

# **REPORT TO ENVIRONMENT AND PUBLIC PROTECTION SCRUTINY COMMITTEE**

**16<sup>TH</sup> NOVEMBER 2018**

## **Management of Motorised Traffic on Public of Rights of Way in Carmarthenshire**

### **1.0 Background**

Carmarthenshire's Public Right of Way (PRoW) network consists predominantly of routes for non-motorised traffic. 2,951 public footpaths make up 2198km of the County's total network, with 136 bridleways totalling 164.8km and a single Restricted Byway which measures 1.6km (the status 'Restricted Byway' was introduced in 2006 as part of the CROW Act (2000) and is defined as a carriageway specifically for non-motorised vehicles).

The remaining 77.9km of the PRoW network is made up of no. 88 Byways Open to All Traffic (BOATs). A BOAT is defined as a carriageway with no specific restrictions and thus is a right of way for all vehicular traffic although it is recognised that they are mainly used for the purposes of walking, horse-riding and cycling.

Despite their predominant use for non-vehicular traffic, the status of a BOAT does enable the public to lawfully use these routes in motorised vehicles. The physical nature and condition of the majority of Carmarthenshire's BOATs means that use in vehicles is rarely for the purposes of travel from A to B but more often for recreational use and for the enjoyment and challenge of driving vehicles in the countryside.

There are conflicting views regarding the lawful use of motorised vehicles on PRoWs, those who are in favour of motorised vehicles using the PRoW network and those who believe motorised vehicles should be excluded. These opposing views often lead to confrontation between motorised users and other users of the network and between motorised users and landowners.

It is worth highlighting, although not in the scope of this report, that a significant amount of vehicular access to the countryside uses the unsurfaced unclassified road (UCR) network in conjunction with the BOAT network, the former being more extensive. The two forms of highway have very similar characteristics, carry the same rights for public use and are used similarly for recreation in the most part.

### **2.0 Lawful Vehicular Use of Public Rights of Way**

BOATs should be kept in a condition which allows all lawful users to enjoy them, it is a duty of the Local Authority to assert and protect the rights of the public to that use and enjoyment.

If an instance of motorised vehicular use is lawful then whether or not an individual agrees with the rights of motorised users or not, it is not permissible for them to prevent that use.

Obstructive and/or intimidating behaviour intended to restrict or prevent access to vehicular traffic along a BOAT is an offence under the Highways Act (1980). Obstructive actions or behaviour often restricts more than one user group, other lawful users such as horse riders and carriage drivers can often be impacted as well.

The County's statutory duties in respect of BOATs is divided between the Countryside Access team and the Highways department. The Countryside Access team manage and maintain the legal record of BOATs on the Definitive Map and Statement of PRowS for Carmarthenshire.

Maintenance and enforcement is addressed by the Highways department as part of their wider responsibilities for the vehicular highway network. There are occasional exceptions to this rule at present; if a BOAT creates a valuable link in the wider PRow network then the Countryside Access unit take full responsibility for all statutory duties.

Given the management arrangement for BOATs, any complaints of obstruction are predominantly referred to the Highways department or occasionally dealt with by the Countryside Access team; in either case they are addressed by the Authority under the provisions of the Highway Act (1980) for which there are specific statutory procedures.

We coordinate a Byway User Group (BUG) where relevant user groups meet with Officers from the Authority on a quarterly basis to prioritise maintenance and enforcement across the BOAT network. The Carmarthenshire Local Access Forum (LAF) also keeps abreast of the needs of the BOAT network and petitions the Authority if they feel particular routes/areas are being neglected.

### **3.0 Unlawful Vehicular Use of Public Rights of Way**

Although opportunities for lawful access to the countryside in motorised vehicles exist, there are incidents of unlawful use of PRowS and trespass; the Scrutiny topic requested by Myddfai Community Council goes some way to evidencing this.

Despite there being PRowS, there are also areas of open land and private lanes/tracks which are physically accessible to vehicles, if a right of public access in a mechanically propelled vehicle does not exist then the access is considered unlawful, a trespass against the landowner and in the case of PRowS a criminal offence under the Road Traffic Act (1988) could have been committed.

The fragmented nature of lawful vehicular access opportunities across Carmarthenshire, and in other Counties, has created a tendency for less responsible vehicular users to establish 'off road' routes away from the BOAT and UCR networks, often negatively impacting the rest of the PRow network. This use can often involve use of a non-vehicular PRow to create a more direct links between BOATs/UCRs. Additionally offenders may deviate from a vehicular route onto another PRow of lower status to extend a driving excursion or perhaps to create an additional challenge.

This issue, where it does occur, is very difficult to manage given the difficulty of policing the vast areas of countryside in Carmarthenshire. We have a primarily rural County with a low population density more apparent in rural areas than in the more urban centres. With a small team of Rangers and Officers the Countryside Access unit relies on reporting of issues by members of the public and landowners; only when we are made aware of issues can we take necessary action. Unfortunately with such a sparse population in many of the affected areas, offences often go unreported and where a report is made, it tends to come in after the event when the offender(s) have moved on.

However, when instances of unlawful use of the PRow network by motorised vehicles are reported we do have systems in place. Given the criminal nature of the offence, we refer any case of unlawful use of a PRow in motorised vehicles to the police, we recommend that complainant(s) do the same. In most cases they already do this as incidents tend to occur out of hours (usually at weekends).

Although we have limited resources to monitor the network for unlawful use and do not have powers to deal with the criminal act, the Countryside Access team, in conjunction with the landowner(s), will always look for possible mitigation measures to prevent future offences.

Provision and installation of furniture or bollards to restrict the accessibility along non-motorised routes to only those who have rights to use them is the most effective method used and is usually welcomed by landowners. Given the criminal offences being committed are also civil trespass against the landowner, the responsibility for mitigation should actually fall to the landowner with the Authority only ensuring lawful access rights are not compromised by the measure(s) adopted. However where resources allow the Countryside Access unit assist in this regard as far as possible.

Our assistance ensures the measures taken are appropriate to the status of PRow involved, do not deter lawful users, are of good quality and meet the British Standard. Our actions also ensure that we maintain a good working relationship with the affected landowner. The trespass being committed is not considered the fault of the landowner and therefore not dealt with in the same way as day to day furniture maintenance or replacement.

It is not always easy to find structural solutions to unlawful vehicular use as often the furniture required to permit lawful access also creates opportunities for unlawful users, for example bridleways must be gated to allow horse riders access, often motorbikes can make use of these gates. In these circumstances we recommend the landowner adopt suitable signage and work closely with the police to identify areas/times of regular offence so that police patrols can be considered in order to catch offenders. The Authority will support the landowner in these circumstances, providing supporting information and any advice to the police as required.

The Carmarthenshire Rights of Way Improvement Plan (presently in draft) outlines the Authorities commitment to least restrictive access on the PRow network. This must be kept in mind when looking for solutions to unlawful vehicular use of footpaths, bridleways and restricted byways. Thankfully, companies continue to develop furniture designs which serve to assist in restricting unlawful use whilst providing easy access for permitted users.

## 4.0 Conclusions

Motorised Vehicles in the countryside is an emotive issue which attracts strongly opposing views.

Vehicular use of PRowS should be managed and maintained allowing the public to lawfully make use of them in motorised vehicles, unimpeded.

If the public can easily use and enjoy the routes that they are entitled to access in vehicles then instances of trespass against the landowner (in our experience) reduces, a trend attributed to responsible users having no need to deviate from the definitive line as a result of route condition or obstruction.

Unfortunately there will be instances of wilful obstruction of BOATs by landowners opposed to the access awarded to the public which often come into conflict with their farming/land management priorities.

The Countryside Access unit and the Highways department manage the network as efficiently as possible within the available resources. This involves route prioritisation and partnership working where possible to keep the network open and to prevent, as far as possible, any negative impact on the land/landowner(s).

There will also always be occurrences of irresponsible use of the countryside in motorised vehicles, the cause of which is likely largely due to the fragmented nature of Carmarthenshire's BOAT network providing little opportunity for recreational vehicular use. This isn't something that can be changed, the opportunity for adding BOATs to the Definitive Map ceased in 2005, as a provision in the NERC (Natural Environment and Rural Communities) Act 2006. The Authority in conjunction with the Police will use enforcement resources where possible to reduce unlawful use.