

DRAFT LETTER TO MoD

Stephen Lovegrove,
Permanent Secretary,
Ministry of Defence.

Graham Dalton,
Chief Executive Officer,
Defence Infrastructure Organisation.

The Hampshire Countryside Access Forum*, [Surrey Local Access Forum] and [South Downs Local Access Forum] are statutory advisory bodies on countryside access issues established under the Countryside and Rights of Way (CROW) Act 2000. Their membership is drawn from individuals with a wide range of interests and expertise within their respective localities, including land owners/managers, conservationists, representatives of user groups and those with disabilities. In giving advice they seek to provide a balanced view. As one of the bodies identified in section 94(4) of the CROW Act, the Ministry of Defence is obliged to have regard to advice given before coming to decisions.

We note that the MoD's vision includes that it "acts as a force for good in the world". The world is not restricted to the world outside the United Kingdom, and good includes the pursuance of government policies, in particular policies concerning health, fitness and recreation, and environmental sustainability and conservation.

In accordance with our remit on countryside access we therefore **advise** you that in carrying out the current review of byelaws made under the Military Lands Act 1892, you should start with the presumption that members of the public should have access to the MoD estate at all times and in all ways. Clearly it would not be safe or practical for this to be unfettered. We recognise that the primary – indeed increasingly the only – reason for the MoD to retain extensive estates is to accommodate and train service personnel, and to test, maintain and store equipment and materiel, and that public access should not interfere with the MoD's ability as landowner to use its land efficiently for these purposes. However, wherever it is consistent with the over-riding needs of military training, and does not pose a risk either to military personnel carrying out their duties or to the public, or to the environment, the reviewed byelaws should be predicated on maximising public access.

We recognise that except where rights of way exist, any access granted by the MoD is permissive and not by right.

In the expectation that it could be helpful to the adoption of byelaws which properly balance military and public interests, and ongoing management of the training estate by MoD/DIO, the [three forums have] developed the following principles and guidelines. They concern access by non-motorised users, by which we mean walkers (including those using mobility aids or with pushchairs), cyclists and horse riders and carriage drivers.

The recommendations are based on the Ministry of Defence's own presumption of public access, set out at paragraphs 05105 and 05107 of Joint Service Protocol 362, and the statement of policy at paragraph 05121: *Provision for open access by whatever means (foot, cycle, horseback) should be formalised, in agreement with the establishment under the byelaws or other appropriate means which are compatible with the primacy of military training and the*

needs of public safety, security, conservation and the interests of tenants. We advise that this should be spelt out on the face of the byelaws. Our recommendations therefore recognise that the prime function of the land is for military training and any access must not only be compatible with training requirements but must not interfere with it.

The MoD training lands cover an extensive area in Hampshire and Surrey. They are close to large and expanding centres of population, who hear that it is both national and local government policy to encourage healthy, open-air recreation. Long-term residents have for many years looked to the government lands and commons owned by the MoD near their homes as one place to undertake this, and increasingly incomers do so too.

At present many in the local population do not share our recognition that military requirements are over-riding, mainly we suspect due to a lack of information. The total lack of provision for public access across large areas of land, even when military training is not taking place, adds to their confusion, and undermines the credibility of the byelaws. We believe that a system for managed access providing **clarity and consistency**, which ensures that both users and MoD personnel know when and where safe public access is allowed, would reduce the potential for conflict between recreation and military training. We further believe that the MoD has a reputational interest, as well as safety and efficiency interests, in engaging with local populations, both in order to consult as it develops byelaws in a particular area, and to communicate the results so that people know where they may go, and when. MoD needs to explain, in realistic terms which will secure the understanding of responsible members of the community, including user groups (which do not represent all users but can set an example and reinforce the message), the dangers which access to military lands during training may pose both to themselves and to military personnel, what MoD means by interference with military training and why it can be damaging, and the changing nature of training needs which may result in changes to established access patterns. Education and communication, through meetings, signage and websites, are key. We remain willing and available to facilitate and develop policies in this area.

In particular, we recognise that there will be occasions when MoD seeks to restrict public access to areas of the training estate which have traditionally and currently been accessible to the public. We advise that, proposals for such restrictions should have the minimum impact compatible with MoD needs and, except in emergencies, should be subject to full local consultation before action is taken.

We also advise that where accessible training areas or rights of way (definitive or permissive) are to be closed to the public intermittently, the MoD should recognise the impact on the public and act to minimise it. This implies not only that, wherever possible, alternative routes should be provided on MoD land, e.g. along a perimeter route around a closed area, but that these alternatives should be clearly signed both at the point closure and on approaches so that users are warned in advance of reaching the closure and can take the alternative route, rather than arriving at an unexpected dead end without a safe alternative route. This is especially the case where closures abut busy roads.

There are number of points of detail on which we wish to give advice:

Linear access

In a number of areas the MoD has installed perimeter or boundary fences to protect high-risk training areas. Too often, these leave no area outside the fence, or one which is too narrow or has terrain too difficult for safe and convenient access. We advise that where possible such fences should leave a perimeter path which may be used at all times, even when the area within the fence is closed. More generally we advise that MoD should always consider the possibility

of delimiting linear routes suitable for access at all, or most, times, especially where there are less heavily used areas, where it will enable an easy link between communities separated by the training areas, or where it might enable users to avoid the prohibited areas.

Barriers including fences

Understandably the MoD installs barriers (including fences) on a number of their sites. Our concern is that in some cases these appear to be unnecessarily restrictive of access. For example, in a number of places a perimeter access road suitable for use by non motorised users is enclosed within the fencing. We advise that, except in cases of urgency, MoD should consult locally before installing barriers (including fences); local access fora should also be included in the consultation as they may have a broader understanding of equestrian and disabled needs than some local groups.

We are also concerned that the historical installation of barriers and cattle grids on rights of way has not been fully compliant with highways law. This gives rise to particular problems where cattle grids and metal barriers are installed with no alternative way around, and we recommend that all such structures on existing rights of way should be reviewed to ensure their compliance with legislation and best practice.

Use at night

We understand that there is considerable use of public access during night hours, especially by walkers but also by cyclists. We advise that on linear routes, including perimeter routes, this should be managed in the same way as daytime access. Elsewhere we recognise that night access may pose additional problems, and would be willing to have further discussions to identify more specifically what these might be, and to explore solutions.

Conservation

Evidence from Natural England suggests that with a few exceptions outdoor recreation is not significantly in conflict with conservation. There can be problems in specific locations, e.g. disturbance to breeding birds and in some cases problems of trail erosion, but these can usually be successfully managed. Nevertheless, many MoD sites are in areas covered by conservation designations and managed access must take account of such designations, although only to the minimum extent compatible with environmental concerns. We note that the MoD plans seasonal restrictions and/or provisions on dog leads.

Seasonal Use

We understand that in many areas there is a two week shutdown in military activities over Christmas. There may be other times of the year when this happens. We consider that this provides opportunities for wider access than is normally possible, both as to area and as to user groups.

Yours faithfully, etc.

* Lt. Col. Mark Ludlow (DIO) is a member of the Hampshire Forum representing land owning/managing interests. He takes a full part in discussions, but has expressed no view on the contents of this advice as finalised, considering that it would be inappropriate to be party to statutory advice offered to his employers.