

FOOTPATHS WALK REPORT September 2019, updated February 2020

NB No problems unless otherwise stated. All paths walked unless stated.

PATH	PROBLEM	REPORTED TO/ACTION REQUIRED	RESULT
Path 3	Mostly good but overgrown along section next to A34.	Reported to OCC Oct 2019	
Path 6	No signpost at north end so difficult to locate path. Obstructed by garden waste & inaccessible/overgrown.	OCC aware; evidence of non-use required to request closure	
Path 7	Diversion in place.		
Path 19	Diversion in place until July 2020. No problems to point of closure; not walked beyond.		
X1	No problems apart from poor surface.	Request for upgrade to surface referred to OCC, which maintains path surfaces 10/17. No response by July 2018. Clerk chased at various intervals 2018-19. See below.	See below.

Report re: Path X1

This is an unofficial path connecting 2 sections of Westfield, which is muddy in all but dry summer weather. PC has discussed upgrading the surface for several years and asked OCC to check the path and improve it on various occasions. Ultimately it became clear (late 2019) that the path is owned by VWHDC & 1 other. Both were asked for permission for the PC to add a gravel top layer Jan 2020. 1 quote was obtained, OCC Priority Funding applied for. Application was denied because permission had not been obtained from landowners. No response from second landowner in spite of follow-up letter. OCC & VWHDC councillors have assisted in obtaining information & chasing various departments.

Further advice and suggestions received from OCC and VWHDC Jan/Feb 2020– see emailed information copied below.

Because one landowner is not responding, OCC recommends that the PC should apply for a DMMO before anything can be done with the path. The same process will be needed for any other unofficial path which the PC/residents wish to be improved.

Advice from OCC –

Latest email 13.2.2020;

With the second landowner seeming to be uncooperative my suggestion would be for the parish council to submit a Definitive Map Modification Order (DMMO) to claim the route as a new legally recorded public right of way, this would be on the basis that members of the public have used the route continuously for a period of more than 20 years. If your claim were successful, and the route recorded as a public right of way, then OCC would be in a position to permit you to improve the surface without requiring permission from either of the two landowners.

Original email 5.2.2020;

... it is important that some form of public right of access is legally recorded along the route. Very unlikely that South & Vale would ever deny access along their land, but the private landowner may decide to stop walkers from using their land – or it may be that the current private landowner is happy but the land could be sold and a new owner then deny access. Also with no public right of way recorded it would be easier for the land to be built on.

Two ways to record a public right of access along this route:

Landowner dedication. Both landowners agree to the creation of a public right of way across their land. Once a public right of way is recorded then OCC have a duty to protect and assert and maintain. OCC would only agree to take on the route if it were in a good condition. Parish council would need to get agreement from both landowners.

Definitive Map Modification Order (DMMO). Please find attached our guidance notes. If the parish feel they can provide sufficient evidence of continual usage of this path then it may be able to be claimed as a new legally recorded public footpath. This may be the way to proceed if the private landowner will not agree to dedicate. The parish council would need to submit an application, contact details for the team at OCC on the guidance notes.

Advice from VWHDC –

... the Property Team are supportive of your idea to improve the surface of the current informal access route and there are several issues...:

1. The creation of a right of way - the VWHDC does not own the whole length of the informal path and so cannot grant permission to carry out works or cross over third-party land.
2. The obligation for the VWHDC to retain the land - the VWHDC transferred the housing stock to what was the Vale Housing Association in February 1995 (commonly called the LSVT) - in the transfer document there is an obligation for the VWHDC not to transfer, sell, lease or otherwise dispose of

any estate or interest in the "Remaining Land" (the "Remaining Land" includes the area of public open space where the informal path has been created.) This means that the VWHDC cannot grant a lease or sell the land for the path. However, ... a licence agreement would be a suitable method of granting consent to the Harwell Parish Council as a licence agreement does not create an interest in land.

3. The adoption of the path - in the LSVT there is an obligation to maintain the "Remaining Land" including "Common Areas" (common areas includes footways, roadways and other land) other than those which are or shall become adopted by the highway authority and maintainable at public expense.

This means that if the informal pathway is upgraded to a suitable standard, it can be adopted by the local highway authority (Oxfordshire County Council) and then the County Council will be responsible for its maintenance...

4. The standard of the path required...

5. The form of the consent - a licence agreement will be able to grant rights to the Harwell Parish Council to construct and maintain a hard surface on the land.

The preparation of the licence agreement will incur both legal costs and surveyors costs... Surveyors costs are charged at £130 per hour +VAT and legal fees for the preparation of a licence agreement are up to £1250 (excluding VAT) depending on the complexity of the case. The licence will also have an annual licence fee that will be paid to the VWHDC.

6. Costs for the works - the cost for the creation of a pathway to a standard suitable for adoption and for the surveyors and legal fees...There is £4540 CIL funding for use on upgrading infrastructure that was transferred to Harwell Parish Council in October 2019, and there is also some s.106 funding available for enhancement of public open space land in Harwell by virtue of planning application no: P14/1663 - Planning App 15V63-s106 to the value of £151,017.23 to be used by 24/01/2028.

To enable you to proceed with the proposal to improve the informal path, I recommend that the following course of action is taken:

1. Confirm the nature of the agreement with the neighbouring land owner - are they willing to allow the creation of a permissive public right of way over their land?
2. Confirm if the Parish Council would like to proceed with a licence agreement for the land and provide an undertaking for costs.