



CAERPHILLY LOCAL ACCESS FORUM

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH, ON
FRIDAY 8TH SEPTEMBER 2017 AT 10.00 AM

PRESENT:

William Lindsay - Chair

Councillor N. George (Cabinet Member for Neighbourhood Services)

Mr M. Benjamin, Mr B. Clarke, Mr G. Davies, Mr K. Donovan, Mr A. Edwards, Ms R. Stones,
Ms M. Thomas, Mr N.D. Yates

Together with:

P. Griffiths (Secretary/Principal Planner), S. Denbury (Countryside and Rights of Way
Assistant), R. Barrett (Committee Services Officer)

Also present:

Mr C. Heaps (Natural Resources Wales)

1. CHAIR'S ANNOUNCEMENT

The Chair thanked Mr Phil Griffiths for the training provided to the Local Access Forum (LAF) Members prior to the meeting on their roles and responsibilities with regard to the functioning of the Caerphilly LAF.

2. APOLOGIES

Apologies for absence were received from Mr R. Evans, Mrs E. Gwynne, Ms L. Howells, Mr R. Jones, G. Lewis (Vice-Chair), Mrs A. Palmer and Ms C. Dellar (Welsh Government).

3. DECLARATIONS OF INTEREST

There were no declarations of interest received at the commencement or during the course of the meeting. Several members did however draw attention to the fact that they or their representative organisations were submitting responses to the consultation paper in their own right.

4. OVERVIEW OF WELSH GOVERNMENT'S CONSULTATION DOCUMENT – TAKING FORWARD WALES' SUSTAINABLE MANAGEMENT OF NATURAL RESOURCES

Mr Phil Griffiths (LAF Secretary/Principal Planner) advised Members that Welsh Government (WG) launched a consultation on 21st June 2017 (Taking Forward Wales' Sustainable Management of Natural Resources) to seek views on new regulatory approaches to the sustainable management of natural resources in Wales. The proposed approaches would further deliver WG's commitment to managing natural resources more sustainably to deliver lasting economic, social and cultural, as well as environmental benefits, to ensure the continued prosperity of Wales. These would also help WG to achieve the goals set out in the Well-being of Future Generations (Wales) Act 2015.

It was noted that the scope of the consultation was very broad-ranging and comprised 9 main topics (forestry, designated landscapes, access to outdoors, marines and fisheries, water, waste and local environment quality, smarter regulation, agriculture, and wildlife). The consultation document contained over 50 proposals in total, including promotion of the circular economy, nature-based solutions, new markets and innovative mechanisms, and smarter regulation.

Members were advised that Chapter 4 of the consultation document (Access to the Outdoors) contained 17 proposals which were felt to be of particular relevance to Local Access Forums across Wales. This section of the consultation also included 3 questions to be considered by Local Access Forums in relation to the potential benefits of these proposals. A copy of the Chapter 4 section of the consultation document had been included in the agenda papers for Members to prepare questions and comments on the proposals ahead of the meeting.

5. LOCAL ACCESS FORUM RESPONSE TO CONSULTATION DOCUMENT – CHAPTER 4 (ACCESS TO THE OUTDOORS)

The Local Access Forum were referred to the proposals and questions as set out in Chapter 4 (Access to the Outdoors) of the consultation document and were asked to give their views on the contents. It was noted that once the Local Access Forum had discussed and agreed their response for each of the items, these would be collated by the Principal Planner and forwarded to Welsh Government prior to the consultation closing date of 30th September 2017.

Consideration and debate took place on each item and Members voted on whether or not to support the proposals and questions contained in the consultation document as set out below.

Proposal 10 – To enable cycling and horse riding on footpaths to occur under the same conditions as those provided for cycling on bridleways under section 30 of the Countryside Act 1968. These provisions allow for cycling without placing additional burdens of maintenance and liability on the local authority; and they prioritise the ordinary users of these paths. Whilst it would not place additional liabilities or maintenance burdens on local authorities, it would enable them to plan and implement surface and furniture improvements to routes that would add most value to the rights of way network. It would place the onus of checking the suitability of individual paths on users.

Members discussed this proposal at length and felt it to be contradictory in nature, particularly in relation to the cost implications that it could have in respect of future maintenance requirements. The LAF also raised a number of pressing concerns over the proposal. Some Members felt that the additional usage by cyclists and horse riders could present potential hazards to those users walking along the footpath. Members were of the view that it would not be appropriate to apply this overarching use across all footpaths (in that some paths might be of a more suitable layout to accommodate a variety of users than others). Concerns were also expressed that pathways could become churned up through bike and horse usage and lead to access difficulties for walkers.

Following consideration of the item, it was unanimously agreed that this proposal not be supported.

Proposal 11 - To amend or revoke the following list of restrictions on access, provided in Schedule 2 (1) of the CROW Act 2000: (b) uses a vessel or sailboard on any non-tidal water; (c) has with him any animal other than a dog; (i) bathes in any non-tidal water; and (s) engages in any organised games, or in camping, hang-gliding or para-gliding.

It was noted that the Act does not currently entitle a person to be on any land if, in or on that land, they engage in certain activities as listed within the Act. The proposal was therefore seeking the amendment or removal of certain activities from this list. Discussion took place regarding the specifics of each of the current access restrictions listed within the proposal and the reasons why these had been originally implemented.

In response to a query on access by horses it was explained that these were specifically excluded from the restrictions under the provisions of the CROW Act. Concerns were raised that removing these restrictions and opening up the land for usage such as organised games or camping could lead to an increase in littering or anti-social behaviour. Clarification was sought on the definition of “non-tidal water”, with it confirmed that this includes areas such as reservoirs and lakes, and Members expressed concerns that this could lead to people swimming in potentially dangerous locations. This could also result in dangers arising from anglers and swimmers using the same stretch of water.

It was suggested that removing these restrictions could contradict the remaining activities on the list (such as being able to camp but not being able to light a campfire). Discussion also took place regarding the use of vessels such as jet skis on non-tidal water and the use of paragliders and hand gliders on open access land.

The LAF determined that they were unable to fully support the amendment or removal of all the restrictions listed within the proposal. They did not support (b) the use of a vessel or sailboard on any non-tidal water or (i) bathing in any non-tidal water but supported (c) access by all other animals. The LAF also held concerns around (s) in regards to organised games and camping but supported the use of hang-gliding and para-gliding. It was therefore agreed that the proposal not be supported in its entirety but that the comments of the LAF regarding the amendment or removal of individual activities be forwarded to Welsh Government.

Proposal 12 - To allow, with appropriate authority, organised cycle racing on bridleways in order to bring rules relating to bridleways into line with footpaths. We would welcome any further suggestions for change in relation to anomalous or unreasonable restriction on public rights of way.

The LAF discussed the meaning of “organised cycling” and felt that the wording used in the proposal was unclear. Following consideration of the item, it was unanimously agreed that this proposal not be supported.

Proposal 14 - To extend Part 1 of CROW Act access land provisions to rivers and other inland waters

and

Proposal 15 - To establish NRW as the authority responsible for: identifying appropriate access and egress points; implementing measures to promote responsible use, including the use of river level indicators; and mediating between the different user interests to facilitate user access agreements.

The LAF determined that the two proposals should be considered in tandem as they felt that they complemented each other, and because there was potential for either proposal to impact

on the other. It was explained that Proposal 14 would allow access into the water and Proposal 15 would allow access to get to the water. Clarification was provided on the current situation in that users can walk into water but not any land adjacent to it. Bathing in such waters is currently not permitted. Discussion took place regarding fishing rights and concerns were raised that this could lead to conflict between kayakers and anglers owing to the potential disturbance of fish in the waters.

Following consideration of the proposals and by a majority vote, LAF agreed that Proposals 14 and 15 not be supported.

Proposal 16 - To establish a statutory caveat on all users to behave responsibly whilst exercising their right to participate in recreation on access land, inland water and on public rights of way.

The LAF discussed how such behaviour would be monitored and enforced and the Principal Planner explained that it would be a legal requirement for users to behave responsibly if the proposal was introduced. Members felt that the wording of the proposal was unclear and suggested that it would be helpful to have more information regarding the specifics of the proposals. However it was generally felt that introduction of the proposal would place an onus on the user to take more responsibility for their behaviour and could potentially assist in reducing instances of unreasonable or anti-social behaviour.

Following consideration of the proposal, LAF unanimously agreed that it be supported.

Proposal 17 - To enable temporary diversions and exclusions to be applied across all accessible land and water where circumstances require them and after the safety and convenience of the public have been considered.

The LAF confirmed that they were happy with the proposal, subject to the understanding that such arrangements would indeed be of a temporary nature, and unanimously agreed that it be supported.

Proposal 18 - Dogs to be on a short fixed length lead in the vicinity of livestock at all times of the year. In all other circumstances they will be subject to “effective control”, a legally defined term already used in England under Schedule 2 paragraph 6A of the CRoW Act. Exceptional circumstances relating to safety and the protection of nature conservation will be identified and guidance provided by the access code.

The LAF acknowledged that the majority of dog owners already behave responsibly but expressed a need for more effective dog control and for this to be made a statutory requirement. Reference was made to instances of uncontrolled dogs and the worrying of livestock, and discussion took place regarding the policing of this proposal. Members agreed that it would be a sensible measure to introduce a shorter lead, particularly in cases where a person has multiple dogs with them, in order to ensure the safety of other land users. The LAF noted that Caerphilly Council is currently carrying out a consultation exercise on a Public Spaces Protection Order relating to dog control. The proposals include a requirement for dogs to be placed on a lead in certain areas or situations, and places a requirement on dog walkers to carry an appropriate waste receptacle at all times. Members also discussed the second part of the proposal relating to effective control of dogs in other circumstances and the technicalities surrounding this proposal in relation to different types of situations.

Following consideration of the proposal (and in noting that there was 1 against and 1 abstention), it was agreed by the majority present that the proposal be supported.

Proposal 19 - To enable the development of one statutory map of accessible areas and green infrastructure. Layers of mapping would initially include CRoW access land (including water), public rights of way and designations, including, National Trails. Legislation would need to allow further layers to be identified and added.

The LAF welcomed the proposal and discussion took place on how this map would be created. It was confirmed that this would place a responsibility on all local authorities to digitise their maps, although NRW would continue to maintain their own maps of these areas. Discussion also took place regarding the specifics of green infrastructure.

Members acknowledged that it would be an onerous task to develop the map but that it would require minimal upkeep once it has been established. The LAF expressed a need for the map to be easily accessible by the public and also that there was a need for it to be funded by the WG, in order to avoid costs for local authorities.

Following consideration of the item it was unanimously agreed that the proposal be supported.

Proposal 20 - To amend technical provisions relating to procedures for creating, diverting and extinguishing public rights of way; and the recording of amendments to the definitive map and statement.

Discussion took place regarding the implications of the proposal and Members sought reassurance that this would not have a detrimental impact on the rights of any parties involved in public rights of way matters. It was confirmed that the intention of the proposal was to expedite the existing process in order for the benefit of all parties.

Following consideration of the item it was unanimously agreed that the proposal be supported, subject to the proviso that safeguards be implemented to protect the rights of relevant parties.

Proposal 21 - To introduce provisions to allow flexibility in relation to stock control measures on public rights of way.

LAF discussed the current arrangements in place and expressed a need for clarity in relation to the replacement of gates and stiles, animal control, and how this would apply to historical furniture.

Following consideration of the item, LAF agreed that the proposal be supported on the condition that it does not inconvenience public rights of way users.

Proposal 22 - To amend the requirement for a decadal review of access maps to a process of continual review.

It was explained to LAF that access maps are currently updated every ten years but that this presents difficulties to the ever-changing access situation. Members were advised that local authorities would be consulted in regards to any changes and that changes would be subject to appropriate funding.

Following consideration of the item, it was unanimously agreed that the proposal be supported.

Proposal 23 - To create a requirement on local authorities and National Park Authorities to develop integrated access plans to take effect anytime up to the date of the next review in 2027.

Having given consideration to the item LAF unanimously agreed that the proposal be supported.

Proposal 24 - To repeal the Cycle Tracks Act 1984. In doing this create a new type of public right of way, 'cycle paths', prioritising cycling and walking (and subject to proposal 10 above) to be recorded on the definitive map and statement. All existing cycle tracks designated under the 1984 Act would be recorded as cycle paths.

Members expressed a need for reciprocal arrangements to be provided to horse riders and also referred to the difficulties faced by pedestrians in areas where canal towpaths have been designated as part of the National Cycle Network.

Following consideration of the item, it was unanimously agreed that the proposal be supported.

Proposal 25 - To repeal unwanted provisions in the CRoW Act. In particular those relating to the 2026 cut-off date for historical routes under sections 53 – 56 of the CRoW Act.

Subject to more detail being provided in due course on the unwanted provisions, LAF unanimously agreed that the proposal be supported.

Proposal 26 - To develop a statutory code for access to the outdoors for recreation similar to that already in place in Scotland under the Land Reform (Scotland) Act 2003.

Consideration was given to the proposal and LAF unanimously agreed that it be supported.

Proposal 27 - To review the regulations and guidance relating to local access forums with a view to updating and clarifying their role and membership.

The LAF noted that the Chair of the National LAF had already forwarded his views to the Principal Planner for consideration and possible inclusion in the local response and it was unanimously agreed that this action be supported.

Question 15 - Will these proposals deliver consistency in the opportunities available for participation in different activities and provide effective safeguards for land management and the natural environment?

The LAF were of the view that these proposals would not deliver the consistency detailed within the question.

Question 16 - Will these proposals deliver a more integrated and up to date system for identifying, designating and recording publically accessible areas?

The LAF were of the view that there was potential for these proposals to provide the clarification as detailed within the question. However, there were practical matters that should be resolved prior to this being done.

Question 17 - Will these proposals provide significant clarification to ensure that the public, land managers and others are clear about their rights, responsibilities and duties in relation to access to the outdoors?

The LAF felt that the opposite may be the case and that the proposals could lead to less clarity and greater confusion, for all parties, at least in the short/medium term.

Members were thanked for their detailed contributions to the meeting and for their views on the proposals. It was confirmed that the Principal Planner would circulate a copy of the consultation response to the Local Access Forum once it has been submitted to Welsh Government.

6. RIGHTS OF WAY STAFF

The Principal Planner updated Members on the vacant posts within the Rights of Way Team and confirmed that a new ROW and Countryside Access Officer has now been appointed (commencement date 18th September 2017). Advertisement of the remaining junior post within the team is currently on hold.

7. DATE OF THE NEXT MEETING

This has been arranged for 8th December 2017 at 10.00 a.m.

The meeting closed at 1.08 p.m.