

Murky waters: the battle for our rivers

Less than four per cent of our rivers have a clear and undisputed right of access, yet a new generation of outdoor enthusiasts insist enjoying them is an incontestable privilege. Peter Stanford meets both sides of a very British conflict. Photography by Nicholas JR White

Isabel Carlisle and Jane Brady, campaigners



Roger Lane, canoeist



Nicholas Evans, kayaker



Gillian Modrate and Hannah Pearson, wild swimmers



Glenn Woodcock, wild swimmer



Zoe Latham, angler



Rev Samantha Wernham, nature enthusiast



They arrive as soon as it gets light, in the early autumn mist, walking or cycling across the broad floodplain of the River Cam as it flows across central Cambridge's Grantchester Meadows. Later in the day, visitors will bring picnics and sit in this green oasis, lapping up its charms, sometimes noisily. But the first arrivals are businesslike. In one swift movement they are out of their clothes, into their swimsuits and stroking purposefully through the water.

There is little socialising between these swimmers beyond a nod. Then, as quickly as they appeared, they're gone, until tomorrow. It is, one regular tells me, an addiction.

Virginia Woolf, who once swam here with the poet and local resident Rupert Brooke, eulogised the experience as leaving her smelling of 'mint and mud'. And for hundreds of years, the many combinations that these meadows represent – city and countryside, undomesticated and ordered, work and pleasure, town and gown – have drawn people to bathe, punt and latterly, canoe.

But in the summer of 2021, this outdoor paradise turned briefly into a battleground. At the start of July, King's College, owners of the riverbank in the Meadows since 1485, put up signs banning all comers from accessing the water to swim or paddle via their land. Too many people were using it, they explained, ruining the environment and causing 'a serious risk to life'.

With no warning or consultation, overnight regulars became trespassers. Shock and anger inevitably followed. More than 21,000 people signed a petition that condemned King's for 'deny[ing] new generations the sense of well-being and enjoyment derived from the river at the only accessible spot where you can swim away from traffic and infrastructure'.

The petition was just the start. Two weeks later, a mass trespass followed on Grantchester Meadows, with the offending signs ripped down as dozens of bathers plunged into the waters in protest. Speakers who urged them on explicitly linked King's College's action in 'dialling back historic public access to land in the local sphere' with opposition to the Government's current controversial Police, Crime, Sentencing and Courts Bill, which they claimed 'shrinks the right to roam on a national level'.

Faced with such well-organised protests, and alive to the PR disaster of a wealthy, well-endowed college excluding ordinary members of the public from their land, King's rowed back and – rather late in the day – began discussions with users around how better to manage the Meadows. Both sides have subsequently declined invitations to comment. But local residents – including novelist Jeffrey Archer, current

owner of the Grantchester vicarage, immortalised in verse by Brooke – report that 'business as usual' has quietly resumed.

Or perhaps not quite as usual for, as the speakers at the mass trespass pointed out, this headline-grabbing set-to is much more than a little local difficulty. It shines a spotlight on confusion and ill-feeling up and down the country between those who enjoy messing about on rivers and those who own the access to them.

At the heart of the matter lies a legal muddle. While landowners like King's cite long-established riparian rights that give landowners who own riverbanks title to the riverbed itself, a new generation of outdoor enthusiasts insist that the public has had the right to enjoy rivers since the Magna Carta and before. A rich elite, they argue, cannot be allowed to trample on rights that are as basic as the air we breathe, with the water that falls from the sky into rivers being a public amenity, not a private asset.

What was a simmering clash of cultures has been brought to the boil in Grantchester and elsewhere by the thousands who turned, mid-pandemic, to wild swimming

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and kayaking to escape lockdown. That urge to leave the everyday world and its constraints behind, slip on a life jacket and find a sense of adventure and freedom on little-used rivers and streams is championed by British Canoeing, the national governing body for paddle sports in the UK. Membership has more than doubled since March 2020, from 38,500 to 84,500. All those new recruits want somewhere to put their boats in the water, but just 1,400 of the 42,700 miles of river in the UK – or under four per cent – have a clear and undisputed right of public access.

Those figures were produced in 2018 by the River Access for All campaign group, set up by canoeists, to push for a Public Right of Navigation (PRN) to England's rivers, such as has existed in Scotland since 2003. The Government, however, is showing no sign of contemplating such a move. Which means too few places to paddle or swim, and too many people competing for space.

'It has reached a level of surrealist absurdity,' says Nick Hayes, keen kayaker, right-to-roam campaigner and author of *The Book of Trespass*. 'These clashes arise out of a legal fiction that pretends rivers can be segmented into private domains, and sets



Dawn breaks over the River Dart, where enthusiasts and landowners have reached an accord

those who want to exercise guardianship against each other.'

By the very nature of their chosen form of exercise, wild swimmers tend to be loners, whose strongest urge is to leave behind every form of constraint or organisation, yet a group of 300 came together in 2006 to found The Outdoor Swimming Society (OSS). Their number has since grown to 150,000.

Imogen Radford is one of them. Celebrated as a 'citizen swimmer' on the OSS's website, she is captured treading water, smiling into the camera against a backdrop of trees whose branches drop down to touch the river's surface. It could hardly look more idyllic – or enticing.

Based near Dereham in north Norfolk, she rediscovered wild swimming a decade ago, and now volunteers as the inland access officer for the OSS. 'Rivers are full of so many life-enhancing things, but generations have lost knowledge as they have been driven out or been made unwelcome in many swim spots,' she says.

That is exactly what has happened recently at one of her favourite haunts on the Wensum, a chalk river that flows from Fakenham into Norwich. 'For years, local swimmers and kayakers have been getting into the river from a small village green with no problem at all,' explains Radford. 'We had all assumed it was common land, but with the increase in numbers of late, the landowner suddenly and unilaterally fenced it off. No consultation. No discussion with local people. We feel as if something we had depended on has been taken away from us.'

And they are not alone. 'Over the past year,' reports Radford, 'we have been asking [OSS] members to let us know when similar attempts are made to close access points. Reports have been coming in so quickly that we were overwhelmed by them.'

Most concerned landowners putting up signs of varying degrees of menace to warn off swimmers and kayakers, but on occasion they told of swimmers being verbally abused and threatened, or of barbed wire installed on riverbanks. It was a case of paradise denied.

In built-up and tidal areas, riparian rights have often been superseded, as is the case with the River Thames, thanks to the Navigation Act of 1623. But not always. When the local authority in Swansea wanted to build a bridge over the River Tawe in 2008 to improve access to the new Liberty Stadium, it had to pay the Duke of Beaufort (who lives 90 miles away) £280,000 because his family had held the riparian rights for centuries.

In most countryside areas, unless there is a public right of way along the riverbank, or an area of common land, or the landowner

grants their consent (as some do), wild swimmers and kayakers are trespassing.

Not that they see it that way. They say they are simply enjoying an ancient and higher legal principle that allows them a Public Right of Navigation or PRN. It is covered, they contend, in Clause 33 of the Magna Carta – signed on a riverbank in 1215 – which orders the removal of fish weirs from all rivers of England to allow free navigation.

Legal experts, however, are divided on how watertight this argument is. The last time it was tested in court, in 2002, in a case brought against the Environment Agency, Mr Justice Lightman ruled that ‘Public Right of Navigation may only be extinguished by legislation or exercise of statutory power’.

The following year, in Scotland, legislation was passed that granted a PRN for swimmers and unpowered craft, provided it was exercised responsibly. By all accounts, it is working reasonably well – and certainly without the drama and discord taking place on England’s rivers. However, despite ongoing lobbying, the Department for the Environment insists that new laws are not needed and instead urges all interested parties to come to agreements locally.

The Water Framework Directive was introduced in 2003 to encourage all stakeholders from the source of a river down to where it empties into the sea to come together in 109 ‘catchment partnerships’ covering England, so as to maintain standards and, by association, sort out access disputes. Quite how ineffective this solution has proved in bringing harmony to our rivers can be seen by the fury that Ben Seal, the places to paddle manager at British Canoeing, has encountered when out on the river.

‘I’ve been subjected to verbal abuse from anglers when canoeing on the River Derwent near where I live in Derbyshire,’ reports this blond-haired outdoor enthusiast and evangelist. ‘I let it wash off me, but there have been many incidents reported to us where families or youngsters doing their Duke of Edinburgh have suffered the same treatment and been reduced to tears. On occasion, the police have been called. Canoeists have been threatened with shotguns, followed by drones, verbally abused by landowners or angling groups. The river can feel at times like bandit country.’

There are two fronts in this conflict: one between users and riverbank owners and the other between users. In the latter category, anglers are often pitched against swimmers and kayakers. Under long-standing arrangements, anglers purchase licences from landowners to fish stretches of their rivers. When they see swimmers and canoeists passing down the same stretches

of water without having paid a penny, it can bring out the worst in them. The trespassers, they say, disturb the fish and their spawning grounds – although a 2000 Environment Agency report concluded there was ‘no empirical evidence’ for such a claim. The most contested territory between these two parties tends to be on the country’s most prized salmon and trout rivers – such as the Avon, the Test and Itchen in Hampshire or the Rother in Kent and East Sussex.

Charles Rangeley-Wilson is an occasional wild swimmer himself, although others in his family, he says, are more hardcore. He is,

‘Canoeists have been threatened with shotguns... The river can feel like bandit country’



Britain’s riverbanks are littered with signs restricting access to the water

though, totally immersed in the countryside, as a columnist in *Country Life* and *The Field*, as a conservationist who campaigns to protect the chalk streams that are found in abundance near his Norfolk home, and as BBC Two’s *The Accidental Angler*. Rivers, he says, are ‘a strange mixture of private asset and public heritage’ and that can make them places of friction. ‘It is all down to scale,’ he emphasises. ‘If the river is large enough, then everyone can live side by side. The trouble with the river access figure of four per cent is that it includes every tiny stream, where there is no way that kayakers, swimmers, anglers and wildlife can all coexist happily.’

With greater communication and understanding, this natural diplomat is convinced some sort of peace could be negotiated. ‘Anglers, swimmers and canoeists have so

much common cause. We all care about the quality of the water in our rivers. Raw sewage in them, for example, is as bad for fish as it is for swimmers.’

Contributing to the fractious atmosphere is a lack of understanding of the other side. For his part, right-to-roam campaigner Nick Hayes is keen to debunk the stereotype that those like him want to be ‘let loose to run amok in the countryside, causing wanton destruction’. And Rangeley-Wilson is equally concerned to banish caricatures of anglers as rich, elitist, intolerant and in cahoots with landowners, hell-bent on excluding ordinary folk who just want to go for a swim or paddle a canoe. While a handful of angling societies are exclusive, he concedes, the vast majority are staunchly egalitarian. For £120 a year, he says, he belongs to a society in Wimborne in Dorset, which

allows him access to a whole variety of riverbanks all around the county.

‘It is a decent arrangement. Members pay a modest amount, the club is responsible for fish husbandry on the river, reports pollution and does conservation work. So why don’t wild swimmers or kayakers do the same?’

That is precisely what they are already doing, argues British Canoeing’s Ben Seal. Members’ annual fees enable the organisation to buy block licences for them to paddle in roughly 4,500 miles of rivers and canals. But asking them to arrange licences with individual landowners, when they may pass through their section of a river in minutes, is impractical.

Seal suggests the principle has to be settled before the conflict can be resolved. ‘I’d like to see the right to roam, which was part

of the 2000 CRoW [Countryside and Right of Way] Act, be extended to include a right of navigation on water. It isn’t a perfect solution, but would certainly take the heat off the current situation.’

Within striking distance of 30-year-old Owen Hayman’s home in Sheffield, there are not only good navigable rivers but some 400 reservoirs. So many, indeed, that in 2015 he and fellow wild-swimming enthusiasts founded SOUP – Sheffield Outdoor Plungers. Pre-Covid, membership had already grown quickly to 5,000, but it has doubled since the first lockdown.

There is in Britain, Hayman suggests, an entrenched and illogical prejudice that sees those who swim in rivers as both somehow transgressive – ‘people seem to believe we always do it naked, which we don’t’ – and inherently dangerous. ‘RoSPA [the Royal Society for the Prevention of Accidents] used to issue blanket warnings against it, though it now works with us on how to do it safely and responsibly.’

The old mindset, Hayman says, lives on in the big privatised water companies who own the reservoirs that were once public property. ‘They try to stop us swimming in them by saying they are too deep, or too steep-sided, or have underwater machinery, or strange currents that will suck you down to the bottom. But they are just like lakes and can be used safely if you know what you are doing.’ Yet when SOUP members turn up to swim in reservoirs, they run the risk of breaking bylaws, and are regularly challenged, and sometimes threatened with prosecution.

After many years working for public bodies in the management of Britain’s rivers, Ken Dodd of the Visitor Safety Group (VSG) argues the problems are being caused by anxiety over liability if an accident or drowning took place in a waterway. And indeed the organisation he chairs, whose members manage public, charitable and commercial landscapes (and include several water companies), came into being in the 1990s after the deaths of four teenagers on a sea kayaking course in Lyme Bay. That tragedy saw the owner of the outdoor activity centre prosecuted by the Health and Safety Executive, convicted of gross negligence and manslaughter and jailed for four years.

‘It caused many landowners to risk-assess what access they gave to the public for recreational use, in case they ended up being sent to prison if someone, for instance, drowned in a river they had accessed from their land. And it made them very risk-averse.’

There are, concedes Dodd, some landowners who are in principle hostile to public access. His organisation, he reports, has failed in its efforts to engage with the Country Landowners Association (who were also

approached for this article). ‘But there are plenty of others who want to deal with the situation in a different way that doesn’t end up in mass trespass and confrontation, but without risking jail.’

The Dart in south Devon is one of Britain’s most popular and picturesque rivers, whether on Dartmoor where it rises, or 40 miles downstream as it flows through the holiday towns of Totnes and Dartmouth and out to sea. And so fittingly, in its scenic middle reaches, as its strikingly clear waters wind their way apparently

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Swimmers protesting against King’s College’s attempt to ban them from the River Cam in July

untroubled past the historic Dartington Hall estate in great sweeps, where small shingle beaches are popular with wild swimmers, there has been a first practical attempt at a peace treaty in the battle of the rivers.

A wholly local initiative saw the signing of the UK’s first river charter in September 2019. It brings together swimmers, kayakers, anglers, landowners, statutory authorities and local communities to agree common principles, stewardship and a mechanism for resolving disputes.

‘The community aspect is especially important,’ explains Isabel Carlisle, local resident, occasional wild swimmer (‘not in winter’) and director of the South Devon-based Bioregional Learning Centre. ‘We wanted everyone who lived near to the Dart to feel they have a role in its present and its

future,’ she says, ‘and so we consulted over 1,200 people. We have decided not to go down the legal route to bring about change, but instead to focus more on moral rights and so bring people together around our shared duty of care for the river.’

It hasn’t all been plain sailing, but the charter covers a stretch of the Dart that runs from Staverton Weir to Totnes Weir, and the landowner with riparian rights, the Dartington Hall Trust, has played a leading role. The pledges all parties have committed to are backed up by volunteer river stewards, by ‘citizen scientists’ who are trained to monitor pollution levels, and by a river council that will address issues when they arise.

Carlisle is optimistic that, if the experiment can be shown to be successful, it will be able to expand its reach, and offer a blueprint for others. Intrinsic is a commitment in the