

LINCOLNSHIRE COUNTY COUNCIL COUNTRYSIDE ACCESSIBILITY GUIDANCE



October 2009

Aims & Objectives of the Countryside Access Guidance

Lincolnshire County Council's Countryside Accessibility Guidance aims to provide a service standard for the provision and maintenance of countryside access furniture and path surfaces for the Authority's network of rights of way and countryside access sites.

The County Council, as the highway authority, has a legal duty to 'protect and assert' the rights of the public in their use of the rights of way network. However exercising the legal duty can be an inefficient method of resolving disputes and does not recognise the need to develop a more accessible countryside access network.

The County Council recognises that the involvement of users and local land managers is important to ensure the efficient management of the rights of way network for modern needs.



Introduction

There are nearly 4000km of rights of way in the Authority's area consisting of footpaths, bridleways, restricted byways and byways open to all traffic (BOATs).

These routes vary from being set in either a totally urban or countryside area to those routes that link the two together.

Unfortunately access to some of these routes is limited to some users due to the diverse nature of Lincolnshire's urban and countryside landscape. Users will encounter varying surfaces and different types of furniture such as stiles, hand gates, field gates and kissing gates as well as barriers erected by the Authority to maintain the safety of users or to control access, particularly by motor vehicles.

This guidance seeks to clearly outline the legal framework in relation to access to the countryside by disabled users and provide a service standard for the provision and maintenance of countryside furniture and surfaces for all of the Authority's network of rights of way and countryside access sites to provide more access in more places to more people.

The document has been produced after extensive consultation with disabled groups, local land managers and the Lincolnshire Local Access Forums.

Description of Terms

Public Footpaths - For use by walkers only

Public Bridleway – For use on foot, cycle and horseback

Restricted Byway - Available to users on foot, cycle, horseback and horse drawn carriages

BOATs (Byways Open to All Traffic) - available for use on foot, cycle, on horseback, horse drawn vehicles and by motorised vehicles

Open Access Land – The Countryside and Rights of Way Act 2000 introduced a new right of access for people to walk on designated areas of open country and registered common land. Lincolnshire has nine sites of open country and ninety separate parcels of registered common land.

You may take a pram, pushchair or wheel chair on a public right of way or access land.

Legislative Background

Countryside access is affected by a number of different pieces of legislation affecting the general management of the public rights of way network and in particular the provision of structures.

Highways Act 1980

Section 66 provides the Highway Authority with powers to provide and maintain structures that safeguard the users of the right of way. The Countryside and Rights of Way Act 2000 (CROW) extends this power to include bridleways as well as footpaths.

Section 146 states that stiles and gates are the responsibility of the owner of the land. The owner of the land shall maintain the structure to a standard to prevent unreasonable interference with the rights of the user. In order to provide a reasonable balance between the landowner's responsibility to control the stock for which he is responsible, and the Highway Authority to manage the rights of the public to use and enjoy the rights of way network, the County Council is required to contribute at least 25% of the costs of maintaining the structure.

Section 147 gives the Highway Authority the power to authorise new structures on rights of way. However the authorisation of new structures must be to prevent the ingress or egress of animals on agricultural land only. The CROW Act extends these powers to include forestry land and for the 'breeding and keeping of horses'.

Disability Discrimination Act 1995

The Disability Discrimination Act, as amended by the Disability Discrimination Act 2005, aims to ensure that disabled people are treated in a fair and equal way. The Acts place duties on providers of goods, facilities and services and make it unlawful for a service provider to discriminate against a disabled person.

There is no specific reference in the Disability Discrimination Act to any aspect of rights of way management and, as yet, no case law that can be referred to in the application of the Act to rights of way. Nonetheless, it is clear that authorities are required to have regard to their obligations under the Act wherever changes or additions to the rights of way network are proposed and are encouraged to make improvements to structures wherever appropriate opportunities arise.

It is important to understand the full scope of the term "disability" in relation to the legislation. For the purposes of the 1995 Act the definition provided is that a person has a disability if he or she has a physical or mental impairment which has a substantial and long term adverse effect on his or her ability to carry out normal day-to-day activities.

Countryside and Rights of Way Act 2000

Section 69 requires highway authorities to consider the needs of disabled people when authorising the erection of stiles and gates or other works on footpaths or bridleways. An authority may also enter into agreements with owners, occupiers or lessees of land to improve stiles, gates or other structures to benefit disabled people.

British Standard 5709:2006. Gaps Gates and Stiles - Specifications

The British Standard BS5709:2006 on Gaps, Gates and Stiles provides specifications to ensure that access features cause the minimum of inconvenience to users whilst fulfilling the requirement of preventing the ingress or egress of livestock. The guidance indicates that the least restrictive option should be chosen in order to maximise accessibility.

Some of the stiles on the County's public rights of way network are not constructed to British Standard due to locally occurring geographical and fencing design related issues. However, every effort is made to ensure that all structures are appropriately designed for accessibility, safety and enjoyment of the countryside.

Least Restrictive Access

The principle of Least Restrictive Access requires that all work, whether planned improvement or ad hoc maintenance, must meet the highest possible access standard.

Least Restrictive Access is an approach that helps to raise the overall standard of accessibility of a route, site or facility over a period of time.

Open Access Land

Structures such as gaps, gates and stiles are to be found providing access to land designated under Part 1 the Countryside and Rights of Way Act 2000. The County Council acts as the access authority, the body responsible for managing and implementing the access right. As part of its duties the County Council must identify any improvements necessary to permit the public to reach and enjoy access land. Guidance makes it clear that the needs of people with disabilities are to be considered and accommodated where it is reasonable to do so under the terms of the DDA.

As a matter of good practice, the guidance recommends that authorities should aim to apply the principles of least restrictive access in installing and maintaining access features.

The County Council has only installed gates on the designated areas of open access land and registered common land within Lincolnshire. Stiles will only be considered as a last resort.

Lincolnshire Countryside Access and Rights of Way Improvement Plan

The Countryside and Rights of Way Act 2000 required all local highway authorities to prepare and publish a Rights of Way Improvement Plan (ROWIP). In developing the Plan, each highway authority was required to consider the requirements of disabled people.

The Lincolnshire Countryside Access and Rights of Way Improvement plan was published in April 2007.

The ROWIP is a five year strategic document covering the whole of Lincolnshire, setting out how the authority intends to improve the management, provision and promotion of public rights of way in the county. The ROWIP will build on the investment and improvements made to the access network over a number of years and will be a "distinct strand" of the Local Transport Plan.

The CROW Act required assessments to be made of:

- The extent to which local rights of way meet the present and likely future needs of the public
- The opportunities provided by local rights of way for exercise and other forms of open-air recreation and the enjoyment of the authority's area
- The accessibility of local rights of way to blind or partially sighted persons and others with mobility problems.

The **Statement of Action** within the ROWIP sets out our plans for implementing the improvement plan with targets and timescales for delivery. In

particular *Statement of Action 44* identifies the need to

‘Develop and implement an accessibility policy in conjunction with disability groups’.

The preparation of ‘Countryside Accessibility Guidance’ will also contribute to the implementation of the following Statements of Action (SOA) and improve the accessibility of the network;

- | | |
|--------------|---|
| SOA1 | Identify and improve off road routes linking communities with schools, employment centres and local services |
| SOA3 | Seek improvements for non motorised travel in proposals for new developments |
| SOA7 | Improve infrastructure on paths used for health walk initiatives |
| SOA8 | Reduce number of unnecessary barriers – remove stiles where practical and replace with gates or kissing gates to increase accessibility |
| SOA10 | Improve routes in areas of highest health deprivation in Lincolnshire |
| SOA19 | Improve the maintenance and management of routes close to popular areas of the county and key tourist attractions |
| SOA20 | Improve the maintenance and promotion of promoted routes and county trails |

Existing Structures

Legitimacy of Existing Structures

Structures, such as stiles and gates, are only lawful when they have been recorded on the definitive statement as a limitation, if they have been authorised by the highway authority to control the ingress and egress of farm animals or alternatively if they are provided by the Highway Authority to safeguard the users of a right of way.

If a stile or gate is not recorded on the definitive statement, and has not been authorised by the highway authority, it is regarded as an unlawful obstruction.

It is recognised that some of the structures on Lincolnshire’s public rights of way network are unauthorised. Whilst many of these structures are capable of being authorised under S147 it is also considered that a number of structures could be totally removed altogether.

Whilst the County Council cannot force a landowner to replace authorised stiles with kissing gates, it is committed to replacing stiles where this is possible in order to increase access to users with restricted mobility, the elderly, dog walkers and families with pushchairs. The County Council will also actively seek the replacement or modification of authorised structures where they no longer meet modern requirements.

Maintenance of Structures

Landowners have a duty to ensure that any authorised stiles and gates on their land are kept in good condition. The County Council’s duty is to ensure that the landowner complies with this obligation and to ensure that all structures on a public right of way are adequately maintained in a good state of

repair. If the owner fails to do this, the County Council can take legal action including repairing the structure itself and recover its costs.

The County Council follows the principle of 'least restrictive access' in the replacement and repair of authorised gates and stiles on public rights of way. In the first instance a gap is considered, followed by a gate or kissing gate and stiles are only considered as a last resort, and only used where a gate is not practical or the landowner insists on a stile being replaced.

The County Council is obliged to contribute 25% of reasonable maintenance costs towards the cost of infrastructure repairs and replacement, however, in practice the County Council is happy to supply the appropriate furniture kit for installation.

In order to make the path network more widely accessible, the County Council will encourage the upgrading of structures where there is an opportunity to improve access.

Efforts will be made to preserve historically significant stiles and gates in order to maintain landscape character and alternative solutions may be considered to increase accessibility.

Removal of Structures

There are circumstances where authorised structures are no longer required. In such situations, as a part of routine maintenance activities, the County Council will contact the landowner or tenant concerned to seek the removal of the structure. Where there is agreement the County Council will arrange for the removal of the stile or gate in question.

In the case of unauthorised structures, if the landowner does not agree with the removal of the structure, and the structure cannot be shown to be lawful the County Council may use its various powers to seek the removal of the structure.

New Structures

It is sometimes necessary to erect new structures on the public rights of way network as a result of land management changes.

The County Council has powers to authorise the erection of stiles and gates in order to prevent the ingress or egress of animals on agricultural land, on forestry land and for the 'breeding and keeping of horses'.

If the landowner/occupier wishes to install additional structures across the footpath or bridleway, an application must be made in writing to the County Council.

The County Council will only authorise the installation of structures which use the principle of 'least restrictive access'

In addition to accessibility other factors will be considered such as livestock control, terrain and surface conditions.

The number of structures erected on a Public Rights of Way should be kept to a minimum and consistent with good husbandry and public safety.

All new structures must be licensed and comply with this guidance.

Other Structures

The Highway Authority has powers to erect structures and barriers on rights of way, to safeguard users. Barriers, rails fences, bollards and posts can be erected on footpaths and bridleways. Consideration is given prior to the installation that the structure is consistent with the least restrictive option. These structures can not be erected on Byways.

The preference of the County Council is to provide as much barrier free access as possible.

Efforts are made to avoid installing bollards and barriers where this will have a detrimental effect on users with limited mobility, particularly where the route is likely to be used to connect people with local facilities and amenities, or routes connecting users to places and features of interest. A stile will not be used as a means of safeguarding users.

The problem of trespass on rights of way such as cycling, horse riding or illegal motor vehicle use will be tackled in stages. Where the problem persists the following actions should be considered:

- Providing information signs on the route
- Communicating with the public / offenders
- Discussions with the Police
- Erect structure.

If a structure is installed it should be reviewed if it is considered that that the scale of the problem has reduced to a low level, and that the problem would not return if the route was barrier free,

A separate policy in relation to the illegal use of public rights of way by motor vehicles is currently under preparation (2009).

In situations where a new road or development affects a public right of way the principle of least restrictive access will be applied.

Urban Paths Surface Standards

The County Council has a duty to maintain the surface of a public right of way to a standard appropriate to its current legitimate use.

The County Council also has powers to improve a public path. Consideration will be given to users with limited mobility prior to any surfacing works taking place.

Surface improvement works will be targeted towards

- Well used paths and strategic routes in urban areas and paths leading to popular destinations
- Routes which are used by 'Walking for Health' groups
- Routes where public safety could be substantially improved

In these locations surface improvement works will aim to achieve the following standards.

Path surface

The nature of the path surface affects all users. Poor surfaces can make walking difficult and for some disabled people, paths which are muddy or have a loose or uneven surface can be unusable.

Surface standard: The surface of the improved path surface should be compact, firm and stable. Ideally there will be little or no loose material of the improved surface.

Path width

Path widths depend on a number of factors including the definitive width, type of user expected to use the path and the frequency of use i.e. busy paths ideally need to be wider.

Accessible paths aim to achieve a width of 1.2m to allow wheelchair users to pass a walker without either person stepping off the route. A width of 1.2m also allows two people to walk side by side and support each other if necessary.

To allow for the free movement of two way traffic by all pedestrians the minimum desirable path width is 2m where the circumstances allow. The entire path width should be kept clear of overgrowth and the surface maintained in a firm and stable condition.

Users with visual impairment need to be able feel the difference underfoot between the path surface and the ground next to it. Whilst path edging is not essential a clear boundary between the path and adjoining ground is useful.

Passing places will be considered on fully accessible routes which are less than 1.5m wide depending on local conditions. Passing places will be constructed to a width of 1.5m and 2m in length.

Width standard: Where possible the surface will be constructed to a minimum width of 1200mm. The entire width of an accessible path will be maintained in a useable condition.

Gradients on Newly Surfaced Paths

The scope to improve the gradient of a public right of way is dependant on the definitive alignment and the local topography. In general terms the steeper the gradient, the more people will find it a barrier.

Path gradients which are steeper than 1:20 are considered to be ramps BT Countryside for All - Standards and Guidelines.

Ramps require level landings and resting places where the ramp involves a vertical climb of more than 750mm on slopes with a gradient steeper than 1:20 and at locations where there is a steep turn. Landings should be at least 1.2m wide by 1.5m long.

Depending on local conditions efforts will be made to ensure that ramps included as part of surface improvement schemes will be no longer than 15m in length before a rest area is provided. Ramps will be constructed from a non slip surface and avoid abrupt changes in gradient.

Excessive cross slopes can present difficulties of balance to for both wheelchair users and other people with mobility problems. The maximum cross slope of any ramp will be no more than 1:50.

Ramps will be considered in preference to steps, however, it is acknowledged that steps may be the only feasible solution in many situations.

Gradient standard: Dependant on the definitive alignment and the topography of the land the gentlest gradient possible will be provided. The preferred maximum ramp gradient is 1:10 with landings provided at intervals at least every 15m. Cross gradient maximum on any resurfaced path is 1:50.

Steps

Some ambulant users find steps more convenient than ramps. Steps will be a minimum width of 1.2m. All steps in a flight will have the same tread depth and riser height.

Step standard: Consistent step size with 165mm high max. riser by 300mm min. tread. Width 1200mm min. The total rise of any flight of steps should not exceed 2m. Where the total rise of a slope exceeds 2m, a level rest area should be provided for at least every 2m rise.

Clear walking tunnel

There is a safety risk where low vegetation overhangs a path. This is of particular concern for users with a visual impairment. Paths in urban areas and health walking routes will be maintained free of overhanging vegetation. The maintenance of adjacent hedges and trees is the responsibility of the owner or occupier of the tree or hedge.

Clearance standard: A clear walking tunnel of no lower than 2.1m high and 1.0m wide will be provided where possible.

Bibliography

**Lincolnshire County Council
Countryside Access and Rights of
Way Improvement Plan 2007-2012**
Lincolnshire County Council
2007

Positive Access Management

‘Practical ways to manage public access on your land’
Countryside Agency
February 2004

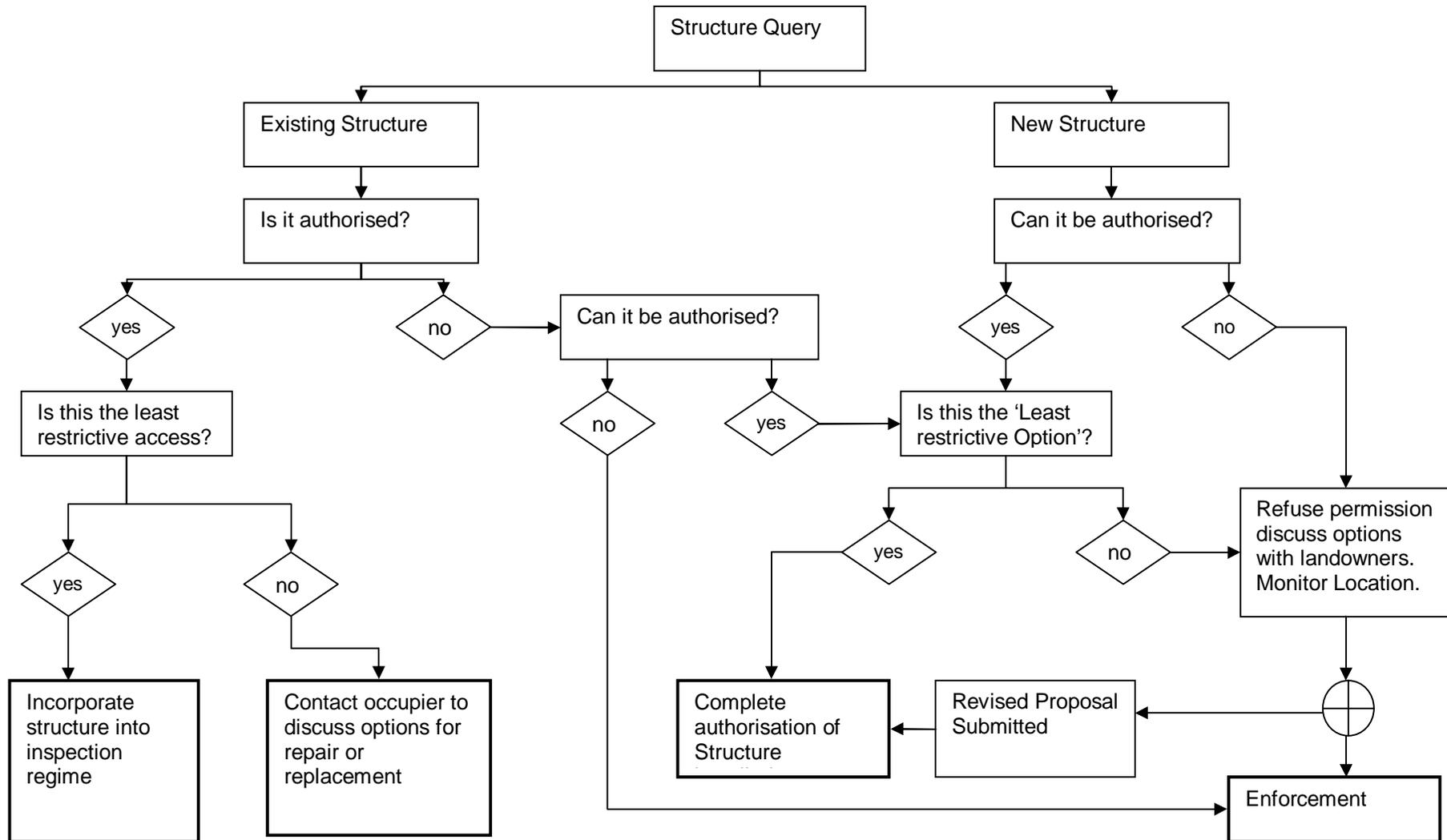
By All Reasonable Means

‘Inclusive Access to the outdoors for disabled people’
October 2005

BT Countryside for All Good Practice Guide

Standards and Guidelines
2005

Appendix A – Authorisation of Structures on Public Rights of Way - Flow Chart



Appendix B- The Authorisation of Structures

Highways Act 1980 – Section 147

Application to Install a New Structure on a Footpath or Bridleway

Important: Please read the enclosed guidance notes before completing this form

Section A – Applicant Details

Name

Address

Telephone Number

E-mail address

Section B – Path Details

Parish

Path Number

Status of public right of way

Footpath

Bridleway

Location

Type of Structure(s)
including Ordnance
Survey Grid Reference

(please include map)

- 1
- 2
- 3

Section C – Supporting Information

Section D – Terms and Conditions

I, being the owner/occupier/lessee (Delete as appropriate) of land over which part of the public right of way identified above passes, hereby make application to Lincolnshire County Council under Section 147 of the Highways Act 1980 for authorisation to erect a stile(s) or gate(s) on a footpath or bridleway for preventing the ingress or egress of animals on agricultural or forestry land (including land for the keeping or breeding of horses).

I confirm,

- 1) That each gate will be a minimum clear width of 1.0 metre on a footpath (1.5 metres on a bridleway) as measured between posts and will be fitted with a suitable latch, enabling it to be opened and closed by pedestrians and/or equestrians (as appropriate) without difficulty from both sides, at all times.
- 2) Stiles and gates will be constructed with suitable materials and to the specified dimensions.
- 3) Any electric fencing in the vicinity of the structure will be appropriately insulated.
- 4) That all works will be completed to the satisfaction of the County Council's rights of way officer and that I will notify the County Council when the structure(s) is/are ready for inspection.
- 5) That each gate/stile erected will be on land owned/occupied by me and be considered my property and therefore maintained by me.
- 6) That there are no private rights over the land which would be adversely affected by the proposal
- 7) I understand that any authorisation to install a structure will only be valid whilst livestock are kept on the land concerned.
- 8) I understand that I must not erect any other type of structure other than that for which I have permission.
- 9) Permission will only be granted for the erection of a structure if the County Council is satisfied that the structure design, installation will meet this guidance.
- 10) I understand that if any of these conditions are not met Lincolnshire County Council will require the removal of the structure(s).

Signed Date

-Authorisation of Structures on Public rights of Way - Landowner Guidance Notes

This form is for use by applicants seeking authorisation for the erection of a gate or stile on a public right of way under the Highways Act 1980 Section 147 for the purposes of securing agricultural efficiency on the land by preventing the ingress or egress of animals or seeking authorisation for the erection of a gate, stile

Guidance for the completion of the application form is given below: -

Section A – Applicant Details

Applicants should insert their contact details.

Section B – Path Details

Parish- The parish where the proposed structure(s) is/are to be located.

Path No. – Applicants should insert the path number as recorded on the Definitive Map. This information can be given by the Council's rights of way Officer upon request.

Status of Public right of way – Is the route a public footpath or a public bridleway. Structures cannot be authorised for installation on a restricted byway or a byway.

Location: Applicants should give a description of the location of the path in question

Type of Structure(s) including Grid Reference(s): - Applicants should state the type of structure, provide an 8 figure Ordnance Survey grid reference identifying the proposed structure on an accompanying plan.

Section C – Supporting Information

Applicants should include any further information supporting their application. For example, you may wish to provide justification for a stile over a gate or reasons for requesting a limitation under health and safety grounds.

Section D – Terms and Conditions: - Applicants should read through Section D deleting as appropriate as identified by the *.

Please return the completed form to the address to