

Rights of Way: Further Evidence.

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Deregulation Bill

The Committee consisted of the following Members:

Chairs: Mr Jim Hood , †Mr Christopher Chope

† Barwell, Gavin (*Croydon Central*) (Con)

† Bingham, Andrew (*High Peak*) (Con)

† Brake, Tom (*Parliamentary Secretary, Office of the Leader of the House of Commons*)

† Bridgen, Andrew (*North West Leicestershire*) (Con)

† Cryer, John (*Leyton and Wanstead*) (Lab)

† Docherty, Thomas (*Dunfermline and West Fife*) (Lab)

† Duddridge, James (*Rochford and Southend East*) (Con)

† Heald, Oliver (*Solicitor-General*)

† Hemming, John (*Birmingham, Yardley*) (LD)

† Hopkins, Kelvin (*Luton North*) (Lab)

† Johnson, Gareth (*Dartford*) (Con)

† Maynard, Paul (*Blackpool North and Cleveleys*) (Con)

† Nokes, Caroline (*Romsey and Southampton North*) (Con)

† Onwurah, Chi (*Newcastle upon Tyne Central*) (Lab)

† Perkins, Toby (*Chesterfield*) (Lab)

† Rutley, David (*Macclesfield*) (Con)

† Shannon, Jim (*Strangford*) (DUP)

† Turner, Karl (*Kingston upon Hull East*) (Lab)

† Williamson, Chris (*Derby North*) (Lab)

Fergus Reid, David Slater, *Committee Clerks*

† attended the Committee

Witnesses

Janet Davis, Natural England's Stakeholder Working Group on Unrecorded Rights of Way

Sarah Slade, Natural England's Stakeholder Working Group on Unrecorded Rights of Way

Column number: 47

Public Bill Committee

Tuesday 25 February 2014

(Afternoon)

[Mr Christopher Chope *in the Chair*]

Deregulation Bill

Written evidence to be reported to the House

DB 01 Andy Howard

DB 02 John Trevelyan

DB 03 NASUWT

2 pm

The Committee deliberated in private.

Examination of Witnesses

Janet Davis and Sarah Slade gave evidence.

2.6 pm

Q 112112 The Chair: Good afternoon. Thank you for coming along and joining us, Janet Davis and Sarah Slade. Would you like to introduce yourselves briefly?

Sarah Slade: I am the national access adviser at the Country Land and Business Association. I have worked with it for about 15 years, dealing with all sorts of public rights of way and rural issues. I am a chartered surveyor by training. I am also married to a farmer. I have been on the stakeholder working group since 2008, which meets regularly about rights of way issues.

Janet Davis: I am a senior policy officer at the Ramblers. I have worked for the Ramblers for approaching 30 years. Throughout my time there, I have worked on rights of way issues, seen a number of Bills and their passages through Parliament and advised our volunteers and members of the public on rights of way issues. I, too, have been a member of the stakeholder working group since it started in 2008.

The Chair: Thank you. I think you know the rules of engagement. If you can keep your answers brief, that would be helpful. We have to finish by 2.30 pm. Our first questioner is Thomas Docherty. Fire away.

Q 113 Thomas Docherty (Dunfermline and West Fife) (Lab): It is a pleasure to serve under your chairmanship, Mr Chope. The working

group is still ruminating upon a number of issues. Do you anticipate that those would result in further proposed amendments to the Bill?

Sarah Slade: From our perspective we hope that they would. What is in the Bill at the moment deals primarily with historic rights of way, which is what the stakeholder working group was set up to deal with. We feel that there are issues with existing rights of way that the stakeholder working group did not have a chance to look at in its report. We have discussed some things

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quite extensively with the stakeholder working group and we feel that legislation is needed for some of those issues and it would be helpful to see them at this opportunity so that we can complete the picture.

Q 114 Thomas Docherty: We are now into a live Bill process. What is your anticipated out date for proposed amendments? You look slightly puzzled. If further amendments were to be proposed, that would have to be done quickly to be debated in the House of Commons.

Sarah Slade: Yes.

Q 115 Thomas Docherty: When do you expect to have reached conclusions on those issues?

Sarah Slade: From the CLA perspective, we have proposed amendments on the issues that the stakeholder working group is discussing. We do not see any conflict between those amendments and where the stakeholder working group is moving to. But I am not sure that the stakeholder working group has agreement on amendments as such; it is more about guidance, looking at it in the long term and things like that. We see that as being necessary to complete the picture.

Q 116 Thomas Docherty: Do you think that you would be looking more at statutory guidance than primary legislation?

Sarah Slade: Some of it could be done by way of statutory guidance. We have discussed that in respect of user evidence and things like that, where I think we have reached agreement on what ought to happen. We have also discussed statutory guidance on a presumption for diversion and extinguishment, which would link with the existing provisions in the Bill.

The CLA view is that the danger with that sort of guidance is that it would not be robust enough, because the existing legislation does not

entirely support that. Any guidance could be open to judicial challenge and we obviously want to avoid that. We feel it would be cleaner and neater to have the basis in the Bill and then supported by the statutory guidance that the working group has already agreed. We feel that would be the better way round.

Janet Davis: From the Ramblers' perspective, I do not envisage that the stakeholder working group itself will put forward amendments. Probably the Ramblers will not put forward amendments. I would like to say a brief word about the stakeholder working group. It was established with a very precise remit, which was to examine the processes for getting paths added to definitive maps.

Natural England set up the group in the context of the 2026 cut-off date for getting paths recorded on definitive maps. There was an acknowledgment and consensus within the group from the start that the processes for getting paths added to the definitive map needed to be looked at. That was the very narrow remit within which we examined rights of way legislation. It was the definitive map process and trying to improve that in preparation for the cut-off date.

The wider issues that the stakeholder working group has talked about since it published its report are still the matters under discussion, but they will not necessarily be in part of the Bill. We think it is important to carry

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on talking about them, because there are some key issues to do with the diversion of rights of way, but they will not necessarily be put forward as part of the Bill.

Q 117 Thomas Docherty: Looking ahead 12 years to the 2026 deadline, do you think the present system will have to change if we are to ensure that no unrecorded rights of way fall off the edge? You will probably be aware that there is a difference of opinion about unrecorded rights of way, particularly with the use by the automotive industry for rallying and so on. Can you comment on whether further legislation is required or amendments needed?

Janet Davis: The group takes the view that the system for getting paths recorded on to definitive maps does need some amendment. That is the purpose of the clauses in the Bill—to make the process less confrontational, to speed it up and, hopefully, cost local authorities less money. It would enable them to reject inadequate applications where the evidence

is not good enough and would give a raft of proposals to help them negotiate alternative routes where a claimed route is not suitable for present land use.

There is no doubt that those changes are needed if we are not to lose paths when we get to 2026. There are additional things that are not in the Bill but, as Sarah said, are to be covered by guidance and secondary legislation to save additional groups and classes of route at the 2026 cut-off date. For example, there are a lot of urban paths that do need to be saved. A provision that will come forward later in regulations will prevent paths that are already shown on the local authorities' lists of streets being extinguished in 2026. Yes, absolutely, we do need this legislation to prevent the loss of rights of way when we get to a cut-off date.

You mentioned motor vehicles in the countryside. That is an issue that the stakeholder working group was not charged with looking at. However, I think many members would be familiar with stories of problems associated with motor vehicles using the countryside. Possibly further legislation will come forward on that, but as I said, it was not something that the stakeholder working group looked at, and certainly not something that I could put my hand on my heart and say there will be consensus about. Among the user group representatives were representatives of people who like to use public rights of way for motor vehicular recreation.

Sarah Slade: We think that the changes that are coming forward in this Bill will help, as Janet has said, in meeting the cut-off date, so it is important that it comes through. For us, having the cut-off date there is key. By that day, it will have been 75-odd years since the process started, which we feel has been enough time to say that we have captured all the rights of way; 75 years is plenty long enough for anybody to get them on the map. Yes, it might be a rush at the end, but that is what needs to happen. The changes, which we have all agreed are speeding the process, are important.

There was a lot of discussion about motor vehicles previously. I think that we need to know what is coming forward. As Janet said, it is not something that we have discussed in the stakeholder working group. We know that there are concerns among our membership about vehicular use of ways in the countryside. That might need addressing, but it is a question of how it is going to happen.

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Q 118 David Rutley (Macclesfield) (Con): I hope that the courtesies have been observed that we talked about earlier. That is tremendous. Some of the points that I wanted to raise have already been covered. It is a credit to the working group that bodies as diverse as the CLA and the Ramblers are working closely together. There seems to be a broad consensus that this is the right way forward. It would be good to hear from panel members whether that is your continued view, given the passage of time.

My other question is whether you can help those of us who were not on the Joint Committee and who are not as familiar with some of the issues as those who have been involved with it and been in dialogue with you before. How will the proposals help with the mapping process?

Sarah Slade: Yes, there is still a consensus with regard to the historic proposals, which deliver benefits for landowners as well as users. I think the consensus remains on those issues. As I said earlier, we feel from our perspective that there are issues that the stakeholder working group did not really get its head around; Janet has talked about the narrow focus that it had. Our concern is that people out there who have land, gardens and houses affected by rights of way will not necessarily get the resolution that they need from the proposals put forward now, which strikes us as a missed opportunity, but there is consensus in what the group does.

In terms of what it does, it is speeding up the processes, giving greater flexibility to local authorities. It gives them power to reject irrelevant objections and a greater baseline test, so that when applications are made to put a right of way on the definitive map, they must jump a certain barrier; they cannot come in with a low level of evidence. It allows local authorities to deal with administrative errors and tidy up the process. A very important thing from our perspective is that it gives an ability to negotiate orders. When an order comes through, if a right of way passes through an area where it causes particular difficulty, such as a farmyard, it gives the authority the opportunity to negotiate to go around it while maintaining the route. That is very useful. It is something that cannot happen now, so it is a useful process for moving on.

Picking up those things, all that we are doing with the other rights of way that are already out there is looking for some consistency, but those issues are quite useful in terms of where we are going with the orders that are going through, as a complete package. We have stressed that the stakeholder working group agreement is a package that cannot be broken up. That does not mean that it cannot be added to, but it should

not be broken up. It works and hangs together overall, speeding up the process and making it more efficient. That was our aim and what we were looking to do. We hope that it will achieve that.

Q 119 Jim Shannon (Strangford) (DUP): I want to ask a question relating to the discussions that you have had with the Country Land and Business Association, the Countryside Alliance, the British Association for Shooting and Conservation and other shooting groups. I am keen to get your opinion on how you can work better with those shooting groups to ensure that they can enjoy their sport and that safety is paramount. My impression of shooting organisations and groups is that

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they are not confrontational—they want to get on with people—but they also want to enjoy their sport. Can you give us some indications of what your discussions have been with those organisations?

Janet Davis: I think I can safely say that we have not had any discussions with organisations representing field sporting interests. Sarah's organisation has some interest in those matters, but such organisations were not a component of the stakeholder working group and it was not an issue that has come up in—I will say it again—the very narrow remit that Natural England and the Department for Environment, Food and Rural Affairs gave to that group, which was to look at the processes for getting public rights of way added to the definitive map. That is what we have done.

Q 120 Jim Shannon: With respect, it seems to me unusual not to have had any discussions with three organisations that have a substantial numbers of members across the United Kingdom who have an interest in the land that they use for recreational sport, and the impact that the process might have, for instance, on their having the right of way through a piece of land on one of their shoot days. Those are critical issues for such organisations. I am keen to see whether those viewpoints have been taken on board. I would be disappointed if they had not been, for whatever reason.

Sarah Slade: The CLA obviously represents landowners and business owners in rural areas, and we represent approximately 60% of the rural land in England in Wales, which is quite a substantial amount. I have had discussions with BASC, but not specifically about this issue. I have periodic discussions with the organisation about other rights of way issues

and it has not raised anything on this with me, so my assumption is that they are content with it. All of us, as stakeholder members, are quite open to people mentioning anything to us and raising anything with us. BASC does not sit as a member of the group as we are currently constituted.

Q 121 Jim Shannon: Is the onus then on the CLA and the Countryside Alliance to contact you, or could I ask you to contact them?

Janet Davis: Sarah is the CLA.

Jim Shannon: And the Countryside Alliance?

Sarah Slade: We are not the Countryside Alliance, obviously, so the onus would be on it if it wanted to raise anything with us. We have periodic discussions with it, but it has not raised anything specific with me. I have not approached it, because that has not been the way in which the group has worked.

Q 122 The Parliamentary Secretary, Office of the Leader of the House of Commons (Tom Brake): I want to come back to the possibility of amendments. Janet Davis, you have said that the Ramblers would not be pushing any amendments. Sarah Slade, you mentioned things such as vehicular access and whether there was a way of resolving that, which might or might not involve amendments. Is the CLA considering tabling amendments, or might other members of your working group be thinking of putting forward amendments?

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Janet Davis: I am not aware of other organisations planning to put forward amendments, but that is always possible. We will obviously look at any amendments that other organisations put forward and decide the Ramblers line on those. It is Ramblers policy that there should be greater controls on motor vehicles in the countryside, particularly in national parks. We are not taking the opportunity of this Bill to push on that front, but if anybody put forward amendments on that, we would look at them with a great deal of interest and decide whether we wanted to put our weight behind them.

Q 123 Tom Brake: I was not thinking exclusively of amendments to do with vehicular access. There may be others. I would have thought that as a working group, you might collectively have identified areas where some of the different organisations in the group might want to push a particular agenda.

Sarah Slade: I think it is common knowledge that CLA will seek to table amendments. They will not be specifically on vehicular access, but if amendments come forward on that we, like the Ramblers, will have a view on those. We will probably be of a similar view to the Ramblers on that aspect.

Our amendments would be more about the things that we have been discussing on the working group, like making sure that the quality of user evidence that comes forward when the claim is made is better, that claims are made within a particular time limit, and that if paths go through gardens, it is possible to put a gate on them—that is not possible at the moment. We think that those are just sensible things that ought to happen. We talk about the ability to make diversions—things like that. There are some measures like that in the Bill, but they do not quite go far enough. If a path goes through a garden, as they frequently do, we would like a presumption that it would be easy to move it out of there. Those are quite small and simple things, but they are the sorts of things that we will look for as we move forward. We have been discussing them in the stakeholder working group.

Q 124 Tom Brake: That is what I was going to ask. Is your starting point that you try to get agreement within the stakeholder group to go forward with those proposals, but if you do not get it, you go forward with them anyway?

Sarah Slade: We have been trying. We have been discussing those things for some time on the stakeholder working group. I think it is fair to say that we have made a lot of progress and reached a certain amount of agreement. That of itself has informed what we will put forward, but if the stakeholder working group does not feel able to table anything, we will, as a separate organisation.

Q 125 Tom Brake: Have you been able to make any assessment of whether that runs the risk of unpicking the whole package?

Sarah Slade: They are very much something that is separate from it. They do not detract from what we are asking through the package as a whole. The package as a whole is to do with historical rights of way, and that sits there regardless. We were looking for something in addition to that, to tidy up, as I said earlier, the bits of

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rights of way that the stakeholder working group did not look at initially. It is very clear that we are looking to improve what we already have in

the Bill, so that the good things there will apply to other rights of way as well, and will not be narrowly based.

If we get to the end of the process and come out the other end with the Bill that we have, our feeling is that we might look at it afterwards and think, "Why didn't we give people the right to put a gate on their garden, or to move a path away, when we had the opportunity? That seems a sensible thing to do; why didn't we do it?" Our feeling is that these are small things that we are seeking that would make things more rounded, and better for everyone.

Q 126 Tom Brake: Is that your view, Janet Davis?

Janet Davis: As Sarah says, the stakeholder working group made its recommendations to Ministers back in 2010. Since then, it has continued to meet, and as she says, we have moved on to look at other issues, such as diversions—diverting paths out of gardens and farmyards. We have made considerable movement on that front, in that we have come up with a form of words that form advice to local authorities, explaining to them that it is perfectly possible to move a path out of a garden or farmyard using current legislation. The Ramblers would not be particularly happy about a move to change the primary legislation on diversions in general. If country landowners come up with a form of words to deal with that, we will obviously look at it, both in the stakeholder working group and as a separate organisation.

We should not forget the local authorities' role in this; there were five representatives of local authority bodies on the stakeholder working group. Obviously, all of this is immensely important to them, because they are the poor people who have to deal with this. They are piggy in the middle in a lot of cases of claimed paths. They have played a really important role in this, and they want this to go forward. They see it as a way of saving and shortening local authority resources for this kind of thing. We would listen very carefully to what they had to say about any new proposals that came forward as amendments.

The Chair: Thank you very much indeed for coming along and helping us with your evidence this afternoon.

The House of Commons Public Bill Committee considering the Government's Deregulation Bill will hear oral evidence on Tuesday 25 February 2014.

The Committee will then consider the Bill every Thursday and Tuesday from Thursday 27 February, concluding on Tuesday 25 March.

The provisional programme of witnesses for the Deregulation Bill Committee has been agreed by its Programming Sub-Committee.

The meetings are open to the public.

Programme and witnesses

Tuesday 25 February 2014 - afternoon

Taking place in the Boothroyd Room in Portcullis House.

[Watch Parliament TV: Follow the Deregulation Bill Committee evidence session Tuesday 25 February - afternoon](#)

From 2pm until no later than 2.30pm

Janet Davis and Sarah Slade, on behalf of Natural England's Stakeholder Working Group on Unrecorded Rights of Way
c2.30pm until no later than 3pm

Line by line scrutiny of the Bill

Line by line scrutiny of the Bill will take place in Committee Room 12, Palace of Westminster, on the following days:

- 1 Thursday 27 February - 11.30am and 2pm
- 2 Tuesday 4 March - 8.55am and 2pm
- 3 Thursday 6 March - 11.30am and 2pm
- 4 Tuesday 11 March - 8.55am and 2pm
- 5 Thursday 13 March - 11.30am and 2pm
- 6 Tuesday 18 March - 8.55am and 2pm
- 7 Thursday 20 March - 11.30am and 2pm
- 8 Tuesday 25 March - 8.55am and 2pm

The Committee must complete consideration of the Bill no later than 5pm on Tuesday 25 March.

These sessions will be open to the public on a first come, first served basis. There is no system for the prior reservation of seats in Committee Rooms.

It is advisable to allow about 20 minutes to pass through security checks. Timings and room numbers are subject to change.

Aims of the Deregulation Bill

The Bill seeks to make provision for the reduction of burdens resulting from legislation for businesses or other organisations or for individuals; make provision for the repeal of legislation which no longer has practical use; make provision about the exercise of regulatory functions; and for connected purposes.

- 1 [Read Explanatory Notes: Deregulation Bill](#)

Follow the progress of the Deregulation Bill

The Deregulation Bill was introduced into the House of Commons on 23 January 2014. The second reading of the Bill took place on 3 February 2014, giving MPs the opportunity to debate the main principles of the Bill.

- 1 [Catch up on Parliament News: MPs debate second reading of Deregulation Bill](#)
- 2 [Bills before Parliament: Deregulation Bill 2013-14](#)

Have your say on the Deregulation Bill

Although the Committee will start hearing oral evidence on Tuesday 25 February, the Committee is still able to receive written evidence from those with relevant expertise and experience or a special interest in the Bill.

Further Information

The Scrutiny Unit can help with any queries about oral evidence.

- 1 [Scrutiny Unit](#)
- 2 [About Parliament: General Committees](#)
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