

# GLEAM



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

[www.gleam-uk.org](http://www.gleam-uk.org)

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

**SPRING 2018**

## **Lords Select Committee recognises the problem but offers no effective solution**

*By Michael Bartholomew*

Members will recall that last year, a House of Lords Select Committee was set up to examine the workings of the Natural Environment and Rural Communities Act (NERCA), the act that has done so much to limit the expansion of the network of green lanes open to non-essential motors. NERCA, however, left some important unfinished business, notably, the fate of the 3,000 miles of 'Unsealed Unclassified Roads' (UURs). The Act is over a hundred pages long, and green lane issues occupy just five of those pages, so we knew that the Committee would devote only limited time to the consideration of the issues that concern us. However, the Committee clearly recognised that green lanes are the subject of great public concern.

On behalf of GLEAM, Diana Mallinson gave written and in-person evidence to the Committee, backed up by Michael Bartholomew, in his capacity as chairman of the Green Lanes Protection Group. We, and other organisations, argued that a small piece of legislation, designed to remove the unrecorded rights of non-essential motors to use UURs, would complete the work of the NERC Act.

The Committee's report was issued in March. It was a disappointment. The report accurately and fairly summarises the evidence that the Committee read and heard, but comes to the timid conclusion that what is needed is not the removal of unrecorded motor vehicular rights from UURS, but rather, using Traffic Regulation Orders (TROs) "more widely and more flexibly to address some of the evident ongoing problems on green lanes". The Committee says the Government should secure "better value, greater flexibility and applicability in the use of TROs to manage problems resulting from 'green-laning'" and that this "might include provision for more selective closures, reduction in bureaucracy in the application process and reduced, updated, advertising requirements".

Undoubtedly, anything that makes the preparation and eventual imposition of TROs cheaper, more efficient, quicker, and less litigation-prone will be welcome. However, we do not believe that this can be achieved within the present legislation. We will continue to press for the small piece of legislation that would properly solve the problem. We also note that the Committee saw improving the TRO process as no more than 'the first step in

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any new approach' to dealing with the problem of non-essential, recreational motoring on green lanes.

DEFRA, on behalf of the government, will be responding to the committee's recommendations. There will then be a debate in the House of Lords.

The green lanes chapter of the Committee's report is at

[https://publications.parliament.uk/pa/ld201719/ldselect/ldnerc/99/9910.htm#\\_idTextAnchor112](https://publications.parliament.uk/pa/ld201719/ldselect/ldnerc/99/9910.htm#_idTextAnchor112)

### **Save Langdale Green Lanes**

*By Fritz Groothues*

Over the last 17 years two green lanes (U5001 and U5004) in a quiet and remote part of the Lake District between High Oxenfell, High Tilberthwaite and Little Langdale have become a practice ground for 4x4s and motorbikes. This stretch of land was left to the National Trust by Beatrix Potter, on the condition that it would be preserved for future generations.

In 2001 the Lake District National Park Authority (LDNPA) implemented its 'Hierarchy of Trail Routes' (HoTR) on all green lanes, with disastrous results. The HoTR was initiated and designed by motoring groups, without any input from walkers, cyclists or horseriders. For U5001 and U5004 this meant a massive increase in the number of recreational 4x4s and motorbikes. The impact was threefold:

- Substantial erosion of the tracks, in places over one metre down to the bedrock.



- A radically changed environment, from peaceful tranquillity to pollution caused by noise, fumes and the overpowering presence of motor vehicles. A walk can at any time be disrupted by convoys of 4x4s and motorbikes.

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- A serious nuisance for the two farmers on the routes. One of them has now given up his National Trust tenancy because the family could no longer cope with the volume of 4x4s coming through their farm yard.

The reaction of the LDNPA to warnings, objections and complaints since 2000 has been the repeated assertion that 'management and containment', i.e. voluntary restraint, is the preferred solution. A petition with over 4,300 signatures calling for a Traffic Regulation Order on these green lanes was presented to the LDNPA in October 2017 by the campaign group, Save Langdale Green Lanes ([www.savethelakedistrict.com](http://www.savethelakedistrict.com)) . The Authority reacted with the announcement that it needed two and half years to gather and evaluate usage data before it could come to a decision, despite having failed to take any action over the last 17years.

The campaign has now written to UNESCO, drawing attention to violations of the World Heritage Status, recently awarded to the Lake District, by allowing motor vehicles on these fells.

### **Grim Fairy Tales III**

*By Andy Dunlop*

Now best beloved, before we start (again) on this woeful tale we need to cover a few things;

The Definitive Map **IS** Definitive, even when it is wrong. When a Highway is marked on it, it is a highway of that description. If someone blocks a Highway shown on the Definitive Map they can be prosecuted, even if the Definitive Map is wrong. No one can add, amend or delete the Definitive Map without a confirmed Order. If a claimed Highway isn't shown it can be added by due process.

So, back to the tale.....

Once upon a time a man who is neither handsome nor a Prince became involved in a sad tale of a mysterious black line like no other on a magical map, a line that had appeared with no process. (See Grim Fairy Tales in our Autumn 2015 and Spring 2016 newsletters.)

The Council argued for 10 years that this mysterious black line meant that ALL people could drive their vehicles through a Farmer's land as it was a "Byway" but the Farmer said "*No, they shall not pass*" and blocked the farm track as he thought that the lane that led to his farm and out the other side was his and no one else's.

The Farmer did though agree that maybe, just maybe, a footpath came some way along his lane and then went off to join another across his fields. He wrote to the Council and asked them to add this Footpath to their magical map and whilst at it, "*correct that mysterious black line that means nothing*".

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Well, the Council thought the Farmer and the man were wrong but as their own “experts” kept making mistakes (by cutting down trees that weren’t over a footpath, putting footbridges on byways and issuing Notices that were wrong) they sent the BIG file (and lots of money) to another Council so they could decide who was right.

The Farmer waited....and the lane remained blocked (except for the footpath that he thought should be on the magical map).

After many, many, months the other Council produced a long report and with many other pages added (there were in fact 563 pages).

This report was to go before a Committee of very, very important people who were elected to make very important decisions. The Farmer asked to see the report so he could say something about it but the Council refused and said *“No! it is secret until our elected members (who are very important) can see it”*.

*“Well”* said the Farmer *“can I at least see the evidence that you are relying upon...like witness statements?”*. *“No!”* said the Council *“for they are also secret”* so the farmer was left in the dark and only got the report just before the Council meeting....in electronic format...that took 8 hours to read.

At the meeting, he was told he could address the very important elected members for 3 minutes. So he did, and was ignored.

So, what happened I hear you ask. Well, oh best beloved, the Councillors (having read all the 563 pages, in electronic format via iPads, but not the secret Statements) decided that the mysterious black line WAS NOT really a Byway or a bit of a Footpath but should be shown as a Bridleway on the magical Map... and **should be downgraded!**

Now, we’re not sure how one can downgrade something that doesn’t exist, and never has, but that’s what the Council decided.

So the Farmer asked how they reached this decision when the evidence wasn’t in front of the Councillors and was told *“It was in the secret User evidence forms, which are still secret...but you can see them once we make our Order”*. The Council then added that it would be nice if the Farmer opened the track now and served a Notice upon him to do just that.

But the Notice was wrong (again) so the Council reissued it and the Farmer said nothing (he actually said quite a lot but it’s best not to repeat here) and waited.

When the Order (to downgrade something that doesn’t exist) was made the Farmer wrote to object. This caused the next stage to occur which is where the Government sends an independent Inspector to review everything (even the secret User statements). This is however many months away and the Farmer used this time to look at the secret User forms which were no longer secret.

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The Council had statements from 60 people and when examined, closely, half of them thought the way was private, not public. The other half thought the way was a Byway ...as it said so on the Council's Magical Map and the map from the men in Southampton and most of these hadn't used the route for very long.

Meanwhile, the Farmer wrote to a friendly giant called Nerfew and explained his problem. The giant had been following the case and sent the farmer to see clever men and women called Baristas. These clever people read what the Council had done and reviewed all the evidence and then said "*they can't downgrade something that doesn't exist!*" "*We know*" said the Farmer "*we told them that....and that they should add what the evidence shows...but then they'd have to admit it's never been a Byway*" and then they all laughed.  
To be continued.....

Note.

To downgrade a route on the Definitive Map and Statement one uses Section 53(3)(c)(ii) of the 1981 Wildlife and Countryside Act. This says;  
*(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows-*

*(ii) that a highway **shown** in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description;*

### Other current rights of way issues

*By Diana Mallinson*

When the legislation which became the Natural Environment and Rural Communities (NERC) Act 2006 was first proposed by Defra in 2003, the Trail Riders Fellowship (TRF), the national organisation representing motorcyclists who use green lanes, took action to try to prevent green lanes with public vehicular rights being recorded as restricted byways, as the proposed legislation intended. It encouraged its members to make applications to have green lanes added as (or upgraded from footpath, bridleway or roads used as public paths to) byways open to all traffic (BOATs) on the definitive map and statement of public rights of way. The TRF's aim was to legalise recreational motor vehicle users' assumed rights to use these lanes. These applications continued to be made up to the coming into force of the NERC Act in 2006, despite the TRF having said to Defra that it would impose a moratorium on applications.

Some local authorities are still deciding these applications, almost 12 years after the NERC Act came into force. Some authorities also have undecided BOAT applications which were made even earlier by non-motorised users. These delays are in spite of Defra advice to authorities in 2008 to prioritise potential BOAT application decisions where motor vehicle

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use of the green lane concerned was contentious. This article reports on what is happening in three of these authorities.

### **North Somerset**

A bridleways association made several applications, 12 of which were for BOATs, to North Somerset Council between 1995 and 2007. The bridleways association was successful in appeals to the Planning Inspectorate for directions which require North Somerset Council to decide these applications by set dates in 2017 and 2018. The Council has included GLEAM and GLPG in its list of organisations consulted before it makes these decisions. We have pointed out where the BOAT applications do not meet the requirements of section 67(3) of the NERC Act, because the applicant did not include copies of all the evidence it relied on, the routes concerned cannot become BOATs. This means that if the Council finds public vehicular rights exist, the route should be recorded as a restricted byway. So far North Somerset Council has made two restricted byway decisions and no BOAT decisions on these applications.

### **Oldham**

A TRF member made 16 BOAT applications to Oldham Metropolitan Borough Council in 2005. The Council has rejected one of these applications on the grounds that the evidence for BOAT status is insufficient and because no exemption to the NERC Act was claimed. But the Council has not yet started to decide the other applications because the TRF has not yet notified the land owners and occupiers affected of its applications.

### **Oxfordshire**

TRF members made 32 applications to Oxfordshire County Council in 2005 and 2006 to upgrade restricted byways (then recorded as roads used as public paths) to BOATs. Four of these applications cover much of the Ridgeway National Trail in Oxfordshire. The TRF claimed that two exemptions in section 67(2) of the NERC Act applied to some of these restricted byways such that they should become BOATs. Although the TRF had not provided any evidence to support its claims that the section 67(2)(a) exemption (main public use of the way in the 5 years preceding the NERC Act was by motor vehicles) and the section 67(2)(c) exemption (express creation as a way for motor vehicles) applied, the Council felt obliged to consult widely earlier this year, asking for any evidence for or against these exemptions, before it decides these applications.

Comments made by Oxfordshire residents during this consultation show how effective the reclassification of these lanes as restricted byways (as a result of the implementation of section 47 of the Countryside and Rights of Way Act 2000 at the same time as the NERC Act in 2006), has been in protecting these lanes, and how worried people are that these claims for exemption might result in this protection being lost. Comments from four residents are below:

*"Motorised vehicles have far more routes to travel on without trying to take over the few routes available to horse riders....I have ridden many of these routes and would hate to have to share with motorised vehicles disturbing the peace of the countryside."*

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*"Oh my heart sinks! ... Around 2000-2006 I wasn't doing much hacking as my horses had been frightened once too often by motorised users and I had lost my nerve and almost given up. In recent years I've worked hard and regained some confidence and much of this has been due to the vehicle ban on the Ridgeway and surrounding paths, which has transformed it. Surely they can't be thinking of reversing that!"*

*"I personally have had a lovely set of green lanes trashed by the off road 4x4's some years ago and trailer loads of up to 25 motor cross bikes coming down from Birmingham every weekend just to charge up and down these old lanes to see how deep they could make the mud!! So no way do I want these noisy, frightening groups allowed back onto our old bridleways. When you meet some 20 plus vehicles going flat out on what is a narrow lane it is dangerous!!"*

*"From 2000 vehicles started to appear when muddy conditions were at their peak in the winter months for maximum 'challenge and enjoyment'. .. And of course caused criminal damage to the Ridgeway surface. The Ridgeway surface is slowly recovering after 14 years since the ban and totally belies the off-roaders stance that it was the farmers' tractors that caused the damage. They seem unaware that farmers have little or no need to use tractors in the winter as there is nothing to harvest, plant etc.... Winter weekends were peak times and were horrific for other Ridgeway users such as walkers of all ages, runners, dog walkers, cyclists, families and horse riders, when these [off-roaders] frankly tyrannised them. Rarely would they slow down as, as I was told in no uncertain terms many times, that there was no speed limit on the Ridgeway and they could go as fast as they liked. I cannot begin to describe the terror of hearing a mob of vehicles approaching knowing they couldn't see you and knowing they wouldn't slow down despite frantic pleas and horses going every which way."*

<p><b>December 2002: a section of the Ridgeway used by off-roaders</b></p>	<p><b>April 2018: the same section of the Ridgeway, protected by reclassification as a restricted byway in 2006</b></p>
	

## **Another green lane which needs protection**

The Kiplingcotes Derby is the oldest horse race in the country, having taken place every March on the same course in the Yorkshire Wolds since 1519. Part of the course is a green lane (a UUR) which has been badly damaged by off-roaders. This year the water-filled ruts were too dangerous for the race to be run; this is only the third time it has had to be cancelled in its history (the other two occasions were due to foot and mouth in 2001 and 4 foot snowdrifts in 1947). One lone horse rider traversed the course to ensure that the race can continue in future years; this is because the Kiplingcote Derby rules state that "should the race not be run then it shall cease". According to the Yorkshire Post newspaper he said that the green lane had been "grim" and that his horse had had a shoe pulled off. GLEAM's Vice-Chairman, Chris Marriage, was interviewed by BBC Radio Humberside and said that the local authority should consider making a traffic regulation order to prevent the damage recurring.

## **New data protection requirements**

*By Diana Mallinson*

New data protection requirements (the General Data Protection Regulation) are coming into force in May 2018 which will require GLEAM to ensure that our members consent to the ways in which we use their personal data to communicate with them.

To do this we are:

- adding tick boxes to our joining form so that new members opt in different types of communications.
- adding our privacy notice to our joining form to make it clear why we need members' personal data (name, address, e-mail address, phone number), what we do with members' personal data, how members can access and get their data corrected or deleted, and how to complain if they are not satisfied.
- writing to all current members to ask them for their consent to contact them by post or e-mail to send them the newsletter and other communications, and alerting them to our privacy notice.

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