

Relevant tests under the Highways Act 1980

Section 26. Compulsory powers for creation of footpaths, bridleways and restricted byways

1. Where it appears to a local authority that there is a need for a footpath, bridleway or restricted byway over land in their area and they are satisfied that, having regard to –
 - (a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area.
 - (b) The effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation.

Section 29. Duty to have regard to agriculture, forestry and nature conservation.

1. in the exercise of their functions under this Part of the Act relating to the making of public path creation agreements and public path creation orders it shall be a duty of councils to have due regard to –
 - (a) the needs of agriculture and forestry, and
 - (b) the desirability of conserving flora and fauna and geological and physiological features.

Further considerations

In addition to the above legal tests YDNPA have also considered in the appraisal of each route the following. Existing surface, barriers, legal status, effect on individuals, privacy, encounters with vehicles and other users, ownership and private rights, environs, existing use of proposed route and surrounding land, start and finish points, proliferation of rights of way, maintenance and works, inconsiderate behaviour.