

PROPERTY LANDSCAPE

Managing public rights of way on-farm



Jack Sharpe on protecting your land



Jack Sharpe

Of high importance for most farmers and landowners is the management of public rights of way, particularly for those with land close to the urban fringe and with development potential.

Where land areas are private and there are no dedicated public rights of way, many landowners who challenge trespassers will be met with 'but I have a right to roam', a term which has been used by ramblers since the Countryside and Rights of Way Act was implemented in 2000, and applies to 'access land' over common land, mountains, moors, heaths and downs, being predominantly rural and privately owned.

The claim 'I have a right to roam' does not apply to private farmland, providing this is not registered as access land and where there are no public rights of way.

While there are many benefits of public rights of way, in particular through educational benefits with the public seeing the activity and hard work that goes into the conservation of the countryside by farmers and landowners, trespass can be a nuisance. It can interrupt farming activities and, when carried out for long enough on an unchallenged basis, can lead to the creation of further public rights of way.

It is therefore important to protect your landholdings to ensure that additional public rights of way are not created through long periods of unchallenged use.

In one case, we worked to protect land in the north west of England from public rights of way being created. The land itself was about four hectares (10 acres) in size, it had been trespassed for several years and was exposed, with it being located in the urban fringe.

The urban fringe can be a challenge for management, but the location can offer development opportunities, subject to planning. In this case, a deposit was made to the local authority to confirm there were no public rights of way on the

land concerned and records of the completion of this process were enough to salvage a negotiation with a national house builder, ultimately saving the landowner concerned millions of pounds.

The difficulty is that once a public right of way is recorded on the definitive map, it can be expensive to divert it.

Landowners, therefore, should consider options for management - should they integrate a clause into tenancy agreements to say that any tenant is to use its best endeavours to prevent a public right of way being created or utilise permissive footpath agreements?

Another consideration is whether to erect signage to clearly indicate the routes of public footpaths; others make diary notes when trespassers are approached. These approaches, however, will not necessarily provide cast iron protection.

What is available is a deposit application to the local authority which protects your land against the creation of new footpaths. The deposit system also extends to protection against common land designation and when you protect your land against public rights of way as well as common registrations at the same time, most local authorities offer a discounted fee.

The deposit process does not take away any rights which have already been established through past use, which can be shown through historical documentary evidence, but it does fix a point at which any unacknowledged rights are brought into question.

Jack Sharpe is a director at T. Fazakerley and Son. Call 07787 576 258, or email jack@tfazakerleyandson.co.uk

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