

IN THE COURT OF APPEAL  
ON APPEAL FROM THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES  
PROPERTY TRUSTS AND PROBATE LIST  
JUDGMENT OF SIR JULIAN FLAUX C [2023] EWHC 35 (Ch.) Case No: PT-2022-000194

**BETWEEN:**

**DARTMOOR NATIONAL PARK AUTHORITY**

**Appellant**

and

**(1) ALEXANDER DARWALL**  
**(2) DIANA DARWALL**

**Respondents**

and

**THE OPEN SPACES SOCIETY**

**Proposed Intervener**

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**WITNESS STATEMENT OF HUGH CRADDOCK**

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I, Hugh Craddock, of the Open Spaces Society, registered address 25a Bell Street, Henley-on-Thames, Oxfordshire RG9 2BA, do say as follows:

## Introduction

1. I am a case officer with the Intervening Party, the Open Spaces Society ('the Society') and I am duly authorised to make this statement on behalf of the Society.
2. The matters stated below are based on my own knowledge and belief except where otherwise indicated in which I state the source of the information and belief and believe the same to be true.
3. The Society is a company limited by guarantee (no. 07846516) and a registered charity (no. 1144840). It was founded in 1865 as the Commons Preservation Society. It was the first national amenity society and is Britain's oldest national conservation body. In 1899 it merged with the National Footpaths Society, and in 1927 it became the Commons, Open Spaces and Footpaths Preservation Society, which is still its long title. It campaigns for stronger protection of, and better opportunities for everyone to enjoy, commons, greens and paths; it defends public open spaces against encroachment and pressures from development; and it assists local communities so that they can safeguard their green spaces for future generations to enjoy. It has a continuing and important role in protecting open space. It is required to be notified of all path-change proposals under the Highways Act 1980 and the Wildlife and Countryside Act 1981, and its 44 local correspondents investigate and respond to such proposals in their areas.
4. The Society has been involved in litigation in pursuit of its campaigns since its formation. Its earliest cases included the organisation of opposition to the inclosure of commons in and around London, such as Hampstead Heath, Plumstead Common, Wimbledon Common, Coulsdon Commons, Banstead Heath, Dartford Heath, and Epping Forest, and representing the commoners in their defence. It is because of the Society's efforts that these spaces, and many others, remain open and unenclosed today.
5. The Society recently has been involved in court cases both on its own initiative as claimant, and as an intervener. To take two recent examples, the Society was the unsuccessful claimant for statutory review in the High Court and Court of Appeal in

relation to the tests applied to the diversion of a public path.<sup>1</sup> The Society intervened as an interested party in the same courts to limit the extent of land deregistered at Yateley Common, predicated on the ‘curtilage’ of the control tower of Blackbushe Aerodrome (situated on the common).<sup>2</sup>

6. I have been employed as a case officer for the Society, specialising in advice on common land and public rights of way, since April 2016. Previously, I was a civil servant in the Department for the Environment, Transport and the Regions, and then the Department for Environment, Food and Rural Affairs, where I was responsible for delivering access under Part I of the Countryside & Rights of Way Act 2000, commons legislation through the Commons Act 2006, as well as reforms to the registration of new town and village greens effected under the Growth & Infrastructure Act 2013. I am a member and director of the Institute of Public Rights of Way and Access Management. I am co-editor of the third edition of *Gadsden and Cousins on Commons and Greens* — some of this statement derives from material which I authored in that edition. I lived in Exeter between 1982 and 1986 while at university, and continue to return every year, spending time on Dartmoor.
7. The purpose of this statement is to provide the court with important background and evidential context to s.10 of the Dartmoor Commons Act 1985, in particular (1) camping as a recreational pursuit, (2) the historical use of and access to common land including the Dartmoor commons and (3) the development of statutory provisions to provide for public access to commons and other land. I therefore make reference to the relevant legislation. I exhibit a paginated bundle of documents to this witness statement. Pages in this bundle are referred to in the format [HC/1].
8. In this statement (other than in headings or the first place where they otherwise appear), the following abbreviations are adopted:
  - Metropolitan Commons Act 1866: ‘the 1866 Act’
  - (Part I of the) Commons Act 1876: ‘the 1876 Act’
  - (Part I of the) Commons Act 1899: ‘the 1899 Act’
  - Law of Property Act 1925: ‘the 1925 Act’

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<sup>1</sup> *Open Spaces Society v Secretary of State for the Environment, Food and Rural Affairs* [2020] EWHC 1085 (Admin); [2021] EWCA Civ 241.

<sup>2</sup> *R (Hampshire County Council) v Secretary of State for the Environment, Food and Rural Affairs* [2020] EWHC 959 (Admin); [2021] EWCA Civ 398.

- Access to Mountains Act 1939: ‘the 1939 Act’
- (Part V of the) National Parks and Access to the Countryside Act 1949: ‘the 1949 Act’
- Dartmoor Commons Act 1985: ‘the 1985 Act’
- (Part I of the) Countryside and Rights of Way Act 2000: ‘the 2000 Act’.

## Wild camping as a recreation

9. Wild camping is not a recent innovation. Wild camping must have been practised since the earliest times of human existence. It might fairly be said that much if not most wild camping in former times was done of necessity, enabling travellers to cover long distances without resort to accommodation under a roof. But it can hardly be the case that every journey was a matter of necessity rather than one of pleasure or even recreation.
10. In more recent times, camping has become a recreation in itself, often essentially low cost, typified by the family which might spend a week in a campsite in the Lake District as a base for exploring the area. On the other hand, some walkers undertake longer journeys enjoying the freedom brought by reliance on a tent carried in a backpack. It is commonplace to encounter walkers following one of the national trails<sup>3</sup> or other recognised long distance paths, and camping — whether in designated camp sites or along the way (and often both).
11. In *The Camper’s Handbook* [HC1/2],<sup>4</sup> published in 1908, provided advice for the turn of the century camper. It observes<sup>5</sup> that camping:

affords more enjoyment, for less money, than almost any other form of recreation for a change or a holiday.

and suggests that<sup>6</sup>:

Nature spreads her beauty at the campers’ feet; mountain, morass, moor and fen; greenest glade and leafy dell; verdant hill and “dewy-mead” and mountain slope... .

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<sup>3</sup> Designated under ss.51 to 52 of the 1949 Act.

<sup>4</sup> T H Holding.

<sup>5</sup> [HC1/3] P.23.

<sup>6</sup> [HC1/8] P.177.

Albeit that it continues:

There are some [localities] that wear an uninhabitable look and are bereft of any charm. The misery of an ill-conditioned site with, say, a storm swept moorland hundreds of feet above the sea, without shelter is beyond description.

The author adds that, in selecting a location to camp<sup>7</sup>:

If you are certain it is a place where permission is not needed, well, there is your land, take possession and take the consequences.

12. The *Report of the National Park Committee* [HC1/9] in 1931 said that<sup>8</sup>:

The growth of the open air habit has been a notable feature of post-war life. The Youth Movement of Germany has its counterpart in this country. Ramblers Federations number more than 40,000 members, and recently a Youth Hostels Association has been formed to help all, but especially young people, to a greater knowledge, love and care of the countryside, particularly by providing hostels or other simple accommodation for them on their travels. Camping parties, both pedestrians and motorists, are to be found in all parts of the country during the summer months.

13. The *Report of the National Parks Committee* [HC1/12] in 1947 stated that<sup>9</sup>:

Camping will bring National Park holidays within the reach of many people, and especially young people, who might otherwise be kept from their enjoyment by lack of money or the insufficiency of permanent accommodation. Moreover camping is an adventure in itself which has the greatest educational value, in developing qualities of self-reliance and initiative, in bringing campers into close touch with Nature, and in opening to them a way of escape from the cares and complexities of everyday existence into the simple life of the nomad.

and that<sup>10</sup>:

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<sup>7</sup> [HC1/6] P.173.

<sup>8</sup> Cmd.3851. Known as the Addison Committee. [HC1/10] Para.17, under the heading Recreational Facilities ((iii) Modern tendencies).

<sup>9</sup> *Report of the National Parks Committee (England and Wales)*. Cmd.7121. Known as the Hobhouse report. [HC1/13] P.37, para.168.

<sup>10</sup> *Ibid* [HC1/18] P.88.

Whatever opportunities may be found and exploited for the wider enjoyment of other field sports, walking, rock-climbing and camping will always be the principal recreations in the Lake District.

14. The report laid the foundations for the 1949 Act. S.12(1)(b) enables a local planning authority within the area of a National Park to provide or secure the provision of camping sites, as well as (s.12(1)(a) and (c)) arrangements for the provision of meals, refreshments, and parking places.<sup>11</sup>
15. However, the provision of camping sites was not intended to be the sole mechanism for enabling camping in National Parks as ‘an adventure’, any more than arrangements for the provision of meals, refreshments and parking places was intended to prevail over the enjoyment of picnics and a parking place on the verge of a local road.
16. *Leisure in the Countryside* [HC1/19], published in 1966, addresses the increasing popularity of the countryside for recreation and proposed the renaming of the National Parks Commission to the Countryside Commission and extension of its remit.<sup>12</sup> In commenting on relations with the Sports Council, it observed<sup>13</sup>:

The creation of the Countryside Commission will in no way diminish the importance of the Sports Council, which will remain responsible for advising the Government on the development of amateur sport and physical recreation services. The Commission’s concern, in this field, will be primarily with enjoyment of the opportunities which the countryside gives for what is described in the 1949 Act as “open-air recreation”—a phrase which the National Parks Commission have rightly interpreted in its broadest and least specialised sense.

17. On Dartmoor, the annual Ten Tors event has been taking place on the moor since 1960, and is now very popular for schools. The rules<sup>14</sup> require participants, before the event itself, to:

...complete a structured and progressive programme of training which includes as a minimum:

- a. 4 days of training on Dartmoor.

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<sup>11</sup> The National Parks Commission (now Natural England) had (now has) a duty ‘to assist such authorities in formulating proposals’ as to the exercise of those powers (s.6(4)(c)).

<sup>12</sup> *Leisure in the Countryside, England and Wales*, presented by the Minister of Land and Natural Resources and the Secretary of State for Wales to Parliament, Cmnd. 2928.

<sup>13</sup> [HC1/20] Para.12.

<sup>14</sup> [tentors.org.uk/rules/ten-tors-rules](http://tentors.org.uk/rules/ten-tors-rules), at para.16.

- b. 2 nights of wild camping on Dartmoor.
  - c. Experience of walking in a remotely supervised group.
18. Expeditions for the Duke of Edinburgh's award are also undertaken on Dartmoor with wild camping as part of the curriculum.
19. The *Landscapes review: National Parks and AONBs* [HC1/21],<sup>15</sup> in 2019, proposed (at Proposal 8):

**A night under the stars in a national landscape for every child**

in which the authors seek for every child:

to provide a clear, consistent offer for a meaningful visit that we think should include an overnight stay. It would be a chance for children to meet others from communities they may not normally meet, to learn about the nature that we all rely on, and even enjoy the thrill of a night under the stars.

### Historical use of and access to commons

20. Common land is land which is owned by one person, but subject to the rights of others (commoners) to take a produce of the soil — typically grazing by animals (sometimes including pigs — pannage), but potentially also peat (turbary), stone or lime; fish (piscary); vegetation (usually bracken for livestock bedding: estovers); or wood (for fencing or firewood: also estovers).
21. Formerly, common land occupied between one-quarter and one-third of the area of England; now, around 3%. Most common land then, and nearly all common land today, was and is waste: often the least productive land in the manor, left open, uncultivated and unoccupied by the lord or lady of the manor for the use of tenants, and of the freeholders exercising their rights as commoners.<sup>16</sup> Almost every agricultural community relied on access to commons to sustain rural life. In upland areas, the common might be the moors or fells far above the village; in lowland areas, a heath, down or woodland pasture.

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<sup>15</sup> Led by Julian Glover, September 2019, at p.85: [www.gov.uk/government/publications/designated-landscapes-national-parks-and-aonbs-2018-review](http://www.gov.uk/government/publications/designated-landscapes-national-parks-and-aonbs-2018-review). [At HC1/22]

<sup>16</sup> Some common land was in the form of common fields, which were managed in common, and often under cultivation. Virtually none exists today.

22. Inclosure increasingly was sought in the 18<sup>th</sup> and 19<sup>th</sup> centuries in order to promote greater efficiency and productivity. Inclosure generally was effected by means of an Act of Parliament, which permitted appointed commissioners to extinguish rights of common and award parts of the common in individual parcels in severalty in substitution for the extinguished rights.
23. Statutory inclosure was curtailed only by increasingly burdensome constraints (see para.25 below) in the second half of the 19<sup>th</sup> century, as commons became recognized for their wider benefits to society, in terms of their contribution to recreation, nature conservation, the landscape, as well as their importance to those commoners with modest or no legal rights, but who were able to sustain a living by grazing a few animals on the common.
24. Until the 19<sup>th</sup> century there was near universal access to common land. Commoners were entitled to go to the common to exercise their rights and to look after their grazing livestock, and others might cross it on any number of tracks and paths which became established. Perhaps local people resorted to the common for enjoyment too — a pond, or a view point, or to pick wild fruit. The owner of the common, generally the lord or lady of the manor, would see little or no reason to restrict such activities or uses, because the common had limited value to him or her, and the majority or all of the grazing and other rights were held by tenants or freeholders who derived great value from their exercise. A common might be criss-crossed by any number of tracks, which might or might not be highways, but because the public had a right to deviate around boggy ground, there was little need for, and a reluctance by, the parish to maintain and therefore limited recognition of the extent of public rights.
25. The Metropolitan Commons Act 1866, which applied to commons in the former (London) metropolitan police district, was the first Government legislation to enable management and regulation of commons in the wider public interest. Ten years later, Part I of the Commons Act 1876 enabled similar measures in relation to commons outside London. The 1866 Act prohibited (in relation to metropolitan commons), and the 1876 Act restricted, further statutory inclosure.
26. Consequently, some lords of the manor took extra-legislative steps to promote profitable development or inclosure of commons, for example by buying out or ignoring the commoners' rights, or by asserting approvement — *i.e.* the ancient right of the lord to take out part of the common by leaving a sufficiency to meet the commoners'



needs.<sup>17</sup> These measures often were resisted, and the Society, in its original incorporation as the Commons Preservation Society, was instrumental in saving many commons from encroachment and development (see para.4 above).

## The Dartmoor commons

27. The Dartmoor commons comprise around 359 square kilometres of (generally) moorland within the Dartmoor National Park.<sup>18</sup> The vegetation of the common land is almost entirely rough grazing with a small area of woodland and some golf courses. Central areas of heather and grass moorland are surrounded by tracts of rough grassland, bracken, gorse and heathland. The height ranges from 152 to 621 metres above sea level.<sup>19</sup>
28. The commons typically are remote from settlements. A traverse of northern Dartmoor from Okehampton to Two Bridges is 20 kilometres as the crow flies, and considerably longer on foot or horseback to follow a satisfactory path. Such a traverse neither follows nor crosses any public roads, and passes no human habitation, save at start and finish. It would be almost entirely on common land. To be on Black Hill, about halfway between start and finish, is to be as truly isolated as it is possible to be in southern England, some six kilometres from the nearest dwelling or public road (to the east), but far more isolated than the distance would suggest given the nature of the terrain and the absence of paths. A walker or rider being overtaken by severe weather here may be in real peril. This is not the place to set about obtaining permission from the landowner to camp, even assuming one could identify the correct landowner or establish contact.<sup>20</sup> Even arriving at Two Bridges (nearly half-way between the northern and southern boundaries of the National Park), the walker will find virtually no public transport (a trans-moor bus, which has operated from time to time commercially or under contract in the past, recently ceased operation but is advertised to resume for summer holidays), and must rely on other arrangements, or continue covering perhaps the same distance again to Ivybridge on the southern edge of the National Park.
29. In general, the Dartmoor commons offer their owners (as opposed to commoners) little revenue-earning potential. Owners may be able to turn out their own livestock on the

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<sup>17</sup> Codified in the Commons Act 1285 (repealed by the 2006 Act, Sch.6, Pt.3).

<sup>18</sup> Some areas of common on the south-west side of Dartmoor were excluded from the National Park, as being degraded by quarrying.

<sup>19</sup> From *Dartmoor Commons*, Dartmoor Factsheet, 2006, DNPA.

<sup>20</sup> Mobile phone coverage is poor to non-existent on much of the commons.

common, but the potential to do so on any particular common will be an abstruse calculation of statutory, common-law, customary, practical and pragmatic considerations.<sup>21</sup> Owners may be able to enter into agri-environment agreements with the Government or Natural England, alongside the commoners, in which their share of the payments may or may not be proportionate to their own contribution to delivery of the required outputs (such as reduced grazing, blocking of drains and regulation of swaling *i.e.* burning of vegetation). They may be able to license activities on the common, such as military training (as on the Forest of Dartmoor, owned by the Duchy of Cornwall), golf (as on Whitchurch Down and at Wrangaton Golf Club), or sporting rights. However, there is little of the sporting management or activity that is commonplace on the moors in the north of England.

30. Owners are constrained from more profitable agricultural or other uses of the commons, both by the common law requirement not to interfere with the exercise of commoners' rights, and the statutory requirement for the consent of the Secretary of State to carry out any restricted works (such as erecting fencing or buildings) under what is now Part 3 of the 2006 Act — which in practice is withheld in relation to works incompatible with the continuing use of the land as common land.
31. Formerly, owners might benefit from mineral extraction. Several of the commons in the south-west corner of Dartmoor, in the vicinity of Lee Moor, have been disfigured by china-clay quarrying and excluded from the National Park. But works for this purpose now also require consent under Part 3 of the 2006 Act.<sup>22</sup>
32. Accordingly, the ownership of extensive tracts of Dartmoor commons typically brings very limited financial benefits.

## **Statutory management of public access to commons and other land**

### **Metropolitan Commons Act 1866**

33. The 1866 Act applied only to commons within the former metropolitan police district. It enabled a scheme to be made by the Inclosure Commissioners (later, the Board of

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<sup>21</sup> At common law, the owner of a common could have no rights of common exercisable over the common, although the owner might have quasi-rights of a similar nature. However, the effect of registration of rights of common under the Commons Registration Act 1965 is that some owners are registered as apparently entitled to exercise certain registered rights attached to land which they also own.

<sup>22</sup> But formerly were not subject to consent: see s.194(4) of the Law of Property Act 1925 (s.194 is the predecessor provision to Part 3 of the 2006 Act). Nor do such works require consent under Part 3 if they received planning permission before 1 October 2007: see the 2006 Act, Sch.4, para.7.

Agriculture) and confirmed by a 'supplemental' Act of Parliament for the 'improvement, protection, and management' of a metropolitan common. The majority of metropolitan commons are now subject to one of 27 such schemes,<sup>23</sup> although there are notable exceptions, particularly outside what is now Greater London. The majority of schemes vested control of a common in the Metropolitan Board of Works.

34. Neither the 1866 Act nor individual schemes conferred an express right of access to metropolitan common land. Very probably, metropolitan commons were already subject to *de facto* access which warranted the making of a scheme to regulate it. A statutory right of access finally was conferred by s.193(1) of the Law of Property Act 1925 (as to which, see para.52 below).
35. Section 6 of the 1866 Act states that a scheme may make provision for 'the making of byelaws and regulations for the prevention of nuisances and the preservation of order', and each scheme sets out the purposes for which byelaws may be made. Typically, this might include a power 'to remove and apprehend, if necessary, gamblers, cardsharps, gipsies, squatters, vagrants, ...so that all such persons may be dealt with according to law',<sup>24</sup> to allow for the 'regulation of games to be played, and other means of recreation on the commons, and of assemblages of persons thereon', and to address 'interference with the use thereof by the public for purposes of exercise and recreation'.<sup>25</sup>
36. I have reviewed all of the schemes,<sup>26</sup> and none of them expressly confers powers to regulate camping save the scheme for Keston Common and Leaves Green,<sup>27</sup> the penultimate scheme made in 1909, which confers a power to make byelaws, *inter alia*:

For prohibiting or regulating...the erecting or permitting to remain on the Commons without the consent of the Council or other lawful authority any building shed tent fence post railing or other structure whether used in connexion with the playing of games or not and for authorising an officer of the Council to

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<sup>23</sup> Not including amending schemes.

<sup>24</sup> Scheme for Shepherd's Bush Common, confirmed by the Metropolitan Commons Second Supplemental Act 1871.

<sup>25</sup> Scheme for Staines Moor, confirmed by the Metropolitan Commons Supplemental Act 1880.

<sup>26</sup> Schemes are published on legislation.gov.uk, and a list of schemes appears in *Gadsden and Cousins on Commons and Greens*, Appendix 7, table 2.

<sup>27</sup> Confirmed by the Metropolitan Commons Scheme Confirmation Act 1909.

remove from the Commons...any structure erected thereon in contravention of any such byelaw[.]

## Part I of the Commons Act 1876

37. The 1876 Act enabled a provisional order to be made for the regulation of a common (an order alternatively could be made for the inclosure of a common, but onerous conditions and evolving expectations meant that only 27 such inclosure orders were confirmed<sup>28</sup>). Under the order, the regulation of the common was to be vested usually in a board of conservators. Inclosure Commissioners (later, the Board of Agriculture) were authorised to include in a provisional order terms for the benefit of the neighbourhood, including 'That free access is to be secured to any particular points of view' (s.7(1)). Some 36 provisional orders were made and confirmed by Act of Parliament, the last in 1919.<sup>29</sup> In practice, all but the first orders conferred access to the regulated common,<sup>30</sup> in terms which typically refer to a right of access, and a 'privilege' of playing games and reasonable recreation.
38. Such rights and 'privileges' were subject to regulation under a byelaw-making power conferred on the conservators or other regulating authority. The order might rely on the power in s.5(3) of the 1876 Act for: 'The making or causing to be made byelaws and regulations for the prevention of or protection from nuisances or for keeping order on the common', or use similar enabling language in the order.
39. No order expressly confers a power to regulate camping, but the order for Redhill and Earlswood commons (confirmed 1884) contains a power to make byelaws regarding the exclusion or removal of gipsies, squatters, vagrants *etc.*
40. I have reviewed the orders made under the 1876 Act, and a précis of the provision made in each order as regards access and its regulation under byelaws is at annexe A (on page 30).

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<sup>28</sup> The very last inclosure order, and therefore the final statutory inclosure, was authorised in 1914, in relation to Elmstone Hardwicke open fields.

<sup>29</sup> All but the order for Towyn Trewan (1908) are now available on [www.legislation.gov.uk](http://www.legislation.gov.uk). Strictly speaking, a provisional order, when confirmed by Parliament, was required to be given effect in an award made in accordance with the terms of the order, but in practice, the award adds little to the order.

<sup>30</sup> For lists of commons regulated or enclosed under the 1876 Act, see: [www.gov.uk/guidance/managing-common-land#how-local-authorities-can-manage-commons](http://www.gov.uk/guidance/managing-common-land#how-local-authorities-can-manage-commons).

## Part I of the Commons Act 1899

41. The 1899 Act provides a method of regulating and managing a common through a district council adopting a model form of scheme prescribed in regulations. The process is more economical than that under the 1876 Act. The 1899 Act has been widely used, mainly on common lands which have ceased to remain in significant agricultural use and in respect of often comparatively small areas of land. There are perhaps around 350 schemes.<sup>31</sup> Although numerous, most schemes relate to commons in or near centres of population, and the total area regulated is relatively small.

42. The scheme generally must be in a prescribed form laid down in regulations (see para.50 below). The prescribed form includes a conferral of a right of access to the common, and a power to make byelaws.

43. The first scheme to be prescribed in regulations contains in cl.5 the words<sup>32</sup>:

The inhabitants of the *district and* neighbourhood shall have a right of free access to every part of the common and a privilege of playing games and of enjoying other species of recreation thereon, subject to any byelaws made by the Council under this scheme.

44. Subsequent schemes contain the same text, but with, in the 1972 prescribed scheme, the omission of the italicised words and the substitution of 'kinds' for 'species' of recreation.<sup>33</sup>

45. The first prescribed scheme also confers powers in cl.10 to make byelaws for the purposes of, *inter alia*:

f. The exclusion removal and apprehension if necessary of gamblers card-sharpers gipsies squatters vagrants...so that all such persons may be dealt with according to law...

46. The form of words contained in cl.10.f., which had appeared in many schemes made under the 1866 Act, and also in the Redhill and Earlswood order (1874) made under the 1876 act (see para.39 above), was perhaps now recognised as unsatisfactory,

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<sup>31</sup> *Access and Management under the Commons Act 1899*, authored by the witness and published in *Rights of Way Law Review*, s.15.4.19, at 27.

<sup>32</sup> Commons Regulations 1899 (S&RO 1899/950), Sch., Form I, cl.5.

<sup>33</sup> SI 1982/209 Sch. Form I.

because it criminalised belonging to a class of persons (*i.e.* 'gipsies') without any requirement for evidence of any offence. A replacement scheme prescribed in 1900<sup>34</sup> instead confers in cl.10 a power to make byelaws:

g. For prohibiting or regulating...the erecting or permitting to remain on the common, without the consent of the Council or other lawful authority, any building, shed, tent, fence, post, railing, or other structure, whether used in connection with the playing of games or not, and for authorising an officer of the Council to remove from the common...any structure erected thereon in contravention of any such byelaw[.]

47. The following prescribed scheme, in 1924,<sup>35</sup> is in similar terms as regards the purposes of byelaws.

48. The next prescribed scheme, in 1935,<sup>36</sup> is in the same terms save that para.(g) of c.10, so far as it might have engaged with camping, is now addressed by a specific power for that purpose:

For prohibiting the drawing, driving or placing upon the common or any part thereof without lawful authority of any carriage, cart, caravan, truck, motor cycle or other vehicle or any aircraft (except in the case of accident or other sufficient cause); or camping or the lighting of any fire thereon.

49. The final (and still in force) 1982 prescribed scheme now confers similar powers in para.(n) of cl.8, for the purposes of:

(n) prohibiting camping or the lighting of any fire;

50. It is not inevitable that a particular scheme precisely follows the prescribed model in force at the time the scheme is made. But in practice, the vast majority of schemes do follow the then-prevailing prescribed form.

51. The form of words contained in cl.10(f) of the 1899 prescribed scheme, and the correction made to the scheme prescribed in the following year, are an early allusion to a contemporary and very powerful concern in a certain stratum of society about the occupation of commons by those following a nomadic way of life. In correspondence

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<sup>34</sup> SR&O 1900/926, Sch., Form I.

<sup>35</sup> SR&O 1924/1157, Sch., Form I.

<sup>36</sup> SR&O 1935/840, Sch., Form I.

between Wigmore Rural District Council and the Board of Agriculture in June 1900, about a scheme proposed to be made (and subsequently confirmed) in relation to Adleymoore Common, the clerk to the council responded to the Board's proposed amendment of cl.10(f) contained in the draft scheme.<sup>37</sup> He writes:

The principal object in applying for the Scheme was the nuisance caused on and the damage done to the Common by the camping thereon of gipsies and vagrants. These people refuse to move when ordered by the Commoners and unless power is given to the police to forcibly remove and if necessary to apprehend persons of this class from the Common the Scheme will be wholly useless.

### **Law of Property Act 1925, s.193**

52. The 1925 Act consolidates, among other enactments, the Law of Property Act 1922. The principal purpose of the 1925 Act, and before it the 1922 Act, was to modernise the law of real property. The 1925 Act abolished copyholds, the form of land tenure whereby tenants' rights, including rights of common, were recorded by the manorial courts. The Society was alarmed by this: when attempts were made to enclose commons, the Society referred where possible to the manorial records to demonstrate the existence of common rights.
53. The Society campaigned for and won provisions in the 1922 Bill (and so the 1925 Act) which gave the public the right to walk and ride on certain commons, and which protected all commons from development and encroachment by requiring the Minister's consent for any works. These became ss.193 and 194 of the 1925 Act.
54. Subsection (1) of s.193 confers a right of access to metropolitan commons (*i.e.* those subject to the 1866 Act: see para.33 above) and what colloquially are referred to as 'urban commons' — meaning commons and waste which before 1974 were wholly or partly located within an urban district or borough. Under subs.(2), s.193 could also voluntarily be applied to any other common (colloquially referred to as 'rural commons') by the owner executing a deed, expressed to be revocable or irrevocable, deposited with the Minister.

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<sup>37</sup> National Archives MAF 25/23, letter dated 7 June 1900. The Board proposed to strike out 'gipsies' and to delete the power to apprehend.

55. I estimate that around 300–350 commons have been the subject of deeds,<sup>38</sup> in addition to the many urban commons to which s.193 applies regardless. A long-standing rule of thumb is that about one-fifth of the area of commons in England is subject to s.193.<sup>39</sup>
56. The right confirmed by subs.(1) is a right of access ‘for air and exercise’. The right is constrained in two separate ways so as to exclude camping. In para.(c) of the proviso to subs.(1), by specification that, ‘such rights of access shall not include any right to...camp...’. And in subs.(4), by creating a criminal offence of camping. These provisions, taken together, do not merely create an offence of camping on commons to which s.193 applies: they specify that the right of access for air and exercise conferred by subs.(1) is not to be taken to include a right to camp.

### **Access to the Mountains Act 1939**

57. The 1939 Act supposedly was the culmination of decades of campaigning for freedom of access to the uplands, beginning with the opposed introduction of a Bill of the same name by James Bryce MP in 1884. In practice, compromises made during the Bill’s passage through Parliament<sup>40</sup> rendered it unworkable, and the onset of war left it sterile until repealed by the National Parks and Access to the Countryside Act 1949 (see below).
58. An order could be made by the Minister, following an application for that purpose, which would apply s.1 to the land comprised in the order. An order could be made in relation to: ‘mountain, moor, heath, down or cliff.’<sup>41</sup> Most common land was likely to fall within those descriptions.
59. Where an order was to be in force in relation to land, the ‘right’ conferred by s.1(1) of the 1939 Act was expressed in a negative form:

...no owner or occupier of, or person having an interest in, land to which this Act applies shall be entitled to exclude any person from entering or being on the land,

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<sup>38</sup> Defra casework database. However, many records are duplicated. It was stated by the Society in 1939 that around 46,000 ha of ‘rural’ commons had been secured access under s.193.

<sup>39</sup> *Access to the Countryside in England and Wales*, DETR, February 1998, suggests that 110,000 ha of common land in England and Wales (or around one-fifth of the total area) was subject to existing statutory access, mainly under s.193.

<sup>40</sup> The then General Secretary to the Society, Sir Lawrence Chubb, was instrumental in negotiating compromises which secured the passage of the Bill — but, it may be said, not with the support of other user groups.

<sup>41</sup> S.2(1).



on any day between one hour before sunrise and one hour after sunset, for the purpose of air and pedestrian exercise... [.]

S.1 itself was headed 'Persons *not to be prevented* from walking on land to which this Act applies.' (emphasis added)

60. Entry is subject to the restrictions in s.6 of the 1939 Act, and to any 'limitations and conditions' imposed in an order. The restrictions in s.6 include prohibitions, 'without lawful authority (proof of the possession whereof shall lie upon him)', on cycling (para.(a)); lighting fires (para.(b)); dogs not under control (para.(c)). They do not include camping. Restrictions on camping no doubt could have been imposed in any individual order.
61. In the Society's journal reporting on the 1939 Act, the notes to s.6 include the following comment:<sup>42</sup>

Where "lawful authority" is claimed, the doer of the act must show that he has it, and this is reasonable. For example, if a party are camping on access land, and have the owner's permission to light a fire, they can fairly be asked to produce some reasonable evidence of permission having been granted.

The implication is that, whereas camping would be within the scope of the 'right' conferred by the 1939 Act, a camper would need to be able to produce evidence of the permission of the landowner in order to light a fire.

62. Breach of the restrictions was a criminal offence (an innovation which itself rendered the Act unpopular among groups other than the Society promoting access to the countryside and therefore unlikely to be used in practice).<sup>43</sup> In the event, no order was ever made under the 1939 Act.

## **Part V of the National Parks and Access to the Countryside Act 1949**

63. The 1949 Act implemented the recommendations of the Hobhouse report (see para.13 above) as to, *inter alia*, the establishment of National Parks and access to open country.
64. Under the provisions contained in the 1949 Act an owner of 'open country' may enter into an access agreement with a local planning authority. (A local planning authority

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<sup>42</sup> *Journal of the Commons, Footpaths and Open Spaces Society*, vol.VI, no.5, January 1940, at p.158.

<sup>43</sup> See s.7.

now includes a National Park authority.) Alternatively, the authority may make an access order for such land, subject to confirmation by the Secretary of State. The purpose of such an agreement or order is to enable the public to have access for open-air recreation.<sup>44</sup>

65. 'Open country'<sup>45</sup>:

means any area appearing to the authority...to consist wholly or predominantly of mountain, moor, heath, down, cliff or foreshore (including any bank, barrier, dune, beach, flat or other land adjacent to the foreshore).

The definition was extended by the Countryside Act 1968 to include woodland, river and canal, and riparian land.<sup>46</sup> The definition does not expressly include common land, but most common land satisfied the 1949 Act definition, and nearly all was embraced after 1968 by the amended definition to include woodland.

66. Where an access agreement or order is in force in relation to land, a person entering that land 'for the purpose of open-air recreation',

shall not be treated as a trespasser on that land or incur any other liability by reason only of so entering or being on the land[.]

This provision is contained within s.60 which bears the side-note (in contrast to that of s.1 in the 1939 Act), 'Rights of public where access agreement, order in force.' Entry is subject to the restrictions in the Second Schedule to the 1949 Act,<sup>47</sup> and to any restrictions imposed in an access agreement (no additional restrictions are imposed in the two access orders made to date).<sup>48</sup> 'Open-air recreation is not defined as such, but it is provided that its meaning 'does not include organized games'.<sup>49</sup>

67. The 1949 Act is partly modelled on provisions in the 1939 Act, but lacking some of the more onerous elements — for example, there is no provision for application for an agreement or order (and therefore no burdensome requirements for notices in

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<sup>44</sup> S.59(1).

<sup>45</sup> 1949 Act, s.59(2).

<sup>46</sup> S.16.

<sup>47</sup> Subs.(4). The Second Schedule is derived from s.6 of the 1939 Act, with modest modifications.

<sup>48</sup> Subs.(3).

<sup>49</sup> S.114(1).

connection with an application), and breach of any restriction in the Second Schedule does not in itself attract any criminal sanctions.

68. However, s.90(1) (in Part VI of the 1949 Act) confers power on a local planning authority to make byelaws in respect of land owned by it within a National Park or area of outstanding natural beauty, or land comprised in an access agreement or order,  
  
for the preservation of order, for the prevention of damage to the land or waterway or anything thereon or therein, and for securing that persons resorting thereto will so behave themselves as to avoid undue interference with the enjoyment of the land or waterway by other persons.
69. The restrictions in the Second Schedule to the 1949 Act (which appear to be derived from those in s.6 of the 1939 Act) include various activities in relation to a person who 'lights any fire...' (para.1(b)), has a '...dog not under proper control' (para.1(c)), or who 'bathes in any non-tidal water in contravention of a notice...' (para.1(e)). Notably, the restrictions do not include camping, nor horse riding.
70. The former Countryside Agency (now subsumed within Natural England) researched the extent of access agreements and orders in preparation for the implementation of the 2000 Act. This was done because s.15(1)(c) of the 2000 Act excludes from the right of access conferred under the 2000 Act, any land comprised in an access agreement or order. The Agency wished to establish what land, which had been mapped as open country or registered common land, on the face of it would be access land for the purposes of Part I, but would be excluded under s.15. Natural England has provided to the Society a copy of the agreements and orders identified in the course of the research.
71. I have reviewed 51 such agreements and orders provided by Natural England and a summary is at annexe C (on page 41). There are two orders. I do not know which of the agreements remain in place (orders have effect unless revoked), and it is likely that many have been allowed to expire, or have been revoked, because of the effect of the 2000 Act in conferring a right of access to open country and registered common land formerly comprised in 1949 Act agreements. Only some of the agreements (and neither of the access orders) relate to common land.
72. Some 26 of the agreements include terms which either impose additional restrictions on the access conferred by the 1949 Act, or which purport to impose a more restrictive interpretation on the meaning of 'open-air recreation', to exclude camping. The other

23 agreements make no reference to camping or the use of tents, nor do the two access orders.

73. Broadly speaking, agreements have become more sophisticated over time. The earliest agreements did little other than to trigger the application of Part V to particular land (much as a deed under subs.(2) triggers the application of s.193 of the 1925 Act to commons), in consideration of a payment. Later agreements tend to recite the relevant provisions of the 1949 Act (including the provision for excepted land<sup>50</sup>) and the general restrictions,<sup>51</sup> to impose special restrictions (such as requiring dogs to be kept on leads), and to restrict the owner's freedom to carry out works which might interfere with public access.<sup>52</sup>
74. It is not until 1976 that the first agreement is encountered (the 13<sup>th</sup> in chronological order), made by the then Peak Park Joint Planning Board, which expressly excludes camping, and similar words are included in all its subsequent agreements. However, as late as 1998, one finds an agreement made by the Yorkshire Dales National Park authority which expressly excludes horses and cycles and enjoins the removal of dog faeces — but does not restrict camping.
75. Most of the land subject to access agreements appears to have also been made subject to byelaws made under s.90 of the 1949 Act, which may have made provision to criminalise camping. For example, the byelaws made by the Peak Park Joint Planning Board on 11 July 1996 and confirmed by the Secretary of State on 28 October 1996 provide that<sup>53</sup>:

No person shall on the access land erect a tent or use any vehicle, including a caravan, or any other structure for the purpose of camping, except on any area which may be set apart and indicated by notice as a place where camping is permitted.

76. Byelaws made by Lancashire County Council on 2 November 1972 and confirmed by the Secretary of State on 18 May 1973 provide that<sup>54</sup>:

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<sup>50</sup> See the proviso to s.60(1), and see s.60(5), of the 1949 Act.

<sup>51</sup> See the Second Schedule to the 1949 Act.

<sup>52</sup> The local planning authority's power to restrict such works was conferred by s.18 of the Countryside Act 1968.

<sup>53</sup> [www.peakdistrict.gov.uk/\\_\\_data/assets/pdf\\_file/0023/96332/Byelaws-for-Access-Land-1996.pdf](http://www.peakdistrict.gov.uk/__data/assets/pdf_file/0023/96332/Byelaws-for-Access-Land-1996.pdf): byelaw 14.

<sup>54</sup> [www.blackburn.gov.uk/sites/default/files/media/pdfs/Lancashire%20County%20Council%20Byelaw%20-%20National%20Parks%20and%20Access%20to%20the%20Countryside%20Act%201949.pdf](http://www.blackburn.gov.uk/sites/default/files/media/pdfs/Lancashire%20County%20Council%20Byelaw%20-%20National%20Parks%20and%20Access%20to%20the%20Countryside%20Act%201949.pdf): byelaw 21.

I do not know whether these byelaws remain in force.

No person shall camp or pitch or erect any tent hut or similar structure on the Access Land[.]

77. Byelaws made by Devon County Council (then acting as Dartmoor National Park Authority) and confirmed by the Home Secretary in October 1989 are of particular relevance to this case. The 1989 byelaws were made under s.90 of the 1949 Act and under s.11 of the 1985 Act. Byelaw 6 provides that:<sup>55</sup>

### **Camping**

(1) No person shall knowingly use any vehicle, including a caravan or any structure other than a tent for the purpose of camping on the access land or land set out for the use or parking of vehicles except on any area which may be set apart and indicated by notice as a place where such camping is permitted.

(2) No person shall knowingly erect a tent on the access land for the purpose of camping:

(a) in any area listed in Schedule 2 to these byelaws;

(b) within 100 metres of any public road or in any enclosure.

(3) No person shall camp in a tent on the same site on the access land for more than two consecutive nights, except on any area which may be set apart and indicated by notice as a place where such camping is permitted.

78. There is diversity of practice in making byelaws: at least two local planning authorities have made byelaws which criminalise camping on land subject to access agreements; while in relation to Dartmoor, the byelaw is selective in criminalising camping only in high profile locations.

## **Part I of the Countryside and Rights of Way Act 2000**

79. The 2000 Act confers in s.2 a right of access to land identified as open country or registered common land on maps prepared for that purpose by (in England) the former Countryside Agency (now Natural England), but excluding, among other things, land already accessible under s.193 of the 1925 Act, the 1949 Act, or a right conferred by a local Act or scheme made under the 1899 Act.<sup>56</sup>

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<sup>55</sup> [www.dartmoor.gov.uk/about-us/who-we-are/byelaws](http://www.dartmoor.gov.uk/about-us/who-we-are/byelaws).

<sup>56</sup> S.15(1).

80. The right is conferred in direct terms: s.2 is given the side-note, 'Rights of public in relation to access land.', and s.2(1) refers to a 'person [who] is entitled...to enter and remain on any access land for the purposes of open-air recreation'.<sup>57</sup>
81. The right conferred is subject to the general restrictions in para.1 of Sch.2. These include various activities done by a person in similar form and content to those contained in the Second Schedule to the 1949 Act, but include, in addition, a person who: 'has with him any animal other than a dog' (para.1(1)(c), thus excluding horse riding), and who: 'engages in any organised games, or in camping, hang-gliding or para-gliding' (para.1(1)(s)). Thus camping is expressly excluded from the scope of the 2000 Act.
82. Paragraph 3 confers a power on the Secretary of State to amend the general restrictions in para.1.<sup>58</sup>
83. Under para.7, the relevant authority<sup>59</sup> may, with the consent of the owner of land, remove or relax any restriction under para.1 in respect to that land. Defra guidance [HC1/23] suggests that<sup>60</sup>:

Removing a general restriction completely would extend the right of access to include any lawful activity undertaken for open-air recreation that would otherwise be covered by the restriction. Removing the general restriction at paragraph 1(s) of Schedule 2, for example, would not only allow the public to engage in organised games on the land, but also to hang-glide.

Relaxing a general restriction can be used to extend the right of access to include some, but not other, activities which would not otherwise be covered under the 2000 Act. Relaxing the general restriction at paragraph 1(c) of Schedule 2, for example, would allow horse riding on the land without allowing access users to also bring other types of animal onto that land.

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<sup>57</sup> Note that, whereas under the 1949 Act, access is enabled 'for the purpose of open-air recreation', the 2000 Act confers an entitlement to be on land 'for the purposes of open-air recreation' — *i.e.* plural 'purposes'.

<sup>58</sup> Subject to the affirmative resolution procedure: s.44(3). No such amending regulations have been made, but amendments have been made by the Access to the Countryside (Coastal Margin) (England) Order 2010 (SI 2010/558) to take account of the particular context of access under s.2 to the coastal margin conferred by Pt.9 of the Marine and Coastal Access Act 2009.

<sup>59</sup> In a National Park, the National Park authority is the relevant authority: s.21(5).

<sup>60</sup> *Relaxation or removal of a general restriction: guidance for relevant authorities*, June 2012: [assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/424869/pb13767-guidance-auth-relax-restrictions.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/424869/pb13767-guidance-auth-relax-restrictions.pdf). The guidance is stated to be 'archived'. [HC1/29] Paras.10–11.

84. And the owner of land may 'dedicate' that land as land to which s.2 applies, by making an instrument of dedication under s.16 of the 2000 Act. 'A dedication...may include provision removing or relaxing any of the general restrictions in Schedule 2 in relation to any of the land to which the dedication relates.'<sup>61</sup> Similarly, a previously-made dedication may be amended so as to remove or relax the restrictions.<sup>62</sup> For example, the owner of High House Waste on Dartmoor (an old newtake or inclosure), has in its instrument of dedication [HC1/50] lifted the restrictions on camping and riding.
85. S.17(1) of the 2000 Act confers a power on an access authority<sup>63</sup> to make byelaws:
- (a) for the preservation of order,
  - (b) for the prevention of damage to the land or anything on or in it, and
  - (c) for securing that persons exercising the right conferred by section 2(1) so behave themselves as to avoid undue interference with the enjoyment of the land by other persons.
86. No doubt such byelaws could address camping on any access land designated under the 2000 Act.

## Local Acts

87. Some commons, or other open and unenclosed open spaces of similar character or origin to commons, are subject to local enactments which confer a right of access. I have identified 12 such enactments and a summary is at annexe B (on page 38) (so far as it was possible to obtain copies of the relevant enactments).
88. The conferral of a right of access generally is particular to the Act, but typically includes terms such as air, exercise, recreation and games. Enactments since the 1949 Act rely on words which generally are in the form of a right of access for the purpose of open-air recreation.
89. In two cases, an express power is conferred to prohibit the placing of tents on the land regulated under the Act, and in a further case, a prohibition on tents is tempered by a power to permit them.

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<sup>61</sup> Access to the Countryside (Dedication of Land) (England) Regulations 2003 (SI 2003/2004), r.3, relying on the power conferred by s.16(6).

<sup>62</sup> *Ibid*, r.7.

<sup>63</sup> A county council, metropolitan borough council or unitary council, but the National Park authority in a National Park.

90. One enactment to which reference was made in the hearing and judgment at first instance<sup>64</sup> was the Malvern Hills Act 1995 (the last of a series of local Acts passed between 1884 and 1995).<sup>65</sup> Subsection (1) of s.15 confers a right of access in similar terms to the 1949 and 1985 Acts:

Subject to the provisions of the Malvern Hills Acts and compliance with all rules, regulations or byelaws relating to the Malvern Hills and for the time being in force, the public shall have a right of access to the Malvern Hills on foot and on horseback for the purpose of open-air recreation; ... .

91. Subsection (3) provides that:

Nothing in this section shall prejudice or affect the exercise of powers under any enactment whereby access to the Malvern Hills may be regulated or prohibited;

and continues so as to enable the Malvern Hills conservators (first appointed under the 1884 act) to regulate or prohibit access to any part of the Hills for certain purposes. Section 16 enables further restrictions on access on horseback.

92. The conservators acquired a power to make byelaws under s.10(1) of the Malvern Hills Act 1930.<sup>66</sup> Paragraph (a) confers a particular power to make byelaws:

For prohibiting any enclosure of any part of the Malvern Hills or the erection of any unauthorised building shed tent or other structure thereon and for preventing any interference with the rights of common or commonable rights existing on or over the Malvern Hills[.]

93. The byelaws made by the conservators on 11 March 1999 and confirmed by the Secretary of State on 24 June 1999 provide in particular that:

#### **Camping**

No unauthorised person shall camp on the Hills or erect or permit to remain on the Hills any building, shed, tent, or other structure.

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<sup>64</sup> At [24].

<sup>65</sup> Available at: [www.malvern hills.org.uk/looking-after/malvern-hills-acts/](http://www.malvern hills.org.uk/looking-after/malvern-hills-acts/)

<sup>66</sup> As modified by ss.13 and 14 of the 1995 Act.



It is not entirely clear that there is a power to prohibit camping in itself, unless the byelaw draws on a more general power in s.10(1)(h) of the 1930 Act 'For preventing nuisances and for the preservation of order'.

## Dartmoor Commons Act 1985

94. Notable among the local Acts is the 1985 Act, which in s.10(1) confers on the public:

a right of access to the commons on foot and on horseback for the purpose of open-air recreation;

in terms which are modelled on those in the 1949 Act — even to the extent of incorporating the restrictions in the Second Schedule<sup>67</sup> — but with two significant variations:

- an express right of access is conferred (compared to the immunity from trespass in the 1949 Act); and
- the right is stated to be exercisable on foot and on horseback.

95. But, in common with the 1949 Act, and the 2000 Act following it, the right to enter on the land is stated to be 'for the purpose of open-air recreation'.<sup>68</sup>

96. The express reference to access on horseback was a political necessity. The Dartmoor Commons Bill had earlier been introduced in the 1979–80 session of Parliament, but had failed to win a second reading, among criticism that the Bill did not confer a right of access on horseback. If the Bill was to succeed in the 1984–85 session, it had to apply to riding, and to be seen to do so. It required express words to that effect. Mere assurances that such access was implicit would not do.

97. The 1985 Act was promoted by Devon County Council in its capacity as a local planning authority with responsibilities for the Dartmoor National Park. In minutes of evidence taken before the Committee on the Dartmoor Commons Bill, Sheila Cameron QC as leading counsel for the council, in relation to clause 10, said:<sup>69</sup>

What [the public] are being given now in the same terms as one finds in Section 60 of the National Parks and Access to the Countryside Act 1949 is a right to go

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<sup>67</sup> See s.10(3).

<sup>68</sup> The right conferred by s.2(1) of the 2000 Act is 'for the purposes of open-air recreation' (plural, 'purposes').

<sup>69</sup> Derived from the witness statement of James Pavey tendered in relation to the hearing at first instance: see bundle 1/77 at 1/80 and exhibit JRP8.

on the commons on foot or on horseback for the purpose of open air recreation and it is made quite clear in the section by referring to certain commons that open air recreation does not entitle them to go breaking walls down, fences, gates, hedges or anything like that. As soon as they start doing anything like that, they are trespassing and that has always been the approach up to now taken in the public legislation, namely the 1949 Act that if you are going for recreation by no stretch could it be recorded as a lawful suit of recreation to do these things which are damaging to another person's property. Otherwise, subject to what is merely civilized behaviour on the part of the public, they are give [sic] a full right of access.

98. As is usual in local Acts conferring a right of access to land, s.11(1) of the 1985 Act enables the Dartmoor National Park authority to make byelaws, enabling the use of the powers in s.90 of the 1949 Act to apply to the Dartmoor commons. In addition, s.11(2) provides that the power in s.90 'shall include power to make byelaws for the prevention of nuisances.'

99. However, it is noticeable that the Dartmoor Commons Bill first introduced in the 1979–80 session of Parliament contained a power that byelaws<sup>70</sup>:

may prohibit camping, whether in caravans or otherwise; ... .

100. As noted at para.77 above, the first byelaws made under s.11 (and also made under s.90 of the 1949 Act<sup>71</sup>) were approved by the Home Secretary in October 1989. The byelaws were made by Devon County Council, acting as the Dartmoor National Park authority and in the same capacity by which it promoted the 1984–85 Bill in Parliament and following a period of public consultation.

101. Whereas the 1985 Act adopts the same restrictions on the right of access as were imposed generally in relation to access agreements and orders under the 1949 Act, omitting any restraint on camping, the byelaws do impose criminal sanctions on certain camping activities (see byelaw 6 reproduced at para.77 above). In particular, it is an offence under the byelaws to camp in designated high profile or sensitive locations, to camp near to a public road, or to camp for more than two consecutive nights.

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<sup>70</sup> Cl.10(1)(c)(iv).

<sup>71</sup> In relation to land comprised in an access agreement made under the 1949 Act, and land owned by the National Park authority.

## Overview and conclusions

102. The recent history of enabling statutory access to common land generally relies on the offer to common owners of a package deal in one of several statutory forms. The owner submits to a public right of access to the common, and in return the owner receives assurances about the regulation and management of such access, and sometimes a financial inducement.
103. For the owner of a common in the early twentieth century, the package deal was an attractive offer. The owners of many lowland commons, perhaps where grazing was in decline and recreational use was predominant, indulged their local authorities by abstaining from the exercise of their veto where a scheme was made under the 1899 Act. In return, the local authority took responsibility for managing the common with a view to public access, and departures from proper behaviour could be sanctioned through byelaws.
104. The owners of many, typically upland, commons were induced to apply s.193 of the 1925 Act, by the assurance that driving, camping, and lighting fires, could in future be prosecuted by the police under the offences specified in subs.(4). As I have noted at para.51 above, it seems that these criminal sanctions primarily were motivated by concerns about incursions by the nomadic community. But they would also have served to criminalise other forms of camping, such as leisure and what is now referred to as 'wild' camping.
105. In the post-war era, the 1949 Act resorted to financial inducements to promote access to all types of open country, but conferred a right of access in similar terms to previous enactments applying to commons. The 2000 Act adopted similar language, but without any provision for compensation.
106. All these enactments adopted a uniform approach: a right of access is conferred in broad but generally undefined terms — 'a right of free access...'<sup>72</sup> 'rights of access for air and exercise',<sup>73</sup> access 'for the purpose of open-air recreation',<sup>74</sup> and an entitlement 'to enter and remain on any access land for the purposes of open-air recreation'.<sup>75</sup> Such rights are then placed within defined parameters by the imposition of restrictions on their breadth — whether by the imposition of criminal sanctions (see for example

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<sup>72</sup> Commons Regulations 1899 (S&RO 1899/950), Sch., Form I, cl.5, made under the 1899 Act.

<sup>73</sup> 1925 Act, s.193(1).

<sup>74</sup> 1949 Act, s.60(1).

<sup>75</sup> 2000 Act, s.2(1).

s.193(4) of the 1925 Act), or the adoption of specific restrictions (as in s.6 of the 1939 Act, the Second Schedule to the 1949 Act, or Sch.2 to the 2000 Act).

107. Moreover, the 2000 Act contemplates that on all or on specified access land, the restrictions imposed in Sch.2 may be relaxed or removed with the intention that the right of access conferred by s.2 is then taken to extend to the activities previously regulated or proscribed in the restrictions. It seems to have been intended (as is reflected in the guidance to which I refer above) that the restriction on camping (in para.1(1)(s) of Sch.2) could be lifted in this way, so as to confer a right to camp on all or specified access land under the 2000 Act.
108. Restrictions on camping sometimes are encountered in express statutory terms (such as in s.193(4) of the 1925 Act, or para.1(1)(s) of Sch.2 to the 2000 Act), occasionally by allusion (as in the first model scheme prescribed under Part I of the 1899 Act and early schemes adopting it),<sup>76</sup> and sometimes specifically invoked in relation to a particular site (as in relation to about half of the known agreements made under the 1949 Act). The effect is that, on the vast majority of land to which there is a statutory right of access, camping undoubtedly falls outwith the exercise of the right — but only by express exclusion.
109. But on some such land, there is no express exclusion of camping. Or in the case of land regulated by a scheme made in 1899–1900 under the 1899 Act which adopted the initial 1899 model scheme, the power to make a byelaw is effective only against certain classes of person. These lands are those which are subject to access under the majority of orders made under the 1876 Act, lands subject to the aforesaid schemes made in 1899–1900, lands subject to about half the known agreements made under the 1949 Act, and lands subject to certain local Acts (including the Dartmoor Commons Act 1985).
110. The effect of the judgment at first instance in relation to Stall Moor is not merely to exclude camping from the implied scope of the right of access conferred by s.10(1) of the Dartmoor Commons Act 1985, but arguably to exclude it from the scope of the lands referred to in the previous paragraph. But in my view, it goes much further, by suggesting that any statutory right of access has a much narrower scope than formerly believed. For example, if camping is not part of a right of access for the purpose of open-air recreation, can the same be said of swimming in a tarn on one of the many

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<sup>76</sup> See Commons Regulations 1899 (S&RO 1899/950), Sch., Form I, cl.10(f).

s.193 commons in the Lake District? Is scrambling or rock climbing within the scope of one of the many access agreements within the Peak District? Is it lawful to remain in one place on access land for several hours to enjoy a picnic lunch, admire the view, read a book, and take a post-prandial nap in the sunshine (and would the position be the same if the participants' horses were tethered to a nearby tree)? Or to observe wildlife from a suitably-concealed position?

I believe that the facts stated in this witness statement and the accompanying annexes are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Hugh Craddock  
Open Spaces Society  
5 May 2023

## Annexe A: Commons which have been the subject of regulation under the Commons Act 1876

(see para.40 of witness statement)

<b>Date of Act and chapter</b>	<b>Name of Common and location</b>	<b>County</b>	<b>Application of rights of access</b>	<b>Extent of rights of access to land to be regulated</b>	<b>Regulation of rights</b>
1879 (42 & 43 Vict.) c.lxxxii	Matterdale	Cumbria	Public	Right to walk: land south of Barberry Rigg Road	Byelaws for the prevention of or protection from nuisances, and for keeping order
c.lxxxiii	East Stainmore	Cumbria	n/a	None, other than recreational allotments	Byelaws for the prevention of or protection from nuisances, and for keeping order
1880 (43 & 44 Vict.) c.lxiv	Abbotside	North Yorkshire	Public	Privilege of playing games and of enjoying other species of recreation on Staggs Fell Plain	Byelaws for the prevention of or protection from nuisances, and for keeping order
c.lxxxii	Clent Hill	Worcestershire	Inhabitants and public	Privilege of walking, playing games and of enjoying other species of recreation, subject to byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order; byelaws for reasonable regulation of [access rights]
c.xc	Lizard	Cornwall	Public	Free access, privilege of playing games and of enjoying other species of recreation	Byelaws for the prevention of or protection from nuisances, and for keeping order

<b>1881</b> (44 & 45 Vict.) c.xix	Langbar Moor	West Yorkshire	Public	Privilege of playing games and of enjoying other species of recreation south of road from Dean to Middleton [Low Moor]	Byelaws for the prevention of or protection from nuisances, and for keeping order
c.xx	Beamsley Moor	North Yorkshire	Public	Privilege of playing games and of enjoying other species of recreation on portion between Deerstones and east-west road at Ling Chapel; daytime recreational allotments at the Beacon and Pike	Byelaws for the prevention of or protection from nuisances, and for keeping order
c.clxi	Shenfield	Essex	Neighbourhood	Privilege of cricket and other games over part; other species of recreation over whole	Byelaws for the prevention of or protection from nuisances, and for keeping order
<b>1882</b> (45 & 46 Vict.) c.xxvii	Stivichall	Warwickshire	Public	Privilege of playing games and of enjoying other species of recreation	Byelaws for the prevention of or protection from nuisances, and for keeping order
c.xxvii	Crosby Garrett	Cumbria	Public	Right at all times to walk; privilege of playing games and of enjoying other species of recreation on specified part	Byelaws for the prevention of or protection from nuisances, and for keeping order
<b>1884</b> (47 & 48 Vict.) c.l	Redhill and Earlswood	Surrey	Neighbourhood	Free access to and privilege at all times of playing and attending of games and of enjoying all other species of recreation	Subject to byelaws for efficient working and carrying into effect objects of order, for specified purposes, including prevention of

					nuisances and preservation of order; regulation and control of games and other species of recreation; exclusion or removal of gipsies, squatters, vagrants; any act or thing tending to injury, disfigurement or use for purposes of exercise and recreation
<b>1885</b> (48 & 49 Vict.) c.lvi	Ashdown Forest	East Sussex	Public	Free access to particular specified points of view	Byelaws for the prevention of or protection from nuisances, and for keeping order on the forest, to include among other objects, protection from encroachments and trespasses,
c.lvii	Drumburgh	Cumbria	Neighbourhood	Right of free access to and walking over and enjoying reasonable recreation during daytime, subject to byelaws	S.5(3) of 1876 Act applied
<b>1886</b> (49 & 50 Vict.) c.xv	Stoke	Warwickshire	Neighbourhood	Right of free access, privilege of playing cricket and other games and enjoying reasonable recreation, subject to byelaws	S.5(3) of 1876 Act applied
c.xvi	Totternhoe	Bedfordshire	Public	Right of walking (except Cow Common); right of playing games and enjoying other reasonable recreation on specified parts; subject to byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order



<b>1887</b> (50 & 51 Vict.) c.lxxvi	Ewer	Hampshire	Neighbourhood	Free access for the purpose of enjoying lawful recreation, subject to byelaws and to authorised temporary inclosures	Byelaws for the prevention of or protection from nuisances, and for keeping order
c.lxxvii	Laindon	Essex	Neighbourhood	Right of free access, privilege of playing cricket and other games and of enjoying reasonable recreation, subject to byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order
<b>1888</b> (51 & 52 Vict.) c.clix	Therfield	Hertfordshire	Neighbourhood	Right of free access, privilege of playing cricket and other games and of enjoying reasonable recreation, subject to byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order
<b>1889</b> (52 & 53 Vict.) c.xliv	Amberswood	Greater Manchester	Neighbourhood	Free access for the purpose of enjoying lawful recreation, subject to byelaws and to authorised temporary inclosures	Byelaws for the prevention of or protection from nuisances, and for keeping order
<b>1890</b> (53 & 54 Vict.) c.lxxviii	Cleeve Hill	Gloucestershire	Neighbourhood	Right of free access, privilege of playing games and enjoying reasonable recreation, subject to byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order
<b>1893</b> (56 & 57 Vict.) c.cii	West Tilbury	Essex	Parish and neighbourhood	Right of free access, privilege of playing cricket and other games and of enjoying reasonable recreation, subject to byelaws; power to set apart portions for cricket and other games	Byelaws for the prevention of or protection from nuisances, and for keeping order

<b>1894</b> (57 & 58 Vict.) c.xliii	Luton Moors	Bedfordshire	Neighbourhood	Right of free access, privilege of playing cricket and other games and enjoying reasonable recreation, subject to byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order
<b>1895</b> (58 & 59 Vict.) c.lxxv	Bexhill Down	East Sussex	Neighbourhood	Right of free access, privilege of playing cricket and other games and enjoying reasonable recreation, subject to byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order
c.lxxvi	High Road, Well Moor	West Yorkshire	Neighbourhood	Right of free access, privilege of enjoying lawful recreation, subject to byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order
<b>1896</b> (59 & 60 Vict.) c.clxxiv	Darwen Moor	Lancashire	Neighbourhood	Right of free access, privilege of playing games and enjoying reasonable recreation, at such times, in such manner, and on such parts, as may be prescribed in byelaws, subject to authorised temporary inclosures; access restricted to reserved area during term of lease	Byelaws for the prevention of or protection from nuisances, and for keeping order; preventing malicious or wanton destruction of property; no public meeting or demonstration
<b>1898</b> (61 & 62 Vict.) c.xxxvi	Wolstanton Marsh	Staffordshire	Neighbourhood	Right of free access, privilege of playing games and enjoying recreation, at such times, in such manner, and on such parts, as may be prescribed in byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order

c.lxxxvii	Runcorn Heath and Runcorn Hill	Cheshire	Neighbourhood	Right of free access, privilege of playing games and enjoying recreation, at such times, in such manner, and on such parts, as may be prescribed in byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order
<b>1901</b> (1 Edw. 7) c.xlv	Skipwith Common and Skipwith Open Fields	North Yorkshire	Neighbourhood	Right of free access, privilege of playing games and enjoying recreation at such times, in such manner, and on such parts, as may be prescribed in byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order
<b>1902</b> (2 Edw. 7) c.cxcix	Sodbury	Gloucestershire	Neighbourhood	Right of free access, privilege of playing games and enjoying recreation, at such times, in such manner, and on such parts, as may be prescribed in byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order
<b>1904</b> (4 Edw. 7) c.cxxvi	Merrow Downs	Surrey	Neighbourhood	Right of access to specified areas and privilege of walking, riding and enjoying air and exercise; privilege of playing games on appointed areas, subject to rights of golf club, subject to reasonable rules and regulations for enjoyment as may be prescribed in byelaws	Byelaws for the prevention of or protection from nuisances, and for keeping order; preventing malicious or wanton injury to property
c.cxxvii	Oxshott Heath	Surrey	Neighbourhood	Right of free access, privilege of enjoying recreation and playing games on appointed areas, in	Byelaws for the prevention of or protection from nuisances, and for keeping order

				such manner, as may be prescribed in byelaws	
<b>1908</b> (8 Edw. 7) c.cliii	Towyn Trewan	Anglesey	Neighbourhood	Right of access to specified areas and privilege of walking, riding and enjoying air and exercise; privilege of playing games on appointed areas	Byelaws for the prevention of or protection from nuisances, and for keeping order
<b>1911</b> (1 & 2 Geo. 5) c.clxxix	Burrington	Somerset	Neighbourhood	Right of free access and privilege of recreation by walking and enjoying air and exercise (dogs under control and no riding); privilege of playing games on appointed areas, subject to reasonable byelaws for protection of stock and prevention of damage to pasturage and prevention of nuisances	Byelaws for the prevention of nuisances or protection from nuisance, and for keeping order; preventing malicious or wanton injury to property; regulating the exercise of the privileges of access, recreation and playing games, and generally to manage
c.clxxx	Winton and Kaber	Cumbria	Neighbourhood	Right of free access and privilege of recreation by walking and enjoying air and exercise (no dogs); privilege of playing games on appointed areas	Byelaws for the prevention of nuisances or protection from nuisance, and for keeping order; preventing malicious or wanton injury to property; regulating the exercise of the privileges of recreation and playing games, and generally to manage
<b>1914</b> (4 & 5 Geo. 5) c.liii	Gosford Green	Warwickshire	Neighbourhood	Right of free access and privilege of recreation by walking and enjoying air and exercise;	Byelaws for the prevention of nuisances or protection from nuisance, and for keeping order; preventing malicious or wanton injury to property; regulating the exercise of

				privilege of playing games on appointed areas	the privileges of access, recreation and playing games, and generally to manage
<b>1919</b> (9 & 10 Geo. 5) c.lxx	Coity Wallia	Bridgend	Neighbourhood	Right of free access and privilege of recreation by walking and enjoying air and exercise; privilege of playing games on appointed areas	Byelaws for the prevention of nuisances or protection from nuisance, and for keeping order; preventing malicious or wanton injury to property; regulating the exercise of the privileges of access, recreation and playing games, and generally to manage

Sources: *Cousins and Edwards on Commons and Greens*, Edward Cousins *et al*, 3<sup>rd</sup> ed; Orders (as confirmed by confirmation Act).

Notes:

1. Description of extent and regulation of rights is a précis only.
2. Based upon a similar table published online via [www.gov.uk/guidance/managing-common-land#how-local-authorities-can-manage-commons](http://www.gov.uk/guidance/managing-common-land#how-local-authorities-can-manage-commons) (authored by the witness).

## Annexe B: Other enactments providing for public access to common land or former commons

(see para.87 of witness statement)

Name of Act	County/location	Application of rights of access [All, neighbourhood etc]	Extent of rights of access
1. Epping Forest Act 1878 c.ccxiii	Essex	Public	S.9: right to use 'as an open space for recreation and enjoyment'  S.36: power to make byelaws, inc. (para.(ii)) 'For excluding and removing gipsies,' etc. Para.(viii) 'For prescribing the times, places, and conditions at and under which...persons resorting to the Forest for recreation and amusement shall from time to time be allowed to carry on particular sports and games, and for regulating or preventing assemblages of persons for purposes other than or tending to interfere with recreation or amusement'. Para.(xii) 'Generally for preventing or restraining any improper or offensive use of any part of the Forest, or anything tending to the injury or disfigurement thereof, or to the defeat of the general purposes of this Act'
2. Mousehold Heath Confirmation Act 1884 c.iii  Norwich City Council Act 1984 c.xxiii	Norwich	Inhabitants of city	S.19 of 1984 Act: 'free access to and a privilege at all times of playing and attending games and of enjoying recreation upon the heath'  S.20 of 1984 Act: a power for the conservators to permit <b>tents</b> to be erected, otherwise not lawful to put tents on heath.  S.21(1)(b) of 1984 Act: a power to make byelaws, 'for the prevention of nuisances, annoyances, obstructions and encroachments'
3. Strensall Commons Act 1884 c. ccix	Nr York	Her Majesty's subjects	Open portion of common, and unenclosed lands near to or adjacent to common held by Crown, to be used 'for exercise and recreation' when not required to be used for any military purpose (s.6(1))  Byelaws may be made for regulation of access (s.6(3))

4. Tunbridge Wells Improvement Act 1890 c.ccxxxv County of Kent Act 1981 c.xviii	Tunbridge Wells and Rusthall Commons, Kent	Inhabitants of borough of Tunbridge Wells	S.109 of 1981 Act: 'free access to and a privilege at all times of playing and attending at games and of enjoying recreation upon the commons'  S.111(1)(c) of 1981 Act: a power to make byelaws, 'for the prevention of nuisances, annoyances, obstructions and encroachments'
5. Birmingham Corporation Water Act 1892 c. clxxiii	Elan & Claerwen Valleys	Public	S.53: 'a privilege at all times of enjoying air exercise and recreation' on common or unenclosed lands acquired by Corporation in parishes of Yspytty-Ystwyth, Llanwrthwl, Llansantffraid-cwmdeuddwr, Llangurig  S.51(2): A power to make byelaws, for 'The regulation of fishing and recreation'
6. Paignton Urban District Water Act 1900 c. lxxix	Holme Moor	Public	S.27: right of access for air, exercise and recreation on common or unenclosed lands acquired by Paignton District Council  Subject to byelaws
7. Nettlebed & District Common Preservation Act 1906 c. clxxxiv	Henley-on-Thames	Public	S.17: right of access for exercise and recreation  Subject to byelaws
8. Manchester Corporation Act 1919 c. cxix	Haweswater	Public	S.43: 'privilege at all times of enjoying air exercise and recreation' on common or unenclosed lands acquired by Corporation in parishes of Askham, Barton, Martindale, Bampton, Shap Rural  Subject to byelaws
9. Epsom and Walton Downs Regulation Act 1984 c.ix	Epsom	Public	S.4: a 'right of access for air and exercise on foot'  S.15(1): a 'right of access for air and exercise on horseback' over certain rides and tracks  S.11(1)(b): a power to make byelaws 'for prohibiting or regulating the placing of any tent' etc.
10. Dartmoor Commons Act 1985 c.xxxvii	Dartmoor commons	Public	S.10(1): 'a right of access to the commons on foot and on horseback for the purpose of open-air recreation'  s.11: power to make byelaws conferred by ss.90 and 92 of National Parks and Access to the Countryside Act 1949, to 'include power to make byelaws for the prevention of nuisances'

11. Malvern Hills Act 1995 c.iii	Worcester-shire	Public	S.15: 'a right of access to the Malvern Hills on foot and on horseback for the purpose of open-air recreation'  S.10(1)(a) of the Malvern Hills Act 1995: power to make byelaws, 'For prohibiting any enclosure of any part of the Malvern Hills or the erection of any unauthorised building shed tent or other structure thereon'
12. Greenham and Crookham Commons Act 2002 c.i	West Berkshire	Public	S.11(1): 'a right of access...on foot for the purpose of open-air recreation'  S.11(4): restrictions applied in paras.1 and 2 of Sch.2 to 1949 Act  S.15: power to make byelaws, for 'the preservation of order and the prevention of nuisances on that land'; 'to secure that persons on the land will so behave themselves as to avoid undue interference with the enjoyment of the land by other persons or the exercise of rights of common'; 'regulate or prohibit the use of the [land] for any particular purpose'

Notes:

1. Unless otherwise stated, rights are conferred over the whole of the common regulated (excepting any part to be disposed of in order to meet costs of order).
2. Where orders were confirmed both for regulation and inclosure (of different parts of the common), only the order for regulation is considered.
3. S.5(3) of the 1876 Act enables provision for improvement of a common, including, 'The making or causing to be made byelaws and regulations for the prevention of or protection from nuisances or for keeping order on the common'.
4. The power to make byelaws includes a power to make regulations, which appear to be subsidiary rules which do not require confirmation by the Secretary of State (e.g. so as to allow the times at which golf may be played on a course to be varied without changing the byelaw which makes it an offence to play golf outside hours specified in regulations).



## Annexe C: Known access agreements and orders made under 1949 Act

(see para.71 of witness statement)

Local planning authority	Date	Extent of agreement	Notes on restrictions
1. Kirklees MBC	[undated]	Deffer Woods, Clayton West	'Recreation "open air recreation" does not include <b>camping</b> without the Grantors consent flying model aircraft organised games including paint ball/combat games or military training exercises by any of the armed forces'; Dogs to be kept under control; No horses nor bicycles No public events such as orienteering or sponsored walks
2. Lancashire CC	10/08/1955	Whitworth End Moor (part) and Withens Hey	[None]
3. Lancashire CC	09/05/1956	Whitworth Lower End Moor (part)	[None]
4. Lancashire CC	23/05/1956	Whitworth Lower End Moor (part)	[None]
5. Lancashire CC	31/05/1956	Hameldon, Worsthorne Moor, Stiperden Moor; Worsthorne	[None]
6. Cornwall CC (access order)	07/02/1962 <sup>77</sup>	Seaton Beach	Access via kissing gate
7. Peak Park PB	15/02/1965	Moorlands in Greenfield Ward in the Urban District of Saddleworth (1,010 ha)	No dogs save on leads No horses
8. Peak Park PB	17/03/1965	Land on Western Bleaklow including Peaknaze Moor, Sykes Moor and Harrop Moss in Charlesworth Parish; the moorlands or parts thereof known as Rollick Stones, Long Gutter Edge in the North East, the moorlands below Bramah Edge in the North, and	No dogs save on leads No horses

<sup>77</sup>Access order: order made on 19 November 1957 and confirmed by Minister on 7 February 1962.

		the moorlands known as Glossop Low, Harrop Moss, Lightside and Shelf Moors or parts thereof in the South (total 1,127.5 ha)	
9. Peak Park PB	17/03/1965	Moorlands mainly in Tintwistle Parish in the Rural District of Tintwistle and the County of Chester, together with land in Dunford Parish (3,711.9 ha)	No dogs save on leads No horses
10. Surrey CC	12/02/1968	Puttenham Common, Lower Puttenham Common and Little Common in the Parish of Puttenham	[None]
11. West Riding of Yorkshire CC	12/07/1968	Barden Moor and Fell (5,593.3 ha)	On foot; No dogs;
12. Surrey CC	03/07/1969	Itchingwood Common Limpsfield	[None]
13. Lancashire CC (access order)	05/04/1974 <sup>78</sup>	Wolf Fell, Chipping	Access to the land by means of specified stiles
14. Peak Park JPB	11/02/1976	Land At Shining Clough Moss, Birchen Bank Moss, Black Moss And Featherbed Moss in the parish of Charlesworth	"Recreation" — "open air recreation" does not include <b>camping</b> without the Grantor's consent flying model aircraft organised games or military training exercises by any of the armed forces' No dogs save on leads No horses
15. Peak Park JPB	21/06/1977	Rowland Cote Moor, Edale	"Recreation" — "open air recreation" does not include <b>camping</b> without consent flying model aircraft organised games or military training exercises by any of the armed forces' No dogs save on leads No horses
16. Surrey CC	27/07/1977	Wootton and Abinger Commons (320.6 ha); White Downs (208 ha), district of Mole Valley	"Open Air recreation" does not include organised games'

<sup>78</sup>Access order: order made on 5 December 1972 and confirmed by the Minister on 5 April 1974.

17. Peak Park JPB	07/03/1979	All those pieces or parcels of land in the Parishes of Edale, Hayfield and Chinley, Buxworth and Brownside in the High Peak District situate to the North and West of Upper Booth in the Parish of Edale and to the East of Hayfield and to the North East of Chinley and including the moorlands known as Mount Famine Upper Moor Kinder Scout Edale Moor South Head and Edale Head or part thereof (1,313 ha)	“open air recreation” does not include <b>camping</b> without the Grantors consent flying model aircraft organised games or military training exercises by any of the armed forces’  Dogs not on leads; horses;
18. Peak Park JPB	08/08/1979	Land at Froggatt, Curbar, Baslow and Blackstone Edges	[missing page] No dogs save on leads No horses
19. Peak Park JPB	25/04/1980	Land to the west of Grindsbrook Booth and to the north of the public footpath from Grindsbrook Booth to Upper Booth and including the moorland known as Broadlee Bank Tor in the Parish of Edale	“Recreation” “Open air recreation” does not include <b>camping</b> without the Grantors consent flying model aircraft organised games or military training exercised by any of the armed forces’; No dogs save on leads No horses
20. Peak Park JPB	25/04/1980	Land to the west of Grindsbrook Booth and to the north of the public footpath from Grindsbrook Booth to Upper Booth and including the moorland known as Broadlee Bank Tor in the Parish of Edale	“Recreation” “Open air recreation” does not include <b>camping</b> without the Grantors consent flying model aircraft organised games or military training exercised by any of the armed forces’ No dogs save on leads No horses
21. Peak Park JPB	25/04/1980	Shelf and Coldharbour Moors	“Recreation” “open air recreation” does not include <b>camping</b> without the Grantors consent flying model aircraft organised games or military training exercisd by any of the armed forces’;

			No dogs save on leads No horses
22. Lancashire CC	21/08/1984	Land at Pilling and Cockerham Marshes	[tidal embankment] Access via specified entry points; No dogs
23. Peak Park JPB	21/08/1987	Land at Eaglestone Flat and Baslow Edge, Curbar	""Recreation" "open air recreation" does not include <b>camping</b> without the Grantors consent flying model aircraft organised games or military training exercised by any of the armed forces'; No dogs save on leads No horses
24. Cornwall CC	11/11/1988	Undertown Wood and Gaff Wood, Egloshayle	""Open air recreation" does not include organised games'; Dogs to be kept under control; No horses; Entry only via the access points specified; 'Members of the public shall remain on the footpath or track whilst in the woodlands' Note: intention appears to be limited to use of single route
25. Humberside CC	29/11/1989	Twigmoor Woods, Manton	No dogs save on leads No horses
26. Bedfordshire CC and Milton Keynes BC	20/08/1990	Aspley and Wavendon woods, Bedfordshire and Buckinghamshire	No horses; 'The Councils shall not place or park or permit the placing or parking of any <b>tent</b> caravan or other structure whether moveable or immovable without the consent in writing of the Grantors (such consent not to be unreasonably withheld)'
27. Peak Park JPB	28/09/1990	Land at Brampton East and Gibbet Moors in the Parishes of Beeley, Brampton and Baslow and Bubenell	""Open Air Recreation" does not include <b>camping</b> without the Grantor's consent flying model aircraft organised games or military training exercises by any of the armed forces and shall be regarded by the parties hereto as including pedestrian forms of recreation only'; No dogs save on leads No horses
28. Peak Park JPB	16/09/1991	Land at Hathersage Moor Burbage Moor and Houndkirk Moor	""open air recreation" does not include <b>camping</b> without the Grantor's consent flying model aircraft organised games, hang gliding or military training exercises by any of the armed forces';

			<p>'SPECIAL RESTRICTIONS</p> <p>1. Members of the public shall not be permitted to bring dogs on to the access land unless the dogs are held on a lead at all times</p> <p>2. Members of the public shall not be permitted to bring or ride horses on the access land</p> <p>3. Members of the public shall not interfere with any animal pen shed implement stack or other building or equipment on the access land'</p>
29. Peak Park JPB	17/08/1993	Land at Baslow and Bubnell near Robin Hood PH (13.9 ha)	<p>"Recreation" "open air recreation" does not include <b>camping</b> without the Grantors consent flying model aircraft organised games or military training exercised by any of the armed forces';</p> <p>Dogs on lead</p> <p>No horses</p>
30. Cornwall CC	09/09/1993	Polgeel Wood and Costislost Plantation in the Parish of Egloshayle	<p>"open-air recreation" does not include organised games';</p> <p>Dogs to be kept on leads;</p> <p>No riding of commercially-organised groups;</p> <p>Entry only via the access points specified;</p> <p>No cycling;</p> <p>'Members of the public shall remain on the Track whilst in the woodlands'</p> <p>Note: access on horseback, but intention appears to be limited to use of single route</p>
31. Peak Park JPB	03/05/1994	Grindslow, Edale	<p>No dogs save on leads</p> <p>"Recreation" — "open air recreation" does not include shooting <b>camping</b> flying model aircraft flying gliding hang-gliding ski-ing grass skiing roller-skating skateboarding cycling of any description ball games organised games or military training exercises by any of the armed forces without the Grantor's written consent'</p> <p>On foot only</p> <p>No horses</p>
32. Surrey CC	30/09/1994	St Martha's Hill, Albury Downs and Silent Pool, borough of Guildford	[None]
33. Surrey CC	03/02/1995	Britty Wood, Puttenham Common, Puttenham (62 ha)	"Open Air recreation" does not include organised games'

34. Lancashire CC	17/08/1995	Fairsnape access area, Bleasdale, Garstang	Access on foot; No dogs; No horses; No kites, balloons, model aeroplanes, hang gliders, para gliders, microlight aircraft or other similar devices; Not 'to bivouac or erect any tent hut or any form of shelter nor to take a caravan'
35. Lancashire CC	01/05/1996	Land at Quernmore and Caton-with-Little- dale	Access via specified entry points; No dogs; No horses; No kites, balloons, model aeroplanes, hang gliders, para gliders, microlight aircraft or other similar devices; Not 'to bivouac or erect any tent hut or any form of shelter nor to take a caravan'
36. Lancashire CC	14/11/1996	Anglezarke Moor and Bromiley Pastures; West Pennine Moors (1,541.1 ha)	"Open air recreation" does not include organ- ised games'; Dogs to be kept under control and restrained from causing annoyance, and to be kept on a lead by direction; No horses; No balloons, model aeroplanes, hang gliders, microlites or other similar devices; Not 'to bivouac nor erect any tent or hut on nor take a caravan'
37. Lancashire CC	14/11/1996	Rivington Moor, West Pennine Moors	"Open air recreation" does not include organ- ised games'; Dogs to be kept under control and restrained from causing annoyance, and to be kept on a lead by direction; No horses; No balloons, model aeroplanes, hang gliders, microlites or other similar devices; Not 'to bivouac nor erect any tent or hut on nor take a caravan'
38. Lancashire CC	14/11/1996	Winter Hill Flats, Folds Pasture, Daddy Mead- ows; West Pennine Moors, North Turton	Access via specified entry points by means of stile or gate; "Open air recreation" does not include organ- ised games'; Dogs to be kept under control and restrained from causing annoyance, and to be kept on a lead by direction;

			No horses; No balloons, model aeroplanes, hang gliders, microlites or other similar devices; Not 'to bivouac nor erect any tent or hut on nor take a caravan'
39. Brighton BC <sup>79</sup>	11/12/1996	East Brighton golf course	Access on foot by way of permissive paths and use of escarpment 'for the purposes of quiet peaceful enjoyment or informal recreation education or research'; Dogs to be kept on leads and not to foul; No horses; 'Erecting occupying or using any tent shed caravan or other structure for the purpose of camping' [and many other restrictions, apparently imposed on both visitors and the Grantor]
40. Northumberland CC	06/03/1997	Breamish Valley, Ingram (57.1 ha)	Dogs to be kept on leads and under proper control; No horses;
41. Hereford & Worcester CC <sup>80</sup>	23/06/1997	Track leading from Romsley to Uffmoor Wood, Bromsgrove	On foot
42. Hereford & Worcester CC <sup>81</sup>	22/12/1997	Stoke Wharf, Stoke Prior, Bromsgrove	[None]
43. Peak District NPA	23/02/1998	Chunal Hurst Span and Shaw Moors and Featherbed Moss	Access on foot; <b>'Open Air Recreation'</b> Does not include camping, flying model aircraft, organised games or sports (other than small scale walks, runs, jogs, treks or orienteering), military training exercises by any of the armed forces or quasi military organisations, hang gliding, para-gliding, micro lighting, pedal or motorbike riding, horse or pony riding or any other noisome or destructive activity.'
44. Peak District NPA	15/06/1998	Land at Grindslow, Edale	Dogs on lead; "Recreation" — "open air recreation" does not include shooting camping flying model aircraft flying gliding hang-gliding skiing grass skiing

<sup>79</sup>Also made under s.39 of the Wildlife and Countryside Act 1981.

<sup>80</sup>Also made under s.39 of the Wildlife and Countryside Act 1981.

<sup>81</sup>Also made under s.39 of the Wildlife and Countryside Act 1981.

			roller-skating skateboarding cycling of any description ball games organised games or military training exercises by any of the armed forces without the Grantor's written consent'; No horses
45. Kirklees MBC	30/07/1998	New House Wood, Burn Wood, Green Wood, Stephen Wood; Darley Dale	Dogs to be kept under control
46. Peak Park NPA	17/09/1998	Langsett Ladycross Cloudberry Long and Harden Moor and Hingcliff Common	Access on foot; <b>'Open Air Recreation'</b> Does not include <b>camping</b> , flying model aircraft, organised games or sports (other than small scale walks, runs, jogs, treks or orienteering), military training exercises by any of the armed forces or quasi military organisations, hang gliding, para-gliding, micro lighting, pedal or motorbike riding, horse or pony riding or any other noisome or destructive activity.'
47. Yorkshire Dales NPA	25/09/1998	Wainwath Keld	Access only via specified entry points; Dogs to be kept under control and faeces removed; No horses or bicycles; No motor cycles or motor vehicles; No sale of goods, no playing of music, no public meetings; No organised games
48. Peak Park NPA	22/10/1999	Land situate to the south-east of Jacob's Ladder and to the east of Brown Knoll in the parish of Edale in the (72.2 ha)	Terminates 1955 agreement; Access on foot; <b>'Open Air Recreation'</b> Does not include <b>camping</b> , flying model aircraft, organised games or sports (other than small scale walks, runs, jogs, treks or orienteering), military training exercises by any of the armed forces or quasi military organisations, hang gliding, para-gliding, micro lighting, pedal or motorbike riding, horse or pony riding or any other noisome or destructive activity'
49. Bedfordshire CC & Aylesbury Vale DC	31/01/2000	Rammamere Heath Bragenham Wood and King's Wood, Bedfordshire and Buckinghamshire	"Open air recreation" does not include organised games'; Dogs to be kept on leads or under control No horses



			'Camping, parking or sales on the access land are forbidden.'
50. Lancashire CC	12/05/2000	Withnell Moor; West Pennine Moors	Dogs to be kept under control and restrained from causing annoyance, and to be kept on a lead by direction; No horses; No balloons, model aeroplanes, hang gliders, microlites or other similar devices; Not 'to bivouac nor erect any tent or hut on nor take a caravan'
51. Peak District NPA	24/01/2001	Land at Broadlee Bank, Edale	"Recreation" — "open air recreation" does not include shooting camping flying model aircraft flying. gliding hang-gliding skiing grass skiing roller-skating skateboarding cycling of any description ball games organised games or military training exercises by any of the armed forces without the Grantor's written consent'; No dogs save on leads No horses

Notes:

1. Description of restrictions is a précis unless incorporated within quote marks.

IN THE COURT OF APPEAL  
ON APPEAL FROM THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES  
PROPERTY TRUSTS AND PROBATE LIST  
JUDGMENT OF SIR JULIAN FLAUX C [2023] EWHC 35 (Ch.) Case No: PT-2022-000194

**BETWEEN:**

**DARTMOOR NATIONAL PARK AUTHORITY**

**Appellant**

and

**(1) ALEXANDER DARWALL  
(2) DIANA DARWALL**

**Respondents**

and

**THE OPEN SPACES SOCIETY**

**Proposed Intervener**

---

**EXHIBIT HC1 TO THE  
WITNESS STATEMENT OF HUGH CRADDOCK**

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This is exhibit HC1 as referred to in the Witness Statement of Hugh Craddock of 5 May 2023.

Date: 5 May 2023

**B E T W E E N :**

**(1) ALEXANDER DARWALL**  
**(2) DIANA DARWALL**

**Claimants/Respondents**

**and**

**DARTMOOR NATIONAL PARK AUTHORITY**

**Defendant/Appellant**

**and**

**OPEN SPACES SOCIETY**

**Intervener**

---

**EXHIBIT HC1**

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1908	The Campers' Handbook [Extract]	2 - 8
1931	Report of the National Park Committee [Extract]	9 - 11
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June 2012	Defra Guidance - Relaxation or removal of a general restriction: guidance for relevant authorities	23 - 49
2009	High House Waste dedication instrument	50

THE CAMPER'S  
HANDBOOK.

BY  
*T. H. HOLDING,*

*AUTHOR of—*  
"WATERY WANDERINGS 'MID WESTERN LOCHS,  
"CYCLE AND CAMP,"  
ETC., ETC.

*SPECIAL CONTRIBUTIONS BY*  
THE LADY ARTHUR GROSVENOR; MRS. HORSFIELD;  
MATTHEW ARNOLD; G. D. MATTHEWS,  
R. J. MECREDDY.

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London:  
SIMPKIN, MARSHALL, HAMILTON, KENT & CO., LTD.,  
4, STATIONER'S HALL COURT, E.C.

1908.

## CHAPTER IV.

### "PROS AND CONS."



If all that is said be true of boys' camps, is it not true of others? The very demand for opportunities to let out all that remains of boyhood in an adult, so long as it does not lead to license, is a good thing. The man who alludes to the House of Commons as being sometimes "rowdy," forgets that if he were there, under the like influence of heat and excitement, he would display a bit of that same boyhood in man's years, which he calls rowdyism. The men who have most of the boy in them far on in life, are those who make the best campers, and the tendency of modern education is not necessarily academical training wholly, but is aided by athleticism. There is something more than the mere "form" of exercise in which youth so engages. There is the blending of one personality with another. Thus acquaintances are made, and ties are formed at College and School by an "atmosphere." This spirit and this training alike have an influence.

Another ground of success is that women have come into it. They can, and they do, make tents, and possibly good ones. They take a pride in their management, they like to camp with their husbands, and do so by scores, possibly hundreds. They take the neatness of the house to the management of the tent, the skill in their cooking to the camp fire. This adds, in short, another proof of my claim that Camping has come to stay.

Yet another ground of its success is that, as everybody knows, it affords more enjoyment, for less money, than almost any other form of recreation for a change or a holiday. This has been shown. But without going into the economic aspect of the question again, there is so much that is jolly and pleasant, so free,

as well as healthy, that one has said, "the health of camp life commends it to natural men and women."

Let us follow that phrase out. By a "natural" person is meant one who loves nature, and who profits by its every aspect. To them it is irreverent, not to say wicked, to speak of a wet day as "beastly." It is equally wicked to speak of the sun in its greatest heat and blaze as "atrociously hot, and makes one beastly uncomfortable." The man of nature helps to make his camping a success because it gratifies a craving that is in him. He likes to



FAMILY CAMP.

see water, to bathe or fish in it. He camps there, when he can. Camping helps him to get to the recesses and pleasant places of the earth, and to feel he is an absolutely free man. By camping, he can afford it, otherwise he possibly could not.

Another great thing which is worth considering is that when Mrs. Johnson packs up her trunks and joins her husband in the lodgings at Yarmouth or Dover, the only change they get is that the lodging-house servant lays their breakfast instead of Mary, the maid, at home, and that they meet with people to whom they can talk and talk, over the same kind of meals day following day. All

that makes their holiday. They left one house to go into another. There is but a poverty-stricken variety of experience in a fortnight thus spent. None of the glorious freedom and independence, nor yet the same beautiful rural surroundings that they might have, three miles outside the same or some other town, in camp, either stationary or portable, are theirs.

Camping has taken hold of a good many who are "beginning to see it," and this fact is one of the inducements towards its success. I have just visited an ideal family camp. It is on an island in a river. There was the eating tent, the sleeping tent, the servant's tent, the cooking tent for wet weather, and the over-boat tent. Here the family and their servants were spending a "savage" holiday. The scenery was pleasant and they were adjacent to a town. I asked if they liked it, for they have a fine home on a beautiful lake amongst the hills of middle Ireland. "They were having a delightful time." The brown limbs of the children, the bronzed faces of the parents and grown-up branches of the family, the enjoyment of the servants and the "handy-man," all was complete. At the end of a month they were not tired, but were counting with regret the remaining days in camp, before they journeyed back to their home in Roscommon.

Some of us call this "Camping fever." It is not Camping fever, but an assurance of its growth in the future. I have no cart blanche to advocate Camping for its own sake, but because of the advantages which have been enumerated, and which are undoubted evidences of the success which it has achieved, whether by cycle, motor car, van, or boat; per club, or otherwise.

**Scares.—8.**—A writer, in reviewing one branch or share that I have taken in promoting Camping, spoke of the horrors of damp, and of the luke-warm coffee and half-cooked chops and all that. I feel I am within my right in characterising such writing as cheap journalism, sheer piffle of the unknowing. Perhaps not a day in the year passes without someone saying, "What if it rains?" "I dare not expose myself," and so on. A camp, to be a success, must be sanitary. It cannot be too well understood, it cannot be too well enforced, that a properly constituted camp has all the comforts of the home, all its physical securities from physical ills. I frequently camp, for instance, in

and serviceable, that you need not be afraid of a hurricane damaging would be the thing. Ample shelter is not always to be obtained under these conditions, for often the ground is somewhat exposed. Hence, light fragile tents are not suitable for the purpose, nor are they roomy enough. To make a camp of that kind enjoyable, where ladies unaccustomed to the sport are concerned, room for dressing and standing up must be considered, not to mention the expense of the hats that they may favour.

**Searching for a Site.—208.**—The matter of convenient and nice and suitable sites for Camping that are free for use, is full of problems. Some of the most tempting places are not available, and I have known what it is to pass on from 6 to nearly 9 o'clock—down stream, too—with locks, weirs, and obstructions taking up time, until quite dark, before finding a place on which it were prudent to camp. This apart, too, from permission. Many places were passed that might be quite free, but there were cattle, a somewhat strong and cold wind, minus shelter, a road hugging the stream, or a series of market gardens, and all the rest of it.

What, then, are the conditions? First, a bit of decent land, if possible, near a stream or other water, within reasonable distance of a house, in case milk and possibly some other stores are necessary.

**Selecting a Site.—209.**—The selection is often made before examination is possible. We may carry occasionally in our pocket a list of probable Camping sites, but that is an exception rather than a rule. The best method, at any rate, is to select your land first, and then get permission. If you are certain it is a place where permission is not needed, well, there is your land, take possession and take the consequences. That gentlemanly demeanour, politeness, and civility of yours, with an offer of payment, ought to satisfy any reasonable demand. A good deal of the unpleasantness that happens to the campist trespasser arises through a too hasty word, too stiff a back, a nose too high, or else by the utterly ragamuffin and shabby appearance of the comfortable old clothes we wear when Camping. In Ireland, for instance, I have been often half refused because I



have been taken for a pedlar, a circus outrider, an exciseman, a bill poster, a political spy, a railway surveyor, a poacher, a wandering shoemaker, a tinker, and even a beggar. This is, of course, by the comparatively poor, untravelled, and innocent people, and I ought to add, in my own interest, of course, evidently ignorant persons, without the power of penetration. A woman, a farmer's wife, frankly said, "I believe you are a gentleman, but don't look like one so much as you speak like it."

Even in England and in Scotland, it is sometimes assumed that the camper is not able to stay at a hotel, that it is the poverty of the tourist that compels him to sleep out, because he could not afford to pay to do otherwise. Hence lofts, stables, a place between two hayricks, underneath a cart, in a waggon, inside the stern of a fishing boat, and even a cave, have been offered by these people, as something superior to what they know nothing of, viz., the delight, comfort, sanitary, and hygienic conditions of a well organised camp, which they never suspected one possessed in the tiny boat or carried in the little bags on the cycle.

When SELECTING A SITE in this way, if one is supplied with all the necessaries of life, particularly milk, the camp may be fixed far out of sight of houses and sound of people. It must be recollected that the non-experienced, such as the resident farmers or land owners, have not the slightest idea of the best conditions for a Camping site. A man may be asked to pitch his tent in a field that is fearfully exposed, with cattle, horses, donkeys, and even pigs therein. These, though objectionable to us, have a right to be there rather than us. Then the tent, if possible, should be pitched where it is safe from the depredations of cattle, and if it is to be left for a day, where it can be watched. These plans of ours may demand an orchard or other spot, alike secure from swine and unscrupulous tramps.

**Privacy.**—210.—All sites are objectionable in full public gaze, by a road, too near a railway, village or town. There may, of course, be exceptional circumstances. For instance, I have camped many nights practically in the centre of Norwich and on the very borders of Shrewsbury in quiet PRIVACY. But there are other towns, and starting and stopping places by which quiet

shield over the end, such as a small sail, a piece of oilcloth or mackintosh that is generally carried for emergencies. I have even lashed a tarpaulin jacket from the pole head, and tied it across with strings from the lower corners. Often I have in Ireland built a hay wall and found it A1.

**Localities.**—215.—Nature spreads her beauty at the campers' feet; mountain, morass, moor and fen; greenest glade and leafy dell; verdant hill and "dewy-mead" and mountain slope; wood and plain; the prairie and the plateau.

The alliteration of the above paragraph is physically true. It is equally true that there are localities that somehow give one a fine sense of satisfaction in regard to locality, and there are some that wear an uninhabitable look and are bereft of any charm. The misery of an ill-conditioned site with, say, a storm swept moorland hundreds of feet above the sea, without shelter is beyond description. The camp site that affords no relief to the eye and which is in the main unable to supply any of the necessaries, because of lack of resource for comforts and enjoyments, should of course be avoided. True, for certain purposes such scenes are often wilfully selected.

To put it in another way, there are localities that are "nice" and some that are rather "nasty." Some people have not the knack of differentiating. On the banks of the Thames it is different. Here are abundant sites but best localities are gone from us of late. But on many other rivers and, happily on many other spots in the British Isles, there are plenty of places with surroundings that charm the camper, because they are congenial to a decent camp.

The locality should have something in the nature of scenery. There should be a little of something that, at least, is homely, if not beautiful. A camp that is near a place of supreme interest such as, say, a Saxon or Norman Church, a Roman camp, beautiful cliffs, a pretty stream, a lovely village, a splendid park or grounds that may be visited, or a fine Cathedral that needs much study, or hospitable friends and relatives—but, of course, at a respectful distance—that we may visit, and who may visit us without being oppressing, has conditions which add to the fitness of its location.



Report  
OF THE  
NATIONAL PARK  
COMMITTEE

*Presented to Parliament by the Financial Secretary  
to the Treasury by Command of His Majesty.  
April, 1931.*

LONDON:

PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE.  
To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:  
Astral House, Kingsway, London, W.C.2; 120, George Street, Edinburgh;  
York Street, Manchester; 1, St. Andrew's Crescent, Cardiff;  
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1931

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value, although, in fact, the lands most suitable for afforestation are usually situated in the most picturesque parts of the country; and, for reasons which are set out later, we do not think that the responsibility for safeguarding areas of exceptional interest to the Nation should be left to the unaided efforts of the Local Authorities.

We conclude that the first object to aim at is a systematic scheme for ensuring the preservation, for the enjoyment of this and future generations, of large areas of exceptional natural interest.

*Recreational facilities—(i) Defined.*

15. The second object to which we desire to draw attention is that included in our third term of reference, i.e. the improvement of recreational facilities for the public. We exclude, as outside our terms of reference, any question of playing fields, organised amusements or motoring facilities: our concern is with the opportunities open to nature lovers, walkers, climbers and camping parties to enjoy natural scenery and to spend their leisure in the open air.

*(ii) Existing facilities.*

16. The question of improving the opportunities of access to the countryside for these and other sections of the community does not present the same urgency, over a large part of the country, as the question of preserving the countryside from disfigurement. The attitude of private landowners towards the public is generally liberal, and where access to areas of national interest has been denied or confined to certain tracts it is usually because a more general degree of access would be inconsistent with the use to which the land is put.

In the larger areas owned by the Forestry Commission\* or the Commissioners of Crown Lands (notably the New Forest, the Forest of Dean and Windsor Forest), the 30,000 acres in the charge of the National Trust, the 1,600,000 acres of common land safe from building development and capable of regulation for the benefit of the general public, not to mention the enormous area of privately owned land over which the public are allowed to go freely (e.g. the South Downs, Dartmoor, Exmoor, the Lake District, the Ochil Hills, etc.), the nation as a whole has a generous measure of access to places of special beauty and charm; but the opportunities are not evenly distributed, and the extension of building and the congested state of the roads during the week-ends give point to the request for further facilities for walkers and campers.

*(iii) Modern tendencies.*

17. The growth of the open air habit has been a notable feature of post-war life. The Youth Movement of Germany has its counterpart in this country. Ramblers Federations number more than

\* Details of these areas and of the policy followed by the Forestry Commissioners are set out in Appendix 5.

40,000 members, and recently a Youth Hostels Association has been formed to help all, but especially young people, to a greater knowledge, love and care of the countryside, particularly by providing hostels or other simple accommodation for them on their travels. Camping parties, both pedestrians and motorists, are to be found in all parts of the country during the summer months.

18. We think that these tendencies should be encouraged. We do not, however, share the view expressed by some of our witnesses that the improvement of recreational facilities necessarily involves the acquisition on an extensive scale of areas over which the public would have the right to roam at large. Economic considerations would often render this impracticable, and, in any case, Nature in her wilder parts compels the use of tracks. Nevertheless the possibility of acquisition in special cases, either of land or of easements, cannot be ruled out, and is dealt with later on in this Report.

We think that assistance should be provided by improving the opportunities of access for pedestrians to areas of exceptional natural beauty. In many cases it would be found that the need would be sufficiently met by the provision of well-defined tracks: by the provision of huts in mountainous regions where the climber could spend a night without coming down from the hills: by the provision of hostels, suitably placed, where the pedestrian could find food and a night's lodging at reasonable cost: and by the provision of additional camp sites.

*Protection of Flora and Fauna.*

19. A third object which might be served by a scheme of National Reserves and Nature Sanctuaries in this country is the protection of flora and fauna. On this question we draw attention to the evidence submitted by Sir Peter Chalmers Mitchell, Dr. E. J. Salisbury and Dr. G. F. Herbert Smith on behalf of the British Correlating Committee.

In support of the view that efforts for the conservation of wild life were not keeping pace with the destructive agencies, Dr. Salisbury put in a statement which showed that of the total of about 1,800 species of flowering plants and ferns native to Britain no less than 294, or approximately one-sixth, have become extinct in one or more counties in England or there is documentary evidence of their diminution. Of this large total, about a third have become extinct in one or more counties. Apart from special cases where diminution is attributable to advance in cultivation, the evidence points to the general conclusion that the danger of extinction becomes acute where the conditions of environment have been altered. It is accordingly suggested that the maintenance in their present state of areas where rare species occur would appear in general to be the best means of ensuring that future generations shall enjoy our flora, though in special cases the establishment of sanctuaries might be necessary. The disappearance or diminution of rarer species of British mammals and birds is a matter of common knowledge.



MINISTRY OF TOWN AND COUNTRY PLANNING

REPORT  
OF THE  
NATIONAL PARKS  
COMMITTEE  
(ENGLAND AND WALES)

*Presented by the Minister of Town and Country Planning to Parliament  
by Command of His Majesty  
July 1947*

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166. We consider that there should be selective restriction of traffic over certain subsidiary roads and mountain and moorland tracks, so that walkers, riders and cyclists may use them without danger or disturbance from motors. In particular we recommend that there should be an amendment of section 46 of the Road Traffic Act, 1930, adding amenity and the interest of other classes of users to the grounds on which roads may be closed to all or any kinds of vehicles. We further recommend that the National Parks Commission, after consultation with the appropriate Park Committee, should have a right to submit, for confirmation by the Minister of Transport under section 46 of the Road Traffic Act, 1930, Orders prohibiting the use of specified roads to all or any kinds of vehicles, with proper exemption for vehicles serving frontagers of the road and for vehicles used for agriculture on adjacent land.

167. There must, of course, be all reasonable facilities for visitors travelling to and within National Parks by charabancs and long-distance motor coaches. It cannot be denied, however, that an excessive concentration of these vehicles, each carrying a large number of passengers, into the beauty spots and along the narrower roads might constitute a very real threat to peace and safety in National Parks. We therefore consider that there should be some power of control over their entry into the Parks and the routes over which they may travel. We understand that services by express carriages, in the nature of excursions and tours, are licensed by the Traffic Commissioners in the area of origin, subject to consultation with the Traffic Commissioners in other areas to be traversed. We recommend that the issue of all licences to traverse any part of a National Park should be subject to prior consultation with the National Parks Commission. For the control of excursions by "contract carriages" and "bona-fide private parties", which are not so licensed, we think that the power recommended in the preceding paragraph to close certain roads to certain classes of vehicles will normally suffice. We recommend, however, that a further power should be included in National Parks legislation, to be held in reserve for use in cases of special necessity, to prohibit the entry of charabancs and motor coaches into National Parks, other than on main through-routes, except under licence to be issued by the Traffic Commissioners after consultation with the National Parks Commission.

#### CAMPING AND CARAVANNING

168. Camping will bring National Park holidays within the reach of many people, and especially young people, who might otherwise be kept from their enjoyment by lack of money or the insufficiency of permanent accommodation. Moreover camping is an adventure in itself which has the greatest educational value, in developing qualities of self-reliance and initiative, in bringing campers into close touch with Nature, and in opening to them a way of escape from the cares and complexities of everyday existence into the simple life of the nomad. Much the same can be said for caravanning, which will bring similar pleasures to older people and to families with young children, to whom the rougher experiences of camping under canvas are denied. Furthermore the accommodation of holiday makers in movable tents and caravans will involve a more temporary appropriation of land than would be required by the building of permanent holiday establishments. For all these reasons we consider that camping and caravanning should be encouraged in National Parks, subject to such planning control as may be necessary to safeguard amenities and prevent abuses.

169. We assume that the use of land for the purpose of mobile or temporary camping in tents or caravans (which might suitably be defined as for a period of less than forty-two consecutive days, with due safeguards to prevent evasion by nominal removal and early return) will be subject to general control as a use of land under the new Bill, and that it will therefore be open

## Appendix A

### APPRECIATIONS OF PROPOSED NATIONAL PARKS

In the twelve sections of this Appendix the proposed National Parks are separately and briefly described, with notes on their special problems and requirements.

In order to simplify reference the spelling of place names is taken from the latest available editions of Ordnance Survey maps.

#### I. THE LAKE DISTRICT

For a century and a half those who love wild country have counted the Lake District supreme in all England. Wordsworth, in his "Guide through the District of the Lakes", wrote of its mountains:

" Their forms endlessly diversified, swoop easily or boldly in simple majesty, abrupt and precipitous, or soft and elegant. In magnitude and grandeur they are individually inferior to the most celebrated of those in some other parts of this Island; but in the combinations which they make, towering above each other, or lifting themselves in ridges like the waves of a tumultuous sea, and in the beauty and variety of their surface and colours, they are surpassed by none."

The minute weathering of the rocks, the hanging valleys and noble crags, the lichens and varied grasses of the tops, the natural woodlands of oak and birch on the lower slopes, the delicate tracery of the ferns, the clear water of the becks and tarns all join to give a richness of form and colour, which is further enhanced by the play of light and shade and the constant changes of atmosphere and weather. Still greater are the differences that come with the passing seasons; those who have known the District only in August can come again as to a new country in May or in October, or discover in winter the astonishing grandeur of these mountains under ice and snow.

The lakes themselves, except Windermere and Ullswater, are not very large; but, as Wordsworth remarked, it is more important that they are numerous, for the still water of each lake and tarn, "reflecting the clouds, the light, and all the imagery of the sky and surrounding hills", brings to the landscape a feeling of peace and repose.

The beauty of the valleys is intricate and surprisingly close packed. The lake shores are "all nabs and neuks", the trees and woodlands above them are a natural mosaic in spring or autumn, and the streams a succession of clear pools and rapids in which no two stretches are alike. Even in the Lake District the hand of man has greatly contributed to the beauty and harmony of the landscape. A thousand years ago the Norsemen began to clear and drain the valleys. They and their descendants carried the great stones off the land, built the field walls and fenced in the flooding torrents. The intricate pattern of the green fields, the long low farmsteads, modestly offering no challenge to the crags above, the lanes and footpaths, the unpretentious churches, the shorthorn cattle and the Herdwick sheep still show how much this landscape owes to the "statesmen" or yeomen farmers of succeeding centuries. The same fine stock of men is here still. They



graze their sheep on the highest mountains all through the winter, and win their hay in the valleys in any fine spell from June to October. They are famous for their clean, neat houses, their hospitality to strangers (who are still "off-comers"), and the excellence of their housewives as cooks and caterers.

The Lake District will always have a special attraction for the walker and the rock-climber; for even to move about in such a country is the height of pleasure. But walkers will do well to come prepared for all weather, well-shod, and with map and compass for the high ground. In winter visitors may also find skating on some of the lakes and tarns, and some adventurous and intermittent ski-running, especially on the eastern fells. In summer there is small boat sailing on Windermere and Ullswater for those who can cope with sudden squalls and changing winds. The less active equally can find their pleasures in boating and bathing and in valley walks. For the very young there are the excitements of new discovery; and for the elderly the satisfaction of contemplating the distant hills and the more intimate and detailed beauty that is always at hand in the valleys.

Visitors increasingly share and enjoy the traditional sports and pastimes of this country. Chief among these is fox-hunting on foot, for those who have the necessary stamina. The five fell packs, the Blencathra, Ullswater, Conistone, Eskdale and Ennerdale, and Melbreak, cover the whole district from September to April and are supported almost entirely by the farmers in defence of their lambs. "D'ye ken John Peel" is the fell fox-hunter's song, and Peel himself lived at Caldbeck, near the northern boundary of the Park. Wrestling in the Cumberland style, sheep-dog trials and hound-trailing are also popular, and, though now somewhat commercialised, are still genuine and characteristic local sports. There are trout in nearly all the becks and tarns; pike, perch and eels abound in most of the lakes; and Windermere and some of the smaller waters are well stocked with char.

The underlying geology of the district is complex and interesting and on the surface the numerous evidences of glacial and volcanic action show how fire and ice have joined in shaping the hills and valleys. Three places have been chosen as National Nature Reserves; the rest of the Park is also rich in interest for the naturalist. Two breeds of deer are native and still exist in fair numbers, the red deer only on the eastern side, the roe deer chiefly in the south. The pine marten barely survives, but there are plenty of red squirrels. The pied flycatcher and the buzzard are common. Peregrine falcons breed here and hen-harriers are seen occasionally. Goosanders, whooper swans and many kinds of duck spend the winter on lake and tarn. For the botanist there is a great variety of plants. Mosses and ferns occur in great diversity and profusion, there is a unique aquatic flora in the lakes and the higher fells are the home of several rare alpine plants. For the archaeologist there are stone circles and prehistoric barrows, a number of fine hill forts, and Roman camps at Ambleside and Hard Knott. In the west there is an interesting group of Anglian crosses, of which the finest is in Gosforth churchyard. Mediaeval buildings are scattered thinly—there are more on the south side than elsewhere and these include Cartmel Priory—but the whole District is rich in well-grouped hamlets and in modest but charming farms and manor houses, mainly of the 17th and succeeding centuries. There is also a fine tradition of bridge building in rough local stone, which seems to date from the same period. Finally those who love English letters will find here, still not unrecognisably altered, the landscape that inspired Wordsworth and through him, enriched the tradition of English literature.

Wordsworth was among the first of many who have striven to preserve the beauty and peace of the Lake District. Towards the end of the last century their efforts were reinforced by the founding of the National Trust which now owns some 18,000 acres in the District, whilst as much again is under covenant. In recent years the Friends of the Lake District have devoted unremitting energy to the preservation of the area and to the object of making it a National Park.

#### PROBLEMS AND REQUIREMENTS

The natural woodlands of the Lake District—oak, birch, rowan, hawthorn, cherry, alder, yew and ash—grow into the contours of the hillsides and enrich the landscape with their varied shapes, their lights and shadows, and their seasonal variations of colour. During the war they have been much felled, especially in the southern dales. The beauty of the Lake District would be sadly diminished if these woods were to be permanently lost or replanted with any but their native trees. Conifer planting was branded by Wordsworth as an abominable kind of "vegetable manufactory", and there is no doubt that conifers, as they have usually been planted, in large blocks of one species and age-group, change the whole character of the countryside, and destroy its natural plant and animal life. Their sombre uniformity, the hard edges where they meet the natural hillsides, and their general air of regimentation, are always out of harmony with the landscape of this country. There should certainly not be much more conifer planting within the Lake District, and new plantations should be, so far as possible, adapted to their setting. In this matter the interests of landscape beauty and of the gravely threatened Herdwick sheep industry are identical. Already famous flocks in Ennerdale and the Duddon Valley and near Thornthwaite have been eliminated by the afforestation of the intakes, and within the past year another has been doomed.

Underground the Lake District has a varied wealth, exploited in Elizabethan days by miners from the Tyrol, as well as by local men. Slate quarrying in particular has been for centuries its second industry, and the good green slates provide the fine roofs which are characteristic of the whole District. The waste heaps and caverns of the quarries often form interesting features and blend satisfactorily with the hillsides. Only occasionally are they out of proportion. Lead-mining, however, may produce far more disfiguring effects, and recent large-scale operations at Glenidding have not only produced ugly dumps of fine waste, but have polluted the beck and impaired the beauty and wholesomeness of Ullswater. Copper, ironstone, barytes and graphite also have their tips, mostly ancient and harmless. It is always possible that in time of national necessity one or another of these minerals may have to be mined again. If so, every care must be taken to keep the workings in harmony with their surroundings.

Much has been heard recently of water catchment in the Lake District; which is indeed an obvious source of water, and has for many years been exploited for the benefit of large and populous areas, including West Cumberland and the City of Manchester. The character of the Thirlmere valley and more recently of Mardale has been altered in the process, not for the better. The fields in the dale heads are submerged; the farm land is sterilised; homesteads are ruined; conifers are usually planted on the hill-sides; the dams themselves are never quite in place among the fells, and the inevitable rise and fall of the water level destroys the natural harmony of the foreshore by introducing an unsightly belt of mud, bare gravel or bleached rocks below the high water line. Boating and bathing are forbidden, and the few remaining farmers may not keep cattle or take in visitors. A proper determination to save West Cumberland from reverting to depression, and to

provide adequate water for other urban and rural areas, has led to far-reaching proposals for the further damming of lakes and valleys. Ennerdale Water is the latest victim. There is no more difficult problem in the Lake District than to supply water for the reasonable needs of surrounding areas, without destroying the native beauty and essential character of the country. The powers and procedure suggested in paragraphs 133-137 of Chapter VI should be strictly and wisely applied in order to ensure that the right balance is struck. A large part of the district should certainly be immune from further damming.

Large poles and pylons carrying overhead electricity wires are out of keeping with the delicate quality of the Lake District landscape. The local people in the villages and outlying farms are entitled to electric light and power; the problem is to bring it to them, over the lower fells and into remote valleys, with as little damage as possible to the beauty of the countryside. It is often sufficient that the line should be skilfully sited, perhaps using woodland as a screen; but in some places the lines should, at all cost, be buried. In certain places also Post Office wires should be laid underground.

The beauty of this district is particularly vulnerable to the effects of road-making and road-widening. A number of roads have already been needlessly "improved", with insufficient regard for the character of the valleys and passes through which they are driven, and with small benefit to the local people. In one famous case an almost unanimous local petition against such an "improvement" was disregarded by the Highway Authority. Ways once suitable for walking and sheep-driving have been made fit for motor traffic but unpleasant for walkers. One of the duties of the Park Committee will be to weigh and advise on the various claims of those who use the roads. Repairs and improvements must be subject to the advice of their landscape experts; and there must be no "improvement", except for agricultural purposes, of green lanes and mountain tracks which are now available to walkers, riders, and the more adventurous cyclists without the disturbance and danger of motor traffic.

Over the hills themselves access is unlimited, save in young plantations, and there are plenty of footpaths, mostly well worn and quite sufficiently marked with unobtrusive cairns. In the farmlands more footpaths are needed, and some attention to gates and stiles. Moreover a few obstructed or disputed rights of way will have to be opened up.

There are already, at some seasons and in some parts, as many visitors as the district will suitably hold. At Bank Holidays rock-climbing parties have often to wait their turns on the standard climbs, especially on the Napes and Pillar, "queueing up" as one farmer put it, "to brak their necks". The accommodation, especially in the valleys that radiate from Esk Hause, is taxed to the utmost, and on fine days in summer there is no solitude on the accustomed routes and summits. The pressure of numbers, too, is felt by the local people. The farmers and inn-keepers of this country have long enjoyed a peculiarly happy relationship with guests who have stayed in their homes and thus gained some understanding of their ways of life. This understanding is not so readily attained by those who come to camp or to caravan, or in charabancs or motor-cars for the day, or in larger groups, out of contact with the local population, to stay in the hostels of the voluntary societies. The increase of visitors knowing little of local life has caused some friction. The farmers complain of noise in the valleys at night, dogs loose among sheep on the fells, gates left open, fences and hay-crops damaged. And there is litter, especially where motorists halt and on the most popular summits. A service of wardens and direct educational activity will be needed to show some of the newcomers what is required of them.

Some increase in holiday accommodation is also needed, especially inexpensive family hostels, more youth hostels, and carefully chosen sites for camping and for caravanning. The new accommodation should in general be spaced so as to spread the visitors, not to concentrate them in the most popular valleys.

Where new building is required, for this or other purposes, it should as a rule be in or near existing centres of population, and not in the dale heads, and its design and construction should be in keeping with the traditional stone and green slate architecture of the Lake District. Buildings should moreover be placed, where possible, on rough land or in coppice, since every acre of good farmland saved in the dale bottoms means that more sheep can be kept on the fells.

There is much scope for the provision of boats, canoes and small sailing craft on the lakes.

On fishing, the words of a certain Captain Ormrod, who made a special study of fishery improvement in the last century, are quoted in Watson's *English Lake District Fisheries*:—

"I have always looked upon the Lake District as thousands of acres of water almost wasted, but capable of being one of the finest fishing districts in the world. . . ." but, he adds, "unless things are done on a large scale there cannot be any success."

This statement was borne out by evidence from the staff of the Freshwater Biological Association at Windermere. Co-operation between the National Parks Commission, the Freshwater Biological Association and local fishery boards, angling associations and riparian owners, should bring Captain Ormrod's dream to fulfilment, and we recommend that a sum should be set aside for fishery improvement in the Commission's budget. Visitors to the National Park might share with local residents the benefits of a Lake District fishery improvement scheme, by admission on daily, weekly or monthly tickets to local angling associations.

Whatever opportunities may be found and exploited for the wider enjoyment of other field sports, walking, rock-climbing and camping will always be the principal recreations in the Lake District. The management of the National Park must make its primary care the harmony between those simple pleasures and the vigorous life of the local communities.

## 2. NORTH WALES

Snowdon, the highest mountain in England and Wales, is also the centre of a wide region of wild and broken mountain territory of which it is the climax. But if Snowdon presides in unchallenged majesty over the Caernarvonshire part of the Cambrian mountains, Cader Idris holds sway over the Merionethshire country between the Mawddach and Dovey estuaries, where the quality of the landscape, more open and rolling, is subtly different from that of the Snowdon range but by no means inferior. Between these two dominant peaks lies a broad thirty-mile stretch of dramatically varied country. Indeed the Arans, the Arenigs and the chain of summits running north and south between the Barmouth and Ffestiniog estuaries have a stern individuality hardly less impressive than that of Cader or the Snowdon group. To drive from the lake of Trawsfynydd to Dolgelley on a fine winter afternoon with the snowy Rhinogs and the deep romantic cleft of Bwlch drws Ardudwy outlined against the western sky is an unforgettable experience.



# Leisure in the Countryside

## England and Wales

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Secretary of State for Wales to Parliament  
by Command of Her Majesty  
February 1966*

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needs of visitors. The divergent interests of those who visit the countryside simply for relaxation or active recreation, and of those whose concern is primarily with the conservation or study of its natural or man-made features, will also need to be reconciled. A major task will be to stimulate and co-ordinate education in the need to conserve the unique features of the countryside. The Commission will act as a source of, and a clearing house for, ideas and techniques, and will provide effective liaison between the bodies concerned with meeting the demand for facilities and for promoting tourism. They will undertake, or arrange for, research into countryside problems, and will assess priorities. Above all, they will support local initiative with advice and encouragement, and stimulation where need be.

#### **Relations with the Sports Council**

12. The creation of the Countryside Commission will in no way diminish the importance of the Sports Council, which will remain responsible for advising the Government on the development of amateur sport and physical recreation services. The Commission's concern, in this field, will be primarily with enjoyment of the opportunities which the countryside gives for what is described in the 1949 Act as "open-air recreation"—a phrase which the National Parks Commission have rightly interpreted in its broadest and least specialised sense. Their interest will be complementary to the Sports Council's primary interest in physical recreation and outdoor activities in the more specialised sense. There will need to be close co-operation between the Commission, the Sports Council and the regional sports councils, and arrangements will be made to that end.

#### **National Parks**

13. No immediate major change is proposed in the administrative arrangements within the National Parks. The Government have, however, been impressed with the weight of opinion in favour of joint planning boards for those Parks which cover more than one county, and they hope that the planning authorities concerned will consider very seriously the possibility of a change. The Government will consider whether it would be desirable to exercise their power to revoke existing arrangements if further experience shows this to be required.

#### **FINANCE**

14. Under the 1949 Act specific Exchequer grant at the rate of 75 per cent can be paid towards the costs of what is done by the local planning authorities for preserving or enhancing natural beauty and for its enjoyment in the National Parks and the Areas of Outstanding Natural Beauty. For the future there will be 75 per cent grant towards appropriate items of current expenditure and towards loan charges, both in respect of National Parks and Areas of Outstanding Natural Beauty and in respect of what is proposed in this paper for the countryside generally.

15. It is also proposed that Exchequer grant, at the rate of 75 per cent, should be payable towards the additional administrative expenses of National Park planning authorities involved in the creation of new facilities or the improvement of the landscape.



# Landscapes Review

*We want our national landscapes to work together with big ambitions so they are happier, healthier, greener, more beautiful and open to everyone.*

---

*Final Report*

HC1/21

## Proposal 8: A night under the stars in a national landscape for every child

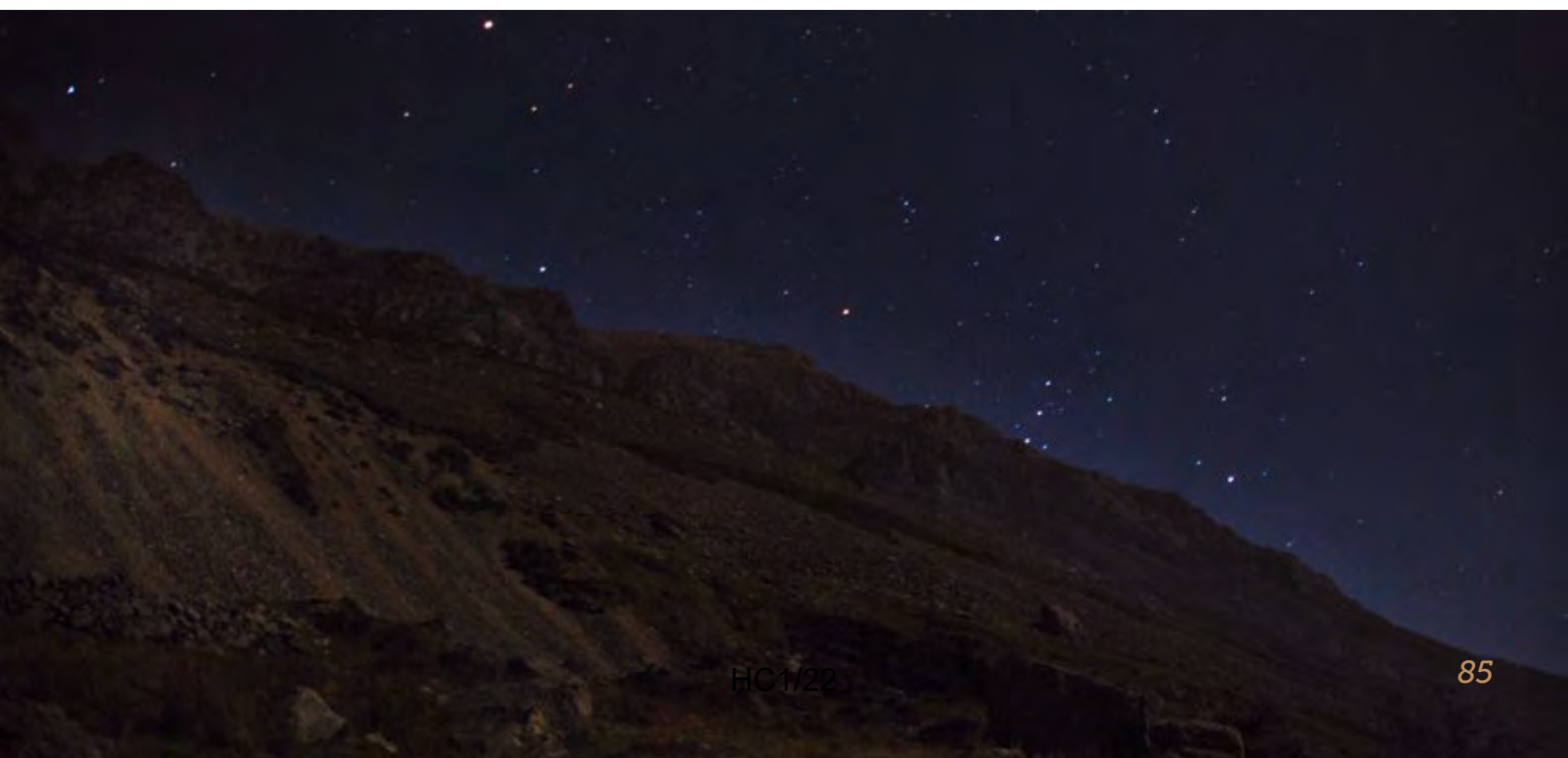
Many of our national landscapes already do wonderful work with schools. We don't want to disrupt what is already done or think that all contact with the countryside must be regimented, or take place only in national landscapes or arranged through them. But we know how many children could benefit, but don't.

National landscapes could do – and want to do – more for the physical and mental health of children and young people, and give them a chance to experience nature. Each child who comes back with a positive experience after visiting a national landscape is an ambassador for their future.

We think there should be a big, bold ambition to change this for everyone. All children should be helped to develop pride in their national landscapes, their environment and its

biodiversity. They should learn how landscapes have inspired generations of artists, poets and musicians. They themselves should be inspired by the lives of their forebears, who have forged this countryside and whose very existence is written into the cultural landscape, and above all they should learn how they too can pick up the baton of nurturing and enhancing what they have inherited.

With help from a new National Landscapes Service, we would like to see national landscapes work with the many organisations already involved in this area to provide a clear, consistent offer for a meaningful visit that we think should include an overnight stay. It would be a chance for children to meet others from communities they may not normally meet, to learn about the nature that we all rely on, and even enjoy the thrill of a night under the stars.





# Relaxation or removal of a general restriction: guidance for relevant authorities

June 2012

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## Disclaimer

This guidance is non-statutory and provides guidance on the main features contained in the removal or relaxation of a general restriction under the Countryside and Rights of Way Act 2000. The guidance does not attempt to provide a comprehensive explanation of every provision nor does it offer a definitive interpretation of the legislation, which only the courts can do.

The Department for Environment, Food and Rural Affairs cannot provide specific advice on individual circumstances. Anyone needing this should consider taking independent expert advice.

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# Introduction

1. Part I of the Countryside and Rights of Way Act 2000 (“the 2000 Act”) introduced a new public right of access for open-air recreation to open country (mountain, moor, heath and down), registered common land and any land that has been voluntarily dedicated for access in England and Wales. Part 9 of the Marine and Coastal Access Act 2009 (“the 2009 Act”) introduced a right of access to the English coast. The 2009 Act amends Part 4 of the National Parks and Access to the Countryside Act 1949 (“the 1949 Act”) to provide for the designation of a long-distance coastal route. It also amends Part 1 of the 2000 Act to provide a right of access to the route and an associated margin of land linked to the route.
2. The coastal access provisions in the 2009 Act place a duty on the Secretary of State and Natural England to secure two linked objectives:
  - that there is a route for the whole of the English coast consisting of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and
  - that in association with the route there is a margin of land along the length of the English coast which the public can have access to and enjoy for the purpose of open-air recreation.
3. Schedule 2 to the 2000 Act (“Schedule 2”) contains a number of general restrictions which must be observed by a person exercising the right of access. Part 2 of the Schedule to the Access to the Countryside (Coastal Margin) (England) Order 2010 (“the 2010 Order”) amended Schedule 2 to make a number of changes to the categories of general restrictions as they applied to coastal margin which is subject to the right of access.
4. This guidance provides you, as a relevant authority with advice about the criteria you will need to take into account when deciding whether to give a direction using the powers available under paragraph 7(1) to Schedule 2 to remove or relax one or more of the general restrictions set out in that Schedule 2. **Annex 1** to this

guidance reproduces the general restrictions listed in Schedule 2 limiting the activities that may be carried out by a person exercising the right of access.

5. A “relevant authority” for land which is open country and registered common land means the National Park Authority where access land falls within a National Park, or the Forestry Commission where land voluntarily dedicated for access is comprised mainly of woodland, and Natural England in all other cases. For land which is coastal margin Natural England is the “relevant authority” as provided for under paragraph 15 of Part 3 of the Schedule to the 2010 Order. Natural England may however authorise the National Park Authority or the Forestry Commission to carry out the functions as “relevant authority” for land which is coastal margin as it may specify.
6. General restrictions may also be removed or relaxed by the landowner as part of a dedication instrument. This process lasts in perpetuity. Where a dedication instrument already exists for the land in question, it may be amended to record the removed/relaxed restrictions.

## **What does removing or relaxing a general restriction do?**

7. In order to protect the interests of owners and farm tenants, the right of access introduced by the 2000 and 2009 Acts, which is for open air recreation on foot, does not entitle a person to be on land if they fail to observe any of these general restrictions by, for example, engaging in activities such as horse riding or camping. The general restrictions do not however prevent any of the lawful activities they cover from being carried out on access land under other rights, arrangements or traditions, or with the agreement of the owner or farm tenant.
8. A relevant authority can give a direction so that a person may engage in an activity by right. Extending the right of access in this way will mean that the owner or farm tenant of the land will face a reduced duty of care to members of the public engaged in these activities than would otherwise be the case.

9. A direction can be used to remove or to relax a general restriction over a particular area of land for either an indefinite or a specified period of time. In this context a “specified period” includes both a specified period in every year, or a single period, of any duration.
10. Removing a general restriction completely would extend the right of access to include any lawful activity undertaken for open-air recreation that would otherwise be covered by the restriction. Removing the general restriction at paragraph 1(s) of Schedule 2, for example, would not only allow the public to engage in organised games on the land, but also to hang-glide.
11. Relaxing a general restriction can be used to extend the right of access to include some, but not other, activities which would not otherwise be covered under the 2000 Act. Relaxing the general restriction at paragraph 1(c) of Schedule 2, for example, would allow horse riding on the land without allowing access users to also bring other types of animal onto that land.

## **What doesn't removing or relaxing a general restriction do?**

12. Removing or relaxing a general restriction does not authorise any activity which is in any case illegal. It provides no defence against prosecution.
13. Please also remember that removing or relaxing a restriction does not remove any requirement which may exist for authorisation to be granted under any other legislation before an activity can be lawfully carried out.

## **Who can ask for a general restriction to be removed or relaxed?**

14. Anyone can propose that you should remove or relax a general restriction. So you may receive enquiries about doing this from landowners or from a diverse range of bodies, including, for example, sporting and recreational clubs,

charities, local authorities and local access forums, as well as from private individuals. You might also identify benefits associated with removing or relaxing a restriction yourself without receiving any representations from other parties.

15. You can only give a direction with the consent of the owner of the land or, if the land is let, the farm tenant. It is essential that you obtain this person's written agreement before giving a direction.

## **What information should you consider before deciding whether to remove or relax a restriction?**

16. We recommend that you seek the following information from any person who is proposing to remove or relax a general restriction:
  - the name and address of the person making the request;
  - the name and address of the owner or farm tenant of the land (if different);
  - details of the location and extent of the land concerned, preferably using a large scale map;
  - details of which general restriction(s) they would like to remove or relax;
  - details of whether the general restriction is proposed to be removed or relaxed – and if the proposal is to relax it, a description of the specific activities that the relaxation is intended to permit; and
  - details of the duration of the proposed removal or relaxation, i.e. whether indefinitely or for a specified period.
17. If you require any additional information then you should discuss this with the person who has approached you, or the owner or farm tenant of the land, as appropriate.



## Consulting on whether to give a direction

18. There is no statutory requirement under the 2000 Act for a relevant authority to consult any person or organisations about whether to give a direction. However, you cannot give a direction without the consent of the owner or farm tenant of the land. In circumstances where you have been asked to give a direction by a third party, or propose doing this on your own initiative, we therefore recommend that you contact the owner or farm tenant to seek their views at an early stage. To assist them in doing this you should provide them with a copy of the separate guidance which has been issued to land managers.
19. If it is clear that the owner or farm tenant is not willing to give their consent, there will be no need to consider the appropriateness of the proposal further. If they are more amenable, or undecided, about a proposal to remove or relax a general restriction, or indeed have suggested doing this themselves, we strongly recommend that you consult Natural England in the circumstances specified in paragraph 20, and similarly consult English Heritage in the circumstances specified in paragraph 21 below.
20. Section 28(l) of the Wildlife and Countryside Act 1981 requires any public body, including a relevant authority, to notify Natural England before permitting activities to be carried out likely to damage any of the flora, fauna or other features which make a Site of Special Scientific Interest (“SSSI”) of special interest. Where a proposal has been made for you to give a direction to remove or relax a general restriction on land which is a SSSI, you should therefore check with Natural England to see if this would be compatible with the nature conservation interests of the site. You should also consult Natural England where other designations for nature conservation exist, or if there is any other reason to consider that there could be adverse impacts on the natural environment as a result of giving a direction.
21. Likewise, we recommend that you consult English Heritage where the historic environment or a Scheduled Monument might be affected by the proposals.

22. You may wish to consult other organisations which may be affected by, or have concerns about, a proposed direction too, including the access authority for the area.
23. Before giving a direction you should also consider consulting any other parties that might have a legal interest in the land. This is particularly important in circumstances where the land may be used by others (e.g. grazing licensees), or where third parties enjoy rights over the land which might be compromised by a direction.
24. If you propose to give a long term direction - that is a direction for an indefinite period or for a period of six months or more - you may also find it helpful to seek the views of the relevant local access forum, although there is no requirement for you to do so.

## Deciding whether to give a direction

25. In general you should only decline to give a direction which has been requested by an owner or farm tenant if there is an overriding reason why giving it would be inappropriate - for example, on nature or heritage conservation or public safety grounds. You may also consider that the action would appear to authorize actions that are unlawful, or that the impact on other legal interests in the land would be unreasonable. In considering proposals made by third parties, you should take account of the views of the owner or farm tenant of the land in making your decision.
26. A table setting out guidance as to whether or not it would be appropriate to give a direction is included at **Annex 2** to this guidance. However you will need to use your judgment to decide whether a direction is appropriate according to the local circumstances of each case. If you propose to give a direction that differs in any way from the form of the original proposal you should discuss the proposed changes with the owner or farm tenant before deciding how to proceed.

27. There is no right of appeal against any decision you make not to give a direction. However, if a decision not to issue a direction cannot be justified then you may be at risk of an application for judicial review from the person who made the proposal. It is therefore important to consider the circumstances of each case carefully.

## Consent and notification

28. A relevant authority has no powers to issue a direction without obtaining the consent of the owner or farm tenant of the land.
29. It is important to obtain a written record of this consent. Accordingly, if you decide that issuing a direction would be appropriate, and have already received the owner or farm tenant's agreement in principle, then we recommend that you fill out the model direction included at **Annex 3** to this guidance and send this to the owner or farm tenant for them to sign and return to you. The wording used in the direction ensures that it will not take effect until the owner or farm tenant's signature has been provided.
30. In general, you should aim to give your decision to the person who has applied for a direction within about six weeks from the date you receive the proposal and information set out at paragraph 15.
31. If you decide not to give a direction, or the owner or farm tenant refuses to give their consent to this, you should notify the party that proposed the direction.
32. In circumstances where you do decide to give a direction then we recommend that you send a copy of the signed direction to:
- the access authority for the area concerned;
  - the local access forum;
  - Natural England or English Heritage, if they were consulted during the course of deciding whether to give the direction; and

- any other person or body that you may have consulted during this process.
33. You must send a copy of the direction to Natural England's Open Access Contact Centre (see contact details), which will publish the information you send it on a website so that interested parties will be able to see where extended rights of access apply.

## Varying or revoking a direction

34. The owner or farm tenant of the land may withdraw their consent to a direction by writing to you at any time. If they indicate their wish to do this you may wish to discuss the matter with them and then if you conclude that the existing direction should be revoked you will need to give a new direction revoking the previous one to meet their new concerns.
35. You should also consider varying or revoking a direction if you have reason to believe that it is no longer necessary or appropriate for its purpose, for example, where there has been a change in the circumstances that led to the direction being given. If you are considering reintroducing a general restriction that has already been removed or relaxed then, while there is no requirement for you to secure the consent from the owner or farm tenant we nevertheless recommend that you discuss your proposals with them.
36. If you wish to vary a direction by extending the right of access to include other activities covered by the remaining general restrictions then you will need to obtain the consent of the owner or farm tenant. In either case, you will need to issue a new direction, replacing the previous one, to give effect to the variation or revocation.
37. After giving a new direction, you should inform any person or organization that you notified when making the original direction, as at paragraph 32 above.

# Annex 1 General restrictions to the right of access

The general restrictions listed in Schedule 2 to the 2000 Act limiting the activities that may be carried out by a person exercising the right of access, are reproduced below. The changes to the general restrictions which apply to coastal land, as amended by the 2010 Order, are shown in bold:

- 1(1) **Subject to sub-paragraph (2) section 2(1)** does not entitle a person to be on any land if, in or on that land, he-
- (a) drives or rides any vehicle other than an invalid carriage as defined by section 20(2) of the Chronically Sick and Disabled Persons Act 1970,
  - (b) uses a vessel or sailboard on any non-tidal water,
  - (c) has with him any animal other than a dog,
  - (d) commits any criminal offence,
  - (e) lights or tends a fire or does any act which is likely to cause a fire,
  - (f) intentionally or recklessly takes, kills, injures or disturbs any animal, bird or fish,
  - (g) intentionally or recklessly takes, damages or destroys any eggs or nests,
  - (h) feeds any livestock,
  - (i) bathes in any non-tidal water,
  - (j) engages in any operations of or connected with hunting, shooting, fishing, trapping, snaring, taking or destroying of animals, birds or fish or has with him any engine, instrument or apparatus used for hunting, shooting, fishing, trapping, snaring, taking or destroying animals, birds or fish,
  - (k) uses or has with him any metal detector,
  - (l) intentionally removes, damages or destroys any plant, shrub, tree or root or

any part of a plant, shrub, tree or root,

- (m) obstructs the flow of any drain or watercourse, or opens, shuts or otherwise interferes with any sluice-gate or other apparatus,
- (n) without reasonable excuse, interferes with any fence, barrier or other device designed to prevent accidents to people or to enclose livestock,
- (o) neglects to shut any gate or to fasten it where any means of doing so is provided, except where it is reasonable to assume that a gate is intended to be left open,
- (p) affixes or writes any advertisement, bill, placard or notice,
- (q) in relation to any lawful activity which persons are engaging in or are about to engage in on that or adjoining land, does anything which is intended by him to have the effect-
  - (i) of intimidating those persons so as to deter them or any of them from engaging in that activity,
  - (ii) of obstructing that activity, or
  - (iii) of disrupting that activity,
- (r) without reasonable excuse, does anything which (whether or not intended by him to have the effect mentioned in paragraph (q)) disturbs, annoys or obstructs any persons engaged in a lawful activity on the land,
- (s) engages in any organised games, or in camping, hang-gliding or para-gliding, or
- (t) engages in any activity which is organised or undertaken (whether by him or another) for any commercial purpose.

**(2) Nothing in sub-paragraph (1)(f) or (j) affects a person's entitlement by virtue of section 2(1) to be on any land which is coastal margin if the person's conduct (to the extent that it falls within sub-paragraph (1)(f) or (j)) is limited to permitted fishing-related conduct.**

**(3) In sub-paragraph (2) the reference to permitted fishing-related conduct is a reference to the person—**

- (a) having a fishing rod or line, or**
- (b) engaging in any activities which—**
  - (i) are connected with, or ancillary to, fishing with a rod and line,**

**or with a line only, in the exercise of a right to fish, and**

**(ii) take place on land other than land used for grazing or other agricultural purposes.**

2. - (1) In paragraph 1(k), "metal detector" means any device designed or adapted for detecting or locating any metal or mineral in the ground.

(2) For the purposes of paragraph 1(q) and (r), activity on any occasion on the part of a person or persons on land is "lawful" if he or they may engage in the activity on the land on that occasion without committing an offence or trespassing on the land.

3. Regulations may amend paragraphs 1 and 2.

4. – (1) During the period beginning with 1st March and ending with 31st July in each year, section 2(1) does not entitle a person to be on any land if he takes, or allows to enter or remain, any dog which is not on a short lead.

**(2) Sub-paragraph (1) does not apply in relation to land which is coastal margin.**

5. Whatever the time of year, section 2(1) does not entitle a person to be on any land if he takes, or allows to enter or remain, any dog which is not on a short lead and which is in the vicinity of livestock.

6. In paragraphs 4 and 5, "short lead" means a lead of fixed length and of not more than two metres.

**6A.—(1) Whatever the time of year, section 2(1) does not entitle a person to be on any land which is coastal margin at any time if—**

- (a) that person has taken onto the land, or allowed to enter or remain on the land, any dog, and**
- (b) at that time, the dog is not under the effective control of that person or another person.**

**(2) For this purpose a dog is under the effective control of a person if the following conditions are met.**

**(3) The first condition is that—**

- (a) the dog is on a lead, or**
- (b) the dog is within sight of the person and the person remains aware of the dog's actions and has reason to be confident that the dog will return to the person reliably and promptly on the person's command.**

**(4) The second condition is that the dog remains—**

(a) on access land, or

(b) on other land to which that person has a right of access.

(5) For the purposes of sub-paragraph (4), a dog which is in tidal waters is to be regarded as remaining on access land.

6B.—(1) Section 2(1) does not entitle a person to be on any land which is coastal margin if, on that land, the person obstructs any person passing, or attempting to pass, on foot along any part of the English coastal route, any official alternative route or any relevant temporary route.

(2) In this paragraph—

“the English coastal route” means the route secured pursuant to the coastal access duty (within the meaning of section 296 of the Marine and Coastal Access Act 2009;

“official alternative route” has the meaning given by section 55J of the National Parks and Access to the Countryside Act 1949;

“relevant temporary route” means a route for the time being having effect by virtue of a direction under section 55I of that Act to the extent that the line of the route passes over coastal margin.”



## Annex 2 - Should a general restriction be removed or relaxed?

Paragraph of Schedule 2	Description of general restriction	Whether or not it would be appropriate for the restriction to be removed or relaxed
1(a)	<i>driving or riding any vehicle other than an invalid carriage</i>	<p>Removing the restriction will be inappropriate as it would allow people to take motor vehicles onto access land.</p> <p>Selective relaxation could be used to allow cycling along pre-determined paths.</p>
1(b)	<i>canoeing, jet-skiing, rowing, sailing and windsurfing on non-tidal water</i>	<p>Removing the restriction would give people a right to use inland water for any of these purposes. Before giving a direction to this effect you should check with the local authority that these activities are not covered by local byelaws and do not need planning permission.</p> <p>You should also take any parking requirements into account.</p> <p>Relaxing the restriction</p>

		could be used to allow people to engage in some but not all of these activities.
1(c)	<i>taking any animal – except a dog - onto the land</i>	Removing this restriction would be unnecessary and might have unforeseen consequences should someone use this to take an animal potentially harmful to wildlife onto the land. The restriction could be relaxed to allow horse-riding or pony-trekking
1(d)	<i>committing a criminal offence</i>	Removing the restriction will be inappropriate
1(e)	<i>lighting or tending a fire</i>	Removing the restriction will be inappropriate
1(f)	<i>intentionally or recklessly taking, killing, injuring or disturbing any animal, bird or fish</i>	Removing or relaxing the restriction will be inappropriate as they will overlap with wildlife crimes under the Wildlife and Countryside Act 1981 and

		Part III of the Habitats Regulations <sup>1</sup>
1(g)	<i>intentionally or recklessly taking, damaging or destroying any eggs or nests</i>	Removing or relaxing the restriction will be inappropriate as they will overlap with wildlife crimes under the Wildlife and Countryside Act 1981 and Part III of the Habitats Regulations
1(h)	<i>feeding livestock</i>	Removing or relaxing the restriction will be inappropriate
1(i)	<i>bathing in non-tidal water</i>	Removing this restriction would be appropriate as long as there are no potentially dangerous strong currents, or physical hazards around the water's edge or below its surface, and providing that the water is not used for any of the purposes in paragraph 1(b) above

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<sup>1</sup> Fishing on the coastal margin is however permitted, as provided for in sub-paragraph 1(2) and (3) of Schedule 2 to the 2000 Act.

1(j)	<i>doing anything connected with hunting, shooting, fishing, trapping, snaring, or taking or destroying animals, birds or fish</i>	<p>This restriction duplicates in part the restriction at paragraph 1(f). Removing the restriction will therefore not be appropriate in any circumstances.</p> <p>Relaxing the restriction could, potentially, be used to include fishing within the scope of the right of access but would not circumvent the licencing requirements associated with this.</p> <p>Check with the Environment Agency if you propose to issue a direction to this effect.<sup>2</sup></p>
1(k)	<i>using a metal detector</i>	<p>This restriction could be removed or relaxed but if you are proposing to issue a direction to this effect then check with English Heritage that this will not risk damage to any local archaeology.</p>
1(l)	<i>intentionally removing, damaging, or destroying, any plant, shrub,</i>	<p>Removing the restriction will be inappropriate as they will</p>

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<sup>2</sup> See footnote 1

	<i>tree, or root, or part of one</i>	overlap with wildlife crimes under the Wildlife and Countryside Act 1981 and Part III of the Habitats Regulations
1(m)	<i>interfering with sluice gates, drains and watercourses</i>	Removing or relaxing the restriction will be inappropriate
1(n)	<i>interfering with a barrier designed to prevent accidents or to enclose livestock without a reasonable excuse</i>	Removing or relaxing the restriction will be inappropriate
1(o)	<i>neglecting to close a gate unless it is reasonable to assume it is intended to be left open</i>	Removing or relaxing the restriction will be inappropriate
1(p)	<i>writing or putting up notices or other advertisements</i>	Removing or relaxing the restriction might be appropriate
1(q)	<i>protect access users and others from any unwarranted disturbance, annoyance, obstruction or intimidation while they are engaged in lawful activities on access land</i>	Removing or relaxing the restriction will be inappropriate
1(r)	<i>protect access users and others from any unwarranted disturbance, annoyance,</i>	Removing or relaxing the restriction will be

	<i>obstruction or intimidation while they are engaged in lawful activities on access land</i>	inappropriate
1(s)	<i>engages in any organised games, camping, hang-gliding or para-gliding</i>	<p>Whether removing this restriction completely is appropriate will depend on the circumstances of each case. In most cases, relaxing the restriction to allow one or more of these activities will be more sensible.</p> <p>Before giving a direction you should check with Natural England and English Heritage that the activity concerned is not likely to endanger any nature conservation or heritage preservation interests.</p>

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 Open access land: management, rights and responsibilities at  
[www.gov.uk/open-access-land-management-rights-and-responsibilities](http://www.gov.uk/open-access-land-management-rights-and-responsibilities)  
 England Coast Path: manage your land in the coastal margin at  
[www.gov.uk/manage-your-land-in-the-england-coast-path](http://www.gov.uk/manage-your-land-in-the-england-coast-path)

## Annex 3 - Model Direction

### Direction removing or relaxing general restrictions in Schedule 2 to the Countryside and Rights of Way Act 2000

The [relevant authority name] gives this direction, on [insert date], under paragraph 7(1) of Schedule 2 to the Countryside and Rights of Way Act 2000, to remove or relax one or more of the general restrictions set out in that Schedule to the extent specified below:

Column 1	Column 2	Column 3	Column 4	Column 5
General restriction in Schedule 2	Removed	Relaxed (state the extent of the relaxation)	Land affected (shown on the attached map)	Period affected (if indefinite, show date from which removal or relaxation takes effect)

The owner or farm tenant of the land and the relevant authority must sign the direction to confirm the removal or relaxation of these restrictions.

As owner or farm tenant of the affected land, I give my consent to the removal or relaxation of these general restrictions to the extent shown above.

Signed:

Name and address:

Date of signature:

Signed on behalf of the relevant authority by:

Signed:

Name and position:

Date of signature:

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England Coast Path: manage your land in the coastal margin at  
[www.gov.uk/manage-your-land-on-the-england-coast-path](http://www.gov.uk/manage-your-land-on-the-england-coast-path)



## Notes for filling in the model direction

Once it has been decided or agreed to remove or relax a general restriction, the model direction must be completed:

- (i) Insert the relevant paragraph(s) of Schedule 2 in column 1.
- (ii) Tick the box in column 2 if it is proposed to remove the restriction
- (iii) If it is proposed to relax the restriction describe in column 3 the activities covered by the restriction it is wished to include under the right of access eg, by inserting “persons with horses permitted” or “persons with ponies or horses permitted” etc.
- (iv) A map must be enclosed with the direction so that it is clear the area of land on which it is proposed to either remove or relax the restriction. Complete column 4 to describe whether the removal or relaxation will apply to all or part of this land. If the removal or relaxation of the restriction will apply only in relation to a specific part(s) of the land (for example along defined tracks or paths) then this should be described in words, and the appropriate area(s) marked on the map.
- (v) In column 5 insert the start and end dates for the period it is proposed to remove or relax the restriction. If it is proposed to remove or relax the restriction on an indefinite basis, insert the words “indefinite from [date]”.

# Contact details

## Access authorities

The access authority is a National Park authority if your land falls within a National Park, or the relevant local highway authority (i.e. the local authority for your area) in all other cases.

## Charity Commission

Charity Commission, PO Box 1227, Liverpool, L69 3UG. Telephone: 0845 300 0218 (national contact centre)

## Countryside Council for Wales

Countryside Council for Wales, Maes y Ffynnon, Penrhosgarnedd, Bangor, Gwynedd, LL57 2DW. Telephone: 0845 1306 229

## Department for Environment, Food and Rural Affairs

Landscape and Outdoor Recreation, Defra, Zone 1/09, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6EB. Telephone: 0117 372 3553. Email: [coast.consultation@defra.gsi.gov.uk](mailto:coast.consultation@defra.gsi.gov.uk).

## English Heritage

English Heritage, 1 Waterhouse Square, 138 - 142 Holborn, London EC1N 2ST. Telephone: 020 7973 3000. Email: [customers@english-heritage.org.uk](mailto:customers@english-heritage.org.uk)

## Forestry Commission

Forestry Commission, 620 Bristol Business Park, Coldharbour Lane, Bristol, BS16 1EJ. Telephone: 0117 906 6000. Email: [fe.enland@forestry.gsi.gov.uk](mailto:fe.enland@forestry.gsi.gov.uk)

## National Assembly for Wales

The National Assembly for Wales, Cardiff Bay, Cardiff, CF99 1NA. Telephone: 0845 010 5500. Email: [assembly.info@wales.gov.uk](mailto:assembly.info@wales.gov.uk).

## Natural England

The Open Access Contact Centre, Temple Quay House, 2 The Square, Bristol BS1 6EB. Telephone: 0845 100 3298. Email: [openaccess@naturalengland.org.uk](mailto:openaccess@naturalengland.org.uk).

Contact details for your local Natural England office can be found in the notification documents sent to owners and occupiers of Sites of Special Scientific Interest, or by telephoning the Natural England enquiry service on 0845 600 3078. You can also obtain these details by emailing: [enquiries@naturalengland.org.uk](mailto:enquiries@naturalengland.org.uk).

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**DEDICATION INSTRUMENT**

**PURSUANT TO SECTION 16 OF THE  
COUNTRYSIDE AND RIGHTS OF WAY ACT 2000**

1. In this Dedication Instrument:

"the Act" means the Countryside and Rights of Way Act 2000; and  
"the Land" means the land at: High House Waste, Cornwood the location and extent of  
which is shown edged in red on the attached map ("the Map").

2. We : Kate Jessie Ashbrook, Penelope Janet Burnard Gates and Ruth Evelyn Warlow  
Roberts, as Trustees for and on behalf of the Dartmoor Preservation Association of  
Duchy Hotel, Princetown, Yelverton, PL20 6QF **DEDICATE** the Land under section  
16(1) of the Act, for the purposes of Part I of that Act.

3. The following general restrictions in Schedule 2 to the Act are removed or relaxed to the  
extent specified below:

General restriction in Schedule 2 to the Act	State whether the general restriction is removed or relaxed and, where it is relaxed, the extent of the relaxation	Land in respect of which the general restriction is removed or relaxed
(c) has with him any animal other than a dog	The restriction is relaxed to the extent necessary to allow the riding of ponies or horses.	The whole of the land the subject of this dedication.
(s) engages in organised games or in camping, hang-gliding or para- gliding	The restriction is relaxed to the extent necessary to allow camping on the land for no more than 2 consecutive nights on the same site.	The whole of the land the subject of this dedication

4. Some or all of the Land consists wholly or predominantly of woodland.

5. The Land forms part of two Sites of Special Scientific Interest. The names of the sites  
are South Dartmoor SSSI and Dendles Wood SSSI.

6. Some or all of the Land is Scheduled Monument. The monument numbers are DV339  
and DV447.

Signed for and on behalf of the Dartmoor Preservation Association

\_\_\_\_\_ Trustee

Name [Please print] ++Kate Jessie Ashbrook

Date \_\_\_\_\_

\_\_\_\_\_ Trustee

Name [Please print] Penelope Janet Burnard Gates

Date \_\_\_\_\_

\_\_\_\_\_ Trustee

Name [Please print] Ruth Evelyn Warlow Roberts

Date \_\_\_\_\_