



**Unapproved minutes of the Yorkshire Dales Access Forum
Held on Tuesday 30 September 2014
1.15pm at Yoredale, Bainbridge**

Present: Jon Beavan (JB), Andrew Colley (AC), David Gibson (DG), Alex Law (AL), Jocelyn Manners-Armstrong (JMA), Stuart Monk (SM), Jerry Pearlman (JP), Mike Pryal (MP), John Richardson (JR), Jonathan Smith (JS), Heather Thomas-Smith (HTS), Alistair Thompson (AT) – YDAF Chair.

YDNPA Officers present: Kathryn Beardmore (KB), Mohammed Dhalech (MD) – LAF Secretary, Alan Hulme (AH), Mark Allum (MA), Rachel Briggs (RB)

Apologies: Nick Cotton (NC), Pat Whelan (PW), Julie Barker (JMB).

1. Welcome and Introductions

- The Chair welcomed back Rachel Briggs.
- Neil Heseltine is now a Parish Council representative on the National Park Authority, and can no longer be a member of the LAF, but will continue to be a GLAG member. The Chair thanked NH for his contribution to the YDAF.

2. Apologies

Noted as above

3. Approval of minutes and matters arising.

Page 5 item 13 - JB 2nd line should read open shafts and not caves. Minutes were accepted as a true record and proposed by JP and seconded by AC.

Matters Arising

Proposed Rail Crossing Helwith Bridge - AH reported back, seeking diversion and creation.

Long Lane Clapham - Has been cleared and dealt with by the Ranger service.

Lickber Lane - discussed at Yorkshire Dales Green Lanes Advisory Group. No further progress

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[Tour de France](#) - very successful, the Park is building on this and work that has been going on for a number of years to promote cycling with a view to capitalising on the success and interest of TdF through new routes, maps etc.

AC proposed a vote of thanks to KB, staff and volunteers for delivering the TdF. The tour received good coverage and local people embraced and enjoyed the event. Some access issues were highlighted by members such as early than scheduled road closures, and the length of time the roads were closed after the peloton had passed. The TdF had an impact on business both positive and negative and there was a perception created that the Yorkshire Dales was closed because of the TdF.

A Tour de Yorkshire has been announced for next year, unsure of exact route.

Overall a success and legacy for the National Park.

4. Public Question time

Tim Allen submitted a statement and asked the question (Appendix 1).

A discussion followed on the issues raised, and JB noted that most caves do not have access restrictions, but that a number of landowners do have historic agreements with the Council of Northern Caving Clubs to provide more limited access to a number of systems. The reasons behind some of these restrictions is no longer known or maybe now irrelevant. There is some scope for clarification on access to these caves.

AT made a formal response to the statement and question (attached at appendix 1A)

JR suggested that this could be an area that the Caves and Crag Advisory group look into further; AC added that the CCAG look at working with the CNCC, and need to consider officer time. This should be a process facilitated rather than led by officers. KB suggested that officer act only as secretariat.

AT suggested that this be taken forward by the Advisory group.

TA made a point that the CNCC have made it clear they work with clubs and not individuals.

AC mentioned there may be an issue of insurance and liability as many caves will link to mines.

The issue related to the four caves mentioned in TA statement, needs to be followed up by the CCAG, Chaired by JB.

Chair to write to CNCC, liaising with JB and KB to draft letter CCAG take forward issues identified.

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5. Future Forum Meetings

- Agenda Items
 - Future direction YDAF
 - Finger post and grid references.
- Dates
 - Tuesday 27 January 2015 at Yoredale, Bainbridge
 - Tuesday 19 May 2015 at Yoredale, Bainbridge
 - Tuesday 22 September 2015 at Yoredale, Bainbridge

6. Access and Rights of Way and Criteria

AH noted the stringent requirements for access for all paths using the Countryside Agency's 'by all reasonable means' three tiers of standards. However, in approaching rights of way work the Ranger Service always took a pragmatic approach – to help increase accessibility. JMA mentioned that Google trekking provide equipment to map routes for Google Maps, and something which can be explored.

7. Landowners Survey

Following on from the survey, AH brought a number of points to the attention of the YDAF such as awareness of LAF is lower than that of four years ago. There was a need to raise the profile of the LAF. The four key issues and concerns that arise due to public access to land are in order of occurrence:

1. gates being left open,
2. people straying from paths,
3. people climbing over walls,
4. worrying of stock by dogs

There was a general feeling of positivity from landowners e.g. replacing stiles with gates, more approachable, and open to improvements. There was a thought that we are moving into a new generation of farmers.

JB raised the point that we have good gates, but it's the catches that cause the issues.

AH noted that groups can be an issues who are strung out and there was a suggestion that Duke of Edinburgh's Awards groups may need to be educated. AT noted that the profile of the LAF amongst landowners proves that the LAF had a challenge on its hands. He posed members a question: what are we as a LAF doing, and what else can we do? AT asked members to think about this and felt that the LAF needed to have a discussion on this subject.

There was suggestion that the LAF needed to start early and engage with Agricultural colleges.

AT said there needed to be an open debate, and had had discussion with the CEO of the Park and this would need to be further discussed in January 2015.

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8. [YDNPA programmes and priorities \(Update\)](#) (link to authority paper)

AC and JMA provided a brief update on the priorities agreed by the authority at their recent meeting and the financial challenges faced by the authority over future years. The authority programmes have been streamlined from 26 to 17. The NPA have kept rights of way and Volunteers in the 'priority' category. The NPA is looking to attract more external funding including sponsorship. JR noted it was good to see the work on RoW still going on, where others authorities have stopped this work.

9. Report back from Advisory Groups

- **Green Lanes**

Turbary Road: NYCC still to make decision on the Definitive Map Modification Order. However all agreed the route was 'disputed' and looked like it was a cul-de-sac. Information signs to be posted so users are aware of the situation and advise that the route is blocked and disputed. There was a suggestion that we have joint sign agreed between TRF/LARA and the NPA. DG thanked SM for the cooperation on voluntary restraint.

GLAG membership: MA circulated the current membership and need for a further LAF member, taking into account a need to maintain an overall balance of interests and 8 members. The group is chaired by Nick Cotton as lead authority member for recreation management.

It was suggested that the LAF deferred the decision to the January 2015 meeting when it had new members and the advisory group membership is reviewed.

Review LAF membership of green lanes advisory group in January 2015, with review of all advisory groups
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Deadmans Hill: There are signs of users taking short cuts on the zig zag area. SM and JR suggested making this a one way route through voluntary agreement to limit damage. The main issue lies outside of the park in NYCC. The National Park Authority would be happy if NYCC wish to proceed with a voluntary restraint agreement.

- **Bridleways and Restricted Byways** (Verbal)

AL – provided a update, The group has several new members, and Ken Miller has joined the group. Lickber lane and other issues were discussed.

- **Access for All**

HTS reported that it was good meeting, update on Outreach work undertaken by the Park, and a look at waymarking of routes which are accessible.

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10. Guidance to local highway authorities on reviewing their ROWIPs from Dan Rogerson MP

Letter was noted

11. Consultations

- a) Dog Walking Advice – Consultation
Responses received have been collated and will now be finalised and submitted.
- b) Selective consultation on mineral and railhead safeguarding [other background documents can be found on the website](#)
The consultation was noted.
- c) Greenfield, variation of legal agreement (YDAF response attached)
There was support for the new creation agreements to take affect from the start.

The Access on Foot advisory group to keep a watching brief on the agreement.

12. Secretary's Report (Items for note and consideration by Forum Members)

Secretary went through the report
On the PCSO it was suggested that local authorities be informed of the LAF with a reminder that we exist and we can be consulted.

13. Update on members' activities

DG – Natural England HLS – concern over loss of public access when HLS finishes, no update what plans for the future.
JR - De-regulation Bill – at committee stage, no amendments have been put forward as yet.
JB - Tourism and access, something the YDAF needs to consider.
HTS - Long Preston now has a Parish Clerk and will now proceed with foot path evidence collation.
AC - PC are keen to look at having grid ref on the finger posts, rescue services are in favour

Agenda Item for next meeting

14. AoB

None

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Appendix 1

Statement to the Yorkshire Dales Local Access Forum – by Tim Allen

The northern caving area is the largest in the country and the Yorkshire Dales National Park is at the centre of it. The country's longest cave, the famous 90km long Three Counties System lies across the western border. One of the country's most iconic caves, Gaping Gill, lies in the heart, and to the east, on Conistone Moor, is the potential for one of the countries deepest and most extensive cave systems, which is yet to be discovered.

Evidence from both local and national caving bodies suggest that recreational caving is on the decline. Access to many caves is restricted by historic permit systems which are designed to control access to the moors, not the caves. For many recreational cavers these permit systems, some of which require applications three months and more in advance, offer only a negative barrier to participation.

As a local caver, living within the National Park, I would like to see better access to caves in order to secure the long term viability of my sport. In my opinion caves are an underused resource within the NP, and not enough is done to improve participation, promotion or conservation of the caves.

Recently cavers sought a legal opinion on the application of the Countryside and Rights of Way Act 2000 (CRoW) from Ms Dinah Rose, a highly respected QC who specialises in public and administrative law. She concluded:

“.....that caving is a form of “open-air recreation” for the purposes of CROW, and that cavers are permitted to enter and remain on access land shown as such on the relevant maps, including cave systems falling within those areas, for the purpose of recreational caving.”

The British Caving Association has begun discussions with Natural England who do not yet accept this view. However, Natural England do concede that access to open caves and potholes, where the experience remains essentially an open air one, is permitted under CRoW. Therefore, cavers may walk to entrances on access land, they may descend open potholes but they must not progress beyond the daylight without permission. Most cavers regard this as illogical and unfair.

It is worth noting that Schedule 2 of CRoW list restrictions to be observed by persons exercising their rights. These exclusions include motor vehicles, organised games, metal detecting, hang gliding, field sports, horse riding, etc., but it does not exclude caving.

Both caves and caving are mentioned in the Hobhouse report which was a primary reference source for the National Parks and Access to the Countryside Act 1949 which preceded CRoW. In addition, caving organisations responded to, and are credited in the 1998 government consultation to the CRoW Act itself. Therefore, caving was clearly known to those who drafted the Act and yet it was not excluded in the legislation.

In 2000 the chairman of the Outdoor Pursuits Division of the Central Council for Physical Recreation quoted English case law in this respect, he said;

“England, it may be said, is not a country where everything is forbidden except what is expressly permitted: it is a country where everything is permitted except what is expressly forbidden.”

The term ‘open air recreation’ is not defined in the legislation. Ms Rose states that consideration should be given to the overall statutory purpose and should not be based on a narrow interpretation of the language. To this effect Baroness Byford proposed an amendment in the House of Lords which sought to define the term. This stated that;

“ ‘open air recreation’ means recreational activities necessarily carried out in the open air”

In refusing the amendment the minister was clear in response, stating;

“The Bill provides a right of access to land for “the purposes of open-air recreation”. This term was not defined in drafting the Bill because we considered that a definition would be undesirably restrictive and unnecessary.”

While interpretation of the issues surrounding CRoW can be made complex, if a positive attitude is adopted then CRoW can clearly apply to recreational caving as Ms Rose has determined. I would urge that the National Park Authority debate this issue further and I would be happy to arrange a full presentation at a more convenient time.

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The matter of caver access under CROW has been slowing brewing in the caving world. The positive QC opinion has given authority to pro access beliefs and many cavers are very passionate about the issue. It is, therefore, likely that a campaign will build until the matter is resolved.

The question I have is not about the CROW issue itself, but does demonstrate a further negative involvement that cavers will experience in the Yorkshire Dales National Park.

Question:

"Caving forms a very important part of the sustainable recreation tourism mix within the Yorkshire Dales National Park and brings enjoyment, challenges and education to many people. Cavers contribute significantly to our rural economy, especially in places like Ingleton. Caves and potholes and the limestone environment are an intrinsic part of the very special qualities of this Park with access, conservation and interpretation all being very important issues. It is the one area of our Dales landscape still not fully explored - new exploration and scientific discoveries are still being made on a regular basis.

Why is it therefore, that cavers have no access to caves and potholes for large parts of the year in various parts of the Yorkshire Dales National Park? For example, The Allotment on Ingleborough, where there is no access from April through to October. This is despite the area being mapped as access land under CROW. Other areas include Birks Fell in Wharfedale, Fountains Fell and the Rainscar area of Pen-y-ghent, the times of year when access is restricted are all different and these are all mapped CROW access areas."

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Appendix 1a

LAF response to public question from Tim Allen

The Yorkshire Dales National Park Authority recognises that the Yorkshire Dales is one of the premier areas for caves and caving in the country.

The area's 'special qualities' as defined in the National Park Management Plan include:

Extraordinary cave systems, including the longest cave system in Britain, one of its largest caverns and the highest unbroken underground waterfall at Gaping Gill.

Its historic and extensive network of footpaths, bridleways and tracks, extensive areas of public access, rivers, crags and caves.

It is recognised that the National Parks and Access to the Countryside Act 1949 established National Parks in England and Wales on the basis that they were:

an extensive area of beautiful and relatively wild country in which, for the nation's benefit and by appropriate national decision and action,

- (a) the characteristic landscape beauty is strictly preserved,
- (b) access and facilities for public open-air enjoyment are amply provided,
- (c) wildlife and buildings and places of architectural and historic interest are suitably protected, while
- (d) established farming use is effectively maintained

(Dower, 1945, para 4).

The more recent CRoW Act 2000 provides for 'open-air recreation' on access-land as 'of right'. The issue around the question posed is: whether 'open-air recreation' under the CRoW Act includes caving? This is a national issue, it is not unique to the Dales, and requires a response at a national level. Therefore, we are seeking the views of Natural England as the Government's advisor on the CRoW Act and open access. Ultimately, we believe this issue may only be resolved through the Courts and/or new legislation.

Caves in the Yorkshire Dales had access arrangements in place prior to the CRoW Act. At a local level, the question being asked of the LAF is whether some of the existing cave access arrangements are unduly restrictive. In responding to this part of the question it is recognised that a balance always needs to be struck between access, conservation and the interests of land management and the local community and this may result in access restrictions. Experience shows that if restrictions are to be respected by recreational users the reason for them should be clear and the principle of the 'least restrictive' approach should be adopted. However, this also requires assessment on a case by case basis. To that end, I suggest that the LAF offers to look at each of the cases mentioned, with the Council of Northern Caving Clubs and helps them to discuss the existing access arrangements with the relevant landowner.

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LAFs were established to bring together interested parties and advise on the 'improvement of public access to the land in the area for the purpose of open air recreation and enjoyment of the area'. In carrying out its function, the Forum must have due regard to the needs of land management and conservation of the natural beauty of the area. The LAF is well placed to assist with this work with the help of its Cave and Crag advisory group.