

## PUBLIC RIGHTS OF WAY POLICY 2025

### Document Control

Policy Title	Public Rights of Way Policy
Document Reference	DAAPRW – Corporate Services – 132 – V2
Policy Summary	This policy provides the framework which the Council will follow for complying with the Access to the Countryside (Northern Ireland) Order 1983 and other relevant legislation when investigating, asserting, creating, diverting and extinguishing public rights of way, as well as other public access rights, protecting public rights of way in the Borough and compiling maps and records of these public rights of way.
Review Requirements	5 years/New legislation
Document Owner/Job title	Lands Manager
Document Owner is responsible for ensuring that it is reviewed in line with the requirements of the Council's Policy Review Procedure and is kept up to date.	
Approval Date	

### Version Control Record

Version Number	Version Date	Author(s)	Comments
1.0	May 2017	Compliance Manager	Council approval/policy established
2.0	November 2025	Lands Manager	

### Consultation

	CLT	HOST	SCC	Unions
Date completed	Jan 2026	Dec 2025	N/A	

### Screening

Reference No	421
EQIA	

The current version of this document is available to all individuals accessing the Council's information and other associated assets and is published on the Council's intranet.

## CONTENTS

1. Policy statement .....	5
2. Introduction .....	5
3. Private rights of way.....	6
4. Prioritisation of routes .....	6
5. Asserting public rights of way.....	6
5.1 Definition of a public right of way and statutory duty.....	6
5.2 Definition of assertion and approach.....	6
5.3 Asserted public rights of way expressly or by deemed dedication....	7
5.4 Investigation.....	7
5.4.1 Preliminary inspection.....	7
5.4.2 Identification of landowner and approach.....	7
5.4.3 Sources of evidence.....	7
5.5 Possible outcomes .....	8
5.5.1 Assertion including process.....	8
5.5.2 Assertion with lower rights.....	8
5.5.3 Decision not to assert.....	9
5.5.4 Investigation to remain open .....	9
5.6 Post assertion .....	9
5.7 Types of asserted public rights of way.....	9
5.7.1 Public rights .....	9
5.7.2 Vehicles .....	9
5.7.3 Cycling .....	10
5.8 Widths of asserted public rights of way .....	10
5.9 Maintenance of asserted public rights of way .....	10
5.10 Assertions over Crown land.....	10
6. Creating public rights of way.....	10

6.1	Introduction .....	10
6.2	Definition of a public path as a public right of way.....	11
6.3	Public path creation agreements and public path creation orders	11
6.3.1	Discretionary power.....	11
6.3.2	Public rights.....	11
6.3.3	Status of created public path.....	11
6.3.4	Registration .....	11
6.4	Type of public path.....	11
6.4.1	Public rights.....	11
6.4.2	Vehicles.....	12
6.4.3	Cycling.....	12
6.5	Maintenance .....	12
7.	Diverting public rights of way .....	12
7.1	Discretionary power .....	12
7.2	Public rights .....	12
7.3	Potential financial contribution by requester.....	12
7.4	Status of diverted public path.....	13
7.5	Registration .....	13
7.6	Type of public path .....	13
7.7	Maintenance .....	13
8.	Protecting public rights of way .....	13
8.1	Statutory duty .....	13
8.2	Power to institute proceedings .....	13
8.3	Inspection regime .....	13
9.	Extinguishing public rights of way .....	14
9.1	Discretionary power .....	14
9.2	Public rights .....	14
9.3	Registration .....	14
10.	Temporary closure or diversion of public rights of way .....	14
11.	Access agreements and orders .....	14
11.1	Consultation .....	14
11.2	Discretionary power .....	15
11.3	Public rights .....	15
11.4	Effect of an access agreement or order .....	15

11.5	Registration .....	15
11.6	Map of public access to open country .....	15
12.	Crown land .....	16
13.	Long distance routes .....	16
14.	Permissive path agreements .....	16
15.	Maps and records of public rights of way .....	16
15.1	Statutory duty .....	16
15.2	Maps and records of public rights of way .....	16
16.	Planning and public rights of way .....	17
16.1	Planning applications .....	17
16.2	Department's powers .....	17
17.	General provisions .....	17
17.1	Signposting and waymarking .....	17
17.2	Stiles .....	18
17.3	Ploughing .....	18
17.4	Bulls .....	18
17.5	Notices .....	19
17.6	Bye-laws .....	19
18.	APPENDIX 1 – Witness Evidence Form - attached separately	
19.	APPENDIX 2 – Landowner Evidence Form - attached separately	

## 1. Policy statement

Ards and North Down Borough Council (the “Council”) is required to comply with the Access to the Countryside (Northern Ireland) Order 1983 (the “Order”) and associated statutory obligations in relation to public rights of way in the Borough.

This policy provides a framework which the Council will follow in relation to:

- the assertion of public rights of way,
- the creation of new public rights of way by public path creation agreements or orders,
- the diversion of public rights of way by public path diversion orders,
- the extinguishment of public rights of way by public path extinguishment orders,
- public rights of way in long distance routes,
- access to open country,
- the protection of the public rights of way in the Borough and
- maps and records of public rights of way in the Borough.

## 2. Introduction

The Council has asserted and created various public rights of way in the Borough ranging from short urban paths to long rural paths for the benefit of the residents of the Borough.

The public rights of way policy sets out the principles and procedures that Council will apply when investigating and asserting, creating, diverting and extinguishing public rights of way, access to open country, protecting public rights of way in the Borough and compiling maps and records of these public rights of way.

Council’s public rights of way policy relates to public rights of way governed by the Order.

Legislation and key strategic documents that are relevant to Council in the context of public rights of way include, but are not limited to, the following:

- The Order
- A Guide to Public Rights of Way and Access to the Countryside – Guidance Notes on the Law, Practices and Procedures in Northern Ireland, Environment and Heritage Service (now Northern Ireland Environment Agency, Department of Agriculture, Environment and Rural Affairs)
- The Local Government (Northern Ireland) Act 2014
- Land Registration Act (Northern Ireland) 1970
- The Environment (Northern Ireland) Order 2002
- Disability Discrimination Act 1995
- The Special Educational Needs and Disability (Northern Ireland) Order 2005 (as amended)
- The Human Rights Act 1998
- Recreation and Youth Service (Northern Ireland) Order 1986

- Occupiers Liability Act (Northern Ireland) 1957
- Occupiers Liability (Northern Ireland) Order 1987
- Planning Act (Northern Ireland) 2011(as amended)
- The Corporate Plan 2024-2028 for Ards and North Down Borough Council and any subsequent Corporate Plan.

### **3. Private rights of way**

Private rights of way are not subject to the Order and are not within Council's remit. Private rights of way and public rights of way can exist over the same route. Public rights of way can be extinguished by legal process (see section 9) without affecting private rights.

### **4. Prioritisation of routes**

In exercising its powers under the Order, Council has a limited budget and resources available and will prioritise those routes which offer most benefit to users. When determining priority, the Council may consider the length of the route, scenic attractiveness, links to sites of tourist interest, level of usage, potential inclusion within a network of paths or long distance route. Shared use will also be considered offering access routes for people with disabilities.

### **5. Asserting public rights of way**

#### **5.1 Definition of public right of way and statutory duty**

A public right of way is defined in Article 2 of the Order as a way which does not include a road or any other way which is maintainable by a government department.

Common law principles state that a public right of way is a permanent legal entity which exists in perpetuity unless it is extinguished or diverted in law. It is a highway which the public may use as of right, and which must be respected by the occupier and landowner who should not obstruct it or prevent its use by the public.

The Council has a statutory duty under Article 3 of the Order to assert public rights of way in its district (Ards and North Down Borough).

#### **5.2 Definition of assertion and approach**

Although "assertion" is not defined by statute, courts have interpreted it in common law to mean confirmation that a public right of way exists.

In practice this involves investigating what public rights exist and the nature of those rights and formally recognising a public right of way by a resolution of the appropriate Committee, which is ratified by Council, and where necessary, applying to the Court to vindicate or confirm the assertion.

The Council will assert public rights of way based on agreement with the landowner whenever it is possible to do so. The Council will take into consideration any concerns the landowner may have (although concerns about the desirability or suitability of a route will not be relevant).

### **5.3 Asserted public rights of way expressly or by deemed dedication**

The existence of a public right of way at common law may be acknowledged expressly by the landowner or there may be evidence of deemed dedication by the landowner and acceptance by the public.

### **5.4 Investigation**

A detailed investigation to determine whether a public right of way exists at a location will be conducted by Council when it has sufficient evidence to do so.

In assessing the evidence compiled for each route, the Council will consider whether a public right of way already exists over the line of path in question.

The investigation will involve a preliminary inspection of the alleged public right of way, the collation of evidence from various sources and an impartial assessment of that evidence.

#### **5.4.1 Preliminary inspection**

The public rights of way officer will carry out a preliminary site inspection and will walk the line of the path to gather relevant information. This will include:

- the length and width of the path,
- if the path is well worn,
- If there is evidence of use by walkers, horse-riders or vehicles,
- the condition of the path, hedgerows, gates, stiles or bridges,
- features, scenic attractiveness, views and points of interest along the route.

#### **5.4.2 Identification of landowner and approach**

The public rights of way officer will carry out investigative searches at Land Registry, Registry of Deeds and other relevant sources to determine the owner of the land on which the alleged public right of way is located. The officer will contact the landowner advising that an investigation into the existence of a public right of way is underway and enclose a landowner evidence form for completion by the landowner (see Appendix 2). If the landowner is willing to acknowledge the existence of the public right of way, the assertion process can proceed on that basis alone, with a signed statement from the landowner.

If the landowner is not prepared to make such a statement, the Council will proceed with the investigation. Information will be gathered by the public rights of way officer and kept on file.

#### **5.4.3 Sources of evidence**

Evidence to support the existence of a public right of way can come from witness statements (such as witness evidence forms - see Appendix 1), historical or other documentary sources, or a combination of these. The strongest evidence is usually that given by witnesses who can testify to a substantial continuous period of use of the route for many years without the landowner's consent.

Documentary evidence can come from a wide range of sources, including but not limited to: title deeds and maps (from Land Registry and Registry of Deeds), Private Estate records (from Public Records Office), court proceedings, local newspaper articles, records of Government departments (such as roads, water, planning, agriculture), records of other bodies (such as Housing Executive), architects and surveyors drawings, old railway/canal plans and schedules, documents held by local history societies, any historical text references, Ordnance Survey maps, Ordnance Survey Memoirs (from Public Records Office), old maps including aerial maps, photographs including aerial photos and other relevant sources.

## **5.5 Possible outcomes**

After assessing all the evidence compiled in the investigation, Council may seek legal advice in relation to the outcome.

There are four possible outcomes to the investigation.

### **5.5.1 Assertion including process**

If the evidence shows both that a public right of way does exist and the nature of the public's rights, then Council has a statutory duty to make the assertion.

The assertion is usually made by a two or three stage process:

- Stage 1 - A report detailing the evidence and a recommendation based on the evidence is submitted to the appropriate Committee for consideration.
- Stage 2 - The decision of the Committee is then subject to ratification by Council.

An assertion statement and accompanying map showing the line of the path will be submitted with the report. The statement will refer to the Council's powers under the Order, state that the path is asserted as a public right of way, briefly describe the path by reference to the grid references, direction, length and width of the route, and specify the nature of the rights of passage that are being asserted and any other relevant information. The line of the path will be shown clearly by a distinctive notation on the accompanying map.

- Stage 3 - Where necessary and on the receipt of legal advice to this effect, Council will apply to the Court to vindicate the assertion.

### **5.5.2 Assertion with lower rights**

If the evidence shows that a public right of way does exist, but there is remaining uncertainty over the nature of the public's rights, then if it seems likely that the uncertainty can be resolved by further investigations the assertion may be deferred while they are carried out. If the uncertainty is

unlikely to be resolved, the path may be asserted at a lower level of right, such as a footpath or bridleway. In doing so, the Council would make it clear that this is without prejudice to the further assertion of any higher rights which subsequently may be shown to exist.

### **5.5.3 Decision not to assert**

If the evidence shows that a public right of way does not exist or where there is a serious dispute as to the status of the path and/or legal advice has been received, a recommendation will be made asking the Council to note that the investigation has been carried out and to record the no assertion outcome. The landowners concerned and any other interested parties will also be formally notified, and the path removed from the map of alleged public rights of way.

### **5.5.4 Investigation to remain open**

If the evidence is inconclusive and if it is likely that the uncertainty can be resolved by further investigations or negotiations, then the matter will continue to be actively pursued. Where that is not the case, the Council may decide to defer the matter until further information comes to light.

## **5.6 Post assertion**

Once the assertion has been made, a copy of the assertion statement and map will be recorded in the register together with the Council minutes. All interested parties will be notified about the assertion.

Wider publicity will not be given to the path until any necessary works have been carried out, including the removal of any obstructions and, where relevant, the erection of appropriate signposts and way marks. If the assertion is opposed, however, the notice that is given will make it clear that the assertion is subject to the decision of the court as to whether it should be vindicated. No work on the path will start until the vindication has been settled.

The Council's public right of way officer will compile all maps and records required under the Order (see section 15).

## **5.7 Types of asserted public rights of way**

### **5.7.1 Public rights**

There are three types of asserted public rights of way:

- Footpath – public right of way on foot only.
- Bridleway – public right of way on foot and on horseback.
- Carriageway – public right of way on foot, on horseback and by vehicle (including pedal cycle).

### **5.7.2 Vehicles**

Vehicle users are entitled to use only asserted public rights of way designated as carriageways.

Unauthorised use of a public right of way by a vehicle is a matter for the Police Service of Northern Ireland.

However, it is recognised that landowners may have private rights of way to use a vehicle on any route which is a public right of way.

### **5.7.3 Cycling**

There is a right to cycle on asserted public rights of way where the route has been asserted as a carriageway.

If an asserted public right of way is part of a long distance route (see section 13), there may be a right to cycle by virtue of a bye law (or otherwise) applicable to the long distance route.

## **5.8 Widths of asserted public rights of way**

If a public right of way runs between fences or walls it is generally inferred that the land over which the public can pass extends to the whole area between the boundaries.

If the public right of way is not defined by physical boundaries, the width is that which has been habitually used by the public. Generally, it is assumed that a public right of way is of sufficient width to allow users to pass each other, around 1-1.5 metres for a footpath and wider for a bridleway.

## **5.9 Maintenance of asserted public rights of way**

The Council has a discretionary power under Article 3(2) of the Order to maintain or upgrade any public right of way but due to budgetary constraints the Council will not maintain or upgrade any asserted public rights of way, unless legally obliged to do so. If relevant, maintenance will be carried out by the Environmental Services Directorate.

## **5.10 Assertions over Crown land**

Crown land is land owned by a government department, by the Crown Estate or by the Duchies of Cornwall and Lancaster.

Council will assert and record any public rights of way over Crown Land and ensure that they remain open and free from obstruction and encroachment in the same way as public rights of way over private land.

# **6. Creating public rights of way**

## **6.1 Introduction**

If there is insufficient evidence to assert a public right of way or additional access routes are required for recreation, tourism, strategic reasons or otherwise, the Council has the power under the Order to enter into agreements with relevant landowners to create new public rights of way by way of public paths. In creating

new public access, Council will usually endeavour to create permanent paths pursuant to the Order where possible, rather than permissive paths.

The creation of new public rights of way is subject to Council approval and various factors including whether Council has the necessary funding to make up the path and maintain it going forward.

## **6.2 Definition of a public path as a public right of way**

Article 2 of the Order defines a public path as a way over which the public have by virtue of Article 11 (public path creation agreement), Article 12 (public path creation order), Article 15 (public path diversion order) or Article 16 (Department public path diversion order) (but subject to any conditions, orders or bye-laws) a right of way on foot, on horseback and (by virtue of Article 20) on a pedal cycle, but not using a motor vehicle.

## **6.3 Public path creation agreements and public path creation orders**

### **6.3.1 Discretionary power**

Under Article 11 of the Order the Council has power to enter into a public path creation agreement with a relevant landowner to create a public right of way by way of public path. A public path creation agreement may be subject to limitations and conditions.

If agreement is not reached, and the criteria in the Order are satisfied, Council may seek a public path creation order under Article 12 of the Order to secure access to the land in question. An opposed public path creation order is required to be confirmed by the Department.

### **6.3.2 Public rights**

The public has the right to be made aware of any public path creation order under the Order, to object to such order and to be heard by a person appointed by the Department.

### **6.3.3 Status of created public path**

A public path created by way of public path creation agreement or public path creation order is a public right of way which exists in perpetuity, unless extinguished or diverted in law and does not include a road or other way maintainable by a government department.

### **6.3.4 Registration**

A public path creation agreement and public path creation order are required to be registered in the Statutory Charges Register at Land Registry by virtue of Article 56 and Schedule 5 of the Order and Schedule 11 of the Land Registration Act (Northern Ireland) 1970.

## **6.4 Type of public path**

### **6.4.1 Public rights**

Article 2 of the Order provides that the public have a right of way on a public path on foot, on horseback and (by virtue of Article 20 of the Order) on a pedal cycle, but subject to the conditions, limitations, orders or bye-laws relating to that public path.

### **6.4.2 Vehicles**

There is no right for the public to use a vehicle on a public right of way which is a public path created or diverted under the Order.

Unauthorised use of a public right of way by a vehicle is a matter for the Police Service of Northern Ireland.

However, it is recognised that landowners may have private rights of way to use a vehicle on any route which is a public right of way.

### **6.4.3 Cycling**

Article 20 of the Order provides the right to cycle on any public path created by agreement or order, subject to any limitations or conditions, orders or bye-laws relating to that public path, (and such limitations, conditions or bye-laws may include a limitation to use by foot only).

## **6.5 Maintenance of public paths created by public path creation agreement and order**

Under Article 13 of the Order Council has a statutory duty to make up the path in compliance with the terms and conditions of any public path creation agreement and order and a statutory duty to maintain the path in that state.

Maintenance will be carried out by the Environmental Services Directorate. Council's maintenance schedule in the relevant department should include all Council maintenance obligations under public rights of way.

## **7. Diverting public rights of way**

### **7.1 Discretionary power**

The council has a discretionary power under Article 15 of the Order to make a public path diversion order to divert any public right of way if it is expedient to do so in the interests of the landowner, lessee or occupier of the land or otherwise and all the criteria in the Order are satisfied.

The discretionary power to divert applies to both asserted public rights of way and public paths (Article 18 of the Order).

### **7.2 Public rights**

The public has the right to be made aware of any public path diversion order under the Order, to object to such order and to be heard by a person appointed by the Department.

### **7.3 Potential financial contribution by requester**

Before making a public path diversion order on the request of a landowner, lessee or occupier under Article 15(4) of the Order, the Council may require the requester to contribute to any compensation payable under the Order or any expenses incurred by the Council in making the new diverted path.

### **7.4 Status of diverted public path**

A public path created by way of public path diversion order is a public right of way which exists in perpetuity, unless extinguished or diverted in law and does not include a road or other way maintainable by a government department.

### **7.5 Registration**

A public path diversion order is required to be registered in the Statutory Charges Register at Land Registry by virtue of Article 56 and Schedule 5 of the Order and Schedule 11 of the Land Registration Act (Northern Ireland) 1970.

### **7.6 Type of public path created by public path diversion order**

See section 6.4 above.

### **7.7 Maintenance of public paths created by public path diversion order**

Article 13 of the Order (as set out in section 6.5 above) applies to public path diversion orders.

However, under Article 15 (4) of the Order before making a public path diversion order on the request of a landowner, lessee or occupier, the Council may require the requester to contribute to any expenses incurred by the Council in making the new diverted path.

## **8. Protecting public rights of way**

### **8.1 Statutory duty**

Council has a statutory duty under Article 3 (1) of the Order to protect and keep open and free from obstruction and encroachment any public rights of way in its district. This duty applies to both asserted public rights of way and public paths.

Generally, Council will request that the relevant landowners remove any man-made obstructions and encroachments and fallen trees and vegetation which are obstructing or encroaching on any public rights of way in the Borough.

### **8.2 Power to institute proceedings**

The Council has a specific power under Article 3 of the Order to institute proceedings in its own name when carrying out its duty to protect and keep open and free from obstruction or encroachment.

### **8.3 Inspection regime**

Council will inspect all public rights of way at least annually and more regularly, if necessary and will record all inspection reports.

## **9. Extinguishing public rights of way**

### **9.1 Discretionary power**

The Council has a discretionary power under Article 14 of the Order to make a public path extinguishment order to extinguish a public right of way where Council considers that it is expedient to do so on the ground that the path is not needed for public use and all the criteria in the Order are satisfied

The discretionary power relates to the extinguishment of both asserted public rights of way and public paths created or diverted under the Order (Article 18 of the Order).

### **9.2 Public rights**

The public has the right be made aware of any public path extinguishment order under the Order, to object to such order and to be heard by a person appointed by the Department.

### **9.3 Registration**

A public path extinguishment order is required to be registered in the Statutory Charges Register at Land Registry by virtue of Article 56 and Schedule 5 of the Order and Schedule 11 of the Land Registration Act (Northern Ireland) 1970.

## **10. Temporary closure/diversion of public rights of way**

Upon application by the occupier of land on which there is a public right of way or any other person, the Council has the power under Article 19 of the Order to temporarily close or divert a public right of way for a period not exceeding three months. The Council will take into account the interests of the users of the public right of way in deciding whether to make such an order.

The power to temporarily close or divert a public right of way applies to both asserted public rights of way and public paths created or diverted under the Order (Article 18 of the Order).

## **11. Access agreements and orders**

### **11.1 Consultation**

The Council has a statutory duty under Article 27 of the Order to consult the Department and representatives of landowners to ascertain the open country in the

Borough and the action required to secure any public access to it for open air recreation. In considering the action to be taken the Council will take into account any public access to open country which does not require any action and the extent to which there is a need for additional access to open country.

Open country is defined in the Order as land consisting of predominately mountain, moor, heath, hill, woodland, cliff, foreshore, bog, marsh or waterway.

The Parks department will undertake this consultation and liaise with the public rights of way officer if access agreements/orders are required. The public rights of way officer is responsible for implementing any access agreements/orders.

## **11.2 Discretionary power**

The Council has a discretionary power under Article 28 of the Order to make an access agreement with relevant landowners to grant public access to open country in the Borough.

An access agreement may include such terms and conditions as are appropriate in the circumstances, including as to the duration of the agreement.

If agreement is not reached, the Council may seek an access order under Article 29 of the Order to secure access to specific open country. An access order is required to be confirmed by the Department, even if unopposed.

## **11.3 Public rights**

The public has the right be made aware of any access order under the Order, to object to any such order and to be heard by a person appointed by the Department.

## **11.4 Effect of an access agreement or order**

Once an access agreement has been made or an access order confirmed:

- The public may access the land by foot for quiet open-air recreation (subject to any applicable bye-laws) without being regarded as a trespasser,
- The landowner has a statutory duty under Article 31 of the Order not to substantially reduce the area to which the public has access (other than excepted land as defined in the Order),
- The Council has power under Article 33 of the Order to enforce access. It also has the discretion (or may be required) under the Order to make bye-laws to regulate the use of the open country and to provide a ranger service.

## **11.5 Registration**

An access agreement, access order and any instrument varying or revoking an access agreement or access order are required to be registered in the Statutory Charges Register at Land Registry by virtue of Article 56 and Schedule 5 of the Order and Schedule 11 of the Land Registration Act (Northern Ireland) 1970.

## **11.6 Map of public access to open country**

Under Article 41 of the Order Council has a statutory duty to prepare and keep up to date a map of all the land in its district covered by an access agreement or access order or which has been compulsorily acquired by the Council or by the Department for public access to open country.

## **12. Crown Land**

Under Article 53 of the Order the consent of the appropriate authority is required before making any public path order or access order which relates to Crown land or before acquiring such land under the Order or applying byelaws to it.

## **13. Long distance routes**

A long distance route is a route designated under Articles 21 and 22 of the Order and intended to enable the public to make extensive journeys on foot, on horseback or by bicycle along a route which for the whole or greater part of its length is not roads mainly used by vehicles. A long distance route may include public rights of way already in existence or those asserted and created specifically for the route.

Where Council considers that a long distance route is suitable for the public, it may submit a report to the Department, after consultation with the Department, affected persons and interested parties. The Department is required to approve the report, with or without modifications or reject the report and notify the Council about its decision. Once approved, the Council will implement the report and manage the long-distance route in accordance with the approved report.

The Parks department is responsible for long distance route reports but will liaise with the public rights of way officer where public rights of way are involved. The public rights of way officer is responsible for asserting and implementing any agreements/orders in relation to any public rights of way in the context of long distance routes.

## **14. Permissive path agreements**

The Recreation and Youth Services (Northern Ireland Order) 1986 gives the Council a discretionary power to enter into a permissive path agreement with the relevant landowner where public access to a path for a limited period is required. A permissive path is not a public right of way and is not protected under the Order but is subject to the terms and conditions in the permissive path agreement.

The Parks department is responsible for any permissive path agreements to which the Council is party and should notify the public rights of way officer of any such permissive path agreements and the location of such paths.

## **15. Maps and registers of public rights of way**

### **15.1 Statutory duty**

The Council has a statutory duty under Article 3 of the Order to compile maps and other records of public rights of way in its district.

## **15.2 Maps and records of public rights of way**

The Council has a public map available on its website in which all current public rights of way are listed, and the routes are mapped.

The Council also has a register of:

- asserted public rights of way which includes information relating to the type of public right of way, the Committee and Council resolution, and the assertion statement and map detailing the line of the path and, where relevant, any Court vindication judgement.
- public rights of way which are public paths including information relating to the type of public right of way, the agreement or order under which it was created and the map detailing the line of the path.

Information relating to alleged public rights of way and permissive paths are also recorded by Council.

Copies of individual maps and public rights of way records are available to the public, on request.

Council's maintenance schedule in the relevant department should include all Council maintenance obligations under public rights of way

## **16. Planning and public rights of way**

### **16.1 Planning applications**

In general, any existing protected public right of way within a proposed development should be incorporated into the site design or be the subject of a public path extinguishment order or public path diversion order.

Where there is an alleged, asserted or created/diverted public right of way within a proposed development the Council's planning department should consult the public rights of way officer so that the appropriate response can be made in the planning application.

### **16.2 Department's powers**

Under Article 16 of the Order the Department has the power to make a public path extinguishment or diversion order where it is satisfied that it is necessary to do so to enable development to be carried out in accordance with a planning permission.

The Council will refer any requester of a public path extinguishment or diversion order in the relevant circumstances to the Department.

However, the Department's power to make an Article 16 order is not available once the development has been completed or substantially completed.

## **17. General provisions**

## **17.1 Signposting and waymarking**

Under Article 4 of the Order the Council has the power, after consulting with the landowner or occupier of the land, to erect and maintain signposts or other similar works on any public right of way and in exercising this power has the duty to erect such signposts or similar works as are required to assist visitors to follow the route of any public right of way.

## **17.2 Stiles**

Article 5 of the Order imposes a duty on landowners to maintain any stile or gate across a public right of way in a safe condition. Landowners in compliance with this obligation are entitled to claim at least a quarter of the cost of this maintenance from the Council (except where the stile has been erected under Article 6 of the Order). If a landowner fails to comply with this obligation the Council has the power to repair the stile or gate and may recover from the landowner all or part of the costs reasonably incurred.

The owner, occupier or lessee of land may apply for, and the Council may grant the authorisation for the erection of any additional gates, stiles or similar structures across a public right of way under Article 6 of the Order. This provision is restricted to land which is, or will be, used for agriculture or forestry and to gates, stiles or similar structures required for the efficient use of the land and to restrain animals. Council may set conditions with the authorisation relating to maintenance of the stile or gate or which enable the public to use the public right of way without undue interference. Any conditions set will override the provisions in Article 5, otherwise Article 5 will apply.

## **17.3 Ploughing**

Under Article 7 of the Order an occupier of land has a right to plough a public right of way where:

- Land is used or being brought into use for agriculture or forestry,
- The ploughing is in accordance with the rules of good farming or forestry,
- It is convenient to plough the path with the rest of the land,
- The path does not follow the sides or headland of a field or enclosure.

The occupier must notify the Council within 7 days that the path has been ploughed and must reinstate the path within 14 days or as soon as possible afterwards if prevented by exceptional weather conditions.

Where the public right of way is a public path created by agreement or order, the agreement or order relating to that path may exclude the right to plough the path or any part of it.

An occupier may also apply to the Council under Article 8 of the Order for an order to be made to temporarily divert the public right of way or extend the reinstatement period for up to three months on the basis that it is expedient in the interests of good farming and forestry to do so.

It is an offence if a public right of way is ploughed illegally or not restored and the offence is liable on summary conviction to a fine. Alternatively, Council may reinstate the path and recover the expenses it has reasonably incurred in doing so.

### **17.4 Bulls**

Article 9 of the Order makes it an offence for an occupier to permit a bull to be at large in a field or enclosure through which there is a public right of way. Exceptions to this are bulls not more than ten months old or bulls which are not of a recognised dairy breed and at large in any field or enclosure with cows or heifers. This offence is liable on summary conviction to a fine.

### **17.5 Notices**

Article 10 of the Order makes it an offence for any person to place or maintain a notice, on or near any public right of way, containing false or misleading information likely to deter the public from using the public right of way. This offence is also liable on summary conviction to a fine.

### **17.6 Byelaws**

The Council has a discretion under Article 46 of the Order to make bye-laws in relation to land over which there is a public path created under the Order, a long-distance route, an access agreement, access order or any other public right of way. The bye-laws may relate to the prevention of damage to such land, the use of vehicles and a range of prohibited activities.

**18. Appendix 1 – Witness Evidence Form – attached separately**

**19. Appendix 2 – Landowner Evidence Form – attached separately**

