A Land Managers Guide to Structures (gates, stiles & barriers) on Public Footpaths and Bridleways.

Suffolk County Council aims to have a network of public rights of way that are as free from barriers as possible and are easy to use by everyone.

In practice, there are places where structures are needed by owners of agricultural land to control livestock. The law understands this and makes provision for land managers to apply for authorisation for structures if it can be proved that they are needed and there is no reasonable alternative.

Land managers must therefore apply to Suffolk County Council for permission to erect any type of structure on or across a public right of way.

This leaflet explains the law relating to structures on public rights of way. It explains when you can be given permission for a structure, your responsibilities and those of the County Council. There is also guidance on how to apply for a structure on a public footpath or bridleway on your land.

When are structures allowed on public rights of way?

A gate, stile or other barrier can only be erected on a public right of way if either: -

• The Definitive Map and Statement has recorded the presence of a structure on the public right of way. The County Council can check this for you.

OR

• The structure has been authorised by Suffolk County Council using the powers of the Highways Act 1980 section 147

If a structure is not recorded on the Definitive Map and Statement or has not been authorised by the County Council, then it is an unlawful obstruction.

If a land manager erects a structure without permission, then they are committing an offence and the County Council will take action to remove it.

There are times when the County Council installs a barrier on a public footpath for the safety of the public users. This is justified through the Highways Act section 66 with the County Council having substantial evidence that the public is at risk, including the support of the parish council, the local police and actual physical evidence on the ground. The rights of private users also have to be taken into account.

Getting permission for a structure – the Highways Act section 147

The County Council can give you permission to erect a structure on footpaths and bridleways if you need to control livestock on agricultural land. Agricultural land includes land that is being brought into use for agriculture, nurseries, land used for grazing, forestry and for the breeding and keeping of horses.

You can only be given permission if the provisions of section 147 of the Highways Act can be met:
• if it can be justified that the land crossed by the public footpath or bridleway is being used for agriculture

• and that in order for this agriculture to be carried on efficiently, a structure is needed to control the ingress and egress of animals.

For example, land used to graze sheep or commercial forestry plantations needing to keep deer and rabbits out, would both meet the provisions of this section. If the land stops being used for agriculture and there is no longer any need to control livestock, then the structure should be removed.

The law does not allow new structures to be erected on Byways Open to all Traffic (BOATS) or Restricted Byways.

What type of structure?

Suffolk County Council has a duty to positively promote disability equality and has to have regard to the needs of persons with mobility problems when authorising structures. (Countryside & Rights Of Way Act 2000 and Disability Discrimination Act 2005)

In authorising a structure, SCC will normally give permission for simple hand gates unless the land manager can make the case for a more restrictive structure such as a kissing gate.

Each application is judged on its merits considering the type of animals involved, the level of use and status of the path, the likely impact on users and whether it is more reasonable to fence the path out from the land thereby avoiding the need for any structure.

Any new structures should conform to the British Standard on Stiles and Gates 5709 –2006 but this does not necessarily exclude locally distinct designs. As a principle, gates on bridleways will be easily opened from horseback and on foot and must open to at least 1.5m (5 feet).

Who is responsible for paying for structures?

As a structure is usually erected for the benefit of the land manager, it is you, as applicant, who is responsible for providing it and looking after it.

For new structures, the applicant is responsible for the costs of the structure and installation.

When there is an existing authorised structure, the County Council will contribute 25% towards the reasonable costs of repair or replacement so long as this is agreed in advance with the appropriate Area Rights Of Way Officer. In practice, this contribution may be in kind, such as materials, but this does not imply that the County Council takes responsibility for the structure in future. If you wish to change an authorised stile to a gate or kissing gate, then the County Council may enter into an agreement with you and be prepared to offer a more substantial contribution.

Who looks after the structure in the long term?

The land manager is responsible for looking after the structure and making sure that it is always safe and easy to use.

This is described in the Highways Act s146, which places a duty on the owner/occupier ‘to maintain the structure in a safe condition and to a standard required to prevent unreasonable
interference with the rights of users.’ As the structure is not part of the highway, the onus for liability is placed on the owner by the Occupiers Liability Act 1957.

If an owner refuses to repair a structure or the repair is unsatisfactory, then the law does give the County Council powers to do the necessary work and to charge the owner.

How to apply for authorisation.

• The first step is to contact the relevant Area Rights of Way Team. A member of the team can send you an application pack and also discuss your application and circumstances with you. The application form includes a copy of the Terms and Conditions that will apply to any authorisation and any specific conditions that may apply to your case.

• The completed application form should be returned to the Area Rights of Way Office.

• If the County Council is satisfied that the application meets all the necessary criteria, then an authorisation form will be sent to you. This will include a design specification for the authorised structure.

• The authorisation form should be signed and one copy returned to the Area Office and one copy kept by you.

• You should then notify the Area Office when the structure has been completed and it will then be inspected. If it is satisfactory, then the authorisation becomes valid. If the structure does not meet the design specification or the terms of the authorisation then it will be an unlawful obstruction and the County Council will seek its removal.

In the future, if any of the conditions cease to be met, then the County Council will require the structure to be removed.

An application will be refused if it does not meet the provisions of the Highways Act section 147.

Each application will be assessed to determine the most suitable type of structure, appropriate to the use of the land and the needs of the users of the path. There is no appeal against the County Council’s refusal to grant authorisation or its imposition of conditions.

Contact your Area Office

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<td>IP19 5EN</td>
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Visit the Suffolk County Council website

These guidance notes and the application form can be downloaded from the County Council's Public Rights of Way website at [http://www.suffolkpublicrightofway.org.uk/home](http://www.suffolkpublicrightofway.org.uk/home). Look at the Land Manager Information page.