

Essential guide to

HIGHWAY TERMS

ADEPT

The Association of Directors of Environment, Economy, Planning & Transport

INTRODUCTION

This guide is intended both as an easy reference guide for existing officers and as a helpful aid to new staff.

There are some terms which mean different things to people in different parts of the organisation. It is important that we all use the same terminology to avoid misunderstanding.

Please read the guide through so that you are aware of the recognised and agreed meaning of these terms. This should minimise the confusion which can occur over common terms such as 'adopted highway', as well as explaining some of the more unusual terms.

The list is alphabetical and also includes numerical sections of acts where they are commonly used e.g. 'a section 38' can be found under s.38 in the listing.

Terms shown in **bold** in the text have a definition in this guide.



Accommodation road

A **private road** used by a landowner or by anyone else with the landowner's consent, or with a private easement. It may also carry **public footpath** or **public bridleway** rights. Also described as an **occupation road**.

Adopted highway

Not all tarmac **roads** are **adopted highways**. Many are historic **roads** which are automatically **highways maintainable at public expense** and do not need to be adopted.

The term should not be used unless referring to a relatively new **road** which has actually been subject to an **adoption** process under the Highways Act. Refer instead to **maintainable highways** when talking about **highways maintainable at public expense**.

Adoption

see also **maintenance liability** and **s.38**

When a new road, footway, urban footpath, cycle track or cycleway is made up to an agreed standard and its future maintenance is formally taken over by the **highway authority**. (N.B. the **subsoil** remains privately owned.)

All adopted routes are, by definition, **highways maintainable at public expense**, but a route can be a **highway maintainable at public expense** (and therefore the **Highway Authorities** responsibility) without being an **adopted highway**.

Alleygating

A scheme where alleyways which are not public e.g. serving just a limited number of houses, are gated with residents having a key. This can be an effective way of preventing crime and antisocial behaviour. This scheme cannot be used on public highways.

see also **gating orders**

Assert and protect

The authority's duty under **s.130** to "assert and protect the rights of the public to the use and enjoyment of any **highway** for which they are the **highway authority**, including any **roadside waste** which forms part of it".

Blue book

"Rights of Way - A Guide to Law and Practice" by John Riddall and John Trevelyan - the standard **public rights of way** text book.

BOAT	see byway open to all traffic
Bridleway	see public bridleway
BS7666	British Standard “Spatial datasets for geographical referencing” Part 1 : Street gazetteers Part 2 : Land and property gazetteers Part 3 : Addresses Part 1 sets out the format and standards used to produce the National Street Gazetteer .
Byway	An old term used to describe the lesser routes between settlements. Sometimes still used to mean that. Often used as an abbreviation for byway open to all traffic . see also restricted byway
Byway open to all traffic (BOAT)	<u>This term has a meaning in law.</u> Section 66(1) WCA81 It is a carriageway therefore having public vehicular rights. However it is mainly used for the purposes for which footpaths and bridleways are used. There is no obligation on the Highway Authority to provide a tarmac surface.
CAROWIP	Countryside Access and Rights of Way Improvement Plan. See rights of way improvement plan
Carriage road	Historic term for a vehicular road. May be private or public.
Carriageway	<u>This term has a meaning in law.</u> Section 329 HA80 A way constituting or comprised in a highway , being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles. Originally defined as a road on which a carriage could be driven, now means public vehicular highway - more commonly a road .

Case law

Case law is a decision made by the courts, which clarify or interpret the wording of the legislation or determine an issue involving **common law**. By doing this they set a precedent for similar future decisions to follow.

An example is the “Bakewell” case which sets the precedent that a right can be gained by an illegal act - in this case, a right for vehicles to drive over registered common land.

Centreline record

The GIS representation of the data held within **HMIS**. Includes **private roads** and **private highways** as well as **public highways**.

DLUHC

Department for levelling up, Housing and Communities.

Current (2022) Government department with responsibility for Planning.

Common law

Also known as judicial precedent or case law of England and Wales.

Common law has developed over time and is based on decisions made by the courts, as opposed to the written statute law put in place by Parliament. Unlike statutory law the common law is contained and developed within written opinions and judgements. Decisions made by judges and juries set a precedent for future cases.

CON 29

The standard land charges (searches) form used in conveyancing.

Council house route

Highways constructed by Borough, District or Unitary authorities within their own areas under their housing function powers (currently Part II of the Housing Act 1985).

A recent court case has determined that pedestrian routes through council estates built pre-1983 may be publicly **maintainable highways** rather than private ways.

see **Gulliksen**

Creation agreement

A signed document under **s.25** from the landowner granting a public right of way over land for all time.

see also **dedication**

Creation order

An Order made by the **highway authority** under **s.26** which imposes a **public footpath, public bridleway** or **restricted byway** across land. Can be made without the consent of the landowner but compensation may be payable.

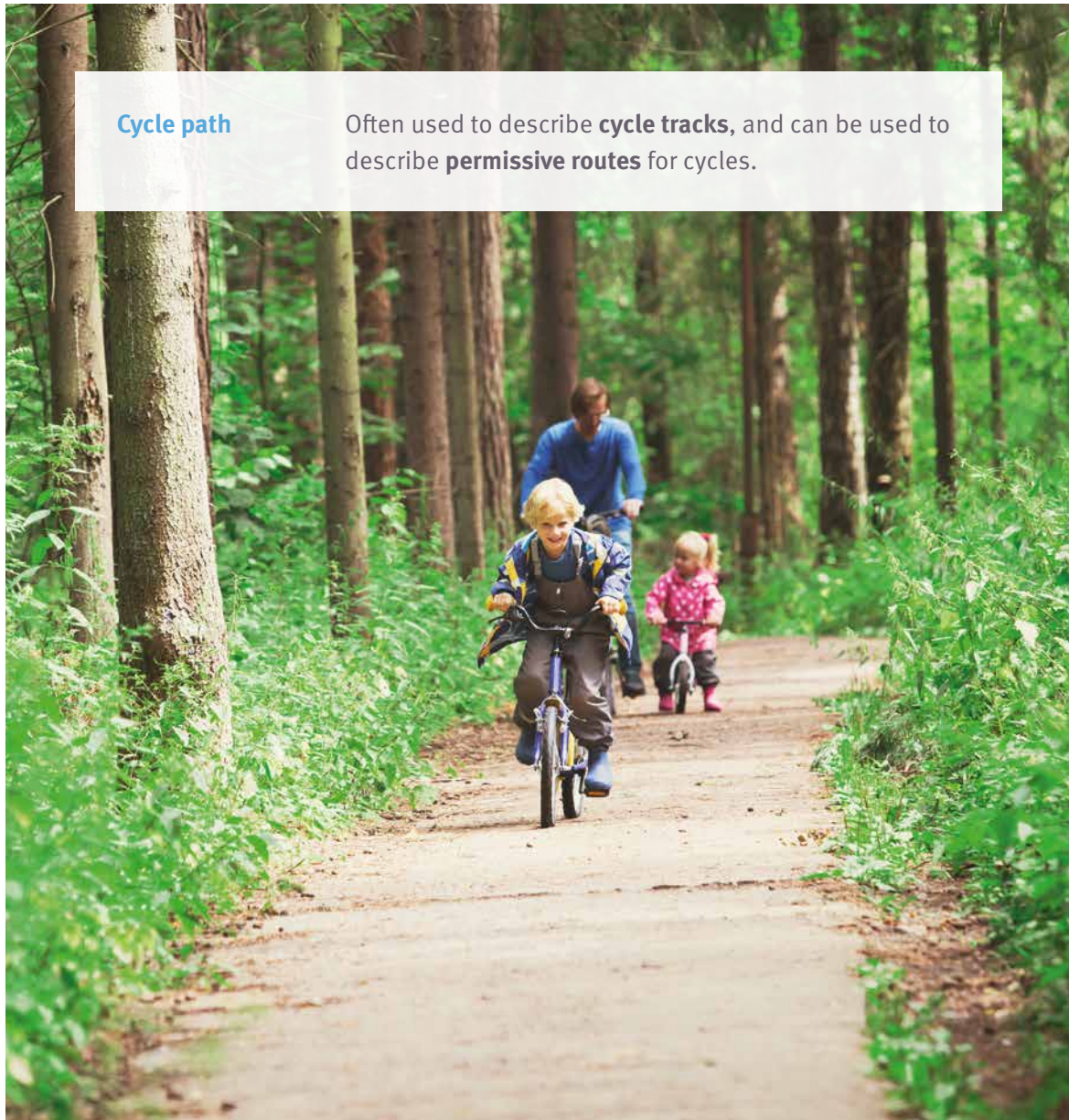
CROWA 2000 or CROW

Countryside and Rights of Way Act 2000.

Cut

An enclosed alleyway, but not necessarily a **highway**.

It may also be described as a **gennel, ginnel, jetty, jitty, shut, snicket, tuery, twitchel, twitten** or **wynd**.



Cycle path

Often used to describe **cycle tracks**, and can be used to describe **permissive routes** for cycles.

Cycle track

This term has a meaning in law. Section 329 **HA80**

This is a **highway** for pedal cycles, with or without a **right of way** on foot.

Under the Cycle Tracks Act 1984 a **highway authority** can make an order to convert a **footpath** to a **cycle track**. A **cycle track** converted from a **footpath** always has pedestrian rights.

A **cycle track** can also be

- **dedicated** by a landowner, or
- created by the **highway authority** where there is a pre-existing **highway** (by extinguishing any rights and re-dedicating the route as a **cycle track** e.g. extinguish all **highway** rights along a verge and rededicate as **cycle track**.)

There is no mechanism for showing these on the **Definitive Map of public rights of way**. They are **highways maintainable at public expense** and as such should be included in the **List of Streets**.

Cycleway

See **cycle track**

D roads and E roads

Other authorities may use a different term. Please check with your local authority.

Legally there is no such category of **highway**, and there is no legal difference between a **D** and **E road**.

These are the labels used in Warwickshire (and a few other counties) to describe **unclassified roads** (also known as **UCRs** or **unclassified county roads**).

It cannot be taken for granted that public vehicular rights exist over any **D** or **E road** without investigating each one individually.

Traditionally an **E road** has been unsurfaced and a **D road** tarmaced. Some **E roads** have been surfaced and relabelled as **D roads** but this is purely a label and cannot lead to a presumption that vehicular rights exist. **D roads** and **E roads** are recorded on the **List of Streets** and are **highways maintainable at public expense**. Note: None of the **E roads** are known to have been **adopted**.

See also **handover maps** and **UCR**

Declaration of highway status

Legal proceedings to establish whether a **highway** does or does not exist may be commenced by an action for a declaration in the High Court. A declaration may also be obtained from the County Court either as part of other land-related proceedings or in its own right.

Not to be confused with **statutory declarations**.

Dedication

The act of the landowner in giving the right to the public to pass and re-pass over land for all time.

See **presumed dedication** and **express dedication**

Definitive highway record

This is often used incorrectly to describe **highway records** such as the 1929 **handover maps**. There is NO definitive record other than the **Definitive Map and Statement of public rights of way**.

See also **List of Streets**

Definitive Map and Statement

This term has a meaning in law. Section 53(1) **WCA81**

This is the **only** legally conclusive record of **public rights of way**. It is conclusive evidence for what it shows without prejudice to other **highways** or higher **highway** rights existing which are not shown. It can only be altered by going through the correct legal process.

It comprises a set of maps and a written statement describing each right of way.

Copies may be held by Borough Councils, District Councils and Parish Councils and/or working copies made publicly available online. It is a standard reference during land charges searches (conveyancing).

The **Definitive Map** does not show public roads. There is no such thing as a definitive highway map and the term should never be used. It causes confusion with the **Definitive Map and Statement of public rights of way** and wrongly gives the impression that the **List of Streets / highway record** is conclusive evidence that any route it shows is legally a **road** - which it is not.

Defra

Department of the Environment, Food and Rural Affairs

Current (2023) Government department with responsibility for **public rights of way**.

DETR	<p>Department for the Environment, Transport and the Regions.</p> <p>Former Government department dealing with public rights of way. Succeeded by Defra.</p>
DfT	<p>Department for Transport.</p> <p>Current (2023) Government department with responsibility for Transport.</p>
Diversion	<p>Diverts a route from one line to another by means of a public path order or a side roads order or Magistrates' Court order. May affect all or part of a route. Note that vehicular highways can only be diverted by the Magistrates' Court or Secretary of State.</p>
Divisional surveyor	<p>Officer within a Highway Area Office with responsibility for maintenance of the tarmac highway network.</p>
DMMO	<p>See modification order</p>
DoE	<p>Department of the Environment.</p> <p>Former Government department dealing with public rights of way. Succeeded by DETR then Defra.</p>
DoT	<p>Department of Transport.</p> <p>Former Government department dealing with Transport. Succeeded by DTLR then DfT.</p>
DTLR	<p>Department for Transport, Local Government and the Regions.</p> <p>Succeeded by DfT.</p>
Duty to maintain	<p>The highway authority must maintain any highway maintainable at public expense under s.41. No standard of repair is prescribed by statute and reference must be made to the rules of common law. At common law, highways should be maintained to a state suitable for the ordinary traffic for the area.</p>

E roads

See **D and E roads**

Easement

See **private right of way**

Encroachment

Unlawful annexation of part of the **highway** by for example, gardens, fences. Also known as **purpresture**.

Express dedication

A landowner may decide to give a piece of land for **highway** purposes. He does this by **express dedication** - usually a signed document stating his intent. Ownership of the **subsoil** is retained. Routes created in this way are not automatically **maintainable at public expense**, although they may be **adopted**.

See also **creation agreement** and **creation order**

Extinguishment or stopping up order

Closure of a route or part of a route by a **public path order**, **side roads order** or **Magistrates' Court order**. Note that if a **public right of way** is closed, it can be brought back into existence if it is subsequently used for 20 years by the public. Vehicular **highways** can only be closed by the Magistrates' Court or Secretary of State.

No highway can cease to exist simply through lack of use.

Finance Act

Finance Act 1910

This act was intended to provide a means to tax the increase in value of land.

In practice, a comprehensive survey was carried out and plans based on large scale Ordnance Survey maps were prepared showing admitted landownership, together with Books of Reference (or 'Doomsday Books'). Roads left uncoloured on these maps are likely to be public (though not always).

Landowners were also granted tax relief if they admitted **public rights of way** across their land.

This information can be found in the 'Doomsday Books' at the County Record Office.

Footpath

This term has a meaning in law. Section 329 HA80

Means a **highway** over which the public have a **right of way** on foot only, not being a **footway**.

The term is also commonly used to refer to **footways**, **public footpaths**, **private routes** and **permissive routes**.

Footway

This term has a meaning in law. Section 329 HA80

Means a way comprised in a **highway** which also comprises a **carriageway**, being a way over which the public have a **right of way** on foot only.

Often also (incorrectly) used to describe **urban footpaths** not forming part of a **carriageway**.

See **urban footpaths**



Gated road

Historically some routes were created as gated roads.

It is not possible to give permission for a landowner to place a new gate across a **carriageway**. The only circumstances in which gates on **carriageways** are lawful is where a **traffic regulation order** or **gating order** has been made or where the gate was in existence before the **highway** or the highway was created with the gate as a specific named **limitation**.

Gates can be authorised on **footpaths** and **bridleways** in certain circumstances.

Gating orders

The Clean Neighbourhoods and Environment Act 2005 introduced the power (under Section 129A **HA80**) for a **highway authority** to make '**gating orders**'. These powers allowed the **highway authority**, under certain conditions, to gate a **highway** in order to prevent crime or anti-social behaviour from occurring.

Repealed by the Anti-Social Behaviour, Crime and Policing Act 2014.

Gazetteer

See **Local Street Gazetteer**, **Level 1 Gazetteer** and **Level 3 Gazetteer**

Gennel, ginnel

An enclosed alleyway, but not necessarily a **highway**.

It may also be described as a **cut, jetty, jitty, shut, snicket, tuery, twitchel, twitten** or **wynd**.

Green lane

A term with no legal meaning - commonly used to describe an unsurfaced route, usually between hedges.

Such routes may be recorded **E roads, BOATs, restricted byways, bridleways** or **public footpaths** or they may be private. Investigation is often needed to determine the true status.

See also **white roads**

Gulliksen

Gulliksen v Pembrokeshire County Council 2002 [2002] 4 All ER 450.

In this case it was suggested that whenever a **highway** was constructed by a housing authority which was also a **highway authority** it would be publicly maintainable in any event under s.38(2)(c) Highways Act 1959.

**HA80
(or HA 1980)**

Highways Act 1980

Accepted abbreviations - used across the country.

Handover maps

The Local Government Act 1929 transferred liability for maintenance of the **road** network from the former Urban and Rural District Councils to the County Council (which was already responsible for the main (or County) **roads**).

Highway

This term has a meaning in law. Section 328 **HA80**

It means a way over which all members of the public have the right to pass and repass over privately owned land. Their use of the way must be as of right, not of sufferance or by licence.

A generic term, which includes **vehicular roads, footways, footpaths, bridleways, byways** etc. DOES NOT legally mean a vehicular **road**, although many people (wrongly) believe it does.

Highway authority

Authority responsible for **highways** under the **HA80**. For most routes the County Council or Unitary Authority is the **highway authority**.

See also **surveying authority** and **Highways Agency**

Highway extent / width

At **common law**, the general presumption is that the **highway** extends the full width between hedges or fences (where the highway is enclosed) but this does not apply in absolutely every case. The evidence must be consulted for each individual case. The **Finance Act** plans are a valuable source of evidence for older routes.



Highway maintainable at public expense

This term has a meaning in law. Section 329 HA80

Literally what it says - a **highway maintainable at public expense**. Includes **footpaths, bridleways, byways, footways, cycle tracks,** and **vehicular roads** where they are not privately maintainable.

DOES NOT imply that the route is a **vehicular road**, nor that it is necessarily **adopted**.

There are a few **roads** which are public roads maintainable at private expense (**ratione tenurae** is the Latin legal expression). However some routes can have a degree of both public and private **maintenance liability** - we would not usually tarmac a **public footpath** which is also a private access, without securing a contribution.

All **highways** acknowledged as being public before the 1835 Highways Act are maintainable at public expense.

Highway network	<p>All the public highways: carriageways, footways, BOATs, restricted byways, bridleways, footpaths etc.</p> <p>Used most often to describe the public vehicular highways maintained by highway authorities.</p>
Highway record	<p>The term normally used to describe the List of Streets. However, the Definitive Map and Statement is also a record of minor highways.</p>
Highways Agency	<p>Government agency responsible for motorways and trunk roads.</p>
Highway network	<p>Highways Management Information System - software used to manage highway network data & for the National Street Gazetteer and List of Streets.</p>
Inclosure Award	<p>Historical Document from the 17th, 18th or 19th Century, made under a Local or Full Act of Parliament, legally redistributing land. Inclosure Commissioners were legally empowered to create, divert and extinguish highways as part of the Inclosure process.</p> <p>The award sets out in detail all the changes which were made and sometimes also confirms the bits which are unchanged. Usually accompanied by a map. Inclosure Awards can be conclusive evidence on highway matters at that time and are still relevant today.</p>
Jetty, jitty	<p>An enclosed alleyway, but not necessarily a highway.</p> <p>It may also be described as a cut, gennel, ginnel, shut, snicket, tuery, twitchel, twitten or wynd.</p>
Legal event	<p>Any legal diversion, creation, extinguishment - public path order, modification order, side roads order etc which has been confirmed and has the power to alter the Definitive Map or any other highway record.</p>

Level 1 gazetteer

See **National Street Gazetteer**

Defined in the **BS7666** specification for **NSG**, a **Level 1 gazetteer** splits the **street** network into segments based on **street** names.

Level 3 gazetteer

See **National Street Gazetteer**

Defined in the **BS7666** specification for **NSG**, a **Level 3 gazetteer** splits the **street** network into junction to junction segments. A **Level 3 gazetteer** is therefore usually made up of many more shorter segments than a **Level 1 gazetteer**.

Limitation

Obstacle which hinders the passage of the public, but which is entitled to exist, e.g. a landowner's right to plough a **public footpath**, or the right of a landowner to have a gate across a **vehicular highway**. Must pre-date the existence of the **highway**.

List of Streets

Required by law under s 36(6) **HA80** - the **highway authority** must

- keep a corrected and up to date list of all **highways maintainable at public expense**.
- keep a copy available for public inspection at its offices and the relevant portion at each District or Borough Council office.

The **Definitive Map** is considered to be part of the **List of Streets**, even though rights of way are not individually listed. There is no legal requirement to keep a map.

N.B. The **List of Streets** is a maintenance record and in itself does not conclusively prove that anything it depicts is a public vehicular road - it should list all **highways maintainable at public expense** including **footpaths** and **cycle tracks**. This is the view currently (April 2008) taken by the courts.

Local Street Gazetteer (LSG)

The submission made by each **highway authority** which forms part of the **National Street Gazetteer**.

Lost modern grant

An assumption that at some point a landowner has granted a right and that the document creating the grant has been lost. The law will only refuse to adopt the legal fiction that there was a lawful grant where the existence of such a grant is impossible.

Magistrates' Court order	Any diversion or stopping up of a full vehicular highway (including a byway open to all traffic) has to be done at the Magistrates' Court. This type of order can also be used for urban footpaths and public footpaths, bridleways and restricted byways .
Maintainable highway	See highway maintainable at public expense
Maintenance liability	<p>Highways fall into the following categories;</p> <ul style="list-style-type: none"> • highways maintainable at public expense - by virtue of being in existence prior to 1835 or by being created under various powers under Statute e.g. Highways Act, Cycle Tracks Act, Inclosure Award, or adoption. • private highways – where the maintenance of a route is the responsibility of one or more individuals but it carries public rights. <p>See also highways maintainable at public expense</p>
Manorial waste	<p>Land associated with a manor (or lordship) that was neither in the occupation of the lord of the manor, nor granted out to tenants. It often comprised hedgerows, verges, and scrubland of little agricultural value.</p> <p>See roadside waste</p>
Minor highway	Generally used to describe D and E roads , or UCRs as well as footpaths, bridleways and byways .
Modification order	Legal Order to amend the Definitive Map and Statement . Can only be made on evidential grounds. Can be used to record 'lost' or forgotten routes or to correct other errors in the Definitive Map and Statement .
National Street Gazetteer (NSG)	Specified in BS7666 . Each highway authority is required to maintain a gazetteer (or Local Street Gazetteer) for their area, and submit updates regularly to the NSG custodian, currently (2008) Intelligent Addressing Ltd. The Gazetteer should include not only publicly- maintainable highway , but also 'anything on which the public moves'. The NSG is the basis of the Street Works Register .

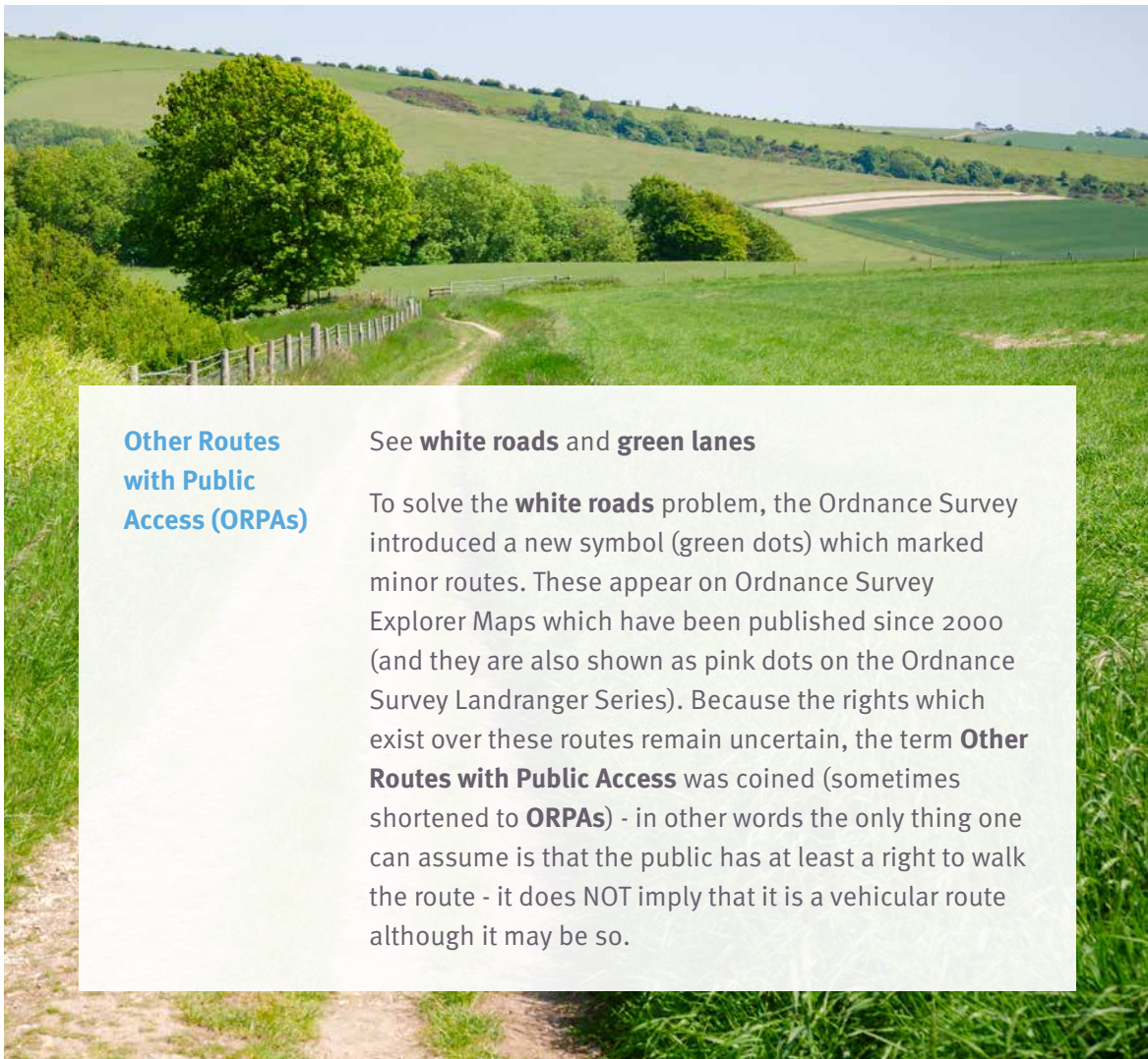
NLIS National Land Information Service. A national scheme aiming for electronic (automated) conveyancing/land searches.

NLPG National Land and Property Gazetteer. Specified in **BS7666**.

NRSA New Roads and Street Works Act 1991.

Occupation road See **accommodation road**

ODPM Office of the Deputy Prime Minister.
Former Government department with responsibility for Planning.
Succeeded by Communities and Local Government.



Other Routes with Public Access (ORPAs)

See **white roads** and **green lanes**

To solve the **white roads** problem, the Ordnance Survey introduced a new symbol (green dots) which marked minor routes. These appear on Ordnance Survey Explorer Maps which have been published since 2000 (and they are also shown as pink dots on the Ordnance Survey Landranger Series). Because the rights which exist over these routes remain uncertain, the term **Other Routes with Public Access** was coined (sometimes shortened to **ORPAs**) - in other words the only thing one can assume is that the public has at least a right to walk the route - it does NOT imply that it is a vehicular route although it may be so.

Ownership

The **ownership** of a **highway** is ‘vested in the **highway authority**’. It is generally accepted that the **highway authority** owns the ‘top two spade depths’ (or ‘top two spits’) for maintenance purposes but not the **subsoil** (except in cases where the authority has purchased the land).

see **surface**

Ownership of the **subsoil** usually only becomes an issue with a **vehicular highway** if the **highway** is to be closed. There are occasions where the **Highway Authority** needs to consult with any landowners with an interest in the **highway**.

The owners of land adjoining a **highway** are presumed in law, in the absence of evidence to the contrary, to own the **subsoil** of the **highway** up to the middle point of the road. The adjoining landowners are each presumed to have contributed a portion of their land to the formation of the **highway**.

If you are dealing with something where the owner of the **subsoil** will be affected, it is important to consider whether evidence of **ownership** may exist which rebuts the presumption above. Evidence of private **ownership** of the **subsoil** may include Registered Title (maintained by Land Registry), property deeds, **Inclosure Awards** and other historic documents. Where there is a modern **adoption** on a housing estate, the **subsoil** may still be owned by the original developer (or if the developer has gone bust may be owned by the Crown). Older **roads** or recently improved **roads** might be owned by the **highway authority** or the Lord of the Manor (see **manorial waste**).

Pavement

Non legal term for a **footway**.

Technical description for the actual construction of a surfaced **highway**.

Permissive routes

These are not **highways**. Routes used solely at the discretion of a landowner (which can be taken away at any time), or routes subject to a written agreement with the landowner which creates a route for a certain length of time.

PINS

The Planning Inspectorate.

Planning authority Usually the District, Borough or Unitary authority. Responsible for granting a Planning Consent. In 2-tier LAs, the County is the planning authority for minerals, waste and schools.

Presumed dedication See also **lost modern grant**

Section 31 **HA80** sets down that a route used by the public for over twenty years without challenge by the landowner is presumed to have been dedicated to the public. A similar presumption exists in **common law** (i.e. through precedence in the courts, rather than by statute law).

Private rights of way It is common for one landowner to have a right to cross a neighbour's property to access their own land - this is a **private right of way** or an **easement**. The right can be on foot or with a vehicle and may be for specific purposes i.e. agricultural or residential. It is equally common for a **private right of way** to co-exist with a **public right of way**. For example a private vehicular access might lie on the route of a **public footpath**. The public would have a right on foot only but the person with the private right could legitimately drive on the **footpath**.

N.B. The **Highway Authority** cannot give a third party the right to drive on a **public right of way** unless we own the **subsoil**. Planning consent does not confer a private right to drive over a **public right of way**.

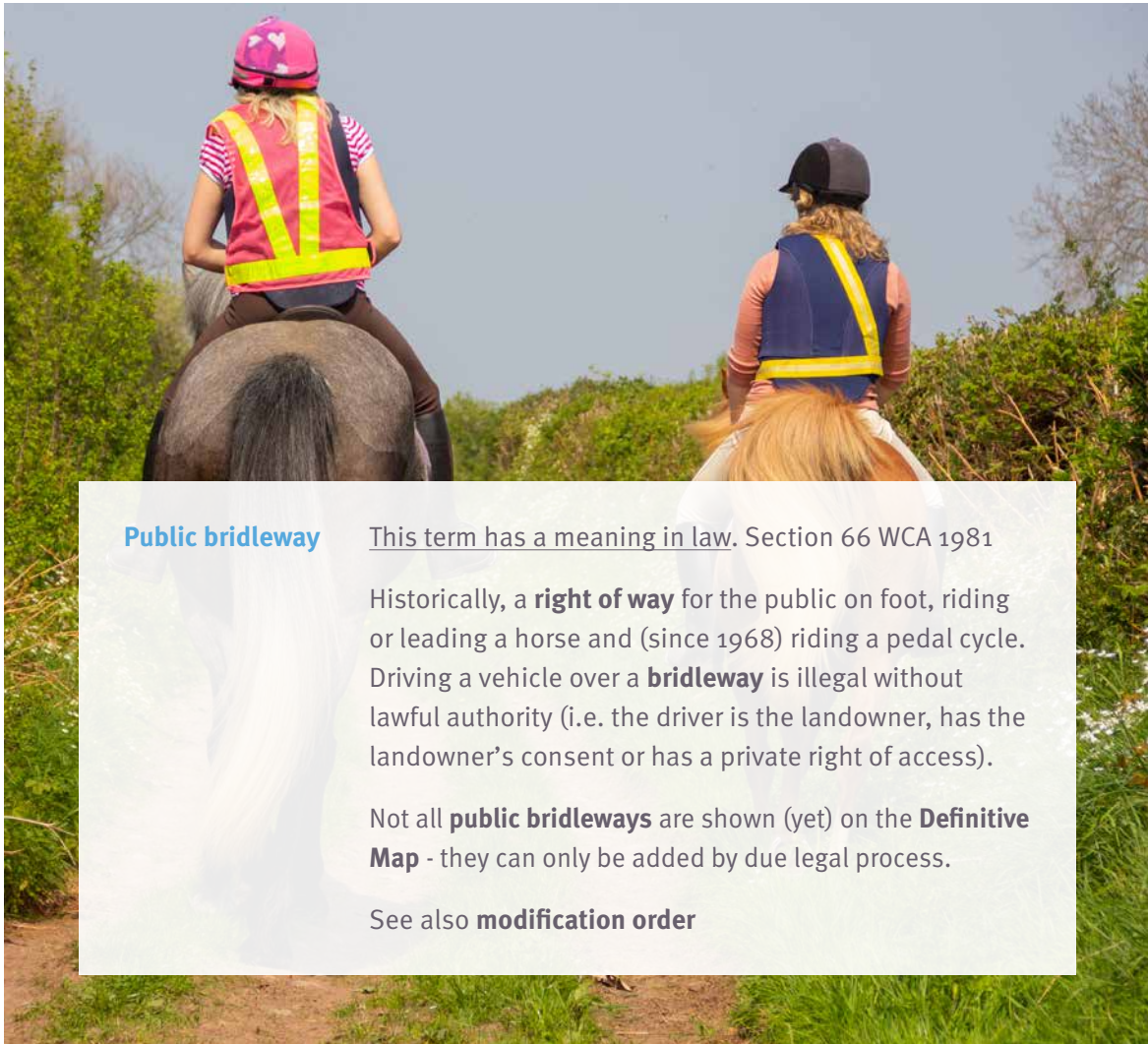
Private road A route with private vehicular rights which will be privately maintained. May sometimes have a **public footpath** or **public bridleway** running over it, in which case the **highway authority** will be responsible for maintaining it to a standard suitable for its public use.

Private highway A privately maintainable **public highway**.

See also **highway maintainable at public expense**

Private Street See **private highway**

PROW See **public right of way**



Public bridleway

This term has a meaning in law. Section 66 WCA 1981

Historically, a **right of way** for the public on foot, riding or leading a horse and (since 1968) riding a pedal cycle. Driving a vehicle over a **bridleway** is illegal without lawful authority (i.e. the driver is the landowner, has the landowner's consent or has a private right of access).

Not all **public bridleways** are shown (yet) on the **Definitive Map** - they can only be added by due legal process.

See also **modification order**

Public footpath

See also **footpath**

This term has a meaning in law. Section 66 WCA 1981

A **right of way** for the public on foot only. Cycling and horseriding are not allowed and count as trespass against the landowner.

Driving a vehicle is a criminal offence without lawful authority (i.e. is the landowner, has the landowner's consent or has a private right of access).

Not all **public footpaths** are shown (yet) on the **Definitive Map** - they can be added by due legal process.

Public path

This term has a meaning in law. Section 66 **WCA81**

Public footpath or **public bridleway**. N.B. **Restricted byways** may be changed by **public path orders**, but are not actually **public paths**.

Public path order (PPO)

Public footpaths, bridleways and **restricted byways** may be diverted, closed and created under **HA8o**. If the changes are being made to facilitate development, then **TCPA9o** may be used. In either case the legal orders are extensively advertised. If there are any unresolved objections, the matter must be determined by the Secretary of State, generally by a local public inquiry. Once confirmed (and certified, if necessary), such orders take effect and the **Definitive Map** may be updated to show the change.

Public footpaths and **bridleways** as well as **vehicular highways** can also be diverted or closed by application to a Magistrates' Court.

See also **special diversion/extinguishment orders**

Public highway

See **highway**

Public right of way

A generic term which includes **public footpath, bridleway, RUPP, restricted byway** and **byway (BOAT)**, being a way over which the public have a right to pass and repass. The term is almost interchangeable with '**highway**' but is not generally used to refer to a route primarily used by vehicles.

Public Space Protection Orders

See **Gating Orders**

S64 & 65 under the Anti-social Behaviour, Crime and Policing Act allow for orders restricting the **public right of way** over a **highway**.

Purpresture

See **encroachment**

Ratione tenurae

Public highway where the **maintenance responsibility** lies with the landowner by reason of his occupation of the land.

Reclassification

Legally refers to altering the status of a **public right of way** by means of a **modification order** or when routes are given **trunk road** status or detrunked. Not appropriate when **lesser roads** have been tarmaced - they remain a **UCR** and their legal status remains unaltered.

Restricted byway This term has a meaning in law. Section 48 **CROWA 2000**

A **right of way** for the public on foot, on horseback and leading a horse and for vehicles other than mechanically propelled vehicles e.g. pedal cycles and horse-drawn vehicles.

Riddall and Trevelyan See **blue book**

Right of way A right to pass or re-pass over private land.

See **private right of way** and **public right of way**

Rights of way improvement plan Each **highway authority** has a duty to prepare a **rights of way improvement plan (ROWIP)** under **CROWA 2000**.

Road Commonly used to mean a **highway** with public vehicular rights (**vehicular highway**).

It was once a generic term like **highway** and expressions such as ‘public foot road’ and ‘public bridle road’, were in common use until the mid twentieth century. Does not inherently mean vehicular rights.

Roadside waste Land within the **highway** boundary which effectively has no current use. It includes verges and is part of the **highway**.

See also **manorial waste**

ROWIP See **rights of way improvement plan**

RUPP Road Used as a Public Path

A term no longer legally in use, although some still use it.

It was meant to define a **footpath** or **bridleway** over which the public also had vehicular rights but for technical reasons the definition was discredited. Section 47 & 48 CROWA 2000 provided for the general redesignation of RUPPs to **Restricted Byways**.

s.25

Section 25 **HA80**

Provides a procedure for the **creation of footpaths, bridleways and restricted byways** by agreement with the landowner.

s.26

Section 26 **HA80**

Provides a procedure for the **creation of footpaths, bridleways and restricted byways** where certain tests can be met. The **highway authority** or District/Borough Council can make the order subject to confirmation by itself where there are no objections or by the Secretary of State where the order is opposed. An order made under **s.26** is analogous to a compulsory purchase order and a landowner is entitled to claim compensation.

s.31(6)

Section 31 **HA80**

Enables a landowner to deposit a plan with the highway authority declaring **highways** across their land. It has the effect of preventing future **public rights of way** coming into existence (**presumed dedication**) through use subsequent to the date of the deposited plan, but does not act retrospectively.

s.37

Section 37 **HA80**

Deals with retrospective **adoption**.

s.38

Section 38 **HA80**

Enables a **highway authority** to **adopt** a **highway** for maintenance purposes.

s.41

Section 41 **HA80**

States that the **highway authority** has a duty to maintain any **highway maintainable at public expense**.

s.56 notice

Section 56 **HA80** contains the procedure by which any person may apply to the court for an order requiring the **highway authority** to put a **highway** in proper repair. The procedure is started by the complainant serving a notice on the **highway authority** requiring it to state whether it admits that the way or bridge is a **highway** and that it is liable to maintain it. If the **highway authority** admits liability, the case is dealt with in the Magistrates' Court. If it denies liability it is dealt with in the Crown Court. The Court can consider the nature of the route i.e. it may be rough but adequate for its purpose. No specific standards are laid down.

s.104

Section 104 Water Industry Act 1991

Agreement to adopt a sewer. It is usually a condition of adopting a **highway** that the sewers (particularly surface water sewers including **highway** drainage) are to be adopted by the water authority and vice versa. It is often referred to when discussing **s.38** agreements.

See also **adoption**

s.106

Section 106 **TCPA90**

Sets out the formal obligations imposed on a developer if planning consent is granted. Negotiated in advance between the Planning Authority, developer and others. They can include **highway** and **public rights of way** requirements and improvements.

s.115

Section 115A-K **HA80**

The Local Government (Miscellaneous Provisions) Act 1982 deals with the provision of amenities on certain **Highways** where vehicular traffic is prohibited, including pedestrian areas and footways.

s.116

Section 116 **HA80**

The **highway authority** can apply to the Magistrates' Court to have a **highway** (including **rights of way**) stopped up or diverted if the **highway** is unnecessary or can be diverted to make it nearer or more commodious to the public.

See also **diversions** and **stopping up**

s.117Section 117 **HA80**

This section of the act allows third parties to ask the **highway authority** to make an application under **s.116**. The **highway authority** may stipulate conditions as to costs.

s.118Section 118 **HA80**

Provides a procedure for the **stopping up** of **footpaths, bridleways** and **restricted byways** on the grounds that they are no longer needed for public use. The local authority can make the order subject to confirmation by itself where there are no objections or by the Secretary of State where the order is opposed. **S.116 HA80** must be used to stop up **vehicular highways**.

s.119Section 119 **HA80**

Similar procedure to **s.118**. Enables the **diversion** of **footpaths, bridleways** and **restricted byways**. **Highways** can also be diverted under **s.116** at a Magistrates Court.

s.130Section 130 **HA80**

‘It is the duty of the **highway authority** to **assert and protect** the rights of the public to the use and enjoyment of any **highway** for which they are the **highway authority**, including any **roadside waste** which forms part of it.’

s.130A, s130BSection 130A and Section 130B **HA80**

Gives people the right to serve notice on the **highway authority** if a **public right of way** is obstructed. If they are not satisfied with the response to that notice, then they can apply under **s.130B** to the Magistrates’ Court for an order requiring the **highway authority** to remove the obstruction.

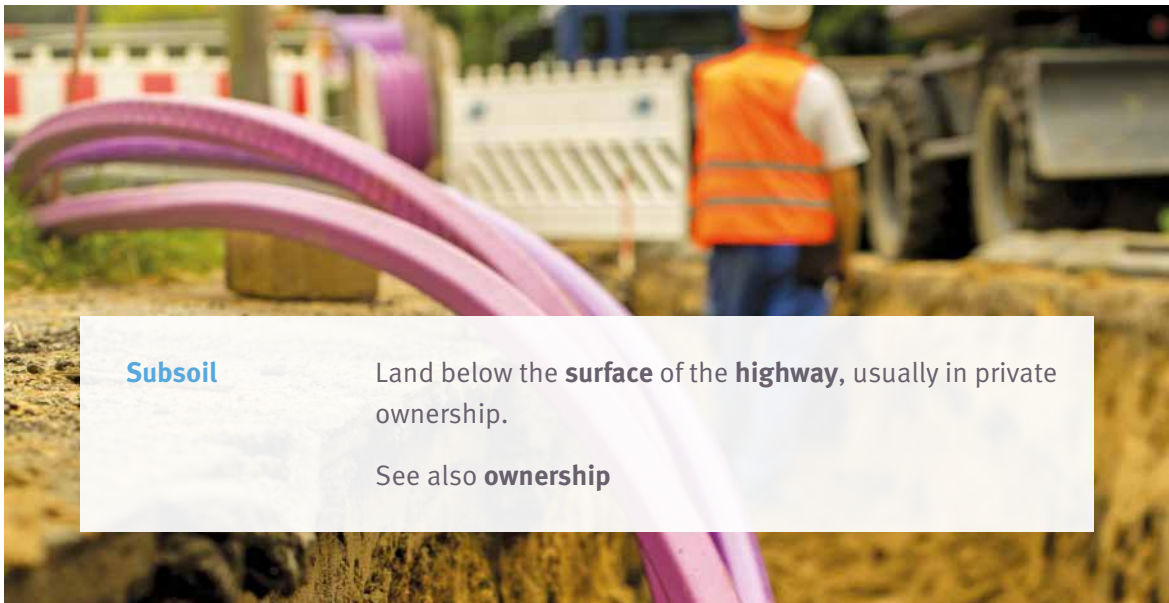
s.139 and s.140Sections 139 and 140 **HA80**

Controls the licensing and removal of skips placed on a **highway**.

s.142	Section 142 HA8o
	Controls the planting and maintenance of trees, shrubs, plants etc. within the highway .
s.154	Section 154 HA8o
	Controls the removal or cutting back of trees, shrubs, hedges that obstruct or endanger highway users.
s.169	Section 169 HA8o
	Controls the erection of scaffolding on or over a highway .
s.184	Section 184 HA8o
	Relates to kerb crossings.
s.219	Section 219 HA8o
	Covers the Advance Payment Code (a bond provided by developers where works are needed to a private street).
s.220	Section 220 HA8o
	Covers the Advance Payment Code (a bond provided by developers where works are needed to a private street).
s.228	Section 228 HA8o
	Deals with retrospective adoption .
s.247	Section 247 TCPA9o
	Enables highways to be stopped up or diverted where it is necessary for development to take place. Orders are made by the Secretary of State.
	See also s.257

s.257	<p>Section 257 TCPA90</p> <p>Enables footpaths, bridleways and restricted byways to be stopped up where it is necessary for development to take place. Orders are made by the planning authority.</p> <p>See also s.247</p>
s.261	<p>Section 261 TCPA90</p> <p>Allows highways to be stopped up or diverted temporarily for minerals excavations. N.B. Temporary in this case often means decades.</p>
s.278	<p>Section 278 HA80</p> <p>Relates to the ability to allow developers to carry out highway works.</p>
Sauvain	<p>‘Highway Law’ by Stephen Sauvain - a standard book on highways, also covers public rights of way.</p>
Side roads orders	<p>Legal orders connected with motorways or major road schemes and deal with the legal diversions or stoppings up of other highways / public rights of way affected by a scheme.</p>
Snicket	<p>An enclosed alleyway, but not necessarily a highway.</p> <p>It may also be described as a cut, gennel, ginnel, jetty, jitty, shut, snicket, tuery, twitchel, twitten or wynd.</p>
SoS	<p>Secretary of State</p>
Special diversion/ extinguishment orders	<p>CROW introduced provisions where public path orders can be made in special circumstances where the SoS has designated an area as a high crime area or where an order is made to protect the safety and security of staff or pupils at a school.</p>
Statement	<p>See Definitive Map and Statement</p>

Status	Term to describe the rights carried by a highway e.g. footpath, bridleway, vehicular.
Statutory declaration	A written statement of fact that is signed in the presence of a solicitor or a Commissioner of Oaths. Can be used as evidence for highway status.
Stopping up	Legal term for the removal of highway rights.
Street	<u>This term has a meaning in law.</u> Section 48 NRSWA91 It means the whole or part of any highway, road, lane, footway, alley, passage, square or court and any land laid out as a way. It includes bridges and tunnels where a street passes over either.
Street gazetteer	See National Street Gazetteer
Street Works Register	A record which must be consulted by the statutory undertakers (e.g. gas and electric companies) before they dig up a highway , to ensure that they make the appropriate temporary closure orders and reinstate adequately. It is based on the street gazetteer and includes private tracks and roads . For legal disputes the List of Streets and the Definitive Map MUST always be checked.



Subsoil Land below the **surface** of the **highway**, usually in private ownership.
See also **ownership**

**Surface
(of a highway)**

The surface of the **highway** is vested in the **highway authority**. This means that the **Highway Authority** effectively owns so much of the surface of the **highway** as is necessary for carrying out its duties.

Surveying authority

Authority responsible for **public rights of way** under the **WCA81**. Usually the County Council or Unitary Authority is the Surveying Authority. Effectively the same authority as the **highway authority**.

TCPA90

Town and Country Planning Act 1990.

See **s.247, s.257** and **s.261**

**Traffic regulation
orders (TRO)**

A legal order made to permanently or temporarily restrict the use of a **highway** - e.g. to pedestrianise an area or during roadworks. TROs are often ineffective without barriers. Enforcement is a Police matter.

Trunk road

This term has a meaning in law. Section 10 or 19 **HA80**

Part of a network of nationally important routes (The strategic road network (SRN) for which Highways England is the **highway authority**).

Tuery, twitchel, twitten

An enclosed alleyway, but not necessarily a **highway**.

It may also be described as a **cut, gennel, ginnel, jetty, jitty, shut, snicket** or **wynd**.

**UCR
(unclassified county road
or unclassified road)**

This term is in national usage. Unfortunately this has no legal meaning in terms of defining what rights exist over them.

In August 1998 **Defra** issued Guidance stating that it could not be assumed that UCRs carried public vehicular rights and that such rights could only be established by investigating each one individually.

Investigations have shown that some UCRs are only **footpaths** or **bridleways**.

Urban footpaths

Normally used to describe **public footpaths** in built up areas, often with a sealed surface which do not form part of a **vehicular highway** - such as alleyways or tarmaced paths across open spaces - which are often not shown on the **Definitive Map**. Often referred to (incorrectly) as **footways**. Sometimes also used to refer to private footpaths.

Vehicular highway

A **carriageway** in the **List of Streets**, a **byway open to all traffic**, or any other **public highway** with vehicular rights which has not yet been recorded. A **restricted byway** is also a vehicular highway.

Waste

See **roadside waste**

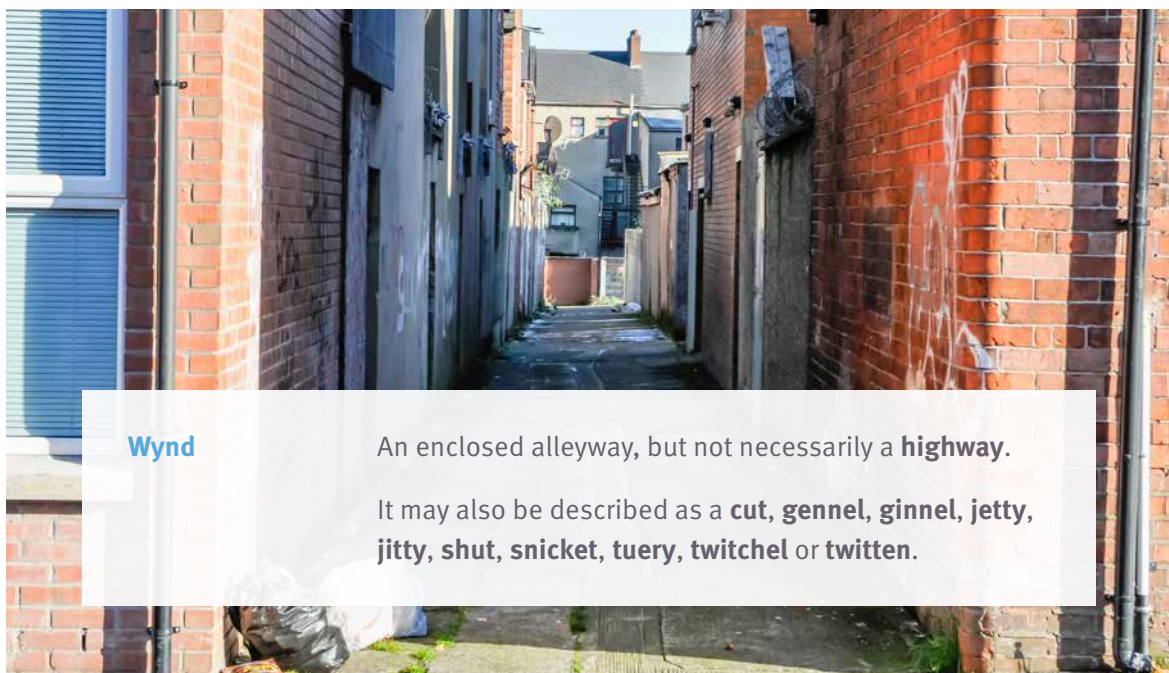
WCA81

Wildlife and Countryside Act 1981

White roads

Legally meaningless term used for more than 50 years to describe minor routes shown on coloured Ordnance Survey Maps, particularly Pathfinder and Landranger Maps. These were shown as white or uncoloured routes bounded by black lines. It was impossible to differentiate between private drives / farm access roads and minor **vehicular highways**.

See **ORPAs**



Wynd

An enclosed alleyway, but not necessarily a **highway**.

It may also be described as a **cut, gennel, ginnel, jetty, jitty, shut, snicket, tuery, twitchel** or **twitten**.

HMIS and GIS Highway Information

QUICK REFERENCE

Road Class

M	Motorway
T	Trunk road
A	A class road
B	B class road
C	C class road
D	Unclassified road (D road - generally with a tarmac surface)
E	Unclassified road (E road - generally with a natural or non-tarmac surface)
F	Footpath with public rights
R	Other public rights of way i.e. Bridleways, Byways, Restricted Byways
V	Cycle tracks with public rights
X	Not currently recorded as a public highway - includes <ul style="list-style-type: none"> • Stopped up • Under construction • Under Section 38 (adoption pending) • Status unknown

Maintenance Status *(formerly known as 'adopted status')*

PM	Publicly maintainable
PR	Privately maintainable
X	Status unknown
C	Under construction
S38	Under Section 38 (adoption pending)
STO	Stopped up

If the road class or maintenance status is not listed above, you should consult the Highway Team for clarification.

- ADEPT members are the place-making strategists and policy shapers across top tier local authority areas
- ADEPT members are specialists, delivering services and sharing best practice across key sectors including environment, planning, housing, transport and economy
- ADEPT members design strategies for the future, taking communities beyond 2035
- ADEPT members operate in networks, cutting through boundaries to work with partners across the political, public, private and community sectors
- ADEPT members provide opportunities to develop new talent, supporting the place directors of tomorrow

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