



Kent County Council Countryside Access Objectives and Policy

- Public Rights of Way Service
- Access Development and Promotion
- Commons Registration and Searches
- Open Access Land

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1. Introduction

1.1 The Resource

Kent's Public Rights of Way (PROW) network extends to over 6900 Km (4329 miles) and provides unparalleled opportunities for public access throughout a tremendously varied and rewarding landscape. A significant number of PROW provide invaluable links for the community to schools, shops and services, in effect continuing to serve the utilitarian purpose out of which all PROW evolved. It is the very links with Kent's history, life and landscape that make PROW the single most important recreational resource in the County. (See tables 1 and 2 on page 8 for a breakdown of the length of the network).

Following the outbreak of Foot & Mouth in 2001 the value of the network both as a recreational resource and a vital part of the rural economy became apparent. While the network was closed the PROW Service received nearly 15,000 calls in a three-month period, many from rural pub landlords and Bed & Breakfasts concerned about the loss of business, the story was similar throughout the country. The English Tourist Council carried out some research following the outbreak and found that £8.8 billion was lost to the national economy, indeed it was the worst crisis for tourism for over 20 years, concluding that the rural economy is a "hidden giant" and "ignored at risk" it also found that "the power of Public Rights of Way was the most significant lesson learnt" (Naomi Cohen – Chief Executive, English Tourist Council). Visits to the countryside benefit the economy by £33 billion per year, with 74% of the visitors going on a walk.

1.2 Existing Policy

The existing policy for PROW management "The Right Way Forward" is now 10 years old and was based on the then Countryside Commission's "Milestones" policy. Since then the Countryside and Rights of Way Act 2000 has been implemented. This is the most influential change in legislation affecting access to the countryside in over 50 years. It reflects Government thinking and direction to improve the PROW network and access to the countryside by identifying and meeting the needs of today and the future putting an onus on Highway Authorities to manage more strategically. This new policy document reflects that thinking and updates all policies set out within "The Right Way Forward".

1.3 Value for Money

The PROW network is also unique in offering a recreational and utilitarian resource, which is educational and beneficial to health and wellbeing and makes a significant contribution to the tourism industry in Kent (currently worth £1 billion per year) and the rural economy. This resource currently costs each resident of Kent around £1 per year!

1.4 Aims and Objectives of this Plan

The PROW Service provides a statutory and effective service to the residents of Kent and its visitors. Continuous monitoring and review of the Service has ensured Kent remains one of the leading players in PROW management, indeed the Ramblers Association recently stated that Kent was in a small premier league of Local Authorities. However seeking further improvement and adapting to the ever-changing world of PROW/Access management is imperative if KCC wants to continue to provide the residents of Kent with a high quality service. With an already large and ever increasing workload, new policies must be developed to manage growing public expectation. This Plan aims to bring together the many elements, diversity and working practices, which provide the service and set out the framework and way forward for the Service.





2. Summary

Kent's PROW service has a very good national reputation. Those who are part of the Service are justly proud of that fact and work diligently to build on this record continually striving to improve the service to the people of Kent within the limitations placed upon them. The Service is professional, represents value for money and is well received. As with all Service units there is always room for improvement and change. This document highlights both the positive and negative issues facing the Service and provides a policy for the future agenda and Service improvement. The business plan is summarised below.

- The PROW network is an integral part of countryside recreation as well as being an important factor in the local economy of Kent and an invaluable resource for the quality of life for Kent residents and visitors alike.
- The PROW Service is under several pressures, some constant, others variable. The service requires greater resources than present to help overcome these pressures.
- The Service must explore and exploit further ways of promoting how it works, what it does, and the importance of that work.
- The Service must plan for the future and identify the demands of the future.
- The Service must explore other ways of raising funds, involving the community and relating the Service to the general public.
- The Service has to have accurate and realistic performance measures.
- The Service must prioritise where it focuses resources and standards to accurately reflect areas of most demand.
- KCC must demonstrate provision of a full and effective Service by a commitment to pursuing its duties, including enforcement action, when legislation is ignored.

The principles and direction of the Mission Statement will not be affected by minor operational changes and amendments



3. Public Rights of Way and Countryside Access in the 21st Century

Access to the countryside is high on the Government agenda, with the Countryside and Rights of Way Act 2000 (CROW), The Sustainable Strategy for Food and Farming, changes to the Agri-Environment Schemes and the Healthy Living agenda to name a few. Walking is still the most popular and growing form of recreation and the CROW Act 2000 has attempted to address this, it has introduced access to newly designated areas of 'Open Access' land for enjoyment on foot and a new duty to highway authorities to produce PROW Improvement Plans.

Open Access land is defined as mountain, moor, heath, downland and common. Because of the nature of Kent, and the southeast in general, Open Access land will be limited, indeed only 0.6% of Kent's land area is designated, split across 192 separate parcels. Countryside access provision will therefore still in the main be reliant on the PROW network.

With riding and cycling also on the increase and the need to address issues of disabled access (Disability Discrimination Act part IV taking effect in 2004), an ageing population (16.5% of Kent population is over 65) and the Government agenda to fight increasing obesity through more exercise, the need for a well managed and user friendly network is stronger than ever. PROW Improvement Plans are intended to address many of these issues and will help resolve longstanding issues (see paragraph 7.1.4).

Similarly with considered and strategic direction of resources, especially through the Local Transport Planning process, the PROW network can be further utilised to address local access issues to schools and services within local communities thus in places seeing the Network reverting almost to its original utilitarian use.

A recent literature review carried out under the ROWIP has found that PROW and good access to the countryside whether for recreation, health or economic reasons is increasingly reflected in strategic plans, studies and strategies at both central and local Government levels.



4. Social and Health Benefits of Walking

An independent report commissioned by the Ramblers Association and published in 2004 found that there are clear social benefits of walking in the countryside, not just to health but also to help engender an understanding and appreciation of the countryside and encourage social interaction. The prime benefit is how walking can improve health.

DEFRA states that “Walking as a form of exercise has a particular role in protection of cardiovascular health and function” and from the same report that walking “...is the most popular and accessible form of exercise irrespective of age, lifestyle or location”. The report also recognises that individuals enjoy walking in the countryside as a form of recreation and that the health benefits are a bonus as they are often unknown. The same report also indicates public sector financial benefits from providing greater opportunities for exercise by reducing the burden on public health expenditure (Powell and Blair, 1994).

A further example comes from the UK Parliament Select Committee on Environment Transport and Regional Affairs (2001) memorandum “Walking in Towns and Cities” which also examined health benefits of walking. Key findings included the Surgeon- General’s report which reviewed the evidence of physical activity on health, benefits of physical include:

- Lower overall mortality
- Reduced risk of cardiovascular disease mortality
- Reduced levels and risk of high blood pressure
- Improved mood and reductions in symptoms of depression and anxiety
- Decreased risks of cancer of the colon
- Lower risks of developing diabetes
- Reductions in falls in older adults
- Reductions in obesity and better weight control
- Improved health-related quality of life.

This report also stated “Walking has the potential to influence health in a variety of ways. These include the potential benefit of walking as enjoyment and providing contact with natural environments, social contact, economic benefits through promotion of local economies...”



5. Classification of public rights of way

The PROW network is part of the highway network making up nearly 50% of the over-all highways network in Kent. These 'minor' highways are protected by the same highways legislation as the wider highway network and as such should be kept open and available for use by the public at all times.

However they are distinguished from other all purpose-highways in the way they can be used and this is dependent on what status it is. PROW are broken down into four levels of status:

- Footpath, a highway over which the public has a right of way on foot only.
- Bridleway, a highway over which the public have a right of way on foot as well as equestrian and cycling rights.
- Byway open to all traffic (BOAT), a PROW open to all type of users, including use by horse drawn and motor vehicles, but which is mainly used for the purposes for which footpaths and bridleways are used.
- Restricted byway (RB), a new category of highway, introduced by the Countryside & Rights of Way Act 2000 (CROW), over which the public have a right of way on foot, horseback, bicycle and horse-drawn vehicle. Under the CROW Act, all PROW currently designated as Road Used as Public Path (RUPP) will be re-designated RB. A RUPP is a right of way with at least bridleway status and possibly vehicular rights and which the County Council has a duty to re-classify.



6. Structure of service

Since July 2001, all PROW in Kent have been directly managed by Kent County Council, now falling within the Countryside Access Group. It took back the remaining 12% of the network previously managed under agency agreements with the Districts thus finally ending the fragmented and confused management structure that existed prior to 1998. This re-structure has seen a marked improvement in service delivery and efficiency.

The wide-ranging diversity of the work of the Countryside Access Group can be broken into seven separate areas:

- PROW Network Management
- Definitive Map Review
- Village Greens and Commons Registration
- PROW/Access Development, Research, Improvement and Promotion
- Enforcement
- Community Involvement
- Open Access Land Management

The Service is structured into five teams:

- 3 x Area based Network Management Teams
- Definitive Map Review and Village Greens & Commons Registration Team
- Development and Promotion Team

The County is divided into three divisional areas for ease of management and each area is subdivided to reflect District and Borough boundaries. **Figure 1** (page 12 & 13) shows the management structure, and tables 1 and 2 the length of PROW per area and the geographical split respectively.

Each area has an Area Manager responsible for the strategic management of that area, budget management and line management of the area officers. They are responsible for the daily management of the network within that area including enforcement work, asset protection and maintenance and community liaison.

The Definitive Map Review Team sits centrally in Maidstone and is responsible for all statutory elements of ensuring that the Definitive Map is accurate and up to date which includes researching and processing path claims, diversion applications, anomalies, closures, excluded areas, searches and legal advice.

The Development and Promotion Team also sits centrally and is responsible for the future development of the network and how it links in with other sources of countryside access; it also leads on technical projects and mapping and other developmental initiatives such as improving access for the disabled. All promotion is also co-ordinated and managed from this team.

All officers' help with promotion through evening talks to parish councils, work with partners in other access issues, advise landowners and the public and respond to the growing tide of planning applications.

District	Length PROW (Km's)	Total Length (% of County total)
WEST KENT		
Dartford	120	2012 (32.3%)
Gravesham	185	
Sevenoaks	735	
Tonbridge & Malling	530	
Tunbridge Wells	572	
MID KENT		
Ashford	1204	2535 (38.2%)
Maidstone	763	
Swale	568	
EAST KENT		
Canterbury	604	1951 (29.5%)
Dover	624	
Shepway	620	
Thanet	103	
Total Length of PROW (Km's)		6972

Table 1: Length of PROW

Status	% of Network (Kent)	% of Network (England & Wales)
Footpaths	84	76
Bridleways	10	20
Restricted Byways & Byways	6	4

Table 2: Status of Kent's PROW

Countryside access group

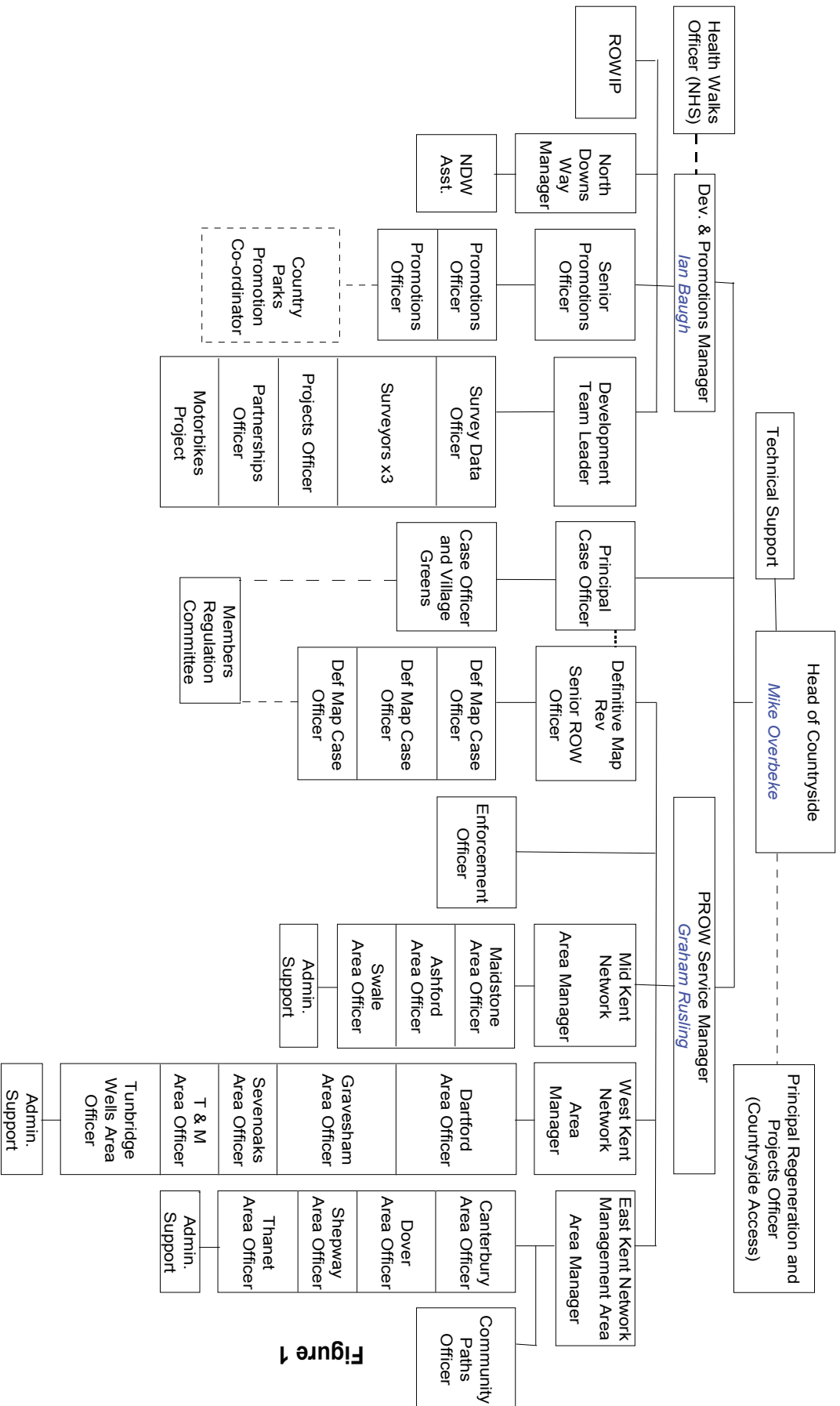


Figure 1



7. Aims and objectives of the countryside access service

In brief the aim of the PROW Service is to provide a PROW network in Kent, which is correctly recorded, easy to follow, safe to use and adaptable to the needs of today and the future. Such a statement hides an ever-increasing number of statutory duties and powers. These are placed upon KCC as the surveying authority, the highway authority, and the access authority to enable and deliver the following Aims and Objectives:

7.1.1 Protect, assert and provide an accessible network free from obstructions and interference by;

- a) Continuing to develop a good and constructive relationship with landowners occupiers and user groups
- b) Promoting conciliation as a first resort in resolving problems of illegal obstructions and infringements as is reasonable
- c) Using all enforcement powers available when conciliation fails, following the enforcement policy set out in appendix II and prioritised in accordance with the Statement of Priorities. See Statement of Priorities section 11

7.2.2 Manage, maintain, enhance and ensure a network fit for the needs of the residents of Kent, now and in the future by;

- a) Managing the workload in accordance with the statement of priorities. See Statement of Priorities section 11
- b) Completing the installation of all missing bridges
- c) Completing the installation of signposts where paths meet metalled roads
- d) Carrying out a full and up to date condition survey
- e) Preventing the fabric of the network from deteriorating further
- f) Fully utilising and keeping up to date the PROW database
- g) Providing improvements where possible to account for the needs of the less able and those of the local community, as identified in the ROWIP. See para. 7.1.5
- h) Adoption of the County's stiles/barriers policy. See para. 10.4
- i) Encouraging and developing involvement of parish's and volunteers through the Community Paths scheme. See para. 7.7 and Appendix I

7.1.3 Keep the Definitive Map and Statement up to date and ensure the status and alignment of all PROW are correct in accordance with statutory duties by;

- a) Investigating and determining all claims in accordance with the statement of priorities. See Statement of Priorities section 11
- b) Investigating determining anomalies in accordance with the statement of priorities
- c) Processing applications to change PROW in accordance with policy
- d) Ensuring all changes are covered by a formal Order
- e) Surveying, mapping and adding to the Definitive Map all Excluded Areas

7.1.4 Develop and improve the network through a PROW Improvement Initiative;

- a) Investigate and fully consult with the people of Kent to ascertain how the PROW network and other countryside access initiatives should evolve and improve to meet the needs of today and the future
- b) Link external access initiatives such as Stewardship, Toll Rides, Open Access etc into the PROW network
- c) Plan for and prioritise implementation of identified 'improvements'
- d) Link into the LTP to plan for a more integrated approach to sustainable transport initiatives
- e) Publish the findings in a report within three years
- f) Consider and where possible design out crime where there is an identified and documented problem
- g) Implement the recommendations through a long term programme of identified quick wins and wider strategic improvements according to resources

7.2 Community Involvement

The very nature of PROW encourages involvement of the community, from parish councils to small groups of volunteers. The PROW Service has always recognised this with a long history of encouraging community involvement and working closely in the community. It ran the very successful and popular Parish Paths Partnership for nearly 10 years, liaising closely with parishes and providing regular training and tools.

Although grant funding was withdrawn in 2002, KCC members recognised the benefits of working closely with the local community and in 2003 a new scheme was launched underlining Kent County Councils commitment to local communities, known as the Community Paths Scheme. It will encourage further community involvement by:

- a) Increasing and widening the database of volunteers and voluntary groups
- b) Provide training, equipment and tools for volunteers
- c) Develop joint funding of minor projects
- d) Strategically managing volunteer activity countywide in conjunction with area officers. See Appendix I for further information.

7.3 Provide a Village Greens and Common Land Registration Service by;

- a) Responding to all statutory searches within the 5 working days
- b) Investigating and determine all new claims for Village Greens and Common Land

7.4 Manage the Open Access Maps (Conclusive Maps) and carry out new duties under part 1 of the Countryside & Rights of Way Act 2000 including;

- a) Look at how to provide access to isolated parcels of Open Access land
- b) Work closely with landowners to identify the best and most pragmatic means of providing access to Access Land
- c) Support the Countryside Agency in undertaking the decadal review of Conclusive Maps
- d) Overseeing new bylaws
- e) Installing and maintaining notices and furniture
- f) Carrying out enforcement when necessary
- g) Provision and management of agreements with respect to means of access to open access land.

7.5 Communication

The PROW Service is an extremely high profile and busy frontline service. It deals with highly contentious and complex issues, and with parties often vehemently opposed to each other's viewpoint. Excellent communication skills are therefore essential and often the most important quality looked for when recruiting new staff.

Much of the Service's day-to-day activity is one to one contact with farmers and landowners and so a good working relationship with the landowning/farming community is paramount in resolving issues and ensuring the network remains in good condition. Similarly good relationships are required with user groups, who can contribute to both work on the ground and in development. A pragmatic, objective and constructive attitude to the work is therefore essential and the Service should continue to:

- a) Work closely with the CLA, NFU and user groups to ensure constructive liaison is continued
- b) Liaise with local communities, Parish and District councils to ascertain local priorities
- c) Engage with the Kent Local Access Forum to benefit from public liaison.
- d) Work closely with the other Access development initiatives
- e) Monitor, review and improve all means of communication and promotion, e.g. PROW Service information on www.kent.gov.uk
- f) Forge and develop links 'when necessary' to enhance service delivery and development
- g) Generally 'spread the word' within suitable mediums about the work of the PROW Service

With in excess of 30,000 calls a year the Contact Centre now provides a number for problem reporting and answering basic 'frequently asked questions'. The hope is that officers will be relieved of telephone answering and freed up to get on with the job. However since advertising the new help-line number, it is becoming apparent that expectation has been increased as numbers of calls are on the increase.

7.6 Promotion of the PROW network and other countryside access for all to enjoy

The Service actively promotes the PROW network and many other countryside access opportunities. The Service has a Development and Promotions team dedicated to this task. In addition, area officers also promote the network through contact with members of the public and other organisations. This can sometimes be part of a project, eg The Blean Initiative in East Kent. KCC also hosts the North Downs Way National Trail team whose core remit is to promote, market and develop Kent's National Trail.

All promotional activity that the Service is involved with must be undertaken in conjunction with the Promotions and Development team to maximise its impact and effectiveness.

The general approach that KCC has adopted for promotion is to:

- a) Actively promote the entire PROW network, and all other ways of exploring the countryside (parks, nature reserves etc.) irrespective of ownership.
- b) Provide comparable 'objective information' wherever possible and practicable to enable members of the public to make their own informed choices
- c) Try to ensure that promotion (guides, leaflets etc) is targeted to specific audiences, including UK and overseas tourist markets.
- d) Adopt a multi-media approach, embracing new technologies

The Services' promotional portfolio includes;

- a) Kent and Medway Public Transport Map - promotes long-distance promoted routes (eg, Saxon Shore Way, North Downs Way)
- b) Ordnance Survey Explorer and Landranger - promotes long-distance promoted routes, Open Country, and more
- c) Walk Kent brochure (in English and French) - a county brochure promoting countryside walking in Kent
- d) Cycle Kent brochure (in English and French) - a county brochure promoting cycling in Kent
- e) Promoted route guidebooks and 'Fact Packs' for the long-distance promoted routes
- f) Kent Trails - a magazine that promotes both the Service and the PROW network.
- g) Explore Kent circular walk leaflets
- h) Walks for All guides (Series 1 and 2) - series of 'Access for All' walk guides ranging from 0.5 - 5 miles targeted at the inexperienced walkers, the elderly and disabled people.
- i) Five horse riding route leaflets and the Kent on Horseback series.
- j) Parish Maps - large information boards installed in over 100 village and town centres to promote access opportunities for the area
- k) www.explorekent.co.uk - promoted as the 'ultimate on-line guide to walking, riding and cycling in Kent' this website not only features all of the above information, but also enables users to search for specific paths and sites, offers an interactive map and downloadable information. The website allows users to view some of our GPS survey data and features nearly all access opportunities across the county, including Open Country and Registered Common Land.
- l) Partnership websites, namely: www.nationaltrail.co.uk, www.kenttourism.co.uk and www.ruralways.org.uk - which promote walking, riding and cycling in Kent

7.7 Partnerships and working with others.

The wide-ranging remit of the PROW Service necessitates the need for strong working relationships with numerous Directorates and Divisions within KCC. The regulatory elements of the work requires close working with Regulatory Services (Planning Applications and Trading Standards) and Legal Services. It also works closely and effectively with other teams within the Environment and Economy Division (including County Parks), Network Management and Transport Planning.

Outside of KCC, the Service works closely with Parish Councils, Borough and District Councils, and Medway Council, along with relevant Government Agencies such as DEFRA, Countryside Agency, GOSE and other regulatory organisations. The Service also has many links with NGO's, other voluntary bodies, charities such as the National Trust and Wildlife Trusts, Countryside Management Projects, and the AONB teams, to name a few.

Nationally, true partnership working is already well established in local government. The PROW Service is actively involved with numerous partnerships where two or more parties work together to achieve common interests and goals by sharing information and skills, pooling resources and pursuing opportunities for shared learning. Our partnership projects include a Franco-English Interreg partnership with the Departement du nord and Comité Départemental du tourisme du nord based in Lille, South East Walks Partnership, and the North Downs Way

National Trail, and the Blean Initiative. The PROW Service has a Partnerships Officer who is responsible for running the Kent Local Access Forum and establishing new partnerships where necessary.

7.8 CAMS (Countryside Access Management System) and GPS Surveys

In order to improve service delivery and management planning, a PROW management database has been purchased. The CAMS system is based on Geographical Information System (GIS) technology. The data contained within CAMS is owned and managed by all officers. All officers will input, record, and process their work using this system. The Definitive Map has been digitised in draft so that it can be viewed electronically and linked into CAMS.

The process of ensuring accuracy of the map will continue with larger scale (1:1250/1:2500 scale) digitisation and a new and up to date Definitive Map by 2008.

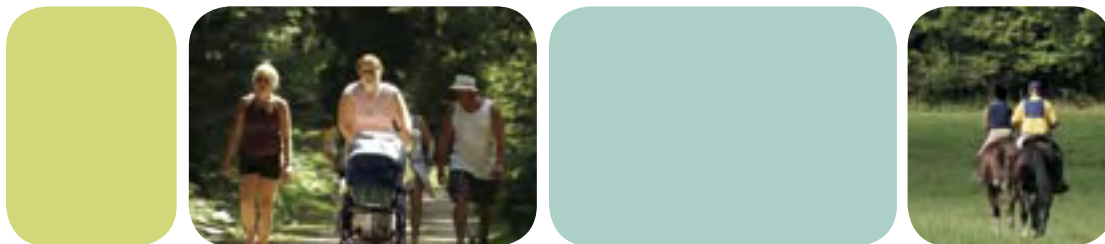
A full PROW condition survey was undertaken in the mid 1990's. A more up-to-date, accurate and detailed survey will be carried out between 2003 and 2006 by the Development and Promotions team. A small team of surveyors will undertake surveys of all PROW using the 'Links' system. Surveys are carried out using advanced Global Positioning System (GPS) equipment, digital gradiometers and digital cameras. This data will be maintained by officers' day-to-day use of CAMS.

Some of the PROW data held in CAMS will be shown on the www.explorekent.co.uk website (see page 13) to fulfil KCC's strategy of promoting the entire PROW network.

7.9 Local Transport Plan (LTP)

The PROW Service has successfully bid for funding within the scope of the LTP by carrying out access improvements, which provide a demonstrable improvement to the network for the purposes of encouraging alternative forms of transport and reducing car journeys such as walking or cycling to school. Projects have included providing and enhancing all weather surfaces and extra provision for minority users.

Following Government guidelines, the ROWIP should be a strand of the LTP, intending a more strategic and integrated approach to sustainable transport planning. This should allow for larger grants from the LTP to be allocated to PROW for both asset management and integrated transport measures.



8. Performance

Performance can be notoriously hard to measure, and PROW officers throughout the County will well know that the determination of one claim for a new path could represent weeks of work or one maintenance issue could involve hours of negotiation. This type of work is difficult to quantify in performance measures. The National Audit Office tries to measure the performance of local authorities throughout the Country in a number of areas of service delivery utilising Best Value Performance Indicators (BVPIs). Two indicators were taken as a measure of performance in respect of PROW:

- i) The % of paths signed at their junctions with metalled highways
- ii) The % of PROW easy to use

In 2001/02 the two were merged into one, 'The % of PROW easy to use'. This is an extremely subjective measure so the KCC PROW Service adopted a new methodology for the survey of PROW, developed by the County Surveyors Society to achieve national consistency and Best Practice.

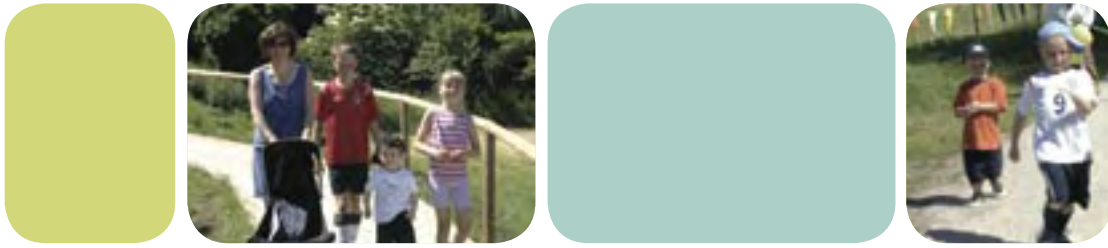
Most authorities have now adopted the methodology but it is still open to question how stringently they apply it thus begging the question how accurate a measure is it? KCC adopts an extremely stringent approach to the survey as it sees the results useful for strategic management of the network and resource allocation. The PROW BVPI is known as BVPI 178 and is based on a 5% Random Sample of the total network (about 340Km). The past two years results are shown in **Table 3**.

District	2003	2004	2005
Dartford	63%	66%	
Gravesham	100%	93%	
Sevenoaks	84%	80%	
Tonbridge & Malling	75%	81%	
Tunbridge Wells	77%	74%	
West Kent Total	80%	79%	
Ashford	55%	66%	
Maidstone	50%	59%	
Swale	38%	66%	
Mid Kent Total	49%	64%	
Canterbury	50%	86%	
Dover	59%	48%	
Shepway	52%	54%	
Thanet	65%	45%	
East Kent Total	55%	58%	
COUNTY TOTAL	61%	68%	66.5%

Table 3: BVPI's

Performance is also closely monitored as Local Unit Level to ensure that standards of service are maintained and annual Performance figures for each area of work will be provided in an annual end of year report.





9. Pressures

9.1 New Legislation:

- **Countryside & Rights of Way Act (CROW)**

The CROW Act 2000 has placed substantial additional demands upon PROW officers; most notably within the central Definitive Map Review Team where changes in the recording of vehicular routes and unrecorded PROW and the requirement to set up registers will substantially add to the backlogs. Kent has been one of the first authorities nationally to set up a Local Access Forum, a requirement of the CROW Act. The launch of Open Access land, a further requirement of the Act, has placed an additional responsibility on officers.

One of the most noticeable effects of the CROW Act and indeed the Disability Discrimination Act will become manifest through changes to existing policies, for instance stiles will be employed as a last resort, with gaps or gates now being the preferred option.

- **Disability Discrimination Act (DDA)**

The new legislation has added substantial new responsibilities to Local Government in general. Together with an ageing population the PROW service must be very aware of these issues in all the decisions it makes and this of course has implications on resources, especially when considering surface maintenance and the management of furniture such as gates and stiles.

- **Freedom of Information (FOI)**

FOI has already had an impact on officers, no new resources came with these new duties and in the first 3 months of the Act the PROW Service received over 10 applications under the new powers, all of which are extremely time consuming adding further pressures on staff. Forecasts predict these applications will not reduce in time but may in fact increase as the public becomes more aware of their rights.

9.2 Location

Kent is sandwiched between London and Europe and thus has huge population centres on its doorstep. Together with substantial residential development proposed for Kent, the related latent demand on the recreational resource provided by the PROW network can only increase. At the same time the pressure on the countryside is mounting, with, the continuing need for more roads, mineral extraction and landfill, coupled with changing farming practises and conservation policies. It is vital that these changes should be viewed as opportunities as well as threats and can be addressed through the work of the PROW Improvement Initiative. The pressure on Kent to provide rural recreation and good access to the countryside will inevitably intensify.

9.3 Size of Network

Kent is unique in benefiting from a very large and ancient network of PROW, which is the largest in the Country. This presents a great challenge with regard to maintenance in that resources are spread very thinly in an attempt to keep as much of the Network available to as many people as possible. This creates conflicts of interest when trying to decide where resources should be channelled.

Together with an increasingly litigious society and a statutory duty firmly placed on KCC as both the highway and surveying authority, the PROW Service must adopt and adhere to a robust statement of priorities for effective management of the network.

9.4 Development

Kent is under enormous pressure from development. With over 30,000 houses planned for Ashford alone and developments of a similar scale in the north Kent, access to the countryside is under great threat. However an opportunity exists to build on the existing network and create a more integrated approach to sustainable transport by creating more utilitarian and recreational links. Working closely with the ROWIP a post has been created within Regeneration & Projects, dedicated wholly to ensuring good access is designed into the major developments at an early stage.

9.5 Bridges

Jacobs Baktie, KCC's engineering partner, inspects major PROW bridge structures every two years, with a costed schedule of maintenance. These are large river crossings many of which are of brick construction. Floods such as those in October 2000 have significantly added to the projected cost of bridge repair.

Recent surveys have identified £270k worth of outstanding maintenance repairs requiring completion within five years. By not addressing simple maintenance, due to lack of resources, the long-term costs will increase significantly.

While some of the bridge works are the responsibility of private landowners, the upward trend in maintenance cost is a worrying one, and one that cannot be addressed within existing budgets.

9.6 Metalled Paths

Having taken back responsibility for PROW in urban areas it has become apparent that the surfaced urban PROW network has been badly neglected for many years. With an increasingly litigious society, repair of these routes is a priority as is the on-going maintenance once brought into good order. These routes also provide useful utilitarian links thus helping to reduce journeys by car. Joint working with Highways in the maintenance of such routes is imperative and with the ending of the Kent Highways Partnership this will be easier.

9.7 Motor vehicles in the Countryside

The use of off road motor vehicles and motorbikes is increasing in popularity. Although motor vehicles have a legal right to use byways, the majority are unmade and can only withstand certain levels of use. As a result vehicles are damaging large parts of the byway network to the extent that they become unusable for the majority of users. The cost of repairs is proportionately high in comparison to other types of maintenance work and therefore repairs are often deferred due to financial constraints.

This is an extremely emotive and controversial area, whilst vehicular use of byways is on the increase so is the opposition to it, especially from local residents and other users. KCC's duty is to protect all legal users of the network, so while much of this use is legitimate it has a certain duty to protect these rights. Some vehicular user groups take a responsible attitude with strict codes of conduct for members and voluntary support with maintenance. However the problem lies with irresponsible and illegal users, often not affiliated with such groups, and this increasing use is threatening the enjoyment for all. Legislation does exist which gives KCC powers to use Traffic Regulation Orders when it deems appropriate. The use of TRO's has limitations, only the Police can enforce them and their use is strictly controlled within the terms of the legislation. Misuse of such powers would almost certainly lead to a High court challenge.

Policy on how to deal with byways and the use of TRO's is currently in preparation and is waiting for the outcome of current Government consultations.

9.8 Financial

Budget rounds have varied over the last few years, which makes forward planning and proactive management difficult. With the pressures highlighted above and the increasing costs of contractual work and materials the PROW Service has to work hard to ensure the most effective use of resources.

Because of the statutory nature of the work involved in PROW, sources of external funding are a challenge to secure and therefore funding and the ability to meet users increasing expectations is always a difficult balance.

9.9 Demand for Information

There is increasing demand from the public for information on walks and where to go, both online and off line but there is no base budget to satisfy this demand and indeed develop and maintain more promoted recreational routes.



10. Policy overview

Kent County Council through the PROW Service has a statutory duty to record, protect, enhance and maintain the PROW network in Kent.

Appendix III lists the many duties and powers available through primary legislation, which set out the legislative, polices that the PROW Service must work within.

Within the parameters of Primary legislation, there are several current Policies setting out how the PROW Service operates and legislation is administered.

10.1 PROW Protection Policy

Kent County Council has an enforcement policy relating to the protection of PROW, which states that action will be taken through direct action on the ground, or in court if necessary, whenever conciliation fails to resolve cases of non-reinstatement or obstruction. It is worth pointing out that the KCC PROW Service has built up an extremely good rapport with the farming community and resolves the vast majority of cases through good communication and pragmatism; however a robust enforcement policy is fundamental for this approach to succeed. Appendix II sets out the policy in detail

10.2 Recording and Definitive Map Policy

The main aim of the Definitive Map element of the PROW service is to ensure that Kent is covered by an up to date Definitive Map and accompanying statement that correctly records the alignment and legal status of all PROW. Within this are component tasks which include investigating claims for additions to the PROW network, investigating and determining reported map anomalies, recording PROW in areas not yet included in the Definitive Map, ensuring network changes are covered by a formal Order and to improve and enhance the alignment of PROW.

The resolution of anomalies and mapping errors is essential for the effective management of the PROW network. Back logs in all areas of this work remain at unacceptable levels, quite simply because demand on this service is outstripping the ability to manage it. New claims are coming in faster than it takes to resolve them, and this is likely to increase drastically as the implications of the Countryside and Rights of Way Act 2000 start taking effect. The Definitive Map underpins the PROW network and the ability to deliver the whole Service.

10.3 Network Management and Maintenance Policy

Maintenance Policy has invariably been reactive, responding to issues raised by users, landowners and other interested parties. This has resulted in resources and works being spread thinly throughout the County without real focus being on where demand for recreation truly is. This has mainly been determined by statutory obligations and the legal remit of having to respond to maintenance issues.

Although these obligations remain, limited resources dictate that a more focused approach is required in its allocation. The section, "Statement of Priorities" sets out how the Enforcement, Definition and Network Management elements of the Service is prioritised to allow for the most effective allocation of resources and allowing a more pro-active approach to management.

10.4 Gaps, Gates and Stiles Policy

With the enactment of the Disability Discrimination Act, an ageing population and the onus of encouraging more exercise, it is extremely important that everything is done to make the network as user friendly as possible to as many people as possible.

The presence of furniture such as gates and stiles is to enable land management and farming to continue un-hindered. Such furniture is authorised by the Highway Authority and so can be termed "authorised obstructions".

If a barrier is required, the County Council will firstly consider whether it falls within the legitimate reason for a barrier, i.e. for the control of livestock. If not it will insist on leaving a gap. If there is a legitimate reason a stock-proof gate will be authorised. A stile will only be authorised in exceptional situations and where other considerations have been taken into account such as location and proximity to settlements.

Where stiles already exist but are not required any more, i.e. the land is now arable, the County Council will question it's necessity and consider its removal.

In situations where safety is at risk, if the PROW ends at a busy road for example, or to prevent unlawful use such as fly-tipping or illegal use by motorbikes, the County Council will consider using its powers to erect suitable barriers to safeguard public safety.

10.5 Training Policy

The administration of PROW is a highly complex, high profile and often-contentious area of work requiring:

- An extensive knowledge of legislation and its application
- Excellent skills of diplomacy and negotiation
- Exceptional customer care skills
- An understanding of practical and basic engineering techniques
- Political awareness
- The ability to deal with heavy and complex workloads.

The PROW Service is committed to the continuing professional development (CPD) of its officers, and the CPD requirements of the Institute of Public Rights of Way Officers. As well as attending relevant external professional courses, it is justifiably proud of its record of holding three all-staff training days annually on specific themes to update officers on PROW legislative developments and related topics (It is currently investigating the possibility of having these days affiliated to a national programme of training).

PROW also requires statutory training for its field staff to ensure safe and correct procedures are followed with a high regard for Health and Safety. This also relates to those working with the Team around the County, such as volunteers.

10.6 Best Practice Policy and Manual

Best Practice codes are achieved in conjunction with others. For example; KCC is a member of the CSS (County Surveyors Society) Countryside-Working Group, which is a meeting of PROW/ Access managers, and senior officers covering the south-eastern region, it meets quarterly exchanging good practice.

KCC also encourages staff to become full members of the Institute of Public Rights of Way Officers (IPROW); indeed this influences progression through the PROW career grades and enhances professional development and sharing of good practice. Best practice codes have also been developed in conjunction with User Groups, farming and land-owning representatives and others providing an effective and mutual means of managing and protecting the Network.

Where national standards exist for PROW furniture, for example gates and stiles, they will be adhered to for all future installations. Where there is nationally accepted good practice (IPROW Best Practice Guide) this will be used to guide the actions of officers in dealing with PROW matters.

The PROW service has produced a Kent Best Practice Manual, which will be a reference document with guidance to all the relevant legal, maintenance, and working practice in Kent. The manual acts as policy in dealing with the many other aspects of PROW management that can not be covered in this document.

10.7 Shared Use Cycling

Byways open to all traffic, restricted byways (formerly roads used as public paths), and public bridleways, already have rights for cycle use. Guidance for the active promotion of cycle routes utilising such Public Rights of Way are already addressed within the policy document, "Promoted Cycle Routes on Public Bridleways, Byways and RUPP's," February 2000 (Appendix VII).

Specific provision for the conversion of footpaths to cycle tracks is made within the Cycle Tracks Act 1984. There is a very strong presumption that where Parliament has legislated and provided a procedure by which the status of a route can be changed and to which objection can be made and if necessary heard that procedure should be used: -
In a limited number of instances, involving public footpaths, which are already subject to private vehicular use, a cycle track may be brought into effect by permissive Licence.

However such arrangements often give rise to an unsatisfactory situation where obligations in respect of maintenance and public liability are blurred and inevitably fall to the highway authority.

For the reasons given above the Cycle Tracks Act 1984 must be used on all occasions when public footpaths are being converted to Cycle Tracks. Where Cycle Tracks have already been established by a means other than the use of the Cycle Tracks Act 1984 the routes should be revisited and the Cycle Tracks Act 1984 used retrospectively to convert the footpath. The KCC policy on the establishment of cycle tracks on Public Rights of Way can be found in appendix VI, this sets out a protocol for the establishment of cycle tracks on Public Rights of Way, drawing upon the range of existing Government advice and guidance and existing County Council policy.

10.8 Crime Prevention and Public Rights of Way

In some locations the existence of public rights of way is very closely associated, in the minds of public at least, with antisocial behaviour and low level crime. There has as a result been an increase in the number of instances where we have been approached by local crime reduction initiatives and the like to either stop up or divert public rights of way; or because they wish to install alley gates to deny access to them.

In part many of the problems of antisocial behaviour could have been avoided through more appropriate design, for instance by not enclosing paths behind close board fencing. Advice reflecting good design practice, including circular 5/94 "planning out crime", is contained within the recently produced Public Rights of Way, planning and development leaflet.

The prevention of access to public highways, through the use of alley gates for instance, can only be achieved if the public rights to use the highway have first been extinguished or limited by some legal means. The Countryside and Rights of Way Act 2000 introduced new provisions to allow the diversion and extinguishment of certain highways for the purposes of crime prevention and school security. The use of the measures is seen very much as a last option, used only when other policing options have been tried and failed.

The use of diversion and extinguishment powers for the purposes of crime prevention and school security is subject to robust tests, which must be met in full before an Order can be made. For instance an Order diverting or extinguishing a highway for crime prevention purposes may only be made in a Crime Reduction Area designated by the Secretary of State. While PROW Officers are sympathetic to those who are suffering anti social behaviour they must of necessity be rigorous in their application of the tests within the Act. It is likely that in the majority of instances applications will fail Relevant legislation: Highways Act 1980 as amended by the Countryside Act 2000, sections 118b, 118c and 119b and 119c.

Bearing in mind the limitations set out above the policy of the PROW Service is to build on KCC's anti social behaviour strategy to improve liaison between council departments to try and tackle ASB in a more co-ordinated fashion, taking into account S.17 of the Crime and Disorder Act. This looks at what other measures can be taken to reduce or eradicate the problem, the vast majority of crime can be dealt with through simple practical measures.

The area officer or area manager would contact the KCC Community Safety Unit who would then contact Kent Police and /or the local district or borough Community Safety Officer. If, after initial discussion, the problem cannot be simply resolved, a site visit by the PROW area manager/officer and the Kent Police Architectural Liaison Officer and possibly the local council's Community Safety Officer, would be arranged. Additional parties might be the local councillor, local beat officer, and one or two concerned local residents .

The issue of crime is ultimately a matter for the Police and all policing options must have been considered and tried before some of the options above can even be considered.





11. Statement of priorities – an overview

Management of the Network is essential in order for users to use the Network in safety and with confidence. Therefore given all the consideration of legislature, finance, best practice, practicality and policy, priorities are required to meet the expectations of users and meet our obligations. Management includes not just the physical elements of PROW but also the enforcement, protection and legal definition of the network.

By focusing on the priorities identified in this document more officer time will be available to concentrate on proactive issues and projects across the network. This must be partly steered by the area manager and Head of service. The projects could also be undertaken in conjunction with the definition priorities and enforcement priorities to produce a cohesive policy.

Through prioritising work, greater benefits can be brought to the network and for the benefit of users, focusing the Service on demand lead activities. Through this process officers could concentrate on projects such as:

- Working on Local Transport Plan Initiatives
- Working with Parishes to identify areas for improvement
- Working on improved mobility walks/upgrading paths
- Working on and enhancing promoted routes
- Identifying missing links/ and changes to strategically enhance the network
- Developing further volunteer activity

Much evidence exists on the ground, through wear and tear, desire lines, evidential use and physical observations. Evidence also exists in the form of requests for summer clearance, general maintenance requests, requests for information about access, user feedback and liaison with user groups, Parishes and other interested parties. Much of this information can be assessed when acting on a report i.e. during inspection of the report. The Rights of Way Improvement Initiative will go some way to assessing demand lead use.

1.1 Definitive Map Key Principles

The policies set out are designed to assist the Rights of Way Service in pursuing its statutory function, which can be defined by the main objective:

“To ensure that Kent is covered by a Definitive Map and Statement that correctly records the alignment and legal status of all PROW”.

Overall priority will be given to the investigation and determination of outstanding claims and the resolution of anomalies and mapping errors. A lower priority will be given to public path change orders unless applied for under the new provisions contained within The Countryside and Rights of Way Act 2000. The County Council will continue with its duty to survey and publish Definitive Maps and Statements for those areas previously excluded from the original Definitive Map.

Working within the framework provided by statute and the budget provided by the County Council, work will be prioritised according to three key principles:

- **Where public safety could be substantially improved:**

DEFINITIVE MAP 'CLAIM' CASES

Definitive Map claim cases may be given priority where, for example, the resolution of an application would enable the County Council to properly assess or manage issues of public safety.

Public Path Change Orders may be given priority where for example the effect of an Order, if confirmed, would significantly enhance public safety.

- **According to level of use:**

DEFINITIVE MAP CLAIM CASES MAY BE GIVEN PRIORITY WHERE FOR EG.

- A route is shown in the Definitive Map and Statement and the level of use is high and the resolution of the application would enable the County Council to properly manage the situation.
- A claimed path is threatened by imminent development

Public Path Change Orders may be given priority where for example:

- A route is shown in the Definitive Map and Statement and the level of use is high.
- A route is not shown in the Definitive Map and Statement but has an anticipated high level of use if it were to be added either by Agreement or Order.
- A route is shown in the Definitive Map with lower rights and the anticipated level of use would be greater if higher rights were to be added either by Agreement or Order.
- They are made concurrently with Orders made under Sections 53 of the Wildlife and Countryside Act.

- **Where a route has been identified in the ROWIP as part of a strategic improvement and the County Council's actions could result in a significant positive impact on the network:**

Definitive Map cases may be given priority when the resolution of the application may enable the County Council to manage the network more effectively by resolving whether for example:

- A claimed route would form all or part of a missing link in the network.
- A claimed route forms part of a longer route e.g. a circular route or long distance route and overcomes current difficulties.
- An anomaly in the Definitive Map and Statement would be resolved

Public Path Change Orders may be given priority where for e.g.:

- A route forms all or part of a missing link in the network
- A route forms part of a promoted or long distance or circular route
- A problem exists which cannot be solved through maintenance or enforcement.

These principles are reflected in policies set out in more detail in Appendix IV.

11.2 Network Management Priorities

Providing most of the network to most of the people most of time could imply spreading resources thinly, leading to a situation where the service is achieving a spread of reactive work but not necessarily of good quality. In reality resources should focus on providing a well-maintained network to those areas in most demand.

However this should not be at the exclusion of minority users such as equestrians, cyclists, less able bodied. So, in any prioritising of work consideration should be given to these user types. But within this statement the service must focus on where demand is genuinely coming from. In other words, responding to maintenance requests where demand or use of a section of the network is limited must be weighed up against demand and evidential use and pressures elsewhere on the network.

However, there are immediate conflicts of perceived performance generated by the adoption of this priority process. For example, one of the BVPI (Best Value Performance Indicators) measures is signing of PROW, but if this is to be treated as a lower priority than safety issues (as it should be) and asset protection then less signing is going to be carried out, giving an unfair representation of the service in Kent through lowered BVPI figures. This will need to be considered.

11.2.1 General network priorities

Priority Level	Issue	Expected Response Time
1	Public Safety such as: Holes, excessive trip hazards on hard surface paths and protruding objects, dangerous trees or objects adjacent to the right of way, defective bridges (deck holes, broken handrails), defective or dangerous stiles, gates or other furniture, surface conditions.	24 Hrs
2	Legal matters with deadlines and obstruction by actual/current development that would lead to irredeemable loss of a PROW or claims against KCC	2 Days
3	Asset Protection	5 Days
4	Removal of obstruction (by vegetation or <i>anything</i> else) of promoted recreation routes or heavily used paths	Inspection within 14 days
5	Removal of new permanent obstructions such as fence or ditch and offences which carry a time constraint e.g. crops and ploughing	Inspection within 28 days
6	Removal of obstructions on paths not included in 4) above, including long standing obstructions and offences of nuisance e.g. deposition of filth, dirt, barbed wire, misleading notices etc (unless a public hazard, see priority 1)	Inspection within 28 days
7	Fingerpost signing of routes where they leave metalled roads and resolution of longstanding obstructions	Inspection within 28 days
8	Waymarking of routes where required and any other matters	Inspection within 28 days

Table 4: General levels of Priority

11.2.2 Operational Priorities

In order to identify which paths should be regarded as priority paths, within the greater network, the table below sets out those types of path, which should be considered a priority of Grade A standard. The list is not exhaustive; the discretion of the area officer/manager or Head of Service can also determine the Grade/Priority. In line with recent Countryside Agency studies and consultation with other Agencies and Authorities the following grading system has been adopted.

Grade A
Path leading to popular destination e. g. Shop/bus stop/church/attraction
Well used local paths for regular walking
Paths used local people including those with mobility problems
Path within visitor attractions/areas of tourism or interest
Paths in and surrounding country parks
Paths in and around local recreational sites e. g. playing fields/community woodlands/access areas
Well used Promoted Paths
Bridleways
Link routes to well used promoted Routes
Paths with latent demand due to being unable to use

Grade B
Isolated paths where few people are likely to use the route
Paths where the cost of improving and maintaining as a Grade A cannot be justified
Paths where natural constraints do not allow for full accessible routes
Cul-de-sac paths where no viable link is available in the future
Paths where Officers could face possible danger
Paths in sensitive habitat areas where enhancement/greater use may create harm

Table 5: Prioritising work

Grade A
Verbal, written and recorded evidence of high use
Wear and other ground characteristics/trampling
Geographic location
Proximity to amenities
Well used furniture
Requires regular vegetation clearance
Adjacent to country park
Obvious benefit if open
Combinations of the above
Other

Table 6: Indicators of Grade A Paths

Grade B
Lack of information as to level of use
Definitive map anomalies/cul-de-sacs
No evidence of use on ground
No wear
Does not require vegetation clearance
Dangerous topography or social threats
No obvious links to amenities or well used PROW
Health and Safety reasons
Other

Table 7: Indicators of Grade B Paths

From the information above we can therefore categorise a paths use and demand and prioritise management work accordingly.

For example, if a request for a long lost bridge in a remote part of the network where demand is limited is vying with demand from local users of an extensively used part of the network, then the priority must fall with the area of strongest demand. This is not a question of saying no to less demanded management requests, for indeed we have a statutory duty that we cannot ignore, but it is a question of best serving the needs of Kent residents and communities.

How it works.

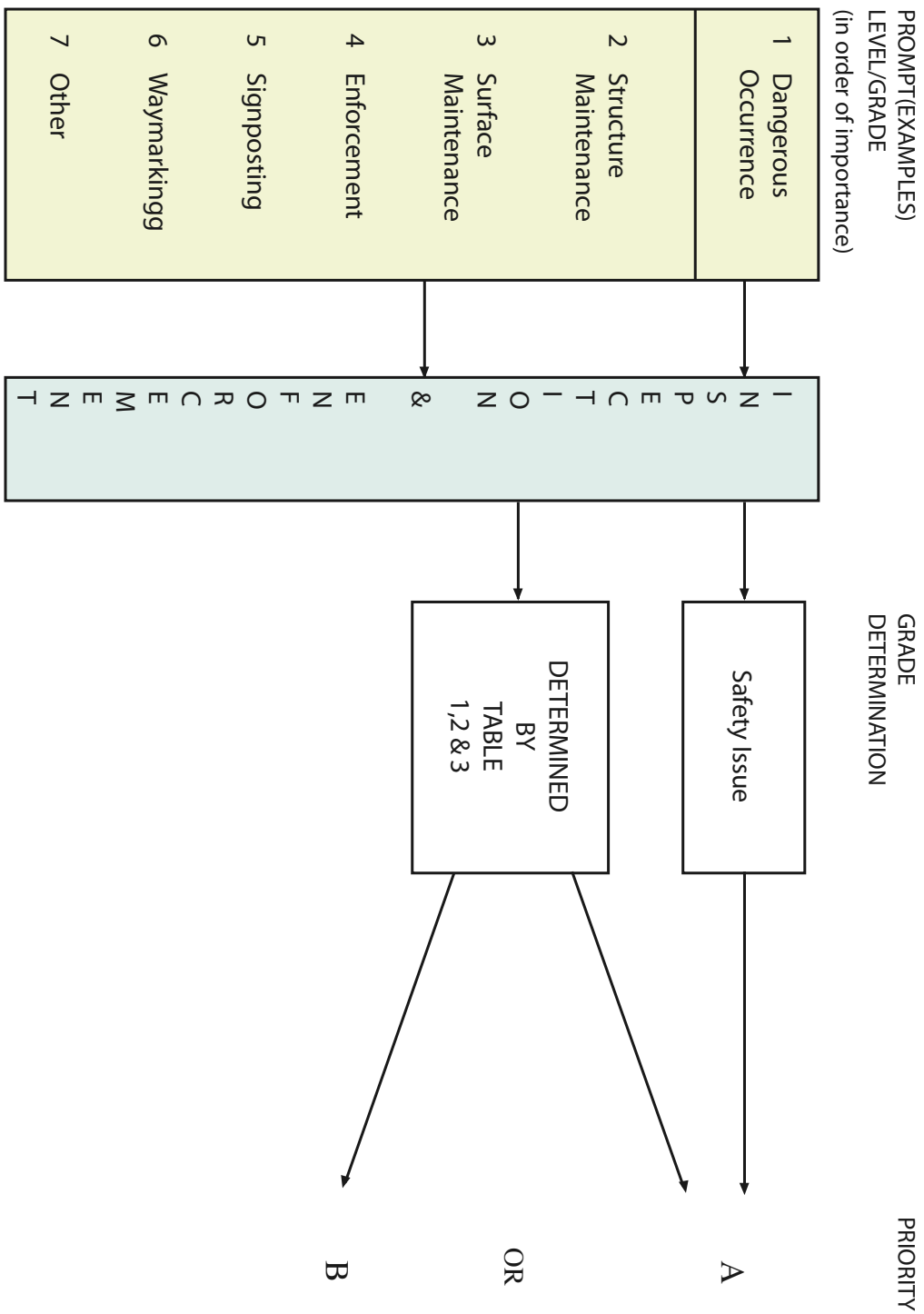
The Chart 1 below sets out how maintenance issues should be addressed

1. Complaint about path is received (Prompt)
2. Inspection carried out
3. Nature of path determined through grading criteria (Path Type)
4. Priority of action is determined by prompt type

The following examples illustrate how this theory is put into practice:

- Example 1;** If a report of a 'dangerous hole' ('Prompt') is received then it must be assessed as a priority ('Safety') maintenance case regardless of Grade.
- Example 2;** If a report of a 'stile needing maintenance' (Prompt) is received for a route close to a village and used heavily for amenity walks then it would be assessed as Grade A path and therefore should receive priority maintenance.
- Example 3:** If a report of a missing waymarking post ('Prompt') is received and is on a public right of way very little used then this would be a Grade B priority maintenance issue.

Grades of paths may also be determined by individual circumstances or a combination of circumstances other than those above in relation to a particular public right of way.



11.3 Enforcement Priorities

Appendix II sets out the KCC Enforcement policy in full, explaining what the procedures are and how they are administered. Like maintenance and definitive map review, enforcement work must be prioritised, primarily to ensure it is manageable but also to ensure it is targeted more strategically and in line with other policies. Enforcement is therefore prioritised in accordance with the following principles:

1. Obstruction by development that would result in the irredeemable loss of a PROW e.g. Obstruction by development in the absence of an appropriate Order for the extinguishment or diversion of a route.
2. Removal of new/ recent obstructions of a permanent nature e.g.: Obstruction by a fence or ditch.
3. Offences, which carry a time constraint e.g.: Crops/ ploughing.
4. Offences of nuisance e.g.: Deposition of filth, dirt, lime; barbed wire.
5. Resolution of long standing obstructions in line with the priority accorded within the County Council schedule of known long term obstructions to the PROW network. The schedule is prioritised on the basis of;
 - Severity of the infringement
 - Value of the path to the local network
 - Absence of an alternative route (including minor diversion on a permissive basis on land within the same ownership)
 - The likelihood that resolution will be achieved within a reasonable time period.

Appendix I: Community Paths Project

The Community Paths Project - Summary

The Community Paths Project (CPP) is a scheme that supports the activity of the voluntary and community sector working on public rights of way. It includes a grant programme that makes funding available for rights of way improvement. CPP was launched during the summer of 2003 as a successor to the Parish Paths Partnership (P3).

There are two distinct elements to CPP, which together provide a framework and support mechanisms for voluntary public rights of way work and practical public rights of way improvements. This continues in the ethos of P3.

The two main objectives of CPP are:

- To give local communities the resources, skills and support to enable them to contribute to the improvement and enhancement of the public rights of way network.
- To provide small grants for direct physical public rights of way improvement to extend the accessibility and enjoyment of the network for all users and provide encouragement and help to interested groups in accessing additional funding from other providers so they can target money where it is required.

Community and Voluntary Sector Support.

The training and support element of the scheme is intended to build on the foundations of P3. This is now open to all volunteers or groups that are interested in doing work that has a public rights of way element to it, rather than just those working in association with a Parish Council. As well as the range of training opportunities on offer, tools and safety clothing are provided free of charge as required. Approved 'out of pocket' expenses, such as mileage, will also be reimbursed. It is the Community Paths Officer's responsibility to process all such claims for the county.

All volunteers who wish to work on public rights of way have to register with the scheme. This allows the Community Paths Officer to ensure that volunteers receive the right training and support and that the whole process is monitored. It also ensures that the work is approved and authorised and is undertaken to the standard required in a safe manner. As long as volunteers are working within a framework agreed with the area officer, they will be protected by KCC's relevant insurance policies, including Public Liability cover and a limited Personal Accident cover. More details of all policies are available on request.

It is intended that all necessary training will be delivered as quickly as is reasonably possible. However, the identification of a training need does not guarantee that the required training will be provided. Training opportunities are dependant on a number factors such as availability of suitable instructors, budget, level of need etc. There may be a waiting period for courses which use an external instructor as a minimum number of attendees are required to ensure that the training budget is spent as economically as possible.

All training will be recorded to ensure that the Community Paths Officer has a record of what training has been received and by whom. This will also indicate whether particular refresher courses are required. Requests should be forwarded to the Community Paths Officer.

Area officers are still involved with supervising volunteers as required and where appropriate, particularly where this relationship already exists and works well. The intention is always to move to volunteers working on their own (following training) with the odd occasion involving an officer. An ongoing monitoring programme will ensure that groups remain working at a competent level. Any refresher or extra training will be organised if required as part of this monitoring process.

Improvements Grant Scheme

Grants are available for projects that, in some way, propose improvement to the public rights of way network. Bids are assessed on their own merit and if a grant is awarded applicants have no further commitment beyond the completion of the project. Any individual or group/organisation can make an application for a grant and there is no limit to the number of applications that can be made. The application process prompts applicants to look for the wider benefits of their project.

There is no legally binding agreement that obligates participants to remain within the CPP scheme beyond the completion of a project for which they have been awarded a grant. Where grants are awarded for specific approved projects, contract documentation relevant to each grant will be produced.

The PROW management team annually approves the type of work that the CPP scheme actually funds. The type of work approved will depend on factors such as identified pressures, priorities, business plans, legislation and policy etc. Whilst there is no upper limit to the amount of money awarded per application, the usual amount does not normally exceed a total of a thousand pounds. Larger grants are available but projects should offer significant improvements and fit with current strategic priorities to qualify for these. Support from the Area Public Rights of Way Officer will be essential for such projects.

Monies are paid directly to applicants, contractors or the area offices as appropriate. The area officers can also make bids for grants, though these projects will have to fit the same criteria as those for external applicants.

Priority will be given to applications that have secured contributory or match funding. This is particularly important where applications for larger amounts of money are made. A reasonable contributory figure has not been set, but each application will be assessed on its own merits. Often Parish Councils are a good source of funding, especially where they have an interest in the project.

The Community Paths Officer is available to assist with locating potential sources of funding and has access to the "Grantfinder" database to further assist with this role. Assistance from the officer is also available in making applications for external funding as there are many sources of funding which are available to community and voluntary groups which are not open to applications from KCC departments.

A monitoring process is currently being developed to aid in the evaluation of the effectiveness of the CPP scheme. Applicants will be required to complete the monitoring process as a condition of being awarded a grant. This should not prove too onerous for grant recipients to complete.

Appendix II: Enforcement Policy

The PROW Service carries out the duty to enforce the provisions within current legislation in respect of public rights of way on behalf of the County Council. (Table of relevant statutes appendix III)

The overarching duty is to safeguard the right of the public use and enjoyment of the public rights of way network which are of value:

- For utilitarian purposes, important in allowing people to go about their every day business.
- Recreational purposes, benefiting the health and well being of the public and of value to the tourist industry in Kent and the South East being an important element in the support of many small local business's.

Enforcement is carried out in a number of ways.

- Provision of advice for landowners / occupiers
- Investigation of reports of obstruction, encroachment and nuisance in line with statutory duties and stated priorities for action. (Statement of priorities for enforcement cases appendix V)
- Working with partner organisations in the provision of information/ evidence which allows for the effective delivery of their duties. Eg Police, Health and Safety Executive, Planning Authorities.
- Targeted enforcement campaigns.

Targeted campaigns will be based on a need to deal with common breaches of specific legislation within a local area.

In our enforcement work we recognise the need for:

- **Courtesy:** towards all those we deal with
 - **Consistency:** in our investigation of cases and interpretation of the law
 - **Confidentiality:** Both to those reporting offences and those who are subject to investigation in line with the Data Protection Act 1998.
 - **Impartiality:** in dealing with all our customers
 - **Balance:** between the infringement and the course of enforcement action chosen.
- In order to achieve the above it will be necessary after initial investigation to determine how best to resolve the matter and prioritise cases accordingly.

Protection of the PROW network and the resolution of infringements demand a three pronged approach:

1. **Prevention.** By far the most effective means of protecting the PROW network for public use is by the prevention of transgressions. This is achieved in several ways,
 - Provision of free advice for landowners.
 - Publication of leaflets dealing with key elements of legislation.
2. **Conciliation.** Land ownership and use can change rapidly. It is recognised that many cases of infringement occur as a result of ignorance of the requirements of the law or the whereabouts of Public Rights of Way on the part of the landowner/ occupier. The workload of individual officers may also demand a pragmatic approach is taken. For these reasons officers initially seek to resolve the majority of cases through conciliation prior to formal enforcement being pursued.
3. **Formal Enforcement.** Enforcement matters may be concluded in a number of ways. The decision to pursue enforcement and the nature of the action to be pursued should be made after two key elements have been considered.
 - Can the evidential requirements of the legislation covering the reported offence be met in full?

- How the public interest is best served? The primary aim of enforcement is to have the public right of way open and freely available for the public.

The proportionality principle set out within the Government’s Enforcement Concordat will be taken into account when deciding which course of action to pursue: *the action pursued should be balanced and reasonable, commensurate to the scale of the offence.*

Consideration will be taken of the following factors when determining the appropriate course of action:

- Whether the person committing the offence had any previous warnings or criminal record.
- Whether the evidential requirements of the legislation breached can be met in full.
- The likelihood of the Courts to fine on conviction at the upper end of the scale for the offence.

Decisions taken in enforcement cases should be balanced, rational and robust in the face of scrutiny.

The following avenues are available when pursuing formal enforcement.

Formal notice: This should be served as a prerequisite of enforcement action in all cases where conciliation has failed to resolve any infringement of PROW legislation.

Warning: Where a matter is resolved on receipt of a notice the responsible person may be warned as to their future conduct and responsibilities in respect of PROW.

Caution: Where the evidential requirements can be met for a particular piece of legislation but it is not considered that it is appropriate to bring a prosecution the offender may be offered the option of a caution. Non-acceptance of the offer of a caution will lead to the matter being placed before the courts.

Prosecution: Where an infringement is serious in nature, the offender has previously been prosecuted or cautioned; or the offence is commonplace and the focus of enforcement action prosecution will be pursued. As a prosecuting authority the investigation of PROW Offences will be conducted within the spirit of the Police and Criminal Evidence Act 1984, and with due regard to the Human Rights Act 1998.

Direct Action: In many cases of PROW infringement direct action should be considered along with other forms of enforcement action. The path is made available to the public without the inevitable delays associated with court action. In all cases where direct action is pursued the full costs of that action should be reclaimed.

There is an ongoing commitment within the PROW Group to the provision of training for officers to enable them to fulfil their roles in respect of the protection of the PROW network

Appendix III: Table of Statutes relevant to the Management of PROW

National Parks and Access to the Countryside Act 1949
Highways Act 1980
Wildlife and Countryside Act 1981
Rights of Way Act 1990
Countryside and Rights of Way Act 2000

Appendix IV: Definitive Map Review Prioritisation

1. Evidential Modification Orders

The County Council as Surveying Authority has a duty to keep the Definitive Map and Statement under continuous review (Wildlife and Countryside Act 1981 S.53). This includes all evidential events giving rise to the modification of the Definitive Map and Statement (S.53 (3) b and c). The County Council is often under pressure to investigate certain cases in advance of others. A policy is required to set out the priority that will normally be applied by the County Council to individual cases and hence the order in which applications will be dealt with.

Modification Order cases will normally be investigated in the order in which applications are received, except in any of the following circumstances where a case may be investigated sooner:

- Where it will satisfy one or more of the relevant key principles set out in paragraph 11.1.
- Where the physical existence of the claimed route is threatened by development.
- Where investigation of a case would involve substantially the same evidence as a route currently under investigation or about to be investigated.

The above exceptions will enable the authority to prioritise certain applications where this is appropriate and likely to be in the public benefit.

2. Public Path Change Orders

The Highways Act 1980 gives Kent County Council (KCC) the power to make a Public Path Diversion Order if it can be shown that it is in the interests of the landowner or in the interests of the public. A Public Right of Way may be extinguished if it can be shown that it is no longer needed for public use or is unnecessary. Public Rights of way can also be created either by agreement or by Order.

The Countryside and Rights of Way Act 2000 gave KCC new statutory powers to process path change Orders that meet new criteria relating to school security and the protection of Sites of Special Scientific Interest (SSSI's).

Applications which are considered not to satisfy the new criteria but to fall within our general powers to process may be dealt with under those powers instead in appropriate cases.

Public Path Diversion or Extinguishment Orders to enable development to take place are usually dealt with under the Town and Country Planning Act 1990. It is important to note that an Order cannot be made under this Act if the development has already been completed or is substantially complete.

Applications in respect of Byways Open to All Traffic follow different procedures than those for Footpaths and Bridleways.

Summary of Kent County Council's Public Rights of Way Network Change Policy

KCC will take into account whether the following criteria are satisfied before promoting a Public Path Change Order. Irrespective of the following, the statutory reasons (as set out in section 1 of this document) for changing Public Rights of Way must apply.

- I. The status of the route must not be in dispute at the time of the application, unless the Public Path Order is being implemented concurrently with an application under Section 53 of the Wildlife and Countryside Act 1981.
- II. The applicant must agree to meet the County Council's costs of promoting the Order and bringing the new path into a fit condition for public use (See section 3).
- III. The applicant must also agree to defray any compensation which may become payable as a result of the proposal.
- IV. The definitive line should where it is considered by KCC to be reasonably practicable be open, clear and safe to use.

However nothing in this policy is intended to prevent the County Council promoting a Public Path Change Order in any case where it considers it appropriate in all the circumstances to do so.

The County Council is often under pressure to process certain applications in advance of others. A policy is required to set out the priority that will normally be applied by the County Council to individual cases and hence the order in which applications will be dealt with.

Public Path Change Orders will normally be processed in the order in which applications are received, except in any of the following circumstances where an Order may be processed sooner.

- Where an Order would satisfy one or more of the key principles set out in paragraph 11.1.
- Where an application has been made to KCC in its capacity as Planning Authority
- Where the processing of an Order could save significant costs incurred in other Rights of Way functions.

For the purpose of these policies the term "Public Path Order" shall be taken to include:

- Orders made under Section 257 of the Town and County Planning Act 1990 (extinguishment and diversions).
- Order made under Section 26 (creations), 118 (extinguishments) or 119 (diversions) of the Highways Act 1980.
- Applications to the Magistrates Court under Section 116 of the Highways Act 1990 (extinguishments or diversions).

Please refer to Appendix V for a sample application form, more detail and associated costs.

3. Processing Dedications and Creation Agreements

The County Council has powers to accept dedication of new rights. A policy is required to set out the priority that will normally be applied by the County Council to individual cases and hence the order in which applications will be dealt with.

Dedications and Creation Agreements will normally only be processed in the following circumstances:

- Where a dedication will satisfy one or more of the key principles set out in paragraph 11.1.
- Where a dedication is offered in lieu of a Modification Order investigation and it follows the exact route of the claimed path.
- Where the requirement to make a dedication forms part of an obligation in a section 106 agreement.

4. Excluded Areas

The County Council will continue to survey and publish Definitive Maps and Statements for the areas previously excluded from the Definitive Map and Statement for Kent. Priority will be given to those areas with a higher density of population.

General Notes on requests for Diversion or Extinguishment of a Public Right of Way



Town and Country Planning Act 1990 Highways Act 1980

The application form needs to be completed in full and must be accompanied by a plan of the proposal at a scale of at least 1:2500, preferably based upon an Ordnance Survey Map extract providing you comply with their Copyright conditions. The plan will need to show the entire length of the existing path(s) concerned in a solid line and the proposed new route(s) in bold dashed lines, together with the location of any stiles, gates, bridges, culverts or other works necessary to bring the new route into effect. The extent of landownership(s) will also need to be shown on the plan and relevant Land Registry documents enclosed with the application.

These notes should be used when completing an application to divert or extinguish a Public Right of Way and mainly apply to Footpaths and Bridleways.

These notes have been compiled on the basis of current legislation which of course could change at any time in the future.

INTRODUCTION

The Highways Act 1980 gives Kent County Council (KCC) the power to make a Public Path Diversion Order if it can be shown that it is in the interests of the landowner or in the interests of the public. A Public Right of Way may be extinguished if it can be shown that it is no longer needed for public use or is unnecessary.

The Countryside and Rights of Way Act 2000 gave KCC new statutory powers to process path change Orders that meet new criteria relating to school security and the protection of Sites of Special Scientific Interest (SSSI's).

Applications which are considered not to satisfy the new criteria but to fall within our general powers to process may be dealt with under those powers instead in appropriate cases.

Public Path Diversion or Extinguishment Orders to enable development to take place are usually dealt with under the Town and Country Planning Act 1990. It is important to note that an Order cannot be made under this Act if the development has already been completed or is substantially complete.

Applications in respect of Byways Open to All Traffic follow different procedures than those for Footpaths and Bridleways. Please contact the Public Rights of Way Definition Team for more information.

1 Relevant statutes under which a Public Right of Way may be diverted or extinguished

(a) Highways Act 1980 (General Powers)

A Public Right of Way may be diverted if it can be shown that it is in the interest of the owner, lessee or occupier of the land concerned or indeed if it is in the interest of the public.

Any person can request an Order to be made, however the landowner's consent should be sought and it is for the County Council to consider whether to make the Order or not.

After an Order is made, it may be confirmed. The statutory test for confirmation can be summarised as follows:

- 1) The diversion must be expedient in the interest of the owner, lessee or occupier of the land and/or in the interests of the public
- 2) Neither terminus of the path can be diverted except to a point on the same (or a connected) highway which is substantially as convenient to the public.
- 3) The Secretary of State/KCC is satisfied that the path/way will not be substantially less convenient to the public as a result of the diversion.

- 4) The effect the diversion would have on the public enjoyment of the path as a whole must be considered
- 5) The effects on the other land served by the existing path and the land upon which the new path would run must also be taken into account.

To ensure that an Order will be capable of being confirmed in due course, the County Council will have regard to those statutory tests in deciding whether or not to make it.

A Public Right of Way may be extinguished if it can be shown that it is no longer needed for public use or is unnecessary. ***It is no easy matter to prove either of these statements.***

Applicants should note that the above is only a brief summary and is not intended to be a complete account of relevant legislation.

(b) Special Diversion Orders under the Highways Act 1980

- (i) Sites of Special Scientific Interest (SSSIs) - The appropriate conservation body may make a request in respect of SSSIs. An application may be considered where use by the public is likely to cause damage to the SSSI.
- (ii) Schools - The proprietor of a school may make a request for a diversion or extinguishment. Where a route crosses school property, an application may be considered where it can be shown that it is expedient to divert or extinguish the Right of Way to protect staff and pupils from violence or harassment.

(c) Town and Country Planning Act 1990

In respect of Town and Country Planning Act applications, Orders can only proceed if they are related to a specific planning consent.

The above Act provides that a diversion or extinguishment of a Public Right of Way may be pursued when necessary to allow development to take place for which planning permission has been obtained. Such Orders have **to be promoted by either the County Council or the relevant District Council dependent upon which authority gave the planning consent.** An Order under this Act may provide for a creation of an alternative highway in replacement for the Public Right of Way that is to be either stopped up or diverted. In addition, an existing highway may be improved for public use in lieu of the path affected by the application. An alternative path, unlike a diversion under the Highways Act 1980, does not have to have a terminus on the original path.

2 Summary of Kent County Council's Public Rights of Way Network Change Policy

KCC will take into account whether the following criteria are satisfied before promoting a Public Path Change Order. Irrespective of the following, the statutory reasons (as set out in section 1 of this document) for changing Public Rights of Way must apply.

1. The status of the route must not be in dispute at the time of the application, unless the Public Path Order is being implemented concurrently with an application under Section 53 of the Wildlife and Countryside Act 1981.
2. The applicant must agree to meet the County Council's costs of promoting the Order and bringing the new path into a fit condition for public use (See section 3).
3. The applicant must also agree to defray any compensation which may become payable as a result of the proposal.
4. The definitive line should where it is considered by KCC to be reasonably practicable be open, clear and safe to use.

However nothing in this policy is intended to prevent the County Council promoting a Public Path Change Order in any case where it considers it appropriate in all the circumstances to do so.

3 What costs are involved in processing the proposal?

As a diversion or extinguishment is generally to the benefit of an applicant, KCC will expect that applicant to meet the full costs of promoting the change.

- (a) The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993, as amended in July 1996, allow the Order Making Authority to charge the full costs of processing Orders.
- (b) Applicants will be charged the full administrative costs for the making of an Order plus a further proportional cost relating to any additional connected paths included in the Order. In addition, applicants will be charged the actual cost of advertising the proposal in the press on the occasions of the making and then the confirmation of the Order. Such advertising costs are not within the control of KCC, although KCC will endeavour to keep such costs to a minimum wherever possible.
- (c) If there are any 'works' required to bring the new path into a fit condition for use the applicant will be required to pay for them (i.e. installation of bridges, stiles, etc). KCC would normally expect applicants to do the works themselves or arrange for such works to be done. The works must be completed to the satisfaction of KCC. Alternatively, if you would prefer KCC to carry out the works, costs will be estimated to you. Details of KCC's standards and specifications will be made available to you on request and may be discussed with the relevant Area Rights of Way Officer, together with estimated costs of any necessary fingerposts or waymarking and all other works.

Public path orders - cost schedule

PRE-PUBLICATION STAGE

Preliminary costs incurred at this stage are non-refundable. The applicant will be charged pre-publication costs even if having sent the proposal to consultation, KCC decides not to make an Order.

ITEM	DETAILS	WHAT'S INCLUDED	COST
1. Process Application	Assess feasibility, check application form, set up file, enter details onto schedule	Administration	£40
2. Site visit	Site familiarisation, assessment of works required, discuss procedure with applicant	Administration Mileage	£150
3. Plan preparation	Prepare GIS plan, send to applicant for confirmation	Administration	£60
4. Initial consultation	Send consultation letter to user groups, local councils and statutory undertakers	Administration	£80
5. Responding to consultation replies	Responding to queries and seeking to overcome objections (possibly by a site meeting) Additional site meeting	Administration Mileage	£100
			£150
6. Preparation of Authority or Committee report	Draft report including plans and prepare accompanying documentation. Present to Committee	Administration	£160

ORDER MAKING STAGE

If KCC decides to make an Order, the applicant will be invoiced for both the pre-publication stage and the Order making stage. The Order will only be made on receipt of payment. Please note that the actual cost of advertisement for the Order making stage will be invoiced at a later date.

ITEM	DETAILS	WHAT'S INCLUDED	COST
7. Prepare Order, notice and statement.	Draft Order, notice and statement. Sign and seal Order.	Administration	£100
8. Distribution of Order	Sending copies to prescribed organisations and consultees	Administration	£100
9. Posting notices on site	Post, check and remove notices	Administration Mileage, Wooden posts	£80

10. Advertise notice of making of Order	Sending notice to newspaper and checking advertisement	Administration	£30 + actual cost of advertisement
11. Responding to replies	Responding to queries and seeking to overcome objections. Additional site meeting	Administration	£100 £150
12. Forward to DEFRA (if required)	Prepare submission and relevant documentation to send to Secretary of State	Administration	£300

CONFIRMATION OF ORDER

On confirmation of the Order, the applicant will be charged the costs of confirming the Order as well as the advertising costs of both newspaper adverts. If the Order is sent to the Secretary of State for decision, the applicant will be charged the cost of forwarding the Order to DEFRA (see stage 12 above) and the advertising cost of the initial newspaper advert. The applicant will also be invoiced for the Legal Event Order, which has to be made in consequence of a confirmed Change Order to formally modify the Definitive Map.

ITEM	DETAILS	WHAT'S INCLUDED	COST
13. Prepare confirmation notice	Sign confirmed Order, draft confirmation notice	Administration	£40
14. Distribution of confirmed Order	Sending copies to prescribed organisations and consultees	Administration	£100
15. Post notices	Post, check and remove notices	Administration Mileage Wooden posts	£80
16. Advertise notice of confirmation of Order	Sending notice to newspaper and checking advertisement	Administration	£30 + actual cost of Advertisement
17. Produce LEO, amend Definitive Map, distribute LEO and inform Ordnance Survey	Sign and seal LEO. Send copies to prescribed organisations. Amend Definitive Map.	Administration	£100

ADDITIONAL CHARGES

18. Additional letters	Letters to applicant and objectors etc. not covered by above items	Administration	£30 each
19. Additional site visits	Site visits to check plans, meet objectors etc. not covered by above items	Administration Mileage	£90 each

NOTES

- In addition to the above costs the applicant will also be liable for the costs of the two advertisements in the relevant local newspaper. The cost of these adverts will depend on the newspaper used and the size of the advert, but as at January 2005 the average cost of each advert was approximately £500.
- If more than one plan is required for one Order then the cost of preparing the plan (stage 3) will be multiplied accordingly.
- Should KCC not make an Order or not complete the Order making process, or the applicant withdraws the application, the applicant will be charged costs incurred up to the date of KCC's decision not to proceed or such withdrawal.
- The minimum cost of an unopposed Order would be £1350 plus advertising costs.
- If additional site visits and letters are required then these will be charged as stated above.

4 Payment of fees

The applicant will receive up to three invoices during the whole process. The first invoice will include the administrative costs of the pre-publication stage and, if applicable, the Order-making stage. If KCC confirms the Order itself, the second invoice will include the administrative costs of confirming the Order and the actual costs of advertising the Order at both the Order making stage and the confirmation stage. The invoice will also cover the making of the required Legal Event Order. If there is no objection but KCC decides against confirming the Order, or there are objections and KCC decides not to forward the matter to the Secretary of State, the second invoice will include costs of advertising and making the Order.

Should the case have to be decided at a Public Inquiry, the applicant will be invoiced for the cost of forwarding the case to DEFRA (stage 12) and for the advertisement of the making of the Public Path Order prior to the Public Inquiry. If the Order is confirmed following the Public Inquiry, the applicant will then be sent a third and final invoice for the advertisement of the notice of confirmation of Public Path Order and the making of the Legal Event Order.

5 Application

The application form must be completed in full and accompanied by a plan of the proposal at a scale of at least 1:2500 and documents proving land ownership e.g. land registry searches. It must then be sent to the County Council at the address provided in section 9 of this document.

6 What happens once my application has been submitted?

There are a number of steps and procedures that have to be followed in dealing with your application.

(a) Check application details.

Following receipt of your application, it will be entered onto the Public Path Change Order Schedule. Applications are normally dealt with in order of receipt and will be processed in accordance with the relevant legislation. We will check all aspects of the application form and supporting documents. Dependent upon the backlog of work at any one time and the complexity of your proposal it may be many months before work can begin on your application.

(b) Consultation

Unless you have stated on the application that you wish to undertake the preliminary administration work yourself then KCC will consult representatives of user groups and relevant District and Parish Councils together with the Statutory Undertakers who may have apparatus over or under the ground affected by your proposal. They are all informed of your proposal and are invited to comment; some will wish to view the proposal. Normally a period of twenty-eight days is allowed for the receipt of their comments.

(c) Resolve adverse comments

If there are adverse comments at this stage we may endeavour to resolve them with your assistance. If, at this stage, adverse comments cannot be resolved KCC will either take account of those objections but still continue to process the application or, as a consequence of them, may decide not to continue with your application in which case you will be advised and invoiced accordingly.

(d) Authority for Order

Normally authority for an Order is sought from delegated powers of the relevant Chief Officer. Where KCC considers there is a substantive objection against a proposal, authority will be sought from the relevant Committee of Elected Members. If authority is given then the Order will be made and advertised in the local newspaper.

(e) Make and advertise Order

The Order will be made and advertised in the local press. The County Council will notify those bodies previously consulted together with any other interested individuals and prescribed organisations. The formal objection stage commences on the day the press advertisement appears and expires 28 days later. During this period notices are also displayed prominently on the site.

(f) Resolve formal objections

If there are objections to the Order and they cannot be resolved, it could lead to the proposal either being withdrawn or being referred to the Secretary of State for the Environment, Food and Rural Affairs for decision.

(g) Unresolved formal objections

If KCC decides to support a proposal irrespective of sustained objection, it will be referred to the Secretary of State for decision as referred to above. At this point you will also be invoiced for the work already carried out.

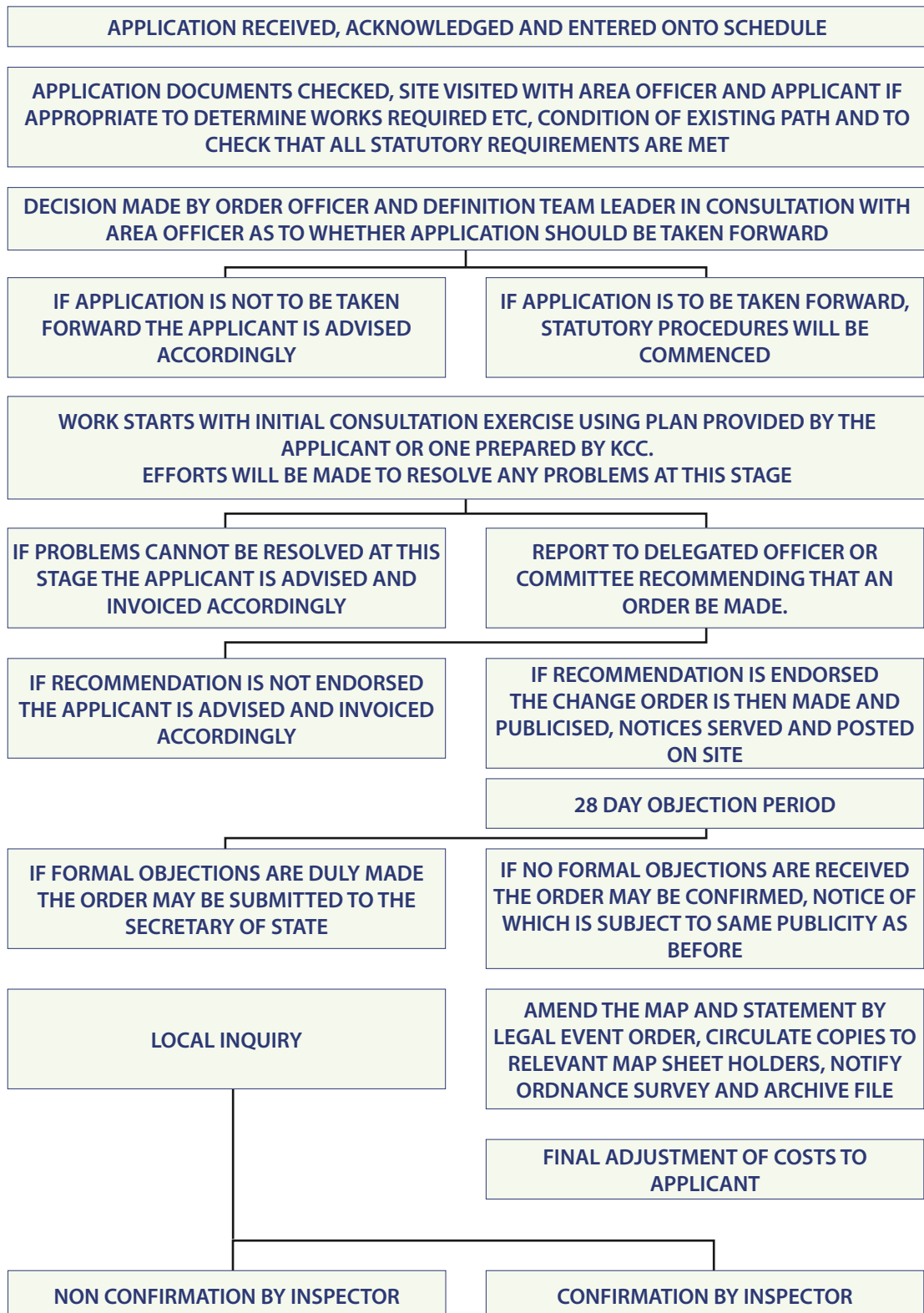
The Secretary of State may either deal with the matter by way of written representation or appoint an Inspector who will hear the evidence at a Public Inquiry, which affords the chance for any interested parties to state their case. The Inspector decides on the basis of the evidence put to him whether, or not, the proposal should be confirmed. He/she can also modify the details of the proposal when confirming an Order. The Inspector will not make his/her decision at the Public Inquiry. He/she will consider all of the evidence put before him/her and eventually inform the County Council and other interested parties of his/her decision. This could take several months.

(h) Confirm Order

If there were no objections at the advertising stage, or following resolution of objections, KCC may confirm the Order and arrange for it to be advertised as required. The County Council will then send you a final invoice for the administrative costs of confirming the Order and the cost of all advertising. If the case is taken to Public Inquiry, you will be invoiced prior to the Public Inquiry for the administrative costs incurred in preparing and sending the submission to DEFRA as well as the cost of advertising the Order at the Order making stage.

The Definitive Map and Statement of Public Rights of Way will then be amended to show the change. Within the Confirmation Notice there is provision for anyone to appeal to the High Court within six weeks if they are aggrieved with the way in which the County Council has dealt with the matter.

7. Flow Chart showing the procedure for progressing Public Path Change Orders



8 How long will it take?

KCC will endeavour to process applications as soon as reasonably practical and as resources and other priorities allow.

Normally, for an unopposed Order, an estimated timeframe of 8 months is reasonable. However, if an opposed Order is sent to the Secretary of State for determination, it may be many months before a decision is reached.

On the commencement of paragraphs 7 & 10 of schedule 6 of the Countryside and Rights of Way Act 2000, KCC will endeavour to determine applications lodged by the owner, lessee or occupier of any land used for agriculture, forestry or the breeding or keeping of horses within the timescale envisaged by the new sections 118ZA & 119ZA of the Highways Act 1980. That is 4 months from the date of receipt of application. The applicant may of course exercise his right to seek a direction from the Secretary of State if KCC fails to comply with this timeframe.

9 How to proceed with your application and further information

Please read through these Notes carefully and look at the requirements within the application form. Please send the application form and plan to:

Head of Public Rights of Way
Kent County Council
Environment and Regeneration Directorate
Invicta House
County Hall
Maidstone
Kent
ME14 1XX

or telephone (01622) 221568

Your application will be acknowledged on receipt.

Appendix VI: Policy for the Establishment of Cycle Tracks on PROW.

The purpose of this document is to establish a protocol for the establishment of cycle tracks on Public Rights of Way, drawing upon the range of existing Government advice and guidance and existing County Council policy.

Byways open to all traffic, restricted byways (formerly roads used as public paths), and public bridleways, already have rights for cycle use. Guidance for the active promotion of cycle routes utilising such Public Rights of Way are already addressed within the policy document, "Promoted Cycle Routes on Public Bridleways, Byways and RUPP's," February 2000. This document does not replace that policy but does set out a process in instances where the stated minimum standards cannot be met.

Specific provision for the conversion of footpaths to cycle tracks is made within the Cycle Tracks Act 1984, and its accompanying regulations – the Cycle Tracks Regulations 1984. Guidance on the application of the Cycle Tracks Act and Regulations 1984 is provided in Department of Transport Circular 1/86.

There is a very strong presumption that where Parliament has legislated and provided a procedure by which the status of a route can be changed and to which objection can be made, and if necessary heard, that procedure should be used: -

In a limited number of instances, involving public footpaths, which are already subject to private vehicular use, a cycle track may be brought into effect by permissive licence. However such arrangements often give rise to an unsatisfactory situation where obligations in respect of maintenance and public liability are blurred.

For the reasons given above the Cycle Tracks Act 1984 must be used on all occasions when Public Footpaths are being converted to Cycle Tracks. Where Cycle Tracks have already been established by a means other than the use of the Cycle Tracks Act 1984 the routes should be revisited and the Cycle Tracks Act 1984 used retrospectively to convert the footpath.

Both Kent Design and Promoted Cycle Routes on Public Bridleways, Byways and RUPP's set out standards for the construction of Cycle Tracks. Kent Design should be viewed as providing minimum standards for the construction of new routes associated with development, and as guidance as to appropriate standards for routes to be converted.

There will be instances where minimum standards can not be met. This should not be viewed as a reason NOT to convert to a cycle track or promote cycle use on bridleways, restricted byways and byways. However, in all cases where minimum standards can not be met a thorough safety audit should be undertaken giving specific consideration to factors namely:

- Current levels of use
- Sight lines
- Gradients
- Surface type
- Width
- Suitability for use by the blind and disabled
- Likelihood for genuine conflict arising from use between the different classes of users.

If following a safety audit the risks are found to be acceptable or recommendations are made which can be implemented the mere fact that minimum standards can not be met should not in itself prevent conversion.

Where the recommendations of a safety audit cannot be implemented a route should not be converted to a Cycle Track or promoted as a Cycle Track.

Within new developments the minimum standards set out in the Kent Design Guide should be viewed as just that. Desirable widths should in normal circumstances be met and only in exceptional circumstances should the minimum widths be viewed as acceptable.

Appendix VII: Guidelines for Developing Promoted Cycle Routes on Public Bridleways, Byways and Restricted Byways

Legislation

Pedal bicycles may be used, within the law, on all categories of Public Rights of Way, except Public Footpaths. Public Footpaths, which have a right of way on foot only, may be converted into cycle tracks by means of a conversion Order under the Cycles Tracks Act 1984 or by upgrading them to a higher status under the Highways Act 1980. Widespread conversion of rural footpaths to cycle tracks was not envisaged when the 1984 Act was passed by Parliament, and has not occurred. The requirement under the 1984 Act to obtain consent for conversion of any path across agricultural land gives landowners a right of veto. Landowners may give permission for the public to use bicycles on Public Footpaths on their land, but in so doing they take on full public liability and responsibility for damage caused to the surface of the path.

Public Bridleways, commonly referred to and signposted as Bridleways, are Public Rights of Way over which the right of way is on foot, on horseback, or leading a horse. Parliament granted pedal bicyclists the right to use Bridleways within the 1968 Countryside Act. The Act clearly states that in exercising this right cyclists must give way to pedestrians and persons on horseback. The Road Traffic Act of 1988 contains other provisions governing the behaviour of cyclists. For instance, it is an offence to cycle on a right of way recklessly or without due care and attention, without reasonable consideration for other users or to do so while unfit to ride through drink or drugs. It is also an offence to promote or to take part in an unauthorised race or trial of speed between cyclists on a right of way. "Mountain" or "All Terrain" bicycles come within the definition of "cycle" in the 1988 Act.

Byways Open to All Traffic, commonly referred to as Byways, are Public Rights of Way which may be used by all kinds of vehicle (including motorised ones) as well as horseriders, horse and carriage drivers, cyclists and walkers.

A fourth category of Public Rights of Way, namely Roads Used as Public paths, commonly referred to as RUPPs, have at least the same public rights as Bridleways and may have the same rights as Byways. Legislation enacted in 1968 and 1981 calls for all RUPPs to be reclassified as Byways, Bridleways or Footpaths and Kent County Council is in the process of carrying out this time consuming task. Since 1994 the County Council has reclassified 67 of the 328 RUPPs originally shown on the Definitive Map (at present this exercise is not being given a high priority in relation to other Definitive Map issues).

There is 630 km of soft surfaced Bridleways, 195 km of soft surface Byway and 126 km of soft surfaced RUPPs within Kent and they vary considerably in their physical condition and use. At one extreme they may be so narrow and little used that they could be easily mistaken for nothing more than Public Footpaths.

The surface condition of Bridleways, Byways and RUPPs is variable. Some have hard surfaces as a result of works by landowners, whereas the majority have soft surfaces, although there may be sections where some localised surface hardening and/or drainage has been carried out. The County Council's maintenance obligations for rights of way are limited. It is only necessary to ensure that the way is passable and safe to use. There is no requirement to surface, upgrade or improve them in order for them to withstand heavier use.

The County Council has no obligation to provide a surface over a Bridleway suitable for cyclists.

Various organisations, representing recreational cycling, are calling for the provision of promoted cycle routes through the countryside and many of these routes utilise sections of Bridleways, Byways and RUPPs, as well as minor roads or country lanes.

On the other hand, organisations representing equestrians and pedestrians, as well as rural communities, are expressing their concern that the increased use of rights of way by pedal cyclists is causing potential conflict and danger.

It is therefore necessary that the County Council, who have overall responsibility for all rights of way within Kent, sets down parameters outlining the criteria they expect to be met before any promoted cycle route is established on Public Bridleways, Byways or RUPPs.

The main reason for establishing a set of parameters is to ensure the safety of all types of user and to avoid conflict wherever possible. There are no requirements in law that riders of bicycles or horses, or for that matter pedestrians, should have their proficiency tested, therefore consideration must be given to the fact that the skill of cyclists and equestrians undoubtedly varies and children and the elderly may well be encountered using Public Rights of Way in the countryside.

In considering safe widths, gradients, crossfalls, sightlines and surfaces, reference has been made to "Making Ways for the Bicycle" and "The National Cycle Network – Guidelines and Practical Details", produced by Sustrans and "The National Cycling Strategy" produced by the Department of Transport, together with Kent County Council's "A Cycling Strategy for Kent" and the "Public Rights of Way Best Practise Manual".

It should be remembered that all non-powered bicyclists have the right to use all Public Rights of Way classified as Bridleways, Byways or RUPPs. The following guidelines therefore relate only to those routes which are the subject of being **promoted, signed and publicised as Cycle Routes**, the assumption being that such promotion and publicity thereby encourages and potentially increases bicycle use. With current legislation it would not be possible, however, to enforce any agreed guidelines.

It is therefore hoped that the following criteria, which address safety issues where there is potential conflict between equestrian cyclist and pedestrian use, strike a sensible and responsible balance to meet the concerns and aspirations of all concerned.

There are six major elements of any Public Rights of Way, which should be considered when assessing its suitability for promotion as a Cycle Route:

(i)	Width (metres)	– Running Surface (the usable surface of the route) – Verge (the width on either side of the running surface up to the surroundings)
(ii)	Gradient (%)	– The longitudinal slope of the route
(iii)	Sightlines (metres)	– The unobstructed distance down the centre of the route
(iv)	Surroundings	– The immediate area beyond the verge
(v)	Ground surface and crossfall	– The type of surface and drainage provision
(vi)	Sustainable enhanced maintenance	– This is the necessity for a costed allowance for an ongoing maintenance programme

Guideline Standards for Promoted Cycle Routes on Bridleways

To ensure that any Public Rights of Way is 'safe' for bicycles and to avoid any potential conflict, the following guidelines for dimensions should be used.

(a) Widths:

If a cycle route is to be signed along a Bridleway, it should be a minimum of 2.5m wide. Where its boundary is restricted, eg by fences, hedges, trees, foliage or other structures, this width should be increased to a minimum of 3.0m. Pinch points which are below these requirements can be acceptable, but should not extend for more than 5.0m and be visible for at least **10m** in either direction and **30m** on steep gradients.

(b) Verge:

There should be a minimum verge width of **0.5m**. However, if there is a restrictive boundary, this should be increased by:

Barbed wire	– 0.5m
Steep drop	– 1.0m

(c) Gradient:

In order to provide an attractive route for ALL users, gradients should not exceed 1 in 12 (8.3%). However, if gradients are:

Between **8% and 12%**, the width of the route should be increased by **0.5m**

Between **13% and 18%** the width should be increased by **1.0m**

(d) Sightlines:

In order to cater for speeds which cyclists can travel at, sightlines should not be less than 20 metres.

(e) Ground Surface:

It is imperative that consideration be given to ALL users, cyclists, pedestrians and equestrians. An ideal surface for all these users is a non-slip textured **coarse bound aggregate** which is well drained.

Other surfaces include:

Natural Terrain: This can vary from grass to earth tracks. This surface could become slippery in wet weather conditions and be a potential danger to all users. If this is used, consideration must be given to the surrounding environment and the boundary of the route (see (b)).

Planings/Scalpings: On an unbound surface, bicycles could have difficulties reducing speed. If this surface is to be used, the width of the route should be increased to increase visibility.

Tarmac: This surface could encourage cyclists to ride faster. However, on this surface the control of the bicycle is greater. If tarmac is used, the width should not be less than **3.5m**, but it is recognised this may not always be achievable in every case especially in certain urban areas.

(f) Crossfall:

The crossfall on these routes should not exceed **3.3%**. Above this will cause particular difficulties for cyclists and disabled pedestrians.

(g) Sustainable Enhanced:

Although there is no requirement to upgrade or improve the surface or surrounding areas, any promoted cycle route, which will have high usage, must be maintained over and above the standard levels.

The above guidelines indicate the minimum standards for promoted cycle routes on Bridleways. However, it is recognised that in many circumstances, these cannot be followed. Deviations from these dimensions can be agreed, but only through consultation with Public Rights of Way. It is essential that these Public Rights of Way are safe for ALL users, but it is just as important to ensure that the rural/natural environment (the reason many users are there) is not lost through engineering measures which do not necessarily improve 'safety'. These measures could reduce the attractiveness and natural environment of the area/route.

Other Considerations

Widening of routes or the establishment of separate parallel routes, in agreement with landowners, should be considered where minimum widths are not available. These should be legally formalised either by dedication or in the form of a simple Deed of Acknowledgement or by powers within the 1980 Highways Act. Such changes would need to be recorded on the Definitive Statement accompanying the Definitive Map of Public Rights of Way.

Widening of routes or the establishment of parallel routes can also be affected by the creation of permissive or concessionary routes but these are not recommended as they hold no legal status and can be withdrawn by landowners at any time.

Signing of any promoted route must be approved by the County Council.

Advice on the establishment of routes should also be sought from the Head of Countryside Access, who has the overall responsibility for co-ordinating all promoted recreational routes on Public Rights of Way within Kent. Schemes should be submitted for technical appraisal (including signing advice) and safety audit if the status of a Definitive Public Right of Way is to be altered, or if the Public Rights of Way Manager considers that course of action appropriate.

In some circumstances it may be felt that some form of barrier should be created across the right of way to perhaps discourage motor vehicular use but at the same time allow equestrian, cycle and pedestrian use. It must be pointed out that there is no provision in law for gates or barriers to be put across Bridleways unless they are required to prevent the ingress or egress of animals on agricultural land, or land being brought into use for forestry.



For further information please contact

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