

RECREATIONAL MOTOR VEHICLES ON GREEN LANES

Discussion paper for joint meeting of the 3 North Yorks LAFs, 19 March 2009, by
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Note: The term 'green lanes' has no legal standing. It is simply a useful term for signifying all those unsealed tracks, of various official designations, that traverse the countryside, away from the tarmacadamed roads.

A. A brief history of the Yorkshire Dales LAF's handling of the matter.

The topic of motor vehicles on green lanes (apart from agricultural or land management vehicles) has always been contentious when it has come up at LAF meetings. This is not surprising, for the Dales Park Authority says that it is the most contentious access issue that they have to deal with. A few years ago, the LAF endorsed the Park Authority's general 'guiding principle'. This says that recreational motor vehicles away from the tarmac in the national park are 'inappropriate'. However, the term 'inappropriate' has turned out to be open to a wide and contradictory range of interpretations, so the debate has continued. The Authority set up a working group, representing all green lane users, and with 4 places filled by LAF members. The deliberations of this group, together with the work of the Park's own officers, led to recommendations by Park officers to the Authority's Access Committee that 13 green lanes be closed to recreational motor vehicles. The LAF was fully consulted when these recommendations were being prepared, and at each stage of the consultation, the LAF recommended, *nem con*, that the 13 TROs be imposed on all recreational vehicles, 7 days a week, 12 months a year.

B. What might other LAFs learn from the Dales LAF's experience, and what might we learn from theirs?

The Dales LAF's deliberations have been heated, and sometimes inconclusive. With hindsight, three distinct aspects of the question might usefully have been distinguished, and then tackled in the following order. The three aspects are set out here in the hope that discussion will be facilitated.

1. *The philosophical aspect.* This is the fundamental aspect, and the most difficult, for it cannot be resolved by the production of facts. It is a question of values. It is a question of what we want the countryside for. On one side, there is the desire to pilot a motorbike or a 4x4, on legal routes that traverse challenging, often remote, terrain. On the other side, there is a desire to find peace and tranquillity along the ancient green lanes. One side wants green lanes to be motor routes. The other side wants green lanes to be escape routes from the world of motor vehicles. The force of this divergence of opinion will vary from green lane to green lane, but when any particular green lane is under discussion, the fundamental question that the LAF will have to decide is whether the presence of recreational vehicles on it is a good thing or a bad thing, and members' views will be governed both by moral considerations concerning individuals' rights, and aesthetic considerations concerning the character of the countryside.

2. *The legal aspect.* Unlike the philosophical aspect of the question, most legal questions about green lanes can be settled by appeals to facts. LAFs should be able to draw on expert legal opinion from its officers. For legal purposes, three sorts of green lanes can be distinguished:

2.1. *Byways open to all traffic (BOATS).* These are routes that certainly bear public motor vehicular rights. They are under the jurisdiction of Rights of Way departments – either at County level or at national park authority level.

2.2. *Unclassified county roads (UCRs).* These routes are under the jurisdiction of the County Highway Authority, and are entered on its List of Streets. Many UCRs have public vehicular rights. Some do not. Nobody knows for sure which do, and which do not.

2.3. *Contested routes.* The recent Natural Environments and Rural Communities Act (NERC) did a lot to clarify the status of most green lanes, but it left numbers of routes whose fate will have to be decided, as the years roll by, at public inquiries.

Regardless of the status of any particular green lane, highway authorities and national park authorities are empowered to impose Traffic Regulation Orders (TROs), suspending public motor vehicular rights. TROs can be of various sorts, ranging from outright prohibitions, to selective prohibitions – eg in certain months of the year, or days of the week. LAFs can expect to be consulted if an authority proposes to impose a TRO, and LAFs may wish, independently, to recommend that TROs are imposed on particular lanes, or that existing TROs should be lifted, or modified.

3. *The maintenance aspect.* This comes last because it depends on answers to the first two questions having been arrived at. There is no point in recommending a certain sort of maintenance scheme until it is clear what sort of traffic the green lane in question will have to bear. The type of surface required for a route that is used only by non-motorised recreational users, and which has very little agricultural use, will be quite different from the surface needed if the route is a popular route with recreational vehicle users, and if there is no prospect of the route's being closed by a TRO. Money is short, and repairs to remote green lanes that have badly deteriorated are very expensive. Furthermore, on mixed routes, the surfaces that suit one class of users (eg equestrians) may not suit another class (eg mountain bikers). And even on routes that are open to vehicles, recreational vehicle users may not welcome maintenance that brings the surface up to a standard suitable for smooth, untroubled access by a Morris Minor. And if the route is a BOAT, it is by definition a route whose character is that of a route 'used mainly for the purposes for which footpaths and bridleways are used' (*Blue Book* p7), and which, consequently, ought not be transformed into something that has the character of a motor route. LAFs need to be sure, therefore, that their recommendations concerning maintenance fully take into account both the character, and the likely future of the routes in question.