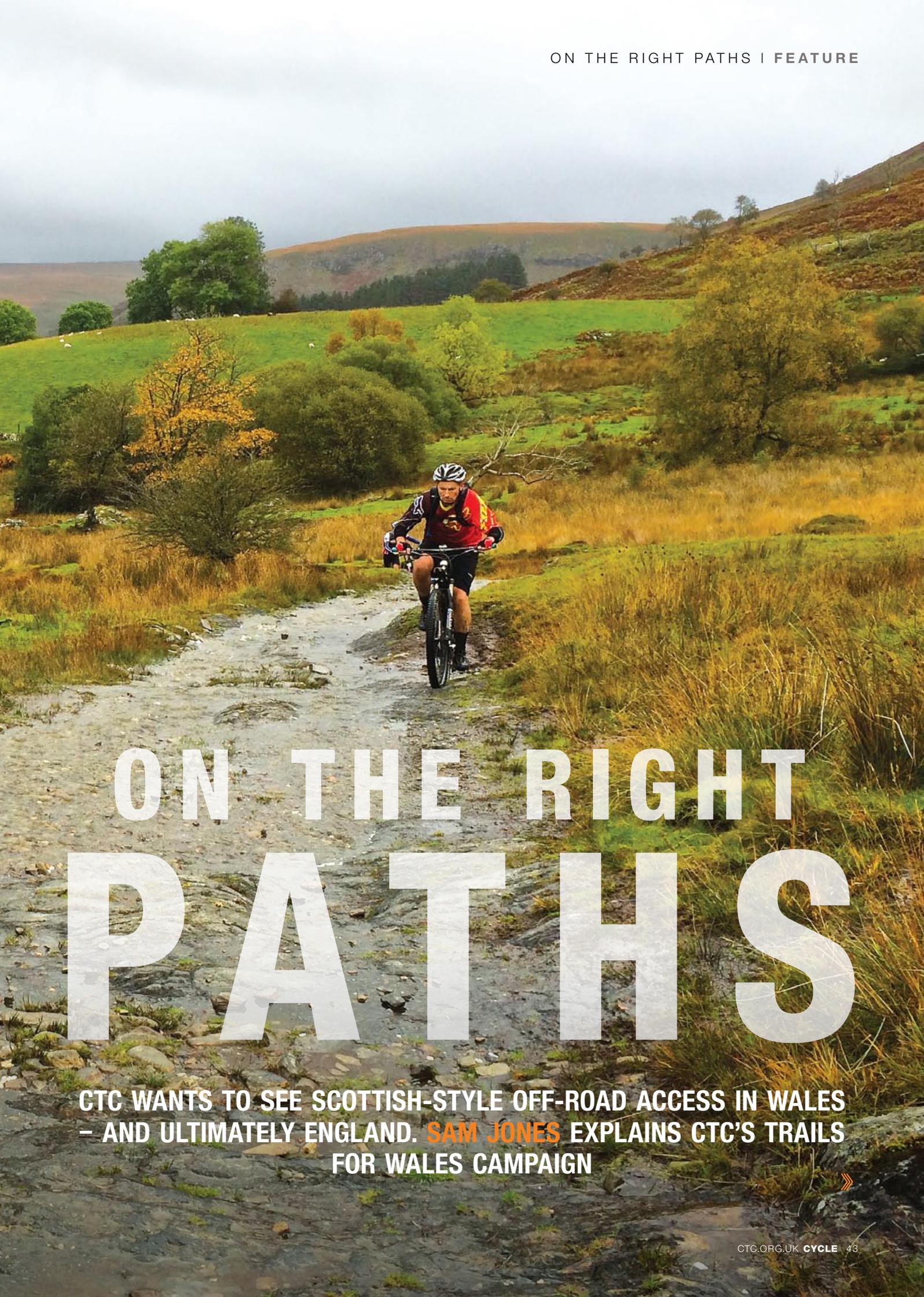


● (In the photo) The old drovers' route in the Elan Valley, heading to Claerwen Dam. Photo by Phill Stasiw





ON THE RIGHT PATHS

CTC WANTS TO SEE SCOTTISH-STYLE OFF-ROAD ACCESS IN WALES – AND ULTIMATELY ENGLAND. **SAM JONES** EXPLAINS CTC'S TRAILS FOR WALES CAMPAIGN



● With the landowner's permission, you can ride on footpaths

CONSULTATIONS CAN be dry affairs. But the one the Welsh Government launched this summer on 'improving opportunities to access the outdoors for responsible recreation' made off-road cyclists across the UK sit up and take notice. It was an opportunity to press for Scottish-style 'right to roam' legislation in Wales. If passed, that would open up thousands of miles of trails for cyclists.

Cyclists are confined to just 21 per cent of the Rights of Way (RoW) network in Wales (22 per cent in England). In both countries, the RoW network is based upon recorded historic use. While CTC successfully campaigned for cyclists to be granted access to bridleways in the 1960s, footpaths still remain out of bounds. The suitability of the RoW for cycling isn't a factor. Some bridleways are rocky sheep tracks, while some footpaths lie on metalled farm roads. No matter: current legislation says you can cycle on the former and not the latter.

In Scotland, following the Land Reform Act 2003, it is very different. Scotland enjoys 'presumed access'. This means there is a presumption of 'responsible access' (see sidebar overleaf). England and Wales work to a law of 'presumed trespass' along RoW. By default, cycling is prohibited.

Cycling and the law

Unless the landowner specifically allows it, cycling on a footpath normally constitutes trespass. It is not an illegal activity. It is a civil matter, which means neither the police nor a PCSO can take enforcement action. An aggrieved landowner can ask someone

cycling on a footpath over their land to leave, and they can seek a court injunction and/or damages against them.

It's different if the relevant authority has passed a by-law or Traffic Regulation Order (TRO) that prohibits or restricts cycling on a particular footpath. By-laws and TROs have the force of law. Non-observance may be penalised by a fine.

Footways are different too. Better known as pavements, footways run alongside carriageways (i.e. roads), whereas footpaths are located away from roads (e.g. between buildings or through open countryside). Cycling on a footway is a criminal rather than civil issue. The Highways Act 1835, which predates the use of the word footway, made it a criminal offence to 'lead or drive' a 'carriage of any description' on 'any footpath or causeway by the side of any road made or set apart for the use or accommodation of foot passengers'. In 1888, the Local Government Act declared that 'bicycles, tricycles, velocipedes, and other similar machines are "carriages" within the meaning of the Highway Acts'.

Currently, the maximum court fine for cycling on a footway is £500. Alternatively, police can issue a £50 fixed penalty notice.

Footpaths for cyclists

CTC has a longstanding policy about cycling on footpaths. It's in the 'Views and Briefings'

section of our website (bit.ly/ctc-footpaths). We believe cycling should be allowed:

- where the surface and width of the path are suitable for safe cycling without causing disturbance or risk to pedestrians; or
- where the path is lightly used, such that the likelihood of disturbance or risk to pedestrians is minimal; or
- where a path is unlikely to attract such high levels of cycling that it will cause environmental damage (notably erosion); or
- where there is a reasonable belief that the footpath in question might already carry higher rights – for example: where there is historic evidence (e.g. through enclosure award maps) demonstrating past use either by horses or by vehicles; where the path is shown on OS maps as an 'Other Road with Public Access' (ORPA), indicating an assumption that higher rights may exist; or where there is regular use by equestrians, motor vehicles and/or by other cyclists.

Although there is no legal right to cycle on footpaths, some are regularly used by cyclists. If enough cyclists use a footpath in this way without the landowner challenging them for (usually) 20 years, then a restricted byway may be claimed through 'presumed rights' under s31 of the 1980 Highways Act.

Except where the landowner has permitted it, CTC does not generally support the use of footpaths by larger groups of cyclists as this is more likely to generate complaints. »

“CTC will never support irresponsible cycling. Yet cyclists have enjoyed greater access in Scotland for a decade without antagonising walkers”

- (Below) CTC Councillor Gwenda Owen outside the Senedd in Cardiff
- (Right) The Sarn Helen in North Wales, where cycling is permitted



Photo: © Nigel Pugh



» Appropriate footpath use

CTC believes that it is acceptable for cyclists to use footpaths, provided they do so in a manner that respects the safety of other path users and their peaceful enjoyment of the outdoors – and with due regard for the environment and its ecology. Not all cyclists want to take to the roads, especially when heading out for family outings. Until we achieve true Space for Cycling, opening up the RoW network of England and Wales is one of the best ways of allowing more people to enjoy the enormous benefits of cycling, both for recreation and day-to-day travel.

CTC sees the opening up of RoW as a means to create a wider dispersal of cyclists rather than concentrated floods of cyclists in one place. Naysayers have expressed the concern that off-road cyclists will tear along country tracks and spoil the tranquillity of a countryside walk, particularly as there is no enforcement to ensure such cyclists behave responsibly. Yet cyclists have enjoyed greater access in Scotland for a decade without antagonising walkers, so concerns of unruly behaviour from cyclists appear to be unfounded.

CTC will never endorse nor support irresponsible cycling, no matter the location. However, we should not let the fear of a few careless cyclists prevent us from a wider goal of opening up much more of the Rights of Way network in England and Wales.

Blazing a trail

Trails for Wales has shown there is a great appetite among cyclists from across the UK to adopt an open-access policy. The campaign was born this summer when OpenMTB, the new English and Welsh national trail organisation, approached CTC for support. CTC launched an online campaign in English and Welsh on behalf

of all the Trails for Wales partners at the beginning of September. A total of 4,054 off-road and mountain bike enthusiasts wrote to the Welsh Government in support – a bigger response than the Welsh Government received on a paper on reform of the NHS.

Trails for Wales is supported by the cycling industry. Cube, Giant, Greenover Sports, Howies, Raleigh, Silverfish, Storck, Swift Carbon, Trek, and Whyte have all signed up.

Well-known cyclists have given the campaign their backing too. Top British mountain biker Tracy Moseley said she wants to see a 'change to the current out-of-date access rights and open up these rights of way for the enjoyment of all cyclists at all levels.'

Scottish cycle-explorer and presenter Mark Beaumont said: 'It is fantastic to see the Welsh Government open to consultation on this, which would allow mountain bikers the freedom to explore freely, as long as they respect the land, its farming and any areas of conservation.'

What happens next? The consultation responses are being reviewed by the Welsh Government. They expect to have sifted through them by December and to issue a response early in the new year. We know CTC and our supporters' collective voices have been heard and that we'll have a seat round the table in future discussions.

While we can celebrate this first stage as a success, this is no time to be sitting idle. Having built such momentum, CTC will continue work with our partners as we help the Welsh Government open up more Trails for Wales. Success in Wales would also strengthen the chances of changing RoW legislation in England. ●

For more about Trails for Wales, see ctc.org.uk/campaign/trails-wales

SCOTLAND THE BRAVE

CTC Policy Advisor Cherry Allan explains why it's better north of the border

The Land Reform (Scotland) Act 2003 legislation came into effect on February 9 2005. It gives Scotland the most progressive access arrangements in the UK. Cyclists have lawful access to almost all open areas under an Access Code that sets out responsibilities for all parties, from landowners to visitors.

It doesn't mean cyclists can go wherever they please! While cyclists are free to roam over most of Scotland's countryside, so long as they abide by the Access Code, they are not permitted to enter buildings, private gardens, or to cross fields with growing crops in them.

Consequently, Scottish off-road and leisure cycle tourism are booming. They contribute between £236.2m and £358m a year to the economy.

KEY POINTS OF THE CODE INCLUDE

- Acting responsibly, with care for the landowner, the environment, and other trail users.
- Being careful not to disturb any work taking place.
- Closing gates and looking for alternative routes around fields with animals.