

PLANNING SUB-GROUP REPORT ON RIGHTS OF WAY AND THE PLANNING PROCESS

INFORMATION

Under the two tier council system, Local Access Forum (LAF) involvement on matters of planning has been very ad-hoc, with some councils being quite pro-active and others very little contact with the LAF.

With the formation of a new unitary authority in April 2023, the opportunity has arisen to provide guidance from the LAF as to matters of public access that should/could be considered with planning applications.

INTENTION

The sub-group decided to look at

- What the current two tier structure looked like, in terms of planning
- How did this compare with other unitary authorities
- What advice was currently available to anyone submitting a planning application
- How they saw things working in the future

METHOD

The Two Tier structure for planning

The working group looked into how much liaison takes place between these three departments. In 2020, the then head of Countryside Access Services (CAS), found that contact with the various planning departments was very ad hoc, some Districts regularly contacting CAS but others not liaising at all with them. Referrals came in different forms. Ideally early contact by the planners means that NYCC Rights of Way team could explain a developer's role and responsibilities with regard to Rights of Way and work to best outcomes (how Rights of Way could be enhanced or linked into existing Rights of Way) at that planning stage.

The working group thought it would be useful to understand how things worked between the three departments and what the volume of work was under this two tier system. To that end, sets of questionnaires were prepared for Highways and CAS.

Highways returned their questionnaire (App A), a summary of which is below -

Highways do consider the PRoW network when looking at the sustainability of development in respect of walking, cycling, riding and public transport, in the main for commuting purposes, but also for wider public benefit, health, healthier lifestyle opportunities, etc. The Council is beginning preparation for a new county wide Local Plan. How this work will be delivered is still emerging, however the local Highway Authority will still be statutory consultee to the process and its work will be delivered in this context.

The Public Rights of Way Team is consulted by the local planning authorities on all planning applications, so it has the opportunity to engage in the process. The PRoW team should be engaged if a diversion is necessary, be it temporary or permanent. This is an advisory statement included in planning responses as it is covered by the Town and Country Planning Act 1990.

A unitary council will clearly bring opportunities for closer working. There are established relationships and processes operating in planning; however all parties are looking forward to working under one council structure and exploring the benefits it will bring in the future.

Unfortunately, CAS declined to answer the questionnaire (App B), as they felt the questions were of little relevance to the sub-group's report - Enquiries with the seven District Council planning departments revealed they dealt with access issues in different ways : some filtering applications before sending them to NYCC CAS, others sending the weekly list. The digital system used is called Uniform and is more or less standard for all seven districts. Any application involving a road is sent to the corresponding local highway team for developments under 80 houses. These local highway teams are split into policy/technical and maintenance staff, and it is the technical officer at that level who can consider connectivity for those without a car. Add-ons outside the actual site have to be made under sec 106 agreements and must relate to the site viability. The seven local highway teams also use a standardised communication and assessment system. Major developments- over 80 houses – or large commercial applications go to the county development control team and are allotted to a case officer by the team leader. It is within their power to consider enhancements for non-motorised using the Local Transport Plan or Active Travel ambitions for justification – but this seldom happens. Liaison with rights of way is weak and the needs of non-motorised users are often overlooked so there is scope for improvement here.

Currently, once with CAS, planning applications get filtered by an administrative team and then a technical team before they get to a rights of way officer in the patch to which they relate. At this point they have the opportunity to add comment and even network enhancement but in almost all case a pro forma response is then sent by the Paths Team back to the planners.

How Unitary Authorities deal with planning

Durham County Council is a unitary authority, which has developed a system which works very well. Their Access and Rights of Way Team Leader sits in on regular “Design Review Meetings” with planners, when a Right of Way runs through or near an application, looking for potential Rights of Way issues and ensures there is “add-on value” where possible and open space is suitable. Their planners use a trigger system, to alert the need to consult with the Rights of Way team. They also have a specialist planning officer who can offer advice on Rights of Way to applicants and is ‘access aware’. Because of this arrangement, their LAF are seldom involved in applications, unless there is a significant Rights of Way issue or it is a large development.

East Riding Council is another unitary authority, and enquiries revealed that their processes also seem to run smoothly and they don’t often refer things to their LAF. The JLAF themselves are currently reviewing their position on planning and what they get involved in.

Availability of current information

The working group has looked at what information is available on NYCC websites as well as District websites. There is no consistency.

In NYCC, minerals and waste were dealt with by one team whilst a separate team deals with housing and commercial development, but the link between them and the rights of way department is not formalised. Communication exists to a degree with the LAF but feedback and engagement is poor. Members of the LAF found a document from East Riding Council - Public Rights of Way and Planning Guidance, a 9 page document from 2019 (App C), which usefully sets out planning in relation to rights of way in a clear way. A document of this type could be produced, in collaboration with the two National Parks, to cover the whole of the geographic North Yorkshire area, if ways to do this could be found to achieve consistency.

How things could work in the future

It is hoped that as a unitary authority, the experience of other local unitary authorities, could be utilised to amend working practices, to achieve best practice in NYC.

RECOMMENDATIONS

- Good quality advice should be available on the NYC website, on the Planning, Countryside Access and Highways sub-sites. Local advice should be more readily available on the telephone than is the case currently with better outcomes through basic planning officer training about rights of way.
- A leaflet similar to the East Riding Council Public Rights of Way and Planning Guidance will be necessary to ensure consistency and transparency, sent to each local planning office and readily available to all applicants. This model could be utilised with little modification and is highly recommended by the working group.
- If not already done so, engagement with other unitary authorities, to learn about their way of working to ensure “best practice” procedures are put in place for the Rights of Way network.
- Consideration might be given to collaborating with both National Parks, in the production of such a leaflet, so that this covers the whole of the geographic area of North Yorkshire.
- All planning applications should be checked against Rights of Way on the definitive map with discussion taking place between Planning and CAS and Highways, to ensure best possible outcomes for access opportunity and provision.
- CAS should advise with regard to any potential problems, diversions under the Town and Country Planning Act, etc. (There is no 'one size fits all' model in rights of way. Each will be site specific). Opportunities to enhance and link together the Rights of Way network, should always be considered with every application.
- NYC Planning Dept is likely to require a specialist liaison officer with a good grasp of rights of way, the Rights of Way Improvement Plan and the remit of the Local Access Forum to support and advise.
- If a major development, a public right of way, public open space or connectivity to an existing right of way is being considered, then the LAF will always be available for consultation and advice.

CONCLUSION

Drawing on the experience of 'what works best' from several other unitary authorities, it will be crucial for a new co-ordinated approach between Planners, Rights of Way and Highways. This has been inconsistent in the past which explains why the LAF has felt the need to fill the gaps. This close teamwork will need robust reorganisation in order to provide a tripartite system fit for the future, the working of which will take time to bed in as officers get accustomed to holistic assessment: i.e. CAS personnel teaching the other officers to become access aware as the benefits of cross departmental understanding are undisputed.

As a unitary authority, it is hoped that in the future, Rights of Way can continue to be enhanced and protected, under the planning process.