

ENVIRONMENT, PLANNING AND TRANSPORT COMMITTEE

Date: Wednesday 29 November 2000

Time: 12.30 to 4.00 pm

Title: **Countryside and Rights of Way Bill: Submission from the Country Landowners Association**

How the provisions of the Bill should be implemented in Wales.

The Bill provides over 30 powers to make regulations. These regulations add the detail to the operation of the provisions to provide a statutory right of access, improve rights of way, and enhance SSSI and ANOB provisions.

The CLA has invested a great deal of resources and time in improving the original provisions to the Bill for the benefit of both the general public and land managers. Although improvements have been made, we feel there are still areas which require further adjustments.

We would not in any way want to see a retrogression to the current provisions through poorly developed regulations. The Government have provided many assurances as to how the provisions are expected to operate. Any subordinate legislation produced by NAW must not conflict with assurances provided by Ministers.

It is assumed that any such regulations produced will be subject to consultation by interested parties. The Wales National Countryside Access Forum is one forum for consultation on access issues. However, this is no substitution for direct consultation with representative bodies such as the CLA. Similarly, there should be full consultation on all regulations under other parts of the Bill.

Set out below are issues that full account needs to be taken of, and provided for, in the secondary legislation.

Amendment of the definition of open country

The National Assembly for Wales is reminded that CCW, in making their recommendation to Central Government as to the extension of a statutory right of access, concluded:

"... that a statutory right of public access to coastal areas is untenable and would compound problems associated with the management of visitors and the conservation of sensitive ecosystems such as dunes and estuarine flats. The voluntary approach provides significant opportunities for improving recreational access but ensures retention of management control."

The NAW must take full account of the advice of CCW. Access to coastal land will undoubtedly compound problems already associated with access and conservation and land management. The advice from the CCW showed that there is no need for any additional extension to the right of access. The voluntary approach provides high quality access tailored to the needs of the user. Any additional access should be provided by these means, as is currently the case, for example, on Anglesey.

The making and reviewing of maps

Section 4 maps are the corner stone to providing the statutory right of access. Therefore, the process must be sufficiently robust to stand up to scrutiny that consultation is sufficiently detailed, thorough, and follows the general assurances provided by Ministers in both the Commons and the Lords (points a to g below). NAW must ensure that, in undertaking their duties:

- a. CCW should map open country that is agricultural land only if it is used for rough grazing. Other land should not be mapped. It is not expected that semi-intensive or intensive managed grassland will be identified at the mapping stage.
- b. Any appeal against inclusion of land on the section 4 maps must be heard by an independent and impartial body.
- c. Access provisions must come into effect only once the preparatory work has been completed (the land mapped, any byelaws, closures or restrictions in place, and the public, local authorities and land managers fully informed of their rights and responsibilities).
- d. Areas that are impractical and create difficulty and uncertainty for users and landowners alike must not be included on the statutory maps.
- e. The test that land is 'wholly or predominantly' open country must not lead to the wholesale inclusion on maps of land which is not open country.
- f. The CCW must be at pains to be fair and objective in their judgements arising from their discretion to map what appears to them to be wholly or predominantly open country.

- g. The mapping of open country must be a highly focused task, on a parcel by parcel basis, looking at individual fields to identify and exclude land which is not semi-natural, unimproved grazing.

Voluntary dedication of land as access land

NAW have various duties under section 16. There must be wide consultation on which interests should be prescribed for the purpose of clause 16(2), an assurance provided by Ministers. NAW are also expected to ensure in their regulations that where an owner lifts various schedule two restrictions on dedicated land (as he has the right to do), such an act will not be binding on successors of a title. This was again an assurance by Ministers.

Closures/restrictions of access land

The Government have consistently stated that the new right of access will not unduly impose on the interests/operations of land management. NAW must ensure that the operation of the closures regime stands up to this commitment. Based on assurances provided during the passage of the Bill through Parliament, we expect the following to be standard as to the closures regime.

- Ignorance that a restriction is in place on access land will be no defence to someone exercising their right of access. They will be trespassing.
- NAW will ensure that arrangements will be in place to deliver the education, information and publicity about responsibilities and the application of restrictions. These must be developed in parallel with the mapping process so that they will be in place well before the rights come into force.
- The 28-day period (for discretionary closures) can be extended on application to the Countryside Council for Wales. Consent must not be unreasonably withheld
- "Land management" has a wide application, embracing not only agriculture, but other activities on the land that intrinsically require the use of land to be managed, including sporting and connected activities, as well as commercial activities, such as the use of land for motor sports, pop festivals, and war games. (This also includes shooting and pest control)
- Regulations to tackle animal and plant health problems will take precedence over the right of access.
- **Dogs**

Full account must be taken as to the effects of dogs on access land. Where provisions contained in the Bill still fall short of ensuring that disturbance to wildlife and land management is minimised NAW must take action and provide a remedy.

COUNTRY LANDOWNERS ASSOCIATION

22nd November 2000