

Public access is a public good: Connecting people to nature through Environmental Land Management

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Wildlife and Countryside Link (Link) is the largest environment and wildlife coalition in England, bringing together 62 organisations to use their strong joint voice for the protection of nature.

Executive summary

- A commitment to enhance public access to the countryside has been established in the Agriculture Act and is also set out in the 25 Year Environment Plan; ensuring that the natural environment can be *'enjoyed, used and cared for by everyone'*.
- There is emerging evidence from tests and trials, and from the agricultural community more generally, to suggest an appetite among farmers and land managers to play their part in enhancing and improving access to green and blue spaces.
- Environmental Land Management should provide land managers with the financial support needed to meet the challenges and realise the opportunities presented by public access. It will help foster a greater public appreciation of the critical work farmers and land managers undertake, both as producers and as custodians of the countryside.
- Access, biodiversity, climate change mitigation and heritage should not be competing priorities in Environmental Land Management, but should sit alongside each other. This will require sufficient resourcing for Environmental Land Management in future.
- Public access can and should be included in **all** components of Environmental Land Management as an **option** available to farmers and land managers. In broad terms these options can be categorised as follows:
 - **Sustainable Farming Incentive** – improving existing access enabling more people to benefit.
 - **Local Nature Recovery** – provision of new access where there are deficiencies in the existing network.
 - **Landscape Recovery** – integration of access into landscape-scale change, so that people can experience and benefit from the wider environmental public goods delivered.

Context

Covid-19 has brought into sharp focus the importance of public access to green and blue spaces for recreation, drawing attention to the inequalities in accessibility that disproportionately impacts low-income and BAME/BIPOC communities. Overwhelmingly evidence illustrates that being active outdoors makes our society healthier and happierⁱ.

At a crucial time in the Agricultural Transition, we still have no assurances that access provisions will be featured in Environmental Land Management (ELM). Access within ELM should be an option available to farmers and land managers in and of itself, and be integrated with other environmental public goods delivered through the scheme where this is appropriate and would be of value to the public.

Access funded through ELM should also be planned and designed to work in harmony with other environmental priorities, such as those in emerging Local Nature Recovery Strategies, and the needs of established sensitive sites which will need to continue to support biodiversity and nature recovery goals. Access and biodiversity should not be competing priorities within ELM. Rather than a binary choice, we see access as part and parcel of a broader vision of a multifunctional countryside delivering multiple benefits. To omit any options for land managers to enhance access to their land would be a missed opportunity for public education, wellbeing improvements and buy-in.

The links between access and land management are also evidenced in law. Clause 1 of the Agriculture Act 2020, which lays the foundations for ELM, states clearly that **financial assistance could be provided to support public access to the countryside**. ELM is underpinned by the concept of public payments for public goodsⁱⁱ. This is a welcome shift away from the system of subsidies based upon the amount of land actively farmed.

On land, the public rights of way (PRoW) network as first recorded under the National Parks and Access to the Countryside Act provides the foundation for the enjoyment by the public of a network that extends to approximately 120,000 miles in England. However, while the network is significant in its total length, it does not mean that it is accessible to all; a lack of proximity, connectivity, accessibility for disabled people and lack of public engagement and education all act as barriers to accessing PRoW.

Similarly, access to water still faces unnecessary barriers. Of the 57,909km of inland water resource in England, just 7.2% have a statutory right of navigation where there a clear and consistent right of access for recreational users. The distinct lack of access to good quality, accessible waterway infrastructure greatly restricts where and when people can enjoy our waters in England. Those who are from minority groups, or are from lower socio-economic backgrounds, for whom cost, time and proximity to blue space are significant barriers, stand to be the most adversely affected by the lack of access opportunities.

There are further barriers when the urban/rural divide is considered. The number of people living in towns and cities continues to increase, leading to increasing inequality of access to nature. Research commissioned by the National Trustⁱⁱⁱ shows that, nationally there are 295 deprived neighbourhoods of 440,000 people that are 'grey deserts', with no trees or accessible green space. The study also found

that Black and Asian people visit natural settings 60% less than white people and that of the poorest 20% households, 46% don't have a car, meaning rural beauty spots are often out of reach. Green corridors, linking the urban centre with rural surroundings via the urban fringe, can be supported through ELM and would significantly help to lessen these inequalities of access.

Up to 2010, permissive access over a 10-year period was an option within the HLS scheme. While this did result in some positive outcomes, there were often significant shortcomings – the access options on offer were short-term and permissive, they were poorly publicised, schemes were not demand-led and the quality of routes created varied considerably. Despite these shortcomings, the scheme did increase opportunities to get outdoors. When the budget was cut in 2010, this resulted in the loss of almost 60,000km of linear permissive access^{iv}. Evaluation^v of this scheme could provide a valuable source of information for future ELM design.

The benefits of improving and creating a network of safe, sustainable facilities for water users through ELM, as well as enhancing existing PRoW on land and creating new access networks will not only be beneficial to the public, but also landowners, managers, and local communities.

1. Connecting people with nature through Environmental Land Management

Clause 1(1)(b) of the Agriculture Act states that payments could be provided for “...*supporting public access to and enjoyment of the countryside, farmland or woodland and better understanding of the environment.*” With the Act providing the underpinning legal framework for ELM, the design of the new regime should reflect its parent legislation, providing opportunities for farmers and land managers to receive financial assistance should they choose to deliver improvements in public access.

ELM could deliver significant public benefits, including public health and wellbeing and connection to high quality nature. There is, however, a risk that opportunities will be missed to deliver benefits (physical health, mental wellbeing, and active travel routes) and foster a better public understanding and appreciation of nature and farming and woodland. The emerging shape of ELM, set out in Defra's November 2020 publication^{vi}, refers to access in very broad terms. There is one reference to ‘rights of way, navigation and recreation infrastructure’ under the Local Nature Recovery component in annex B2, but no meaningful detail.

Evidence^{vii} from the Kent Downs AONB Test and Trial suggests that the farming community strongly supports being given an option, through ELM, to receive financial assistance for the provision of new access, or for the enhancement of existing routes to make them more accessible. As we set out below, some interventions would be relatively straightforward to implement while others will be more complex as part of landscape-scale change across multiple landholdings.

ELM can broadly support access in the following ways:

- Public access can be incorporated into all three components – improving existing access under the Sustainable Farming Incentive, providing new access under Local Nature Recovery, and integrating access into Landscape Recovery.

- Financial assistance for public access would be optional – we are not advocating compulsory uptake of public access improvements, but it should be an option to farmers and land managers.
- Interventions should be convenient for land managers and beneficial for the public. Where possible, improvements in access should be informed by local needs, drawn from existing strategies, plans and forums.
- Wherever possible, enhancements in public access should sit alongside environmental improvements, maximising value for money and securing multifunctional rural landscapes.
- Financial assistance should not be provided to farmers and land managers for them to fulfil their existing legal obligations^{viii} to keep public rights of way clear. These obligations should form part of a regulatory baseline of standards expected of participants in ELM.

a. Sustainable Farming Incentive – improving existing access

Public access activities under the Sustainable Farming Incentive (SFI) should:

- Be easy to deliver with the use of straightforward guidance.
- Be available as an option to landowners and managers (those with existing public rights of way or access to waterways).
- Result in simple, noticeable changes for the public, enabling more people to make use of existing paths and waterways, particularly disabled people or those who lack confidence getting outdoors.

SFI payments and capital grants for public access should be available for farmers to improve existing public rights of way across their land (beyond the legal requirements) including the following:

- Improved path surfaces and widths (when statutory);
- Waymarking; and
- Improved or removed access infrastructure (gates and stiles) to the least restrictive option (as per British Standard 5709).

SFI payments for public access on waterways should be available to provide a cleaner and more accessible environment for public recreation, including the following:

- Support for maintaining waterways for navigation;
- Improved water quality making rivers a safe place for nature and recreational users;
- Blue corridors allowing for nature to thrive, and recreational users to safely portage around dangerous man made or natural hazards;
- Provision for permissive access routes to water.

b. Local Nature Recovery (LNR) – providing new access opportunities

Public access activities under LNR should:

- Be supported by expert advice.
- Be available to farmers and land managers with and without existing public access on their landholding.
- Seek where appropriate to span multiple landholdings to deliver longer-distance routes.
- Be targeted where there is a clear benefit in the provision of new access, or where demand (actual or latent) can be demonstrated, and well-publicised

- Be informed by local circumstances, including in consultation with pre-existing groups such as Local Access Forums^{ix} (a statutory requirement under the Countryside and Rights of Way Act 2000 and governed by The Local Access Forums (England) Regulations). They should also be informed by local highway authority Rights of Way Improvement Plans^x, again a legal requirement for local highway authorities under the Countryside and Rights of Way Act 2000.

Farmers and land managers choosing to participate should be provided with financial assistance in return for creation of new access rights (either permissive – a temporary long-term agreement – or permanent, the latter being preferable) where there is a clear public benefit. This could include new routes which:

- Create links between existing routes / circular walks, including at the urban/rural fringe.
- Offering safer alternatives to busy country roads.
- Provide links to otherwise inaccessible open access land and the England Coast Path.
- Facilitate access to water for launching and landing and providing additional waterside facilities such as parking, changing or wash down facilities.
- Offer new access as part of other environmental improvements being undertaken through ELM, delivering multifunctional landscapes with high nature value and generating a greater return on investment.

c. Landscape Recovery – access as part of landscape-scale change

The starting point for Landscape Recovery is understandably different to SFI and LNR, given that eligibility will likely be limited to landholdings with the right natural capital assets and at the right spatial scale to deliver transformational land use change. There is the potential to ensure that these changes deliver improvements in access as part of a package of public goods.

Activities under Landscape Recovery should:

- Consider from the very outset how public access could be integrated with land use change, such as woodland creation, species-rich grassland restoration and the restoration of coastal habitats.
- Not result in the loss of any existing access rights (as will be the case where CROW access land^{xi} is planted with trees and access land is remapped).

Landscape-scale change could incorporate public access in the following ways:

- New public access to enable people to experience the changes taking place, ideally linking to existing rights of way that may be just outside the landholding(s) concerned.
- Long-distance trails, on land and on waterways.

2. Regulation and enforcement

a. Background

The Highways Act 1980 requires landowners and managers to keep clear PRoW on their land. Under the cross-compliance regime, landowners and managers are required to meet these legal obligations as a condition of receiving payments. However, the ELM proposals lack clarity on the relationship between the replacement to cross-compliance and future ELM payments. This must be addressed to help

ensure existing PRow – critical infrastructure enabling people to access nature – are kept clear and to provide a level playing field for farmers participating in the new regime.

PRow is the primary means by which people can get outdoors. It is vital to have in place a regulatory framework that encourages farmers and land managers to keep paths clear. We receive regular reports from the public that some fail to do this, leading to uncertainty for the public about where they can go. Local highway authorities play a critical role in protecting the public’s rights of access by enforcing landowner / manager obligations to keep paths clear, but many suffer from a lack of capacity to perform this role effectively. Many authorities report however that cross-compliance is a very useful tool in the enforcement activities that they are able to undertake, to ensure that farmers are incentivised to comply with their legal obligations. When cross-compliance is replaced, the system for enforcement must be robust and adequately resourced.

b. The relationship between ELM and regulation in supporting public access

Under the cross-compliance regime, landowners and managers are required to meet these legal obligations as a condition of receiving payments. However, the ELM proposals lack clarity on the relationship between the replacement of cross-compliance and future payments. This must be addressed to help ensure existing PRow – critical infrastructure enabling people to access nature – are kept clear and to provide a level playing field for farmers participating in the new regime by:

- Ensuring payments made under the ELM should be conditional upon recipients fulfilling existing legal requirements relating to public access, the environment and animal welfare.
- Fulfilling these requirements could be a condition of entry into SFI, LNR and Landscape Recovery.
- A review of existing access provision by landowners / managers within their landholding, and evidenced declaration of compliance with legal duties, could become the foundation upon which improvements and additional access are identified.
- The replacement to cross-compliance should also apply to the provision of access to land, with penalties if an owner or occupier obstructs such access.
- This would encourage participants to view public access as a potential part of their future business activity, with income-generating opportunities through commercial diversification.

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ⁱ<https://beyondgreenspace.files.wordpress.com/2017/03/evidence-statement-on-the-links-between-natural-environments-and-human-health1.pdf>

ⁱⁱhttps://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/955920/ELM-evidencepack-28jan21.pdf

ⁱⁱⁱ <https://www.nationaltrust.org.uk/features/new-research-shows-the-need-for-urban-green-space>

^{iv} <https://questions-statements.parliament.uk/written-questions/detail/2021-02-24/HL13682/>

^v <http://publications.naturalengland.org.uk/publication/6777029>

^{vi}https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/954283/agricultural-transition-plan.pdf

^{vii} <https://www.kentdowns.org.uk/our-projects/environmental-land-management-scheme/enhancing-access-opportunities/>

^{viii} <https://www.gov.uk/guidance/public-rights-of-way-landowner-responsibilities>

^{ix} <https://www.gov.uk/guidance/local-access-forums-role-of-the-local-authority>

^x <https://www.gov.uk/guidance/local-authority-rights-of-way-improvement-plans>

^{xi} <https://www.gov.uk/guidance/open-access-land-management-rights-and-responsibilities>