

**HERTFORDSHIRE COUNTY COUNCIL
CABINET
MONDAY 18 DECEMBER 2000 AT 9.30 A.M.**

Agenda Item No:

12

**THE RESULTS OF A REVIEW INTO THE FUTURE MANAGEMENT
OF THE PUBLIC RIGHTS OF WAY NETWORK IN HERTFORDSHIRE**

Report of the Director of Environment

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1. Purpose of Report

To seek agreement to a proposed approach to the management of the Network through the application of a set of strategic principles, a set of policies and a Good Practice Guide.

This will be referred to the Environment Select Committee on 23 January 2001 for their comments, then back to Cabinet and Executive Committee on 29 January for final approval.

2. Summary

The Environment Committee in March 2000 considered a report on the review of the management of the Public Rights of Way Network. They decided that, whilst accepting the main conclusions that the service was considerably underfunded, further investigation was required into the existing agency arrangements with district authorities, testing of the practical application of the Operations Manual and an investigation into the resources required to implement the categorisation of the Network. This report presents the findings of that further work and seeks to conclude the review with a series of proposals for consideration.

3. Conclusions

Since March 2000, there have been a number of changes that have influenced the outcome of the further review of the management of the Rights of Way Network. The additional investment that has been made in the service has led to improvements in over 16kms of the Network and the consequent solution of over 60 long term problems. In addition, there has been a revision to the structure of the current team with additional staff resources, thus, enabling a greater capacity to make improvements to the Network. As a result of these changes and good practice learnt from other Highway Authorities a revised way forward is being proposed.

Based on the continuation of existing resources the following approach is proposed:

- That the County Council seeks through its future investment to assert and protect the rights of the public by providing a fully open, legally defined and easy to use public rights of way network
- That investment be prioritised in accordance with 3 principles – improvements to public safety; level of use; and instances where action would result in a significant positive impact on the Network
- That the objective and the key principles be supported by a Hertfordshire Statement of Policies and a Hertfordshire Good Practice
- That the Statement of Policies replaces all policies on Rights of Way that have previously been agreed by the County Council
- That the operational procedures that the County Council applies to its management of the Network be those set out in the Good Practice Guide

Although the above approach represents a comprehensive approach to the management of the Rights of Way Service, there are a number of issues that need further resolution:

- Further work needs to be undertaken to develop an appropriate solution to the issues arising within the Agency areas
- The Review indicated the need to develop a Countryside Access Strategy to provide a policy framework to ensure that the Rights of Way Network can make a contribution to the development of sustainable transport routes and provide well managed opportunities for informal leisure and recreation
- The extent of the impact on the County Council of the Countryside and Rights of Way Bill, when it becomes legislation needs to be identified.

Therefore whilst the review has been comprehensive, recent renewed interest in Rights of Way has meant that the current prominence of the service will continue and will need to be recognised in future service plans.

1. Background

1.1 The findings of a review into management of the Rights of Way Network were presented to the Environment Committee in March 2000. The report identified:

- substantial backlogs of work relating to both the Definitive Map and the physical network, estimated to cost an additional £700,000 per year over a ten year period to rectify;
- underfunding of Borough/District Council Agents by approx. £200,000 per year;
- the need for an updating of policies and greater clarity over operational priorities; and
- the emerging implications of proposed legislation e.g. the Countryside & Rights of Way (CRoW) Bill. The Committee also asked for a review of Agency arrangements.

1.2 In response to the review's findings, the service's base budget has been increased by £102,000 (16%) and a Capital allocation of £265,000 has been made available in the current year. The staff team has been re-organised and new posts created to help tackle the backlogs. The increased cash resources have been used, for example, to provide 16.5 kms of new surfacing leading to the solution of 62 long standing complaints. A member of staff has also been recruited to take over responsibility for the St. Albans City and District area (the Agency handed back by the District Council on 1 April 2000 at short notice).

1.3 A comprehensive survey of the condition of the Public Rights of Way network is now nearly complete and provides detailed information on the current state of the Network. For the first time, the County Council has the opportunity to direct resources more effectively. It is planned to keep the resulting inventory up to date, managing the data as part of the HERMIS database and seeking opportunities to link with highway service procurement.

2. Analysis and Proposed Way Forward

2.1 It is proposed that the following statement, which reflects the duty that is contained within S.130 Highways Act 1980, should be adopted as the main objective for the Authority's Rights of Way function:

“That the County Council as Highway Authority seeks through its future investment to assert and protect the rights of the Public by providing a fully open, legally defined and easy to use public rights of way network.”

2.2 This objective will be pursued within the framework provided by legislation and the budget provided by the County Council. However, it is recognised that the budget will always be limited and that there is a need to be able to prioritise both the Definitive Map and the maintenance and enforcement functions. A set of key principles are proposed to guide investment:

i. Where public safety could be substantially improved;

ii. According to the level of use; and

iii. Where the County Council's actions could result in a significant positive impact on the network.

(Examples of how these principles could be applied in practice are outlined in Section 4 of the Hertfordshire Statement of Policies in Appendix A.)

These principles combined with recent increases in resources seek to promote an approach that can reduce the backlog and progress towards the main objective, through the effective prioritisation of resources. Investment from other sources such as through the Local Transport Plan process and possibly Landfill Tax, will be used to encourage other agencies to create sustainable transport routes and make wider use of the Rights of Way Network.

- 2.3 **Hertfordshire Statement of Policies.** This Statement attached as Appendix A contains a number of policies set within the framework of the main objective and key principles which have been outlined above. The policies now being presented have been developed from experience in Hertfordshire and of other highway authorities. They differ significantly from those presented to the Environment Committee in March 2000.

The Hertfordshire Statement of Policies is arranged into a number of sections and these are:

- an introduction that explains the County Council's approach;
- the main objective and key principles;
- the suggested policies for the delivery of the Definitive Map function; and
- the suggested policies for the delivery of Maintenance and Enforcement function.

The most significant suggested policy changes are:

- **Definitive Map.** The policies that are being suggested will have an impact on the management of the Definitive Map. Of note are the proposals for processing of Evidential Modification Orders and Public Path Orders.
 - i. Provisions to deal with exceptions to the normal procedure of processing Evidential Modification Orders in date order. The potential impact of this policy could be a re-ordering of the Statement of Priorities. Such an approach could have a significant impact on individuals or groups who have waited up to 8 years to have their application processed. It is proposed that a revised Statement of Priorities should be produced and approved annually by the Development Control Committee.

- ii. The processing of a range of **Public Path Orders (PPO)** e.g. diversions, creations and extinguishments. The Authority has not normally undertaken this work because they are powers not duties and there has been a shortage of resources. There have been exceptions where public safety has been involved such as at railway crossings and where a footpath crosses a school ground. However, it is suggested that this approach is no longer appropriate as experience has shown in a number of difficult cases that a Public Path Order may have offered an appropriate solution. In addition, there is an indication from the Countryside and Rights of Way (CROW) Bill that Highway Authorities will be required to process landowner or user promoted PPO's. It is considered to be good practice to begin to make provisions for such change. As with the Evidential Modification Orders, it is proposed that a Statement of Priorities should be approved annually by the Development Control Committee. It is hoped that with the introduction of a suitable charging policy that the process could become largely self financing.
- **Maintenance and Enforcement Activities.** Within the proposed set of policies, there are two that require specific attention:
 - i. **Charging for New or Replacement Structures.** This is to ensure that, where lawfully authorised structures such as stiles, kissing gates, gates etc. are needed, they are erected quickly and to the county standard. This will be normally be achieved by the County Council undertaking the work. This would avoid protracted discussions with landowners regarding the erection of sub-standard structures and/or structures that are erected in the wrong position. The County Council will normally charge the reasonable costs incurred in such work.
 - ii. **Agricultural Obstruction.** The Condition Survey has identified that agricultural operations continue to contribute significantly to the level of obstruction being recorded on the Network. As a result, the County Council is proposing that it will take direct action to resolve obstructions resulting from agricultural practices such as cropping and ploughing where the landowner has been given sufficient notice and has not complied with their legal obligations. The County Council will normally seek to recover all reasonable costs.

2.4 **The Hertfordshire Good Practice Guide (GPG).** The implementation of the Hertfordshire Statement of Policies will be supported by a guide, which sets out the operational approach and procedures to be used the County Council to the management of the Definitive Map and the maintenance and enforcement activities on the Network. The Hertfordshire GPG has been developed from the original concept of the Operations Manual, the principles of which were considered by the Environment Committee in March 2000. The change in title brings it in line with the publication of the National GPG, which is supported by the Countryside Agency, County Surveyors Society, the Local Government Association and the Institute of Public Rights of Way Officers (IPROW). The Guide includes:

- **Managing the Definitive Map.** This section covers the procedures to be used in dealing with applications to modify the Definitive Map, processing Public Path Orders and Legal Event Orders.
- **Maintenance and Enforcement Activities.** This section includes the procedures for drainage and surfacing works, structures such as stiles, gates, bridges and signposts, as well as procedures for enforcement. Resource implications will result from the proposed continuous updating of the Condition Survey. This is necessary to ensure that the information continues to be a viable management tool, by providing a basis from which to plan and develop annual maintenance work programmes in accordance with the proposed main objective and key principles. It is proposed that 20% of the Network would be surveyed each year thus ensure that the whole of the Network is inspected every 5 years. The current estimate for this work is £20,000 per year.

2.5 Application of Hertfordshire Statement of Policies and GPG within the Agency areas. There are a number of issues to be resolved about how the revised management approach is applied to the Agency areas. These currently comprise all of Broxbourne, Dacorum, Stevenage and Watford, parts of Welwyn Hatfield and the urban areas of East and North Herts. In order to ensure the consistent application of policies and standards, monitoring service delivery and measure its impact on the Network, a new approach will be needed.

The adoption of this approach could mean a much closer relationship with the District Agents requiring additional resources. Alternatively the County Council might decide to take back full responsibility for the whole of Hertfordshire's Public Rights of Way Network. The latter proposal would be in line with the approach that is being developed for the future management of the Highways Network, with formal notice having been served upon the Agents.

2.6 Developing a Countryside Access Strategy. The Review has emphasised the potential contribution that the Rights of Way Network can make towards the provision of sustainable transport routes, informal recreation and leisure networks has become obvious. It is therefore proposed that a Countryside Access Strategy should be developed to guide the investment of the Authority and its partners. Sustainable transport routes could be delivered through the extension of initiatives such as STRAP or the Hertsmere Greenways project. With more than 25% (or approximately 850 kilometres) of the Network having bridleway status or higher rights, the Network could provide a basis from which to develop sustainable routes either alone or in conjunction with national initiatives such as Quiet Lanes i.e. low trafficked roads and/or Cycleways. In addition, whilst the Network can be used for leisure and recreation it is likely that it is not fully meeting such needs as it is not being promoted in a consistent manner. Part of the objective of a Countryside Access Strategy would be to develop a consistent approach to promotion and development opportunities. It is also anticipated that the Strategy would complement the emerging requirement for the County Council to produce a Rights of Way Improvement Plan as proposed in the Countryside and Rights of Way Bill. These plans should establish a 10 year plan for the development of the public rights of way Network.

2.7 **The potential impact of the CRoW Bill.** It is likely that this Bill will be enacted by the end of the current Parliament. The Bill currently contains a number of proposals that are likely to affect the delivery of a range of services provided by the County Council, and particularly the Rights of Way Service. These include:

- **Greater Access to the Countryside.** There are provisions to open up specific classifications of land for public access on foot. For Hertfordshire, the most significant area affected will be Registered Common Land. The current year's work programme includes the digitisation of the Commons and Village Greens Registers and Register Maps. The Countryside Agency have been given the primary responsibility for access arrangements whilst the County Council may have additional powers.
- **The management of the Rights of Way Network.** The CRoW Bill includes wide ranging changes to Rights of Way Legislation.
 - i. Some of these changes seek to resolve longstanding problems such as the reclassification of Roads Used as Public Paths (RUPPs).
 - ii. Other legislative changes include provisions to enable applications for diversions as a result of the threat of crime, and ensuring that the County Council responds positively to the needs of people with disabilities in developing the Network.
 - iii. There are also proposals to introduce a statutory duty on the Highway Authority to consider applications for Public Path Orders.
 - iv. Finally, the Bill also introduces a new responsibilities for the Highway Authority. The most significant is the proposed duty to produce a Rights of Way Improvement Plan (analogous to a Local Transport Plan) and to create and administer a Local Access Forum. These changes will require additional resources to achieve. For this reason, County Council officers have been working with the Local Government Association to lobby Central Government to ensure that the new legislation is fully funded.

3. Financial Implications

3.1 The County Council is investing £752,113 in the Rights of Way Service in 2000/01. In addition, £265,000 was allocated for 2000/01 to achieve "capital" improvements on the Network. The 2001/2002 draft budget currently under preparation includes an additional £75,000 to help meet the costs of new legislation. The Capital Panel will be considering a bid of a further £1.5m, spread over 4 years. Most of any additional finance will be spent on the Definitive Map and Network backlogs – identified through the Condition Survey.

3.2 In the future, there is likely to be pressure to increase investment in the Service. These can be summarised as:

i.	Known Pressures – financing the transfer of St.Albans agency, allocation of finance to support Definitive Map officers, annual survey of 20% of the Network.	+£66,000
ii.	Potential Pressures – Financing the return of the agency from Dacorum potentially from 2001/02 or enabling the Borough Council to deliver the revised management approach.	+£50,000
Total		+116,000

iii. **The implications of the CRoW Bill (when enacted).** It is difficult to be definitive on the costs of this new legislation. In the past it has been estimated that it would require an additional investment of £150,000. Of this figure £50,000 has been allocated to deal with the management and maintenance of the Commons and Village Register and a further £75,000 has been taken account of in the budget for 2001/02.

3.3 It is also expected that through the Local Transport Plan process additional finance may be made available to create sustainable routes utilising the Rights of Way Network in conjunction with Quiet Lanes, Greenways and Cycleways projects. These improvements are likely to be delivered through STRAP type projects. Finance from external sources such as Landfill Tax will be sought to develop informal recreation and leisure routes on the Network.

- 1.1 This document has been produced by the County Council as part of its review of the operation and management of the Public Rights of Way network in Hertfordshire. This review was commissioned by the Environment Committee in January 1999 following the conclusion of the work of a Member Reference Group. The recommendation of the Review was to establish a clear set of principles, supported by a Good Practice Guide (known previously as the Operations Manual) and driven by a number of clear unambiguous policies set out in a Statement of Policies.
- 1.2 The **Hertfordshire Statement of Policies** is a statement of the County Council's policies for the management of the Public Rights of Way network and for dealing with proposed additions or changes to the network. It contains a number of policy statements, and their context, which will assist officers in delivering an effective Rights of Way service.
- 1.3 The **Hertfordshire Good Practice Guide** (GPG) for Rights of Way in Hertfordshire (formerly the Operations Manual) is a guide for RoW officers. The guide is based on best practice and establishes recommended procedures for officers and our expectations for any work carried out on our behalf by contractors or volunteers. The County Council will normally seek to follow the operational practices outlined in the GPG. The Hertfordshire GPG will be updated periodically.

2. Definition of the network

The Rights of Way network, and hence the extent to which these policies apply, is defined as including all Public Rights of Way (PRoW) in the Definitive Map and Statement (DM&S). In practice, it is recognised that this is not exhaustive and so the following definition is used by Hertfordshire County Council when deciding whether these policies apply.

- a. Paths in the DM&S, excluding those that have been lawfully diverted or stopped up, see c) below.
- b. Paths for which confirmed Evidential Modification Orders (EMOs) and Road Used as Public Path (RUPP) reclassifications exist subsequent to the last consolidation of the DM&S, and where the implication of the order will be evident in the DM&S.
- c. Paths for which the County Council has copies of Public Path Orders (PPO's) dedications and creation agreements (subject to later lawful changes, if any).

All other paths are not covered by this code of practice:

- a. Paths not on the Definitive Map but which are on the List of Streets are the responsibility of the Transport Management Group (TMG) of the County Council.
- b. Cycle Tracks are the responsibility of the Transport Management Group.
- c. Paths that are on neither the Definitive Map or the List of Streets will be dealt with on a case by case basis.
- d. Permissive paths are normally the responsibility of the landowner.

Currently the PRoW network extends approximately 3000km, subdivided as follows;

- 2122km of Footpaths;
- 588km of Bridleways;
- 139km of Byways Open to All Traffic; and
- 122km of Roads Used as Public Paths.

3. Responsibility for PROW

As the Highway Authority for the administrative county of Hertfordshire, the County Council has the responsibility for carrying out a number of statutory duties and certain powers. These responsibilities are delegated to the Rights of Way Unit by a scheme of delegations and to individual officers by sub-delegations. Approximately three-quarters of the network is managed directly by HCC.

- Complaints or concerns about the physical condition of PRoW are dealt with by the Countryside Access Officers (CAOs).
- Queries concerning the Definitive Map and legal or proposed changes to PRoW are dealt with by Definitive Map Officers (DMOs).

Parts of the network are managed by District/Borough Councils and Highways Partnerships as Agents on behalf of HCC.

- i. **District Agents.** These authorities, which have a complex role as they act as agents for the County Council on maintenance and enforcement work as well as having the powers to make Definitive Map and Public Path Orders under the Town and Country Planning Act 1990 and the Highways Act 1980. At the present time the County Council is undertaking a review of its Agency arrangements.
- ii. **Highway Partnerships.** As with the District Council agents, the Highway Partnerships in East Herts and North Herts areas deal with maintenance and enforcement work within the main urban areas. All maintenance and enforcement work in relation to rights of way in the Highway Partnership areas of Hertsmere and Three Rivers are managed by the Rights of Way Unit based at County Hall, Hertford.
- iii. **Managing the Surface.** It has become recognised that there is a need to identify more clearly the responsibility for maintaining differently surfaced

paths. It is proposed that those paths that are sealed and located within identified "urban" areas should be maintained by the Transport Management Group or its Agents. For unsealed paths, located outside of "urban" areas, it is proposed that the Rights of Way Unit should take maintenance responsibility. A project is currently being developed in order to develop a maintenance database.

4. Proposed new approach

The policies set out in the Hertfordshire Statement of Policies are designed to assist the RoW Service in pursuing its statutory function which can be defined by the main objective:

“That the County Council as Highway Authority seeks through its future investment to assert and protect the rights of the Public by providing a fully open, legally defined and easy to use public rights of way network.”

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

- i. Prioritise routes where public safety could be substantially improved
- ii. Prioritise routes according to the level of use
- iii. Prioritise routes where the County Council’s actions could result in a significant positive impact on the network

The **application of these key principles** will vary between the Maintenance and Enforcement of the network and the management of the Definitive Map and Statement. This is illustrated in the Hertfordshire Statement of Policies Section 4 (Appendix C).

i. Where public safety could be substantially improved:

Definitive Map cases may be given priority where, for example, the effect of an order if confirmed would significantly enhance public safety.

Maintenance and Enforcement cases may be given priority where, for example, an occurrence has a higher priority rating as defined in the Good Practice Guide.

ii. According to the level of use:

Definitive Map cases 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 recorded in the Definitive Map and Statement; and

- A route is shown in the Definitive Map and Statement with lower rights and the anticipated level of use would be greater if higher rights were to be recorded in the Definitive Map and Statement.

Maintenance and Enforcement cases may be given priority where evidence suggests a greater level of use of that route, for example:

- The level can be determined from the route's physical characteristics;
- From local knowledge (including the Parish Council, Parish Paths Partnership (P3) and Countryside Management Service (CMS)); and/or
- From the level of communications (number of reports from a range of interests and individuals) being received.

iii. Where the County Council's actions could result in a significant positive impact on the network:

Definitive Map cases may be given priority where, for example:

- A route forms all or part of a "missing link" in the network;
- A route forms part of a longer route e.g. circular route, long distance route;
- An anomaly in the Definitive Map and Statement would be resolved; and
- A problem exists which cannot be solved through maintenance or enforcement.

Maintenance and Enforcement cases may be given priority where evidence suggests that route is a significant link in the network, for example:

- It has a higher status i.e. a multi-user route;
- It forms an important link between settlements or well visited / popular locations;
- It is a promoted / publicised route formally endorsed and agreed by the County Council and/or its partners;
- From local knowledge (inc. Parish Council, P3 & CMS); and/or
- From the level of communications (number of reports from a range of interests and individuals) being received.

These principles are reflected in the following policies which apply to the management of the PRoW network through the maintenance of the Definitive Map and the maintenance and enforcement of the physical network.

Each of the policies identified has been developed in order to overcome particular difficulties experienced with the management of the network, and is followed by a commentary that sets the context, the intention and likely conflicts.

All previous policies will be withdrawn.

1. Reclassification of RUPPs

("Roads Used as Public Paths")

The County Council as Surveying Authority has a duty to reclassify RUPPs (Wildlife and Countryside Act 1981 S54). There are 161 RUPPs remaining and the County Council is often under pressure to pursue individual cases. 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.

The reclassification of RUPPs will normally be investigated by Definitive Map (DM) sheet beginning with Sheet 1, except in any of the following circumstances where a route may be investigated sooner:

- **Where an investigation would satisfy one or more of the key principles.**
- **Where the RUPP is part of an extensive network.**

This policy will guide the County Council's approach to the reclassification of RUPPs from April 2001. However, if the Countryside and Rights of Way (CRoW) Bill becomes law, this policy will be withdrawn as the reclassification of RUPPs will no longer be necessary as the Act will reclassify all RUPPs as restricted byways.

The work will be approached sheet by sheet displaying no preference for any particular geographical area. However, it is recognised that where the RUPP under investigation is part of a wider network of RUPPs, which may be located on a non-consecutive Definitive Map sheet then it is considered to be appropriate in terms of efficiency that the other RUPPs should be included within the primary investigation.

The work will be carried out alongside existing commitments to Evidential Modification Orders and future commitments to Public Path Orders and will be prioritised accordingly.

2. 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 S53). This includes all evidential events giving rise to the modification of the Definitive Map and Statement (S53 (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 key principles.**
- **Where the physical existence of a 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.**

This policy will guide the County Council's approach to dealing with applications to modify the Definitive Map and Statement. The actual order in which applications will be investigated will be set out in a Statement of Priorities to be approved annually by the Development Control Committee. The above exceptions will enable the authority to prioritise certain applications where this is appropriate and likely to be in the public benefit.

Routes may be investigated in cases where we have not received an application.

3. Public Path Orders

The County Council currently has powers to process applications for Public Path Orders, and 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 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.**
- **Where an application has been made to HCC 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 purposes of these policies the term “Public Path Order” shall be taken to include:

- Orders made under Section 257 Town and Country Planning Act 1990 (extinguishments and diversions);
- Orders made under Sections 26 (creations), 118 (extinguishments) or 119 (diversions) Highways Act 1980; and
- Applications to the Magistrates Court under Section 116 Highways Act 1990 (extinguishments or diversions)

Public Path Orders will be prioritised in accordance with the above policy. This will enable Orders to be made that make a significant positive impact on the network. The actual order in which applications will be investigated will be set out in a Statement of Priorities to be approved annually by the Development Control Committee.

A schedule of the charges is included in the Good Practice Guide.

Orders may be processed in cases where we have not received an application.

4. Processing Dedications and Creation Agreements

The County Council has powers to accept dedications 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. The County Council is not obliged to accept the maintenance liability resulting from dedications, a second policy is required to set out criteria for adoption.

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.**
- **where a dedication is offered in lieu of a Modification Order investigation and it satisfies the evidence.**
- **where the requirement to make a dedication forms part of an obligation in a Section 106 agreement.**

The County Council wishes to ensure that resources are not diverted away from the processing of Modification Orders and Public Path Orders unless there is a clear benefit to the public.

4a. Accepting maintenance liability

Maintenance liability will normally only be accepted in the following circumstances:

- **Where no initial additional expenditure is required by HCC to bring a *path* into a fit condition for use; AND**
- **Where a path has been dedicated free from limitations which would be onerous on the public's use and enjoyment of the path; AND**
- **Where the addition of a path is of public benefit.**

The County Council wishes to ensure that no additional liability is taken on by the council that is not balanced by a corresponding increase in the public enjoyment.

5. Widths of new routes

The County Council has a duty to assert the rights of the public (Highways Act 1980 S130) when making orders or responding to consultations regarding new routes. A policy is required to define the County Council's position relating to the widths of new routes and what the County Council will do where these widths are not complied with.

The County Council recommends that there shall be a minimum legal width of 2 metres for footpaths and 4 metres for Bridleways which are created by Public Path Orders or Dedications.

The County Council wishes to ensure that any new rights of way adequately provide for the public expected to use it.

Where the route is fenced on either side the full available width should normally be recorded as the legal width.

2 metres enables walkers to pass comfortably and enables those with pushchairs, wheelchairs etc. to be able to pass and turn around.

4 metres enables horses to be turned and provides a safe margin when passing other users on foot, cyclists, other horse riders etc. 4 metres is also a standard accepted by the British Horse Society.

5.a Orders made by other authorities

The County Council will normally object to Public Path Orders made by other authorities within Hertfordshire where they create routes which are less than the minimum width described in the previous policy.

The County Council wishes to see the standard minimum widths applied consistently to new or altered public rights of way across the County. Where these Public Path Orders are made by other authorities within Hertfordshire and the minimum conditions are not met the County Council will consider objecting to the order.

Such an approach is to ensure that the promoted minimum standards are applied consistently across the County. It is intended to provide sufficient width to accommodate all lawful users safely and conveniently. It also satisfies requirements for Access for All.

6. Limitations on new routes

The County Council should record any limitations on the public right in the Definitive Map and Statement. This may place unnecessary burdens on the public right. The County Council has a separate power to authorise structures outlined in Policy 10 below. A policy is required to support officers when excluding authorised structures from the Definitive Map and Statement and promoting authorisation under Highways Act 1980 S147.

The County Council does not normally support the inclusion of structures as limitations on routes created by Public Path Orders and dedications where those structures could otherwise be authorised.

If a structure is recorded as a limitation in an order or dedication, HCC has no control over it and it is effectively there for ever unless the path is rededicated without it.

There are certain circumstances in which HCC can authorise a structure on a PRoW and retain control over the type, quality and existence of the structure.

Therefore, in circumstances where a structure can be authorised the County Council shall not support its inclusion in any order or dedication as a limitation.

7. Maintenance and Enforcement

Priority for Action

The County Council as Highway Authority has a duty to assert and protect the rights of the public to the use and enjoyment of the public rights of way network (Highways Act 1980 S130). This is carried out by the Countryside Access Team within the Rights of Way Unit. 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 they will be dealt with.

The County Council will normally prioritise action on the Public Rights of Way network in accordance with the three key principles. The following exceptional circumstances also apply:

- **Where the County Council is bringing a path into a fit condition in connection with adding it to, or recording it on, the Definitive Map.**
- **Where there is evidence that either the Definitive Map or the Definitive Statement is incorrect.**

The development of this policy is to enable officers to effectively prioritise work on the network. Work programmes will be constructed from information about the condition of the network supported by reports from the public. The level of risk can be measured by the priority rating of any particular problem and subsequent risk assessment following a site visit. The degree to which the public are prevented from using the route should enable officers to prioritise between cases where a route is completely obstructed and those where only some of the width is unavailable. The overall impact on the network will be for officers to assess how the problem affects not only the path itself but also the surrounding network.

8. Maintenance of bridges and path surfaces (Shared public/private rights)

The County Council as Highway Authority has a duty to maintain highways maintainable at public expense (Highways Act 1980 S41). Where dual liability exists a policy is required to state the County Council's intention in this area as it is often contentious.

Where there are public footpath or bridleway rights on a route, which also has private vehicular rights, the County Council may consider making a contribution towards the costs of maintenance of the surface to the extent required for the level of public rights. Where these private rights are carried over a bridge, the contribution will be made to the running surface only. The actual sum will reflect the cost to the County Council calculated as above, but may vary in accordance with the key principles. The contribution from the County Council would not normally exceed 10% of the cost of the appropriate maintenance works.

This policy will ensure that the County Council does not waste money furnishing private rights where these are greater than the public rights over any given path.

For example, where a landowner wishes to resurface an access track suitable for cars and heavy agricultural vehicles and the route is also recorded as a footpath. The County Council would not normally contribute more than 10% due to the minimal requirements of the public rights. However, if the circumstance, for example, relates to a significant safety issue where the County Council could be negligent, the contribution may be more in order to ensure public safety.

Where this relates to a bridge carrying higher private rights the County Council would normally only be liable for maintaining the running surface – the equivalent of the top 2 spits. The County Council is therefore not willing to fund work beyond its normal liability.

9. New ditches, ponds and channels etc.

It is an offence for a landowner to wilfully obstruct a public right of way (Highways Act 1980 S137). The County Council has a duty to assert and protect the rights of the public to the use and enjoyment of the public rights of way network (Highways Act 1980 S130). A policy is required in order to set out the County Council's intention to resolve obstructions caused by landowners constructing new ditches, ponds or channels across existing public rights of way.

Where a landowner creates a new ditch, pond or channel etc that crosses an existing right of way a suitable bridge or structure must be provided which can accommodate all legitimate users safely and without restriction. Structures may be supplied and erected by the County Council or approved agents. Landowners will normally be charged up to 100% of the reasonable costs of the installation. Where a structure is built to a higher specification, the County Council will bear the additional cost. Absence of any structure can be construed as 'wilful obstruction' on behalf of the landowner. Exceptions may include instances where a path is recorded in the Definitive Map and Statement subsequent to the new feature being created.

This policy will ensure that landowners who intentionally obstruct rights of way, by creating ditches or water features, are required to provide a bridge or other suitable structure on the Definitive line of the right of way. Diverting the path retrospectively is not normally an acceptable solution and the feature will normally be considered an obstruction.

Higher specifications may include extra width beyond the minimum requirements, higher parapets and additional requirements where the route is considered appropriate for equal access. The County Council will still charge up to a minimum standard but will bear the cost of the higher specification. This approach is consistent with the County Councils aim to improve Access for All that is being promoted by the Disability Discrimination Act and anticipated obligations arising as a result of the Countryside and Rights of Way Bill.

10. Authorising structures on PRow

The County Council has powers to authorise the erection of stiles, gates etc. following a landowners application (Highways Act 1980 S147). The County Council also has a duty to assert and protect the rights of the public. A policy is required that sets out the relative priority of these conflicting demands when deciding what structures to authorise.

The County Council policy is to keep the number of authorised structures erected on a Public Rights of Way network to a minimum, consistent with good husbandry and public safety. Having determined, which structures would be stockproof, the least restrictive option will normally be chosen.

This policy seeks to ensure that that a field is stockproof while the structure authorised is the least restrictive option. Guidance can be found in the Good Practice Guide.

11. Charging for new or replacement structures

The County Council has powers to authorise the erection of stiles, gates etc. following a landowners application [Highways Act 1980 S147]. A policy is required to ensure that structures are built quickly, in the correct position and to the County Council's standards.

Stiles, gates or other works may only be authorised under Highway Act 1980 s147 if they are supplied and erected by the County Council or approved agents. Applicants will normally be charged for this work. Where the County Council require a higher specification, in order to satisfy one or more of the key principles, the higher cost will be met by the County Council.

This policy is designed to ensure that appropriately authorised structures are built to the County Councils standards, and that the County Council complies with its duty. The proposed charging regime is to have a flat fee for all structures erected under this section of the Act.

The actual amount is based on the minimum cost to the County Council of materials and will be subject to inflation and reviewed annually. The fee, however, will be fixed regardless of the type of structure, thus a kissing gate will cost the applicant the same as a stile. This will encourage the use of more convenient structures and enable the County Council to improve access, as it is required to do through Disability Discrimination Act and anticipated changes contained in the Countryside and Rights of Way Bill.

12. Agricultural obstruction

Landowners have duties imposed by Highways Act 1980 S134 and 137(a) regarding the removal of crops and reinstatement after ploughing. The County Council has a duty to assert and protect the rights of the public to the use and enjoyment of the public rights of way network (Highways Act 1980 S130). A policy is required that states clearly the action that will be taken by the County Council in order to fulfil its legal duty and resolve agricultural obstructions.

The County Council will normally take direct action to remove crops or to reinstate paths where landowners have failed in the duties imposed on them by the Highways Act 1980 S134 and S137A . Action will only be instigated after the County Council has served on them the necessary notices. Consideration will be given to prosecuting repeat offenders. All reasonable costs will be reclaimed.

The County Council recognises that obstruction of the Public Rights of Way network as a result of agricultural practices is a significant problem despite the duties imposed on landowners by the Highways Act 1980 .

Landowners will be reminded of their obligations to re-instate within 14days as soon as a problem is identified.

If they fail in their duty to re-instate they will normally be served with a notice of the County Council's intention to take direct action.

Once contractors have been arranged the County Council will notify the landowner of the timing of remedial action.

The County Council will reclaim all reasonable costs.

The County Council may also take direct enforcement action under S.143 and S.149 of the Highway Act 1980 to remedy non crop obstructions.

13. Permanent Traffic Regulation Orders

The County Council as Highway Authority has powers to make Permanent Traffic Regulation Orders (Road Traffic Regulation Act 1984) and is often under pressure to make Orders specifically for the regulation of motorised vehicles. A policy is required to indicate what measures will normally be taken before considering a Traffic Regulation Order and to include advice from the former Department of the Environment (Circular 2/93).

The County Council will follow the guidelines in the government circular (Department of Environment Circular 2/93) by seeking normally to reduce damage and/or danger to an acceptable level before considering an Order. Cases for order making will only be considered by the County Council's Development Control Committee where:

- 1. Management measures have failed or can be shown to be inappropriate; and**
- 2. There is sufficient evidence of damage or conflict to support an order under Road Traffic Regulation Act 1984 S1(1a – f).**

When considering the making of a Permanent Traffic Regulation Orders the County Council will give preference to those activities, which cause the least disturbance to other users and will consider proposals to ban or regulate certain classes of traffic when in the wider public interest.

This policy puts into practice guidance offered by the Department of Environment, Transport and the Regions (DETR) avoiding permanent TROs where voluntary agreements and other management measures can be successfully implemented. Management measures may include surfacing or drainage works.

14. Temporary Traffic Regulation Orders

The County Council is often required to make temporary Traffic Regulation Orders for development or other works under the Road Traffic Regulation Act 1984, but often finds it difficult to ensure adequate provision is given to public safety, (Duty to assert and protect Highways Act 1980 S130). A policy is required to ensure that safe alternative routes are promoted.

When considering the making of an order under Road Traffic Regulation Act 1984 S.14 public safety will be given a high priority and alternative routes will only be provided:

- **Either on existing public highways that are convenient and safe for the traffic being diverted.**
- **Or on to alternative routes within construction sites where provisions regarding width, surfacing and fencing are included in a written agreement and preferably a S.106 Town and Country Planning Act 1990 agreement specifically addressing the issue of public safety.**

This policy is designed to remove the risk to the public that is presented by inadequate alternative routes including those across development sites and those onto existing highways with limited provision for vulnerable users such as walkers and cyclists.

The policy will ensure that routes across construction sites are only promoted where they are unavoidable and given as much protection as possible in order to safeguard the public using the route.

For the purposes of mineral extraction, a temporary diversion order may be made under the Town and Country Planning Act 1990 S.261. This gives the alternative route full highway protection without the need for a Section 106 or other agreement.