

Peak District Local Access Forum

On: Saturday 18 March 2006

At: Losehill Hall

Agenda

Start: 10:30 am

1. Apologies
2. Minutes from the last meeting on 1 December 2005
3. Matters arising
4. Draft Annual Report 2005
5. National Park Authority access budget
6. Moors for the Future visitor surveys
7. Dogs on access moorland
8. Derbyshire CC ROWIP progress report
9. ROWIP updates from other Authorities
10. DCC Open Access report
11. Peak District LAF regional event
12. Feedback from Members
13. Any other business
14. Dates of next meetings

Mike Rhodes

Andy Jones

John Lees

Gill Millward

Gill Millward

Andrew McCloy

Close: 12:30 pm

Peak District Local Access Forum

Date: 18 March 2006

Item: 7

Title: Dogs on Access Moorland

Author: John Lees

Purpose of the Report

This report provides a summary of the current legal situation regarding dogs on open country, and outlines the reasons why control of dogs is regarded as important. It goes on to suggest that the law is largely unworkable and proposes a different approach to law and enforcement.

Background

i) Under the 1949 National Parks and Access to the Countryside Act, Access Agreements covered approximately 70,000 acres of Peak District Moorland. Byelaws were introduced, one of which required dogs to be on the lead on land covered by Access Agreements except on public rights of way where they merely had to be 'under control'. The byelaw provided for a potential fine of £500 for dogs being off the lead. Prosecutions were exceedingly rare but the byelaw was a very useful tool to persuade people to put dogs on the lead. Nevertheless the byelaw was not very successful. By the time it was introduced, people were used to having their dogs off the lead and the Rangers did very little to enforce it. Gamekeepers and Sheep Farmers were reticent in using the byelaw because of Public Relations and the fear of vandalism in retaliation. Some dog owners can be exceedingly abusive, particularly to Keepers.

ii) It is a fact that many moors which are managed for grouse are also very good for Biodiversity and in particular other ground nesting birds and dwarf shrubs. This is because, on grouse moors, sheep numbers are controlled. In the Peak District the level of grazing on a well managed grouse moor was generally restricted to one ewe per four acres (1.6 ha.) and sometimes as few as one ewe per five acres (2 ha.). Indeed, on some moors, sheep were sometimes banned completely to allow dwarf shrubs to recover after a period of overgrazing or severe summer fires.

iii) This low level of grazing is the reason why dwarf shrubs thrive on moors managed for grouse and is in very distinct contrast to areas such as the Lake District and most of the Welsh hills where grazing levels have been very much higher, frequently over one ewe to the acre and where the dwarf shrubs have been substantially destroyed.

iv) As a result of the greater biodiversity on moors managed for grouse, very many grouse moors have been designated as Sites of Special Scientific Interest and Special Protection Areas. This has subsequently led to very interesting discussions, if not conflict, between moor owners and English Nature on how best to manage grouse moors.

v) On well managed grouse moors the moors were kept as quiet as possible during the nesting and lambing season. Shepherds were not allowed to gather their sheep at this time and Shepherds and Keepers largely kept their dogs off the moors.

vi) Under Access Agreements negotiated under the 1949 Act, moor owners received annual compensation which reached a figure of about £4 per acre per annum or perhaps 10p. per visitor. This was to cover sheep and lamb losses, vandalism, increased fire risk and increased management costs in supervising the access.

Current Situation

i) The Countryside and Rights of Way Act 2000 (CROW Act) permits public access on foot for informal recreation to all open countryside. (Mountain, Moorland, Down and Heath).

ii) On the question of Dogs the Act makes several provisions the result of which has created a very confused situation. These provisions are as follows.

- a) Dogs can be excluded from enclosures of not more than 15 hectares during the lambing season, defined as a period of 6 weeks. This provision can be implemented as of right by a sheep farmer. (S.23 (2))
- b) Dogs can be banned at all times of year from moors managed for grouse. This provision can be implemented by Grouse Moor owners as of right, but not by someone holding a shooting lease over the land. (S.23 (1))
- c) Dogs have to be on a lead in the vicinity of livestock. Vicinity is not defined in the Act. Does it mean within 100m. or does it mean in sight? Sheep are often encountered as you go round a bend in a path or over the brow of a hill. The dog-owner may be unaware of their presence until it is too late. The sheep are taken unawares and run and the dog is too tempted to resist the instinctive joy of the chase. This provision is therefore impractical and very difficult to enforce. (Sch.2 (5)).
- d) Dogs have to be on the lead at lambing and nesting time defined as 1 March - 31 July, A recent survey by Rangers in the Peak District found that 41% of dog owners ignored this very reasonable requirement. Dogs running free at this time are totally unacceptable and can cause very considerable damage. Just as important is the great anxiety caused to Shepherds and Keepers alike who have to

keep a much more watchful eye on the sheep flocks. Those who drafted the CROW Act may not have appreciated that on many grouse moors lambing takes place on the moor itself. What was also not appreciated is the fact that ewes are very vulnerable between tupping time (when the ewes are put to the Ram) and lambing time i.e. the whole period when the ewes are pregnant. As one farmer put it "The last thing you would want is your pregnant wife chased over the hills by a couple of wolfhounds!" Abortions are often caused by in-lamb ewes being chased. The restriction requiring dogs to be on the lead at lambing time should at the very least be extended to include the time when they are in lamb. (Sch. 2 (4)).

- e) None of the above restrictions apply to public footpath or bridleways where dogs merely have to be under control. However on concessionary footpaths the restrictions may apply.

iii) The result of the above provisions is utter confusion to the public. On one short walk a person can pass through several scenarios as follows:

- a) He can start off on a public footpath through a grouse moor where dogs are banned throughout the year. The dog has to be under control.
- b) He can proceed onto a concessionary footpath where dogs may or may not be allowed except on a lead depending on the terms of the concession.
- c) He can then proceed onto a sheep track which looks like a footpath but isn't and the dog has to be on the lead.
- d) He can then cross an unmarked boundary between two moors and find himself on a moor where dogs can run free.
- e) He can then climb a stile into a 14 ¹/₂ hectare enclosure used for lambing and find that dogs are not allowed at all because it is lambing time.
- f) He then retraces his steps and takes an alternative route where he knows dogs can be off the lead only to go over a brow of a hill and find six sheep with lambs being hotly pursued by his enthusiastic dog which may have "no intention of killing but enjoys the chase and separates the lambs from the ewes.

Chaos!

The regulations are very confusing. For a dog owner to know "which regulation applies where" would require a plethora of signs. Where do you put the signs in open countryside where moorland ownership and dog regulations change? Every 100 metres?

Proposal

- i) The provisions must be drastically simplified so that people know and understand what they are.
- ii) Dogs should be on a fixed lead at all times on all SSSIs and SPAs designated because of their fauna.
- iii) Grouse moor owners whose moors are not designated as SSSIs and SPAs should be able to apply as of right for a restriction that dogs are to be on a lead at all times.
- iv) In such SSSIs and SPAs dogs should be on the lead even on public footpaths and bridleways.
- v) Where possible, certain areas of open countryside should be designated as areas where dogs can run off the lead.
- vi) Many moorland owners feel very strongly that dogs should be totally banned from grouse moors, (not even on the lead). There are some very sensitive areas where dogs should be banned absolutely. It is understood that in other countries, such as Australia and New Zealand, dogs are totally banned from several National Parks. In such countries they now take the preservation of wildlife far more seriously than we do. Rangers in National Parks in England and Wales are being advised by the park authorities they should only attempt to enforce such a ban during the lambing and nesting season. At other times the ban is up to the moor Owners and their Keepers to enforce. Many feel this is impractical and there is no point in having a ban that is unenforceable.

PENALTIES AND ENFORCEMENT

- i) Under the CROW Act the penalty for being in breach of the regulations is the possible exclusion from the moor where the offence occurred, for a period of 72 hrs. This does not apply to adjoining land in different ownership. It is a totally unenforceable provision. In effect the person concerned becomes a trespasser but the law of trespass is very weak. What calculable damage has a dog owner caused if he refuses to put his dog on a lead? The potential damage is very considerable but the actual damage may be nil.
- ii) The CROW Act relies on education, common sense and good behaviour. Similar high principles might apply to speeding offences and dropping of litter but this approach is known to have failed. Regulations have to be backed not just by education and enlightenment but by potential penalties.

- iii) There should be a penalty for unlawfully having a dog off a lead in the circumstances defined above. This should be say £250 for a first offence and say up to £1,000 for a second offence. Rangers, Keepers and Shepherds should be encouraged to use the fine as a last resort i.e. where dog owners refuse to put the dog on the lead, where dogs have been running wild and causing disturbance, or where dog owners persistently allow their dogs off the lead.

Recommendation

The Forum recognises the concerns expressed in the above report and proposes that it be forwarded to NCAF, The Countryside Agency, English Nature and Defra for consideration and the necessary action to resolve the issues.

Options:

- 1. The Forum recommends that the national restrictions on dogs, as laid out in the CROW Act, should be enforced by a combination of education, information and direct contact.**
- 2. In addition to option 1. the Forum advises the Peak District National Park Authority to seek a byelaw on the question of the control of dogs on access land.**
- 3. The Forum supports the need for primary legislation to deal with the issue of dogs on access land to include the consideration of a substantial fine for the breach of such a law.**

Peak District Local Access Forum

Date: Saturday 18 March 2006

Item: 8

Title: Rights of Way Improvement Plan (ROWIP) for Derbyshire

Author: Gill Millward, Countryside Access Improvement Officer, Derbyshire County Council

Progress Report

a) Analysis and assessment of data

- A date has been set for a sub group comprising members of both the Peak District LAF and the Derby & Derbyshire LAF (DADLAF) to consider the results emerging from the ROWIP public consultation exercise in more detail. The meeting will take place at Cromford Mill on Wednesday 22 March 2006. We are still finalising exactly who will attend in order to provide a balance between the two LAFs. To date members from the Peak District LAF who have definitely been invited to attend are Andrew McCloy and Henry Folkard. Terry Howard and Richard Marshall may attend dependent on who is attending from the DADLAF.
- We are currently working with the Rights of Way team and others in order to carry out an assessment of the current network in order to compliment the public consultation exercise.
- We are intending to organise a workshop to which all members of both the Peak District LAF and DADLAF will be invited in order to present the results from the consultation exercise and the in house assessment. The aim of the workshop will be to agree how the results can be amalgamated into themes in order to progress the Statement of Action. The workshop will take place at the end of April or the beginning of May.

b) Local Transport Plan (LTP) Links

- Progress reports have been finalised for inclusion in the Second Local Transport Plan for Derbyshire.
- Defra produced further guidance at the end of January for Highway Authorities on the integration of ROWIPs and LTPs. The Derbyshire progress report was cited as an example of good practice for identifying specific pots of money within the LTP for the delivery of the ROWIP.
- Specific LTP capital funding has been allocated for the delivery of the ROWIP and to general rights of way maintenance works for 2006/07.

Revised timetable for the production of the Derbyshire ROWIP

- As reported at the last meeting the timetable for the production of the ROWIP, as presented to the Peak District LAF meeting on 6 March 2004,

has slipped due to the extra work that has been required to link the ROWIP to the Local Transport planning process.

- Officers have taken on board comments made about the need to coordinate the timetable to fit in with LAF meetings and the revised timetable takes this into account. We have also made sure that the revised timetable does not jeopardise the receipt of LTP2 funding.
- The revised timetable for the completion of the key stages of the ROWIP is proposed as follows:

Analysis and assessment results to be presented at the joint LAF workshop in April/May 2006

Statement of Action to be presented to the LAF meeting in June 2006

Draft ROWIP to be presented to the LAF meeting in September 2006

Final ROWIP to be presented to the LAF meeting in March 2007

Recommendation

The Forum supports the revised timetable for the production of a Rights of Way Improvement Plan for Derbyshire.

Peak District Local Access Forum

Date: Saturday 18 March 2006

Item: 10

Title: Derbyshire County Council - Open Access Land Update

Author: Gill Millward, Countryside Access Improvement Officer,
Derbyshire County Council

Access Management Grant Scheme and works on the ground

- Cabinet Member approval has now been given to undertake basic signing of the new open access land off existing rights of way or carriageways before the end of March 2006, taking advantage of the grant scheme available. This work will be carried out by area staff within the Countryside Service.
- Further member approval has been given for more detailed plans to be drawn up in conjunction with landowners and the Local Access Forum for works to be implemented under the Scheme during 2006/07.
- It is suggested that a Sub Group of the LAF is established to help identify any additional works relating to promoting and managing access at those sites in Area 2 which lie outside the Peak District National Park. All forum members will subsequently have the opportunity to comment on the Access Management Plan when it produced. This will form the basis of the bid to the Countryside Agency for the next stage of the Access Management Grant Scheme.