

Written evidence submitted by the British Canoeing, British Mountaineering Council, Open Spaces Society and the Ramblers

Summary

Our organisations⁽¹⁾ represent over 250,000 members and the interests of over 20 million individuals who are passionate about getting outdoors, connecting with nature and understanding the countryside. We are committed to ensuring that more people can gain access to and enjoy the countryside and benefit from the experience.

Our main areas of concern regarding the Environmental Land Management (ELM) scheme are as follows.

- ELM has a key role to play in levelling up access provision for the population as a whole. To date there has been insufficient engagement by Defra with organisations representing users of the countryside, despite the welcome acknowledgement that public access is a public good to be funded by ELMS. Only three of the 72 tests and trials focus on public access, and it is currently unclear how the findings of these projects will be integrated into the final scheme design.
- The payments for ELM, and the Sustainable Farming Incentive (SFI) in particular, need to be generous to encourage farmers and land managers to opt to enhance public access. The scheme must be flexible and easy to use, with professional advice readily available to encourage take-up of the public access payments.
- Payments under ELM should be conditional upon recipients fulfilling the existing legal requirements relating to public access so that the existing public rights of way network is kept clear and open for the public to use and enjoy, and to ensure a level playing field among those participating in the scheme. There must be a clear replacement for cross compliance rules to achieve these outcomes, with minimal bureaucracy and maximum transparency, along with effective enforcement.
- Local Access Forums and Rights of Way Improvement Plans, established through the Countryside and Rights of Way Act 2000 provide the opportunity to bring landowners and the public together to shape new public access for the benefit of all.

1. Introduction

1.1 It has never been more important to enable people to be active and to connect with nature. We know greater access can help tackle some of the biggest challenges we face: from the climate emergency to rising obesity and the mental-health crisis. Covid-19 has brought into even sharper focus the importance of people being active outdoors. But, as with other areas of public life, it also highlighted some stark inequalities within society including the reality that, for many people, easy access to nature is far from guaranteed.

1.2 With agriculture accounting for over 70 per cent of land use, ELM has the potential to play a key role in levelling-up access provision, providing much-needed financial assistance to the farming community and enabling more people to understand the critical work that farmers undertake. The early signs are however that this is an opportunity that is being missed, undermining a key provision of the Agriculture

Act 2020 (Clause 1(1)(b), and representing a failure to deliver on the promise that ‘public access is a public good’⁽²⁾. In responding to this inquiry into ELM, we explain in greater detail our concerns and how these can be overcome.

2. Defra engagement

2.1 Our organisations represent 250,000 members and the interests of well over 20 million active users of the countryside for walking, riding, climbing, mountaineering and paddling. Our organisations feel strongly that Defra’s engagement in how ELM can be used to support and enhance access to the countryside has been very poor.

2.2 ELM represents an opportunity to change for the better the way our rural landscape is managed for generations to come. We support the direction taken by the Government to shift away from subsidies towards a system of public payments for public goods. We were encouraged by its commitment, enshrined in the Agriculture Act 2020 and reaffirmed during debates in the House of Lords in advance of Royal Assent and more recently, that financial assistance could be provided through ELM to support public access to the countryside.

2.3 We also broadly welcomed the direction of the proposed ELM scheme as outlined in Defra’s consultation on its Policy Discussion Document (Feb 2020). We were encouraged that the delivery of the 25 Year Environment Plan and payment of public money for public goods were identified as guiding principles of the scheme. We responded to the consultation with further detail of how ELM could be configured to deliver public benefit in the form of enhanced public access – improving existing access and the provision of new opportunities where there is a clear need.

2.4 However, despite these high-level commitments, our experience of engaging with Defra on how public access can be integrated into ELM has been disappointing. There is no evidence to suggest that public access enhancements will be included as an option for farmers and landowners. We have contacted officials and ministers to offer our thoughts and expertise on the ways in which land managers could receive financial assistance where they decide to provide enhanced public access, but have not received any clear response. This has resulted in a failure by Defra to understand and capture the public access opportunities presented by ELM for both the farming community and the wider public, as evidenced in the recent Defra publication *The Path to Sustainable Farming: An Agricultural Transition Plan 2021 to 2024* (Nov 2020).

2.5 This lack of engagement with Defra, regarding details of ‘public access as a public good’, is of great concern. It appears that, despite earlier good intentions set out in the policy paper, little attention has since been paid towards how the public will derive tangible benefits from investment through ELM.

2.6 The new scheme will inevitably require a significant investment from the public purse, and we fully understand that there will be a limited budget to deliver a wide range of critical public goods. It is vital that the public can see and experience real value for money. Our rights of way network is a fantastic asset to the public, as are our navigations and network of waterways. Not only can we derive great health and wellbeing benefits from being active outdoors, but critically the public can experience first hand how our land is managed and food is produced, and the challenges that face nature.

2.7 It is clear that, by enhancing and improving access to what we have, the Government can demonstrate a real return on public money and at the same time positively affect the health and wellbeing of our nation.

2.8 Access to and enjoyment of the countryside by the public must not be viewed as a threat or a sideline issue to a new ELM scheme. Rather, ELM has great potential to meet the concerns of land managers by integrating access with environmental improvements. We propose that SFI should focus on improving existing public access, making it more accessible to more people. Local Nature Recovery should focus on providing new access opportunities, and Landscape Recovery on integrating access into landscape scale changes—but all must be in concert with wider improvements for nature and habitats and all undertaken voluntarily should a land manager decide that financial assistance for access is appropriate for their circumstances. Unfortunately, and perhaps as a result of a lack of engagement with the access community, Defra's November publication⁽³⁾ on its Agriculture Transition Plan indicates that access interventions may only feature within the Local Nature Recovery component of ELM (and not the Sustainable Farming Incentive and Landscape Recovery components).

2.9 One of the key areas where we feel Defra has been deficient in its engagement is through the test and trial process. This, we believe, has lacked any kind of transparency despite the tests and trials being cited as being a vital mechanism in the development of ELM policy. However, very little is understood of the process or, critically, how the outcomes from the tests and trials will be used to inform ELM policy.

2.10 The Parliamentary Under Secretary of State (Minister for Rural Affairs and Biosecurity) has expressed on several occasions that the Agriculture Act is framework legislation with tests and trials providing the detail. With so few tests and trials including public access to the countryside, and none that refer to the use of waterways, our organisations remain extremely concerned that the much-needed definition of how access to the countryside will feature within ELM will not be explored.

2.11 We would welcome the opportunity to discuss accessing the countryside in more general terms, building on the proposals outlined in the Environmental Land Management: policy discussion document (Feb 2020).

3. ELM as an option for farmers while delivering public goods

3.1 We assume that since farmers will eventually no longer be eligible for subsidies, there will be an inherent draw in participating in ELM. The scheme needs to be flexible and offer financial assistance for the delivery of a range of different public goods—including public access—so that farmers can elect which most suit their own circumstances and would deliver public benefit to local communities, but within a framework of national priorities. However to date the Government has failed to set out its priorities in clear terms, particularly when it comes to enhancing public access to the countryside.

3.2 The proposals require farmers and land managers to undergo quite a dramatic change of mindset genuinely to adopt the 'public money for public goods' concept. Therefore, if one of the aims is to use ELM to sustain the socio-economic well-being of the upland farming community, SFI payments need to be more generous to ensure expenses and potential loss of profit (eg through changes in land use and or management) are covered. Alternatively, the entry requirements for LNR 2 for upland farmers need to be sufficiently accessible and payments sufficiently large to maintain the financial sustainability of upland/livestock farming.

3.3 ELM should make the transition to a new way of more environmentally sustainable farming as easy and as cost effective as possible with some prospect of making a profit. Scheme options that require a significant shift in farming system or style (eg towards tree-planting) must be as easy and appealing as possible. It is essential that barriers to participation are identified early in the process and planned for, in order to give participants peace of mind. For example, guidance on managing public safety and risk through improvements to access should be readily available to allay any concerns.

3.4 The ELM design principle of simplicity and limited bureaucracy may be hard to achieve in practice, and the only way that the burden on the land manager can be reduced, without compromising scheme effectiveness, is through the use of an adviser. This advice is needed primarily at the start (equivalent to the creation of the Farm Environment Plan under the old higher-level stewardship (HLS)). There is likely to be reluctance among some land managers to pay for this advice, so the costs need to be embedded within the payment structure.

3.5 It is important that all advisers have a basic understanding of ELM and the options available across each of the components as well as an understanding of what constitutes an 'environmental improvement'. This must include information on improving / enhancing public access, the law governing this and a willingness to explore access options with all those entering the scheme. Once these options have been explored, more detailed information could be made available to the applicant through 'specialist' advisers on more detailed and local issues (those currently working in Natural England on coastal access for instance). Alternatively, readily available, bite-size information on certain aspects of improving access such as installing accessible gates, could be made available through short, on-line videos avoiding the need for lengthy manuals which are often off-putting.

4. Delivering value for money

4.1 The achievement of intended outcomes and value for money, from a public access perspective, will be dependent on several factors which to date have not been integrated into the design of ELM. These include the following.

- Clarity of purpose and desired outcomes—Defra's evolving policy on ELM is extremely vague when it comes to the access enhancements that will be eligible for financial assistance and how actions undertaken by land managers will be monitored and enforced.
- Adequate consideration of local needs—from a public access perspective, value for money means that new or improved paths provided by land managers must serve the interest of local communities. This can be informed by existing strategies and forums, such as rights of way improvement plans and local access fora.
- A clear distinction between regulatory requirements and ELM payments—greater clarity is required from Defra that ELM payments will only be provided for actions beyond the legal minimum requirements. This will help create a level playing-field among land managers and ensure basic standards of agricultural practice are met relating to the protection of the environment and public access.

4.2 Recognising the importance of regulation: what some refer to as ‘bureaucratic burdens’ are often important regulations that protect the public interest and help ensure value for money is being achieved. Payments under ELM should be conditional upon the recipient fulfilling the existing legal requirements relating to public access so that the existing public rights-of-way network is kept clear and open for the public to use and enjoy. We need a clear replacement for cross compliance rules to achieve these outcomes with minimal bureaucracy and maximum transparency, along with effective enforcement, ie swift follow-up of reports of breaches, regular checks and docking of payments when breaches occur.

4.3 Wide-reaching environmental outcomes could be achieved and should include opportunities for the public to engage, understand, protect and enjoy the natural environment, as referenced in the 25 Year Environment Plan

5. Learning from the past

5.1 Development of a new ELM scheme underpinning the Agriculture Act must maximise value for taxpayers’ money and aim to deliver multiple public goods at the landscape scale and on the same parcel of land, at the same time. This must include farming and biodiversity alongside opportunities for access and enjoyment of the natural environment. Previous schemes have side-lined access opportunities and access has not been given equal weighting in the options available to farmers to achieve wide-ranging public benefits.

5.2 Up to 2010, permissive access over a 10-year period was an option within the HLS scheme. While some improvements were made, the access options on offer were short-term and permissive, access was not publicised sufficiently, schemes were not demand-led to provide opportunities where they were most needed (only where land managers volunteered it) and the quality of routes created varied considerably. This access option was funded by the UK Government (rather than co-funded with European funds) and was subject to cuts in the 2010 spending review.

5.3 Going forward, financial support should be made available both to complement the statutory opportunities already available (exceeding any basic legal requirements), and fund the development of new access where this is appropriate. In particular, there needs to be a distinction between:

- paying land managers for the delivery of a new public good—improved access (eg allowing higher rights/different rights on existing routes—such as mountain bikes on certain footpaths, improvements to allow mobility impaired use, canoeing on lakes, swimming in rivers etc.);
- using payments as leverage to ensure land managers meet existing legal commitments to maintain access infrastructure. This is not an additional burden on land managers, merely a means of ensuring they honour legal commitments through cross compliance.

5.4 People have felt distanced from previous farming schemes, but it is vital that they support the new regime, to understand how farming works and to make it more transparent and accountable. The local access fora provide a real opportunity to bring land managers and the public together and to shape new public access to the benefit of all. The creation and improvement of public access as a core part of ELM is essential in the post-Brexit world, and it is common sense.

Notes

- (1) British Canoeing is the national governing body for paddlesports in the UK, ranging from the recreational participant to the international athlete. Our key role is to protect and enhance the freedom to paddle and promote the interests of all paddlers. The purpose of British Canoeing is to inspire people to pursue a passion for paddling for health, enjoyment friendship, challenge and achievement. We are committed to protecting the places we paddle and securing fair, shared access to waters.

The British Mountaineering Council is the national body representing climbers, hillwalkers and mountaineers in England and Wales with over 75,000 members and over 300 affiliated clubs participating in a range of activities in our natural environment. Our vision is to conserve and protect the mountaineering, climbing and hill walking landscapes of England and Wales for people and nature, ensuring access opportunities are provided for at the same time as educating the public on the unique features of the environment we use and enjoy.

The Open Spaces Society, founded in 1865, is Britain's oldest national conservation body. It campaigns to protect and create common land, town and village greens and other open spaces, and public paths in town and country throughout England and Wales. It has over 2,000 members representing individuals, organisations and local authorities at all levels.

The Ramblers is Britain's largest walking charity and helps everyone to enjoy the freedom of the outdoors on foot. We are committed to supporting Britain's 20 million walkers and to protecting access to the places people love to walk. Our volunteers make this possible: from leading walks and clearing paths, to organising local action to protect and expand the places people go walking.

- (2) <https://www.gov.uk/government/speeches/farming-for-the-next-generation>

- (3) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/950521/agricultural-transition-plan.pdf

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