

Unconfirmed minutes – to be confirmed at the next Forum meeting

Countryside Access Forum for West Sussex (CAFWS)

At a meeting of the Forum held at Pulborough Village Hall, Pulborough on 29th October 2008.

Present:

Mr Peter Brown (Chairman)

Mr Bill Acraman	Mrs Helen Baldwin	Mr Phil Belden
Mr Chris Boocock	Mrs Tricia Butcher	Mr Derek Deedman
Mr Dave Evans	Mr Trevor Passmore	Mrs Ronnie Perrin
Mr David Ribbens	Mr Nigel Sloan	Mrs Sue Strudwick
Mr Peter Tompkins	Mr David Whyberd	Mrs Shirley Wright
Mr Anthony Young		

West Sussex County Council (WSCC) Officers: Craig Bowdery, Lisa Creaye-Griffin, Christine Luff, Fiona MacLeod and Jane Noble.

Also present were John Archer, NFU and Becky Lawton and Lysiane den Breejen, WSCC Rights of Way Officers.

Apologies were received from Glynn Jones, Alan White and Ann Janes.

Welcome

103. The Chairman welcomed those present, including Anthony Young, who had recently joined the Forum and would be representing cycling in the county. The Chairman also welcomed the reappointment of David Whyberd, and informed the Forum that Jason Emrich had decided not to be considered for re-appointment and is therefore no longer a Forum Member. It was agreed that Jane Noble would write to Mr Emrich to thank him for his positive contribution to the Forum and to access issues in West Sussex. Members of the Forum were also informed of the new Secretarial arrangements. Due to a change in Fiona MacLeod's job responsibilities, Craig Bowdery was now the Secretary to the Forum and would handle the administrative functions of the Forum, and Jane Noble would be responsible for the technical aspects of the Forum's work. Members of the Forum noted the change, and recorded their thanks to Fiona MacLeod for her hard work and enthusiasm.

Declarations of Interest

104. There were none.

Minutes of the last meeting

105. Members requested that Shirley Wright's apologies be recorded in the minutes of the last meeting, and that minute 66 be corrected to reflect that the gate that had been erected on RB952 was in Graffham and not Heyshott.

106. Resolved –

That subject to the inclusion of Shirley Wright's apologies and the correction to minute 66, the minutes of the Countryside Access Forum for

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West Sussex meeting on 2nd July 2008 be approved as a correct record and signed by the Chairman.

Matters arising

107. With reference to minute 68 of the previous meeting concerning locked gates on G roads in the East Dean and Thakenham areas, members asked whether any progress had been made. They were informed that the gate in Thakenham had been successfully unlocked and access restored. In East Dean the gate was now open and unlocked, but there remained the chains and locks to allow the gate to be locked at any time. Christine Luff undertook to investigate the matter with Jon Perks, the County Council's Principal Rights of Way Officer. Members also enquired about the output of the Rights of Way Improvement Plan workshop. Jane Noble agreed to circulate this to members as soon as it was ready.

108. In relation to minute 69, members voiced their concerns on the issue of the Highways Agency's (HA) consultations and the lack of communication between the HA and their contractors InterRoute, who carry out the physical work. It was noted by members that the consultations carried out across the county by the HA, displayed little consideration for access issues and that CAFWS should work to raise awareness of their concerns, particularly in terms of dangerous road crossings. It was agreed therefore that dangerous road crossings should be a theme for a later meeting, with representatives from the HA invited to attend.

109. Christine Luff provided an update and a summary of the situation at Pitshill, in response to minute 67 of the previous meeting. Diversion and extinguishment orders were made by Chichester District Council in 2006 and objection was lodged to these orders by WSCC and others. A Public Inquiry was held October 2007. By way of Judicial Review which is proceeding, the applicant has challenged the Secretary of State's Inquiry Inspector's subsequent decision not to confirm the orders. A fresh diversion and extinguishment application was made to Chichester District Council in May 2008. At the Rights of Way committee on 22nd September 2008, members resolved to object. The District Council on 16th October decided to approve the new application. When Orders are published by Chichester District Council, an objection will be entered by the County Council.

Urgent Matters

110. Lisa Creaye-Griffin updated members on the situation regarding WSCC's finances as a result of the Icelandic banking crisis and the economic downturn. Members were informed that WSCC was £10million short of meeting the projected cost of the forthcoming year and that WSCC were one of many public authorities who had been affected by the collapse of Icelandic banks. WSCC had £12.9million invested in Heritable, which was owned by the Icelandic bank Landsbanski but was British licensed. Despite this, the Corporate Plan for 2009-10 included a commitment to increase the number of people who walked and cycled, and access issues were still a priority for WSCC. Members were also informed that while WSCC was low on available income, officers could still act as a signposting service to external funding.

Legal rights and responsibilities of the occupier/landowner relating to public access to the countryside

111. The Forum welcomed Karen Jones, a barrister with Thring, Townsend, Lee & Pembertons, who provide the National Farmers Union's legal service for their members in the South East. Karen Jones gave a presentation on the legal rights and responsibilities of the occupier/landowner regarding access, and what they are liable for. The Forum was informed that the landowner/occupier has an automatic duty of care for individuals who they have invited onto their land, but there was no automatic duty for trespassers. The landowner is only liable in instances when he or she knows, or has reason to believe, that there are people on the land in the vicinity of a hazard and when it is reasonable for the occupier to take steps. It was therefore a misconception that a landowner must make their land safe for everyone at all times. There was confusion as to what to do in detail, and cases do turn a lot on their facts. However, in a landmark case, *Tomlinson v. Congleton Borough Council and Others* (2004), the House of Lords indicated that individual entrants must, to a large extent, take personal responsibility if they undertake dangerous activities. A sensible landowner would ensure that entrants are warned of hidden dangers, perhaps by signs. The development of 'no win, no fee' lawyers has however brought a large increase in the number of claims made, which has led to landowners having to be more cautious, as it can be the case that it is cheaper to settle than to fight a case in court, even if the claim is not really very strong.

112. Members asked who would be liable if a walker injured themselves as a result of tripping on a rabbit hole on a footpath. If this hypothetical example took place on a public right of way, it might be possible to question whether the Local Authority had discharged its duty to maintain the rights of way network. If however it was on a privately maintained public right of way (of which there are very few in the country, and none in West Sussex), there was no landowner liability as they were unable to restrict access, and were therefore unable to close a path for remedial work to take place. Private landowners did however have to be aware of, and take measures against, dangerous trees (*Poll v Bartholomew* (Viscount of Asquith & Morley) May 2006) and animals as part of their duty of care.

113. Members also enquired who would be responsible if a horse was spooked by a bird and caused injury to passers-by. Karen Jones explained that a series of cases had made clear that, as well as the possibility of a negligence claim, there was the potential to be liable under the Animals Act 1971, where an animal reacted at a particular time or circumstance and someone was hurt. The cases were slightly inconsistent, but in the situation described there was the potential that the keeper of the animal could be liable. It depended on the detail. In response, members asked whether this would still apply if it were a cyclist that was injured after they had spooked the horse by cycling in an unsafe manner. A cyclist has a duty of care to those around them and the owner of the horse would probably have a defence that the cyclist had caused the problem.

114. Karen Jones also updated the Forum on the legal liabilities on the relatively newly-defined open access land. By their nature, such areas could be quite hazardous to users, so landowners had no duty to compensate for harm caused by natural features. In the legislation that defines open access land, it also includes the instruction that the establishment of the land should not place an undue burden onto the landowner. She was not aware of increased insurance

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premiums caused by the new right. In response to a question from the Forum, Karen also explained that the landowner could be held responsible for barbed wire that they had installed alongside footpaths where it caused harm because it had been installed in a dangerous fashion; it depended on the facts. If a landowner ensured that the barbs faced away from the path this would probably suffice. Similarly, care had to be taken with the placing of electric fencing. The Chairman and the Forum thanked Karen for her presentation and for answering their questions so clearly.

The role of volunteers in Rights of Way management

115. Ian Hartle, Volunteer Co-ordinator for the South Downs Joint Committee (SDJC), gave a presentation on how volunteers help the SDJC in their work (copy of presentation appended to signed minutes). The Volunteer Ranger Service has approximately 370 active volunteers, who contribute to a wide variety of tasks. In 2007-08, the work carried out by volunteers equated to 5,966 days of work in areas such as path monitoring and reporting, office-based work, rights of way maintenance and other practical tasks. The Forum was also informed of the support that the SDJC gives to the volunteers, and of the positive feedback that it receives from them.

116. Members asked whether the role of the volunteer would change under the proposed national park. Ian Hartle explained that in other parts of the country, there were large scale national parks that had succeeded in maintaining volunteer interest. Phil Belden confirmed that in the past when announcements on national parks had been made, there had been a large increase in interest and volunteers and it was possible that there may not be the capacity to administer this high level of interest.

117. Jane Noble informed the Forum of the work of the British Trust for Conservation Volunteers (BTCV), who carried out some work to improve access, but focussed mainly on conservation work. WSCC is currently considering if and how it can engage with volunteers more on Rights of Way work, and Lisa Creaye-Griffin reminded the Forum that WSCC Countryside Rangers do considerable work with volunteers on conservation and access projects. Phil Belden emphasised the positive impact of volunteers and their contribution to community engagement, and suggested that CAFWS should promote their value at every opportunity. The Chairman agreed with Mr Belden and highlighted that an agenda item on Parish Council volunteers was planned for the subsequent meeting, and thanked Ian Hartle for his presentation.

Access to Forestry Commission land

118. Following the discussion at the July 2008 meeting of the Forum, members expressed their disappointment at the responses given by the Forestry Commission (FC) regarding access to FC land. The Forum did not accept that the FC could do nothing to improve access on their own land, especially as the FC was known to be more proactive in other areas. Members voiced the opinion that the FC in West Sussex seemed to have a disregard for the public rights of way, as shown in actions such as making footpaths unusable after churning them up with tractors.

119. The Chairman agreed that there were two main issues regarding the FC: that there was no clear commitment from the FC on improving public access, and

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that at a local level they were very short-staffed with a high turnover. Phil Belden echoed the disappointment of other members and argued that as the FC were funded by public money, they should have a greater emphasis towards performing a public service. Mr Belden also suggested that if the FC were short-staffed, the SDJC would be able to offer support and that the SDJC could help them to re-assess the leases of the land. It was however noted that the FC did not seem to be willing to accept any help. Anthony Young highlighted to the Forum that the FC are capable of delivering an excellent service, for example some of the best mountain biking trails in the country are on FC land. It was however conceded that the FC should not need to be pressurised into delivering but should have a co-operative and proactive approach.

120. It was agreed that members of the Forum should note and submit specific issues of concern, which would be included in a full report paper for the next meeting of the Forum. It was also agreed that the topic should be included on the work plans of the sub forums and specifics fed into the RoWIP process.

Action – members to report to Jane Noble

Working Groups

Access to the Countryside for Those with Limited Mobility

121. The working group had nothing new to report.

Off Road Cycling

122. The Forum noted a report on the work of the working group that had been prepared by Glynn Jones, and the appearance of the article in CycleRight magazine that had been produced. Jane Noble thanked the Forum for its help in producing the article and reported that the magazine will be circulated widely, including to all children who participate in cycle training provided by the County Council, and would appear on the WSCC website in due course. CAFWS have not been specifically named in the article due to space restrictions and the need to keep the message clear and concise. The Working Group felt that the best way to inform riders about responsible riding and respect for others and the land was to develop a series of routes guides on a web-site. There are some issues with posting these on the CAFWS website as it is administered by WSCC and therefore routes would have to be checked by WSCC. Mr Acraman questioned what the issues were and it was agreed that the inclusion of the routes on the WSCC website be investigated further.

123. Peter Tompkins noted that the report appeared to be biased against mountain bikers and suggested that they were not the only group that needed educating. Off road cycling was now an established sport and recreational activity that was enjoyed by a wide variety of people, and not just by newcomers to the countryside but by those who understood and respected countryside conventions. Mr Tompkins also noted that as a walker and a mountain biker, he had never encountered any conflict between the two activities and that any problems that arose resulted from a minority of users. In response to a question, Mr Tompkins explained that from the mountain biker's perspective, walkers and horse riders were sometimes the cause of a potential conflict by walking/riding in pairs and not allowing the cyclist to pass. It was suggested that this was often the result of the walker or the horse rider simply not knowing that they were in the way as they don't always hear a bike behind them, and that as such bells

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could be a solution. Mr Tompkins however highlighted that in his experience, ringing a bell behind walkers or horse riders often startled and caused more offence and so were not necessarily to be encouraged. Chris Boocock informed the Forum that across the country trail centres that were dedicated to mountain biking were being developed to avoid issues such as this and were proving to be popular with all groups. Mr Boocock also highlighted that cycling was an inclusive activity that all ages and abilities could enjoy and as such should be encouraged and not labelled as a problem.

124. Bill Acraman suggested that the formally organised events should be encouraged as they appeared to be well-run and caused few problems for other users of the countryside, and that the problems arose when it was individuals cycling in smaller groups. Sue Strudwick however informed the Forum that she knew of instances when the South Downs Way was used for organised events of different disciplines simultaneously, and the resulting conflicts ended in injuries being sustained. As such it was suggested that a diary be developed for the South Downs Way to avoid clashes occurring. Phil Belden explained that the SDJC do diarise events and try to encourage groups to avoid dates that clash with others, but that they were not always informed of events taking place. Sue Strudwick requested this was circulated as it used to be. The Forum agreed that the Off Road Cycling working group should meet again and produce a fuller report on issues raised by cycling in the countryside.

Reviewing promotion of walking in West Sussex

125. Ronnie Perrin agreed to co-ordinate the group, with Dave Evans, Nigel Sloan and Ann Janes also contributing. It was also agreed that the group would begin by looking to develop the Guided Walks Programme.

Sub Forums

126. The Chairman informed the Forum that he had recently attended all of the three sub forums, and was extremely impressed by the work they were all doing. Chairmen had been elected at all sub forums and are: Peter Brown (Coastal Plain), Dave Evans (Low Weald) and Tricia Butcher (High Weald). The Forum noted the unconfirmed minutes of the three sub forums and the work programme for the forthcoming year. It was also decided at the sub forums that to avoid confusion, Sion Evans would now always be referred to as Dave Evans.

127. James Ort, Secretary to South Downs Access Forum, updated the Forum on the work of the South Downs Access Forum (SDAF). There were four specific policies that the SDAF could assist with, which would be worked upon through workshops rather than formal meetings. The four policies were:

- Improving visitor movement – this was aimed mainly at improving the car parks across the South Downs. An audit of the car parks was currently being undertaken, with the intention being to develop an annotated map for users and an awareness of locations where work was needed.
- Users and access for all – SDAF were helping to identify a list of all access providers in the area.
- Rights of Way Improvement Plans – work was underway to ensure that all RoWIPs across the South Downs were consistent and a workshop was planned for 27th November 2008 to work on this. Members of CAFWS were invited to attend this workshop, and an invite with full details was to be sent following the meeting.

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- Developing new access – it was hoped that improved information on access rights could be developed, for example advising people how to get to places of interest.

Jane Noble reminded Members that details of the SDAF work programme had previously been circulated.

128. Members asked whether the protection of flora, fauna and wildlife was part of the SDAF's work programme, and James Ort explained whilst it wasn't currently part of their work, it could be. Phil Belden explained that the SDJC already work with farmers and landowners to promote and protect the plant and animal life of the South Downs, and as such SDAF should focus on access issues. It was also suggested that SDAF could look into developing guided walks onto open access land.

Current strategic developments

129. The Forum noted the submissions made to the consultations on the **West of Bewbush Submission Joint Area Action Plan** and for **Site 6, Bognor Regis**. Tricia Butcher suggested that CAFWS should make a formal contribution to the public hearing (which is part of the overall Examination) into Crawley Borough Council's West of Bewbush Joint Area Action Plan (the JAAP). The hearing opens on Tuesday 20 January 2009 at Crawley Town Hall. It was felt that input from CAFWS would have a greater impact than from individual members.

130. Resolved –

That Tricia Butcher represent CAFWS at the public hearing in January 2009 on the West of Bewbush Masterplan.

Current/Future Consultations

131. The Forum noted the response to the consultation on the **Pagham to East Head Coastal Defence Strategy**.

132. The Forum also noted a paper on the National Trust's proposal to erect fencing around **Marley Common** (copy appended to the signed minutes). Members of the Forum supported the proposal, and were pleased that so many access points were to be provided and that efforts were being made to site the fencing to minimise visual intrusion. Members questioned the breed of cattle used for grazing on the common as similar projects had used different breeds. It was explained that different ancient breeds of cattle work for different areas, and that there were many different variables to consider. The choice of breed may also have been determined by the availability of the cattle.

133. The Forum was also updated on the Defra consultation on the detail of the development of **Commons Councils**. The formation of a Commons Council will require the Secretary of State's consent and the proposals primarily focus on voluntary management of commons land where there is a real desire on the part of local groups of residents. WSCC would not be involved and neither the County Council nor CAFWS would be submitting a response to the consultation.

134. The Forum was also informed that the **High Weald AONB Management Plan** was due out soon. It was explained that the High Weald AONB Unit doesn't deliver services 'on the ground' in the same way as the SDJC or Chichester Harbour Conservancy. Instead it focussed more on research and strategic

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policies. Members requested a map showing the boundaries of the High Weald AONB and Jane Noble undertook to provide this at the next meeting.

Rights of Way Improvement Plan

135. The Forum noted a report on the workshop held on 2nd July 2008 (copy appended to the signed minutes).

England Access Forum (EAF)

136. The Forum noted the minutes of the meeting of the EAF (copy appended to signed minutes) and the selection of Alan Marlow (Hampshire Countryside Access Forum) and Matthew Balfour (Kent Local Access Forum) as representatives for the South East region.

General Report

137. The Forum noted the General Report (copy appended to signed minutes) and thanked Jane Noble for her work. David Ribbens also reported to the Forum on his attendance at the 'Paths to Partnership' conference, hosted by Hampshire Countryside Access Forum and Hampshire County Council, which he attended on behalf of CAFWS.

Agenda Items for the next meeting of the Forum

138. Members commented that having 2 main speakers was too much for a morning meeting as discussion had to be cut short. Members also requested that the following items be considered as agenda items for the next meeting:

- Access work for the High Weald AONB unit
- Parish Councils' role
- Access to Forestry Commission land

Matters for information

139. Chris Boocock reported that Ordnance Survey had requested notification of any changes to Explorer map 122 / Landranger map 198 that covered Brighton and Hove, as they were in the process of updating it. Brighton and Hove Local Access Forum is working with Brighton and Hove City Council to provide updated access information.

140. Trevor Passmore informed the Forum that he had been experiencing problems with travellers racing their ponies on his land. This particular group had been quite aggressive when challenged, and Mr Passmore recommended avoiding them. The Forum were also informed that Mr Passmore had erected a barrier near to the South Downs Way to prevent traveller access to his land, but he assured members that this would not obstruct access.

Date of next meeting

141. It was agreed that the date of the next meeting of the Countryside Access Forum for West Sussex would take place at 10:30am on Wednesday 28th January 2009 at a venue yet to be specified.

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The meeting closed at 13:21

The Chairman