



Mr Barry Gardiner MP
Parliamentary Under-Secretary of State
(Biodiversity, Landscape and Rural Affairs)
Eastbury House
30 - 34 Albert Embankment
London SE1 7TL

**Kent Countryside Access
Forum**
**c/o Kent County Council
Environment and Waste**
Invicta House
County Hall
Maidstone
Kent ME14 1XX
Tel: 01622 221354
Fax: 01622 221636

Email: Access.forum@kent.gov.uk
Ask for: Lucy Miles
Your Ref:
Our Reference:
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Dear Mr Gardiner,

IMPLEMENTATION OF RIGHTS OF WAY IMPROVEMENT PLANS

I am writing in response to your letter of the 16th April on behalf of the members of the Kent Access Forum. We have grave concerns as to the contents of your letter and would make the following comments to your statements :

“Firstly, we want ROWIPs to be aspirational and ambitious in identifying potential improvements to the network. Placing local authorities under a duty to implement their ROWIPs would undermine this aim, because authorities would be much more cautious for fear of creating a hostage to fortune.”

We would agree that a legal requirement to implement could make the ROWIP less inspirational, though without dedicated funding it is likely to raise public expectations that cannot be satisfied. A legal requirement to produce a, say, bi-annual report would focus attention on delivery and demonstrate what can be achieved with funding streams that are available. Should it then be seen that ROWIPs are failing due to a lack of funding sources such reports would demonstrate to DEFRA that ROWIPS indeed need core funding.

“Secondly, we want to encourage local ownership and accountability. The statutory framework ensures that local authorities actively engage with local people, partners and stakeholders to develop an action plan. A legal duty to implement might reduce local ownership and accountability.”

There is no logic here. Why would a legal duty to implement reduce local ownership and accountability? Surely if local people, partners and stakeholders cannot be certain that improvements will be implemented, they will be much less likely to get involved.

“Thirdly, we want authorities to be proactive and dynamic, and to work with a mix of different partners to create and seize opportunities as they arise. Experience shows that such an approach, although more fluid and less predictable, can deliver excellent results. ROWIPs support this style of working by setting out clear strategic objectives, but this approach would not fit well with a legal duty to implement (because implementation depends on funding bids, partners, etc).”

The previous two comments apply to this reiterative and circular argument.

“With most ROWIPs on course to be adopted by November, attention is turning to implementation and funding. It has been suggested that the Government should fund all ROWIP improvements. However, this was never the intention and would (be) wholly impracticable, particularly because ROWIPs are likely to include a significant proportion of measures which are arguably already part of local authorities’ statutory duties, or which can be funded through other means.”

We can understand that it was never the Government’s plan to fund a statutory obligation that they have imposed on Local Authorities. Local Authorities would, over time, carry out the improvements that will be shown to be desirable from the research involved in the ROWIP but the concertinaing of this duty has resulted in additional resource costs, as will any implementation. Government would obviously be unwise to agree to fund all ROWIP improvements as they would open themselves up to possibly unlimited expense. However, if the government place a duty on an authority they should at least fund the process and human resource because if “a significant proportion of measures are statutory” they are not allowed to access external grant funding.

“Local authorities already receive most of their funding from Central Government through the Revenue Support Grant. This funding is not ring-fenced, to allow decisions to be taken at the local level about how best to allocate funds in accordance with local needs.”

As real Revenue Support Grant funding has actually reduced in real terms for many Shire Counties, any reallocation of funds would require a further reduction in public services elsewhere.

“Additional funding is likely to be available through the integration of Local Transport Plans (LTPs) and ROWIPs, where rights of way improvements will help to deliver LTP priorities.”

We would be grateful to hear of how the Government will provide this additional funding.

“Research by Natural England has identified a wide variety of potential funding sources in addition to local authority and LTP revenues. These include:

- Section 106 agreements (planning obligations),”

Section 106 Agreements are restricted by law to be concerned with the direct effects of any development. ROWIP matters that are outside the direct effect of any development could not be funded by a Section 106 Agreement.

- “Aggregate Levy and landfill tax;”

We understand that there is a geographical restriction to the application of these funds, which in most cases are already budgeted elsewhere, and thus would not be available for the wider ROWIP.

- “AONB (Area of Outstanding Natural Beauty) Sustainability Funds;”

We understand that in most cases AONB budgets are already under considerable strain in paying for their existing statutory obligations.

- “Environmentally Sensitive Area and Higher Level Stewardship scheme funding;”

Again, this would be restricted to the specific area involved and not the wider ROWIP. The level of central funding for these schemes is very limited and, in the most part, has already been allocated.

- “Funding from Primary Care Trusts, Rural Development Agencies, European Union funds, Sport England, the Heritage Lottery Fund, Tourism & Tourist Levy, and;”

We doubt that Primary Care Trusts, such as those in the South East of England that are closing wards and hospitals and reducing their staff numbers, are likely to have spare funds for the ROWIP. To what extent the other agencies listed have available funds, we do not know and wonder as to their ability to fund ROWIPs given their statutory remits?

- “a range of locally sourced funds.”

The use of the word “locally” indicates that these funds would not be available for the wider ROWIP.

“I am keen to ensure that the valuable work done in preparing ROWIPs leads to real improvements on the ground. However, I know that putting together funding proposals and chasing potential sources of income can be time-consuming for local authorities, but there are many positive spin-offs in joining up with other sectors to improve the network.”

The “chasing potential sources of income” is indeed time-consuming and expensive, particularly given the lack of available funding as described above.

“Many authorities have already risen to this challenge and have become skilled in accessing funds from a variety of sources. Whilst, it is for local authorities to take the initiative, Defra and Natural England have sought to facilitate this by:

- Helping to share knowledge and experience between authorities;”

It would indeed be useful if this help was to be made real by Defra performing its strategic duty by listing and coordinating the various sources of funding, rather than each ROWIP authority duplicating this work. However, we would not wish to encourage DEFRA to

spend money on yet more research that would be better spent on supporting implementation.

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“Developing a ‘decision support tool’ to help local authorities justify and prioritise expenditure on rights of way in tandem with social and economic goals. This tool can be downloaded from the Defra website at <http://www.defra.gov.uk/wildlife-countryside/issues/public/index.htm>; and

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Extending the statutory remit of local access forums and issuing revised Guidance.”

This is to be welcomed though the ability to prioritise funding may merely exhibit the lack of available funding resulting in few improvements actually being made.

The final paragraphs beg the primary question of why it was thought practical to statutorily obligate local authorities to carry out ROWIP without giving them the funding to carry out the results?

We look forward to hearing from you.



Matthew Balfour
Chair of the Kent Countryside Access Forum