

Footpath Warden's Report No 51 combined with Annual Report for May 2021

My last report to the Parish Council was dated 31st October 2020. There is no report numbered 49.

During the Covid lockdowns the footpaths in Wacton have been used extensively as a means of exercising and that I think is good as some of residents have probably seen more of the village than they ever have.

There have been no reports of issues on the footpaths in terms of increased dog fouling, litter dropping or damage.

Wacton RB17 (Haynton's Lane)/Wacton FP16 (junction of Haynton's Lane to Stratton Road) I received an email reporting that horse riders were turning off Wacton RB17 and riding along FP16, which is illegal. I have reported to Highways asking if clearer signage could be placed at the junction.

Wacton FP18 (Stratton Road to Junction with Haynton's Lane) An issue was reported that the cross field path (field accessed of Haynton's Lane) had not been marked or sprayed off. I spoke with the landowner who assured me it was all in hand and the field had not been sown so no crops to be sprayed off and due to weather the white posts had not been inserted as ground was too hard.

In my experience the vast majority of landowners who farm in Wacton are compliant with legislation regarding footpaths. At the same time they are very much at the mercy of the weather and ground conditions, one has to read the land. One has to work with landowners to get the best footpaths for the village.

Wacton FP13 (Stratton Road to Junction with Wacton FP11) Following on from what I have written above, for 3 years I have asked via email, for the landowners of the field, across which FP13 goes to spray off. This is since the willow has been removed. They come up with excuses why it has not been done or totally ignore. I reported this to Highways on 11th Nov 2020 under the heading "Crops or ploughing affecting footpath", the response was

No action has been taken at this time but we will continue to monitor the problem -We have assessed that the defect does not currently meet our intervention criteria. We will continue to monitor as part of normal scheduled inspections.

To reinstate a PROW is not an option for landowners and to not receive backing from an authority department with clout is not good enough, it makes a mockery of the legislation. I am on the case, I have also questioned - How often do [normal scheduled inspections](#), take place? As it appears frequently in the responses and appears to be meaningless.

Update 4th May "[Path was not marked out on inspection. Letter sent to landowner.](#)"

Wacton FP18 (Stratton Road to Junction with Haynton's Lane). This is an update. For background details see report 50.

During a conversation with one of the landowners they confirmed the PROW officer had been in touch and work had been carried out on the bridge and waymarkers were being put in.

The work appears to have been carried out and overseen by the PROW Officer. I did email them on 20th April asking if the work required is now completed or is there anything left outstanding? I have not received a reply.

Ownership and maintenance of PROWs In July 2018 I sought from Highways some guidance regarding unknown landowners and responsibility for upkeep of PROW in the village, and received no reply.

On 24th Feb 2021 I again wrote this time to NCC posing similar questions about unknown landowners, maintenance/upkeep of PROWs and who bears the cost. There was also a question regarding a former landowner who had employed a solicitor to change the boundary of their property so that the footpath was outside of the boundary. This footpath has become no-man's land and I wanted to know what happens regarding upkeep.

26th Feb I received an email to say the request had be passed to the relevant PROW Officer and that I should use my Highway account to report problems. I replied

I do have an account to report problems on individual PROW but for information that is not focused on one particular footpath and more detailed information is required regarding more legal matters, the reporting system is not a suitable means of communication. This is a case of one size does not fit all and not fit for the purpose that I needed.

After waiting further and having no meaningful response, I asked Alison Thomas (County Councillor) to intervene and illicit a reply.

13th April I received the following, which Parish Councillors may find useful.

Thank you for your email to Highways, to which I have been asked to reply.

I share your, and many other people's, desire to see our public rights of way protected so that the public can use them. However the County Council has limited resources and at present the demand for action is currently high and we are having to prioritise the work.

In answer to your specific questions I would say that the person responsible for the land on which a public right of way crosses is the landowner. The County Council has a duty to ensure that the path remains open but that duty is limited. We do not cut the grass on the majority of paths. We have the same difficulties that you have experienced in finding landowners as we do not have access to any other data than that which is available to the general public. Due to data protected regulations we are sometimes unable to release personal information.

If a landowner moves a boundary the path is not moved; neither is the boundary of legal ownership; the legal axiom is that once a route is a public highway (and a public right of way is a public highway) then it is always a public highway. The only way to extinguish the public's rights or move the route of a path is through a legal process. Unless a landowner has sold the land to someone else he/she remains responsible for that land, moving the fence is not material.

With regards to Haynton's Lane, which I am not familiar with, the hedges are for the landowner to cut. We can send a letter to them (if we know who they are) however we have found that local peer pressure from the parish council or residents is often more effective than a letter from us. Obviously this relies on the landowner being receptive to a reasonable request. Commons can be more difficult and we would normally try and contact the Commons Rights Owners who again are responsible for the land. In some locations there are Commons Committees who fulfil this function.

I should comment on your interpretation of the "hedge and ditch rule"; generally as far as I am aware the boundary between two landowners is the top of the ditch away for a hedge. The logic here is that when a common was enclosed a landowner had to dig a ditch around his property and on his property and erect a stock proof barrier. This barrier was normally a hedge planted on top of the excavated material from the ditch.

I realise that this email may be disappointing in terms of immediate action however I hope it goes some way to explain the situation.

The County Council have duties which they should act upon.

www.gov.uk/guidance/public-rights-of-way-local-authority-responsibilities#maintaining-and-protecting-public-rights-of-way

As stated above budget restraints are an issue, which means County Councils are failing to meet their legal requirements regarding PROWs.

There is a legal issue with the footpath where a former owner engaged a solicitor and moved a boundary fence so that the footpath now lies outside the property (I have a copy of the property site from the land registry showing this). The property was sold on and the current owners brought it believing that part of the footpath is not in their grounds and not their responsibility. This maybe an issue for Highways and the Parish Council going forward.

With regard to Haynton's Lane, we are no further forward regarding landowner/s (fields on the left hand side walking down from Wacton Common are within Long Stratton). There is clear evidence of ditches along Haynton's Lane in places. The present landowners will say they are responsible for land up to the edge of a ditch or maybe half way across a ditch but not for Haynton's Lane itself. (Ian Mortimer - Parish Councillor maybe able to advise further on this).

If the Wacton Parish Council at anytime in the future, does not have the money (approx over £2,000 at present time) and no grants are available or assistance from Long Stratton Parish Council to keep Haynton's Lane open and passable, it will be down to the duty of the County Council via Highways to do some work and maintain.

Wacton Common The relationship with the agent for the owners of the Common remains on good, firm ground and works very well. I sincerely hope this continues going forward.

During the lockdown repairs to some of the gate latches and part of a broken wooden fence was attended to promptly. The wire boundary fencing has been renewed and I have received no reports of cattle or calves escaping.

Overall the PROW within Wacton are in good order and well used and remain an asset to the residents and visitors, it is good to see them used. I would also thank the majority of the landowners who do maintain the footpaths which cross their land for our pleasure.

Christine Goreham
Wacton Footpath Warden 5th May 2021