

GLEAM



Green Lanes Environmental Action Movement

Patron: HRH The Duke of Edinburgh KG KT.

www.gleam-uk.org

A NEWSLETTER for those interested in protecting ancient ways
from the ravages of use by motorised recreational vehicles.

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Green lanes in the North York Moors National Park

By Diana Mallinson, GLEAM Committee Member

The North York Moors National Park contains a large number of green lanes which run over the heather moors, climb steep valley sides or follow valley bottoms. Some are known to have been paved packhorse trods or drove roads for cattle. Others are also very old – they are holloways or go past standing stones on the open moorland - but their original purpose is unknown. Most of these green lanes are unsealed unclassified county roads, which means that they have public rights, but the level of such rights (footpath, bridleway or vehicular) is not known. Recreational motor vehicle users assume that all unsealed unclassified county roads have public rights for motor vehicles. A small proportion (3%) of the green lanes in the National Park are byways open to all traffic, i.e. have proven public rights for motor vehicles.

The North York Moors National Park Authority (NPA) has tried to find out how far the special qualities of the National Park are sensitive to motor vehicle use of green lanes. It used a similar methodology to that used by the Yorkshire Dales NPA in 2006, i.e. mapping archaeological and heritage features, nature conservation features and tranquillity for each green lane and its vicinity, and asking its rangers to assess the condition and durability of the surface of each route. Of the 201 routes assessed (with a total length of 305 kilometres), it found that 165 routes (82%) were highly sensitive on one or more of these criteria. This is a much higher proportion than the 27% found in the Yorkshire Dales. North York Moors NPA did a further triage of the 165 highly sensitive routes and selected 48 routes for a visual survey of the level of motorised use and its environmental impact. From this survey, it prioritised 9 routes for detailed assessment including logging of motor vehicle numbers and types and for management plans.

This detailed assessment of 9 routes started at the end of 2012. It, and the consequent development of management plans, ceased at the end of 2014, when the cuts to national park funding from central government led to the Access Officer who had been doing the work being made redundant. The North York Moors NPA asked the highway authorities (North Yorkshire County Council and Redcar & Cleveland Borough Council) to prioritise “*works necessary to prevent negative impact on the special qualities of the National Park and public enjoyment.*”

At the same time North Yorkshire County Council was doing a pilot study of green lanes which are unsealed unclassified county roads in its Highways Area 3. This area includes a substantial part of the eastern part of the North York Moors National Park, so there was a potential overlap with the NPA’s assessments. Of the 152 kilometres of green lanes in this area, it found that lanes which provided access to residential property or utility company infrastructure were in reasonable

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condition. However 28 kilometres (18%) had damage initiated by motor vehicles, which was made worse by recreational motor vehicle use during and after bad weather. The County Council has now made temporary traffic regulation orders (TROs) on two of these green lanes (5 kilometres of the 28 kilometres found to be damaged) to prevent further damage by motor vehicles. It has also allocated £30,000 from its capital budget for a further pilot project on green lanes in this area this financial year. However, it has been slow in putting up signs to indicate the TROs and no repairs have yet been done. Neither of these two green lanes was included in the National Park's detailed assessments, suggesting that there are more green lanes which need protecting than those identified by the National Park's triage of highly sensitive routes.

The County Council has also taken action on two of the nine routes which the National Park had been assessing in detail and making management recommendations for. The County Council consulted in August 2015 on a permanent TRO for Kirby Bank, part of which is a scheduled ancient monument, a medieval packhorse trod and embankment, and which has been damaged by motorbikes. But it has not yet decided whether to make the order. In April this year it made a permanent TRO for Seggimire Lane, another green lane which has packhorse trod stones (which were uprooted by 4x4 drivers in 2012 and then reinstated as part of repairs to the steep section of the lane carried out by the National Park). Unfortunately this TRO has been quashed, following a High Court action by the Trail Riders Fellowship, apparently on a procedural issue about objectors being notified of the order. It is hoped that the County Council will soon start consultation on a new TRO for Seggimire Lane. It is too narrow for 4x4s to use as a through route, and dangerous for shared use by motorbikes and non-motorised users.

The County Council has also recently made temporary TROs on a further three green lanes, one of which was a high priority route for the National Park because of its natural beauty and amenity for non-motorised users. This is a green lane which follows the valley of the River Dove, in Farndale, a valley famous for its wild daffodils. Some of the areas where the daffodils used to grow are now quagmires, where motorbike ruts have spread wider and wider.

The evidence from this lane and others studied by the County Council and National Park indicates that problems from recreational motor vehicle use of green lanes have increased over the last decade. The North York Moors Green Lanes Alliance has just been set up to urge the highway authorities and NPA to resolve these problems e.g. by making permanent TROs, and to act as a forum for individuals who are experiencing problems or seeking advice. The Alliance can be contacted on nymgla@btinternet.com.

Two photos of the route in Farndale which is now protected by a temporary TRO (until November 2017).



What used to be a grass track through pasture has been replaced by bare earth and ruts (May 2014).



The ruts have spread across the pasture (Jan 2016). The National Park's vehicle logger showed motorbikes to be the main vehicle user.

'For the birds'; true or false? - or - NERCA strikes again

by Graham Plumbe (Hon Adviser to GLEAM; Vice Chairman GLPG)

'For the birds' means "Trivial; worthless; only of interest to gullible people". But must it?

GLEAM was approached recently by Shane Rutter-Jerome, representing the people of Newton Tony village south-west of Andover, for help in fighting a BOAT order made by Wiltshire County Council (WCC) to convert a RUPP to a BOAT. The order was made in June 2005, ie before 2 May 2006 when (i) RUPPs were converted to RBs, (ii) existing order proceedings were preserved by CROWA 2000, and (iii) NERCA 2006 commenced. NERCA extinguished unrecorded rights for off-roaders, but subject to exceptions, one of which was where the main lawful use by the public in the 5 years to May 2006 was in motor vehicles. The purpose of the provision was to save ways that were part of 'the ordinary roads network', ie those (white roads) that would otherwise have lost public vehicular rights because of our classification system.

When we visited the way, the existence of flower meadows on either side provoked comment. When this was questioned, we were asked if we had seen *Countryfile* on TV that same weekend. By remarkable coincidence, those very meadows were featured as having been bought by the RSPB in 2005 and grown to provide a stepping stone environment between Porton Down and Salisbury Plain for bird conservation, notably the rare stone curlew and also barn owls. The site manager was interviewed on TV, and so contact by GLEAM followed. As motor vehicle use in the nesting season would patently be disturbing, it became unlawful as being in breach of s1 WCA 1981, and also the EU Birds Directive 2009. So in this case, 'For the birds' means "Very important; highly relevant"!

The central issue is however the balance of main (lawful) use by the public in those 5 years. WCC concluded that when the order was referred in May 2016 to the Planning Inspectorate (PINS) to determine, there was no evidence to meet the NERCA test of exemption from extinguishment, in spite of having received 15 user evidence forms (UEFs) from the TRF. It was therefore decided not to support the order. The TRF however decided to support it and so accepted (a) responsibility for presenting a case, and (b) the burden of proof. PINS decided that the nature of the contest warranted a public inquiry (PI) and this is fixed to start on 18 October 2016.

The TRF Statement of Case lodged in June 2016 added a few more UEFs, including some from another off-roader organisation for 4x4s, GLASS. Although many of the forms included a tick-box as to opinion of the main use being vehicular, not one of them gave any substantiation at all of a 'yes' answer. Only one made any reference at all to other users and this actually supported the objectors' case! TRF legal argument was contrived and bogus.

The objectors hit back. GLPG (representing GLEAM) submitted a detailed case which analysed the evidence and included legal argument as to interpretation of NERCA but no actual evidence. Guided by this, the Newton Tony Working Group (led by Shane) presented its own case and produced no less than 73 letters from locals with direct or indirect knowledge of the main use in the relevant period, all running contrary to the tick-box evidence of the TRF. The RSPB followed suit, confirming the facts as to the bird sanctuary. We remain on course for a PI in October with an Order Decision some weeks later. So watch this space.

Meanwhile, it struck GLPG that this situation could very well justify a claim for costs against the TRF, given the poverty of its case and the overwhelming evidence that the burden of satisfying the

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exemption test has not been met. Notice has therefore been given, following the guidance from PINS on costs, that an application will be made if the TRF case is not withdrawn immediately, thus permitting the PI to be cancelled and the order to be rejected on an unopposed footing. Such costs would include the cost of legal advice to date and legal representation at the PI. That is the position as this article is written, and GLEAM members will be updated in due course via the website.

GLEAM is very pleased to welcome on board Newton Tony Parish Council as a new member of GLEAM.

Two photos showing the character of the way in July 2016.



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On 2 September we asked if the Inspector had responded to a procedural request, only to be told that the TRF adviser, who had been commissioned to represent the local TRF and GLASS groups, no longer intended to present a case, but would rely on cases as written. No substitute presenter has been identified, so support for the DMMO will be expressed only by cases as written. The original objectors in 2005 have been asked to agree the written representation procedure instead of a public inquiry which, given the implications as to costs and the weakness of the written support for the order, should be agreed. The statement giving the reason for the TRF withdrawal has been withheld by PINS, but it may fairly be assumed that the weight of evidence, the legal arguments and the threat of costs are regarded as insuperable.

If this assessment is right, it will most definitely be a win ‘For the Birds’!

[Ed. It is precisely this sort of disregard for the environment that underlies the protection objectives of both GLEAM and GLPG.]

GLEAM aims to protect public paths from wanton and illegal damage.
If you would like more information or wish to assist please write to:
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www.gleam-uk.org

Views expressed are those of the contributor and are not necessarily those of GLEAM.

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