

NORTH YORKSHIRE
LOCAL ACCESS FORUM

WEDNESDAY 29th FEBRUARY 2012

DEFRA GUIDANCE ON AUTHORISING STRUCTURES (GAPS, GATES &
STILES) ON RIGHTS OF WAY

1.0 PURPOSE OF THE REPORT

- 1.1 This report outlines the approach of the Rights of Way team to structures on public rights of way with reference to the DEFRA guidance published in 2010.

2.0 BACKGROUND

- 2.1 In October 2010 DEFRA published guidance on structures which deals with local authorities' obligations under the equalities act. (Appendix 1).
- 2.2 The Forum initially considered this guidance in draft form at its meeting of 25th February 2010.
- 2.3 The guidance identifies three main reasons for the lawful existence of structures on rights of way and highlights opportunities in each case to make improvements which meet the needs of people with disabilities, namely:
 - A right of way may have come into being with structures already on it (Recorded structures)
 - An authority may make an order to record a right of way, create a new right of way, or divert an existing right of way, and agree to such structures in making the order. (Path Orders)
 - In the case of a footpath or bridleway, such structures may be authorised later, where there is a need to control animals for agricultural reasons. (Authorisations)
- 2.4 This report will deal with the approach of North Yorkshire County Council to each of these scenarios.
- 2.5 Structures which are not lawful are dealt with under s143 Highways Act (1980).

3.0 APPROACH TO RECORDED STRUCTURES

- 3.1 Where structures are recorded on the Definitive Map & Statement as limitations they are treated as lawful – the landowner has the right to maintain the specified structure in the specified location.
- 3.2 Landowners are responsible for the maintenance of lawful structures, with the Highway Authority obliged to contribute a minimum of 25% of the cost (s146 Highways Act 1980).
- 3.3 NYCC currently offers landowners assistance of upto 100% of the cost where an upgrade of the recorded structure can be negotiated in accordance with the principal of least restrictive option (gap, gate, kissing gate, stile).
- 3.4 Current upgrade agreements of this nature are informal and structures are constructed in accordance with BS5709 (British Standard for gaps, gates and stiles) where reasonably practicable.
- 3.5 Upgrades are sought in all situations unless an assessment of the route identifies that an upgrade would not be reasonable.
- 3.6 Due to the varying level of detail in the Definitive Map & Statement across the county, there are structures in existence on the network which are not recorded on the definitive map and statement but which may have existed at the time of recording of the route.
- 3.6 Where there is evidence that structures existed at the time of recording, they are treated as authorised.

4.0 APPROACH TO PATH ORDERS

- 4.1 Any structures affecting routes which are being recorded, created or altered as a result of a public path order or definitive map modification order are recorded in the order as a limitation.
- 4.2 Where new structures are being added they are specified within the order limitations and must comply with BS5709.

5.0 APPROACH TO AUTHORISATIONS

- 5.1 A Highway authority may authorise additional structures on a right of way under s147 Highways Act (1980).
- 5.2 Where structures are requested under s147, the application will only be considered where the following tests are met:
- The applicant is the owner, lessee or occupier of the land
 - The land is agricultural or is being brought into use for agriculture
 - It is expedient that the structure is installed to prevent ingress and egress of animals
- 5.3 Applications are subject to assessment of the least restrictive option, stiles are not normally authorised.
- 5.4 Authorisations are given subject to the specification of the structure being agreed with the relevant officer, this will normally be compliant with BS5709 and applicants made aware of their duty to maintain the structure under s146 Highways Act (1980).
- 5.5 Where appropriate conditional authorisations are given, for example that gates are left open when not in use or removed when no longer required.
- 5.6 The guidance suggests that cattle grids are authorisable under s147 Highways Act, this point is currently under consideration.

6.0 STRUCTURES POLICY

- 6.1 A structures policy incorporating the approach set out here is currently in progress and will be brought to a future meeting for consultation.

7.0 INFORMATION ON LAWFUL STRUCTURES

- 7.1 The guidance recommends that information on lawful structures is made available to assist those with limited mobility to plan routes.
- 7.2 The feasibility of including details of known structures on the internet mapping service is currently being investigated.

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