

# Broads Local Access Forum

## Minutes of the meeting held on 09 March 2022

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## Present

Keith Bacon – in the Chair, Richard Atkins, Katie Baxter, Christine Cane, Tim Harris, Peter Mason, Christopher Yardley.

## In attendance

Ken Hawkins- Norfolk Local Access Forum, Dan Hoare – Head of Construction, Maintenance and Ecology, Andrew Farrell- Water Mills and Marshes Programme Manager, Kylie Moos – Administrative Officer.

## 1. Apologies for absence and welcome

**Apologies** received from Linda Aspland, Louis Baugh, Harry Blathwayt, Peter Dixon, Tony Gibbons, John Murray, Steve Read, Michael Scott.

## 2. Declarations of interest

None declared.

## 3. Minutes of the Broads Local Access Forum meeting held on 1 December 2021

The minutes of the meeting held on 1 December 2022 were approved as a correct record and signed by the Chair.

## 4. Summary of actions and outstanding issues following decisions at previous meetings

### Staithe Report

The Chair has met with David Horsfall at the Environment Agency who has accepted the communication on the report, but will not provide a formal written response.

## 5. Water, Mills and Marshes update

Andrew Farrell, Programme Manager for Water, Mills and Marshes presented the report which provided an update on countryside access related projects within Water, Mills and Marshes including the Broads Mills Trail project and the Improving Access Projects; Angles Way Feeder Paths and Waveney Marsh Observatories.

Water, Mills and Marshes is a Broads Authority led and Heritage Lottery funded Landscape Partnership Scheme in the Broads National Park, with a focus on connecting people and communities to the heritage in this landscape. One key aim of the project is to document and repair iconic drainage mills. The project also seeks to improve physical access within the area and to increase information and interpretation about the unique landscape and heritage to a wider audience with the creation and improvement of a network of routes using both new and existing rights of way within the national park. This will be delivered through the Broads

Mills Trail Project and the improving access projects; Angles Way Feeder Paths and Waveney Marsh Observatories.

### **Comments and answers to questions**

People counters have been used on the marshes to build baseline data. The counters highlight that the main use of the trails is for people on foot. An increase of bridleway routes would also increase the number of cycling routes.

A member welcomed the additional bridleways and asked if there any suitable locations for riders to leave their trailer or horse box to access the trails. Andrew Farrell responded, at the top of Weavers Way near Mutton's Mill, there is a small area which is suitable for a couple of vehicles but consideration must be given to the landowners at this location to not impede any of the normal operations when they move cattle around.

There is an opportunity to apply for funding through the Farming in Protected Landscapes programme to improve field gates. This is dependant on uptake by landowners. The type of field gates suggested are accessible kissing gates. A member noted that handles would benefit horse riders who would otherwise have to mount and dismount at each gate.

The Water, Mills and Marshes programme receives funding for over 40 different projects. Another project was the book *Water, Mills and Marshes: Life and Work on the Broads 1920-2020*. The book is a collection of stories, based on recorded interviews with local people.

The Mills Trail communication plan will be launched later in the year once funding is made available from the EXPERIENCE project and installations can begin. Communications will focus on the off season, encouraging people to explore trails between October and March. Agreements with National Parks UK are also in place to support the promotion.

There are several mills in the north of the Broads which are not included in any projects. This is because the funding agreement from the Heritage Lottery funded Landscape Partnership Scheme permitted a contiguous 200 square kilometres area, most of which is in the southern Broads. When the Broads Authority applied for the funding the area was also required to be in close proximity to urban areas such as Norwich, Great Yarmouth, Lowestoft and Beccles. Andrew Farrell confirmed that future applications are no longer restricted by this constraint.

## **6. Unregistered Rights of Way**

Ken Hawkins provided a presentation on unregistered Rights of Ways, why they may have occurred and the process to record them on the Definitive Map.

### **Highways**

- legally speaking, 'once a highway, always a highway'
- public rights of way are highways
- as such, they can only cease being rights of way if removed by an appropriate legal process
- past legislation established the recording of rights of way on a Definitive Map and the accompanying Definitive Statement

- the appearance of a way on the Definitive Map is conclusive evidence of its existence as a public right of way; absence from the Map is not evidence that there is no right of way
- there are formal processes to determine whether an unrecorded way is or is not a public right of way

### **The process**

- to establish an unrecorded way as a right of way there is a legal process, usually through a Definitive Map Modification Order (DMMO)
- note that this process cannot be used to create a right of way, only to ensure that an existing right of way is recorded on the Definitive Map
- a claimant has to produce evidence in support of the claim, and submit it to Norfolk County Council (NCC)
- that evidence can be historical (maps and records) and/or evidence of use over 20 years
- if NCC decides that there is evidence of a valid claim, it makes a DMMO: it does not have to support that DMMO
- those opposing the claim can make objections
- if a claim is opposed, it will be decided on the balance of probabilities, either by written representations or at a public inquiry

### **What is 2026 all about?**

- 1 January 2026 is a cut off date set in the Countryside and Rights of Way (CROW) Act 2000
- after that date, unrecorded ways which were in existence in 1949 would be extinguished
- this process applied to claims for recognition based on historical evidence, not on evidence of use
- after passing the CROW Act, provision was made to fund the research needed to complete the definitive map and statement before 2026
- that funding morphed into a project, Discovering Lost Ways, by the then Countryside Agency (subsequently Natural England), but was quickly abandoned as not working

### **Alternative steps**

- in 2008, a Stakeholder Working Group was set up, representing all relevant interests
- after some time, and with plenty of compromise on all sides, the Group produced a set of proposals for a simplified means of making claims
- the Group was insistent that the measure proposed be treated as a single package, reflecting the fact that many compromises had been reached
- the proposals were enacted in the Deregulation Act of 2015
- in spite of many promises, they were never implemented (up to this date)

### **Subsequent action**

- increasingly as time went on, key users of rights of way (most notably British Horse Society, Open Spaces Society and The Ramblers) commenced work to identify and claim paths through the DMMO process
- this process had always been available, but research suggested there were many thousands of unrecorded rights of way
- a book - *Rights of way: restoring the record* - was produced, with the authors running seminars to inform volunteers of how to go about the process
- later, The Ramblers produced a map based on information from volunteers of potential claimable ways; work to refine this to enable valid claims to be made is still ongoing
- meanwhile, 2026 crept/raced nearer

### **Current steps**

- Wales decided to abolish the deadline
- pressure in England increased as 2026 drew nearer without any government action
- the favoured request was to delay the deadline by 5 years: this could be done through Regulations, not requiring primary legislation
- Defra announced on 16 February 2022 that it had decided not to implement the 2026 cut-off
- detailed implications are still being worked out, and it seems that there will be some degree of partial implementation, which is what the Stakeholder Group did not want
- the proposal is not to repeal the 2000 Act provisions, just not bring them into force - so they could be reactivated at any time

### **NCC plans (before the 16 February announcement)**

- a recent communication from NCC indicated that there were now approaching 200 applications in progress compared with historic numbers in the 20s or 30s
- the expressed intention was to begin prioritising some of the older applications based on user evidence in case users have moved away in the interim period

### **Comments and answers to questions**

Anyone who is considering making or supporting a claim is recommended to contact Ian Mitchell from Norfolk Ramblers in the first instance to discuss if there is an overlap or duplication with other cases.

All claims should be supported with as much evidence as possible when submitted. If a claim is rejected it can only be reopened once based on new significant evidence.

At this stage it is unclear why Defra have repealed the 2026 deadline for unregistered Rights of Ways.

Once a Right of Way has been established it will be added to the Definitive Map and obligations from the Highways Authority apply immediately.

A member asked if Other Routes with Public Access could be registered. These routes are marked with green dots on an OS map. Ken Hawkins agreed to find out the answer and report back to the Forum.

The relevant county council is obliged to investigate to the claims and can inform the claimants of any new information, but maintains an overall neutral stance on unregistered Rights of Ways.

## 7. Forum membership

Dan Hoare, Head of Construction, Maintenance and Ecology introduced the report which provided an update on the current membership of the Forum and set out the timetable for recruitment and appointments in 2022/23. The next round of recruitment is due to take place in May/June once the new Waterways & Recreation Officer has started.

Members whose membership is ending soon will be contacted and given the option to reapply and continue on the Forum.

The next round of recruitment will include a concerted effort to diversify the membership of the Forum and this will be reflected in the advert. Several members welcomed this approach and would still like to see applicants with experience apply and not be discouraged because of their age.

A member noted that the Forum should also be looking at ways to encourage minority groups to access the Broads as well as being included in the membership of the Forum. Dan Hoare and Kylie Moos are attending training this month by New Routes to look at barriers for participation in countryside activities and engagement with minority groups.

The recruitment will also activity engage with people and/or organisations which can represent disabled people. Currently there is not any representation of this user group in the forum.

## 8. Any other business

The Broad Authority receives consultation documents from outside bodies asking for feedback. Dan Hoare asked if members would like to be informed of any neighbourhood plans which are out for consultation and if they would like the opportunity to respond individually. The Waterways and Recreation Officer will also review neighbourhood plans and comment on any access issues. Members requested that they are emailed details of consultation once the Waterways and Recreation Officer has reviewed the document and highlighted areas relating to access.

The new Waterways and Recreation Officer is due to start by mid-April. Richard Atkins requested a phone call with the new officer once they are in place to discuss CIL funding for Wherrymans Way access improvements.

Members agreed to hold the next meeting face to face. The Broads Authority head office at Yare House is due to open to the public from the 1<sup>st</sup> April however, the maximum capacity has

not been yet been confirmed. Kylie Moos will enquire about holding the meeting at Hickling Barn until the capacity at Yare House has been confirmed.

## 9. Date of next meeting

The next meeting of the Broads Local Access Forum would be held on Wednesday 8 June 2022 at 10.00am, location to be confirmed.

The meeting ended at 11.20am

Signed by

Chair

