

HMRC  
Heritage Team  
FitzRoy House  
SO842  
Newcastle  
NE98 1ZZ

20 April 2021

Dear Sir or Madam,

### Conditionally exempt heritage asset undertaking – Bolton Abbey Estate

I am writing on behalf of Cycling UK to ask you to investigate the apparent failure of a landowner to meet their commitments under a conditionally exempt heritage asset undertaking.

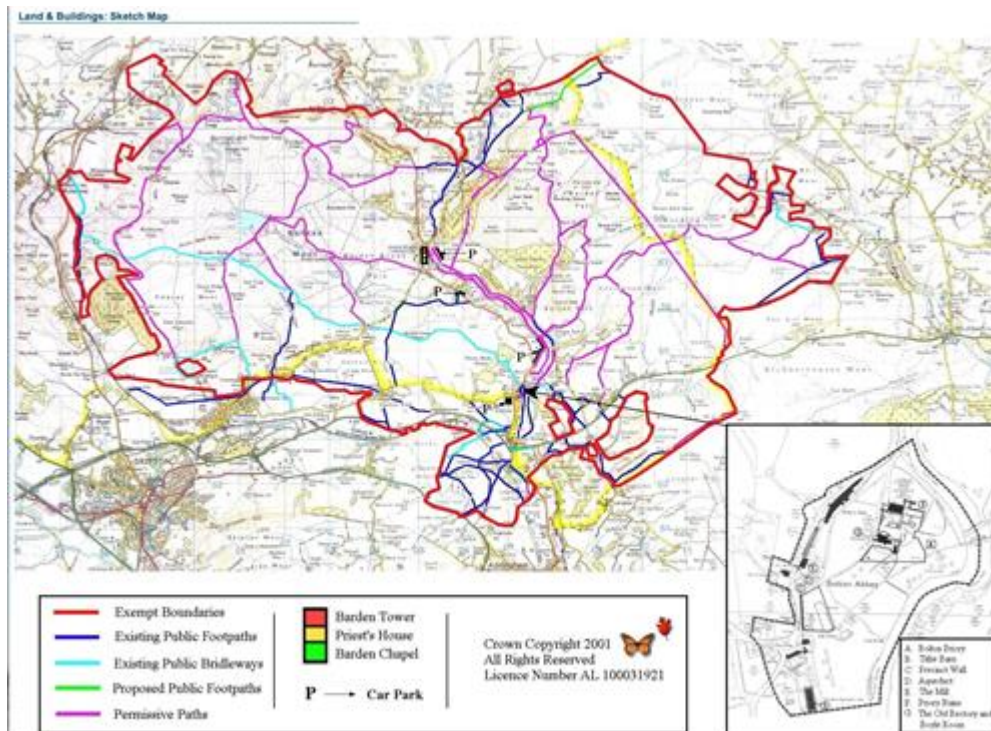
The property involved is the Bolton Abbey Estate (the Estate), and a summary of their conditionally exempt agreement can be seen here <http://www.visitukheritage.gov.uk/servlet/com.eds.ir.cto.servlet.CtoLandDetailServlet?ID=102>

The landowner has undertaken that:

“Public access is available all year on the public roads and permissive footpaths and bridleways shown on the map.”

The map referred to, pasted below, identifies (in pink) a series of 'permissive paths' without clarification as to which are permissive footpaths for use by walkers, and which are multi-use permissive bridleways which cyclists and horse riders can also use.

Unfortunately, on visiting the site, it rapidly becomes clear that almost all the identified permissive paths carry a 'no cycling' sign, whereas according to the undertaking public access is available on the Estate's permissive bridleways, which should, pursuant to section 30 of the Countryside act 1968, include cycle access.



The map is dated 2001, subsequent to the enactment of the Countryside and Rights of Way Act (CRoW) 2000, section 1 of which defines ‘access land’, over which the public have a right of access on foot. ([www.legislation.gov.uk/ukpga/2000/37/section/1](http://www.legislation.gov.uk/ukpga/2000/37/section/1))

The majority of the permissive paths identified on the map cross open access land, so there is already a public right of access on foot along these paths, and indeed the surrounding land. I am therefore left somewhat confused as to how the maintenance of these routes merely as permissive footpaths fulfils the undertaking to provide reasonable access to the Estate or would otherwise qualify as a significant concession to the public justifying exemption from inheritance tax.

The only conclusion I can reach is that the premise for the Estate’s exemption from inheritance tax is that additional access for users who don’t have access under CRoW is being permitted, and that the permissive paths identified on the map indicated multi-user access (including cyclists and horse riders) via permissive bridleway rather than access only on foot. But, as outlined above, the signs make it clear that cycling is not permitted on permissive paths which don’t appear to permit anything more than the public are already entitled to, and the exclusion of cyclists over many years therefore appears to breach the undertaking.

Whilst prohibiting access to cyclists along most of the permissive paths, the landowner had historically permitted cyclists’ access along a key permissive path crossing a bridge known as the ‘Wooden Bridge’. This path is particularly important both for walkers, as it constitutes part of the ‘Dales Way’ promoted walking route, and for cyclists, as it offers a link from the nearby minor road from Storiths on one side of the river, to the Cavendish

tea-rooms and pavilion, a popular destination for riders. In March 2021, however, the landowner closed that path to the public in breach of the undertaking.



This closure was not made during full lockdown, whilst COVID infection rates were at their highest, but as restrictions were being relaxed. I would therefore question any attempt to justify this under 'social distancing' concerns, given that it was not carried out earlier in the pandemic. Indeed, the heritage assets at Bolton Abbey have been neither closed nor subject to delayed opening, and it is the very fact that the site is open that provides the draw, leading people to want to utilise the public access that is supposed to be guaranteed through the undertaking.

I am therefore writing to bring this immediate breach of undertaking to your attention, in conjunction with a wider complaint concerning the lack of public access to the Estate, which demonstrates a more fundamental and longstanding breach of the undertaking to deliver public access.

Cycling UK approached the Estate for a copy of the full conditional exemption undertakings. We were provided with a summary of the undertakings, including an undertaking to:

“prepare a Heritage Landscape Management Plan for the Estate in consultation with the Yorkshire Dales National Park Authority”

We were also given a statement that this management plan:

“confirms the policy will be to continue a tradition of allowing public access wherever possible provided this does not conflict with the conservation objectives and reasonable agricultural, forestry and game management requirements and that an extensive network of permissive access routes will be maintained”.

The words underlined are particularly pertinent when considering whether the current access arrangements satisfy the undertaking and justify a tax exemption, because the failure to offer multi-user access to any of these routes, the majority of which are metalled moorland access tracks of vehicular width and in use for estate access via land rover and quad bike, is a clear example of a failure to fulfil the reasonable access criteria of the undertaking.



I would submit that it is clear that the undertaking was not only to provide public access on foot, but a wider undertaking to provide public access ‘wherever possible provided this does not conflict with the conservation objectives and reasonable agricultural, forestry and game management requirements’.

Despite discussion in order to understand the refusal of cycle access, or other forms of access, regrettably, no clear rationale for such exclusion has been forthcoming.

Natural England guidelines on heritage exemption state that:

‘Since 1975 there has been a comprehensive system of relief for heritage property of national importance held in private ownership. The requirement for reasonable public access to some assets granted Heritage Relief was introduced in 1975 and new claims for exemption have to include provision of reasonable public access to all designated heritage property (works of art, outstanding land, outstanding buildings, supporting land and associated objects) as agreed with HM Revenue & Customs, Inheritance Tax.’

What amounts to the ‘provision of reasonable public access’ is a contextual question. In the case of a work of art, it clearly means the ability to view that artwork; in the case of a building, the context would infer the ability to visit the building and view its exterior and perhaps selected parts of the interior. In the case of a 33,000 acre estate comprising over 100 miles of open moorland, crossed with both vehicular access tracks suitable for horse riding and cycling, over which there is already an extensive permanent legal right of access on foot under CRoW, then clearly ‘reasonable public access’ can, and should, extend beyond a highly restricted level of access on foot only - at least as long as such access does not ‘conflict with the conservation objectives and reasonable agricultural, forestry and game management requirements’.

It is extremely difficult to see how multi-user access would conflict with other objectives. Cycling UK has reviewed Natural England’s established guidance on the ecological impact of horse and cycle access, which does not identify any significant potential impact of cycle or horse access to the type of ecosystems identified on the Estate.

Similarly, a close review of the status of West Nidderdale, Barden and Blubberhouses Moors and Strid Wood SSSI doesn’t identify any significant concerns over the potential impact of cycle or horse access. Neither does guidance from the British Association for Shooting and Conservation on access management identify any significant reasons that would make multi-user access incompatible with estate or shoot management, given the existing level of access on foot via both permissive access routes and public rights of access under CRoW.

Concerns about unnecessary restrictions on public access within National Parks were indeed raised within the Government’s landscapes review, with the report ([www.gov.uk/government/publications/designated-landscapes-national-parks-and-aonbs-2018-review](http://www.gov.uk/government/publications/designated-landscapes-national-parks-and-aonbs-2018-review)) identifying that:

‘Concerns were also raised about what are perceived to be restrictive laws, or restrictive interpretations of them. We heard, for instance, how cavers face restrictions on what is otherwise designated as open access land once they move beyond an unspecified distance from cave entrances, perhaps the limit of daylight. We heard from canoeists how access is restricted to a tiny percentage of waterways which increases the pressure on ‘uncontested’ rivers. There is a lack of consistency between National Parks with some considered to be promoting shared and fair access, others less so. And there seems little logic across the country to the nature of rights of way at the moment. Cumbria and Shropshire are rich in bridlepaths. In some other places, almost all routes are only open to

walkers not horse riders or cyclists. As even rural roads become busier and more dangerous, it is all the more important that fair access is given to all.’

HMRC is of course the public authority responsible for the development and oversight of conditional exemption undertakings. In the context of this undertaking, which involves public access to land within a National Park, HMRC has an obligation to fully consider the dual national park priorities when carrying out its duties. This duty, set out in Section 62 of the Environment Act 1995 ([www.legislation.gov.uk/ukpga/1995/25/section/62](http://www.legislation.gov.uk/ukpga/1995/25/section/62)), includes having regard to the purposes of:

Conserving and enhancing the natural beauty, wildlife and cultural heritage of the area.

Promoting opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

Such duties are considered of equal status, subject to the Sandford Principle ([https://en.wikipedia.org/wiki/Sandford\\_Principle](https://en.wikipedia.org/wiki/Sandford_Principle)).

Unfortunately, I have to suggest that the restrictions on access for a variety of National Park visitors within the Estate, and the lack of clear justification for such a disparity based on irreconcilable conflict, indicates either a failure of HMRC to demand this as part of the conditional exemption agreement or, in the alternative, demonstrates quite clearly that the current level of access offered fails to fulfil the ‘reasonable public access’ requirement in the undertaking.

Furthermore, I would also like to draw your attention to a specific identified failure to accommodate access for disabled users. A Cycling UK member contacted us in late 2017 informing us that he had approached the Estate requesting to be allowed access to several routes on his recumbent handcycle (a class one mobility scooter for the purposes of the Use of Invalid Carriages on Highways Regulations 1988). In this discussion, our member explained that as a disabled user he needed someone to accompany him whilst using his handcycle. The response he received from the Estate was that he could use the permissive paths on the estate, but he could not be accompanied by a companion / support worker who was cycling. Our member commented:

“I was told that although it’s open access land this doesn’t cover bikes and that we could use it but our 2 wheeler buddies couldn’t go on it. I explained that we couldn’t do it without them as we need them to help us if we get into any difficulties, but I was told that if other cyclists saw mountain bikes on there they would also want to do it. I was advised that we could do it using our Mountain Trikes (off-road wheelchairs) with people walking with us, but I explained that the distance would be too far for this equipment and the only way we could do it would be on handcycles and accompanied by cyclists. I was told that this wouldn’t be possible, but we could use the official bridleway to Rhylstone but then it’s a long ride back on a busy main road, so we decided to find an alternative route.”

Again, this all has to be seen in the context of a 33,000 acre, largely moorland, estate. Given the locations, terrain and distances involved, our member was clearly excluded from access and enjoyment of the Estate in accordance with the undertaking.

As the ultimate responsibility for public access undertakings in return for conditional exemption lies with HMRC as a public body, I have concerns about the current system. For example, there do not appear to be any systems in place to ensure that conditional access agreements (either new or historic) fully comply with the Equality Act and Public Sector Equality Duty.

With reference to each of the circumstances I have mentioned above, I would request that you investigate and consider whether:

1. The Estate is in breach of the conditional exemption undertaking by closing the permissive path over Wooden Bridge, a key constituent of the identified permissive route network in their undertaking.
2. The Estate has failed, in the wider context, to deliver reasonable access for the public (including both able bodied and disabled cyclists), in accordance with the conditional exemption undertaking.
3. In the development and administration of the conditional undertaking agreement at the Estate, HMRC as a public authority has fully considered and given sufficient regard to the duty to promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public - specifically in the lack of access for cyclists and horse riders to both permissive paths and the wider estate, including vehicular moorland access tracks.
4. In the development and administration of conditional undertaking agreements at Bolton Abbey Estates, HMRC as a public authority has fully considered and given sufficient regard to, the Public Sector Equality Duty - specifically in the lack of access for disabled cyclists, horse riders and canoeists to both permissive paths and the wider estate, including vehicular moorland access tracks.

I look forward to hearing back from you within the next 21 days.

Yours faithfully,



Duncan Dollimore, head of campaigns

Cycling UK