

GLEAM



Green Lanes Environmental Action Movement
Patron 2001 - 2021 HRH The Duke of Edinburgh KG KT

www.gleam-uk.org

A newsletter for those interested in protecting ancient ways from the
ravages of recreational motor vehicles.

SPRING 2021

HRH the Duke of Edinburgh

GLEAM was honoured to have His Royal Highness the Duke of Edinburgh as its Patron. He became our Patron in 2001 and was active in supporting our efforts for 20 years. His Royal Highness was widely known for his interest in the natural environment and its protection. Lending his name to GLEAM and giving us his support was part of this commitment. He was a hands-on Patron and he brought his influence to bear to help us wherever he could. He understood the devastating impact that 'off-roading' can have on local communities and how it destroys the amenity of their green lanes. When His Royal Highness began to lighten his workload by giving up some of his many Patronages, GLEAM was not one of these. He remained our Patron to the very end. We mourn his passing.

Did off-roaders observe lockdown?

GLEAM hoped that the legal restrictions on, and advice to avoid, non-essential travel during the coronavirus pandemic would result in a significant decrease in recreational motor vehicle use of green lanes. This hope was, at first, supported by the advice given to their members by the national organisations representing motorbike and 4x4 drivers, the Green Lane Association (GLASS) and the Trail Riders Fellowship (TRF) to their members, and by experience of the first lockdown. GLASS told its members to "*avoid using green roads*" in March 2020 and, as regulations and guidance changed, provided links to the guidance on government websites. The TRF initially said that "*members could continue trail riding whilst taking extra precautions*", but then asked members to follow government advice. However, its current statement says the decision to ride is for the individual rider; this statement is dated 10 January 2021, i.e. during the third lockdown, when non-essential travel was prohibited.

The evidence currently available (from vehicle loggers, newspaper and official websites and Green Lane Protection Group members' observations) suggests that, although some green lanes were protected by the second and third lockdowns, others were not, and that there was an overall increase in illegal activity in some areas.

In the Lake District, vehicle logger data shows that the second lockdown (5 November 2020 to 1 December 2020) had much less effect in reducing recreational motor vehicle use

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than the first lockdown did, especially on one well-publicised lane, and especially amongst motorbikers. Ministry of Defence police observed similar behaviour on the BOATs and permissive byways on Salisbury Plain, “*eerily quiet*” during the first lockdown, but “*people carrying on as normal*”, including illegal use, during the second lockdown.

The Friends of the Ridgeway describe (in their Annual Report 2020 and Facebook links to Thames Valley police) an increase in illegal and anti-social motorbike and 4x4 use of the Ridgeway national trail, especially noticeable during the second and third lockdowns.

In the Peak District and adjacent parts of the Pennines, cars were abandoned and burnt out on green lanes, and motorists drove onto and damaged SSSI land. The Peak District National Park reports that Derbyshire police investigated more than 80 traffic offences relating to the illegal use of footpaths, bridleways, green lanes subject to traffic regulation orders and farmland in the 12 months ending February 2021. In the Lake District and in South Wales, motorcyclists have been using and damaging mountain bike trails in forests.

By contrast, in North Wales, the Welsh government’s ban on travel to/from the rest of the UK during the latest lockdown (16 December 2020 to 11 April 2021), and police enforcement of this ban, seems to have resulted in a significant reduction in recreational motor vehicle use of green lanes during this period.

“Another day, another burnt out 4WD.”

On Black Lane, a BOAT on Mellor Moor, Stockport, January 2021



Changes to the Countryside and Highway Codes

Natural England and Natural Resources Wales issued a new version of the Countryside Code in April 2021 (available at <https://www.gov.uk/government/publications/the-countryside-code/the-countryside-code-advice-for-countryside-visitors>). The updated code asks drivers to “*Slow down or stop for horses, walkers and livestock*”. In its descriptions of who can and cannot use each type of public right of way, it makes it clear, for the first time, that users of mobility aids (e.g. mobility scooters) can use footpaths, bridleways and restricted byways, i.e. those public rights of way on which other motor vehicles are not allowed). Previously this information was buried in the legislation relating to traffic

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offences and to invalid carriages. This may help in debate with disabled recreational motor vehicle users who say they have to use a 4x4 to access the countryside.

Recreational motor vehicle users also argue that the BOATs and other green lanes which they use are ordinary roads, not public rights of way, implying the Countryside Code's plea to drivers to respect non-motorised users and livestock is not relevant to green lanes. However the Department for Transport has proposed and consulted on possible changes to the Highway Code which will, if adopted, emphasise the ways in which motorised users of roads, i.e. highways which are legal for motorists, can and should reduce the dangers, perceived and actual, which they pose to non-motorised users.

Always report illegal use

Driving a motor vehicle on land where there is no public right of way for motor vehicles (e.g. a public footpath, bridleway or restricted byway), or where that right has been suspended by a traffic regulation order (TRO) or by a public spaces protection order (PSPO), is a criminal offence (unless the driving is by lawful authority e.g. by permission of the landowner, on a mobility scooter, or by exclusion from the TRO or PSPO). Such illegal use should be reported to the police, if possible with photos of the offending vehicle and its number plate. If this use causes alarm, distress or annoyance, the police may be able to give a warning or seize the vehicle, as an alternative to prosecution. If the illegal use is in a national park or area of outstanding natural beauty (AONB), GLEAM suggests also reporting illegal use to the national park authority or AONB board. Even if the driver is not traceable (e.g. the registration plate is illegible, false or absent), the police and the authority/board will be able to use your report to identify where operations against illegal users should be targeted. Brecon Beacons National Park has a page on its website specifically for reporting illegal off-roading – <https://www.beacons-npa.gov.uk/the-authority/report-it/reporting-illegal-offroading/>.

Yorkshire Dales National Park rangers and North Yorkshire police run joint operations each winter both on routes where illegal use has been reported, and on routes which are legally open to motor vehicles. On the latter, the police find that some drivers are illegal in other ways, e.g. no tax, insurance or MOT. GLEAM members elsewhere have identified and reported to the police motor vehicle drivers on green lanes whose vehicles are untaxed, have expired MOTs or have false registration plates. They have done this, by checking the information held by the Driver and Vehicle Licensing Agency at <https://www.gov.uk/get-vehicle-information-from-dvla>, and then reporting these illegal vehicles to the police.

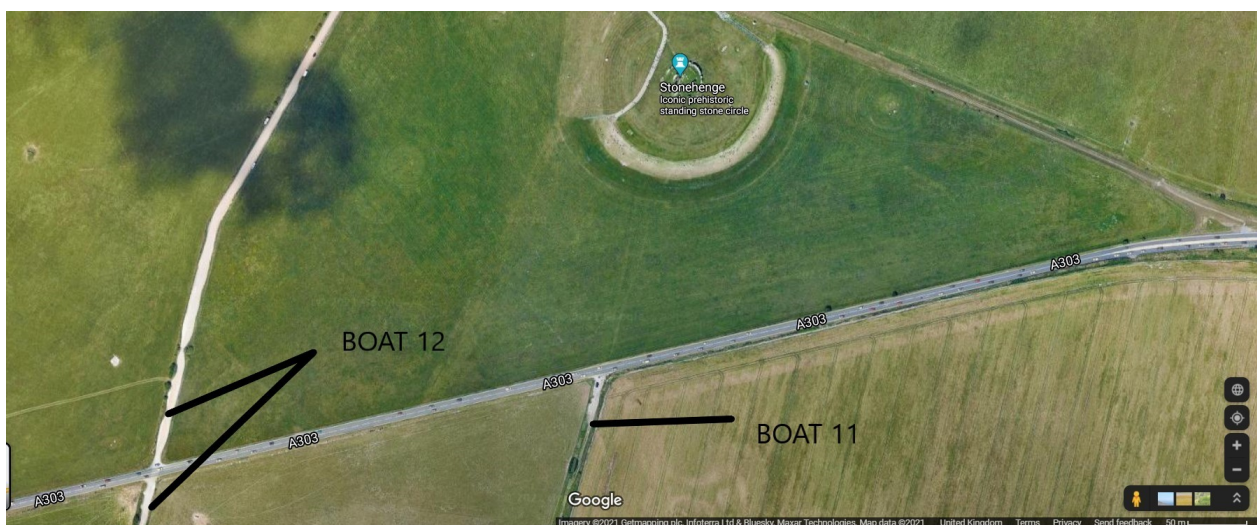
A303 Stonehenge - Highways England plan to break link between two BOATs endorsed

The management plan produced by Wiltshire Council and partners in 2015 for the World Heritage Site of Avebury and Stonehenge includes aiming to remove the sight and sound of motor vehicles from these monuments, to allow visitors to enjoy them in tranquillity. A major step towards that aim was achieved in November 2020, when the Secretary of State (SoS) for Transport approved Highways England's plan to improve the A303 between

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Amesbury and Berwick Down by upgrading it to dual carriageway and putting 3.3 km of it in a tunnel where it passes Stonehenge. The old line of the A303 would become a restricted byway. This decision followed a lengthy examination of Highways England's proposal, representations and objections by an Examining Authority (ExA) of planning inspectors in 2019. The SoS's decision in favour of the development is being challenged by the Stonehenge Alliance and other groups by judicial review, but their challenge does not question the SoS's or the ExA's conclusions about the beneficial effects of the removal of motor vehicle traffic from the A303 on Stonehenge itself.

The aerial photo below shows Stonehenge, the A303 and the two byways open to all traffic (BOATs) which cross (BOAT 12) or terminate (BOAT 11) on the A303 near Stonehenge. The Trail Riders Fellowship (TRF) and the Green Lane Association (GLASS) objected to Highways England's plan to make the A303 a restricted byway, claiming that motorised users should continue to be able to travel between BOAT 11 and BOAT 12, along the intervening 400 metres of restricted byway. The TRF went further. They argued that the whole 3.3 km of the restricted byway should be available to motorcyclists. They said that this would be safer for them than the alternative tarmac road routes, and that the highway authority had a duty to protect motorcyclists' rights to use the A303 and that this duty trumped the proposal to make it a restricted byway.



Google Imagery ©2021 Getmapping plc, Infoterra Ltd & Bluesky, Maxar Technologies, Map data ©2021
Aerial photo showing Stonehenge, the A303 and BOATs 11 and 12

However, both the Secretary of State and the Examining Authority concluded that the planning policies applicable to the proposed development, e.g. enhancing accessibility to the Stonehenge World Heritage Site for non-motorised users through new public rights of way, would be achieved by making the A303 a restricted byway, when the new dual carriageway was completed. The SoS and ExA agreed that there would be a slight loss of amenity for recreational motorists from the loss of the link between BOATs 11 and 12, but said that only "*very limited weight should be attributed*" to this loss of amenity, and that the highway authority would not be in breach of its duty to protect public rights by ending motorists' right to use this link. The ExA agreed with Highways England that loss of the link "*would not significantly harm the health or wellbeing*" of motorised users.

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Wiltshire Council expressed concern during the examination that the closure of the A303 would increase motorised use of BOATs 11 and 12 (by people driving to get a view of Stonehenge) to an inappropriate level. But Wiltshire Council and Highways England agreed that, if this happens, Highways England will cover the costs of monitoring traffic on the BOATs and of any TRO necessary.

Oxfordshire TRO protects historic route for walkers, horse riders, cyclists, mobility aid users and carriage drivers

Oxfordshire County Council (OCC) is developing the Science Vale Cycling Network, a network of eight routes which are mainly free from motor vehicles to encourage sustainable travel across the area for cyclists and pedestrians. The project is funded by the Oxfordshire Local Enterprise Partnership. One of the eight routes is also designed to improve access for cyclists, walkers and equestrians in the North Wessex Downs Area of Outstanding Natural Beauty (AONB). This 5 km route is called the Icknield Greenway, because it uses sections of one of the historic lines of the ancient trackway, the Icknield Way. OCC proposed a traffic regulation order (TRO) on two of these sections. One section is a BOAT. The other is part cul-de-sac BOAT and part restricted byway. The TRO was proposed on grounds of safety, facilitating non-motorised use, preserving the character of the route as specially suitable for use on horseback or foot, improving the amenities of the area and affording better opportunities for the public to enjoy those amenities and recreation. Initially OCC proposed to include horse-drawn carriages as well as motor vehicles in the TRO on the BOAT section, but consultation responses from the British Horse Society and technical assessments persuaded it that allowing light, small carriages would be feasible.

The Trail Riders Fellowship (TRF), the Green Lane Association (GLASS) and a large number of individual motor vehicle users objected to the TRO proposal in the two consultations carried out by OCC in 2019. They argued that OCC should make the part of the BOAT section which crosses the valley of the Ginge Brook safe for shared use by motorised and non-motorised users by widening this section and providing a wider bridge or a ford. OCC explained that the funding from the Local Enterprise Partnership for the Icknield Greenway is for cycle schemes only, and that providing a wider route and crossing(s) would not be possible within construction rules and responsibilities, nor likely to meet AONB planning policy.

The TRF also argued that OCC should modify the proposed TRO to allow motorcyclist use by permit. OCC commented that a permit system is not convenient for non-TRF members or for visitors and that a permit control system requires management to avoid misuse. OCC also said that a justified full TRO would provide "*fair and consistent levels of restriction and understanding by the public.*"

GLEAM thanks its Oxfordshire members for supporting the proposal in the second consultation. OCC decided to make the TRO in October 2019 and brought it into effect in October 2020. Since then, the route has been improved by compacted stone surfacing suitable for non-motorised users, and by a replacement bridge.

The Ginge Brook crossing in March 2013, before the TRO and improvement works (stone surfacing and new bridge). Note the motorbike ruts in the steep slope nearest the camera.

Photo © John Walton (cc-by-sa/2.0)



TRO policy and costs

In 2018, the House of Lords Select Committee on the Natural Environment and Rural Communities Act (NERCA) 2006 said that the government should take steps to simplify the process – and reduce the costs of – making traffic regulation orders (TROs) to manage problems on green lanes caused by motor vehicles. Defra responded that it expected the Motor Vehicle Stakeholder Working Group to produce a report on how the TRO process could be used more efficiently. Defra and Natural England have not convened a meeting of the Motor Vehicle Stakeholder Working Group since this response (and so no report has been produced). Natural England has tried, instead, to collect some data on green lane TROs from highway and national park authorities, with, apparently, limited success. Defra's dilatory response to the Select Committee recommendations is in marked contrast to the work which the Department for Transport (DfT) is doing with highway authorities and other stakeholders on improving TRO policy and process, and on funding TROs through support for active travel.

For instance, DfT is running a TRO Discovery project, with the aims of making information about TROs more accessible (e.g. on sat-nav systems) and making sure that TROs are used so that highways *"meet the needs of people using them"*¹. As part of this project the British Parking Association produced a guide to TROs (1st edition 2019), describing current best practice and possible future developments (available at https://www.britishparking.co.uk/write/Documents/TIR%20Board/BPA_TRO_Best_Practice_Guide_2019.pdf). This guide gives some advice to TRO-making authorities which is relevant to TROs on highways which are green lanes:

"Officers will almost always have more requests [for TROs] than resources, so some form of prioritisation is required."

"Consulting with residents and special interest groups in a constructive manner at the earliest stages may 'win hearts and minds' and may allow useful feedback before the

1 Michael Ellis MP, Minister of State for Transport, in his Foreword to The BPA Traffic Regulation Orders Guide

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scheme is too far developed. Although there is no guarantee that early engagement will smooth the passage of a TRO this consultation usually helps and rarely makes things worse."

"Encourage supporters of the scheme to actively speak out at [consultation on] the notice of proposals"

"..officers must not lose sight of the original purpose of the proposal and approve a poor-quality scheme to appease objectors. Conversely, genuinely constructive suggestions should be embraced."

Research carried out for the project indicates that the average cost of making a permanent TRO is £4,385 (14,300 permanent TROs made each year by authorities in Great Britain at a total estimated cost of £62.7 million), of which a substantial proportion is the cost of advertising and of consultation. Evidence to the House of Commons Transport Select Committee's inquiry into pavement parking in 2019 indicates that the costs of advertising TRO proposals vary widely. This Select Committee recommended that the UK Government bring forward proposals to make the TRO process cheaper and easier for local authorities to use by spring 2020. DfT has not met this deadline, although it is continuing work on the TRO Discovery project. It has, however, promoted the use of TROs to encourage walking and cycling in urban areas during 2020/21, by providing funding for Low Traffic Neighbourhoods (LTNs) through the Active Travel Fund, as a way of mitigating the effects of the coronavirus pandemic. LTNs use TROs to remove motor vehicle through traffic from residential areas and encourage greener and active travel such as walking and cycling.

But GLEAM believes that central government should do more to encourage and help highway and national park authorities to make TROs, in response to local demand. Targeted funding allocations from central government such as those for active travel, or relying on local enterprise partnerships, do not make up for the austerity cuts to authority funding. TROs on green lanes are likely to be more expensive than those on other highways and so unattractive for authorities, because of the need to respond to objections, and sometimes to threats of legal action, by GLASS, the TRF and their members. For example the average cost of sixteen TROs made by the Peak District and Yorkshire Dales National Park Authorities is £5,756, almost one-third greater than the highway authority average quoted in the TRO Discovery project. Also the national park average excludes staff costs, whereas it is not clear if the highway authority average does. One TRO on a green lane in a national park, made after over five years of consultation, debate, research and monitoring, cost the highway authority £17,000.

The way through the woods

The NERC Act, which GLEAM did a great deal to secure, severely curtailed the number of valid applications to upgrade rights of way from footpath or bridleway to Byways Open to all Traffic. But there are still a few circumstances in which exceptions in the NERC Act apply to upgrading footpath and bridleways. One such exception affects a footpath that

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threads through quiet ancient woodland in Oxfordshire to end on a restricted byway. The owner of the wood thought that the beauty and tranquillity of the wood, together with the complete absence of a made-up track, would be taken into account when the inspector made his decision. To the owner's dismay, the only considerations that the inspector was able to take into account were those relating to the route's historical provenance, and unfortunately, the historic evidence pointed to byway status, even though no vehicles have used the route since the days of horses and carts. It's a hard lesson to learn, and many GLEAM members will have learned it the hard way. The rights of way status of any particular route is governed not by evidence of need, or of desire, or of environmental considerations. All that matters is that once upon a time a horse and cart legally used the route, and for the applications that escape the NERC Act, the routes must now be opened to unrestricted numbers of motorbikes and 4x4s. In this case, the fact that the route will be a cul-de-sac BOAT may deter off-roaders. If not, the only remedy then will be the long, hard slog to persuade the highway authority to impose a traffic regulation order, prohibiting non-essential motors.

Looking forward and keeping in touch – and please let us have your email address!

We recently asked members who have agreed to receive news from us by email to write to Surrey County Council (SCC) in support of a TRO on Wolvens Lane, a BOAT where there have been serious problems for many years both on and off the route. If SCC decide to make a TRO, there will be a further public consultation, on the notice of proposals, and we will again be asking members to respond. It would be helpful if we could increase the number of members who are willing to receive such requests, and to take action between newsletters. It will also help us if we can increase the number of members opting to receive the newsletter by email rather than by post. If you are willing to receive the newsletter, and to get other news, from GLEAM by email, but don't currently do so, please contact Diana Mallinson, GLEAM Honorary Secretary, on news@gleam-uk.org.

Motorbike and 4x4
damage to Wolvens Lane
and its ancient boundary
banks, Surrey Hills Area
of Outstanding Natural
Beauty, November 2015



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