



Agenda

**Notice of a
public meeting
of:**

Local Access Forum

**To: P Sherwood (Chair), R Haigh (Vice-Chair),
D Cartwright, J Cochrane, R Connolly, D Lepper,
B Mouny, C Murray, W Scarlett, H Soutar and
Councillors Robert Heseltine and David Jeffels**

Date: Wednesday 27 January 2021

Time: 10.00 am

Venue: Remote meeting held via Microsoft Teams

Pursuant to The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held using video conferencing with a live broadcast to the Council's YouTube site. Further information on this is available on the committee pages on the Council website -

<https://democracy.northyorks.gov.uk/>

The meeting will be available to view once the meeting commences, via the following link - www.northyorks.gov.uk/livemeetings. Recordings of previous live broadcast meetings are also available there.

Business

1. Introductions & Apologies for Absence

2. Minutes of the Meeting held on 30 September 2020 (Pages 3 - 6)

3. Public Questions & Statements

Members of the public may ask questions or make statements at this meeting if they have given notice to Melanie Carr of Democratic Services (see contact details at bottom of page) by midday on Friday 22 January 2021, three working days before the day of the meeting. Each speaker should limit themselves to 3 minutes on any item. Members of the public, who have given notice, will be invited to speak:

- At this point in the meeting if their questions/statements relate to matters which are not otherwise on the Agenda (subject to an overall time limit of 30 minutes);
- When the relevant Agenda item is being considered if they wish to speak on a matter which is on the Agenda for this meeting;
- If you are exercising your right to speak at this meeting, but do not wish to be recorded, please inform the Chairman who will ask anyone who may be taking a recording to cease while you speak.

- 4. Proposed Changes to the System of Prioritisation for Definitive Map Modification Order Applications (Pages 7 - 10)**
Purpose: To seek the Forum's views on proposed changes to the system of prioritising applications for Definitive Map Modification Orders (DMMOs).
- 5. Report on future Purpose of North Yorkshire Local Access Forum (Pages 11 - 16)**
Purpose: To formally present the outcomes of a recent meeting of Forum representatives with NYCC officers regarding levels of engagement and the working practices of the Forum, and asks Forum Members to identify further improvements that will help focus the Forum's future work.
- 6. Unsurfaced Unclassified County Roads Discussion Document (Pages 17 - 30)**
- 7. Secretary's Update Report (Pages 31 - 34)**
Purpose: To update LAF members on developments since the last meeting.
- 8. District Council & LAF Project Updates (Pages 35 - 36)**
Purpose: An opportunity for LAF members to update the Forum on District Council liaison and other LAF representative project activity since the last meeting.
- 9. Forward Plan (Pages 37 - 38)**
Purpose – To consider, develop and adopt a work programme for future LAF meetings.
- 10. Other business which the Chairman agrees should be considered as a matter of urgency because of special circumstances.**

Contact Details

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Barry Khan
Assistance Chief Executive
(Legal and Democratic Services)

County Hall
Northallerton

19 January 2021

North Yorkshire Local Access Forum

Draft Minutes of the meeting held at County Hall, Northallerton on 30 September 2020, commencing at 10 am

Present: Paul Sherwood (Chair), Doug Cartwright, Roma Haigh, County Councillor David Jeffels, Barrie Mouny, Carol Murray, Janet Cochrane, Will Scarlett and Rachel Connolly.

Apologies: Helen Soutar, David Lepper and County Councillor Robert Heseltine

Also in Attendance: County Councillor Don Mackenzie (Executive Member for Access) and Jon Hunter (North Yorkshire Police Representative)

NYCC Officers: Kerry Green (Interim Countryside Access Manager), Barrie Mason (Assistant Director) and Melanie Carr (Legal & Democratic Services - Local Access Forum Secretary)

295. Introductions & Apologies for Absence

Following members of the Local Access Forum introducing themselves, the Chair confirmed apologies had been received from Helen Soutar and County Councillor Robert Heseltine.

It was also noted that two Forum members (David Lepper and Rachel Connolly) were having technical issues and would join the meeting in due course.

296. Minutes of the meeting held on 20 November 2019

Resolved -

That the Minutes of the meeting held on 20 November 2019 be agreed as a correct record and signed by the Chair.

297. Public Questions or Statements

There were no public questions or statements.

298. Attendance of North Yorkshire Police Representative

The Chair welcomed Jon Hunter (NYP Traffic Management Officer) to the meeting.

Forum members raised a number of issues:

- The legalities around the appropriate use of motor cycles was raised. In particular the illegal use of areas not designed for motorcycles e.g. bridleways and footpaths and the difficulties with enforcement - Jon Hunter confirmed he had provided NYP with information on which routes were legal and which were not, and an understanding about what could be considered a road legal motorcycle. He also confirmed NYP shared a mapping system with NYCC showing maintained roads and their status and rights of way, but not temporary regulation orders. Doug Cartwright made Members aware that the Police could also access courses on technical issues and rights of way;

- NYP's response to obstructions to rights of way and threats by landowners to people on land that they perceived to be a right of way - Jon Hunter confirmed the Police had dealt with one or two of those types of incidents in the last year. However, the number of those incidents was generally low and therefore no specific policy was in place on how to deal with it;
- The role and purpose of the Rural Task Force;
- Use of the 'What Three Words' App;
- Problems arising from the increase in the number of walkers and cyclists during the Covid-19 pandemic period, and the possible need for a campaign to raising awareness on road safety – Jon Hunter confirmed there had been an increase in road accidents since the start of the lockdown period, the larger proportion involving cyclists only. He agreed all road users needed to be considerate of other road users, and recognised the conflict of space i.e. problems associated with narrow roads in rural areas etc. It was noted that NYCC were offering courses in some areas for born-again cyclists.
- Pegasus type crossings on 60mph roads – Jon Hunter confirmed that NYP would not be in favour of their use and noted they had been removed from the A66. He also noted many sets of traffic lights previously sited on other 60mph roads had also been removed, as they were considered unsafe;
- Public reporting of trail bikes on bridleways etc – It was confirmed that reporting the incident with a note of the registration plate was the best way;

The Chair thanked Jon Hunter for his attendance at the meeting.

299. Attendance of the Executive Member for Access

County Councillor Don Mackenzie provided a detailed update on all of the service areas within his Executive member portfolio of Access, (both physical and digital) and confirmed he was both the Road Safety Champion and the Cycling & Walking Champion for NYCC. He included in his update, an overview of work associated with sustainable transport. This highlighted the County Council's two successful bids to access Emergency Active Travel Funds. The first to pay for measures already introduced in various towns to create more footpaths to assist with social distancing, and the second to improve cycle lanes throughout the County. He noted the costs associated with the installation of segregated cycle lanes, but confirmed North Yorkshire still remained a very safe place to be on the roads, with the long-term trend for deaths and serious injuries on the road reducing year on year.

Paul Sherwood drew attention to the appalling state of the edges of some roads making it unsafe for cyclists, and County Councillor Don Mackenzie confirmed it was the Council's long-term aim to improve the condition of roads throughout North Yorkshire.

Doug Cartwright raised the issue of the danger from cattle to walkers and drew attention to a recent incident.

Roma Haigh questioned whether the County Council would consider trialling a policy on giving priority to pedestrian on rural roads thereby improving the connectivity of footpaths. County Councillor Don Mackenzie confirmed that it would require national legislation, but that he would consider championing any form of improvements to road safety.

Will Scarlett raised concern about the lack of consultation by NYCC with the Forum, noting that earlier in the year, a public consultation had taken place to gather views on

improvements to North Yorkshire's walking and cycling infrastructure (linked to NYCC's second funding bid), for which the Forum's views as a statutory body had not been sought. It was noted there was an ongoing issue with the lack of consultation with the Forum by NYCC e.g. a number of LCWIPs were in place but the Forum had only been invited to consult on one of those to date. Barrie Mason, Assistant Director for Highways confirmed NYLAF would be consulted on future LCWIPs going forward.

The Chair thanked the Executive Member for his attendance.

300. Secretary's Update Report

Considered - The report of the Secretary, which updated on developments since the last meeting. Attention was drawn to the overview provided on the work of the Countryside Access Service throughout the pandemic period, and the update on the working relationship between the NYCC's Countryside Access Service (CAS) and the District Council's planning departments, both provided by Kerry Green, Acting CAS Manager.

Forum members noted the increase in customer reports received during the pandemic period.

Will Scarlett confirmed he welcomed the update on the work of CAS and suggested it should be a regular update. He went on to request an overview on the number of registered DMMOs across North Yorkshire and a the time it was taking to process them etc. Also the associated selection criteria and the process for scoring/prioritising DMMO applications.

In response, it was confirmed there were currently just short of 150 DMMO applications waiting to be processed, with an increasing number of applications expected in the lead up to 2026. It was also confirmed that a forthcoming Deregulation Bill would result in a change to the way those application had to be processed, all of which would create a resource issue for CAS. It was agreed that a regular overview of the work of CAS would be provided for future meetings.

It was also confirmed:

- There were no Covid related restrictions in place on PROW;
- The Government and Natural England had actively encouraged that PROW remained open because of their positive contribution to mental health and exercise;
- There had been some temporary narrowing of roads in some populated areas to enable social distancing and some temporary road closures e.g. Northallerton Market place on market days;
- Rights of Way Improvement works would inform part of the strategic Local Transport Plans going forward, replacing the previous Rights of Way Improvement Plan;

Resolved – That the update be noted.

301. District Council & LAF Project Updates

Considered –

The report of the Secretary giving LAF members the opportunity to update the Forum on District Council liaison and other LAF representative project activity since the last meeting.

In addition to the information provided for the report, the Chair confirmed he had received no further information on the progression of the A66 works.

Resolved -

That the additional information provided at the meeting be noted alongside the written updates provided in the report.

301. Forward Plan

Considered -

Members considered the Forward Plan provided at Appendix 1 to the report, and invited members to identify any additional items of business to be added.

At this stage, Rachel Connelly joined the meeting.

Will Scarlett offered to be the district liaison representative for the Craven area, and Janet Cochrane suggested that further clarity was needed for new members on the role of the Forum and its focus, and it was agreed that this issue be discussed further at the next meeting.

It was noted that Will Scarlett had pulled together comments from Forum members in response to the Highway Code consultation, and would send it to the Secretary for submission on behalf of the Forum. It was also agreed that Rachel Connelly would circulate some guidance notes on good practice for liaison with District Councils.

Finally, the Chair confirmed that in light of the limited number of meetings held this municipal year because of the Covid pandemic, the election of a new Chair and Vice-Chair would be delayed until the first meeting of the new Municipal year.

Resolved - That the Work Programme document be updated and noted.

The meeting concluded at 12pm
MLC

North Yorkshire County Council

North Yorkshire Local Access Forum

27th January 2021

Proposed Changes to the System of Prioritisation for Definitive Map Modification Order Applications

1.0 Purpose of the report

- 1.1 To advise and seek the views of members of the LAF on proposed changes to the system of prioritising applications for Definitive Map Modification Orders (DMMOs).

2.0 Context

- 2.1 The County Council has a duty to keep the Definitive Map and Statement relating to North Yorkshire up to date and one element of this is the investigation and resolution of applications made by members of the public for Definitive Map Modification Orders (DMMOs) to be made to add routes to, delete routes from or amend particulars within, the Definitive Map and Statement.
- 2.2 For many years there has been a backlog of DMMO applications awaiting investigation, and the backlog is now mounting ever-more rapidly as members of the public are becoming increasingly aware that they may lose unrecorded public rights of way if they are not subject of a formal application prior to the nationally proposed 'cut-off date' of 2026.
- 2.3 To establish the order in which applications would be investigated, a basic 'points' system was devised in 2003 to prioritise applications on a basis of limited criteria. The system inadvertently resulted in many cases having the same priority score. The system was reviewed and revised in 2011, expanding upon the previous merit system, providing a more helpful wider spread of 'points'. This system gave greater priority to cases which were:
- well supported by evidence;
 - submitted by user groups or local community groups;
 - near to population areas and would apparently be beneficial to more users in a local communities;
 - where public use had been recently prevented.
- 2.4 It was considered at the time that this would result in those more strongly supported cases being resolved more quickly having a positive effect on the backlog, and would help escalate those cases which were apparently in the greater public interest. To some extent these aspirations were successful.
- 2.5 However, over time, flaws in this system have become increasingly apparent, and it is clear that the prioritisation system needs to be reviewed in the interest of fairness and to mitigate the risk of challenge.

3.0 The reasons for proposed change

3.1 The main flaws in the current system are:

- The position of any particular case is constantly changing within the priority list as newer, higher scoring applications are made, pushing lower scoring cases down the list, or as additional evidence is submitted, increasing the score of existing cases, moving them further up the list and also pushing lower scoring cases down the list.
- The result of this is that we are unable to give any applicant a realistic timescale when their application will be commenced as it is unknown how many higher scoring cases may be submitted in the intervening period. This is frustrating for both applicants and for officers. In addition, it hinders the ability of the team to produce a clear casework programme for the forthcoming year if priority cases are constantly changing.
- Many newer applications are now submitted with more substantial evidence in support, which in itself is laudable and extremely helpful towards the investigation of cases. However, this is compounding the lower scoring cases which have increasingly little, if any, hope of ever being investigated, inevitably becoming 'old' cases.
- Old cases are potentially more difficult to investigate as evidence can become less apparent, and witnesses providing verbal evidence may be increasingly less able to partake in the investigative processes, which is disadvantageous to the case.
- The lower scoring cases are not necessarily those relating to routes that are less likely to be proven to be public rights of way. A case with only one item of evidence which in itself is statutorily compelling, would still have a low score and would remain low in the list.
- In addition to the system being most unfair to applicants of the lower scoring cases the system is exposing the Authority to the risk of challenge for failing to deal with applications held for an unreasonable period of time. This is clearly unacceptable from a reputational and financial point of view.

4.0 Proposed changes to the prioritisation system

4.1 A benchmarking exercise was undertaken to establish how other Authorities prioritised DMMO applications, which revealed that there was no consensus on a recommended system, and that handling the oldest case first was the most frequently adopted approach.

4.2 Officers investigated options to modify the current point based system by altering criteria weighting scores, however, ultimately these did not satisfactorily address the concern of dealing with low scoring applications.

- 4.3 The conclusion reached is that reordering the prioritisation to dealing with applications based on the date of application commencing with the oldest case, is deemed to be the fairest to applicants, and avoids the possibility of certain cases having little or no chance of ever being aired.
- 4.4 The benefits of this approach are seen to be:
- The oldest cases would be investigated in the near future.
 - Investigation of these oldest cases would also be an opportunity to greatly reduce the risk of challenge.
 - A priority list could then be simply devised allowing us to give greater clarity to applicants on when their cases are likely to be commenced and online registered amended accordingly.
 - There is certainty that all cases will be investigated regardless of the quantity or quality of evidence that was available to the applicant.
 - This approach would be consistent with the approach that is taken for the processing of the public path order applications, which has been successful and clear to customers.
- 4.5 In addition to the above, it is recognised that there may be exceptional circumstances arising whereby it would be desirable to the Authority for a particular DMMO application to be investigated 'out of sequence', for example, in relation to land subject to major planning applications. These would only be promoted out of sequence by formal resolution by senior management in line with the Scheme of Delegation.
- 4.6 It is appreciated that change to any system would be clearly welcomed by some parties and not by others. Those with applications already within the system with high scores may be disappointed that a change would delay commencement on their own case. Conversely, there is likely to be relief amongst other applicants who were facing the possibility of never seeing their applications progressed.
- 4.7 Prioritisation of DMMO applications is an internal process and there is no obligation on the Authority to undertake a consultation on the matter. Nevertheless, it is considered appropriate to engage with the LAF and seek views on changing the current prioritisation system and would welcome views on any alternatives to the proposal.
- 4.8 Feedback from the LAF will help inform engagement with applicants directly affected who will subsequently be contacted for their views on any proposed changes. The Authority will have due regard to public sector equalities duties prior to any formal decision being made and change implemented.

5.0 Recommendation

- 5.1 The members of the LAF are requested to consider the proposals and offer any comments.

IAN KELLY

Countryside Access Manager, Transport Waste and Countryside Services

Author of report: Penny Noake, Principal Definitive Map Officer

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North Yorkshire Local Access Forum

27 January 2021

Future Direction of the North Yorkshire Local Access Forum

1. Summary of Recent Meeting

On 27 November 2020 North Yorkshire Local Access Forum representatives met with Ian Fielding, Assistant Director, Transport, Waste and Countryside Services, to discuss issues of concern regarding the way the forum operated and the interface between the County Council and the Forum.

2. The attendees at that meeting were:

- Roma Haigh, Will Scarlett and Paul Sherwood (Local Access Forum Members);
- Ian Fielding (Countryside Access Services),
- Melanie Carr and Daniel Harry (Democratic Services)

3. No formal minutes taken by either party, and apologies were received from Ian Kelly (Countryside Access Services).

4. The Forum representatives raised a number of issues previously identified by Forum members. The responses from Ian Fielding, Assistant Director, Transport, Waste and Countryside Services are shown below in italics:

- (i) That the forum be given a named designated contact person(s) within CAS (or within NYCC assuming they have close knowledge of the CAS department) which is confirmed each year and any changes (due to retirement/transfer etc) are advised to forum members. *Ian Kelly*
- (ii) That the designated contact person should come to every forum meeting with a standard format report about what is happening with 'access', for example, number of reported problems and how they are responded to and the completion rate etc. *Awaiting Ian Kelly to respond to this.*
- (iii) That every year CAS explain their plans and objectives to the forum as we recognise that it is important for forum to understand what priorities CAS have and what we as a group can do to advise and assist in a cost effective and efficient manner. *As above.*
- (iv) That the forum be invited to nominate a delegate to attend and/or receive the agenda & minutes for relevant CAS meetings relating to access. This was turned down, which is *hardly unexpected as it by far exceeds the LAF remit, even elected members cannot do this.*
- (v) The Committee Clerk is not a conduit to CAS or other NYCC departments; she works for Democratic Services and it appears an inefficient use of her limited time to be used as a 'messenger' service or overburdened with internal LAF documents/data. *All contact to be through the Committee Clerk.*

5. Other Issues Raised by Forum Members and NYCC Officers, and their Outcome

A number of other issues were raised at the meeting together with some suggestions for achieving a better working relationship between the council and the forum to the benefit of both parties:

- Recruitment of LAF membership. Concerns over lack of balance. Daniel Harry, Democratic Services Manager confirmed vacancies are advertised widely in a range of ways with the aim of attracting applications from individuals with a range of interests. It

was accepted that there was a problem in getting land owners, land agents etc (which is a national problem) and confirmed that work would continue to try to obtain a better balance in future appointments to prevent an issue of perceived bias. *This is a duty under the national guidelines.*

- Although it was not addressed in detail, the appointing authority were made aware that there are LAF concerns over the lack of direct input in appointment of new members and keeping a balance of 'user' interests. Ideally a forum member on the appointments panel.
- Reduction in frequency of meetings. Daniel Harry confirmed we cannot financially justify having more than three meetings per year. There was discussion regarding the LAF not being consulted when the frequency was reduced from four meetings to three per annum, and some confusion as to us not having had a say in that. *This is a duty under the national guidelines.* Daniel Harry confirmed again that there is no problem in having more formal meetings if they can be justified, and nothing preventing the LAF from setting up task and finish sub-groups to meet informally between formal meetings. Attention was drawn to the Forum's recent attempt to do this, which was unsuccessful as the sub-group were unable to agree on anything to bring forward to a formal LAF meeting.
- One suggestion put forward about how sub-groups could work, was that they be formed based on specific issues i.e. equestrian issues, cycling issues, environmental issues, maybe even planning issues, walking etc, rather than inundate everyone with e-mails on every topic no matter how disinterested some members may be.
- Officers drew attention to the ongoing problem that the LAF leave too many topics unfinished and adjourned to later meetings because a consensus cannot be reached. Daniel Harry suggested that apart from our usual list of 'run of the mill' reports & responses we should have one topic for discussion at each meeting, and this should be resolved, with a vote if necessary. Where appropriate, this could then be added to our 'Position Statements' or even our 'Terms of Reference' if required.
- Lack of engagement with LAF expertise. Ian Fielding accepted that this may have evolved into a problem and that the forum was not being taken seriously.
- Exclusion of LAF in recent initiatives. As in the previous paragraph, this seems to have evolved.
- The LAF interface with NYCC departments & Countryside Access Services. Ian Fielding referred to those problems and confirmed that Ian Kelly is now back in post as CAS Manager, so things should improve. It was also made clear that unlike North York Moors National Park Local Access Forum, which has almost as many staff members as forum members & results in instant responses, the Forum would not have representation at each meeting from someone in each of the CAS departments as staff availability & costs precluded it. Again, the fact that Ian Kelly is back in post should resolve some of these issues.
- There was no response to a LAF request for an up to date Access Services Department "Who's who" (family tree), we have not had an update for years and are unaware of the current staffing & management.
- Overall, it was accepted by Ian Fielding that the LAF had been failed in 'communication' over the past two years and he made a commitment to improving matters

6 Way Forward

If we are to support the commitment made by Ian Fielding, we must play our part in ensuring the LAF improves its working practices and becomes less dysfunctional.

7. Historically, there has been too much indecision even as to what our role actually is. To a certain extent this is due to the LAF for years not having a 'Terms of Reference' document and therefore being allowed to wander off on all sorts of personal crusades, which is inefficient, unprofessional and time consuming.

8. For clarity, our statutory duties are:

Statutory Instrument No 268 (2007) "Local Access Forums (England) Regulations 2007"

Part 4 section 22 (page 11) Matter as to which advice is to be provided

- 22(1)a In this regulation, access to land by a person or persons will be for a 'lawful' purpose on any occasion if he/she or they may access the land on that occasion without committing an offence or trespassing on the land.
- 22(1)b In this regulation, 'byway open to all traffic' has the meaning given by section 66(1) of the Wildlife and Countryside Act 1981. ["byway open to all traffic" means a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used]
- 22(2) Subject to paragraph (3), the following is prescribed as an additional matter in respect of which it is the function of local access forums to advise; 'public access to land in the area for which a forum is established for any lawful purpose other than the purposes mentioned in section 94(4) [this covers improvement of public access to land in the area for which the forum is established for the purposes of open-air recreation and the enjoyment of the area].
- 22(3) The function conferred by paragraph (2) is exercisable in relation to access by mechanically propelled vehicles only insofar as the access relates to byways open to all traffic.

9. A five-page on-line guidance document published by Gov.uk on 9 September 2014 briefly states the duties of Local Access Forums as:-

Local Access Forums advise decision making organisations (such as local authorities) about making improvements to public access for outdoor recreation and sustainable travel.

Local Access Forums can set their own priorities depending on local issues. They also respond to consultations and draft policy documents. When making recommendations, LAF members need to consider land use, as well as the need to conserve flora, fauna, geological and physical features.

10. The only other current ('live') guidance is a publication from Andy Mackintosh of Natural England in April 2015 'Plan of Engagement between Natural England, DEFRA and the Local Access Forums' Section 3:

The primary purpose of the LAF is to provide advice to a range of organisations "as to the improvement of public access to land for the purposes of open-air recreation and the enjoyment of the area, and other matters as may be prescribed."

"The LAF set their own priorities depending on local issues and what is of interest, as well as providing a local input to consultations and draft policy documents."

11. However, 'other matters as may be prescribed' is ambiguous - prescribed by statute, legislation or an individual forum member's opinion? I would assume it does not mean we make it up as we go along. Any documents issued by DEFRA or Natural England regarding guidance on our purpose in life, appear to be out of print and are 'archive' material, available through National Archives at Kew. An e-mail (3rd February 2020) from Alan Kind of Hodology is fairly apt in his description of the current situation regarding central government and forums, even before SARS-Cov-2, "DEFRA Countryside has just about ceased to exist,

Natural England Access is little more than a couple of officers and a dog & the Planning Inspectorate is coming apart at the seams." So current guidance on what our purpose entails is literally nil.

12. Suggestions include:
 - Management of access land.
 - The condition of the public rights of way and work to record public rights of way.
 - Improvements to the network of routes and open spaces.
 - Provision of greenspace, including woodland & coast.
 - Relationship with other sectors, including health, sport, tourism, land management etc.
 - How local authorities prioritise their spend on access & recreation.
13. Speaking to other Forums and to the Regional Forum, they all have an agreed purpose in life and a 'production target' to use an engineering term. They do not get involved in planning matters except where there is a clear interruption/diversion/closure of a public right of way. Their view is that planning and parking of cars is not an issue for access forums.
14. Currently planning is a two-tier function with district/borough councils in North Yorkshire, but by 2023, this may become a single tier situation, which will no doubt make it easier to administer, as planners and rights of way officers will both be 'in-house' with one authority, as in most of the country currently.
15. As Chair, I agree with the suggestion made by Officers that we move to having a topic(s) on each agenda that we discuss to closure, vote on it if necessary, add to a 'position statement' or indeed incorporate it into our Terms of Reference. It is my view that this would cease pointless & time-consuming regurgitation at meetings and help remove the situation of people coming to meetings ill prepared and rambling on about something with no background facts/data to support their views.
16. With this in mind, in July 2019 shortly after becoming Chairman, I issued a document, part of which I re-state:

“One of my main concerns causing time wasting and productivity lapses is people attending meetings unprepared, especially if they are involved in an issue. It is an inefficient use of resources to rummage through a pile of papers, not have concise details of what you are trying to impart to the rest of the LAF, and to refer to documents and people you have dealt with in vague ways. Forum members should ensure that documents (in whatever form, Acts, guidance, BS's, Statutory Instruments etc) are known, title, published by, date, chapter & verse - so that we all are aware of what is being talked about, so that others can look at the relevant document if relevant. Hearsay & innuendo are not evidence based. “
17. This same problem occurs in internal e-mails, with references to "...something in the D&S..." Some in the LAF will not have a clue as to what the D&S is.
18. However, the most contentious issue we have to address is 'Access'. The consensus seems to be (as briefly touched on in our Terms of Reference) if a topic does not have a direct implication with access, we do not get involved. But where does that leave those of you that are talking about leaflets about walks? And who finances such publications?
19. Much discussion has gone on (even nationally) about a LAF's remit regarding unclassified unsurfaced county roads 'green lanes'. Initially it was suggested that forums should not get involved, but most forums accept that green lanes are a valuable part of the rights of way network and therefore do look into matters effecting them.

20. North Yorkshire has a situation where green lanes and footpaths/bridleways are covered by two distinct county departments. Previously, the LAF has met with and had productive dialogue with Highways, and the consensus at that time was that like other forums, we treat them as part of our public access remit. A task and finish group was subsequently set up to progress this matter, but as referred to in paragraph 5 (3rd bullet point) above, they were unable to reach any agreement and so it remains unresolved. In order to progress this matter a separate item on this appears elsewhere on the Agenda.
21. The other ad infinitum topic is the website, I raised the matter in mid-summer 2017, and whilst members were generally in favour, there were some were totally opposed to having their names listed (aghast at the idea of a photo) and it just fizzled away. Other forums' websites are either stand-alone or part of the authority website. They are informative, tell the public what they do, how to contact them, and most importantly have details on potential membership. They also provide access to their wonderful glossy 'annual report' publications, something we have never managed to achieve. The task of designing a website for the LAF was taken on by a member but did not come to fruition, and whilst there is information on NYCC's website, it is not easy to find.
22. To try to better manage the debate on the issues raised in this report, forum members were invited to provide their written views with background facts (not hearsay) ahead of this meeting so that they could be fed into this report. However, at the time the agenda for this meeting was published, only one response had been received.
23. Report Recommendation
I would like to recommend that that the Forum resolves the key points summarised below:
- Do we adhere strictly to 'access' only issues
 - Do we treat UCR's as part of the PROW system
 - Do we set up specific group/teams (if so, volunteers)
 - Do we cease to get involved in the minutia of planning applications
 - Do we need a fully functioning website (leaflets on routes)

Paul A. Sherwood
Chairman of North Yorkshire Local Access Forum
18 December 2020

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North Yorkshire Local Access Forum

27 January 2021

Discussion Document - Unsurfaced, Unclassified County Roads

1. One of our former members Michael Bartholomew carried out much research into this topic when he was a member of the Yorkshire Dales LAF, producing an explanatory document for our LAF in May 2019, we also had input at the June 2019 forum meeting from Ben Jackson, who handles UUR's for NYCC. He had earlier given a presentation to the Countryside Access User Group meeting stating that routes of this status are a valuable part of the rights of way network. He later confirmed in an email - "The view of the Countryside Access Team is that UUR's are an important recreational asset and form many vital links to the PROW network. It would therefore make sense for these to be considered, where appropriate, by the LAF in the context of enabling greater access to the countryside. I would be happy to support this approach."
2. The matter is somewhat complicated by the wording in the official guidance "Guidance on Local Access Forums in England" (DEFRA 2007) which states that Access Forums should not become involved in any UUR with a higher classification than a Byeway Open to All Traffic. To complicate matters further "Forums are required by section 94 of the Countryside & Rights of Way Act 2000 to have regard to guidance... this means that although not bound to follow this guidance, forums are legally required to pay attention to it and must take it into account in carrying out their functions." Therefore the 2007 guidance is unhelpful and ambiguous.
3. Two discussion papers were prepared for the Forum's consideration which resulted in a small 'working group' being convened to investigate.
4. The matter was again raised at the July 2019 Forum meeting at which the report of the Secretary provided two discussion papers on Green Lanes / UURs for the Forum's consideration (see copies at Appendices A & B respectively). The following is an extract from Minutes of that meeting (minute 285):

Michael Bartholomew introduced the item confirming there were approximately 800km of green lanes in North Yorkshire, most creating no problem for users. However, he highlighted that in some individual cases their fabric was being ruined and wildlife was being disturbed. When this became apparent, he suggested the question should be asked 'Is the use of this Green Lane by non-essential motor vehicles essential for the public's interest. If the answer is no, then closure should be sought.

Members discussed their opposing views on the use of UURs and Doug Cartwright suggested a compromise needed to be identified for any contentious UURs, in order that they could remain accessible to all.

Members noted that National Parks had historically worked well to identify a suitable compromise for contentious UURs, but Michael Bartholomew gave an example of where after 30 years of compromise a Green Lane had finally been closed to motor vehicles after the relevant Authority had accepted that the many compromises made had not worked.

Carol Murray proposed that in each instance, whatever right of access existed, that level of access should be maintained, and attention was drawn to her suggestion in the papers that an initial 'double check' be added, that 'Repair and Reopen' was the correct way forward, before doing so. It was also noted that any consideration of closure would need to include an holistic view of its effect on any adjoining routes.

Michael Bartholomew sought clarity on what was meant by a double check and Members discussed going on site visits to familiarise themselves with those green lanes whose use and condition had become contentious.

4. At the July 2019 meeting, Members were also made aware of an offer from the John Sugden, Chairman of Redcar & Cleveland LAF to attend a future NYLAF meeting to give a presentation on the various ways that highway authorities have handled UCR's in the old North Riding over the years. He was therefore invited to attend the November 2019 Forum meeting, and it was agreed that the NYCC PROW Officer should be invited too.
5. That meeting was in fact attended by a number of Countryside Access Services & Highways staff due to their interest in the matter, and the presentation given by John Sugden proved very informative.
6. Since then, information has been obtained from adjoining forums, in the North East and Yorkshire & Humberside Regional areas including our three adjoining National Parks, and it was found that [nationally] most forums do indeed pay attention to the guidance, but also regard UUR's as part of the public right of way network and take them into account when relevant.
7. It was proposed that in each instance, whatever right of access existed, that level of access should be maintained wherever possible and an initial 'double check' must be taken and that 'Repair and Reopen' was the correct way forward. It was also noted that any consideration of closure would need to include a holistic view of its effect on any adjoining routes which are part of the entire public right of way network. These 'Ancient Highways' are of similar lineage as most of our footpaths & bridleways and are indeed public rights of way.
8. This approach in itself is contradictory to an Access Forums general remit of looking into matters with a strategic view rather than specific cases, however, this seems the best option, and in some cases, members will need to carry out site visits to familiarise themselves.
9. Conclusion
Many hours have been spent discussing this topic for several years and it has never proceeded to become a formal 'Position Statement' that we do indeed regard unsurfaced, unclassified county roads as a constituent part of the Public Rights of Way Network.
10. Recommendation

Members are asked to consider the drafting and adoption of an agreed Position Statement on UURs.

Paul Sherwood
Chairman of North Yorkshire Local Access Forum

7 January 2021

May 2019

From: Michael Bartholomew

To: NYLAF

Subject: The LAF's position on green lanes.

At the last LAF meeting we agreed to work our way, if possible, toward a policy on the management of green lanes. The following is a contribution to the debate that will be necessary. I hope that colleagues will submit their own papers and that at a future LAF meeting we will be able to debate them.

1. Introduction. First, are green lanes any of the LAF's business? Our statutory duties, as laid down in section 94 of the CROW Act, are to improve access to land, and to be mindful of the need for conservation of natural beauty and the needs of land management. Green lanes give access to land, often deep in the countryside. Commonly they run across areas of great, and often fragile, natural beauty. They are a necessary part of the infrastructure that farmers and land managers need for their day-to-day work. It follows, I think, that the LAF should carefully formulate a view of the way in which green lanes should be enjoyed, managed, and conserved. The use of green lanes, the condition of their fabric, and the expense required for their management, have been, and continue to be, contentious matters. This contentiousness should not be a reason for setting aside the challenge of formulating a policy. On the contrary, it is a reason for the LAF to carefully consider the issues and come up with a coherent position.

2. Definitions

2.1 'Green lanes' is a term that has no legal definition, but it is an indispensable term for signifying the network of unsealed tracks that have never been tarmacadamed throughout their length. They are survivors from the horse-drawn age, and are often beautiful and distinctive features of the landscape. What distinguishes green lanes from the ordinary, tarmacadamed roads that we all depend on, is their 'unsealed' character. That is to say, they have no waterproof tarmacadam or concrete coating. They may be cobbled, flag-stoned, surfaced with stone chippings, or, often, may simply be scarcely-marked tracks running across grass, or heather, or peat, with no surfacing at all.

2.2 There are three sorts of green lanes. The first sort are 'Byways Open to All Traffic' (BOATs). As the name suggests, they are legally open to every type of user. They are entered on the Definitive Map, and are signified on Ordnance Survey maps by lines of green crosses. They are administered by Rights of Way departments, in exactly the same way that footpaths and bridleways are administered. There are 53 kms of BOATs in North Yorkshire.

2.3 The second sort are 'Unsealed Unclassified Roads' (UURs). These are entered not on the Definitive Map, but on the Highway Authority's 'List of Streets', the purpose of which is to record routes that are acknowledged to be maintainable at public expense. UURs are also known as 'Other Routes with Public Access' (ORPAs), and are signified on Ordnance Survey Maps by lines of green dots. There are 750 kms of UURs in North Yorkshire. Administration of UURs hovers between the Rights of Way Department, and the Highways Department. The latter steps in when regulation orders are required or considered. Unlike BOATs (and footpaths and bridleways) the public rights of way on UURs are unclear. The cautious gloss

on ORPAs in the key alongside OS maps expresses this lack of clarity. Entry on the List of Streets tells us only that the route is maintainable at the public's expense, and that UURs have, at least, rights of way for pedestrians. What higher rights any particular UUR may have must be considered case by case. No blanket assumptions may be made. This is the view of DEFRA's lawyers, and it is endorsed by NYCC Highways.¹ Vehicle user organisations contest this view. They assert that, by definition, UURs carry public rights for motor vehicles. In the absence of certainty, recreational vehicle users (along with cyclists, and horse-riders) routinely drive and ride along UURs. It is not the job of LAFs to settle the rights of way on UURs: that is a matter for public inquiries. Our duty is to consider how they are used, and what, if any, management measures may be required.

2.4 The final sort of green lane are 'Restricted Byways' (RBs). They are marked with purple lines, or, on some OS maps, green lines with dashes. They bear all the rights of BOATs, with the exception of non-essential motors. They differ from bridleways only in bearing rights for horse-drawn vehicles. There are very few RBs in North Yorkshire.

3. Traffic Regulation Orders (TROs). These are legal orders that suspend the rights of all, or some users, either temporarily or permanently. There are three types:

3.1 Temporary TROs. These may be imposed for periods up to 18 months, with the possibility of an extension for a further 18 months. Temporary TROs on green lanes are imposed usually when there is damage that can and will be repaired within the 18 month closure. The expectation of both the Authority and users of the TRO'd route is that it will be repaired and re-opened to all users.

3.2. Experimental TROs. These are designed to test the likely efficacy of particular, targeted prohibitions: eg What might be the effect of prohibiting 4x4s but not motorbikes? What might be the effect of prohibiting non-essential motors during the winter? These experiments are difficult to perform, for in order to produce good data, a control route of the same character, but upon which no restrictions are imposed, needs to be included in the experiment. This is a tall order.

3.3 Permanent TROs. These can be total prohibitions, 24 hours a day, 365 days a year, on all non-essential vehicles. Equally, they may be targeted at particular users (eg 4x4s), or may apply to all vehicles during certain months of the year, or may specify the direction of travel for vehicles – ie make the green lane one-way only.

3.4 TROs are legal instruments. They are costly to prepare, and if they are not legally bomb-proof, right down to the smallest detail, they can provoke litigation from disgruntled users or landowners. And if the court case goes up to the Supreme Court, the costs are eye-watering. Authorities that are considering the imposition of permanent TROs often conduct public consultations in order to fortify their legal departments against charges of abuse-of-process.

3.5 For what reasons may TROs be imposed? To simplify somewhat, highway authorities have a duty to keep all ways open to all legal users: 'to secure the expeditious, convenient and safe movement of traffic (including pedestrians).' (*Blue Book*, p496, p579.) This is a primary duty, but it is not an absolute one. If certain closely-specified conditions are met, the duty to keep a way open may be suspended for all, or some users, by means of one of the various sorts of TRO - permanent, experimental, temporary. To be successful, a TRO

¹ NYCC Highways paper on management of UURs, 23.3.18

has to be supported by evidence that one or more of the following eight outcomes will be achieved:

- (a) The avoidance of danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising.
- (b) The prevention of damage to the road or any building on or near the road.
- (c) The facilitation of the passage of any kind of traffic (including pedestrians) on the road or any other road.
- (d) The prevention of the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property.
- (e) The preservation of the character of the road in the case where it is particularly suitable for use on horseback or on foot.
- (f) The preservation or improvement of the amenities of the area through which the road runs.
- (g) The conservation or enhancement of the natural beauty of an area. This includes conserving flora and fauna, and geological or physiographical features.

(DEFRA publication, *Making the Best of Byways*, p27, *Blue Book*, p567.)

If the proposed TRO is for a green lane that runs through protected countryside (eg national parks, AONBs, SSSIs, National Trails) an additional consideration applies:

- (g) Affording better opportunities for the public to enjoy the amenities of the area, or recreation, or the study of nature in the area.

4. Other management measures

4.1 Vehicle user groups often recommend their members, and any other vehicle users who may be persuaded, to exercise 'voluntary restraint' when the condition of a green lane is judged by them to be parlous – eg when it is waterlogged, or has been so seriously rutted that it should be avoided altogether, or used in only one direction. As far as I know, no clear evidence of the effect of appeals for voluntary restraint has so far been produced. Such evidence would need to show that compared with an equivalent period when no appeals for voluntary restraint were in place, the period of voluntary restraint produced a measured decrease in the volume of traffic.

4.2 Volunteer working groups. As with footpaths, green lanes elicit volunteers who will make repairs, usually to ruined surfaces. Local authorities that are strapped for cash welcome volunteers, provided that problems of insurance and health and safety can be solved. But unlike footpaths, where, say, a stile needs rebuilding, ruined green lanes tend to necessitate the use of heavy equipment and tons of materials. In relatively few cases will volunteer labour be capable of bringing a ruined green lane back up to the required standard.

5. Damage to green lanes

5.1 All users of green lanes make an impact. But the impact is proportional to the size and weight of the user. Obviously, a 4x4 makes a far greater impact than the impact that would be made by the driver if he or she got out and walked. Peace and tranquillity are prized

features of green lanes. A party of half a dozen motorbikes obviously make a far greater impact on peace and tranquillity than would be made if the riders left their motorbikes where the tarmac stops and walked.

5.2 Agricultural use. Plainly, tractors and other heavy agricultural equipment leave a heavy footprint. And high in the fells, quad bikes, which leave a rather small footprint on the ground, produce noise that can be heard from afar. But two points need to be made. First, vehicles that are used in agriculture or land management are there because they are necessary: they are not leisure vehicles. They are not there for fun. Second, farmers and land managers who depend on their local green lanes to get to their fields, pastures and moors have a powerful incentive to keep their lanes in reasonable condition, and they tend to make rough and ready repairs. Sometimes, repairs are made by land-owners, at their own expense, and are carried out to a very high standard. The programme by the Yorkshire Dales National Park for the imposition of ten permanent TROs has produced some instructive results concerning the impact of agricultural vehicles on green lanes. Every one of the ten routes is used by farmers. Yet every one of the routes is now in far better condition than it was when they were open to recreational motorbikes and 4x4s, even though, with a few exceptions, no maintenance was carried out following the imposition of the TROs (a finding that was borne out in the tables produced by Countryside Access Services at our LAF's 10 April meeting). Agricultural use of the ten TRO'd routes has not changed, yet the lanes recovered spontaneously when recreational vehicles were prohibited. The conclusion is obvious.

5.3 The weather. It is often asserted that the damage to green lanes is chiefly attributable to water - water either rushing downhill, scouring the lane, or water standing in dips, unable to drain away, thereby waterlogging the lane. Effective drainage is obviously important, but lanes that are not used by recreational vehicles tend to take rainfall in their stride. If the lane has a reasonable thatch of grass covering it, and/or ditches alongside, the grass acts as a sponge, soaking up the rain and releasing it slowly. But once the grass has been stripped away by the passage of vehicular traffic, the rain will rush downhill as soon as it falls, and will scour out the bare surface, washing out loose stones and often scouring the lane down to bedrock, especially on lanes with steep gradients. Comparisons between lanes that are at similar gradients, but which differ only in whether or not they carry vehicular traffic, show that the traffic-free lanes remain intact, while the lanes suffering vehicular traffic are washed out, even though the two lanes are subject to exactly the same weather conditions.

5.4 Peace and tranquillity. High on the list of the special qualities of national parks and areas of outstanding natural beauty are peace and tranquillity. The countryside outside these specially-protected areas is also valued by most visitors for its capacity to enable users to escape the noise and nuisance of motor vehicles. On open, tree-less fellsides, the noise of vehicles, especially noise produced by parties of motorbikes, carries for over two miles. Recreational vehicle users respond by asserting their right to take their vehicles along green lanes, and insisting that their vehicles are fully road-legal. As long as vehicles are within the legal limits for noise emissions, users say, they should not be prohibited, however audible they are.

5.5 Flora and fauna. Numbers of green lanes cross Sites of Special Scientific Interest (SSSIs). Blubberhouses Moor is an example with which LAF members will be familiar. English Nature, the agency that looks after SSSIs, fully supported the imposition of the zonal TRO on the moor, on grounds that the important blanket bog had been damaged – in some

places irreparably – by the passage of motorcycles. Obviously, non-motorised users can damage SSSIs – eg by disturbing ground-nesting birds – but in comparison with motor vehicles, non-motorised users make little impact.

6. Illegal use. If vehicles leave rights of way they are breaking the law, and if they damage the land adjacent to the right of way, they risk a charge of criminal damage. These are matters for the police, not rights of way departments. The only potential role to be played by the LAF is to encourage the police to take action, along with action against users whose vehicles are not street legal. In North Yorkshire, the hard-pressed police have had some success in prosecuting law breakers, but it's a difficult business.

7. Disabled people on green lanes

7.1 Green lanes do not have stiles, and often have reasonably manageable gradients. Also, they are wide enough for a blind walker and his/her guide to walk side by side, rather than in line – a configuration often demanded by narrow footpaths. Since recreational vehicle use became popular, the condition of the surfaces of green lanes has deteriorated to the extent that sight-impaired people and people with limited agility have real difficulties in making progress. Green lanes that used to be ideal for expeditions of disabled people are now hazardous, especially when a party of 4x4s or motorbikes comes along.

8. What do the general public think about vehicles in the countryside?

8.1 When the Yorkshire Dales National Park was conducting research in connection with its programme for the imposition of TROs, it found that the non-motorised public's enjoyment of their day in the Dales was enhanced by meeting no recreational vehicles, and encountering none of the damage that such vehicles inflict. The formal responses to the consultation on the advisability of imposing the TROs, overwhelmingly demonstrated the public's support.

8.2 In 2004, the polling company ICM were commissioned to undertake a national opinion survey on attitudes to the countryside. Respondents were asked to give their response to the following proposition: *The use of recreational motor vehicles on rights of way in national parks and other areas of outstanding natural beauty should be banned so that people can go there for quiet recreation and so that the peace and tranquillity of the countryside can be preserved for future generations.* 87% agreed with the proposition. 8% disagreed. 5% didn't know.

9. 'Open air recreation'

9.1 This is the term used in the CROW Act (section 94) when it sets out the functions of LAFs. It says that LAFs are to advise on the improvement of public access to land 'for the purposes of open air recreation'. The question then arises, what constitutes 'open air recreation'? Obviously, walking, cycling, and horse-riding qualify. Arguably, motor cycling qualifies. But what about travelling in a car or 4x4? Is there any sense in which travelling by car along a main road – which nobody would call 'open air recreation' - suddenly changes its essential character when the vehicle leaves the tarmac and enters a green lane? The whole impetus of the CROW Act is to encourage people to get out of their cars and to walk, cycle, or horse-ride. The LAF might usefully reflect on whether the users of 4x4s on green lanes are partaking in open air recreation at all.

10. NYCC's current practice

10.1 In a report to NYCC Executive Committee in March 2018, the Highways department set out its general approach to the management of UURs. Among the important statistics included in the report is an estimate that £1.85 million would be needed to bring the UUR network in the county up to the standard required for regular use by those entitled to use the network. The report also acknowledges the contentious nature of debates over the proper management of the network. It notes that £37,434 of staff time has been expended on research into 5 cases, and a few general enquiries, that have become contentious. This is just staff time – not the cost of actual repairs.

10.2 What the report notably does not do is consider the role that will be played by the imposition of TROs. The emphasis in the report is on repair and maintenance, not on management regimes that might restrict non-essential motors. Indeed, relying on a rather dubious estimate of the economic benefits of motor cycle use of green lanes, prepared by the Trailriders' Fellowship, the report even canvasses the idea that North Yorkshire's UURs might actually be *promoted* as tourist destinations for vehicle users.

10.3 In exceptional cases, NYCC has imposed TROs of various sorts on a few green lanes, but its default position is that green lanes must be kept open to those who are legally entitled to use them, even when this necessitates regular, expensive repairs to the damage inflicted by recreational motors.

11. Two case studies

11.1 Deadman's Hill, a UUR which crosses the boundary between the Nidderdale Area of Outstanding Natural Beauty, and the Dales National Park, runs from Scar House reservoir in Upper Nidderdale, over the watershed, to descend to Arkleside, in Coverdale. It used to be one of the most beautiful, remote green lanes in the county. But since 4x4 and motorbike use became popular, its condition and ambience have steadily been degraded. The noise of vehicles, especially those on the higher sections carries for miles. At its worst, and because of the passage of 4x4s and motorbikes, the section at the summit was impassable, for all users. Over the years, numbers of attempts to repair the route have been made, some voluntary, most paid for by NYCC. On the northern side, expensive repairs were paid for by the landowner, even though his use of the track was limited to the access required by his gamekeeper. Temporary TROs were imposed, but they were revoked as soon as repairs had been made. The latest NYCC repairs, which entailed the use of heavy equipment, are unlikely to last, given the impact that 4x4s and motorcycles make. NYCC has no plans to consider whether a permanent TRO, prohibiting non-essential motors is required. There is one short section of this ancient route, just south of Lodge, that is not part of the UUR. It shows how the lane used to look, before vehicles were attracted to the route. This undisturbed section, with its flagstones and its grass border is a reminder of what a superb, historic feature of the landscape the entire lane used to be. Deadman's Hill is now ruined. A beautiful place has been made ugly, with no end in sight.

11.2 Gayle Lane, Braythorn, north of Otley. By contrast with Deadman's Hill, Gayle lane is short – just a mile or so. It used to be a quiet, charming lane used by walkers, horse-riders and a few cyclists. The local landowner and his neighbours kept the drainage in good repair – cleaning ditches and clearing old cross-track culverts. Then, Gayle Lane started to attract recreational motorists. The inward growth of trees and bushes which inhibited the passage of 4x4s (but which provided a habitat for birds) was cut back by 4x4 user group volunteers,

wall-to-wall. Now that 4x4s can get through, the old ceramic cross drains have been crushed, the parapet of the bridge over the beck has been damaged, and a deep gully, deepened yet further by running water, on the western side has opened up. The amenity of non-motorised users, and the landowner, have been severely compromised by the activities of the minority of users who prefer motoring to non-motorised modes of access. NYCC has no plans to prohibit non-essential vehicles. Instead, and in line with its repair-and-reopen practice, it hopes to deploy resources to patch up the damage inflicted by vehicles, and to keep the lane open to the 4x4s and motorbikes that caused the damage. A small, but beautiful feature of the lower Wharfedale landscape has been spoiled.

12. Conclusion

11.1 In formulating a policy on the management of green lanes, the LAF has to balance competing needs. First, it has to balance the duty to improve access to land, against the need to conserve the beauty of the countryside and to consider the interests of landowners. In most cases, the balance will be easy to strike: most recreational activities are consistent with the conservation of the countryside. But where particular activities inflict damage, the environment must come first, especially when people doing the damage can exchange their modes of enjoying the countryside for less damaging modes.

11.2 Second, the LAF has to balance the needs and desires of the wide variety of people who are seeking open air recreation. It would be wonderful if every need could be met. But we have to be alert to cases where one user group's enjoyment damages the amenity of other groups. Is there a realistic prospect of peaceful co-existence between motorised and non-motorised recreational users of green lanes, and the farmers across whose land the green lanes run? First, the sheer scale of the damage inflicted on green lanes by motor vehicles inescapably diminishes the amenity of non-motorised users, (and farmers) even when no actual vehicles are encountered. And second, when encounters do take place, non-motorised users generally find them disagreeable. But when the damage to the environment is added in to the balance, and when the interests of landowners are taken into account, there can be very little doubt that the fabric of the countryside would be improved if non-essential motor vehicles were kept out. The LAF should develop a policy that concludes that, on balance, the needs of both the landscape and of non-motorised visitors to it, outweigh the desires of motorised users. If this sounds draconian, or even spiteful, it should be remembered that TROs prohibit nobody from green lanes. The prohibitions embodied in TROs apply only to motor vehicles, not to humans. The amazing and beautiful network of green lanes would remain open to anybody who walks, rides a bicycle, or rides a horse

13 Recommendation.

13.1 Green lane management strategists might usefully learn from the thinking behind the now perfectly routine business of pedestrianising city centres. The questions asked when such schemes are considered are not 'Do motor vehicles have legal rights to drive, (to take an example), on the streets around York Minster?' Obviously they do. 'Can money from the Highways budget be spent on repairs and maintenance of the roads around York Minster?' Obviously it can. But the much larger question that has been asked is 'Do we want non-essential vehicles to be driven around the Minster precincts and the adjacent medieval streets at all?' And the answer given by York authorities and authorities up and down the country, supported by the general public, is 'No we don't'. This prior, strategic question has led to what most people would agree are more human-scale, agreeable city centres. A similar

strategic question needs regularly to be asked of green lanes: do we want 4x4s and motorbikes on them?

13.2 In my view, the LAF should do two things. First, we should familiarise ourselves, first hand, with green lanes whose use and condition have become contentious. We should regularly make site visits. Such visits will equip us to speak with authority when management schemes are proposed by NYCC, or when we propose them ourselves – as we did with Blubberhouses Moor.

13.3 Secondly, we should produce a policy that recommends to NYCC that its current default practice of spending large amounts of money on repair-and-reopen schemes, should be replaced by a policy that considers that whenever the state of a green lane becomes contentious, the first question to be asked is: 'Is it in the public interest for this lane to remain open to non-essential vehicles?' If the damage inflicted on the green lane in question by non-essential motor vehicles has ruined its natural beauty, compromised the amenity of non-motorised users, and made life difficult for farmers and land managers, then the answer should be 'No'. And if the answer is indeed 'no', then consideration of the imposition of traffic regulation orders should be the first, not the last resort.

Discussion Document on Unsurfaced County Roads (Green Lanes)

The DEFRA publication “Guidance on Local Access Forums in England” published in March 2007, (which appears to be the latest edition) states (2.2) that “Forums are required by section 94 of the Countryside & Rights of Way Act 2000 to have regard to guidance issued by the Secretary of State in carrying out their functions. This means that although not bound to follow this guidance, forums are legally required to pay attention to it and must take it into account in carrying out their functions.”

Under section 3.1.1 of the guidance, it defines the statutory function as being to advise as to the improvement of public access to land in the area for the purposes of *open-air recreation and the enjoyment of the area*. It does not specify whom is included or excluded for this enjoyment of open-air recreation. Horse riders, cyclists, motorists, walkers, motor cycle riders are all equal. Under section 3.1.2 it further states; public access to land in the area for “any lawful purpose” and continues “For mechanically propelled vehicles this is limited to access insofar as this relates to byways open to all traffic (BOAT)”.

The term ‘Mechanically Propelled Vehicle’ is not defined in legislation but DEFRA had issued further guidance in December 2005 “Regulating the use of motor vehicles on Public Rights of Way and Off Road.” Unfortunately, most links to the DEFRA site are no longer available, I certainly can’t find it, but I think we can all imagine motor vehicles in their various guises. The other publication giving LAF’s advice is the ‘Natural England -Handbook for LAF Members, issued in 2008, this too is dated and many links no longer available. However on page 9 ‘Subjects on which LAF’s can give advice’:- Public access to land for any other lawful purpose and driving of mechanically propelled vehicles only with respect to use of byways, including utilitarian purposes (e.g. cycling to school or work). Public vehicular access on byways open to all traffic including use for utilitarian purposes such as accessing private property. This publication shows the definition of a BOAT as:- The Wildlife & Countryside Act 1981 defines ‘byway’ as: a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purposes for which footpaths and bridleways are so used.

The Motoring Organisation’s Land Access & Recreation Association (LARA) have produced a very informative document “Unsealed, Unclassified Roads” published in March 2013; this outlines the plethora of types of tracks, details of maintenance responsibility, legality, case law etc. It appears to be the only helpful publication, and is supposedly kept updated for the on-line version. However, by virtue of the publishers is it entirely unbiased?

I have been in contact with the chairmen of adjoining Local Access Forums (Tees Valley, County Durham, Redcar & Cleveland, Cumbria & The Lakes, North York Moors National Park and Yorkshire Dales National Park) trying to ascertain their particular interpretation of the rule; ‘...is limited to access insofar as this relates to byways open to all traffic (BOAT)...’ this causes further complication, as their opinions differ, an interesting point is raised in the minutes of a meeting of the North East Regional LAF chairmen, that Northumberland Joint (with Northumberland National Park) LAF have had problems with trail riders, quad bikes, 4x4’s and Jet Skis on the river Tyne, so it’s not only byways to worry about.

John Sugden the Chairman of Redcar & Cleveland LAF sent me this interesting fact:- “The issue of status is more of an issue in your area. NYCC argue that the ways they record as unsurfaced roads may only have rights on foot – they do not say that they definitely do only have this status but that they might have. This vagueness seems to carry over to the management issue as how can you manage them if you don’t know what public rights they have over them? But it also rings alarm bells for higher rights users who worry that owners might take advantage of this vagueness and try to restrict use to walkers only. There is also concern as to what might be the effect of the 2026 cut-off. However, this is less of a problem in Redcar and Cleveland as this was all urban

districts before 1974 and the North Riding was only responsible for minor roads. Most of the unsurfaced roads were added to the definitive map as RUPPs and during the Cleveland County Council era were reclassified as BOATs. So at least we do not have the status problem.”

John continued by mentioning some research he’s currently undertaking:- “I take a great interest in the status issue, the current situation is that I am within a couple of months of completing a major report on the highway records of the North Riding which will examine every one of the routes that might be uncertain – there are around 500 of these. My researches show that, with only a handful of exceptions, the routes recorded as unsurfaced roads do indeed have vehicular rights – the real issue is the extent to which roads designed for horse-drawn traffic and never improved to vehicular standards are suitable for motor vehicles. This needs to be looked at on a road by road basis to see in which cases it is appropriate to impose TRO’s prohibiting motor vehicles. This may lead to formal objections – that is their democratic right. But I cannot see that there is any mileage in trying to bypass this by pretending that vehicular rights don’t exist.”

John Richardson the chairman of the North York Moors National Park LAF has also been helpful, “There are many longstanding issues countrywide on this subject, with opposing points of view being regularly aired. As you rightly say, a few years ago the North Yorkshire County Council Highways Authority did absorb the inappropriately named 'Green Lanes' into their care from the two National Parks. The Moors LAF, together with members of the NPA and other bodies, several years ago did survey a number of routes which legally have vehicular access, but which, for a number of reasons were not negotiable by vehicular traffic and in some cases by equestrians, due to natural occurrence’s, land slips, severe surface degradation, blocking trees, fallen bridges, collapsed walls and buildings etc. Reports on the conclusions of the surveying team are now filed at Northallerton. On one particular route, the LAF did make a proposal for a motor-cycle only, single directional TRO to preserve an extensive rebuild following what was actually criminal damage, though no charges were brought. The stability of this route was secured and the TRO has been removed, though quite correctly remains motor cycles only.” I have been invited to their next meeting in June when this topic is to be discussed.

Peter Charlesworth the chairman of the Yorkshire Dales National Park LAF has sent me several links to work they have done with the National Park authority & the highway authority:- “As you know we have put a lot of resources into this issue over the years and our position (including on cross boundary routes) is clear here on our website:
<http://www.yorkshiredales.org.uk/looking-after/achievingourvision/the-experience/green-lanes-management>

Our approach is highlighted in our green lanes framework here:
<http://www.yorkshiredales.org.uk/looking-after/achievingourvision/the-experience/green-lanes-management/Green-Lanes-Framework-2017-FINAL.pdf>

The sensitivity assessment we have used is here:
<http://www.yorkshiredales.org.uk/looking-after/achievingourvision/the-experience/green-lanes-management/sensitivity-assessment-methodology-nov2006.pdf>

Everything we have done in relation to green lanes has been evidence based, and undertaken in consultation with North Yorkshire & Cumbria County Councils and others. When we have made TROs under own powers - LAF are a consultee. We continue to monitor usage and compliance. I have copied in Rebecca Greenfield for information, as this is a new area for her and its useful to see the level of interest and many issues it involves.”

The response from Tees Valley, an area I thought may have had problems due to the predominately urban area it covers didn’t come from their LAF but from Chris Scaife the Countryside Access Officer for Hartlepool Borough Council:- “This will be one of the items at our

next meeting and we can ask the LA officers as to their procedures (if they have any) in relation to Green lanes.” I have heard nothing further.

Charles Eckroyd the chairman of Cumbria has responded but was wanting to discuss his response after speaking to the Cumbria County Council highways people, and David Maughan of the Durham LAF responded “I really need to have a word with our footpath people at County Hall on this as it is not such a hot topic with us . I suspect it is something they do not wish to develop too much. There was talk around this issue a number of years ago when discussion was taking place about various routes in Hamsterley Forest, I recall that it didn’t reach any firm conclusions. I can think of a number of UCR’s in my own area that are used by varied user groups with maintenance picked up on a voluntary basis. “

So, these three were not very conclusive, to date.

The three National Parks adjoining us; North York Moors National Park, Yorkshire Dales National Park and The Lake District National Park all have useful information on their websites as do their three Local Access Forums. Some including details of which routes can be legally driven/ridden on, and those that can not be used, including lists of TROs imposed.

Ben Jackson the North Yorkshire Public Rights of Way Officer – Unsurfaced Unclassified Roads & National Trails; mentioned this issue at the recent Countryside Access User Group meeting stating that routes of this status are a *valuable part of the public rights of way network*. I have received the following e-mail from him:- “The view of the Countryside Access Team is that UURs are an important recreational asset and form many vital links to the PROW network. It would therefore make sense for these to be considered, where appropriate, by the LAF in the context of enabling greater access to the countryside. I would be happy to support this approach where necessary if that would be helpful.”

Conclusion

Although there is a suggestion in guidance, that Local Access Forums should not get involved in Unsurfaced Unclassified Roads if they are of a higher legal status than a Byway Open To All Traffic, this is not the actual case in real life. Even in the case of several forums contacted in northern England they do actually take them into consideration during their deliberations and some, work with their appointing authority regarding use and maintenance. Following Ben Jacksons comments regarding UUR’s being a valuable part of the public rights of way network we should have a more pro-active approach, they won’t just go away!

P.A.Sherwood...
1 June 2019

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North Yorkshire Local Access Forum

27 January 2021

Secretary's Update Report

1.0 Purpose of the Report

- 1.1 To update members of the Local Access Forum on developments since the last meeting of NYLAF.

2.0 Consultation Submissions & Responses

- 2.1 The Forestry Commission recently sent notification of a consultation on a felling licence application in the Kirkby Malzeard area where some of the proposed felling is to be undertaken in close proximity to CRoW registered common land and open access. This has been passed to the appropriate Forum member as the relevant District Council liaison for them to consider and draft a response, which will be circulate to all Forum members in due course.
- 2.2 In addition, in November 2020 the Forum was notified of a consultation on a new settlement around the Hammerton / Cattal area. Again, this was dealt with by the appropriate District Council liaison.
- 2.3 There have been no other consultation requests received or responses issued since the last meeting.

3.0 Other Updates

3.1 Local Development Plans

One of the key areas of involvement for the Forum is to ensure appropriate engagement in the preparation of Local Development Plans. Set out in the table below is an updated summary of the current position in relation to each District Council area, and in relation to the Minerals and Waste Joint Plan. This information is taken from the websites of the relevant authorities and correspondence received.

Authority	Status
Craven	<p>The Local Plan was adopted in March 2019. Supplementary Planning Documents on Rural Workers' Dwellings and Flood Risk are due to be adopted in 2020.</p> <p>The Craven Conservation Areas Project 2016 produced draft appraisals for 16 existing conservation areas and 3 potential new conservation areas in Craven. All 19 draft appraisals were accepted into the evidence base for the Craven Local Plan and the Council committed to undertaking public consultation on those draft appraisals at the earliest opportunity following the Local Plan's adoption. These were held from October – December 2020.</p>

Hambleton	<p>The new local plan was approved by Council on 16 July 2019. The period for comments was open from 30 July 2019 to 17 September 2019. More recently, a new Local Development Scheme (LDS) setting out the timetable for production of the Local Plan was approved in December 2019 – see: www.hambleton.gov.uk/localplan/downloads/file/1/new_local_development_scheme_updated_october_2017</p>
Harrogate	<p>The Inspector’s report was issued on 31 January 2020. The report concluded that Harrogate Local Plan was sound subject to main modifications. The report and Schedule of Main Modifications can be viewed at: https://www.harrogate.gov.uk/info/20101/planning_policy_and_the_local_plan/1159/harrogate_district_local_plan_examination Harrogate District’s Local Plan 2014-2035 was subsequently adopted on 4 March 2020.</p>
Richmondshire	<p>The Council is running behind with their review of their Local Plan, which was due to be circulated in the early summer. The revised Local Plan will update the policies used to consider new development across the District. A new Local Development Scheme was brought into effect in February 2020, setting out a timetable for the preparation of the Local Plan 2018-2035 documents – see: https://www.richmondshire.gov.uk/media/11465/local-development-scheme-february-2020.pdf</p>
Ryedale	<p>The Ryedale Plan Local Plan Sites Document was adopted at a meeting of full Council on the 27 June 2019. This Document was the final part of the Local Plan for the District. It identified commitments and allocations for housing, retail and employment land, and provided site specific policies, including policy for new and amended Visually Important Undeveloped Areas. The Plan covers the period 2012- 2027.</p>
Scarborough	<p>Scarborough Borough Council formally adopted their Local Plan on 3 July 2017. It will guide the future development of the borough in the period up to 2032.</p>
Selby	<p>A new Local Development Scheme for the period 2019 to 2023 came into effect on 17 September 2019. The scheme identified which Local Plan documents the Council would progress over the next four years, together with the programme for their preparation, and key consultation milestones.</p> <p>As the first stage in the process, Selby District Council ran a six-week consultation ending 6 March 2020 on the Local Plan Issues and Options. The comment received are shown as still being processed and will be made available, along with the Council's responses, on the council website in due course.</p>

Minerals and Waste Joint Plan	<p>The Order of 14 May 2019 declared the Secretary of State's decision of 24 July 2018 to adopt paragraph 209(a) of the revised Framework unlawful, and quashed it.</p> <p>The Inspector invited the Mineral Planning Authorities and any interested parties who wished to comment on the High Court Judgement and Order and the implications for the joint plan. The documents are available to view in Examination documents at: https://www.northyorks.gov.uk/minerals-and-waste-joint-planexamination</p> <p>January 2021 - There is no further update available at this time</p>
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3.2 Open Access Restrictions

The Forum is consulted on a range of restrictions under the Countryside and Rights of Way Act 2000. However, since the last meeting there have been no notifications of:

- Discretionary dog restrictions, received from the Open Access Contact Centre at Natural England confirming restrictions under Section 23(1) of the Countryside and Rights of Way Act 2000, since the last meeting.
- Discretionary '28 Day' restriction under Section 22 of the Countryside and Rights of Way Act 2000 - Landowners may close their access land for up to 28 days in any one year. They are not permitted to close their land on (a) bank holidays, (b) more than 4 days in a year that are Saturdays or Sundays, (c) any Saturday between 1 June and 11 August, (d) any Sunday between 1 June and 30 September. Landowners are not obliged to tell the public about forthcoming closures, or give reasons. Their legal duty is simply to inform the relevant authority of their intentions.

3.4 Regional Forum

The draft Minutes from the last meeting of the Yorkshire Humber and North Lincolnshire Regional Access Forum held on 9 September 2020 were circulated to members on 12 October 2020.

3.5 The next meeting of the Regional Forum is on 10 March 2021 at 10am - the meeting location to be confirmed.

3.6 2026 / Definitive Map

There are no changes or updates to report.

4.0 **Recommendation**

4.1 The Local Access Forum is asked to note this update report and agree any further actions required.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services)

County Hall, NORTHALLERTON

Report Author: Melanie Carr, Secretary to North Yorkshire Local Access Forum

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North Yorkshire Local Access Forum

27 January 2021

District Council and LAF Project Updates

Report of the Secretary

1.0 Purpose of the Report

- 1.1 An opportunity for LAF members to update the Forum on District Council liaison and other LAF representative project activity since the last meeting.

2.0 Background

- 2.1 The LAF operates an agreed list of nominated representatives willing to act as the first point of liaison with the constituent District Councils in relation to planning and other relevant matters. Individual LAF members are also nominated from time to time to take a lead on specific projects that the LAF has an interest in or in representing the LAF on other partnership bodies. Both are represented in the table below:

Name	Representation
Vacant	Craven District
Barrie Mounty	Selby District
Rachel Connelly	Hambleton District Richmondshire District A1 & A19
Roma Haigh	Ryedale District HS2
Paul Sherwood	NYCC Countryside Access Service User Group Regional Access Forum A66
Helen Soutar	Harrogate District
County Councillor David Jeffels	Scarborough District Regional Access Forum
Vacant	2026

- 2.2 This agenda item provides an opportunity for the Forum to be updated on activity since the previous meeting.

3.0 District Council Liaison

- 3.1 The following updates have been provided by Rachel Connolly:
- 3.2 Richmondshire District Council - A few referrals from them, and the weekly list is sent for scrutiny to see if there are any matters which need responses. However, contact extremely difficult and feedback on advice given non-existent.
- 3.3 Hambleton District Council - Little to report but contact maintained with difficulty. Access matters not being referred for Forum input as they would in normal times.
- 3.4 A1 - The measures promised for NMU access in the A1 upgrade project were never delivered – Highways England seem unaccountable although they are a sec.94 body. In October 2019 at a meeting with the BHS and myself on behalf of the LAF in which mitigating measures were proposed by them, subsidising NYCC's mowing parts of the local access road margin and some minor adjustments to the r.o.w network and other works. However none of the agreed mowing was carried out in 2020, and talks with NYCC over the other works are subject to discussion and detailed funding. An up-to-date report has been promised any moment. Ian Kelly and Mark Hugill are the contacts for NYCC.

4.0 LAF Projects & Other Updates

- 4.1 Nominated representatives are invited to report verbally on any other activity undertaken since the last meeting.

5.0 Recommendation

- 5.1 That members:
- i) Note the updates;
 - ii) Agree any further actions required

BARRY KHAN
Assistant Chief Executive (Legal and Democratic Services)
County Hall
NORTHALLERTON

Report Author: Melanie Carr, Secretary to North Yorkshire Local Access Forum

North Yorkshire Local Access Forum

27 January 2021

Forward Plan Report

1.0 Purpose of the Report

- 1.1 To consider, develop and adopt a Forward Plan of items of business for future meetings.

2.0 Background

- 2.1 The 'Guidance on Local Access Forums in England' published by the Department for Environment, Food and Rural Affairs (Defra) strongly recommends that forums prepare a forward work programme which sets out the forum's priorities and special areas of interest.
- 2.2 This can play an important role in helping the forum to:
- Ensure a focus on issues which are the most relevant for the area
 - Clarify the issues on which the County Council or other section 94(4) bodies would benefit from receiving advice
 - Timetable when specific matters are likely to be considered
 - Inform the public about the forum's work
 - Identify training needs
 - Review effectiveness and prepare an annual report.

3.0 Forward Plan

- 3.1 The work programme template is attached at Appendix A, which lists the agreed meeting dates for the coming municipal year.
- 3.2 The Forum meets three times a calendar year but may choose to agree further meeting dates (based on need), and may set up sub-groups to progress specific pieces of work outside of the formal meetings.

4.0 Recommendation

- 4.1 Forum members are asked to identify and agree future items of business for the remaining meeting in 2020/21.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services)

County Hall

NORTHALLERTON

Report Author: Melanie Carr, Secretary to North Yorkshire Local Access Forum

Annex A –Work Programme 2020/21

NORTH YORKSHIRE LOCAL ACCESS FORUM

Draft Forward Plan 2020/21

Date of Meeting	
Standing items	<ul style="list-style-type: none"> • Minutes • Matters Arising • Public Questions and Statements • Consultations • Secretary's Update Report • District Council & Project Updates • Forward Plan
20 May 2020	Meeting Cancelled due to COVID
30 September 2020	<ul style="list-style-type: none"> • Attendance of North Yorkshire Police Representative – Jon Hunter • Attendance of Executive Member for Access – Cllr Don Mackenzie
27 January 2021	<ul style="list-style-type: none"> • Report on Future Purpose of NYLAF • UUR Discussion Document
Suggested Future Items	<ul style="list-style-type: none"> • Rights of Way Improvement Plan • In-depth discussion on Reinstatement • Proposed joint working with Yorkshire Dales and North York Moors Local Access Forums • Draft NYCC Active Travel Strategy