

GLEAM



Green Lanes Environmental Action Movement
Patron: HRH The Duke of Edinburgh KG KT

**A NEWSLETTER for those interested in protecting ancient ways
from the ravages of use by motorised recreational vehicles.
SPRING 2007**

Saving The Ridgeway – the beginning

It was the appalling state of The Ridgeway in Berkshire, and its feeder tracks, that gave the initial impetus to the formation of GLEAM.

GLEAM was originally founded by David Gardiner and Elizabeth Still in response to the colossal amount of damage being done by off-roaders to The Ridgeway. This National Trail runs from near Avebury in Wiltshire, through south Oxfordshire and the northern part of West Berkshire before crossing the Thames and running along the Chilterns as far as Ivinghoe Beacon in Buckinghamshire, a distance of about 85 miles. The worst damage occurred on the sections west of the Thames, and on feeder tracks such as Old Street, not far from David's home, roughly between Newbury and Wantage.

Elizabeth, who was a Berkshire County Councillor at the time, found that several byways and bridleways in her "patch" at Bucklebury were also being damaged and made impassable for other users. At the same time David had written a letter to the local paper illustrated with a photo of his wife and dogs attempting to walk Old Street, so deeply rutted and wet that water was nearly over the tops of her gum boots and the dogs were plastered with mud. David and Elizabeth quickly got together in March 1994 and alerted the media again. Television interviews appeared on local and national programmes, carefully sited so that off-roaders would not be able to identify where they were shot. The local police, who were entirely sympathetic, had warned Elizabeth that otherwise 4x4s might do some off-roading through her garden. David and Elizabeth organised a petition on the County Council to the Government to change the law and to repair the damage. At that time there was no distinction between any type of wheeled vehicle – a big motorbike, a 4x4, even a maximum-length articulated lorry were the same in law as a pony and trap. This petition collected over 2,500 signatures from just a few downland villages. Articles were written for various publications, and calls were made to local television and radio stations to publicise the issue.

The Friends of The Ridgeway had in 1992 tried to get Traffic Regulation Orders on The Ridgeway to ban 4x4s from The Ridgeway on Sundays and Bank Holidays only, on grounds not of damage, but of safety. This went to a Public Inquiry, where a somewhat perverse Inspector found that the volume of motorised traffic was not enough to justify such a ban, and the Inquiry went against the Friends. Two years later David and Elizabeth decided that it was not wise to fight a battle on the same ground on which another battle had previously been fought and lost; so their initial campaign was concentrated on Old Street.

Within a year it became obvious that if the campaign was to have any significant effect and change the law, it would have to be more than just Berkshire-based, immensely supportive though the Berkshire County Council had been. So, in April 1995 GLEAM was launched as a national organisation to cover the whole of England and Wales, where we found that the same problem existed in almost every county. A Committee was formed, with several non-Berkshire members, a formal Constitution was drawn up, and membership boomed.

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GLEAM - Working to protect peaceful and quiet enjoyment of the countryside

The Friends of The Ridgeway were among the earliest of GLEAM's members, and have been invaluable allies ever since. Ian Ritchie, the Chairman of the Friends, writes in their newsletter that the Natural Environment and Rural Communities Act 2006 has been enthusiastically welcomed by the Friends, particularly the coming into effect of the new category of Restricted Byways. These were first introduced in the Countryside and Rights of Way Act 2000, following pressure from GLEAM for such a category (under a different name), but they did not come into effect for another six years. Most of The Ridgeway in Oxfordshire and West Berkshire has now become Restricted Byway, and as such should be free of motorised vehicles.

But there are a few provisions of the NERC Act where there could be difficulties in interpretation. Members will recall that the Green Lanes Protection Group, of which Ian is at present Chairman, is an informal group of 17 like-minded bodies, some large and national, some small and local, assembled by David a year ago. George Laurence QC and his junior counsel Ross Crail were instructed by Graham Plumbe, who is Vice-Chairman of GLPG and Honorary Adviser to GLEAM, to give an Opinion on matters of interpretation of aspects of the NERC Act. All members of GLPG have contributed to the cost of this Opinion, for which GLEAM is acting as 'banker'.

Ian writes in The Friends' newsletter: "Naturally, the Opinion is complex and of most interest to Rights of Way anoraks! The key issues that concern us are around where the burden of proof lies in outstanding claims to reclassify routes as Byways Open to All Traffic. We are pleased that this burden now lies with the claimant (i.e. usually the off-roaders) and not upon the objectors (i.e. groups like The Friends of The Ridgeway). We are also pleased that our interpretation of the 'user test' (the test to determine what the principal use of the route has been in the five years running up to the NERC Act) has proved correct in the Opinion of George Laurence."

(Note: Ian adds that members who suffer from insomnia are welcome to e-mail him to request a full copy – 30 pages – of the Opinion. ian.ritchie@ukonline.co.uk)

GLEAM NOW HAS A WEBSITE

GLEAM has launched its own website. This can be accessed at www.gleam-uk.org
Beside the Home Page there are pages on the website for Our Aims, News, Questions, Contact Us and Links. The News Page will be updated with items of breaking news, and carries back numbers of GLEAM Newsletters from Spring 2001.

We will be interested to receive comments from members on the website.

Defra's Guide to Part 6, NERC Act 2006

Defra has now produced Version 4 of their guide to Part 6 of the Natural Environment and Rural Communities Act 2006 and to Restricted Byways. This guide is for the benefit of local authorities, enforcement agencies, rights of way users and practitioners. Defra was assisted by GLEAM in the production of this guide.

Access the guide at:

www.defra.gov.uk/wildlife-countryside/pdfs/cl/nercactv4.pdf

The guide can be downloaded and printed out. It has 28 pages! Defra is expected to publish Version 5 of their guide very shortly.

(Who says the Department is not trying to be helpful and caring?)

NERCA Update

From the Chairman of the Green Lanes Protection Group, Ian Ritchie

The Natural Environment and Rural Communities Act 2006, and in particular Part 6 of that Act, has brought about profound change in Rights of Way law. Regular readers will know that NERCA has ended the age-old 'horse and cart' principle, by which off-roaders could claim Byway status on any route that had historic use by any wheeled vehicle. At a stroke, NERCA has provided permanent protection for thousands of green lanes across our land.

There are some important developments to report on since NERCA became law. As with most legislation, there are several provisions in the Act that are not entirely clear in the way they are drafted. To try to clarify these points, the Green Lanes Protection Group (GLPG – of which GLEAM is a member and which was founded at the instigation of GLEAM's Chairman, David Gardiner) commissioned two leading rights of way lawyers, George Laurence QC and Ross Crail, to give their considered joint opinion.

Naturally the opinion is complex, but the key points are

- On outstanding Byway claims potentially exempt from NERCA, the burden of proof falls on the claimant (usually the TRF or other off-road body). This is to be welcomed, as it gives significant hurdles to be cleared before the case can proceed. Not least in these is that
-exempt claims made before 20th January 2005 must fully comply with a tough set of requirements in terms of the documentation and evidence produced by the claimant. If these standards have not been met, the claim should fail. We believe that there are over 800 such outstanding exempt claims across England and Wales and we believe that a large number of these are incomplete and should fail. We will try to help to bring this about.
- The 'user test' was included in NERCA to protect the existing road network – without it, it might prove illegal to drive down the high street in your local town! However, we were concerned that the off-roaders might try to use the test to prove that the main use on a particular green lane had been by motor vehicles. George Laurence's opinion gives us considerable comfort that this will be a very difficult thing for them to do.

Although there could yet be a legal challenge to George Laurence's opinion, we believe that we have obtained the best advice possible and are optimistic it will hold in court.

GLPG held a seminar in London in February for its member organisations and other interested parties. Attended by about 30 people, presentations were made by Dr Karen Jones (Chief Legal Adviser to the CLA), Graham Plumbe (Vice Chairman of GLPG and Honorary Adviser to GLEAM) and David Gardiner (Chairman of GLEAM and Vice Chairman of GLPG). The seminar proved a valuable opportunity to examine the implications of NERCA and George Laurence's opinion, and to network with other like-minded individuals. We left the seminar heartened that NERCA appears to be a robust piece of legislation and that it will bring great benefits to those who are concerned to preserve our precious green lanes.



“Bridleway near Sheffield”

New Edition of The Blue Book

The 4th edition of *Rights of Way: a guide to law and practice* by John Riddall and John Trevelyan, known affectionally as “The Blue Book” and regarded as the Bible by Rights of Way users and practitioners, will be published in May. Information about this new edition can be found at <http://www.ramblers.org.uk/rightsofwaybook/>

On this website is an e-mail address, bluebook@ramblers.org.uk through which a copy may be ordered at an introductory price which is £4 off the recommended retail price of £29.95.

Is that trail bike's number plate legal?

(An example of the sort of knowledge needed when dealing with off-roading matters.)

It is well known that any mechanically propelled vehicle (MPV) must be fully road-legal if it is to use a public highway. This means that, among other regulations, it must be fully licensed, it must carry a current licence disc and correct and legible number plates, and have at least third party insurance.

Less well known is that all public Rights of Way on the Definitive Map are public highways. The only class of these on which MPVs may now lawfully be driven without special authority are Byways Open to All Traffic (BOATs). Any MPV being driven on a BOAT must therefore be fully road-legal. There can be no question of it being driven unlicensed or uninsured.

Many trail bike owners seem to be unaware of this. They may never ride their bikes on normal tarmac roads, but take them to where they will ride them in a van or on a trailer. This is no excuse for riding a non-road-legal machine on a BOAT.

However, it appears that evasion of vehicle licence duty or insurance premiums is not the only reason why trail bike riders may not have road-legal number plates. It may be to avoid identification if they are seen mudplugging or tearing up the surface of a highway, or riding on a way which does not have MPV rights. More and more one sees trail bikes either with no number plate at all; or with a legal number plate which is so plastered with mud as to be illegible; or with a very small number plate mounted nearly horizontally, so that it is very hard to read. For the first two of these it is obvious that the bike is not road-legal. For the third it needs a detailed knowledge of the relevant regulations to know if it is road-legal or not.

These regulations are set out in Statutory Instrument 2001 No. 561, **The Road Vehicles (Display of Registration Marks) Regulations 2001**. These are very long, detailed and complicated regulations applying to all types of MPV. A small excerpt which applies to trail bikes reads as follows:

“Fixing of rear registration plates: vehicles registered on or after the relevant date

5. (1) This regulation applies to vehicles, other than works trucks, road rollers and agricultural machines, first registered on or after the relevant date, [1st October 1938].
 - (2) A registration plate must be fixed on the rear of -
 - (a) the vehicle, or
 - (5) This paragraph requires the plate to be fixed -
 - (a) vertically or, where that is not reasonably practicable, in a position as close to the vertical as is reasonably practicable, and
 - (b) in such a position that in normal daylight the characters of the registration mark are easily distinguishable from every part of a relevant area having the diagonal length specified in paragraph (6).”

For trail bikes the ‘relevant area’ is a square of side 12.73 metres, one corner of which is immediately below the rear number plate of the bike, and the ‘diagonal length’ of which, directly to the rear of the bike, is 18 metres. The number plate must be easily read from any point within this square.

Sub-paragraph 5.(5)(a), a requirement for “the plate to be fixed vertically, or as close to the vertical as is reasonably practicable”, is a regulation with which many, if not most, trail bikes do not comply. This can make the plate difficult to read and non-compliant with sub-paragraph 5.(5)(b).

GLEAM - Working to protect peaceful and quiet enjoyment of the countryside

The regulations concerning the dimensions of trail bike number plates are most easily understood from the **DVLA Current Requirements on the Display of Number Plates**. The relevant parts of this for trail bikes read as follows:

- “All motorcycles and tricycles must display a number plate at the rear of the vehicle.
- Motorcycles and tricycles registered before 1.9.2001 can display a number plate at the front of the vehicle but are not required to.
- The characters may be smaller [than for cars and other larger vehicles] e.g.

Character Height	64mm
Character Width	44mm
Character Stroke	10mm
Space between characters	10mm
Space between groups	30mm
Top, side & bottom margin	11mm
Space between vertical lines	13mm

Motorcycles registered on or after 1 September 2001 must display a two-line number plate. Motorcycles registered prior to 1 September 2001 may display a three-line plate, but one-line plates are illegal, irrespective of the date of registration of the motorcycle.”

Thus, for a trail bike number of the form AB54 123 on two lines, the plate must have a minimum width of (4 characters + 3 spaces + 2 margins) = 228mm, and a minimum height of (2 characters + 1 space + 2 margins) = 163mm. Many trail bikes do not comply with this minimum size of 228mm wide x 163mm high.

The British Standard also requires that a number plate must be marked with the following information:

- The British Standard Number (currently BS AU 145d)
- The name, trade mark, or other means of identification of the manufacturer or component supplier. (The company who actually make the number plate.)
- The name and postcode of the supplying outlet. (The ‘supplying outlet’ is taken to mean a company whose business consists wholly or partly of selling number plates.)
- A non-reflective border and the Euro-symbol with the national identification letters are optional additions.
- There shall be no other markings or material contained on the number plate.

Finally, the law states that:

You must not alter, rearrange or misrepresent the letters or numbers.

- Characters must not be moved from one group to the other (e.g. A242 ABC must not be displayed as A242A BC).

Offences may result in any or all of the following:

- A fine of up to £1,000
- The registration mark may be WITHDRAWN
- The vehicle may FAIL the MOT test.

You have been warned!

David Gardiner

HOW TO OPPOSE CLAIMS BY OFF-ROADERS FOR BOAT STATUS.

Graham Plumbe FRICS FCI Arb, GLEAM’s professional special advisor, has prepared informative advice on the procedure to be followed when fighting a claim for BOAT status of green lanes. He is willing to forward this to any member who may need such information by telephoning Graham on 01252 850282 or by e-mail: graham@gplumbe.com



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"THE COUNTRYMAN"

"WE'RE FINE THROUGH HERE - THIS IS A BRIDAL WAY"

NERC Act and existing BOATs. A cry from South Devon.

Alan Sadler writes from Chillington, near Kingsbridge, Devon about Frittiscombe Lane.

"...It seems that there are two types of byways. Those minor roads and green lanes already classified as BOATs are not affected by the new Act. So it now seems that one lane is protected - a Restricted Byway – while the other is not., although as far as function is concerned they are indistinguishable.

The NERC Act does not apply to existing BOATs which is a big disappointment to us and, frankly, inequitable as well. The lawmakers admit the growth in motor traffic on these green lanes which are the responsibility of the local council. The damage and nuisance caused was not foreseen. Which is why we are hoping that at least a TRO might be applied and/or the lane's present status reviewed, which is unlikely."

A County Council in a muddle?

Several thousand outstanding claims for BOAT status of green lanes had been registered, most of which were extinguished by the NERC Act 2006. But there remain about 800 exempt claims, that is, those lodged before 20th January 2005 (19th May 2005 in Wales) which the various county councils will have to deal with.

The Noboats Action Group (NAG) of Great Missenden, Buckinghamshire writes to tell us; “We have been working our socks off over the past three years fighting Bucks. County Council Rights of Way (ROW) officers who seem to be unusually tolerant to the concept of motorised vehicles in the countryside – in spite of the fact that the councillors are unanimously opposed. It doesn’t help that the officers are members of IPROW, the umbrella group for ROW officers, which, typically, states that problems in the countryside due to motorised vehicles *‘are more perceived than actual’*.”

“The current situation is that Bucks. Rights of Way officers have turned down most of the local BOAT applications on the basis that ‘on the balance of probability’ there is insufficient evidence to approve the applications, in spite of the fact that the summary list of conclusions in each report were finely balanced between ‘for’ and ‘against’ the applicants. Consequently, the applicants have nearly all gone to appeal which is precisely what we predicted. We have a theory that the ROW officers would have known that their refusal was likely to be appealed against, and have thus passed the buck back to the appeal process, at considerable future expense and time. In this way they will have avoided crossing their County Councillors, who are unanimously against BOAT applications. We may be wrong, of course!”

Be warned! Off-road vehicles and the Police.

“Do the police have the power to confiscate and crush trailbikes?” Yes, they do; it’s what happened to a rider who ignored previous warnings and had an accident, killing a walker’s dog.

Section 59 Police Reform Act 2002 gives the police power to issue a warning, on the spot or by post, if a vehicle is being driven illegally or is causing alarm, distress or annoyance to members of the public. If the offence is sufficiently serious they may instigate proceedings.

For a second offence within 12 months the police may seize the vehicle. To get it back the owner must pay £105, plus £12 for every day it is held. If it is not reclaimed within 21 days, the police may dispose of it. If the offence is sufficiently serious or has been committed repeatedly, the police may apply to the Magistrates’ Court for a "Forfeiture and Destruction Order". If this is granted, the police may crush the vehicle.

For a full description of the workings of Section 59 and how it can be used by members of the public, see the article in the Autumn 2003 issue of the GLEAM Newsletter. This can be found on the News pages of the GLEAM website.



“A Motorbike ride in the woods”

GLEAM:- Honorary Members

House of Commons

Labour: Nick Ainger, Charlotte Atkins, John Austin, Roger Berry, David Borrow, Colin Challen, Ann Cryer, Andrew Dismore, Bill Etherington, Paul Flynn, Alan Hurst, Martyn Jones, Tom Levitt, Dr. Dennis MacShane, John Mann, Robert Marshall-Andrews, Alan Meale, Austin Mitchell, Elliot Morley, Eddie O'Hara, Albert Owen, Gordon Prentice, Martin Salter, Anne Snelgrove, Paddy Tipping, Dr. Desmond Turner, Alan Whitehead, Betty Williams. (28)

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Plaid Cymru: Elfyn Llwyd, Hywel Williams (2)

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**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**

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