

North Yorkshire Local Access Forum

27 January 2021

Future Direction of the North Yorkshire Local Access Forum

1. Summary of Recent Meeting

On 27 November 2020 North Yorkshire Local Access Forum representatives met with Ian Fielding, Assistant Director, Transport, Waste and Countryside Services, to discuss issues of concern regarding the way the forum operated and the interface between the County Council and the Forum.

2. The attendees at that meeting were:

- Roma Haigh, Will Scarlett and Paul Sherwood (Local Access Forum Members);
- Ian Fielding (Countryside Access Services),
- Melanie Carr and Daniel Harry (Democratic Services)

3. No formal minutes taken by either party, and apologies were received from Ian Kelly (Countryside Access Services).

4. The Forum representatives raised a number of issues previously identified by Forum members. The responses from Ian Fielding, Assistant Director, Transport, Waste and Countryside Services are shown below in italics:

- (i) That the forum be given a named designated contact person(s) within CAS (or within NYCC assuming they have close knowledge of the CAS department) which is confirmed each year and any changes (due to retirement/transfer etc) are advised to forum members. *Ian Kelly*
- (ii) That the designated contact person should come to every forum meeting with a standard format report about what is happening with 'access', for example, number of reported problems and how they are responded to and the completion rate etc. *Awaiting Ian Kelly to respond to this.*
- (iii) That every year CAS explain their plans and objectives to the forum as we recognise that it is important for forum to understand what priorities CAS have and what we as a group can do to advise and assist in a cost effective and efficient manner. *As above.*
- (iv) That the forum be invited to nominate a delegate to attend and/or receive the agenda & minutes for relevant CAS meetings relating to access. This was turned down, which is *hardly unexpected as it by far exceeds the LAF remit, even elected members cannot do this.*
- (v) The Committee Clerk is not a conduit to CAS or other NYCC departments; she works for Democratic Services and it appears an inefficient use of her limited time to be used as a 'messenger' service or overburdened with internal LAF documents/data. *All contact to be through the Committee Clerk.*

5. Other Issues Raised by Forum Members and NYCC Officers, and their Outcome

A number of other issues were raised at the meeting together with some suggestions for achieving a better working relationship between the council and the forum to the benefit of both parties:

- Recruitment of LAF membership. Concerns over lack of balance. Daniel Harry, Democratic Services Manager confirmed vacancies are advertised widely in a range of ways with the aim of attracting applications from individuals with a range of interests. It

was accepted that there was a problem in getting land owners, land agents etc (which is a national problem) and confirmed that work would continue to try to obtain a better balance in future appointments to prevent an issue of perceived bias. *This is a duty under the national guidelines.*

- Although it was not addressed in detail, the appointing authority were made aware that there are LAF concerns over the lack of direct input in appointment of new members and keeping a balance of 'user' interests. Ideally a forum member on the appointments panel.
- Reduction in frequency of meetings. Daniel Harry confirmed we cannot financially justify having more than three meetings per year. There was discussion regarding the LAF not being consulted when the frequency was reduced from four meetings to three per annum, and some confusion as to us not having had a say in that. *This is a duty under the national guidelines.* Daniel Harry confirmed again that there is no problem in having more formal meetings if they can be justified, and nothing preventing the LAF from setting up task and finish sub-groups to meet informally between formal meetings. Attention was drawn to the Forum's recent attempt to do this, which was unsuccessful as the sub-group were unable to agree on anything to bring forward to a formal LAF meeting.
- One suggestion put forward about how sub-groups could work, was that they be formed based on specific issues i.e. equestrian issues, cycling issues, environmental issues, maybe even planning issues, walking etc, rather than inundate everyone with e-mails on every topic no matter how disinterested some members may be.
- Officers drew attention to the ongoing problem that the LAF leave too many topics unfinished and adjourned to later meetings because a consensus cannot be reached. Daniel Harry suggested that apart from our usual list of 'run of the mill' reports & responses we should have one topic for discussion at each meeting, and this should be resolved, with a vote if necessary. Where appropriate, this could then be added to our 'Position Statements' or even our 'Terms of Reference' if required.
- Lack of engagement with LAF expertise. Ian Fielding accepted that this may have evolved into a problem and that the forum was not being taken seriously.
- Exclusion of LAF in recent initiatives. As in the previous paragraph, this seems to have evolved.
- The LAF interface with NYCC departments & Countryside Access Services. Ian Fielding referred to those problems and confirmed that Ian Kelly is now back in post as CAS Manager, so things should improve. It was also made clear that unlike North York Moors National Park Local Access Forum, which has almost as many staff members as forum members & results in instant responses, the Forum would not have representation at each meeting from someone in each of the CAS departments as staff availability & costs precluded it. Again, the fact that Ian Kelly is back in post should resolve some of these issues.
- There was no response to a LAF request for an up to date Access Services Department "Who's who" (family tree), we have not had an update for years and are unaware of the current staffing & management.
- Overall, it was accepted by Ian Fielding that the LAF had been failed in 'communication' over the past two years and he made a commitment to improving matters

6 Way Forward

If we are to support the commitment made by Ian Fielding, we must play our part in ensuring the LAF improves its working practices and becomes less dysfunctional.

7. Historically, there has been too much indecision even as to what our role actually is. To a certain extent this is due to the LAF for years not having a 'Terms of Reference' document and therefore being allowed to wander off on all sorts of personal crusades, which is inefficient, unprofessional and time consuming.

8. For clarity, our statutory duties are:

Statutory Instrument No 268 (2007) "Local Access Forums (England) Regulations 2007"

Part 4 section 22 (page 11) Matter as to which advice is to be provided

- 22(1)a In this regulation, access to land by a person or persons will be for a 'lawful' purpose on any occasion if he/she or they may access the land on that occasion without committing an offence or trespassing on the land.
- 22(1)b In this regulation, 'byway open to all traffic' has the meaning given by section 66(1) of the Wildlife and Countryside Act 1981. ["byway open to all traffic" means a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used]
- 22(2) Subject to paragraph (3), the following is prescribed as an additional matter in respect of which it is the function of local access forums to advise; 'public access to land in the area for which a forum is established for any lawful purpose other than the purposes mentioned in section 94(4) [this covers improvement of public access to land in the area for which the forum is established for the purposes of open-air recreation and the enjoyment of the area].
- 22(3) The function conferred by paragraph (2) is exercisable in relation to access by mechanically propelled vehicles only insofar as the access relates to byways open to all traffic.

9. A five-page on-line guidance document published by Gov.uk on 9 September 2014 briefly states the duties of Local Access Forums as:-

Local Access Forums advise decision making organisations (such as local authorities) about making improvements to public access for outdoor recreation and sustainable travel.

Local Access Forums can set their own priorities depending on local issues. They also respond to consultations and draft policy documents. When making recommendations, LAF members need to consider land use, as well as the need to conserve flora, fauna, geological and physical features.

10. The only other current ('live') guidance is a publication from Andy Mackintosh of Natural England in April 2015 'Plan of Engagement between Natural England, DEFRA and the Local Access Forums' Section 3:

The primary purpose of the LAF is to provide advice to a range of organisations "as to the improvement of public access to land for the purposes of open-air recreation and the enjoyment of the area, and other matters as may be prescribed."

"The LAF set their own priorities depending on local issues and what is of interest, as well as providing a local input to consultations and draft policy documents."

11. However, 'other matters as may be prescribed' is ambiguous - prescribed by statute, legislation or an individual forum member's opinion? I would assume it does not mean we make it up as we go along. Any documents issued by DEFRA or Natural England regarding guidance on our purpose in life, appear to be out of print and are 'archive' material, available through National Archives at Kew. An e-mail (3rd February 2020) from Alan Kind of Hodology is fairly apt in his description of the current situation regarding central government and forums, even before SARS-Cov-2, "DEFRA Countryside has just about ceased to exist,

Natural England Access is little more than a couple of officers and a dog & the Planning Inspectorate is coming apart at the seams." So current guidance on what our purpose entails is literally nil.

12. Suggestions include:
 - Management of access land.
 - The condition of the public rights of way and work to record public rights of way.
 - Improvements to the network of routes and open spaces.
 - Provision of greenspace, including woodland & coast.
 - Relationship with other sectors, including health, sport, tourism, land management etc.
 - How local authorities prioritise their spend on access & recreation.
13. Speaking to other Forums and to the Regional Forum, they all have an agreed purpose in life and a 'production target' to use an engineering term. They do not get involved in planning matters except where there is a clear interruption/diversion/closure of a public right of way. Their view is that planning and parking of cars is not an issue for access forums.
14. Currently planning is a two-tier function with district/borough councils in North Yorkshire, but by 2023, this may become a single tier situation, which will no doubt make it easier to administer, as planners and rights of way officers will both be 'in-house' with one authority, as in most of the country currently.
15. As Chair, I agree with the suggestion made by Officers that we move to having a topic(s) on each agenda that we discuss to closure, vote on it if necessary, add to a 'position statement' or indeed incorporate it into our Terms of Reference. It is my view that this would cease pointless & time-consuming regurgitation at meetings and help remove the situation of people coming to meetings ill prepared and rambling on about something with no background facts/data to support their views.
16. With this in mind, in July 2019 shortly after becoming Chairman, I issued a document, part of which I re-state:

“One of my main concerns causing time wasting and productivity lapses is people attending meetings unprepared, especially if they are involved in an issue. It is an inefficient use of resources to rummage through a pile of papers, not have concise details of what you are trying to impart to the rest of the LAF, and to refer to documents and people you have dealt with in vague ways. Forum members should ensure that documents (in whatever form, Acts, guidance, BS's, Statutory Instruments etc) are known, title, published by, date, chapter & verse - so that we all are aware of what is being talked about, so that others can look at the relevant document if relevant. Hearsay & innuendo are not evidence based. “
17. This same problem occurs in internal e-mails, with references to "...something in the D&S..." Some in the LAF will not have a clue as to what the D&S is.
18. However, the most contentious issue we have to address is 'Access'. The consensus seems to be (as briefly touched on in our Terms of Reference) if a topic does not have a direct implication with access, we do not get involved. But where does that leave those of you that are talking about leaflets about walks? And who finances such publications?
19. Much discussion has gone on (even nationally) about a LAF's remit regarding unclassified unsurfaced county roads 'green lanes'. Initially it was suggested that forums should not get involved, but most forums accept that green lanes are a valuable part of the rights of way network and therefore do look into matters effecting them.

20. North Yorkshire has a situation where green lanes and footpaths/bridleways are covered by two distinct county departments. Previously, the LAF has met with and had productive dialogue with Highways, and the consensus at that time was that like other forums, we treat them as part of our public access remit. A task and finish group was subsequently set up to progress this matter, but as referred to in paragraph 5 (3rd bullet point) above, they were unable to reach any agreement and so it remains unresolved. In order to progress this matter a separate item on this appears elsewhere on the Agenda.
21. The other ad infinitum topic is the website, I raised the matter in mid-summer 2017, and whilst members were generally in favour, there were some were totally opposed to having their names listed (aghast at the idea of a photo) and it just fizzled away. Other forums' websites are either stand-alone or part of the authority website. They are informative, tell the public what they do, how to contact them, and most importantly have details on potential membership. They also provide access to their wonderful glossy 'annual report' publications, something we have never managed to achieve. The task of designing a website for the LAF was taken on by a member but did not come to fruition, and whilst there is information on NYCC's website, it is not easy to find.
22. To try to better manage the debate on the issues raised in this report, forum members were invited to provide their written views with background facts (not hearsay) ahead of this meeting so that they could be fed into this report. However, at the time the agenda for this meeting was published, only one response had been received.
23. Report Recommendation
I would like to recommend that that the Forum resolves the key points summarised below:
 - Do we adhere strictly to 'access' only issues
 - Do we treat UCR's as part of the PROW system
 - Do we set up specific group/teams (if so, volunteers)
 - Do we cease to get involved in the minutia of planning applications
 - Do we need a fully functioning website (leaflets on routes)

Paul A. Sherwood
Chairman of North Yorkshire Local Access Forum
18 December 2020