

Report to:	TOURISM, ECONOMY AND COMMUNITIES SCRUTINY COMMITTEE
Relevant Officer:	John Blackledge, Director of Community and Environmental Services
Date of Meeting:	14 April 2021

PUBLIC RIGHT OF WAY UPDATE REPORT

1.0 Purpose of the report:

1.1 To review the difficulties in maintaining the 47 public rights of way in Blackpool and consider any additional scrutiny work to be undertaken.

2.0 Recommendation(s):

2.1 That the proposed annual survey, data collection and clearances proceed as planned.

2.2 That the Committee identify any further scrutiny work to be undertaken.

3.0 Reasons for recommendation(s):

3.1 In order to keep the public rights of way open and useable to the public, where resources and budgets allow.

3.2 Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

4.0 Other alternative options to be considered:

4.1 Not to proceed with data collection and necessary clearances would involve other public rights of way falling into disrepair and becoming unusable to the public.

5.0 Council priority:

5.1 The relevant Council priority is

- "The economy: Maximising growth and opportunity across Blackpool"
- "Communities: Creating stronger communities and increasing resilience"

6.0 Background information

6.1 Details of the number of pathways in Blackpool Council

There are 47 Public Rights of Way (PROW) footpaths within Blackpool, covering 12km.

6.2 **Detail of the number that are blocked or impassable**

The following footpaths have been identified as being 'unpassable'.

- Footpath 5 which has been blocked by residents in the area – they have been notified and if the footpath isn't opened up Highways will arrange for it to be opened after the 12 April, the notification date on the notice.
- Footpath 10 is not extinguished but closed due to antisocial behaviour (ASB) and remains gated under a public space protection order (PSPO).
- Footpath 11 is overgrown. Additionally, it has come to our attention that the caravan park security guards have been stopping people walking through the caravan park on the PROW. Recently, the caravan park appears to have fenced off the footpath further to the north. Additionally, there is heras fencing remaining from the development at the junction of Wheatlands Crescent which would also restrict the path if it were cleared. The Highways department commissioned Ecology Services consultants to independently assess the footpath. Amphibians, breeding birds, hedgehogs, reptiles and bats need to be considered in any future works. No works should be undertaken until such time amphibians have been fully considered. Damaging the habitat could be unlawful if great crested newt are present. Surveys of the nearby ponds would need to take place in April 2021.
- Footpath 40 has an alleged obstruction but may require the hedge to be cut back next to the dyke. More investigation required.
- Footpath 49 the PROW isn't thought to be blocked by the property, it runs where the hedge is. Landowner has been notified to cut back the hedge to allow passage by the 23 April.
- Footpath 59 has an overgrown hedge and is owned by Blackpool & Fylde college – they have been notified to clear the hedge and route.

6.3 **The ideal solution to rectify, including how much this would cost**

As there is no funding and no one in post, the ideal solution would be to hire a full time Rights of Way and Enforcement officer. However, the going rate for such a post ranges from £25k to £30k+ without on-costs.

On top of that a current estimate of works for the current state of the PROW is approx. £40k+. This presumes the Grounds Maintenance department have the people and time to undertake the works at the appropriate time of year.

The Highways department are working on a priority system for the PROW network. Some PROW may need little maintenance but others, such as some of those deemed unpassable, would require multiple incidences of planned maintenance annually. This would assist the Grounds Maintenance Department in determining which routes to undertake routine maintenance on to better enable them

to fit it into their busy seasonal schedule. The department is also working on informing land owners of their responsibilities annually and following up with enforcement action later in the year, if resources and funding are available.

Due to the lack of resources, it may be possible to recruit volunteers to assist in keeping the rights of way clear to pass. The time and costs implications of this are currently unknown.

6.4 **Details of challenges that exist**

The total budget requirements for all highway maintenance should be in the region of £5m. The actual budget is £1.5m so the council has to prioritise funding for maintenance in the right place at the right time and in priority order for risk management. There has never been any budget provided for the PROW, the total allocated funding is for all highway assets.

Although there is a statutory provision to maintain the PROW they would only be classified as low usage and attract an annual survey. PROW enquiries make up approx. 0.1 to 0.2% of all highways enquiries annually.

With no Rights of Way officer or Enforcement officer these issues are dealt with reactively by the department who's staff are working flat-out on other projects.

Operationally, the Highways department aren't best placed to undertake the PROW maintenance works. The Grounds Maintenance department would be a good fit for this, if they had the appropriate resources and could fit some of this into their busy schedule

The maintenance is seasonal. According to the Grounds Maintenance department, the *Wildlife and Countryside Act 1981* prevents them undertaking clearance works once nesting season occurs.

Anti social behaviour (ASB). A number of paths are subject to ASB. Whilst a path cannot be extinguished for ASB, they can be subject to a public space protection order (PSPO) for ASB. If there is evidence of ASB the Community Safety team in Public Protection can gate a PROW to close it, like they have done already with footpath 10. There was historic ASB on footpath 11, so to re-open the path would possibly see ASB return and risk the closure of the path via a PSPO. One solution, if the path can be cleared, would involve the installation of an approx. 100m fence from the junction of Kipling Dive / Wheatlands Crescent to the end of Wheatlands Crescent. This solution is currently uncoded.

6.5 **Current work being undertaken**

A number of signs (20+) have been ordered and will be installed on the Moss as highlighted in the report, and footpath 19 by Blackpool North Shore golf course on Devonshire Road.

A lot of these works are on private land, and as such the land owner should maintain the right of way in the first instance. If they don't the department can enforce. However, as mentioned previously, the department does not have any enforcement officers.

As we are now in nesting season, the Grounds Maintenance department aren't necessarily able to undertake works where there may be hedgerow or trees. Highways asked for an independent

assessment of footpath 11 in order to clear it in nesting season. Unfortunately, due to the possibility of amphibians at ground level we may not be able to do so until September. Therefore the recommendation for now is the footpath is temporarily diverted. The best diversion would be to redirect the access to footpath 11 on Preston New Road to Paddock Drive by approx. 58m. The path would run northwest up Paddock Drive and west along Kipling Drive to the Mere access on Kipling Drive next to Kipling Court. The other proposed diversion route through the caravan park would likely be rejected as they have recently signed a long lease with the Estates department. When Estates were asked if they could renegotiate the lease with the caravan park, it was suggested the request would likely be refused due to ASB issues within the grounds. Regarding diverting the path on a permanent basis, it should be noted that in April 2012, the Peak and Northern Footpath Society recommended that footpath 11 should be diverted, albeit through the caravan park. As this isn't likely to be an option due to the lease with the Estates department, Footpath 11 could be permanently diverted via a Definitive Map Modification Order to the proposed temporary diversion above, via Kipling Drive. The Highways department is awaiting confirmation of land ownership to pursue the temporary diversion.

The PROW are due to be resurveyed this year in more detail to obtain a more accurate picture of the assets condition and cost. This survey is annual.

6.6 **Current budget and possible funding opportunities**

There is no budget for public rights of way. Any reactive spend is diverted from the Highways Maintenance budget, meaning less is spent on the maintenance of roads and footpaths e.g. less potholes will be filled.

Members could elect to use their Ward Funding on these assets as they are valuable in terms of healthy lifestyles encouraging exercise for local residents.

7.0 Does the information submitted include any exempt information? **No**

8.0 **List of Appendices:**

8.1 Appendix 10(a) – Ecology Report on footpath 11
Appendix 10(b) – Proposed Diversion of footpath 11

9.0 **Financial considerations:**

9.1 There is currently no explicit budget for Public Rights of Way staff, inspections, surveys or maintenance.

10.0 **Legal considerations:**

10.1 Highways Act 1980, section 130. Wildlife and Countryside Act 1981. Anti-social Behaviour, Crime and Policing Act 2014.

11.0 **Risk management considerations:**

11.1 Ecological considerations and anti-social behaviour on certain routes.

12.0 Equalities considerations:

12.1 None

13.0 Sustainability, climate change and environmental considerations:

13.1 Potential ecological issues on Footpath 11, outlined in Appendix 10(a).

14.0 Internal/external consultation undertaken:

14.1 Independent ecological advice sought regarding nesting season and amphibians on Footpath 11.

15.0 Background papers:

15.1 None