

Creating Multi-user Public Rights of Way

A Guide for Local Groups

Rachel Thompson

With a foreword by
Jenny Carling
Chair, Forest of Dean Horse Riders
and Carriage Drivers Association

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Those using this guide should be aware that any views expressed on points of law represent the views of the Trust, in consultation with Defra and Natural England, but that ultimately it is for the Courts to interpret the law. Users of the guidance should be aware that there may be specific circumstances that it does not address and they may wish to consider also seeking independent legal advice tailored to the particular circumstances of any given case.

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Foreword

The Forest of Dean Horse Riders and Carriage Drivers Association is a voluntary organisation working to provide a safe network of riding and carriage driving opportunities throughout the district of the Forest of Dean in Gloucestershire. Two members of our committee attended a training day to learn more about The Trails Trust approach to obtaining higher level public rights of way. We came away enthused about this non-confrontational methodology and decided to “do” something in our locality.

What we decided to “do” was to try and develop a linear route and community loops that would link up the current fragmented rights of way network. But to do this we needed help. So we worked for 18 months to obtain funding for a feasibility study from our local action group. Our bid was eventually successful and the funding was used to employ a consultant to carry out the study on our behalf but working under our management. During this period of seeking funding we developed strong relationships with Gloucestershire PROW and with the Forestry Commission in our region.

Key to getting started was the support and help given to us by The Trails Trust; its training of our consultants in the methodology; and its generous sharing of this guide in its early draft stages.

We are delighted to announce that the use of The Trails Trust methodology has helped us in the last six months to negotiate and secure agreement for more than 50 miles of potential new public rights of way. When created we believe that this will bring substantial economic benefit to the region and will promote the Forest of Dean as a national centre for outdoor recreation, adventure tourism and equestrianism.

The approach to landowners has resulted in a number of private landowners generously consenting to the creation of PROWs across their land and signing agreements based on the legal instrument known as express dedication at common law (EDCL) as described in detail in this guide. Other landowners have agreed to the establishment of permissive paths accompanied by a ten-year access agreement.

We have had many meetings with Gloucestershire County Council PROW team, the GCC County Solicitor and the Forestry Commission and both organisations have supported our work. Our discussions have resulted in the Forestry Commission agreeing in principle to the upgrading of existing footpaths, as they affect our spinal route, to bridleway, through permanent statutory dedication. In addition, the Forestry Commission will grant ten-year permissive access licences (at no cost) for local community circuits. Our local PROW team have expressed their commitment to the project and have offered their on-going support as we seek further funding to implement the feasibility study.

When complete, the Forest of Dean Greenway will be the longest Greenway network in the UK. We feel justifiably proud of our achievements and would recommend the EDCL approach to others seeking to improve rights of way in their area.

We would like to take this opportunity of thanking Rachel Thompson of The Trails Trust for enabling us to trial this approach on a large scale project and for her willingness to respond to our many queries as our project proceeded.

Jenny Carling
Chair, Forest of Dean Horse Riders
and Carriage Drivers Association
May 2011

Note from the author

As a child I spent many happy hours exploring the countryside on foot with my grandmother Winifred Carver who, having grown up in London, delighted in the Somerset country near her home. My own love of the English countryside is due first to her for enticing me to accompany her with the promise of den building, paddling in streams or tree climbing and the consumption of picnics when we reached our final destination. Along the way, every plant, tree, animal, bird or insect encountered was the source of great interest and its habits and habitat duly checked, noted and learned by reference to the appropriate Observer book.

Secondly, thanks to my parents, who let me and my friends roam unchecked around Mendip in the sixties and seventies, first on battered old bikes and then on the much longed-for pony, which my mother presented to me along with a blue second-edition OS map (so we wouldn't get lost) and a Saturday job at the local supermarket (to pay for said pony's keep).

It seems to me, as a horse rider in modern times, that we were privileged to ride then when the roads were lightly trafficked, the definitive map unheard of and inquiries to local farmers, regarding where we might go, resulted in rambling but nonetheless helpful descriptions of 'paths' (footpaths and bridleways)



Rachel on Holly (photograph Eric Jones).

and 'rights o' way', (carriageways) just waiting for us to explore!

For much of my professional life I worked as a technical problem solver in British industry, in an environment where the challenges of continuous production, cost efficiency and the need for profitability, constantly demanded working together to take calculated risks and identify sharper and more dynamic, yet simpler, working practices – without compromising quality or the health and safety of the environment.

It has always seemed to me that those same principles could be applied to the creation of a strategic multi-user countryside access network, hence this guide. If it helps establish one single route on the ground or introduces one single child to the wonders of the countryside, it will have been worth the many hours of production (when I could have been out riding!).

Rachel Thompson
The Trails Trust

Executive Summary

This guide explains in detail The Trails Trust's unique approach in using simple voluntary dedications by landowners, with the offer of an up-front capital incentive payment to the owner, to secure permanent public rights of way.

TTT's method offers landowners, land managers, voluntary groups, individuals, local access forums and local highway authorities, significant advantages over more commonly used statutory methods. It enables fast-track creation (or upgrading) of permanent public rights of way (whether footpaths, bridleways or restricted byways) to improve the local path network.

The benefits of a strategic network of local rights of way for human and animal health, particularly for the young and for the less able, as well as for economic growth, regeneration and community sustainability are clearly explained in the guide.

Under this approach, the written express dedication agreement, signed by the landowner, provides a clear statement of intent which cannot be disputed. The route on the ground is then physically created as agreed between the landowner, others with an interest in the land and the voluntary body. Public acceptance of the route (by using it) completes the process of bringing the new right into effect. The date of public acceptance (and therefore of final dedication) can be clearly recorded by holding an opening ceremony.

Wherever possible, it makes sense to keep the local highway authority sighted on this whole process. However, it is not necessary to make use of the authority's statutory powers since routes created by this method do not have to be foreshadowed on the Rights of Way Improvement Plan as the type of express dedication used works at common law. This in turn means that routes can be installed relatively quickly. Funding, which might not be available if the highway authority led the project, can be sought. Yet because the coming into effect of a public right of way through express dedication is a 'legal event' for the purposes of the relevant legislation, the authority must record the route as such on the definitive map and statement.

TTT has provided a step-by-step approach to designing linear and community networks, surveying potential routes, identifying and approaching landowners and others and working with them to address their concerns, assessing highway exit safety, planning works schedules and budgets, identifying and accessing funding, the physical creation of the route and opening to the public. Useful information on other mechanisms for route creation, such as permissive paths and the use of powers to bring unowned green lanes and droves into public use, is also included, along with a number of case studies.

Natural England provided financial assistance with the cost of writing the guide, for which TTT is very grateful. TTT has also liaised closely with Defra when compiling it. TTT commends it to other groups who want to make a real difference to their local rights of way network.

Introduction to the guide

In 2005 The British Horse Industry Confederation in partnership with Defra published a Strategy for the Horse Industry in England and Wales. Action point 30 relates to access to the countryside and states 'Publish a Good Practice Guide for those interested in expanding local access for riding'

This good practice guide has been written by The Trails Trust (TTT) to enthuse, enable and empower individuals and voluntary groups to create new multi-user (MU) routes and trails, while giving other bodies, such as local highway authorities (LHAs), landowners and managers, the information necessary to have confidence in the approach.

TTT has more than ten years of experience of creating new MU routes, mostly in the Mendip Hills. The concept of Big Society Britain means that more power and decision making will be devolved from the state to the people. This guide is one of the tools which it is hoped will re-enthuse and empower local groups by helping other volunteers to succeed like TTT, to plan and create both local and wider access networks within a reasonable timescale and to raise funds to achieve this aim.

The health and wellbeing benefits of active recreation and engagement with the natural environment are well understood for both humans and animals.

However, throughout England and Wales it is widely acknowledged that the MU network (quiet lanes, bridleways, byways and other MU paths) is disconnected, inadequate for modern needs and often unavailable because of the increasingly heavily trafficked roads that need to be used to reach these routes. In many areas it is difficult for people to benefit from exploring the local countryside around their communities or to travel further afield without using motorised transport.

Increasing numbers of volunteers are keen to create local community trails or longer linear trails linking the urban environment to the countryside or to permit sustainable tourism travel on foot, by horse or bicycle by creating new routes or by reopening disused historical routes, where these are needed as part of a strategic modern day network. However, volunteers have been thwarted, confused or frustrated by the statutory methods and often long-winded processes available and have given up. Loss of valuable voluntary input to expand the network represents a significant loss to society.

Often the solution to modern problems can be found in the past. Many existing public rights of way (PROW) have historically been created by the act of landowners dedicating a highway right to the public across their land. The right of landowners to dedicate and the right of the public to accept is enshrined in English common law and can occur without any state involvement. When the dedication takes the form of a written agreement, it is known as express dedication at common law (EDCL). LHAs then have the statutory obligation to record any such route so created on the definitive map and statement (DMS).

This guide focuses on the work of TTT, a charity with considerable experience in working with landowners to secure new PROW through express dedication. Sometimes the trust offers a small capital payment to landowners to secure missing links. The outcome is the creation of circular and linear trails within very short timescales and at a much lower cost compared to statutory methods.

The various sections explain the express dedication process, along with researching, developing and installing the new PROW. The guide includes information on identifying and negotiating with landowners and other interested parties, best design practice, identifying and raising funds, planning a budget, ordering materials and working with contractors, future maintenance issues and DMS processes, along with alternative statutory and permissive path creation methods.

TTT hopes this guide will inspire, inform and enable other volunteers to create an expanding cohesive network of MU routes, created in partnership with landowners and others, for the benefit of all people, whatever their ability and location.

Abbreviations in the text

AONB	Area of Outstanding Natural Beauty
BOAT	Byway Open to All Traffic
BR	Bridle Route (bridleway)
DEFRA	Department for Environment Food and Rural Affairs
DMS	Definitive Map and Statement
DMM	Definitive Map Modification
DMMO	Definitive Map Modification Order
EDCL	Express Dedication at Common Law
FP	Footpath
FWAG	Farming and Wildlife Advisory Group
HA 80	Highways Act 1980
HSE	Health and Safety Executive
LA	Local Authority
LAF	Local Access Forum
LDR	Long Distance Route
LHA	Local Highway Authority
LoS	List of Streets
LPA	Local Planning Authority
LR	Land Registry
MU	Multi-user
NE	Natural England
OCR	Off Carriageway Route
ORPA	Other Route with Public Access
OS	Ordnance Survey
PP	Permissive Path
PROW	Public Right of Way
RB	Restricted Byway
ROWIP	Rights of Way Improvement Plan
RUPP	Road Used as Public Path
SA	Surveying Authority
SSSI	Site of Special Scientific Interest
TPO	Tree Preservation Order
TTT	The Trails Trust
UCR	Unclassified County Road
UUCR	Unsealed Unclassified County Road
WCA 81	Wildlife and Countryside Act 1981

1. Introduction to The Trails Trust

About the trust

The mission of TTT is to work in partnership to deliver a strategic, permanent, modern network of linear and community countryside access routes, through the targeted development of new multi-user (MU) routes to link to, and release the potential of, the existing but fragmented network of country lanes, byways, bridleways and cycle tracks, creating networks that are free and safe for all people to use, wherever they live, and whether on foot, horse or bicycle.

TTT does not promote the cause of one particular user group. Its aim is to develop a network that is used by all people whatever their age or ability and is free at the point of use.

The trust's work is founded on the development of linear trails to link urban and rural communities with National Parks, AONBs and other desirable destinations supporting opportunities for regeneration, tourism, health, sport, recreation and sustainable travel. The trust's aim is that local community circuits, of five to ten miles in length, will link into the linear network, permitting daily safe exercise and access to local countryside.

TTT was incorporated as a company limited by guarantee in 1997 and attained charitable status in 2002. In 2008 the trust expanded its work nationally, beyond its previously defined geographical area of Mendip in Somerset.

Why TTT developed a new approach to PROW creation

The introduction of the Wildlife & Countryside Act 1981 gave the public the means to apply for modification orders to correct the definitive map and statement (DMS), based on historical evidence or evidence of use. The act coincided with the growth in the numbers of leisure horse riders and mountain cyclists and a number of enthusiastic voluntary groups sprang up around the country, determined to re-open obstructed paths and to re-establish 'lost' (multi-user) bridleway and byway rights.

In common with other voluntary bridleway associations, early work in the 1980s concentrated on clearing existing public routes, removal of obstructions, improvement works - such as new gates, surface work and signage - and negotiating with landowners to resolve applications to remove routes from the DMS.

Once this was achieved or in hand, work focused on filling in network gaps by researching historic or customarily used routes and applying for definitive map modification orders (claims) to upgrade existing or add new public rights of way.

It quickly became apparent that this route claim strategy:

- Often alienated landowners.
- Was costly to the LHA and the voluntary group.
- Gave no guarantee of success for the many hours of work invested.
- Could not deliver access where needed or in any reasonable timescale - since claims could take many years to process.
- Did not deliver a strategic modern network.
- Often caused the landowners to close other nearby unrecorded customary routes.

Recognising that a new approach was needed the trust was set up and a 'ride now' strategy was formulated with key factors for success identified.

TTT's ride now strategy

- Network first, irrespective of user type: develop a strategic plan detailing a coherent network for riders, mountain cyclists, walkers and the disabled with access for carriage drivers where

1 | The Trails Trust

possible.

- Create a positive action environment through partnership working and promoting the benefits of the strategic countryside access network.
- Present win/win solutions for landowners, potential users and LHAs.
- Fund-raise from a range of sources for route installation projects.
- Work independently of LHA if required.

Encouraged by the LHA, TTT started by successfully negotiating agreements based on the statutory method of creations contained in s25 and s26 of the 1980 Highways Act in order to secure routes affected by definitive map claims.

Attention then turned to the making of strategic linear and community route maps by identifying and filling gaps in the network (often where no historic route existed) and negotiations for these new routes commenced.

During this period TTT's experience was:

- An inducement for landowners to dedicate would be helpful.
- Statutory creation processes were unlikely to deliver new access due to:
 - LHA constraints (lack of resources)
 - Complex statutory processes
 - Evidential burden

A more secure method for permanent route creation initiated by voluntary groups on behalf of the public and working with those who are able to deliver the access, the landowners, needed to be found.

The trust has now developed a unique, co-operative method of establishing permanent PROW through a process based on the principle of express dedication at common law, working with partners – principally with landowners and also with other organisations and statutory bodies – to achieve dedicated routes.

This partnership approach has delivered more than 80 new routes on Mendip. £500,000, raised through funding and grant aid, has been invested in the local network.



Rachel Thompson, TTT's project officer, shakes hands with a local landowner to thank him for his agreement to provide a new bridleway on his estate near Wells in the Mendip Hills.

2. The Problem

The multi-use countryside access network: demand and decline in the 21st century

The English countryside, its growth and its destruction, is a genuine and tragic theme.

EM Forster

The multi (MU) user network defined

The MU network can be defined as comprising higher PROW – bridleways (foot, bicycle, horse), restricted byways (as bridleways plus carriage drivers), BOATS (byways open to all traffic – as restricted plus motorised vehicles), unsealed unclassified county roads (UUCRs) and other multi-purpose-built routes (e.g. along abandoned railways) plus surfaced roads that are safe to use as part of the network or to access it.

The ideal national network would incorporate:

- National linear routes leading around the country linking counties, towns and villages, National Parks, AONBs and coastal areas enabling sustainable and adventurous non - motorised travel.
- Local community circuits (5–10 miles average) - interlinking with the trails and linking communities together, permitting 'on the doorstep' countryside access whilst ensuring that users can access the main trails to a potential walking, riding or cycling holiday destination.



The English countryside: woods, hills, valleys, mountains, moorland, historic buildings and places, flowers, birdsong, wildlife, sun, wind and rain; often inaccessible except by car. View from an old 20ft-wide carriage road defined as footpath (walkers only). Once used by horse riders but currently closed to horse riders and cyclists after a claim on a nearby route.

Modern demand

During the strategic planning process TTT studied local user, network and traffic information in Mendip to assess the suitability of the existing local MU network for modern day needs and sustainable use.

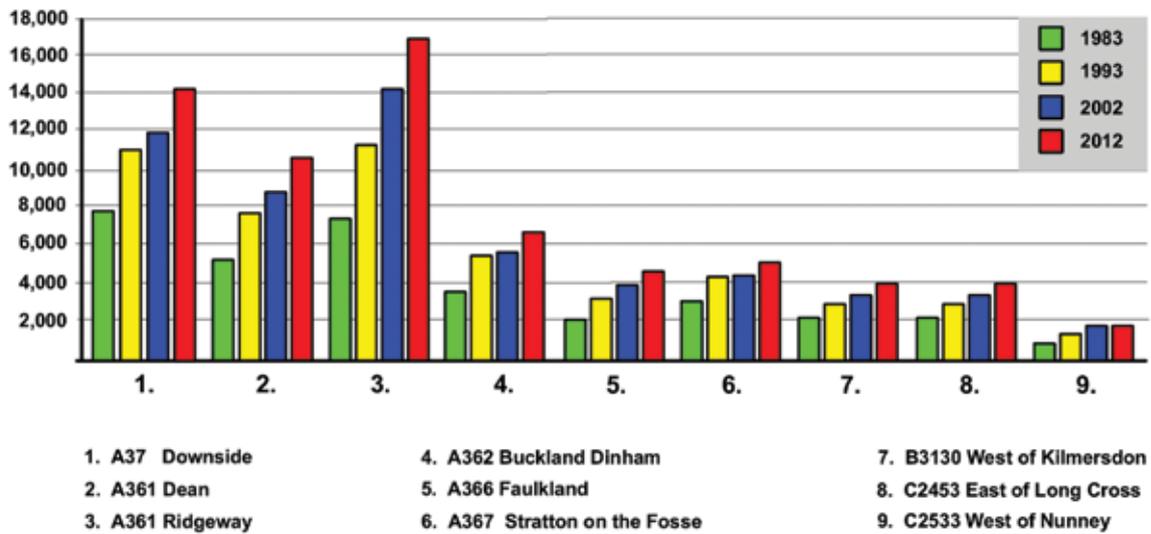
Surveys showed that:

- Local horse riders rode an average 5–10 miles (8–16 km) and occasionally up to 25 miles (40 km), depending on location and availability of network.
- Most of these rides were still on tarmac roads.
- All users crossed or exited roads approximately once for every 1 mile (1.6 km) of travel.
- 2700 local riders took 9000 rides per week.
- Local horse riders rode 63,000 miles / week - more than 3m miles (almost 5m km) / year.

2 | The Problem

- Less than 10% of the PROW network was available as bridleways / byways compared to Exmoor National Park 59% network availability.
- 25% of riders had suffered 5 or more near misses in the last 5 years.
- Traffic volumes estimated to rise by 29% (Somerset Highways 2004).
- Where volumes of traffic rose above 3,000 vehicles / 24 hrs, most horse riders abandoned the road and any PROW leading from it.

In addition there has been substantial loss of verges and other safe refuges and increasing use of rural roads and country lanes as rat runs.



Volumes of average annual daily traffic flow on roads in east Mendip quarry area (all traffic).

TTT studies found that network route loss in Mendip coupled with the difficulties in using the roads contributes to an ever increasing cycle of decline in the use and accessibility of the local higher PROW network. Comparisons with other voluntary access groups revealed this cycle of decline to be a country wide problem.

Anecdotal evidence from older horse riders regarding the pre 1970 network is that it was relatively easy and safe to travel into and around the countryside even on rural A roads.



Modern network opportunities: examples of routes that could accommodate safe multi-use but are unavailable or unsafe now. Left, old road recorded as footpath; right, typical tarmac lane – national speed limit 60mph.

The access network use and availability over a forty year period.

Factors relevant to network use	1967	2006
Number of horse riders	100,000 (estimated)	4,300,000 (Beta 2005/6)
Number of mountain cyclists (mtbs)	Cycling limited to carriage ways / and through bicycle technology.	20,000,000 (number of bikes in UK – Guardian 2002, 2,000,000 sold each year – majority mtbs – BBC Sport).
Number of carriage drivers	Not known	500,000 - estimated
Definitive map & statement	Not published: network undefined, use dependent on accessibility not necessarily on recorded rights.	Published: many customary/historical routes recorded as footpath or not at all. In 2002 the Countryside Agency estimated that 16,000 km of PROW were unrecorded.
Average rural A road traffic flow (Somerset Highways)	<1,000 / 24hr	11,000 / 24 hr and rising
Changes in land ownership	Rare (inherited family farms dominating).	Frequent (move towards larger holdings / lifestyle farming).
Customary ways lost	Few (use rarely 'forbidden' – status undefined).	Many closed due to DMS claims on nearby routes/ changes in landownership.
Unsealed UCRs lost	Few – more commonly in use by local populations.	Many unsealed minor highways have been lost due to poor recording of rights and lack of maintenance.
Local route 'memory'	Intact: information passed from older users and local landowners to new users.	Lost due to transient population.

Summary

- 1967 – 100,000 users (estimated) had access to most of the road and PROW network.
- 2010 – 20 million (estimated) potential users have access to a fraction of the network due to poor recording of routes and increased traffic use and speeds on roads.
- Rising demand for a coherent local network (need) but declining use.

3. Benefits of a multi-user countryside access network

Voluntary groups engaged in the delivery of MU access networks need to convince potential funding bodies of the benefits in order to gain support for investment into trail projects.

Reversing the continuing decline in multi-use countryside network availability as discussed in section 2 could deliver Big Society benefits in six key areas:

1. Human (and animal health) – delivering government targets.
2. Providing access opportunities for everyone.
3. Encouraging use through safe and easy access to networks.
4. Increasing network value to communities/best value for LHAs.
5. Creating and sustaining rural economic growth and regeneration.
6. Sustainable transport and travel.



Multi-use countryside access: delivering healthy people and animals, irrespective of age, ability and mode of transport (photograph Christina White LRPS).

1. Health

Multi-user countryside networks have the potential to deliver big benefits in health by increasing accessible opportunities for exercise in the natural environment.

Information from the Department of Health

- The government has set a DCMS (Department of Culture, Media & Sport) target in England and Wales for 70% (from a base of 30% in 1998) of the population (in Wales, people up to the age of 65) to be ‘reasonably active’ by 2020.¹
- The cost of physical inactivity in England – including direct costs of treatment for major life-style related diseases, and the indirect costs through sickness absence – has been estimated

¹ The government’s plan for sport (Game Plan)

3 | Benefits

at £8.2bn a year. This does not include the contribution of inactivity to obesity which itself has been estimated at £2.5bn annually.²

- The Chief Medical Officer recommends at least 30 minutes of moderate physical activity on five days a week for adults and at least 60 minutes every day for children – and that this target will only be achieved by helping people to build activity into their daily lives.
- Only one third of people in Britain achieve the minimum recommended levels of physical activity and inactivity is a key factor in the dramatic growth of obesity. 61% of English adults and 30% of children are overweight or obese.³
- One in four people will experience a mental health problem at some point in life. Each year more than 250,000 people are admitted to psychiatric hospitals.⁴

Government health strategy

The Government plans to ring-fence £4bn for a new body, Public Health England, to co-ordinate public health. Public Health England will allocate to local authorities ring-fenced public health budgets. New directors of public health will work locally in partnership across the public, private and voluntary sectors. Health Secretary Andrew Lansley said: “Health and well being will be at the heart of everything local councils do.”

Since local authorities also deliver PROW services, this new strategy for health represents a big opportunity to deliver health benefits through the PROW network and to change current thinking towards the bigger benefits of multi-user strategic networks.

Developing strategic countryside networks can substantially deliver on health targets by:

- Encouraging and enabling more people to use them (by whatever means).
- Providing safe accessible doorstep routes that give opportunities to build periods of healthy exercise into busy lives for all users.

Supporting evidence concerning the health benefits of countryside access is readily available on the internet. Useful sites are Defra, Natural England, Ramblers Association, Sustrans, British Horse Society, Riding for the Disabled, the Runners Guide and active healthy living sites such as Real Buzz.com. Full addresses can be found in the appendix.

The following data, to illustrate the exercise benefits derived from walking, running, horse riding, cycling and carriage driving – all activities that can be promoted on multi use networks, has been derived from these web sites.

Physical health

- Improvements to heart, lungs, circulation and joints, muscles, bones strength and flexibility.
- Reduction in the risk of heart disease / strokes, certain types of diabetes, cancer, osteoporosis.
- Weight management.
- Immune system boosting.
- Increase good cholesterol.

Mental health

- Reduction in anxiety, depression and stress.
- Improved mood, confidence and self image.

2 Natural Fit by William Bird for the RSPB 2004

3 National Statistics 2008c

4 Mind

3 | Benefits

- Improved cognitive function.
- Aids sleep.

Specific activities health benefits: examples.

Walking

Physical health: “Brisk walking has the greatest potential for increasing the overall activity levels of a sedentary population . . . (and) is most likely to be adopted by a range of ages, socioeconomic and ethnic groups” (Hillsdon and Thorogood 1996).

Mental health: “A vigorous five-mile walk will do more good for an unhappy but otherwise healthy adult than all the medicine and psychology in the world” (Paul Dudley White).

Cycling

Physical health: cycling for just 20 miles a week will reduce the chances of getting heart disease by half, compared to those who take no exercise at all (British Heart Foundation).

Mental health: “I thought of that while riding my bike” (Albert Einstein, On the Theory of Relativity).

Horse riding and carriage driving

Physical health: horse riding has both cardiovascular and muscle conditioning benefits. Although it may seem as if the rider is not engaging in any physical exercise, an hour’s activity can burn a similar amount of calories to that of a 30-minute jog at 6mph or cycle ride at 9mph (Realbuzz.com).

Carriage driving offers some of the same benefits as riding, including improved co-ordination, muscle power and balance (Riding for the Disabled).

Mental health: “There is something about the outside of a horse that is good for the inside of a man” (Sir Winston Churchill).

Many people who are disabled can participate in horse riding and driving activities, enabling access to the countryside that they would not otherwise be able to enjoy (Riding for the Disabled).



Carriage driving offers access benefits for less abled people, like the driver here who says: “I know there are quite a lot of carriage drivers who are less able bodied; it’s a great way of getting about and still enjoy our horses, especially for those of us that used to ride. It would be even nicer if we had more off road routes to drive” (photograph Richard James British Driving Society member and judge).

In North America, the recognition by many medical professionals (including the American Physical Therapy Association and American Occupational Therapy Association), of the therapeutic qualities of horse riding and other equine activities, for the treatment of a wide range of physical, cognitive and/or emotional disabilities, is much more advanced than in the UK. In 2006, 38,600 children and adults undertook therapeutic riding courses at 717 horse riding centres.

3 | Benefits

The American Entertainment & Equestrian Alliance says: “For those riders who cannot walk, the horse is their vehicle of transport – not only does it help raise their self-esteem but also teaches them essential skills”; and, “for individuals with mental or emotional disabilities, the unique relationship formed with the horse can lead to increased confidence, patience and self-esteem. The sense of independence found on horseback benefits all who ride.”

Outdoor Recreation – benefits for health (Defra 2010)

- Outdoor recreation has the potential to provide physical and mental health benefits to everyone, and access to the countryside and other ‘green space’ is one of the primary means of obtaining these benefits.
- High-quality, accessible green spaces are highly valued by the public. In addition to their intrinsic value, they provide considerable benefits to quality of life, health and wellbeing. People’s needs have changed, and more provision of accessible green space and high-quality landscapes closer to where they live are needed to enable them to build more outdoor recreation into busy, modern lifestyles.
- Improving access will give people an opportunity to increase their understanding of the natural environment, promote healthy outdoor recreation and inspire lifestyle choices.

Animal health

Two animal species benefit from use of PROW – horses and dogs. Both of these species are increasingly suffering from the health problems associated with lack of exercise.

Horses

“Despite widespread media coverage of both human and pet obesity, we appear as a nation to be blind to this issue,” says World Horse Welfare (see appendix). “We are seeing a growing trend of welfare concerns involving obese horses, and this survey only goes to reinforce why this is the case; many people are unable to appreciate what an overweight horse looks like and the grave health risks they face. Overweight horses can also suffer from laminitis, heart and lung problems and even a diabetes-like condition, which can be equally destructive as it is for humans.”

Dogs

The Chartered Society of Physiotherapy believes canine obesity is a growing and common problem and says many studies suggest that 40-50 per cent of dogs are overweight. It also notes:

- More than four fifths (81%) of chartered physiotherapists in animal therapy cite obesity as the number one danger facing dogs in the UK (Source: CSP, 2005).
- The main cause of canine obesity is overfeeding and insufficient exercise.
- As in humans, being overweight is not only a cardiovascular danger, it also puts unnecessary strain on joints and ligaments. The same applies to man’s best friend. Overloading an animal’s joints, and compounding this with reduced exercise, can cause poor muscle tone and fitness leading to conditions such as soft tissue injuries and joint strain.

Increasing the availability of the network for horse and dog owners will also benefit the health of these animals.

2. Providing access opportunities for everyone

MU networks, which permit combinations of walking, running, cycling and horse riding/driving, have the potential to encourage families and friends to exercise in, experience and enjoy the countryside together in a sociable way.

For example, parents may wish to walk, run, cycle or ride with their children, who may be learning to

3 | Benefits



Mum on horseback with child on leading rein on 14 miles TTT Heart of the Mendips Ride. The route pictured is Draycott Sleights, an unrecorded bridleway, closed to the public after the land changed hands, but reopened and correctly recorded on the DMS following a 14-year campaign by local people (photograph Samantha Gilraine).

ride a horse or a mountain bike, or who are too young to go out alone. A group of friends might wish to walk, cycle or ride to a local pub for lunch.

However the current PROW network, based on historic legal definitions about who may use a route, fails to benefit the nation in this way and discriminates against multi-use.

Of the 188,700km PROW in England and 33,000km PROW in Wales (figures from Defra):

- 100% are available to walkers (who also benefit from Open Access Land and proposed Coastal Access).
- Only 22% in England and 21% in Wales available to horse riders and cyclists.
- Only 5% in England and 6% in Wales available to carriage drivers.

Most of the PROW available for multi-use (based on historical usage) does not form coherent circuits and does not encourage modern multi use opportunities which could encourage more people to use them.

Children in particular are more likely to engage in outdoor pursuits if their parents and/or peers do. A 2010 study by the University of Hertfordshire recently published a paper that considers “the existence of substantive research produced over two decades that the long-held preference for being outdoors in middle childhood (ages 5-11) is in decline”⁵. Key points from the study are:

- Children are becoming increasingly disengaged from the outdoors.
- Disengagement is having deep-rooted effects in terms of lack of physical activity, health and wellbeing.
- Lack of appeal of outdoor activities.
- Some of the children in the study wanted walking incentivising with bikes, food, balls, dogs.
- Lack of engagement is due to parental lack of confidence, knowledge and information about countryside.
- Risk adverse society – fears about safety, strangers and traffic.
- Families tend to use doorstep sites: local open space, cycle routes.
- Cycling is the most popular activity.
- Pony trekking is viewed as one of the least dangerous activities.

The report warns that “if affluent children in middle childhood are increasingly spatially restricted, they will have less contact and experience of the outdoors and the valuable opportunities that it offers – if

⁵ Journal of Outdoor Recreation, Education and Leadership 2010, Vol. 2, No. 3, pp. 217-244



A day out in the country can be a family affair! (photograph Celia Hughes).

it is the children of the affluent who may at some point hold positions of influence in society, then the longer term consequences could be that the outdoors will no longer be a phenomenon at the forefront of everyday experiences and formative recollections and may therefore be lost from their memories and future political agendas.”

3. Encouraging use through safe and easy access to networks

A strategic network – in order to appeal to and encourage a broad section of society must be safe and easily accessible.

Safety means:

- Avoidance of travelling along dangerous roads which increasingly form barriers between users and their local access routes.
- Feeling safe in the countryside – 75% of horse riders are women (2005/6 Beta survey) and many children ride (UK pony club has 40,000 members – Rural Sports UK).

Accessibility means:

- Routes available on the doorstep.
- Accessible to all people whatever their age or ability.
- Horse riding and carriage driving can be enjoyed well into old age and by people with mobility problems who may find walking difficult.
- Multi-use routes do not discriminate because they are accessed via gates of a minimum 5ft width or via gaps – easily accessible by those with mobility issues, in an all-terrain vehicle or with an obese dog - compared to stiles (particularly ladder stiles).

TTT case study number 2 section 23 (community circuit) is an example of how safe and accessible local circular trails have been created by negotiating with local landowners to upgrade two footpaths to bridleway and adding new links to the existing fragmented network of multi user off road routes and quiet country lanes for the benefit of all users. Only two under used off road routes existed – both inaccessible due to miles of dangerous road leading to them.

4. Increasing network value to communities/best value for LHAs

Increasing network value for communities:

- PROW are free for everyone.
- Multi-use is more fun for everyone.
- Safe linear trails link communities together - for example a village that has no pub or shop to one that has.
- Encourages social adhesion – meeting others is easier on foot, horse or bike. Activities undertaken with others/family decrease loneliness/cement relationships.
- Positive sense of place (we live here!).
- Linear trails can link to areas with a better network (eg suburban areas with countryside).
- Linear trails can provide safe routes to school.
- Community walks and rides.
- Opportunity for endurance sports (horse endurance, cross-country running).
- Use for sport training facility – including Olympic sports.
- Multi-use discourages single user path ‘ownership’ issues and discourages the potential for conflict – users learn to co-exist.
- Access to local environment, history, heritage, culture.
- Use for fun fundraising events.
- Longer distance travel on trails to other areas.
- Reduced carbon footprint through less car use.

Network value to population declining

As accessibility to the (in particular) local MU access network becomes more difficult so does its value as a resource for active healthy exercise also decline - despite the investment of millions of pounds by LHAs in maintaining PROW.

In 1999/2000 the CSS (County Surveyors Society, now Adept) surveyed local authority expenditure on PROW in England. From that research, the CSS estimated that local authorities were spending £32.6m on their rights of way duties; and it found that the average expenditure on maintaining the network stood at £108 per km. (source: “Resources for Public Rights of Way 1999/2000”, CSS, January 2001).



Left, multi-user routes (bridleways and byways) are accessed by gates and are easily accessible for everyone; right, quiet village lanes can form valuable sections of community networks linking users with local amenities.

3 | Benefits

Often short lengths of new MU route linked strategically to existing routes can dramatically improve the value of the whole network by many times the instalment cost. This makes the investment in maintenance reap considerably better returns in health and other benefits because more people are able to access the network and encouraged to use it offering LHAs significant return on investment benefits in 'best value'.

In the TTT case study (2) the cost of providing the links to create a community network, accessible to a population of an estimated 1000 people, was around £11,500 = cost per person £11.50p.

5. Rural economic growth and regeneration

National Farmers Union (NFU): "Farmers should be attracting more people into the countryside from an economic point of view, we also need to be seen to be welcoming them from a wider public relations point of view" (South West Riders 2002).

Provision of multi-user trails helps to support a vibrant rural economy and promotes growth through both local use and tourism. Businesses that derive direct benefits include local shops, pubs, farms, cafes, bed and breakfast businesses and campsites, particularly where these are promoted through circular or linear trail publications.

Institute of Public Rights of Way 2010: "An estimated 70m British people holiday in England each year and spend an estimated £70bn plus."

Trail examples (from Ramblers Association website).

- The South West Coast path generates £307million a year for the economy of the region, supporting over 7,500 jobs but costs only £500,000 a year to maintain.
- The West Highland Way, Scotland's most popular official long distance route attracts 75,000 visitors a year, generating £3.5million and supporting around 200 local businesses.

Direct benefits arise from:

- Provision of places to stay for travellers on longer trails - camp sites, bed & breakfast.
- Holiday accommodation for tourists on longer stays and wishing to explore the local network.
- Publicised/way marked trails that include pubs, cafes, shops, farm shops.
- Livery for local horse riders with provision for travellers on longer trails.
- Riding schools/trekking centres, bicycle hire business.
- Individuals who can act as trail guides – on foot, horseback or bike.
- Contractors who install/maintain the routes.

Significant indirect benefits of a good MU network arise from the numbers of horses kept in the area.

- Research in 2008 by The Motley Fool website concluded the annual cost of horse keeping to be £3,300-£4,950.
- A more recent report commissioned by the North Lancashire Bridleways Association (2009 Victoria Lowe BSC Hon) gave the annual cost of keeping a horse (excluding transport costs) as £4,752.
- In small areas such as parishes, where a good network exists, it is not unusual to find horse populations of 100 or more representing £400,000 into the economy annually (at an average of £4,000 per horse).
- Much of this investment is into the immediate local economy directly supporting business and services such as veterinary practices, feed merchants, farmers, land managers, farriers, equipment suppliers and trainers.

6. Sustainable transport at low cost

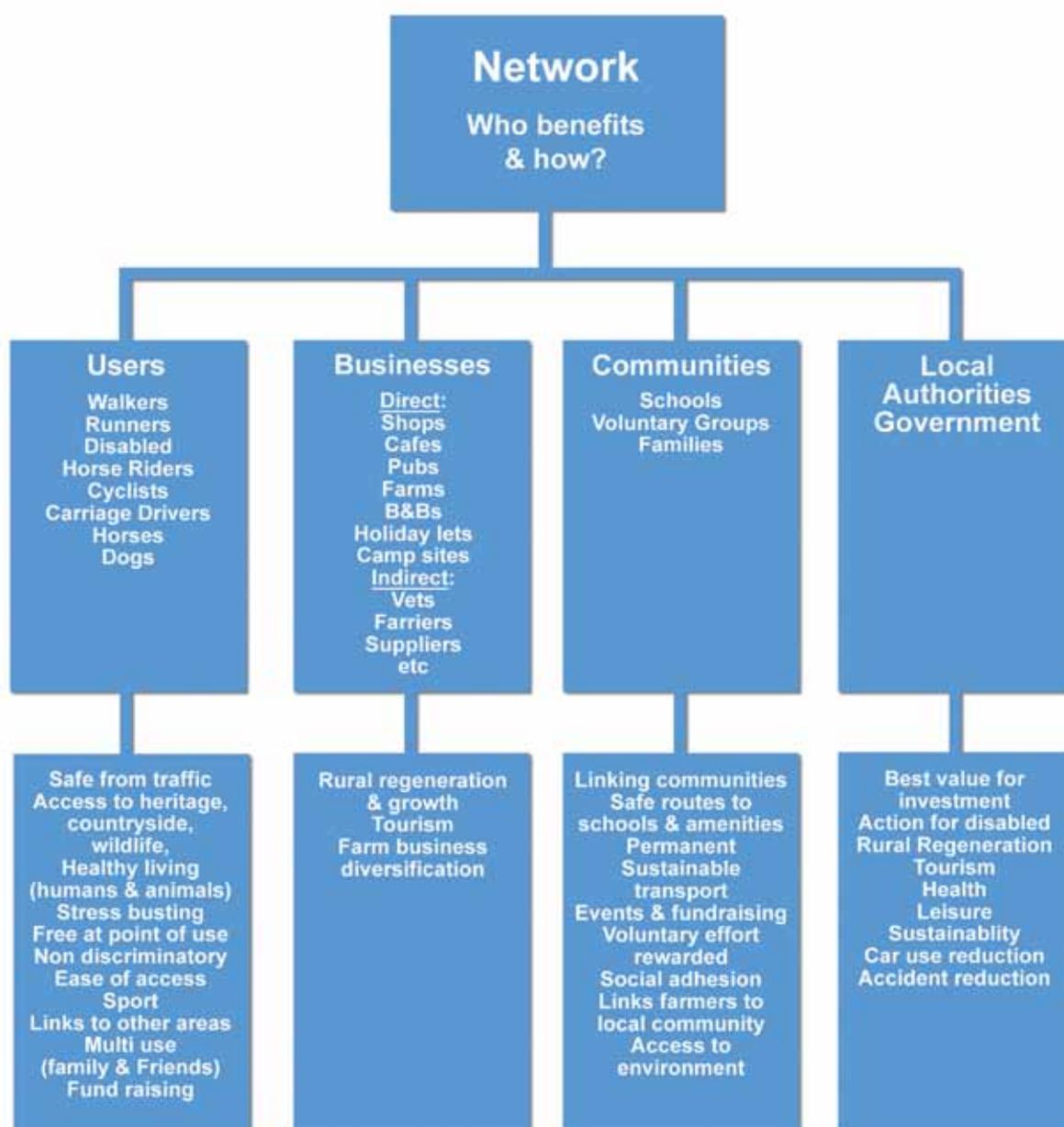
“If we all swapped one car journey a week for walking instead, car traffic levels would reduce by at least 10%” (Sustrans 2009).

“The unrelenting growth of transport has become possibly the greatest environmental threat facing the UK and one of the greatest obstacles in achieving sustainable development.”⁶

Sustainable travel on foot, bicycle or horse to can be encouraged by providing:

- Community circuits – visits to local shops, pubs, social trips (visiting friends, families).
- Interconnecting trails to next community (trips as above).
- Access to longer trails – tourism travel.

Voluntary groups may find this benefits table helpful.



6 Royal Commission on Environmental Pollution, 1994

4. Legislation and strategies relating to the PROW network

The TTT experience was that there is an increasing need and obvious benefits for the existence of a multi-user (MU) access network. However, despite the positive intentions of legislation, advice circulars and strategies to protect and enhance countryside access, network accessibility and availability, actual multi use is declining. Statutory processes have failed to enable the public to initiate route creation themselves in order to reverse this trend and create a modern day user network.

The main focus of over seventy years of PROW legislation has been in defining rights, increasing and protecting route accessibility through furniture improvements, preventing obstructions and providing the public with information - not towards mitigating the loss of, or expanding and delivering a MU network. Despite the good intentions of legislators, the cost of delivery of statutory obligations has often exacerbated the problem.

It is useful for voluntary groups seeking to create MU networks to be aware of both the development of statute law regarding PROW and the centuries old situation that exists under common law.

The legal system and public rights of way

The two sources that make up the law are:

- Statute law: primary legislation arising directly from Acts of Parliament and secondary legislation, statutory instruments, consisting of regulations, orders and instruments.
- Common law (the oldest source): principles arising from court custom and judgments over hundreds of years. Common law principles can be overturned by higher courts or Acts of Parliament.

Statute law

Legislation to define rights has been enacted through various Public Rights of Way Acts passed by Parliament which has (in brief) given LHAs various powers and duties to:

- Make a definitive map and statement (DMS) and keep it up to date.
- Amend defined rights shown on the DMS.
- Add, amend or delete routes to or recorded on the DMS through a claims procedure and legal orders.
- Create PROW through agreements with landowners or where there is a need.
- Prevent obstructions and misuse.
- Maintain PROW within its specified area.
- Signpost and waymark PROW.

Voluntary groups should note that detailed information regarding definitive maps and statements, legislation and case law (that has further refined the legislation) can be found in 'Rights of Way – A Guide to Law and Practice' and on the Ramblers Association website (see appendix for details).

Legislation: Acts of Parliament

For the purposes of this guide the following are the most important to note:

1949 National Parks & Access to the Countryside Act

- Introduced a statutory duty to record PROW on DMS – creating a legal record of the public's rights.
- Procedures for creating, diverting and extinguishing footpaths and bridleways by orders.

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- PROW made maintainable at public expense.
- Authorisation for ploughing footpaths and bridleways subject to restoration.

1968 Countryside Act

- Revised 1949 procedure for updating the DMS.
- Gave cyclists the right to ride on bridleways.
- Required paths to be sign posted and waymarked.

1980 Highways Act

- Power under section 25 (s25) for LHAs to enter into agreements with landowners to create any type of PROW. (Creation Agreements).
- Power under section 26 (s26) for LHAs and the Secretary of State to create any type of PROW through public path orders. (Creation Orders).
- Power to divert and extinguish PROW.
- Prosecution of farmers failing to reinstate after ploughing.

1981 Wildlife and Countryside Act

- Changes to DMS procedures – including the new right of the public to apply for modifications to the DMS – i.e. to request the LHA to make an order (DMMO) to show a route not previously shown or to modify the status of a route e.g. from footpath to bridleway - on the production of evidence that a route had been either used for a period of 20 years (presumed dedication) and / or is an historic route used by the public in the past or for example previously maintained at public expense, laid out through an Act of Parliament etc.

2000 Countryside and Rights of Way Act

- Automatic reclassification of Roads Used as Public Paths (RUPPS) – to a new category of PROW – restricted byway.
- Certain types of land designated open access (rights on foot only).
- Rights for the public to seek removal of obstructions.
- LHAs required to draw up Rights of Way Improvement Plans (ROWIPs).
- Creation of Local Access Forums (LAFs).
- Cut-off date for the extinguishment of historic PROW not yet recorded on the DMS.

2006 Natural Environment and Rural Communities Act

- Extinguishment of motor vehicular rights on certain highways and prevention of any further creation of such rights.



1968 Countryside Act gave pedal cyclists the right to ride on bridleways despite bicycles being defined as a vehicle. Before this, cyclists only had the right to ride on byways.

Current network: types of paths and rights of the public to use them

Under both statute and common law PROW are all highways over which the public have a right to pass and repass.

The current network of PROW defined under statute law and the rights attaching to them are as follows:-

- Footpath (FP): right of way on foot only.
- Bridleway (BR): right of way on foot, pedal cycle, riding or leading a horse, accompanied by a beast of burden and in some instances with a right to drive animals.
- Restricted Byway (RB): carriageway for all users (as bridleway) and including horse drawn carriages but excluding mechanically powered vehicles.
- Byway Open to all Traffic (BOAT): as Restricted Byway but including the right to drive mechanically powered vehicles.

In addition, of interest to voluntary groups and users, is the existence of unsealed (not tarmaced) unclassified County Roads (UUCR). These are minor vehicular highways which are not shown on the DMS but are available (in most cases) for public use. (See List of Streets following).

Definitive map and statement (DMS)

As required by The 1949 National Parks & Access to the Countryside Act, all PROW available for public use are to be depicted on a DMS, a legal document held by the LHA for a specified area e.g. a county or a unitary authority area. The LHA is under a statutory duty to keep the DMS under continual review through modifications and legal event orders and to make it available for public inspection. For these statutory duties the LHA is known as the surveying authority (SA).

The map depicts the location of each route, the rights attached to it (FP, BR, RB or BOAT) and the number assigned to each path at the time the map was drawn up or the path added to the map.

The accompanying statement may include particulars of any conditions or limitations along the PROW – for example where a gate or stile is located, path widths etc.

List of Streets (LoS)

Under section 36(6) of the Highways Act 1980 LHAs are required to keep all publicly maintainable highways (including PROW and UUCRs) on a ‘list of streets’ (LoS) – available for inspection, free of charge at Council offices.

Some LHAs keep the LoS as a list, some in map form and some both. UUCRs are depicted on the LoS.

Ordnance survey (OS) maps

All highways, including PROW (from the DMS) and UUCRs (from the List of Streets) are generally shown on OS maps. The most useful of these is the OS Explorer series at 1:25,000 scale because field boundaries are also shown. The maps may also depict some long distance trails, open access land and permissive access. LHAs advise the OS on modifications to the DMS (i.e. where new rights have been created or old rights successfully claimed, deleted or diverted). OS maps for a particular area are republished periodically to take account of these changes.

Depiction of PROW on Explorer maps is as follows:

- Footpath: short green dashes
- Bridleway: long green dashes
- Restricted byway: long green dashes with alternative tags top and bottom
- Byway (BOAT): green crosses
- UUCRS, sometimes referred to as Other Routes with Public Access (ORPA): large green dots.

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It should be noted that OS maps are not definitive. Depiction of a way on an OS map is not necessarily a guarantee of rights. Where there is any doubt regarding the status, existence or location of a particular route – reference should be made to the DMS.

Analysis of statute law processes as an effective tool to create modern multi-user networks

1949 National Parks & Access to the Countryside Act

The intention of this Act was to preserve the PROW network for future generations, but it arguably caused a significant loss to society of an estimated 16,000 km of historic and customary routes due to poor and under recording. This legacy is apparent on many OS Explorer maps which depict cul de sac routes or routes that change status (e.g. from bridleway to footpath midway along the length or at parish boundaries). Many routes that were previously maintained as highways for public use or used as bridleways were recorded as footpath or omitted altogether.

1968 Countryside Act

This Act gave the right of pedal cyclists to ride on bridleways. Advances in bicycle technology that have produced mountain bikes means that in modern times millions of potential users have been introduced to an unsatisfactory multi use network. On the Mendips, anecdotal evidence from users, landowners and farmers, suggests wide spread use of footpaths and private tracks and paths (including the coastal path between Somerset and Devon) by large numbers of mountain cyclists, who in practice are designing and using their own circular and linear networks regardless of existing rights.

1981 Wildlife and Countryside Act

An effort to correct the historical record was contained within this Act. LHAs were charged with the duty of keeping the DMS under continuous review and processing applications (claims) made by the public to amend or add routes to the map. The legal processes, complicated by further case law are sometimes complex, long and costly leaving many LHAs unable to fulfil either their statutory duties or public expectations.

Since 1981 it has, in the main, fallen to concerned user groups to endeavour to set the historical record straight through submitting claims for DMS modifications and / or seeking agreement to dedications from willing landowners. With regard to route claims, the increasingly onerous burden of proof, time delays in processing – 20 years is not unknown – the likelihood of multiple public inquiries and the contention that arises has proved too much for many willing volunteers, particularly where conflict arises in local communities.

TTT Case Study 3 in section 23 provides an example of a bridleway claimed through historic evidence in 1992 and found to be a restricted byway via 3 public inquiries but is still not available for public use in 2011 despite being a vital link in both a linear and circular community trail.

1980 Highways Act

The statutory processes for route creation bestowed by legislation on LHAs are:-

- Highways Act 1980 s25 creation agreements (agreement with landowners).
- Highways Act 1980 s26 creation orders (no agreement with landowners and may be subject to compensation).

Despite HA 80 s25 agreements being the tool favoured by LHAs for the creation of a MU network, creation powers are rarely used (except for the resolution of DMS claims and diversionary processes) due to concerns regarding the costs, maintenance liabilities and the potential (with s26) for public inquiries and compensation. In the Institute of Public Rights of Way (IPROW) document ‘Creation of new public rights of way – a code of practice for local highway authorities’ - Riddall and Trevelyan (2001) record

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that, in the 15 years 1986 – 2000, 1,117 section 26 creation orders and 771 section 25 creation agreements were made under the Highways Act 1980(HA80). This is equivalent to less than one of each type of creation per LHA per year.

Those volunteers who manage to negotiate statutory dedication agreements find that often LHAs are unwilling to accept them or years pass before they are processed.

2000 Countryside and Rights of Way Act

Although legislation has provided for the making of Rights of Way Improvement Plans and the creation of Local Access Forums to involve the public in suggesting new routes and priorities, there is no duty for LHAs to use these powers or to invest in making the network into a fully accessible cohesive MU network fit for modern purposes on the ground. In many areas ROWIPs are often concerned with improving route maintenance, (which is in any case a statutory duty) and the accessibility of the existing network.

The proposed cut off date (2026) for making route claims based on historic evidence will finally cut off the remaining avenue for public participation in creating multi user access based on historic route claims.



The CROW Act reclassification of RUPPs to Restricted Byways benefited the MU network by protecting carriage way rights. These routes cannot be downgraded to (for example) footpath, even if the subsequent discovery of evidence means that these routes did not carry vehicular (horse carriage) rights at the time of being added to the DMS. (photograph from Forest of Dean Horse Riders and Carriage Drivers Associations archive).

Strategies, plans and consultations

There has been continual and increasing investment in the PROW network by LHAs and Government agencies in terms of improved path maintenance, ease of accessibility, signposting and in plans, strategies and consultations aimed at encouraging the public to access the countryside. In spite of this, multi use continues to decline due to the increasing inaccessibility of the network, whilst health problems in humans, horses and dogs due to lack of exercise, continue to increase. Millions of potential network users lack the means for healthy sustainable travel within local communities, many of which are devoid of shops, pubs and schools, making car use the only viable option to access local amenities or countryside.

TTT experience of statutory processes

TTT had already discounted claiming routes under the DMMO application process as a viable method for the delivery of a modern network. TTT's experience has been that despite LHA initial encouragement to use HA 80 s25 creation agreements (dedications) offered by willing landowners, as an alternative to applying for DMMOs or as a method of creating missing links, changes in policy and priorities relating to the ROWIP, meant that the LHA would not guarantee to accept or to process them.

In seeking to create MU networks, TTT found that statutory creation processes did not:

- Fulfil TTT's charitable objective.
- Guarantee route creation.
- Make best of volunteers' time.

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- Make best use of limited voluntary group / public finances.
- Fulfil public expectations in terms of creating the network.
- Satisfy increasing demand.
- Fulfil landowner expectations in terms of payment for the PROW or in laying out and recording the new route within a reasonable timescale.

Use of statutory processes is vested in LHAs - who may be sympathetic - but nonetheless are subject to legal, time and cost constraints and changing priorities.

In order to reverse declining network accessibility problems the emphasis needs to change from delivery solely by the LHAs to actual delivery by the users who need the network. However, the means by which the public might do this is not contained within statutory legislation.

TTT found the solution to a modern day problem in the past in the creation of public rights of way through express dedication at common law - which can occur outside of statutory legislation and instruments.

Common law

PROW are highways and can be created in common law through dedication by the landowner.

Presumed dedication at common law

Historically many PROW have come into existence through the established principle that an individual can claim a right of way if the public have used it openly and freely for a sufficient period (no defined time limit) in the absence of any action or challenge by the landowner to prevent such use. These routes are 'presumed' by law to have been dedicated through long usage (public acceptance).

This situation is mirrored in statute law except whilst there is no defined time period under common law, Parliament clarified 'sufficient period of use' giving rise to dedications in the 1980 Highways Act s31. This says that where a route has been enjoyed by the public as of right and without interruption for 20 years that is sufficient evidence of dedication in the absence of any action or challenge by the landowner to prevent such use.

NB: It is important to note that this statute did not replace common law dedication.

PROW dedication at common law principle

"A highway may be dedicated by the unequivocal act of the landowner in throwing his land open to the public for highway use" (1808 *Rex v Lloyd* 1 Campb 260, 1813 *Woodyer v Hadden* - Sauvain's 'Highway Law' third edition at 2-30 pg 37).

Express dedication at common law (EDCL)

Under common law principles a landowner may expressly dedicate a highway to the public. The landowner must be the free holder to dedicate expressly. It is usually rare to find evidence of any written deed or contract between the dedicator and the public. However when written evidence of dedication does exist and the route constructed and accepted (used) by the public – the dedication is known as 'express dedication at common law' (EDCL). There is no agreement with the LHA but the LHA as surveying authority for PROW has a statutory duty to record the route on the DMS. The LHA does not have a duty to maintain the highway but may adopt it for this purpose.

There is no equivalent statute principle, the nearest are:

- Highways Act 1980 s25 creation agreement where the LHA enters into an agreement to accept a dedication from a landowner on behalf of the public and to maintain the new route.
- Highways Act 1980 s30 - where a parish or community council enters into a dedication agreement with a landowner (see section 21 of this guide).



Opening ceremony at a new 'over the hedge' bridleway in Mendip. Negotiated through express dedication at common law, the route was funded and installed within 6 weeks to overcome problems with crossing the adjoining major trunk road. See TTT Case study 4 in section 23 (photograph from Mendip Bridleways and Byways Association Archive).

The legal basis upon which a highway comes into existence at common law is dedication by the landowner and acceptance by the public. The landowner lays out the route or causes the route to be laid out and throws it open for public use. The dedication process is complete when the public use the route (acceptance by the public). Thus a new public path (highway) has come into being – this constitutes a legal event and the LHA as the surveying authority has a statutory duty to record the route on the DMS.

Definition of the term 'highway' at common law

PROW are highways over which the public have the right to pass and re-pass as often as they wish without challenge or payment. At common law these highways fall into three categories:-

- Footpath - right of way on foot.
- Bridleway – right of way on foot, riding or leading a horse or accompanied by a beast of burden and in some instances with a right to drive animals.
- Carriageway – footpath and bridleway rights and to pass in or on in a vehicle.

The criteria for a permanent PROW that must be met is fourfold:

- Only the landowner (freeholder) has the right to dedicate a highway. He can dedicate a footpath, bridleway or carriageway (subject to the rights of others vested in his land).
- The dedication may be subject to restrictions i.e. of use or of a physical nature e.g. gates.
- The dedication must be for all time (in perpetuity) and for the public at large (not just say for the inhabitants of one community).
- The dedication must be accepted by the public by actual use.

TTT found EDCL to be the only method for public voluntary bodies aiming to deliver permanent routes in a strategic network plan because:

- The dedication agreement is between the public, on whose behalf the voluntary group is acting, and the landowner. The agreement occurs without any involvement of the state (including the LHA).
- A capital payment can be offered to landowners as an inducement to dedicate. Since there is no LHA statutory duty involved, the capital payment and works are grant fundable.

The benefits for all parties in using the express dedication at common law (EDCL) principle for creating a modern multi user network is discussed in the next section.

5. The Trails Trust Solution

The benefits of using express dedication at common law to create a multi-user countryside access network

Voluntary groups and others seeking route creation can apply the EDCL principle to enter into agreements with landowners. This method, as used by TTT, has advantages for voluntary groups, landowners and LHAs compared to statutory creation processes normally used - particularly where all parties work in partnership.

Benefits to voluntary groups and others

- 1. Local people are in charge of their own destiny.** Local people and landowners / managers can decide together where routes are needed. The legal dedication agreement is between the landowner and the public. Whilst it is always beneficial to work in partnership with the LHA from an early stage, this process does permit local people to go it alone.
- 2. Flexibility in laying out routes.** Routes can be located, constructed and designed to meet modern access network needs, for least impact on agricultural or other operations and with consideration for future route maintenance liabilities (surface, gradient, number of gates etc).
- 3. Permanent routes gained through a non statutory process and therefore grant fundable.** The dedication does not come into force until after public acceptance through use. Therefore the construction costs and landowner payments are grant fundable. The signed agreement is proof of landowner intentions – allowing access to grant funding.
- 4. Short delivery timescales for projects.** Routes can be negotiated, installed and the landowner paid within very short timescales - thereby satisfying the expectations of users, landowners and grant funders.
- 5. Security if the land changes hands.** If the land is sold before the LHA has recorded the route on the DMS, the dedication agreement provides security in respect of the payment of capital sums for route development and access payments. The incoming landowner is made aware of the dedicated route at an early stage.
- 6. Permanent routes which cannot be declined or 'lost'.** LHAs have a statutory duty to record the route on the DMS – this certainty compares favourably with DMMO applications which can be declined or lost at appeal or public inquiry stages and with HA80 s25 creation agreements negotiated by voluntary groups or individuals and for which there is no statutory duty for LHAs to accept or process.
- 7. Approach to highway exits and crossings.** Routes created through statutory processes - HA80 s25 creation agreements and s26 creation orders are often regarded by LHAs as new development. Stringent criteria regarding crossings and exits may be employed leading to a refusal to process a route dedication or order. Routes created by express dedications at common law are through agreements made between the public and the landowner - allowing for common sense risk assessments to be applied to highway exits. See section 12 of this guide.
- 8. Goodwill and reward.** Projects delivered successfully by local people and landowners encourage other local landowners to dedicate enabling voluntary groups to build on goodwill generated. User groups are rewarded by a successful outcome for their investment in time and energy.
- 9. Avoidance of time consuming, costly and confrontational DMMO applications based on presumed dedication claims (either statutory or at common law).**

The burden of proof for such claims to amend or add to the DMS is onerous, delays in processing of up to 20 years are not uncommon and there is no guarantee of success for time and / or financial investment. Claims can cause the closure of other undefined routes in the vicinity and confrontation issues may arise in local communities.

Benefits to local highway authorities

- 1. Rights of Way Improvement Plans.** The EDCL process can be used to deliver strategic ROWIPs at a local level – particularly where there are strong partnerships between LAFs (Local Access Forums), the LHA and users.
- 2. Accessing funding.** Voluntary groups can access funding for projects that is not available to LHAs.
- 3. Value for time expended.** Voluntary groups do all the work, limiting LHA officer time (cost) involvement. LHA officers are involved in a positive experience compared to often negative experiences as with DMS modification claims.
- 4. Road crossings and exits.** Route creations are not initiated by LHAs, as are HA80 s25 creations therefore stringent ‘new’ development rules do not apply.
- 5. Maintenance.** The LHA does not necessarily have to adopt the route maintenance liability although this is obviously desirable from the public perspective.

Benefits to landowners

- 1. Contributing to community development.** Landowners often have a deep affinity for the place where they farm and the community in which they live. Opening new routes on their land, where these are compatible with modern farming, can be part of their contribution to the wider community, helping people to enjoy beautiful countryside in safety.
- 2. Capital payment.** The payment for the new route is agreed and paid to the landowner before the route is open and accepted by the public. The route will only be opened when he and any others concerned are satisfied with the location and construction.
- 3. Developing routes in partnership not through conflict.**
 - Route location takes into account existing and proposed land use and the rights of others using the land.
 - Consideration of route installation and design addresses landowner concerns, taking into account issues such as stock security.
 - No conflict or cost involved in protecting land from the threat of a DMS claim.
- 4. Modern network criteria – not where history dictates.** Routes can be located away from farmyards, other stock movement areas and with least impact on land use.

The need for effective and equal partnerships

Use of the EDCL method promotes a more equal and effective partnership between all the parties involved – the public, landowners, LHAs and grant funders.

As discussed in the previous section (legislation and strategies), legislation over many years has focused on the provision and protection of public rights, ensuring that landowners comply with legal duties regarding PROW on their land and that LHAs have the necessary powers to maintain and protect PROW, keep the DMS up to date and to create new routes where needed for the public.

Legislation has given the public the opportunity to engage with LHAs and influence decision making through Local Access Forums and to alert LHAs to new routes needed through Rights of Way Improvement Plans. However legislation has not granted the public any powers to initiate the creation of new routes in



Members of the Gloucestershire and Somerset Local Access Forums meet in the Mendip Hills AONB to discuss and view TTT's work in the area.

their own locality despite the obvious benefits to society. The statutory processes that exist for the public to use are limited to:

- a) Applications to amend the status of an existing route or add a route to the DMS under the terms of the Wildlife & Countryside Act 1981 section 53 (WCA 81 s53) based on long user or historic evidence.
- b) Requesting the LHA to enter into a route creation agreement with a 'willing' landowner under the terms of the Highways Act 1980 s25.
- c) Requesting the LHA to use route creation powers under Highways Act 1980 s26 (possibly one or more unwilling landowners / objectors).

Each of these processes is costly to the public purse. The outcome of DMMO applications can only be determined by the LHAs, whilst the power to enter into agreements is discretionary. The public has no control over when or if route claims will be investigated or creation agreement reached. Tensions and frustrations can arise particularly if long delays or refusals to act result in the hard won offer of a route or grant funding being lost. This situation does not lead to equal and effective partnerships.

By comparison common law has given the public the right to enter into creation agreements with landowners through express dedication.

Compared to the situation with the creation processes laid out by statute – in particular 1980 Highways Act s25 – control over the process through use of EDCL shifts from landowner and LHA creation agreement to landowner and public (user) creation agreement. Only the landowner can dedicate and only the public can accept. In this process the voluntary group (on behalf of the public) is both the route initiator and creator and is able to initiate action to move the process forward.

Although voluntary groups can 'go it alone' with EDCL, TTT always advocate inviting the LHA to be a partner in the route creation process at a very early stage. The public who use the route in future will naturally assume that the LHA is responsible for the future maintenance liability and signposting of the new path. These issues need to be dealt with at an early stage, along with issues surrounding the landowners' capacity to dedicate and acceptance by the public.

The LHA is, by statute, also the surveying authority – (the body responsible for the preparation and upkeep of the DMS) – and has a statutory duty to record the existence of the route and to ensure that it is not obstructed.

The ultimate safeguard against the future loss of the route is for it to be shown correctly on the DMS (and to the public via OS maps) and only the LHA can ensure this is done.

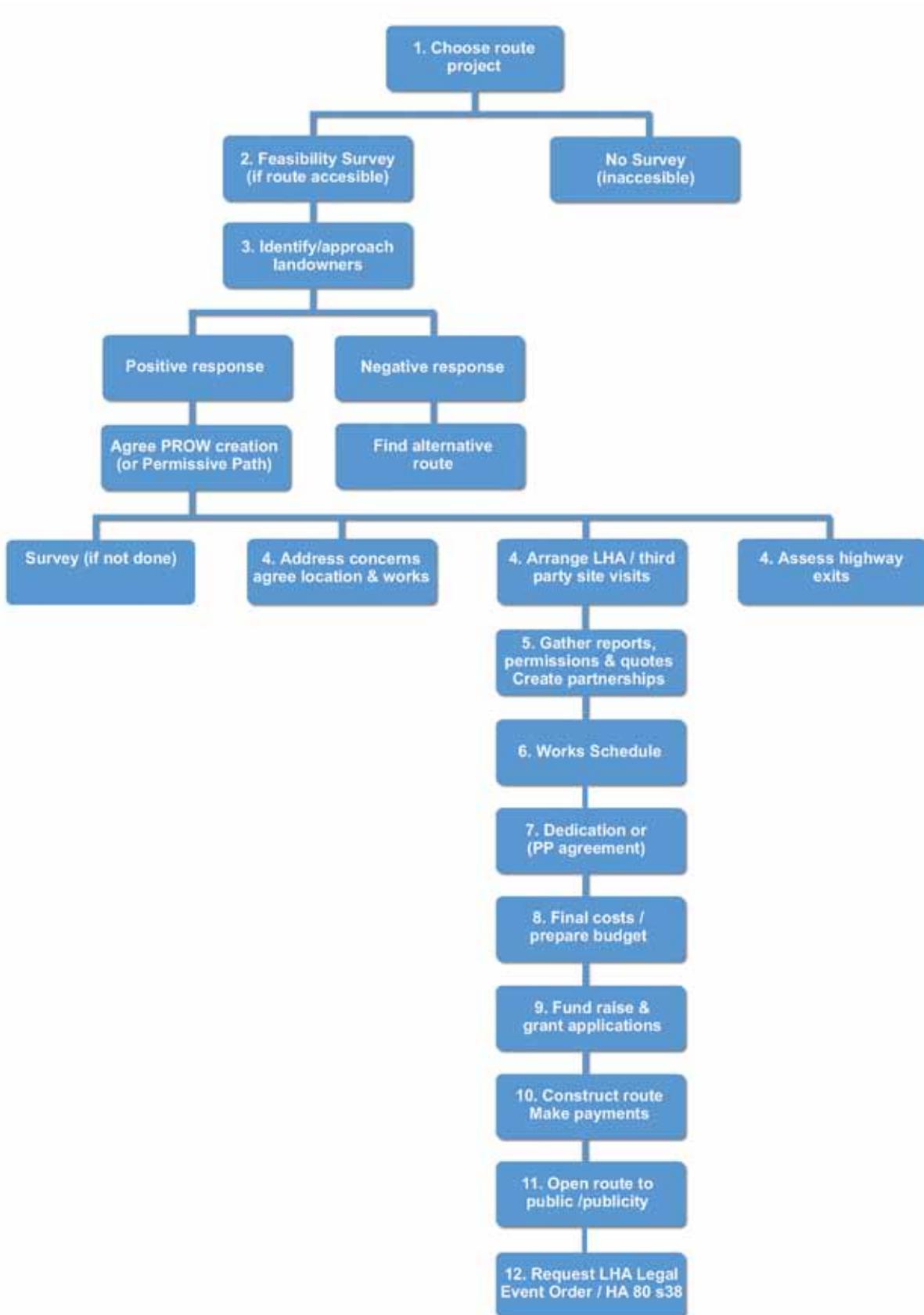
5 | The Solution

Grant funders, particularly statutory bodies, like to see evidence of effective partnerships between the public who are seeking to create the new route, the landowner who will be responsible for ensuring that the route remains available to the public and the LHA who may provide guidance during installation, record the route on the DMS and maintain the new PROW for the enjoyment of the public long into the future.

Therefore the EDCL process is more likely to deliver a successful project because it provides the basis for an effective and equal partnership working for:

- Voluntary groups - because it gives them control over the route creation process through the whole process of negotiation / funding / route construction and dedication. It provides safe guards for the routes gained, rewards effort expended and generates increasing good will amongst the landowning community.
- Landowners (and anyone else with an interest in the land) because the dedication does not come into effect until the route has been constructed to their satisfaction and they have been paid.
- LHAs because volunteers, by funding and delivering multi user networks, are also delivering ROWIPs. The LHA can assist and guide the voluntary group through issues such as installation, future maintenance requirements and recording the route - with minimal involvement and cost to the LHA compared to statutory methods.

6. TTT Route creation methodology



7. TTT Methodology 1

Network design - choosing a route project

Deciding the area to be worked on

Voluntary groups and others interested in route creation may already have a specific route project in mind or may want to design an entire network in a specific area. It is helpful from a strategic perspective to spend some time designing proposed networks by producing draft maps.

This has the benefit of:

- Focusing attention on where routes are most needed.
- Preparing a strategic development plan which is a very helpful visual aid for other partners (LHAs, grant givers and other interested parties).
- An identical method of map preparation by voluntary groups would be helpful in creating a national network plan.

Decide the area to be worked on:

- Single route.
- Specific linear trail.
- Parish / community circuit network.
- LA area – district, county, unitary authority.
- Geographically defined area for example: National park, AONB.

If designing networks rather than single trails / routes it is helpful to include proposals for linear routes leading through and out of the specified area in addition to community circuits, as these may be linked up by other groups to eventually form a more comprehensive national network.

Designing the network

Linear trail routes

From a strategic national countryside route network perspective linear routes connect:

- Urban fringe to rural areas.
- Local communities: towns and villages.
- Communities to more remote holiday destinations or landscape – AONBs, National Parks.

Community circuit trail routes

A strategic network of community door step routes connect:

- Users to the linear network.
- Communities to each other.
- Users to local rural amenities for example pubs, cafes, B&Bs, shops.
- Every day access to local countryside/landscape.
- Users to land where multi-user rights apply such as commons.

Designing draft maps

Obtain OS Explorer map(s) 1:25 000 for the chosen area. Obtain two copies of each OS map covering the area if networks containing both linear and circular trails are planned. It is helpful from a visual aid perspective to plot linear trail desire lines on one map and community circuits on another.

OS Explorer maps have a wealth of helpful detail recorded which includes:

- Communications (roads & PROW).
- Field boundaries.
- Parish, district, county etc boundaries.

7 | Methodology 1

- Rivers/waterways.
- Settlements - villages, towns, cities.
- Railway lines (in use and abandoned).
- Contour lines (useful for assessing terrain).
- Corridor routes (old roads/droves) and tracks.
- Open access land.

It is perfectly possible to plot strategic trail desire lines using OS information.

Linear trail routes draft map 1

If designing a network it is helpful to plot linear trails first. Linear desire lines often form large circuits and provide the frame from which to plot the draft community trail map.

Lay the map(s) on a flat surface and study carefully from north to south and east to west. Study the legend for explanation of how highways, PROW and other features are depicted on the map.

Note the existence of any of the following that may cause network 'barriers':

- Motorways.
- Dual carriageways.
- Major trunk roads.
- A roads.
- Railway lines.
- Rivers/estuaries / canals.
- Major cities and towns.

Next, focus on the existing PROW, other off road routes and paths and minor highway network that may need to be used, ie:

- Secondary (rural roads).
- Unclassified surfaced county roads.
- Unclassified unsealed county roads (ORPAs - in some areas).
- Multi user public rights of way: byways, restricted byways, bridleways.
- Multi user paths/cycle tracks – proposed or existing.
- Known permissive routes*.
- Common land*.
- Useful crossing points over major roads.

*May not be shown on OS – check local knowledge.

Study the map(s) and note where:

- Existing multi user PROW and unsealed unclassified county roads form possible (if fragmented) routes that run roughly east / west or north / south.
- Single track highways and minor country roads which could be used for links.
- A 'barrier' in the list that needs to be avoided or crossed (rivers, railways, trunk roads etc). Note the existence of bridges or underpasses, PROW or minor roads that could provide a crossing point.
- Existence of towns and cities that need to be circumnavigated or crossed.

Next, note the gaps that are left – these need to be filled with potential new linking routes. Possible links are:

- Corridor routes such as droves, green lanes, tracks already defined as footpath (FP).
- Corridor routes as above not defined as FP.
- Field edge FP.

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- Local knowledge: customary way - any route already in use by horse riders / cyclists.
- Local knowledge: permissive routes known in the area (not shown on OS).
- Cycle tracks (horses not permitted).
- Multi user path (horses permitted).
- Abandoned railway lines.
- Cul de sac bridleways / byways which could be continued to the next public highway or multi user PROW.
- Cul de sac unclassified county road (as above).
- Open Access Land.
- Coastal Access (where this has been created).

Note: LHAs maintain most PROW - focusing on existing public footpaths may avoid giving the LHA a higher maintenance burden in future by not creating additional PROW.

Use of corridors of land or field edge paths may be more favourable to landowners / managers in avoiding the disruption of farming activities.

If there is a gap in the proposed trail route where none of the above exist look for:

- Field boundaries aligned in a straight line (following the edge – may be more desirable for landowners/managers).
- Section of two track rural road.
- ‘Over’ the hedge route next to major highway.
- Cross field footpath (may be least desirable for landowners / managers).

Once the OS map has been studied at length, start to mark the map up using the TTT code (see later). If all map makers use the same code eventually draft maps could be produced for the whole country.

Community circuit trail route draft map 2

These can be assessed in the same fashion. Design the community circuit map using the same criteria as for the linear route map (1). Try to design a five to ten-mile circuit for each village or parish – these could be included in local parish plans.

Small area trail draft maps

For small areas such as parishes or collection of parishes, linear and circular trails could be plotted on the same map.

Quadrant trails

Where there are a number of proposed linear routes in the defined area (where north/south and east/west linear trails cross), large circuits are formed, often around major towns. On the Mendip linear trail map, for example, three north/south and three east/west possible linear trails have been identified. These form circuits, or quadrants, which are 25–30 miles long around market towns. These could be fundable individual trail projects.

Map marking: TTT code

Green	Existing multi user PROW (byway, restricted byway, bridleway) plus UU-CRs (ORPAs)
Yellow	Single-track public highways (lanes)
Pink	Missing links (as in possible links list)
Blue	Running alongside denotes linear route desire line (on both maps)
Red dot	Potential crossing point
Orange	Other rural road (usually two-track)

Plot draft map 1 - proposed linear trails (north / south and east / west e.g. 25 miles plus) - ensure link to outside area / nearest local or national network trail routes if these exist.

Plot draft map 2: copy the linear routes onto the second OS map(s) first and run a blue line alongside (denotes possible linear route). It is interesting to note that often, the creation of a new route to form a usable section of linear trail will also provide for a missing link in a proposed community circuit.

See TTT's East Mendip map examples following. The map is an extract from TTT's Mendip linear & community trail network for west of the town of Frome and the villages of Mells, Great Elm, Chantry, Buckland Dinham and Whatley. (Linear and circular trails are plotted on same map for example purposes).

Map Example Step 1

Highlight the existing multi-user rights of way and unclassified unsealed county roads that may be suitable in GREEN. Note cul de sac UUCR also marked in green.



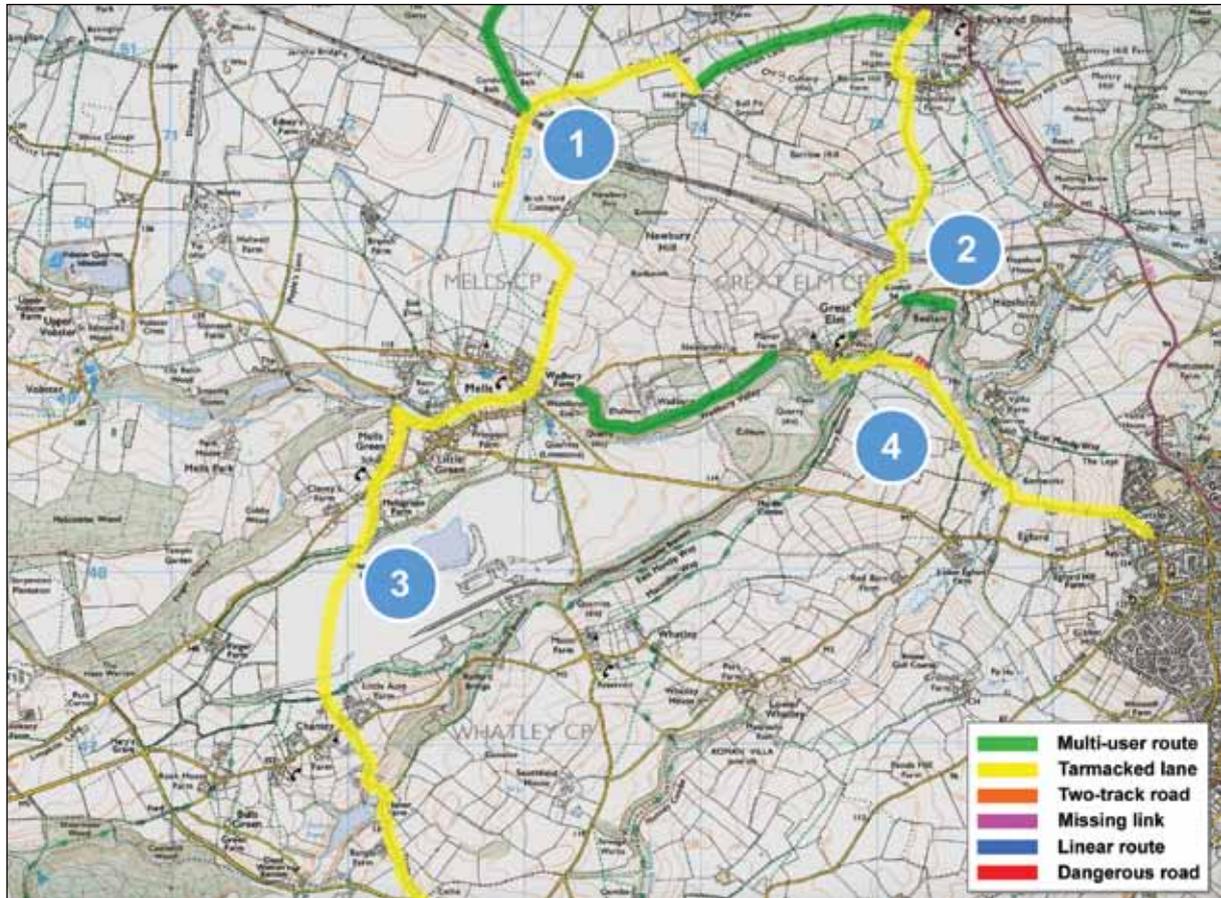
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Key to numbered existing PROW/UUCR

1. Green Lane RB leading to adjacent parish of Kilmersdon (community link).
2. Clareham Lane UUCR (ORPA) leading to adjacent parish of Buckland Dinham (direct link to pub).
3. Wadbury Valley BR links Mells and Great Elm (pub / shop at Mells) along the river and through the remains of Fussell's ironworks (history / heritage).
4. Cul de sac UUCR leads to packhorse bridge over river.

Map Example Step 2

Next, highlight sections of single track (tarmac) unclassified county roads (lanes) that could make suitable links in YELLOW. Single track lanes linking the bridleways to the villages of Mells, Whatley and Buckland Dinham and the town of Frome added.



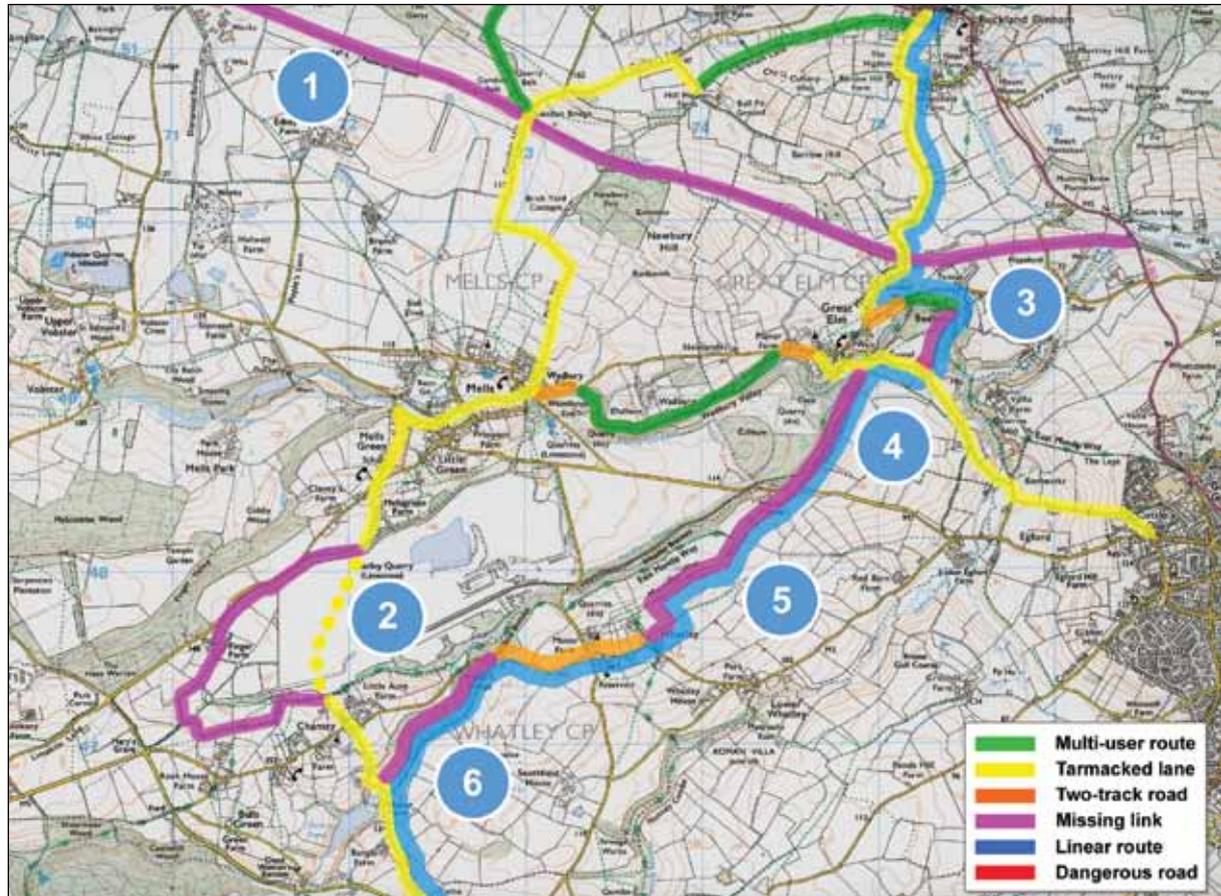
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Key to numbered existing (single track) tarmac highways (UCRs).

1. Park Hill, Conduit Hill, Colliers Lane – quiet tarmac lanes crossing over railway and linking to existing PROW.
2. Quiet lane to Great Elm crosses under railway and completes existing circuit (with link to pubs and shop).
3. Lane from Mells to Chantry – application submitted to stop up and blow up road as part of quarry expansion. Note: Chantry has no pub or shop.
4. Useful link to the market town of Frome (amenities).

Map Example Step 3.

Next, add potential linking routes in PINK to create circulars, linear trail (shown by BLUE line), ORANGE to denote where short sections of rural two track road need to be used and RED dots to show where two track roads (usually A or B roads) need to be crossed.

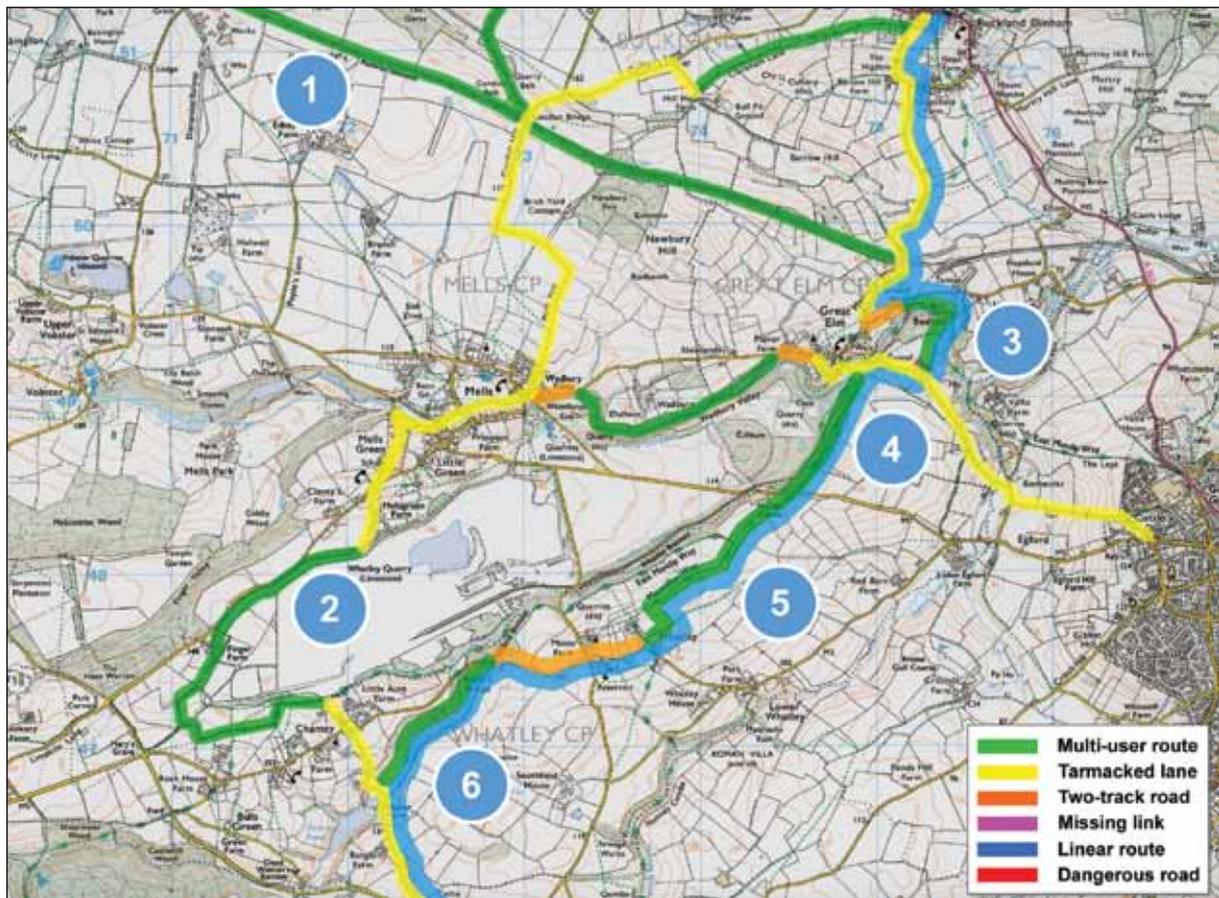


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Key to numbered potential route links.

1. Abandoned railway line – proposed Colliers Way Sustran’s cycle track.
2. Proposed new bridleway (possible gain through 1990 Town & Country Planning Act s106 see section 21 of this guide) around Whatley quarry to replace existing lane from Whatley to Mells (yellow dots).
3. UUCR cul de sac – route could continue over river via old packhorse bridge to join green lane called Bedlam - recorded as public FP – already used by horse riders and cyclists (customary use).
4. Fordbury Lane – green lane through woods – recorded as public FP – already used by horses and cyclists (customary use but users face travel along dangerous road to nearby communities from exit).
5. Murder Combe FP proceeds along field boundaries to Whatley – desire line upgrade to BR. (Create new bridleway right).
6. Railford FP – proceeds through woodland track and field – desire line upgrade to BR. (Create new bridleway right).

Map Example step 4. Finished network (after all method steps complete).



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Key to numbered finished multi user network.

1. Colliers Way cycle track along railway line now multi user – horses included after campaign by TTT.
2. New bridleway replaces ‘blown up’ road following TTT representation at public inquiry into quarry expansion.
3. Bedlam FP upgraded to BR following landowners’ express dedication. Packhorse bridge restored by Mendip District Council.
- 4/5/6 Fordbury Lane FP, Murder Combe FP and Railford FP upgraded to bridleway plus new section of BR added following landowners’ express dedication.

Example Summary

Adding five sections of bridleway plus campaigning for horse rider inclusion on cycle track has resulted in:

- Creation of three community circuits to link the villages of Mells (pub/shop), Buckland Dinham (pub), Great Elm, Chantry, Whatley and all villages to Frome (amenities).
- Section of TTT Bath to Bruton Linear Abbey Trail (LT1) (blue) achieved.
- Horse riders permitted access onto Colliers Way cycle track – linking to Kilmersdon and the town of Radstock.
- Residents of nearby town (Frome) linked to rural communities and neighbouring town.

Indexing proposed trail routes

Indexing can provide the basis for costing individual route projects or whole networks and for deciding projects.

- Give each proposed linear trail a name / number e.g. Abbey Trail LT1 (linear trail 1).
- Give each missing link a project number e.g. Burnt Lane (LT1/1).
- Measure the length of the entire trail using string and a ruler or a measuring device.
- Measure the length of each missing (pink) route as above.

Example of linear trail index (Draft plan 1)

In this 30-mile (48km) linear trail there are six gaps where new multi-user route links are required to complete a safe, enjoyable trail. Each link is given a project number and name. The length of each new link required and any existing public right is recorded.

Status codes = existing recorded or claimed public rights. DMM = definitive map modification claim already lodged with LHA, FP = recorded as footpath, Hwy = existing public highway (carriageway or verge), NS = no status – no public rights recorded.

TTT LT 1 Mendip			
Long Distance Trails	(north to south)		
	Eastern side		
Trail Name	Abbey Trail (LT 1)		
From	Bath		
(Final Destination)	Cotswolds AONB		
To	Bruton		
(Final Destination)	South Coast		
Miles/kilometres (km)	30/48		
Off road km (existing)	25		
Lanes (km)	18		
Existing off-road links	22		
Missing links	6		
Missing links (km)	4.325		
Linear Project number	Name	Metres	Status
LT1/1	Burnt lane	1000	Existing DMM
LT1/2	Bedlam	200	FP
LT1/3	Railford	375	NS
LT1/4	Bulls Green	250	Hwy
LT1/5	Withywood	750	NS
LT1/6	Batcombe Vale	750	FP
LT1/7	Wyke Road	1000	NS
Linear trail new routes required		Km	4.325

Index community routes in the same way as linear trails. Community circuits on the TTT Mendip trail maps are given a project number according to which large circuit (quadrant) they are in. Each missing link required to form the circuit is listed with a number and project name. The length of each new link required and any existing public right is recorded. NR = no new routes needed, the circuit already exists and can be used for events (fun rides etc).

Example of community circuit index. (Draft plan 2).

Community Circuits: TTT Mendip District Quadrants			Plan 2		
Quadrant 1:	Mendip Hills AONB	Total Circuit 31 miles/50km			
Community Circuits within Quadrant 1					
Circular	Circuit name	Project No.	Project Name	Metres	Status
Q1/C1	Blackdown	1	Broad Road	150	NS
Q1/C2	Ellick	NR			
Q1/C3	Nordrach	NR			
Q1/C4	Priddy	2	Priddy Ranges	2000	NS
		3	North Hill	1500	NS/FP
		4	Minories	500	NS
		5	Stockwood	2000	NS
Q1/C5	Chewton Mendip	6	Eaker Hill Wood	1500	NS
Q1/C6	Priddy	7	Upper Pitts	1500	FP
Q1/C7	Hunters Lodge	8	Oars Close	750	NS
		9	Tower Hill	2500	NS
Q1/C8	Chewton Mendip	10	Long Wrangle	1750	NS
		11	Nedge Hill	1000	NS
		12	Paradise Lane	375	NS
Q1/C9	Green Ore	NR			
Total Circular network new routes required			Km	15.525	

Network overview.

Once the entire proposed network has been mapped and indexed, it's possible to produce a network overview for the all the proposed linear and circular trails. This is a useful aid for deciding on which projects to take forward and for enthusing other local community groups.

Example of linear trail network overview. (Draft plan 1)

Linear Trails (Plan 1)						
Number	Trail name	Destination	Km	Miles	Links (projects) required	Required (km)
LT1	Abbey Trail	Bath to Bruton	48	30	7	4.5
LT2	Urban Trail	Mid Norton to Keinton Mandeville	33	20	8	7.5
LT3	Somerset Trail	Flax Bourton to Somerton Moor	54	33	15	14
LT4	Hilltop Trail	Brean Beach to Trowbridge	80	50	21	21.5
LT5	AONB Trail	Mendip Hills to Cranborne Chase	91	58	16	21.5
LT6	Moors Trail	Mark to Zeals	65	40	8	10

Example of community circuit trail network overview. (Draft plan 2)

Community Networks within Quadrants & Border Circuits (Plan 2)				
		Community circuits	Links (projects) required	Required (km)
Mendip Quadrants				
Q1	Mendip Hills AONB	9	12	16
Q2	Wells	13	14	15
Q3	East Mendip	15	27	26
Q4	Shepton Mallet	20	34	37
Border Circuits				
B1	Frome	11	15	18
B2	Rode	9	6	8
B3	Bruton	17	14	17
B4	Bradley	7	4	3
B5	Glastonbury & Street	9	10	6.5
B6	The Levels	7	2	4.5
B7	Cheddar	15	20	24
B8	Shipham	8	8	13
B9	Hinton Blewitt	8	7	6
B10	Norton Radstock	7	5	3.5
B11	Hinton Charterhouse	7	2	1
Total	Community Circuits	162	180	198.5
Estimated total length		12km/7.5 miles per circuit		1944km/ 1215 miles

Deciding on a project

Having produced network draft maps (however large or small), named and indexed routes, decide on the creation strategy.

The first project could be a:

- Single route completing a circular trail or allowing access to a nearby good network or existing spatial access such as common land or forestry.
- Linear trail connecting communities (any length).
- Parish / village circular (5 - 10miles).
- Town circular or quadrant (25 – 30 miles).

If large draft maps are being worked from, produce a project map detailing how the proposed trails link to and expand the existing network, link communities and allow access to rural businesses such as pubs and village shops.

Make a list of existing PROW and UUCR to be used in the trail, proposed FP links that will require upgrading and new routes that will need creating along with new path measured lengths and individual project names and numbers.

It is useful for future discussions with the LHA, to also record the DMS number for each PROW (FP, BR, RB, Byway) proposed to be included in the chosen linear or circular trail project.

Refer to the LHA at an early stage. Quite often, maps showing parish PROW networks with path numbers are available either in paper form or on LHA websites.

ROWIP

Most LHAs have consulted with the public for suggestions for new routes to be registered on Rights of Way Improvement Plans. These routes have been requested by the public to improve the existing multi user network. It is good practise to register the proposed network plan under the ROWIP by sending a copy to the LHA.

TTT case study.

The public has been offered new bridleway access, under the Higher Level Entry scheme, along a route that was depicted on TTT's draft community circuit plan because the plan is available to view at Council Offices. The plan was checked by the local Government agency officer working on the scheme. See Case Study 10 in section 23.

Note that misunderstandings can arise if proposed routes have been plotted across individual landowner holdings before there has been an opportunity to either survey routes or negotiate with landowners.

Care should be taken to ensure that the LHA recognise that, at this early stage, routes on the proposed network plan are regarded as exploratory desire lines only and are subject to a decision to take specific route projects forward, suitability surveys and negotiations with landowners and others.

8. TTT Methodology 2

Trail route feasibility surveys

Once the draft maps are planned, indexed and individual route links (marked pink on the plan) identified, initial feasibility surveys can be carried out.

Volunteers

This is a great job for volunteers provided they can identify routes marked on the OS map on the ground. They will need:

- Survey form/pen.
- Digital camera.
- Binoculars.
- Map of proposed route.
- OS Explorer map.

Route survey forms should be completed with attached photographs. If the proposed route is currently recorded as a public footpath, open access area, permissive path or other route that is regularly used by the public, the volunteers can survey on foot. (See appendix for a copy of the survey form).

Key points to look at are:

- Boundaries – and if gates will be required.
- Surface – boggy/wet/dry/grass/stone.
- Terrain – steep/flat.
- Overgrowth/side growth.
- Exits onto public (tarmac) highways.

Ask volunteers to take photos of highway exit points, field boundary entry points, landscape views from the route, items of historical interest - for instance churches and other buildings, dew ponds, limekilns and barrows - and to show general route terrain/surface and current land use.

Private land surveys

If the proposed route runs across private land, volunteers should not trespass – it is not helpful to upset the landowners or occupiers before starting! Instead:

- Walk a nearby PROW (if existing) for a general view of terrain/surface type.
- Check out exits onto public highway.
- Look on Google Earth.
- Check the OS map for field boundaries to ascertain the likely number of gates.

Survey assessment

Each route surveyed can be prioritised depending on its importance to the network and the probable cost of development – this will assist in determining the most useful and cost effective project to commence work on.

TTT prioritise surveyed routes with codes:

- 1-5 (where 1 = high priority because for instance the proposed route completes a community circuit and also links sections of linear trail and 5 = a single route of limited importance to the strategic network).
- A-E, depending on capital works required (where A = minimal cost for instance few gates and other works required and E = for instance expensive large scale surface works).

A route requiring many gates and / or a high level of surface improvements may be costly in terms of capital investment and follow on maintenance. It may be practical at this stage to look for an alternative. A balanced view on whether or not to proceed with the route project needs to be taken if no alternative exists and the route is of critical importance to the network.

Potential users

Decide whether the route is intended to be (subject to negotiation) a bridleway – for use by walkers, horse riders and mountain bikers or a restricted byway which could also be used by carriage drivers. Corridor routes such as green lanes, droves and existing farm tracks are very suitable for carriage driving so this should be borne in mind.

Surveying existing multi-user routes

It is important at this stage to also survey existing multi-user PROW and UUCRs (green routes on the draft map) and connecting tarmac highways (yellow / orange routes on the draft) if these are to be used as sections of the proposed linear or circular trail. Volunteers can be asked to do this and surveys can obviously be carried out on foot, mountain bike or horse back.

Existing multi user PROW

Bridleways, byways, unsealed unclassified county roads and other multi user paths should be assessed for the following:

- Number of gates/condition/ease of opening and closing from horse back.
- Surface condition – boggy/wet/dry/grass/stone.
- Existing use by riders/cyclists/carriage drivers.
- Terrain – steep/flat.
- Overgrowth/side growth.
- Exits onto public (tarmac) highways.
- Adequate signage/way marking.
- Obstructions.

Complete the survey form for each route and take photographs of any problem areas such as obstructions, out of repair furniture, and poor surface condition.

Any problems with existing PROW and UUCR should be reported to the relevant LHA department (PROW or highways dept) and a plan of action agreed to repair and / or resolve. LHAs have a statutory duty to maintain surfaces and deal with obstructions. Due to limited budget resources, routes requiring expensive capital improvements - for instance to the surface - may have to be prioritised, but try to get a commitment regarding a timescale for works. It may be possible to include some works to existing PROW, proposed to be used as a section of linear or circular trail in a project grant bid, but this must be done with the consent of the LHA.

Tarmac highways

Any single track lanes and other rural roads that form part of the proposed trail should be assessed for traffic volumes, speed, traffic type, use as rat runs, suitability of refuges and verges. A good indicator is whether or not local users are using the road as part of the local access network. Asking for their experiences may help in deciding whether or not the road is a suitable link. LHAs may have recorded average daily traffic flow figures – these are useful for determining the suitability of two track rural roads for use in strategic multi user networks - so ask the local highways department for current data.

The LHA can make an order designating a road or network of roads as quiet lanes where traffic volume is <1000 vehicles per day and average speed < 35 mph. This allows the LHA to erect signs at each end so

8 | Methodology 2

that drivers know to expect vulnerable users. It is worth discussing this with the LHA with regard to the use of minor roads / lanes in access networks as links.

TTT Case Study Murder Combe Bridleway

This case study is used as an example of a route created through EDCL throughout this guide (see also case study 1 in section 23).

In the previous section (7, Network Design) the Murder Combe route was identified as a critical link in both local community networks in East Mendip and the linear Bath to Bruton Trail. (Route number 5 on map example steps 3 & 4).

In the Murder Combe case, two possible routes were originally surveyed. One route was recorded as an existing definitive FP for its entire length, the second a FP for most of its length and then a section where new route would need to be created. The first FP was discounted because of badger holes in the surface. This route also ran close to the back of a farm and the exit onto the existing highway presented a difficult crossing point.

The second (part) FP surveyed was more suitable because it ran mostly along headlands away from settlements, fewer gates were required, the exit was directly into a 30mph speed limit within Whatley village and as a additional bonus the new section of PROW created linked two existing footpaths together.

Murder Combe was rated 1 because of its importance in completing a missing link in both a community circuit and a proposed linear route, and it provided both a crossing point and a safe alternative to a dangerous rural road and A because relatively few works were required to install.

The following survey form example is the survey done for TTT's Murder Combe 2006 Bridleway Project.

TRAIL ROUTE FEASIBILITY SURVEY REPORT EXAMPLE		
Murder Combe 2006		
District/LA	Parish	Route numbers
Mendip/SCC	Whatley	LT1/Q3/13 circuit
Where to where? Opposite Fordbury Lane on Mells Frome Road to Whatley		
Surveyor: RT/SP	Date:	
<p>Route Description (Green Lane/track/bounded by hedges or walls/field edge path/cross field path etc - indicate which): Through kissing gate off Mells/Frome road, follow left hand boundary between trees and hedges through 1st grass field (remnant of old road?) to stile by old ash tree. Into second grass field (boundary hedge now on right) to large gap & stile by water trough. Thru gap into 3rd grass field to stile in corner, turn left & follow boundary to Wiltshire gate & exit into green lane. Follow green lane into Whatley. Lovely views of Whatley church spire in front & Cley Hill behind.</p> <p>Current Land use: arable / grassland (beef cattle?).</p> <p>Surface type (grass / earth / stone / woodland etc): Grassland fields then stone track (muddy).</p> <p>Number of gates (existing - state of repair/ease of use): existing kissing gate & 2 stiles (1 may not be needed) and then need exit into green lane. Consider offering landowner 3 or 4 new FGs to replace Wiltshire gates & fill in gap at 3rd field if required.</p> <p>Current status: Footpaths across fields and along track from Whatley. Last field boundary section to track – no status – useful to link FPs up.</p> <p>Evidence of current use by horses/mountain cycles/carriage drivers? NONE</p> <p>Evidence of higher status? Possibly old cart road but no historic evidence looked for.</p> <p>Signposts & waymarks: Footpath signs & waymarks – also Monarch way LDR signs</p> <p>Works required – what needs to be done to allow multi-use? (Drainage/surfacing/clearance/number of new gates required/use existing field gates?/bridges etc): 3 or 4 BR gates & field gates as required by landowner. Excavate boggy section in green lane and stone, clear out ditches.</p> <p>Exit onto a main road/minor road/lane/other right of way or cross over main road/minor road (say which): Northern end staggered cross over Mells / Frome road from Fordbury Lane. Southern end exits onto 30 MPH Whatley / Egford road for short distance but safe refuges.</p> <p>Safety of exit – visibility, signs required etc: Clear overhanging & side vegetation at Murder Combe with horse signs. Possibly erect horse signs at Whatley end.</p> <p>Landowners/tenants – any that are known: Mr A & Mr B. Agent Mr C, others not known</p>		
Route Priority: 1	Category: A	
Please return completed form along with attached photographs of the route to:		

Murder Combe Pictorial Record – before negotiation and installation



Southern exit – onto track.



Northern exit entrance through kissing gate.



General view of proposed route.



Field boundary rickety stile and barbed wire.



Left, view of church from route. Right, northern road exit already used by horse riders, walkers and cyclists exiting from Fordbury Lane (FP) on other side of road. Walkers can cross straight over into Murder Combe FP, riders and cyclists have to travel along the road.

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Identifying and approaching landowners



Be patient: this kind landowner finally agreed to an upgrading of FP to BR after several years of saying 'no'. His route (green lane and field boundary path) helped users cross an A road from a RB opposite and opened up miles of usable circular networks. The local NFU officer facilitated negotiations between him and TTT. This is a good example of partnership working. Pictured are LHA PROW officers, TTT officers, a representative from the NFU, the neighbour whose house adjoined the green lane, local riders who benefited and the landowner and his son. See case study 2 in section 23.

Having surveyed the proposed route links to complete gaps in the trail and decided to continue with the project(s) the next step is to approach the landowners and others with an interest in the land.

Sources of landowners' identification:

Freehold owners

- Land registry: check if the land is registered. Searches can be done via the internet - www.landregistry.gov.uk - or sometimes the LHA or a friendly commercial solicitor will do this for a small fee. The landowner(s) will be named in the search. Keep copies of the searches, they will be required later.
- Local knowledge: riders, farmers, neighbours, local hunt, landowners' representative bodies e.g. local NFU, CLA.
- Local authorities: LHA PROW officers (particularly if the route is already recorded as a public footpath), parish councillors.

Presumed ownership (no obvious landowner)

Corridors of land such as green lanes and droves, which are bordered by hedges, walls, water courses, banks etc, may have no obvious freehold owner. Public rights may exist along them or no rights at all. Such corridor routes are usually shown as 'white roads' or old railways on the OS map – with or without PROW running along them. Corridors such as these are often the most desirable in terms of route creation but also often the most difficult to ascertain ownership.

There may be no apparent owner because the land corridor is:

- Unsealed unclassified county road which is not shown as ORPA on the OS map (check the status with LHA highways department).
- Old highway/parish road which was once publicly maintainable which the LHA no longer maintains (historic route).

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- Road retained by long ago broken up estates after adjoining land has been parcelled up and sold and over which the adjoining owners may have a private right of way.
- Private road past houses which has not been adopted for maintenance by the LHA.
- Private roadway or occupation road constructed by the landowner(s) for their own purposes e.g. forestry, farm or industrial track.

In the first instance ask for an LR search – this will usually draw a blank unless the freehold of the road is owned by someone and has been registered. Under English law, all land is owned by someone, even if that person is not aware of such ownership.

In the absence of a free holder there is a presumption that the adjoining landowners own to the centre line of the corridor route even if the route is subject to other rights either private or public. So for instance, a green lane (the term green lane being a physical description) may be recorded as a highway on the DMS as a footpath, bridleway or byway or on the LoS as an unclassified county road or may have no recorded rights at all. It may be an ancient highway or a private way allowing access to fields.

Presumed ownership principle: it is presumed that the boundary of land abutting a highway, road or private right of way extends to the middle of the way, subject, in the case of a highway, to the rights of the highway authority.

A conveyance or transfer of land that abuts a roadway is presumed to include the roadway up to the middle of it, even though it describes the land as being bounded by the roadway or includes a plan defining the land as excluding the roadway.

Although this presumption can be rebutted, assume that the adjoining landowners own to the centre of the drove, lane or private road. Continue to identify the owner of each adjoining property or parcel of land using the same sources as for freehold landowners. Once contact is established more information on the ownership of the land corridor may be forthcoming. Maintenance of the way in question over a long period of years can be a strong indication of ownership.

Note: 1980 Highways Act s228 can be used by LHAs to adopt ‘unowned’ corridors of land (for example green lanes and droves) to establish PROWs – footpaths, bridleways and restricted byways, where it has not been possible to identify the owner of the land after land registry searches and making other enquiries.

See Section 21 of this guide - other mechanisms for route creation - discuss this option with the LHA at an early stage where a corridor of land is needed for the strategic access network.

Abandoned railways: The land that the railway was built on often reverts to the landowner who originally owned it (or his successor in title). It is worth checking this with adjoining owners. The charity, Sustrans, is a good source of information on abandoned railways – see appendix for contact details. Local authorities often safeguard former railway land corridors as future sustainable transport links and protect them from development – check development strategies produced by local authorities.

Contacting landowners

Once as many landowners as possible have been identified, establish contact outlining the proposed project. Initial contact is best established via:

- Introduction through someone who knows them (preferred).
- Letter: include a map showing how the proposed route fits into the existing access network and how it would benefit the local community, an indication of the type of works proposed and with the offer of a capital payment if appropriate (to freehold owners – but see also section 10 of this guide) - that would be available upon completion of a successful dedication (dependent on a successful fund raising campaign). Ask if a meeting can be arranged to discuss ideas.

Initial meeting with owners

If a favourable response is received, an initial meeting can be arranged. Take to the meeting:

- Photos of route construction solutions (if available).
- Rights of way furniture (gates etc) examples (e.g. take Centrewire brochure – see appendix for contact details).
- Linear or community trail project map (not the draft network map).
- Large scale plan (1:5000) of proposed route (available from OS, LHA or local solicitor).
- OS Explorer map.
- Notebook/pen.
- Digital camera.
- Big smile and positive attitude.
- Be prepared to discuss concerns (see section 10 of this guide).

Contact with others who have an interest in the land.

The landowner should be able to advise if there are others that should be contacted who have an interest in or rights over the land (e.g. lease holders, tenants, graziers, shoot managers, foresters etc), other landowners who may have an interest in the route and who haven't been identified and whether there is any land designation e.g. SSSI which would mean involving a third party such as Natural England.

No response to initial contact

If no response is received to the first letter, write again in a month or so and then if there is still no response, phone and try and establish contact. It may be that the landowner is interested but busy, has a number of concerns (which can hopefully be addressed) or he does not want a route on his land. In the case of a negative response, be patient and go back to him after a period of time. It may be possible to identify an alternative route across a willing neighbour's land.

Where multiple landowners are involved, some may agree to the project where others may not – this obviously creates a difficulty on a corridor route which is clearly defined on the ground, but where the route crosses farmland (e.g. proposed FP upgrading) it may be possible to deviate from the FP line to create a new section of bridleway across a neighbour's land.

The ideal situation is to have several trail projects in progress at any one time so that if delays or negative responses are encountered, other sections can be moved forward. Once these are successfully completed, the goodwill generated may persuade landowners who were not keen to be involved initially.

Organisations such as the NFU (National Farmers Union) and the CLA (Country Landowners and Business Association) that represent landowners and farmers can sometimes be very helpful in facilitating initial negotiations between user groups and landowners. Contact officers at local branches. (See appendix for national NFU/CLA contact details).

TTT Case Study Example: Murder Combe bridleway.

The proposed route crossed farmland and then continued along a green lane to exit on the public highway at Whatley. Inquiries regarding ownership / occupation revealed three parties with whom agreement was needed on the farmland section - landowners, leaseholders and tenant farmers and two presumed owners on the 'unowned' green lane section – the Parish Council who owned a sports field on one side and an adjoining householder who owned a house and garden on the other. Negotiations were greatly facilitated by land agents for each of the three parties with an interest in the farmland section. A capital payments was only offered to the freehold owner of the farmland section.

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Addressing concerns - through route location and design

Each landowner and occupier (if there is one) involved in the potential dedication of the proposed route should be visited and their concerns discussed. Most concerns can be overcome by ensuring that the route is located in the best place, attention to furniture design and by the use of high quality materials and construction, thus ensuring that the new route is a positive experience for landowners and users for many years to come.

Several meetings with landowners / occupiers may be necessary. It's helpful to attend initial meetings with information relating to concerns to hand and some practical solutions to mitigate the routes impact on actual and future land use. If the answer to a particular question is not known, carry out research and return with the information at a later date.

If the landowner / occupiers are in broad agreement with the proposed project they will want to discuss the proposed route location and construction – how many gates / type, if any fencing will be required, water courses crossed and surface improvements made and who is likely to carry out the work. They may want to revise the proposed route course and may propose an alternative line, so be prepared to be flexible. The proposed route on the ground should be studied with the landowner(s), occupiers and other interested parties so that a draft work schedule can be worked up. This provides an opportunity to survey it, if this hasn't been done.

Landowner/occupier concerns and questions

At the initial meeting discussions will usually focus on concerns or questions relating to:

1. Responsibilities (landowners, local highway authority, users).
2. Occupiers liability.
3. Future maintenance.
4. Potential issues arising from route location and use.
5. Mitigation of potential issues with good design.
6. Permanent route versus permissive route.
7. Construction / contractors.
8. Capital payment expectations.

The following is based on TTT experiences / research and may be helpful.

1. Responsibilities

Landowner/occupier responsibilities relating to PROW

Most landowners/occupiers have PROW on their land and are already aware of their responsibilities towards them. They are responsible for:

- Maintaining stiles and gates across paths (although the LHA may assist with this).
- Cutting back hedge growth alongside PROW.
- Maintaining certain bridges and culverts under PROW (largely those crossing ditches which came into existence after the path was dedicated).
- Restoring the surface of cross-field paths after ploughing.

And for not:

- Obstructing the PROW.
- Ploughing field edge paths.

- Allowing any prohibited bull in a field through which a PROW passes.
- Erecting misleading signs likely to deter use.
- Removing or altering the direction of PROW signs and waymarks.

If the proposed new route is to upgrade an existing footpath to bridleway, the material change is construction to facilitate use by riders / cyclists and a variation in the path width (which would for example affect ploughing).

Increased PROW widths are from 1.5m for a field edge footpath to 3m for a field edge bridleway. 1m for a cross field footpath to 2m for a cross field bridleway. Carriageways are generally held to be 3 metres wide, whether cross field or field edge – or the distance between boundaries where these exist and where the whole width has been dedicated to the public.

If the landowner is dedicating a new length of bridleway or restricted byway and has no other PROW on his land, it is important to discuss his future responsibilities as listed above. More information is available from Natural England in the publication CA210 Managing Public Access available free from the website at www.naturalengland.etraderstores.com/NaturalEnglandShop/CA210

Local highway authority responsibilities

The LHA is responsible for maintaining existing path surfaces by:

- Preventing the stopping up or obstruction of all PROW.
- Keeping PROW clear of obstruction by surface vegetation.
- Repairing surfaces.
- Assisting farmers and landowners with the cost of maintenance of stiles and gates – at LHA's discretion.
- Maintaining most bridges and culverts under PROW (largely those crossing watercourses which existed before the path was dedicated).
- Ensuring that occupiers meet their responsibilities.

User(s) responsibilities

Users have the right to pass and re-pass on the highway. Their responsibilities are to:

- Ensure that as far as possible they stick to the line of the path.
- Follow the countryside code.
- Keep dogs on a lead or otherwise under close control particularly in the presence of stock.

Countryside Code

- Be Safe - plan ahead and follow signs.
- Leave gates and property as you find them.
- Protect plants and animals, and take your litter home.
- Keep dogs under close control.
- Consider other people

For a full explanation go to www.naturalengland.org.uk

2. Occupier's liability

The Occupiers Liability Act 1957 provides that the occupier owes a duty to a visitor 'to take such care' as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there'.

However this excludes users of the highway because people using PROW are exercising a right conferred by law. Highway users are not regarded as visitors under the act and therefore, since landowners / occupiers have no power to control the use of the highway by the public, they are not burdened with responsibility for defects in the highway.

Limitations to this are:-

- Positive acts of malfeasance (in other words the landowner or occupier would have to do something knowingly and positively dangerous to the path surface with the intention of causing risk or injury).
- Injury caused by failure to maintain gates and stiles since these are 'on' and not 'part of' the highway (being for the advantage of, owned by and maintainable by, the landowner).

Thus a landowner dedicating a highway (PROW) through EDCL is in a better position with regards to public liability than a landowner providing a permissive path, users of which are 'visitors' within the terms of the act.

3. Future Maintenance

Routes created by EDCL are not automatically maintainable by the LHA, although it may assume that responsibility when processing the route onto the DMS (see section 19 of this guide on recording the route). The LHA will still have the duty to take action should the route become obstructed.

If the LHA decline to adopt the maintenance liability, the position is in real terms for both users and landowners, no different to what it was prior to dedication. In practice, many routes require little or no maintenance, unless use by the public causes deterioration of (for example) the path surface or overgrowth and side growth need attention on a regular basis. Routes that cross land that is grazed or follow existing tracks or headlands do not often require maintenance.

If the new PROW is to run over a track/road that exists already and works such as surface repairs and hedge cutting are already carried out by the landowner / land manager, there is no reason really why the landowner would not continue to carry out these works. This should be discussed during the negotiation stage.

The usual exceptions to this are:

- Corridor routes such as "unowned" green lanes and droves that may be muddy / wet / steep / overgrown and have had little or no attention for many years. However, well planned capital improvements to these last for many years particularly if a stone surface exists under the mud, the surface drained of water and overhanging vegetation cut back.
- The need to maintain gates and other path furniture. If good quality gates and materials are used during the construction of the new PROW, these will last for many years and will not require much maintenance other than periodically checking to ensure that gates continue to open and close properly. The user group may have to be prepared to monitor the route and fund these works in future, if the new PROW is not adopted by LHA.
- Where landowners require the new route to be permanently fenced. (See section on fencing).
- Where seasonal side growth and surface growth (for example nettle growth) needs regular attention. Dealing with these is a good job for volunteers but ensure that the landowner is kept informed of any working party proposed.

If the intention is to upgrade an existing public footpath to a multi-user route, the liability for surface maintenance will already be the responsibility of the LHA - but only for use on foot.

To prove that multi-user routes do not in practice cause the LHA a costly maintenance burden, TTT requested information from the LHA under the Freedom of Information Act 2000 relating to the

cost of repairing 20 bridleways in regular use (including some running down green lanes) over a 10 year period and randomly located across the Mendip Hills. Result: surface repairs (to a gateway) had been carried out to only one bridleway.

4. Potential issues arising from the giving of new rights, route location and use

New Rights

A landowner entering into an EDCL or permissive path agreement is extending or creating new rights for the public to pass and repass over his land. He will need to consider the implications of having a new group of users in an area where previously the public were not permitted or for example was only open to users on foot.

Negotiating the upgrading of a footpath to bridleway will facilitate use by horse riders and cyclists.

Negotiating the creation of a new bridleway will have the added advantage of extending walking rights to the using public.

Landowners may also create carriageways by express dedication so that carriage drivers also benefit from increased access – green lanes and farm or forestry tracks may be particularly useful for them - especially if the new route links to quiet lanes, restricted byways or byways open to all traffic.

Whatever type of route (and the rights attaching to it) is to be dedicated or agreed, ensuring the best location can often mitigate the impact of having a new set of users on the land.

Route Location

The initial feasibility route survey will have provided information regarding current land use - whether it is:

- Agricultural (arable or stock).
- Horticulture.
- Horse keeping.
- Private house/garden.
- Industrial.
- Woodland.
- Nature reserve.
- Combination of any of the above uses.

This is not an exhaustive list but the concerns listed here relating to the above are the most often encountered:

- Disruption of shooting and game birds/fishing/hunting.
- Horse keeping – particularly thoroughbreds – potential injury to.
- Interruption to machinery movement.
- Damage to wildlife habitat.
- Disturbance to wildlife.
- Theft and interference.
- Health and safety issues at industrial sites for example at quarries.
- Stock security (sheep, lambs, cattle, horses) – particularly if the route exits onto a main road.
- Interruption of water supply.
- Crop damage (including grassland).
- Trespass by motorbikes/vehicles.
- Users straying.

These concerns can be mitigated or minimised through thoughtful route location, design and construction

- as explained in the remainder of this section.

Other concerns that landowners and householders may have include:

- Use of route by commercial establishments / specific organisations.
- General dislike of a specific group of users – horse riders, mountain bikers, ramblers.
- Horse muck.
- Child safety.
- Interaction between horses/cars/tractors.

Agreeing the location of the route

Following or even at the initial meeting the landowner (if he is interested in the proposals thus far) and/or occupier will propose a joint assessment of the proposed route on his land - which may be along the line of the initial survey or an alternative suggested by him or others affected by the proposed route.

Upgrading existing definitive footpath

If the proposed route is following the line of an existing footpath or corridor route such as a drove or green lane (which may already have recorded existing public rights for example on foot) the course of the new route will be defined already. However if the public footpath to be followed runs in a location where:

- The landowner does not want additional use or
- The route is proposed to continue across land owned by someone with whom it is impossible to reach agreement. A deviation of the proposed route will be necessary and a new section of route created by the dedication. Unless a FP diversion and concurrent upgrading can be agreed with all interested parties (difficult and unlikely) this may mean that two PROW run parallel to each other. If this suits the landowner(s) there is no problem (except to the LHA who might have maintenance concerns) and it may actually benefit walkers in permitting an interesting circular walk.

Locating new PROW

The landowner/manager may ask that the route is located away from areas where:

- Game birds are reared, frequently organised shoots are held and river banks/lakes heavily licensed for fishing exist (unless already public FP).
- Animals such as where horses – (except possibly where native ponies are kept on reserves but ask about the presence of stallions) or lone bulls are kept.
- Very sensitive wildlife habitats.
- Farm yards/farm house/industrial units.
- Areas where machinery is used extensively.

Proposed locations for new routes may be as the network map proposals (but which may not been surveyed because there are no pre-existing public rights) or on a partially or completely different line so that the ground is unfamiliar. Assess the proposed site carefully bearing in mind that from the potential user's perspective the best routes:

- Follow a clearly defined line i.e. along existing tracks and paths (grass, earth or stone etc) or along field boundaries - these are the easiest to follow helping to prevent inadvertent trespass.
- Avoid the necessity for excessive numbers of gates (especially on short routes).
- Avoid difficult terrain – very steep/wet/liable to get boggy.
- Avoid areas where ground holes appear (such as badger setts).



Local horse rider cantering on the newly opened Murder Combe bridleway. The easy-to-follow headland helps to prevent inadvertent trespass and crop damage. The tenant farmer has cut the hedge well back to facilitate width and ease of use.

Locating new carriageway

Negotiating the upgrading of an existing PROW or creating a new route for carriage drivers can be difficult, simply because the landowner may have concerns that the access width required for some carriages may give rise to trespass by off road vehicles. Kent carriage gaps can be used to overcome this in some locations. These allow agricultural vehicles to pass whilst preventing trespass by other vehicles. If the landowner is willing to dedicate access for carriage drivers perhaps along green lanes and other tracks, much of the route location criteria and works assessment is the same as for new bridleways - since carriages (depending on design and wheel type used) can access a wide variety of surfaces and terrain. Establish partnership working with a local carriage driving club to ensure good route location and design practice for carriages.

Route use by specific groups

Use of route by commercial establishments

If there is a riding school nearby, the landowner may be concerned about repeated use of the route for commercial gain or access by another organisation such as the local hunt. Riding school horses and riders and / or the hunt will have the right to use the new PROW. In this situation, agree with the landowner how much use from the school or the hunt he is willing to accept (if any), negotiate this with the school management / the hunt and monitor the situation once the route is open.

Since the landowner is dedicating a public highway, the amount of use by a commercial establishment or the hunt cannot be dictated but hopefully an agreement that is satisfactory to everyone can be reached. Monitoring will determine whether use can be increased over time.

General dislike of a specific group of users

Some landowners have a genuine dislike of certain classes of user and it is sometimes difficult to overcome this. If this cannot be overcome, the only acceptable solution may be a permissive path agreement which limits use to certain groups (for example horse riders only). The request for a permanent bridleway right (recorded on the DMS) would need to be set aside and discussed again at a later date.

Other concerns that landowners and householders may have

Concerns regarding horse muck, child safety and interaction with vehicles can usually be addressed by providing users with information or instructions either along the route, at public meetings to which potential users are invited before the route opens and on user group websites.

5. Mitigation of potential issues with good design

Agreeing the works with the landowner(s)/land managers

Once the best location has been agreed in principle, draw the route line on the large scale map. Each entry and exit point proposed through boundaries should be inspected with the landowner(s) and occupiers to assess what works need to be done and what design solutions may be needed to overcome any foreseen / potential problem that may arise through use such as:

- Stock security (sheep, lambs, cattle, horses) – particularly if the route exits onto a main road.
- Interruption of water supply.
- Health and safety issues at industrial sites for example at quarries.
- Crop damage (including grassland).
- Trespass by motorbikes/vehicles.
- Users straying.

Decisions must be made regarding installations and any other works that may be necessary such as:

1. Type and style of gates, fixtures and fittings.
2. Posts.
3. Fencing style and type.
4. Ground works.
5. Works to trees and hedges.
6. Works to bridges and underpasses.
7. Signs and waymarks.
8. Any other works that may be agreed with the landowner.

5:1. Type and style of gates, fixtures and fittings

The first question to ask is – is a gate actually required? Sometimes a gap is all that is needed. If a gate or other construction is required consider why it is needed – for stock security or to permit accessibility to lawful users whilst excluding others?

Are wood products (gates and posts) to be purchased from a local supplier with whom a discount may be negotiated (and who is more accessible), and fittings purchased as required or are all in one units to be purchased from a national supplier (eg Centrewire)?

TTT purchases wood products from a local Fountain Timber outlet and integral units and fittings where needed from Centrewire. Fountain Timber gives a generous discount (which can be used as match funding) and short delivery times.



Left, Fountain Timber wooden gate with Centrewire fittings; centre, Chiltern galvanised gate with one-way opening mechanism and stock-proof handle; right, Chiltern galvanised gate with two-way opening mechanism and straight easy latch handle. Chiltern photographs by kind permission of Centrewire (see appendix for contact details).

Tips for gates, fixtures and fittings on cross field type routes

Note: refer to British Standard 709:2006 (see appendix for details) as this gives helpful advice on minimum sizes.

Certain types of gates (such as two-way, self closing hydraulic gates) are preferable for all users (including the disabled) because they ensure that users have enough time to pass through the gate and also ensure that the gate closes. Horse riders often prefer gates that do not have opening mechanisms with long handles on which reins can be caught – for instance gates that are secured with a simple throw over chain can be safer. However, consideration for the current or future land use is of paramount importance. Compromises may have to be made as no one gate specification is appropriate for every situation.

- Gates may be one-way or two-way opening; one-way gates can be better for stock control, two-way gates give easier user access.
- Gates open from left to right or right to left – although the opening direction is normally the same along an entire route, individual gates may open in a different direction where they are set against a boundary (usually close against the boundary).

Make room

- Avoid installing a gate in a corner - ensure there is enough 'turning' room on both sides of the gate for large horses, riders in pairs or groups, or a person leading another horse.
- Where the gate is installed in a barbed wire fence or prickly hedge line – make a bigger gap than is needed and run a few feet of post and rail fencing either side of the gate.

Appearance

- Gates often have a front (bolt covers) and back (nuts visible). For good appearance always hang with the front showing out at route exit / entry points – e.g. from public highway.

Width

- Use 5' wide gates as a minimum for bridleway access and minimum of 10' for byway access (vehicular field gate) – 12' – 15' for agricultural machinery access.

Damage and theft

- Always install bridleway gates where there is sufficient room even if there is an available field gate. Field gates are subject to accidental damage or may 'drop' making them difficult to open or close. This also reduces potential issues regarding future repair.
- If liable to theft (e.g. positioned adjacent to a public highway) either install:-
 - Galvanised steel gates with integral H frame cemented into the ground (much more difficult to steal).
 - Wooden gates with inverted hinges to prevent lifting off (note: does not prevent post tops being chain sawed to get gate off).

Prevent gates from being left open by fitting:

- 90 degree self closing gate hinges.
- 'Please close the gate' sign on two sides of the post (both approaches).
- Gate stops or
- Chain positioned between the post and the gate (both prevent the gate opening to the point of 'no return') - though check these do not make the gate slam back onto horse and rider.

- Throw over chain from gate to post – additional means for users to secure the gate if:
 - the post ‘moves’ due to adverse conditions (so the latch does not catch).
 - the catch falls off / gets broken.
- Ensure ease of use by fitting easy latch / trombone handles (subject to land use for stock).

Prevent stock from opening gate by always installing:

- Self closing gates – preferably two-way, hydraulic, self-closing gates – ensure that mechanisms are not so slow that a cow has time to follow a horse out.
- Alternatively, fit one-way gates where the access point is on to a highway or on to field boundaries where stock is kept on one side and not on the other (e.g. from field into a green lane). Hang gate so it shuts against the post – if not quite latched stock will push it shut instead of open.
- Stock proof handles wherever stock is expected to be kept – whether to an internal farm boundary or route exit gate. Horses / cows can rub against standard easy opening handle and open the gate.
- Exit onto major road – for extra security always install a 1 way metal gate on an H frame to prevent theft and gate / post movement over time (extra security for stock).
- Prevent sheep (and especially lambs) from squeezing under gates (if there is a gap due to sloping terrain) by nailing or hanging a bar along the bottom of the gate.

Note that where there are no stock security issues (e.g. woodland tracks) the best option is not to have a gate at all, but to explore other options if the landowner wants to deter access by other users.

Where field gates have to be used:

- Ensure ease of use by fitting long opening handles (stock proof handles as appropriate).
- Throw over chains / ‘please close the gate’ signs for extra security.

Gates on corridor-type routes

For example: green lanes, droves and other fenced off sections of route. Consider the following:

- Is a gate required?
- Are there stock security issues?
- Which groups of user need access?
- What unauthorised use needs preventing?
- Who else has a right of way? (Check for private rights).
- Access to maintain.

Answering these questions will resolve the type and style of gates or barriers. Fixtures and fitting, gate opening direction decisions are the same as previously listed.

Tips for gates (and other barriers), fixtures and fittings on corridor routes

Installations to prevent unauthorised entry, ensure stock security (if a consideration) and allow authorised access:

- Where there is sufficient width: wooden or metal field gate (which can be locked if a bridleway) with a separate bridleway gate along side.
- Where there is insufficient width: York 2 in 1 gate from Centrewire – a field gate that comes in 2 sections. The main section can be locked (if a bridleway) whilst the section allowing public access is free to open.
- Standard or heavy duty horse friendly barriers which can be locked (if a bridleway) - horses

have to step over middle section.

- Horse stiles – which prevent trespass by motor cycles and other vehicles.
- Boulders placed in the entrance (if no other access required / needed) but leave a gap of at least five feet.
- Kent Carriage Gap – where access is required by carriages.
- If the main installation is considered to be subject to probable ‘ramming’ by motor vehicles, install heavy duty barriers or gates. (See TTT case study 5 in section 23).



Left, horse stile – prevents motor bike use - and, centre, horse-friendly vehicle barrier (photographs by kind permission of Centrewire); right: Kent Carriage Gap (photograph by kind permission of Maydencroft Rural Ltd. See appendix for contact details and Kent Carriage Gap specification).

Consent of highway authority to place an obstruction on the highway

The law states that a stile or gate erected on the public highway other than upon dedication or by, or with the consent of the LHA, is a nuisance at common law and an unlawful obstruction.

This does not apply to the creation of a new highway (bridleway or restricted byway) because the express dedication is not final until the route has been constructed and used by the public. The new route will therefore be dedicated with such gate installations that have been decided are necessary.

Gates and stiles along the route of a PROW are known as ‘limitations on the way’ and will be recorded on the DMS when the route is processed by the LHA.

The law does however apply where public footpaths are being upgraded to facilitate additional classes of user. Replacing an existing stile with a new gate (on the correct definitive line) does not constitute a problem. Consent of the LHA will be required if additional installations or barriers are required along the line of an existing PROW.

It should be noted that where a public footpath is being upgraded to bridleway and it has been planned to install new bridleway gates adjacent to a the definitive line through field gates, consent will not be required from the LHA because the newly dedicated line of the bridleway will run adjacent to the definitive footpath line at these points.



Dual-purpose Centrewire York gate at Murder Combe with a two-way opening bridleway gate and integral vehicular gate section that can be locked to prevent unauthorised use. A new entrance into this field has been created (on right). The stock-proof fencing erected has barbed wire on the field side but the horse and rider are protected by the rail on the inside.

5:2. Tips for posts

When buying gate posts from a local supplier bear in mind the following:

- Ask for posts to be ‘weathered’ – helps to prevent rotting.
- Bigger / longer posts move less in the ground.
- 7’ x 6” x 6” size is ideal for bridleway gates and to fit Centrewire fittings.
- 7’ x 7” x 7” size is ideal for field gates.
- Ensure all posts are well concreted in.
- Field gates have ‘hang’ and ‘slam’ posts – so order one of each.
- Ensure post heights are equal to gate height when installed – helps prevent horse reins / martingales catching.

5:3. Fencing

The principle reasons for fencing a route are to:

- Prevent users trespassing into other areas e.g. on sensitive land such as SSSIs.
- Absolutely ensure stock security e.g. alongside a fast, heavily trafficked road.
- Prevent users being in the same area as certain types of stock for example where bulls, cows with calves or horses may be kept.

Fencing creates a ‘corridor’ route that may require additional maintenance such as surface repairs and routine seasonal tasks such as hedge cutting and grass mowing - ask the landowner if he is willing to carry out these tasks.

If fencing is only required for short periods, for instance where sheep are brought in to graze, the landowner may consider electric fencing, however this has safety implications for users and has to be far enough away from the line of the path so as not to constitute a danger.

Fencing a route is a useful safety strategy when providing an ‘over the hedge route’ next to a main road particularly where the landowner’s access point is set back permitting a user corridor with no entrance / exit gates.

If fencing is unavoidable, bear in mind the following:

- Use quality fence posts and the correct number of straining and corner posts (be guided by the contractor).



Section of community trail at Binegar (see TTT case study 2, guide section 23). This new bridleway at Rookery Farm crosses land where horses and cattle are kept and is close to a busy main road. It has been fenced with posts and inner top rail and field side stock proof fencing to form a safe user corridor to separate users from stock and to ensure stock security.

- Fix the stock proof fencing on the outside of the route (field side). This may mean sheep wire for sheep, barbed wire for cattle, rails for horses.
- Always run a line of rails along the top inside of the route (in front of the top barbed wire strand), so that if horses shy or anyone falls off a bike or a horse, they are more likely to hit the top rail rather than barbed wire.
- If the distance is too great to run a line of rails, allow extra width so that users can pass easily.
- Assess the surface and consider whether boggy sections will develop with use and deal with these with the installation of land drains, terram and stone below the surface.
- Grass routes - ask the landowner / farmer to cut the grass in the growing season.
- Ensure sufficient width to enable hedge cutting or any other routine tasks to be done - the obligatory 3 metres may not be sufficient for agricultural machinery.
- Consider if access points for the use of the landowner are needed through the fence line as well as into and out of the fenced corridor
- Electric fencing: ensure sufficient width for two users to pass safely – 3 metres may not be adequate.

5:4. Ground works

If the dedicated route is intended to run along a green lane, drove or track, ground works may be needed, particularly if the route has received little or no maintenance for many years. Some old lanes are very difficult to deal with if an excess of surface water flows along them or if there is frequent use by agricultural machinery.

The following may be helpful for these route types or be relevant for wet areas along routes that are intended to be fenced:

- Cut back overhanging trees (check for Tree preservation orders - TPOs) to let in light and air to help dry out the surface.
- Clear surface growth and side growth back hard to help water flow off.
- Cut and lay hedges (in appropriate season).
- Drain as much lying or flowing surface water off the surface as possible by cleaning out ditches (if existing).
- Trench across and pipe running water under the surface into ditches or running streams (if existing).
- If the track runs down a steep gradient, install turn byes (raised stone or concrete ridges set at an angle across the surface which help funnel the water off into nearby ditches) intermittently across the surface.
- Clear large stones / rubbish from the surface.
- Once the existing surface is clear, establish whether there is an old stone surface underneath. Machine scrape away the top layer of surface earth and mud to expose the old stone. Repair holes with local stone – larger stone in the bottom and finer stone to dust on the surface.
- Use land drains, terram and graded stone for bad patches.
- For green lane or other grass corridor type routes top off with a thin layer of soil and re-seed with a hard wearing grass seed. Allow several months to establish (if possible) before opening for use.

The following is a very useful guide to repairing tracks or creating a new track: www.pathsforall.org.uk/cms_uploads/BHSFactsheetsfinal.pdf

In addition, local ground works contractors should have experience in these types of works and be able to suggest solutions so discuss on a site visit – see section 11 of this guide.



Old road (FP) cleared and hedge laid by TTT to facilitate use by horse riders and cyclists.

Check before digging!

Always be aware that service cables (for example electricity and telephone), pipes and lines (for example water and gas) are located beneath the ground surface. Always check (or ensure the contractor does) before any post holes are dug or ground works commence. Frequently such service pipes and cables are not buried very deeply below the ground and their location may not be marked. Disruption to these can be dangerous and / or costly in terms of repair.

If significant earthworks and / or new surfacing is planned (as opposed to repair work to an existing track) planning permission may be required so do check with the local planning authority (LPA). Most route creation work (installing bridleyway gates / fencing) does not need planning permission but creating a new field gate (vehicular) access off the highway will require permission from the LHA / LPA.

5:5. Work to trees and hedges

Hedges and trees along the route boundary are the property of the landowner. These may need attention. Consider:

- Asking the landowner to cut hedges back especially if width is at a premium. Laying the hedge could be done as part of the project.
- Checking for low overhanging branches that may need removal.
- Old/diseased/top-heavy trees may need works to make them safe.

Note that certain works to trees and hedges may only be done outside the bird nesting season (see Natural England website for advice – address in the appendix). Also ask the landowner / contractor and if necessary a qualified tree surgeon for guidance. Be aware that some trees may be subject to TPOs – ask the landowner about this.

5:6. Bridges and underpasses

Bridges, tunnels, underpasses and fords on private land are constructed to cross natural obstacles (such as rivers, streams, ditches) or man made obstacles (such as canals, railways, roads).

If the route is intended to cross over or through such a construction consider the following:

- Who owns it or is liable to maintain it.
- Suitability for use proposed.
- Permission will be required before any works are undertaken (see section 11 of this guide).

Bridge ownership and/or maintenance liability

- Crossing natural obstacles such as rivers and streams:
 - If existing highway (for example public footpath) -The 1980 Highways Act s.328(2) provides that these are part of the footpath and the LHA is liable to maintain them.
 - Dual purpose (public and private – e.g. vehicular rights – repair costs may be shared).
 - If not existing or ancient highway – probably owned and maintained by the landowner or the Environment Agency.
- Crossing man made obstacles such as a canal or railway - it is probable that the canal or rail authority is liable to maintain them under the act that authorised the construction of the obstacle. If an existing PROW crosses them the authority has to keep the bridge up to date, i.e. in such condition as to meet modern needs.
- Bridges privately maintainable by reason of tenure – the person liable to maintain the bridge is also liable to maintain the approaches (100 yards either side).
- Road and railway bridges: normally the LHA or Railtrack (or other railway infrastructure operator).

Bridges and tunnels as noted above will have been constructed for a variety of purposes and to permit access for a variety of users. Construction may be of stone (for example old pack horse bridges over rivers), iron (for example Victorian bridges over railways), wood (for example footpath bridges over streams) or concrete (for example underpasses under roads).

Bridges – factors to consider

- Structural defects relating to type/age/condition/wear and tear from use. If the bridge is in use for agricultural vehicles it will probably be sound. If there are any doubts regarding this, commission a structural survey from a bridge structural engineer.
- Width: over short spans it is not necessary to provide room - for example, for two horses to cross - but the bridge should obviously be wide enough for one horse to cross safely. Clearly a wooden plank bridge designed for walkers to cross a stream will not be wide enough or suitable and a new bridge will have to be installed.
- Surface: should not be slippery.
- Parapets/railings: if there are none, consider installing some especially if the bridge is narrow.
- Gates: if it's necessary to have gates at either end of the bridge for stock control, consider the design very carefully for horse use. There should be plenty of manoeuvre room at each exit



Mendip DC Rights of Way Officer checks the condition of a pack horse bridge on an existing FP proposed to be upgraded to BR as part of TTT's Bath to Bruton linear trail. The bridge led over a river approached by an unsealed unclassified county road on one side and a woodland track classified as FP on the other. A condition report was commissioned from a bridge structural engineer. No owner could be established.

point and horses should not have to back up along the bridge so riders can open or close the gate. Gates should open outwards (off the bridge) or be two-way, hydraulic self-closing gates.

Note on bridge ownership

Ownership can be difficult to establish if the bridge is not in use, spans a natural obstacle and no obvious PROW exists (e.g. where a green lane or track crosses a river), and no land owner has been identified through Land Registry or local enquiries. The most obvious reason for this is that the route is an ancient highway which is not shown on the DMS. This is difficult to prove without researching the existence of the old highway. If the bridge is required for the proposed route and the adjoining landowners are in agreement, proceed with the condition assessment as above.

Tunnels and underpasses

As with bridges, the maintenance liability of these will normally be vested in the authority that required construction. Old railway tunnels may be made of brick or stone whereas modern road structures are generally concrete.

In this context such structures have usually been constructed to allow landowners to access farmland that may have been bisected by railways or roads and will therefore be in frequent use.

Tunnels and underpasses: factors to consider

- Structure: again, if there any doubts about this consult a structural engineer.
- Height: if horse riders need to dismount, consider providing mounting blocks at each end.
- Surface: check this is safe for horses and other users (not slippery etc).

Fords: factors to consider

If the ford has not been used for many years consider the angle of entry, potential depth / water flow, surface and possible obstacles on the river bed. Specialised advise on repair may be necessary.

5:7. Signs and waymarks

These provide important information such as:

- What rights exist (FP, BR, RB, BOAT).
- The course of the route (avoidance of unintentional trespass).
- Cautionary notices (for example 'shooting in progress').
- Instructions (for example 'shut the gate').
- Information (for example about wildlife habitat).

Signage: factors to consider

- Installing sign posts at route exits onto public highway or other PROW. TTT use wooden posts and flags engraved with the name of the bridleway (e.g. Pen Hill bridleway).
- Way marking - once the route is constructed, an opening ceremony held (see route publicity) and the dedication complete (through acceptance), attach public bridleway way markers to the wooden flag posts and everywhere else along the route where users may lose their way. If there is no convenient post (e.g. gate post), remember to include extra way marking posts in the works schedule/budget.
- Installing any cautionary notices required at specific points along the route for example – 'horse riders please walk through narrow section.'
- Providing the landowner/farmer with any signs that he made need to occasionally erect, eg

‘rough shooting in progress today’.

- Installing signs on the route entrance gates giving information on:
 - Who dedicated the PROW.
 - Who provided the funding (include logos).
 - General instructions to users – please follow the countryside code, go slowly past stock etc.

5:8. Additional route works

As part of the project consider whether there should be other works that could be carried out to the landowner’s advantage but are not necessarily required to enable access along the route (see list below).

On occasion TTT has carried out additional works to help the landowner whilst working on his land and to improve the overall ‘look’ of the finished project.

These may be necessary to:

- Mitigate any further concern the landowner/land manger may have.
- Secure the route.

These works might include:-

- Laying hedges along the route.
- Tree planting.
- Fencing.
- Tidying up dry stone walls.
- Provision of farm gates/gate posts – or maintenance to existing farm gates.
- Moving water troughs, laying new pipes.
- Surfacing works to existing farm tracks that are to be used as part of the route.

Ensure that additional works are necessary, reasonable and achievable since these works may add substantially to the project cost and potential grant givers will need to be satisfied that provision is necessary for successful project delivery.

Mounting blocks

Additional works that would benefit users, particularly less abled or older riders, might include the provision of mounting blocks at any place along the route, where horse riders may be required to dismount.



TTT’s contractor installs furniture on the Murder Combe route. This additional gate was installed to provide the tenant farmer with a new entrance to his field as the original entrance was fenced off to facilitate running a new length of bridleway along the field headland.

6. Permanent route versus permissive route

Linear trail route projects - the agreement for permanent dedicated paths is preferable because any subsequent closure of a permissive route could potentially render a long distance trail unusable.

Community trail route projects – although the agreement for permanent paths is also to be preferred, permissive paths do make a valuable contribution to the local network in allowing users to avoid busy roads and to enjoy the countryside. These can be licensed for a set number of years. The license agreement can clarify any use and maintenance issues.

Permissive path agreements are also useful if farmers and landowners want to assess how the access is working before entering into a dedication agreement. See section 20 of this guide on permissive paths for more information.

7. Construction/contractors

Many concerns regarding construction can be addressed by ensuring the route is in the best location, planning the proposed construction work in detail and hiring competent contractors. Ask the landowner if he has a preferred contractor that he uses and who he is happy to have on his land. Some landowners will generously offer to help with their own machinery and equipment.

8. Capital payment expectations

Capital payment (for the acquisition for the new public right)

The TTT method is to offer freehold landowners a capital payment to secure the new PROW. Some landowners decline the payment and dedicate anyway, others see it as a reasonable return for having a public path on their land – particularly where farm land is being crossed.

TTT currently offer landowners £5,000 per kilometre for upgrading a footpath to bridleway by EDCL agreement. 1 km of 3m width path equals slightly less than 1 acre of land and the payment is based roughly on average land values for the area. The landowner is not selling the freehold so still has full use of the land (unless he requires it to be fenced). The creation of an entirely new PROW may be worth more so user groups should be prepared to negotiate.

Obviously the offer of capital sums to landowners is dependent on the potential users or voluntary group being able to raise or access the necessary funds and this should be made clear.

Local land agents are often prepared to advise on land values in the area.

TTT has not, to date, found it necessary to offer capital payments to secure express dedications from landowners adjoining existing corridor routes such as green lanes, droves and private roads (where these appear to have no identifiable freehold owner). Payment to adjacent freeholders is not necessarily precluded and could be offered to secure a route or section of route. Check carefully for existing rights (see below). The use of HA80s228 may be a good alternative – see section 21 of this guide.

Note that whilst private funds and those from some grant giving bodies can be used to encourage landowners to dedicate through the offer of a capital payment, if the proposed route is a customary bridleway route unrecorded on the DMS or where there is strong evidence of a historic PROW, unrecorded on the DMS, public funds may not be used for the capital payment unless it is for the dedication of additional rights. (For example additional carriageway (RB) rights over a customarily used bridleway not recorded on the DMS). Public funds could still be used for capital works in these cases such as the provision of gates. See section 22 of this guide - further advice – frequently asked questions.

Recording information gained so far

- Take photos of access/exit points, existing structures, surfaces etc.
- Note location of works on a plan of the route.

- Keep notes of works agreed with the landowner.
- List information / advice / agreement / permissions required.
- Start a works schedule – this may need amendment following further site visits with contractors and others.

Next stage

When the route location has been agreed in principle with the landowner and occupier, if there is one, and the works that will potentially be needed to create the new route have been assessed and discussed, it is time to involve others who will be able to help or need to be consulted.

At this stage the route should have been drawn on the plan, the location of exit and entry points noted plus a list of issues to be resolved made. There may still be a number of unanswered questions so note:

- Professional advice required (who).
- Possible permissions required (who).
- What materials are required and who will supply them.

Now that the project appears to be going ahead, the next stage is to gather all the additional information that is needed in the form of reports and to obtain permissions for works to installations owned or controlled by third parties or from others who have an interest in the land holding.

Summary

The needs of the landowner and occupiers are paramount in being able to continue to manage the land efficiently so compromises may have to be made, in some situations, regarding ease of accessibility. However most potential concerns regarding land management can be overcome with good route location and thoughtful design.

It is critically important to ensure that the location and use of the route:

- Has minimal or no impact on the landowner, tenant or any one else with rights on the land.
- Seeks to address any concerns they may have.
- Is pleasant and easy to follow for all classes of users.



An easy-to-follow route (photograph Celia Hughes)

11. TTT Methodology 5

Gathering information, permissions and reports

Once the location, installation and other works needed to lay out the route on the ground have been agreed in principle by landowner(s) and any occupiers involved, it is time to gather any further information, reports on structures and third party permissions required so that a final work schedule can be prepared and agreed.

At this stage it is necessary to arrange site visits to:

1. Resolve any outstanding design queries on proposed new structures needed to open the route.
2. Get reports.
3. Gather quotes from contractors.
4. Gain any necessary permission from third parties because proposed work:
 - Is planned to existing structures.
 - Is adjacent to installations or over land that is subject to specific mineral rights contracts.
 - Is over land that has a designation such as SSSI.
 - Is to trees that may be subject to TPOs.
 - Is to existing structures to be used that are apparently unowned (e.g. bridges) and a report is needed.
 - Will require planning permission.
5. Assess future maintenance requirements.
6. Assess highway exit safety and agree any works.

Even if the proposed installations are relatively uncomplicated, requiring no third party permissions or reports, there will still be a need to invite site visits from the LHA and contractors.

The landowner or occupier may or may not want to be present at site meetings but ensure that permission is sought from them for the visit and that they are kept informed of who will be on the land and when.

Site visits

Local highway authority PROW department

Now that the project has the landowner's agreement in principle, it is time ask the LHA to become involved as a partner in the project. Whether the route is to be a permanent PROW or a permissive route, hopefully the LHA will take a keen interest because additional access will be provided for the public in its area, helping to deliver the ROWIPs (Rights of Way Improvement Plans) and because the creation of new multi-user access (bridleway/byway) helps the LHA deliver on health, sport and recreation strategies and responsibilities (easier access) under the Disability Discrimination Act.

Identifying the correct officer to approach

LHAs responsible for PROW may divide this work between different departments or even different authorities. For example a County Council (LHA) may keep the record (DMS) up to date, whilst the District Council (where these exist), carries out PROW maintenance under an agency agreement. At this early stage of the project ask the LHA for the contact details of the appropriate officer to approach regarding a site visit. This may be the officer responsible for PROW maintenance in the local area or an officer responsible for route creation.

What the officer may do on the site visit:

- Help resolve any outstanding issues with route location and structure installation/design.



LHA PROW officer checks the installation of a new wooden one way self closing 5ft gate at the Murder Combe bridleway entrance off the highway before the route is opened to the public. Note that the gate slams against the boundary and a Centrewire easy trombone latch has been installed along with a 'please shut the gate marker' and a sign detailing who dedicated the route and who funded it.

- Assess planned works (to surface and structures such as existing bridges etc) to upgrade/use a public footpath for which the LHA has the maintenance liability.
- Advise on existing structures (bridges etc) which are the responsibility of the LHA to maintain.
- Assess future maintenance requirements and consider whether the LHA will be prepared to adopt this liability.
- Consider whether other user groups/organisations need to be consulted.
- Assess highway exits (if this is their responsibility) or advise who else within the LHA will need to be consulted (see later in this section).
- Agree information required from the voluntary group to record the route on the DMS.
- Where no freehold owner can be identified, consider if the 1980 HA Act s228 could be used to adopt the route or sections of route that are apparently 'unowned'. (See section 21 of this guide).

Ask the PROW officer if the LHA can commit any:

- Funding to the project or contribute any materials such as gates.
- Officer time.

All LHA funding and the value of officer time can be used as match funding for grant application purposes.

Contractors

Identifying good contractors

- Ask the landowner for a recommendation. The landowner or manager may have preferred contractors or professionals that they already use or get advice from. If they have the necessary machinery, they may offer to assist with some of the works themselves.

- Ask the LHA PROW officer for names of contractors used for existing public path maintenance/installation works.
- Local recommendation.

If possible go and look at jobs contractors have already done.

Contractors site visits

Arrange site visits to discuss works (such as installing gates/fencing and works to surfaces/trees/hedge) and discuss costs. Establish:

- That the contractor has a public liability insurance certificate.
- If he has experience with any works/design queries that remain unresolved.
- If one contractor can do all the proposed works or whether different contractors are needed for different jobs (for example ground works or works to trees).
- What materials are being supplied to him and what he is expected to supply.
- That he will establish where any service cables or pipes are (if the landowner doesn't know).

Ask for a price for the works rather than a quote (gives cost certainty for grants) and separate out material (capital) and labour (revenue) costs if possible – this distinction may be required for grant purposes. Agree a schedule of payments, preferably when the grant monies are received, not before work is started. Agree with the contractor a fixed time period during which he will make any adjustments to any fixtures and fittings free of charge – as, for example, gates may drop slightly when in use.

Third party permissions

Ask the landowner or occupier who else has rights over the land and for what purpose – this might include the existence of wayleaves and / or responsibilities for installations near or on the proposed route. Landowners and occupiers know better than anyone who is responsible for what on the land with regard to existing structures, designations such as SSSI, mineral rights and (probably) where service pipes and cables are located.

Ask the landowner for details of the individual or organisation and contact details. For instance, if existing structures (for example bridges) are proposed to be used.

a) Where maintained by third party:

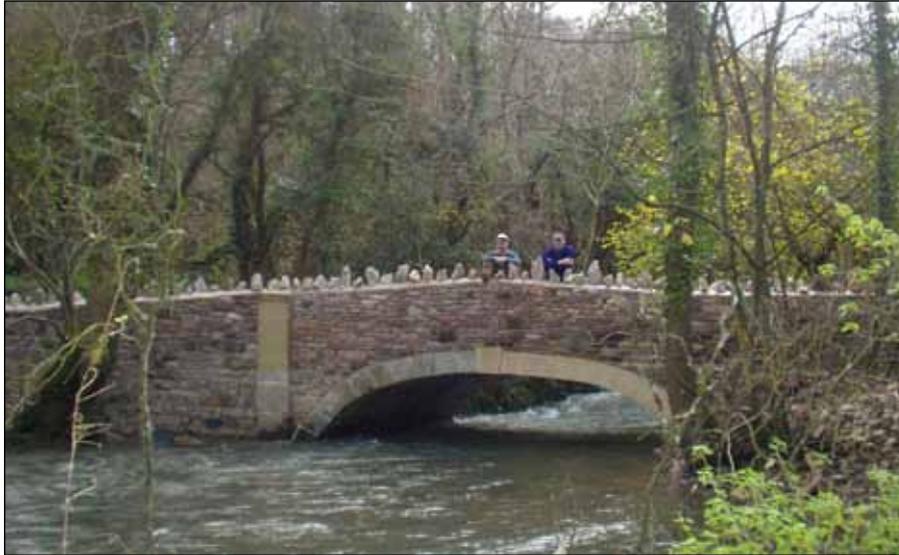
- Contact the responsible authority and arrange visit.
- Establish if wholly maintained / owned by third party or liability shared with landowner.
- If LHA maintained or shared maintenance (for example structure on public footpath, discuss with PROW officer).
- Discuss/get permission for works (if possible), then arrange for contractor visit.

b) Where maintained by landowner or by no one:

- Contact structural (e.g.) bridge engineer and arrange visit.
- Before inspection establish whether the engineer is willing to make a site visit for an initial inspection without charge (or if not how much he will charge).
- During the site visit, establish how much a full assessment report will cost.

Other third party permissions or advice that may be required (examples):

- Natural England - if the land is designated, for example, as an SSSI, arrange site visit with NE. www.naturalengland.org.uk/
- Planning authority - if major earth/surface construction works or works to trees subject to



'Unowned' packhorse bridge featured in section 10 was restored by Mendip District Council with MDC PROW Officers raising funding for this project. Many of the stones forming the arch (which were numbered sequentially) had to be recovered from the river bed.

TPOs are planned, arrange an initial consultation with the local planning authority.

- LHA/LPA - if it is intended to install a new vehicular access onto a public highway (eg at the route access point).
- Utility companies – works near gas/water mains, electricity/phone cables.
- Environment Agency – water ways / rivers.
- Mineral rights – most land is subject to below surface mineral rights (irrespective of whether or not a PROW runs over the surface) – sometimes these are vested in the landowner and sometimes in a third party. Check if the landowner has a written agreement with a third party mineral right owner that might prevent dedication without authorisation from the third party.

Assessing highway exit safety and agreeing any works

The LHA PROW officer will advise on the LHA policy. The PROW officer may be able to advise on the exit and any works that may be needed to aid user safety or if not, who else in the LHA should be contacted. Normally a highways engineer is asked to visit the site.

Arrange visit with the highways engineer to discuss proposed works to exits and / or road crossings onto or over adjacent public highway.

On the site visit establish if:

- The engineer can approve proposed works to verge.
- The contractor needs to be LHA approved to work on or adjacent to the highway.
- Horse warning signs or other crossing safety measures should be undertaken.
- The LHA can undertake or fund any of the agreed works and whether future maintenance can be undertaken (e.g. keeping verge cut / clear on an annual basis).

Remember that overhanging trees and hedges (unless growing on the LHA owned verge) are the property of the landowners. Their agreement needs to be sought before any works can commence on these.

Note on highway exit safety.

An exit deemed to be dangerous may result in the project not going ahead despite the agreement of the landowner and all other parties involved in the new route creation.

One area where real difficulties may arise between users and the LHA is in the assessment of risk relating to exits from the proposed new route on to the (tarmac) public highway. In the event of disagreement,

voluntary groups may have to assess the risk themselves and/or seek advice from other professionals. See section 12 of this guide: assessing PROW highway exit safety.

Summary

Arrange site visits with the LHA PROW officer, contractors and third parties to resolve design queries, obtain any relevant permissions and reports and to obtain quotes for the intended works.

Keep the landowner and occupier fully informed of progress to date.

Endeavour to involve the LHA as a project partner but remember that whilst LHA agreement is desirable and more likely to deliver a successful project, the EDCL process (or permissive path agreement) does allow voluntary groups and others to 'go it alone'. If this is the case and for advice on what to do if things go wrong at the negotiation stage, see section 22 of this guide 'further advice – frequently asked questions'.

12. Assessing PROW highway exit safety

Since most villages lie within a two mile corridor of an A or B road and within five miles of the nearest market towns, it is inevitable that the safety issue of route exits onto or across metalled roads - will need to be addressed. Other transport links such as railways and also waterways may present similar barrier problems (i.e. how to cross them).

Whatever type of trail is planned, linear, circular trail or single route, the need for specific crossings (whether in use or new), should have been considered at the strategic network draft map stage and (in particular) linear trail routes planned to coincide with existing crossing points wherever possible.

Exits from single linking routes in trails were examined during the initial route survey - however inspect them again once the location of the route across a landowner's holding has been agreed in principle, so that any intended works can be built into the works schedule.

Clearly the landowner is not responsible for exits other than having an interest in the type and suitability of gates required for users to access the new route on his land. However the original desire line of the new route may have been amended due to landowner or occupier preference and may now be planned to merge with an adjoining highway at an alternative location. Hopefully if a busy road is to be crossed and an ideal or existing crossing point into another PROW, quiet lane or another proposed route has already been identified, the new route will still link to that even if the line of the new route within the boundaries of the land holding has changed.

Assessing risk

Risk assessment regarding PROW exits onto metalled roads varies from LHA to LHA. One of the issues with the development of new PROW via statutory methods (HA 1980 s25 or s26) is that the LHA is creating the new route on behalf of the public and it therefore may come under the heading of 'new development'. Clearly the LHA has a duty of care to the public and may decline to proceed with the route creation if officers are not satisfied with the safety of the proposed exit, no matter how important the new route is to the network or how difficult it is to negotiate an alternative route.

In the absence of any agreed national criteria, some LHA safety audit officers and highway engineers apply Highway Agency criteria contained in advisory notes TA90 & 91 to all new exits, irrespective of what type of highway is involved. However TA90 / 91 are only advisory and intended to apply only to the development of crossing points on trunk road or motorway improvement schemes – a rather different scenario to crossing rural roads. Therefore the criteria in these advisory notes should be used as a guide only and not applied rigidly.

The TA 90/91 guidance itself says that, as with all highways design, there is a need to balance issues of safety and practicality.

There are several key factors here which should be taken into account.

1. All vulnerable users prefer to cross roads (and do so all the time) – even at places that would be deemed 'unsafe' – rather than travel along them.
2. Determined vulnerable users already travel along roads that are dangerous to use (to reach the existing countryside network), which the proposed new route may be intended to bypass. Since the proposed new route offers a safe alternative to travelling a long distance on dangerous roads, the exit crossing should not be looked at in isolation. The entire 'net effect' of the route including the crossing may be to substantially improve safety – even where the crossing point is less than ideal.
3. If the TA 90/91 audit criteria is applied to the existing PROW and quiet highway network and routes closed where the criteria is not met, very few routes would remain open.

12 | PROW highway exit safety

4. The crossing points on many promoted walks using the PROW network do not meet safety audit criteria.
5. LHAs should be concerned with the safety of all users; this means the safety of vulnerable users travelling along the highway every bit as much as the safety of users of motor vehicles.

A TTT survey found that 25% of Mendip riders had suffered 5 or more near misses within a 5 year period when travelling along roads. Data for cyclists travelling along a rural A road suggests that the risk of death is 80 times the average rate for a car occupant – which is well within HSE level of unacceptable risk. (Source: ‘New Roads Guidance’ Thorgill Transport Consultancy, a report commissioned by the Ramblers Association).

Consider the following:

A horse travelling at 5 miles an hour along a 2 mile stretch of dangerous rural road will be exposed to traffic for 24 minutes (1440 seconds). Within that time it may be invisible or hard to see due to blind bends, low sun, patches of shade etc. By comparison crossing the dangerous road takes around 10 seconds. It follows that the horse and / or rider is at least 144 times more likely to be injured travelling along the road than crossing it. This factor should be considered by the LHA in looking at the proposed new route ‘in the round’ as much as any highway exit assessments.

Use of non statutory methods to create new routes or additional rights permits a more pragmatic approach to be taken. The DMS test that is applied to routes created through express dedication agreements with landowners or via presumed dedication is – has this route been created by the landowner and is the dedication complete through public acceptance? If the route passes this test and is deemed to be a PROW, it must be recorded on the DMS irrespective of the safety or otherwise of the exit onto an adjoining highway. In this context highway exit safety is not a valid reason for not recording the route on the DMS. Clearly voluntary groups and others involved in the creation of new routes should have a regard for exit safety and thus the following highway exit assessment list may be helpful.

1. Define what type of highway the proposed route exits onto. The hierarchy of highways from the lowest to the highest is as follows:

Category	Highway Type	Responsibility of	Comments re existing use
1	PROW – footpath, bridleway, RB, BOAT	LHA (Def Map highways)	Existing strategic network travel
2	Unsealed unclassified county road	LHA (Maintainable road records)	As above
3	Metalled unclassified county road (usually single track)	As above	As above – where traffic levels are low
4	C road (around 4m wide)	As above	As above – where traffic levels are low
5	B road	As above	Informal crossings
6	A road	As above	Informal/formal crossings/other
7	A road trunk roads	Highways Agency	Formal crossing points required where 70mph speed limit/other
8	Motorways	Highways Agency	No crossing permitted at grade/other

Crossings can be categorised as follows:

- Informal – crossing ‘at grade’ i.e. over the carriageway surface.
- Formal - engineered crossing point at grade e.g. Pegasus crossing (for horse use).
- No crossing at grade/other – i.e. road crossed via bridge or underpass.

In general terms then if the new route crosses over or merges with routes in:

- Category 1-3: there should be few problems envisaged travelling along or crossing.
- Category 4 (rural 2 track road): few problems travelling along if traffic levels < 3,000/24hrs, currently frequently in use for crossing at grade.
- Categories 5–6: these roads are currently frequently in use for informal crossing at grade. Travel along these may be difficult and usually avoided due to traffic levels.
- Category 7: develop route or trail to connect with existing formal crossing, bridge or underpass or if not existing this would need to be planned as part of the project.
- Category 8: develop route or trail to connect with existing bridge or underpass.

Note: Existing bridges and underpasses – often bridges and underpasses exist that are in private ownership. These are usually provided during the construction of major transport routes (includes railways/ waterways) to enable landowners to access land where this has been divided by the new transport link. These should not be overlooked, because where agreement can be reached for network use, they can form an ideal crossing point for a new PROW.

2. Assess type, speed and volume of traffic on the adjoining highway. Are there sufficient gaps to allow users to cross? Quiet lanes and C roads (where short sections are used) used as part of the strategic MU access network will usually have traffic volumes of <1,000 vehicles per day. Although figures suggest that rural A roads suffer congestion where traffic volumes exceed 10,000 vehicles per day, it may be still be possible to cross if there are sufficient gaps and visibility. The suggested maximum ‘crossing gap’ criteria is 1,000 vehicles per hour based on a crossing time of 12-13 seconds. Daily traffic flow data for most roads can be obtained from the authority responsible for highway maintenance (LHA or Highways Agency).
3. Are users expected to cross straight over into the next section of route or turn left or right to travel along the public highway with the traffic flow? Staggered crossings may represent greater difficulties to vulnerable users because of the time taken to negotiate them. An off carriageway route (OCR) to a safe direct crossing location may be needed.
4. What is the width and expected time taken to cross? In tests horse riders crossed a 14 metre wide A road in 7-9 seconds whereas walkers crossed the same road at an 11 metre section in 10-11 seconds.



Quiet lanes like this are ideal for use as part of the network. The verge in this instance is owned by the adjacent landowner who has kindly permitted riders to use it. Wearing high visibility jackets ensures that riders will be more visible to motorists if they need to travel along or cross a more highly trafficked road (photograph Celia Hughes).

5. Is the new route a proposed upgrading of footpath where the footpath is in frequent use by pedestrians who already cross the adjoining carriageway?
6. Does the new route merge with or cross an adjoining highway that horse riders, cyclists and walkers currently travel along – ask for their views.
7. Where a direct crossing is planned into an existing multi-user route (bridleway, byway, UCR) do users already emerge from and cross the carriageway to merge with the traffic?
8. Are there specific times of the day when the adjacent highway is much busier? Or used as a rat run?
9. Assess visibility – can this be improved by a) verge clearance, b) cutting back over hanging vegetation? Visibility is usually greater from the back of a horse than for someone on foot or bicycle.
10. Could crossing safety be improved by traffic warning signs or does a dedicated crossing need to be provided (eg Pegasus crossing)?
11. Is there a large enough safe ‘waiting’ area on or adjacent to the verge between the route access/exit point and the adjacent highway edge for users to open / close the gate? Does the gate require positioning further back to facilitate this?
12. How does the proposed crossing compare with crossing points along the same highway or in the wider existing network?

Example: In the Mendip study an estimated 2,700 horse riders took an estimated 9,000 rides per week covering 63,000 miles on the rural road and PROW network. Road exits and crossing points are encountered approximately at every mile travelled which equals 63,000 exits negotiated per week – more than 3 million crossings per year.

Highway improvement permissions required

Works required to the verge

If works to improve exits are proposed to improve (say) visibility along the verge, the owner will need to be identified and permission obtained. The verge is normally considered to be part of the highway so will be vested in the LHA. Occasionally the verge is owned by the adjacent landowner or may even be common land. Ask the local highway engineers department first as this information will probably be readily available there.

Works required to trees or bushes growing along the highway

If works are required to trees / bushes growing on the verge – see above. If works to overhanging trees growing over the boundary are proposed, these are the responsibility of the landowner so obtain permission from him.

Traffic warning signs, dedicated crossings.

All require the approval of the LHA or the Highways Agency.

Summary

Assess the proposed route exit critically with regard to adjoining highway type, traffic flow, speed and volume, carriageway width and visibility compared to the normal PROW network in actual use. Consider the net effect of the new route with regard to improved user safety – compared to the current situation where users are travelling along the adjoining highway.

In the event of a difference of opinion with the LHA it may be useful to commission a report to identify possible solutions from an independent firm of highway engineers.

TTT Project Murder Combe Case Study - highway exit



Works were carried out to clear the verge to facilitate direct crossing instead of staggered crossing and to improve visibility. The Murder Combe proposed route survey defined it as priority 1 because of its importance to the network as a crucial link in both a community and linear trail.

Murder Combe Bridleway Case Study

Factors relevant to the highway crossing point were

Existing (but staggered pedestrian crossing) – Fordbury Lane FP (used by horse riders and cyclists) to Murder Combe FP (dedicated as new bridleway).

Unclassified two lane carriageway rural road in between.

60 mph limit but limited traffic volume (frequent gaps).

Fordbury Lane FP well used as customary route by local horse riders & mountain bikers.

Horse riders & cyclists were already crossing the road to turn right or left along the carriage way towards local communities.

The new Murder Combe route linked several communities avoiding approximately two miles of dangerous rural roads (bends, 60mph speed limit, few refuges) close to the town of Frome but despite this were travelled frequently by all classes of vulnerable users.

As part of the project LHA highway engineers and the two PROW officers involved in the project attended a meeting at the crossing and advised on works to be carried out to overhanging trees to improve user visibility and to authorise works to the overgrown verge (pictured), which was within LHA ownership, in order to effect a direct (least distance across carriageway) crossing.

These works were carried out in tandem with route installation and inspected again by LHA PROW officers in 2006 before the route was opened to the public.

Despite this, some years later the exit failed the development safety audit imposed by the LHA (using Highway Agency Trunk Road advisory criteria) because officers wished to follow the EDCL dedication with an s25 creation agreement to record the route on the Definitive Map and Statement.

The bridleway continues to be well used and enjoyed by local people. TTT intends to make an application to record the route on the DMS based on public acceptance of a PROW that has come into being through express dedication at common law. See sections 19 and 23 of this guide.

13. TTT Methodology 6 - works schedule

Once information on route installation works required has been gathered, a works schedule can be prepared.

Works schedule

Plot the route on a clean copy of the large scale map and label each location (A, B, C, D, E, etc) where works are to be undertaken - for example access points (gates), surfacing, works to trees etc.

On the accompanying works schedule:

- Clearly describe the route location.
- List all the landowners, other interested parties and the names of the contractors carrying out the works.
- List the works to be undertaken at each point on the corresponding route plan (A, B, C, D, E, etc). Include:
 - Type and style of new installations (gates, fencing, fittings etc) to be supplied by user group or LHA.
 - Materials to be supplied by contractors.
 - Construction works to be undertaken by contractors.
 - Works to be undertaken by volunteers.
 - Works to be undertaken by landowner / occupier / others.
- List the person or organisation responsible for any specific future maintenance needs for example cutting grass / hedges / dealing with undergrowth in a fenced off section.
- List any outstanding reports for which additional works or quotes are still required (for example bridge structural report) - it may be necessary to raise development funding for these before an actual quote for the works can be obtained.

Attach the plan to the master schedule for retention. If possible each party should sign it including the LHA PROW officer (if a project partner), landowners, contractors and the project manager so that no misunderstandings can arise at a later date. Give each party a copy.

See TTT Murder Combe route works schedule – following.

WORK SCHEDULE

FOR: Murder Combe Bridleway, Whatley Parish, Mendip District, County of Somerset.

Description of route

Route runs south west from Murder Combe, opposite Fordbury Lane on the Mells Frome road and follows field boundaries through three fields and along a short section of green lane to exit in Whatley on the Whatley Egford Road.

Landowners: Mr A and Mr B

Agent: Mr C

Leaseholders: XXX PLC (Mr D & Mr E),

Tenant: Mr F. Agent Mr G

Presumed Landowners or interested parties (Green Lane Section):

Mr H

YYY Parish Council

Contractor – all works – Mr W

(Initials only used to protect identities).

Proposed works:

1. AX Crossing point from Fordbury Lane – some clearance of side/overhanging vegetation to facilitate good sight lines (for drivers & bridleway users). Clearance of wide but overgrown verge to facilitate safe crossing (agreed at site meeting with LHA engineer). Horse crossing signs (subject to approval from LHA).
2. A - at junction of FP FR 18/18 with road, replace kissing gate with 5ft bridleway gate with trombone handle and self closing hinge set fixed to 1 x 7ft x 6ins x 6ins posts (treated & with weathering). To close against wooden post shared with double gate set open R/L, TT supply (see below). Replace barbed wire Wiltshire gate with 2 x 8ft (pair of) wooden gates (to accommodate combine) and 2 x 7ft x 7ins x 7ins posts and fittings. Invert top hangers as theft prevention. (These gates can be locked by tenant if required).
3. FP line will be upgraded to BR but riders to follow inside boundary through section of old road which is drier. Mr F (tenant) to clear.
4. Revert to FP line at end of old road section across remainder of first field to B by Ash tree where stile and Wiltshire gate to be replaced by new 5' bridleway gate with trombone handle and self-closing hinge set fixed to 2 x 7ft x 6ins x 6ins posts (treated & with weathering), open R/L, TT supply. Remainder of gap to be filled in by post/rail and wire fencing (contractor supply).
5. Users to follow boundary on right across second field to C (by old stile and trough). Fence boundary now removed at C to facilitate larger arable field. 3m bridleway grass headland to be left after ploughing (Mr F - tenant). Requirement for BR gate at C to be included on DMS as may be required in future. To be supplied by Somerset CC/Mendip DC at later date. Post to be erected at C with directional way marks.
6. Users to continue along course of FP FR 18/18 from C to stile in the corner at D. 3m bridleway grass headland to be left from C to D after ploughing (Mr F- tenant).
7. Users to continue down line of hedge to E (new bridleway section). This section D – E to be fenced with TT standard bridleway fencing, 3m from outside of hedge (to facilitate

hedge cutting and to allow safe passage for users). Fencing – 3 strands barbed wire affixed to round posts on farm side, railed with wooden rails on inside (user side). Fence to be returned at D to encourage riders along headland strip to C. Contractor to supply all materials. Note: Mr F (tenant) kindly agreed to carry out any necessary maintenance in the fenced off section (hedge cutting, rolling, grass cut etc).

8. At E, existing Wiltshire gate to be replaced by new 2 in 1 14ft York gate at end of fenced off section (main section of York gate can be locked by tenant if required to prevent trespass from Whatley end leaving integral BR gate for users). TT supply. Additional works: 14ft wooden gate and 1 x 7ins x 7ft x 7ins hanging post & 1 x 7ft x 6ins x 6ins slamming post (treated and with weathering) and fittings to be installed in fence line to facilitate agricultural entrance to field at E. Exact configuration of exits at E to be decided on the ground.
9. Exit to Whatley via green lane (part of footpath FR18 / 17) E – F – G. Surface (digging out and stoning) works are required at the bottom of the lane especially around field entrance at E as this area is boggy and wet. Contractor to undertake. Stone to be supplied FOC from local quarry as gift to project.
10. Whole route to be signed & information boards on gates (TT supply, contractor to fix) and fully way marked to prevent users from straying (TT way marks - volunteers and sign posts – discuss with LHA once route open).

Outstanding items: horse crossing signs, waymarks and sign posts – as listed above.

Signed / date

Agent:	Mr C (on behalf of landowner)
Tenant Farmer:	Mr F
Green Lane works	Mr H / YYY
Contractor	Mr W
TTT Project Officer	Mrs T
LHA PRow	Mrs P

14. TTT Methodology 7

The express dedication at common law document

Providing the works schedule is as agreed with the landowner(s), with no material changes requiring discussion or agreement, the dedication document can be signed by the landowner(s) at the same time.

Write to each individual landowner dedicating a section of the route and enclose:

- Dedication plan.
- Dedication agreement.
- Works schedule.
- Letter.

The dedication plan

Prepare a copy of the route plan for each individual landowner dedicating. The entire course of the new route should be depicted in green, marked A, B, C, D, E etc at boundaries as it crosses the land in question. The individual landowner's boundaries should be shown in pink. The plan index should refer to the green line as 'public bridleway dedication' or 'public carriageway dedication' (as appropriate) and the pink line as land in the freehold ownership of (landowner's name).

The plan should be signed by the individual landowner (all landowners if jointly owned) and returned to the project officer.

The express dedication at common law document (dedication agreement)

Prepare a copy of the agreement for each individual landowner to sign. The agreement should:

- Describe the course of the route.
- State the entire length of the route.
- Make reference to the bridleway or carriageway (restricted byway) depicted by the green line on the attached plan.
- Name the landowner (or landowners if jointly owned).
- State that the dedication is for the public in perpetuity.
- Agree the laying out of the route.

It is good practice for all parties to have their signatures witnessed. (See TTT Murder Combe example following for freehold landowner / presumed landowner, copy of EDCL agreement also in appendix).

Works schedule and works plan – as described in section 13

Letter

The letter should set out the terms of the agreed capital payment for the dedication of the new public right of way – if a payment has been agreed.

To obtain the exact figure, accurately measure the course of the route in metres over an individual land holding and divide by 1,000 to get length km (round up as appropriate) and multiply by £k/km as agreed. (Larger payments may have been agreed for short sections of route).

Example: Murder Combe length over Mr A & Mr Bs' land holding = 1450m = 1.45km. Round up to 1.5km x £5k = capital payment of £7,500.

Ask the landowner to sign all the documents and return.

The letter should make it clear that the agreement is subject to the raising of funds to pay for the capital payment and to construct the route and that in turn the dedication is not final (or legally binding) until

the route is constructed and in use by the public.

Remember: express dedication at common law - the landowner *dedicates*, the public *accepts*.

Once the documents are returned, they should be signed by the project officer and witnessed as appropriate and copies of the work schedule, dedication plan and agreement returned to each individual landowner concerned. The master documents should be retained by the project officer.

DEDICATION OF PUBLIC BRIDLEWAY

Bridleway description: The bridleway leads from the public highway at Murder Combe on the Mells-Frome Road in the parish of Whatley in the County of Somerset and runs in a south westerly direction along the boundary of three fields on the line of FR 18/18, continues north east along the boundary of the third field and exits via 100 metres (approximately) of green lane (FR 18/17 part) onto the Frome - Whatley road.

The bridleway is approximately 1.5km in length and passes over land presumed to be owned/owned (delete as appropriate) by:

Mr A and Mr B

The bridleway is shown coloured green on the attached plan.

The landowners by virtue of owning the freehold* hereby agree that this bridleway is dedicated as a public highway in perpetuity under Common Law.

*Land bordered in pink on the attached plan.

The Trails Trust hereby agrees to lay out the route on behalf of the public and to carry out works according to the landowner's instructions as specified in the works schedule.

Signed by the landowner(s)
Address
..... Date

Witness (name)
Address
..... Date

Signed by The Trails Trust
Address
..... Date

Witness (name)
Address
..... Date

15. TTT Methodology 8 - project budget preparation

Following the signing of the dedication agreement and works schedule, a project budget can be prepared and used as the basis for fund raising.

Budget information required divides into capital items and revenue costs.

Capital items

1. Dedication of public right of way – payment to landowner (as agreed).
2. Materials for user group to purchase.

Detail:

- Supplier (local where possible / specialist e.g. Centrewire).
 - Specification.
 - Number of items.
 - Discount (counts as match funding).
 - Lead time.
 - Delivery location and transport charge.
3. Materials for contractor to supply and the cost.
 4. Donated materials supplied free or partially free of charge (e.g. stone from local quarry or materials from the LHA).
- Supplier.
 - Specification.
 - Number of items.
 - Lead time.
 - Delivery location and transport charge.

Notes: Include the value of any goods given free of charge.

Quote prices before any discount applied.

Ensure VAT added to all costs, where applicable.

Revenue costs

5. Contractor works (works with machines etc).
6. Professional costs and services (reports / time - including LHA PROW officer).
7. Project officer.
8. Work carried out by volunteers.

Note: Include the value of any discount applied to any service or time given free of charge.

The total project budget =

Total cost and value of all payments, goods and services (capital and revenue) before any discounts are applied.

For grant purposes (usually) discounts and the value of goods and services provided free of charge (including volunteer time) form part of the whole project cost and therefore the value of these can be used for match funding.

TTT Murder Combe budget lay out example – (N.B costs removed: out of date).

Murder Combe Bridleway Project Budget						
Outgoings cost/value						
Capital Expenditure					Total	Lead time
Dedication payment						
Payment to tenant						
Materials						
Supplier	No.	Item		Quoted cost		
Fountain Forestry	2	5ft BR gate (both R/L))				2 wks
Notes	4	7x6x6 posts				
All posts weathered	Pair	2 x 8ft Diamond Gate + fittings				
	1	14ft Diamond gate				
	4	7x7x7 posts (1 hang / 1 slam)				
		Delivery to MDC				
	FF	Total cost	Inc VAT			
Centrewire	2	90 deg Self close hinge	ex vat			6 wks
	2	Trombone handle	ex vat			
	1	2 way 14ft York 2 in 1 gate	ex vat			
	1	Metal slam posts	ex vat			
	1	metal hang posts	ex vat			
		Delivery to MDC	ex vat			
	CW	Total cost	Inc VAT			
D Parkin	2	Signs total	Inc VAT			
Frome Signs	100	Way marks total	Inc VAT			
AW Contractor		Fencing (Post/wire/rail)	As work schedule			
FY Quarry	Stone	As required - free		Value		
CAPITAL EXP		TOTAL			A	
Revenue Expenditure						
Supplier						
Project Officer		x days at x per day				
AW (contractor)		Clearance & instalment 5 gates	x per gate			
		Road crossing clearance	2 days x per day			
		Upgrade green lane by machine	4 days x per day			
		Works to green lane (stone, membrane)				
	AW	Total cost				
REVENUE EXP		TOTAL			B	
Contributions in kind		COST BENEFIT				
Mendip District Council	2	Land searches	Free	Value		
MDC PROW Officer		x days	Free	Value		

Volunteers		2 days	Free	Value		
Works by tenant		1 day	Free	Value		
IN KIND	FOC	TOTAL			C	
TOTAL PROJECT COST		A + B + C			D	
INCOME VALUE / FUNDS						
In kind value						
Mendip District Council	2	Land searches		Value		
MDC PROW Officer		X days		Value		
FY Quarry		Stone		Value		
Volunteers		2 days		Value		
Works by tenant		1 day		Value		
Fountain Forestry discount		10%		Value		
VALUE		TOTAL			E	
Funding (to date)					Total	
Matched funding		NatWest community grant				
Trails Trust		Event				
Donations		X				
TOTAL FUNDING					F	
TOTAL INCOME		E + F			G	
TOTAL to RAISE		D (project cost) – G (total income) = H			H	

16. TTT Methodology 9 - fundraising

The creation of trails (linear, circular trail or single route), falls into three distinct funding stages.

1. Development stage

This stage covers strategic network planning, surveying, landowner identification and negotiation. It is difficult (though not impossible) to access funding for this stage because of uncertain outcome. It is useful to support the development stage by establishing a fund to pay the expenses incurred during this stage and which can be used later for match funding.

- Run voluntary fundraising events - for example organised events, table top sales, talks.
- Seek donations into a 'general' project fund from interested individuals, and local businesses. Some grant making bodies may support development stages – see budget stage.

Note: Donations to charities such as TTT can be gift aided if the donor is a British tax payer. See appendix for details regarding charity giving.

2. Budget stage

This stage covers researching the availability of grants following the signing of the works schedule and dedication agreement for a specific route project (outcome looks positive) and budget prepared (known costs).

Continue raising funds to build a pot of money. This may be easier now there is a specific (named) project(s) and is useful to support defined expenses to meet (for example) the cost of obtaining structural reports on bridges or other structures.

Plus:

- Seek donations by identifying and targeting users and businesses that benefit plus parish councils (particularly if route proposal completes a circular community trail). It is useful at this stage to start collecting letters of support.
- Start researching availability of grants from local and national sources. These may include:
 - European funding.
 - Statutory bodies (from Government Exchequer Funds).
 - Lottery.
 - Grant making bodies – trusts/charities/foundations.
 - Company giving.
 - Councils/community bodies.

NB. Make a note of fund deadlines (opening and closing).

Where to find out about grants

- Local voluntary sector / community networks (often circulate grant news).
- Local councils may give grants, make available databases, employ grant officers – check with town, city, county council / unitary authority.
- Local / national press.
- Internet.
- Other voluntary / charitable bodies working in the same field or location.

3. Grant applications stage

This stage covers obtaining funding for route construction (capital works and revenue funding), opening the route and publicity.

Note: grant providers may only give grants to:

- Projects in certain areas (town, city, county, region).
- Certain community sectors or groups of people.
- Projects that cover specific topics or address specific concerns.
- Fund raisers should check the availability of local grants and if possible make these applications first – even if only a limited amount of funding can be obtained - national bodies like to see evidence of local support for projects.
- Read the guidance notes, terms and conditions carefully.

When making the application expect to:

- Clearly define project aims and how it will be delivered.
- Meet the grant giver's criteria in terms of topic and slant.
- Route creation covers a broad benefit spectrum which includes health and wellbeing (mental, physical, spiritual), access to countryside, environment, wildlife, heritage, encourages sport/activity, availability of informal recreation, linking communities, sustainability, supporting rural economy through tourism and growth of local businesses. See section 3 of this guide – benefits.
- Be clear about who benefits.
- Grant givers prefer projects that benefit as many potential users as possible so avoid just focusing on one group (eg horse riders). Access (particularly new PROW creation) benefits walkers, runners (eg hash harriers) mountain cyclists, horse riders, carriage drivers (if included) and (in particular) disabled people who find gates more accommodating than stiles.
- Show how the future sustainability of the route will be ensured (for example who will maintain it).
- Explain what links there are to any relevant national and local strategies, plans and policies with regard to health, access, tourism and disability – find out about these and mention them as appropriate.
- Give evidence of partnership and community support. Are partnerships being formed with other groups and sectors to deliver the project? Name these and obtain letters from national and local user group organisations, local councils, businesses and organisations that may either benefit or support project aims and objectives.
- Give a detailed project cost analysis (particularly to distributors of statutory funding) which includes offers of match funding (other grants and discounts), match funding in time (value of volunteers/professionals), user group cash contribution, capital costs (materials) and revenue costs (contractors' volunteers' and professionals' time).



TTT Case study example: Murder Combe bridleway project.

This 1.5km route project cost £16,000 and was funded jointly by the Aggregates Levy Sustainability Fund (Countryside Agency – now Natural England), Somerset Aggregates Levy Fund (Somerset County Council), Big Lottery fund – Awards for All, financial donations from local users, donations of materials from local businesses and TTT project team fund raising events.

Left: An officer from the Countryside Agency checks the finished works at Murder Combe.

SALSF, ALSF and Awards for All have also funded other TTT route projects. In addition TTT has accessed funding from: the SCC Councillors Fund, Local Area Award Fund (SCC), Mendip District Council Community Fund, RBS bank charity fund, Mendip Hills AONB Sustainable Development Fund, The Sperring Trust and the J Paul Getty JNR Charitable Trust.

17. TTT Methodology 10 - route construction

Careful planning, thoughtful route design and budgeting will ensure that construction works go smoothly when all the agreements, work schedule and funding have been secured.

Once funding is in place:

- Inform the landowner(s) and any other interested party.
- Order materials and arrange for delivery and storage.
- Agree a convenient start date with the landowner(s) and contractors.
- Secure the dedication of the new PROW by paying the landowner half of the agreed capital sum before works commence. (Note: ask the landowner to sign a receipt with a caveat that this sum is repayable if for any reason, the route development does not go ahead.)
- Overview the works schedule with the contractor(s).
- Be on hand in case of queries on site.
- Alert the LHA to the construction commencement date (if the LHA is a project partner) as the PROW officer may wish to inspect works on site.
- Ensure all the conditions of the grant are met – including making regular reports.
- Photograph the works.

TTT case study: Murder Combe construction



New bridleway entrance from the two track rural road has been constructed. There is ample room for users to enter or exit before or after crossing the road to or from the verge on the other side leading to the Fordbury Lane section of the trail. The barbed wire Wiltshire gate has been replaced with a pair of wooden estate gates plus a 5ft one-way bridleway gate closing against the boundary has replaced the original kissing gate.



A 5ft wooden bridleway gate, fitted with a trombone handle, has replaced the old rickety stile. The gate opens from right to left to encourage users onwards along the headland. Safety for users has been secured by replacing the sagging strands of barbed wire on either side of the stile with wooden post and rail sections. The placement of the gate away from the boundary – where there are also strands of barbed wire - gives users ample room to open and close the gate. New blue bridleway marker installed on the wooden direction post.



Looking back along the headland to the bridleway gate at the field boundary. The tenant farmer has helpfully left a wide headland when ploughing, and cut the boundary hedge and trees well back, encouraging users to stay on the bridleway and preventing damage to his crop.



The fenced-off section leading to the green lane and exit in Whatley was provided to prevent users trespassing across the middle of the field. Posts erected with a single rail on the inside and wire on the outside for horse safety and to facilitate change of land use to keeping cattle in field at later date. The tenant allowed ample width to facilitate hedge cutting and mowing. This section is a new bridleway creation and benefits walkers by linking existing PROW.



Exit: York bridleway gate with two way catch from Centrewire leads out of fenced in corridor into green lane. Integral field gate section can be locked to prevent trespass by vehicles.



Mendip Cross Trails Trust (now TTT) sign with instructions to users and information on grant funders and landowners and farmers who dedicated and helped.

18. TTT Methodology 11

Opening, celebrating and publicising the new route

It is important that the existence of the new route is publicised as widely as possible to the local population who will benefit. This is a good opportunity to celebrate the achievement!

Once construction works are complete:-

- Check all the installation works thoroughly with the landowner, contractor(s) and PROW officer (if the LHA is a project partner) to ensure that the works agreed in the work schedule have been properly carried out and that installations such as gates open and close easily.
- Pay the contractor(s) and all outstanding invoices.
- Agree with the contractor a fixed time period during which he will make any adjustments to any fixtures and fittings free of charge – as gates etc may drop slightly when in use.
- Pay the landowner the final 50% of the agreed capital sum.
- Take photographs of all the works.
- Prepare a final account and report as required by grant providers.

The route is now ready to open to the public.

Publicity

- Agree an opening ceremony with the landowner. Ensure that the landowner(s) are in agreement with the level of publicity being proposed – be aware that some landowners may prefer public use of the new route to increase slowly.
- Invite all interested parties to the ceremony, along with local people on horses, bikes and on foot. Invite carriage drivers if the route is a carriageway (restricted byway).
- Invite local journalists.
- Take photos of the ceremony and people using the route and write a press release to send with these to newspapers, magazines, websites and grant providers.
- Ensure that everyone who will feature in the photos agrees that their image can be used in publicity materials.
- Ensure all publicity reports refer to the landowner(s) dedicating the new route as a public bridleway (or carriageway). This will ensure that there is no misunderstanding later with the LHA.
- Keep copies of any newspaper / magazine articles about the route.

Following the opening ceremony and the initial publicity, users will start to use and enjoy the new route. The route planning and design process should ensure that few, if any problems arise. However it is good practice to:

- Appoint volunteers to use (adopt) the route on a regular and long term basis and to report to the voluntary group immediately if there are any issues that require addressing.
- Stay in contact with the landowner(s) to ensure that that no unforeseen problems have arisen. If they have, deal with them immediately.
- It should be noted that once the route becomes a public highway (through public acceptance) all of the new installations - gates, fencing etc are the property of the landowner. Agreement over future maintenance (including the installations) should hopefully have been reached during previous discussions. High quality installations should not need any major works for many years but ensure that during this interim period any minor works required are carried out straight away so that the landowner is not inconvenienced or held liable in any way. Retaining the goodwill factor is crucial to the success of the next project.

Waymarks and signs

Once the route is in regular public use, erect public bridleway (or carriageway) waymark signs - including on the route finger posts at exit points. Take photos.

Further actions

Run an event

If the route forms part of a community circuit publicise its existence and celebrate further by running a fun ride. The money raised will be useful for any future maintenance or to start a fund for the next project.



Horse riders and cyclists enjoy one of TTT's events which are run on many of TTT's new routes. These events raise many thousands of pounds towards new route projects each year as well as showing people where they may go to enjoy the countryside (photograph Celia Hughes).

Say thank you

Don't forget to thank everyone – particularly the landowner, tenant farmers, grant providers and anyone else who has helped in however small a way.

Design a trail brochure

These are great publicity. If the route completes an interesting community circuit, design a circular trail brochure. Seek funding for this as a separate project. Information needed:

- Places to park.
- Location (start) OS grid references and post code.
- Distance in miles.
- Pubs/cafes/shops on the route.
- Route map with direction arrows plus colour code.
- Route/features – history/landscape etc.
- Photographs.
- Contact details plus how to report problems - web addresses of LHA PROW and voluntary group.

An OS licence will be required to reproduce the OS map (see appendix for details).

Definitive map and statement

Public acceptance of the route constitutes the final stage of the express dedication at common law in the creation of a new highway. Once the route is accepted through use it is the statutory duty of the LHA as surveying authority to record the new PROW on the definitive map and statement. All public rights of way must by law be recorded on the DMS held by the relevant LHA. If the LHA is a project partner, discussions on the information required, once the EDCL is complete, may have taken place. If not now is the time to gather all the accumulated evidence that a public highway has been dedicated and should be shown on the DMS. See section 19 on recording the new route.

19. TTT Methodology 12

Informing the LHA and recording the new route on the definitive map and statement

Once the EDCL process is complete (i.e. the new public right of way exists on the ground and the public have accepted it through use), the voluntary group or other body involved in its creation should take the necessary steps to ensure that the route is properly recorded on the definitive map and statement (DMS).

Recording the new route expediently on the DMS is the ultimate safe guard for future public use. In addition, surveying authorities are under an obligation to advise the Ordnance Survey of amendments and additions to the DMS, so that OS can correctly show the route on OS maps, thus ensuring that the public are apprised of the network that exists and is available for use.

LHA duty to record PROW

The Provisions of the National Parks and Access to the Countryside Act 1949 required all county councils in England and Wales to survey and map all PROWs in their area. The surveys were carried out in three stages: draft, provisional and definitive.

The situation today is that LHAs are under a statutory duty to keep the DMS up to date so that every PROW will be shown on the map, ie the location of each path and its status - whether footpath, bridleway, restricted byway or byway.

The accompanying statement may record the relevant date (of the PROW coming into being), and any such particulars appearing to the authority to be reasonably alleged as to position, width or any limitations (for example gates and stiles) or conditions affecting the PROW. The information contained in statements varies from authority to authority.

The authority – usually the LHA – is the surveying authority and has a statutory duty under the Wildlife & Countryside Act 1981 (WCA81) to keep the DMS under continuous review.



Murder Combe bridleway signed with blue bridleway waymarks after the route was accepted by the public through use.

Information that the local authority will require to record a public right of way on the definitive map and statement

The amount of information required by the surveying authority will depend on the degree of involvement (as the local highway authority responsible) it has had in the creation process and whether or not it intends to assume the maintenance liability for the new route.

Irrespective of this the SA will need sufficient evidence that:

- The landowners involved in the dedication have the right to dedicate the new highway.
- The public have accepted the dedication by using the route.

Remember that through express dedication at common law only the landowners have the right to dedicate – only the public has the right to accept.

Proof of ownership

Land over which the route passes - freehold owned by landowner.

Most SAs will want to see the landowners' (or presumed landowners') proof of ownership. Acceptable proofs could be:

- Land registry search (probably already obtained during the identification process).
- Deeds if the land is not registered or
- Signed statutory declaration from the landowner in the case of unregistered land or deeds not available.

A signed statutory declaration would need to refer to documents in the landowner's (or his solicitor's) possession, sufficient to show a 'good root of title' (normally a sale conveyance) at least 15 years old, showing the movement of the title from previous owners to the current owner.

Reference may need to be made to other relevant documents such as mortgages, deeds of grants of easements etc together with any copies of documents which pre-date the root of title and any Land Charges Act searches against the names of previous owners. More details can be found at www.practicalconveyancing.co.uk

In these circumstances it is advisable to consult with the landowner and his solicitor to decide the best way to proceed.

Corridors of land for which there is no known owner

(For example green lanes and drove ways - see section 9 of this guide)

For land where (in the absence of a known landowner), the freehold owners of land abutting the new route (which runs over corridors of land) are presumed to own to the centre line.

Gather proofs of ownership of land abutting the route corridor – Land Registry searches, deeds or declarations in the same way as noted previously.

Note: 1980 HA s228 – if this mechanism is to be used by the LHA to adopt a route that has no known owner for the purpose of a PROW, the above does not apply – see section 21 of this guide.

Mortgaged Land

The existence of a mortgage is not a bar to express dedication of a PROW, although it might be necessary to inform the mortgagee. The landowner or someone else on his behalf may need to check that the mortgage does not expressly prevent the dedication of PROW over the land.

Evidence of public acceptance

Whether or not the LHA has been involved in the project, once the route is open and being used, the voluntary group should write formally to the LHA public rights of way manager to advise that a new PROW has come into being, and the legal date that this event occurred - in the area for which the LHA is responsible as surveying authority - and requesting that the route be shown on the DMS.

The letter should be accompanied by the documents listed below:

- Definitive map legal event order request form - available in the appendix

In addition - to show that the landowners have dedicated the route and it is installed and accepted by the public enclose copies (not originals) of:

- Route Plan.
- Landowners proof of ownership.
- Signed express dedication agreements relating to each landowner.

- Signed plan relating to each landowner's holding and depicting the route.
- Work schedule.
- Before and after installation photos.
- Opening ceremony photos.
- Publicity (newspaper cuttings etc).
- Circular route brochure if one has been designed.

The LHA response should set out what action it will take to record the route and if any further information is required from the voluntary group.

The legal event date

Where undisputed public rights of way (arising from presumed dedication based on an evidential event) are to be added to the DMS and where there has been no other event date (such as the bringing into question of the public's right to use the way), the date is that on which an application is made to record the right on the DMS.

In the same way the legal event date that applies to the finalisation of an express dedication at common law (acceptance by the public) is the date that the path is accepted by the public - for instance, the day on which an opening ceremony is held, attended by members of the public who then start to use the route.

Process to record an express dedication at common law route on the definitive map and statement

There are a number of statutory processes available to surveying authorities to use to record PROW on the DMS. These broadly fall into two categories:

1. Recognition of the occurrence of an event (WCA 81).
2. Creation processes (see section 21 of this guide – other mechanisms for route creation).

WCA 81 places surveying authorities under a statutory duty to modify the DMS when an 'event' - which affects DMS - makes this necessary.

Events also fall into two categories:

- Legal events
- Evidential events (see section 21).

Legal events (WCA 81s53(3)(a))

The coming into operation of any enactment or instrument, or any other event, whereby:-

- i) A highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended;
- ii) A highway shown or required to be shown in the map and statement as a highway of a particular description has ceased to be of that description; or
- iii) A new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path.

When the LHA considers that it has all the information it requires, the correct procedure is for a legal event order to be made - because there is the written intention to dedicate from the landowner(s) backed up by the evidence that the public has started to use the route in question. The event is something that happens and an express dedication at common law is such an event.

A new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path.

Therefore it is a legal event.

- WCA 81 s53(3)(a)ii applies where an existing public footpath recorded on the DMS has been upgraded through EDCL (dedication of bridleway or carriageway (restricted byway) rights)).
- WCA 81 s53(3)(a)iii applies where a new public right of way (footpath, bridleway or carriageway (restricted byway)) has been dedicated through EDCL.

Advantages of making legal event orders

There is considerable financial advantage to the LHA and all others involved because the dedication (the event) has already occurred and therefore (under s53(6) of the Wildlife and Countryside Act 1981) the provisions of schedule 15 of that Act do not apply. This means that most, if not all of the following processes are not necessary.

- Investigation of a claimed evidential event (proposed DMS modification).
- The holding of, and preparation for, a Public Inquiry.
- Consultation with solicitors.
- Preparation of HA80 s25 agreements or s26 creation orders.
- Advertisement in the press.
- Invitation and resolution of objections.
- Installation of the route.

Maintenance liability

If the LHA is to assume the maintenance liability the correct procedure is for adoption via 1980 HA s38. Section 38 contains a power for LHAs to adopt new and existing highways by agreement. This power is at the discretion of the LHA. It is the method by which many new housing estate roads are dedicated and become publicly maintainable.

The LHA should write to the landowner(s) noting the coming into existence of a public highway and agree to assume the maintenance with the landowners' agreement through the signing of a 1980 Highways Act s38 public adoption of highway agreement.

Note that the maintenance duty of the LHAs is for the surface not for the gates - although LHAs have the power to assist landowners with their duty to maintain route furniture.

Informing the landowner(s)

During the process to record the EDCL PROW on the definitive map and statement, the voluntary group should take care to explain the process to the landowners and to keep them informed of progress so that misunderstandings do not arise and the landowners know what will be asked of them and when.

20. Permissive paths

Permanent PROW dedicated as route links in modern strategic countryside access networks provide certainty and security for the future, particularly in the case of linear trails where the trail can be fragmented if a permissive path agreement on an individual route is withdrawn.

However, the significant contribution made to the network by permissive paths (PPs) or concessionary paths, as they are sometimes known, should not be overlooked.

Some landowners may be disinclined or unable to dedicate a permanent PROW but will nonetheless be prepared to provide a permissive path or spatial access area.

Permissive paths have great value, particularly at local level, where a safe route is required, for example, to bypass a dangerous section of road or to form missing links in a community circuit. If negotiations for the dedication of a desired link fail, it is always worth asking landowners and managers if a PP would be possible.

Spatial access to areas where there may be multiple paths and tracks that can be used with great enjoyment (for example woodland / forestry, down land, moor land,) can also be provided through PP agreements.

Whilst some landowners prefer not to enter into a permanent PROW agreement, others may agree a permissive path because of specific circumstances that temporarily or permanently preclude dedication.

Such situations might include:

- Inability to dedicate due to restrictive covenants.
- Landowner is willing to dedicate but the tenant or other persons with an interest in the land are not in agreement.
- Need to possibly re-locate route in the future to facilitate alternative land use.
- Landowner requires occasional route closures to permit other activities or works to take place (for example rough shooting or tree felling).
- Landowner prefers to assess how the path works in practice for a specified period before entering into a permanent agreement.
- Prevention of use by specific user groups (walkers, horse riders, cyclists, carriage drivers) or other organisations whose members or clients would have the right to use a PROW (for example the local hunt, commercial riding establishments).



TTT permissive path held under license from the Ministry of Defence and a local landowner (neither of whom wished to dedicate but were happy to accommodate horse riders on their land). See TTT case study 9 in section 23 (photograph Karl Edmond).

Permissive path agreements

PPAs can be entered into by voluntary bodies, LHAs and other statutory bodies such as Defra. The types of permissive paths and agreements relating to them can be categorised as follows:-

1. Informal routes

No written agreement - permissive paths or spatial access is agreed informally between landowners and local users or rural community groups, where a need for access has been identified and local landowners give consent. See TTT case study 9 in section 23.

2. Formal routes

As above, except the parties involved enter into a written permissive path license agreement. This sets out the responsibilities of the landowner or occupier, the users and sometimes LHAs, on behalf of the public, with regard to the use and management of the path or access area.

The agreement is normally between the landowner and a recognised body such as the LHA or other properly constituted body which represents users such as TTT. See appendix for license example.



Local riders, Mendip Hills AONB personnel and the local farmer, whose family has generously allowed a new informal permissive path on its land in the Mendip Hills, celebrate together. This landowning family also makes its land available for TTT fundraising events.

3. Access routes negotiated through environment stewardship schemes

Higher level stewardship (HLS) schemes aimed to deliver significant environmental benefits in high priority situations and areas over a ten year period. These schemes are managed by Natural England on behalf of Defra. Under this scheme landowners could receive payments to provide permissive access on foot or for horses.

No new access will now be created under the HLS scheme. However, it may still be possible to apply for funding to install capital items such as gates to facilitate public access. Agreements usually run for ten year periods.

More information from www.naturalengland.org.uk

Existing agreements will run their course but there is currently no information on what the situation will be when such agreements terminate. Where such access makes a valuable contribution to local networks, users and LHAs are advised to negotiate new access agreements (permanent through statutory or express dedications or permissive path agreements) to follow the HLS agreement when terminated. It is hoped that the landowners concerned will be amenable to permanent dedication of these routes.

4. Toll rides

Local networks can be created through toll rides. These may be useful particularly in areas where no statutory multi user PROW exist. Voluntary groups (normally horse riders) and landowners work



These horse riders are enjoying a route opened to the public via the Higher Level Entry scheme. Access like this needs to be re-negotiated as each scheme comes to an end otherwise it will be lost (photograph Celia Hughes).

together to design a network of routes. Users pay an annual toll based on mileage / route location and landowners receive an annual payment based on mileage.

The disadvantage of toll rides is the exclusion of some groups (carriage drivers / cyclists / walkers), those riders unable to afford the toll and the level of management required to ensure that the routes are only used by those who are authorised to do so.

5. Other multi-user paths/cycle tracks

Multi user paths and cycle tracks are generally long linear hard surfaced paths intended to facilitate use on foot or by bicycle. These routes, often created along abandoned railways to link large communities, enable sustainable travel (for example as safe routes to school and commuting) as well as recreational use.

Despite being hard surfaced, these trails offer significant benefits to horse riders in offering safe travel away from motor vehicles particularly as they often link with the existing off road and quiet lane network.

There is no real justification for excluding horse riders or for providing a separate path for them - since walkers, riders and cyclists have shared multi-user paths (public bridleways and byways) since 1968 irrespective of difficult terrain and narrow widths. Some byways and bridleways have been used to form links in the National Cycle Network. By comparison to PROW, especially constructed surfaced paths are often as wide as the country lanes that all users already share, with the benefit of being motor free.

All vulnerable users face the possibility of accidents, injury and even death on the road network. However, accidents between users on existing off road routes and quiet lanes are extremely rare. TTT asked the NFU, who insure large numbers of leisure horses, for statistics relating to accidents between horses and other users on PROWs since 1968, and none could be identified.



The Colliers Way, constructed by Sustrans, links the towns of Radstock and Frome, along a stretch of old railway. TTT's Bath to Bruton linear trail also links to it. see trail examples in section 7. Horse riders were included on this path following a campaign by TTT and because Somerset County Council has a policy of all inclusive use on new trails constructed.

LHAs vary in approach to the provision of hard surfaced trails as multi-user rather than just as cycle tracks. There are a great many good examples of MU trails provided by enlightened LHAs who have taken on board the need to provide best value for local tax payers and disallow discrimination against any class of user because of perceived but not actual conflict. These LHAs prefer to include all users and manage out any perceived risk.

Where voluntary horse riding or driving groups have identified the need to use an existing cycle track, they should first identify the landowner - this might be Sustrans, the LHA or others - and open negotiations to be permitted on to the path.

Lobbying the LHA to ensure that councillors implement an inclusive access policy for all new paths is also a good idea. Due to construction methods, multi-user paths are subject to planning, so user groups should register an interest with the appropriate planning department to ensure inclusion in the consultation period.

It should be noted that land for hard surfaced multi-user paths can be dedicated by landowners in the same way as for any other path that is intended to be shown as a public path on the DMS.

Permissive path creation

The process of locating the route, good design practice with respect to construction, addressing landowner and or occupier concerns relating to route use and gathering third party permissions from other land users and existing installation owners, where these are to be used, are essentially the same as for the creation of permanent route processes discussed in this guide, so these may be followed. Note that any signage erected should make it clear that the route is permissive not public.

Occupier's liability

During the negotiation stage care should be taken to advise landowners / managers of their liability relating to the new access.

Under the Occupiers Liability Acts 1957 and 1984 permissive path users are visitors (whereas PROW highway users are not) and as such the landowner owes them a duty of care whilst on the path.

User groups such as TTT can source insurance (from - for example the National Farmers Union – see appendix for contact details) that covers the installation of gates and other furniture and the general use of the path. This provides greater security to landowners interested in providing permissive paths.

Works

Works schedules relating to the construction can be agreed between the user group, landowner / manager and the contractors involved and a budget prepared.

Funding

Capital payments for securing routes are not normally offered although as mentioned above payment may be on an annual basis – for example provision of toll rides. Route construction may be funded entirely through voluntary effort or grants may be sought. Grant providers will usually want to see a formal agreement that secures the route for the public for a reasonable period (ten years is common). The PP license can be used for this purpose in place of the dedication agreement.

Inclusion or exclusion of users

It should be noted that landowners can give permission for existing PROW on their land to be used by higher categories of users - for example the use of a public footpath by horse riders, cyclists or the use of a public footpath or bridleway by carriage drivers. If a PROW, which is maintained by the LHA, is to be used as a PP, it is good practice to discuss with the LHA prior to entering into an agreement.

If the LHA is willing to be a partner in the project, a formal agreement can be established between the

LHA on behalf of the public and the landowner.

Landowners can also exclude certain user groups or organisations from permissive paths. For example horse riders may be given permission to use a certain track but not walkers or mountain cyclists.

Future maintenance

Landowners and the user group entering into PP agreements need to agree:-

- Who will own and maintain installations such as fences and gates that are erected to facilitate use.
- Who will maintain the route (if required).

It is normal practice for the user group to own and maintain newly installed access gates (unless provided in the place of stiles on an existing PROW) and for the landowner to own any fencing that is needed for corridor routes and to carry out seasonal tasks such as hedge and grass cutting within any corridor route.

With regard to surfaces, PPs often run over existing tracks which are already being maintained, along arable headlands that require little or no maintenance or over grassland that is grazed.

Permissive Paths are not subject to highway law except for the power given to LHAs to require overhanging vegetation to be cut back along any route that the public has access to (Highways Act 1980 s154).

Preventing future adverse claims through presumed dedication

The landowner or manager may be concerned that a PROW claim through presumed dedication may arise at a later date.

This concern can be addressed by:

- Erecting permissive path sign posts and way marks.
- Informing the LHA that a PP exists so that this can be noted in its parish files.
- Advising the landowner to deposit a map and declaration with the LHA under the provisions of the 1980 Highways Act s31 (6). The deposited map depicts the existing PROW on his land holding and is accompanied by a declaration that he does not intend to dedicate any further public rights. See appendix for copy of declaration. The declaration needs to be repeated every six years.

PP depiction on ordnance survey maps

OS can be notified of the existence of permissive paths. They are shown on Explorer maps in brown – short dashes for footpath, long dashes for bridleway and large brown dots for cycle ways and multi user paths.

21. Other mechanisms for route creation

Creation and adoption processes

1. 1980 Highways Act section 25 creation agreements (see also section 4)

This is a power for the creation of a footpath, bridleway or restricted byway by agreement. A local highway authority may enter into an agreement with any person having the necessary power in that behalf [owner of land etc] for the dedication by that person of a footpath, bridleway or restricted byway over land in their area.

The agreement is usually in writing and may specify terms as to payment and can include limitations or conditions on the way in question. Once the agreement is signed the LHA has a duty to take all necessary steps for ensuring that the way is dedicated as per the agreement.

A path created by a s25 'public path creation agreement' will be publicly maintainable by virtue of the Highways Act 1980.

2. 1980 Highways Act section 26 creation orders (see also section 4)

Known as 'public path creation orders' this section provides a power for a local highway authority to create a public footpath or bridleway by making an order. This is a modified form of compulsory acquisition of public rights. The order can be the subject of objections and there would usually be a public inquiry if there were objections to the order in the usual way. Compensation may be payable to landowners for any loss caused by a public path creation order. The landowner has to suffer a loss in value or a person may have suffered some damage by being disturbed in his enjoyment of land [e.g. a tenant].

The disadvantages of using HA s25 and s26 have already been discussed.

3. 1980 Highways Act section 30 parish council agreements

Parish and Community councils have a power to enter into agreements with persons having the necessary power for the dedication of highways (including roads and byways) in the parish or community or an adjoining parish or community where such dedication would be, in the opinion of the council, beneficial to the inhabitants of the parish or community.

The parish or community councils may carry out works incidental to or consequential on the making of an agreement. There is no provision for anyone else to be consulted or to object. The highway created by the agreement does not automatically become maintainable at the public expense as a result of a s30 agreement.

There appear to be no examples of this power being used, however local agreements between parish and community councils and landowners would be useful in delivering community access circuits, where a need for these has been identified, as part of (for example) a parish plan.

The process that can be followed by a parish or community council to agree PROW is similar to the express dedication at common law process outlined in this guide. Any route agreed in this way could be added to the DMS by legal event order (WCA 81s53(3)(a) – see section 19 of this guide.

4. 1980 Highways Act section 228 - adoption of streets

Local highway authorities are street works authorities and can use this section of the act to declare a street to be a highway maintainable at public expense. This mechanism is particularly valuable in enabling apparently 'unowned' corridors of land such as droves and green lanes to be brought into public use as links in the strategic network.

The street works authority should first carry out works on the route, but these need only be appropriate to the type of highway needed – for instance cutting back hedges or surface growth or repairing a stone

surface on a potential bridleway or byway to enable public use.

The authority should then place s228 ‘adoption of streets’ notices at either end of the route to inform the public that the route is a public way, maintainable at public expense – even if no owner for the land can be identified.

Only the landowners have the power to object. If there are no objections, the route becomes a public highway maintainable at public expense one month after notices have been erected.

Any objections must be made within the notice period (one month). If such an objection does arise, the authority can cease maintaining the route or within two months apply to the magistrates court for a final determination of the matter in favour of the authority or the landowners.

Whilst s228 is widely used by LHA highway departments to adopt previously privately maintainable roads or roads laid out in new developments, there has been limited use in connection with the adoption of routes for the purpose of PROW.



HA 80 s228 could be used to bring ‘unowned’ green lanes and droves like this into use as part of strategic multi-user networks (photograph British Driving Society Commissioner Hazel Woodbridge).

However, there are examples of LHAs using s228 to adopt ‘unowned’ corridors of land (for example green lanes and droves) to establish PROW such as footpaths and bridleways, where it has not been possible to identify the owner of the land after Land Registry searches and making other enquiries.

Use of s228 can also extend to the adoption of a bridleway or byway over an existing public footpath, which the LHA is liable to maintain, where the footpath runs over land which appears to be unowned (as above).

Where s228 has been used by LHAs for the purpose of creating a PROW, the new route has been added to the DMS by legal event order (WCA 81s53(3)(a)).

5. 1981 Wildlife & Countryside Act section 53 (see also sections 4 and 22 of this guide)

As previously noted WCA 81 included a new right for the public to apply for modifications to the DMS through the making of orders to show PROW that are alleged to have been created but were not previously shown on the DMS.

Such modifications are based on evidential events (WCA 81 s53 (3) (b & c)).

The claimed route has been presumed to have been dedicated through use and/or is an historic route used by the public in the past or for example previously maintained at public expense, laid out via act of parliament etc.

Evidential events are:-

- S53(3)(b): expiration of a period of use – use of a path that is not recorded on the DMS – has been brought into question – leading to a PROW claim through the DMMO application

procedure. Refers to both 20 years of use requirement under statute law and undefined period under common law (providing the landowner has the power to dedicate).

- S53(3)(c)(i): discovery of evidence of a hither-to unrecorded right of way - the discovery by an authority of evidence that a ROW which is not shown on the DMS subsists or is reasonably alleged to subsist.
- S53(3)(c)(ii): the discovery of evidence that a ROW recorded on the DMS should be recorded with a different status – refers to the upgrading of footpath to bridleway or either to restricted byway.

Procedures for DMMO applications can be found in ‘Rights of Way – A Guide to Law and Practice’ on the Ramblers Association website (see appendix for details) and on most LHA websites.

The disadvantages of using DMS modification claims to secure strategic access networks have already been discussed.

1990 Town & Country Planning Act section 106

Local planning authorities can enter into s106 agreements which oblige developers/applicants to make a positive contribution to the local area or community affected by the development.

The obligation can include entering into agreements to create public open spaces, PROW and highways. Most LPAs display planning applications on local authority websites and/or in the local press.

If applications (particularly industrial or other large developments) are applied for in the vicinity of a proposed linear/circular/single trail, contact the LPA for initial discussions.

Exemption from inheritance tax

Public access can be allowed in return for inheritance tax breaks or reductions – information on existing routes or areas can be found on www.inlandrevenue.gov.uk/heritage/lbsearch.htm

In order for the exemption to apply, the land normally needs to be of outstanding scenic or scientific interest. Local groups and landowners interested in creating access through this scheme should initially consult with Natural England (see appendix).

Countryside and Rights of Way Act 2000: dedication of higher user rights over open access land

Under the Crow Act 2000 the public were granted the right of open access (on foot only and without having to stick to designated paths) to approximately 963,000 acres of mountain, moor, heath and registered common land in England. Open access land is depicted on OS Explorer maps shaded brown and enclosed with a darker brown line.

Under section 16 landowners and long leaseholders – where the lease has a minimum of 90 years left to run - (this includes life tenants) - were given the right to dedicate further access land or other user rights on existing access land. Note the following:

- Dedication for the right of access to land not otherwise covered by the Crow Act - for example woodland.
- Dedication of higher rights of access (by relaxing schedule 2) across existing or new access land - for example rights for horse riding, cycling, carriage driving, canoeing. Under s.16 restrictions within the original dedications can be removed to allow access for (for example) horse riding. The removal of the restriction is in perpetuity so would protect access in the event of any future land sale.
- Access is normally spatial – reducing the impact of public access by spreading visitors over a wider area across the existing or new open access area – however it might be possible to

21 | Other mechanisms

create linear routes of a defined length and width (area).

- Dedication can be in perpetuity (forever) or for the period covered by the lease (dedication by lease holders).
- Anyone else with an interest in the land must be consulted.
- Once dedicated the land is subject to Part 1 of the CROW Act in terms of management and use.
- Access can be restricted or excluded for up to 28 days per year or where necessary for land management, safety or fire prevention reasons.



*CROW Act 2000:
dedication of higher
rights of access is
possible by relaxing
schedule 2 (photograph
Celia Hughes).*

Land that has been dedicated under s.16, is shown on OS maps by a yellow wash with a darker border. Anyone wanting to find out whether any higher access rights existed over that land would need to check with the access authority (the local highway authority or, inside National Parks, the National Park authority).

Detailed information from: www.defra.gov.uk/rural/countryside/crow/dedicate.htm

The guidance includes a dedication instrument form (A) and a form to register the dedication as a local land charge form (B).

22. Further advice – frequently asked questions

1. Can Crown land be subject to the dedication of a public right of way?

The term ‘Crown Land’, refers to all land owned by the Crown (including the Duchies of Lancaster and Cornwall) and Government land managed by departments such as the Ministry of Defence (MOD) and the National Forest – managed by the Forestry Commission.

User groups, seeking route creations or dedications on Crown land, are sometimes advised that dedication is not legally possible and that permissive route agreements are the only avenue for new access routes across such land.

The Crown Lands Act 1702 restricts the disposal of Crown land, but does not appear to prevent the dedication of a public right of way over such land. The Crown Estate Act 1961 imposes duties upon the Crown Commissioners to manage and enhance the value of the Crown Estate. However there is nothing in that act that appears to prevent the dedication of a public right of way over Crown land.

In fact there are a number of ways that PROW can come into existence on Crown land, although examples appear to be rare.



Crown land includes the National Forest which is managed by the Forestry Commission. Forestry tracks are a valuable resource for carriage driving (photograph from the Forest of Dean Horse Riders and Carriage Drivers Association archive).

Dedication at common law

The following is an extract from a Devon County Council PROW committee report (EEC/10/28/HQ) where an application to add a public footpath on land owned by the Crown, along the foreshore of the River Avon, to the DMS was considered.

‘The foreshore is owned by the Duchy of Cornwall and is therefore Crown land. As owner of the soil, the Crown may dedicate a right of way expressly or by presumption.’

Therefore Crown land is subject to:

- Presumed dedication at common law
- Express dedication at common law

It would appear that an EDCL agreement would need to be entered into by the Secretary of State.

Dedication by statute law

Extract from the same DCC report:

‘The Highways Act 1980 and its predecessors do not bind the Crown, so any claim for a public right of way across Crown Land cannot rely on the 20 year provisions in s31.’

Therefore a DMMO application to add or upgrade an existing PROW based on presumed dedication under the 20-year rule could not succeed. Neither does HA 80 s25 (creation by agreement) apply except with the consent of the Secretary of State.

Under the 1980 Highways Act s.327 prior agreement can be made between the Crown and an LHA that any provision of the HA80 can apply to the Crown. This mechanism has been used by (for example) Gloucestershire County Council to enter into an HA 80 s25 creation agreement with the Secretary of State to create a footpath on Forestry Commission land.

CROW Act 2000 – some Crown land (for example Forestry Commission) land has been dedicated as open access land under this act (see section 21 of this guide).

2. Can charities dedicate?

User groups seeking route creations or dedications on land owned by charities are sometimes advised that charities are prevented from doing so by the Charities Acts.

Surrey County Council, in investigating a DMS FP claim at a Grammar School (Elmbridge Area – 4 Nov 2003), took Counsels opinion:

‘Counsel advised that ownership of land by a charity under The Charities Act 1960 does not prevent the dedication of land by common law or presumed dedication.’

Advice to charities on the Defra website (relating to dedication under the Crow Act 2000):

‘Section 36 of the Charities Act 1993 (“the 1993 Act”) sets out restrictions on land transactions designed to ensure that charities do not dispose of land for less than the best terms available. The Charity Commission’s view is that the restrictions set out at section 36 of the 1993 Act will not apply to dedications.’

Trustees may need to check the charity’s governing documents to ensure that there is no provision preventing dedication.

There is more useful information for charity trustees on their ability to dedicate land on the Defra website at: www.defra.gov.uk/rural/documents/countryside/crow/dedicate-guide.pdf

3. What if landowner negotiations fail for a specific route/section of route needed for a link in a linear or community trail?

1. Try to find an alternative route. If this is not possible:-
2. Negotiate other sections of the trail needed. If these are successfully completed re-open negotiations.
3. Ask landowning representative bodies (NFU / CLA) to help.
4. Ask the LHA for assistance through the Local Access Forum.
5. If there is no alternative route and the trail cannot be completed, a last resort may be HA 80 s26 creation order. Ask LAF / LHA to consider this.

4. Landowner willing to enter into an agreement on a route that appears to be an unrecorded PROW: can the EDCL principle be used?

This situation arises where there is evidence (user or historic) that a public right of way has come into existence at some point in the past and is either not recorded on the DMS or is recorded at a lesser status (eg a historic bridleway recorded as footpath) - but where an informal approach to the landowner suggests that express dedication of a right at the correct level will be achievable now.

Some people consider that it would not be legally correct to ask a landowner to enter into an express

dedication at common law for a route where there may already be such ‘hidden’ public rights whether through presumed dedication in the past or through a statutory process (for example an inclosure awarded route, turnpike route etc).

However, some LHAs already take a pragmatic approach to this issue by using the powers contained in HA 80 s25 to secure an agreement from a willing landowner to dedicate the route to avoid the cost of making a DMMO order and to avoid objections, when presented with a DMMO claim, where the evidence shows (on the balance of probabilities) that the unrecorded right exists.

It therefore follows that a user group (which has not necessarily investigated the historical aspect of a particular route that is required, nor collected user evidence to support a DMMO application) can take the same pragmatic approach in securing a dedication to avoid the time-consuming and costly DMMO process. The current procedures are also quite adversarial and using this approach where the owner is willing can lead to the same outcome more quickly and co-operatively.

5. Landowner unwilling to agree a dedication on a route that appears to be an unrecorded PROW: suggested action.

There may however be situations where despite the apparent existence of such a ‘hidden’ public right of way, an approach to the landowner to secure a dedication has failed.

Where the route is required to complete a linear or community trail project the pragmatic approach would be to try steps 1 – 5 described in point 3 of this section.

If, however, agreement is unable to be reached or an alternative found, it would be necessary to apply for a definitive map modification order. This might be based either on user evidence (that the public has established a PROW through long use) or on documentary evidence (historic documents) or on a combination of both.

A very good explanation of the process and the steps applicants need to take can be found on the Ramblers Association website see advice note ‘Claim an Unrecorded Right of Way’ (see appendix for the address).

Before pursuing this approach, consider the negative impact a claim may have on negotiations for the dedication of completely new routes by the same owner or by neighbouring landowners or on other routes in use over their land at present that are not recorded on the DMS. If the voluntary group decides to submit a DMMO application, it is advisable to ensure that the negotiation door remains ‘open’ at all stages of the process so that if the landowner has a change of heart, the express dedication approach can be proceeded with, instead of pursuing the DMMO claim.

6. Is it legal to pay landowners a capital sum for providing a route through EDCL?

The statutory process HA 80s25, available to LHAs to create PROW through agreement on behalf of the public, makes provision for agreeing compensation with landowners. It follows that the public should be able to do the same through EDCL.

7. Going it alone if it has not been possible to form a partnership with the LHA

From the perspective of project management, obtaining funding and future maintenance agreements, it is clearly advantageous to have the LHA on board as a partner. However, if for any reason the LHA declines to be involved at any stage the following could be helpful.

Creation and construction of new PROW

The advantage to those seeking to create routes through the use of the express dedication at common law process, is that the landowner dedicates (a new highway of a certain status e.g. bridleway) and the public accept through use. The contract is therefore between the landowner and the public and not between the

landowner and the LHA (as in Highway Act 1980 s25 creation agreements where the LHA accepts the new route on behalf of the public).

Consent for the construction of a new route (highway) i.e. installation of gates, fencing, bridges and carrying out surface repairs etc is not required from the LHA.

Third party permissions (i.e. from the authority responsible) for works to existing structures (bridges etc), major works (change of surface material etc) or vehicular access points or from others with an interest in the land (SSSI etc) will still be required.

Signs and way marks – see below.

Upgrading an existing public footpath to bridleway or byway

Although LHAs have a number of powers that can be used to improve PROW, the duties imposed by legislation relate principally to maintaining the highway surface (fabric and structure and drains for the removal of water) in such repair as to be reasonably passable at all seasons of the year.

The maintenance of installations such as gates, stiles, (although these may have been supplied by the LHA and maintenance costs can be partially recovered), fencing, hedges, trees etc are the responsibility of the landowner.

The landowner has the legal right to dedicate ‘higher’ rights (i.e. bridleway or carriage way rights) through express dedication at common law over an existing public footpath even if the surface is maintained by the LHA.

Therefore if material changes to footpaths (to facilitate use by horses and bicycles) involves exchanging stiles for gates, fencing, hedging, work to trees, clearance and surface repairs using the same materials as the existing path (e.g. stone for a stone track), there is no reason why this cannot be done with the consent of the landowner.

Third party permission (i.e. from the authority responsible) for works to existing structures, where these are to be used or for major surface works will still be required. However if, for example the LHA maintain a footpath bridge which it will not allow improvements to, there is no reason why a bridleway bridge cannot be installed alongside it.

Highway exit improvements

Works to verges (where these form part of the highway) and the erection of horse crossing signs cannot be undertaken without the approval of or by the LHA. However works to trees and shrubs overhanging the highway and required to improve visibility, can be undertaken with the consent of the landowner.

Signs and way marks

LHAs have various duties and powers (Countryside Act 1968 s27) to signpost PROW where these leave a metalled road, erect way marks to assist persons unfamiliar with the locality (after consultation with the landowner) and to remove any misleading, false or unauthorised signs.

It is important to erect signs on newly created or upgraded routes so that the public, unfamiliar with the new route, do not inadvertently trespass and offend or cause problems to the landowner. Clearly signs associated with the new route will not be misleading or false but they will be unauthorised if erected on an existing public footpath. Hopefully, the LHA is fully involved with the project and signage requirements can be discussed with officers at this stage but if not, the following may be helpful.

Consider what signs are required and at what stage these need to be erected. Signposts and information notices can be installed by the contractor during construction of the route. Way marking with ‘public’ bridleway / byway discs should be left until after the route has been constructed and in use - particularly where a bridleway is being created over the course of an existing public footpath. Once the public have

accepted the dedication through use, it is difficult for the LHA to argue that the route is not a public bridleway (or carriageway) - providing it has been properly dedicated and accepted by the public.

Summary: endeavour to involve the LHA as a project partner but remember LHA agreement is desirable but not necessary for route creation.

Recording the route on the DMS where the LHA has not been a project partner.

As discussed in section 19 of this guide PROW created through EDCL agreements should be recorded on the DMS by a legal event order made under WCA 81 s53(3)(a).

However, the LHA may require the voluntary group to apply for a DMMO based on an evidential event (WCA 81 s53(3)(c)).

Creation of a new route

S53(3)(c)(i): discovery of evidence of a hither-to unrecorded right of way- the discovery by an authority of evidence that a ROW which is not shown on the DMS subsists or is reasonably alleged to subsist.

Or - upgrading existing PROW

S53(3)(c)(ii): the discovery of evidence that a ROW recorded on the DMS should be recorded with a different status – refers to the upgrading of footpath to bridleway or either to restricted byway.

The voluntary group will be required to serve the necessary notices on the landowner(s) and collect and submit user evidence to support the allegation that a new PROW has come into being or that an existing PROW should be upgraded because of an EDCL agreement.

Most LHAs can supply an information pack with all the necessary documents to be completed and returned.

Send these and all the documents listed in section 19 plus the user evidence forms collected to the LHA.

It is important to realise that the application for a DMMO (based on an evidential event) following an express dedication at common law, does not constitute an adverse claim on the landowner as many applications to amend or add PROW to the DMS do. The EDCL process is based on a consensual partnership between the public and the landowner. The DMMO application should be viewed as a rubber stamping exercise to record the route on the DMS.

The disadvantage of this method to the LHA and all others involved is of being costly and slow. The DMMO application may remain in the processing queue for many years and must then be advertised and is open to a consultation process that could lead to objections from sources other than the landowner(s) and subsequent costly public inquiries.

8. Can a grant be claimed to establish a route that appears to be a PROW (historic or customary evidence) but is not recorded on the DMS?

This is complicated because even where unrecorded rights are thought to exist, these will probably not have been subjected to the rigorous examination imposed by DMS procedures. However – consider the following:

- Is the route a customarily used route? These are unrecorded routes that are or have been known to have been used by the public freely and openly, without permission from the landowner(s) over a long period (for example use of a public footpath by horse riders).
- Has anyone investigated the history of the route for evidence of an unrecorded public right (maps, plans etc)?
- If there is good evidence of an unrecorded public right (for example unrecorded bridleway rights along a public footpath), the application for a grant from public funds should not cover any payment to the landowner to dedicate any part of the route that could be a PROW.

22 | Further advice

It may be possible to use public funds for improvement works such as gates and other capital works.

- Grants from non public funds may be used to fund a capital payment to persuade the landowner to dedicate if this is necessary.
- Check the details of each grant funding scheme carefully and if any doubt exists over the status of the route in question ask advice from funding officers.



An example of an unrecorded route (old drove way) customarily used by horse riders, mountain bikers and carriage drivers.

23: Case Studies

TTT case study 1: Bath to Bruton trail

Example: dedicating four bridleways to create linear section of 5.5 miles (three miles of bridleway created).

Project Aim: to link an existing bridleway through Asham quarry at X with Sustrans Colliers Way and an existing railway bridge at Y. (See map 1).

1. Railford wood: (one landowner). Upgrade existing FP along pretty woodland track to link with existing public highway.

Construction works agreed with landowners included piping a large ditch beside the Whatley road and building a ramp over to allow horses and cyclists entry to the path, extensive clearing of the very overgrown trackway, excavating boggy areas, drain clearance, installing post and rail fencing and new gates to allow for horse keeping and installing a pedestrian access gate to an adjoining riverside path traditionally used by local people. Section of FP to be upgraded diverted out of neighbouring garden by Mendip District Council. Project cost: £4,100 funded by Somerset Aggregate Levy Sustainable Fund (SALSF).

2. Murder Combe: (Joint landowners, leaseholder and tenant plus two presumed landowners adjoining stone track). Upgrade existing FP along stone/earth track, create new BR section along field boundary (no FP), upgrade existing FP along headland through arable then through pasture.

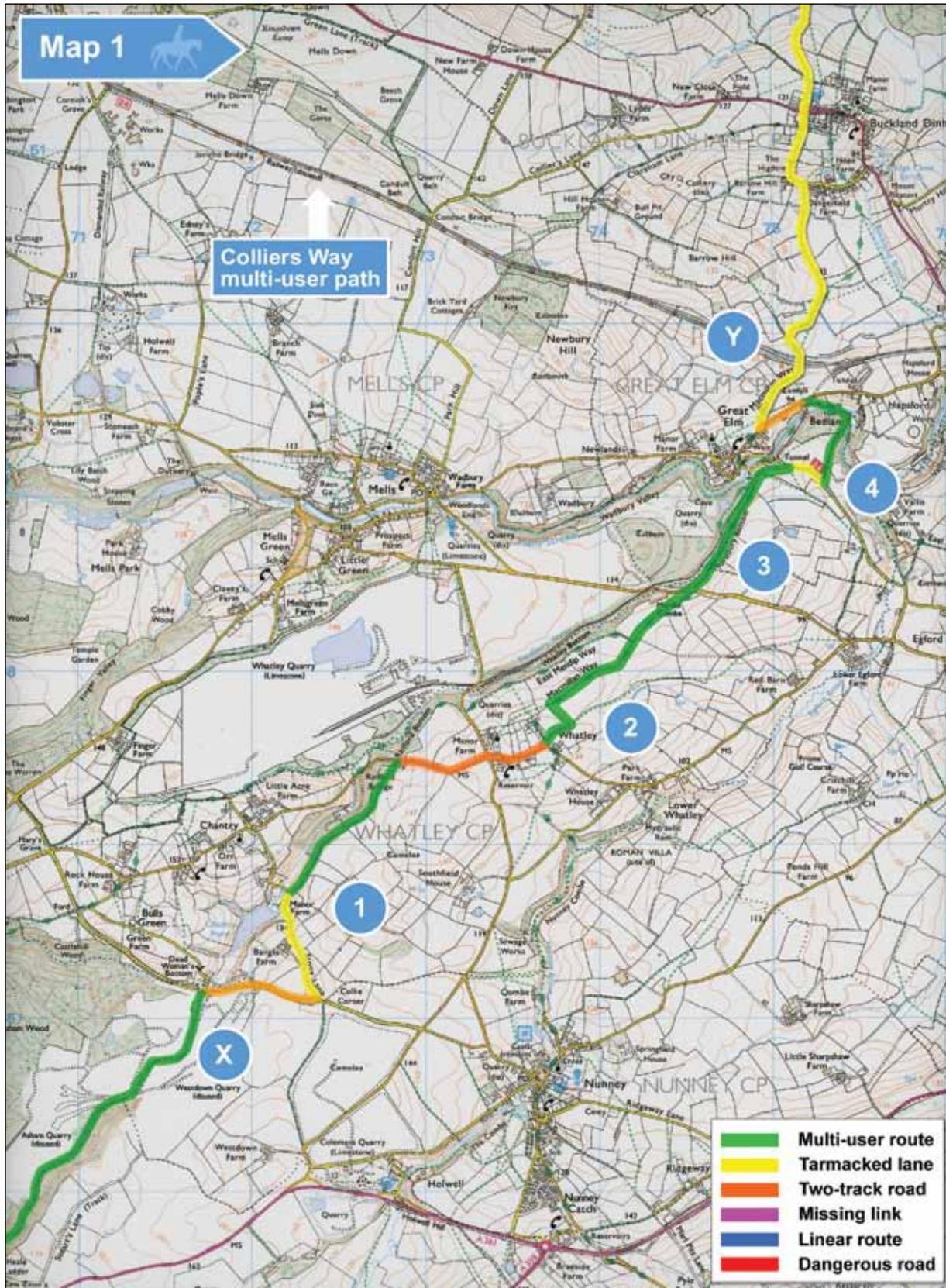
Construction works included track repairs, fencing new BR section, gates (see case study in this guide). Project cost £16,000 (included capital payments to principle landowner and tenant). Funded by: ALSF (NE), SALSF, Big Lottery (Awards for all), Natwest community grant, local donations and events.

3. Fordbury Lane: (two landowners plus two presumed landowners adjoining track). Upgrade existing FPs (customary use by horses and cyclists) along woodland track.

The path was very overgrown and unsafe because of overhanging branches. On one side of the path the land drops steeply away to the bottom where the Mendip Quarry railway runs. Construction works agreed with the landowners included clearance of side and over hanging growth and installing post and rail fencing along the steepest areas. New hedging was planted in front of the fencing to provide a natural barrier in the future. Project Cost: £2,000. Funded by SALSF.

4. Bedlam: (one landowner plus three presumed landowners adjoining track). Upgrade existing FP along stone and earth track over redundant quarry railway, along river bank, over a packhorse bridge to unsealed unclassified county road.

Partnership working between the landowners, English Nature, Mendip DC and TTT led to an agreement on the necessary construction works to upgrade this FP (customary use by riders and cyclists). Works included hedge laying, the formation of dead hedges to fill in gaps, post and rail fencing for safety reasons where the path is steep sided, coppicing trees along the river bank and digging out and stone surfacing boggy areas along the river. Landowners had concerns regarding the condition of the packhorse bridge and two further metal railway bridges over which the route passed. Following advice from the LHA, an inspection of all bridges was commissioned from a consultant civil engineer. The report concluded that all the bridges were safe for bridleway use but that the packhorse bridge required some attention to the spandrel walls. A community chest grant from the LHA was accessed to pay for a bridge specification. Mendip District Council PROW successfully accessed grant funding to fund bridge rebuilding by contractors. Project Cost: £7500 construction and reports. Funded by SALSF and Somerset Community Chest. Packhorse bridge (MDC) £30,000 – funded jointly by SALSF, Wyvern Environmental Fund and Somerset County Council.



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TTT Case Study 2: Binegar, Ashwick & Crocombe circuits.

Example: dedicating three bridleways (two miles of new route) to create 10 miles of figure-of-eight community circuits connecting to local pubs and The Rookery farm shop/café.

Project: Gales Lane (1).

Route required to enable users to cross the busy A37 from Limekiln Lane (4), an existing multi user route (RB). An existing FP opposite ran along a grass lane (once an old tramway connected to Oakhill brewery), then as an unenclosed path across the middle of a field grazed by cattle to a quiet tarmac lane. A DMMO application in 1992 to upgrade from FP to BR based on historic (map) evidence failed. Rather than submit an appeal, the local NFU office was asked to help negotiate a bridleway. The landowner had concerns regarding stock security - this was overcome by creating and fencing a new length of bridleway alongside the last field boundary. Project cost: £2,000 (approx). Funded by Somerset County Council (SCC).

Project: Rookery Farm (2).

Route required to bypass B3135 (fast traffic) used by vulnerable users. An old lane, Bennett's Lane (part FP) ran parallel to the B3135. Connecting (little used) FPs that crossed land grazed by cattle and horses (including a stallion and young thoroughbreds being raised for racing) were not suitable for upgrading. Successful negotiations with landowners resulted in a new bridleway created and fenced along boundaries, keeping all users away from grazing stock and one field away from the young thoroughbreds. Project cost: £4,500. Funded by SCC/SALSF.

Project: Burnthouse Drove (3).

Route required to link to a grass road (5) - an existing multi-user route (UUCR) - as part of circuit. Existing FP ran through intensive dairy farm into cul de sac grass drove road. The landowner had concerns regarding stock security. New gates were installed along the route including at the end of the grass drove road for extra security. Project cost: £5,000 (included capital payment to principle landowner). Funded by SALSF.



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TTT Case Study 3: Hemington, Hardington and Buckland Dinham

Example: creating community and linear trails using WCA 81 DMMO application procedure to claim an historic PROW (not recorded on the DMS) for use as a strategic link.

Project: Burnt Hill Lane (1).

Route required to complete a fragmented 7 mile circular trail in pretty rolling green countryside close to the towns of Midsomer Norton and Radstock. The trail is easily accessible from a number of nearby local communities via other PROW and the missing link (1) is the final section required for the Bath to Bruton Linear trail (2). Use of this circuit and linear trail would help to support the pub at Buckland Dinham, which lies directly on the circuit. An old highway ran for approximately 0.6 mile down hill along a cul de sac stone track (recorded as PROW - RB) to a stream (Lydes water) then ran unenclosed across fields, through a small wood and across fields to a tarmac lane (Pillar lane) in Hardington.

The unenclosed section was not shown on the DMS as having any public status but was claimed as a bridleway in 1993 based on historic (map) evidence. There had not been any public use in living memory. Investigation by the LHA found evidence that the route was a publicly maintainable highway and duly made an order for BOAT. After 3 strongly contested public inquiries (the last in 2007), the final decision by the Planning Inspector confirmed the route as RB. The route is still not available to the public (18 years after the claim was made) and is obstructed by badger setts, hedges and earthworks. The LHA is seeking to resolve this by diversion. The cost of the LHA investigation and three public inquiries is not known.

TTT Case Study 4: West Bradley and Ditchheat circuit

Example: dedicating a short length of 'over the hedge' route to enable direct road crossing to complete a safe 8 mile circuit.

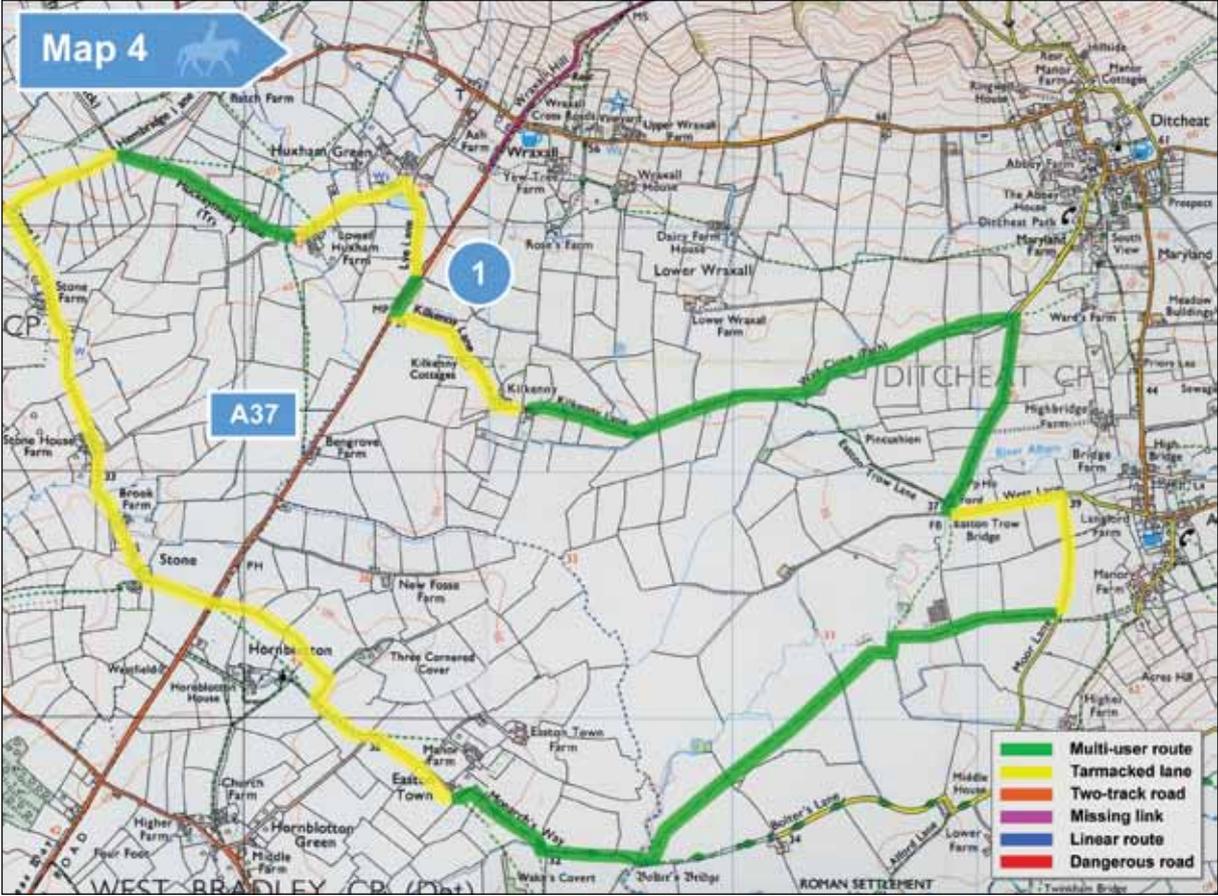
Project: Kilkenny Lane crossing (1).

Route required because the extensive network of bridleways and quiet lanes is bisected by a heavily trafficked and fast section of the Fosse Way (A37) - effectively preventing users from travelling along and crossing this dangerous road cutting through the two parishes. A 200 metre by 3 metre width bridleway was created through negotiation with local landowners (2 joint owners).

The fenced route runs along a field edge between Kilkenny and Lye Lanes, allowing riders and others safe passage alongside the road to a safe direct crossing point. The landowners assisted with clearing and hedging works. Construction works to install the new path was carried out under the supervision of representatives from Transco, to ensure that the new fence posts did not fracture the gas main directly below. Land use at the time was arable, but stock proof fencing was erected on the field side, (with rails on the inside) to allow for future alternative land use. The landowners also permitted the existing field access to be moved back to the new fence line to allow ample space for users waiting for a gap in the traffic to cross and to negate the need for gates.

The land was sold before the route was recorded on the DMS but the landowners ensured that the EDCL dedication was passed on to the new owners.

Project cost: £3,000 (including a capital payment to the landowners) – funded by Mendip Bridleways & Byways Association and local donations.



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TTT Case Study 5: Asham Wood Six-mile Circuit, Downhead

Example: dedicating a route through ancient woodland - SSSI.

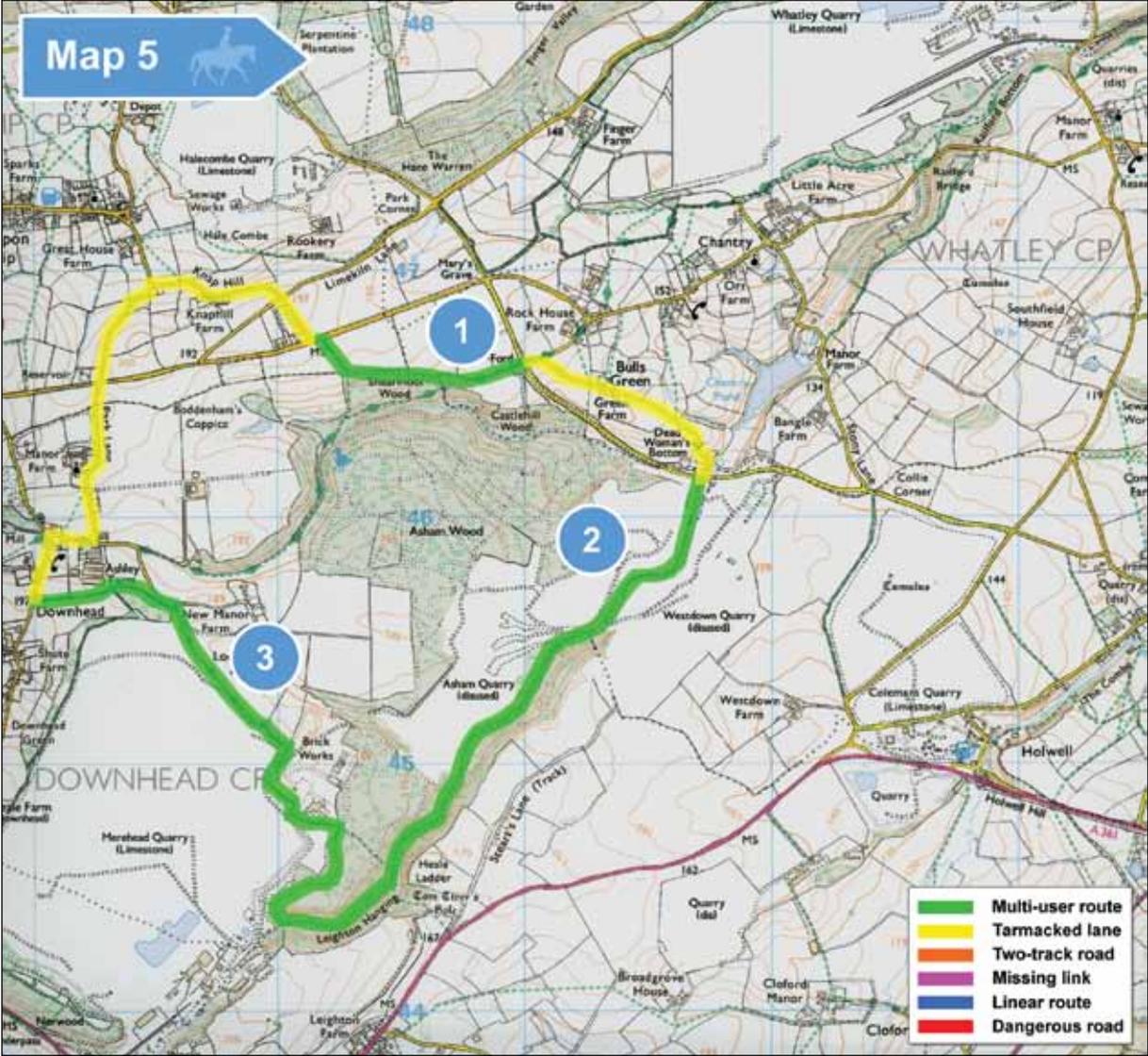
Project: Connecting two cul de sac PROWs (RBs) through Shearmoor wood (1) with 700yds of negotiated dedicated bridleway (existing customary use by riders and cyclists).

Route required to complete a circuit around Asham Wood SSSI and to link to existing bridleways reopened (2) and /or dedicated (3) by local quarry companies. The route runs from a cul de sac RB, along a woodland track on the northern edge of Asham Wood, and exits just beyond an existing road underpass onto a second cul de sac RB leading up to the Bulls Green road. Mounting blocks were installed at either end of the underpass for those riders who preferred to dismount to walk horses through.

Due to the sensitivity of using a track through the SSSI a working partnership between the landowner, English Nature, Mendip DC and TTT was formed. Agreement was reached to allow for the excavation, drainage and stoning of boggy areas in the track surface.

At the Chantry end the landowner had problems with gates being stolen thus allowing access to the SSSI for car dumping and burning. Cattle movements along the track to adjoining fields also required accommodating, whilst still allowing for the passage of legitimate users. A heavy duty metal gate was placed at the track entrance and kept locked. Access for users is via a metal H frame bridleway gate cemented into the ground (to prevent theft). Another of these, further along the track allows access onto the remains of the RB leading to the Bulls Green road and will prevent cattle straying onto the road. 2 wooden access gates were installed along the track and hitched back to a 'third post' and are available to be closed as necessary to facilitate cattle movements.

Project Costs: £5,000. Funded by SALSE.



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TTT Case Study 6: Linking Coleford and Upper Vobster

Example: dedicating a route along an abandoned railway to link communities.

Project: Upper Vobster Railway line (1).

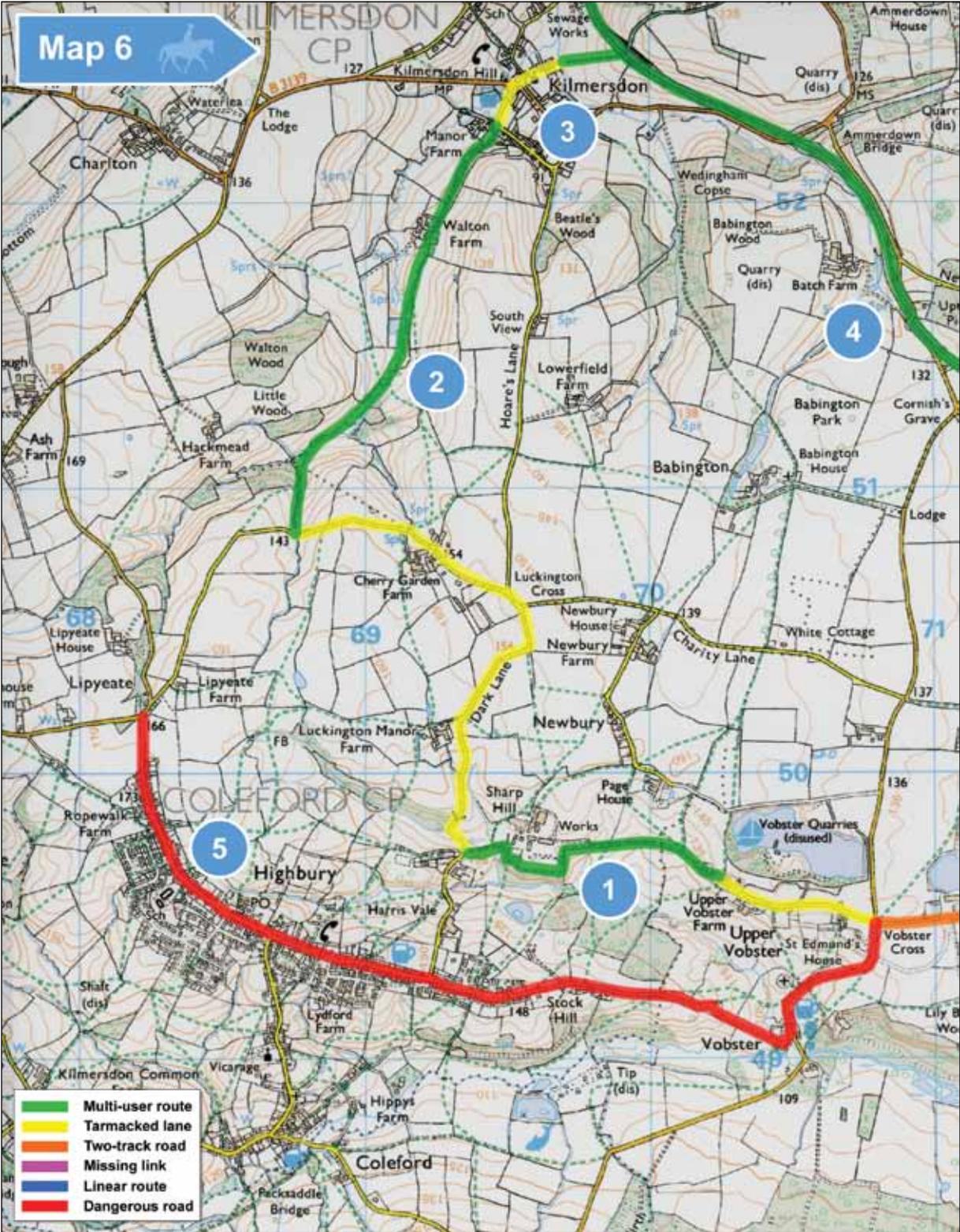
Creation of two-mile linear link required to a) bypass two miles of dangerous stretches of rural road (5) frequently used to reach quiet roads, bridleways (2 & 3) and multi-user path (4) and b) to link the communities of Coleford (amenities) with Vobster (no amenities).

An opportunity to create this route and to resolve an outstanding DMS claim (later rejected by the LHA due to insufficient user evidence) came when the new owners of the Vobster works, sited on old colliery works, requested a diversion of a FP, running through the centre of the works, to the boundary. The Mendip District Council PROW officer assisted TTT with negotiations with the landowners to divert the path and to dedicate the new path as BR. Negotiations continued with the owners of the old colliery railway and householders along the private road in Upper Vobster leading to the line.

The householders in Upper Vobster had concerns regarding interaction with vehicles and children with riders using a small section of private road between the railway path and the start of the County maintainable highway through Upper Vobster. Negotiations to resolve the problems resulted in the railway line landowner dedicating a further new section of path to allow users an exit directly onto the public highway and erecting a sign asking riders to go slowly past the houses.

One of the problems that had to be overcome was that the new exit point at the Vobster end of the railway line was only wide enough for a standard 12ft agricultural gate. This needed to be kept locked to prevent unauthorised use by vehicles. A specially made York 2 in 1 gate from Centrewire was commissioned – this allowed entry by riders and walkers through a section of the gate whilst the entire gate remains locked. A further two bridleway gates were installed in place of stiles along the route. The route was fenced because the fields below were intensively grazed by cattle.

Project cost £7,200, including capital payment to railway line landowner. Funded by SALSF. Not including costs of extensive works by Vobster Works owners (unknown).



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TTT Case Study 7: Linking Cheddar to Common Land

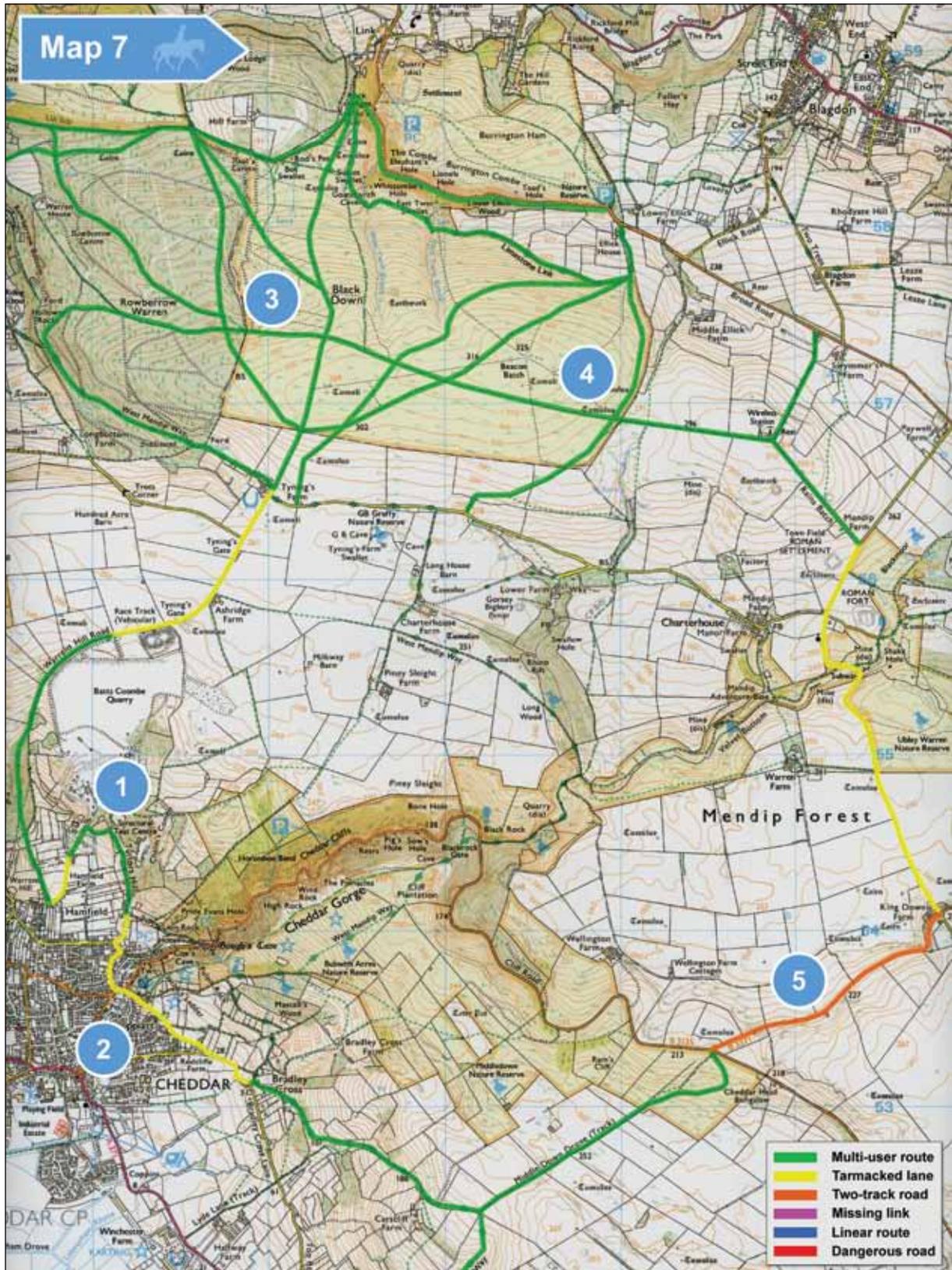
Example: dedicating a short route around a quarry has many benefits.

Project: Tuttors Hill bridleway (1).

Cheddar is famous for the Gorge but this creates a difficult to cross natural barrier to the north-east. The village has grown considerably over the years and the narrow streets, once used to access the nearby multi user PROW network, are dangerous for vulnerable users due to high levels of traffic including traffic to nearby Batts Combe quarry.

A short section of route (1) negotiated with quarry owners, adjoining landowners and householders along a quiet private road (FP) then up a quarry road and track to exit Batts Combe quarry entrance, has brought multiple benefits to many users. These include (2) avoidance of village centre, (3) enabled access to wilderness and stunning landscape at Blackdown and Burrington Ham Commons (multiple PROWs) and access to the highest point of Mendip Hills and sea views (4), plus the creation of a fabulous 11 mile circular route through the AONB and over the Mendip Hills escarpment (access to heritage, history, landscape, wildlife). The rural road section B3371 (5) is a quiet and lightly trafficked highway.

The quarry owners constructed much of the new path (costs unknown) and other clearance works along the FP section were carried out by the LHA. No gates were required.



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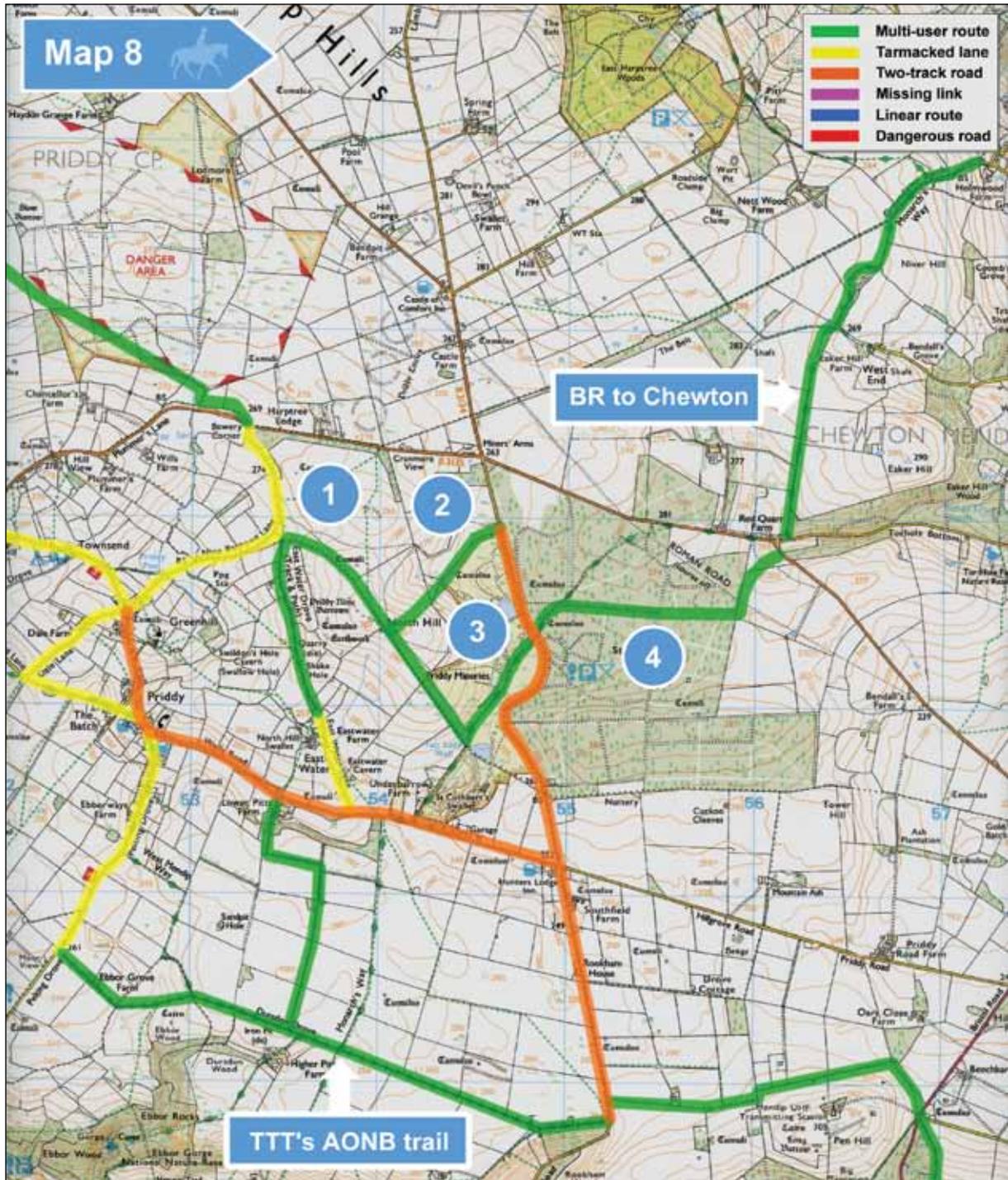
TTT Case Study 8: Priddy – local community access

Example: Informal permissive access to beautiful landscape and forestry.

The village of Priddy lies some 800 – 1000 feet above sea level in the heart of the Mendip Hills AONB. Few multi-use PROW in the vicinity of the village were originally recorded on the DMS. However a number of informal permissive paths (1, 2, 3, 4) for horse riders agreed with a large estate owner and tenant has permitted access to the local beautiful landscape at North Hill, one of the Mendips' highest points, where there are two sets of bronze age barrows, and also to the nature reserve on the old lead mines dating from 200-300 BC and to land leased by Forest Enterprise. This informal access is of great value in giving the community – particularly children - the opportunity to experience the history, heritage, flora, fauna and beauty of their local landscape.

The routes also permit circular and linear sustainable travel to the three village pubs, campsite, farm and garage shops and to other nearby communities and PROW.

The only construction needed on these routes, which run over grassland grazed by sheep and cattle or along forestry tracks, was the installation of gates. Priddy riders helped TTT to raise the funds for these through a number of events and TTT maintains them.



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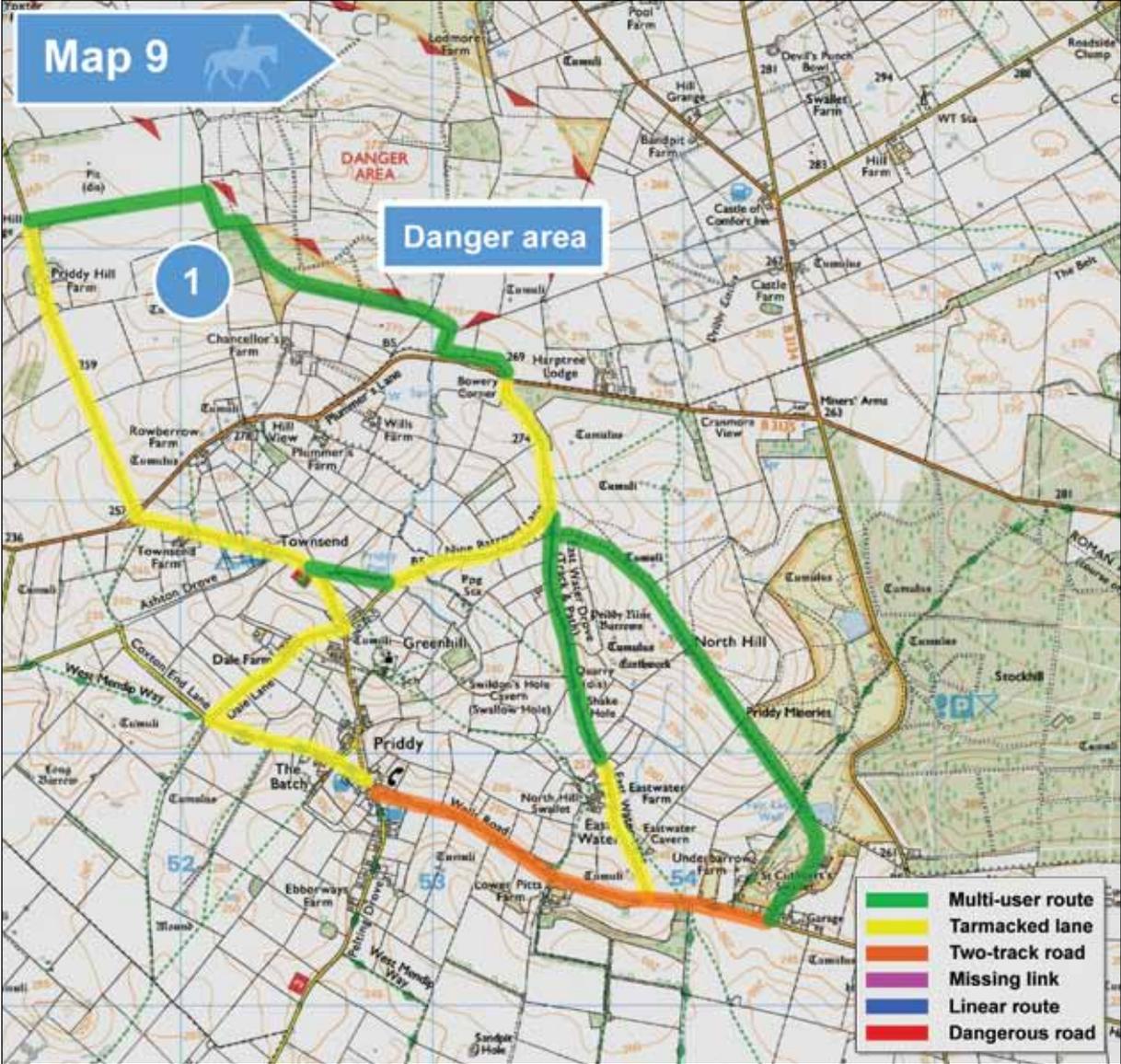
TTT Case Study 9: MOD Yoxter Firing Range Ride

Example: formal permissive (licensed access) to Crown land.

Yoxter range occupies an area of 885 acres within the Mendip Hills AONB between Priddy and Charterhouse. It has been owned and extensively used by the Ministry of Defence (MOD) since 1933. In addition to a live firing range, operations including fieldcraft and helicopter training are frequently carried out. A danger template of red and white poles surrounds the area and red flags are flown to signal that operations are in progress. Much of the area is designated SSSI and Somerset Wildlife Trust (SWT), the MOD and Natural England work together to manage the area through conservation grazing.

This area is of great historic interest to local people because the adjoining Chancellors Farm (leased from the MOD by SWT), is one of the oldest farms on Mendip, the land has never been cultivated and is rich in flora and fauna. The route also connects with nearby permissive routes. Approaches to the land agent regarding public access resulted in a negative response. However, TTT approached the then local MP, to ask if the MOD would allow a bridleway across the range. The MOD gave TTT permission to explore the range and suggest a viable route. A route (1) was finally agreed with the MOD and with the kind permission of the adjoining landowner who had no objection to use by horse riders.

Construction included fencing the entire length across the range, 3 bridleway gates and a new entrance into the range for grazing purposes. TTT have operated the route on permissive license (with both the MOD and the adjoining landowner) for over 10 years. Public liability is covered by a policy with the National Farmers Union. The MOD maintains the fence and track over its land, the adjoining landowner maintains his (grass) section and TTT maintains the bridle gates. Riders can access the route at all times (even when the red flags are flying) but there are occasional closures, for example during low flying helicopter exercises. Project cost £3000. Funded by local donations, Priddy Parish Council and Mendip Hills AONB Service.



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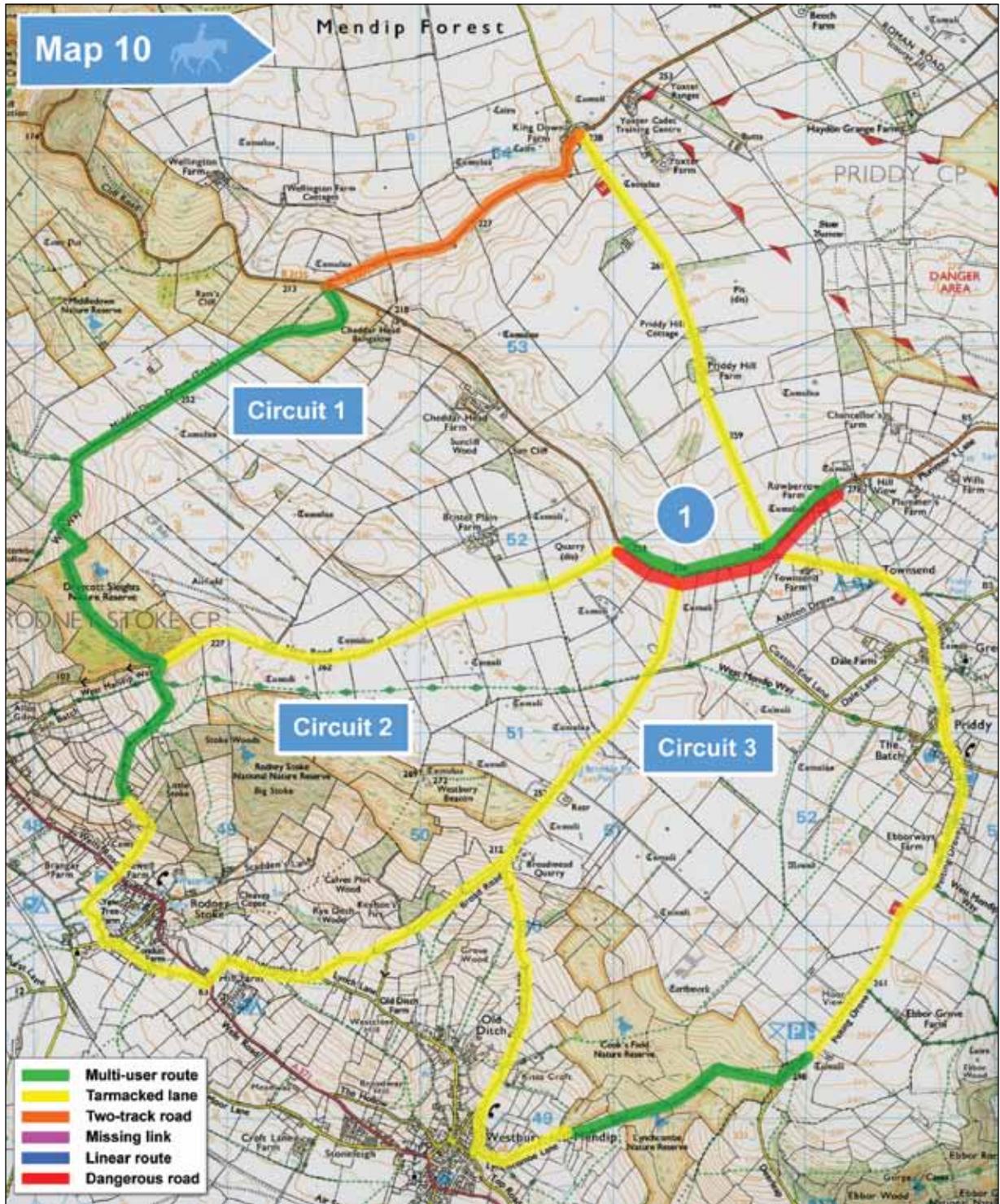
TTT Case Study 10: Multiple Circuits, Draycott, Rodney Stoke, Westbury Sub Mendip and Priddy

Example: creation of proposed permissive route through Defra's higher level entry scheme (and why users should register desire line routes with LHA ROWIPs).

Project: route creation to bypass a very dangerous road and create multiple circuits.

The B3135 Cheddar Gorge Road (speed limit 60mph) slices through the Mendip Hills AONB and is notorious for blind bends and fast traffic. Accidents, sometimes fatal, particularly involving motor bikes are not uncommon. The short stretch (in pink) is used by some riders but there have been frequent near misses and occasional collisions between horses and vehicles. A desire line route to avoid the B3135 was included on TTT's LHA ROWIP map and noted by a FWAG officer working on an HLS scheme which included land adjoining the B3135.

This proposed project provides an important example of how a single stretch of strategic route (1 – 0.75 miles) can substantially expand the usable network. In this case, adding distance and value 22 times greater than the initial route cost. Three circuits (2) - 6.5 miles, (3) - 5.5 miles and (4) - 5 miles (total usable route = 17 miles) are formed linking a number of communities, enabling access to the wider network. Risk also decreases because even though users still need to cross the road, this is far safer than travelling along it.



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Appendix

Contents

Document examples

Route survey form

Express dedication at common law agreement

Legal event order application form

Permissive path licence

Deposit of statement and plan

Useful contacts and reading

VOLUNTEERS ROUTE SURVEY REPORT

District/LHA	Parish	Route numbers/OS Ref
Where to where?		

Route Description
 (Green Lane/track/tarmac road/bounded by hedges or walls/field edge path/cross field path etc)
 Indicate which

Current land uses:

Number of gates/state of repair/ease of use:

Evidence of current use by horses/mountain cycles / carriage drivers

Current status: None/FP/BR/RB/BOAT/Other

Signposts and waymarks:

Works required – what needs to be done to allow multi-use/improve to enable use?
 (Continue on separate page if necessary)
 (Drainage/surfacing/clearance/new gates required/use existing field gates?/repairs to existing gates etc/bridges/removal of obstructions etc)

Exit onto a main road/minor road/lane/other right of way or cross over main road/ minor road:
 (say which)

Safety of exit – visibility, signs required etc:

Landowners/occupiers (any that are known):

Route Priority: Category:

Surveyor's name: **Tel / Email:**

Survey date: **Please attach photos (CD etc)**

DEDICATION OF PUBLIC BRIDLEWAY

Bridleway description: The bridleway leads from/to

The bridleway is approximately Xkm in length and passes over land presumed to be owned/owned *(delete as appropriate)* by:

Landowner's name

The bridleway is shown coloured green on the attached plan.

The landowner(s) by virtue of owning the freehold* hereby agree that this bridleway is dedicated as a public highway in perpetuity under Common Law.

*Land bordered in pink on the attached plan.

The *(name of organisation)* hereby agrees to lay out the route on behalf of the public and to carry out works according to the landowner's instructions as specified in the works schedule.

Signed by the landowner(s)
Address
.....
..... Date

Witness (name)
Address
.....
..... Date

Signed by *(organisation)*
Address
.....
..... Date

Witness (name)
Address
.....
..... Date

Attach signed plan.

**Request for a Legal Event Order
Wildlife and Countryside Act 1981**

Definitive Map and Statement for the County/Unitary Authority of *(name)*

To: CC / UA *(name)*

Address

I/We *(Name(s))* of *(address)*

hereby apply for a Legal Event Order under section 53(3)(a) of the Wildlife and Countryside Act 1981 modifying the definitive map and statement for the county/unitary authority of *(name)* by adding a footpath/bridleway/carriageway from *(name of place/highway/OS grid reference)* to *(name of place/highway/OS grid reference)*.

WCA s53(3)(a)ii) applies because an existing public footpath/bridleway recorded on the DMS has been upgraded through Express Dedication at Common Law to bridleway/carriageway (restricted byway).

WCA 81 s53(3)(a)iii) applies because a new public right of way footpath/bridleway/carriageway (restricted byway) has been dedicated through Express Dedication at Common Law.
(delete as appropriate).

I/We attach copies of the following to confirm:

- a) Express dedication by the landowners.
- b) Landowners' capacity to dedicate.
- c) Acceptance by the public.

An opening ceremony was held on *(insert date)* and attended by x *(numbers)* walkers/horse riders/cyclists/carriage drivers.

- Route Plan.
- Landowners' proof of ownership.
- Signed express dedication agreements relating to each landowner.
- Signed plan relating to each landowner's holding and depicting the route.
- Work schedule.
- Before and after installation photos.
- Opening ceremony photos.
- Publicity (newspaper cuttings etc).
- Circular route brochure (if one has been designed).

Dated

Signed

Permissive Path Licence

Dated

LICENCE RELATING to A PERMISSIVE PATH

RE: Land at

BETWEEN

(1) (The Organisation) (the licensee)

And

(2) (the licensor)

THIS LICENCE is made on

The day of2

Between

Of

(hereinafter called “the licensor) of the one part and

The Organisation (the licensee)

Address

Whereas:

1. The licensor is the fee simple owner of the property known as.....

..... in the parish of more particularly delineated on the plan annexed hereto and thereon coloured red.

2. The Licensor has agreed subject to the conditions of this agreement to grant to the (organisation) such permissions as are hereinafter mentioned in order to enable members of the public to use the permitted path as specified below.

NOW IT IS HEREBY AGREED AS FOLLOWS

- 1. The licensor hereby grants to the (organisation)
 - (a) permission to enjoy access on foot/horseback/pedal cycle/horse carriage over and along the strip of land (the Permissive Path) shown between points A and B on the plan;
 - (b) permission to enter onto the Property to a distance of one metre on either side of the Permissive Path for the purpose of clearing undergrowth and maintaining the Permissive Path as hereinafter provided; and
 - (c) permission to execute the works set out in the Schedule hereto (the “Works”).
- 2. This licence is personal to the parties hereto. In the event of a transfer of the legal estate in the Property this Agreement will determine automatically on the giving of at least one calendar month’s notice in writing to (the organisation)
- 3. The Licensor hereby reserves the right:
 - a) to close the Permissive Path and determine this Agreement permanently on giving at least one calendar month’s notice in writing to the (organisation)or
 - b) temporarily to withdraw the permissions set out in clause 1 hereof and close the Permissive Path where it is expedient to do so in view of agricultural or other land management operations or sporting events or for security or seasonal or weather reasons PROVIDED that before doing so the Licensor shall except in an emergency give notice to the (organisation)and post notices of the intended closure at points A and B at least 48 hours before the intended closure.
- 4. The licensor undertakes that: on the reopening of the Permissive Path he will remove the notices of intended closure which he had displayed in accordance with Clause 3 (b) above.
- 5. (The organisation) hereby covenants with the Licensor as follows:
 - (a) to execute the Works in a manner approved by the Licensor and thereafter to maintain the Works in good repair and condition;
 - (b) on the termination of this Agreement to remove all signs and anything else erected or installed by the (The organisation);

- (c) to keep the Permissive Path clear of vegetation whether growing from the surface sides or above and to keep the Permissive Path clear of other obstructions and in all respects in a suitable condition for use by those permitted to use it;
 - (d) to keep the Permissive Path in a reasonably clean and tidy state and free from litter and rubbish;
 - (e) to erect and maintain any gates stiles bridges and other furniture pertaining to the Permissive Path in an appropriate condition;
 - (f) not to cut down or maim or injure any tree or sapling without the prior consent in writing of the licensor;
 - (g) to install and maintain coloured waymarks as may be necessary;
 - (h) to erect notices warning users of the Permissive Path of any dangers on or near the Permissive Path;
 - (i) not to assign or part with possession or control of any of the permissions hereby granted;
 - (j) not to do anything in connection with the permissions hereby granted which may be or become a nuisance or annoyance or cause damage to the Licensor or to the tenants or occupiers of the Property or to the owners tenants or occupiers of any adjoining or neighbouring property;
 - (k) to pay proper compensation to the Licensor or to the tenants or occupiers of the Property for any injury or damage occasioned as a result of the negligent act or default of the (The organisation);
 - (l) to indemnify and keep indemnified the Licensor and his successors in title from and against all costs charges expenses claims and demands and damages of any description in any way arising or connected with any negligent act or default on the part of the (The organisation).
6. The Licensor accepts no liability for injury or damage to members of the public whether or not such injury or damage is in any way whatsoever due to any negligent act breach of duty and/or omission of the Licensor.
7. NOTHING herein contained shall amount to or be construed as a permanent grant demise or dedication or agreement to make a permanent grant demise or dedication of any part of the Property to the (The organisation) or to any members of the public as a public right of way.
8. IN the event of any breach of any covenant on the part of the (The organisation) herein contained this Agreement shall cease and determine but without prejudice to the right of the Licensor in respect of any breach of covenant by the (The organisation).

AS WITNESS the hands of the parties hereto the day and year first above written.

Signed by the Licensor

In the presence of:

Signed by

For and on behalf of the (organisation)

In the presence of:

SCHEDULE

DEPOSIT OF STATEMENT and PLAN

SECTION 31 (6) OF THE HIGHWAYS ACT 1980

To (Local Highway Authority)

1. I am and have been since (*day/month/year*)the owner (within the meaning of the above section) of the land known as (*name of property*) particularly delineated on the plan accompanying this statement and thereon edged red.
2. The aforementioned land lies in the Parish of
3. *The ways coloured brown or symbolised thus --^--^--^--^-- on the said plan have been dedicated as highways with vehicular status.
4. *The ways coloured green or symbolised thus --|--|--|--|--| on the said plan have been dedicated as bridleways.
5. The ways coloured purple or symbolised thus -- -- -- -- -- on the said plan have been dedicated as footpaths.
6. *No (other) ways over the land have been dedicated as highways.
7. The deposit shall comprise of this statement and plan.

* Delete as appropriate

Signed in the presence of:

LANDOWNER

WITNESS

.....SIGNATURE
.....NAME
.....ADDRESS
.....
.....
.....
.....POSTCODE
.....DATE

.....SIGNATURE
.....NAME
.....ADDRESS
.....
.....
.....
.....POSTCODE
.....DATE

A further Statutory Declaration must be made by the owner or by his successors in title and lodged by him or them with the (name) County Council (as Local Highway Authority) within six years.

(No charge is imposed for processing the aforementioned Statutory Declaration)

Note: a copy of a plan for the land holding showing the existing PROW can normally be obtained from the LHA.

Useful contacts and other information

Contacts/information	Address	About
British Driving Society (BDS)	britishdrivingsociety.co.uk	Encourage and assist those interested in Equine Driving.
British Horse Industry Confederation (BHIC)	bhic.co.uk	Aim is to work in a spirit of positive cooperation with government and other authorities to best serve the interests of horses and riders.
British Horse Society (BHS)	bhs.org.uk	Horse training, welfare, safety, access. Useful leaflets on PROW matters.
British Standard BS5709:2006	bsi-global.com pittecroft.org.uk	View simplified guide to the standard on the Pittecroft site.
Byway & Bridleway Trust (BBT)	bbtrust.org.uk	Protection of PROW.
Centrewire	centrewire.com	Manufacturers of gates and stiles designed for easy access to rights of way for the disabled and users of the countryside.
Chartered Society of Physiotherapy	csp.org.uk	Physiotherapy and access to physiotherapy treatment
Charity Commission	charity-commission.gov.uk	Site gives detailed advice and policies on charitable activities,
Country Land and Business Association	cla.org.uk	Countryside: agricultural, environmental, social and economic.
CSS (now Adept)	adeptnet.org.uk/	Association of directors responsible for a broad range of environment and economic issues in County, Unitary and Metropolitan authorities across the country.
CTC	ctc.org.uk	National cyclists organisation: access, training, events etc.
Defra	defra.gov.uk	The UK Government department tasked with issues such as the environment, rural development, the countryside, wildlife, animal welfare.
Inland Revenue	inlandrevenue.gov.uk/heritage/lbsearch.htm	Public access to inheritance tax exemption land
Fountain Timber Products	fountaintimber.co.uk	Fencing stakes and rails - gates - gate posts and sawn timber.

Appendix | Useful contacts and reading

Institute of Public Rights of Way	iprow.co.uk	Professional body which represents more than 300 individuals involved in the management of public rights of way in England, Wales and Scotland
Kent Carriage Gap		Specification available on TTT website (with thanks to Centrewire).
Land Registry	landregistryservices.co.uk	Title deeds, title plans, prices and owners' name. 24 hr service
Natural England	naturalengland.org.uk/	Here to conserve and enhance the natural environment, for its intrinsic value, the wellbeing and enjoyment of people and the economic prosperity that it brings.
NFU	nfuonline.com	The principal UK body for those in the agricultural industry.
NFU Mutual	nfumutual.co.uk	Business and farmer insurance.
Open Spaces Society	oss.org.uk	Organisation that works to protect common land and public rights of way.
Ordnance Survey	ordnancesurvey.co.uk	OS Explorer and OS Landranger Map, OS OpenData, OS OpenSpace, OS MasterMap - buy, licence or download.
Paths for All	pathsforall.org.uk	Partnership of organisations committed to promoting walking for health and the development of multi-use path networks in Scotland
Pony Club	pcuk.org	News and information from the largest youth equestrian organisation in the world.
Practical Conveyancing	practicalconveyancing.co.uk	Property law articles
Ramblers Association	ramblers.org.uk	Charity which promotes rambling, protects rights of way, campaigns for access to open country.
Real Buzz	realbuzz.com	Offers information on maintaining a healthy lifestyle, with a particular focus on running.

Appendix | Useful contacts and reading

Riding for The Disabled	riding-for-disabled.org.uk	UK charity dedicated to improving the lives of thousands of people through education, therapy and fun.
Rural Sports UK	ruralsports.co.uk	Explores the range of activities that you can enjoy in the countryside.
Runners Guide	therunnersguide.co.uk/	Running advice and events.
Sustrans	sustrans.org.uk	The pioneer of the 'safe routes' concept in the UK. Sustainable walking and cycling access.
The Trails Trust	thetrailstrust.org.uk	UK charity that creates access to the countryside for the whole family - horse riders, cyclists, walkers, carriage drivers.
World Horse Welfare	worldhorsewelfare.org	Horse charity dedicated to improving horse welfare, caring for horses in the UK and horses overseas.
Useful reading		
Rights of Way. A guide to Law and Practice (Riddall/Trevelyan).	Published by Ramblers Association and Open Spaces Society.	See RA/OSS websites
Strategy for the Horse Industry in England and Wales	Published by BHIC	See BHIC website