What is Countryside Access?

Countryside access is the wonderful, free resource available to everyone; space to relax; trails to explore; views to take in; the local paths or the expansive country park. Countryside access falls into two broad, physical categories: linear access - along defined Rights of Way - and area access – such as parks, heathland or commons. There are also two general legal categories of access: ‘by right’ - such as on public footpaths and most registered commons – and ‘permissive access’ – where the facility to walk on or otherwise enjoy a route or a piece of ground is by the permission of the owner, or due to a licence.

The Resource

Public Rights of Way

Step out of your front door and into the countryside, to walk, cycle, or horse ride across a field, through a forest or along a river and the likelihood is that you are using a right of way.¹ These paths offer the single most important means of access to the countryside, providing a valuable resource for recreation, health and sustainable transport.

Hampshire has a network of about 7000 individual Rights of Way covering 2,859 miles (4,602km). On all Rights of Way users in perpetuity have the right to pass and re-pass at any time; but not all users can use all paths. Rights of Way are divided into four categories: footpaths, bridleways, restricted byways and byways. Maps showing the location and status of the public Rights of Way network in Hampshire are available at www3.hants.gov.uk/row/locating-row/row-online-maps.htm

<table>
<thead>
<tr>
<th>Status</th>
<th>Miles</th>
<th>Kilometres</th>
<th>% of network</th>
</tr>
</thead>
<tbody>
<tr>
<td>Footpaths</td>
<td>2061</td>
<td>3318</td>
<td>72%</td>
</tr>
<tr>
<td>Bridleways</td>
<td>473</td>
<td>761</td>
<td>17%</td>
</tr>
<tr>
<td>Restricted By- ways</td>
<td>147</td>
<td>236</td>
<td>5%</td>
</tr>
<tr>
<td>Byways</td>
<td>178</td>
<td>287</td>
<td>6%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2859</strong></td>
<td><strong>4602</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

¹Unless it is stated otherwise, we will use the term ‘Right(s) of Way’ to mean paths open to the public, not private rights that can only be used by certain people or for a certain period.
• **Footpaths**: for walkers only. Push-chairs, wheel-chairs and most mobility scooters can be used on footpaths. Dogs are allowed as long as they are under close control (although they don’t have to be on a lead).

• **Bridleways**: as above including horse riders and cyclists.

• **Restricted byways**: As above including horse carriages. Motor vehicle rights were extinguished.

• **Byway (BOAT)**: as their full title – Byway Open to All Traffic – suggests, byways are open to everyone; walkers, horse riders, cyclists, carriage drivers and motor vehicles.

There are 2,859 miles of public Rights of Way in Hampshire...in a straight line they would stretch from the New Forest to Newfoundland!
Occasionally you may come across other terms such as ‘green lanes’, ‘white roads’ and ‘ORPAs’.

‘Green lane’ is a purely descriptive term just meaning an un-surfaced route, usually between hedges or walls. A green lane might be one of any of the four types of Right of Way above, or not necessarily a Right of Way at all.

‘White roads’ are found on older Ordnance Survey (OS) maps. These are simply un-coloured routes that may or may not carry public Rights of Way.

Later OS maps show ‘ORPAs’ – other routes with public access. These are often un-classified and un-surfaced roads but the actual status of them is not recorded.

**Long Distance Routes**

Throughout Hampshire the County Council has established a network of long-distance paths, which greatly enhance the opportunities for walkers wishing to explore the best of Hampshire's countryside. Each walk is distinctively signed and waymarked, and advertised by a leaflet or booklet with some also providing additional circular walks. These walks include:

- Avon Valley Path
- The Hangers Way
- The Solent Way
- The Test Way
- The Clarendon Way
- Shipwrights Way
- Staunton Way
- The Wayfarer's Walk
- The Pilgrims' Trail
- St Swithuns' Way
- South Downs Way
- Ox Drove Way

There are also long distance routes open to horse riders and cyclists including the South Downs Way and the Ox Drove Way.

**Access land**

The Countryside & Rights of Way Act 2000 provides new rights to walk on areas of downland, heathland and registered commons. These rights are often referred to in the press as the ‘right to roam’ – this is very misleading as the new rights apply only to specific areas of land that together make up less than 2% of Hampshire. The new rights do not apply to cultivated fields or other areas of ‘excepted land’ including gardens, quarries and golf courses.

The right to enjoy access land extends only to use on foot for walking or quiet recreation. Some sites require that dogs must be kept on a lead between March 1st and July 31st, or at any time when near livestock.

Unlike public Rights of Way, land owners can suspend access for up to 28 days a year. Restrictions and closures are shown on Natural England’s web page www.naturalengland.gov.uk/ourwork/access/openaccess/default.aspx
The New Forest National Park

Access to the open area of the New Forest considerably pre-dates the Access Land in the Countryside & Rights of Way Act 2000 (CRoW).

The New Forest National Park largely constitutes land owned directly by the Crown (but not personally by the Royal Family) or land belonging to the Government, including Forestry Commission land. All together there are about 93,000 acres (37,600 ha) within the perambulation (legal boundary) of the Forest to explore!
Uniquely combining a biodiverse landscape with bustling towns and villages, the South Downs National Park covers an area of over 1,600 km² and is home to more than 110,400 people.

Recognised as an area of outstanding beauty, the South Downs is also home to a multitude of vibrant working communities steeped in history and traditional English culture, from the ancient cathedral city of Winchester in the west to the bustling market town of Lewes in the east. Access is provided through the rights of way network and areas of open access land, but please remember there is no ‘right to roam’ in the rest of the National Park as most of this area is private land, managed by farmers and foresters.

Whatever you are looking to do, for residents and visitors alike, the South Downs National Park offers a multitude of things to see and enjoy. Visit the South Downs website for future information at www.southdowns.gov.uk/
Countryside sites

The County Council manages more than eighty countryside sites covering over 8,000 acres (3,240ha). These include seven large country parks, twenty four nature reserves, many sites of archaeological importance and a wide variety of picnic sites and other open spaces. An extensive list of Hampshire County Council sites can be found at www3.hants.gov.uk/hampshire-countryside/countryside-sites-finder.htm

Other major countryside opportunities are managed by:

- The Forestry Commission
- MOD
- Woodland Trust
- District and Borough Councils
- Hampshire and Isle of Wight Wildlife Trust
- Some Parish Councils

Access to beaches

Beaches are all owned, often by local authorities but sometimes privately, although you are usually allowed on them. However, there isn’t necessarily a right to cross private land to get to them.

Do you know what access opportunities there are in your parish? You could help others to enjoy your parish by publishing a local access map.
**Permissive access**

Permissive access comes in two forms – formal and informal. Formal permissive access is sometimes included in environmental grant schemes.

Formal access might also be provided under Inheritance Tax Exemption schemes. See [www.hmrc.gov.uk/heritage/lbsearch.htm](http://www.hmrc.gov.uk/heritage/lbsearch.htm)

And, of course, local authorities, including your Parish Council, might also provide permissive countryside access.

Informal permissive access can be very important for the enjoyment of the countryside by local people but, by its very nature, it is impossible to quantify how much is available and where it is. Some landowners are happy for local people to use their paths and tracks for quiet enjoyment and exercise but would not wish to advertise this or to have the paths become public Rights of Way. In order to keep the paths available, but also ensuring that they don’t become full public Rights of Way, landowners can make a declaration under Section 31(6) of the Highways Act that will prevent the public acquiring a Right of Way through its use. This is discussed in more detail in the second chapter of this Guide.

**How our access network came about**

**Public Rights of Way**

Before motorised transport and tarmac roads, footpaths and bridleways were seen as part of the continuum of highways, all of equal importance in law. Legally there is still no hierarchy of routes – footpaths are just as much highways as are ‘A’ roads – but for maintenance purposes roads have increasingly been separated from public Rights of Way. That separation began as early as the 17th century with the passing in 1663 of the first Turnpike Act. Prior to the Turnpikes – commercially maintained public toll roads – the duty of maintaining all highways fell on the parishes and every parishioner was required to do 6 days unpaid work (“statute labour”) on the highways each year. The turnpikes were an attempt to improve the maintenance of key routes but most failed by the 19th century, especially as the Government imposed heavy tolls and encouraged the development of the competing railways.

The Highways Act 1835 abolished statute labour and gave powers for the appointment of parish surveyors funded through local rating.

The Highways Act 1862 marked the second move away from parishes maintaining roads and sought to set up district highways boards; but the maintenance of footpaths and bridleways (public paths) remained with the parishes.

The Local Government Act 1888 created County Councils and these were given state funding to maintain the ‘main’ roads, while minor roads remained with the highways boards until their powers were transferred to the Rural District Councils in 1894.
The big shake up came with the Local Government Act 1929, which made the County Councils the Highway Authorities for all highways, including footpaths and bridleways - although the parishes retained their rights to maintain their local paths should they wish to. The focus of the Counties was on the rapidly increasing motor traffic, especially because of the tremendous dust problems that fast moving, rubber-tyred vehicles caused. Increasingly the vehicular highways network was sealed with tarmac while public paths became gradually more neglected.

The Commons, Open Spaces and Footpaths Preservation Society (now the Open Spaces Society or ‘OSS’) grew concerned about the loss of public paths to tarmac and to agriculture and pressed for the Rights of Way Act 1932. This act started a voluntary process of parishes recording public Rights of Way but did not achieve as much coverage as had been hoped. Amid continuing pressure, the whole situation was reviewed by the Hobhouse Committee (a Parliamentary Committee), which reported to Parliament in 1947 and this report led to the National Parks and Access to the Countryside Act 1949. This Act set out the framework for the formal recording of all known public Rights of Way on a map that was to be the legal record of Rights of Way and was to be known as the Definitive Map. The Map was to be accompanied by a Statement recording particulars of each path. Together the Definitive Map and Statement form the bedrock of Rights of Way recording in England and Wales.

Responsibility for drawing up the Definitive Map and Statement lay with the Highway Authority which in Hampshire is the County Council. However, the parishes were again at the forefront of the process and records were drawn up on a parish by parish basis with the local council taking the lead - and often carrying out the surveys - and feeding results back to the County Council.

The Definitive Map and Statement is still the legal record, although the method for adding or changing paths on the map has been modified by subsequent Acts, particularly the Countryside Act 1968, the Wildlife and Countryside Act 1981, and the Countryside & Rights of Way Act 2000.

It will be quite obvious, even from this briefest of résumés, that the Parish Councils have always played a highly significant, and often a central role in the management of their local paths network. It will be no surprise, therefore, that, as we shall see in the following chapters, parishes still have many useful powers that they can call upon to help look after their paths.

Binsted parish has the most Rights of Way - an impressive 41 miles......Ashurst and Colbury parish has only 200 yards
**Access land**

The Hobhouse Committee was successful in that its report led to the establishment of National Parks, the Definitive Map and Statement, and National Trails (Long Distance Paths); however, it wasn’t as successful in gaining the right to roam that user groups were clamouring for. More than 50 years would pass before the next major steps towards access to open country were taken with the Countryside & Rights of Way Act 2000 (CRoW).

CRoW starts with a definition of ‘open country’ as being land that is predominantly mountain, moor, heath or down. This definition is largely the same as that recommended by Hobhouse but with the exception of ‘cliff or foreshore’ – an omission that was addressed by the Marine and Coastal Access Act 2009.

Access land consists of registered common land as well as open country – although there is considerable overlap in these two categories: for example, many commons may also be heath or down.

So, although CRoW has resulted in about 2.5 million acres (1 million hectares) of additional access nationwide, this only includes land classified as mountain, moor, heath, down and registered common. Land owners can dedicate their land as access land, so the mechanism exists for adding coasts or riverside, say, to the access land maps. But, in practice, dedications have generally only come from public bodies and, in particular, the Forestry Commission has now dedicated most of its woodlands as access land.

In Hampshire only about 2% of the county is designated as access land. Maps showing the extent of this access land can be seen on Natural England’s website: www.naturalengland.gov.uk/ourwork/access/openaccess/visiting_open_access.aspx

**Access authorities**

In the same way that there is a Highway Authority (the County Council) with overall control of public Rights of Way, there is also an Access Authority with responsibility for Access Land. Generally the County Council is both Authorities; however, the National Park Authorities are the Access Authorities for land within the National Parks.
Coastal access

Delivery of the England Coast Path, under the Marine and Coastal Access Act 2009, is governed by a 'Coastal Access Scheme', approved by the Secretary of State. The Scheme is an important document which sets out the methodology that Natural England must use when undertaking their Coastal Access Duty. It contains the key principles to which Natural England base access proposals at the local level, and explains how these are applied in each of the main coastal scenarios.

The Act also required Natural England to review the scheme within the first three years and this was completed in March 2013, and approved by the Secretary of State in July 2013.

Further information can be found at www.naturalengland.org.uk/ourwork/access/coastalaccess/default.aspx

Havant Bridleway 132 is a Roman causeway from Havant to Hayling Island – it’s underwater other than at very low tides! Locally this is known as The Wadeway.