

# Axbridge Bridleways Association

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The Scrutiny Committee by email to [SCRUTINY@parliament.uk](mailto:SCRUTINY@parliament.uk)

**Call for Evidence on the Agriculture Bill 2017-19 (HC Bill 266) - published 12 September 2018**

## **Public money for public goods: in particular, paying farmers for access.**

### 1 My experience

I am 65 years old and I have been riding since the early 1960's. I used to ride regularly but now I am too intimidated by the traffic.

Since the late 1980's, I have been submitting applications through three bridleways associations, first through Mendip, then North Somerset and Sedgemoor, now all amalgamated under Axbridge Bridleways Association, to put missing or under-recorded ways onto the Definitive Map.

The process is tortuous and wasteful, administered by often undertrained staff, whose reasonably knowledgeable decisions are often over-ruled by more politically minded councillors, with no knowledge, resulting in a process along the lines of:

We wait years for it to make its way to the top of the local authority's queue then:

they reject it

we appeal to PINS, who usually direct them to make an order

the LA makes the order

someone objects, often on spurious grounds

it goes to Public Inquiry

the order is usually confirmed

I spend hours writing appeals against decisions by the LAs to reject my applications.

Some applications have been waiting 30 years to be determined but the need is now, with increasing traffic, to get new routes opened up.

### 2 Public money for public goods

This Bill presents an opportunity to add useful routes to the network in ways that will benefit the landowners as well as the public. At the same time, taking riders off roads should reduce the incidence of horse-related road traffic incidents, involvement in which can have long-lasting effects on mental and physical well-being.

### 3 How it could work

3.1 Paying farmers to make their field margins available to riders with a premium paid to farmers who make field margins available behind a boundary alongside a road.

This would be particularly applicable to new road schemes, which have often been implemented with no thought for the Definitive Map routes that they truncate, meaning riders have long detours alongside busy carriageways carrying HGVs.

- 3.2 Paying farmers to voluntarily upgrade FPs to definitive BRs or dedicate new ones across their land.

This might be attractive to farmers with Open Access Land and could particularly benefit upland farmers.

Horse-riders in Scotland have much better access to off-road riding than other riders in the UK under the Scottish Outdoor Access Code.

In England and Wales, horse access was specifically excluded when the Right to Roam on foot was negotiated with land-owners and implemented through CROW 2000.

These proposals would make access in England and Wales at least a small step nearer to being comparable to that in Scotland.

Walkers could not object because they would have the whole area to walk over and riders would be confined to a linear route.

- 3.3 Paying farmers to allow bounded tracks or lanes through their land to be recorded on the Definitive Map as Restricted Byways

or

- 3.4 Paying farmers who let it be known that they are not the freeholder of the lane, even though they own the land abutting

Presumably grant cannot be paid in respect of land not owned by the claimant but according to 33 H 6, 1455, Seipp No 1455.062 (Google it), an old Year Book case, ways where the freeholder cannot be named will be presumed to be the highway (cartway).

The public benefit would be immense, with such lanes being made available to cyclists and ridden and driven horses, which would naturally include disabled riders and carriage drivers.

Many have good surfaces, or have good surfaces buried below centuries of mud, and were originally public cartways under the old common law that deemed obstructions to them to be public nuisances (Coke on Littleton Sect 69 Tenant at Will).

## 4 Justification

- 4.1 The off-road network available to most riders and drivers of horses and ponies, who mainly use ways that are mostly within a ten mile radius of where the horse or pony is kept, is inadequate; riders are forced onto busy or narrow roads so accidents do happen, often involving injury or death of the horse or pony although riders die or are injured as well.

Being involved in a horse-related road accident is a traumatic event and can lead to mental illness. Many riders are children; if they are involved in an accident, they will probably be the only ones with the skill to handle the injured animal – which will be their much-loved pony. And it is possible that the only solution will be to put the animal down, if it doesn't die of its injuries before veterinary help arrives.

- 4.2 The available network is actually shrinking.

Mountain bikers, mainly men, are creating a demand for trails and definitive bridleways are being appropriated with little thought for the displaced riders, mainly women and children, e.g. Sutton Bank in North Yorks.

Sustrans is increasingly pushing to tarmac over bridleways in the countryside on the flimsy, though worthy, pretext, that they are needed for cycle journeys to work. Tarmac is slippery for horses and they cannot go faster than a trot.

4.3 The alternative is to use the Definitive Map modification process, which is long and slow, with uncertain outcomes, or negotiate with landowners for dedications.

There are unrecorded routes out there that could make a huge difference and people are working on claiming them or persuading landowners to dedicate them. The Definitive Map modification process is too slow and clogged up with backlog to achieve the increase in network needed in a timely manner. It is expensive to administer and the processes are wasteful; it is geared to allowing everyone a say instead of achieving a correct and timely outcome.

The requirement to serve notices on all 'affected landowners' under the WCA 1981, Schedule 14 procedures, engenders hostility and entrenched positions and divides communities. Riders, in my personal experience, have consequently been intimidated by landowners using vehicles and front loaders on tractors.

Changes are proposed with Deregulation, but they will make little difference and could mean that we will have to find £800 in magistrate's fees to make an appeal, even though in some authorities areas Councillors with no knowledge of the law make the decision whether or not to make an order consequent to an application.

Paying landowners to voluntarily dedicate new routes could make significant change in a relatively short time at a fixed and reasonable cost.

## 5 The public good

5.1 The direct benefit would be an increase in off-road routes available to all users, including horse-riders and carriage drivers, reducing the risk of horse-related traffic incidents that can change lives – and increase recreational opportunities that benefit health and well-being.

5.2 An indirect benefit would be reducing the workload on OMAs and PINS. OMAs have huge backlogs, in some cases, decades, of work. PINS are resorting to using their normal planning inspectors to supplement their specialist rights-of way inspectors, with an inevitable decrease in the quality of decisions.

5.3 And farmers would be seen in the local community as public benefactors .

## 6 Other considerations

**6.1 This would provide benefits across society**

Girls from all sectors of society have a passion for horses. In the 1980's, before it was built up, development land at Hanham and Warmley, in Bristol was used for D-I-Y livery, most of the owners being teenagers from nearby housing estates; Bristol City Council provided bridleways to meet the demand along the river.

## **6.2 Behind the hedge schemes would have great and varied utility.**

**Road improvement schemes**, both new and in the past, have truncated Definitive Map FPs and BRs with little regard for the local users. The damage that will be caused to the rights of way network (and the environment) by the proposed HS2 scheme is difficult to reconcile with the purported benefits to people living in London and Birmingham.

In the past bridges were built to take bridleways over the motorways at Pucklechurch and Portishead but new schemes don't include such provision and expect riders and walkers to trek considerable distances up to a crossing place and back, only feet away from HGVs travelling at up to 60 mph.

There are many, many places where access for walkers or riders behind a hedge parallel to a main road would be useful.

### **Whole communities could benefit.**

An example near here: some years ago, while the A38 at Cross was being improved, the road connecting the A38 to Axbridge was considered to be too dangerous for pedestrians. SCC negotiated a temporary extension to a Definitive Footpath behind a hedge. Works were done, mainly a new gate off the road, and the temporary benefit was so great that Cross parish council asked if Somerset County Council would create the hundred yards or so of FP so villagers could continue to walk to the local shops and school in Axbridge.

The landowner wasn't willing – why not, heaven knows, the path went between the hedge and a barn over grass used only for grazing – and SCC wouldn't do a Creation Order.

### **Objections that rights of way are local matters**

In fact, SCC won't do any creation orders unless compelled to by other legislation so **suggestions that rights of way are local matters, best left to LAs, are misguided**. This is because the enabling legislation allows affected landowners to claim compensation after the event, with no guidance as to rates payable, so SCC at least, won't do any.

**Cycleways** are increasingly being provided alongside busy roads, which is good for cyclists but bad for **riders because they cannot use them**. The situation at present is that if a horse-rider wants to use a road with a cycleway, they have to go between the cycleway and the carriage way.

They are then in the hazardous and vulnerable position of having silent cyclists coming up behind them on the left and large HGVs and other fast motorised traffic on the right. The law has created this dangerous situation and a behind the hedge scheme for riders would help.

Sustrans has already warned horse-riders not to use the new Festival Way cycle route on the south side of Bristol, but what other option do they have?

## **6.3 Upgrading existing FPs so riders can avoid dangerous roads**

Where I live, to reach bridleways on the Cheddar hillside and beyond, we have to ride down the B3135, Plummer's Lane, from Priddy to Draycott Steep, a road frequently used by motorcyclists for its bends and where there have been several fatalities. The last one involved a biker coming off a bend at great speed; his machine was going so fast that it went through the engine of an HGV coming the other way, writing it off.

Just up the road from the village, there is Open Access Land with public footpaths going across between the Wookey Hole and Westbury roads, and the Westbury road and Draycott Steep that would provide a safe alternative.

This situation must be replicated many times over throughout the UK and **would favour farmers in upland areas.**

#### **6.4 Opportunities to improve access by simple measures have not been taken by Government**

##### **Automatic reclassification of CRFs and CRBs**

When the preparation of the Definitive Map was first begun in the 1950's, many general purpose roads in the Mendip area were not tarmacked. Unsurfaced lanes were considered to be part of the ordinary highway network and were left off the Definitive Map.

Some were objected to by the Ramblers and were recorded as RUPPs, CRFs and CRBs. For years we went through the tortuous reclassification process for RUPPs which was eventually cut short by automatic reclassification as Restricted Byways under CROW 2000.

Unfortunately Mr Meacher, in 2000, for some reason of his own, apparently unconnected with public benefit, decided not to include CRFs and CRBs in the automatic reclassification process, so many old cartways are still wrongly classified as FPs, although a few are BRs. But as RBs they would have far more utility to the public.

##### **Inclusion of unsurfaced UCRs on the Definitive Map**

We have now been advised by defra that **unsurfaced Unclassified County Roads should now be shown on the Definitive Map** or they will be stopped up in 2026. And every single one of them will have to be researched for old map evidence, or user evidence collected from people who are likely to be in their grave by the time the matter gets to the inevitable Public Inquiry.

The only way to protect the user evidence is to pay for affidavits that in all likelihood will be ignored by Inspectors on the grounds that they haven't been subject to cross-examination. This is even when they contain all necessary information about permission, or lack of it, or ownership or occupation of abutting premises.

**Automatic reclassification proposals by Local Authorities** would make these lanes **public FPs even though they all carry vehicular rights that have not been stopped up under NERCA 2006**, so should properly be reclassified as BOATs.

BOATs are the only public rights of way open to disabled motorised drivers. But defra advise that **automatic reclassification as BOATs would not be acceptable to the anti-motorised vehicle lobby.**

We have spent years lobbying councils that the status of ways shown on the Definitive Map should be decided on facts, not desirability. It is a quasi-legal procedure. And now defra is proposing to cave in to lobby pressure on exactly those grounds.

All we can do is go through the prolonged **Definitive Map modification procedure with its unreliable outcomes.**

For example, we lost a claim for a bridleway near Shepton Mallet over an old hollow way of considerable antiquity at Public Inquiry, on the grounds that it was probably a way restricted to use by the adjoining landowners – but there is not a single gate opening off this old hollow way, which simply connects two general purpose highways.

PINS used to work to Consistency Guidelines but these are no longer being updated and may be withdrawn. They cannot advise what will replace them, at a time the need for them is more necessary, given that they are now using ordinary planning inspectors because of the backlog of appeals and public inquiries.

### **6.5 DMMO applications are bad for communities**

Making DMMO applications can be bad for communities. One lady who collected user evidence many years ago for a successful claim for a public BR, recently told me she was assaulted by one of the landowners, who consequently had to spend a night in gaol.

Motorists and tractor drivers have used their vehicles to intimidate riders, even children, in areas where a claim is made.

The identity of those completing user evidence forms is now kept secret because landowners used to visit them and threaten to withdraw access for the local Hunt unless they withdrew their user evidence forms.

And I have personally experienced intimidation by a farmer deliberately driving his front loader at a wall when a group of riders was passing by on the other side – it became like the gymkhana game of Crossing the River.

But this is grown men intimidating women and children and is not funny.

So this is why some people have chosen to pursue increasing the network by dedication or asking for measures like paying farmers to increase access to be included in this Bill instead.

**Please help us by including measures in the Agriculture Bill that will allow schemes to Pay for Access to be put in place and will continue the existing Cross-Compliance procedures for ways shown on the Definitive Map.**

Joanna Roseff

For and on behalf of **Axbridge Bridleways Association**