

# COTSWOLDS NATIONAL LANDSCAPE BOARD POSITION STATEMENT



## THE MANAGEMENT OF ROADSIDE VERGES

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### Introduction

Responsibility for managing roadside verges in the Cotswolds lies primarily with the highway authorities (normally County or Unitary Councils) and Highways England. District or Unitary councils normally have responsibility for litter. Many parish councils undertake additional verge cutting within villages, some under delegated schemes offered by highway authorities. Other bodies may also manage road verges under the Community Right to Challenge provision of the Localism Act 2011.

All public bodies have a duty, under Section 85 of the *Countryside and Rights of Way Act 2000*, to “have regard to the purpose of conserving and enhancing the natural beauty of the AONB” when carrying out functions affecting the Cotswolds AONB.

Public bodies are also required to have regard to biodiversity conservation when carrying out their functions under section 40 of the Natural Environment and Rural Communities Act. This is commonly known as the ‘biodiversity duty’.

This position statement:

- Explains the general issues surrounding verge management
- Explains the value of roadside verges
- Describes some of the particular management issues and problems
- Sets out recommended management practices for roadside verges in the Cotswolds AONB

### General Issues

Roadside verges are important to the special character of the Cotswold landscape. They provide important habitat for plants, birds, small mammals and insects, and act as essential ‘wildlife corridors’ along which species can move and spread. Road verges are also important for access, general amenity and for the historic environment, and provide an attractive foreground to the Cotswold landscape seen from the road network.

However, maintaining the beauty and biodiversity of roadside verges requires a careful balancing act. If verges are left uncut, wild flowers will disappear as larger, more aggressive vegetation takes over. On the other hand, over-enthusiastic cutting, especially when carried

out too early in the year, will also reduce the diversity of flowering plants and the wildlife that depend on them.

The development of scrub and trees on uncut verges can impact negatively on the landscape, blocking views and changing landscape character. There is also an increasing tendency within towns and villages to create 'lawns' out of wild verges. This has a suburbanising and homogenising effect harmful to the special qualities of the AONB.

The need is for a sympathetic regime of verge management that meets road safety requirements and is cost efficient, but which also favours biodiversity and landscape. This can be achieved, but in many cases it will require significant changes in current practice.

### **Value of roadside verges**

#### **Biodiversity**

Road verges which are cut periodically are a form of grassland. Generally they are classified as MG1 in the National Vegetation Classification (characterized by false oat grass). Where soils are very thin, more species-rich grassland types occur including the nationally important Unimproved Jurassic Limestone Grassland, CG5.

Cut verges in the AONB are especially important for wildflowers. These range from the widespread meadow cranesbill, which is a characteristic of the Cotswolds and gives the verges a blue tinge when in flower, to the nationally rare downy woundwort. Other attractive species include field scabious, greater knapweed, cowslip, primrose and red campion.

The need to protect and enhance verges is made more urgent by the dramatic and continuing loss of Britain's wildflower-rich grassland. Almost all of this has now been destroyed by agricultural improvement, development or neglect, with the result that less than 3% of the pre-war area of unimproved lowland meadows now survives in England and Wales.

Many verges which are no longer cut have reverted to scrub or woodland through a process of natural succession. Although such habitats can have high biodiversity value, this is usually less than the grasslands they have replaced.

Road verges of all types provide habitat for birds, small mammals, invertebrates and other wildlife. These can be important ecological corridors, particularly in areas of intensive agriculture, where they can provide essential linkage between dispersed habitats. They can also play a role in enabling wildlife populations to relocate in response to climate change.

## **Landscape**

The Cotswolds contain a network of minor roads, often associated with an abundance of attractive wildflowers. Even very common plants like cow parsley can produce a beautiful effect when they flower en masse.

In parts of the AONB, scrub and trees have developed to such an extent that the character of the landscape has changed, giving a wooded feel in otherwise open landscapes. Some tree “tunnels” consisting of mature trees are long-established and valued Cotswold features, but in most cases, roadside scrub forms a visual barrier to attractive views.

Dry stone walls, ditches and hedgerows are best conserved by regular road verge management with the verge maintained as a grassland habitat.

## **Historic environment**

Historic features are often located on road verges. These include milestones, wellheads and troughs. Archaeological features and monuments also occasionally extend onto verges or are located on them. These include Roman remains and barrows. Some roads themselves are historic, such as Roman roads, salt ways and drove roads. All these features benefit from regular cutting and clearance of surrounding vegetation.

## **Access and general amenity**

Road verges can be attractive to walk alongside where there is little traffic. They provide a safe route for pedestrians on busier roads and links between public rights of way. Minor roads also provide an attractive network of routes for riders and cyclists to visit and enjoy the AONB.

Verges are particularly attractive in the spring and summer, providing a colourful view from the car, horseback or bicycle, or from nearby properties. Well managed verges are also important for road safety, providing good visibility for drivers and safe refuges for broken down vehicles.

## **Management issues**

In recent years there has been a trend towards mechanical cutting of roadside verges during the spring and early summer, before flowering plants have had a chance to set seed – even on minor roads and lanes. Over time, this leads to an increase in grass species which are tolerant of mowing at the expense of wildflowers.

Another problem is that the cuttings are often not taken away following mowing. Instead they are left to mulch down, which can suppress flowering plants and favour some grass species and rank plants such as dock, nettle and comfrey. Unless cut vegetation is removed, there is a tendency for roadside soils to become ‘enriched’ over time, with nutrients added by rainfall and car exhausts. In richer soils, flowering plants find it harder to compete with grasses and rank species.

Without appropriate management, road verges can also become a refuge for invasive and injurious plant species such as ragwort and Japanese knotweed, which can then spread along road corridors.

Cutting road verges can reveal unsightly litter and debris where previously there were attractive wildflowers. Cutting also tends to fragment bottles and other rubbish, making removal harder. It is therefore advisable to pick up litter before cutting wherever possible.

Much verge cutting is done on the grounds of road safety, but emerging research shows that the benefits of early cutting are often marginal – indeed cutting may be counter-productive by encouraging traffic to speed up. Overall, except where visibility is clearly restricted, the early cutting of roadside vegetation on minor roads in the Cotswolds is unlikely to provide significant safety benefits.

### **Objectives**

Taking into account the range of issues identified above, the need is for a management regime which:

- maintains road safety (sight lines, visibility splays, etc)
- conserves and enhances the characteristic landscape of the Cotswolds and its roadside flora
- is practical to deliver by the responsible authorities

### **Recommended management practices for highways in the AONB**

The following practices are recommended.

- For all routes vegetation should be cut regularly in front of signs and visibility splays.
- For all main routes, and for those minor routes where pedestrian or cycling safety is an issue, a one metre swathe adjoining the carriageway should be cut regularly: this should be extended to two metres where horse riding safety is a particular issue.
- Elsewhere on minor roads the cutting of roadside vegetation should not commence before the end of July, subject to prevailing weather and local conditions.
- Verges on minor roads will usually need to be cut only once and at most twice a year. More frequent cutting should be avoided, as this can be detrimental to biodiversity and result in an urbanized appearance
- The last cut of the year should be the full width of the verge to the base of the hedge, fence or wall.
- Wherever possible (but particularly on SSSIs and other species-rich verges), cut vegetation should be removed and composted off-site.

- Consideration should be given to identifying road verges of exceptional wildlife interest for special management as Protected Road Verges, following the practice already followed by a number of highway authorities in the AONB.
- Litter should be removed prior to cutting.
- Care should be taken to avoid damage to historic features such as milestones which may be difficult to see in tall herbage.
- Scrub and young trees should be removed from locations where they are encroaching on species-rich grass verges or where key views have been interrupted. Removal is also desirable where there is the opportunity to connect open habitats. Stumps should be treated to prevent regrowth. Scrub cutting should take place between September and mid-February to avoid the bird breeding season.
- Large trees and tree 'tunnels' should be retained where they are characteristic features unless clear signs of danger are visible such as die back, split limbs, excessive lean and incursion of roots under the road surface. In some situations tree surgery to reduce and lift the crown may be appropriate.
- Invasive and injurious plant species, such as ragwort and Japanese knotweed, should be identified and eradicated before they have a chance to spread.
- Where ditches and culverts occur, these should be regularly maintained and any excavated material removed off site to prevent enrichment of the verge.
- Verges should be restored following the laying of utilities and after road improvements, with reinstatement reflecting locally occurring species. Appropriate grass and wildflower seed mixes are available

### **Approach**

Ideally, all road verges will be managed as recommended above, however, with hundreds of miles of verge across the Cotswolds there will be the need to prioritise.

To help prioritise stretches of road verge, simple walk-over verge surveys can be undertaken to.

- note verges which are rich in wild flowers and identify opportunities for linking them together;
- identify verges which have been over-mown for 'tidiness', which would benefit from less regular mowing;
- identify verges with potential for enhancement through sowing or planting locally native wildflowers;
- identify items of historical interest such as milestones;
- identify views which have been lost or degraded by scrub encroachment that may be worth reinstating;
- identify sections of drystone wall or hedge that need attention.

An area to focus on could be those verges which are closest to the approaches or 'gateways' to towns and villages.



# Management of Road Side Verges

## Frequently Asked Questions

### 1. What constitutes the public highway?

A 'public highway' will usually include a road along with any adjoining verge or footway. It will normally extend over all the land between its original boundaries (which may consist of ditches, fences, walls, hedges, etc.). The Highway Authority has a duty to maintain records of the extent of adopted public highways.

### 2. Who owns the verge?

There is a presumption in common law that the property fronting onto public highways includes ownership of the subsurface of the road to its mid-point. The Highway Authority normally has title to and maintains the surface of the public highway to a depth of 'one spit'<sup>1</sup> with the abutting property (called the 'frontager') owning the subsurface. This is, however, only a presumption and there are many possible exceptions. If in any doubt, contact the Highway Authority.

Public highways that did not evolve from ancient pathways and tracks and which were built more recently under compulsory purchase powers (from the early 20th century), are normally owned outright by the Crown.

### 3. My deeds say I own the land, how can it still be a highway?

This is often the case, as the subsurface of the land may be privately owned. However, if the land has been adopted as public highway then highway rights exist over the surface of the land.

### 4. Can I get 'squatters rights' over a verge if I have occupied it for 12 years?

No. The Land Registry will not complete a first registration application based on adverse possession ('squatters rights') in so far as the land concerned lies within a highway maintainable at the public expense. The Highway Authority's title to the surface (by virtue of section 263 of the Highways Act 1980) cannot be lost by adverse possession, so the squatter has no estate in the surface (nor, it would seem to follow, in the ground beneath or airspace above the surface).<sup>2</sup>

### 5. What is the Highway Authority's responsibility?

The Highway Authority (normally County or Unitary Council) has a duty under the Highways Act 1980 to maintain the highway that is maintainable at public expense.

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<sup>1</sup> A 'spit' has no formal definition but is traditionally one spades depth

<sup>2</sup> Land Registry Practice guide 5: adverse possession of (1) unregistered and (2) registered land where a right to be registered was acquired before 13 October 2003

The 1988 Road Traffic Act, S 39, puts a duty on the local authority to undertake studies into road traffic collisions, and to take steps both to reduce and prevent them. This can involve improving road verge management.

The Natural Environment and Rural Communities Act 2006 requires public bodies to have regard to biodiversity conservation when carrying out their functions.

Section 85 of the CROW Act 2000, places a duty on the Highway Authority to have regard to the purposes of AONB designation (to conserve and enhance the natural beauty) when carrying out their functions in relation to, or so as to affect, land. Natural beauty includes biodiversity.

Ultimately, the Highway Authority does not have to cut the vegetation - unless there is a reason to do so (generally road safety or to support operations).

Motorways and Trunk Roads are the responsibility of the Highway Agency but still have legislation in terms of maintenance.

## **6. Who has the right to cut and manage the verges?**

Verge management is the responsibility of the Highway Authority or Highways England in the case of trunk roads. Others such as parish councils, landowners and owners of adjacent property can take on the management of road verges **BUT** only with the consent of the Highway Authority.

## **7. Who is responsible for trees on the verge?**

Trees and scrub on a road verge are the responsibility of the highways authority if the ground on which they are growing falls within the boundary of the public highway (see 1 above), otherwise they are the responsibility of the owner of the land on which they are growing. Neighbouring property owners must ensure that any vegetation growing on their land does not impede or cause harm to the highway user.

The Highway Authority has a duty under the highways act to consider appropriate action if a tree or other vegetation causes obstruction, nuisance or poses a risk to users of the highway. Different authorities may adopt different processes to deal with such issues. Ultimately a Highway Authority does have the power to cut a tree or vegetation back and has the power to reclaim the cost from the landowner.

## **8. Who is responsible for repairing a verge damaged by drivers or utilities?**

A street utility is obliged under the New Roads and Streetworks Act to reinstate any highway it has disturbed whilst carrying out works. A Highway Authority has a duty to coordinate utility works and has the power of enforcement under the Act.

If a verge is damaged by a vehicle the Highway Authority can take action but would need some form of proof of damage.

Adjacent landowners who plough or cultivate a verge without a licence, or encroach on the verge could be at risk of prosecution especially if it affects the highway function and/or the verge is owned by the Highway Authority

### **9. Who is responsible for litter on the verge?**

Litter and fly tipping on road side verges is the responsibility of the littering authority, usually the district or unitary council.

### **10. Can I put stones or posts on a verge to protect the verge?**

It is an offence to block, obstruct or damage road verges. This includes rocks, posts, A-boards etc. If someone is injured or damages their vehicle on rocks or posts etc legal action could be taken.

The Highway Authority has a duty to remove obstruction and will do so if the obstruction is dangerous.

Different authorities will have different policies of enforcement on such matters and may offer licences in some cases. These may be free or charged for and come with obligations in terms of insurance or liability

### **11. What about skips, scaffolding and building materials?**

A formal licence is required from the Highway Authority to place any item on the highway.

### **12. Can I plant trees, shrubs and other plants on the verge?**

Possibly, but as with stones and posts etc a licence is first required from the Highway Authority.

### **13. We have a verge rich in wildflowers – who do I tell?**

A verge or stretch of verge rich in wildflowers will be of interest to the local authority ecologist and county wildlife trust. Sometimes the wildlife interest of a verge can be limited to one or two rare species such as tower mustard or creeping hedge parsley. If you have records of rare species on a road verge, please inform the local Biological Records Centre. See contact list.

### **14. Who is responsible for the hedge or drystone wall adjacent to the verge?**

Hedges, fences, dry stone walls or any other form of boundary adjacent the highway are normally the responsibility of the neighbouring landowner who must ensure they do not grow over or fall onto the highway. Some hedges may have been planted by a Highway



Authority, or taken in terms of maintenance and as such are the responsibility of the Authority.

### **15. What guidance is there about the right time to cut the hedges and verges?**

Guidance for farmers on the timing of hedge cutting comes from Defra. The guide to Cross Compliance 2015 states that hedgerows must not be cut or trimmed between 1<sup>st</sup> March and 31<sup>st</sup> August unless the hedgerow overhangs a highway, obstructing the passage of, or is a danger to, vehicles, pedestrians or horse riders, is dead, diseased or damaged and is likely to cause danger by falling on a highway. Hedgelaying or coppicing can take place up to 30<sup>th</sup> April.

These regulations do not apply to the curtilage of dwelling-houses. However, the provisions in the Wildlife and Countryside Act 1981 regarding nesting birds and protected species do apply to the curtilages of dwelling-houses.

Guidance on the timing of verge management can come from the Highway Authority, council ecologists, wildlife trusts and bodies such as the Cotswolds Conservation Board

### **16. Can a seed harvester be used to collect wildflower seeds from road verges?**

Depending on the width of the verge and the presence of obstacles such as road signs, stumps etc. a seed brush harvester can be used. Fairly long stretches of wide, clear verges are ideal. Consideration may need to be given to traffic frequency and speed, and the advice of the highways authority should be sought. Small amounts of wildflower seed can also be successfully collected using a domestic garden vacuum.

### **17. Who is responsible for invasive plants or injurious weeds on a road verge?**

The Highway Authority (and Highways England for trunk roads) is responsible for all aspects of a verge including invasive plants and injurious weeds on the road verge where the verge is owned by the Highway Authority, otherwise it is the landowner

Invasive non-native plants are species which have been brought into the UK that has the ability to spread causing damage to the environment, economy, biodiversity and health and includes Japanese Knotweed, Giant Hogweed and Himalayan Balsam. A landowner or occupier is not obliged to remove invasive plants but is responsible for preventing them spreading on to adjacent land.

Injurious weeds are native plants that are considered able to cause harm to agricultural pasture. The five species of 'injurious weed' are: common ragwort, spear thistle, creeping or field thistle, curled docks and broadleaved dock. Under the Weeds Act 1959, the landowner or occupier is responsible for controlling them and must prevent them spreading onto adjoining land, and can be served with an enforcement notice by Natural England and fined for non-compliance.

### **18. Who is responsible for the roadside ditch?**

The roadside ditch is normally the responsibility of the landowner adjacent to the road. The ditch should be maintained but the landowner must not interfere with surface water draining into it. As with hedges there may be some ditches that are maintained by the Highway Authority. The Authority has the power to discharge water into the ditches or watercourses in most cases. This is covered by highways and land drainage legislation.

### **19. How easy is it to remove grass cuttings as advised?**

Best practice management of road verges is straightforward, however, the trickiest part is the removal of arisings to prevent enrichment and smothering of wildflowers. It is easy to end up with large amounts of cut material to collect so pre planning is vital.

Short stretches can be hand raked and collected and either taken to a recycling centre for composting or composted locally in a parish or community facility or added to a dung heap. In some instances a particularly poor part of the verge can be designated for on-site composting but removal off-site is best. By working with a local farmer, larger quantities can be hand raked and loaded into a large farm trailer or collected using a forage harvester or dried on the verge, baled and removed. Clean arisings, free from plants such as ragwort, litter etc. can be used for livestock bedding or even feed.

### **20. If local groups or parish councils wish to tackle verge management how can the insurance obstacle be overcome?**

Insurance cover can be provided by practical work being undertaken formally on behalf of the parish council or Highway Authority on the same lines as Snow Wardens or managing the village green or playing field. The parish council may, however, incur an additional cost on the insurance if practical work is not already covered.

Local groups can gain insurance cover from around £100 by becoming affiliated to the TCV: <http://www.tcv.org.uk/community/join-community-network/community-group-insurance>

### **21. Is it a good idea for every parish council to nominate a lead councillor to take responsibility for verges?**

A parish councillor with responsibility for road verges is a good idea, particularly if the parish council is planning on becoming involved in verge management, even if this only involves liaising with the Highway Authority over mowing for safety or tackling over-zealous residents about mowing for 'tidiness'.

### **22. What should local authorities put in their local transport plans about verge maintenance?**

Most Local Transport Plans (LTPs) recognise the importance of road side verges for biodiversity, heritage etc but within any policy for the management of verges, with the exception of road side nature reserves, keep to the basic minimum for safety of 1 or 2 cuts along the edge of the tarmac and additional cutting for visibility splays etc. Some include a full width cut every 3-4 years to prevent scrub growth.

Ideally, LTPs would aim for best practice management of road side verges particularly when bearing in mind the duties on local authorities for biodiversity conservation and the conservation and enhancement of the Cotswolds AONB.

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The above Frequently Asked Questions (FAQs) have been produced in collaboration with the following Highway Authorities:

- Bath and North East Somerset Council
- Gloucestershire County Council
- Oxfordshire County Council
- South Gloucestershire Council
- Warwickshire County Council
- Wiltshire Council
- Worcestershire County Council

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