

CROW Act 2000: Access to Open Countryside and Registered Common Land

1. Background

Under Part 1 of the CROW Act 2000 a new right of public access to the English countryside has been introduced, which will normally allow the public to walk freely on open country (mountain, moor, heath and down) and registered common land.

A three stage legal mapping process to establish the areas is being undertaken by the Countryside Agency on an area by area basis. Devon falls into Area 6 which includes Cornwall and part of Somerset. The County Council was consulted in 2003 regarding the first stage, the 'Draft Map' (ED/03/198/HQ). Consultations on the second stage, the 'Provisional Map,' were restricted to landowners and closed in June 2004. The final 'Conclusive Map' is due to be published by August 2005 (subject to the determination of approximately 180 appeals) at which time the access rights will come into being.

The Act confers specific powers on Access Authorities – Local Highway Authorities and National Parks – to carry out certain functions in respect of Access Land within their areas. These functions include powers to make byelaws (section 17), appoint wardens (section 18) and to erect and maintain notices indicating boundaries (section 19). Access authorities may also negotiate agreements to provide means of access to sites and to undertake the necessary works themselves if such an agreement cannot be reached. The Agency is the Relevant Authority outside the National Parks responsible for administering restrictions.

2. Registered Common Land and Open Country areas

In Devon 60,196 hectares have been identified on the Provisional Map as Access Land, the majority falling within the National Parks - see Table 1. Outside the National Parks the area of Access Land totals 7,204 hectares, of which 4,844 hectares is registered common (104 sites comprising 119 individual commons) and 2,360 hectares is open country (96 sites comprising 374 individual parcels of land). Table 2 provides a guide to the distribution of these areas by District and indicates which sites have links to existing highways (i.e. roads and public rights of way) and which are island sites (i.e. no public access).

Table 1

	Registered Common		Open Country		Total
		Area		Area	Area
Devon (excluding the National Parks)	119 No.	4,844 ha	374 parcels	2,360 ha	7,204 ha
National Parks	86 No.	37,722 ha	1,184 parcels	15,270 ha	52,992 ha
Total	205 No.	42,566 ha	1558 parcels	17,630 ha	60,196 ha

It should be noted that the spread of sites outside the National Parks may make them more difficult to manage than the large contiguous areas found within the Parks.

Table 2

District	Registered Commons (green)		Open Country (red)		Total
	Linked	Island	Linked	Island	
East Devon	31	2	8	2	43
Mid Devon	17	4	4	1	26
North Devon	10	0	16	8	34
South Hams	12	1	19	1	33
Teignbridge	9	0	3	1	13
Torridge	2	6	18	4	30
West Devon	10	0	8	3	21
Total	91	13	76	20	200

Summary of Access Land sites outside the National Parks

3. Powers for managing and promoting the new right of access

The Government is keen that access authorities take on the powers given to them as they have *'the local presence, knowledge and understanding of countryside recreation to undertake the day to day and practical management of Access Land. They have extensive experience and expertise in managing recreational access alongside nature conservation, heritage preservation and sporting and commercial interests. In many instances, they have complementary responsibilities in transport, leisure, and economic development'*.

However, apart from the initial implementation costs for such items as gates, stiles and bridges, there will clearly be long-term management, maintenance, protection and promotion costs falling on the County Council if the powers are adopted. These will include:

- undertaking 'access audits' for all sites
- enforcing access to Access Land
- providing and subsequently maintaining signs at principal and secondary access points
- creating new means of access to island sites
- assisting landowners/occupiers who want help managing public access issues
- providing advice to the public where they can go and what they can do
- helping to demarcate the boundaries of Access Land
- and, in the medium term making and enforcing byelaws.

Additionally, there will be a range of health and safety matters associated with the opening up of some of these areas for public access. There are also wider issues relating to: sustainable transport, particularly the potential demand for parking; social inclusion, including making appropriate provision for people with disabilities, and health promotion. The negotiation of new rights of way to island sites could similarly prove very time consuming, possibly involve public inquiries and compensation payments to landowners.

4. Access Management Grant Scheme

To help offset some of these costs an Access Management Grant Scheme (AMGS) has been introduced by Government to provide short term financial support and guidance to those who will undertake the practical management of the new rights of access. However, it is very narrow in its focus with priority being given to sensitive conservation sites that are likely to be popular with visitors. The scheme was initially introduced in Areas 1 – 5 for just one year, but has recently been extended to all Areas until 2006/7. It is payable to access authorities and in certain circumstances land managers to facilitate the practical management of the new rights of access.

The Grant is paid in two parts. The first is for the preparation of an Access Management Plan that will require access audits to be undertaken of individual sites in liaison with English Nature (as the Relevant Advisory Body). These will need to consider the conservation of flora, fauna, geological or physiographical features of Access Land to establish priorities for management. In addition, this process should identify and take account of archaeological interests, existing access arrangements, other land management issues and health and safety considerations. Consultations are recommended with landowners, land managers, parish councils, commoners associations, Local Access Forums and user organisations such as the Ramblers Association and British Horse Society. The 75% grant for the preparation of the Plan is paid at the rate of up to £2/hectare (net £1.50/hectare) which would equate to a total payment of between £7,000 - £10,000 depending on landscape priorities.

The second part of the Grant is to cover the provision of infrastructure (stiles, gates, signing), information and access management. It is paid at a rate of 75% for Priority 1 land types where English Nature has identified vulnerable features and at 50% for other Priority 1 and Priority 2 - 4 land types – see Appendix 1. The schedule of rates is shown at Appendix 2. The scheme appears unnecessarily bureaucratic requiring very detailed information for bids and monitoring e.g. individual site maps, 12 figure grid references for each item of furniture, work start and finish dates, and the submission of monthly reports. Furthermore, some of the rates are unrealistic such as £400 for a 5 metre bridge which is more likely to cost £2,000.

5. Resource Implications

Access Audits/ Plans

It is estimated that it would take approximately between 9 and 12 months to carry out the access audits in liaison with English Nature and undertake the recommended consultations. The County Ecologist and his assistant are fully committed with other work and a temporary field officer or consultant would be required to complete the audits. This process would also require significant time input and co-ordination from existing officers.

Wardening

The County Council, as access authority, must consult the Local Access Forum with regard to the appointment of wardens to assist with the management of Access Land. It is difficult to gauge the resources that would be required to manage the 200 sites prior to the undertaking of access audits, but there is little doubt that the potential burden is significant.

6. Considerations

It seems that some areas of proposed Access Land either currently enjoy *de facto* access or are likely to have low demand for public access e.g. coastal strips between the coast path and cliff edge. These areas will require little or no infrastructure or management.

However, there are many relatively small sites where access is being provided for the first time and given the number of appeals to the Provisional Map it is probable that some

landowners will resist the introduction of public access. Enforcement of public access in these areas will be difficult and time consuming.

The Access Management Grant Scheme is considered unnecessarily bureaucratic and the levels of grant insufficient. It does not recognise the real cost of undertaking audits, providing infrastructure, compensation payments to landowners for new links, or the long term financial burden of managing Access Land.

No decision has yet been taken by the County Council's Executive Committee on the adoption of the powers for managing Access Land. It is debatable that the public would be significantly affected if no positive management is undertaken and there is a good argument that the money would be better spent in bringing about the proposals identified in the Rights of Way Improvement Plan that is due to be published in 2005.

7. Conclusions

When the Executive Committee last considered the issue of adopting the powers relating to Access Land in July 2003 it noted that there was currently no budgetary provision. It is considered that to adopt the powers fully, considerable investment would be required which is over and above any provision which has been made through the Standard Spending Assessment. Any decision the Authority reaches will need to be taken against the sensitive background of Government pressure to restrain Council Tax increases and other demands on its limited resources.

END/ RM/ 28/9/04

Access Management Grant Scheme – Priority land types	
Land type	Description
Priority 1 Designated nature Conservation sites High demand/high concern	<p>Sites of Special Scientific Interest (SSSIs) identified by English Nature as potentially vulnerable to a new right of access and where the Agency's predictive use model has indicated a potential high use.</p> <p>This may include mountain, moor, heath, down or common land but will not normally include land with existing access rights (see above).</p> <p>In the absence of any positive management, any potential impact identified by this process could lead to a long term or recurrent access restriction, to protect the vulnerable conservation feature or features.</p>
Priority 2 Designated nature conservation sites Medium demand/medium concern	<p>Sites of Special Scientific Interest (SSSIs) identified by English Nature as potentially vulnerable to the new right of access and where the Agency's predictive use model has indicated a potential medium use.</p> <p>This may include mountain, moor, heath, down or common land but will not normally include land with existing access rights (see above).</p> <p>In the absence of any positive management, the potential impact identified by English Nature is less certain. Some sites may require some level of restriction, to protect the vulnerable conservation feature or features if mitigation measures are not put in place.</p>
Priority 3 No designated High demand	<p>Sites or new access land that is not a designated SSSI, but the Agency or local interests predict demand to be high. This may cause some undue burden on landowners and managers.</p> <p>This may include mountain, moor, heath, down or common land but will not normally include land with existing access rights (see above).</p>
Priority 4 All others	<p>All other land appearing on the Agency's maps of Open Country that does not fall into the above land types.</p> <p>This may include both designate SSSIs or land that is not designated for nature conservation.</p> <p>This may include mountain, moor, heath, down or common land but will not normally include land with existing access rights (see above).</p>

Cost schedule and funding rates

Item code	Item or field of work	Guide cost only
AP	Access management planning (per Hectare)	up to £2.00
Infrastructure Items		
TSS	Timber step stile	£90.00
SSS	Stone step stile	£120.00
SGS	Stone gap stile	£100.00
LS	Ladder stile	£115.00
GKD	Timber kissing gate – extra deep	£350.00
GK	Timber kissing gate standard	£300.00
TBG	Timber bridlegate/hunt gate	£300.00
GW	Wicket pedestrian gate	£80.00
GF	Timber field gate	£220.00
FB	Footbridge – 5 metre span	£400.00
DC	Ditch crossing – 1.2 m span	£200.00
Access Information Point		
PAP	Consisting of gate and local site information	£2,500.00
PIP	Interpretive panel/large information panel	£1,320.00
LSP	Local A4 sign – laminated and mounted	£40.00
Way marking		
OCS	Open Country disc	TBC
MW	Marker post with open country disc (non directional)	£30.00
ME	Disc attached to an existing structure	£2.00
BMW	Boundary marker post (1.3 m)	£22.00
FP	Finger post	£40.00
SWM	Stone marker	£50.00
Fire control		
FBT	Fire beaters – six in a simple stand	£75.00
Boundaries		
PWF	Post and wire fence (£ per metre)	£1.20
SW	Stone walling (£ per metre)	£20.00
SWG	Stone walling gapping up (£ per metre)	£19.00
Vegetation cutting for desire line creation (£ per linear metre)		
QMVC	Quad mounted	£0.50
MVC	Manual	£0.20
Leaflet based information		
LFT	Full colour folded (per 1,000)	£175.00
Volunteer expenses		
VE	Volunteers undertaking practical works (per day)	£15.00