

A feasibility study on improving access for canoeing by voluntary agreement

Much training and capacity building is required at the local level before the full potential of voluntary agreements to extend access for canoeing and paddling can be realised.

The challenge was to establish whether and under what conditions negotiated voluntary access agreements could provide sustainable access for paddlers to touring routes and white-water sites in England.

Summary

Case studies conducted on four rivers in England in 2003 have established that it is feasible, in some conditions, to negotiate agreements to improve access for white-water paddle sports and canoe touring. They also offer the potential to address user conflicts (predominantly angler/paddler) and to regulate the environmental impacts of recreational use. However, these agreements can be difficult and expensive to negotiate (particularly where there is little previous experience of them), meaning that considerable capacity building must take place to enable stakeholders to conduct successful negotiations for new agreements.

Project aims and objectives

In 2002 the Minister for Rural Affairs and Local Environmental Quality invited the Countryside Agency to examine whether access to a range of water types, for canoes and paddlers, could be achieved through negotiated voluntary access agreements. This followed research on recreational access to inland waters¹ which revealed that there is little evidence of widespread unmet demand for recreational access to inland waters in England, but there are specific 'hotspots' where demand is greater than supply, particularly for white-water paddlesports and canoe touring. The research suggested that a selective process of extending access based on negotiated voluntary agreements to such resources might be appropriate as an alternative to a statutory right of access to all waters as proposed by the British Canoe Union.

The Countryside Agency responded to the Minister's request by commissioning Brighton University to undertake a feasibility study based on four pilot areas. If successful the results would be used to develop good practice in implementing such agreements. Alternatively, if the feasibility phase of the work suggested that there were too many constraints to increasing access through negotiation, the purpose of the project would be to analyse why the approach does not work. This overall purpose was set within the context of a broader Countryside Agency agenda associated with the delivery of recreational and socio-economic benefits. These benefits include:

- economic benefits to rural communities;
- access to the countryside for socially-excluded groups;
- a more active and healthy population; and
- conservation of flora and fauna, especially in designated areas.

¹ University of Brighton Consortium (2001) *Recreational access to inland waterways in England and Wales: the facts*. Report to Defra. Summary available from www.defra.gov.uk/wildlife-countryside/resprog/findings/2001dec.htm

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The case studies:

Cluster 1 (rivers in or near larger urban areas and socially deprived census wards): River Mersey; River Wear.

Cluster 2 (rivers in rural environments): River Waveney.

Cluster 3 (rivers with a strong association with environmental designations): River Teme.



Negotiated voluntary access agreements can work in cases where the principal parties to the agreements wish them to work. Experience from the case studies suggests that this is an onerous condition, since it is not necessarily in the immediate interests of any of the representative bodies, nor the actual parties involved, for an agreement to succeed.

Methodology

The case study sites were selected using a Geographic Decision Support System containing data on all major rivers in England. Using a weighted scoring system, three clusters of rivers were identified from which four river systems were selected to provide contrasting locations and environments in which to test the feasibility of negotiating access agreements. Project officers assigned to each case study then followed an agreed approach of working with stakeholder groups to identify stretches of river suitable for access agreements. In each case an assessment was then made about the feasibility of implementing the agreement, should the project extend to an implementation phase.

Assessing the feasibility of voluntary access agreements in the selected case study areas involved considering:

- the physical potential for canoe access (including assessing any possible environmental impacts);
- the legal probability of land and riparian owners agreeing to access; and
- the practical sustainability of the agreement, assessed according to indicators similar to those previously used by the Government in consulting on access to open countryside:
 - extent of new access;
 - quality of new access;
 - degree of permanency;
 - clarity and certainty of the agreement;
 - the cost of the agreement;
 - monitoring and enforcing the agreement.

Case study findings

There was some canoeing/paddling on all four case study rivers despite the lack of public rights of navigation and formal access agreements. There were also stretches of water where canoe use was prohibited, even though there was a demand for it and the physical potential to cater for it. This reflects the situation across England where there appear to be few, if any, stretches of attractive and canoeable water that do not have at least some degree of occasional use. In some places this is tolerated but in others the persistence of some canoeists in continuing to use the water in defiance of the wishes of the owner or occupier can give rise to considerable local controversy. It leads to resentment and distrust on both sides, and thus sours the climate in which any access negotiations take place. The prevention of canoe access is related to the wishes of the riparian owners, and is mainly because of sporting (largely angling) purposes or to protect residential privacy.

In cases where canoe use was currently tolerated, few of the stakeholders were actively seeking formal access agreements. The canoeists/paddlers argued that there was no need for them, and they expressed concern that such agreements could upset the current balance of use. Land and riparian owners were similarly reticent, on the basis that they had a level of flexibility and control that would not be possible with a formal agreement. These perceptions were linked to concerns that voluntary access agreements would encourage outsiders, hence jeopardising local tacit agreements and canoeing activity. In addition, the success of a formal agreement might also, in the canoeists' view, undermine their broader claims for a statutory public right of navigation.

As a result, the current situation can be characterised as a 'gift relationship', in which the land and riparian owners 'gift' access to a limited class of local canoeists largely at no cost to the canoeists. In accepting this gift, the canoeists tacitly understand that they have a duty to recognise its value, through behaving responsibly and in accordance with the wishes of the landowners and anglers. This is about recognising the superior rights of the land and

riparian owners and ensuring that the recipients of the gift are limited to local people or club members. It also acts as a powerful barrier to those wishing to take up canoeing.

This barrier is recognised by canoe stakeholders, who also note that a lack of formal agreement hampers their ability to improve facilities for canoeing and to inform others about rivers that are available for canoeing. They also recognise that they have no safeguard to their access being terminated, particularly when land and riparian ownership changes. While being sceptical about the potential of formal access agreements to address these issues, many canoeists feel that they have little alternative but to support the negotiation of voluntary agreements, certainly in the short term.

Overall findings

Voluntary access agreements may offer a solution to local access issues on some rivers, under some circumstances. They may also contribute to a number of policy imperatives, including encouraging participation in physical activity and supporting the rural economy and farm diversification.

The degree to which access agreements are appropriate, feasible and sustainable is very largely a function of the attitudes of key stakeholders, allied to the physical characteristics and ecological significance of the different rivers. Some technical issues, such as the content, communication and enforcement of agreements and the identification of all land and riparian owners, certainly need to be addressed. However, the major issues restraining the negotiation of access agreements are not so much technical as cultural in nature. For an agreement to succeed, the following factors need to be present:

- a strategic framework to guide canoe access provision;
- a motivated access champion or small group of champions prepared to own the process and the resulting agreement;
- gatekeepers (land and riparian owners) willing to identify themselves and to consider canoe access and the negotiation and implementation of a voluntary access agreement;
- canoe stakeholder groups willing to support the agreement and to accept the regulation that it will impose;
- provision of good supporting materials and demonstration projects;
- adequate and informed support for the champion; and
- funding to undertake necessary improvements and developmental work to support the agreement.

The power to offer and rescind access agreements resides with land and riparian owners, so that the canoe access provided is contingent on a range of factors not all connected with the needs, demands and behaviour of canoeists themselves. The circumstances under which land and riparian owners are likely to offer and sustain canoe access are:

- to protect other valuable water (where access is granted to one river or area in return for a commitment that paddlers will not enter other areas);
- to gain other benefits, such as qualification for grants or other financial rewards;
- to head off the potential imposition of onerous legislation; and
- to generate a new income, or to subsidise the cost of river maintenance.

Voluntary access agreements are a supply-side mechanism for regulating canoe access. They will succeed and endure in cases where there are benefits to land and riparian owners.

Canoe access agreements will have a small positive impact on local economies mainly through parking, launch fees and retail spending in the locality. Longer touring rivers may attract short break holiday market. There is also some scope for canoe hire, particularly in areas that are already popular with tourists.

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The case studies demonstrated that the capital costs for both essential and improvement works will vary considerably from river to river and could be a factor in determining where to prioritise future agreements.

Further reading

Cabinet Office Strategy Unit (2002) *Game plan: a strategy for delivering Government's sport and physical activity objectives*. A Joint DCMS/Strategy Unit Report. London: Cabinet Office.

Environment Agency (1999) *Agreeing access for canoeing*. Bristol: Environment Agency.

Foster, S.E. (1985) Inland waterways: legal aspects of public access and enjoyment. *Journal of Planning and Environment Law*, July 1985, pp 440-460.

Hendry, K. and Tree, A. (2000) *Effects of canoeing on fish stocks*. R&D Technical Report W266. Swindon: Environment Agency

House of Commons Select Committee on Environment, Transport and Regional Affairs (2001) *Fourth report: inland waterways*. London: House of Commons Papers.

Sports Council (1985) *Time for a change? Managing the public right of navigation*. A paper for consultation. London: Sports Council.

Telling, A.E. and Smith, R. (1985) *The public right of navigation. A report to the Sports Council and the Water Space Amenity Commission*. Study 27. London: Sports Council.

University of Brighton Consortium (2001) *Recreational access to inland waterways in England and Wales: the facts*. Report to Defra. Summary available on the Defra website.

Recommendations

In the view of the consultants, the outcome of the feasibility study was sufficiently positive to suggest that the project should proceed to the implementation of agreements on all the case study rivers. This would both fulfil the potential identified in each of the case studies, and would develop further good practice on how agreements can be negotiated and implemented in a variety of conditions. To do this certain issues would need to be addressed, including:

- the development of suitable model clauses for canoe access agreements;
- the provision to land and riparian owners of information about enforcement, third party liabilities and insurance cover;
- proposals for progressing agreements in cases where not all of the relevant land and riparian owners can be identified or contacted (this could involve allowing agreements to be implemented following suitable advertisement, even if some land and riparian owners have failed to sign the agreement), and;
- the identification of funding to enable essential capital works to be completed.

There are also related cultural issues to be addressed, such as developing the capacity of all stakeholders to negotiate, implement and manage access agreements. As a result, the study recommended that a resource centre and call-off consultancy is established to support the development and dissemination of good practice and materials, to the case studies and to other rivers where agreements are being, or might be, negotiated.

In terms of implementation, Brighton University recommended that two separate scenarios are tested: one based on external agents (project officers) developing and implementing agreements directly (at the Mersey and Teme); and the other on the project officers supporting local stakeholders in developing and implementing the agreement themselves (at the Waveney and Wear). This approach would allow the comparison of different types of championing and different levels of support on a variety of river types. In turn this will provide advice on the cost of negotiating agreements.

Conclusion

Negotiated access agreements alone are unlikely to fully meet the demand and need for canoeable waters. Indeed, while demonstrating that it is feasible to negotiate agreements, this project has equally demonstrated the shortcomings in the negotiating process: particularly in terms of the way in which canoeists are disadvantaged by the prevailing patterns of landownership and property rights. It is for this reason that the strategic planning framework is so crucial to the future negotiation of access agreements. This would, for example, enable funding to be focused on areas which will help to increase participation to meet the Government's Game Plan targets.

The full report, which is available from the Countryside Agency website, and the Countryside Agency's recommendations have been forwarded to the Minister for Rural Affairs and Local Environmental Quality to determine whether to move to phase two of the study which would involve working to implement agreements in the case study areas.

**Countryside Agency Research Notes can also be viewed on our website:
www.countryside.gov.uk**