

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 recreational motor vehicles.

SPRING 2019

Traffic regulation order (TRO) developments

Lake District

Fritz Groothues wrote about the campaign to save two green lanes in the Lake District in our Spring 2018 newsletter. Since then, one of the two lanes has been repaired (funded by the National Trust, the landowner, and Cumbria County Council) and the Lake District National Park Authority (LDNPA) has been collecting evidence about use of both lanes to inform a decision in October 2019 on whether to start the TRO process. If you have used either lane, please look at <https://www.savethelakedistrict.com/online-survey> to find out about and link to LDNPA's online survey of users (closing date 20 May 2019).

Wiltshire

Many thanks to those who responded to Wiltshire Council supporting its experimental TRO on two green lanes which run close to Stonehenge (our Autumn 2018 newsletter). Unfortunately the Trail Riders Fellowship (TRF) was successful in challenging this TRO in the High Court in November 2018. The judge quashed the TRO because Wiltshire Council had not consulted the Road Haulage Organisation and the Freight Transport Association, as required by the TRO regulations (although lorries do not use these lanes), nor the police as required by the Road Traffic Regulation Act 1984, and because Wiltshire Council had considered that the opportunity to make representations and objections to the experimental TRO obviated the need to consult before making the TRO.

North York Moors

In December 2016 GLEAM asked its members to write in support of a TRO on Kirby Bank, an ancient green lane in the North York Moors National Park. We are pleased to let you know that this TRO was finally made by North Yorkshire County Council in November 2018. The Council resolved to make the TRO in October 2017 (and again in November 2017 because of late objections), but the actual making of the TRO was delayed while the Council considered a subsequent legal challenge from the TRF. In this challenge the TRF's solicitors said the TRF would challenge the lawfulness of the TRO because the County Council had not given proper consideration to the exemption proposed by the TRF, i.e. for trail rides organised by the TRF on certain days of the year. The Council held a third meeting to decide whether to make the order in September 2018, at which it decided not to agree to the proposed exemption because it considered that "*even the level of motor*

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cycle traffic which would ensue if the TRF's proposed exemption were included in the TRO would give rise to unsustainable harm to the route and have an adverse effect on its existing character and the amenities of the area" and that "in the circumstances of the present case, the effect on the amenities of the locality affected and other matters appearing to the Council to be relevant, including preventing damage to the route and preventing its use by traffic which is unsuitable for its character, outweigh the duty under Section 122 of the Road Traffic Regulation Act 1984 to secure vehicular use of the route, even to the limited extent which the TRF's proposed exemption would entail". The TRF has not carried out its threat of a legal challenge, but the County Council has had to spend more than £17,000 in officer time because of the objections and challenge from motorised users. A photo of the damage on the Kirby Bank route (taken December 2016) is below.

Wet ruts from motorbike use on soft ground. The bank to the left of the photo is a scheduled ancient monument because it carries a medieval packhorse stone trod, the origin of the Kirby Bank route. The TRF said its members do not ride on the trod itself, when asserting that their use of the route was low-impact and sustainable. Vehicle logger data shows that 97% of the motor vehicle use of the route is motorbikes.



Attempt to re-open the Ridgeway in Oxfordshire to motor vehicles fails

The Ridgeway National Trail has just published a summary of how and where motor vehicle use of the trail is restricted, on its website – <https://www.nationaltrail.co.uk/ridgeway/news/driving-ridgeway-and-what-do-if-you-see-illegal-activity>. The Institute of Public Rights of Way and Access Management (the professional body for public rights of way staff) says the summary is "*an unusually accurate write-up of a convoluted subject*" on its Facebook page.

The summary also describes the attempt by the Trail Riders Fellowship (TRF) to get restricted byway sections of the Ridgeway re-opened to motor vehicles by upgrading to byways open to all traffic (BOATs). Oxfordshire County Council (OCC) rejected the TRF applications to upgrade these sections (and 29 other restricted byways) in January. It found that the exceptions to the extinguishment of motor vehicle rights claimed by the TRF under section 67 of the Natural Environment and Rural Communities Act (NERCA) 2006 did not apply.

Many thanks to all to those who responded to the OCC consultations on these routes, including the Ridgeway Officer and The Friends of the Ridgeway. OCC carried out very thorough investigations and concluded that there was insufficient evidence to support the

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exceptions to NERCA being claimed (that the restricted byways were mainly used by the public with motor vehicles in the 5 years ending 2 May 2006 or that they were created or constructed as public rights of way for mechanically propelled vehicles).

The TRF has not appealed. OCC has yet to decide a further seven applications made by the TRF for BOAT status, but GLEAM hopes that no NERCA exception will apply.

Review of National Parks and Areas of Outstanding Natural Beauty (AONBs)

The government has asked an independent panel led by Julian Glover to review National Parks and AONBs in England. It will report later this year. The review's terms of reference emphasise that it will not propose reductions in the protections given to these designated landscapes, but "*is to ask what could be done better, what changes could assist them, and whether definitions and systems – which in many cases date back to their original creation – are still sufficient*". In our response to the Glover review call for evidence GLEAM made the following points:

- National Parks' TRO powers are insufficient to protect them from the ravages of off-roading, because the TRO process is slow, burdensome and expensive
- National Parks should be reducing or prohibiting recreational motor vehicle use in cases where doing so fulfils their statutory purposes i.e. to conserve natural beauty, wildlife and cultural heritage (primary purpose) and to promote opportunities for understanding and enjoyment of their special qualities (on which off-roading can cause unacceptable impacts)
- AONBs should be given TRO powers
- a more radical option, but one supported by public opinion, would be to ban all non-essential, recreational, motor vehicle use of green lanes in National Parks and AONBs
- AONBs should be represented on local access forums, or have their own local access forum.

Public rights of way and access legislation – 70 years on

The National Parks and Access to the Countryside Act, which became law 70 years ago, in 1949, had four main aims: to set up National Parks and Areas of Outstanding Natural Beauty, to give the Nature Conservancy (now Natural England, Natural Resources Wales and Scottish Natural Heritage) and local authorities powers to establish nature reserves (the origin of sites of special scientific interests), to preserve public rights of way by establishing definitive maps and statements and to establish long distance routes for pedestrian or equestrian use (now National Trails). We mentioned the impacts of off-

roading on sites of special scientific interest in our last newsletter, and discuss the review of National Parks and AONBs above. With regard to the other two aims of the 1949 Act:

Public rights of way

The 1949 Act required local authorities to classify public rights of way on their definitive maps and statements as footpaths, bridleways and roads used as public paths (RUPPs). But the definition of RUPP did not make it clear whether the public had rights to drive vehicles on them. Various attempts made to resolve this lack of clarity by reclassification over the years ended in the reclassification of the remaining RUPPs as restricted byways (e.g. the Oxfordshire restricted byways mentioned above) by section 47 of the Countryside and Rights of Way Act 2000. This section was brought into force in 2006, at the same time as section 67 of the Natural Environment and Rural Communities Act. Together these sections aimed to prevent historic use by horse-drawn vehicles resulting in public rights for motor vehicles, subject to certain exceptions.

National Trails

The 1949 Act said that National Trails should be routes which for the whole or most of their lengths do not pass along roads mainly used by vehicles. It also said that, if local authorities considered it expedient that traffic on a road forming part of a National Trail should be restricted because it "*would prejudice the use thereof by persons journeying on foot or on horseback*", they should ask the Minister of Transport to approve a traffic regulation order (TRO) to restrict the traffic. As noted above, the Ridgeway National Trail has a page on its website explaining where and when motor vehicle use is restricted.

Two 4x4s stuck on a green lane in Snowdonia National Park, February 2019. This photo was published on the Facebook page of the North Wales area of the Green Lanes Association, an off-roading organisation whose code of conduct says do not travel on green lanes "*when they risk being affected beyond .. natural recovery*". This photo was one of the entries in a competition for a new cover photo for the Facebook page.



*Published by GLEAM, PO Box 159, Otley, LS21 9BT, www.gleam-uk.org.
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