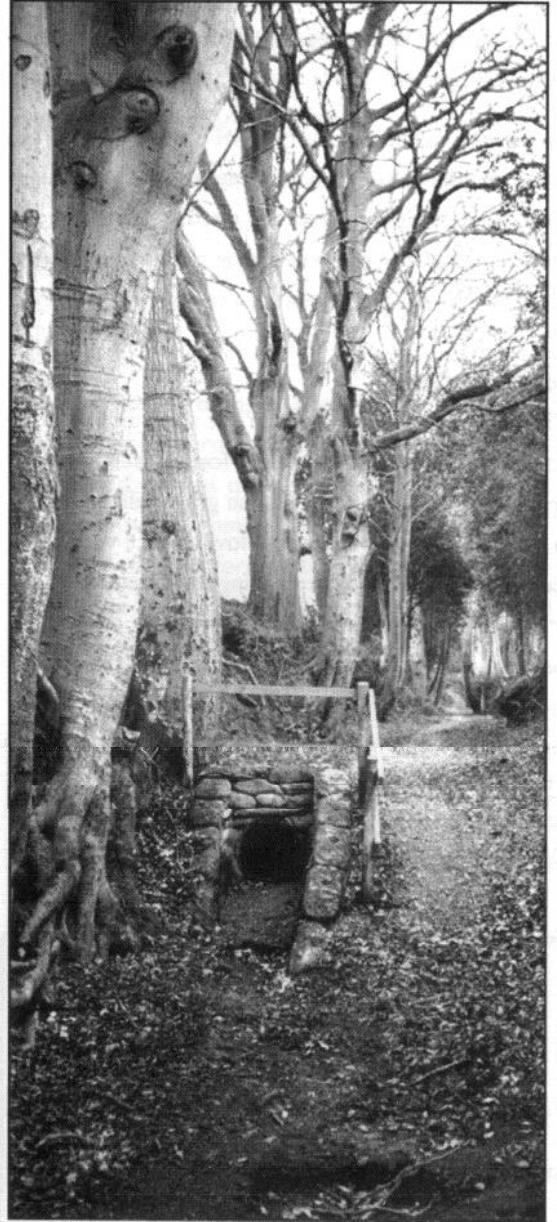
Where routes run across or down slopes, there is a risk that surface water will use the track itself as a substitute drain, leading to rapid erosion of the surface. The severity of the problem will vary according to the subsoil and the frequency of heavy rain. Shallow surface channels across routes may be used to divert water on steep gradients. They should be used with care as they can be a danger to walkers, horseriders and cyclists. In very wet areas a shallow ditch paved with stone setts or pitched stone can be a very successful solution.

PRACTICAL EXAMPLE

Surrey has some true "water lanes" - sunken tracks extending downhill - which are too narrow to dig ditches along the side. The best solution is to drain off water at the top of the lane and at various points down the gradient. Soakaways, cambering and water deflectors may also help.

Source: Surrey County Council

DRAINAGE PIPE INSERTED UNDER LENGTH OF ROUTE TO PREVENT WATER USING THE ROUTE ITSELF (HAMPSHIRE)

**Irish Bridge**

Where culverts under byways have failed it is sometimes possible to replace them with an "Irish bridge". This consists of a number of smaller pipes laid side by side in a concrete surround. The pipes take dry weather flows and, when the flow exceeds their capacity, the stream flows over the concrete surround, creating a temporary ford. This solution is

only effective where the stream is in a relatively narrow valley or in a deep channel.

Details of bridge repairs and the erection of bridges are not included in this Guide. Technical engineering advice should be sought before any such work is carried out.

Drainage work and vegetation clearance may be all that is required to improve the condition of a route. However, on clay soils, and other similar impermeable or soft surfaces including deep peat accumulations, further work to the sub-base and surface of the byway may be required.

Following attention to drainage an authority should allow a period of between 6 - 12 months before considering carrying out any sub-base and surfacing work. At the end of this period the route should be assessed to see if the drainage improvement work has been successful.

Foundation and Surfacing

Improvements to the foundation and surface of a byway may be required when:

- low key work, such as drainage and vegetation clearance, has failed to produce an acceptable surface;
- the existing surface is a danger to users;
- some users are unable to use the byway because of surface or other physical conditions.

Where the nature and frequency of use of a byway changes it may be necessary to consider proper construction with an effective sub-base. On relatively good soils, a layer of Type 1 or Type 2 sub-base material may be sufficient to act as foundation and surface and carry all traffic. Type 1 is a granular sub-base using crushed rock as specified in the Department of Transport Specification for Highway Works 1986. Type 2 is a lower quality granular sub-base than Type 1 which may comprise as-dug sand and gravel. Blinding with 3mm to dust local stone

may be necessary to produce a surface suitable for horses and ordinary cycles. For weaker soils, a two layer construction will be necessary and strengthening by means of geotextiles or geogrids may be used.

The foundation, comprising the subgrade (the prepared natural ground), the sub-base and any geotextile or geogrid, is the main load carrying part of the construction. The material and thickness used will be determined by the subgrade material, the effectiveness of the drainage and the traffic loads using the route.

The surfacing, comprising the basecourse and any wearing course or dressing, provides a load-bearing, profiled running surface. The type of surfacing will be determined mainly by the needs of the users of the route.

A soft surface including sand or wood chips may be appropriate for walkers and horseriders, but both of these materials can deteriorate very rapidly, need regular topping up and will not stand up to use by any significant volume of vehicles.

Foundation

For the purpose of deciding on sub-base, soils may be loosely classified into three classes:

Good: gravels, sandy gravels, chalk and rock;

Medium: sandy clays and sands, some hard dry clays;

Poor: peat, clays, silts and silty clays.

The good soils require no sub-base, and the requirement for surfacing will depend on the particular use of the route. A chalk surface used in wet conditions will deteriorate rapidly, and a surfacing layer is advisable.

The medium soils have an adequate bearing capacity if the drainage is good, but require a substantial surfacing layer to protect against erosion and rutting.



**VEGETATION
CLEARANCE,
FOLLOWED BY
HARROWING AND
RECOMPACTING
OF SOIL BEFORE
SURFACING WORK
IS CARRIED OUT
(WOKINGHAM)**

The poor soils have little bearing capacity, particularly for wheeled traffic and horses, and require a sub-base. Peat and some soft clays will require special attention.

For granular soils, where the water table is at depth and the surface is well drained, a sound foundation can be obtained by harrowing the upper surface to a depth of approximately 100mm and recompacting using a vibrating roller. Hard clays should be

disturbed as little as possible, with soft material being removed until a firm clay base is exposed and the surface rolled using a dead weight roller. Any depressions should be filled with firm clay from nearby. It is important that the surface of the underlying clay is shaped to shed water before the surfacing is placed.

In areas where the water table is close to the surface, and where it is not practicable to lower it, a

granular sub-base should be laid. This may be a Type 1 or Type 2 sub-base material, hardcore or scarified road surfacing. Over softer materials, larger granular material may be placed and rolled.

The initial layer of granular material should be of such a size that it does not sink below the surface when compacted by a roller. Once a firm base is established subsequent layers can be formed of smaller material. In some silty materials, a geotextile placed on the initial granular layer will prevent the upper layers becoming unstable.

Over peat and very soft clays, more extensive treatment may be required. Where possible, the soft material should be removed and replaced with better quality fill. If this is not possible, use of geotextiles or geogrids may be the best solution. A wide range of geotextiles is available and advice should be sought from the manufacturers on the fabric most suitable for the particular location and traffic. To avoid damage, all geotextiles should have an adequate thickness of cover material. For vehicular traffic a minimum of 150mm of sub-base is advisable.

PRACTICAL EXAMPLE

When foundation/surfacing work is carried out, the depth of material used is determined by the 'heaviest' user - usually 300mm for vehicles. Geotextile is used as an underlay where there is a clay base. Clean stone (sized 50 - 100 mm) is laid and blinded off with a thin layer of 25mm to dust, to a width of 3.2m.

Source: The Ridgeway Officer

Surfacing

Once a firm foundation has been prepared some form of surfacing layer will be required. The material

chosen for the surfacing should blend in with the surrounding landscape and should preferably be readily available from local sources so that topping up of the surface can be easily undertaken as the need arises.

Suitable surface layers include:

- Hoggins: a naturally occurring aggregate of mainly gravel and sand with sufficient clay to bind the mixture together when compacted. The quality can be extremely variable; thus it should be carefully monitored during construction to ensure consistent quality.
- Granular sub base: Type 1 and Type 2 sub-base. When this material is used the foundation should be adequately drained and stable.
- Scalpings: a by product of quarrying activities. The scalpings may be of variable quality but usually compact well with a vibrating roller.
- Quarry waste: waste material from the quarry bottom which is the cheapest type of quarried stone. It is not always available in small enough sizes.
- Road arisings or road planings: the best type of arisings are small, uniformly sized stones and particles recovered from cold planing of an old bitumen macadam road surface. Planings from hot rolled asphalt may also be used but should be carefully selected. If obtained from a relatively 'young' surface the material may compact to form a rough metallised surface, of an 'urban' appearance.

If the initial surface of crushed stone materials is too coarse, a blinding layer of 3mm to dust may be used. This should be about 10mm thickness and rolled well into the surfacing to prevent excessive dust spread by vehicle tyres.

PRACTICAL EXAMPLE

Wherever possible and appropriate, recycled materials are used for surfacing; hardcore and road planings are the most common materials. Where the local environment is particularly sensitive other materials may be used. For example:

- Hoggins: used across heathland;
- Fettleworth Stone: local to West Sussex has been used in sandy areas;
- Limestone scalplings: used in chalk areas. This is quite dusty and can compact to form a hard polished surface. This compaction can be useful on routes vulnerable to erosion. It is important to specify the appropriate grade of scalplings.

Source: Surrey County Council

Surfaces of gravel, hoggins, Type 1 or Type 2 sub-base or scalplings will generally provide a route which will stand up to a moderate level of vehicular use without damage. Some local rutting and erosion may occur in early use but this can readily be rectified using fresh material and the surface should soon settle down. With time all these surfaces will develop some vegetation growth. Where vehicular use is regular and moderate, growth will tend to be between the wheel tracks, providing a softer surface for horses.



DRAINAGE CLEARANCE AND SURFACING WITH LOCAL STONE. WORK CARRIED OUT SUMMER 1995 (REIGATE).



QUARRY SCALPLINGS USED FOR SURFACING BYWAY (SURREY)

PRACTICAL EXAMPLE

In Wokingham the main material used for surfacing is a 4:1 mix of road planings and wood chippings. The wood chippings enhance the process of grass recolonisation. Road planings are obtained when local resurfacing work is carried out and old Christmas trees donated by residents provide a free source of wood chips. The materials are stored at an old council depot.

Source: Wokingham District Council

Costs of Sub-base and Surfacing Work

Sub-base and surfacing work can be expensive, and transport may be the largest element of cost for some materials. Material costs can be greatly reduced by taking advantage of locally available supplies, such as waste quarry products and those arising from resurfacing and demolition work, but care is needed to avoid possible pollution. Some of these materials may be subject to waste disposal regulations.

PRACTICAL EXAMPLE

Along the Ridgeway National Trail, limestone is mainly used for resurfacing as it blends in with the surrounding chalk landscape. In wooded areas road planings are used as these blend in better with the darker environment.

.Source: The Ridgeway Officer

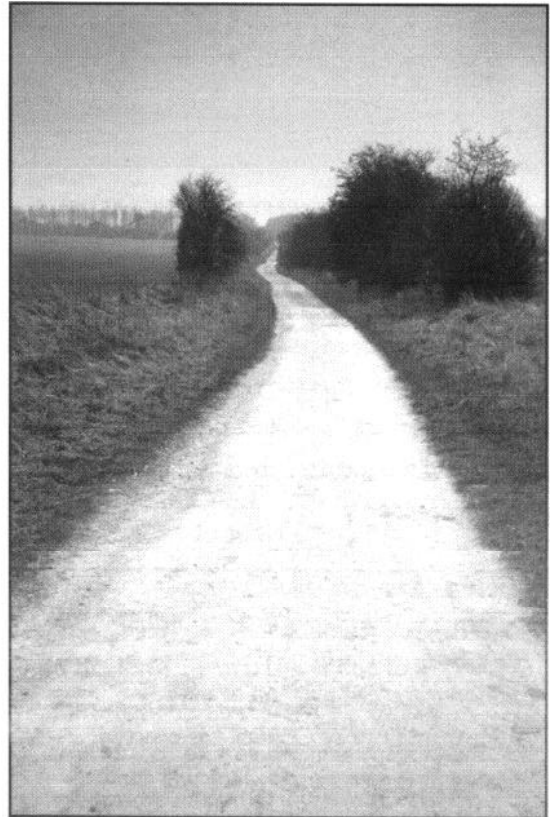
PRACTICAL EXAMPLE

Wiltshire County Council road resurfacing contracts have a clause stating that any arisings should be disposed of via the Rights of Way Section of the County Council. Delivery is free if the distance is less than 10 miles. The only cost to the rights of way budget is the cost of hiring a hydraulic digger to clear out ditches and spread and level the material.

Source: Wiltshire County Council

Amenity Impacts

Surfacing work may change the character of a route if it is not done sympathetically. It may be advisable to carry out a visual impact assessment before and after surfacing work is carried out and an assessment of the local geology to ensure that the materials to be used are compatible.



SURFACING WITH LIMESTONE TO BLEND IN WITH LOCAL GEOLOGY (OXFORDSHIRE)



BYWAY SURFACED WITH QUARRY SCALPINGS, AFTER 18 MONTHS SURFACE BLENDS IN WITH SURROUNDINGS (WILTSHIRE)

When a route has been resurfaced to a standard which allows easy access for vehicles, it may become attractive to 'camping' travellers or flytippers. Measures to discourage or prevent this happening may be required.

PRACTICAL EXAMPLE

To discourage 'camping' on byways Wokingham District Council has erected chicanes at the entrance which will allow a smaller vehicle to get through but not caravans or lorries. Dragons teeth are also used to narrow the width of the byway to prevent 'camping' along it.

Source: Wokingham District Council

PRACTICAL EXAMPLE

Surrey County Council have found that a cheap and effective way of preventing fly tipping and unsuitable motor vehicles from using byways is to avoid over tidying and grass cutting at the ends of byways

Source: Surrey County Council



ERECTION OF DRAGONS TEETH TO DISCOURAGE
CAMPING ALONG RESURFACED BYWAY
(WOKINGHAM)

Benefits

The advantages of carrying out sub-base/surface work are that:

- the byway becomes accessible to users all the year round;
- it may provide public access to connecting routes, such that a circular walk / cycle route etc. may be facilitated;
- it is a long term solution which provides a stable surface suitable for all users; and
- evidence has shown that surfacing work actually discourages “cowboy” users whose only enjoyment is getting stuck in mud.

PRACTICAL EXAMPLE

Wiltshire County Council has received very few complaints relating to byway maintenance in the last 15 years. This is due to a combination of factors. Many byways are situated on free draining chalk and routes are always reinstated if problems arise through use by farm / forestry vehicles. However of most importance is the fact that considerable work has been done to byways over the years, thus preventing a level of degradation which would be difficult to remedy.

Source: Wiltshire County Council

Checklist of Problems and Remedies for Maintenance Work 5.5

Table 5.2 provides a summary of possible problems and appropriate remedies, in order of priority, that an authority may find useful when considering what maintenance work to carry out.

TABLE 5.2 : CHECKLIST OF PROBLEMS AND REMEDIES FOR MAINTENANCE WORK

Problem	Remedy (in order of priority)
Muddy route in woodland or scrub	<ol style="list-style-type: none"> 1 Remove overgrowth to let sun and wind dry out surface 2 Clear existing drains 3 Make camber or cross fall to shed water into side drains 4 Build grips, cross drains or culverts as necessary 5 Lay sub-base and surfacing as necessary
Soft, deep mud	<ol style="list-style-type: none"> 1 Find source of water and divert it away from route 2 Make camber or cross fall to shed water into side drains 3 Lay geotextile, or other sub-base, and surfacing
Soft mud deposited over firm base	Scrape off mud and dig drains to prevent water running onto route
Route crosses patch of boggy ground	Consider ecological value of bog, consulting country conservation agency if appropriate, and either build raised surface or if necessary dig side drain.
Water flowing across route	<ol style="list-style-type: none"> 1 Divert water at source 2 Build cross drain or culvert 3 Build Irish bridge or ford paved with stone setts or pitched stone
Water running down route	<ol style="list-style-type: none"> 1 Divert water at source 2 Build cut offs to divert water off route
Peat less than 300mm deep	<ol style="list-style-type: none"> 1 Remove peat, use elsewhere 2 Fill and surface route as necessary
Wet peat deeper than 300mm	Lay geotextile and surfacing material
Source: Entec UK Ltd based on "Footpaths a Practical Handbook", April 1996, BTCV (Publication18 Appendix A)	

Involving the Community

5.6

Authorities have a duty to carry out maintenance work; landowners/occupiers may also have a duty. Parish or local councils and volunteers from local user groups and conservation organisations can provide valuable assistance with maintenance work following approval from a highway authority.

Landowners / Occupiers

Where appropriate authorities should encourage landowners / occupiers to carry out vegetation clearance to enable sun and wind to dry out the surface of a byway. This will minimise the potential for rutting and waterlogging from the use of farm machinery. Authorities should seek ways to encourage landowners/occupiers to become more actively involved in other maintenance work; consultation with representatives of the local Country Landowners' Association (CLA) and National Farmers' Union (NFU) or Farmers' Union of Wales (FUW) may be helpful in this respect. Building up a good working relationship with occupiers may result in 'free' storage space for materials whilst maintenance work is carried out. Authorities should consider the possibility of farmers acting as contractors to the authority in return for appropriate financial payment. Tasks such as cutting undergrowth or minor surfacing work could be carried out economically alongside general farm maintenance and their own rights of way responsibilities.

PRACTICAL EXAMPLE

A study carried out by Nottinghamshire County Council over a three year period from 1991 + 1994 aimed to identify ways in which groups, such as the farming community, local councils and volunteer groups could assist the authority in maintaining and improving the public rights of way network. The highest priority was placed on devising and investigating a method of involving the farming community in rights of way maintenance. The approach concentrated on offering farmers and landowners payments, based on unit costs, to undertake path maintenance work on their own or on their neighbour's land.

The resulting analysis of the approach concluded that this is a very cost effective method of both opening up and continuing with longer term maintenance of the network. It also had the added benefit of improving co-operation and liaison between the highway authority and the farming community which can be the key to resolving other issues such as ensuring that landowners fulfil their own responsibilities with respect to rights of way.

Source: Nottinghamshire County Council

Farmers should be encouraged to consider using light all terrain vehicles (ATVs) rather than normal four wheel drive vehicles or tractors, particularly for activities such as feeding livestock and carrying out general maintenance work. The major benefit of an ATV is its low ground pressure which is less than that of a human footprint. ATVs are used by many farmers particularly in Scotland, the Borders and Wales. ATVs can also be used for forestry activities.

Heavier equipment is often preferred because it offers greater comfort and weather protection but cabs are available for ATVs. An ATV must be licensed if it is to be used on a byway. Authorities should liaise with the NFU, MAFF and CLA in promoting the wider use of such vehicles by both farmers and foresters.

Parish or Community Councils

Parish councils in England may already be involved in the Parish Paths Partnership Scheme, promoted by the Countryside Commission, which can include carrying out maintenance work along byways. This should be actively encouraged by authorities where problems exist and resources permit. Parish councils should be encouraged to monitor the condition of routes, so that highway authority maintenance programmes may be regularly updated and priorities altered to take account of changing circumstances. In Wales, community councils should be encouraged to take part in The Public Paths Campaign for Wales, an initiative run by the Countryside Council for Wales since 1992. The initiative involves surveying the condition of rights of way including byways. The information is used to assist highway authorities develop a maintenance programme.

Volunteers

The growing interest in conservation and countryside issues in the community has led to increasing numbers of people wishing to become actively involved in some way. Volunteers from local user groups or local conservation groups can provide valuable assistance with surveying of routes, monitoring the condition of routes and physical tasks such as vegetation clearance.

PRACTICAL EXAMPLE

In Surrey the most regular volunteers on byway maintenance are special needs groups who transform overgrown tracks by cutting back overgrowth, coppicing, unblocking ditches and digging new drainage channels. This enables the surface to dry out and the extra light provides improved habitats for flora and fauna. The volunteers return every year. As well as special needs groups volunteer projects are carried out by ramblers, horse riders, mountain bikers, the Trail Riders Fellowship and the All Wheel Drive Club.

Source: Surrey County Council

Volunteers from the All Wheel Drive Club and many others took part in National Green Lane Day on March 24th 1996, carrying out maintenance work on many lanes around the country. The day served to demonstrate what volunteers can achieve in co-operation with highway authorities.

The question of liability for accidents, whilst work is being carried out by volunteers or after work has been completed, can be resolved. First the highway authority must agree to work being undertaken. The names and details of volunteers should be added to the highway authority's insurance so that if an accident occurs whilst work is being done the volunteers are insured. Note that volunteers from a club or other organisation will often be covered by the organisation's insurance as well.

The authority may provide somebody to oversee the work, such as an area warden, depending upon the complexity of the task. On completion the authority should check the work to ensure that it has been

carried out satisfactorily. Exactly the same checking procedure is adopted when employing a paid contractor to carry out work on public rights of way.

The argument that voluntary labour takes away the opportunity of employing somebody to do the work is unfounded in these circumstances. Highway authorities often have insufficient resources to carry out all the necessary work so that some work is simply left undone. If volunteers are willing to assist, this should be actively encouraged and supported by authorities.

PRACTICAL EXAMPLE

Conservation groups carry out maintenance work at least twice a month. The groups are trained by the District Council to undertake tasks such as vegetation clearance. Volunteers from user groups, such as the All Wheel Drive Club, also carry out maintenance work, including drainage clearance and installation, and surfacing work under the guidance of the District Council.

Source: Wokingham District Council.

Before any maintenance work is carried out, the parish or community council, adjacent landowners / occupiers, residents, local conservation bodies (if they are not involved in carrying out the work) and anyone using the route for access or recreation should be advised in advance that the work is authorised by the highway authority and the reasons for it. This may prevent unnecessary confrontations whilst the work is being carried out. Vegetation clearance can be particularly controversial if it involves felling and people are not aware of the long term benefits that will result. A site notice or article in a resident's newsletter should be sufficient to inform the local population. A personal letter would be a more appropriate way of informing an adjacent

occupier. In addition details should be sent to the clerk of the parish or community council for information.

PRACTICAL EXAMPLE

A letter is sent to the local County Councillor, Parish Council, District Council and adjoining landowners before any maintenance work is carried out. The letter includes the parish, number and grid reference of the route involved, details of the work to be carried out and the objective of the work, eg;

"... to create a three metre wide path free of surface and overhanging vegetation, with a surface that is level and firm. It must be emphasised that there is no intention to improve the route so that it can be used by ordinary vehicular traffic. Although this lane might / does have public vehicular rights, its main purpose is for recreational use by pedestrians, cyclists and horse riders ..."

Source: Hampshire County Council

The All Wheel Drive Club are currently establishing a "Guardian Lane Scheme", the aim of which is to have a nationwide list of volunteers who take on the responsibility for monitoring the condition of a particular route and carry out regular minor maintenance work such as unblocking drains. The scheme is similar to the existing "adopt a path" scheme. The scheme should be supported by authorities as it will provide information which can be fed into the maintenance programme and, by carrying out regular routine maintenance, minor problems will have less chance of turning into major problems.

Regulation and Restraint

The use of voluntary restraint agreements or traffic regulation orders may be necessary when carrying out maintenance work for public safety reasons and to enable work carried out to be fully effective. Voluntary restraint agreements or traffic regulation orders may also be appropriate to restrict use when the byway is in poor condition. This will typically be following periods of heavy rain or in winter. Extinguishing vehicular rights is an extreme measure and one that requires very careful consideration before using it as a means of managing vehicles on public rights of way. Segregation is less extreme but is only likely to be applicable in limited situations.

Voluntary Restraint Agreements

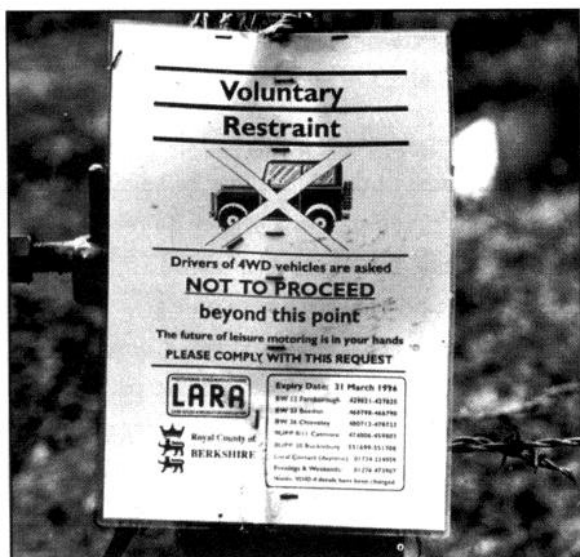
6.1

Voluntary restraint agreements have no legal status but they can still be effective. The use of voluntary restraint agreements is put forward in DoE Circular 2/93 (paragraph 13) where the use of management measures based on cooperation and agreement is advocated by the Government. The use of voluntary restraint agreements where they can be made to work is also recommended in the House of Commons report on The Environmental Impact of Leisure Activities, which recommends that authorities should initiate collaborative negotiations between users before resorting to statutory traffic controls.

Voluntary restraint agreements are often and most successfully linked to a programme of maintenance work. They may also be used to restrict access during unsuitable times of the year, or to let a route dry out after a particularly wet period. Voluntary agreements may relate to any type of traffic including walkers, horse riders, cyclists as well as motor vehicle users.

Voluntary restraint agreements will not be successful without support from users and others. Every attempt should be made to secure this through full and open negotiation between the highway authority, complainants, user groups and landowners/occupiers. Restraint which is imposed by an authority is not voluntary and risks being ignored.

The Motoring Organisations' Land Access and Recreation Association (LARA) has developed detailed guidelines for voluntary restraint in relation to motor vehicles. The guidelines are summarised below and should be followed by all authorities considering voluntary restraint. For motor vehicle users LARA has also developed a central system for authorising and publicising voluntary restraint agreements. It is good practice to discuss any proposals for voluntary restraint with LARA.



LARA VOLUNTARY RESTRAINT SIGN SUCCESSFULLY USED ON A BYWAY IN BERKSHIRE

Voluntary Restraint notices are available from LARA and the use of these notices, clearly endorsed by the highway authority, is recommended. The use of a highway authority's own notices may be less effective as users may question whether the restraint is voluntary or has been imposed. Voluntary restraint notices should always include a grid reference, the expiry date, and details of appropriate contacts.

LARA Guidelines for Voluntary Restraint

- 1 Is it relevant? Restraint must be likely to solve a real problem. It should not be simply a punishment for overuse or a short cut to a Traffic Regulation Order (TRO).
- 2 Is it minimal? It must not extend beyond what is needed. For example, if motorcycles or downhill use are not a problem, do not include them.
- 3 Is it finite? The scheme can extend to three months, extendable for another three if real progress is being made and more time is needed.
- 4 Does it offer no threat, even to hidden rights, and do the authorities and landowner agree? Clearly it must not be possible to claim later that because users stopped when asked, they were 'obviously' only using by permission.
- 5 Is the arrangement legal? This requires agreement for the notices to be erected.
- 6 Are all relevant users also offering restraint? A problem of general overuse will not be resolved if only vehicle use ceases. It is also necessary to guard against others deliberately creating problems in order to exclude vehicles.
- 7 Do all local users within LARA agree? Compliance will be limited if users have no **'ownership' of the deal**.
- 8 Is it user-led? One of the benefits of such a scheme is the publicity, locally and among user groups, arising from successful co-operative initiatives. This motivates users to obey notices and co-operate elsewhere.
- 9 Are there alternative routes? Neighbouring alternatives must be unobstructed and clearly available. In this regard, a 'secret' UCR (unclassified road) is a poor alternative for a signed BOAT.

PRACTICAL EXAMPLE

Areas where LARA voluntary restraint guidelines have been implemented include:

- o Wiltshire
- o Essex
- o Berkshire
- o Oxfordshire
- o Lake District National Park
- o Pembrokeshire National Park
- o Exmoor National Park

Source: LARA

Local publicity within user groups usually ensures compliance from the membership of those groups. Other publicity, such as a public notice in a local newspaper forewarning of the restraint or a notice in the local tourist information office or library, may be helpful in informing users not affiliated to local groups.

Voluntary restraint will only succeed if users are informed and supportive of the basis for restraint. Where maintenance is to be undertaken users need to actually see work being carried out during the specified time period agreed by the authority.

Restraint notices should be removed as soon as the time period expires. This will help an authority to build up a constructive relationship with user groups based on understanding, support and co-operation. Where authorities impose their own "voluntary restraint agreements" without consultation or erect notices with no closing dates and leave them up for indefinite periods, users are unlikely to adhere to them. A "them and us" attitude is likely to develop among different user groups which will obstruct effective management.

Traffic Regulation Orders

6.2

Under S1 of the Road Traffic Regulation Act 1984 highway authorities are able to make Traffic Regulation Orders (TROs) on any highway. However, highway authorities are advised to try and solve problems through management measures based on co-operation and agreement. Only where such measures have failed or are considered inappropriate should TROs be used to regulate use and to protect byways and amenity.

PRACTICAL EXAMPLE

"TROs should not be seen as the 'cure all' management option. TROs may be helpful in the right circumstances, but they do require the input of resources which would otherwise be used elsewhere on e.g. maintenance programmes or new claims. Since in most cases they do not help to resolve the identified problem, but merely suspend it during the duration of the TRO, they may be most suitable for only the extreme cases and as a last resort where all the circumstances justify the action."

Source: The Management of Public Rights of Way and Traffic Regulation Orders Policy Statement, West Sussex County Council, Minutes of Rights of Way Sub Committee meeting, 19 February 1996

The Use of TROs

Government advice on the use of TROs in relation to public rights of way is contained in DoE Circular 2/93. Paragraph 13 of the Circular advises that TROs may be made to prohibit, restrict or regulate traffic for the following reasons:

- preventing danger to persons or other traffic using the road;
- preserving the character of the road for use by persons on horseback or foot; or
- preserving the amenity of the area through which the road runs.

Other grounds for making a TRO are set out in S1 of the Road Traffic Regulation Act 1984. These include:

- preventing damage to the road; or
- preventing the use of the road by vehicular traffic of a kind which is unsuitable having regard to the existing character of the road.

In considering TROs the highway authority should take into account:

- The access needs of farmers and residents of property along a byway.
- The wording of the TRO, so that it only applies to those classes of vehicle which are known to be causing problems.
- Whether a TRO needs to restrict all vehicular users at all times of year. A TRO may be:
 - seasonal (e.g. October to April); or
 - periodic (e.g. only apply on Sundays); or
 - weight or width related; or
 - user related (e.g. restrict use by type of vehicle).
- The effect a TRO may have on the surrounding network. Restricting use along one route may create or exacerbate problems elsewhere.
- TROs may result in the need for more maintenance, such as vegetation clearance, to ensure the route can be used by permitted traffic such as walkers, cyclists and horse riders.

TRO Procedure

The Department of Transport and Welsh Office have made revised procedure regulations for making TROs. These will come into force on 1 December 1996. The aim of the revised Regulations is to make the process easier and, as a result, less time consuming and costly. The most significant change which relates to TROs on byways is that there will no longer be a requirement to advertise a TRO proposal in the London Gazette. This will probably result in a saving of £200 / £300 per order. It is also hoped that the new Regulations will be easier to understand and implement with resulting savings in the administrative time needed to make an order. There will still be requirements:

- to advertise the proposed order in the local press and to invite objections; and
- for an authority to provide evidence to support the reason(s) for making the TRO and to make this available for public inspection.

Validity of TROs

The grounds upon which a TRO can be made are set out in the Road Traffic Regulation Act 1984. An authority must be able to demonstrate that its reasons for proposing to make a TRO fall into one of these categories. It would be improper, for instance, to make an order on the basis of unsubstantiated prejudice against a particular class of user or simply to try to avoid the costs of maintenance.

An authority proposing to make a TRO on a pre-emptive basis would need to be able to defend its position by demonstrating a reasonable risk that the situation that it was intended to prevent would arise. For instance, it might be possible to argue that the nature of the surface of a newly reclassified byway, coupled with local geography and weather patterns, justify a TRO being made to prevent damage to the byway before evidence of such damage was created. The authority would have to judge whether the argument was sustainable.

TROs can be challenged in the courts within six weeks of being made on the grounds that they are not valid. Such challenge might be based on the claim that the grounds for making the TRO did not fall properly into one of the categories laid down in the 1984 Act, or that the authority had failed to follow the statutory order-making procedure. An authority is not obliged to hold a public inquiry into the making of a TRO. However, if a large number of objections are made to an order a public inquiry is recommended as good practice. If an inquiry is not held in such circumstances an authority could face a challenge in the High Court on the basis of "unreasonableness".

Experimental TRO

In some circumstances an Experimental TRO under S9 of the 1984 Act may be appropriate. This may be made for up to 18 months. The procedure for making an experimental order is simpler than for a permanent TRO. There is no requirement to seek objections to the proposal. However, an authority must provide evidence to demonstrate that it is experimental. Experimental orders may be appropriate where an authority is unsure as to whether damage to a surface is due to farm vehicles or recreational vehicles. An experimental TRO restricting recreational vehicles may demonstrate that the damage is in fact due to farm vehicles and not recreational vehicles.

An experimental TRO may be modified during its life and may also be converted to a permanent TRO.

Temporary TRO

A temporary TRO may be made under Section 14 of the 1984 Act. This may apply for a period of 6 months in relation to byways. A temporary TRO may be implemented for the following reasons:

- because works are being or are proposed to be executed on or near the road;
- because of the likelihood of danger to the public,

or of serious damage to the road, which is not attributable to such works; or

- for the purposes of litter clearing and cleaning.

An authority is required to erect a site notice advising of the temporary TRO at least seven days in advance of the day it takes effect, although in an emergency the temporary TRO may take effect immediately. An authority must have evidence to support the making of a temporary TRO as the process is open to challenge in the High Court. A temporary TRO should be used as a "one off", for example to carry out maintenance work.

A temporary TRO should not be imposed every year during the winter months on the basis that damage to the surface may arise. In such circumstances a seasonal permanent TRO is the more appropriate course of action. A possible disadvantage of both experimental and temporary TROs is that they are not subject to public consultation. They may be seen as an imposition on users and a backdoor way of allowing an authority to demonstrate that a byway is unnecessary. Informal consultation with local user groups e.g. a LARA representative, local riding clubs and walkers' groups is recommended before making an experimental or temporary TRO.

TRO Policy

It will be helpful to all interests for authorities to establish clear policies for the application of TROs. The following conditions should be satisfied before an authority considers introducing a TRO:

- establish a clear view of whether a particular problem is one of legal definition, of maintenance or of management (or some combination of these);
- establish a clear view of the extent to which the problem is real rather than perceived;

- establish a clear view of who or what originated the problem (rather than simply making it worse);
- try alternative ways of tackling the problem and be able to show that these were not successful;
- establish whether a TRO will be likely to solve the problem (i.e. can it and will it be enforced and will those causing the problem observe it?)

In considering the use of a TRO to tackle a problem, authorities should seek the views of users, landowners and occupiers and any other interested parties. The latter should include the police who are ultimately responsible for enforcement. Issues that should be discussed in addition to the points outlined above include:

- how best to use the TRO to tackle the problem effectively;
- how to enforce the TRO; and
- what knock on effects the TRO might have.

TROs should only be used where there is:

- a proven need;
- a valid reason; and
- a set policy.

For all TROs, whether permanent, experimental or temporary, the situation needs to be monitored and reviewed in the light of experience. This is particularly relevant for permanent TROs.

Where appropriate an order should be rescinded or modified where it is ineffective or having undesirable effects.

Signs and Barriers

Signs in accordance with the appropriate regulations must be erected advising the public of all TROs. The signs must be clearly visible and legible if the TRO is to be enforced. An annual inspection should be carried out in the spring to ensure that signs will not be obscured by vegetation growth during the summer months. Vegetation likely to obscure a sign should be cut back. Signs must also be replaced if they are removed or become illegible. A balance must be drawn between ensuring signs are clearly visible and minimising their visual impact on amenity.

When a TRO is seasonal or periodic, a plate may be added to the sign giving details of the times at which the restriction applies. Alternatively, the signs should be covered up or removed when the TRO does not apply.

Under S92 of the Road Traffic Regulations Act 1984 (for authorities outside London) and under S94 (for authorities in Greater London) bollards, or other obstructions, may be erected to assist with enforcing a TRO. The situation should be carefully assessed before any form of barrier is erected to ensure that the most appropriate option is implemented. The following are examples of appropriate barriers:

- Where a TRO is designed to prevent the use of four wheel drive vehicles the erection of a lockable gate may be considered. A gap of 1.5 metres should be left to one side to enable access by horses, walkers, cyclists and motorcyclists. Those using the access for business or to gain access to a dwelling, should be provided with keys. However, this sort of barrier should not prevent legitimate use by carriage drivers. If it does it will be an obstruction.



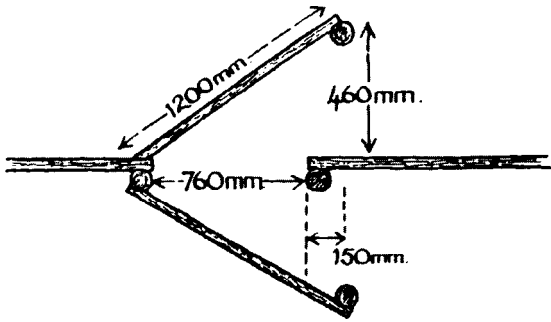
- Where the restriction includes motorcyclists, a lockable barrier and a motor cycle barrier should be considered. This will allow access by horseriders, cyclists and walkers. However this option may give difficulties for wheelchair users and the elderly and may also obstruct legitimate use by carriage drivers.

LOCKED WOODEN BARRIER TO ENFORCE TEMPORARY TRO WHILST MAINTENANCE WORK IS CARRIED OUT. GAP LEFT TO ENABLE ACCESS BY WALKERS, CYCLISTS AND HORSERIDERS (HAMPSHIRE)

LOCKED METAL GATE TO ENFORCE TEMPORARY TRO RELATING TO ALL USERS WHILST MAINTENANCE WORK IS CARRIED OUT (WILTSHIRE)



- Where the TRO extends to horseriders as well as motor vehicles, a lockable barrier and a stileway which allows access for wheelchairs, walkers and cyclists (with difficulty), may be considered.



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STILEWAY (PLANVIEW)

Extinguishing Rights

6.3

Under S 116 of the Highways Act 1980 an authority may apply to a magistrates court for an order to extinguish all rights over a route, or to do so subject to the reservation of part of the stopped up highway as a footpath or bridleway. In such circumstances all vehicular rights would be extinguished, including those of carriage drivers.

An authority proposing to extinguish rights along a route must provide evidence that the road is “unnecessary”. In establishing the need or otherwise for a byway magistrates are likely to have regard to whether a section of byway is currently used. A highway that is not used may still be deemed necessary; it would be difficult to demonstrate, in the absence of an obvious and convenient alternative, that a highway that was used should be regarded as unnecessary.

Extinguishing rights along routes:

- where motor vehicles users have exercised voluntary restraint in the past;
- as a preemptive measure where byways are claimed or vehicular rights newly discovered:

will almost certainly result in non co-operation on any other future agreements and a breakdown in any sort of mutual understanding and respect built up between the authority and user groups. Authorities are strongly advised to consult with all relevant parties before proceeding with an application for an order to extinguish rights.

Segregation of Users

6.4

If a byway is wide enough and the terrain is suitable, it may be possible to divide the width to segregate different users. Signs would be needed to advise users of the situation. Barriers may also have to be erected along the length of the route so that users keep to the relevant section. The power for an authority to erect such barriers is provided under S66 of the Highways Act 1980. Prior consultation with user groups and adjacent landowners and occupiers is essential to the success of a proposed scheme.

Under the provisions of S25 (creation agreements) or S26 (creating a new path) of the Highways Act 1980 it may be possible to create alternative footpaths or bridleways. However, this is only likely to be justified where the byway is heavily used, where there is substantial conflict between different user groups, and where landowners are prepared to cooperate. Examples of the use of segregation are the field paths alongside some tarmac roads in the Lake District. Where a new path is created under S26 an authority may be liable to pay compensation after an order is made. This may be costly.

"Off Road" Facilities

It may be useful for highway authorities to consider, in conjunction with planning authorities, the need for suitable facilities for recreational vehicles, including motorcycles, where drivers and riders can face challenging conditions, exercise their driving skills or practice for motorsport.

Identifying Suitable Sites

7.1

The provision of appropriate sites for recreational motor vehicles away from byways is often suggested as a positive way of minimising conflicts between users. A number of commercial sites for four wheel drive vehicles already exist around the country. The details of these sites can be obtained from the Federation of Driving Schools and the Motorcycle Industry Association also keeps an up to date record of trail parks. The addresses of these organisations are given in Appendix A. Authorities should take a positive approach in promoting the use of such sites.

Obtaining planning permission for a new site can be difficult. Such sites are often considered to be "bad neighbour" developments and residents may object strongly to any new proposal. Highway authorities should take positive steps to identify suitable sites, such as disused quarries, for inclusion in local plans. This will include liaison with officers involved in the preparation of structure plans and unitary development plans, so that the appropriate strategic policies are in place, and with officers involved in the preparation of local plans. Authorities should also liaise with local organisations during this process to ensure that proposed sites are suitable.

Temporary Sites

7.2

Authorities should liaise with farmers / landowners in order to identify sites suitable for temporary venues (i.e. activities occurring on less than 28 days per year, 14 of which can be for motorcar or motorcycle racing) which would not require planning permission. Authorities should offer advice on the siting of activities and noise attenuation measures. These will help to minimise any potential impacts on the surrounding environment which could arouse local opposition to future activities.

The Value of “Off Road” Facilities

7.3

There is no evidence to suggest that irresponsible drivers/riders will disappear following the provision of facilities. Why pay to use such facilities when getting stuck in mud is still freely available along byways? The provision of facilities should not be seen as a way of reducing the need to carry out maintenance work along byways, but as an additional measure by which authorities can positively influence byway use.

It should also not be assumed that all motor vehicle users seek such provision. Trail riders or four wheel drive drivers who take pleasure in travelling along historic rights of way are unlikely to want to drive around a purpose built course. However, such users are more likely to be aware of their rights and responsibilities when using byways.

Consultation, Information and Education

Consultation, information and education all play an essential part in ensuring that appropriate actions are taken to resolve a problem, that actions are understood and restrictions are adhered to.

Consultation

8.1

Throughout this Guide there has been a reference to consultation:

- when trying to define a problem;
- during the reclassification process;
- when devising and implementing a maintenance programme;
- when trying to introduce voluntary restraint;
- when making traffic regulation orders;
- when trying to extinguish vehicular rights;
- when trying to establish suitable sites for recreational vehicles;
- when considering the segregation of users.

Formal consultation is often a statutory requirement. Informal consultation is carried out at the discretion of the individual authority.

The Rights of Way Review Committee in PGN1 outlines a Code of Practice on Consultation over Changes to Rights of Way which it advises authorities to follow. PGN1 suggests that the time and cost involved in processing:

- modification and reclassification orders;
- traffic regulation orders; and
- orders for extinguishment of rights of way;

can be reduced if informal consultation is carried out with interested parties prior to the orders being made.

Liaison Groups

Authorities should strive to maintain links with all local representatives with an interest in public rights of way. This may be done through a regular liaison group. Problems can be openly discussed as they arise and solutions can be agreed or compromises reached before too much damage is done either physically or to relations between groups.

PRACTICAL EXAMPLE

The public rights of way forum has improved mutual understanding between groups and resolved perceived problems. It has been shown that a public which understands the rights of others is more likely to work together to protect the countryside. Therefore opportunities for active liaison should be created to assist with the management of the countryside.

Source: Doncaster MBC

The establishment of liaison groups is welcomed by the Government in DoE Circular 2/93 (paragraph 6). Liaison groups should provide a forum for open discussion between the authority and user groups, parish councils, landowners / occupiers and any other interested bodies such as local representatives of the NFU, FUW, CLA, National Trust and ecological advisory service. Liaison groups should not be merely a forum for 'rubber stamping' what authorities have already decided. Representatives should have a genuine input into the decision making process and authorities should aim for consensus so that minority interests are not disadvantaged.

PRACTICAL EXAMPLE

The Liaison Group meets three times a year. Representatives from local user and landowner groups, local councils as well as officers from the County Council and members of the Rights of Way and Commons Sub Committee attend the meetings. The group meets on the day of the Rights of Way Sub Committee. Concerns and issues are discussed by the Liaison Group in the morning. Policy and priority decisions based on those discussions are then made by the Sub Committee in the afternoon.

Source: Wiltshire County Council

The time and day of the meeting should be carefully considered. Ideally, meetings should be held in the evening or at the weekend, to enable maximum attendance by those in full time employment.

PRACTICAL EXAMPLE

The County Council meets with user groups twice a year. The meetings are effective in breaking down barriers between user groups and may influence county priorities for maintenance work.

Source: East Sussex County Council

In association with the Lake District National Park Authority, LARA is leading an initiative which clearly demonstrates what can be achieved through constructive consultation and co-operation between motor vehicle users and an authority. The initiative is outlined below.

PRACTICAL EXAMPLE

Since January 1995 a working party of off-tarmac vehicular rights of way users have been working in association with the Lake District National Park Authority and other land managers on some new ideas for the better management of vehicular recreational activity in the Park.

The incentive to undertake this work came after the realisation that twenty five years of verbal encounters and legal battling have failed to resolve satisfactorily many of the issues stemming from the activities of recreational users.

The objective of the initiative is to bridge the gaps which currently exist between rights, responsibilities and perceptions of BOATs and UCRs and their use, and to use the bridge as a route to a form of effective use management.

The basic principle being pushed is to create a hierarchy of unsurfaced vehicular routes, i.e. some routes only for certain classes of vehicle (by weight or type), some which will sustain all weather/all season use, some which would benefit from more sophisticated types of management and some routes with special historical qualities which could be designated Heritage Byways.

A key aspect of the initiative is that it is user led. The users have taken responsibility for both the problems and the problem solving in an atmosphere of mutual trust.

Surveys of trail routes in the south east quarter of the National Park have been completed. They progressed very well and the user/park ranger joint visit technique worked with great success with new understandings developing.

Representatives of all user groups met in September 1996 to discuss the provisional hierarchy of routes for the south east quarter of the National Park. The term provisional is used because a fundamental feature of the hierarchy principle is that it should remain dynamic and be changed from time to time according to the many factors which influence all classes of rights of way.

The scheme is now being extended to cover the rest of the Lake District

Source: Geoff Wilson (LARA Vice Chairman)

Information and Education

8.2

Authorities should liaise with user groups and the local police in order to strengthen efforts to educate users. Combined action is often more effective than individual action. Most friction between motor vehicle users and others arises from the activities of the “cowboy” drivers or riders who are not members of user groups. These individuals need to be made aware of the damage their actions cause to legitimate and responsible enthusiasts, as well as to residents and landowners

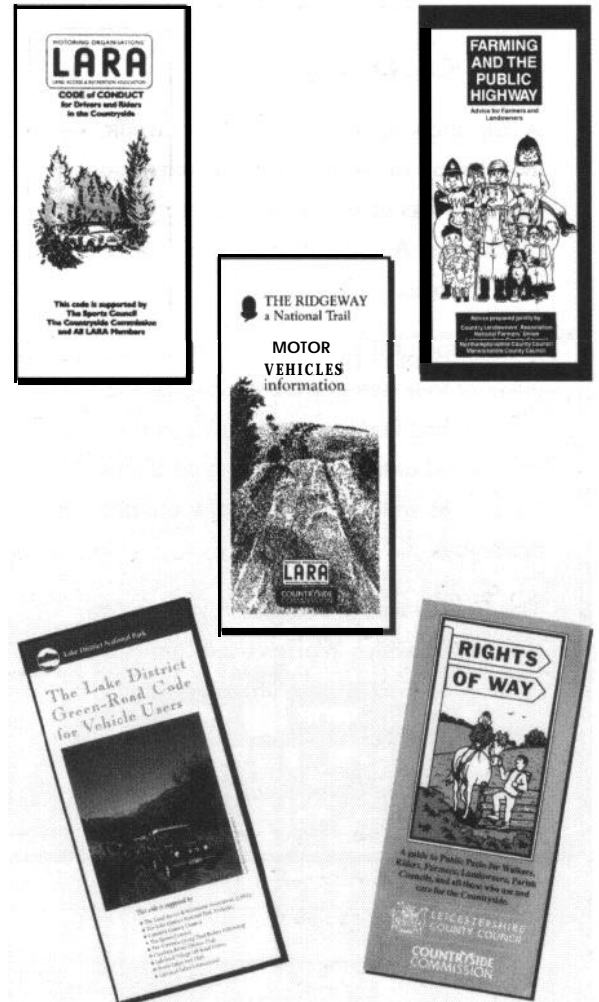
Codes of conduct and promotional material which apply nationally such as:

- LARA Code of Conduct for Drivers and Riders in the Countryside,
- LARA Access Guide,
- TRF Caring for Green Lanes, and
- TRF Code of Conduct

should be available through tourist information offices,

Authorities should consider producing their own codes of conduct and promotional material. Existing examples are:

- The Ridgeway, a National Trail, Motor Vehicles information,
- The Ridgeway Voluntary Code of Respect,
- The Lake District Green Road Code for Vehicle Users,
- Public Rights of Way in Berkshire, and
- Rights of Way, Leicestershire County Council.



Individuals requesting information from councils about routes suitable for trail bikes or four wheel drive vehicles, or who visit the council office to look at the definitive map or list of streets, should be given copies of such information.

Authorities should consider producing a map with details of routes which have vehicular rights. The map would be based on the definitive map and list of streets. The map could be available on request rather than widely publicised. Such a map may help users to remain on lawful routes and avoid trespassing and removes the excuse "I didn't know where I could go".

PRACTICAL EXAMPLE

A map showing byways open to all traffic is available on request from the county council. The map was produced to reduce problems of trespass. A code of conduct is sent out with the map.

Production of the map has not resulted in an influx of four wheel drive vehicles to the area as some had feared it might. Instead the map has proved useful in minimising problems of trespass as well as illegal use of footpaths and bridleways.

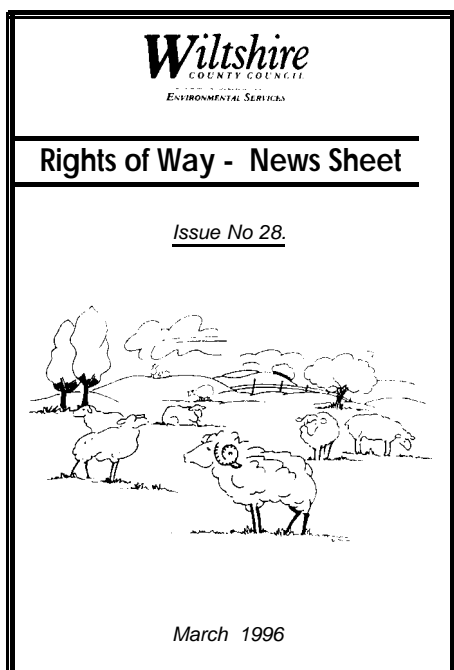
The County also produces a Rights of Way news-sheet which informs users and residents about proposed current and completed maintenance work.

Source: Wiltshire County Council.

Information leaflets recommending routes for walkers, horse riders and cyclists may include use of routes with vehicular rights. In such cases they should make it clear that a motor vehicle may be encountered.

Authorities should make available up to date information about the condition of routes and those subject to voluntary restraint or TRO. This could be via the telephone with a recorded message combined with a 24 hour answerphone for receiving messages, or via the Internet.

Government advice in DoE Circular 2/93 (paragraph 10) suggests that authorities should consider appointing local wardens. Wardens can be of great assistance in providing information to users, promoting responsible use through the distribution of codes of conduct and providing details of local user groups. They may also help with maintenance work and co-ordinate volunteers.



PRACTICAL EXAMPLE

Since 1993 East Sussex County Council have delegated maintenance and management responsibility for rights of way in the Sussex Downs Area of Outstanding Natural Beauty to the Sussex Downs Conservation Board. All BOATS are inspected by an Access Ranger at regular intervals not exceeding 18 months, on a parish by parish basis. The Ranger liaises with the parish council concerned and arranges for any necessary work to be done by a maintenance team. Any problems that arise between inspections are identified and dealt with by the Countryside Ranger service and volunteers. The standard of maintenance and management is high.

Source:

Council for the Protection of Rural England

Authorities should liaise with commercial “safari” operators who conduct four wheel drive tours in their areas and owners/managers of off road driving schools or trail parks. “Safari” operators should be encouraged to give a pre tour talk which should include details about which routes may be used by vehicles in the area and how to act responsibly whilst on tour and afterwards. Similar information should be given to those who visit an off road driving school or trail park. Clients should be given an advice pack and a copy of an appropriate code of conduct such as those published by LARA or TRF.

Signs and Waymarks

Under S27 of the Countryside Act 1968, as amended by S65 of the Wildlife and Countryside Act 1981, highway authorities have a duty to erect and maintain signs where a BOAT leaves a metalled road. They may also erect waymarks along the route. The sign must include the status and at the discretion of the authority may indicate the destination and distance of a route.

Clear signs are particularly important where the status of a particular route changes. Such junctions can be confusing to users. Signs and waymarks are also important in preventing trespass, although the routes of byways are usually well defined and more easily followed than footpaths or bridleways.

CLEAR SIGN ON BYWAY
IN BERKSHIRE



Dealing with Individual Problems

An authority must recognise that it may need to deal with individual problems in spite of actively carrying out measures to minimise or avoid potential problems arising.

This section sets out an approach to this which fits with the overall proactive approach to management.

Individual Problems

9.1

Problems relating to byways can vary widely both in their nature and extent. Problems may be real or perceived. Tolerance levels in relation to other people and their activities vary amongst us all. One person may react angrily to what they see as an abuse of the byway while another may find the same activity acceptable. Problems are made worse through misunderstanding and confusion.

There may be uncertainty as to who or what actually caused a problem. A complainant may blame four wheel drive users for the physical damage to a byway when in reality the problem has been caused by a farmer using the byway to access his fields. In such circumstances focusing attention on four wheel drive users would not solve the problem.

It is important to thoroughly investigate every problem before trying to solve it. This helps to ensure that any proposed action is necessary, appropriate and focuses on the original cause.

The CLA advise 'don't just do something, stand there'. Many problems are compounded by following the first action thought of.

A Planned Approach to Individual Problems

9.2

To ensure that problems are dealt with in a consistent and most appropriate way an authority should establish a strategy for dealing with individual problems based on the approach outlined below.

Stage One -

Defining the problem

Problems may relate to a single issue or a combination of issues. They may affect one individual or route or several. They may be perceived or real. Whatever the situation, it is essential to spend time at the outset on defining the exact nature and cause(s) of a problem in order to arrive at a satisfactory solution.

A checklist of information that should be obtained is provided in Table 9.1

TABLE 9.1 · INFORMATION REQUIRED TO DEFINE A PROBLEM

- ☐ Acknowledged public status of route - RUPP, BOAT, UCR, Bridleway, Footpath
- ☐ Private access rights
- ☐ Possible 'wrong' recording of status or a need to reclassify
- ☐ Location and importance in network for each class of user
- ☐ Past, present, possible future use
- ☐ History
- ☐ Geology
- ☐ Archaeological and / or ecological significance
- ☐ Record of previous complaints, including instances of nuisance or annoyance
- ☐ Previous remedial measures carried out, including maintenance
- ☐ Condition of route

Information may be obtained from a variety of sources including individuals and organisations such as:

- ☐ landowner / occupier;
- ☐ adjoining occupiers;
- ☐ parish or community council; and
- ☐ representatives of relevant user groups (local and national as appropriate).

A site visit should be carried out during this investigative process.

Having completed the investigations it should be possible to answer the following question:

- ☐ Does a problem really exist or not?

If it is decided that a problem does not exist then a complainant should be informed that following thorough investigations a decision has been made not to take any further action on this occasion. The reasons for the authority's decision should be given.

If it is decided that a problem does exist then the following questions need to be answered:

- ☐ who and what is involved?

and

- ☐ what is the source of the problem ? :
 - uncertainty as to the status of the right of way;
 - state of repair of the byway;
 - the type of traffic using a particular right of way; or
 - a combination of any of the above.

When answers to the above questions have been found further information about the exact nature and cause of the problem may be required before action is taken to solve the problem.

Stage Two -

Option evaluation and identification of action

Following the identification of the exact nature and cause of the problem one or more of the actions listed below may need to be carried out.

- Uncertainty as to Status of the Right of Way;
 - investigate status of route;
 - propose modification or reclassification order, as appropriate;
 - amend definitive map and list of streets, as appropriate;
 - ensure promotional material for routes for walkers, cyclists and horse riders make reference to the possible use of such routes by motor vehicles, as appropriate.
- State of Repair of the Byway
 - check maintenance programme to establish whether problem has already been recorded;
 - prioritise work if essential;
 - carry out vegetation and drainage clearance using volunteers if possible;
 - monitor and review clearance work and assess whether further work is required;
 - where necessary install drainage system and, if required, improve foundation and surfacing;
 - in consultation with users assess need for voluntary restraint or temporary TRO to enable maintenance work to be carried out;
 - monitor and review situation after maintenance / improvements carried out.
- Voluntary Restraint / TRO
 - where problems still arise assess, in order of priority, need for:
 - i) voluntary restraint
 - ii) TRO - seasonal / restriction by type of traffic, width and / or weight
 - iii) TRO - all year

- where there is uncertainty about who or what is causing a problem consider implementing an experimental TRO.

- Assess need for other facilities, segregation, traffic calming.

Stage Three -

Implement options

Timing the implementation of any works needs to take account of the season and of the likely impacts on people and the environment.

Involving interested parties in implementation will be a good way of identifying any possible problems. For example where a farmer assists with drainage work he will be able to identify conflicts with peak farm use of the byway.

Stage Four -

Monitor and review actions carried out

Establishing links and consulting with user groups, landowners, farmers, parish or community councils and other interested organisations is an essential part of the above process. Individual problems informally discussed at an early stage may often be easily resolved. Small problems left unresolved may turn into major problems at a later date.

Sources of Further Information

Listed below are recommended sources of further information which authorities or other interested organisations may find useful. Details of where each publication can be obtained are given in the list of organisations.

Publications



- 1) Department of the Environment.
Circular 2/93 (Welsh Office Circular 5/93):
Public Rights of Way.
January 1993, HMSO.
- 2) Department of the Environment
Planning Policy Guidance Note 17:
Planning for Sport and Recreation.
September 1991, HMSO.
- 3) Department of the Environment.
Circular 7/95: Public Rights of Way -
Amendment Regulations and Advice on Public
Path Orders.
April 1995, HMSO.
- 4) The Planning Inspectorate.
Definitive Map Modification and
Reclassification Orders - Guidance Notes on
Evidence.
The Planning Inspectorate.
- 5) Rights of Way Review Committee.
PGN1: Code of Practice on Consultation over
Changes to Rights of Way.
March 1994, Rights of Way Review Committee.
- 6) Rights of Way Review Committee.
PGN3: Minimising Objections to Definitive
Map Modification and Reclassification Orders.
March 1994, Rights of Way Review Committee.
- 7) Riddall, J. and Trevelyan, J.
Rights of Way - A Guide to Law and Practice.
*2nd Edition, 1992, Commons, Open Spaces and
Footpaths Preservation Society and Ramblers' Association.*

- 8) Countryside Commission.
A Guide to Definitive Map Procedures.
1996, *Countryside Commission / DoE*.
- 9) The British Horse Society.
Claiming a Right of Way, Policy Statement.
Undated, The British Horse Society.
- 10) CLA, NFU and Countryside Commission.
Managing Public Access, A Guide for Farmers
and Landowners.
September 1994, Countryside Commission.
- 11) Trail Riders Fellowship.
Trail Riders Fellowship Handbook.
1994, *TRF*.
- 12) LARA
Access Guide for Motorised Recreation and
Motor Sport in the Countryside.
March 1996, LARA.
- 13) The National Trust.
Open Countryside Report of the Access
Review Working Party.
1995, The National Trust.
- 14) Stevens, T.
Road Research, An Introduction to Rights of
Way Evidence.
1993, *LARA*.
- 15) Country Landowners' Association.
Recreation and Access in the Countryside:
A Better Way Forward.
1991, Country Landowners' Association.
- 16) Kent County Council Highways and Transportation.
Maintenance Manual Public Rights of Way.
1995, Kent County Council.
- 17) The British Horse Society.
A Guide to the Surfacing of Bridleways and
Horse Tracks.
2nd Edition, 1995, The British Horse Society.
- 18) Agate, E.
Footpaths, A Practical Handbook.
1996, British Trust for Conservation Volunteers.
- 19) Law, H.
Rudiments of the Art of Constructing and
Repairing Common Roads circa 1850.
2nd Edition, 1970, Kingsmead Reprints
- 20) British Standards Institution
BS 7666 Part 4
November 1996, BSI

Organisations

2

All Wheel Drive Club

19 Wildwood Glade, Hempstead, Gillingham,
Kent ME7 3SX

Amateur Motor Cycle Association

28 Mill Park, Hawks Green Lane, Cannock.
Staffordshire WS11 2XT

Association of Geographic Information

12, Great George Street,
Parliament Square,
London, SW1P 3AD

Association of Rover Clubs

65 Long Mead Avenue, Hazel Grove,
Stockport SK7 5PJ

Auto-Cycle Union

Wood Street, Rugby,
Warwickshire CV21 2XY

British Driving Society

27 Dugard Place, Barford,
Warwickshire CV35 8DX

The British Horse Society

British Equestrian Centre, Stoneleigh, Kenilworth,
Warwickshire CV8 2LR.

(Publications Nos. 9 and 17 are available from this address)

British Motorcyclists' Federation

129 Seaforth Avenue, New Malden.
Surrey KT3 6JU

British Standards Institution

389 Chiswick High Road,
London W4 4AL

(Publication No. 20 is available from this address)

British Trust for Conservation Volunteers

The Conservation Centre, Ballby Road,
Doncaster DN4 0RH

(Publication No. 18 is available from this address)

Byways and Bridleways Trust

St Mary's Business Centre, Oystershell Lane,
Newcastle Upon Tyne NE4 5QS

Campaign for the Protection of Rural Wales

(CPRW),
Ty Gwyn, 31 High Street,
Welshpool,
Powys SY21 7YD

Council for the Protection of Rural England

Warwick House, 25 Buckingham Palace Road,
London SW1W 0PP

Country Landowners' Association

16 Belgrave Square,
London SW1X 8PQ

(Publications Nos. 10 and 15 are available from this address)

Countryside Commission

John Dower House, Crescent Place, Cheltenham,
Gloucestershire GL50 3RA

Countryside Commission Publications

PO Box 124,
Walgrave,
Nottinghamshire NN6 9TL

(Publications Nos. 8 and 10 are available from this address)

Countryside Council for Wales

Plas Penrhos, Ffordd Penrhos, Bangor,
Gwynedd LL57 2LQ

Department of the Environment,

Transport and the Regions

Countryside Division

Tollgate House, Houlton Street,
Bristol BS2 9DJ

English Nature

Northminster House,
Peterborough PE1 1UA

Farmers' Union of Wales

Llys Amaeth,
Queens Square, Aberystwyth,
Ceredigion SY23 2EA

The British Off Road Driving Association

"Westerings", Station Road, West Haddon,
Northamptonshire NN6 7AU

The Stationary Office Ltd:

The Publications Centre

PO Box 276,
London SW8 5DT

(Publications Nos. 1, 2 and 3 are available from this address)

Kent County Council

Engineering Services Laboratory
Doubleday House, St Michael's Close, Aylesford,
Maidstone, Kent ME20 7BU

(Publication No. 16 is available from this address)

The Local Government Management Board

Layden House,
78 - 86 Turnmill Street,
London, EC1M 5QU

Motoring Organisations' Land Access and
Recreation Association (LARA)

Motor Recreation Development Officer,
PO Box 9, Cannock,
Staffordshire WS11 2FE

(Publications Nos. 12 and 14 are available from this address)

Motor Cycle Industry Association

Starley House, Eaton Road,
Coventry CV1 2FH

National Farmers' Union

Agriculture House,
164 Shaftesbury Avenue,
London WC2H 8HL

(Publication No. 10 is available from this address)

National Farmers' Union (Wales)
23 / 25 Tawe Business Village, Enterprise Park,
Swansea SA7 9LB
(Publication No. 10 is available from this address)

The National Trust
36 Queen Anne's Gate,
London SW1H 9AS
(Publication No. 13 is available from this address)

The Open Spaces Society
25A Bell Street,
Henley-on-Thames,
Oxon RG9 2BA
(Publication No. 7 is available from this address)

The Planning Inspectorate
Room 15/01, Tollgate House, Houlton Street,
Bristol BS2 9DJ
(Publication No. 4 is available from this address)

RAC Motorsports Association
Motor Sports House, Riverside Park,
Colnbrook SL3 OHG

Rights of Way Review Committee
c/o The Granary,
Charlcutt.
Calne,
Wiltshire SN11 9HL
(Publications Nos. 5 and 6 are available from this address)

The Ramblers' Association
1/5 Wandsworth Road,
London SW8 2XX
(Publication No. 7 is available from this address)

The Trail Riders Fellowship
PO Box 196,
Derby DE1 9EY
(Publication No. 11 is available from this address)

