



Shetland Countryside Access Strategy

September 2005

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1.0 OVERVIEW

- 1.1 The countryside of Shetland with its mixture of coastline, fertile farmland and the open hill is one of Shetland's greatest assets.
- 1.2 The three key elements of this Strategy, each of which can be considered as a project, are
 - the routes that are already promoted;
 -
 - the development of a strategic long distance route; and.
 - community networks.

Together they form the building blocks that will provide for access to Shetland's countryside.

- 1.3 The first element in the access network will be the routes that are already promoted. These will be upgraded to provide gates, stiles and signage; missing links will be provided where necessary. In addition, sensitive improvements to interpretation and informal, rural car parks will improve their attraction to visitors. The second element in the network is intended to improve access to Shetland's coastline which, with its mixture of dramatic cliffs, scenic voes and numerous sandy beaches, is one of the most spectacular in the British Isles. The Shetland Coastal Path project will seek to develop a continuous interpreted route along the coast. It will be based to some degree on existing routes with some additional sections where required. Both projects will provide increased opportunity for tourism benefits to the economy.
- 1.4 The benefits of exercise to people's health are now well documented. The third element, the development of networks near where people live, will provide increased opportunity for people to improve their health through exercise. The Community Network will upgrade existing routes and construct 'missing links' where necessary to create a network that will be waymarked and promoted locally.
- 1.5 Above all, these three projects, together with the other policies and proposals contained with the Strategy, will provide new or better opportunities to enjoy the Shetland countryside by foot, bicycle or horse.
- 1.6 This Strategy sets out the priorities for the provision and development of access to the countryside in Shetland. It also emphasises that communication and coordination between all groups is key to the success of the proposal. There is a need to address the legitimate concerns of farmers and crofters regarding those visiting the countryside to ensure that the process marginalizes no party. Visitor Management is an element that runs throughout this Strategy and will be a key element in delivering improved access provision.

2.0 INTRODUCTION

2.1 Background

2.1.1 This Shetland Access Strategy sets out the priorities for the provision and development of access to the countryside in Shetland. Additional policies and proposals that support this strategy, but are contained in other policy documents, are contained within appendix A of this report.

2.2 Legislation and National Guidance

2.2.1 The Council's remit in relation to the countryside and access is provided by the Countryside (Scotland) Act 1967 as amended primarily by the Natural Heritage (Scotland) Act 1991. These Acts provide for the provision of public access by agreement and order, the acquisition of land for public access, the provision of long-distance routes, provisions with regards to rights of way, the development of Country and Regional Parks, the ability to make byelaws and the provision of Ranger Services. Rights of Way are subject to the provisions of Common Law and the Prescription and Limitation (Scotland) Act 1973. The more recent Disability Discrimination Act 1995 may affect the provision of facilities in the countryside.

2.2.2 The main guidance to local authorities on recreation and access is provided by Scottish Natural Heritage, specifically in its publication "Enjoying the Outdoors" and more recently through the Paths for All Partnership. National Planning Policy Guidance (NPPG 11) "Sports, Physical Recreation and Open Space" provides guidance on access routes and rights of way, the use of disused railway tracks for recreation and the use of the countryside for informal recreation and organised sports.

2.2.3 The Land Reform (Scotland) Act 2003 has now been passed by the Scottish Parliament. In Part 1, the Act introduces a major new legislative framework for access to the countryside in Scotland. There will be a general right of responsible access to all land, inland water and the foreshore.

2.2.4 The principal statutory duties which will fall upon Local Authorities are:-

- To establish a Local Access Forum;
- To keep open and free from obstruction any routes over which access rights may be exercised;
- To prepare a Core Path Plan;
- To review and amend Bye-laws.

In addition, a range of powers in relation to access will become available to Local Authorities.

2.3 Current Access and Recreation Patterns in the Countryside

- 2.3.1 Before the establishment of the modern network of roads maintained by public authorities, people travelled around by foot or horseback via a network of paths and tracks known as “public rights of way”. Many of these routes were former ‘drove’ roads on which cattle and sheep were driven to market, some were school roads, others were ‘kirk’ roads leading to church; and some were ‘coffin’ roads leading to the graveyard. All of them have their origin in the recognition of the common law of Scotland of the public need for the routes from one place to another, whether for commercial, religious, recreational or other purposes.
- 2.3.2 This ancient network has formed the basis of the modern public road network. Public roads have become dominated by vehicular traffic with a large proportion of the public road network now being either too dangerous or uninviting to walkers, cyclists or horse riders. What remains of the ancient network may no longer be coherent in many areas without the use of public roads. With roads becoming busier, these remnant routes may have consequently fallen into disuse or have become overgrown or removed by landowners. The status of such routes is often far from clear.
- 2.3.3 The needs of the general public have also changed through time. Leisure and recreation has become increasingly important in modern society with a corresponding enthusiasm for ‘out of town’ recreation facilitated by increased levels of car ownership. The development of car parks, often associated with facilities, has in part addressed these needs. These ‘honey pots’ are unusual in that the general public feel safe in their rights to be there. Hill walking and rambling have increased in popularity in recent decades. In addition, the general public also enjoy access to the banks as well as other stretches of the coast. These locations can be within walking distance of where people live or can be accessed by car and are sometimes associated with car parks and picnic areas. There has recently been debate to whether access to mountains, forests, woodlands, river banks, and the coast has what is known as the ‘implied consent’ of the landowner or whether there is a general ‘right to roam’ in Scotland.
- 2.3.4 Access for recreation in the countryside is therefore currently provided for, or taken, in a range of ways. Several key points with regard to current access to the countryside can be highlighted.
- The reliance upon the private car.
 - The lack of clarity as to where the general public have a right to be.
 - The absence of co-ordination of provision for access to the countryside.
 - The absence of matching provision to meet demands.
 - Limited and/or disjointed path networks near where people live

2.4 Modern Access and Recreation Needs

- 2.4.1 The towns, settlements and villages within Shetland are relatively small, enabling the majority of the population to get to the countryside without much difficulty. Accordingly, whilst cities mainly rely upon urban parks and green spaces to meet informal recreational needs, the countryside around settlements in Shetland is also a key recreation resource. A high proportion of the 'visits' to the countryside are short and begin and end at or close to home or where people are staying on holiday. In explaining the future creation of the Paths for All Initiative, SNH, in their publication "Enjoying the Outdoors; A Programme for Action" (1994), indicated that it "...considers that local access is the most urgent issue on which to make progress....".
- 2.4.2 Local access needs may include access to woodland, beaches, burns and the coast. Access to these areas, along with access to open hill areas, is popular, often as daytrips either during holiday periods or weekends, particularly during the summer months.
- 2.4.3 Access to the countryside can be divided into two types, *Linear Access* where members of the public follow paths and *Area Access* where no paths are followed. There are many different types of path, including Public Paths, Rights of Way, Permissive Paths, Footpaths or Bridleways. Each of these has a separate legal definition and is a legal entity in its own right. Each can be said to have some element of construction associated with it, or at least must be recognisable as a route on the ground. In Shetland, the majority of linear access paths are not constructed paths; they are routes that one follows that have gates or stiles along them to aid access. In some cases the access is via an agricultural vehicle track or a peat road but in the main it is very unusual to be on a constructed, surfaced path.

3.0 KEY THEMES

3.1 Access for All

- 3.1.1 People seek access to the countryside for a wide variety of recreational reasons. Not all of them seek access on foot and not all are fit and capable of climbing obstacles such as stiles or fences. In order to enjoy access, many users require relatively smooth surfaces with minimum gradients. Gates - where they are absolutely necessary - must be designed for ease of use.
- 3.1.2 Provision of access for those with disabilities has been highlighted as an issue by the Disability Discrimination Act 1995. All new projects should now take into account the needs of people with disabilities and existing provision should be reassessed to identify ways in which it could be improved to cater for the needs of the disabled.
- 3.1.3 Despite the fact that more cycles are sold in Britain each year than cars, cycle use declined between the mid 1970s and 1990s. Whilst

cycle use has increased in recent years, there remains a latent or unmet demand for safe routes for cycling. Horse riding, which has become increasingly popular in recent years, experiences similar safety issues.

- 3.1.4 Where possible the Council will promote the use of gates as the preferred means of meeting the needs and requirements of all groups be they horse riders, walkers, the disabled, the elderly or the young.

Policy 1 : Access for Disabled people.

The Council will ensure that all new access projects are compliant with the Disability Discrimination Act 1995.

Proposal 1 : Access for Disabled People

The Council will assess the possibilities for disabled access currently afforded by promoted routes.

Proposal 2: Improve routes for all

The Council will promote the use of gates as the preferred means of meeting the needs and requirements of all groups be they horse riders, walkers, the disabled, the elderly or the young.

3.2 Local Access Forum

- 3.2.1 Whilst most people would agree managing access to the countryside is “a good thing”, there are different views on how it should be done. Walkers, cyclists, horse riders, land managers, Shetland Islands Council and other organisations may all have different interests, concerns and priorities. The establishment of a Local Access Forum will provide a practical way for everyone to work together on access to achieve mutual understanding and consensus. The Land Reform (Scotland) Act 2003 has made it a statutory duty for Local Authorities to set up a Local Access Forum.

Proposal 3 : Local Access Forum

Shetland Islands Council will establish and support the work of a Local Access Forum

3.3 Scottish Outdoor Access Code

- 3.3.1 Under the 2003 Act, Scottish Natural Heritage has produced the Scottish Outdoor Access Code (www.outdooraccess-scotland.com) This Code details what is considered to be reasonable behaviour by both the public taking access and by land managers. It is a valuable tool in reconciling different interests.

Proposal 4 : Scottish Outdoor Access Code

The Council will work with Scottish Natural Heritage in the promotion of the Scottish Outdoor Access Code. In developing access opportunities, consideration will be given to how the Code can assist in visitor management.

4.0 POTENTIAL DEVELOPMENT OPPORTUNITIES

4.1 Community Networks

4.1.1 As outlined in paragraphs 2.3 and 2.4, there exists a strong largely unmet demand for local access to the countryside, close to where people live. Whilst some confident, adventurous or knowledgeable individuals in each area may be aware of a range of off-road routes to walk, cycle or ride, most are not aware of the full extent of existing opportunities or are unable to take full advantage of them. There is a strong need for a network of routes around each settlement which:-

- Are safe and instil confidence in those using the routes;
- Form a range of route options which enable circular walks of a variety of lengths;
- Provide for a range of user types including walking, cycling, horse-riding and disabled; (NB it will not be practical or cost-effective to make all routes suitable for all user types);
- Are suitably signposted, way marked and promoted to encourage public usage;
- Link the larger settlement path network and areas of open space;
- Connect into existing cycle tracks and the National Cycle Routes where possible.

4.1.2 There is increasing recognition that lack of exercise is a major contributory factor towards many health problems. The promotion of walking is the key means of encouraging the population of Shetland to take more informal exercise. Opportunities for walking are free, require no specialised equipment and are available to all sectors of society. There is an opportunity for the further development of a 'referral to exercise' scheme in association with general medical practitioners and Shetland Health Promotion.

The Paths to Health Project was created by the Paths for All Partnership to improve the health and well being of both disadvantaged and sedentary people through the promotion of walking and health. Once developed, Community Networks can be utilised in promoting the health benefits of walking, as potential users will be more confident about where they are allowed to walk.

Proposal 5 : Community Participation

The Council and its partners will engage with communities to identify their priorities for action in their areas, giving them technical advice and support where they need it and ensuring the landowners and farmers are consulted and content with what is proposed.

Proposal 6: Paths for Health

The Council and its partners will develop a range of Path for Health Leaflets for each Community Council area based around the major settlements.

4.2 ENCLOSED AGRICULTURAL LAND

- 4.2.1 Enclosed agricultural land is the land use that most commonly abuts settlements. In Shetland this land is often the most fertile and therefore the most important to the agricultural economy. Of all land uses it is probably the most difficult to reconcile with area access. The possibility of damage to crops and disturbance to livestock can lead to the general public being unwelcome in such landscapes. This, together with a somewhat limited public understanding of both farming practice and their own rights, often discourages the public from taking access.
- 4.2.2 It is considered that the most widely used means of access to enclosed agricultural land should be through linear access by the creation of route networks (see 4.1.1 and 4.1.2). The Scottish Outdoor Access Code will be a valuable tool in promoting mutual understanding between land managers and those taking access (see para 3.3). In areas of enclosed farmland, access via defined routes is favoured as a means of catering for recreational users as it allows better management of those visiting the area. Consultation with those who rely on the land for a living will be paramount in developing new routes or improving existing routes.

Policy 2 : Route Development and Agriculture

The Council and its partners will seek to protect the needs and the requirements of those who work the land when considering the development of access opportunities and will endeavour to accommodate their wishes where possible and feasible. Appendix C details some of the specific needs and requirements that require to be addressed.

4.3 THE COAST

- 4.3.1 With its mixture of dramatic cliffs, scenic voes and sandy beaches, the coastline of Shetland is one of our greatest assets.
- 4.3.2 Unlike almost everywhere else, it would appear that the general public perceive that they have a right of access to the coast. This includes everything seaward of cultivated or enclosed land. This “zone of

recreation” can be narrow along some cliff tops or can be relatively broad particularly on sandy stretches of coast with associated sand dune complexes.

- 4.3.3 Whilst sections of the coast do contain public rights of way and linear paths, much of the use of the coast is exercised as area access for picnics, swimming, sunbathing, children’s play and dog-walking. Walking is not always on defined paths; the beach itself is often used as part of informal circular walks.
- 4.3.4 Little of the coast has a recognised path along it. However, access along large sections of the coast is promoted in various publications, leaflets and websites.(see appendix B Map of promoted routes). What has developed over generations is a tradition of walking along the cliff top or ‘the banks’ and this tradition is now promoted in various forms. These routes need improving to benefit both the landowner and the user. In most cases simple minor improvements could raise the confidence of users and improve visitor management, to the benefit of those who rely on the land for their livelihood.

Proposal 7: Route Improvements

The Council and its partners will audit and assess the promoted routes in Shetland and will work with communities and landowners to create better access along Shetland’s coast and the other promoted routes.

4.4 BURNS AND LOCHS

- 4.4.1 Away from the coast, access to burns and lochsides helps to satisfy the human desire to be beside water. Use of a boat can enable access to places not easily accessible on foot.
- 4.4.2 Again there may be access along paths, some of which may be public rights of way. In addition individuals may be there “under licence” with a fishing permit. Whilst the activities are similar to these undertaken on the coast there may be a greater use of informal paths due to the absence of a beach.
- 4.4.3 Gaining access to riverbanks and lochsides often involves crossing enclosed agricultural land with the associated problems outlined in para 4.2.1. Again there is a need to work closely with those who work the land and consider their requirements. Policy 2 above is paramount when developing access to the countryside. Proposal 7 above is also relevant.
- 4.4.4 Shetland holds half the United Kingdom’s population of red-throated diver (rain goose) and this population is declining. These birds nest close to the edge of the loch or in islands in freshwater lochs. If disturbed, their eggs or young may be taken by bird predators. Enhanced visitor management should ensure that recreational users would not have a detrimental effect on the red-throated diver and other breeding stock. There is a need to educate the visitor to ensure that

they do not cause disturbance to the breeding bird life throughout Shetland.

4.5 THE OPEN HILL

- 4.5.1 Unenclosed hill land is perhaps the category that raises greatest passion with regard to the debate about the alleged “right to roam”. Such landscapes appear to meet society’s need for a link to wilderness.
- 4.5.2 Whilst users may follow informal paths in part, and occasionally public rights of way, area access is commonly taken. The nature of farming can make such areas highly suitable for area access. But there is the need for education of those accessing these areas to ensure they are aware of the needs of farmers and crofters. These areas may, at times, appear barren or empty but they have an important role in agriculture.
- 4.5.3 Access to the open hill poses some problems with regard to the recent introduction of fences and apportionment. The fences are required for stock management and are seen as a barrier to those accessing the open hill. This issue is not insurmountable and can be addressed by the introduction of measures such as gates or stiles to facilitate access. Better education and management of those visiting the open hill land will result in meeting the concerns of the crofting community. It is felt that implementation of the policies and the proposals contained in this strategy will benefit all those involved with the open hill. Of particular concern is the control of dogs and we will attempt to address this concern; again, education is a key element. Policy 2 and proposal 7 have an important role in addressing the issues regarding access to the open hill.

4.6 RESERVES AND DESIGNATED SITES, VISITOR MANAGEMENT

- 4.6.1 There are many designated sites in Shetland, be they SSSIs, Ramsar sites, SPAs, National Scenic Areas (NSAs) or candidate Special Areas of Conservation. There are also RSPB reserves and other sites where, for ecological reasons, there may need to be some control over where visitors go. Route development and promotion coupled with education of the visitor is the key to developing adequate visitor management in these areas.
- 4.6.2 The wider rural areas can also benefit from visitor management. There are areas on farms from which visitors should be directed away, be it for animal bio-security or health and safety reasons. Knowing where people are likely to be reduces the need for concern by crofters and farmers. Promoting a better understanding between those visiting the countryside and those working there will create benefits for all parties.
- 4.6.3 There is an opportunity to develop a system of visitor management and education that is low key but benefits all parties. The proposal and

policies of this strategy will result in enhanced visitor management and improved education.

- 4.6.4 Visitors to the countryside will be responsible for their own actions. However, not all people behave in the same responsible manner and in some areas visitor management will be more formal than in other areas. As discussed in paragraph 4.2.2, access to enclosed agricultural land is best achieved by means of linear routes. This same level of management is often required at designated sites whether historical or ecological. Indeed there may be times throughout the year when it would be preferable if there were no people in a particular area, be this for land management or ecological reasons. These reasons need to be explained to the visitor and alternative areas suggested.

4.7 DEVELOPMENT OF LONG DISTANCE ROUTES

- 4.7.1 As a consequence of the work detailed above, it is expected that the development of medium and long distance routes is a distinct possibility. For years it has been an aspiration by many to develop and promote a long distance route from Sumburgh to Skaw. A quick glance at the map in Appendix B illustrates that there are sufficient routes already promoted and these could be linked to develop medium distance routes. Some larger gaps need to be filled to ensure long distance route development. However, given the nature of some of the public roads the possibility of utilising these should not be overlooked in certain locations. Long distance routes could be developed from west to east as well as the north-south route historically put forward. A continuous Shetland Coastal Route is perhaps a long term strategic goal that can be achieved through other policies and proposals detailed in this strategy. However, using these currently promoted routes poses some problems. They often exist without the consultation and agreement of the landowner or tenant. The routes often offer a very poor quality visitor experience as they are challenging to negotiate. In improving these routes, or developing new links, it is paramount that consultation with the landowner or tenant is undertaken regarding the inappropriate nature of the route. In many cases route improvements can benefit the landowner/tenant as much as they benefit the visitor.

Proposal 8 : Development of long distance routes

The development of nationally promoted, locally managed long distance routes that are of high quality is a medium to long-term goal.

5.0 IMPLEMENTATION AND TIMESCALES

- 5.1 The implementation of the proposals contained within this strategy will make some demands on people's time within the Council, other agencies and the wider community. The availability of staff and (in some cases) volunteer time will ultimately dictate whether proposals are implemented and at what rate. This strategy does not attempt to quantify the time inputs required. However, the implementation timetable below should therefore be regarded as provisional at this stage and subject to commitment of adequate time. The

order in which these proposals are presented does not reflect any order of priority.

Proposal	Implementation Responsibility	Timescale		
		0-3 yrs	3-5 yrs	5 yrs +
Proposal 1: Audit routes for disabled access	Shetland Islands Council Planning, Rangers, Community	✓		
Proposal 2: Improve routes for all	Shetland Islands Council Planning, Rangers	✓	✓	✓
Proposal 3: Local Access Forum	Shetland Islands Council Planning	✓		
Proposal 4: Scottish Outdoor Access Code	SIC Planning, SNH, Rangers	✓	✓	✓
Proposal 5: Community participation	SIC Planning, Rangers Community Councils	✓	✓	✓
Proposal 6: Paths for Health	SIC Planning, NHS Shetland, Rangers	✓	✓	✓
Proposal 7: Route Improvement	SIC Planning, Rangers Communities	✓	✓	✓
Proposal 8: Long distance routes	SIC Planning, Rangers Communities	✓	✓	✓

6.0 REVIEW

- 6.1 This strategy has been prepared in the context of the Council's current duties and powers. The majority of projects undertaken on access to the countryside rely upon partnership funding to make them viable. Whilst this strategy takes account of current and anticipated partnership opportunities, these will inevitably change as the priorities of partners evolve through time.
- 6.2 The Land Reform (Scotland) Act 2003 changes Shetland Islands Council's duties and powers in relation to access. It also creates new opportunities and

will probably lead to changed priorities among partners. It is therefore appropriate that this strategy be reviewed within 12 months.

APPENDIX A

LIST OF STATUTORY DOCUMENTS AND OTHER NON-STATUTORY STRATEGIES WHICH RELATE TO COUNTRYSIDE ACCESS WITHIN SHETLAND

The Adopted Shetland Local Plan – particularly those policies relating to agricultural land, the natural environment, tourism and access.

The Adopted Shetland Structure Plan – particularly relating to tourism, transport, the environment, community services and facilities.

Shetland Local Transport Strategy – particularly those policies relating to walking, health, road safety and social inclusion.

Shetland Islands Council Corporate Plan - particularly those policies relating to social inclusion, education and the arts, sustainable development and community planning.

Shetland Local Economic Forum “Economic Development Strategy”– particularly those policies relating to quality and identity, diversification and strengthening rural communities, tourism and social inclusion.

“A Healthy Shetland”, Shetland’s joint Health improvement Plan – the desire to increase the “wider participation of communities in physical exercise”

Shetland Sport and Recreation Strategy - policies relating to Healthy communities.

Scottish Outdoor Access Code – www.outdooraccess-scotland.com

Shetland Cultural Strategy - Promote access to and understanding of Shetland’s natural environment

Shetland Interpretive Plan – access improvements to sites of interest

Appendix C

Guide to Implementing Policy 2: Route Development with regard to enclosed agricultural land

Access route: The favoured means by which access to the countryside is exercised is via the developed, promoted access routes. These will have a greater level of visitor management which is to the benefit of the agricultural industry.

Agri-environment scheme rules: current agri-environment schemes operating in Shetland (ESA) do not prohibit human access to land at any time of year. However, access to sites supporting breeding birds should be discouraged to minimise disturbance which affects breeding success.

Agricultural machinery: the use of modern agricultural machinery poses significant health and safety issues and access should be restricted to areas when the machinery is in use. Access to where machinery is stored in the open should be discouraged and alternative routes identified.

Bio security: Separation fields require to be noted and their importance addressed when developing access.

Wild Camping; campers should approach the farmer to ask permission or direction to a suitable site. Camping is not permitted in areas used for the production of feed or crops.

Disease Control (Scotland) Order; Quarantine areas and isolation areas are highlighted and access to these areas is discouraged.

Dogs: there is a need to educate the dog owner as to how they can properly control their dog. Education is a key element in achieving this, dog fouling and the resulting contamination of livestock needs to be addressed and can be achieved through education. Similarly dog owners need to be aware of the impact an uncontrolled dog can have on livestock; this goes beyond the obvious example of savaged livestock, and includes the stress induced in ruminants from being pursued by dogs, and the implications for young and less hardy animals. Finally, dogs can have a serious impact on ground-nesting birds, either through disturbance or devouring eggs and / or nestlings (see Agri-environment scheme rules).

Educating the public is a key factor. Educating and fostering understanding on the part of all sides to work together to solve issues is a key element. To do nothing is not an option.

Farm Assurance Scheme: Farm Assurance Schemes are voluntary schemes that establish production standards covering food safety, environmental protection, animal welfare issues and other characteristics deemed to be important by consumers. The standards of these Schemes require farmers to 'look after the countryside'; as such, public access is unlikely to infringe a Farm Assurance Scheme in Shetland.

Health and Safety: There is a need to clarify how access provisions relate to H&S information sheet No 17; this may well have to be amended.

Lambing and calving: During lambing and calving time access to the parks and areas where these activities take place will be restricted. There is a need to educate the wider public in the requirements of the industry.

Liability: In developing an access route an appropriate Risk Assessment will be undertaken to ensure that the route is free from unforeseen dangers. In the case of existing promoted routes where there appears to be a safer alternative route this shall be developed in agreement with the landowner/tenant/farmer.

Subsidy Payment Rules: Grants from the Council and the Crofters Commission for replacement fencing are made on the basis that the fencing to be replaced is unfit for purpose through the ravages of age and weather. Dilapidation caused by an external avoidable factor such as fences being climbed by walkers would not be a reason for grant-aiding a replacement fence. Consequently, access should be promoted as a privilege not to be taken lightly, and the responsibilities incumbent on the user of the access route or area should be stressed.