

**RIGHTS OF WAY REVIEW COMMITTEE
MINUTES OF THE MEETING HELD ON THURSDAY 10 JULY 2008**

Attendance :

Chair: John Grogan MP

Members :

Kate Ashbrook, Open Spaces Society
Jont Bulbeck, Countryside Council for Wales
Janet Davis, Ramblers Association
David Gear, Natural England
Richard Gething, National Association of Local Councils
Janice Green, County Surveyors Society
Robin Helby, Disabled Ramblers
Sue Hogg, National Federation of Bridleway Associations
Alan Kind, Byways and Bridleways Trust
Alex Lewis, Institute of Public Rights of Way Management
Colin Palmer, CTC the national cyclists' organization
Margaret Pawson, British Driving Society
Robert Pettigrew, Central Council of Physical Recreation
Andrew Shirley, Country Land and Business Association
Rosalinde Shaw, Local Government Association
Tim Stevens, Land Access and Recreation Association
Nick Thorne, Association of National Park Authorities
Dave Waterman, Defra
Mark Weston, The British Horse Society
Secretary : Sue Toland

1. Welcomes and apologies

08.38 Apologies had been received from Geriant George Countryside Council for Wales and Vice Chair; Andrea Graham, National Farmers Union; and Anthony Richards, Welsh Local Government Association.

2. Minutes of the meeting held on 18 March 2008 were agreed.

3. Matters arising which are not dealt with elsewhere on the agenda :

a) Signs indicating closures of rights of way for special events (*para 08.04*), *RWRC(08)31*

08.39 The Chairman reminded members that this had been the subject of correspondence between the Chairman and Department for Transport Ministers. Members had agreed that there should be regulations (covering notification and advertising for example) where special events were organized which make use of public rights of way. At the March meeting, members agreed to assess the effect of the more widely available guidance on closures over summer 2008.

08.40 Members noted the response from Department for Transport about the sign that local authorities should use for closures of rights of way for special events. They agreed that signs, in addition to signs at the point of closure, should be placed on ways to warn people that the way was closed ahead.

b) The Government's approach to local government performance management: guidance on how local people could get involved on local target setting (*para 08.10*), *RWRC(08)19*

08.41 At the March meeting, the Secretary was asked to find out if the Department of Communities and Local Government had published guidance on how local people could get involved on local target setting. Members noted that nothing was likely to be published until 2009. The Secretary would continue to monitor the Department's website. **Action : Secretary**

c) Planning Inspectorate criteria for issuing publications to rights of way inspectors (*para 08.11*), *RWRC(08)20* Members noted the reply from the Planning Inspectorate

4. Defra, NAW : recent developments, future events

08.42 Dave Waterman for Defra confirmed that implementing the 2026 cut off date for adding historic ways to the definitive map was in abeyance; the Government's statement following consultation on the landowners' right to apply for public path orders was imminent; and guidance on the motor vehicle provisions in the Natural Environment and Rural Communities Act had been revised in the light of the Winchester judgement. He also explained that Defra was to embark on a review of access to open countryside 10 years on, and was discussing the form and scope of the review with Natural England. Circular guidance for local authorities on rights of way was being further revised. The Committee would have a further opportunity to comment. The draft would take account of comments received after the September 2007 consultation exercise.

08.43 Jont Bulbeck for the Countryside Council for Wales reported that the Welsh Assembly Government was producing its own version of circular guidance for local authorities on which it would consult the Committee. Committee members were invited to give notice of particular points for Welsh authorities to the Welsh Assembly Government. **Action : All**

08.44 The Welsh Assembly Government (WAG) was to survey the use of gating orders following representations by the Ramblers' Association through the National Access Forum Wales. Results would be sent to the Committee in due course. Rights of Way Improvement Plans funding of £1.7 m had been offered by the Countryside Council for Wales on behalf of the WAG to and accepted by local authorities. Local authorities had been allocated £2m for the Wales Coastal Access Improvement Programme in 2008-09. In addition, draft local coastal access improvement programmes had been submitted for the period 2008-13. The WAG target for opening of the Wales Coast Path was 2012. They is expected to consult on statutory coastal access in July 2008. The consultation exercise would end in October 2008. Any proposals for Wales would be taken forward in the Marine and Coastal Access Bill, which was currently in draft.

08.45 Members agreed with Sue Hogg for the National Federation of Bridleway Associations that the time taken to issue decisions by the National Rights of Way Casework Team was causing concern (*RWRC(08)26 and 26(2)*). Additional responsibilities taken on by the Team should not have had an adverse affect on rights of way decisions. It was agreed that the Chairman should write to Defra Ministers about the delays. **Action : Chairman**

08.46 Members agreed with Alan Kind for the Byways and Bridleways Trust that furniture associated with access to open countryside should be Disability Discrimination Act compliant. Members also noted his concerns about the combined orders regulations where the difference in the form of words for combined orders compared to definitive map modification orders had been raised. Dave Waterman explained that Defra would be issuing guidance on the words which could be added to combined orders without the need for new regulations.

08.47 In discussion of Alan Kind's paper asking for guidance on handling diversions of rights of way which passed through private gardens to be added to Circular 1/08 (*RWRC(08)29*), members agreed that they recognized but could not commend the comment in Mr Norman's decision about the enjoyability or otherwise of rights of way which passed through gardens.

5. Natural England Stakeholder Working Group *RWRC(08)27, RWRC(08)32*

08.48 The Chairman reminded members of the discussion at the March meeting, when Paul Johnson for Natural England, had reported that the Discovering Lost Ways project to research historic material for ways which should but were not recorded on the definitive map was being abandoned. Instead Natural England was setting up a stakeholder group to review legislation.

David Gear for Natural England explained that the membership and terms of reference of the stakeholder group had been decided. Half of the members were also Committee members. The first meeting was proposed for 1 October, in London.

08.49 Jont Bulbeck said that the Countryside Council for Wales would be attending meetings as an observer and to add a Welsh perspective. It would report back to a subgroup of the National Access Forum Wales which would also inform the Countryside Council for Wales and the Welsh Assembly Government about possible legislative changes.

6. Access to the coast – implications for rights of way higher rights users

08.50 The Chairman invited Sue Hogg to explain her concerns, shared by other organizations, that access to the foreshore for higher rights users would be lost when a statutory right of access on foot to the coast was introduced. The historic rights of equestrians to use the foreshore should be safeguarded. The British Horse Society had compiled a list of areas accessed by equestrians but Natural England had failed to identify this customary access in its preparatory work. Nick Thorne for the Association of National Park Authorities explained that there was no requirement to identify higher rights in the work being done to mark the line of the approved route. Colin Palmer for the CTC asked that cyclists rights should also be preserved. Members agreed that the Chairman should ask Defra Ministers for their view on customary rights, and write to Natural England and the Chair of the House of Commons Select Committee which would have responsibility for the Bill. The letter should be copied to the Welsh Assembly Government.

Action : Chairman

7. Stock control barriers on minor highways RWRC(08)21

08.51 Alan Kind introduced his paper on stock control barriers on minor highways. He explained that the solution for cattle grids which were in place across bridleways lay in provisions already in legislation. Cattle grids yet to be installed could be placed away from the right of way. Horse riders did not mind cattle grids on bridleways but wanted plenty of space to manoeuvre around them. Nick Thorne agreed with the principles set out in the paper but added that diversion orders could also be used to record bypasses round cattle grids on the definitive map; however, this was not a solution for existing cattle grids.

08.52 Members agreed with Dave Waterman that this was linked to the next agenda item, *Disability Discrimination Act 2005, BS5709, and gates and stiles in orders*. Defra would underwrite guidance if it was agreed by the Committee. He would like the views of the County Surveyors Society and Institute of Public Rights of Way Management. After discussion, which included gates and gate catches, the dimensions of the diagram on page 2 of the paper, walls and landscape features, it was agreed that consensus was needed before guidance could be issued or added to the IPROW Good Practice Guide.

08.53 In order to take this forward, the Chairman proposed that members should send their comments to Alan Kind who agreed to collate them and present them with a view to reaching consensus at the November meeting. The Chairman stressed that he would accept no new issues at the next meeting.

Action : All; Alan Kind

8. Disability Discrimination Act 2005, BS5709, and gates and stiles in orders RWRC(08)22

08.54 Alan Kind introduced his paper and explaining that many authorities were working to the Disability Discrimination Act 1995 rather than the 2005 Act which required a different, non-optional approach. He had sent his paper to County Surveyors Society, Institute of Public Rights of Way Management ROW, Defra and individual local authorities. There had been no disagreement with the views in his paper. He had also made objections to rights of way orders where they ran counter to the views in his paper but decisions on these had not yet been issued.

08.55 Dave Waterman said that agreement was needed from all parties before further guidance could be issued. Alex Lewis for the Institute of Public Rights of Way Management reported that

not all practitioners agreed with the views in Alan Kind's paper. The Chairman reminded the Committee of Defra's agreement to take part in a sub group to sort out the areas of disagreement. He proposed that Natural England should chair the subgroup and that it should meet before the Committee's November meeting. Robin Helby for the Disabled Ramblers said that his organisation knew about the practical issues faced by people with a range of disabilities including those who were not mobility impaired. Members agreed that a government representative for the Disability Discrimination Acts and BT Countryside For All should be invited to attend. In the meantime, members should send comments to Alan Kind who would collate them for the sub-group. **Action : All; Alan Kind**

[After meeting note : the Secretary will make arrangements for a meeting in October]

9. Practice Guidance Note on the public/private use of highways and public/private maintenance *RWRC(08)16 and RWRC(08)25*

08.56 The Chairman reminded members that, at the March meeting, members had discussed Tim Stevens' paper on the need for a Practice Guidance Note on evidence about public and private use of rights of way in definitive map order claims. Comments from the Green Lanes Environmental Action Movement had also been circulated. Members agreed with Alex Lewis that the views in the two documents were not that far apart. It would be good if consensus could be achieved but a court judgment may be needed to determine exactly where the boundary lay.

08.57 The Chairman encouraged further dialogue between Tim Stevens and Alex Lewis to see if they could come to an agreed view. Tim Stevens agreed to collate further comments for discussion at the November meeting. **Action : Alex Lewis, Tim Stevens; All**

10. Proper consultations *RWRC(08)23*

08.58 Tim Stevens introduced his paper, which he had rewritten as advice for local authorities on aspects of consultation exercises. Janice Green for the County Surveyors Society had taken the original paper to the CSS regions. The length of time (3 months) for consultations was discussed – in some cases this was not long enough but members agreed that it was in accord with the Cabinet Office guideline. After further discussion, it was agreed that the paper should be taken in to a revised Practice Guidance Note 1 : *Consultation on changes to public rights of way and definitive maps* for endorsement at the November meeting. **Action : Secretary**

11. Agreeing a response to current consultations : None in hand

12. Minutes of the National Access Forum, Wales 23 April 2008, and minutes of the English Access Forum first meeting 15 May 2008 *RWRC(08)24 and RWRC(08)30*

08.59 David Gear explained that the England Access Forum comprised Local Access Forum members and had been set up following representations from Duncan Graham, the Chair of the Cumbria Local Access Forum. The group was serviced by Natural England and would meet three times a year. Members noted the comments from the Green Lanes Environmental Action Movement. Meetings were not open to the public but minutes would be circulated to the Committee and put on Natural England's website. The Constitution was the group's terms of reference. Members agreed that the Chairman should write to Natural England with their view that meetings should be open to public observers. **Action : Chairman**

08.60 Jont Bulbeck explained that the parallel of the England Access Forum in Wales was the joint meetings of Welsh Local Access Forums rather than the National Access Forum Wales.

13. Any other business None.