



Bannau
Brycheiniog

Countryside access for Tramroad Project volunteers



This short presentation aims to give volunteers some insight into rights of access to the countryside in Wales.

Access by right

- Public roads ('*major highways*')
- Public rights of way ('*minor highways*')
- CROW access land ('*right to roam*')
- Public open space, village greens, urban parks etc)

Access by permission

- Permitted (*concessionary/courtesy*) paths
- Areas of land typically owned by charities e.g. NT



Historically there has been limited access to the countryside of Wales and England. The rights of the public have been increasingly defined in recent years and in some respects extended. We'll look at both the traditional and more recently granted rights and then at what other forms of access the public may be able to enjoy.

The public road network

Local highway authorities (county or county borough council) keep a 'list of streets maintainable at public expense' - the '***List of Streets***'.

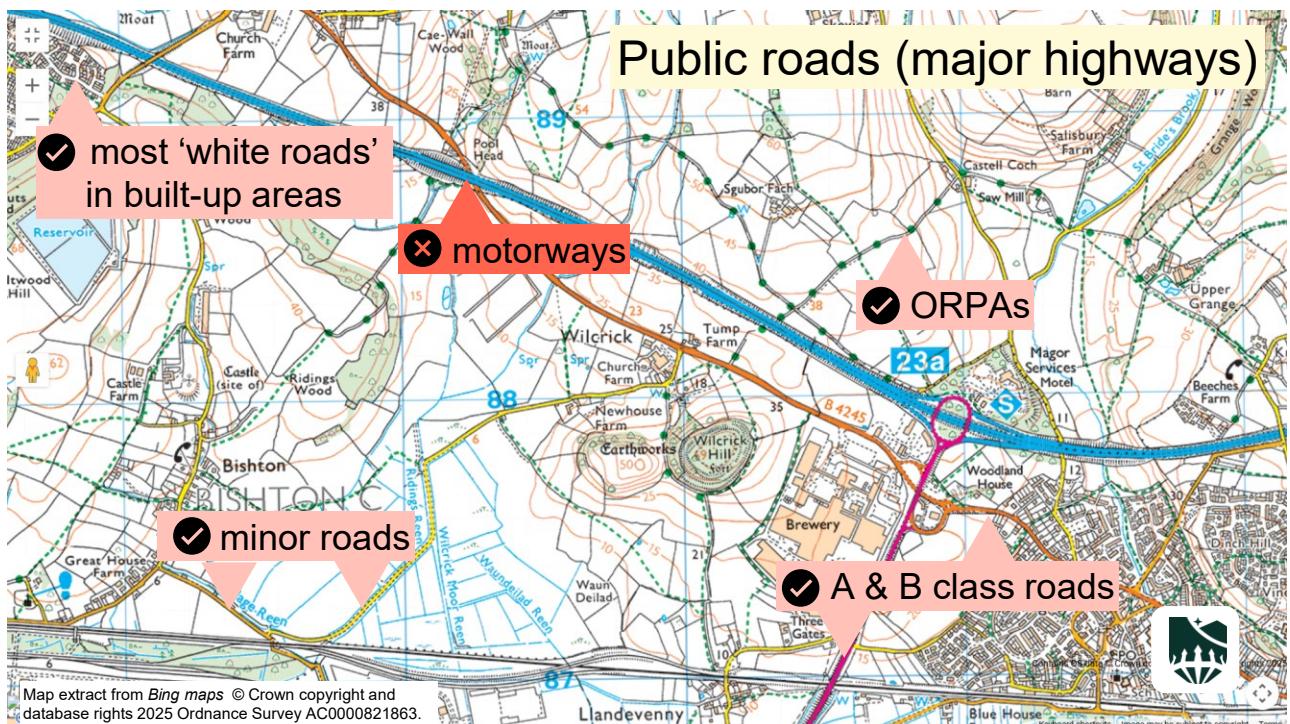
You can expect that all of the routes included on the *list of streets* will be available to anyone to use on foot at any time for any purpose.

The vast majority will also be available to other types of user – pushbikes, horse-riders, vehicles - though *the devil is in the detail*.



There may be restrictions on certain roads e.g. weight limits for vehicles, direction of travel, no pedestrians, seasonal or time-of-day limits.

Public roads (major highways)



Since time immemorial, we each of us have had a right to pass and re-pass along public highways, traditionally on foot, horseback or horse-drawn cart, and in more recent years on pushbike or by motor vehicle too! A pedestrian can use most routes but there are certain ones – like motorways - where for safety reasons, passage other than by motor vehicle is barred!

It used to be the case with so-called 'white roads' on Ordnance Survey maps, that you didn't know if you had a right to use them or not – some are public, some private and the map didn't distinguish between them. But the OS began to show those with recorded public rights of passage as 'other routes with public access' (hence ORPAs), using a green circle symbol (red on the Landranger map). The symbol is not generally used in urban areas so some doubt can remain. All of these are on the local highway authority's 'list of streets'.

The network of public paths

Local highway authorities also maintain ***definitive maps of public rights of way***.

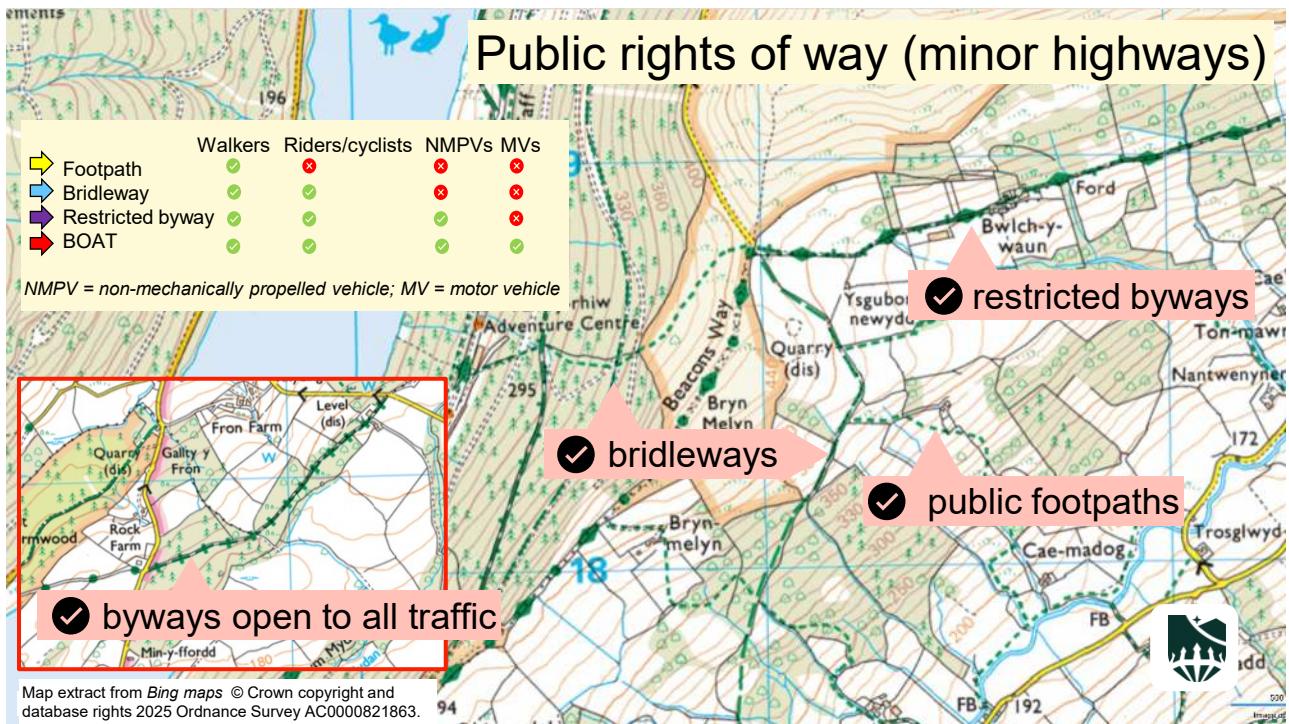
These maps record the alignments and the nature of the rights that people have, to pass and re-pass on the routes shown on them, at any time and for any purpose. They are the basis for the path detail shown on Ordnance Survey maps.

Changes to the path network e.g. as a result of path diversion orders, are recorded on the definitive map.

The Bannau Brycheiniog National Park Authority maintains the map for its area, by agreement with the relevant local authorities.



It was the same piece of Government legislation that enabled the setting up of the national parks in Wales and England that put in place arrangements for the preparation of definitive maps. The National Parks and Access to the Countryside Act 1949 has since been amended by a host of later acts. Originally there were three types of public right of way recorded; i) public footpaths, ii) bridleways and iii) 'roads used as public paths'. Because it proved unsatisfactory, the last category was whittled away over the years with such routes being reclassified as footpaths or bridleways or else as a 'byway open to all traffic. Eventually all remaining RUPPs were reclassified *en masse* as 'restricted byways'.



There are four categories of public right of way, all of which are open to walkers. Horse-riders and cyclists cannot use public footpaths but can use any of the other three. In addition, byways are open for vehicle use too, though in the case of restricted byways, only for non-mechanically propelled vehicles like a horse and cart.

They are all shown by green symbols on OS 25,000 scale mapping. The green diamond symbol as it appears here tells you nothing about your right to use a route; it simply labels which ones are part of recognised promoted trails like the Beacons Way.

Access to open country

What you can do:

- Access the land on foot for:
- Walking or running
- Sight-seeing or bird-watching
- Climbing

What you can't do*:

- Ride a bike or horse
- Drive a vehicle, ride a motorbike
- Camp or play organised games
- Hang-glide or paraglide
- Run commercial activities



*unless prior rights exist or you have permission

The Countryside and Rights of Way Act 2000 – often referred to simply as ‘CROW’ – established new rules under which members of the public could enjoy access to areas of open country ‘as of right’. It is sometimes informally referred to as ‘right to roam’ but that is not necessarily a helpful term. In Wales, the rights came into force in 2005 and extend to about 20% of the land surface of the country. The rights exist over the land surface so do not give permission for swimming, sailing or canoeing nor (it is argued) for caving.

At all times, visitors are expected to abide by the Countryside Code which sets out their responsibilities but also, in its extended form, sets out what landowners’ duties towards visitors are.

Access to open country

No public right of access to 'excepted land':

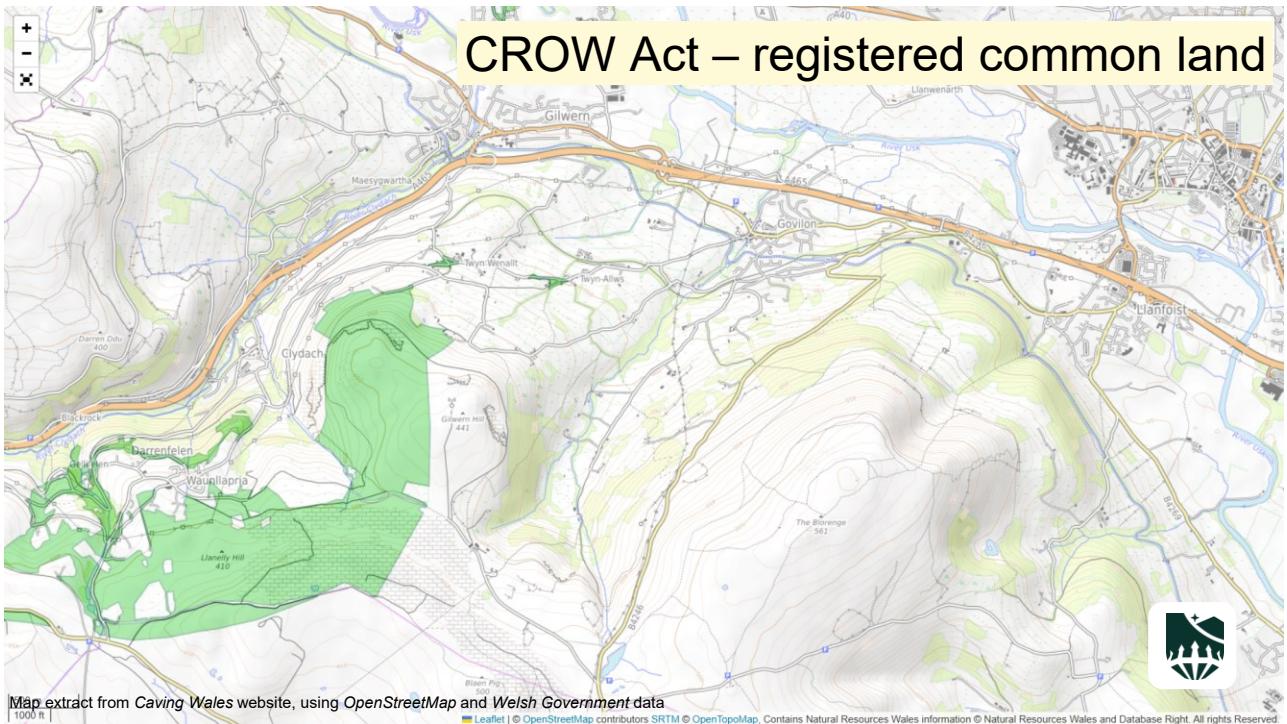
- Buildings & their curtilages
- Land within 20m of a dwelling or housing livestock
- Parks and gardens, golf courses
- Transport, energy & communications infrastructure
- Military training areas
- Construction sites and recently ploughed land
- Active quarries

Access exclusions:

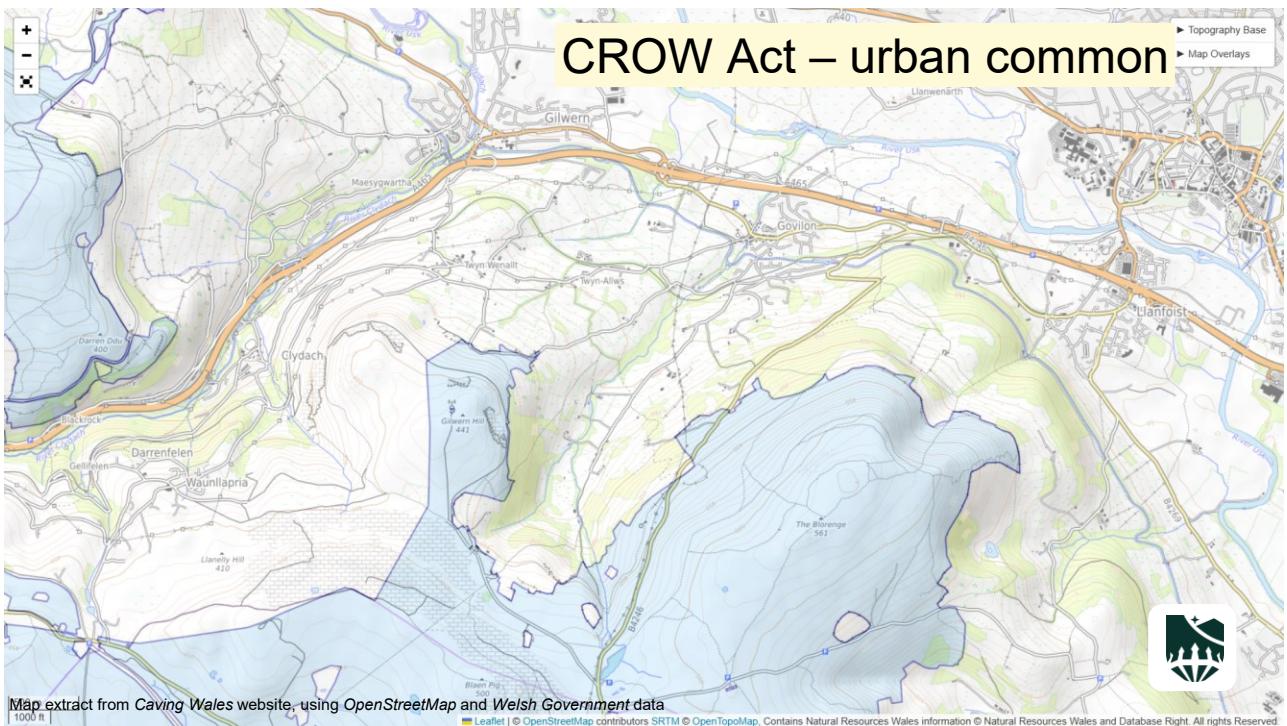
- Landowners & tenants can apply for temporary or sometimes permanent access restrictions in connection with legitimate farming, forestry and sporting activities.



You may take a dog on access land but must keep it on a lead no more than 2m long between 1 March and 31 July and *at all times*, when around livestock. It might be argued that most dog-walkers break the law. These rules do not apply to rights of way or assistance dogs.

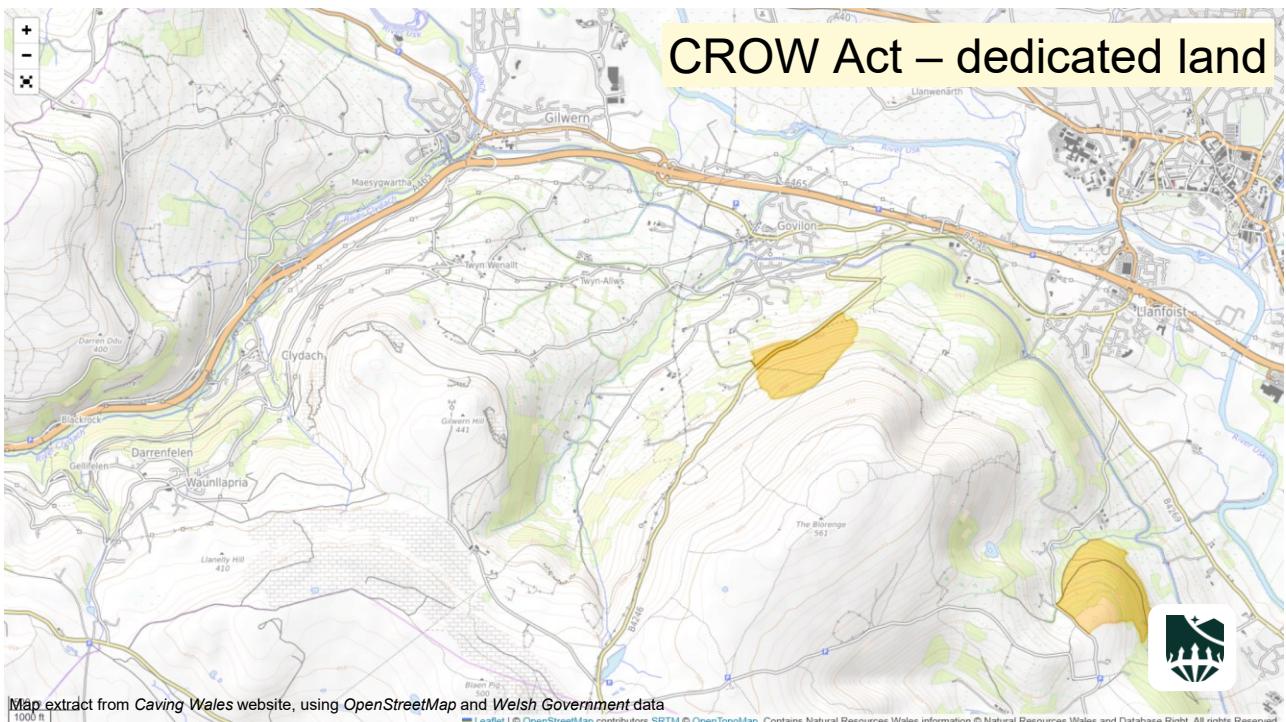


The CROW Act provided for registered common land to be available as access land, as per the areas shaded green here. Typically, such land will be heathland or moorland but it may be woodland or down to some other use. The upland parts of the Black Mountains, central Beacons and Y Mynydd Du are all common land and so are captured in this fashion. In this area it can be seen that the western part of Gilwern Hill and the Canada Tips are common land.

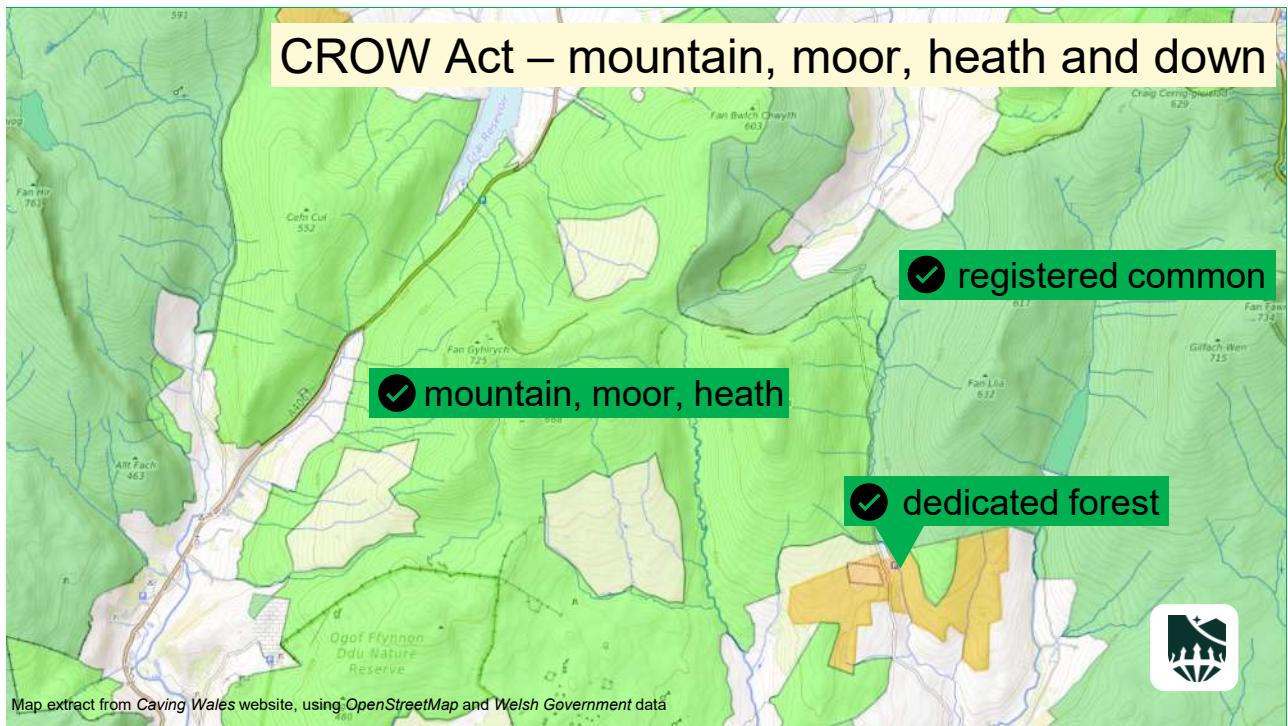


Within parts of Wales, a significant proportion of commons are 'urban commons'. That does not mean they are to be found in towns – examples include Mynydd Llangatwg, much of Blorenge and Sugar Loaf. Note that the eastern parts of Gilwern Hill and the Canada Tips are 'urban common'. Predating the CROW Act (and still in force) there is a right for a member of the public to ride a horse across urban common and, it is argued, to take a pushbike, though the latter is contested by some but has never been clarified in court!

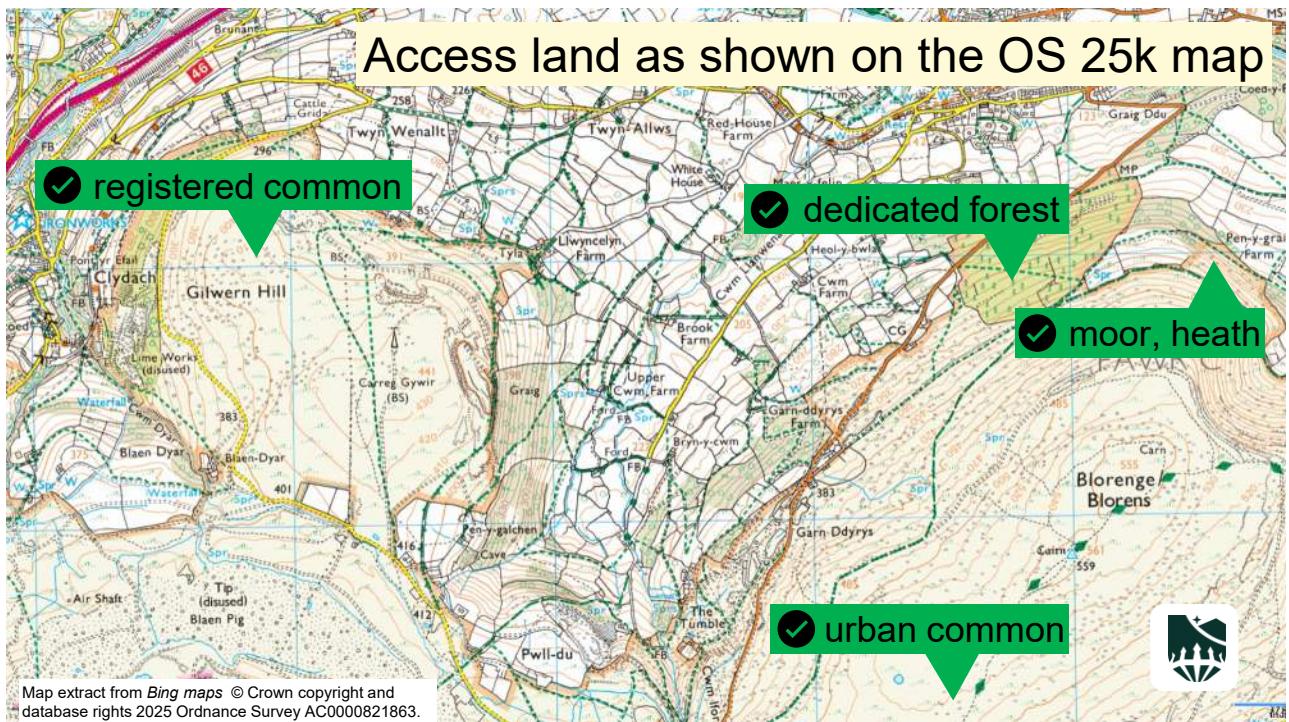
CROW Act – dedicated land



Another category of land is that which is dedicated for public access by the owner, whether public or private. Following CROW Act, the vast bulk of the former Forestry Commission's estate was dedicated as access land. This side of Offa's Dyke, it is of course now owned and managed by Natural Resources Wales. There are two examples in this area; plantations shown with an orange wash.



Beyond registered common, urban common and dedicated land, areas mapped under the CROW Act as having the character of mountain, moor, heath or down were also included for public access. Mountain is defined (for this purpose) as being land above the 600m contour. Much of the western half of the Great Forest of Brecknock- Fforest Fawr – is neither registered nor urban common nor has it been dedicated for public access. The bright green on this map extract shows which parts of it were mapped as mountain, moor or heath and hence now open for public access on foot. Two separate tramroads run through this area, and neither is a public right of way.

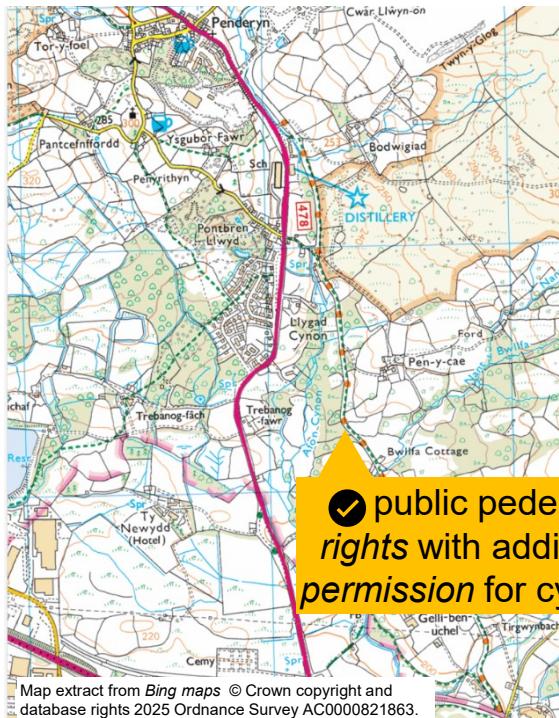


A beige wash shows areas to which you have a right (or at least an expectation) of access on foot. In the case of woodland, a bright green is used contrasting with the usual dull green.

The access is for recreational purposes and not for commercial or other purposes (e.g. paid treks). Strictly speaking, accessing land for the purpose of surveying some aspect of it is not recreation (even if you enjoy it!) so the rights under the CROW Act do not extend to your activity. In practice, it is unlikely a landowner would object to (or even be aware of) your presence but both as a matter of courtesy and to satisfy insurance requirements, it would be appropriate to secure prior permission. If a tramroad is recorded as a public right of way, that is considered a 'higher right' and, whilst remaining on the right of way, you have a right to survey it without having to ask the landowner. The same applies to paved public roads and ORPAs crossing access land – no problem whilst you are on them.

Permitted paths

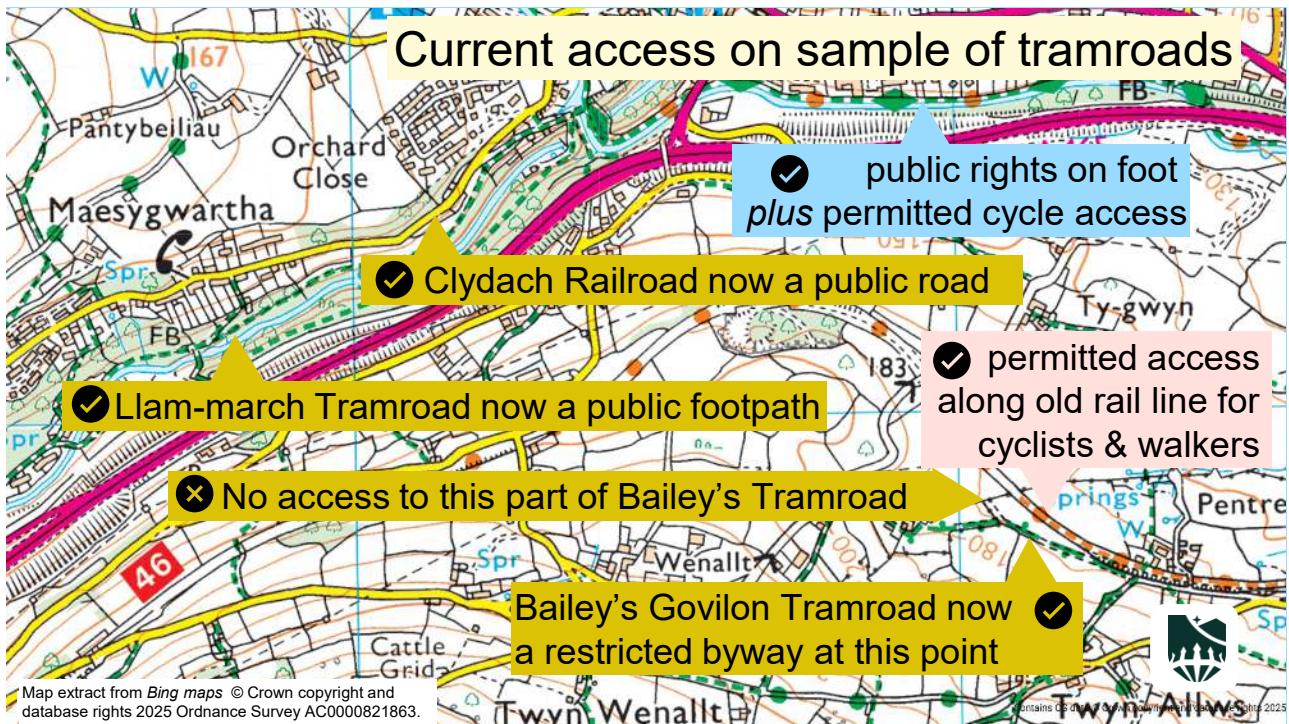
Routes which a landowner – *private or otherwise* – allows people to use subject to whatever conditions (if any) may be written into the permitted access agreement. Access may be for a fixed period and may be withdrawn or conditions changed.



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Permitted paths may also be referred to as permissive paths, concession, concessionary or courtesy paths. The public do not acquire rights along the route; the use of it is by permission. The landowner will owe a duty of care to those who use the route.



As with canal towpaths in the C19th, tramroads typically had no public access along them when in operation; they were commercially-run key pieces of the country's industrial transport infrastructure. Nowadays they may be classed as public footpaths, bridleways, byways, permitted paths or be entirely private.