

AGENDA MANAGEMENT SHEET

Name of Committee **Cabinet**

Date of Committee **23rd February 2006**

Report Title **Countryside Access and Rights of Way Improvement Plan**

Summary To report on the results of the consultation exercise on the Draft Countryside Access and Rights of Way Improvement Plan and the proposals to modify the Plan for publication in April 2006.

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Would the recommended decision be contrary to the Budget and Policy Framework? Yes/No

Background Papers Draft Countryside Access and Rights of Way Improvement Plan for Warwickshire.

CONSULTATION ALREADY UNDERTAKEN:- *Details to be specified*

Other Committees Cabinet – 30th June 2005.
 Rugby Area Committee – 11th January 2006.
 Stratford on Avon Area Committee – 18th January 2006.
 Warwick Area Committee – 24th January 2006.
 Nuneaton and Bedworth Area Committee – 25th January 2006.
 North Warwickshire Area Committee – 1st February 2006.

Local Member(s)
 (With brief comments, if appropriate)

Other Elected Members Councillor K Browne
 Councillor Mrs E Goode } for information
 Councillor Mrs J Lea

Cabinet Member Councillor M Heatley
 (Reports to The Cabinet, to be cleared with appropriate Cabinet Member)

- Chief Executive
- Legal I Marriott – comments incorporated
- Finance
- Other Chief Officers
- District Councils
- Health Authority
- Police
- Other Bodies/Individuals Local Access Forum

FINAL DECISION **YES/NO** *(If 'No' complete Suggested Next Steps)*

SUGGESTED NEXT STEPS :

Details to be specified

- Further consideration by this Committee
- To Council
- To Cabinet
- To an O & S Committee
- To an Area Committee
- Further Consultation

Cabinet - 23rd February 2006

Countryside Access and Rights of Way Improvement Plan

Report of the Strategic Director of Environment and Economy

Recommendation

That Cabinet adopts the Countryside Access and Rights of Way Improvement Plan 2006- 2016 with amendments proposed within this report.

1. Introduction

- 1.1 Cabinet at its meeting on 30th June 2005 resolved to authorise me to prepare and publish a draft Rights of Way Improvement Plan (the Plan) and to take all other steps required to facilitate the consideration and adoption of such a Plan following completion of the consultation exercise pursuant to section 61(2) of the Countryside and Rights of Way Act 2000.

2. Consultation

- 2.1 The statutory consultation exercise was undertaken between 29th September and 22nd December 2005. The Plan was distributed widely throughout the County, including to all Town and Parish Councils, District and Borough Councils, partner organisations and volunteer groups, and to those people who took part in the original research exercise who had asked to be kept informed.
- 2.2 In addition copies of the Plan were on deposit at the libraries throughout the County, District and Borough Council main offices, country parks, and main County Council offices. A public notice was also placed in the main local newspapers circulating in the County and press releases were issued.
- 2.3 Due to the care taken in consulting with key partners on an early draft version of the Plan, a relatively low level of response to the consultation exercise was received (89 comments). Many respondents to the consultation exercise were pleased to see their views on the early draft version of the Plan had been incorporated in the draft Plan.
- 2.4 Comments on the Plan were received from:-
- (i) 13 Town and Parish Councils.

- (ii) Members of the Local Access Forum.
 - (iii) User groups including the Ramblers' Association and the Open Spaces Society.
 - (iv) Members of the public.
 - (v) National Trust, British Waterways and the National Farmers Union.
 - (vi) Other interested organisations including the Cotswold Conservation Board, Council for Protection of Rural England, Rugby Disability Forum, English Nature and the Countryside Agency.
 - (vii) Other departments within WCC including Chief Executives, Libraries and Heritage and Legal Services, and other groups within Planning, Transport and Economic Strategy.
- 2.5 The majority of those people or organisations who commented on the Plan overall expressed favourable comments including “thorough and comprehensive”, “far-seeing plan” and “good readability”.
- 2.6 The results of the consultation exercise have been reported to each of the Area Committees of the County Council at their January and February 2006 meetings.
- 2.7 The results of the consultation exercise have also been reported to the Local Access Forum for Warwickshire at its meeting in January 2006. The Portfolio Holder for Environment is the authority's elected Member representative on this statutory advisory body for countryside access and public rights of way.

3. Proposed Amendments

- 3.1 As a result of the comments received from the consultation exercise, and from Officer observations, it is proposed to amend the Plan as indicated in **Appendix A**. These amendments include 14 new action points and 8 amendments to the proposed policies.
- 3.2 In addition to the amendments detailed in **Appendix A** a number of minor typographical corrections will be made throughout the document but these will only correct errors and not materially change the Plan or introduce new matters.
- 3.3 It is also proposed to cross reference the Plan with the Local Transport Plan (LTP) as a further step in the integration of the two plans. This action is in response to Government guidance stating that Government would welcome any attempts by local authorities to informally integrate the two plans. Formal integration is required for the next LTP in five years time. Appendix 4 of the Plan will be amended to reflect this cross referencing.
- 3.4 Appendices 5 and 6 of the Plan, covering the process and the current and future needs of users, will also be removed from the final Countryside Access and Rights of Way Improvement Plan.

4. Conclusions

- 4.1 Each Area Committee supported the Draft Countryside Access and Rights of Way Improvement Plan with the amendments as proposed. The resolutions of the Committees are attached as **Appendix B**.
- 4.2 The Local Access Forum also approved the amendments as proposed and requested additional amendments regarding the use of powers in the Road Traffic Regulation Act 1984 to improve roads for non motorised users. These amendments are included in **Appendix A** and will change pages 34 and 35 of the Plan.
- 4.3 Cabinet is invited to adopt the Plan with the suggested amendments to allow it to be published in April 2006 and submitted, together with the Local Transport Plan to Government, with the Policies within the Plan to be effective from 1st April 2006.

JOHN DEEGAN
Strategic Director of Environment and Economy
Shire Hall
Warwick

7th February 2006

Cabinet – 23rd February 2006

Countryside Access and Rights of Way Improvement Plan

Proposed Changes to the Draft Countryside Access and Rights of Way Improvement Plan

Page	Proposed Change
6	Amend the definition of 'Access Land' to state: "Land subject to rights of access on foot under the Countryside and Rights of Way Act 2000 (commonly referred to as the 'Right to Roam')."
7	Add to the glossary: "English Nature - Government body responsible for promoting nature conservation and protecting biodiversity. Will soon combine with the Countryside Agency and Rural Development Service to form a new body, Natural England."
9	Amend the definition of 'Right to Roam' to state: "Commonly used phrase to describe access rights introduced under the CROW Act. It gives the public access to some open country (mountain, moor, heath and down) as well as registered common land but does not give the public the right to walk everywhere."
9	Add to the glossary: "SSSI - Site of Special Scientific Interest - Site designated by English Nature which enjoys special protection under the law and which has great ecological or geological significance."
9	Add to the glossary for 'Utility Paths': "This Plan applies to those utility paths which are recorded in, or could be recorded in, the Definitive Map and Statement."
11	Amend the 3rd paragraph to state: "By contrast, the new access rights under the CROW Act (sometimes referred to as the 'Right to Roam') will have little effect in Warwickshire. Much of the new access land (mostly registered common land) already has de facto access."
12	Amend the 1st paragraph 1st line to state: "... countryside which is well used in a sustainable way with a network ..."
15	Amend 1st paragraph regarding the Countryside Agency grant aided projects.
17	Amend the 3rd paragraph 2nd line to state: "... excluded groups such as those from minority ethnic backgrounds, those on low incomes and young people."
19	Amend the 3rd paragraph 4th line to state: "... We have no wish to 'urbanise' the countryside..."
20	Add to 'Key references' - "Planning Policy Guidance 17: Planning for open space, sport and recreation (ODPM 2002)"
20	Add to 'Key references' - "By all reasonable means: inclusive access to the outdoors for disabled people (Countryside Agency 2005)"
21	Add in Action Point A1b: "Disability groups" to list of key partners
21	Amend Action Point A1h to state: "Provide four new sensory trails" and add 5+ to the timescale.
21	Add new Action Point A1i: "Identify key routes for accessibility improvements" Resources = partnership. Additional funding = £1,000 pa. Timescale = 1-2 and 3-4 years. Partners = Disability

Page	Proposed Change
	groups, Other councils, WCC (others), Minority groups
22	Add in Action Point A2b: “... and develop additional publicity material to promote them”
22	Add category “A4 Further research”
22	Add new Action Point A4a: “Undertake research into the needs of users with disabilities, which can inform future actions” Resources = existing and partnerships. Funding = £20, 000. Timescale = 1-2 years. Partners = Countryside Agency, Disability groups, WCC (others)
22	Add new Action Point A4b: “Undertake an assessment of current open space and green space provision within Warwickshire, so as to identify gaps in availability” Resources = existing and partnership. Funding= £20,000. Timescale = 1-2 and 3-4 years. Partners = Countryside Agency, Other councils, Land managers (see also page 59 S13a)
23	Amend 2nd line 4th paragraph to state: change “... confusion about the extent of the new access rights under the Countryside and Rights of Way Act 2000 (sometimes referred to as the ‘Right to Roam’) and this needs ...”
24	Amend 3rd paragraph 2nd bullet point to state: “... and how the new access rights under the CROW Act (sometimes referred to as the ‘Right to Roam’) apply locally”
25	Add in Action Point E4b: “Heritage and environmental professionals” to list of key partners
26	Add in Action Point E4d: “Heritage and environmental professionals” to list of key partners
29	Amend 1st paragraph 1st sentence to read: “Whilst the benefits to health and well-being are clear, and existing countryside users cite health and wellbeing as important reasons for using the countryside, people may not take up walking, riding or cycling just because they know it will improve their health.”
29	Add to ‘Key references’ - “Planning Policy Guidance 17: Planning for open space, sport and recreation (ODPM 2002)”
30	Add in Action Point H1d: “Resources = partnerships. Partners = WCC (others), Health walk groups”
30	Add in Action Point H1e: “Heritage and environmental professionals” and “WCC (others)” to list of key partners
30	Amend Action Point H1g to state: “Develop packages of walks for health professionals to recommend”
34	Add to the end of the 1st paragraph: “In appropriate areas we will assess the potential of the Quiet Lanes scheme. Powers are also available to restrict traffic under the Road Traffic Regulation Act 1984.”
35	Add to ‘Key legislation’ - “Road Traffic Regulation Act 1984”
36	Add in Action Point N2a: “Parish Councils” to list of key partners
36	Add in Action Point N2b: “Parish Councils” to list of key partners
36	Add in Action Point N2c: “Parish Councils” to list of key partners
38	Add in Action Point N8b: “Parish Councils” to list of key partners

Page	Proposed Change
38	Add new Action Point N8f: “Assess provision of horse-riding routes in North Warwickshire and develop and progress a programme of enhancements” Resources = partnership and additional staff time. Funding = £5,000 per link. Timescale = 3-4 and 5+ years. Partners = User groups, Other Councils, WCC (others), Local horseriders, Landowners
44	Add new Action Point P3e: “Undertake a comprehensive review of signs and waymarking on public rights of way” Resources = existing and partnership. Funding = £2,000. Timescale = quick win. Key partners = Disability groups, WCC (others), Parish Councils, P3 groups, LAF, CALG, User groups
44	Add in Action Point P4c to state: “... following the policy on gaps, gates and stiles”
44	Add new Action Point P4h: “Review Policy CA11 Electric Fences and seek feedback from the farming and equestrian communities” Resources = existing. Funding = 0. Timescale = 3-4 years. Key partners = none
46	Add new category P11: “Working practices”
46	Add new Action Point P11a: “Develop written working practices to formalise internal procedures” Funding = 0. Timescale = 1-2 years. Key partners = none
47	Add new paragraph after paragraph 5 to state: “The government is currently looking at changes in the law to minimise the impact of motorised users on rights of way, and this may make blanket changes to the rights which mechanically propelled vehicles have over certain routes. A Bill (Natural Environment and Rural Communities Bill) is currently before Parliament, but at the time of going to print, the outcome is not yet known.”
51	Add new Action Point R4e: “Establish links between, and share the rights of way dataset with, other environmental datasets e.g. habitat, species, archaeology” Resources = existing and partnerships. Additional funding = 0. Timescale = 3-4 and 5+ years. Key partners = WCC (others), Heritage and environment professionals
52	Add new category R8: “Working practices”
52	Add new Action Point R8a: “Develop written working practices to formalise internal procedures” Funding = 0. Timescale = 1-2 years. Key partners = none
53	Amend 2nd line 5th paragraph to state: “... including two routes in the National Cycle Network developed and promoted by Sustrans. There are very few ...”
54	Add new paragraph after paragraph 7 to state: “Both national research and our own research has shown that there is much demand for access to water and woodland. We have therefore included a section on access to woodlands and waterside.”
55	Add to end of 1st paragraph: “However, we should exercise caution and ensure that our improvements are compatible with the sustainability of the Warwickshire countryside.”
55	Add section “Key references”
55	Add to ‘Key references’ - “Growing our Future - the West Midlands Regional Forestry Framework (Forestry Commission 2004)”

Page	Proposed Change
55	Add to 'Key references' - "Planning Policy Guidance 17: Planning for open space, sport and recreation (ODPM 2002)".
55	Add to 'Key references' - "Space for people - targeting action for woodland access (Woodland Trust 2004)".
56	Add in Action Point S2c: "WCC (others), Heritage professionals" to list of key partners
56	Amend Action Point S2d to state: "Support and assist the development of the North Arden Trail (this project has recently been awarded £422,500 by Heritage Lottery Fund)".
56	Add in Action Point S2d: "Other councils" to list of key partners.
57	Amend category S3 to "Waterside and woodland access".
57	Add new Action Point S3d: "To support other organisations in securing access to woodland" Resources = existing and partnership. Funding = £5,000 per route created. Timescale = 1-2, 3-4 and 5+ years. Key partners = Forestry Commission, Woodland Trust, Warwickshire Wildlife Trust, Landowners.
57	Add in Action Point S4a: "WCC (others), Volunteers" to list of key partners
58	Add in Action Point S6b: "Heritage and environmental professionals" to list of key partners.
58	Add new Action Point S6e: "Work with heritage and environmental professionals on promotional material which links together topics e.g. history, archaeology, wildlife" Resources = existing and partnerships. Funding = £5,000 per publication. Timescale = 1-2, 3-4 and 5+ years. Key partners = WCC (others), Heritage and environmental professionals.
58	Add new Action Point S7c: "Assess existing and future promotional material to ensure that opportunities are taken to promote the health benefits of countryside activities" Resources = partnership. Additional funding = 0. Timescale = 1-2, 3-4 and 5+ years. Partners = WCC (others), PCTs.
58	Add new Action Point S7d: "Produce a directory of healthy activities in the Warwickshire countryside" Resources = partnership. Additional funding = £5,000 per edition. Timescale = 3-4 and 5+ years. Partners = WCC (others).
59	Add new category S13: "Open space and green space".
59	Add new Action Point S13a: "Undertake an assessment of current open space and green space provision within Warwickshire, so as to identify gaps in availability" Resources = existing and partnership. Funding= £20,000 Timescale = 1-2 and 3-4 years. Partners = Countryside Agency, Other councils, Land managers (see also page 22 A4b).
67	Working practices will not be included in the CAROWIP to reflect the policies but actions will be included in the CAROWIP to formalise working practices which may relate to more than one policy. See proposed changes to pages 46 and 52 and addition of Action Points P11a and R8a.
70	Amend Policy CA2 1st line to state: "... deposits under Section 31(6) Highways Act 1980 ...".
70	Amend Policy CA2 Background, 1st line 1st paragraph to state: "Section 31(6) Highways Act 1980 ...".

Page	Proposed Change
70	Amend Policy CA2 Background, 2nd line 2nd paragraph to state: "... claims made under Section 31(1) Highways Act 1980 ...".
70	Amend Policy CA2 Background, 1st line 4th paragraph to state: "... WCC accepts Section 31(6) Highways Act 1980 deposits ...".
70	Amend Policy CA2 Background, 2nd line 5th paragraph to state: "... already made Section 31(6) Highways Act 1980 ...".
71	Amend Policy CA3 2nd paragraph 5th bullet point to state: "Where a path runs through a Site of Special Scientific Interest (SSSI) and where the SSSI will benefit from the PPO".
71	Add in Policy CA3 3rd paragraph (Medium Priority): "Where a PPO is, in the opinion of WCC heritage or ecology professionals, necessary to safeguard an archaeological or ecological feature".
71	Amend Policy CA3 3rd line 7th paragraph to state: "3m for enclosed footpaths".
73	Amend Policy CA4 6th paragraph: "3m for enclosed footpaths".
74	Amend Policy CA5 Background 2nd line 3rd paragraph to state: "... ground (with the landowner being required to reimburse WCC accordingly)."
74	Add to Policy CA5 Background 4th line 4th paragraph: "Formal cautions can be referred to in court following convictions for a subsequent offence within a prescribed period."
74	Amend Policy CA5 Background 3rd line 5th paragraph to state: "...the conviction of others. The decision to prosecute shall be taken with regard to the evidence and the public interest. In looking at the public interest in taking a prosecution the following will be taken into account:"
76	Amend Policy CA7 4th paragraph to state: "Reports of ploughing problems will be inspected within 10 working days of receiving the report. Reports of cropping problems will be inspected within 15 working days of receiving the report."
79	Amend the last sentence to state: "Nothing is easier to use than a waymarked gap."
81	Amend Policy CA11 2nd line 3rd paragraph to state: "for a footpath – a wicket gate, a kissing gate or a field gate, provided insulation ...".
81	Amend Policy CA11 5th line 3rd paragraph to state: "for a bridleway – a bridle gate or a field gate, provided the fence is insulated ...".
86	Insert revised Policy CA16. See page 6.
90	Amend 1st line 2nd paragraph to state: "Although Government introduced the new access rights in the Countryside and Rights of Way Act 2000 (sometimes referred to as the 'Right to Roam'), there is no ...".
92	Add to the list of legislation and guidance: "Planning Policy Guidance 17: Planning for open space, sport and recreation (ODPM 2002)".

Policy CA16: Antisocial behaviour and crime

In addition to the criteria set out in the Clean Neighbourhoods and Environment Act 2005, WCC will only consider gating orders across public rights of way, or routes reasonably alleged to be rights of way (including adopted footpaths), as a last resort i.e. where other means of dealing with antisocial behaviour and crime have been exhausted or have no realistic prospect of success (as envisaged by the legislation).

Where gating orders are made, the principle of 'least restrictive option', consistent with achieving a significant reduction in antisocial behaviour and crime, will be applied on a case-by-case basis, e.g. gates to be locked only between specified times of day and/or the order to be for a limited period of operation.

Gating orders in force will be reviewed periodically, and varied or revoked where the situation allows.

WCC will consult with its Local Access Forum and, through local advertising, those people in the locality who may benefit from the route as a utility path, as well as those people occupying properties in the immediate vicinity of the way in question.

Background

It is recognised that the gating of alleys and cut-throughs can be an effective means of reducing crime and antisocial behavior. However, in certain areas of the country, residents and local authorities have been frustrated by being unable to gate those back alleys that coincide with public rights of way (highways).

Government has recently introduced the Clean Neighbourhoods and Environment Act 2005 that introduces the power for local authorities to make gating orders that will restrict public use. This new legislation clearly provides for the gating of highways in circumstances where other measures to control crime and antisocial behavior have been exhausted. However, it is not hard to envisage circumstances where the need to introduce such orders can be in conflict with other Council priorities contained within the LTP and the CAROWIP relating to sustainable travel, safer routes to school, health, and recreation. It is the responsibility of the Council to balance these interests in an evenhanded way. In particular the Council must fully research the facts before initiating any action.

Previously the Countryside and Rights of Way Act 2000 introduced powers whereby routes could be permanently extinguished within areas designated by the Secretary of State as "high crime areas". To date these designations have largely been applied to inner city areas, and it is not envisaged that the use of these powers will be necessary in Warwickshire.

N.B. At the time of writing this policy the Regulations for gating orders have yet to be published, and the Act itself is not yet in force.

Cabinet – 23rd February 2006

Countryside Access and Rights of Way Improvement Plan

Resolutions From Area Committees on The Draft Countryside Access and Rights of Way Improvement Plan

Area Committee	Date	Draft Resolution
Rugby	11/1/06	That the Area Committee endorse the draft Countryside Access and Rights of Way Improvement Plan for submission to Cabinet for formal adoption.
Stratford on Avon	18/1/06	<p>The following points were made during the discussion:</p> <ul style="list-style-type: none"> - With regard to the possibility of Parish Councils having a greater say in diversion proposals, particularly regarding diversions requested for privacy and crime reduction reasons members noted that Parish Councils were always consulted on proposals and where their support was given the priority of an application was raised. - Action was being taken regarding the condition of certain rights of way reported at the meeting. - With regard to the provision of gates/stiles, legal criteria had to be followed relating to the use of either gates or stiles. It was not possible to replace every stile with a gate and the circumstances were examined when a stile needed to be replaced. - With regard to the re-instatement of ploughed paths, land owners/farmers had a right to plough rights of way following which the route had to be re-instated to enable public use. - The legal aspects of rights of way were often confusing to lay people and other organisations. <p>That the Cabinet be advised of the Committee's comments relating to the Draft Countryside Access and Rights of Way Improvement Plan, when considering the formal adoption of the Plan.</p>
Warwick	24/1/06	That the Warwick Area Committee welcomes the Draft Countryside Access and Rights of Way Improvement Plan; the results of the consultation exercise for the Plan; and the proposed changes to the Plan and congratulates the Countryside Access Team in the Environment and Economy Directorate for its work in producing the Plan.
Nuneaton and Bedworth	25/1/06	Resolved that the Area Committee note the Draft Countryside Access and Rights of Way Improvement Plan, the results of the consultation exercise for the Plan and, the proposed changes to the Plan.
North Warwickshire	1/2/06	That the North Warwickshire Area Committee endorses the Draft Countryside Access and Rights of Way Improvement Plan, the results of the consultation exercise for the Plan and the proposed changes to the Plan.