

Open for Business?"

**An Investigation into Access to the
Countryside in County Durham**

EXECUTIVE SUMMARY



Report of the Scrutiny Working Group

**Scrutiny Sub-Committee for
Looking After the Environment**

19 June 2006



Making a difference where you live

Foreword



The beautiful countryside of County Durham is one of our greatest assets. From the high, unspoiled moorland of west Durham to our rapidly improving coastline, we have a diverse countryside and range of habitats which act as reservoirs for rare flora and fauna and whose importance is recognised nationally.

Much of the upland areas in the west of the County are registered common land. This is land of some antiquity, which, whilst privately owned, is subject to rights of common (primarily grazing of sheep), exercised by the farmers and smallholders who live locally. Until comparatively recently, apart from a few small areas of land, there was no public access, other than where commons were crossed by public rights of way.

The changes brought about by the Countryside and Rights of Way Act 2000 have seen common land opened up for public access (subject to certain restrictions). Given the vast areas of common land in County Durham, this represents a significant increase in the amount of land that both local people and visitors to our County will have for access and recreational use.

Whilst many areas of common land are already crossed by public rights of way, there are new opportunities for access to be improved and promoted, particularly in relation to further developing the tourism potential of the County. Our public rights of way also need to be fit for purpose and easy to use. The recent Access to the Durham Coast Scrutiny Project highlighted the value of our countryside for improving the health and well being of local people and this applies equally well to countryside elsewhere in the County as it does to East Durham.

The recommendations of the Working Group seek to provide more focus to the role of the County Council in promoting access to the countryside and rights of way and to set an example to other landowners in relation to access issues.

I am grateful to all of those witnesses who came along to give evidence or took the time to submit written evidence to the Working Group; members of the Working Group themselves, and to the officers who supported us in our work.

Councillor Trevor Carroll
Chairman of the Working Group

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Executive Summary and Recommendations

Background to the Project

- 1.1 The Council's Strategic Vision seeks to promote an enhanced environment in County Durham, with sustainability embedded in community life. It also seeks to promote our nationally important landscapes and wildlife and encourage increased tourism. The Council's Medium Term Priorities for Improvement, 2005/06 to 2007/08 included a priority for improving the quality of the environment in many of the County's towns and villages. **One of the key outcomes of this is improved access to and enjoyment of the countryside.**
- 1.2 The changes brought about by the Countryside and Rights of Way Act 2000 have substantially increased the area of land in the County to which the public have access for open-air recreation. This is likely to bring with it new duties and responsibilities which the Council needs to address. It was for these reasons that a scrutiny investigation of access to the County Durham countryside was undertaken. This is a summary of the issues which have arisen during the course of this scrutiny project. The full report contains extensive evidence and data upon which this assessment and recommendations are based.

Terms of Reference

- 1.3 The Terms of Reference of the Working Group were:

To carry out an investigation into access to the countryside in County Durham, including the impact of the Countryside and Rights of Way Act 2000, with a view to considering:

- The opportunities and implications of public access
- How the rights of way network is being improved to meet current and projected needs

and to make recommendations about improving the quality of the environment in the County and providing increased benefits for both local inhabitants and visitors.



- 1.4 There are 3436 kilometres of public rights of way in County Durham. Footpaths, bridleways and byways are highways in law and the County Council has similar statutory duties as for metalled highways. Most rights of way are over private land and the landowner also has responsibilities. The Countryside and Rights of Way Act 2000 has introduced public access to land mapped by the Countryside Agency as open country and registered common land. Open access commenced in County Durham in May 2005, with over 20% of County Durham registered as access land. This is the second highest percentage in England and Wales. The County Council's role is to manage open access, with the Countryside Agency being responsible for imposing restrictions and managing the grant system. The County Council also manages 110 kilometres of railway paths, country parks and picnic sites and also organises a programme of guided walks.
- 1.5 The work of the Council in relation to access and rights of way has grown steadily over the years. In the past, the County Council had a Strategy for access and rights of way. Work was also guided by the Milestones Initiative, which was funded by the Countryside Commission and included issues such as promotion of rights of way. In recent years there has been no specific Strategy, the Council's approach in relation to access and rights of way being guided by the Council's Priorities for Improvement and Service Business and Operational Plans. The 2000 Act will require a Rights of Way Improvement Plan (ROWIP) to be developed by the end of 2007.
- 1.6 During the course of the project, the Working Group heard about the social and economic benefits afforded by the rights of way network and in particular the way that access to the countryside can be promoted in relation to health and tourism. Given the state of health of local people in some areas of the County (such as Easington and Derwentside), the opportunities available for improving health by promoting better access to and recreational use of the countryside cannot be overlooked. The development of longer routes will also help to build tourism in the County.
- 1.7 A number of responses were received from user groups and Parish Councils arising from the consultation process. These fell within the following main areas and have been incorporated into the Working Group's recommendations as issues to be considered in preparation of the ROWIP:
- Publicity, promotion and information about routes
 - Maintenance of rights of way
 - Development of longer linear and shorter circular routes
 - Improved access for the disabled to the countryside and development of routes to promote better health
 - Better way marking
- 1.8 The Working Group believes that the production of the ROWIP will provide opportunities for development of a clear Strategy to guide the future direction of the Access and Rights of Way function. However, there should be a clear focus in the ROWIP (and any Strategy) to ensure that the Council's core statutory functions are met as a priority. The key recommendations are grouped around a number of themes:

- **Strategic Direction/Rights of Way Improvement Plan**
- **Dedication of Land**
- **The Definitive Map**
- **Other Issues**
- **Review**

STRATEGIC DIRECTION

RECOMMENDATION 1 - RIGHTS OF WAY IMPROVEMENT PLAN

1.9 The Rights of Way Improvement Plan (ROWIP) should be delivered, at the very minimum, within relevant statutory timescales (by the end of 2007) and should take into account the key issues highlighted below.

1.10 The ROWIP should provide the basis for development of an overall Strategy in relation to Access to the Countryside and Rights of Way issues to assist in clarifying the priorities of the Council and focusing the use of current resources (including reviewing the effectiveness of the existing roles of rights of way staff). There is currently no overall Strategy for the Council in this area. **A continuing focus on delivering the core statutory role of the Council in relation to access and rights of way issues is needed in any ROWIP/Strategy.** In particular, the following guidelines for development of the ROWIP/Strategy are suggested:

Publicity, promotion and information about routes

1.11 **A clear marketing strategy for promoting and publicising access and rights of way issues in County Durham needs to be developed.**

1.12 The Council needs to consider how it can better publicise and promote access to the Countryside. In developing any marketing strategy, the following issues should be considered:

- What are we doing? Should we be doing it, and if so, what is the target audience? (The nature and extent to which the Council will promote and publicise access and rights of way)
- The Council's role in promoting access and rights of way in schools
- The Council's role in promoting access and rights of way to older people
- The Council's role in promoting access and rights of way for health
- Accessibility to promotional material by those with disabilities and the need for literature to include suitable information for the disabled
- Any opportunities afforded by the opening up of Durham's countryside under the Countryside and Rights of Way Act 2000
- Potential tourism issues should be explored with the Area Tourism Partnership
- How value for money in the production of publicity/promotional material can be achieved
- The opportunities for involvement of other organisations (public and private) in the production of publicity material (such as in the case of the Easington PCT Get Active initiative)

- How greater use of the local press, free press, Countywide, District and Parish Council and other interest or user group newsletters to publicise specific walking/cycling routes or initiatives can be employed
- How Member Area Panels are accessed as a means of disseminating information about new initiatives (this may also be helpful in terms of leveraging increased financial support from local members “pots”)
- If promotional material about bus services and access points to rights of way (taking advantage of the introduction of free travel for the over 60’s) should be produced
- How we can differentiate in publicity/promotional material the roles of other agencies with responsibilities (Such as Sustrans)
- How closer links with the many groups that exist at local level can be developed
- Distribution arrangements for promotional material and an assessment of their effectiveness.

Maintenance and Way Marking of Rights of Way

1.13 The Council needs to consider how effectively its budget for maintenance and way marking is being applied

1.14 Obstructed and overgrown footpaths, are disincentives to public use and were a recurring theme throughout the project. Whilst performance of the Council in relation to maintenance (BVPI 178) is improving, we could do better. In considering these issues the Working Group recommends that:

- (a) Opportunities for sponsorship of routes by the private sector, or other public bodies should be explored. The re-focusing of provision on the adopt a path or Parish Path Partnership Schemes should also be considered, at the earliest possible opportunity (not just as part of the ROWIP). An increased focus of resources on the Parish Path Partnership Scheme (which is currently oversubscribed) might lever in additional non County Council monies for maintenance and improvements. Better promotion of rights of way issues amongst the many local groups that exist throughout the County might also encourage greater participation and support.
- (b) There are already some arrangements for maintenance to be undertaken by volunteers. There may be scope for maintenance to be undertaken by other groups - i.e. as part of the restorative justice system, by people who have committed offences in their local communities. Approaches should be made to the Probation Service and Youth Engagement Service to explore whether such opportunities exist.
- (c) The existing mechanisms for reporting overgrown or obstructed rights of way should be reviewed. Consideration might be given to extending the remit of the Highways Action Line (HAL) for this purpose, the use of which appears currently to be restricted to roads, street lights, traffic signs and traffic lights.

Priorities and Value for money issues

- 1.15 **The ROWIP/Strategy needs to bring greater clarity about those rights of way to which the Council will devote the greatest resources.**
- 1.16 Prioritisation and direction of resources currently takes place based on usage, but additional criteria should be considered, such as the health, tourism and regeneration opportunities of rights of way. There should also be an assessment of whether more focused application of resources could be applied, in defined geographical areas, to much greater impact for “quick wins.” There should also be consideration of how the network can be rationalised.

Other Rights of Way Improvement Plan Issues

- 1.17 **A number of other issues were raised during the project, which members of the Working Group believe are best dealt with in preparation of the Rights of Way Improvement Plan. These are set out below, together with the Working Group’s comments.**

Development of longer linear and shorter circular routes

- (a) Development of both longer linear, and shorter circular routes, is key to realising both the tourism and health potential of rights of way in County Durham. In drawing up the Plan, the Council should engage at an early stage with the new County Durham PCT and the Area Tourism Partnership.

Improved Access for the Disabled to the Countryside

- (b) Improving access to the countryside means improving access for everyone, including those with disabilities. The Plan should be about how provision for people with disabilities will be achieved. The Plan should also address equalities and diversity issues. Consultation with representative groups should be undertaken as part of this process and the Countryside Agency’s Diversity Action Plan (December 2005) which is currently being consulted upon by Defra should inform this aspect of the Rights of Way Plan.

Access and Rights of Way as a means of Improving Health

- (c) Given that County Durham has some of the most deprived communities nationally in terms of health indicators, the Rights of Way Improvement Plan should pay particular attention to how the network can be developed to provide greater opportunity and encouragement for local people to access walking and cycling routes and should be informed by consultation with the PCT.

Funding for future routes which are not in the Rights of Way Improvement Plan

- (d) The funding for future routes not in the Rights of Way Improvement Plan (ROWIP) (primarily recreational routes) is an issue which Cabinet will need to consider as part of the future budget process.

Role of the Local Access Forum

- (e) The Access Forum has an important role to play in advising the Council about ROWIP and other access issues. There should be greater clarity of process about how the views of the Local Access Forum are presented to and considered by the Council.

RECOMMENDATION 2 - DEDICATION OF LAND

- 1.18 Cabinet should consider whether there would be any benefits in dedicating land in its ownership for public access under the Countryside and Rights of Way Act, 2000.**

- 1.19 Section 16 of the Countryside and Rights of Way Act 2000 allows landowners to dedicate areas of their land permanently and irrevocably, for public access on foot. Dedicated land is subject to the same provisions as other access land designated by the CRoW Act. The Forestry Commission has pledged to dedicate all its freehold forests. Dedication will completely remove the occupier's legal liability towards anyone for any injury sustained on the land that is either caused by the presence of natural features of the land or by someone crossing any wall, fence or gate in any way other than by proper use of a gate or a stile. Liability for other users is also lowered.
- 1.20 Potential dedication of land would need careful evaluation, given the need for the Council to best manage and realise its assets, but there may be some areas of land which are currently subject to de facto public access which might be considered for dedication. This would set an example to other landowners. Dedication could also potentially allow some leveraging in of funding from the Countryside Agency.

RECOMMENDATION 3 – THE DEFINITIVE MAP

- 1.21 The backlog of modification orders needs to be tackled and the timescale for determining other types of orders needs to be improved.**

- 1.22 Although Definitive Map issues will be considered as part of the ROWIP process, the Working Group believes that action is needed to tackle order backlogs at an earlier stage. There is a backlog of applications for modifications to the definitive map in relation to claimed routes. This takes up

a substantial amount of rights of way officer time in research and evidence gathering. There is a need to consider how the backlogs can be reduced more quickly, so that the routes can be added to definitive map.

- 1.23 It is recognised that resources are limited, but consideration should be given to more innovative ways of addressing these backlogs, both in the short term, and in the longer term as part of the wider consideration of the existing role of rights of way officers which should follow from the ROWIP/Strategy.

RECOMMENDATION 4 – OTHER ISSUES

- 1.24 **There were a number of other issues raised in evidence, set out in more detail below, including disincentives to usage of rights of way, legal costs, the role of the Local Access Forum, recognising the work of our volunteers, signage of access land, and charging for orders, which require consideration.**

- 1.25 The Group recommends that:

- (a) The Corporate Director, Environment, should consider with the Council's partners what actions might be pursued to tackle the disincentives to use of rights of way (especially at access points) arising from fly tipping, litter, graffiti and anti-social behaviour, with particular emphasis on addressing fly tipping issues.
- (b) The Corporate Director, Environment needs to consider the financial position in relation to contested rights of way orders. Currently, there is no specific provision (or contingency) in the Countryside budget to cover the costs of legal representation at those Public Inquiries, which are held when Rights of Way orders are opposed and the objectors appoint counsel. These costs fall to be borne by the countryside budget and impact on other aspects of Access and Rights of Way work.
- (c) The Local Access Forum should be encouraged to engage with the Area Tourism Partnership and develop its role within the Partnership.
- (d) The Corporate Director, Environment, should consider how the valuable work undertaken by Parish Councils and local volunteers can be recognised, perhaps by an annual award which celebrates commitment and achievement.
- (e) The Countryside Agency should be asked to consider the existing complex signage arrangements in relation to access land to reduce confusion on the part of the public wishing to use such land.
- (f) The Corporate Director for Environment, should review the scale of charges currently made to applicants for diversion or stopping up orders to ensure that charges reflect the true costs of making the orders, bearing in mind the benefits that may accrue to the applicants on confirmation of the orders.

RECOMMENDATION 5 – REVIEW

1.26 **A review of the recommendations in the report should be conducted, six months after its consideration by Cabinet.**

