

Agenda Item 14

Countryside Access Forum for West Sussex

23rd January 2008

CAFWS report on the commencement of Section 69 of the Countryside and Rights of Way Act 2000

1. Section 69 of the Countryside and Rights of Way Act 2000 commenced on the 1st October 2007. This new piece of legislation aims to improve the accessibility of the footpath and bridleway network to people with mobility problems by introducing new powers and relevant guidance (extract of guidance below; full copy will be available to view at the meeting, or visit:

www.defra.gov.uk/wildlife%2Dcountryside/issues/public.

Documents to view at the meeting will also include section 147 of the Highways Act 1980 and section 69 of the CroW Act 2000: http://www.opsi.gov.uk/acts/acts2000/ukpga_20000037_en_6#pt2-pb5-l1q69.

2. **Extract from Defra guidance; Making stiles and gates easier for those with mobility problems**

Section 69 of the Countryside and Rights of Way Act 2000 amends section 147 of the Highways Act 1980, and introduces a new section 147ZA, to provide that stock-proof furniture (principally stiles and gates) across public footpaths and bridleways will be better suited to the needs of people with mobility problems.

There are also powers for the Secretary of State to issue statutory guidance to local authorities on using the powers under these sections. Because there is already ample relevant guidance and many authorities already consider the needs of those with mobility problems, Defra sees no need to introduce statutory guidance at present, but may do so in the future if the need arises.

Set out below is an explanation of the new powers, some advice on their use and links to other relevant guidance.

The new powers: sections 147 and 147ZA of the Highways Act 1980

Existing section 147 enables a landowner or occupier to apply to their local authority for authorisation for the erection of gate, stile etc. across a footpath or bridleway. Authorities may attach conditions to the authorisation to ensure that the public is able to use the right of way without undue inconvenience. The amendment to section 147 requires authorities to have regard, when considering an authorisation, to the needs of people with mobility problems.

New section 147ZA enables authorities to enter into agreements with landowners, lessees or occupiers for existing structures such as stiles and gates across footpaths and bridleways to be replaced with

structures that are safer or easier for people with mobility problems to use. Such agreements will have the effect of replacing the owner's or occupier's previous right to erect and maintain the structure concerned, and may in particular contain conditions that are binding on any succeeding owner lessee or occupier.

Advice on using sections 147 and 147ZA

Before they authorise a barrier under section 147, authorities should be satisfied that the barrier being authorised is the least restrictive barrier to users of the right of way that is consistent with the need to contain or exclude animals.

On agreements under section 147ZA authorities are advised to note the following:

- It provides a power only to enter into an agreement, and authorities may not enter into an agreement except with the consent of every owner, lessee or occupier of the land on which the relevant structure is situated who is not a party to the agreement. There are powers, similar to those in section 147, to impose conditions, including conditions for future maintenance. The agreement will have the effects described in section 147ZA only if any conditions are complied with.
- The power to enter into an agreement is limited to structures which are "relevant structures". These are structures which are lawful limitations on the exercise of the right of way, and it is for authorities to satisfy themselves that a structure the subject of a proposed agreement is a "relevant structure". Any structure across a footpath or bridleway which is not a "relevant structure" should be dealt with by the authority under sections 130 and 143 of the Highways Act as an obstruction: in some circumstances authorisation by the authority of a replacement structure under section 147 may provide a solution.
- An agreement can cover more than one structure.
- Authorities should ensure that the replacement structure is the least restrictive barrier to users of the right of way that is consistent with any need to contain or exclude animals. Authorities should note that the power to enter into agreements does not extend to removal of structures without replacement: there has to be a replacement structure of some description.
- The power to enter into agreements envisages that works will follow, so the power cannot be used to enter into agreements to give retrospective effect to a physical change that has already been made.

2.2 West Sussex County Council (WSSCC) current and future practice

WSSCC is working to improve access for people with mobility problems. Notably:

- it has a policy document entitled 'Strategy document for the consideration and application of the Disability Discrimination Act

1995 within management of public rights of way within West Sussex' (2003). This is due for revision in 2009.

- it publishes a 'Wheelchair Walks' booklet aimed at providing information about routes that can be negotiated in a wheelchair/pushchair. This publication is currently being revised with input from CAFWS Disabled Access Working Group.
- capital works to resurface bridleways and refurbish bridges bring benefits that enable more sections of the community to use rights of way
- Rights of Way Officers work closely with land managers to negotiate and provide the least restrictive access possible (the preferable order being gaps, gates, kissing gates, stiles), while ensuring land management and the need to contain or exclude animals is not compromised. Notably since April 2007 67 structures have been improved (15 pedestrian gates for stiles, 36 kissing gates for stiles, 15 gaps and 1 bridle gate for a locked gate

Although WSCC does not rule out using agreements in accordance with section 147ZA of the Highways Act 1980, existing working practices are delivering real benefits without the need for extra paperwork and it is planned to continue using the present system of negotiation, without formal agreement, to continue to improve access. Both systems of work require the goodwill and co-operation of the land managers. The target is to reach 100 stile/gate improvements on the network in the current financial year.

Jane Noble, Senior Access Officer, West Sussex County Council
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23rd January 2008