

## Appendix 1- Shropshire Council Outdoor Partnership Policies

### **POLICY STATEMENT 1**

#### **Prioritisation of enforcement and maintenance as a result of problems reported on the Public Rights of Way network**

The Council receives approximately 1000 reports each year from members of the public of problems on the Public Rights of Way network. Currently 52% (2017) of reported problems are resolved. The purpose of this policy statement is to set out how the Council prioritises problem reports for subsequent action and resolution.

#### **Policy Statement**

##### The Council:

- Recognises the legitimate right of the public to use and enjoy the public Rights of Way access network.
- Recognises that problems with the network can have a significant impact on people's enjoyment of the countryside.
- Will manage individual routes on a prioritised basis with action taken according to risk to the public, need, impact and access priorities as outlined in the Shropshire's Great Outdoors Strategy.
- Will report back to customers on progress in resolving problems, where necessary.

The Council's detailed approach to prioritising problems for action and resolution is based on the following circumstances:

1. The geographical route hierarchy
2. The seriousness of the obstruction - Is there a health and safety risk to members of the public using the route?
3. Who raised the issue – local Council member, the Parish Council (having a particular status by virtue of s 130(6) of the Highways Act) or Parish Paths Partnership Group or warden.
4. Outstanding legal issues - Are there legal issues such as landholders disputing the definitive line or applying for a diversion? Is the landholder committing a repeat offence where legal proceedings have been instigated?
5. Is there an alternative route available to allow the walk/ride etc. to continue?
6. Is the route an easy access or multi user route?
7. Is the route one of the key promoted routes?
8. If agreement is gained to provide easier access furniture under the 'least restrictive' principle on a specific route, this work will also be prioritised as the Council is keen to see improvements in this area generally.

When prioritising reported problems, the service will concentrate on attempting to resolve all top priority and high-status problems. In addition, if medium and low category issues exist in an area where work is already programmed, some of these will be dealt with at that time for reasons of efficiency and expediency.

**References:**

Shropshire's Great Outdoors Strategy 2018-2028

**Approval and Review**

This Policy Statement was approved by Council on xxxxxxxx.

This Policy Statement will be reviewed a minimum of every five years, the next review occurring in xxxxxxxx.

**POLICY STATEMENT 2****Providing easier access to the Public Rights of Way network and Country Parks and Heritage Sites managed by the Outdoor Partnerships Service**

The Council is required under the Equality Act 2010 to comply with the Public Sector Equality Duty. This may be described as the duty on a public authority, when carrying out its functions, to have what is called due regard to three equality aims.

These equality aims are:

- eliminating discrimination, harassment and victimisation;
- advancing equality of opportunity; and
- fostering good relations.

The legislation states that a listed authority must comply with both a general equality duty and with specific duties, as set out in the Act.

The Council is also required to show that it is working towards corporate equality objectives that will help to achieve any of the things mentioned in the general equality duty. These are set out in the Shropshire Council Equality Objectives Action Plan 2016/2020, which is published on the Council website. The Equality Objectives Action Plan 2016/2020 enables up to date positioning of the Council to assist in efforts to meet our general duty; to seek to demonstrate good practice in so doing; and to facilitate timely links with other corporate policy and strategy development, utilising the core value of Equality and Inclusion as set out in the Shropshire Council Corporate Plan 2016/2017.

This value is defined as: "Treating everyone as equal regardless of their circumstances and backgrounds, and identifying and helping people who may need support".

Service areas are asked to use an Equality and Social Inclusion Impact Assessment (ESIIA) approach, to help to identify whether or not any new or significant planned or anticipated changes to services, including policies, procedures, functions or projects, may have an adverse impact on a particular group of people, and whether the human rights of individuals may be affected. This is so that we are thinking as carefully and completely as possible about all Shropshire groups and communities.

## Policy Statement

The Council will: -

- Work to ensure that everyone has an equal opportunity to access public rights of way, the wider access network and Country Parks and Heritage Sites wherever possible following the 'least restrictive' principle and British Standard 5709:2018.
- Utilise the Shropshire Standard Specifications in those instances where British Standard 5709:2018 cannot be employed
- Significantly reduce the number of physical barriers to access by adopting the 'least restrictive' principle.
- Only authorise the 'least restrictive' option for new fence lines and other boundaries wherever possible via section 147 agreements.
- Ensure that its work reflects the strategic direction and policies of the authority in meeting the needs of people with disabilities.
- Adopt wherever possible and reasonable, recognised standards and current best practice of provision for people with disabilities, where they exist.
- Follow and take due account of relevant legislation relating to disability.
- Work with other sections of the Council, landowners, user groups and partner organisations to deliver this policy and to influence the work of others.
- Ensure that people with disabilities have clear, obtainable information about what access is available and its accessibility.
- Ensure that staff and volunteers are aware of this policy and receive specific training in providing an accessible network.

"Least restrictive" means: -

- A gap is the preferred option.
- If a gap is not practicable due to stock control, then a stock-proof gate should be used.
- If a gate is not practicable and the route is a footpath then a kissing gate may be used.
- Where stiles already exist but are no longer required, the Council will consider their removal.
- In all instances, the Council will seek to replace existing stiles with gates through negotiation.
- Where safety is at risk or to prevent unlawful use of the access network, the Council will consider using its powers to erect suitable barriers.

## Shropshire Standard Specification

The Council has adopted a local standard which lists specifications for structures used on the Public Rights of Way network in Shropshire. Many of these are BS5709:2018 compliant, some improve on this standard and some are not compliant.

- Shropshire seeks to minimise the number of structures across the Public Rights of Way network subject to the reasonable needs of land managers and to ensure that access is safeguarded.
- In all instances Shropshire Council will apply the Least Restrictive Principle when determining acceptable structures.

- Consideration will be given to the terrain and nature of the land when determining an acceptable structure, as well as the likely extent and nature of the use of the path.

### Examples of Shropshire Standard Structures

**A** Where there is an existing stile the Council will attempt to negotiate the least restrictive option which could be a gap, 0.7 metre pedestrian gate or similar with hoops to form a Kissing Gate. Although these structures are not BS5709 compliant they do provide improved accessibility.

**B** Wherever possible Shropshire seeks to replace stiles with the least restrictive option. In those instances where this is not negotiable Shropshire stile kits are utilised which do not comply with the BS5709 width recommendations.

### References

Equalities Act 2010

Countryside and Rights of Way Act 2000

British Standard BS 5709:2018

Understanding the British Standard for Gaps Gates and Stiles BS 5709:2018 explained (Pittecroft Trust version March 2018 mod 2)

Shropshire's Great Outdoors Strategy 2018-2028

### Approval and Review

This Policy Statement was approved by Council on xxxxxxxx.

This Policy Statement will be reviewed a minimum of every five years, the next review occurring in xxxxxxxx

## POLICY STATEMENT 3

### Public Rights of Way enforcement

It is a duty of the Council to safeguard the right of the public to use and enjoy the Public Rights of Way network. This policy statement sets out how the Council will undertake this duty. Enforcement is carried out in several ways:

- Provision of advice for landholders and occupiers.
- Investigation of reports of obstruction to the network.
- Working with partners in the provision of information and evidence.

- Targeted enforcement campaigns, such as the annual Ploughing and Cropping campaign.

### **Policy Statement**

The Council recognises the need for:

- Courtesy towards all those we deal with.
- Consistency in investigating and interpreting the law.
- Confidentiality of people who report alleged offences and to the alleged offender in line with the Data Protection legislation.
- Impartiality in dealing with all people.
- Balance between the alleged offence and the course of enforcement action taken.
- Landowners and users to fulfil their legal obligations and to recognise the rights and responsibilities of others.

The Council will:

- Work within the guidelines accompanying this policy statement regarding prevention, negotiation and enforcement.
- Recognise the legitimate right of the public to use and enjoy the public Rights of Way network.
- Always attempt to negotiate with landholders to resolve reported problems amicably before any formal enforcement action is taken. If this approach fails, formal enforcement action will be considered as per this guidance.
- Work to enhance and promote the enjoyment of the rights of way network in liaison with farming communities and with the NFU and the CLA as representatives of the local land-based sector, and with Government departments including Defra and its arms-length agencies of Environment Agency, the Forestry Commission, and Natural England

To achieve the above, it will be necessary after initial investigation, to determine how best to resolve the matter and to prioritise cases accordingly considering the priority criteria. (See policy statement No 1).

### **Detailed guidelines for taking enforcement action**

Protection of the rights of way network and the resolution of infringements require a three-pronged approach:

#### **1. Prevention**

By far the most effective means of protecting the rights of way network for the public is to prevent offences taking place. This can be achieved by providing a free access advice service to farmers and landholders. The Council will actively seek ways to raise the profile of rights of way with the farming community, working together to keep the network open and available for the use and enjoyment of the public.

#### **2. Negotiation**

Land ownership and use of the land can change rapidly. It is recognised that many alleged offences occur as a result of ignorance of legal requirements to maintain rights of way, or even knowledge of the existence of rights of way on land. Officers will initially seek to resolve the majority of cases through negotiation with landholders prior to formal enforcement action being pursued.

### 3. Formal Enforcement

Enforcement matters may be concluded in a number of ways. The decision to pursue enforcement action and the nature of the action required should be made after two key elements have been considered.

- Can the evidential requirements of the legislation covering the alleged offence be met in full?
- Is enforcement action in the public interest?

The primary aim of enforcement action is to restore access. The proportionality principle set out within the Government's Enforcement Concordat will be considered when deciding which course of action to pursue. The action pursued should be balanced and reasonable, and commensurate to the scale of the offence.

Consideration will be taken of the following factors when determining the appropriate course of action:

- Whether the person committing the offence had any previous warnings, cautions or criminal record.
- Whether the evidential requirements of the legislation breached can be met in full.
- The likelihood of the Courts to fine on conviction at the upper end of the scale for the offence.

Decisions taken in enforcement cases should be balanced, rational and robust in the face of scrutiny. The following avenues are available when pursuing formal enforcement.

**Formal notice:** This should be served as a prerequisite of enforcement action in all cases where conciliation has failed to resolve any infringement of rights of way legislation.

**Warning:** Where a matter is resolved on receipt of a notice the landholder or person responsible may be warned as to their future conduct and legal responsibilities in respect of rights of way.

**Caution:** Where the evidential requirements can be met for a piece of legislation but it is not considered that it is appropriate to bring a prosecution, the offender may be offered the option of a caution. Non-acceptance of the offer of a caution will lead to the matter being placed before the courts.

**Prosecution:** Where an infringement is serious in nature, the offender has previously been prosecuted or cautioned or the offence is commonplace and the focus of enforcement action, prosecution will be pursued. As a prosecuting authority, the investigation of rights of way offences will be conducted within the spirit of the Police and Criminal Evidence Act 1984, and with due regard to the Human Rights Act 1998.

**Practical Action:** In many cases of rights of way infringement, practical action should be considered along with other forms of enforcement action. The Council may use its powers with appropriate notice to resolve problems e.g. remove an obstruction on a path. The use of practical action makes the path available to the public without the inevitable delays associated with court action. In all cases where practical action is pursued the full costs of that action should be reclaimed.

### References

Central and Local Government Concordat on Good Enforcement 1998.

Shropshire Council Better Regulation and Enforcement Policy 2018.  
Shropshire's Great Outdoors Strategy 2018-2028.  
Shropshire's Great Outdoors A guide for landowners and farmers.

### **Approval and review**

This Policy Statement was approved by Council on XXXXXXX

This Policy Statement will be reviewed a minimum of every five years, the next review occurring in XXXXXXX.

### **Geographical route hierarchy**

#### **Category A routes**

Urban - main towns including key Walking for Health /safe routes to school

Urban Fringe 2 km's - main towns

SC Strategic - long distance

SC Promoted circuit

Defined hotspot – Long Mynd, Stiperstones and Stapeley, The Clees, Clun, Wenlock Edge

SC Countryside parks

Walking are Welcome status –, Bishops Castle, Church Stretton, Cleobury Mortimer, Clun, Ludlow, Much Wenlock, Oswestry and Whitchurch

#### **Main towns defined as:**

Shrewsbury

Oswestry

Bridgnorth

Market Drayton

Ludlow

Whitchurch

#### **Category B routes**

Market towns and key centres including key Walking for Health /safe routes to school in Category C areas

Urban Fringe 2 km's - Market towns and key centres

P3 Local circular routes

Routes from other sites e.g. Shropshire Council small holding, WLT, National Nature Reserve's and Local Nature Reserve's, Forestry Commission etc and routes that link with Stewardship schemes

Higher status routes – Bridleways, Restricted byways and Byways open to all traffic

High local priority to be determined via survey and consultation

#### **Market towns and key centres defined as:**

Albrighton/Cosford

Shifnal

Wem

Ellesmere

Highley

Much Wenlock

Craven Arms

Broseley

Pontesbury

Minsterley

### Category C routes

Everything else - default category unless A, B or D

### Category D routes

Cul de sacs, where they do not lead to a specific destination such as a viewpoint, historic feature, river etc.

Remote routes with low strategic or local value

Better, equally convenient alternative available e.g. parallel routes

Low use routes identified as part of the survey

Low local priority - to be determined by local consultation

## POLICY STATEMENT 4

### Ploughing and cropping on Rights of Way

The Highways Act 1980 requires that all rights of way should be open and freely available at all times and as Highway Authority, the Council has a duty to assert the public's right to use and enjoy rights of way. The Council also has a duty to ensure that all rights of way are clear of crops. This policy statement sets out the Council's approach to tackling ploughing and cropping issues. The Council has no discretionary powers on this issue, so the policy statement has been adopted to ensure even treatment and a consistent approach for all.

#### Policy Statement

Council Officers will always attempt to make a conciliatory approach in the case of first offences.

- Shropshire Council will undertake an annual Ploughing and Cropping Campaign
- All landowners reportedly Ploughing and/or cropping Public Rights of Way during the relevant period will be written to as part of the campaign.
- Persistent offenders will automatically receive a legal notice if they repeatedly crop or plough and do not reinstate.

The process will be:

- Liaison and information provided to landowners on responsibility to reinstate
- Routes inspected on site
- Non-reinstatement or inadequate reinstatement followed up with more formal correspondence
- Acknowledgement of reinstatement and compliance
- Further site Visits undertaken
- If routes still obstructed legal notice served
- If not reinstated with the specified notice then works undertaken by the Council and full costs recovered
- Potential formal prosecution

The Council has limited resources and protracted negotiation cannot be undertaken in cases of non-reinstatement after ploughing or obstruction by crops. In such cases, the Council will take firm

action, which could result in prosecution through the Courts where land occupiers fail in their duties. The aim of prosecution would be to deter any further offence. In addition, the Council has the power to take direct default action where requests to comply with the legislation fail. In all cases, the Council will endeavour to recover its costs.

## References

Cabinet xxxxxx  
Shropshire's Great Outdoors Strategy 2018-2028.

## Approval and Review

This Policy Statement was approved by Council on xxxxxxxxx.  
This Policy Statement will be reviewed a minimum of every five years, the next review occurring in xxxxxxx.

## POLICY STATEMENT 5

### Surfacing of Rights of Way

The Council is responsible for ensuring that the surface of Public Rights of Way are maintained appropriate to their designated route category and status so that they are safe and fit for all lawful public use. The extent of the duty to maintain requires that rights of way should be kept in such a state as to be safe and fit for ordinary traffic which could reasonably be expected to use it. In practice, the decision as to what surface to provide, if any, depends on the level of use and its legal status. Ways over which there are other rights will receive no higher level of maintenance other than is necessary for the use which is made of the path by the public. The Council will take enforcement action in appropriate cases if the surface of a Public Right of Way is unlawfully disturbed or damaged by private use. The purpose of this policy statement is to set out the Council's stance on surfacing rights of way.

### Policy Statement

The Council will:

- Ensure that the choice of surfacing material will be chosen to balance the needs of all path users, cost, sustainability, local distinctiveness and the local environment. This will equally apply where the Council is carrying out the surfacing or consenting to third parties carrying out the works.
- Normally maintain a surface only to the standard needed for designated public use. Where a footpath, bridleway or restricted byway co-exists with a private vehicular route, and the damage is caused by this private vehicular use, it will be the responsibility of those with private vehicular rights to repair the damage to an agreed standard.
- Only consent to third parties changing the surface type of a route (or part of a route) where the proposed surface type will be compatible with its public uses and where there is a legal agreement for its future maintenance.

### **Further detailed considerations**

There is no obligation to provide a metalled surface or similar on a byway open to all traffic in order to enable the public to use the route with vehicles.

When considering surfaces on higher status routes which carry horse traffic, there are specific considerations which need to be taken into account. The network of rights of way is a resource that enables people to access the countryside off the metalled highway network. The Council is committed to retaining the rural feel of the network wherever possible. It is accepted that there are instances where hard surfaces are required for example where private vehicular access is required. Tarmac can be hazardous as it can be slippery and nationally there have been a number of accidents with horses. For this reason, the Council will very carefully consider any application for tarmac or other sealed surfaces on a route on a case by case basis.

Public rights of way in urban areas present a different set of management challenges to those in rural areas. The public may not be aware which routes are rights of way, and which are pavements or are on the List of Streets. In reality, the difference is of no interest to the walking public, except in who to complain to if there is a problem. Generally, paths in urban areas need to have a better surface than rural paths. They are often sealed with asphalt, or have a stone or concrete surface.

Many rights of way are privately maintainable to a higher status than that for public use. Where dual liability exists, the Council is only responsible for maintenance to the public status. If, for example, a landowner has provided a sealed surface for vehicular use on a farm track that has public bridleway rights, the Council cannot be held responsible for maintenance beyond that required for reasonable bridleway use. The Council is also only responsible for the repair of damage caused by public use of a route. There can frequently be dual responsibility for repair with both the Council and landholders of private rights responsible. The level of responsibility must be determined on a case by case basis prior to works being agreed.

### **References**

Highways Act 1980  
Making the Best of Byways – DEFRA, December 2005  
Shropshire's Great Outdoors Strategy 2018-2028

### **Approval and Review**

This Policy Statement was approved by Council on xxxxxx

This Policy Statement will be reviewed a minimum of every five years, the next review occurring in xxxxxx.

## **POLICY STATEMENT 6**

### **Motorised vehicles on Byways Open to all Traffic (BOAT's)**

Nationally and within Shropshire there are tensions and sensitivities concerning the usage of byways and unclassified county roads over which motorised vehicles have a right of passage. These are generally centred on the inappropriate usage of unsurfaced routes, where the physical characteristics are such that motorised usage can cause damage. In addition, concerns are also expressed at the obtrusive noise of vehicles in the countryside.

This policy statement provides guidance on the approach to be adopted by the Council in the management of byways.

#### **Policy Statement**

The Council:

- Recognises the legitimate right of motorised vehicle owners to use legally designated byways and unclassified county roads.
- Recognises that the motorised use of this network can have an impact on other people's enjoyment of the countryside, and can damage wildlife, heritage and tranquillity.
- Will manage individual routes on a systematic proactive prioritised basis with action taken according to need, impact, sustainability and best practice, considering the guidance issued by Defra in 2005 – 'Making the Best of Byways'.
- Will promote codes of conduct and information which encourages considerate and responsible use of the network by vehicle users.
- Will work with user groups to develop and implement a sensitive consensus based approach to the management of routes.
- Will use Traffic Regulation orders where appropriate, to protect routes and restrict the relevant class of user. Where significant issues arise through antisocial behaviour or damage to the surface, either a temporary restriction or permanent one will be implemented. This will be determined on a case by case basis depending on the severity and type of the issue.

#### **References**

Making the Best of Byways, DEFRA, December 2005  
Shropshire's Great Outdoors Strategy 2018-2028

#### **Approval and Review**

This Policy Statement was approved by Council on xxxxxx.

This Policy Statement will be reviewed a minimum of every five years, the next review occurring in xxxxxx.

## **POLICY STATEMENT 7**

### **Statutory provision for stiles and gates**

The statutory provisions for gates and stiles are contained in s.145, 146 and 147 of the Highways Act 1980. The landowner must maintain stiles and gates on footpaths and bridleways in a safe condition for use by the public. If the landowner incurs expense in complying then they are entitled to recover at least 25% of the cost from the Council. In line with accepted practice elsewhere in the country, the Council have adopted the practice of supplying gate and stile kits to landowners instead of making a monetary payment. All furniture supplied by the Council enshrines the 'least restrictive' principle but may not meet BS5709:2018. In certain circumstances, the Shropshire Standard Specification will be used.

The purpose of this policy statement is to set out the Council's stance in the statutory provision of stiles and gates.

#### **Policy Statement**

The Council will:

- Provide stile and gate kits to landowners, in lieu of meeting 25% of reasonable costs. The supply of the kit is discretionary and does not imply that the Council takes responsibility for the repair of the structure.
- Require any new stiles and gates to be authorised as per legislative guidance and apply any conditions necessary for local situations.
- Ensure that any authorisations for stiles and gates take into account the 'least restrictive' principle to ensure that there are as few as possible barriers on the network.
- Ensure in carrying out proactive maintenance provision, that the 'least restrictive' principle is applied wherever possible. In addition, there will be an emphasis on supplying and installing gates, but only supplying stile kits.

#### **References**

Highways Act 1980

British Standard 5709:2018

Understanding the British Standard for Gaps Gates and Stiles BS 5709:2018 explained (Pitcroft Trust version March 2018 mod 2)

Shropshire's Great Outdoors Strategy 2018-2028

#### **Approval and Review**

This Policy Statement was approved by Council on xxxxxxx.

This Policy Statement will be reviewed a minimum of every five years, the next review occurring in xxxxxxx.

## **POLICY STATEMENT NO 8**

### **Definitive Map and Statement Modification Orders**

The Definitive Map and Statement is a legal document which provides conclusive evidence that the rights of way shown on it exist. The Map and Statement is not a complete record of all rights of way and many more unrecorded public rights may exist. Under the Wildlife and Countryside Act 1981 anyone may apply to have routes added to the Definitive Map or to have it altered in some way. Due to the volume of claims and evidence which is discovered to amend the Definitive Map, it is common practise for all Highway Authorities to have a policy which details the order in which applications will be processed as resources do not allow for all claims to be dealt with at once. The policy is also necessary to defend any appeals which are made to the Secretary of State by applicants.

The Council:

- Recognises the legal requirement for a Definitive Map and Statement that correctly records the legal status of all public rights of way.
- Recognises the need and value to the network of recording all 'Lost Ways' where historical documentation supports their existence.
- Recognises the importance of Shropshire's Great Outdoors Strategy 2018-2028 to develop and improve access to the Countryside.

The Council will prioritise applications to amend the Definitive Map as follows: -

1. Applications received that fall within an area which has not undergone the district review process will be dealt with in accordance with the priorities detailed below: -  
Priority Area 1 – North Shropshire and the remaining un-reviewed Parishes within Oswestry District.  
Priority Area 2 – All other outstanding areas which have not yet been reviewed.  
Priority Area 3 – The rest of the County in relation to key historic document resources.
2. In addition, applications within the three priority areas will be prioritised in accordance with key local demands identified through the Shropshire's Great Outdoors Strategy.
  - High Priority Missing Links as identified in the North of the County under the Discovering Lost Ways Project.
  - An omnibus order for routes with unrecorded outlets which are clearly used, signed and available on the ground.
  - Prioritisation of Higher status claims
  - Key routes which provide strategic links in the network and are evidenced by strong historical evidence e.g. Inclosure Awards, Quarter Sessions, Highways Board Minutes etc.
3. It is recognised however, that there may be occasions when applications outside of this programme need to be determined in the public interest. Such instances may apply where the application is for a route that is being threatened by potential development work or where an amendment to a route would significantly improve public safety. In these instances, such applications will be dealt with in order of receipt.
4. To revise the Definitive Map and Statement regularly to account for legal changes. Ideally this will take place every five years when resources allow.

### Further Considerations

This approach will ensure that the Council continues to fulfil its legal requirements and prioritises the Review of the Definitive Map to obtain maximum public benefit in accordance with the Shropshire’s Great Outdoors Strategy. This approach will also ensure that the historical information researched under the Discovering Lost Ways Project is utilised and action taken on that evidence where it fulfils the legal requirements.

**References**

Cabinet xxxxxxxx

Shropshire’s Great Outdoors Strategy 2018-2028

**Approval and Review**

This Policy statement was approved by Council on xxxxxx. Significant changes to the Definitive Map legislation will take effect when the relevant parts of the Deregulation Act 2015 are commenced and this Policy will be reviewed accordingly. In any event, this Policy statement will be reviewed a minimum of every five years, the next review occurring in xxxxxxx.

**POLICY STATEMENT 9**

**Public Path Orders for footpaths, bridleways and restricted byways**

The Highways Act 1980 gives the Council the power to make a public path diversion order if it can be shown that it is in the interests of the landowner or in the interests of the public. A right of way may be extinguished if it can be shown that it is no longer needed for public use or is unnecessary. Public rights of way can also be created either by agreement or by order. Public path orders are usually based on preference and do not rely on the discovery of evidence. The Council can also process public path orders that meet criteria relating to school security and the protection of Sites of Special Scientific Interest.

Public path diversion or extinguishment orders to enable built development to take place are usually dealt with under the Town and Country Planning Act 1990 by the local planning authority.

Due to the volume of applications made to amend the Definitive Map under the provisions of the Highways Act 1980, it is common practice for all Highway Authorities to have a policy statement which details the priority against which applications will be processed and assessed.

**Policy Statement**

The Council will prioritise applications for Public Path Orders where they meet one or more of the following criteria:

1. All fee-paying applications will be dealt with in order of receipt, unless they also fulfil one of the following priorities.

2. Applications where there is a clear benefit to public safety.
3. Applications that help to achieve priorities identified within the Shropshire's Great Outdoors Strategy 2018-2028.
4. Orders where applicants have the right of appeal.
5. Orders to correct anomalies or long standing built development obstructions.
6. Orders which would benefit a route running through an SSSI.
7. Orders in the interest of school security.
8. Orders to benefit crime prevention.

The following conditions will apply to new Public Path Orders.

The status of the route must not be in dispute at the time of the application, unless the Public Path Order is being implemented concurrently with an application under Section 53 of the Wildlife and Countryside Act 1981.

Prior to any order being made the Definitive route should be open, clear and safe to use. Only in exceptional circumstances will an order proceed where the Definitive line is not open. The applicant must agree to meet the Council's costs of promoting the order and bringing the new path into a fit condition for public use.

If a route is to be diverted onto land in different ownership then the applicant must obtain written consent from the landowner affected and must also agree to pay compensation as a result of the proposal. Orders will not be confirmed until all necessary works are undertaken to Council standards. If increased maintenance responsibilities result from the order then maintenance agreements will be entered into with the landowner.

All applications received will adhere to the 'least restrictive' principle, unless natural, historical, legal or physical circumstances prevent this and overall there is a clear public gain.

If not defined historically, the width normally acceptable for routes subject to orders will be 2 metres for footpaths, 3.0 metres for unenclosed bridleways, 4.0 metres for enclosed bridleways and 5.0 metres for restricted byways. Greater widths may be required in some circumstances.

If the route to be created is unenclosed then this will become a condition of the order itself.

Nothing in this policy is intended to prevent the Council promoting a Public Path Order where it considers it appropriate to do so in the public interest.

The Council will make a full charge for the recovery of its costs from the applicant unless: -

- The order resolves a Definitive Map issue.
- The application results in significant additional rights for the public and for priorities identified within the Countryside Access Strategy.
- The order will resolve a Health and Safety issue on the network.
- The route is affected by longstanding development, undertaken when the County Council was the planning authority.

In these instances, costs will be proportioned according to the individual circumstances.

## References

Shropshire’s Great Outdoors Strategy 2018-2028

**Approval and Review**

This Policy Statement was approved by Council on xxxxxxxx.

The introduction of the ‘right to apply’ for a Public Path Order will take affect when the relevant parts of the Deregulation Act 2015 are commenced and this policy will be reviewed accordingly.

In any event this Policy Statement will be reviewed a minimum of every five years, the next review occurring in xxxxxx.

**POLICY STATEMENT 10**

**Planning and Public Rights of Way**

The granting of planning permission does not entitle developers to obstruct a Public Right of Way. Development that affects a Right of Way should not be started, and the Right of Way should be kept open for public use, until the necessary order has been made, confirmed and brought into effect.

Permission from Shropshire Council is required for any change to the surface of a Public Right of Way. If a change to, or a closure of, a right of way is needed to enable development to be carried out, then there are two types of legal order which apply;

- **Temporary Traffic Regulation Order.** If it is not possible to maintain public access along the Public Right of Way at all times whilst building works take place, the applicant should apply for a temporary closure of the route.
- **Diversion or Stopping Up Order under the Town and Country Planning Act 1990** (processed by the planning authority (for footpaths and bridleways and restricted byways) or Secretary of State (Byways Open to all Traffic).

**Policy Statement**

- Ensure that in accordance with DEFRA’s Rights of Way Circular 1/09 the Council will try to avoid the use of estate roads wherever possible for the alignment of Public Rights of Way and preference is given to the use of made up routes through landscaped or open space areas away from vehicular traffic.
- Where it is proposed to use a section of an existing public right of way as the main vehicular access to a new development, that section of public right of way would need:
  1. To either be legally diverted to another alignment where private vehicular access will not have an adverse effect on the public highway, or
  2. To be built to adoptable standards (advice should be sought from Shropshire Council) and offered to the Council for adoption, at the developer’s expense.
- Ensure key link routes are protected or replaced with equally commodious or better

alternatives.

- Make sure that route connections and their replacements are protected in terms of safety, directness, attractiveness and convenience.
- Ensure that the local network connectivity is improved to accommodate the travel needs of new developments.
- Ensure that where a Formal application has been received under the provisions of the Wildlife and Countryside Act 1981, the developer will be advised to treat the route as if it was a public right of way and incorporate it into the development.
- Should the development be altered after initial consultation with this department then further consultation should be undertaken prior to a decision being made on the planning application.
- Make a full charge for the recovery of its costs from the applicant unless Shropshire were the planning authority at the time planning permission was granted and the obstruction occurred.

**The following conditions will apply to new Public Path Orders made under the Town and Country Planning Act 1990.**

If a route is to be diverted onto land in different ownership then the applicant must obtain written consent from the landowner affected and must also agree to pay any compensation required as a result of the proposal.

Orders will not be confirmed until all necessary works are undertaken to Council standards.

The width normally acceptable for routes subject to orders will be, 2.0 metres for footpaths, 3.0 metres for unenclosed bridleways, 4.0 metres for enclosed bridleways and 5.0 metres for restricted byways if not defined historically.

If the route to be created is unenclosed then this will become a condition of the order itself.

Nothing in this policy is intended to prevent the Council promoting a Public Path Order where it considers it appropriate to do so in the public interest.

**References**

Shropshire's Great Outdoors Strategy 2018-2028

National Planning Policy Framework(NPPF).

Site Allocations and Management of Development (SAMDev) Plan

Shropshire Council Development Framework Adopted Core Strategy March 2011(Existing Policy)

**Approval and Review**

This Policy Statement was approved by Council on xxxxxxxx

This Policy Statement will be reviewed a minimum of every five years, the next review occurring in xxxxxx.

## **POLICY STATEMENT 11**

### **Country Parks & Heritage Sites Management Policy**

Shropshire Council will manage its Country Parks and Heritage Sites to ensure safe public access. Where possible we will facilitate the conservation of natural and cultural heritage and work in partnership to encourage and promote active engagement with these special places.

The purpose of this policy statement is to outline the Council's statutory responsibility in providing public access to its Country Parks & Heritage Sites and how it will meet these responsibilities through a set of management standards

#### **The legislation**

##### **The Occupier's Liability Act 1957**

This Act imposes upon the occupier a common law duty of care. Therefore, the Council, as landowner/occupier must take such care 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.

##### **Wildlife & Countryside Act 1981**

Section 28G of the Act place a duty on the Council to help achieve the conservation and enhancement of any Site of Special Scientific Interest (SSSI) that it owns and manages. The legislation also protects individual species, the places they use for shelter and protection, as well as safeguarding all birds, their nests and eggs on all sites managed by the Council.

##### **Open Space Act 1906**

A local authority who have acquired any estate or maintenance interest in or control over any open space under this Act shall maintain and keep the open space in a good and decent state with a view to, the enjoyment thereof by the public as an open space.

##### **The Equality Act 2010**

The Council is required under the Equality Act 2010 to comply with the Public Sector Equality Duty. This may be described as the duty on a public authority, when carrying out its functions, to have what is called due regard to three equality aims. These equality aims are:

- eliminating discrimination, harassment and victimisation;
- advancing equality of opportunity; and
- fostering good relations.

##### **Mines and Quarries Act, 1954**

Under the Mines and Quarries Act, 1954, the landowners and managers have a responsibility to prevent people accidentally falling into the disused quarries.

##### **Reservoir Act 1975**

A "reservoir" means a "large raised reservoir" if it is designed to hold, or capable of holding, more than 25,000 cubic metres of water above that level. The Reservoir Act imposes duty to monitor and maintain dam walls of artificially created water bodies on sites.

The Council will: -

- Maintain its Country Parks & Heritage Sites within the resources available, prioritising public safety and any legal requirements first and foremost.
- Undertake routine H&S inspections at each site and maintain its Country Parks & Heritage Sites through a set of identified management standards, set out in the Management Standards for Country Parks & Heritage Sites document.
- Provide management plans with identified actions to deliver improvements, within the resources available, to its Country Parks & Heritage Sites.
- Not allow unauthorised/illegal cycling or motor vehicle use on any of its sites.
- Support volunteering on its Country Parks & Heritage Sites adhering to the Outdoor Partnership Volunteer Policy.
- Work to ensure that everyone has an equal opportunity to access the Councils Country Parks & Heritage Sites and to take due account of relevant legislation relating to disability.
- Assess requests to use metal detectors on its Country Parks & Heritage Sites on a case by case basis. Permission must be sought from the Council before using a metal detector on site.

Management Standards for Shropshire Council owned and managed Country Parks and Heritage Sites are available separately.

### References

Equalities Act 2010

Shropshire's Great Outdoors Strategy 2018-2028

Shropshire Council Management Standards for Country Parks & Heritage Sites 2018

Outdoor Partnership's Volunteering Policy 2018

Country Parks & Heritage Sites Drone & Model Aircraft Policy 2018

### Approval and Review

This Policy Statement was approved by Council on xxxxxxxx

This Policy Statement will be reviewed a minimum of every five years, the next review occurring in xxxxxxxx

## **POLICY STATEMENT 12**

### **Private and Public Rights of Way**

A public right of way in the form of a footpath, bridleway, restricted byway, byway open to all vehicular traffic or a public road is a right that can be used by all members of the public.

A private right of way, however, is a right given to a particular individual or group of individuals to gain access over a piece of land or property. A private right may exist on the same line as a public right but generally private rights of way exist separately.

Disputes over private rights of way are matters to be resolved between the parties themselves by reference to deeds and historical and current usage. It may be necessary to seek the professional guidance of a Solicitor or Surveyor, or to refer to the Citizens Advice Bureau. Local Authorities are not involved in such disputes unless they have an interest in the disputed right of way, and are not able to give advice about where private rights exist.

Public rights of way do not in any way affect private rights of access that may exist over that land for landowners and householders. These rights should be mentioned in the deeds of the land in question. Some ways can carry both public and private rights; e.g. a farm access road may also be a public footpath. Private rights must not be exercised in any way as to interfere with the rights of the public.

In addition, The Outdoor Partnerships Team at Shropshire Council sometimes get asked to be involved with issues with Rights of Way, that are caused by disputes between neighbours. We will only get involved with these situations where the dispute is impacting directly on the Public Right of Way and/ or the public's enjoyment of the Right of Way. We will not get involved if the issue regards private access rights and is not impacting on the public.

The public do not have the right to use a metal detector on a Public Right of Way and permission to do so must be granted by the landowner.

#### **Policy Statement**

The Council:

- Recognises the legitimate right of private access along Public Rights of Way.
- Recognises that private vehicular rights can have an impact on other people's enjoyment of the countryside, and can damage the surface of the Rights of Way for other users.
- Is not responsible to maintain the surface of the Public Right of Way for private use.
- Where the Right of Way has been damaged by private vehicular use, it will be the responsibility of those with private vehicular rights to repair the damage to an agreed standard.

## References

Shropshire's Great Outdoors Strategy 2018-2028

## Approval and Review

This Policy Statement was approved by Council on xxxxxxxxx

This Policy Statement will be reviewed a minimum of every five years, the next review occurring in xxxxxxxxx

## POLICY STATEMENT 13

### Drone & Model Aircraft Policy

Shropshire Council will not allow any aerial activity from drones or model aircraft above its Country Parks & Heritage Sites, unless specific permission is granted.

The purpose of this policy statement is to outline the Council's stance on drone and model aircraft use, on or over its Country Parks & Heritage Sites. Exemptions will only be granted, where usage of drone device aids risk reduction in the work place i.e. working at height, building survey work or to undertake a professional service, i.e. Festivals, Events Media & Habitat Monitoring.

#### The reasons behind our policy not to allow drone or model aircraft use is:

- The presence of drones and model aircraft can impinge on the quiet enjoyment of our parks & sites by other visitors and therefore potentially presents a public nuisance risk.
- The Civil Aviation Authority regulations state that drones should not be flown above or near to people. Unauthorised drone flying is illegal.
- Potential risk of accident, injury to other site users or property because of user or drone error.
- The proximity of some of our sites to neighbouring residential and business properties and the potential risk of causing alarm, distress or harassment to occupants.
- Many drones now have cameras attached and these could infringe data protection laws (filming people without permission).
- Some sites may have wildlife or agricultural animals, or animals which are sensitive to disturbance, such as birds and deer herds, which could be alarmed or stressed by the presence of drones and model aircraft, especially at breeding times.
- Few non-commercial users have the correct training or permission from the Civil Aviation Authority to operate drones.
- If a drone causes damage or harm, pilots generally do not have the correct insurances, or level of insurances, to adequately compensate those affected. Therefore, granting permission could leave the Council liable for subsequent actions brought about by drone and model aircraft activity when operated from land under our ownership.

## Park Enforcement & Bylaws

If person/persons are found to be using a drone or model aircraft device from Shropshire Council land without permission, they will be requested to stop immediately. If the user refuses to stop, the Police will be called to attend to cease activity and remove the user from Shropshire Council land.

## Granting Permission to Contractors

We do occasionally grant permission for the use of drones if there is a benefit in doing so. Such occasions could include roof inspections or wildlife surveys. However, in such cases we will specifically commission the work and the selection of contractor, their competence (they must be a registered commercial operator with the CAA) and the level and type of their insurance is carefully vetted.

We may grant permission for drone-related commercial filming in certain circumstances. In general terms, the production company must follow the same competency and insurance rules as those required for contractors.

## References

Civil Aviation Authority policy CAP 3939 Air Navigation:

- Article 166 Small unmanned aircraft
- Article 167 Small unmanned surveillance aircraft

Air Navigation Order 2009 [www.caa.co.uk](http://www.caa.co.uk),

Relevant Park Byelaws

## Approval and Review

This Policy Statement was approved by Council on xxxxxxxx

This Policy Statement will be reviewed a minimum of every five years, the next review occurring in xxxxxxxx