

NORTH YORKSHIRE
LOCAL ACCESS FORUM

18 May 2006

Natural Environment and
Rural Communities Act 2006
(NERC)

1.0 PURPOSE OF REPORT

- 1.1 To provide the Local Access Forum with a report relating to the above Act.

2.0 BACKGROUND

- 2.1 The Natural Environment and Rural Communities Act (NERC) received Royal Assent on 30th March 2006. The Bill primarily contains details relating to the formation of Natural England, Nature Conservation, Formation of National Parks and Wildlife Protection
- 2.2 Part 6 Sections 66 – 67 directly affect public rights of way, in particular the use of mechanically propelled vehicles in the countryside. This report outlines the main aspects of sections 66 and 67.

3.0 Part 6 Sections 66 – 67

- 3.1 The new provisions contained within sections 66 – 72 of the NERC Act came into effect on Tuesday 2nd May 2006.
- 3.2 These provisions will significantly curtail the scope for adding further public rights of way for motor vehicles, known as byways open to all traffic (BOATs), to the definitive map and statement
- 3.3 Section 66 prevents the creation of new public rights of way for mechanically propelled vehicles, while section 67 extinguishes existing public rights of way for mechanically propelled vehicles, where those rights are not already recorded on the definitive map and statement, although this is subject to certain exceptions.

Further details can be found in the explanatory notes to the Act, which can be accessed at: www.defra.gov.uk/ruraldelivery/bill/default.htm

- 3.4 Property owners and others with an interest in land may have been relying on unrecorded public vehicular rights of way for access to that land. Section 67 ensures that, if the public right of way for mechanically propelled rights is extinguished, these people are provided with a private right of way to access the land with mechanically propelled vehicles.

There is also an exemption from prosecution under the Road Traffic Act 1988 for those using a restricted byway to gain access to their property in certain circumstances.

- 3.5 All claims made under Part 3 of the Wildlife and Countryside Act 1981 to establish new rights for mechanically propelled vehicles which were lodged before the 20th January 2005 will be preserved and dealt with under the old law. So also will applications that were lodged after the relevant date but have reached the stage of being determined by the surveying authority. So too will applications lodged by landowners who want to maintain access to their property by mechanically propelled vehicle.
- 3.6 There are 24 Byway applications lodged with North Yorkshire County Council, 18 will be dealt with under the old law and 6 under the new legislation.
- 3.7 The Act will also provide National Park authorities with a power to make traffic regulation orders on rights of way and un-surfaced routes within National Park boundaries but these powers will be commenced later this year.
- 3.8 Earlier this year, Defra published advice for local authorities, the Police and Community Safety Partnerships on the maintenance of byways and the illegal use of motor vehicles on rights of way. 'Regulating the use of motor vehicles on rights of way and off road' and 'Making the Best of Byways' are available online at www.defra.gov.uk/wildlife-countryside/cl/mpv/index.htm.

4.0 RECOMMENDATION

It is recommended that:

- a) This report is received for information and comments made as required

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