

BRECON BEACONS NATIONAL PARK AUTHORITY

Telephone (01874) 624437

**Plas y Ffynnon
Cambrian Way
Brecon
Powys LD3 7HP**

Dear Member

A meeting of the ACCESS AND RIGHTS OF WAY COMMITTEE will be held in CONFERENCE ROOM 1, PLAS Y FFYNNON, CAMBRIAN WAY, BRECON ON 7TH JULY 2005 at 10.00 a.m. when your attendance is requested.

Yours sincerely

**CHRISTOPHER GLEDHILL
CHIEF EXECUTIVE**

Cllr P Ashton
Cllr Mrs M Morris
Cllr J Morris
Cllr K Pathak
Cllr E Williams
Cllr A Baynham (Chairman)
Cllr A Carrington

Cllr M Reece
Cllr P Hopkins
Mrs P Thomas
Mr J Suter
Mr P Seaman
Mrs M Taylor

Fire Evacuation Advice

**In the event of a fire, please exit the building via the main staircase,
and assemble in the car park at Assembly Point 3**

**Members - Please bring to the meeting the paper
entitled 'Brecon Beacons National Park Authority
Rights of Way Improvement Plan – 2nd consultation
document' sent to you in mid June**

AGENDA

1.0 MINUTES

1.1 To receive the minutes of the committee meeting held on 7th June 2005 and to authorise the Chairman to sign them as a correct record. (**Annex 1**)

1.2 To receive the minutes of the following meetings of the Local Access Forums:

Eastern Area Local Access Forum 02/02/05 (**Annex 2**) Richard Ball

Central Area Local Access Forum 09/02/05 (**Annex 3**) Richard Ball

Western Area Local Access Forum 17/02/05 (**Annex 4**) Richard Ball

Recommendation: That the minutes of the Local Access Forums be noted.

2.0 CORRESPONDENCE

To receive and consider the attached schedule of correspondence and make any recommendations thereon. (Below).

3.0 MEMBERS DECLARATION OF INTEREST

To receive any declarations of interests from members regarding items to be considered on the agenda (Members' attention is drawn to the Declaration of Interests sheet circulated with the Attendance Sheet at the meeting, and the need to record their interests in writing).

4.0 PUBLIC SPEAKING

To give opportunity for members of the public to address the Committee in accordance with the Authority's Public Speaking Scheme.

5.0 DECISIONS RELATING TO THE DEFINITIVE MAP : CREATION, DIVERSION AND EXTINGUISHMENT ORDERS – HIGHWAYS ACT 1980

5.1 Application for a Public Path Diversion Order, Public Footpaths Nos. 30 and 31 in the Community of Llanddeusant (Annex 5)

Eifion Jones

File reference: PAR804/203/D/30&31

Applicant: Ms Spackman, Crincae, Llanddeusant, Llangadog
Location: Crincae, Llanddeusant
Grid Ref: SN780248
Map No: SN72SE
Community: Llanddeusant

Summary of Definitive Route: Footpath No. 30 - From a point to the west of Crincae from its junction with a county road and proceeding in an east south easterly direction across enclosure no. 8581 and into the curtilage of Crincae. It then crosses the garden in enclosure no. 0081 and follows the northern edge of enclosure no. 0077, parallel to a stream to the junction with footpath no. 29. Total length approximately 500 metres.

Footpath No. 31 - From a point in the curtilage of Crincae and proceeding in a north easterly direction across a stream and into enclosure no. 0092. Total length approximately 65 metres.

Summary of Proposed Route: Footpath No. 30 - From a point to the west of Crincae from its junction with a county road and proceeding in a southerly then east north easterly direction along the northern edge of enclosure no. 8581 and turning to a south south easterly direction and passing to the south west of Crincae. It then follows a track to the junction with footpath no. 29. Total length approximately 385 metres.

Footpath No. 31 - From a point to the north east of Crincae in enclosure no. 0092 and proceeding in a westerly direction to the junction with the diverted route of footpath no. 30 in enclosure no. 0492. Total length approximately 130 metres.

Consultation Responses

Carmarthenshire County Council	-	no reply
Llanddeusant Community Council	-	no objection
County Councillor	-	no reply
Countryside Council for Wales	-	no reply
Ramblers Association	-	agreement in principle subject to improvement works
Open Spaces Society	-	no reply
Byways and Bridleways Trust	-	no reply
British Horse Society	-	no reply
Auto Cycle Union	-	no reply
Statutory Undertakers	-	no objections

Policy/Legal Considerations: This application is an amendment of an application originally submitted in 1995. That application drew an objection from a consultee and a new proposal was submitted following discussions with the

applicant and adjacent landowner. A compromise was found which was satisfactory to all parties. Following a wider consultation exercise no adverse comments have been received. The proposal seeks to divert public footpaths nos. 30 and 31 away from the dwelling and garden at Crincae to routes that will be as convenient as the original footpaths. A substantial footbridge is required on the current route of footpath no. 31 to bring it into use as it crosses a deep dingle. The diversion will avoid this need as it crosses at a much shallower point. The diversion represents a saving in expenditure for the Authority in this regard.

Recommendations:

- (a) that the application to divert public footpaths nos. 30 and 31 in the Community of Llanddeusant be approved and that the Chief Executive be instructed to make an order under section 119 of the Highways Act 1980;**
- (b) if no representations or objections are duly made to the order during the statutory objection period, or if any so made are withdrawn, that the Chief Executive be authorised to confirm the order as an unopposed order.**

5.2 Application for a Public Path Diversion Order, Public Footpath No. 76 in the Community of Llanfihangel Cwmdu (Annex 6) Eifion Jones

File reference: PAR804/509/D/76

Applicant: N W and S E Jackson, Graigllwyd Fach, Darren Road, Bwlch
Location: Graigllwyd Fach, Bwlch
Grid Ref: SO147213
Map No: SO12SW
Community: Llanfihangel Cwmdu

Summary of Definitive Route: From a point to the south east of Graigllwyd Fach and proceeding in a west north westerly direction through the curtilage of the dwelling to the junction with footpaths nos. 11 and 66 to the west of Graigllwyd Fach. Total length approximately 50 metres.

Summary of Proposed Route: From a point to the south east of Graigllwyd Fach and proceeding in a north north easterly direction alongside the western boundary of enclosure no. 8733 then turning to a west north westerly direction and proceeding alongside the northern boundary of enclosure no. 7636. It then follows an unadopted road to the junction with footpath no. 66. Total length approximately 175 metres.

Consultation Responses

Powys County Council (Countryside)	-	no objection
Powys County Council (Technical and Local Services)	-	no objection
Llanfihangel Cwmdru Community Council	-	no objection
County Councillor	-	no reply
Countryside Council for Wales	-	no reply
Ramblers Association	-	no objection
Open Spaces Society	-	no reply
Byways and Bridleways Trust	-	no reply
British Horse Society	-	no reply
Auto Cycle Union	-	no reply
Statutory Undertakers	-	no objections

Details of application: The application has been submitted under section 119 of the Highways Act 1980 in the interests of the landowner. The application has been made for the following reasons:-

- the footpath is being made part of a long-distance publicised route across the National Park, The Beacons Way, and as a result will seriously interfere with the privacy and security of Graiglwyd Fach;
- The route passes through a car park at the premises and within a few feet of the main house entrance.

Conclusion: It is impossible to quantify how much impact the creation of the Beacons Way will have on the level of use of rights of way over which it passes. However, the applicants are clearly worried by the prospect of an increase in the use of the footpath across their property and have submitted an application for a diversion accordingly. In essence, the application seems reasonable, and although there is an increase in distance this is considered to be minimal.

The diversion will usefully fill a gap between footpath no. 66 and Darren Road where there are no registered public rights at present.

Given that the Beacons Way will follow the route of the diversion it is considered appropriate that the National Park Authority meet the costs involved in bringing the diversion route into a fit condition for use by the public. This will ensure that all new items of furniture meet the Authority's specifications for a promoted route. It is proposed that the furniture be installed by the Authority to ensure a consistent standard throughout.

Recommendations:

- (a) that the application to divert public footpath no. 76 in the Community of Llanfihangel Cwmdru be approved and that officers**

be instructed to make an order under section 119 of the Highways Act 1980;

- (b) that an order be made subject to the applicant reimbursing all the Authority's costs in accordance with paragraph (a) and (b) of the policy concerning the recovery of costs for public path and rail crossing orders;**
- (c) if no representations or objections are duly made to the order during the statutory objection period, or if any so made are withdrawn, that the Chief Executive be authorised to confirm the order as an unopposed order.**

5.3 Application for a Public Path Diversion Order, Public Footpath No. 135 in the Community of Llanelly (Annex 7) Eifion Jones

File reference: PAR804/405/D/135

Applicants: Mrs Sarah Smith, Oak House, Clydach, Abergavenny
Location: Oak House, Clydach
Grid Ref: SO226131
Map No: SO21SW
Community: Llanelly

Summary of Definitive Route: From a point to the north east of Oak House and proceeding in a generally south easterly direction down a flight of steps in a zigzag fashion to the junction with Main Road, Clydach. Total length approximately 130 metres.

Summary of Proposed Route: From a point to the north east of Oak House and proceeding in an east south easterly direction down a flight of steps (to be constructed) to the junction with Main Road, Clydach. Total length approximately 90 metres.

Consultation Responses

Monmouthshire County Council	-	no objection
Llanelly Community Council	-	no reply
County Councillor	-	no reply
Countryside Council for Wales	-	no reply
Ramblers Association	-	no objection
Open Spaces Society	-	no objection
Byways and Bridleways Trust	-	no reply
British Horse Society	-	no reply

Auto Cycle Union - no reply
Statutory Undertakers - no objections

Details of application: The application has been submitted under section 119 of the Highways Act 1980 in the interests of the landowner. The application has been made for the following reasons:-

- the path currently is poorly formed and encroaches upon the private space of Oak House;
- the proposed routing is far more rational and far more suitable for the usage of ambular disabled as the risers and treads will comply with current Building Regulation standards;
- the opportunity exists now to improve the footpath prior to development of the adjacent land into a separate building plot for which there is planning permission.

Conclusion: Footpath no. 135 is located on a steep slope and the large proportion of its length comprises of steps. The construction of the steps is not ideal as there is a very sharp bend in the lower section which is difficult to traverse. The lower section also serves as the access to the rear of Oak House. The steps are in a deteriorating condition and are irregular in design and the materials vary. Improvements have been made to the steps over the years but some areas have only been subject to patching works whereas other areas have been resurfaced and subjected to more substantial repair or works.

The works proposed by the applicant will ensure a higher standard of construction for the new steps whilst negating the need for the sharp bend. This will make the steps easier to traverse and, in general, raise the standard of the whole footpath.

Recommendations:

- (a) that the application to divert public footpath no. 135 in the Community of Llanelly be approved and that the Chief Executive be instructed to make an order under section 119 of the Highways Act 1980;***
- (b) that an order be made subject to the applicant reimbursing all the Authority's costs in accordance with paragraph (a) and (b) of the policy concerning the recovery of costs for public path and rail crossing orders;***
- (c) that an order be made subject to the applicant entering into an agreement with the National Park Authority to meet all costs***

involved in bringing the diversion route of the public footpath into a fit condition for use by the public and that all works are completed to the satisfaction of the Chief Executive;

- (d) if no representations or objections are duly made to the order during the statutory objection period, or if any so made are withdrawn, that the Chief Executive be authorised to confirm the order as an unopposed order.*

5.4 Applications for Public Path Diversion Orders, Public Path Extinguishment Order and Public Path Creation Order - Public Footpaths Nos. 25, 34 and 51 in the Community of Llantilio Pertholey (Annex 8)
Eifion Jones

File reference: PAR804/408/D/25&34&51

Applicants: National Park Authority
Location: New Court Farm/Wern-yr-arian, Llantilio Pertholey
Grid Ref: SO315166
Map No: SO31NW
Community: Llanelly

Summary of Definitive Route: Footpath No. 25: From a point on a strip of land between the Abergavenny to Hereford railway line and the A465 Abergavenny to Hereford road and proceeding in a north easterly direction across the road and across the adjacent farmland to Wern-yr-arian. Then proceeding in a generally east north easterly direction along the access road to Wern-yr-arian to an unclassified county road to the west of Little New Court. Total length approximately 580 metres.

Footpath No. 34: From a point on a strip of land between the Abergavenny to Hereford railway line and the A465 Abergavenny to Hereford road and proceeding in north north easterly, east north easterly and east south easterly directions across the adjacent farmland to an unclassified county road to the north west of New Court Farm. Total length approximately 490 metres.

Footpath No. 51: From its junction with footpath no. 25 at Wern-yr-arian and proceeding in a generally south south easterly direction across three fields to an unclassified road to the north of new Court Farm. Total length approximately 260 metres.

Summary of Proposed Route: Footpath No. 25: From a point on a strip of land between the Abergavenny to Hereford railway line and the A465 Abergavenny to Hereford road and proceeding in a northerly direction along a made-up path then easterly ascending a flight of steps. It will then cross the carriageway and

descend a flight of steps before crossing farmland and passing to the south of Wern-yr-arian and to an unclassified road to the west of Little New Court. Total length approximately 620 metres.

Footpath No. 34: From a point on a minor road to the east of the A465 Abergavenny to Hereford road and proceeding in an east north easterly direction across a field to a second minor road at New Court Farm. Total length approximately 450 metres.

Footpath No. 51: From its junction with the diverted section footpath no. 25 to the south south west of Wern-yr-arian and proceeding in a generally south easterly direction along the side of a field to the diverted section of footpath no. 34 near New Court Farm. Total length approximately 200 metres

Consultation Responses

Monmouthshire County Council	-	no objection
Llantilio Pertholey Community Council-		no reply
County Councillor	-	no reply
Countryside Council for Wales	-	no reply
Ramblers Association	-	no objection
Open Spaces Society	-	no objection
Byways and Bridleways Trust	-	no reply
British Horse Society	-	no reply
Auto Cycle Union	-	no reply
Statutory Undertakers	-	no objections

Details of applications: The applications have been submitted under sections 26, 118 and 119 of the Highways Act 1980 in the interests of the landowner and of the public. It is proposed to divert footpaths nos. 25 and 34, extinguish footpath 51 and create a new footpath as an alternative. The applications have been made for the following reasons:-

- to bring the local rights of way network into line with the modern field boundaries. The present situation is confusing as the routes of the rights of way follow old field boundaries that have long disappeared or follow water courses that have now been piped;
- to take account of the effect of the construction of the A465 on the rights of way - and especially of footpath no. 34 which has been bisected by the new carriageway. It is proposed to divert footpath no.34 so that it exists on a minor road thus avoiding the A465;

- to move the rights of way away from the curtilage of Wern-yr-arian and from the vicinity of Stud farm;
- to make the new routes more representative of usage on the ground - this is especially relevant to footpath no. 25 where it crosses the A465 as formal steps were installed on either side of the carriageway during the construction of the A465;
- to take advantage of an opportunity to utilise some existing field furniture e.g. field gates;
- to provide a more logical and practical network which better meets the needs of walkers and landowners

Conclusion: This application is a substantial amendment of an application originally submitted in 1995. That application was not progressed as it largely sought to extinguish the whole of footpaths nos. 34 and 51 and a substantial section of footpath no. 25. The alternative suggested at the time was vastly inferior to that which it was replacing and could not be seen as a reasonable compromise when considering the needs of walkers, the existing local network and the position of these particular rights of way in the wider network.

The footpaths in question lie to the north east of Abergavenny and could potentially provide routes from the town to Ysgryd Fawr. However, footpath no. 34 is effectively blocked by the A465 as there was no formal crossing point installed when the road was constructed. Footpath no. 25 has been disputed in the past but this now appears to be resolved as a result of the current proposals.

Following a wider consultation exercise on the applications no adverse comments have been received.

As it has been widely considered for some time that the footpaths affected by these application form a deficiency in the network, in part caused by the construction of the A465, it is considered that the National Park Authority should bear the costs associated with the making of the proposed orders. There are benefits to the landowners and to the public arising from the orders. However there is also a substantial benefit to the Authority in that a variety of matters will be concluded amicably without recourse to possible enforcement action.

Recommendations:

- a) that the application to divert public footpath no. 25 in the Community of Llantilio Pertholey be approved and that the Chief Executive be instructed to make an order under section 119 of the Highways Act 1980;**

- b) that the application to divert public footpath no. 34 in the Community of Llantilio Pertholey be approved and that the Chief Executive be instructed to make an order under section 119 of the Highways Act 1980;**
- c) that the application to extinguish public footpath no. 51 in the Community of Llantilio Pertholey be approved and that the Chief Executive be instructed to make an order under section 118 of the Highways Act 1980;**
- d) that the application to create a new public footpath in the Community of Llantilio Pertholey be approved and that the Chief Executive be instructed to make an order under section 26 of the Highways Act 1980;**
- e) if no representations or objections are duly made to the orders during the statutory objection period, or if any so made are withdrawn, that the Chief Executive be authorised to confirm the orders as unopposed orders.**

5.5 Application for a Public Path Diversion Order, Public Footpaths Nos. 279 and 286 in the Community of Llanfoist (Annex 9)

Eifion Jones

File reference: PAR804/406/D/279&286

Applicants: National Park Authority/Mrs Fletcher, Pine Grove, Llanwenarth, Abergavenny
Location: Pine Grove, Abergavenny
Grid Ref: SO264162
Map No: SO21NE
Community: Llanelly

Summary of Definitive Route: Footpath No. 279: From a point on an unclassified county road in the curtilage of Pine Grove and proceeding in a generally easterly direction, through a stable block, and into an adjacent field. Total length approximately 55 metres.

Footpath No. 286: From a point on an unclassified county road in the curtilage of Pine Grove and proceeding in a west south westerly direction through a farm building then in a south south westerly direction through the curtilage of Pine Grove and across a field. Then turning to a west south westerly direction and across a second field to a field boundary. Total length approximately 265 metres.

Summary of Proposed Route: Footpath No. 279: From a point on an unclassified county road in the curtilage of Pine Grove and proceeding in an east north easterly direction through a field gate and to the middle of a field. Total length approximately 55 metres.

Footpath No. 286: From a point on an unclassified road in the curtilage of Pine Grove and proceeding along a track in a generally southerly direction to a field gate. Then into a field and turning to a south south westerly direction before entering a second field and proceeding in a westerly then southerly direction to a field boundary. Total length approximately 290 metres.

Consultation Responses

Monmouthshire County Council	-	no objection
Llanfoist Community Council	-	no reply
County Councillor	-	no reply
Countryside Council for Wales	-	no reply
Ramblers Association	-	no objection
Open Spaces Society	-	no objection
Byways and Bridleways Trust	-	no reply
British Horse Society	-	no reply
Auto Cycle Union	-	no reply
Statutory Undertakers	-	no objections

Details of Application: The application has been submitted under section 119 of the Highways Act 1980 in the interests of the landowner. The application has been made for the following reasons:-

- two anomalies have been discovered affecting footpaths nos. 279 and 286 resulting from development being undertaken on their routes during the past 30 years;
- another possible drafting error exists on footpath no. 286 which exacerbates the situation;
- the landowner intends to renew and extend internal field boundaries on the Pine Grove holding. Footpath no. 286 will be delineated in accordance with these proposals.

Conclusion: The basic purpose of the proposal is to improve the local rights of way network by correcting two map anomalies and one possible drafting error at Pine Grove. In addition to this the landowner has proposed additional changes given proposed boundary changes in connection with the keeping of horses and the fencing of woodland.

The proposed diversion provides a direct route skirting the curtilage of Pine

Grove utilising existing field gates. It also takes account of the landowner's fencing proposals.

In light of this it is not proposed to charge the landowner any standard fees in connection with the application. However, the landowner has agreed to contribute £300 towards the cost of the press notices associated with the order as she is deriving some benefit, over and above the correction of the anomalies, from the diversion.

Recommendations:

- a) that the application to divert public footpath nos. 279 and 286 in the Community of Llanfoist be approved and that the Chief Executive be instructed to make an order under section 119 of the Highways Act 1980;**
- b) that part the Authority's standard charge be waived in accordance with paragraph (d) (ii) (correction of definitive map anomalies) of the Authority's policy concerning the recovery of costs for public path and rail crossing Orders and that the landowner contribute £300 towards the cost of the press notices associated with the making and confirmation of the order;**
- c) if no representations or objections are duly made to the order during the statutory objection period, or if any so made are withdrawn, that the Chief Executive be authorised to confirm the order as an unopposed order.**

5.6 Application for a Public Path Diversion Order, Public Footpath No. 81 in the Town of Talgarth (Annex 10) Eifion Jones

File reference: PAR804/517/D/81

Applicants: National Park Authority/Mr A H Jones, Glandwr, Cwmdu
Location: Beiliau-bach, Talgarth
Grid Ref: SO184330
Map No: SO13SE
Community: Talgarth

Summary of Definitive Route: From a point to the east of Berth-fedw and proceeding in an east north easterly direction across enclosures nos. 0003 and 1500 then a generally east south easterly direction across enclosures no. 3100 to pass to the north of Beiliau-bach through enclosure no. 3809. Then proceeding in a generally north north easterly direction across enclosure no. 5100 to a ruined barn then in an east south easterly direction to a point to the west north west of Ffosrhys. Total length approximately 780 metres.

Summary of Proposed Route: From a point to the east of Berth-fedw and proceeding in an east north easterly direction across enclosures nos. 0001 and 1500 then a generally east south easterly direction across enclosure no. 3100 and passing to the south of Beiliau-bach and into enclosure no. 5100. Then continuing to a point to the west north west of Ffosrhys. Total length approximately 770 metres.

Consultation Responses

Powys County Council (Planning)	-	no reply
Powys County Council (Highways)	-	no reply
Talgarth Town Council	-	no reply
County Councillor	-	no reply
Countryside Council for Wales	-	no reply
Ramblers Association	-	no objection
Open Spaces Society	-	no reply
Byways and Bridleways Trust	-	no reply
British Horse Society	-	no reply
Auto Cycle Union	-	no reply
Statutory Undertakers	-	no objections

Details of Application: the application has been submitted under section 119 of the Highways Act 1980 in the interests of the landowner. The application has been made for the following reasons:-

- a drafting error has been identified on the definitive map that needs correcting;
- the diversion will formalise part of a route that is more representative of the current usage;
- the landowner intends, at some time in the future, to convert the derelict barn into a dwelling;
- the landowner intends, at some time in the future, to construct a conservation pond in the vicinity of the footpath.

Conclusion: The current application follows an earlier application which drew objections at the consultation stage. The basic effect of the application is to correct a drafting error on the definitive map but also take account of the landowner's future proposals for the land.

The proposal contained in the application has been arrived at through negotiation between the National Park Authority, the landowner, the Town Council and the Ramblers' Association. It is now considered that the best

compromise has been achieved. It provides walkers with a relatively direct route across the land whilst taking account of the dwelling at Beiliau-bach and proposed future developments at the derelict barn.

Recommendations:

- a) *that the application to divert public footpath no. 81 in the Town of Talgarth be approved and that the Chief Executive be instructed to make an order under section 119 of the Highways Act 1980;*
- b) *that all charges be waived in accordance with paragraph (d) (ii) (correction of definitive map anomalies) of the Authority's policy concerning the recovery of costs for public path and rail crossing orders;*
- c) *if no representations or objections are duly made to the order during the statutory objection period, or if any so made are withdrawn, that the Chief Executive be authorised to confirm the order as an unopposed order.*

6.0 RIGHTS OF WAY IMPROVEMENT PLAN

6.1 Discussion and response on second consultation document of the Rights of Way Improvement Plan Judith Jones

Members should have received a copy of the second consultation document regarding the Authority's Rights of Way Improvement Plan a few weeks prior to this meeting (separate to the Committee agenda).

The Rights of Way Improvement Officer will give a verbal report on its contents as a precursor to a wider discussion on its contents.

Recommendation: that the Committee consider the contents of the second consultation document regarding the Rights of Way Improvement Plan and consider its response thereto.

7.0 INFORMATION ITEMS

7.1 Completed Orders Eifion Jones

Members are advised that the following Order has been completed:

Powys

- i) Brecon Beacons National Park Authority Bridleway No. 11 in the Community of Maescar Definitive Map Modification Order 2003 – confirmed by the Welsh Assembly Government.

Recommendation: that Members note the content of the report

8.0 CONSULTATION ITEMS

8.1 Council for National Parks Paper: “Off Road or Off Limits – Recreational Driving in the National Parks” *Peter Tyldesley*

This paper is attached at **Annex II** for members, and is also being circulated to Local Access members for comment. BBNPA officers were consulted by CNP in the writing of the paper.

Whilst all comments are welcome, Members views are sought particularly on the following aspects:

8.1.1 The Main Issues Identified by National Park Authorities (page 7)

The following issues were identified as causing concern:

- Damage to wildlife habitats and archaeological sites
- Rutting and bogging-up of surface compromising sustainability of routes and inhibiting use by other users
- Erosion of routes in open country
- The impact on tranquillity with engine noises carrying for miles
- Impact on land managers
- Irresponsible drivers intimidating and compromising the safety of non-motorised users
- The drain on resources from a cycle of repair, use, maintenance and legal dispute
- Pressure on NPAs to accommodate legitimate off-road use or “safari” tours

QUESTIONS:

- **Do we share these concerns?**
- **Which are most significant in BBNP?**
- **Are there any other problems not listed here?**

8.1.2 The Way Forward (page 11)

CNP’s strategy calls for immediate action to:

- Recognise the special purposes of protected areas such as National Parks
- Equip National Park Authorities with adequate powers and resources to take action
- Ensure that there is better enforcement of the law by all relevant authorities
- Bring clarity to the legal status of routes quickly

The Welsh Assembly Government has recently published draft updated guidance on the application of s62 of the Environment Act 1995, which requires relevant authorities (including highway authorities and the Police) to have regard to the purposes of National Parks.

CNP call for National Park Authorities to be given the power to either make Traffic Regulation Orders (TROs) themselves or to be able to appeal to WAG to make a TRO. At present, BBNPA has delegated powers to make TROs in all the constituent authority areas within the Park with the exception of Powys, Merthyr Tydfil and Rhondda Cynon Taf. In these areas, and Powys is the one with the largest number of routes where TROs may be an issue, if we wish to see a TRO imposed on a particular route we have to request the relevant highway authority to make the order. The TRO procedure is complex and time-consuming so more important than giving NPAs the power to make TROs may be the simplification of the TRO procedure. Bearing in mind that we have a substantial backlog in processing those Orders for which we are already responsible under the Highways Act and Wildlife and Countryside Act, the additional power would be of little use without the resources to be able to exercise it.

With regard to the issue of resources, CNP rightly point out that, whilst NPAs are not responsible for the maintenance of Unclassified County Roads (UCRs), we are increasingly shouldering the burden of routes that are not being maintained by highway authorities.

Enforcement of the law is linked to the issue of clarifying the legal status of routes. Successful enforcement requires that the Police have the resources and the willingness to participate in enforcement operations. When operations do take place it is important that the police officers involved have clear direction as to the outcomes required i.e. going for a prosecution rather than simply issuing cautions. Police officers also need to be clear as to the applicability of the various criminal and civil offences to the off-road environment. This is an area of the law that may not be familiar to them.

Lack of clarity of the legal status of routes applies mainly to Unclassified County Roads (UCRs) and Roads Used as Public Paths (RUPPs). Essentially, each route in these categories needs to be judged on its merits as to whether or not vehicular rights exist although in the case of UCRs there is a strong, but not irrefutable, presumption that such rights do exist. The re-classification of RUPPs as Restricted Byways does not in the short term make the situation clearer. CNP

call for the introduction of a “suitability test” when vehicular rights are claimed, which would allow factors such as environmental impact and noise to be taken into consideration. At present the lack of clarity means that it is not possible to give definite information to prospective users, who wish to remain within the law, regarding routes that they can legally use.

QUESTIONS

- **Is more national policy guidance required or is the existing framework sufficient?**
- **Should NPAs be given the power to make TROs? Should the TRO procedure be simplified?**
- **Do the Police allocate sufficient resources to enforcement? Is this issue taken sufficiently seriously by Police commanders?**
- **How can the legal status of UCRs and RUPPs be clarified? Should there be a “suitability test” where vehicular rights are claimed?**

Members are asked to raise any other issues in relation to this document.

- a) ***Financial, Staffing and Improvement Implications: See comments in the report regarding resourcing issues***
- b) ***Equality Issues: It has been argued that off-road driving provides access to the countryside for people who are not able to gain access in other ways***
- c) ***Sustainability Appraisal: The commitment of resources to repairing damage caused by vehicles is not sustainable***
- d) ***Human Rights: No implications***
- e) ***Background Papers: CNP paper: “Off Road or Off Limits?” at Annex II.***

Recommendation: That the Access & Rights of Way Committee respond to the issues raised in the CNP document.

9.0 OTHER BUSINESS

Such other business as is, in the opinion of the Chairman, of such urgency as to warrant consideration.

SCHEDULE OF CORRESPONDENCE

- 1. To receive apologies for absence**
- 2. Such other correspondence as, in the opinion of the Chairman, is of such urgency as to warrant consideration**