

REPORT OF ACCESS & RIGHTS OF WAY MANAGER

SUBJECT: FUTURE MANAGEMENT AND PRIORITISATION OF PUBLIC RIGHTS OF WAY (PROW) IN THE NATIONAL PARK

Purpose of Report

This Report is to advise Members of the current situation with regard to the management of public rights of way in the National Park. To seek approval to adopt a prioritisation approach for the future management of public rights of way, including delegation of authority to take enforcement action.

The Background

The National Park Authority has a longstanding Delegation Agreement for Public Rights of Way (dated 5th June 1997) with the Highway Authority, Pembrokeshire County Council. This Delegation Agreement formally transfers a wide range of duties powers and functions to this Authority in respect of public rights of way (PROW) in the National Park. The National Park Authority has been delegated all duties and powers relating to the maintenance and improvement of PROW as well as powers relating to the enforcement of the right to the use and enjoyment of PROW.

The National Park Authority needs this arrangement as in general the network of PROW provide unrivalled access opportunities to a countryside that is predominantly in private ownership. However, the network of PROW were registered in the 1950s to reflect historic patterns of transport on foot and horseback and not necessarily registered with the needs of recreation in mind. Not all paths therefore necessarily deliver the access opportunities that the public desire.

Strategic guidance for the management of PROW is provided by the Pembrokeshire Rights of Way Improvement Plan 2007-2017 (ROWIP). The ROWIP is a Statutory Plan jointly prepared with Pembrokeshire County Council.

The Scale of the Issue

The National Park Authority is responsible for the maintenance of 1,043 km of PROW. In addition to the 260 km of PROW which make up the Pembrokeshire Coast Path there are 1,239 individual public rights of way which total 783 km to make up the remaining inland network of PROW.

The powers delegated by Pembrokeshire County Council have enabled the National Park Authority to adopt a pro-active approach to managing PROW. When the National Park Authority took over responsibility for the PROW network in 1997 58% of the network was considered passable. As of June 2013, 88% (916 km) of the network is now available for use. Over 200 walks based on this network of PROW are promoted on the National Park Authority website and these PROW form the basis for a wide range of countryside access opportunities for walkers, cyclists, horse riders and disabled people. The remaining 12% of the network, which is considered to be inaccessible at present, is made up of 232 routes (127km). Of these 32 routes

are considered to be strategically important and a priority for improvement as outlined below.

The Prioritisation of Routes

In accord with the objectives of the ROWIP 2007-17, which is underpinned by a prioritised approach, officers propose to identify and improve the key PROW that are considered to be a priority in order to complete a strategic network of access opportunities in the National Park. This would amount to 32 routes (21 km), however, the situation would be kept under review and could be amended if circumstances change.

Key routes have been identified according to criteria which include:

- connectivity to the Coast Path – to aid tourism
- connectivity to other public rights of way – to form circuit walks and other desirable walking routes
- linkages to communities including schools - to promote opportunities for healthy exercise and sustainable travel by walking and cycling
- routes with a proven and sustained record of demand, evidenced by records of complaints and requests for service
- routes which provide easy access for those with mobility problems or visual impairments
- bridleways which provide multi-use opportunities for horse riders and cyclists as well as walkers

Once these key PROW have been improved, approximately 90% (937km) of the PROW in the National Park would be available for use. The priority would be to maintain this key network rather than continue to open up the remaining 10% of PROW (200 routes; 106km), which are considered to be of limited recreational or community value. This remnant of PROW include anomalies such as those that lead to a dead end; routes that duplicate existing paths in dense networks and footpaths in more remote, inland areas not favoured by walkers and visitors. While the Park Authority would still be liable for the entire network, such an approach would allow it to continue to manage public rights of way and deliver in parallel the creation of new access improvements such as the multi-user routes that the Authority has developed in the forestry at Rosebush and Canaston Bridge.

The proposal is summarised in the table below:

Existing Situation	Inland PROW (Routes)	Inland PROW (Km)	Coast Path (routes)	Coast Path (Km)	Total Inland PROW & Coast Path (Km)	Total Inland PROW & Coast Path (% Km)
Maintained/In Use	1007	656 km	329	260 km	916 km	88%
Not Accessible	232	127 km	0	0	127 km	12%
Total	1239	783 km	329	260 km	1043 km	100%
Proposal						
Prioritised Network	1039	677 km	329	260 km	937 km	90%

Comparisons

Other Local Authorities responsible for the maintenance of public rights of way have similar arrangements in place for the prioritisation of PROW management in order to make the best use of resources. Research has shown that categorisation of routes according to their relative value in terms of communities and recreation is now widespread.

- Local Authorities such as Somerset, Monmouthshire and Herefordshire have appraised their network of public rights of way and classified routes accordingly for maintenance.
- Brecon Beacons National Park Authority identified 28% routes of limited value and 3% of no value
- Gwynedd County now maintains only 40% of its network that serves to provide a strategic network of access opportunities.
- Powys County Council's policy shift now focuses resources on maintaining the in-use network (45%) rather than continuing to open obstructed routes.

Options

The Members' Scrutiny Review of PROW 2011/12 gave consideration to whether this Authority should continue to pursue the improvement of 100% of the network or focus its resources on the improvement of selected routes that deliver the most in terms of recreation and relate more closely to the National Park second core purpose.

The Review concluded that the continued liability for the entire network would be more costly in terms of its relative gains and distract the Authority from focused improvements.

Public rights of way are a proven economic asset for Pembrokeshire as they provide unrivalled opportunities for visitors to explore and enjoy the landscape of the National Park. In addition to being a significant component of the tourism industry they can contribute to the health and wellbeing of local communities, providing opportunities not only for leisure, recreation and exercise but also alternative and sustainable modes of transport by foot and bicycle. The cross cutting benefits of public rights of way and their primacy in achieving the second statutory purpose suggest that a continued engagement in the management of public rights of way is essential. This engagement must, however, be balanced against resource availability in the long term.

Achieving the Target of Improving Priority Routes

The cooperation of farmers, owners and occupiers of land in the maintenance of PROW is greatly appreciated and underpins the management of the majority of the network. National Park officers work with landowners, seeking solutions and rectifying problems with informal discussion and advice. This approach works in the majority of cases, however, there may be a need on occasion for more formal action as we seek to bring the remaining impassable public rights of way into use.

In conjunction with Pembrokeshire County Council we are working to provide a consistent approach to the application of Pembrokeshire's public rights of way enforcement powers in accord with the Rights of Way Improvement Plan (ROWIP Objective A6).

Under the existing Delegation Agreement for Public Rights of Way, Pembrokeshire County Council has delegated the National Park Authority a range of public rights of way enforcement powers (listed in the annex to this report). The powers relate to the removal of obstructions and recovery of costs and, as a last resort, prosecution where obstructions reoccur.

At present any PROW enforcement action has to be authorised by Committee. For example, the service of a notice for an owner/occupier of land to remove an obstruction would require a resolution of the National Park Authority. This incurs considerable costs in terms of staff time and more importantly a delay in proceedings, when for example paths currently in-use are obstructed. Formal legal action is never taken lightly, and is usually a last resort when all other solutions have been exhausted. In a similar vein to Planning Enforcement Procedures, Members' approval for the delegation of authority to exercise PROW enforcement powers, when required, is also sought.

Financial considerations

The current annual cost of managing public rights of way in the National Park is £456,000 with the management of the Pembrokeshire Coast Path accounting for £250,000 of this total. While this is a significant expenditure in terms of staff and budgets it is considered to be an appropriate sphere of activity for the National Park Authority that generates a proven return for the local economy ranging between £8m-£19m annually.

While 60% of the Coast Path management is funded by the National Trail Grant, the remaining costs of the Coast Path and other PROW are met solely by the National Park Authority. External grant funding is currently attracted each year from the Welsh Government for the improvement of the wider PROW network.

The selective engagement in managing 90% of the network would be more cost effective than at present. Enforcement action may be needed and could incur additional costs in terms of staff time during the short term, however, if this is focused strategically on routes where there is greatest demand and recreational potential, it would be cost effective. The management of PROW relies on sustained funding in order to meet the Authority's statutory responsibilities.

Compliance

The Members' Scrutiny Review of PROW demonstrated close compliance of this function with the second Park purpose and associated duty, providing unrivalled opportunities for enjoyment and helping to foster the socio-economic wellbeing of communities.

The management of PROW is also fundamental to the National Park Management Plan and specifically Outcome 2 of the Corporate Strategy. In addition it enables the National Park Authority to align its work more closely to the agenda and policies of the Welsh Government. The Minister's letter confirming the National Park grant for 2013/14 also specifically mentions the need to improve public rights of way.

At its meeting of 17th July 2013, the Recreation & Tourism Review Committee considered this matter and recommended that the National Park Authority approves the recommendation contained in this report.

The Pembrokeshire Local Access Forum also approved the proposed prioritisation approach at its meeting of 5th July 2013.

Risk considerations

While liability for the entire network of PROW would still exist and include the 10% of PROW not targeted for improvement, a prioritised approach if endorsed by Members would serve as sufficient justification for officers to focus on and adhere to this pragmatic course of action.

Claims for personal injuries are very few with none having been lost or settled in recent years. This is due in part to the surface of the majority of public rights of way being maintained in their natural state and legislation and case law accordingly supporting this premise. Public liability insurance for the PCNPA in this capacity is a considered requirement standing at £20m.

Future enforcement action could generate some adverse publicity if not communicated clearly by the Authority and any reputational damage can be minimised as such action would only be taken in the public interest where there is a clear breach of the law.

The preferred option to maintain 90% of the network has the following strengths:

- an achievable goal in the short term to bring PROW up to the new standard agreed with Brecon Beacons NPA;
- enables strategic improvement of a selection of key routes to meet the majority demand.
- provides a reasonable standard of inspection & on-going maintenance
- this approach would complement continued implementation of the Rights of Way Improvement Plan which is underpinned by a prioritised approach that seeks to deliver improved access opportunities where there is greatest demand and thus make best use of resources.
- enables the Authority to concentrate more resources on promoting access opportunities

Weaknesses can be identified as follows:

- a selective commitment to PROW maintenance would result in a minority of PROW remaining inaccessible
- some routes may require enforcement action and diversions and this could take some years to achieve with a sustained commitment in terms of staff time and legal budgets to undertake such work
- a selective approach may not appeal to a minority of walking enthusiasts who wish to see all PROW open and accessible.

Human Rights/Equality issues

The Authority has made great progress in adapting the network of public rights of way for use by people with mobility problems. It also promotes access opportunities for the less able and provides activities and events for voluntary organisations and socially excluded groups based on participation in public rights of way maintenance and improvements projects. Enforcement powers would be exercised in the public interest to discharge this Authority's duties in respect of the management of public rights of way.

Biodiversity Implications/Sustainability appraisal

The management of public rights of way can and does contribute to the LBAP; for example vegetation control on the Coast Path has been adapted to allow coastal flowers and plants to seed. There is scope for more integrated work in future to benefit nature conservation objectives. There is still great potential to develop PROW for active travel opportunities by maintaining and improving paths for cyclists and walkers. The proposal does not conflict with the National Park Management Plan and departmental policies for nature conservation, climate change and resource use.

Welsh Language statement

The proposals comply with the requirements of the Authority's Welsh Language Policy.

Conclusion

The Authority is currently liable for the maintenance of virtually the entire network of PROW within the National Park. While the goal of making a 100% of PROW network accessible would be an ideal, it could well be disproportionately costly to achieve, requiring over 200 routes to be improved and brought into use. The capability of continuing to maintain the in-use network is considered to be essential. The opening up of less favoured routes has to be balanced against the availability of resources and the recreational value of these remaining routes.

If the Authority reduces the scope of the network of PROW that it proposes to actively manage, it would undoubtedly enable officers to focus resources on improving a remaining 32 key routes which are currently impassable and that provide missing links in circuit walks and for which a sustained demand has been identified. It would also allow the Authority to consolidate on the majority of PROW that deliver most of the countryside access opportunities in the National Park that meet the majority of demand.

On balance officers consider that a focus to improve and maintain 90% of the PROW network would align such work more closely to National Park Statutory Purposes; make best use of resources; be achievable in the short term and manageable in the long term.

RECOMMENDATION

That Members authorise officers to prepare a plan for the prioritisation of public rights of way improvements; that Members authorise the Chief Executive (National Park Officer) together with the Director of Park Direction and Planning and Director of Delivery & Discovery delegation authority to exercise enforcement powers for the purposes of public rights of way maintenance (in accord with the functions, powers and duties contained in the existing PROW Delegation Agreement with Pembrokeshire County Council).

Background Documents

(Public Rights of Way Delegation Agreement 1997; Rights of Way Improvement Plan 2007-17)

(For further information, please contact Author: Anthony Richards extn. 4849)

Appendix

Specific powers contained in Public Rights of Way Delegation Agreement 1997 for which authority is sought:

National Parks & Access to the Countryside Act 1949

S57 - Offence of displaying notices containing false and misleading information

Highways Act 1980

S130 – Action under duty to assert and protect the rights of the public of the use and enjoyment of highways and prevent obstruction of highways

S131 - Damage to highway

S131A - Disturbance to surface of highway

S134 – Enforcement of obligation to restore footpaths or bridleways subject to ploughing

S137 - Wilful obstruction of a highway

S137A – Enforcement of obligation to prevent interference on highways by crops

S143 – Power to remove structures from a highway

S148 – Penalty for depositing things on a highway that interrupt use of the highway

S149 – Power to remove things deposited on a highway that constitute a nuisance

S154 – Power to remove overhanging or dangerous trees over a highway

S161 – Penalties for causing certain kinds of danger and annoyance

S162– Penalty for placing a rope across a highway

S 164 – Power to require removal of barbed wire

S165 – Dangerous land adjoining a highway

Wildlife & Countryside Act 1981

S59 – Penalty for keeping of bulls over public rights of way