

13. There is dissatisfaction from several quarters with the current arrangements for resolving objections, particularly in the case of definitive map modifications. Rights of way managers see too much scope for irrelevant objections to confuse and delay the process, and the performance of the Planning Inspectorate is criticised by a number of its "customers". We have received several different - and sometimes conflicting - suggestions as to how these arrangements should be improved.

14. Another significant problem, highlighted by all user groups, is the lack of effective arrangements to deal with obstructions to rights of way. This includes the lack of effective sanctions, both for highway authorities to use against those who obstruct paths, and for the public to use against highway authorities lacking commitment to this aspect of their duties.

15. A great deal of interest was expressed in the issue of vehicular rights over paths. Though stimulated partly by misleading press articles about our proposals, the strong - and divergent - response was, nevertheless, an indication of the feeling that exists. The antipathy shown towards any motorised use (irrespective of its legality, scale or impact) is significant. To make the problem even more intractable, on this issue there seems, uniquely, to be a lack of agreement about where we are starting from because of entrenched dispute about the legal position, and inconsistencies in its application.

## Main issues

16. Having considered all the responses carefully we have concluded that, in order to succeed, any measures to improve the recording and management of rights of way will need to include action on all the following main issues:

- Adequate, long-term funding arrangements need to be put in place.
- Highway authorities need to carry out their rights of way duties properly.
- The legislative framework and administrative practice need to be improved.

17. These issues are interrelated. Unless all three are addressed simultaneously, there can be little prospect of genuine and widespread improvement.

## FUNDING

18. It is common ground between highway authorities, users and landowners that rights of way work has never been properly funded at any time since the present system was introduced by the 1949 Act. That lack of funding is the biggest single reason - although not the only one - for the failure of the current arrangements. Improved funding must be a top priority, as without it other necessary changes will have little effect.

19. The sums involved are not huge in the context of overall public expenditure - or, indeed, in the context of overall highways expenditure. Relatively small sums can make a big difference, especially at the individual highway authority level. At present no Government grant is allocated to highway authorities specifically for rights of way work, and there is no guidance issued to highway authorities on how much they should allocate in respect of their rights of way duties. Both these shortcomings need to be remedied.

20. But the Commission also believes that it is unacceptable for local authorities to fail, on a widespread and long-term basis, to fund their statutory duties adequately.

21. There are three separate funding needs:

- The first is the need for additional funding, for a limited period, for highway authorities to meet the agreed National Target for Rights of Way (i.e. deal with current backlogs of recording, maintenance and enforcement) within an acceptable time scale;
- the second (discussed in detail at paras 44-45 below) is the need to fund the work required - again for a limited period - to research and record as fully as possible those unrecorded rights for which modification applications have not yet been made; and
- the third is the long term funding needed to manage and continue to improve the network once the National Target has been met.

22. The Commission has previously advised the Government of the need for additional funding of the order of £30 million per year for

five years, in order to enable the National Target for Rights of Way to be met in full. This figure is a crude estimate, but the best available starting point.

23. In directing additional funding of this order to rights of way, the Government will need to take steps to ensure, as far as possible, that:

- a. it is spent on the purposes for which it is intended; and
- b. it is spent to best effect and achieves good value.

#### 24. Recommendation 1:

The Government should require each highway authority to prepare, and roll forward annually, a rights of way business plan setting out how it will use its budget to best effect in order to make progress towards the National Target, and identifying the resources needed to achieve each element of the National Target in full by a specified date.

#### 25. Recommendation 2:

The Government should ask the Countryside Agency (in consultation with the Local Government Association and the CSS) to:

- evaluate English highway authorities' rights of way business plans and advise the Government on the additional funding which needs to be allocated to rights of way work in those highway authority areas; and
- provide the Government with i) more accurate estimates of the cost of meeting the National Target over a specified time scale; and ii) estimates of the annual cost of sustaining the National Target, including an element for enhancing the network.

The Government should include rights of way expenditure, as estimated, as a new item within the Standard Spending Assessment process, separated out from highway (i.e. road) maintenance.

#### 26. Recommendation 3:

The Government should direct additional funding of £30 million per year to rights of way over each of the next five years, beginning 2000/01, in order to enable all highway authorities to deal with their current backlog of recording, maintenance and enforcement. This must be genuinely additional to highway authorities' existing rights of way expenditure.