

## CCC Conservation & Access Officer's Report for March 2017 to February 2018

### WELSH GOVERNMENT (WG) DEVELOPMENTS

Lesley Griffiths, Welsh Government Cabinet Secretary (Minister) for Energy, Planning and Rural Affairs announced another public consultation on 21st June 2017 about improving access to the outdoors and also management of designated landscapes. This had a closing date of 30th September. Going under the very general title of "Taking Forward Wales' Sustainable Management of Natural Resources", the reforms being consulted on ranged from forestry and fisheries policy to waste management, including throwing litter out of cars. This is not yet a 'Green Paper' and it is perhaps intended to more gauge public and stakeholder opinion after the hostile response that the WG received from some quarters to their 2015 outdoors policy consultation.

Cambrian in turn organised a consultation day on 23rd July for its member clubs and organisations, necessarily at quite short notice given the deadline to respond to WG. A small number attended but their contributions were well thought out and presented. The meeting identified issues to be aired and suggested material to be incorporated in Cambrian's written response to WG which was sent to them last September:  
[http://cambriancavingcouncil.org.uk/pdf/WG31811\\_Sep\\_2017/WG31811response.pdf](http://cambriancavingcouncil.org.uk/pdf/WG31811_Sep_2017/WG31811response.pdf)

Other outdoors Sports Governing Bodies (SGBs) in Wales, such as mountaineering, developed their own responses, and it was decided to try to form an Access Alliance (AA) between all "non-motorised countryside recreations" to try to speak with one voice and gain the Minister's attention more easily than if we appeared disunited. The first of several private Access Alliance meetings took place after NRW's National Access Forum (NAFW) meeting in Builth Wells on 11th July, without NRW present.

Further private AA meetings took place in Builth Wells on 3rd and 30th August. It was agreed to develop a launch pad website to direct inquiries, especially from the media, to the relevant SGB contact and to present the WG with a united front. The [www.outdooraccesswales.org](http://www.outdooraccesswales.org) website has been created and hosted by Cycling UK.

WG reported back at the NAFW meeting on 7th November in Cardiff that roughly 16,000 responses had been received, and of these 15,000 concerned access to the countryside for recreation. Of the 1,000 others, they mainly concerned landscape and forest management. Fifteen campaigns have been started, of which 13 concern improved countryside access. Access to inland water and riding bikes on footpaths had the most responses. CCC provided a template for caver responses on its website, and it is hoped that many cavers used this to contribute in a positive way.

One civil servant is making their way through the individual responses from members of the public and another person is working through the corporate responses such as those from CCC and other Access Alliance members. The Alliance has been careful to avoid giving Ministers the impression of anyone being in competition with anyone else, such as ramblers versus cyclists on footpaths. The replacement of terms like "open-air" and "on foot" with the more inclusive phrase "non-motorised recreation" would bring caving and cycling and wild swimming and horse riding etc unambiguously within the scope of future countryside access legislation. But the process to develop such new legislation in Wales will be slow in view of the limited resource currently allocated to it.

I attended all of the above-mentioned meetings on behalf of the caving community.

## NATURAL RESOURCES WALES (NRW)

NRW runs three meetings per year of its National Access Forum for Wales (NAFW). These took place in Bangor in March 2017, Builth Wells in July, and in Cardiff in November, and I attended all of them.

Each countryside Sport Governing Body is represented, along with other interests such as landowner bodies, Welsh Water, National Trust, Canal Trust, and so on. Generally someone from WG attends to give an update on government policy. Even NHS Wales is now attending because the government is encouraging modern active lifestyles to bring about positive health outcomes for the nation. Generally, each representative sends in a written report or gives a verbal one. There are also perhaps two specialist presentations at each meeting. In recent meetings the NHS and National Trust and Canal Trust have been given the floor. CCC has been invited to present at the July 2018 meeting in Builth Wells, the aim being to explain to a diverse audience what caving experiences are all about, how caving is organised, its big issues, and so on.

It is important to grasp that NAFW does not decide any policy, nor is it even a talking shop, nor a debating arena. There are no tangible outcomes other than networking opportunities, and for NRW and interest groups represented at NAFW to understand one another better. Its meetings are open to the general public, but only as observers, and maybe 5-10 such persons might attend a typical NAFW meeting.

NRW, CCC and the British Caving Association (BCA) held a private meeting at NRW's Cardiff headquarters on 20th April 2017. This was to discuss NRW's position on the CRow Act and other recreational access legislation regarding the position of caving. The meeting was cordial though not at all conciliatory and so there are no plans to hold another one. It was attended for NRW by Rhian Jardine (Head of Marine Planning but shortly to change job), Lucy Swanell (in post as an Access Advisor since September 2016), Stuart Lyon (NRW's Internal Solicitor), and Jont Bulbeck (NRW Access Team Leader and formerly in that same role in the CCW days). CCC were represented by Martyn Farr, Mat Terry, Dave Tyson and myself. BCA were represented by Tim Allen (CRow Liaison Officer) and Bob Mehew (its then Legal Officer).

There is little to report about this meeting other than that NRW categorically denied that their opposition to caving being considered to be within the ambit of **any** public recreational access legislation is driven by conservation concerns. NRW holds that it is purely an academic argument about the semantics of phrases like "open-air recreation" as used in the CRow Act 2000. When asked if NRW accepts that caving is "air and exercise", as the Law of Property Act 1925 describes permitted public recreation on Urban Commons such as at Blaenavon and Llangattock, NRW said they could not argue that caving was anything other than "air and exercise", but in their view the Commons do not include the caves that are in them, and thus a right to take "air and exercise" in caves on commons does not exist. Going caving is also within the ambit of other legislation like the Forestry Act 1967 whose byelaws permit access for "exercise and recreation" and only forbid the entering of mines (not caves) without proper consent.

When asked if NRW had obtained any independent legal advice to support their own narrow viewpoint as set out above, NRW replied they had no independent legal advice. This is in contrast to the BCA's position which is backed by Dinah Rose QC's Opinion. I have also obtained additional advice from a different specialist QC and a specialist barrister and a solicitor who specialises in Commons and environmental law issues. It needs a court case to clarify this, but NRW is in a far weaker position than cavers, and it seems NRW is doing its level best to avoid presenting any grounds for litigation such as a Judicial Review.

## **BRITISH CAVING ASSOCIATION (BCA)**

I attended all three BCA council meetings in 2017 plus its AGM on behalf of CCC. The AGM was relatively well attended this year and lively with motions to alter the constitution in various ways including deleting the "respecting landowner's wishes" clause entirely - which was carried. This then went to a ballot of BCA members to be ratified, with 82% of club and individual cavers who voted endorsing the change. At the time of writing this report, please note that BCA has not altered the copy of its constitution on its website to reflect any of the changes made to it during 2017.

At the January 2018 BCA Council meeting, the Council adopted a policy statement that **"The British Caving Association holds the opinion that the CROW Act already permits access for recreational caving"**. It is astonishing, to me at least, that it has taken almost two decades to hear this being said by the BCA. I do believe that the tide has now turned and BCA is steadily reversing the long-lasting effects arising from the dominance of BCRA over the former NCA, the "regulatory capture" of the NCA then BCA, some regional councils, some club committees, and some cave management groups by access control activists so as to command policy to the detriment of caving as a sport.

BCA has decided to leave its Legal Officer role empty after Bob Meheuw's recent resignation. BCA Council from now on will be buying in specialist professional legal advice from truly independent sources as and when it is needed. I also feel that CCC should move along similar lines, and also alter the CCC constitution at some future AGM to create a Sport Development Officer for caving in Wales, and in the meanwhile to co-opt someone. We are one of the few sports that does not have one and turns a blind eye to its prosperity.

BCA's Conservation and Access Committee (C&A) rarely meets, and 2017 was no exception. On behalf of CCC, I participated in a C&A conference call meeting held on 6th February 2018, via Webex, primarily to discuss and amend or ratify the above BCA draft policy statement which had grown to several clauses. It was agreed unaltered and unanimously by C&A. It now goes back to BCA council, and then presumably to their 2018 AGM. Download a copy from <http://caveaccess.co.uk/BCA-CROW-policy-statement.pdf>

## **CCC NEWSLETTER**

Our newsletter has appeared four times in the past year, available as a download, with some hard copies distributed to caving club cottages in Wales, and for use in various meetings to show what caving is about and demonstrate some of the issues tackled by CCC. It is also a valuable tool for CCC in communication with cavers and clubs. See [www.cambriancavingcouncil.org.uk/newsletters.html](http://www.cambriancavingcouncil.org.uk/newsletters.html) for the newsletter PDF files.

I have written two long articles with conservation/access themes. The first was about the need to get SSSI and any other consent for digging projects, and was a joint article with Dr Paul Sinnadurai, the BBNPA Natural Resources Manager. Since this was published, one of the featured projects that is not on SSSI land has applied to the BBNPA for retrospective landowner consent which is currently in discussion.

Following the revelations about the new Twll Du entrance to Ogof Draenen, I have published another article about historic heritage issues and the possibility of needing Scheduled Monument consent for cave exploration activities either near the surface or even at any depth. This is in two parts, and the second is due in the April edition, to cover where Welsh SMs are located that might affect caving and how to use the online tools to view SM mapping and obtain monument documentation. Clearly, Welsh caver awareness of the historic environment and its law has been weak, and this is a first effort to address it. A guide to SSSI law and caving, mapping tools, and document searches concerning natural environments appeared in the January 2017 newsletter.

## **CAVE ACCESS LTD (CAL)**

The CAL directors remain the same people: Dave Tyson, Roy Fellows and myself. I would like to respond to criticism that CAL is undemocratic since there is no way for cavers to remove a director nor to become a director themselves without being invited to join. The fact that, until recently, all three directors were CCC officers also seemed to be controversial. But surely it is not an unexpected situation as it was just those people who set up the mine access scheme for everyone else's benefit in the first place. Visit this site for information and to register with the scheme: <http://caveaccess.co.uk/mines/index.html>

The CAL company exists only as a legal wrapper to protect CCC executive from exposure to any claim for damages whilst providing recreational cavers with legal access to an agreed list of disused mine sites on NRW and WG property. CAL holds no meetings and has no money. After a long and difficult negotiation with NRW, this method of using an intermediary company, backed by the BCA national insurance policy and other agreed terms and conditions in a very long and detailed contract, seemed the best way to broker an access deal, given that both parties were working hard to achieve one.

If anyone does feel very strongly about exclusion then please talk to me directly. Being a company director brings responsibilities and potential liabilities that are not covered by BCA insurance, so you might talk me into handing you my place as a CAL director along with its associated risks - with the agreement of remaining directors, of course.

We have made no progress with NRW concerning the Draethen Lead Mines in the past year as they will not reply to any communications. So instead we are trying an indirect approach via the bat conservation community directly to key NRW personnel to try to engender some kind of engagement by NRW, but it will likely be a slow process.

There has been concern expressed by the local community at Cwmpenmachno about over-use of the Rhiwbach quarry (mine) by organised groups. Dave Tyson attended a public meeting of the local community, also attended by NRW and SNPA staff, in January 2018. NRW seems to be trying to push CAL into the role of regulating non-amateur exploration of mines which is a direction that we do not wish to go in. At the moment, all of this is under discussion and it may take some time to resolve. Caver access at all the other CAL mine or quarry sites has been operating normally.

## **A465 DUALLING OF THE CLYDACH GORGE**

The project is running late and is over budget. Ogof Pont Gam and Ogof Nant Rhin were closed on 6-7th October 2017 while blasting took place but have re-opened. The road works near Ogof Capel were supposed to take place in the summer of 2017 but these have been moved back to the summer of 2018, but Costain has not replied to my emails about any actual closure dates. It has to be done in the summer because of bats. Possibly they will miss the coming summer too, with the work and its finance then slipping into 2019.

One of the reasons for the delay is the engineering challenges which have involved moving a new footbridge to the Brynmawr side of Blackrock which in turn resulted in a fresh public consultation. Many other adjustments were included in this too. The original site for the footbridge would have loaded the thin roof of Ogof Capel with the risk of it all collapsing. The line that Ogof Capel takes was not known when the footbridge was designed, so the civil engineers have cavers to thank for pointing out this major structural issue. There are maps and more information at <http://www.chelseaspelaeo.org/news.htm>

## **LLYGAD LLWCHWR 2**

Deliberate damage to stalactites, some of these being large thick formations in taped-off areas or out of reach, occurred in the autumn of 2016. CCC decided to discourage publicity and also not carry out any repairs in the short term in order not to gratify those responsible for this damage by giving their perplexing exploits undue attention.

However, a caver counter was installed amongst the pretties, and the results were collected after 15 months to evidence visitor patterns. There has been no further damage or deterioration over that period. Some 20 groups visited, so an average of 1.3 per month, representing perhaps 40-80 cavers overall. The vast majority of visits were on Saturdays, generally between 11am-2pm, but some evening ones too. Nobody was detected in the cave between 11pm-11am over this 15 month period.

## **OGOF GOFAN AND CASTLEMARTIN RANGE WEST**

A bat and visitor research project by Dr Peter Smith and myself has been running for the past two years. I have made three cave research visits in 2017 and two in 2018.

I accompanied staff from Dyfed Archaeology Trust and the National Museum of Wales on a further visit made during March 2017. This was the next step in the landowner's process to create a permanent caver access agreement with sufficient safeguards in place. Our last visit under this conservation research contract took place in February 2018 and a final report is in preparation.

Three high resolution temperature loggers have been left in this SSSI cave for a few months more to try to evidence if the 5m deep 'cave dig' in the final chamber connects either to the sea cliffs or is instead heading inland – which would be more interesting.

Several caver visits in 2017 have been made into Range West to look for new caves.

## **BRECON BEACONS NATIONAL PARK LOCAL ACCESS FORUM (BBNP LAF)**

I applied for membership of this statutory committee and was accepted from November 2017 for a three year term. I have since attended the BBNP LAF meetings in November 2017 and February 2018. Mine is a community appointment and not to represent Cambrian. All appointments are individual, although the BBNPA has regard for the connections and contrasting perspectives of prospective LAF members. It is not possible for any organisations such as CCC to obtain corporate LAF membership.

## **RHYDYMWYN VALLEY HISTORY SOCIETY**

I attended the official opening of the secret WW2 tunnels and the chemical/nuclear weapons facility and Bank of England gold bullion storage depot near Mold, now under the ownership of Defra, in April 2017. Dr Peter Smith and I have been involved in trying to resolve an issue of visitor access and bat conservation between the local history society and NRW/Defra. It makes an interesting day out to visit this site, but unfortunately all the 2018 tours organised by the society are already fully booked up.

Visit <https://rhydymwynvalleyhistory.co.uk/>

## **CEREDIGION MINES FORUM**

I attended the one-day forum in April 2017 in the Halfway Inn near Devil's Bridge. This is a useful and pleasant once a year opportunity to meet with the Welsh mine history and exploration community, plus representatives from NRW and RCAHMW/Cadw, and to hear a range of interesting presentations.

## **REGIONAL CAVE MANAGEMENT COMMITTEES**

The notes below focus on news and developments rather than routine business.

MLCMAC and CCC have received further complaints about some local cavers crossing tapes in OCAF and other conservation issues. This was passed to NRW to deal with as they act as the landowner's agent here and they are also the statutory conservation body for Wales. The cave advisory committee is no more than that, and CCC does not have any mandate or processes to run investigations or to take action against cavers or CCC member clubs.

PDCMG has made no progress with their landowners to allow cave instructor training to take place in Ogor Draenen. But its really big issues of 2017 were the disclosures of a fourth entrance called Twll Du and the viability of the second entrance at Nunnery Passage that PDCMG concreted over 20 years ago. The third entrance, Drws Cefn, has remained open since its gate disappeared in 2010. PDCMG claims in the current BCA newsletter not to have a "single entrance policy" but they appear to. It is in the conservation policy section of PDCMG's website and it seems to be implied by the recent articles in Descent magazine. Three different engineering plans to block off Drws Cefn to cavers were tabled at PDCMG meetings in 2015, 2016 and 2017. These were an underground reinforced concrete/steel wall, an underground obstruction made of scaffolding, and a surface grille respectively. Their most recent meeting in October 2017 decided to postpone discussion of the locked grille scheme to their forthcoming general meeting in June 2018.

CCC's is not against multiple entrances in Ogor Draenen, as was claimed in Descent. After all, we wrote to PDCMG in 2014 asking them to negotiate to get its use made official. This is the letter we sent to them: [pdcmg.org.uk/CCC%20Letter%201%20June%202014.pdf](http://pdcmg.org.uk/CCC%20Letter%201%20June%202014.pdf) CCC's general statement on multiple entrances and large cave systems is available here: [cambriancavingcouncil.org.uk/pdf/2018%20Jan%20CCC%20entrance%20Statement%20V8-1.pdf](http://cambriancavingcouncil.org.uk/pdf/2018%20Jan%20CCC%20entrance%20Statement%20V8-1.pdf)

As the Twll Du entrance has appeared without official consent on land scheduled as a national monument, both Cadw and Gwent Police are now involved. But it is far more complex than that, as it is Common land too, close to a public footpath, in a World Heritage Site, and there are bats in the cave there. So local government, the national park authority, and NRW are all involved in trying to resolve this matter. I have attended a site meeting in January 2018 and participated in various other discussions.

SWCC has introduced a new system to allow easier mid-week access to OFD for those with annual OFD permits. They should contact local key holders as per the SWCC website for the keypad code giving access to the Penwyllt changing rooms where cave keys and the logbook are stored. Non-annual permit holders should contact the OFD Permit Secretary.

## **LOOKING BACK AND FORWARD**

It has been a particularly busy year with many meetings attended across Wales and correspondence to process, plus ongoing difficult issues remaining unresolved. But there has been time too for going underground all over Wales and for my hobby cave research. I am willing to stand again in this role for a further year.

Stuart France, CCC Conservation and Access Officer  
28th February 2018