

REPORT OF ACCESS & RIGHTS OF WAY MANAGER

SUBJECT: PUBLIC RIGHTS OF WAY DELEGATION AGREEMENT

Purpose of Report

For information, to update Members on progress in seeking a formal variation of the Public Rights of Way Delegation Agreement with Pembrokeshire County Council.

Introduction/Background

Pembrokeshire County Council as the highway authority has a statutory responsibility for the maintenance of public rights of way (PROW) in Pembrokeshire, including the National Park. In June 1997, the National Park Authority concluded a legal agreement with Pembrokeshire County Council by which the Authority was delegated a range of functions, powers and duties in respect of public rights of way.

Under the terms of the Delegation Agreement the National Park Authority is liable for the maintenance and the legal management of the Coast Path (260km of PROW) and the additional network of 771km PROW in the National Park (1021 routes). Pembrokeshire County Council retains responsibility for 51 routes (10.8km) in urban areas of the National Park and the Park Authority maintains 14 cross boundary routes from beyond the National Park boundary to the nearest road (6km). Together this total of 1031km PROW maintained by the Park Authority accounts for 44% of the county's network of PROW and arguably the most busy in terms of recreational usage.

The delegated powers have enabled the National Park Authority to adopt a pro-active approach to managing public access to the countryside. When the National Park Authority took over responsibility for the network of public rights of way in 1997 58% were considered passable. The Park Authority has made good progress with 88% of the network accessible today and generally in a much improved condition. This network also forms the basis for 200 promoted walks.

Formal Variation of the Delegation Agreement

The terms of the Delegation Agreement make provision for it to be varied at any time by agreement amongst the parties. Since 1997 a number of public rights of way in the National Park have altered in character or been improved by Pembrokeshire County Council to become active travel routes, necessitating a revision to clarify maintenance responsibilities. There is also the potential for the Park Authority to maintain entire routes that are bisected by the National Park boundary. The proposed variation relates to the amendment of Schedules Two and Three of the Delegation Agreement:

- *Schedule Two; public rights of way in the National Park to be maintained by Pembrokeshire County Council.* The National Park Authority is proposing that Pembrokeshire County Council resume the maintenance responsibility for an

additional 21 routes in the National Park. These are mainly utilitarian routes with hard surfaces and routes predominantly used by motor vehicles. Such routes do not therefore necessarily serve a recreational purpose or accord with National Park special purposes. In addition, the Park Authority does not have the in-house skills, expertise and budgets to adequately maintain such routes and must therefore ensure that the Authority's commitment is within its capabilities.

- *Schedule Three; public rights of way outside the National Park to be maintained by the National Park Authority.* The National Park Authority is proposing to maintain 33 additional routes outside the National Park which cross the Park boundary to continue in the National Park. This commitment is conditional on the County Council resuming the responsibility for 21 routes to be added to Schedule Two. The additional maintenance commitment can be comfortably absorbed into routine work programmes and would improve efficiency with one local authority responsible for maintaining a single route where it crosses the Park boundary.

Over 2014 the National Park Authority held two meetings with Pembrokeshire County Council, and presented the County Council with detailed proposals for the revision of Schedules Two & Three, including information that quantified the hard surface area of routes to enable the County Council to estimate maintenance costs.

At a meeting in December 2014, Pembrokeshire County Council indicated that in principle it could anticipate resuming the maintenance responsibility for 20 of the 21 routes in Schedule Two. However, the County Council had reservations regarding one route, a byway at Angle, which they consider to be a major liability in terms of its significant maintenance costs and particular challenges in terms of coastal erosion.

Nevertheless, it was agreed to make progress on a formal variation to the Delegation Agreement concerning the majority of routes which were agreed in principle and deal with the matter of the byway at Angle separately. Pembrokeshire County Council therefore agreed to inspect the 20 routes prior to the Christmas holidays with a view to formally concluding the transfer in responsibilities by 1st April 2015. On the basis of the above arrangement, the proposal to amend Schedule Three was also approved. . The Access & Rights of Way Manager will advise members of any further progress on the variation of the Delegation Agreement at the committee meeting.

Byway 2/8, Angle

The byway is 830 metres long and starts at the village of Angle, bridging the tidal pill, to run along the shoreline of Angle Bay to the Old Point House public house. It serves as a vehicular access to a boat park, moorings, a campsite/touring caravan park, a farm, several dwellings, the Lifeboat station, a public house and car park. It is designated as part of the route of the Pembrokeshire Coast Path.

A Byway Open to All Traffic (byway) is the highest classification of public right of way and entitles the public to pass along the route on foot, horseback, pedal cycle and motor vehicles. There is no requirement to seal the surface of a byway and the standard of maintenance is usually interpreted in accordance with its statutory

definition as being a route mainly used by walkers and horse-riders along which motor vehicles may pass. The National Park Authority therefore has a duty to ensure that its surface must be kept in reasonable condition for the passage of public users including motor vehicles.

The route was subject to being submerged in places by high tides and a major improvement scheme was undertaken by the former South Pembrokeshire District Council in 1988/89 to construct a series of coastal defence structures of gabion walling along the route, totalling a distance of over 200 metres. This resulted in a wide and flat carriageway being created with an unbound, compacted stone surface. Due to the lack of a cross fall and consequent poor drainage, the surface is prone to pot holes forming. The National Park Authority has noticed an increase in vehicular traffic since the Delegation Agreement was signed in 1997 and the Park Authority now spends in the region of £5,000 per annum on surface repairs. This is a disproportionately significant amount of money for one route when compared to the cost of maintaining the remaining network of public rights of way in the National Park. Such work keeps the route in a state of repair so that it is passable for motor vehicular traffic. The option of introducing any other type of surface or profile is considered to be too costly. Some sections of the byway continue to be submerged by high tides, which further exacerbates the problem of surface maintenance.

The maintenance of what is effectively an unsurfaced road is not deemed to be an appropriate activity for the National Park Authority and for this reason the route was proposed to be added to Schedule Two of the Delegation Agreement.

In the past Pembrokeshire County Council has maintained the gabion walls, however, in June 2014 the County Council notified the National Park Authority that the gabion walls, in their opinion, formed part of the highway and therefore they considered the walls now to be the delegated maintenance responsibility of the National Park Authority. The gabion walls are in need of repair, the cost of which is estimated by Pembrokeshire County Council as being in the region of £70,000. The National Park Authority has always considered the gabion walls to be coastal defence structures for which Pembrokeshire County Council has the statutory responsibility. If the National Park Authority had considered the gabion walling to be part of the byway then it would not have sought to have the maintenance responsibility for the byway when originally entering into the Delegation Agreement in 1997. At present the National Park Authority does not receive any funding contribution for the public rights of way it maintains on behalf of the highway authority, Pembrokeshire County Council and the Authority has therefore asked for financial assistance from Pembrokeshire County Council in order to repair the gabion walls.

Following the meeting in December 2014 with Pembrokeshire County Council, we have now agreed to work jointly with the County Council to resolve the particular challenges presented by this public right of way. At the time of writing this report, National Park Authority officers have arranged a site meeting with officers from Pembrokeshire County Council to explore the options for future maintenance, and it is hoped that pooling our experience, technical skills, funding and importantly, bidding potential to secure external funding, we can implement a sustainable solution. Further discussions with both the County Council and the landowners will

no doubt be needed in order to progress this matter and members will be updated at the Committee meeting.

Conclusion

The variation of the Delegation Agreement will ensure that the Park Authority's commitment is within its capabilities in terms of its budgets, staffing levels, skills and technical expertise, machinery and equipment. It will enable the Authority to focus on the maintenance and improvements of public rights of way that provide the countryside and coastal access opportunities for the public to explore and enjoy the National Park.

Recommendation

That Members note the Report.

Background Documents

(Public Rights of Way Delegation Agreement 1997; Rights of Way Improvement Plan 2007-17; Report of Scrutiny Panel February 2012)

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