



**Access Legislation in Practice: The
Implementation and Effects of the
Countryside and Rights of Way Act in
England 2003-2007.**

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behalf of the British Mountaineering Council and
supported by the Ramblers Association.**



Executive Summary

This Report reviews the implementation of the Countryside and Rights of Way Act (CROW) in England. It looks at the legislative approach taken in England in relation to:

- Changes in levels of recreational use of open access land;
- Potential impacts of open access on wildlife;
- Use of the restrictions system embodied in the legislation; and
- Any other significant issues or problems arising from increased public access.

The Legislation

In England and Wales, the access provisions of the CROW Act apply to:

- 'Permitted activities' i.e., access on foot, while cycling and horse riding are excluded;
- Defined areas of 'open country' i.e., this excludes woodland, cultivated land, the coast and riversides; and
- Access can be further restricted in England and Wales on grounds of nature conservation and land management, i.e., landowners have the right to restrict access for any reason for up to 28 days a year and to apply to the local authority for further temporary restrictions.

Trends in Levels of Use

Levels of participation in countryside recreation in England are high with walking being the most popular activity. Overall levels of use appear to have been static or have declined slightly in recent years. Access land available to walkers prior to the access legislation continues to be used and any fears of a major surge in use have proved unwarranted.

Although a baseline for measuring trends in levels of use was established in 2005, it is difficult to assess the impact of access legislation accurately due to the absence of earlier comparable data. Differences both in the survey instruments and in the different concepts and availability of access land across the country have made comparisons in changes of use more difficult.

Site monitoring in the future would be valuable on those sites with a previous history of access restrictions. There is need for guidance to ensure that local surveys are conducted in a consistent manner to allow inter-site comparisons to be made as well as to provide trend analysis.

Potential Impacts on Wildlife

While there is considerable overlap between sites of major conservation interest and their popularity for recreational access (particularly in England), there has proved to be less need to use the restrictive provisions of the CROW Act to safeguard wildlife interests than might have been expected.

Significantly, the emphasis has moved from restriction to the reconciliation of these potentially competing interests through a range of collaborative management schemes. This trend has been recognized in relation to one previously contentious topic - disturbance to bird populations.

Restrictions on Access for Land Management and Public Safety

The CROW Act contains a wide range of restrictions for reasons of land management and public safety, particularly in attempting to ensure walkers' dogs are kept under control. The concerns of landowners and managers remain and are evident in the number of Section 22

discretionary restrictions, which exclude people from moors in north and west Yorkshire and the northeast counties during the nesting season for red grouse. However, as Natural England have commented, the decline in the use of application and appeal powers suggests that most land managers who perceived the need for restrictions, made applications prior to or soon after the commencement of CROW access rights in each area.

Section 16 of CROW allows landowners to voluntarily dedicate access rights to their land. Little use has been made of this provision largely because of a DEFRA moratorium on funding which came into effect in July 2006.

Other Significant Issues or Problems from Increased Public Access

Few other problems were reported as epitomised in this comment from the Peak District National Park:

“In our experience the vast majority of problems with increased public access in the Park were perceived rather than actual problems. Since commencement most of these perceived fears have been allayed once post CROW visitor use patterns have been experienced. Problems which have arisen have generally been fairly minor such as contention over the location of new access points”.

In conclusion, it must be recognised that there is a need for more systematic monitoring programmes at local level and increased restrictions on funding for access management and dedication schemes will hamper the development of co-operative working. The outstanding problem in England is likely to be ensuring that adequate funding is available to help access authorities manage open access on the ground. Overall however, many of the initial concerns surrounding the impact of CROW have been unfounded and the lack of wildlife restrictions demonstrates the success of the Act so far.

INTRODUCTION

The overall aim of this project is to investigate to date, the implementation of the Countryside and Rights of Way Act (CROW) in England. An initial phase of the research, funded by the Ramblers' Association (RA) and the British Mountaineering Council (BMC), reviewed the monitoring programmes of the relevant countryside agencies in England and Scotland and made recommendations on those topics that could be analysed in more detail. This report therefore looks at the following effects of access legislation, notably:

- A. Changes in levels of recreational use of open access land;
- B. Potential impacts of open access on wildlife;
- C. Use of the restrictions system embodied in the legislation;
- D. Any other significant issues or problems arising as a result of increased public access;

The analysis is based on telephone inquiries and questionnaires to the countryside agencies and national park authorities in England in Phases 1 and 2, together with literature and web searches (see Annex 1). Respondents' quotations are generally shown in italics in the body of this report.

Structure of Report

1. Outline of the legislation – the provision of access in the CROW Act
2. The four topics investigated in separate sections for CROW
 - a. Changes in levels of recreational use;
 - b. Potential impacts on wildlife;
 - c. Use of the restrictions system;
 - d. Any other significant issues or problems arising as a result of increased public access.
3. Conclusions on the implementation of the legislation in England.

SECTION ONE – A BRIEF HISTORY OF ACCESS LEGISLATIONⁱ

Differences in Political Tactics and their Resulting Outcomes

The conflict over access to open countryside in England is part of a cultural debate between rural landowners and the urban population, which goes back over a century. Underlying their competing claims is a fundamental clash of values between landowners protecting their territory and privacy, while ramblers and hill-walkers campaigned for the '*right to roam*' over predominantly privately owned land. There is also a complex philosophical and legal argument over whether public rights of access have long existed or need to be established in law.

The campaign for access to the mountains in England had its origins in the nineteenth century. Initially concerned with specific rights of way, it also sought to reaffirm people's freedom to roam at will across the uplands, which are attractive to the long distance walker and the seeker of solitude. The last twenty years of the nineteenth century heralded successive legislative attempts to re-establish general rights of access with gathering public support. There were in all, 17 attempts to introduce an access Bill in the 55 years between 1884 and 1939.

The Access to Mountains Act of 1939 only allowed for access orders to be made for specific areas, rather than providing a general right of access, and the onus and costs of obtaining such orders fell largely on rambling organisations. The Act excluded Scotland and was never implemented, eventually being repealed and replaced by the National Parks and Access to the Countryside Act 1949. Yet, ironically, it established the principle of limiting open access to specific areas, which has consistently remained in all subsequent legislation in England and Wales. Nevertheless, Section V of the 1949 Act did provide mechanisms enabling county councils to negotiate access agreements and where agreement could not be reached the Act empowered the council to make a compulsory access order. However, this latter power was seldom, if ever, used and the use of the (voluntary) access agreements was limited.

The value of political organisation to gain power and influence has been crucial in contesting access rights. There has been a continuing debate amongst campaigners for access – led by the Ramblers' Association - about tactics and strategy – whether to negotiate or to use the techniques of public protest to sway public opinion and

thereby gain influence and power. In general, they sought to negotiate from strength, *after* they had secured rights through legislation.

Resulting Outcomes

In England and Wales, the access provisions of the CROW Act only apply to:

- ** 'Permitted activities' i.e., access on foot, while cycling and horse riding are excluded;

- ** Defined areas of 'open country' i.e., this excludes woodland, cultivated land, the coast and riversides; and

- ** Access can be further restricted in England and Wales on grounds of nature conservation and land management, i.e., landowners have the right to restrict access for any reason for up to 28 days a year and to apply to the local authority for further temporary restrictions (See Table 1).

Public access rights may already exist under earlier legislation, which is listed in Section 15 of CROWⁱⁱ.

In Scotland, the Land Reform (Scotland) Act 2003 established a public right of recreational access to the countryside in general (not just hill land) as long as that right is responsibly exercised. How any restrictions for conservation and land management apply in Scotland, and the matters of safety around farm buildings and privacy around dwellings, are detailed in the Scottish Outdoor Activities Code. This places an onus on recreational users and on landowners and managers to exercise their rights responsibly and to respect the rights of others. English landowners have a right to restrict access for 28 days, while in Scotland, landowners have to seek ministerial approval for an exemption order that restricts access for 6 or more days.

The different provisions of the CROW and LR Acts are summarised in Table 1

TABLE 1: SUMMARY OF ACCESS LEGISLATION	
The CROW Act 2000	Land Reform (Scotland) Act 2003
Operative dates: 9/04 – 31/10/05	February 2005
<p>Activities: Access on foot: right to walk, bird watching, climbing, running, picnicking, sightseeing</p> <p>Excluded: Cycling, horse riding, hang/para-gliding, camping, use of metal detector, bathe or windsurf in non-tidal waters, organized games, commercial activities, vehicles, boats</p>	<p>Right of access on or to cross land for recreation, education, commercial activity <i>Exercised responsibly</i> as defined in Scottish Outdoor Access Code</p> <p>Excluded: Hunting, shooting, fishing, dog out of control, removal of items for profit, motorized vehicles (<i>Section 9</i>)</p>
<p>Access land: 935,000 ha of mountain, moor, heath, down, common land are classified as Open Access Land under CROW; of which 865,000ha (or 6.5% land in England) is open in practice (NAO 2006) 733,000 ha is land to which no right of access previously existed LO may voluntarily dedicate access land</p> <p>Excluded: Land within 20m of home or farm buildings with livestock; woodland, cultivated land, coast land, golf courses, railways, riverside, race tracks.</p>	<p>Access land All land plus inland water, inter-tidal foreshore, plantations, headrigs Owners to use and manage land responsibly and to respect rights of access Power for LA land acquisition</p> <p>Excluded: Limitations on grounds of safety conservation and privacy i.e., buildings, structures, curtilage (i.e., immediate surroundings of buildings), sports fields, golf courses, land by virtue of past entry by payment (<i>Section 6</i>) Hay or silage liable to damage in late stage of growth</p>
<p>Restrictions:</p> <ul style="list-style-type: none"> • 28 days pa. at landowner's discretion (for any reason - limits on weekend restrictions) <i>CROW, Section 22</i> • for essential land management (S.24) on grounds of safety or fire risk (S.25) on application by landowner to relevant authorityⁱⁱⁱ • for nature conservation and heritage reasons (S.26) on direction of relevant authority • Restrictions on dogs at discretion of landowner (S.23) on grouse moors and lambing 	<p>Restrictions</p> <ul style="list-style-type: none"> • nature conservation and heritage reasons – SNH may erect notices to warn of adverse effects on natural (or cultural) heritage (<i>Section 29</i>) or close off recreation sites to protect nature conservation interests (<i>Section 41</i>) • Exemption orders made by local authorities subject to ministerial approval and following public consultation (<i>Section 11</i>)

SECTION 2A: CHANGES IN LEVELS OF USE – ENGLAND

A series of surveys of day visits covering England and Wales began in early 1994 and were conducted periodically until 2002/3. The general picture that has emerged is that both visiting the countryside and walking are among the most popular leisure activities, regularly undertaken by about one fifth of the adult population. There appears to have been a slight decline in this activity in recent years (Gordon, 2007) but accurate monitoring of the underlying trends has been complicated by changes in the way the surveys have been conducted. Major changes were made in 2005, with separate surveys being conducted in England and Scotland. This change in survey methodology means that strict comparisons of trends in use cannot be made over the years.

For the present purposes, the most relevant measurement of change would be the volume of visits by ramblers and hill-walkers to access land before and after the access legislation on the assumption that walkers had responded to their newfound freedom to roam. In England, this would be the use made of open access land as defined and mapped following the CROW Act.

The England Leisure Visits Survey (ELVS) of 2005 contained sections designed to monitor changes in the use of open access land but the changed methodology since 2003 does not allow a strict comparison to be drawn before and after the implementation of the CROW Act. The specific questions about visits to open access land are designed to detect significant changes from 2005 onwards. The situation is further complicated as the survey period (February 2005 — February 2006) spanned the programme of mapping access land and its opening to the public so that relatively low numbers of visits were recorded.

ELVS recorded 3.6 leisure visits being made from home, one fifth of these were made to the countryside, amounting to 0.70 billion trips with a value (based on visitors' expenditure) of £9.4 billion. Nineteen million trips were made to open access land (21.2 million of visits made on holiday are included) compared to 170 million to woods and forests, for example. The trips to open access land had a value of £0.2 billion visitor expenditure (ELVS Table 2.7).

While walking is the main activity undertaken on 36% of trips to the countryside, it is the main purpose (57%) of trips made to open access land (ELVS Table 2.9). Questions were asked in this survey about the reasons for visiting open access land.

Only 10% gave reason of wanting to explore the new rights of access, while 76% of respondents had visited these areas before. Few of the respondents who had visited open access land in the past week noticed any restrictions on the ground. The features they noticed included:

- signs saying no access rights (4%);
- signs requiring that dogs be kept on leads (2%);
- signs saying there were no open access rights but the public can use paths (2%);
- 2% of respondents commented that they could only enter access land at a fixed point marked on a map (EVLS Table 6.9).

Local monitoring of use of open access land in English National Parks

While national recreation surveys could provide baseline data or evidence of changed activity overall, surveys of specific sites could provide indications of local changes of the use of access land. National Park Authorities were asked to provide details of specific surveys on access land; whether there was baseline data giving the ability to detect changes in levels of use of sensitive areas; and the availability of these data.

The approach varies from park to park. Dartmoor, the Lake District, the Peak District, North York Moors and Yorkshire Dales National Parks have detailed monitoring programmes or regular counts that are made by their ranger services^{iv}.

Examples from English National Parks^v

DARTMOOR - the NPA is carrying out a small scale observational monitoring programme focussing particularly on sites of high nature conservation interest where we have agreed management measures with English Nature under section 26 of the CROW Act. The information being collected on visitor behaviour is relating to behaviour with dogs and patterns of use throughout the sites where this is appropriate (rather than counts of numbers of visitors). Since the monitoring regime is specifically tailored to each site, it would be of very limited relevance for wider extrapolation. We do not have pre-CROW baseline data for this monitoring programme. The surveys are revealing little use of these areas (July 06).

NORTHUMBERLAND - the NPA also carried out informal monitoring using volunteers to record visitor numbers at previously inaccessible sites (June 07).

NORTH YORK MOORS - in 2005, National Park Voluntary rangers carried out an observational monitoring exercise of people using open access land (not rights of way). The 2005 data will act as a baseline as there was no earlier data and the survey is being repeated in 2007(May 07).

YORKSHIRE DALES - The NPA have little baseline data for pre-CROW usage and consider the patterns of use have not changed sufficiently since the early days of CROW to show any clear developing trend. The monitoring is on-going and is likely to provide a better idea of long-term increases or decreases in usage. People counters recently installed on two popular open access routes – one on a route that has always been well used and one on a route that has recently been publicised - points to a large increase in usage following publication (June 07).

Conclusions on Section 2A - Trends in Levels of Use:

Levels of participation in countryside recreation in England are high with walking being the most popular activity. Overall levels of use appear to have been static or have declined slightly in recent years.

Although a baseline for measuring trends in levels of use was established in 2005, the impact of access legislation cannot be assessed accurately due to the absence of earlier comparable data. Furthermore, differences both in the survey instruments and in the different concepts and the availability of access land will preclude any meaningful comparisons being made in changes of use north and south of the Border.

It appears that certain open access land in England and the (roughly) equivalent hill, moor and mountain land in Scotland were used by walkers prior to the access legislation so that new levels of activity in these cases have been relatively low.

Site monitoring would be valuable on those sites with a previous history of access restrictions. There is need for guidance to ensure that local surveys are conducted in a consistent manner to allow inter-site comparisons to be made as well as to provide trend analysis.

SECTION 2B - POTENTIAL IMPACTS OF INCREASED ACCESS ON WILDLIFE IN ENGLAND

Open access land in England tends to be of high conservation value.

'SSSIs provide 524,000 of 958,000/ia of land qualifying for statutory access.

SSSIs cover only 8% of country but provide 55% of access land under CROW.

There are an estimated 3 70m visits to SSSIs for recreation; 65% of which are for walking'. Natural England Partnership, (2006)

In a major exercise to identify sensitive conservation features, English Nature assessed every SSSI (about 1100) for the presence of vulnerable features. Those with such features were then assessed for any likely increases in use attributed to the effects of the CROW Act.^{vi}

Examples from English National Parks

DARTMOOR - The surveys of use in the areas with nature conservation interest where management solutions have been agreed are revealing very little use. (July 06)

NORTHUMBERLAND - Specific surveys were done on 5 SSSI sites that we and English Nature felt that there was the potential for increase in use and possible damage as a consequence. These surveys were carried out pre-commencement to establish a baseline, and looked at existing evidence of use i.e. trampled and bare widths etc. We also carried out informal monitoring using out volunteers to record visitor numbers at previously inaccessible sites (June 07).

NORTH YORK MOORS - Prior to commencement of the new rights, the national park authority carried out assessments of sites where English Nature had given advice under section 26 of the CROW Act, where a significant increase in the level of access may have a detrimental effect on nature conservation interests. In almost all cases it was judged that there was unlikely to be a significant increase in access (May 07).

YORKSHIRE DALES - Three reports on the usage of the new open access rights have been produced. The first showing usage of the open access rights in the few months following their introduction (May – September 2005); the second examining usage outside of the bird breeding season, i.e. from August 2005 to February 2006 and the third covering the 2006 bird breeding period (from March 1st to July 31st).

While there was a slight increase in usage of the “right to roam” from 2005-6, this was probably due to the good Spring and Summer weather in 2006. The behaviour of the people on OA land remains the same, with the majority of visitors being recorded on public rights of way or recognised paths. The percentage of walkers leaving recognised paths remains low. The number of dogs on open access land has increased in direct proportion to the number of people. The behaviour of dog owners remains unchanged, with the majority of dogs under close control and on a PRoW in restricted areas. No definite disturbances to wildlife or conservation sites were recorded, and it appears that the introduction of the CROW Act has thus far posed little threat to these sites, although further increases to usage of the right to roam need to be monitored (August 06).

Change in Focus from Restriction to Collaborative Management

There are two possible approaches to the potential problem of impacts of increased access on wildlife: the imposition of restrictions on access and the reconciliation of competing interests through collaborative management schemes.

Compliance with Conservation Restrictions

It appears that exclusions apply on only 44 of 1000 SSSIs. (NE, Technical Briefing) and although ministerial approval would be required in some cases, no such orders have been reported. EN has had few reports of non-adherence to restrictions. There is substantial data available about people ignoring the national restrictions on dogs, which is a concern because of disturbance to ground nesting birds. Equally there were reports of bird watchers getting too close to nests on the Bowland Fells (see text box below). The dog issue is being addressed nationally through raising awareness and local pilot studies (EN July 06)

FOREST OF BOWLAND - The ‘opening up’ of the whole of Bowland Fells to public open access under CROW gave rise to concern about the possible impact of increased visitor numbers and usage of Fells on the breeding success of hen harriers, especially in areas where previously little or no access had occurred. This was the main driver for the 2005 study. Prior to CROW, the landowner actively promoted linear access on concessionary footpaths across its land holding, which have largely been adhered to for the most part by the majority of walkers visiting the Fells in 2005.

Electronic Counter data collected throughout the project period suggested that use of the most popular routes post-CROW appeared to be much the same. Informal interviews revealed that people who were seeking long walks to exercise their new rights of access generally wanted to move towards the tops of the Fells, most probably to appreciate panoramic views of the area.

However, visitors identified as birdwatchers appeared to be more scattered than those identified as walkers and were more likely to cause possible disturbance as hen harriers were more likely to be disturbed by people when they departed from paths even when they had been at quite a considerable distance away from nests. However, one nest was only about 50m from a busy footpath and the harriers appeared to be able to adapt to the situation and as a consequence the birds' nesting attempt was successful. It would therefore appear that harriers can become habituated to people moving predictably along certain routes, but can be disturbed by people moving less predictably off established paths^{vii}.

Management measures initiated by the Countryside Agency, were reviewed in 2007 and the current consensus is that the impacts are not of concern. The management measures remain unchanged (EN, July 06; Lancashire County Council June 07).

SOUTH PENNINE MOORS - Small numbers of walkers and trail bikers have been using Widdop Moor for years before it became open access land in September 2004. Management is undertaken by wardens with signs at the main access points. Although the numbers of people using the moor have increased, the uptake of people using the open access land has been slow with just under half the total number recorded by voluntary wardens in 2005 being on Open Access Land following high points or using tracks/permissive paths to move across the moor. Walkers have also made use of the tracks left by sheep and trail bikes, particularly leading from the turning circle of the Oil Track to the top of Boulsworth Hill. The use of this track by walkers and the continued use by trail bikes are likely to cause erosion problems in the future. The favoured routes of most walkers do not take them into areas where the majority of golden plovers nest. Although golden plovers do nest alongside the Oil Track, as most walkers stick to the track, disturbance is at a minimum. The initial impressions are that walkers do not yet have that a great impact on the nesting birds. As visitor numbers are likely to grow, the next couple of years will be the crucial time to monitor user numbers, their behaviour, and the effect they have on the nesting birds (Lancashire County Council, June 07).

Access Management

“The principles of access management are well understood. well managed sites with good signage, wardening and well surfaced routes can allow relatively large amounts of visitors to enjoy sites where very rare and sensitive birds breed. On particularly busy sites the provision of alternative areas and an education strategy may be necessary.” (Slater, 2007, 30).

Having identified the limited scale of the problem, the approach has been to concentrate resources on potential trouble spots and manage these areas collaboratively. This approach has been epitomised in the extent of joint working between, before and since the merger of English Nature and the Countryside Agency into Natural England. The agencies signed a protocol in 2000 committing them to a joint programme of work in implementing the access provisions of CROW. This was summarised in a technical briefing note issued during the merger, which emphasises the value of the collaborative approach to access management.

“On SSSIs qualifying for a right of access, it has been possible to reconcile access and nature conservation in the vast majority of circumstances, by the management of the access (i.e. siting entry points, paths and providing information to steer people away from sensitive features). In fact 99% of the area of SSSIs qualifying for access, is open to people without the need to impose exclusions (even where there are exclusions they are usually seasonal). English Nature has advised on the need for exclusions on only 44 SSSIs, of over 1000 qualifying for access.

There has been almost no conflict. A dispute procedure arranged to address conflicts when English Nature and the Countryside Agency could not agree on action during the implementation of CROW, has never been employed.

Section 29, which allows referral to the Minister in the event that the relevant authority (The Countryside Agency or National Park Authority) does not accept English Nature advice, has never been needed.

The success of this work is founded on the principle that both English Nature and the Countryside Agency agreed from the beginning that they would seek to achieve both access and nature conservation; not a balance, not a trade off, but both (Source: Natural England, 2006, Technical Briefing, par 5-7).

Examples from English National Parks

YORKSHIRE DALES NATIONAL PARK - The process agreed by the Countryside Agency and English Nature has become part of the Relevant Authority Guidance, which must be followed by other Relevant Authorities such as National Parks. The Yorkshire Dales National Park provides a good example of where perceived conflicts between access and nature conservation were reconciled using positive access management methods. The key points are summarised below:

- On 28 May 2005, the Yorkshire Dales National Park went from 3% to 63% open access. Over a third of the Park is SSSI and over 90% is now open access.*
- About half of this open access SSSI land is Special Protection Area (SPA) moorland, protected for ground nesting birds such as merlin, black grouse, hen harrier, curlew and golden plover. Fragile habitats such as blanket bog and wet heath are present.*
- The rest of this SSSI land is made up of grassland habitats, which are a haven for ground nesting birds such as lapwing, curlew, oystercatcher and skylark and also very fragile habitats in wetter areas and on limestone pavements.*
- The Park receives over 750,000 visitors a year and serious concern was expressed after the CROW Act was passed of the need for restrictions under Section 26.*
- A detailed assessment of all sites subject to a new right of access carried out jointly by Park Rangers and English Nature Conservation Officers over three years revealed that without exception all SSSIs could remain fully open.*
- These conclusions were based on the following:*
 - The ability to provide information to visitors/residents about their rights and responsibilities under Schedule 2 of the CROW Act (most significantly the dogs on leads stipulation from Mar-July)*
 - The ability to steer people away from three key areas using advisory signage and way marked routes.*
- The Park has employed additional rangers who are coordinating about 200 volunteers to advise walkers of the sensitivities relating to dogs and ground nesting birds.*

- *The Park and English Nature have jointly produced leaflets and other literature targeted at tourists to advise them of the breeding birds.*
- *In summary, through a positive approach to influencing visitor behaviour all parties have agreed that no restrictions are necessary across the entire Park (visitor behaviour is being closely monitored over the first spring and summer and will be reviewed annually). Source: Natural England 2006 Technical Briefing*

The British Mountaineering Council worked closely with English Nature and the Countryside Agency, particularly in designated areas (SSSI / SPA's) where it was believed that the implementation of CROW may have an effect on the recreational use of these protected locations.

Where it was not considered that an increase in activity was likely, no further action or assessment was considered necessary. Where an increase in activity was thought likely, an assessment was undertaken and an appropriate access management regime, along with appropriate impact monitoring, was put in place.

- *An example is Holwick Scar which forms part of Whin Sill escarpment in the remote Upper Teesdale valley of the Northern Pennines. The crag forms part of the Upper Teesdale SSSI and supports a rich diversity of nationally rare species and relict arctic-alpine plants. It is also a traditional climbing site. Following the inclusion of the crag in access land, the BMC has worked in partnership with the Countryside Agency and English Nature (NE) to facilitate managed access, where climbing is limited to certain buttresses only. Guidelines were negotiated between NE and the BMC to ensure climbing did not damage the important nature interests. The site is monitored and to date no issues of conservation or recreational loss have been reported.*

Best of Both Worlds

This emphasis on achieving both access and nature conservation objectives provides the underlying philosophy of the Best of Both Worlds Project. This promotes the use of consensus building to stimulate joint working between recreation and nature conservation interests. The project's website www.bobw.co.uk sets out guiding principles which have been accepted by collaborating organisations and projects which use this approach (Kennedy, 2007).

THE STANAGE FORUM, PEAK DISTRICT - Stanage Edge, in the Peak District National Park, is (arguably) one of the best rock climbing locations in the country. People come from far and wide to climb there, and have done so for generations. It is also home to rare birds, an agricultural estate with sheep grazing and game shooting, as well as being valued by walkers, runners and wildlife watchers. With independent facilitators, the Stanage Forum has brought all the differing interests together. Everyone wants to protect the Edge and safeguard their particular interest, but now understand its importance for others. They are still talking.

The Estate receives over half a million visitors per year, with a wide range of activities including walking, cycling, hang-gliding and paragliding, and bird watching. Stanage Edge is perhaps best known as an internationally important gritstone climbing edge, arguably one of the birth places of the sport. In 2000, the NPA wished to review the Management Plan for the Estate.

It was perceived that there were real conflicts between the various activities on the Estate, and with its management for conservation and farming interests. Rather than embark on a traditional process involving the production of a draft plan followed by various consultation exercises, the NPA began with a blank sheet of paper and commissioned an independent facilitator to guide the subsequent process.

A web site was established with an on-line discussion board to enable as wide a debate as possible. An open public meeting was held, attended by over 70 people, in August 2000. This wider Forum agreed a set of consensus building principles in order to develop a shared vision for the Plan. A Steering Group of 17 people was nominated through an open, democratic procedure. This Steering Group framed a number of specific problems, which were then discussed in technical groups. The emphasis continued to be on consensus building and improving understanding in order to reach agreed solutions.

Over the next two years, large amounts of time were voluntarily given by individuals and groups contributing to the shared development of the Stanage/North Lees Estate Management Plan. 285 people receive the Forum newsletter, and 135 different people have attended public events. From the first Forum event in August 2000 up to the production of the draft plan at the end of June 2002, there had been 21,300 hits on the Forum web site.

The final Management Plan was agreed in October 2002 (Source: Best of Both Worlds website).

Access Management Grant Scheme^{viii}

While the CROW Act gave access authorities powers to carry out a wider range of access work, it did not place a statutory duty on access authorities to maintain such work and they have not received additional resources to manage and maintain this work in the longer-term. The Access Management Grant Scheme (the AMG Scheme) was launched in March 2004 to provide an incentive and support for access authorities to implement the rights of access under the CROW legislation.

The Scheme is available to all access authorities (as defined by CROW) with the exception of National Parks, as separate funding measures operate within them^{ix}. In 2004/05, £2 million was made available to access authorities to cover preparatory planning, on-site infrastructure and wider access management. Each participating access authority was required to assess its area in consultation with its Local Access Forum to identify those measures necessary to manage the CROW access rights locally. The access authority then submitted an access management plan to the CA detailing the management measures for which funding was sought.

The Scheme has enabled access authorities to engage proactively with landowners and encourage them to adopt informal access management solutions on CROW access land, rather than using statutory restrictions. There are currently 52 access authorities participating in the Scheme and 90 offers of grant were made in 2005/06, including 30 for planning, 45 for infrastructure works, 7 for staff posts including wardening schemes, 2 for promotion, 4 for mines and quarries work, and 2 for social inclusion projects. Access authorities are not reporting any significant conflicts between land management and recreation since CROW access commenced.

The Scheme gives highest priority to sensitive nature conservation sites where effective management will avoid the need for a legal restriction to be placed on access. It also gives priority to management measures on sites outside nature conservation sites that are likely to face high demand.

Following a review in June 2004, the Scheme was extended until March 2008 and expanded to include mapping areas 6, 7 and 8. The review revealed that without the availability of funding, few access authorities would have undertaken preparatory work or effective access management. Significantly, the majority of stakeholders taking part in the review stressed the need for longer-term funding to manage and deliver access improvements.

The Scheme has shown that, given the necessary support, guidance and funding, access authorities have been able to manage CROW access very effectively, thus avoiding the problems on the ground that were predicted ahead of implementation. Indeed, the Scheme has enabled some pre-existing access management issues to be successfully addressed and the continuation of the Scheme will help to maintain and reinforce important relationships between landowners, land managers and access authorities.

Thus there needs to be a permanent mechanism, with dedicated funding, to help access authorities to manage open access on the ground. The obvious way for this to be achieved is through the Environmental Land Management Fund (ELMF), which it is intended that Natural England will operate.

The amount of money that would need to be allocated each year to such a mechanism should be relatively modest. It would allow management to take place where it was needed, e.g.:

- on CROW access land where visitor patterns changed over time;
- on CROW sites of nature conservation concern, where reviews of the measures put in place at the outset indicated the need for further or different management measures;
- on newly dedicated CROW access land; and
- on s.15 land where effective information provision gives rise to increased public use.

The AMGS review was submitted to DEFRA in Spring 2006 and in response, the Department was gratified that the AMGS had been very successful in helping authorities prepare for and manage implementation of the new rights. They pointed to the large amount of access land that remains open and the lack of any significant conflict as an example of its effectiveness. They also congratulated the CA on administering the scheme and having met or exceeded all of the original scheme objectives and targets by the end of the scheme in March 2007. While DEFRA has agreed that a good case has been made for extending the Scheme, it is unable to provide additional funding. Based largely on the results of the AMGS review, Natural England has allocated a further £450,000 for access management work on CROW land for the financial year 2007/2008.

NE Officers are now working with their access authorities to develop these work programmes so that work can be completed before the end of the financial year. The priorities for work to be funded by the extra year of AMGS are as follows:

- Monitoring, especially in relation to nature conservation and public safety restriction reassessments where a better understanding of access use and patterns will enable us to implement the 'least restrictive option'
- Fire planning, to ensure access authorities are taking appropriate action in response to the FSI and to enable us to implement the 'least restrictive option' for fire restrictions
- Essential works in relation to nature conservation, public safety and fire cases where management will enable us to implement the 'least restrictive option'.
- Staff to support these activities

Changes in recreational use and bird populations

Despite this being a contentious topic for many years, it appears that there has been little systematic monitoring of either recreational use or bird populations. Given the lack of baseline data, there would need to be several years of data collection because of natural fluctuations in bird populations. The major concerns are when the habitat is in short supply for ground nesting species, such as waders: stone curlew, curlew, lapwings; red grouse and black grouse; and also some raptors, such as: Merlin and Golden Eagle. Seen objectively, most of the sensitive sites have been open for many years and there are few 'trouble spots' (EN, July 06).

Report of Report on Access to the Countryside and Bird Conservation: Priorities for Research

This Report is based on a workshop organised by NE in October 2006, which reviewed progress on this research topic over the last five years. Research priorities in 2001 anticipated the implementation of the CROW Act and targeted on the likely impacts on birds of access on foot to mountain, moor, heath and down ("open country") and to commons. Five years on, various studies have been completed and there is more information on a wider variety of bird species, and an understanding of how disturbance impacts a selection of different species. More significantly, access and nature conservation are no longer perceived to be in irreconcilable conflict, and the option of excluding people as a knee-jerk reaction to protect important bird

populations are past. Exclusion is only considered as a last resort, when there are no other options.

The context within which future research priorities are assessed is also very different from that in 2001. Access is now recognised as crucial to people's well-being, health and understanding of the natural environment, while birds have a key role in attracting people to the countryside. There is, of course, still a need to ensure the protection of the very things they have come to see and therefore access management has become more targeted at asset management rather than damage limitation. In the majority of cases, the need to manage access and to limit disturbance is widely agreed. Future research will focus on the area where social and ornithological research meet and there is now exciting potential to combine social and ornithological approaches in applied studies.

As far as access to open country is concerned, there is a need to study people's behaviour and access patterns within the countryside with the aim of targeting finite resources to most benefit birds and to minimise unnecessary restrictions to public access. Further work is needed on the efficacy of access management, to enhance our understanding of how car-park locations, car-park capacity, path surfacing, interpretation and wardening can influence where people choose to go. The provision of alternative sites to draw people away from areas currently under high visitor pressure has yet to be tested.

Studies focused on human behaviour must be conducted in a way that allows them to link directly with bird research so that applied, practical recommendations can be made.

The Report specifies a series of ornithological studies, research on access management techniques at sites important to birds, and research on people's (and dogs) behaviour. (Source Liley and Slater, 2007)

Conclusions on Section 2B – Potential Impacts on Wildlife:

Initial work by the Countryside Agencies concentrated on assessing the potential scale of the problem and registered the considerable overlap between sites of major conservation interest and their popularity for recreational

access. However there has proved to be little need to use the restrictive provisions of the CROW Act.

The emphasis has moved to the reconciliation of these potentially competing interests through a range of collaborative management schemes. This trend has been recognized in one previously contentious topic: disturbance to bird populations.

The outstanding problem in England is likely to be ensuring that adequate funding is available to help access authorities manage open access on the ground.

SECTION 2C - USAGE OF THE RESTRICTIONS SYSTEM - ENGLAND

Availability of Access Land:

The area of CROW access land available for people who do not take dogs remains stable and predictable at most times of year: 728,000 or about 99% of the total area of land with CROW access rights. The area of land normally available to people who take a dog is stable and predictable at other times of year: 492,000 hectares, or about 68% of the total area of land with CROW access rights. This is significantly less land than is normally available to people without dogs, due mainly to use of discretionary dog exclusion powers by grouse moor owners (Source: Natural England's Open Access Restrictions Team, Quarterly Report January – March 2007).



Image 1: Access symbol used to mark the boundaries of land available for area-wide access on foot

Image 2: A 'negative' access symbol has been developed to mark the end of area-wide access.

Section 16 of CROW allows landowners to voluntarily dedicate access rights to their land. Little use has been made of this provision largely because of a DEFRA moratorium on such funding which came into effect in July 2006 followed by the transfer of powers into Natural England who put the project on hold (Natural England, 4.7.07). This has overshadowed any reluctance by landowners to dedicate because of perceived detrimental effects of public access.

Dedication of Land for Recreation

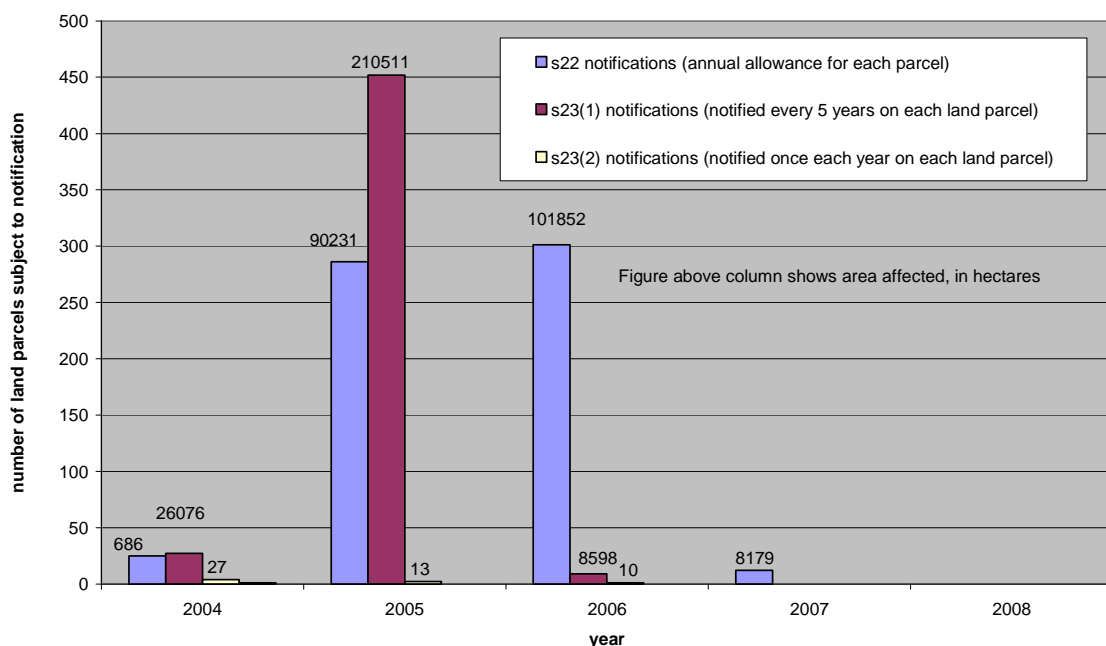
Dedication of land within the BMC land holding to secure dedications for climbing was agreed in principle as early as February 2005. The BMC currently owns three climbing sites in England including Aldery Cliff in the Peak District, Horseshoe Quarry near Stoney Middleton in the Peak District and Stone Farm Rocks near East Grinstead in Kent. Two of these sites (Stoney Middleton and Stone Farm Rocks) hold SSSI status and so English Nature were consulted throughout the dedication process. The local authorities involved as well NE are all-supportive of this initiative

and the BMC aim to ensure that the botanical and ecological interests of the site are enhanced whilst recreational activities continue, through progressive management initiatives.

Members of the Ramblers Association have also dedicated land. Long time access campaigner, Dennis Nisbet made history by becoming the first landowner ever to use the CROW Act to voluntarily dedicate land for public access when dedicated Lurkenhope Wood in Shropshire. An event marked by the by a walk with the then Minister for Rural Affairs, Alun Michael. The wood is managed by the Shropshire Wildlife Trust. The second dedication of land by a member of the Ramblers' Association was also in Shropshire when 150 hectares of traditional Bluebell woods on the slopes of Wenlock Edge were dedicated by Ann Dyer.

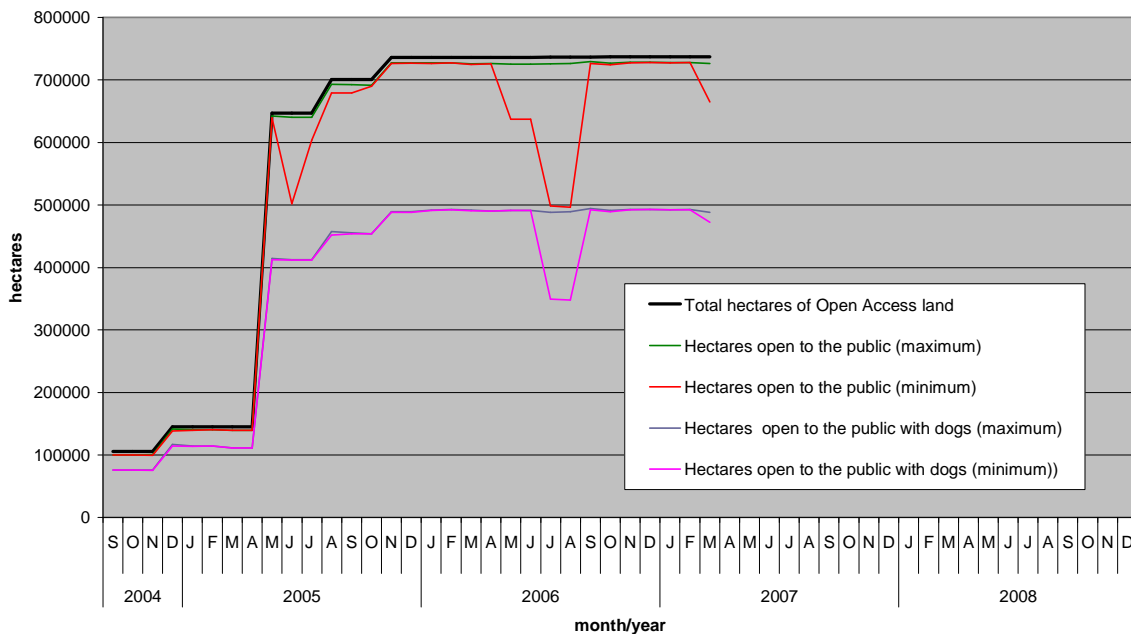
Restrictions for Land Management and Public Safety^x

Owners or tenants of CROW access land may notify Section 22 discretionary restrictions for any purpose. The majority of notifications exclude people from moors in north and west Yorkshire and the northeast counties during the nesting season for red grouse. Only a few notifications have been received during the first quarter of 2007 and these are mainly for the spring period of May and June. Use of Section 23(2) discretionary dog exclusions for lambing purposes is insignificant on a national scale.



Graph 1: Restrictions by land managers, Jan- March 07: Natural England Open Access Restrictions Team

Natural England's Open Access Restrictions Team investigated the effect of the seasonal decline in land available for access as a result of the activation of fire prevention restrictions in July/August 2006. In the areas where fire restrictions were activated, much of the land was already the subject of Section 23(1) dog exclusions. Any overlap in the area covered by a fire restriction and the area covered by the Section 23(1) restriction has been calculated to preclude any double counting of restricted area. The graph shows that the effect of the activation of fire prevention restrictions on people walking with dogs is therefore less pronounced than the effect on people without dogs.

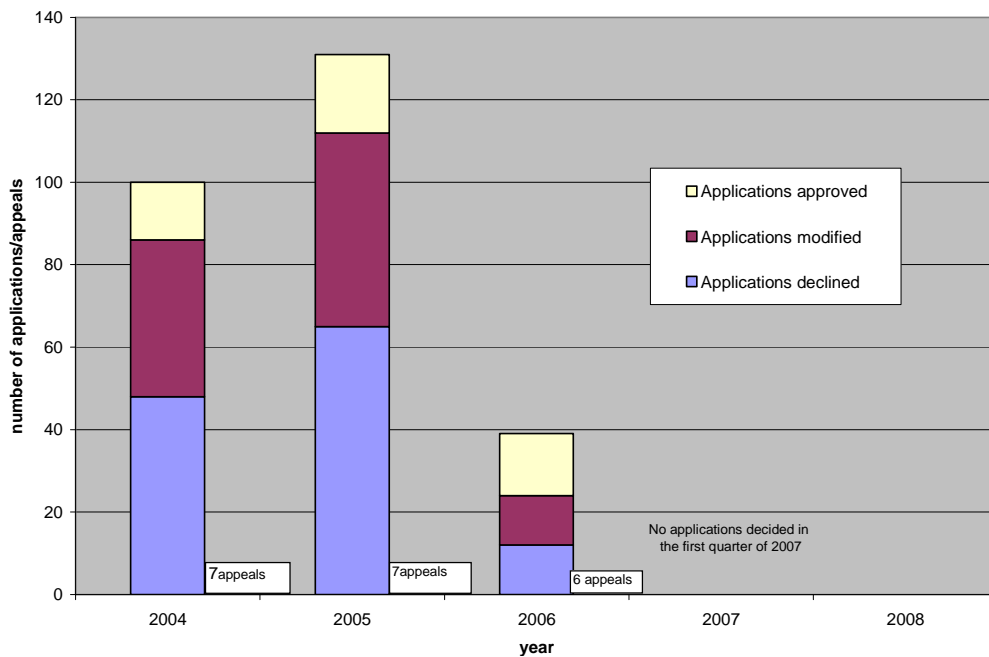


Graph 2: CRoW Access land available, Jan-March 07: Natural England Open Access Restrictions Team.

Exceptional weather conditions were again experienced in March 2007, leading to activated restrictions. The area covered was mainly in the North York Moors with some areas in North Yorkshire and Durham. Again, the effect of fire prevention restrictions on people with dogs is less pronounced than on people without dogs for the reason given above.

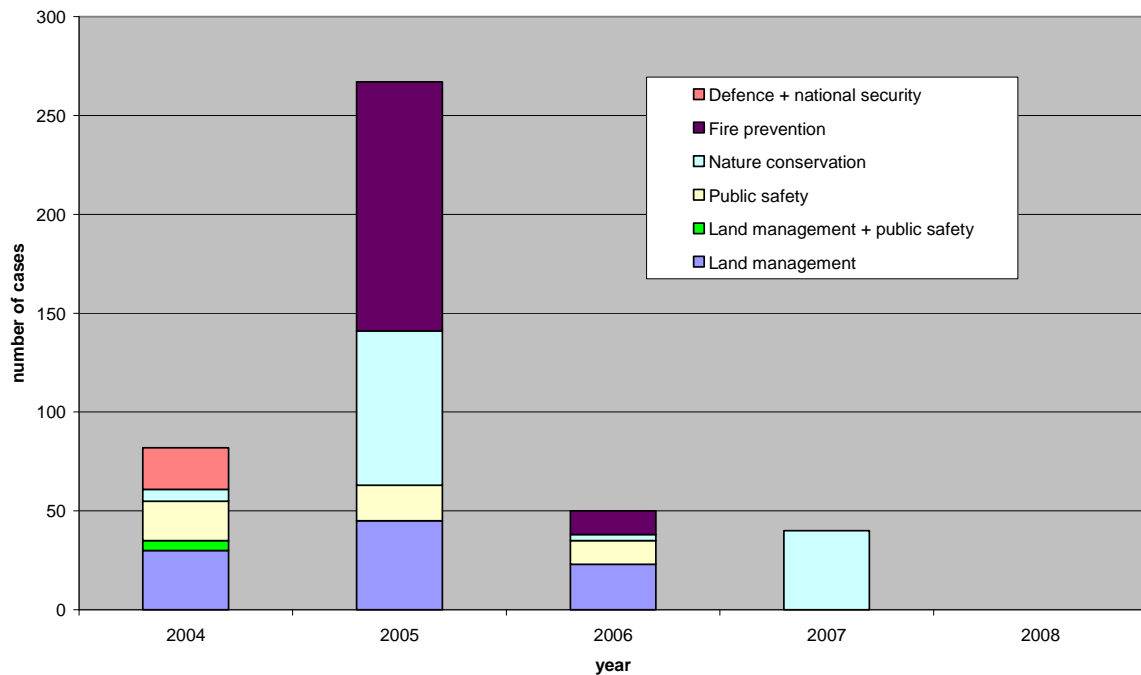
There has been a continued decline in the use of application and appeal powers by land managers since they were first made available in March 2004, suggesting that most land managers who perceived the need for restrictions made applications prior to or soon after the commencement of CROW access rights in each area. There

have been no decisions given in the first quarter of 2007, and only one application has been made. Relevant authorities have declined roughly half of all applications and a significant proportion of successful applications were approved with modifications. Yet there have been few appeals as a proportion of all applications.



Graph 3: Restrictions by land managers, Jan- March 07: Natural England Open Access Restrictions team.

A programme of work to reassess directions given for nature conservation reasons is underway and graph 4 shows the number of nature conservation restrictions where the direction has been reassessed and retained or modified and in one case where a restriction has been placed for the first time.



Graph 4: Directions given, Jan- March 07: Natural England Open Access Restrictions Team

These findings are confirmed by NPAs

DARTMOOR - DNPA has records of applications it has determined and non-applications directions it has made. This amounts to two applications, both of which were not given. Three non-application directions have been made for nature conservation reasons (an exclusion of dogs in the West Dart valley, a restriction to a linear route from March to July at Bagtor and an extension through August of the requirement for dogs to be on leads at Yarner Heath). DNPA also made a non-application direction for public safety excluding the public from Coombe Down from Aug 05 to March 06, while fencing works to secure open mine shafts were completed. The restriction has subsequently been lifted. 28 day restrictions at two key recreational sites initially caused problems but they are now formally registered and communicated and a linear route through has been agreed (June 06).

NORTHUMBERLAND - 28 day restrictions are generally land management restrictions on grouse moors. One landowner used his 28 day entitlement last year at his own discretion, with no major reason given (June 07).

NORTH YORK MOORS - The majority of closures have been during late May/June just after grouse chicks have hatched (May 07).

PEAK DISTRICT - Use of S22 restrictions by land owners has been very low. So far this year only 2 landowners have used their discretionary days. In both cases all 28 days were used in blocks during the nesting season in order to prevent disturbance to ground nesting birds (August 06).

YORKSHIRE DALES - The majority of our 28 day restrictions are on grouse-moors at breeding time (May, June) with a few days in August, for shooting. The reasons are never given, other than "for land management" (August 06).

Imposition of restrictions because of 'irresponsible' behaviour following increased access

Most 'irresponsible' behaviour is precluded under the Act in Schedule 2. As such there is no scope for restrictions to be made via the local restrictions system on the grounds of such behaviour. A landowner could use their 28 discretionary days to close land in order to prevent such behaviour. Most NPA do not keep specific records of such restrictions. The Open Access contact centre only asks for a broad reason for a restriction being imposed (Source: Natural England's Open Access Restrictions Team).

These findings are confirmed by two NPAs

PEAK - The take up of 28 day discretionary restrictions have been low and the NPA is unaware of any examples of land owners using discretionary restrictions to abate nuisance caused by irresponsible behaviour (August 06).

YORKSHIRE DALES - The access rights do not appear to have any detrimental effects and have not led to further restrictions due to bad behaviour (August 06).

NPAs were asked to identify any areas in the national park, which have a controversial history relating to public access, and have been subject to restriction and whether their use is being specifically monitored. Specific examples were cited: Forest of Bowland, Bronte Moors, South Downs,^{xi} Henroost, Dartmoor; Pen-y-ghent; and Dragon's Back in the White Peak.^{xii}

The North York Moors and Northumberland NPAs reported that there are no areas with a particularly controversial history in the national park. Similarly, the New Forest has a long and uncontroversial history of open access on Crown Land and adjacent commons.

Examples from English National Parks

DARTMOOR - With regard to Henroost, this is not being systematically monitored as it is not a site flagged up by EN as an area of concern for potential detrimental effects on nature conservation interests.

PEAK DISTRICT - Rangers monitor levels of use as part of their day to day duties. As such we have an appreciation of the levels and patterns of use in all areas of open country. However, there is no formal monitoring program in place.

The Forest of Bowland and the South Pennines SPAs were areas where access has had a controversial history. Their use is being monitored by the projects as set out in the attached reports. The use of electronic counters continues in Bowland and observational data is collected in the South Pennines. There are localised closures for protection of nesting raptors but few restrictions for land management reasons and no record of them having any impact on users. We have no instances where restrictions have been imposed as a result of irresponsible behaviour.(see page 12 of this report)

Conclusions on Section 2C: Restrictions on Access for Land Management and Public Safety.

Natural England's Open Access Restrictions Team provide a valuable, Quarterly Report summarising the use of restrictions in England and Wales.

The Key Points from the January to March 2007 Report were:

- The area of CROW access land available for people who do not take dogs remains stable and predictable at most times of year.***
- The majority of Section 22 discretionary restrictions exclude people from moors in north and west Yorkshire and the northeast counties during the nesting season for red grouse.***

- *Exceptional weather conditions in March 2007 led to the activation of fire prevention restrictions mainly in the North York Moors with some areas in North Yorkshire and Durham. Much of this land was already the subject of Section 23(1) dog exclusions so that the effect of fire prevention restrictions on people with dogs is less pronounced than on people without dogs.*
- *There has been a continued decline in the use of application and appeal powers by land managers since they were first made available in March 2004, suggesting that most land managers who perceived the need for restrictions made applications prior to or soon after the commencement of CROW access rights in each area.*

Section 16 of CROW allows landowners to voluntarily dedicate access rights to their land. Little use has been made of this provision largely because of a DEFRA moratorium on such funding which came into effect in July 2006.

SECTION 2D - OTHER SIGNIFICANT ISSUES OR PROBLEMS ARISING AS A RESULT OF INCREASED PUBLIC ACCESS

National Park authorities were asked for information on any other significant issues or problems arising as a result of increased public access following the CROW Act.

NEW FOREST - The NPA have not been notified of any restrictions since our inception in April 2006. There was a 'problem' that FC restrictions on dedicated land were not being reported to NPA but this is now thought to have been addressed. Due to the nature of access land in the NFNP (i.e. mainly CROW, section 15) it is unlikely that many restrictions (other than FC on dedicated woodland for forestry operations) will be applied for or imposed, if any (May 07).

NORTH YORK MOORS - There was a degree of de facto open access for walkers on moorland in the North York Moors national park, prior to the CROW Act. This de facto open access for walkers would have included access with dogs. However, almost all of the grouse moor estates in the national park have used their formal powers under section 23 of the CROW Act to exclude dogs entirely from the land. Therefore areas where a low level of access with dogs was previously tolerated, access with dogs is now restricted to rights of way only. This is a particular issue for local dog walkers in certain areas of the park. It is likely that the new access rights have benefited climbers particularly, as a number of open access sites have climbing crags, and the limited de facto access that there was prior to the Act, would in most cases not have extended to climbing (May 07).

PEAK – The NPS is unaware of any areas, which are suffering detrimental effects due to increased use following CROW commencement. As such it follows that further restrictions have not been necessary for this reason. To date no restrictions have been granted for this type of reason, all restrictions have been given on the basis of public safety.

In our experience the vast majority of problems with increased public access in the Park were perceived rather than actual problems. Since commencement most of these perceived fears have been allayed once post CROW visitor use patterns have been experienced. Problems that have arisen have generally been fairly minor such as contention over the location of new access points etc. (August 06).

YORKSHIRE DALES - No significant problems have arisen due to increased access

FOREST OF BOWLAND - Not aware of significant issues arising as a result of increased public access. There has been some motorcycle activity reported - in most cases trespass off legitimate routes, and this may well only be being picked up and recorded because we are out there and making ourselves available. There is a general feeling that motorcycle trespass has increased in recent years but this is a social phenomenon and not as a result of open access (June 07).

Monitoring Programmes

Information was obtained in June 2006 on the four- year CA Monitoring Programme which will gather baseline data on the outputs and impacts of the new right of access. It has not proved possible to obtain further information on this programme.

Conclusions on Section 2D: Other Significant Issues or Problems Arising as a Result of Increased Public Access

The views of NPAs are summarised in the comment from the Peak District:

“In our experience the vast majority of problems with increased public access in the Park were perceived rather than actual problems. Since commencement most of these perceived fears have been allayed once post CROW visitor use patterns have been experienced. Problems which have arisen have generally been fairly minor such as contention over the location of new access points”.

SECTION 3 – THE EFFECT OF CROW IN ENGLAND OVER THE LAST FOUR YEARS

Levels of participation in countryside recreation in England appear to have been static or have declined slightly in recent years. Much access land has been used by walkers prior to the access legislation so any fears of a major surge in use proved unwarranted.

While there is considerable overlap between sites of major conservation interest and their popularity for recreational access (particularly in England), there has proved to be less need to use the restrictive provisions of the CROW Act to safeguard wildlife interests than might have been expected.

Significantly, the emphasis has moved from restriction to the reconciliation of these potentially competing interests through a range of collaborative management schemes. This trend has been recognized in relation to one previously contentious topic - disturbance to bird populations. The outstanding problem in England is likely to be ensuring that adequate funding is available to help access authorities manage open access on the ground.

The CROW Act contains a wider range of restrictions for reasons of land management and public safety, particularly in attempting to ensure walkers' dogs are kept under control. The understandable concerns of landowners and managers remain and are evident in the number of Section 22 discretionary restrictions, which exclude people from moors in north and west Yorkshire and the northeast counties during the nesting season for red grouse. However, as NE have commented, the decline in the use of application and appeal powers suggests that most land managers who perceived the need for restrictions made applications prior to or soon after the commencement of CROW access rights in each area.

There are unmet needs, such as the need for more systematic monitoring programmes at local level. The major concern must be the increased restrictions on funding for access management and dedication schemes, which will hamper the development of co-operative working.

Roger Sidaway

30 July 2007

REFERENCES

Best of Both Worlds website, www.bobw.co.uk

Countryside Commission for Scotland (1988) *Twentieth Report 1 January 1987 to 31 December 1987*, CCS, Battleby

England Leisure Visits Survey (ELVS) Report of the 2005 Survey at
<http://www.naturalengland.org.uk/press/news2007/090107.htm>

Gordon, C. (2007) "New Trends in Outdoor Recreation", in Bull, M. Ed. *Outdoor Recreation and Nature Conservation, 2007 Seminar Proceedings of the countryside Recreation Network*, 24 January 2007.

Kennedy, D. (2007) "Introducing the Best of Both Worlds Project", in Bull, M. Ed. *Outdoor Recreation and Nature Conservation, 2007 Seminar Proceedings of the countryside Recreation Network*, 24 January 2007.

Liley, D & Slater, D. (2007) *Access to the Countryside and Bird Conservation*, Footprint Ecology / Natural England. Version: DRAFT 21 March 2007

MVA Consultancy (2007) *Responsible Behaviour amongst Recreation Users and Land Managers: 2006 monitoring*, SNH Commissioned Report F05AA602

National Audit Office (2006) *The Right of Access to Open Countryside*, The Stationery Office, London

Natural England's Open Access Restrictions Team, *Quarterly Report January – March 2007*

Natural England Partnership (2006) *Reconciling Access and Nature Conservation*, Technical Briefing

Scottish Natural Heritage (2006) *Scottish Recreation Survey: Annual Summary Report 2004/5*, Commissioned Report No. 183, SNH, Inverness

Sidaway, R. (2005) *Resolving Environmental Disputes*, Earthscan, London

Slater, D (2007) "Reconciling Ground Nesting Birds and Access", in Bull, M. Ed. *Outdoor Recreation and Nature Conservation, 2007 Seminar Proceedings of the countryside Recreation Network*, 24 January 2007.

ACRONYMS

AMGS	Access Management Grant Scheme
CA	Countryside Agency
OAM	Open Access Monitoring
CLA	Countryside Landowners Association
BBS	Breeding Bird Survey
BTO	British Trust for Ornithology
DNPA	Dartmoor National Park Authority
ELMF	Environmental Land Management Fund
EN	English Nature
HA	Highway Authority
LO	Landowner
NAO	National Audit Office
NE	Natural England
NPA	National Park Authority
PDNPA	Peak District National Park Authority
ScRS	Scottish Recreation Survey
SNH	Scottish Natural Heritage
SSSI	Site of Special Scientific Interest

ANNEX 1: Questionnaire to National Park Authorities used in Phase 2

Countryside and Rights of Way Act in England - Assessment of the Impacts of Access on behalf of the British Mountaineering Council

Background

The initial phase of the research consisted of an assessment of the monitoring of the use of access land, following recent legislation that is being undertaken by the relevant countryside agencies in England and Scotland. This work was undertaken on behalf of the Ramblers' Association and the British Mountaineering Council (BMC) and considered:

1. Changes in levels of recreational use of the countryside
2. The potential impact of increased access on wildlife
3. Access restrictions
4. Benefits to the rural economy
5. Any other significant issues or problems arising as a result of increased public access
6. Evidence of any decline in land values attributed to increased access.

The initial contacts provided by the sponsors were contacted by telephone and email using a simple questionnaire. The following agencies were included: Countryside Agency, English Nature, the Dartmoor, Peak District and Yorkshire Dales national park authorities in England and SNH in Scotland. The overall response by these agencies in this initial stage was very helpful. They provided considerable documentary material for further analysis and suggested other contacts in other national park authorities. The respondents considered the research to be both valuable and timely and are interested in obtaining the results, particularly comparing developing practice in England and Scotland.

The initial research concluded that while monitoring is at an early stage and it is too early to draw firm conclusions, there is a considerable volume of information and that several topics are worthy of detailed analysis. BMC has therefore decided to proceed to a second stage of research entailing a detailed analysis of the available data on topics 1, 2, 3 and 5, which will form the basis of a report comparing the different approaches embodied in the access legislation north and south of the Border.

Information is being obtained from Natural England and Scottish Natural Heritage on their monitoring programmes and it is important to know what monitoring is being undertaken by National Parks. Information on the topics outlined in the Annex on Page 2 would be much appreciated.

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ANNEX 2 - Topics of Interest

1. Changes in Levels of Recreational Use

Please provide details of:

Specific surveys on Access land: whether there was baseline data; the ability to detect changes in levels of use of sensitive areas; and the availability of these data.

2. Potential Impacts of Increased Access on Wildlife

Please provide details of:

Specific assessments of sites identified to have sensitive features

Access management agreements and sites managed under Best of Both Worlds principles

3. Restrictions on Access for Land Management and Public Safety

Please indicate:

Whether the NPA has been notified of all 28 day restrictions made by landowners, the reasons for these restrictions (e.g., essential land management, safety or fire risk), what records are held and the availability of these data.

Are records kept of restrictions being imposed because of 'irresponsible' behaviour following increased access? If so, by whom?

The National Audit Office Report highlighted areas, such as the Forest of Bowland; Henroost, Dartmoor; Pen-y-ghent; and Dragon's Back in White Peak where open access has a controversial history.

Please identify any areas in your national park which fall into this category and whether their use is being specifically monitored? If so, by whom and are these data available?

Is increased access having detrimental effects this or other formerly restricted sites and has this led to further restrictions?

4. Any other significant issues or problems arising as a result of increased public access in the National Park?

Please provide details.

Endnotes

ⁱ Based on Sidaway 2005, Chapters 2 and 10

ⁱⁱ Section 15 of CROW specifies: Section 193 of the Law of Property Act 1925; A local or private Act, or a scheme made under Part I of the Commons Act 1899; An access agreement or access order made under Part V of the National Parks and Access to the Countryside Act 1949; or Section 19 of the Ancient Monuments and Archaeological Areas Act 1979.

ⁱⁱⁱ Relevant authority means National Park authority or appropriate countryside body (CROW, Section 21, 5)

^{iv} There are no surveys specific to access land in the New Forest. The Tourism South East Survey provides some baseline data but is not specific to access land. Several NPAs, including Northumberland and the Peak District are participating in surveys of dogs on sensitive conservation sites initiated by English Nature.

^v While there are no baseline data for areas to which the public did not have access prior to the enactment of CROW in the Forest of Bowland and the South Pennines, some information has been collected since enactment suggesting some increase in use of areas formerly closed to the public and the need continue monitoring of these sensitive conservation areas.

^{vi} Further details of the process are available and the complete files on each site are stored with the CA regional case officers (EN 28.7.06).

^{vii} Bowland Open Access: People and Hen Harrier Monitoring Project, 2005.

^{viii} This section summarises the Report of the Review of AMGS, which was provided by Natural England

^{ix} For example, management measures agreed with English Nature in the North York Moors included on-site information provision - through the installation of 66 primary and secondary open access formation boards at prime access locations to moorland blocks and increased monitoring of public use.

^x This section is based on the responses of Natural England's Open Access Restrictions Team. Landowners are required to notify the use of discretionary restrictions to the national Open Access Contact Centre in Belfast, rather than the NPA directly

^{xi} (Walk, 2004 #4, 22-3)

^{xii} (NAO, 3.14).