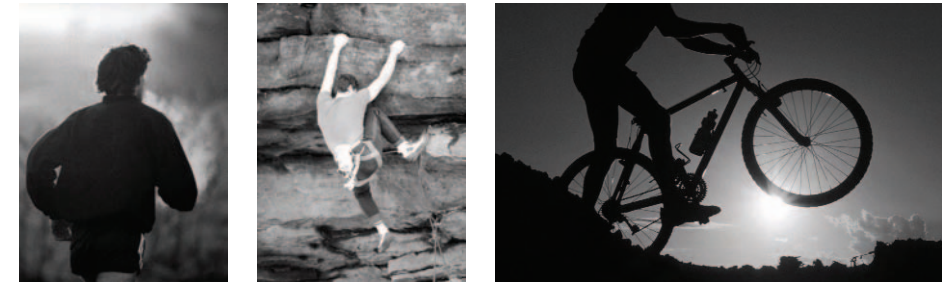


# Improving Access to the Countryside

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## Introduction

On 31 October 2005 new access rights to the countryside commenced in the final two areas of England under the Countryside and Rights of Way Act 2000 (CROW). Walkers in the West Midlands and the East of England regions can now join their counterparts in the rest of England and enjoy open access rights on areas of mountain, moor, heath and down, most of which had previously been off-limits.

The countryside offers a range of benefits to people's quality of life, health and well being. It offers the opportunity for fresh air, to enjoy scenery, healthy exercise, adventure, recreation and appreciation of nature. Local economies benefit too, from the income generated by visitors for goods, services and facilities.

Walking for the great majority of us is a basic human activity. It is low cost, a sustainable form of transport and counts towards the Government's recommendation of 30 minutes of moderate exercise to be taken five days a week, to maintain a healthy lifestyle.

As a form of recreation, walking is a flexible activity, with participants of all ages being able to walk on their own or as part of a group, within urban areas or in the countryside. The other great advantage is that walking is free without need for subscription or specialist skills or equipment catering for income bracket and culture.

Studies by the British Heart Foundation, amongst others, have shown that walking can:

- reduce the risk of coronary heart disease and stroke;
- lower blood pressure;
- reduce body fat;
- enhance mental well being;
- help to control body weight;
- help flexibility and co-ordination hence reducing the risk of falls.

Walking has formed the cornerstone of recent campaigns to encourage people to be more active including Take 30 by The Ramblers and Everyday Sport by Sport England, developing the 30 minutes of moderate daily exercise as recommended by health experts.



## Historical Perspective

The battle for access to the countryside has been a long one. Back in 1884, James Bryce MP introduced a bill in Parliament seeking a right to roam in the countryside. It was re-introduced every year until 1914 but never made the statute book. A bill that did make the statute book was the Access to Mountains Act 1939.

Contrary to the promising title, the bill made trespassing a criminal offence in certain circumstances. This controversial bill was never implemented and later repealed following lobbying from walkers.

On the 27 April 1932 some 400 people converged on Kinder Scout in the Peak District, which at that time was privately owned land with no rights of access. They were met by game keepers and scuffles broke out. With the police alerted, some of the trespassers were later charged with riotous assembly, but not trespass.

Sentences of between two and six months imprisonment were handed out to the charged. The mass trespass at Kinder Scout prompted outcry from walking enthusiasts of the time. It is now part of rambling folklore and an incident which, some claim, led directly to the establishment of the National Parks.

It was following the Hobson Committee's recommendations that public access to the countryside was enshrined in the National Parks and Access to the Countryside Act 1949. Access was given to 'open countryside' (defined as mountain, moor, heath, down, cliff and foreshore) within the Parks.

Under the 1949 Act, Local Authorities were required to survey and agree further access by agreement or land purchase. The legislation had little success in this latter regard other than in the Peak District where, up until the CROW Act, access rights existed in around 55% of the Park.

The definition of 'open country' was revisited by the Countryside Act 1968 to include woodland and riverside. A notable exception, particularly for canoeing enthusiasts, was the exception of rivers and waterways. This aspect of access is discussed later in this bulletin.







## The Countryside and Rights of Way Act 2000

Up until the CROW Act in 2000, no other legislation delivered access rights to the countryside to the public. The Act has provided for:

- New Accessible Areas in England and Wales;
- A revision to the Countryside Code;
- Establishment of Local Access Forums to mediate access issues;
- Powers to include further land for access other than in 'open country'.

Over the past five years areas of access have been mapped by the Countryside Agency in stages set out in the Act. These maps have been the subject of public consultation and appeal procedures. Once the final conclusive maps were approved by the Secretary of State, the new access rights could begin in each area region.

The CROW Act also allowed for the dedication of other land for access and the Forestry Commission and other landowners have dedicated large areas of land for access in perpetuity.

Regulations have been made on the detailed procedures including restrictions and exclusions of access rights. Exclusions apply to cultivated land, improved grassland, golf courses, racecourses, railways and buildings. Horse riding and vehicular access is not permitted and the lighting of fires, damaging plants and property, feeding livestock and bathing in waters are also forbidden. Breaking the rules could incur a 72 hour loss of access rights with the perpetrators treated as trespassers.

Landowners (or occupiers) can, for any reason, exclude or restrict access for up to 28 days without permission, although not during summer weekends or bank holidays. Further exclusions and restrictions are available in the interest of fire protection, nature and heritage conservation.

Each local highway authority will take on the responsibility of the access authority under the CROW Act, although within National Parks the National Park Authority will take this responsibility. The CROW Act also includes powers to the access authority to make byelaws, appoint wardens and to erect and maintain notices indicating boundaries for the access land within their area. In addition the CROW Act also require the access authority to establish an advisory body to be known as a Local Access Forum. These Forums consist of representatives from users of local rights of way, owners or occupiers of access land and any other interest especially relevant to the authority's area. This may include representatives from cycling, carriage driving, forestry, tourism or wildlife interests.

The Forums can cover all or part of the authority area or cross the authority's areas. They advise on the draft maps, restriction proposals, appointment of wardens, byelaws and other wider access issues within their area. Maps and further information on open access areas are available on the Open Access website ([www.openaccess.org.uk](http://www.openaccess.org.uk)).





## Access to Water

It is estimated by the British Canoe Union (BCU) that over 1.5 million people in England (2m in the UK as a whole) go canoeing regularly each year, however areas where this may take place, are surprisingly limited.

A study by Brighton University in 2001 noted a common law public right of navigation is available in tidal waters. In the case of non-tidal rivers, the bed of the river is usually owned by the riparian owner (owner of adjoining land).

The riparian owner controls access rights to the water, but without owning the water itself. Common law of trespass applies in the same way to water as it does to land. The owner of the land fronting onto the watercourse can therefore stop people travelling to or along the water in the same way as they can prevent them walking over their land without permission.

DEFRA identify 4,678 km of canal and statutory navigable rivers which exist where public rights of navigation require registration and licensing. The BCU has negotiated agreements for its members to the majority of this waterway network, with British Waterways for example allowing access to most of its 2,500 mile networks under license. Lakes and reservoirs are usually privately owned, but many of the water companies allow access for angling, sailing or canoeing.

Access to water recreation is therefore restricted and dependant on the will of the riparian or other owner. The BCU have set up new campaign for a 'fair and secure' share of access to a variety of inland waters ([www.riversaccess.org](http://www.riversaccess.org)).

They point out that canoeing covers a variety of disciplines for different levels of expertise and access to lowland, placid river and canal navigations has been crucial for introducing novices to the sport.

Recreational touring and competitive distance races can be catered for on these waterways, whilst faster moving water is crucial for other disciplines of the sport.

The BCU see similarities in their campaigns for access to water to that of the Ramblers Association over land, with payment for access to a stretch of water to be appropriate only in certain circumstances, for example, for access to a rapid or white water area. Payment for access for touring is not considered appropriate in the same way as there is no charge for access to land under the CROW Act.

Where a facility such as car parking is permitted and access for ingress and egress to and from the river allowed, this, according to the BCU, could be the basis of a charge. The BCU point out that canoeists contribute in the same way as walkers to the local economy through their additional spending. Members also have a code of conduct in the same way as the Countryside Code applies to walkers.

Following on from the Brighton work, the Environment Agency is looking to pilot a number of areas for voluntary access agreements, and Local Access Forums are being charged with additional responsibilities for looking at improving access to water.







## The Natural Environment & Rural Communities Bill

In January 2007, English Nature, DEFRA's Rural Development Service and the Countryside Agency's Landscape, Access and Recreation division will merge to form a new organisation will called 'Natural England'. This will provide a single body responsible for conservation, biodiversity and promoting access to the countryside.

All the powers of the existing organisations will be transferred. These include: awarding grants; designating Sites of Special Scientific Importance, National Parks, Areas of Outstanding Natural Beauty, National Nature Reserves and; enforcing the associated regulations. Natural England will work in partnership with the Environment Agency and Forestry Commission.

Natural England is to be established through the Natural Environment and Rural Communities Bill (NERC Bill) currently going through parliament. Having been introduced in the House of Commons it is expected to complete its stages in the House of Lords early in 2006.

Further measures introduced by NERC Bill include provisions to clarify the use of mechanically propelled vehicles on public rights of way. The DEFRA policy statement accompanying the Bill states that a central part of the Government's Rural Strategy is to improve enjoyment of attractive and well managed countryside for all.

A key part of this aim is the rights of way network, a network that has evolved mainly from historic use patterns. Instances have been identified where rights were claimed for mechanically propelled vehicles by virtue of historic use, even by un-mechanically propelled vehicles. Similarly, long periods of illegal vehicular use of a footpath or bridleway may inappropriately give rise to public vehicular rights.

This aspect of the Bill is supported by the Motoring Organisations' Land Access and Recreation Association (LARA) with caution. LARA express concern over the workability and the intention to introduce regulations immediately after the Bill is to receive Royal Assent. LARA's concerns centre on possible extinguishment of rights for vehicle use in the countryside for farmers, rural property owners and those involved in outdoor sports and recreation. →





- Sections 61 and 62 of the Bill, as drafted, will seek to remove existing rights of way for vehicles if it was not previously shown on either a definitive map, a list of highways or a list of byways held by local authorities. LARA claim that many definitive maps are out of date, incomplete or missing.

Definitive maps were never intended to record motoring uses when they were first introduced in the 1950's. Further, many local authorities do not have complete lists of highways or byways. LARA is seeking a period of grace between the section of the Bill receiving Royal Assent and coming into force in which private access rights can be established.

This period was originally recommended in the consultation document 'Use of Mechanically Propelled Vehicles on Rights of Way' in 2003.

Many recreational activities rely on motor vehicles for access to resources. Cars, vans or trailers are used as a base, sometimes a changing room for many activities. This includes: angling, canoeing, country shows, mountaineering, ballooning and bird watching. The use of many minor roads may be affected under the provisions of the Bill. This would leave organisers and participants not knowing if the traditional rights they have enjoyed will now be extinguished.

Attempts have been made to secure rights for vehicular access by applying to the relevant local authority. However, this is a time consuming process which most will be prevented from doing if the NERC legislation is implemented immediately after Royal Assent. The alternative will be to try to establish their rights based on incomplete or inaccessible records with little expertise in the matter.

As stated, LARA do not object to the principle of what is proposed. This is a matter of consensus. Instead their concerns are that a managed solution is not being sought to negotiate the practical realities of securing established rights and protecting the Countryside. Perhaps the momentum built during the CROW Act can be used to good effect to allow matters to be resolved locally.





## The Future

Everyone benefits from access to a beautiful countryside. From a traditional role of providing food to the table the focus is now more on providing recreational opportunities and nature conservation. In many cases, the best sites for prized wildlife and habitat are the very locations where walkers wish to walk, climbers wish to climb or mountain bikers wish to ride, not withstanding the interests of the land owner.

The conflicting interests in the countryside have been previously managed through exclusion – access rights being denied to protect wildlife, or long standing customs of access preserved at the expense of conservation interest. The focus has turned recently to developing a consensus between these competing interests.

In practice, as the case studies in this bulletin show, recreation activities and nature conservation can co-exist without difficulty. It requires people to act together and to understand each other's viewpoints, and to negotiate.

The organisations listed all acknowledge the need for both access and conservation in the countryside. From this starting point the Local Access Forums were created to advise on access in each region. Their role will continue to build on the consensus now that access rights have come into force. However, there is concern that the opportunity is being missed under the present NERC Bill.

There are expected to be further developments over the next few months with the launch of the 'Best of Both Worlds' project sponsored by the Central Council for Physical Recreation, The Countryside Agency and English Nature.

It will aim to collate case examples, review good practice on access and will also publish guidance for conflict resolution and prepare model agreements. The theory is to achieve a 'win-win' situation for access interests and nature conservation. This is a different approach from merely achieving a balance between the competing interests. The project will emphasise evidence-based approaches to decision making together with good levels of communication between the stakeholders. The project will also be promoted with its own website.

Building consensus and resolving age old conflicts is no easy task on a politically sensitive issue such as access to the countryside. However, with local involvement, better communication and negotiation, it has proved to be possible. Many of the disputes lay in the workability of schemes rather than opposition in principle to access or conservation interests.

The next test for the countryside will be whether recent changes in legislation and the promotion of a new approach will provide the necessary momentum for resolving wider recreational issues in the countryside.

## Case Study 01



### Foxrush Farm Community Woodland, Redcar and Cleveland Borough.

Foxrush Farm lies south of the Tees estuary next to a complex of steel works, Tees Dock cargo-handling centre and on a chemical manufacturing works. In the early 1990's the land suffered from security and vandalism problems, which resulted in the site was becoming difficult to farm. The landscape was open, barren, with deteriorating hedgerows and little wildlife activity.

In 1993 work began to secure funding and development plans for the land to be used as community woodland, (part of the Tees Forest). This resulted in:

- The planting in 1996 of most of the 46 hectare site with a mixture of trees. Some 2.4 hectares was retained as open ground to conserve Iron Age archaeological features.
- The inclusion of the open land as part of DEFRA's Countryside Stewardship Scheme. The arable land has been converted into grass sward.
- The creation of a network of grass and hardsurface paths, giving circular walks of various lengths through Foxrush Farm.
- A new bridleway running alongside the site which links up with other local woods and the countryside beyond.

- The establishment of a varied landscape, of young mixed woodland of oak and ash some 5-6 metres tall, with Rowans and hawthorn supporting the increase in local bird species.
- Regenerated hedgerows, grassland and wildflower attract small mammals, insects and butterflies to return.
- Increased use of the woodland, with it being visited by local people for walking, cross country running and orienteering. Community involvement has also established organised events for walking, archaeology, bulb planting and art.
- Management of the site by Redcar and Cleveland Borough Council and funded through the Farm Woodland Premium Scheme, Countryside Stewardship Scheme and the Woodland Grant Scheme.





## Case Study 02

### Gillingham Three Rivers Partnership, North Dorset.

Gillingham is a town with a population of some 10,000 at the confluence of three rivers: Rivers Shreen, Lodden and Stour. The Three Rivers Partnership was established as a registered charity supported by both statutory and voluntary sector organisations and a public consultation exercise was conducted to develop a local community vision for the town. Out of the consultation, four areas of concern were identified:

- lack of community centre, including leisure centre;
- lack of open space;
- lack of playing fields;
- lack of meeting places.

A group was established to tackle each of the issues identified. This included:

- An audit of current public open space, footpaths, cycleways, access paths, trees, hedges, orchards and dog bins has been conducted.

- The undertaking of Ecological surveys.
- The development of a Health walks programmes.
- Identification of neglected open spaces around the town with the aim of returning them into beneficial use and increase their biodiversity value.
- The establishment of a Management Partnership staffed by volunteers and the gaining of funding from the Liveability Fund of the Office of the Deputy Prime Minister and Environment Agency.



## Case Study 03

### The Wooler Cycle Route, North Northumberland

Wooler lies at the foot of the Cheviots, within the flood plain of the River Till. However, the local economy was badly affected during the outbreak of Foot and Mouth Disease, and in particular countryside recreation brought about by the restrictions on access. In response, a recreation Officer of the Environment Agency developed the idea of a new cycleway, to run north from Wooler and through the villages of Doddington, Ford and Etal. Project planning began in 2003 and over £350,000 was raised in funding from a variety of sources, with the construction of off-road sections beginning in February 2004. The cycle route was officially opened on 8 July 2004 and was funded from the following sources:

The cycleway project created three off-road sections, linking the quieter and safer lanes away from the B6325 Wooler and Berwick Road. The route now forms the final part of the Pennine Cycleway.

The development of the cycleway has brought the following benefits:

- The route allows walkers and cyclists of all abilities to enjoy the River Till SSSI.
- High quality interpretation information has been designed for the route by local school children.
- The creation of a safe, pleasant and sustainable transport link for local communities and to local tourist attractions.
- The establishment of a local project group including the Environment Agency ONE North East, Northumberland County Council, Glendale Gateway Trust, Northumberland Strategic Partnership and local landowners.
- Long term sustainability of the project being established through maintenance of the route being covered by Northumberland County Council Highway and Rights of Way Maintenance Plans.



## Information

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**Rivers Access Campaign**  
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**Waterscape**  
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