

# **Review of NYLAF's Position on UURs (Unsealed Unclassified Roads)**

Carried out by NYLAF UUR Sub-Group - Will Scarlett, Janet Cochrane & Barrie Mouny

1. In order to prepare a statement on NYLAF's position on UURs, a sub-group of NYLAF members consisting of Janet Cochrane, Will Scarlett and Barrie Mouny was formed. Documents where UURs had been discussed previously by the NYLAF were reviewed, and the sub-group consulted with other LAF groups across the country to find out their approach to the topic. The overarching aims of the position statement would be to advise NYCC on their policy regarding UURs, and to bring about a balanced and mutually respectful and considerate culture of use of UURs by different groups.

## **Preamble**

2. UURs (Unsealed, Unclassified Roads) are public highways that were not of sufficient importance to be incorporated into the modern network of surfaced roads. In the past, these were paths used by all available means of moving from one place to another, in particular on foot, on horseback, or by horse-carriage. This long history has left England and Wales with significant lengths of unsealed highway, which are often termed 'green lanes'. Because these routes are 'unclassified', a variety of users from pedestrians to heavy lorries use them, depending on their location and the practicality of doing so.
3. It should be recognised that these highways were not engineered for use by motorised vehicles and would have been maintained by local efforts for the purposes for which they were intended such as localised farm traffic and light industrial traffic, usually consisting of horse-drawn vehicles at least until the second half of the 20<sup>th</sup> century. Studies elsewhere have shown that this tradition continues in that where UURs are used by farmers and other land-managers they tend to be kept in a reasonable state of repair by the efforts of these users because there is an economic incentive to do so. Where they are in recreational use, however, the damage caused by users who consider these assets to be a 'free' resource can be substantial, especially in the case of use by motorised vehicles. Often, even basic maintenance is often not carried out because these 'highways' are under a different jurisdiction and maintenance regime from the Footpaths, Bridleways, and Restricted Byways managed by the rights-of-way department within Councils.
4. Nationally, it is unclear whether UURs are covered by the 2026 deadline for recording rights-of-way, in other words whether a precise status should be clarified and enshrined in law, or whether since they are already on the definitive List of Streets they will retain the status of 'highway' even after the cut-off date and not be automatically extinguished. In the absence of national policy on classification of UURs, each Local Authority has been left to come up with its own approach.

## **A Variety of Approaches**

5. The consultation with members of other LAFs found a variety of approaches to dealing with UURs. Some counties of England (for example Warwickshire) decided

as a matter of policy that all their UURs would be given 'higher rights', in other words a status allowing for use by users other than pedestrians, whether cyclists, horse-riders, or carriage-drivers, and they have been waymarked accordingly. Other Councils (e.g. Worcestershire) take the view that because UURs are already 'highways' there is no need to submit applications to record higher rights, since these automatically exist, thus meaning that they are open for use by a wide range of users, including motorised vehicles when their condition permits.

6. In Northumberland, a policy decision was taken some time ago that the UURs would all be individually investigated by one of the Council's Definitive Map officers so that, if suitable evidence was found, they would be added to the Definitive Map (after going through the normal process). In each case, once the status has been decided, they are waymarked with a fingerpost so the general public knows they have a right to use them. This is important as many lead to bridleways or footpaths. This work has been carried out one area at a time and is now nearly complete. Most UURs become BOATs but often with a Restricted Byway connection to the existing network. Much the same evidence is used for every case, which has enabled the work to proceed rapidly.
7. These counties unfortunately appear to be exceptions. More common is the attitude reported by a contact from the North Somerset LAF: "We haven't managed to get anyone from Highways to attend a meeting to explain what they are doing about green roads or unclassified roads, despite trying for over 3 years".

### **UURs in North Yorkshire**

8. The anomalous position of UURs within North Yorkshire has been recognised for many years, in that they do not form part of the network of sealed highways and yet are the responsibility of the Highways department. Their condition varies from excellent dirt-tracks, sometimes even with a tarmac surface, to barely discernible hollow-ways resembling a boulder-strewn river-bed rather than a 'highway'. Sometimes there is no evidence of their existence on the ground at all, as they have been ploughed up and/or incorporated into neighbouring fields. Yet in many cases these 'green lanes' offer a hugely valuable opportunity to expand the county's network of quiet, off-road paths and tracks, in particular by creating circular, traffic-free routes of 5-15 miles for walkers and horse-riders (noting that mountain-bikers and trail-bikers often prefer longer circuits while road-cyclists prefer more straightforward sealed roads).
9. The question of how Councils and LAFs should address UURs and other green lanes such as BOATs (Byways Open to All Traffic) has been the topic of considerable debate in North Yorkshire and elsewhere. The matter was discussed in detail by NYLAF most recently in July 2019, when a useful discussion paper was provided by Michael Bartholomew. Thorough research has also been carried out by John Sugden. The NYCC Countryside Access Management team has previously requested input from NYLAF as to a strategic approach to UUR management, including prioritisation of issues, in view of the limited resources available and the need to balance costs against benefits.

10. Previous discussion within NYLAF has highlighted the potential for conflict between different user-groups, including surface damage by motorised vehicles which has resulted in restricted access for other groups, especially sight-impaired people and those with limited mobility, and the impact of use by recreational motorised vehicles on the 'peace and tranquillity' which is much prized by many countryside visitors and residents. Added to this is the negative effect of motorised vehicles on flora and fauna, especially where UURs pass through or near SSSIs or other sites of interest to nature conservation.
11. It is accepted that for some users, exploring the countryside on trail-bikes or by 4WD vehicle is their principal form of recreation, and that some of these users may experience mobility issues which prevent them from engaging in more active forms of countryside enjoyment. However, as stated in the preamble to this document, there must be mutual respect and balance in use between different groups, with the activities of one sector not impacting seriously on others. In his 2019 report, Michael Bartholomew asks the pertinent question as to whether "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 implication of this point is that motorised vehicles rarely have a place in countryside access on unsealed roads unless these are robust enough not to be damaged by heavier and/or fast-moving wheeled traffic.
12. Trail-biking may justifiably be classed as 'open-air' recreation, but the noise pollution and surface damage often caused by these vehicles arguably runs counter to the mental refreshment provided by peace and tranquillity that is sought by a majority of countryside residents and visitors. In addition, it could be argued that the cost of repairs to ancient highways due to damage by motorised vehicles is an overly burdensome use of limited resources. However, in the past it appears that privileged access by certain user-groups, some of which benefit from significant funding, has led to prioritisation of their access requirements over and above the needs of other less vociferous groups. This situation should be addressed by ensuring a more balanced approach which takes into account the requirements of a wider range of user-groups.

### **Review Conclusions**

13. Having considered their findings the sub-group has drawn up the following list of draft principles for NYLAF's consideration:
  - All 700kms. of North Yorkshire's UUR's should be surveyed and classified according to their current status and use, the likelihood of bringing them to a standard for wider user-groups, and their usefulness in terms of extending the off-road network of circular and linear routes for specific users, especially vulnerable groups. This process should be under the management of CAS, using teams of trained volunteers and applying a scoring matrix based on criteria devised by CAS in consultation with key user-groups.
  - This process should be transparent and objective and must be resistant to lobbying by high-profile and/or well-funded niche groups.

- Depending on the result of this survey, each UUR – or section thereof - should be classified as Footpath, Bridleway, Restricted Byway or BOAT and brought under the management of the Passenger Transport, Waste & Countryside Services (specifically Countryside Access) rather than Highways & Transportation, as appropriate. This will enable resources to be targeted in order to maintain the path at an appropriate standard for its classification.
- Given the limited resources of NYCC, which is likely to prevail for some time to come, there should be greater use of volunteers both in surveying the UURs and in ensuring annual maintenance checks, possibly with more significant attempts to raise funds for maintenance and repairs from the private and third sector.
- NYCC's more systematic approach to use of UURs should be based on anti-discriminatory policies, bearing in mind the needs of people of limited mobility, especially in the context of an ageing population. It should also be remembered that there are sex differences between different forms of recreational use of open spaces: mountain-biking, road-cycling and trail-biking are predominantly enjoyed by men, while horse-riding is predominantly enjoyed by women. This means that a focus on creating mountain-bike trails, cycle routes, and trail-biking opportunities as opposed to good-quality, well-maintained bridleways and restricted byways has a built-in policy discrimination which must be avoided.

14. In conclusion, the sub-group believes that:

- UURs should be considered an integral part of North Yorkshire's traffic-free public rights-of-way network;
- There is an excellent opportunity to add these historic paths and tracks to the existing rights-of-way network, in particular for the most vulnerable and non-motorised groups of road-user<sup>1</sup>, and to support the Government's agenda of active travel in the pursuit of improved mental and physical health.

### **Report Recommendation**

15. Having considered the review findings, the sub-group recommends that NYLAF agree the draft principles listed above so that they form may a formal NYLAF Position statement on UURs.

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<sup>1</sup> Under the proposed new hierarchy of road-users to be included in the revised Highway Code, the most vulnerable users are pedestrians, cyclists and horse-riders (in that order).