

Farming and the Public Highway Guidance Document

Working in Partnership

Warwickshire County Council (“the Council”), as a Highway Authority, maintains a road network of around 2,421 miles of carriageway, 1,778 miles of footway and over 1,700 miles of Public Rights of Way in Warwickshire,

We, in the Council’s County Highways Team, are keen to work in partnership with farmers to help ensure that maintenance issues which affect the highway are attended to. This guide highlights a number of areas where working together can greatly help the Council to sustain a safe and serviceable highway network for all users.

The Council, like the farming community, is subject to change and therefore it is important that we try, wherever possible, to work jointly to meet respective areas of responsibility in the most effective way.

Sometimes there is a need for the Council to close rural roads to enable its own road maintenance work to be carried out. Such occasions would be an ideal opportunity for farmers and other landowners to carry out ditch and hedge maintenance work. If you are planning to carry out such work and would like to take advantage of an upcoming road closure, please plan well ahead and contact the Council discuss this at an early opportunity. Details of upcoming road closures can be found on the Council webpages: www.warwickshire.gov.uk/roadworksmap.

Legal Responsibilities

The Council is responsible for the management of the Highway Network within Warwickshire. We are responsible for most roads in the County, with the exception of Motorways and Trunk Roads. This means that under the Highways Act 1980, the Council is legally responsible for protecting the rights of everyone who uses our roads, including drivers, pedestrians, cyclists and horse riders.

It is extremely important that people can use our roads safely, as any danger, nuisance or obstruction can have a serious effect. We can ask you to remove, within a reasonable period dependant on the level of risk, anything which causes a nuisance or obstruction to highway users. The Council will ask you to remove something straight away if it causes an immediate danger.

If you create a danger either on or next to a highway, fail to take appropriate action to prevent something being a danger or you do not comply with the laws of the roads and there is an accident, you may be legally responsible for paying a compensation claim, which may not be covered by your insurance policy.

If the Council asks you to remove something and you do not, the Council has the power to remove the item, or to take alternative action, to ensure the highway is returned to a safe condition and you will have to pay the Council’s costs for doing this.

The Council cannot let a situation stay as it has been reported to us, as the Council could be legally responsible for this. The Council will take action against anyone causing a danger, nuisance or obstruction to the Highway Network.

Mud/Farm Vehicles on The Roads

Mud on the highway deposited by farm animals or machinery causes inconvenience to the public and can reflect negatively on the farming industry. Above all, the safety of road users is put at risk. It is an offence to deposit mud on roads and simple precautions can overcome the danger.

When undertaking work or moving cattle you must ensure that it is carried out safely and that the highway is clean afterwards. If deposits on the road are insufficient to warrant immediate cleaning, care must be taken to prevent a gradual build-up of mud and manure.

There are a range of powers available to us under the Highways Act 1980 to deal with offences related to the depositing on mud on the highway. Punishment for these offences ranges from fines to imprisonment.

What you must do:

- Everything possible to prevent mud being deposited on the road. This includes cleaning mud from vehicles, as far as practicable, before they are taken onto the road.
- If there is a danger of mud being accidentally deposited on the road, appropriate warning signs should be used to alert road users of the risk. If unsure, check with County Highways before commencing work as to the requirements relating to warning signs. Remember, signs do not in themselves prevent liability for accidents that may occur.
- Clean the road as necessary during the working day and always at the end of the working day. Failure to clean the road of mud could result in the Council, carrying out the cleaning works and you would have to pay the Council's costs for doing this.
- Ensure that labour and equipment is available and is suitable for the soil and the weather conditions present.
- Where a contractor is used, ensure that prior agreement is reached on who is responsible for mud on road issues (signage and cleaning) and ensure that adequate liability insurance is in place. Given the increasing use of contractors for heavy work, reaching agreement as to their liability and recording it in writing is important. Ultimately the landowner/user would be liable if there had been a failure to reach an initial agreement on these points.

Mud on Wheels

Excessive quantities of mud and soil must be removed from vehicle wheels before moving onto the highway. Hardened areas through gateways can help to remove mud from the wheels. Building a hardstanding on your land near your gates can help with this, but you may need planning permission from your local planning authority to do this (contact details are included in the 'Contacts' section of this guidance document).

Overloading

Trailers and muck spreaders passing along the road should not be loaded to the extent that vibration causes them to overflow. You must make sure that anything you carry is properly secured so it does not cause a danger, and make sure you comply with the Road Traffic Act 1988 and associated Regulations.

Wide Vehicles

Do not use vehicles which are too wide for the road. If you drive over grass verges on narrow lanes this causes mud to spread onto the road, weakens the edge of the road and may damage drainage grips, pipes and open ditches, which causes the road to flood. Under section 59 of the Highways Act 1980 the Council can claim compensation if you cause extensive damage to the road because your vehicle was too heavy or too wide.

Soil and Water from Adjoining Fields

Landowners are responsible for mud and water running off fields onto roads and are required to do works to prevent this happening. Attention beforehand can prevent the problem. Limits on cultivation in terms of direction and proximity to boundaries will reduce the risk.

Ditches and Drains

Good drainage is essential to the highway. Rural areas rely to a great extent on ditches to remove water and their effectiveness is fundamental to keeping roads in good condition. Common law imposes a duty on the occupier of land adjoining highways to maintain these roadside ditches which provide natural drainage for both the land and the highway. Failure to maintain drainage causes roadside verges and the edges of carriageways to quickly deteriorate.

The maintenance of rivers, streams and ditches is usually the responsibility of the “Riparian Landowners” who own land on either bank.

Land drainage law is complex, and is the result of historic common law, case law and specific legislation such as the Land Drainage Act 1991. There are, however, some general rules which can be applied to ascertain responsibility for ditch or watercourse maintenance.

If you are a landowner, to reduce the risk of flooding to neighbouring properties and the public highway, the law requires that you maintain your ditches and drains to prevent flooding. Failure to do so may result in a legal liability for the damage that any resultant flooding may cause.

For further information on how watercourses and ditches are defined, including illustrations, see the Land Drainage Rights and Responsibilities leaflet on the Council website: <https://api.warwickshire.gov.uk/documents/WCCC-1039-69>

The Council is responsible for regular maintenance and cleansing of gullies and grips on the highway. Any occupier of land that is adversely affected by highway drainage should contact the Council to discuss the issues.

Drains

Keep the drains clear on your property and ensure that you do not drain water into your neighbour's property, foul drain, or on to the public highway. There is a right of drainage that allows water that flows across your land to flow downhill naturally to your neighbour's land, but you are not allowed to artificially channel water in a way that will cause damage your neighbour's land or discharge on to the public highway.

Ditches

Ditches should be kept clear of any obstruction to the flow of water and be deep enough to carry the water. You should keep the ditch at the correct depth to make sure it continues to drain water effectively. You should clear ditches regularly and remove any obstructions which may stop the water flowing properly. Make sure you put back in any drainage grips after you clear a ditch so the water can run freely off the road and into the ditch. Close to the carriageway depth must be limited, however, if a deep ditch appears unavoidable, you must contact us in County Highways to discuss before commencing work.

Material excavated from ditches during maintenance should not be deposited where it will block grips or be carried on to the road. It should be levelled to allow subsequent flail mowing to take place.

Any accumulation of material in excess of 300mm above the carriageway should be removed and taken away from the area. This will prevent the same material being washed back into the ditch or pushed back in by passing vehicles.

If there is a disagreement about who is responsible for a ditch, even when we both use the ditch (us to drain water from roads and you to drain water from your land), the law says that you are responsible for maintaining the ditch, unless you can prove otherwise.

There are some limited exceptions where the Council may take additional responsibility for maintenance of ditches and drains as follows:

- where a historic agreement is in place in which the Council has agreed to maintain a ditch.
- where the Council owns land on both sides of the watercourse.
- where a ditch does not drain any adjacent land, but only the highway.

Culverts

A culvert is simply a covered watercourse and the same maintenance principles apply to culverts as to watercourses. Responsible landowners must keep any structure such as culverts (but also trash screens, weirs and gates) on their property clear from debris. If you are a landowner and have a culvert under your land, you need to maintain it free from leaves and debris. If you take no action, and it becomes blocked and flood damage results, you could be held liable for this damage.

Please note, the agreement of the Council must be sought before piping any ditch to ensure that an adequate system is installed. Requests should be made to the Flood Risk Management Team (FRM). The FRM team as Lead Local Flood Authority has a regulatory role over Ordinary Watercourses and consent is required from the Council before making changes to them. Pipes that are the wrong size could cause a blockage and you could be legally responsible for changing them. Contact details for FRM are included in the 'Contacts' section of this guidance document.

Hedge Cutting and Trees

Landowners and occupiers whose hedges run alongside the highway are responsible for the maintenance of the hedge. Overhanging branches or hedges which obstruct passage or visibility of highway users should be routinely lopped or trimmed. If we consider that a hedge interferes with safe use of the highway, and you do not take action to cut it, the Council can serve a formal notice asking you to carry out the necessary maintenance work.

Landowners and occupiers are also responsible for the trees on their land and are required under the Highways Act to ensure that they are not a danger to anyone using the highway. If a tree or branch falls onto the highway, the landowner is responsible for its removal and could face liability if the fallen tree or branch causes an accident.

What you must do:

- Trim roadside hedges to maintain visibility for road users, particularly at junctions and on the inside of bends.
- Trim any hedge that directly abuts a road, footway, cycleway or Public Right of Way so that growth does not prevent the passage or affect the safety of the highway user, including cyclists and pedestrians.
- Trim hedges and trees to ensure growth does not obscure the view of road signs. To include cutting around sign plates, using an appropriate method, to ensure they are completely unobstructed.
- Remove dead or decaying trees and other growth that may fall across the highway.
- Remove branches and other growth that may prevent the passage of high-sided vehicles or obstruct light from a streetlight.
- Ensure the highway (including the footway and drainage features) is left clear of debris from any cutting operations.
- Meet the obligations of the [Wildlife and Countryside Act 1981](#) ensuring that nesting birds, bats and dormice are protected.

Please remember; you may need permission to carry out works to a tree covered by a Tree Preservation Order (TPO). The [Hedgerow Regulations 1997](#) state it is an offence to remove a protected hedgerow (or section of). Therefore, before you start work, contact your local planning authority who will be able to provide further information and guidance on these matters. Relevant contact details are included in the 'Contacts' section of this guidance document.

Hedge Brushings

Hedge cutting should be carried out ensuring that cuttings do not fall onto the footway or highway. Any which do must be removed immediately as they can cause a nuisance or potential danger for all road users, particularly vulnerable users such as those with mobility issues, cyclists and animals.

Nesting Birds

Avoid disturbance to nesting birds as far as possible. It is an offence under section 1 of the Wildlife and Countryside Act of 1981 to damage or destroy the nest of any wild bird while it is in use or being built. You should plan to cut your trees and hedges outside of the bird nesting season, which is generally between 1 March to 1 September. However, this can be weather dependent, and some birds may nest outside this period, so it is important to always check carefully for active nests prior to cutting.

There may be occasions where a tree or an overgrown hedge is causing a safety problem, requiring urgent action. In these circumstances it will be your responsibility, or whoever is organising the work, to check for nesting birds and avoid cutting or trimming in the vicinity of any nests until the fledglings have flown.

If in doubt, seek advice from County Highways, we are happy to provide any help and guidance regarding this.

Damage to Drainage Systems

If, when undertaking hedge maintenance works, the drainage channels (grips) cut through the verge from the roadside to the main ditch are damaged by tractor wheels you should ensure that these are re-opened. Similarly, if grips or ditches look likely to become blocked from the brushings they should be cleared immediately.

Public Rights of Way (PRoW)

Footpaths, bridleways, restricted byways, and some other unsurfaced tracks are Public Highways, and therefore enjoy the same level of protection as A, B or C roads.

Highway Authorities are under a statutory duty to “assert and protect” the rights of the public to use the PRoW network and to use the powers at its disposal, including the power to carry out works and recharge costs and to prosecute offenders.

The Rights of Way Team at the Council keeps records of Public Rights of Way, which can be viewed on the website at www.warwickshire.gov.uk/definitivemap. These records should be consulted to establish the line of any path, which may sometimes be different to the physical track that you can see.

The Rights of Way Team at the Council are happy to provide guidance and advice around your obligations and responsibilities of which the main ones are:

- Not to obstruct any PRow. Obstructions should not be placed on or across the route including, but not exclusive to, permanent or temporary fences, walls, hedgerows, padlocked gates or barbed wire. **Obstruction of a PRow is a criminal offence, unless with lawful authority.**
- Ensure vegetation does not encroach onto the route from the sides or above, bearing in mind the different clearances needed taking into consideration the type of user for the PRow.
- Ensure that all stiles, gates, and ditch crossings along these routes are maintained in good order. If an injury or damage to personal property occurs because of poor maintenance those responsible will be liable.
- Agree all new gates or stiles in advance with the Council's Rights of Way Team.
- Ensure that livestock kept in fields crossed by a PRow comply with the relevant legislation (see below).
- Comply with the relevant legislation regards to the ploughing and cropping of PRow.
- Not to conceal or remove signage and waymarks.
- Not to erect barbed wire or electric fencing along a PRow which is likely to cause danger to the public.

These duties are set out in law and as such failure to comply will attract criminal sanctions, personal liabilities for landowners, and where paid, may affect your Single Payment Scheme (GAEC 7b). For more details visit www.gov.uk/guidance/public-rights-of-way-landowner-responsibilities

The keeping of livestock in fields crossed by PRows

Although livestock can be kept in fields crossed by PRow, legislation imposes certain restrictions dependent on the type and behavioural characteristics of the animal. If an animal that is known to have dangerous characteristics is placed in a field crossed by a PRow and a user is injured, or their property damaged, then the keeper of the animal would be liable to prosecution and or sued.

It is an offence to keep any dairy bull over 10 months old of the recognised dairy breeds in a field crossed by a PRow. These are Ayrshire, Dairy Shorthorn, British Friesian, Guernsey, Jersey, Kerry and British Holstein.

No other breeds of bull over 10 months **are to be alone** in fields crossed by a PRow, they must be accompanied by cows or heifers.

Make sure that any warning notices relating to a bull are displayed **only** when it is actually present in a field.

Ploughing and Cropping of Land Crossed by a PRow

While legislation allows for footpaths and bridleways that cross fields to be ploughed or otherwise disturbed, if necessary, it does place certain restrictions on it, these are:

- That the surface of the path must be restored within 14 days after the first disturbance and 24 hrs after any subsequent disturbance. This must be to the legal minimum width given in the maintenance section, unless a width is specified in the Definitive Statement. The 14 day ploughing period can be extended for up to an additional 28 days following prior application to County Highways.
- Restricted byways, byways, roads and field edge paths must never be ploughed, or the surface disturbed, in any circumstances.
- When crops, other than grass, are planted in fields crossed by PRowS a swathe of no less than the minimum widths (see above) must be maintained through the crop. Crops must not be allowed to encroach over field edge paths.

The Council is able to provide advice and support to landowners. However, the Council will utilise enforcement powers and prosecution where necessary, which may result in financial penalties, criminal conviction, and potential loss of revenue.

Maintenance

Paths must be maintained at the following minimum widths unless a width is specified in the Definitive Statement:

- Cross field footpath - 1 metre
- Field edge footpath - 1.5 metres
- Cross field bridleway - 2 metres
- Field edge bridleway - 3 metres

Where a path needs to be disturbed to enable other works, such as drainage or engineering works, to be carried out, advice and permission must be sought from the Rights of Way Team in good time ahead of the works being undertaken.

If in doubt, seek advice from The Rights of Way Team at the Council who are happy to help.

Miscellaneous Matters

Safety

If you are undertaking any works on or close to the public highway, it is your responsibility to ensure that you do not place yourself or other road users at risk and that you arrange for works to be signed appropriately.

You may need to engage a specialist contractor who is accredited to carry out works within the highway and will be familiar with signing arrangements required to undertake the work safely.

Appropriate Signage

Any work you need to do on the public highway, such as hedge cutting or ditching, should be done in accordance with the recommendations in [Chapter 8 of the Traffic Signs Manual](#). Signs of the correct size, type and shape should be used to warn other highway users of potential danger.

The necessary warning signs must be in place before you start maintenance work, or as soon as a potential danger is identified and must be removed when the work is finished or as soon as the potential danger is cleared. Signs should be visible on every approach to the area.

All signs placed on the highway should be self-supporting and weighed down to prevent them from being blown over and should be located so as not to obstruct visibility or cause an obstruction to the highway.

If in doubt, seek advice from County Highways who are happy to provide any help and guidance regarding this.

Weed and Pest Control

When using weed and pest control chemicals near a public road, only use pesticides approved by the Health and Safety Executive (HSE), employ trained operatives, or ensure that you and any staff have the correct training.

You should always:

- Remove harmful weeds from your land in accordance with the Weeds Act 1959.
- Contact County Highways to tell us if any noxious or injurious weeds such as Ragwort on the highway verges are affecting your farming operations.
- Contact County Highways to tell us if any Japanese Knotweed is growing on the highway verge. If Japanese Knotweed is growing on your land, it is your responsibility to manage this. It should not be flailed or mowed as this will cause it to spread.

Roadside verges are areas where wildlife and plants can exist undisturbed. Use of chemicals near to roadside verges should avoid drift or overspray so that flora and fauna are not affected. You should not use weed or pest control chemicals directly on the public highway. If you need to discuss a particular issue, please contact us in County Highways, we are happy to provide any help and guidance regarding this.

Highway verges

It is an offence to deposit objects on highway verges which could cause an obstruction or hazard.

- Do not leave farm materials on highway verges.
- Do not place stones on the verge to prevent parking.
- Do not drive on the verges as this may damage easements, ditches and grips. In addition, driving on verges may harm wildlife and bring mud onto the road.
- Park all machinery off highway verges and away from sight lines.
- Find out if any verges alongside your land are protected for their special wildlife value by contacting the Warwickshire Biological Records Centre: wbrc@warwickshire.gov.uk to confirm.

Slow Moving Vehicles

Drivers of slow-moving vehicles on main roads should remain aware of any tailbacks they are causing and, when appropriate and safe to do so, should pull in. On main roads amber flashing beacons must be used to warn traffic of the presence of slow vehicles.

Regular Use by Cattle

At regular cattle crossing points where visibility is restricted, County Highways may consider cattle warning signs. Requests should be made to County Highways.

Irrigation by Water Jets

Care should be taken to ensure that jets are not directed onto the highway.

Irrigation Pipes, Wires and Cables

You need a licence to install pipes, wires or cables that pass under or over the road or highway verge. For further information on how to obtain a license please contact the Council's Network Management Team for advice (contact details are included in the 'Contacts' section of this guidance document).

Fire and Straw Burning

It is an offence to light a fire on or over a highway, or on adjoining land if doing so interrupts use of the highway or endangers road users. If a fire spreads close enough to the highway to cause injury, interruption or damage to a user of the highway, it can be an offence.

The burning of straw is prohibited by law, except in limited circumstances. Where it is allowed, detailed restrictions are imposed, including a requirement that no burning can take place within 100m of any dual carriageway or 'A' class roads.

Contacts

For any additional help or advice please contact the respective Team using the details below. We are happy to provide help and guidance and work with you to help ensure that maintenance issues which affect the highway are attended to:

County Highways

Warwickshire County Council

Shire Hall

Warwick

CV34 4RL

Tel: 01926 412515

Web: <https://www.warwickshire.gov.uk/roadsandtransport>

E-mail:

chsouth@warwickshire.gov.uk for Stratford & Warwick District:

chnorth@warwickshire.gov.uk for North Warwickshire, Nuneaton & Bedworth, Rugby

Flood Risk Management Team

Tel: 01926 412982

E-mail: flooding@warwickshire.gov.uk

Web: <https://www.warwickshire.gov.uk/directory-record/1203/flood-risk-management>

Rights of Way Team

Tel: 01926 413427

E-mail: paths@warwickshire.gov.uk

Web: <https://www.warwickshire.gov.uk/rightsofway>

Network Management

Tel: 01926 738932

E-mail: streetworks@warwickshire.gov.uk

Web: <https://www.warwickshire.gov.uk/roadworkspermitscheme>

Local Planning Authorities

Warwickshire District Council

Tel: 01926 450000

Email: planningenquiries@warwickdc.gov.uk

Web: <https://www.warwickdc.gov.uk/site/>

Stratford-On-Avon District Council

Tel: 01789 267575

E-mail: info@stratford-dc.gov.uk

Web: <https://www.stratford.gov.uk/>

North Warwickshire Borough Council

Tel: 01827 715341

E-mail: customerservices@northwarks.gov.uk

Web - <https://www.northwarks.gov.uk/site/>

Rugby Borough Council

Tel: [01788 533533](tel:01788533533)

E-mail: contactcentre@rugby.gov.uk

Web: <https://www.rugby.gov.uk/>

Nuneaton and Bedworth Borough Council

Tel: [02476 376376](tel:02476376376)

E-mail: customer.services@nuneatonandbedworth.gov.uk

Web: <https://www.nuneatonandbedworth.gov.uk/site/>

Further Resources

Warwickshire Biological Records Centre

<https://www.warwickshire.gov.uk/environment-ecology/warwickshire-biological-records-centre>

Countryside Hedgerows: Protection and Management

<https://www.gov.uk/guidance/countryside-hedgerows-regulation-and-management>

Current and Planned Roadworks

<https://www.warwickshire.gov.uk/roadworksmap>

Traffic Signs Manual

<https://www.gov.uk/government/publications/traffic-signs-manual>

Health and Safety Executive (HSE)

<https://www.hse.gov.uk/pesticides/>

Highways Act 1980

<https://www.legislation.gov.uk/ukpga/1980/66/contents>

Weeds Act 1959

<https://www.legislation.gov.uk/ukpga/Eliz2/7-8/54/contents>

Wildlife and Countryside Act 1981

<https://www.legislation.gov.uk/ukpga/1981/69/contents>

National Farmers Union

Web: www.nfuonline.com

Country Land & Business Association

Web: www.cla.org.uk