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Policy Paper

Irish Natura & Hill Farmers Association on Public Access

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Policy Paper from the Irish Natura & Hill Farmers Association on Public Access

Introduction

Following a significant increase in the number of people accessing our uplands there is now an urgent need to reassess how this is impacting on landowners, local communities and the overall tourism sector. While the increased tourism activity in many communities is a welcome development it is also important to ensure that it doesn't come at a cost to local people and the landowners who farm these lands. Farmed land is almost exclusively, including commonage, owned land, identical in ownership to a persons' home or back garden. The vast majority of farmers are willing to facilitate access on their lands provided this goodwill is not abused or their farming activity undermined. There are also some farmers that are not willing to make their land available for public access and this must also be respected, and this fundamental right protected.

In a survey we conducted with our members several issues featured strongly. Over 70% of farmers had recreational users crossing their land on a daily or weekly basis. That frequency places significant pressure on the relationship with farmers particularly when over 80% of farmers reported that recreational users have dogs with them. A further 62% of farmers reported that recreational users had refused to remove dogs from farmland when requested to do so by the farmer. Farms are workplaces with significant risks that must be managed due to the presence of large livestock, heavy machinery and seasonal pressures. There is ongoing unease in relation to insurance liability of public access on farmland. This concern may be heightened by the revival of the practice of larger livestock grazing on uplands. Farmers are concerned that if an incident happens on their farms' cases will be taken against them; unlike large and institutional agencies or businesses it is very difficult and daunting for an individual to challenge any negative judgment.

A stark outline of the real difficulty farmers face on their own land has emerged from this research. There are very concerning safety issues arising in the survey of farmers feeling threatened and being actually threatened when faced with groups or individual recreational users. Almost 60% of farmers reported having been verbally abused by recreational users. A further 40% reported that they had either been threatened or felt threatened by recreational users accessing their farmland. This is not tolerable.

What came out very strongly in the survey was that there appears to be widespread ignorance of farming practices and ownership of all kinds of farmland, many recreational users do not seem to appreciate that when they walk on farmland they are entering owned land and entering a farmers'



place of work and livelihood. Further, many of these farmlands are found in areas of NATURA 2000 sites (Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)) and National Heritage Area . The lack of joined -up thinking and public access management raises serious concerns for their future environmental protection. Farmers can no longer tolerate the laissez-faire approach of tourism promoters and government and various development bodies that are encouraging outdoor pursuits on farmland but not providing any protection to farming families in their own homes and farms.

The basis for this policy paper is to provide legislative reassurance for those farmers who, on a daily, weekly, monthly basis have members of the public accessing their lands. And to engage with bodies whose responsibility is to manage dog control and those who are promoting walking on farmed land; to address the problems created by the public accessing private farmland.

As outlined above prominent issues that have emerged include:

- Dog Control
- Concerns around Insurance and Liability
- Awareness of land ownership and rights and respect and safety for landowners and;
- Environmental impacts of increased public access.

In this policy paper we have limited our proposals to these key areas.



Dog Control

Based on the survey and direct contact with farmers, dog control (or the lack of dogs being controlled) is a major issue. Commonly farmers are reporting from first-hand experience witnessing dogs that were supposed to be on leads roaming free and stressing sheep. Some of the replies that farmers reported in this INHFA survey included :

“Some Walkers think they are entitled to let their dogs run without a lead in wide open spaces”

“Told to cop myself on that their dogs would not bother sheep despite sheep being in the immediate vicinity”.

An often reported comment: *“Told to mind my own F***ing business”*

“they definitely were not going to abide by requirement to not bring dogs. I back off because there was three of them and I was on my own”

When we consider all options regarding this, we have concluded that the best option for both farmer and recreational users is a complete ban on all dogs by recreational users on our farms. On this basis we are recommending the following:

That the Oireachtas enacts legislation that forbids anyone involved in recreational activity from bringing dogs¹ onto our farmland. Such legislation will need to involve considerable fines for those caught doing this and should also be considered as a criminal offence.

While we accept that some people may perceive this is as drastic it must be recognised that most recreational users are respectful and aware that you should not bring dogs onto other people’s farmland. What this legislation will do is remove any ambiguity about access with dogs and challenge the minority who either do not understand or are unwilling to respect the landowners’ property and livelihood rights. We need substantial engagement from national government and in particular local authorities on this matter as it is within their area of responsibility.

¹ Guide, Assistance and Rescue Dogs are exempt from this proposal.



Concerns of Insurance & Liability

Another major issue with regard to public access and hill walking is the issue of insurance. There are two aspects to this

- Liability in relation to injury sustained by a recreational user
- Liability with regard to damages done on property by a recreational user

For many landowners the first point is probably their greatest concern. Farms are high risk environments due to the presence of large livestock, heavy machinery and working arrangements. The unregulated encouragement of public access is adding to the risk of farms as workplaces in a manner that would not be tolerated under health and safety requirements in other industries. These risks are brought into sharp relief by court cases where landowners were instructed to pay compensation to recreational users for injuries sustained on their property. A recent notable case involved the National Parks & Wildlife Service (NPWS). A Circuit Court awarded damages to a recreational user, the NPWS appealed to the High Court and the ruling was over-turned. As a State body the NPWS had the financial backing to go to the High Court safe in the knowledge that if they didn't win then the State would cover any legal costs. For landowners and farmers, they don't have that luxury which leaves them in a very vulnerable position.

On the second point, that of damage done by a recreational user, there are regular reports of fences being broken and stock being injured and, in some cases, we have seen wildfires caused by recreational users 'wild camping' that has undermined CAP payments to farmers. All of these are issues that come at a cost to landowners and farmers. On this basis, the INHFA are recommending the following:

That the Oireachtas will compel through legislation that anyone involved in accessing for recreational purposes property that is not theirs, to have private and public liability insurance. The private insurance should cover accidental injury that they may incur including loss of earnings, medical cover and any cost associated with their rescue. The public liability should cover any injuries to property or otherwise their actions as a recreational user may cause.

Alternatively, legislation could be enacted that would provide that any person accessing farmland do so at their own risk and automatically waives any right to claim against the property owner.



Awareness of land ownership and rights and respect and safety for landowners.

There appears to be widespread ignorance and disregard for the ownership rights of farmers. Many recreational users appear to not understand that Commonage status means that land is held in private shared ownership and not in common public ownership. Farmed land is almost exclusively owned land, identical in ownership to a persons' home or back garden. Many farmers have reported in our survey that some recreational users assert they have the right to access the land in question without the permission of the landowner and do not comply with requests to alter behaviour or remove themselves from the farmers' land. This has been well illustrated in the recent INHFA survey on Public Access. Farmers reported:

"They felt that entry was their right & that I was being unreasonable"

"A group that left gates opened and brought dogs off leads said they would do it again and take care of any locals that would try stop them"

"... tell me it's a free country and they are allowed to walk wherever and whenever they want as long as they're outside a fence. If you make any contact with them re dogs, parking, rubbish, climbing fences the walkers will become abusive about 80% of the time".

Disappointedly we have noted that even local government organisations that are promoting walks often do not promote compliance with the Countryside Code/Leave No Trace Ireland Principles on their websites. Similar can be said of other organisations and tourism bodies promoting walking over farmers' lands. When an issue arises farmers are literally on their own, maybe on the side of a mountain or other remote location facing down individuals or groups on your own land, disregarding your rights and in more extreme cases threatening your very safety.

A range of quotes from INHFA Public Access Survey:

"Young men on quads are a problem, they can be very challenging to say the least"

"...they definitely were not going to abide by requirement to not bring dogs. I back off because there was three of them and I was on my own"

"When you are on your own against a group of determined walkers it is a very lonely place"

"These people are generally in groups with cameras and video recorders while the farmer is alone trying to control dog, sheep and negotiate their unreasonable demands"

There is a need for a public education programme to explain the rights of farmers and responsibilities of recreational users as well as acceptance from those that are promoting walking that there is a



serious problem within public access that is leaving landowners vulnerable to abuse and harm. A farmers' land is their workplace. Farms are long recognised as being among the most dangerous workplaces due to the presence of families, livestock and heavy machinery and work arrangements. Many of our upland areas, including commonage areas are seeing a return of larger livestock which adds further concern to random recreational users who may not understand the risks involved and who may exacerbate the risk to the farmer by bringing dogs, leaving gates open, and or abusing farmers. Very few workplaces would tolerate such uncontrolled access and the additional burden of risk on a farm. Recreational users have to be made understand that any landowner has the right to refuse access to their lands and that such requests must be complied with. Failure to comply must have consequences. This issue can no longer be ignored; concerted collaborative work needs to be done to educate recreational users and protect landowners and their livelihoods. Local and regional authorities, development companies, tourism bodies and relevant government departments need to work with farmers to address these very real concerns.

An approach that could be taken would be to work with the national Walks Scheme whereby all public access walks are agreed in areas with support from the local Rural Recreation Officer. This would ensure a negotiated path that could also act as a focal point to educate recreational users and promote respectful relationships with land-owners. It may also enhance the rural development opportunities of providing support services (e.g. tourism) by creating 'honey-pot' hubs to manage activity.

Environmental impacts of increased public access.

Farmland is a very important habitat in Ireland. Much of the land popular with recreational users coincides with land that has been designated as National Heritage Areas and NATURA 2000 sites (Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). Farmers are restricted in how they can manage these areas due to the importance and vulnerability of these habitats. Yet no restrictions are placed on these areas in terms of access of recreational users. One farmer who replied to the INHFA survey on public access reported that there were over 1,000 walkers traversing an SAC on their land each month.

There is a need for a holistic discussion to take place between farmers, local and regional authorities, development companies, tourism bodies and relevant government departments about the appropriateness of walks being allowed in valuable, vulnerable landscapes and how to best manage this issue. Confining access to agreed Walk Scheme routes would also allow careful management of access and protect these vulnerable habitats.



Conclusion:

The INHFA has demonstrated through the responses to its survey on public access and through the many calls and concerns that we receive from members that there are serious problems with the way access to privately owned farmland has been encouraged. Elements of the State whether through government departments, local authorities, tourism and development bodies have left farmers on the front line without putting in place the necessary arrangements to promote a safe environment and workplace for farmers and to protect the environment of these farms. In this paper we have set out a four-pronged approach to address the issue of dogs, insurance and liability concerns, public awareness of land ownership rights and environmental impacts on valuable farm habitats.