

List of selected Parish Council powers relating to public rights of way and open space of potential use to P3 co-ordinators

Details relating to public path orders or Definitive Map Modification Orders are not included, as Parish Councils do not have any greater powers or rights than the general public

Eligible Parish Councils may exercise the power of well-being under s77 of the Local Government and Public Involvement in Health Act 2007

Creation

- s30 Highways Act 1980 Dedication of highway by agreement with parish or community council.
(1) The council of a parish or community may enter into an agreement with any person having the necessary power in that behalf for the dedication by that person of a highway over land in the parish or community or an adjoining parish or community in any case where such a dedication would in the opinion of the council be beneficial to the inhabitants of the parish or community or any part thereof.
(2) Where the council of a parish or community have entered into an agreement under subsection (1) above for the dedication of a highway they may carry out any works (including works of maintenance or improvement) incidental to or consequential on the making of the agreement or contribute towards the expense of carrying out such works, and may agree or combine with the council of any other parish or community to carry out such works or to make such a contribution.

NB – paths do not automatically become maintainable at the public expense

Protection

- S130 Highways Act 1980 Protection of public rights.
(2) Any council may assert and protect the rights of the public to the use and enjoyment of any highway in their area for which they are not the highway authority, including any roadside waste which forms part of it.
(6) If the council of a parish or community or, in the case of a parish or community which does not have a separate parish or community council, the parish meeting or a community meeting, represent to a local highway authority—
(a) that a highway as to which the local highway authority have the duty imposed by subsection (3) above has been unlawfully stopped up or obstructed, or

(b) that an unlawful encroachment has taken place on a roadside waste comprised in a highway for which they are the highway authority, it is the duty of the local highway authority, unless satisfied that the representations are incorrect, to take proper proceedings accordingly and they may do so in their own name.

i.e., a Parish Council might usually chose to demand that the highway authority take action under s130(6) but may itself bring proceedings under s130(2)

- S130(A) any person including a Parish Council can serve notice on the highway authority requiring the removal of an obstruction from a public right of way (exclusions apply)
- S131(A) a Parish Council may itself bring proceedings against a person who unlawfully disturbs the surface of a public right of way
- S56 any person including a Parish Council can serve notice on the highway authority requiring the repair of a highway maintainable at public expense
- Veto an application for the stopping up of a highway (other than a classified road) (s116 (3) Highways Act 1980)

Maintenance

- s43 Highways Act 1980 Power of parish and community councils to maintain footpaths and bridleways.
(1) The council of a parish or community may undertake the maintenance of any footpath or bridleway within the parish or community which is, in either case, a highway maintainable at the public expense; but nothing in this subsection affects the duty of any highway authority or other person to maintain any such footpath or bridleway.

Improvement

- Signpost a public right of way with the agreement of the highway authority (s27 Countryside Act 1968 as amended)
- Plant trees, shrubs and plants in the verge, erect and maintain fences for the protection of such, and lay out grass verges, with the agreement of the highway authority (s96(5) Highways Act 1980)
- Erect a flagpole in the highway with the highway authority's consent (s144 Highways Act 1980)
- Provide footway lighting on any highway including a footpath or bridleway, subject to certain restrictions (s3 Parish Councils Act 1957, LGA72 Sch 13 para 25)
- Provide, empty and cleanse litter bins in public places including erecting anti-litter notices (s5 Litter Act 1983)
- Provide seats and shelters on or at the sides of roads (including public rights of way of whatever status) (s1 Parish Councils Act 1957)

- Provide, or contribute towards, signs warning of danger on highways including footpaths or bridleways (s72 Highways Act 1980)

Powers relating to open space

- Enforce byelaws relating to the preservation of order or the prevention of damage on access land in the parish (s17 CRow Act 2000)
- Numerous and detailed powers relating to the transfer, acquisition and management of land for the purpose of preserving it as an open space for the enjoyment of the public (Open Spaces Act 1906)
- May provide lighting, seats, ornaments and planting in public open space held under the 1906 Act
- Provide, lay out, plant, improve and maintain public walks and pleasure grounds, and close the land for up to 12 days pa for use by public charities and institutions, or for agricultural or horticultural shows (Public Health Act 1875 s164 as amended, Local Government Act 1972 Sch 14 para. 27)
- Provide cycle parking, subject to various consents (s72 Road Traffic Act 1984)
- Appoint wardens to advise and assist the public in their use of public rights of way in its area (s62 Wildlife and Countryside Act 1981)
- Provide such recreational activities as it thinks fit including ancillary facilities (for instance a Parish Council perhaps could provide parking for a promoted recreational walk or site) (s19 Local Government (Miscellaneous Provisions) Act 1976)*
- Provide and train staff in connection with recreational facilities provided by the council (eg wardens, leaders) (s19 Local Government (Miscellaneous Provisions) Act 1976)*

* Before incurring expenditure, a Parish Council would have to be satisfied that the facility is 'recreational', over and above its use as a highway/public open space

Powers relating to promotion/tourism

- Encourage visitors to their area for recreation or health purposes E.g. walks leaflets, walking festival, countryside crafts festival (LGA72 s144)
- Make arrangements for the publication of information relating to local government services, e.g. info board/map of parish paths (working with the PRowA Team) (s142 LGA72)

General

- Powers to incur expenditure on items which are in the interests of, or which will bring direct benefit to, their area or part of it. Expenditure must be commensurate with the benefit. Must not be existing alternative powers (s137 LGA72)
- Power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of their functions (s111 LGA72) (NB must be clearly related to an authorised function – isn't a power to 'do anything').