



JLAF05: Agenda item 5: Access Land

b) JLAF discussion group on Access Land.

Meeting 2. Notes from meeting.

Date: Friday, 15th October 2004
Time: 2:00pm
Venue: Meeting Room 8, Riverside, Temple Street, Keynsham. BS31 1LA.
Present: Alun Morgan (JLAF Chair), Ray Newbigin (JLAF Vice-Chair), David Colbourne, John Gunnery, Ron Phelps, Paul Wynne, (JLAF members), Chris Hogg (JLAF Secretary), Stu Ballard, Will Steel (B&NES Officers)
Apologies: Chris Weedon, Robin Winfield, Adam Stratton.

Note: These are notes to the meeting of the discussion group and do not form formal minutes. Their purpose is to provide a brief summary of discussions and further clarification should be sought where necessary. Errors and omissions excepted. Please contact the JLAF at secretary@jlaf.org.uk with any suggestions for addition or amendment.

Points of discussion are in grey bold text.

2:00pm 1 Introductions
The discussion group was introduced as a means of looking in some detail at the issues around access land. The group cannot make any decisions or recommendations, but a summary of the discussions can be taken to the main JLAF meeting on Friday 5th November.

The chair summarised a course that the Chair and the Secretary had been to on Access Land, including a couple of judgements that might have some effect on the legal background to public rights of way.

2 Restriction application at Barn Field – update
An email response to the Countryside Agency's consultation has been sent, based on the JLAF members' comments. It was suggested that these responses could be summarised as '6 for the restriction, 4 hesitant'. The response reflects the views of most responses from JLAF members – all of the members' comments were included with the response. There was one aspect of the case where some judgement was needed: on the length of the closure each year: it was felt that the seasons could be variable so it would be difficult to give a shorter closure.
The Chair, Vice Chair and Secretary had visited the site with the applicant – this was most valuable. **There was some discussion on how valuable a site visit for all members would be in any further such cases. It was suggested that, depending on the complexity of a case and the reason for the closure, it might be useful for about five members to look at the site, then to discuss the case soon afterwards. Sometimes it might be more convenient for members to look at the site individually, but the chance for discussion with the landowner would then be missed.**
There was then discussion on the mapping process, including that the process did not involve direct consultation with all landowners. **This is something that would be raised at the main meeting on the 5th November.**

3 Access Land update

Following the launch of access in the lower north west and south east on the 19th

September enquiries to West Sussex County Council had shown that there, they have not noticed a significant reaction.

The Defra website www.defra.gov.uk has been updated and includes the latest copy of their Access newsletter.

The Conclusive Map had been issued on the 28th September and paper copies are available for viewing at council offices, and on the internet at

www.openaccess.gov.uk. They will appear on the website directed at the public at www.countrysideaccess.gov.uk at commencement.

Commencement for Central Southern England is on the 14th December. A copy of a published OS Explorer map (Arundel & Pulborough) was on show to gauge how local maps might look.

Update on current situation in Bristol

- Section 15 land, with greater access, not access land so no change. Still possible press releases.

Update on current situation in South Glos.

- Open Spaces team Leslie Coates
- Access Land survey by BTCV, to finish end Oct.
- Undertaking land ownership searches
- Consultation with other bodies, prioritisation of plots
- Access Management Grant Scheme:
- Stage one application soon
- Stage two application afterwards

Update on current situation in Bath & North East Somerset

- Survey was completed earlier in the year
- Officers have prioritised plots ready for the authorities.
- JLAF to look at plots later
- Are contacting landowners to look at access and signage
- Constraints on finance (no core funding, out of PROW budget unless from AMGS) and constraints on personnel.
- Anticipate the workshop carrying works on site.
- A draft of a press release to be used to publicise access land was distributed.

There was some discussion about publicity and the likely reaction of the public in December. This included publicity to be undertaken by the Ramblers' Association who are looking at particular plots and resulting walks to promote. This could include a mention in the Ramblers Association magazine "walk". This could compliment the work of the authorities and of this meeting, where priority plots in Bath & North East Somerset could be identified.

A question of whether the JLAF itself should undertake some publicity was raised – the initial reaction was that this might be unnecessary – though the JLAF should advise on publicity.

Because of the nature of Access Land in the area, it was suggested that a more 'softly-softly' approach to promotion and works would be more appropriate. For instance, the nature of land in this area is different to much of the access land in other areas of the country: most Access Land here will be farmed or adjacent to farmed land and this should be considered.

There was further discussion on the 'right to roam' problem – that there may be misconception that the public will have a right to roam on all land. It was suggested that this was addressed in all publicity, and that mention of the countryside code should be included.

4 Access Land signage

There are three types of signage planned for initial use: Access Land disks, 'negative' Access Land disks with a red bar showing the end of Access Land, and boards of approximate A4 size that show a map of the access land plot and some introductory information on Access Land. **Use of these was generally approved of, though further comments on the information shown and materials and installation**

would be passed to the secretary after the meeting and at the full meeting of the JLAF. It was suggested that the design of the A4-type board be distributed to all members for comment and suggestion. Other authorities have suggested that they might adopt a similar design. An explanation of excepted land is not shown on the signs, but as there was only a limited space, this was thought to be acceptable. Some use of temporary signage soon after commencement was thought acceptable.

It was suggested that there should be limited use of signage, and an approach that gauges use and demand of the plots before undertaking works and erecting signs. It was thought that most of the plots would attract enthusiastic walkers and ramblers who would most likely have a map with them, and that these also were likely to cause few problems.

5 Access Land plots in Bath & North East Somerset

Following the suggestion that the JLAF highlight a few plots of land in each authority to prioritise as 'example plots' for both works and publicity, plots in Bath & North East Somerset were considered first. A further meeting would be arranged to look at plots in South Gloucestershire. Maps of land identified for consideration by officers at Bath & North East Somerset were considered. **It was suggested that these maps be made available to all the members of the JLAF.**

The selected plots would be prioritised for promotion, signed where appropriate and other work to be carried out on them. Some of the plots are in National Trust ownership and the National Trust would be very happy for those sites to be promoted as Access Land. A similar principle might be applied by other organisations such as the Areas of Outstanding National Beauty. The promoted plots should be distributed, if possible across the area.

Five areas of Access Land in Bath & North East Somerset were suggested by officers. These include groups of plots where more than one plot is joined.

- Plots in and around Radstock
- Engine Wood near South Stoke
- Bannerdown Common north of Batheaston
- Knowle Hill
- Burlledge Common

Bath & North East Somerset Council would find it useful for members to identify from the 14 maps a prioritised list of plots. They would consider this and report at the main meeting of the JLAF on the 5th November.

6 Summary: a JLAF agenda item for 5th November 2004

- To report on the priorities for plots of Access Land in Bath & North East Somerset.
- To discuss the matters relating to the process when the maps of Registered Common Land and Open Country are reviewed.

7 Close

b) i) Priorities for plots of Access Land in Bath & North East Somerset.

Please see maps available in JLAF Members' Agenda packs, or available at the meeting.

b) ii) Access Land Restriction Case 2004080065.

COPY OF EMAIL:

To: 'OpenAccess@countryside.gov.uk'
Subject: JLAF Response to ACCESS LAND CASE NO. 2004070065
Sent: Tue 12/10/2004 13:19

To: OpenAccess@countryside.gov.uk on behalf of the Countryside Agency,

ACCESS LAND CASE NO. 2004070065.

From the Chairman of the Bath and North East Somerset, Bristol City and South Gloucestershire Joint Local Access Forum.

I am responding to your e-mail of 10 Sep 04 regarding the application by Mr and Mrs S Camie requesting a restriction on public access to their land in the Upper Swainswick Valley for a period from 14 April to 14 Dec on an annual basis.

The members of the JLAF support the application on the basis of a threat to public safety. The area concerned is used as pasture land for a herd of some 14 Limousin cattle and one bull. For the period requested it will also include a number of calves. Our NFU representative has confirmed that this particular breed is very protective of its young, and could be a threat to the public walking nearby. The situation is exacerbated by the nature of the land, which is steeply sloping with numerous hollows, coppices and bramble bushes. Consequently, the public could come upon the herd quite suddenly and without warning. Should one of the cows become antagonistic, the public would receive very little warning of impending danger, whilst the steep nature of the land would make it difficult to negotiate a safe and prompt retreat.

It appears that Mr and Mrs Camie have considered alternatives to the restriction. Land that they farm elsewhere is unsuitable for housing these cattle as they have public access. Hay meadows near the site produce a crop that could not be harvested from the access land site; also, these meadows have been reported to form part of a barrier to tuberculosis transmission from adjacent herds. Provision of a fenced route through the site would be impractical and prohibitively expensive at this time.

The JLAF considers that Mr and Mrs Carnie's application accurately reflects their concern regarding public safety, and recommends that the Access land concerned be barred to the public for the period 14 April to 14 Dec each year for a period of five years from 14 April 2005. Since there are no public rights of way on the field concerned, such a restriction should be an effective public safety measure.

Your e-mail of 10 Sep 04 also set a deadline of 13 Oct 04 on our response, due to your "technical difficulties". As a result of this, only the Chairman, Vice Chairman and Secretary were able to make an on-site inspection in the time available. The remainder of the JLAF members have had to rely on written and photographic evidence. I would be grateful for your assurance that more time for consultation by our members will always be provided in future.

Alun Morgan
Chairman, Joint Local Access Forum.

PTO

Collated responses from Members of the Joint Local Access Forum for Bath & North East Somerset, Bristol City and South Gloucestershire, re: ACCESS LAND CASE NO. 2004070065. October 2004.

I do not know the area concerned and if the farmer has no other land to use as a calving area, I feel some sympathy. There may well be many other cases like this throughout the country and therefore there will be precedents set. Maybe this farmer could be given temporary restriction for public access for a set period until he can make other arrangements.
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I have no particular views, save that this should not set precedent. It would appear reasonable to restrict access per the defined minimum (during the calving period detailed). Restriction throughout the year would
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seem inappropriate unless the former is demonstrated not to be effective. Any such restriction should be dependant upon continued use per the application, the onus being on tenant and owner to ensure that termination of use is properly notified such that the restriction may be rescinded.

I will support the majority opinion expressed by those members of the JLAF that comment.

There ought to be a way around the problem, literally. I am not sure that I go along with the 'frisky' animal theory and would argue that the Countryside Agency should allow only a six month restriction while a solution is agreed

I haven't been able to visit the site but I think I read it right that there are no RoW on Barn Field. In which case the proposal from the C'side Agency to restrict access seems reasonable to me. Could we suggest the review is shorter than five years though. That seems a long time to restrict access.

Reading all the information provided I feel that the proposal is a sensible one that is necessary for the running of the farm. I therefore generally support the restriction. However, the land parcel is located next to the village of Upper Swainswick and I wonder whether there is some way of allowing any limited access from the village to allow local people some accessible open air recreation.

It seems cut & dried to me. There is no way this can be described as "open country" and I do not consider this field falls within the definition of "mountain, moor, down or heath". There are sufficient RoWs in the vicinity of this farmer's field, and this particular field should never have been included on any Access Land register. It seems (if the farmer's comments are accurate) that there could have been some mischief making here, if this field was not on the draft map, but did appear on the final version without any reference to the landowner. It also seems an abuse of the legislation that the CA will not even tell the farmer what category this field is supposed to fall in, or how it was nominated post the earlier deadline.

I believe the Farmer's case is unanswerable, and would not wish the JLAF to register an objection to the CA's acceptance of the restriction on Safety grounds - only wish that there was some way this could be removed from "open country" designation altogether.

Assuming that Mr Carnie's letter is correct, this is a most distressing case. I expect that there is nothing we can do legally about the hard luck story. Is there any procedure in the Act whereby land that has been designated Access Land can be redesignated back to normal agricultural land – may be as a result of change in circumstance? If this is not possible then it is a very inflexible law, and very unfriendly to the landowner and farmer.

Your letter does not say anything about why the land was proposed as Access Land, and who applied for it after the first Map had been published. I have not yet seen the land, but hope to do so shortly.

Within our limits we have to propose something practical within the law. The Countryside Agency proposes that there should be a Restriction from 15th April 05 to 15th Dec 05. They do not hint about the situation the following year. So that the Farmer can be given some security, could the Restriction Period be given for 5 years and then the position reviewed again depending on circumstances?

It is my impression that Barn Field is used primarily as an agricultural field (and only incidentally for leisure purposes, which have not been declared to us), and the users of the land may have to change their method of business without any compensation. This field is useful because there is no old fashioned footpath across it. To me that is wrong. I repeat – I have not yet seen the land.

I have now seen what I think is the right field. It is not the greatest agricultural field that I have ever seen. I do not know the definitions under the CROW Act, but I suspect that the rules have had to be stretched a bit to include this land as Access Land.

If we recommend there to be a Restriction, we also have to consider of what we are depriving the walking public. I suspect the access from A46 is dangerous (not checked), and access by car from the lane would be a traffic hazard. This leaves the existing footpath which emerges on the other side of the lane. I should have checked to see whether this footpath was worn. On balance I do not think that by imposing a Restriction we are putting any hardship on potential CROW Act users –as I suspect use will be minimal. However this was a late application for inclusion as Access Land, and therefore there should be some reason for it. Is this known?

As I do not believe this land should have been included as Access Land in the first place, and its use by CROW Act users will be minimal, I feel we should try to help the farmer. With the use the farmer describes,

he loses the value of the land if it becomes Access Land. Alternative agricultural uses would almost certainly include livestock, and therefore dogs not on leads would be a nuisance in these circumstances as well.

I believe the maximum period a Restriction can be granted for is 5 years, and I suggest that 5 year Restriction, for the dates shown on the form, is given, and the farmer reapplies in 5 years time for a further 5 years when then Yellow Access Land is reviewed again.

This application, if taken as accurate, seems reasonable. I have been chased by a herd of cows with calves and it is a very frightening experience. The farmer seems to have taken all reasonable steps to keep the cows on land with no public access in the past.

What concerns me most is the fact that this land was added to the map after the draft map was published so there was no notification and no right of appeal. This is grossly unfair and does not seem a good way of getting landowners on the side of increased access for the public.

My concern is that the CA make absolutely sure that this is the minimum requirement for public safety - 8 months seems a long time, especially as on a recent visit to the site there was no sign of cattle from the only vantage point on the road. The reference to the bull seems to be an addition to what the farmer mentions in making his case. At the very least the CA adjudication should make it more clear what the dangers are and what periods of time are required to deal with the different problems.

I feel that JLAF should support the Countryside Agency's proposal to give a direction on the field at Upper Swainswick. The reasons are proper, and there would be no extra restriction to access.

**Chris Hogg, Secretary to the JLAF
on behalf of Alun Morgan, Chair of the Joint Local Access Forum for Bath & North East
Somerset, Bristol City and South Gloucestershire**

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