



# Council of Northern Caving Clubs

Commercial groups access to lands owned by Whelprigg Estate & Kay Shuttleworth Estate

## Background to the situation and the origination of the proposed agreement

The Kay–Shuttleworth Estate includes Leck Fell. The Whelprigg Estate includes Casterton Fell down to Ease Gill and up to Crag Hill.

During 2012 CNCC was made aware of the use of Casterton Fell for commercial caving by the Estate manager for the Whelprigg Estate. This came to light after the Estate manager and the landowner were at Bull Pot Farm on Estate business and observed a number of mini buses of commercial groups getting changed for caving. The land agents were surprised to learn that their land was being used for business purposes by others (the access agreements currently established covers recreational caving only).

As a result of this the CNCC was invited to attend a meeting with both Estate managers from The Whelprigg Estate and The Kay Shuttleworth Estates. The land agents on the advice of the landowners decided to produce a forbidding notice; this forbid the use of these two Estates lands for any commercial gain from caving or related activity. The CNCC access officer was told to distribute this notice as widely as possible to the caving community.

During 2013 two meetings took place between the land agents and two representatives from the commercial caving sector. The CNCC access officer attended at the request of the land agents because the CNCC administers the access agreement on behalf of recreational cavers. After the meetings it was agreed that the land agents would agree to access for commercial groups but as the Estates themselves are run as a business they would expect some form of appropriate payment for use of the estates for the business of others. No monetary value was placed on this - To date CNCC is not aware of the cost or what the land agents may be considering as reasonable payment for access for commercial groups (the costing of Estate functions is not the business of CNCC and is Estate business over which we do not comment).

After the second meeting in June 2013 some commercial groups were still using Casterton Fell against the wishes of the land agents (this was identified by the land agent via online information).

As CNCC Access Officer, I was asked by the Estate manager of the Whelprigg Estate to draw up a proposal for their consideration that would allow access to be reinstated for commercial groups to include some kind of payment.

A proposal was put together by the CNCC committee to try to meet the requirements of the landowner while ensuring ongoing access for commercial groups. To expedite this process, the proposal was written based on the best judgement of the CNCC as the administering body, without collaboration with commercial caving representatives. Although thorough consultation with the commercial caving community would have been desirable, it would have been very time consuming to work across multiple groups to draw the proposal up, with no guarantees of reaching an acceptable conclusion, and during which time the fells would have remained closed to commercial cavers.

Before its presentation at the September 2013 CNCC meeting, the draft proposal was sent to both land agents for their thoughts and also the two commercial caver representatives who were previously involved. The land agents agreed with the proposal in principle because it would provide access for commercial cavers through a scheme that could be managed alongside the existing access agreement for recreational cavers (an agreement they are generally happy with). The CNCC committee also accepted the proposals at the September 2013 meeting.

The commercial caving representatives rejected the proposal, although it is currently unknown whether the agreement meets with the approval of other commercial caving representatives.

Therefore the agreement would enable resuming of permitted commercial caving on Leck Fell administered by the CNCC on behalf of the landowners. The details of the agreement and proposed system are included below.

Some finer details of the agreement remain to be addressed (such as the form the payment should take and the exact amount as these would need to be agreed by the land agents). The vote at this AGM is to decide whether the CNCC should amend its constitution to allow commercial membership and hence to allow this system of commercial caver permits to be initiated.

### Summary of the agreement and considerations:

- Commercial cavers will have to join CNCC as a Commercial Member to access a commercial permit (this new category of membership is to be added to the constitution in the proposed amendment). The proposed cost of this will be £20 per year. This money will be used by the CNCC to cover any costs associated with the commercial permit system and to be put towards conservation projects on the fells.
- Application to become a commercial member will be via the same pathway as currently in place for non-commercial clubs (i.e. written application to be voted on by the committee). This is to ensure that those requesting a commercial permit are known to the CNCC as genuine commercial groups and that they are not issued with recreational cavers permits in error.
- Access for commercial groups will be by the issuing of the 'commercial permit' made available by the Estates offices and administered by the CNCC (access officer who would liaise with the meets secretaries). A commercial permit will incur a fee (this money will be payable to the landowners as compensation for commercial use of their land). The exact cost of this is still to be agreed with the landowners.
- The commercial access will work alongside the existing access agreement for recreational cavers.
- Commercial access will have minimal conflict with recreational caving as (A) Most recreational trips are at weekends, most commercial are midweek (B) The commercial permit as discussed below is additional to the recreational permits (C) Only one permit per entrance per day will continue to be issued which will avoid clashes on the day.
- The commercial permit is an **additional permit** solely for the use of commercial groups and will not affect the number of recreational permits. One commercial permit will be available per day per fell.
- Bull Pot of the Witches will be part of the commercial permit scheme (this **will not** affect recreational cavers access to Bull Pot of the Witches which is open access).
- This agreement has the endorsement of both land agents.
- It is felt that while the two commercial cavers consulted did not agree to the proposed system, this is the only option currently on the table to allow commercial groups to cave on Leck and Casterton Fells in the immediate future with the permission of the landowners.

- A benefit of the agreement is that both the land agents, CNCC and Natural England will be aware of the extent of actual access which can be used to keep the natural balance of the land usage within any restrictions imposed by other schemes.
- The system, if it results in an increase in commercial caving on the fells could possible increase footpath degradation that will be repaired by the CNCC using funds raised through commercial membership
- Failure to reach an agreement will, based on the current situation, mean that commercial caving will continue to be forbidden until an alternative proposal can be reached.
- A major benefit of commercial caving permits being issued by the CNCC is that this provides a means for ensuring both recreational and commercial cavers do not clash over access and permits. Failure to agree a system involving the CNCC may result in commercial cavers establishing their own agreements with the landowners which may result in clashes with recreational cavers.

### **Summary/conclusions**

This proposal provides a quick solution to regain access for commercial cavers to Leck and Casterton Fell, which meets the wishes of the landowners and which the CNCC committee have voted to accept.

The new scheme is expected to evolve, or even dissolve and will need amending and tweaking. Therefore we would need to monitor the commercial permit scheme over the first few years and if the scheme proves to be more or less popular than expected we can discuss further revisions or amendments as required.

To enable the proposed agreement to be implemented, it must be enabled in the constitution. The vote to make the necessary constitutional changes will be made at the 2014 CNCC Annual General Meeting.

### **FAQ to Access Officer about the proposed agreement**

Is this the thin edge of the wedge for paying for access?

*Having spoken with both land agents I do not believe it is and neither has expressed an interest in charging for recreational caver's access (and neither would the CNCC wish them to). The landholders are more than aware that the recreational caver is a benefit to them, their land gets monitored underground (if a SSSI), and the paths get repaired, as do fences and stiles*

*by the cavers. The payment made by the commercial caver to the landholder is a payment for using their land for financial gain.*

Is this going to affect me as a recreational caver?

*As a recreational caver you will see no effect. Most commercial trips are midweek most recreational caver trips are at weekends. If your club does want a midweek trip then booking in advance will ensure securing that date and that entrance.*

Does this mean that permit allocation will be reduced?

*No, the commercial permit is in addition to the recreational permits.*

Will my trip be shared with a commercial group?

*No, two permits for the same entrance will not be issued.*

Why does the CNCC feel the need to be involved with commercial caving?

*CNCC does not actively wish to control access for commercial cavers, but is proposing to do so due to a perceived need to avoid clashes with recreational cavers, and because the CNCC hold the access agreements and issue permits on behalf of the Estates, and the estate manager specifically asked the CNCC to take an involvement here. I do not think that either Estate would discuss access for caving without CNCC being present – this is an indication of the excellent working relationship that CNCC has with both Estates.*

Is the CNCC profiting from this?

*The only money CNCC will make from this is the £20 membership fee and that will be used for administration of the scheme and put towards the conservation of the Fells which are being used.*