Advice on

Diverting a public bridleway or byway

The British Horse Society

The law and management of public access rights vary widely between the four countries of the United Kingdom. Practical elements of the following advice apply in all of them but the legal requirements in Scotland and Northern Ireland differ from those in England and Wales.

More advice is available on www.bhs.org.uk/accessadvice.

IMPORTANT This guidance is general and does not aim to cover every variation in circumstances. Where it is being relied upon, The Society strongly recommends seeking its advice specific to the site.

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It may become necessary or advisable to divert a public right of way from its original line for a variety of reasons and the Society accepts that its broad recommendations here may not be appropriate in all circumstances. The Society strongly advises consulting it prior to an order being made to establish what may be acceptable.

BHS policy

Where it is proposed to divert a bridleway or byway, the policy of the Society is that:

1. The reasons for proposing a diversion should be cogent and, if for reasons such as safety or security, based on evidence.

2. The proposed new route should be at least as safe, commodious and convenient for equestrians as the original.

3. The proposed route should be carefully chosen in respect of resilience and need for maintenance but must avoid surfaces detrimental to use with horses such as tarmac or concrete.

4. Where a right of way has historical value and is a landscape or heritage feature, careful consideration should be applied to the need to divert, especially if it is resilient to use.

5. The Width and enclosure of the new route should be stated in the order and should generally be at least four metres, excepting pinch points and bridges or fords.

6. The gradient, crossfall, drainage and surface of a route are as important as its width. None of these factors should disadvantage equestrians more than the current route (see Gradient and crossfall) and should seek to be an improvement.

7. The Society opposes attempts to divert public rights of way along roads as this is an extinguishment and loss of a segregated way for all non-motorised users. A diversion to a private road, e.g. farm access road, will be considered on individual merit dependent on the level of motorised use and quality of the current route (see Vehicular tracks).

8. The Society is not, in principle, against the diversion of a right of way on to the headland of a field if the new route is consistent with the preceding points, detail below.

9. The Society is not, in principle, against diversions that are somewhat longer than the original way and will consider cases on their merits.

10. The Society strongly supports use of the Rights of Way Review Committee's Practice Guidance Note 1[1] which recommends that councils always consult user bodies before making orders to change public rights of way. Discussion between interested parties should focus on the best way of ensuring that the right of the public to the use and enjoyment of the way will be maintained.

Width and enclosure

Two pedestrians passing shoulder to shoulder need almost two metres of space at shoulder height. Two riders are likely to need at least three metres to pass because the body of the horse plus riders' legs take up a far greater width than at ground level; two horsedrawn vehicles are likely to need more than four metres. Therefore, for the comfort and safety of all users passing other horses, pedestrians, children, dogs or cyclists the width available over a sound surface all year round should be more than three metres for

[1] Produced by the Rights of Way Review Committee, a non-statutory group of all interests concerned with public rights of way bhsaccess.org.uk/uploads/RWRCpgn1.pdf

a bridleway and four metres for a byway where the route will not be fenced. Four metres for a bridleway and five metres is strongly recommended where there is no guarantee that a diverted route will not be fenced in future.

A width greater than three metres for a bridleway or greater than four metres for a byway should be considered when the level of use is such that users are likely to meet others frequently, to ensure that all users can do so comfortably.

Where a way is enclosed by fences, walls, hedges, rising banks or revetments the risk of being snagged or scraped by the structure or vegetation can prevent comfortable use of the full width of the path or track. Similarly, users will avoid going to the edge of ditches or drops. Where a way is enclosed, an additional half metre should be allowed adjacent to the boundary (i.e. at least four metres wide for a track with a physical boundary on both sides).

A width greater than four metres should be considered where a route is likely to be used by cyclists at speed so that they can be segregated from pedestrians and riders.

This recommendation applies to diversions only. Where a new bridleway or restricted byway is created which will mean equestrians can avoid motor traffic, a lesser width may be accepted if users can give way or use passing places.

Gradient and crossfall

The fact that some old bridleways and byways are steep does not mean that a diversion onto a steep route is acceptable if it is steeper than the current route. However, much depends on the nature of the surface and the terrain, whether the route crosses the contours diagonally or is perpendicular and other merits of the proposal which will be specific to the case.

A cross gradient or crossfall on any way may become ridged, eroded or slumped and can be slippery depending on the nature of the vegetation and surface, as well as being generally very uncomfortable for any user, including horses. Generally, there should be no more than 10% crossfall (300mm over 3m, 1:10) for a diversion of a route used by horses (however, wheelchair users will require no more than 2.5%).

Unless there is bedrock, it should be possible to reduce crossfall by digging into the slope to create a ledge but this may need to be embanked to prevent slumping and loss of width of the way over time.

Development and asphalt

Change of use may have an effect beyond the boundary of the development. Action may be required to ensure that the full width of the diverted way will be protected; that vehicles will not be parked, that it will not be ‘gardened’ or affected by domestic

encumbrances such as washing lines or log piles, or used for storage of materials or equipment.

Bridleways and byways should be retained, on a diverted line if appropriate, through developments to create a pleasant route free from motor traffic for all non-motorised users. Motor-free routes have many benefits to society and the environment in facilitating non-motorised travel, exercise and well being and should be an opportunity to improve local well-being. Horses should not be excluded as, while few will commute with a horse, many equestrians undertake utility journeys and, it is recognised that many 'active travel' journeys on foot or cycle will be for exercise or recreation, so equestrians should not be excluded on the grounds that their utility journeys are less common.[2]

Bridleways and byways commonly end up being surfaced with asphalt as part of the development, if they have been retained. This is unacceptable where the current surface is unsealed. Any kind of asphalt (tarmac) is far from ideal for horses, which may slip and suffer concussion, just as pedestrians. Asphalt is also non-porous so is subject to puddling and ice, and dung does not easily wash away as it would on a porous surface. Bound rubber-crumb surfacing is comparable in cost, gives a much more forgiving surface for pedestrians and horses but is equivalent to tarmac for any wheeled user; it can appear like tarmac but is porous so not subject to puddling or ice or heat, and flexes with tree root growth so likely to be longer lived. It has

Asphalt immediately changes the nature of the route and may generate problems for any user from use of mechanical or electrically propelled vehicles at threatening speeds. Expectations also change with demand for barriers, drainage, leaf or ice clearance and protection from motorised users, often to the disadvantage of legitimate users, creating many issues for both the authority and users, particularly equestrians who are usually the most disadvantaged.

The argument is often employed that horses use roads, therefore yet more asphalt is acceptable. This ignores the fact that use of roads is only because there are no alternatives and that most horses slip or suffer injury on road surfaces, or are constrained to a cautious walk, so the majority of equestrians are likely to much prefer unsurfaced routes so long as the surface is well-drained and free from mud, loose stones or other hazards.

Cycle routes

Promotion of cycling is turning many bridleways and byways into cycle routes, often with severe detriment to riders and carriage-drivers. Hard surfacing of tracks makes them unpleasant for horses and enables cycling at speed which can be antisocial and dangerous for pedestrians, children and users with limited agility or vision as well as equestrians

[2] See BHS Advice on Active Travel

because it tends to give the vehicular user the impression that they have priority, however, clear signs and strong indicators of shared equal use can help manage expectations. The Society will generally oppose hard surfacing of bridleways and byways which are currently sustainable without a sealed surface. Discouraging antisocial use of a bridleway or byway should be considered in all diversions and developments. The Society promotes sharing and consideration between all users of public rights of way.

Vehicular tracks

The Society generally discourages diversion onto a vehicular track which is an access to a business or home, because security may become an issue in future and insurers could require locked gates which are not compatible with the public right of way. Traffic may increase if use of the property changes and could conflict with public use.

Where there is a wish to divert onto a hard surface track with vehicular access, particularly if vehicles may be travelling above ten miles an hour or with more vehicle movements than one an hour, then it may be sensible to provide a two metre wide verge throughout for the users of the public bridleway or byway as refuge from vehicles, or frequent passing places in which motorists can wait. It may be necessary to inform motorists that they should give way to users of the bridleway or byway.

Attention must be given to the surface to ensure it is non-slip for horses and free of loose stones. Consideration must be given to maintenance and to avoid the surface being tarmaced in future.

Width can become an issue with a bridleway or byway shared with private motor vehicular access if the route is fenced for any reason, usually leaving inadequate safe passing space. Any diversion to a route used with motor vehicles should be a minimum of five metres wide to allow for a safe width even if the route is corridor-fenced in future.

Cross-field to headland

A farmer may wish to divert a cross-field bridleway to the headland to remove the need to reinstate and clear a crop from it, or to divert a byway to facilitate use of the land. For users, cross-field bridleways have the inconvenience of being cultivated and possibly becoming difficult to use for short periods, especially on heavy clay soil, but headland bridleways (and byways) can become seriously overgrown from the surface or encroached upon by a spreading hedge, especially if the latter is on a long cutting cycle or of a suckering species such as blackthorn.

Headland ways are commonly encroached upon by cultivation or become badly rutted when used by machinery for turning or access. The Society will consider these factors and management proposals when consulted on a diversion to a headland. Width and maintenance commitments will be crucial to acceptance.

Maintenance

The proposed route must be resilient enough for the likely use. The ground must be sound enough in all seasons to withstand poaching. Overhanging trees, adjacent hedges and surface vegetation may present a maintenance problem if access is difficult or funding not available. If a route might be enclosed in future, the available width must be sufficient for access and maintenance.

Gates

The Society is likely to oppose diversion to a route that increases the number of gates to be negotiated. Even gates that are easy to use and well maintained are an inconvenience to an equestrian.

Any gates on a diverted route should meet the British Standard 5709, with adequate manoeuvring space and must be easily operable from horseback by all riders. The Society produces advice on gates and installation and will expect its recommendations to be met.

The number of gates will also be important as, no matter how well sited and maintained a gate may be, it still presents an inconvenience and a hazard to any user, far more so to an equestrian or cyclist than to a pedestrian. The number of gates within a length of path will therefore be a factor for considering a diversion, and the Society will encourage applicants to consider means of reducing the number of gates. This may include undertaking to ensure gates are tied open when not needed for livestock control.

Obstructions

The Society is generally supportive of highway authorities upholding a policy that, prior to to considering any diversion, all public rights of way on the holding should be in good order. Where there is a history of poor compliance with the law for keeping bridleways and byways clear and usable, the Society is likely to be more exacting in its requirements for a diversion to reduce the risk to users from such as poorly maintained gates or hedges.

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