

NORTH YORKSHIRE
LOCAL ACCESS FORUM

WEDNESDAY 24TH OCTOBER 2012

CONSIDERING UNSURFACED UNCLASSIFIED ROADS (UUR) AND THEIR
FUTURE IN THE RIGHTS OF WAY HIERARCHY

1.0 PURPOSE

- 1.1 To present to the LAF additional evidence and correspondence on the history, right of use and future of the UUR network

2.0 BACKGROUND

- 2.1 Their origins of many routes were ancient roads connecting major conurbations, accessing religious sites, trade routes, military roads and most are now incorporated into the surfaced road networks, the A1 follows Dere Street (a Roman road) in many places. With the increased industrialisation of Great Britain during the 19th century, the use of heavy agricultural machinery and near the end of the century the rise of the internal combustion engine a network of publicly maintained highways became imperative. Routes identified as important to commerce and the local population were awarded the title of “road” setting them apart from footpaths and bridleways quite often enshrined within Enclosures acts, given special mention in Tithe and Finance acts to allow tax relief on land no longer in production.
- 2.2 The start of the 20th century saw roads in towns and cities increasingly surfaced with tarmac but not in the countryside. Most roads were still rolled stone with a strip of tarmac down the middle at best, but mostly just stone with some roads not even seeing that level of surface dressing. This is the network of roads handed over to Councils under the 1930 road traffic act, surveyors had no reason to question the validity of the routes as vehicular, the maps represented a hierarchy of roads and the level of dressing which inevitably involved maintenance.
- 2.3 At this point I refer you to a very informative paper by John Sugden from Thorgill transport consultancy see Appendix 1.
- 2.4 Additional research has revealed records of the highways department using part of the budget within the road repairs section for the repair of the Unclassified County road network to a level capable of continuing to carry vehicles.

2.5 Highways has now connected the future of UUR with the 2026 cut-off date as laid out in the NERC Act, raising the prospect of the UUR network being lost completely if some form of re classification is not carried out before the cut-off date. With the council officers holding the line of footpath as a minimum status, the prospect of a considerable diminution of the recreational network to people who wish to enjoy the countryside by other means apart from on foot seemed likely. As a result of this I took advice from DEFRA and received a reply, see appendix 2

3.0 FORWARD PLAN

- 3.1 Does the LAF consider the future of UUR in jeopardy when considering the report by Thorgill consultancy and the response from DEFRA
- 3.2 Does the LAF consider the proposed review and wholesale re classification of the UUR network to footpath a reasonable response from the Highways department.

4.0 RECOMMENDATIONS

- 4.1 Whilst the DEFRA reply still holds the line of “not necessarily a road without evidence of such”, it does not tie the list of streets in with the NERC Act and the cut of date.
- 4.2 The result of this means the county council is not obliged to review the UUR network as a matter of urgency, its inclusion on the list of streets exempts it from the 2026 cut of date, leaving both the ROW department and Highways free to manage their respective networks within the current budgetary restrictions without the need to take on more work for a problem that does not exist.

Contact:

Leo Crone

Vice chair North Yorkshire LAF

- 1. The North Riding County Council ceased to exist on 1st April 1974 when its area was incorporated into the counties of North Yorkshire, Durham and Cleveland in consequence of the Local Government Act 1974.**
- 2. It should be noted that the same act altered some powers and duties of local authorities. In particular the following are of relevance:**

The County Council was the highway authority for all highways in the majority of the County but in boroughs and urban districts was only the highway authority for classified roads. This applied in Thornaby, Eston, Redcar, Saltburn&Marske, Skelton & Brotton, Loftus, Guisborough, Northallerton, Whitby, Pickering, Malton, Scarborough and Scalby.

The County Council was the surveying authority for the preparation of the definitive map for the whole County. In the borough and urban district areas the information on public paths was obtained from the highway authorities.

This may mean that the approaches to recording public paths differs between individual areas and the remainder of the County – further research is required on this point. However, in the majority of the County where there were rural districts the County Council was both the surveying authority and the highway authority for public paths and may be expected to have adopted a consistent approach across the area. The remainder of this note deals with the rural part of the County.

The legal requirement to maintain a list of streets (from the Public Health Act 1925) applied only to the borough and urban district areas. Thus the highway records of the County Council other than the definitive map were internal documents used by highway maintenance staff and in the answering of searches by land charges staff.

3. The definitive map was prepared in two parts covering the east and west of the County. Although they have slightly different relevant dates (both in the mid 1950s) there is nothing to suggest that the methodology adopted differed in any respect between the two areas and they appear to adopt a consistent approach.

4. The base maps used for the definitive map are 1:25,000 sheets from the early 1950s. The depiction of paths is by the use of coloured inks and not the symbols as in many other areas.

5. Unusually, there is no detailed schedule giving information such as widths of paths. Instead the schedule is the absolute minimum legal requirement of a single sentence giving the relevant date. This is written on a duplicated slip pasted on the front of the portfolio of maps.

6. The definitive maps are also unusual in depicting virtually no Roads Used as Public Paths (RUPPs) outside the boroughs and urban districts. The reason for not recording RUPPs is unclear, as is also why there should be two exceptions, one each in the eastern and western areas.

7. The County Council officers had a highways map other than the definitive map. This was normally described by officers as the "County Roads Map". The base maps used were the same as for the definitive map (ie 1:25,000 maps from the early 1950s) and the routes shown were depicted in coloured ink in the same way as the definitive map. However, a completely different network of routes was shown. This included all classified A, B and C roads together with an extensive network of other routes shown in a different colour. This network included all the tarred unclassified roads, plus many other routes.

8. There were also a small number of routes shown in yet another colour and described as RT (rationetenurae) roads. I was informed that the rating section held a list of premises that had the benefit of reduced rates as a quid pro quo for maintaining certain RT roads, but I never actually saw this list.

9. I made a careful study of the county roads map in the late 1970s, comparing it with the definitive map. The two were consistent in the sense that routes were not shown on both maps and paths on the definitive map that did not link with other paths always terminated on routes shown on the county roads map. The high level of consistency between the two maps together with the use of identical base maps and similar drafting techniques led me to conclusion that the two maps had been produced at the same time and by the same staff, as part of the preparation of the definitive map. It appeared that a stock-taking had taken place of all known highways and that in each case a decision had been made as to which map to include it on.

10. The obvious implication is that the routes shown on the county roads map were believed by those who prepared the maps to be vehicular roads and not public paths. Had a particular route been thought to be a footpath or a bridleway then it would clearly have been added to the definitive map. In addition, the fact that many of the routes depicted in the same way are incontrovertibly public roads adds further force to the view that the county roads map was intended to show vehicular roads.

11. As the county roads map is not conclusive of rights recorded, its modern status is that of evidence of repute. However, it must be regarded as very strong evidence given that it was prepared by the highway authority for the routes. It is important to remember that in the 1950s the County Council still maintained roads in-house, employing a large force of lengthsman and supervisory staff who knew their area intimately. It is extremely unlikely that they would have recorded a route as being a public road if, in fact, it was not

regarded as such at that time. It follows that depiction on the 1950s North Riding county roads map must be strong evidence of public vehicular status.

12. From 1974 counties were required to maintain a list of streets maintainable at public expense. It appears that the North Yorkshire County Council based its list of streets on the previous records. This seems to have given rise to a belief that current records are only of value in determining whether a route is a highway maintained by the public with no information as to its status. However, this is a misconception. The evidential value of any records relates to their origin, in respect of who prepared them, what they intended to record and how accurately they appear to have worked. Given that current records are based on records that did intend to distinguish between roads of different user status, then their evidential value in determining the status of routes remains valid.

13. In the early 1980s the North Yorkshire County Council prepared a replacement map to a scale of 1:10,000. This was intended to be a copy of the previous map, with the addition of some routes added since the original map was prepared. In some cases, existing footpaths or bridleways had been upgraded to tarred roads, particularly in the late 1950s when grants were available. This led to some routes being shown on both the new county roads map as a tarred road as well as on the definitive map as a public path as the latter map had not been revised. However, for some years at least the original maps were maintained in the Land Charges Section in order to check on any possibly drafting anomalies on the replacement maps.

14. Many of the unsurfaced roads recorded on the county roads map meet the definition of a byway open to all traffic. However, it is debatable whether they could now be added to the definitive map as byways on the basis of the county roads map as there has to be a "discovery" of evidence. It is certainly arguable that there is no discovery given that the surveying authority was well aware of their existence when the original definitive map was prepared,

but took a policy decision not to include them as RUPPs. As public roads are not subject to extinguishment in 2026 it is not essential that they be added to the definitive map. However, there is a need for positive management of these routes as part of the network of recreational routes in the countryside.

John Sugden

Thorgill Transport Consultancy

8th January 2008

ccu.correspondence@defra.gsi.gov.uk	
shearwater69@fsmail.net	http://fsmail03.orange.co.uk/webmail/en_GB/read.html?FOLDER=SF_INBOX&IDMSG=4378&ORIGIN=SYSTEM_FOLDER
Jun 26 2012, 12:11 PM	
Response to your Query : - Ref:DWOE000273220 - ROW consultation	javascript:seeMailHeader();

Dear Mr Crone

Thank you for your email of 15 April about the consultation on proposed changes to right of way legislation. I have been asked to reply and apologise for the delay in doing so.

The 2026 cut-off date relating to the definitive map and statement (provided for under sections 53 to 56 of the Countryside and Rights of Way Act 2000) does not apply to the list of streets (provided for under section 36(6) of the Highways Act 1980) and will not affect the way that highways are recorded on the list of streets.

The list of streets is not a definitive guide to what rights exist over any given highway. Unless a highway is shown as a byway open to all traffic on the definitive map and statement, the only way for a local authority to determine definitively what rights exist is to examine the documentary evidence for each highway on a case by case basis.

The provisions in sections 67(2)(c) and 67(2)(d) of the Natural Environment and Rural Communities Act 2006 are there only to ensure that rights for motor vehicles were not extinguished (by section 67(1) of that Act) over highways that were expressly created, constructed or dedicated for use by motor vehicles. This does not relieve local authorities of the need to examine the documentary evidence for each highway on a case by case basis, should it be necessary to do so.

Yours sincerely

Christiana Millard
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 Defra

Department for Environment, Food and Rural Affairs (Defra)
