

Upwell Parish Council Policy

Public Rights of Way

Mission Statement

Upwell Parish Council wishes to maintain in good state all public rights of way in the parish. To do this we will work with Norfolk County Council to ensure they are cut regularly and kept open and safely passable. We are conscious that many landowners in the parish have public rights of way across or adjacent to their land. The council respects the rights of these people and will ensure all maintenance is carried out by agreement and in line with current statute.

1 List of all footpaths and other routes with public access.

See Maps in Appendix 1 & 2

Name/Number	Location	Landowner INFORMATION REDACTED
Footpath 1	School Road to Baptist Road	
Footpath 2	Green Road to Broad Drove	
Footpath 3	Lotts Bridge to Halfpenny Toll	
Footpath 4	New Road to Green Road	
Upwell Isle Footpath 1	Dodds Style	
Upwell Isle Footpath 2	Mill Rigg	
Upwell Ise Footpath 3	School Road to Workhouse Lane	
Upwell Isle Footpath 4	Marmont Priory Lock to Mallett's corner	
Upwell Isle Footpath 6	Thurlands Drove towards Longbeach Farm and Friday Bridge. Crosses into Cambridgeshire.	
Upwell Isle Footpath 7	Dovecote Farm to Mallett's corner	
Other routes with public access		
Holly Tree Lane	Small Lode opposite Morton's Farm to Chalk Road	
Green Road	Stonehouse Road to New Road	
Broad Drove	Baptist Road to FP2	

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Back Drove	Baptist Road to Three Holes	
Bridleway 12	Tointons Road to Small Lode	
Name/Number	Location	
Concessionary routes		
Allotment Roadway	March Riverside to Thurlands Drove E of Marmont Priory Lock	
Allotment Roadway	March Riverside to Thurlands Drove W of Marmont Priory Lock	

These details are correct as of 3rd March 2021

2: List of paths cut by NCC.

Upwell FP1, Upwell FP2 (x2), Upwell FP3, Upwell Isle FP3, Upwell Isle FP4 (x2), Upwell Isle FP7.

These paths should receive a single cut by NCC in June or July, with a possible second cut for FP2/UIFP4 in September. It is not unknown for the NCC contractor to fail to complete the summer cut.

For paths listed in red a single cut is insufficient and it is these paths that will require a supplementary cut in the Spring and Autumn.

3: Responsibilities and Policies.

Norfolk PTS: "The County Council have a duty to maintain the highway, but s43 of the Act (Highways Act 1980) says that a Parish Council may undertake the maintenance of any footpath, bridleway or restricted byway within the parish which is a highway maintainable at public expense. s56 of the Act enables notice to be served on a highway authority that a route is "out of repair". If a Parish Council does decide to undertake maintenance, it does not remove the duty of the highway authority to also undertake maintenance. A Parish Council should check that their insurance provision is adequate for any work they intend to do, and appropriate risk assessments should be carried out."

UPC Health and Safety Policy: "Public footpaths: The council considers that it does have a level of responsibility to ensure its public footpaths are safe and for any paths reported as unsafe the council will liaise with Norfolk County Council concerning the problem."

Minutes December 2020: UPC agreed to supplementary cutting by contractors/volunteers.

4: Supplementary cutting.

All Public Rights of Way and concessionary routes should be checked quarterly, beginning in January, by the members of the rights of way working group of the parish council.

There are two types of issues the council should look for.

The surface of the path should be inspected.

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For the purposes of its maintenance the surface of a right of way is vested in the Highway Authority (section 263 of the Highways Act) and it does not have to give notice of its intention to undertake maintenance work and nor would a Parish Council be utilising its powers under s43. (NCC Countryside Access Officer).

The sides of the path should be inspected to ensure there is no growth encroaching onto the path making the path difficult to traverse and also that there is no branch or other obstruction protruding over the path. *Overgrowth including hedges encroaching into the highway are technically the landowner's responsibility and this maintenance is not the responsibility of NCC. (NCC Countryside Access Officer) nor of the Parish Council.*

In this situation the landowner should be contacted and requested to rectify the matter at a time that does not interfere with nesting birds. A standard letter for this purpose is produced in Appendix 3. In that letter the Parish Council may offer to carry out the work for the landowner; if this offer is accepted then the scope of the work should be agreed in writing with the landowner prior to work commencing, the timing of the work should also be agreed with the landowner.

If the landowner refuses to either carry out the work themselves or allow the parish council to do so on their behalf, then the matter should be referred to NCC for enforcement.

Where supplementary cutting is required on those paths on the NCC cutting list, it should be undertaken as soon as possible. Normally, this should mean a supplementary cut will be carried out where necessary by UPC in April and October. If NCC fail to complete the summer cut, Council will finish it as soon as possible. For routes not maintained by NCC any surface cutting required will be carried out as soon as practicable after the quarterly inspections once appropriate notice has been given to the landowners.

Where overgrowth presents a hazard to the safety of users of the pathway this will be brought to the attention of the landowner as soon as possible. The parish council would not cut any growth **not originating from the surface** of the path as to do so would be to commit trespass on the landowner's property. However, in the case where the safety of the public using the footpath is endangered the user of the path may employ their individual power of abatement of nuisance, however this only allows an individual to remove sufficient of the danger to allow them to continue on their way safely.

Advice from the NCC Countryside Access Officer: while there is no legal requirement to seek permission from landowners to cut the surface of a path it would be polite to advise landowners of the Council's intentions and the council will endeavour to do so wherever possible.

5: Holly Tree Lane.

This is classed as an unsurfaced road and theoretically the responsibility of NCC, for many years has been maintained by volunteers and will be included in Council's inspection and maintenance regime. The surface will need 3 cuts a year. In the past the owner of Primrose Farm has given the council permission to cut the side growth to keep the lane open. the council will write to the owner to seek permission to carry out a similar annual cut going forward.

6: Signs and waymarking.

Where a public footpath leaves the carriageway it is marked with a fingerpost. These are the responsibility of the County Council. Missing or damaged fingerposts should be reported on the NCC Highways website and will be replaced.

They will also supply waymarking discs that can be used to provide additional waymarking to public footpaths.

Other waymarks will be provided and maintained by Council where restricted byways and concessionary routes leave the carriageway and additional waymarking discs provided where appropriate.

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Appendix 1



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Appendix 2



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Appendix 3

Dear <name of landowner>,

At our recent quarterly inspection of Public Rights of Way in the Parish we noted that <insert name of footpath> was partially obstructed by <insert nature of obstruction>. As the owner of the land from which this obstruction is arising you have a duty to arrange for the necessary work to be carried out to clear the footpath.

We appreciate that not everyone is able to easily get such work done and the parish council is happy to arrange for the work to be carried out for you. If you would like us to help in this way please contact the parish clerk and she will arrange for our rights of way working group to contact you to agree the scope of the work, and a mutually convenient time for the work to be carried out. The timing may have to be delayed to protect nesting birds etc.

Please let us know within 7 days how you wish to proceed. Sadly, if you do not wish to either carry out the work yourself or ask the parish council to undertake it for you, we will be forced to send the details to Norfolk County Council for them to consider enforcement, the cost of which you will be liable for. This is the last thing we want to do and would much prefer to work constructively with you to relieve the problem.

Yours sincerely,