



Public access options in ELM

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This briefing is on behalf of nature coalition Wildlife and Countryside Link ([Link](#)).

Introduction

The Agricultural Transition Plan Update in January 2024 set out a range of new actions under ELM, including several on public access, which are welcome. This follows ministerial commitments that schemes would deliver improved public access to the countryside, farmland and woodland, following provisions in the Agriculture Act 2020.

Supporting public access through ELM has the potential to contribute to meeting the Government’s pledge in the Environmental Improvement Plan 2023 to ensure that all people have access to a green or blue space within a 15-minute walk from home. It will also foster the connection between the public and farmland nature and a greater public appreciation of the critical work farmers do to enable public enjoyment of the countryside.

The public access options published so far, which are anticipated to be rolled out in summer 2024, are however very light on detail. Guidance, also expected in summer 2024, must set out how these public access options will: 1) deliver the right access in the right place, 2) with the right expertise involved, and 3) how they will be publicised. This will be critical in ensuring good value for money, and that new opportunities complement existing legal rights of access provided by the public rights of way network and open access land.

There are also significant missed opportunities in these 2024 public access options, which are limited to permissive (rather than permanent) access and do not provide sufficient payment rates. Future ELM offers should include options for farmers and land managers to be supported for providing longer-term and permanent access and access to blue spaces.

Finally, there are a number of cross-cutting issues with the new ELM schemes including: the need for nature-positive advice and training so that farmers can effectively deliver the new options, the overwhelming focus on free choice “pick and mix” options, and an absence of



coherent metrics (beyond uptake) and defined data and benchmarks for delivering national targets and commitments under ELM. These approaches stand in stark contrast to the much-needed bundling of options, spatial prioritisation, and targeting of uptake to high-quality options to deliver environmental and public access targets.

In this briefing, we set out what further detail in guidance and implementation is needed for the recently announced public access options to work well for farmers and landowners, the public and nature. We also look beyond this year’s public access options to set out how the public access options in ELM could be strengthened, and we address the implications of the cross-cutting challenges in ELM for delivering improved public access.

Overall, greater ambition, greater certainty in the details and delivery of the schemes, informed by learnings from [evaluations of previous schemes](#), and higher payment rates are required to encourage the high-quality design and implementation of public access, for the benefit of both people and nature.

Concerns and solutions re 2024 public access options

The information on the public access options, as set out in the Agricultural Transition Plan Update in January 2024, is light on detail. Further information is needed to ensure that those opting for public access payments deliver improvements that are truly beneficial for the public.

It is understood that further guidance is being drafted to accompany the payment rates already announced. Both the guidance on, and the roll out of, the new public access options are anticipated in summer 2024. It is crucial that this guidance addresses the following issues.

Right access in the right place

It is currently unclear how new public access opportunities funded through ELM will be targeted so that they fulfil a clear need and are of value to the public – outcomes which are crucial in achieving value for money.

In theory two legal mechanisms already exist which bring together the interests of users of the path network, landowners/managers and local highway authorities – Local Access Forums



(LAFs) and Rights of Way Improvement Plans (ROWIPs). Both were established through the Countryside & Rights of Way Act 2000 and have the potential to provide valuable insights into access improvements that are most needed at a local level. For example, they could identify gaps in the connectivity of the existing footpath network in a local area and identify local areas without adequate provision of public rights of way.

However, chronic underfunding of local highway authorities has in many instances hampered the meaningful support they can provide in coordinating LAFs and developing comprehensive ROWIPs.

Public access embedded within ELM has the potential however to reinvigorate these means of ensuring that new access provision is in the interests of the public, and also works for farmers and land managers and habitats and species.

Local Nature Recovery Strategies (LNRSs) are another tool to spatially target the uptake of ELM schemes, including public access options. While LNRSs the statutory guidance encourages them to take account of public access, they are not required to do so. Thus, there is no guarantee that emerging LNRSs will consider public access at all, and with this approach in its infancy, it will be of limited use in the 2024 roll-out of public access payments.

Leveraging LNRSs and ROWIPs together could allow ELM payments for access to be focussed in on the areas where they will have the most beneficial effect for nature and people. Advisors should be required to consult both LNRSs and ROWIPs to support understanding of the local access and nature context, when providing advice to land managers on public access options.

Publicity and promotion of new opportunities

Just as it is important that new public access is in the right place, so too is it critical for the wider public to know about the new opportunities available to them. The return on investment will be limited if new paths are only known by those who live close to the area.

The proposed permissive nature of the access secured through ELM means that these will not be displayed on Ordnance Survey maps, limiting public awareness.

A means of promoting new opportunities at both a national and local level is therefore required, either via local highway authorities or protected landscapes or via Natural England or Defra. The importance of public awareness of new access is an important recommendation



from [research commissioned by Defra](#) in 2023, published in early 2024, which stated that: “it may be worth considering the development of a centralised information hub to map permissive access provision so that members of the public can easily access information on permissive access routes and guidelines for appropriate use of such routes. This may also serve to increase the uptake of less well-known routes.”

The importance of public access knowledge and expertise

Landowners and managers know and understand their local areas and may have important insights into the ways in which local communities may benefit from enhanced access. In addition to gaining their insights, the views of access professionals in local highway authorities - Natural England and the Forestry Commission should be drawn on. Local highway authorities in particular can offer:

- Their general well-established **experience of landowner and user interests** in the area for which they are responsible, and their ability to **encourage collaboration** across multiple landholdings.
- Their **records of definitive map and statements, and applications for definitive map modification orders**, to ensure that payments are not used for unrecorded rights of way.
- Their **understanding of, and responsibility for, public rights of way**, where improvements are needed and how additional access could enhance the existing path network.
- Their responsibility for **producing Rights of Way Improvement Plans and facilitating Local Access Forums**.
- Ensuring that **payments for upgrades** (as proposed in the ATP update) to introduce higher rights on existing public rights of way are well-managed, particularly after agreements have expired.
- Their **records of landowners and managers** who persistently fail to fulfil their legal obligations to keep public rights of way clear of obstructions (see below for further details regarding cross compliance).

Local highway authorities are however under immense pressure given years of underfunding. This should be addressed, to ensure that the full potential of their advice can be realised. At the very least, close collaboration with local highway authorities will be needed in the development of the guidance expected in the summer 2024.



Broadening the public access option

The current proposals in the ATP provide for only five-year permissive agreements. The very short-term provision will undermine the benefits for local communities. There should therefore be an option for longer agreements, with increasing payment rates for the longer the agreement.

The payment rates should be increased. [Recent research commissioned by Natural England/Defra](#) explored the payment rates under the old scheme and calculated 2023 equivalent, which is significantly higher than the 2024 offer. Sufficient funding is needed to support high quality delivery of public access.

Furthermore, there should be an option within ELM for applicants to receive financial assistance for the voluntary provision of permanent access opportunities. This would involve ELMs paying landowners to write an access plan, delivering the required infrastructure and receiving maintenance payments for the provision of permanent access. Permanent access is preferable to permissive because:

- It gives certainty, people know it is there in perpetuity and can only be changed through a legal process which includes public advertisement and the opportunity for public representation.
- This has the added benefit of removing any community tensions that may arise when permissive access is withdrawn.
- It is shown on Ordnance Survey and other publicly available maps, such as those held on local highway authority websites.
- Short-term schemes undermine value for money and waste capital and investment. The former Countryside Stewardship HLS permissive access scheme cost taxpayers £20 million and left little legacy. Expenditure can be wasted where fences and signage are installed, which later become redundant if the permissive path lapses.

Defra should also explore expanding the public access options to support providing new access routes to and alongside blue spaces to benefit both walkers and water users.



Addressing cross-cutting ELM issues to improve provision of public access

Eligibility and loss of cross-compliance

Cross-compliance, which originated in the system of farm support that applied when the UK was a member of the EU and obligated farmers claiming Direct Payments under the Basic Payment Scheme to demonstrate compliance with a set of rules known as “Good Agricultural and Environmental Conditions” (GAEC), ended in January 2024. The delinking of agricultural payments was a necessary step to move to a new, fairer system of payments based on the principle of public money for public goods.

However, aside from the regulatory gaps that emerged where cross-compliance rules have not been transposed into domestic law, we have also lost the wider ecological and societal benefit of compliance with legal obligations as a condition for receiving public money. Cross-compliance required farmers and land managers not to undertake activities that obstructed public rights of way, particularly through ploughing and cropping. Land managers have obligations to keep public rights of way clear in domestic law, such as the Highways Act 1980, which continue to apply. However, local highway authorities, like all areas of local government in general, face ongoing resourcing and financial constraints that restrict their monitoring and enforcement of these obligations in line with domestic law.

Because it made payments conditional on compliance with GAEC access conditions, cross-compliance, supported local highway authorities in their enforcement efforts - the risk of inspection visits from the Rural Payments Agency and penalties, complemented the domestic rules and provided an additional layer of support to the monitoring and enforcement efforts of local highway authorities. As such, cross compliance helped ensure that public rights of way were more effectively safeguarded, particularly where local highway authorities faced constraints.

Now that the additional support provided by cross compliance is gone, there is a risk that public money is provided to any landowners and managers irrespective of their fulfilment of basic legal requirements to keep public rights of way clear for the public to enjoy. It is imperative that the conditionality afforded by cross compliance is restored, by reintroducing equivalent protections to plug all gaps left by cross compliance, particularly the access options in the expanded offer. Defra already retains the power to end contracts early if land managers are non-compliant with regulations. However, land managers must be appropriately advised of the full scope of their duties in relation to public access, and farm inspectors undertaking enforcement visits should be upskilled to ensure compliance with existing rights of way and



public access legal requirements and prevent breaches of these obligations. These efforts to secure compliance should take place alongside the increases to ELM payments set out in previous sections. Land managers who are doing the right thing should be rewarded.

Educational options in ELM

ELM also includes an educational offer where farmers and land managers can be paid to provide farm visits. While these education options are different to providing permissive or permanent public access options open to all (education access does not fit the definition of public good by the HMT’s [Green Book](#) definition), these farm visits are an important way to connect people with nature.

Higher capital funding (rather than just maintenance funding) is also needed to support education visits to farms, and in particular to ensure that farmers and land managers have appropriate infrastructure and facilities, as well as support and advice, to genuinely engage people with nature and foster better public understanding of how their food is produced.

Conclusion

ELM offers a significant opportunity to deliver more and improved public access, contributing to achieving the Government’s commitment for all people to have access to nature within a 15-minute walk and opening up new income streams for farmers.

The recent announcement is a step in the right direction; however, the effectiveness of the public access options depends on the detail. Guidance must set out how the 2024 public access options will be targeted to the right place, publicised, and informed by expert advice.

Beyond 2024, the public access offer should include permanent options, increase payment rates, and provide options to increase access to blue space, with the restoration of the conditionality that applied under cross compliance.



Wildlife and Countryside Link (Link) is the largest nature coalition in England, bringing together 83 organisations to use their joint voice for the protection of the natural world and animals. Wildlife and Countryside Link is a registered charity number 1107460 and a company limited by guarantee registered in England and Wales number 3889519.

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