

# PLANNING FOR MOTOR SPORT & RECREATION IN AN INCREASINGLY SENSITIVE ENVIRONMENT

Royal Spa Centre, Leamington Spa – Wednesday 21 April 1993

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A **LARA** symposium for planners, organisers & providers

MOTORING ORGANISATIONS'

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LAND ACCESS & RECREATION ASSOCIATION





(photo: AMCA)

# THE MOTORING ORGANISATIONS' LAND ACCESS & RECREATION ASSOCIATION

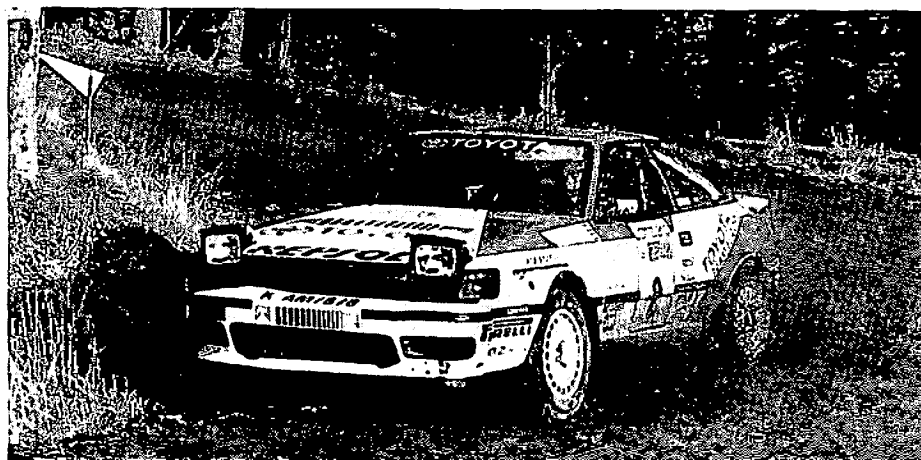
## PLANNING FOR MOTOR SPORT AND RECREATION IN AN INCREASINGLY SENSITIVE ENVIRONMENT

A SYMPOSIUM HELD AT THE ROYAL SPA CENTRE  
LEAMINGTON SPA, WARWICKSHIRE  
WEDNESDAY 21 APRIL 1993

The papers for this symposium are presented in two volumes. Volume I contains papers on the issues surrounding motor sport and recreation in the countryside, with background material and reference documents. Volume II contains the speakers' papers and their reference material.

LARA wishes to thank everyone who has contributed to the symposium, either directly or by kindly allowing their text and pictures to be used.

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## MOTOR SPORT AND RECREATION: THE ISSUES IN 1993

The title of this symposium, *Planning For Motor Sport and Recreation In An Increasingly Sensitive Environment*, should perhaps be prefixed by the words "*The Absence Of*". The planning system, in regard to motorsport (and other robust outdoor activities such as horse riding and mountain biking) is almost wholly exclusionary and negative. There is a lot of "you can't do that here", but not very much "you can do it over there". Britain is a crowded island and the pressures of intensive agriculture, sprawling development and increased recreational demands mean that in many areas a number of interests are competing for use of the same space. Few would argue that some form of planning control on land use is essential if our daily lives are to be tolerable.

Of these different land uses, it is robust outdoor recreation that fares worst of all. Agriculture writes its own rules. Conservation can designate land to offer some protection to the flora and fauna thereon. Historic sites and monuments are mostly well safeguarded. New developments spread like the plague. "Quiet recreation" is almost holy writ over huge tracts of countryside and has the backing of legislation and policy. But active recreation, popular and beneficial though it is, is the Cinderella of the complex system of planning, unable to go to the ball because it does not wear the right clothes.

With few exceptions, no national or local authority or National Park has any form of plan or strategy that properly examines and addresses the needs of robust active recreation. Some may say "we will endeavour to keep open and properly signpost all our rights of way". Fine, so far as it goes, but that is not positive provision. Where is the plan or strategy that says "we know that  $x$  number of trail riders and  $y$  number of mountain bikers are likely to wish to use the land in our management. We believe that  $z$  miles of minor highway are necessary to accommodate their needs. This is how we plan to provide it". What you will find are plans and policies saying "we do not much like any motor recreation and hope that mountain bikes are a passing fad. Our policy is that these people should go somewhere else".

Where that "somewhere else" is, few plans and policies bother to specify. And that is what this seminar is all about. The speakers and the background papers will look at some of the issues facing motor sport and recreation in 1993 and on towards the next century to investigate how this (and other) robust outdoor activities can co-exist with other land uses and concerns. Some land managers and interest

groups may say "motor sport is inappropriate in much of the countryside. Go and do it in old quarries. Go and do it somewhere else. Maybe, do not do it at all". Say that if you will, but understand that motor sport and recreation and by extension many other activities are the legitimate pursuits of many ordinary citizens of this land. They want to drive cars, fly microlights, ride personal watercraft, pedal mountain bikes. To say that "This land is not designated for you, go elsewhere" is as realistic as "let them eat cake" (and we know what happened to that policy maker).

The designation of land as national parks, areas of outstanding natural beauty, SSSIs, ESAs, etc, etc, is fine for its purpose of protecting sensitive features, but add in all the land in intensive agriculture plus land covered by roads or buildings and there is precious little of Britain left for what the designators might call "intrusive pursuits". Nobody in motor sport or recreation wishes to "invade or destroy" the sensitive areas in any way. We realise that there must be places free from the bustle of everyday life and safe havens for wildlife. But we know that motor sport and recreation can take place, at a sensible and supportable level, in many parts of the countryside. Not everywhere. Not all the time. But in a reasonable and balanced way.

Some motor activities have gone part of the way to striking that bargain. For example, the number of motor rallies is quite closely controlled by negotiation between the governing body and the various National Park authorities. What is now necessary is for all countryside planners to acknowledge motor sport and recreation as legitimate countryside activity and, by working with the governing bodies and organisers create a proper strategy for each region of the countryside in which the needs and aspirations of the sport are properly balanced against other land uses. LARA has initiated the formation of a network of local representatives so that every local authority and other countryside manager is able to form a working relationship with someone able to discuss motor sport issues authoritatively. This is a good first step, but it can only realise its full potential if those who plan for the countryside are willing to make the best use at all levels.

These symposium papers provide a wealth of real-life cases dealing with many aspects of motorised aspects to the countryside. Some of the cases are well-recorded in the public domain. Others come from the LARA files and, in some of these, we have changed the names to protect confidences. We hope you will find them useful, now and in the future.



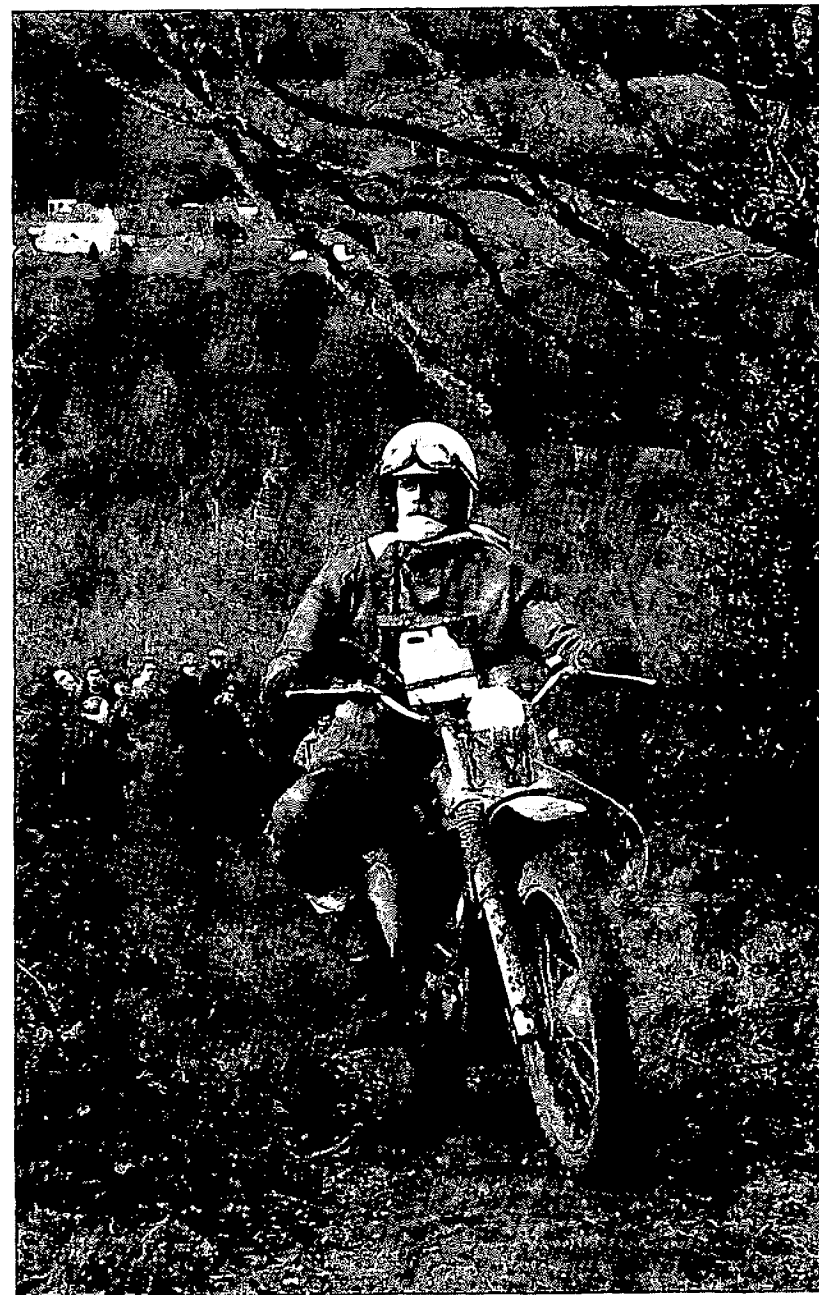
## MOTOR SPORTS.

### INTRODUCTION.

Motor sport is as old as the century. The pre-First World War period is often described as the era of the classic road races - Paris to Pekin *et al.* These events were both popular and notorious, attracting huge crowds to watch and follow through newspaper reports, whilst drawing criticism for their danger and disturbance. The big continental road races took place on open roads, mixing vehicles that were surprisingly fast for their day with rural horse and pedestrian traffic. That there were disasters comes as little surprise but, remarkably, most were to the competitors alone, the general public mostly surviving unscathed. Open road racing was forbidden in England and Wales from before the advent of the motor vehicle by the offence of driving furiously (and others) and, although the idea of closing public roads to facilitate racing was mooted, Parliament made it clear that such an enabling Bill would not be passed. Bills to permit road closures for racing were passed for the Isle of Man and Ireland and this facility survives to this day in the Isle of Man and in both Eire and Northern Ireland.

The idea of closing roads on the mainland for major races has been suggested at various times since, largely without success until Birmingham City Council sponsored a private bill to allow closure of city centre roads for a major race meeting once each year. Since the Birmingham initiative another two private bills have come before Parliament. The first, to close roads on the Isle of Mull (Scotland) to allow a road rally to take place each year was supported by Strathclyde Regional Council and reached the statute book with little problem. The other, to close roads for rallies and racing in Humberside met significant opposition on environmental grounds and was withdrawn. Motor racing enthusiasts, pleased with the Mull Bill's success, suggested in the specialist press that other areas and clubs should now follow this lead and seek local bills for their own events.

Although open and closed road racing was largely forbidden in the British Isles, motor sport flourished throughout the first half of the century. The pioneer vehicles tended to be delicate and unreliable and much early competition was designed to test both vehicle and driver capability - the "reliability trial"- wherein the ability of the driver to keep his vehicle running for long distances, often on rough roads, was the prerequisite for success. The early speed limits could be (and were) easily and regularly exceeded, but the ethos of the sport at this



The Motor Cycling Club's Lands End Trial started in 1908 and has been held annually since, apart from the war years. This competitor in the Dartmoor National Park is maintaining a tradition of tough events in remote countryside. These "classic trials", for cars and motorcycles, are welcomed by local residents, many of whom turn out to help and watch. (photo: G. Wilson)

period was to "improve the breed" of vehicles, with vehicle and component manufacturers viewing competition as an ideal test for improvements which were then put into the production line. The Royal Automobile Club, founded in 1903 became recognised by Government as the governing body of motor sport, consulted on all matters concerning or affecting the sport's interests. In 1907 the department of the RAC dealing with motor cycle affairs separated to become the Auto Cycle Union (ACU) which has remained as a separate governing body for motor cycle sport, although the RAC is technically the governing body for all motor sport.

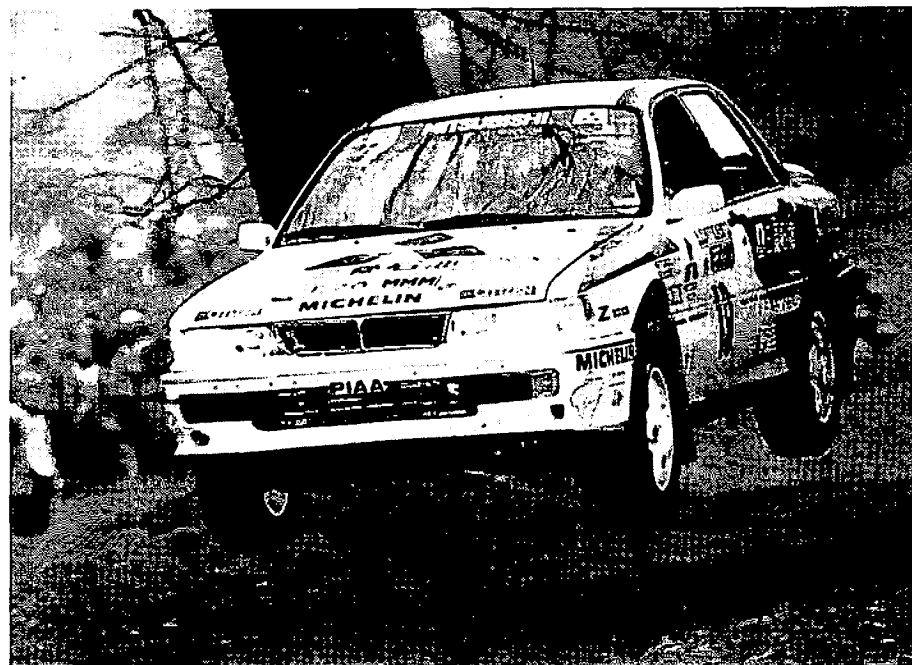
### THE DEVELOPMENT OF MOTOR SPORTS.

As motor sport developed from its crude beginnings when simply to make your machine run effectively was an achievement, it has become ever more sophisticated and specialised. From the early days into the mid 1950s, although there certainly were specialist machines in use, a great deal of motor sport was performed by the ordinary "clubman" with a standard, or slightly modified, road-going car or motor cycle. For example, an off-the-shelf middleweight motor cycle of 1935 could be used for trials, scrambling, sprinting, road racing and everyday commuting. Since that time, increasing affluence has brought ever-increasing specialisation and sophistication to sporting motor vehicles, especially to motor cycles. The five disciplines served by the one motor cycle in 1935 would today, even at a humble level, require five different machines to compete effectively in open competition. The many different disciplines have raised differing problems and caused diverse reaction to problems with different means of control and resolution. To appreciate the problems encountered in the running of motor sport events in the increasingly crowded and environmentally-conscious 1990s it is necessary to understand the structure and requirements of the different branches of modern motor sport and recreation.

### MOTOR CAR SPORT DISCIPLINES.

#### Autocross.

This is a type of closed circuit racing on grass fields. Cars run in pairs or fours, but are timed against the clock, rather than first past the post. The cars used are seldom road legal.



The Lombard RAC Rally is Britain's premier off-tarmac event. The speed "stages" take place on forest tracks and the grounds of stately homes. The linking road sections are strictly controlled (photo Colin Taylor Productions)

#### Grass track racing.

Grass track is visually similar to autocross but the cars race against each other, first past the post being the winner.

#### Stage rallying.

Typified by the Lombard RAC Rally, arguably Britain's largest single spectator event, rallies are test of a crew's ability to maintain a strict time schedule over a long distance on public roads, interspersed with "special stages" - lengths of forest roads or similar where the crew must drive as fast as possible, with the time on the stages being accrued to determine the winner. The cars must be road legal.

#### Road rallying.

Stage rallying is a comparatively recent development of the traditional rally, held on public roads. This takes place in remote areas, sometimes at night, and tend to attract criticism for speed and disturbance. Cars must, obviously, be road legal.

### **Trials.**

Car trials are similar in many ways to motor cycle trials, albeit much less widespread. There are many trials for standard, or lightly-modified production cars which are usually road legal and driven to events. Specialist trials cars are very different machines, purpose-built to tackle steep and muddy climbs and tight turns. These are not, usually road-legal. There is also an increase in popularity for the "classic trial" which is the old long distance reliability trial for road legal vehicles of both modern and classic types. Some of these events recreate or perpetuate events that were held before World War One. There are also trials for four wheel drive (4WD) vehicles.

### **Autotests.**

These are also increasingly popular. Standard cars may be used at low cost and suitable areas of ground (e.g. car parks) are easy to find. The idea is to drive the car in and out of "gates" of plastic cones in a test of driving precision.

### **Four wheel drive safaris.**

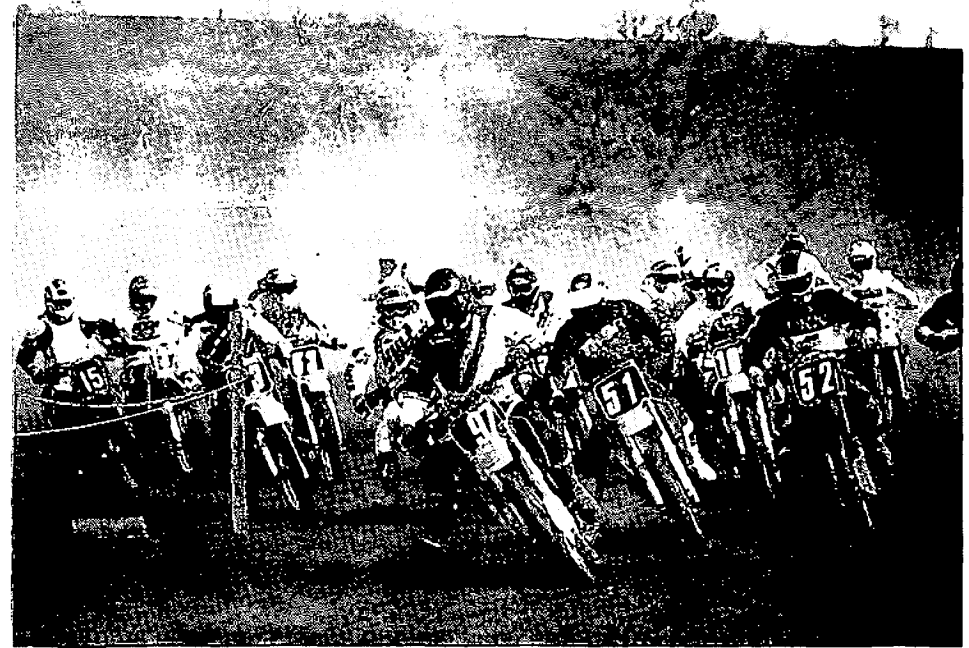
These are the equivalent of rallies for 4WD vehicles but do not use public roads. Safaris demand a long course of rough ground or tracks and the vehicles usually run against the clock but with a number on the course at the same time.

### **Bangers and buggies.**

Not all motor sport comes under the control or supervision of the RAC and ACU. A number of clubs operate so-called pirate events. A proportion of banger racing comes into this category, being racing akin to autocross or grass track, but with vehicle and licencing regulations that are not, sometimes, as far-reaching as those of the RAC. Dune buggy racing is new to this country and also tends sometimes to take place outside the framework of the traditional clubs and organisations.

### **Racing.**

Racing on tarmac surfaced circuits is usually referred to as "road racing" in recognition of its origins in public road racing and to distinguish it from dirt-track or grass racing disciplines. Tarmac circuit racing is largely outside the scope of control by the law in



Moto-cross is the modern name for motorcycle scrambling - racing purpose-made machines on an off-road course. Britain has a fine tradition of producing world champions in moto-cross, while the sport offers opportunities to amateurs of all ages, abilities and both sexes. (photo: AMCA)

that the circuit is obviously established in one place and operates with planning consent. There are sometimes noise problems but these are usually solved by local agreements on level and nature of use.

### **MOTOR CYCLE DISCIPLINES.**

#### **Touring.**

Riding a motor cycle on the road for pleasure has become virtually a specialism in itself. As the motor cycle has been replaced by the car for everyday transport and utilitarian functions, so it has increasingly become a leisure vehicle. Touring is not to be confused with youngsters riding round town on evenings or weekends, often creating nuisance or danger. Motor cycle tourists tend to differ from car travellers in that the journey is regarded as a pleasure and is often the end, rather than just the means, of the leisure activity. The nature of the vehicle and activity is such that minor roads are often more attractive to the tourist than the busier through- routes, so motor cycle tourists are in

danger of being excluded from country areas by schemes designed to reduce the congestion caused by cars and larger vehicles.

### **Green road riding.**

This is akin to touring - riding along unsealed public roads for the pleasure of touring the countryside in a different way. There is no element of competition involved and man and machine must be road legal. The legal status of the minor highways used is sometimes unclear and can lead to friction with other users of the countryside. The law surrounding this pursuit can be complex and confusing to the participant and onlooker. This discipline is now frequently described as "trail riding".

### **Trials.**

A trial is a test of the rider's skill in surmounting a series of natural obstacles such as rocks, steep banks and stream beds without stopping forward motion or putting a foot to the ground. Marks are lost for these errors. There is no element of time involved and speeds are very low. Some trials take place entirely on private land and the machines need not then be road-legal and the riders may be under licence age (usually termed "schoolboy riders" although girls are encouraged to participate too). Other events use public roads to link the testing sections of rough terrain and the machines used in these must be road legal.

A sub-discipline of the untimed "observation trial" is the time trial where an element of speed enters. Marks are lost as in a conventional trial and competitors are also timed. A formula applied relative to the time of the fastest man then alters the score attained on observation to find the winner. All trials have some sort of time limit applied in that competitors must start within a given time window and be back at the finish by a certain time, or face penalty or exclusion. This is to allow the results to be calculated and to ensure that officials and competitors are not endangered by being left in remote areas in darkness.

### **Enduros.**

Enduros have grown out of trials and increased in popularity significantly over the last ten years. Most events take place over a long lap (10 -150 miles) of rough tracks and open countryside, with the

shorter lap distances often covered a number of times in one event. Public roads are used to link forest roads and areas of rough land on which the course is marked with temporary flags and tape. Competitors must keep to an average speed over the lap, typically 25MPH, and penalties are awarded for late or early arrival at time checks. Special tests over very difficult terrain are incorporated in the course to be timed to separate the best competitors who often have little trouble in keeping to the time schedule over the whole lap(s). Many courses use tracks that are public paths, sharing these with other users.

### **Moto-cross.**

Moto-cross is the modern name for motor cycle scrambling, racing on a closed rough circuit. The event is a mass-start race, with the first past the post the winner. Races are often over a period of time, say 30 minutes, with points awarded for finishing position in a number of legs aggregated to decide placings. The machines used are not road-legal. Riders range in age from 8 to senior citizens, but youngsters under 16 and veterans over 40 have classes or events reserved by age.

### **Road Racing.**

Except for the Isle of Man, Northern Ireland and Eire, most racing on surfaced roads now takes place on purpose-built tracks such as Brands Hatch and Donnington Park. Racing sometimes takes place on a temporary basis on operational or reserve military airfields but these cannot offer the spectator or rider safety facilities necessary for viable commercial operation. The cycles used may be purpose-built racers or "production machines", either standard road-going bikes or modified versions of these.

### **Wheels Parks.**

Wheels parks, or trail parks, are areas of land designated and operated for casual and, occasionally, sporting, use by recreational vehicle users. The original concept was for areas in and around centres of population where impecunious youngsters could take or keep their machines and ride in safety rather than use parks and footpaths to the discomfort of other users and local residents. During the 1980s there were several ambitious wheels park projects, most of which have now failed or foundered. Wheels park issues are examined in the Northern Motorsports Project/LARA report *Motorsport in the Community: The Way Ahead 1992* available from LARA.

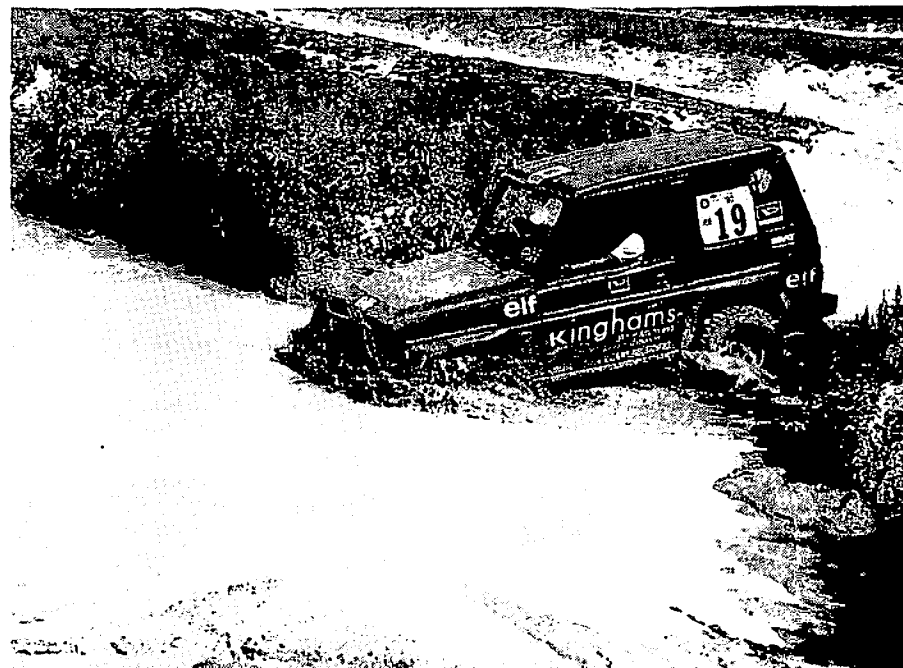


## MOTOR SPORT AND RECREATION IN THE COUNTRYSIDE

Competitive motor sport and non-competitive motorised recreation have taken place in all parts of the country for ninety years. Competitors and tourists enjoyed the beauty and challenge of the Lake District, Yorkshire Dales, Exmoor, Dartmoor, etc, for decades before these were declared to be National Parks. The nature of this use has changed over the years, but it is true to say that the level of motorised activity in these remote areas is significantly lower than even twenty years ago. **The idea that the National Parks and other remote areas are swamped by an increasing use of motor vehicles is simply untrue.**

The decrease in use of remote areas has come about for a number of reasons. The motor trials of the first half of the century were long distance routes (typically London to Edinburgh, via the Yorkshire dales and Lake District) where entrants faced the dual challenge of rough roads and unreliable vehicles. As the machines improved, and so many minor roads were surfaced, the long-distance trials naturally evolved into events staged on single sites, using specialist vehicles. Some of the classic long-distance trials have survived in a modified form, and these still depend on the unmade roads of some National Parks and AONBs. Motor cycle scrambles have also changed. Pre-WWII, a scramble would use a rough piece of land, sometimes with trees and drystone walls deliniating the course. As the motorcycles developed and performance increased, the nature of the tracks changed and the occasional rough-land site fell from favour.

In recent years the ever-increasing designation of land (ESA, SSSI, AONB, NP, etc) together with tougher application of the planning laws, has led to the loss of a significant number of sites used for motor sport, and increasing pressure on "green road" use. The number of participants and events in the countryside has, overall, slowly declined, or held steady, through the late 1970s and 1980s, as economic factors and the attractions of other sports have become more significant. **It is often said that there has been an explosion of off-road vehicle use in recent years. This is simply not true,** except that the sales of four wheel drive vehicles boomed in the late 1980s and have remained high since. However, few of these 4WD vehicles ever leave the tarmac and 4WD use as a motor recreation has now settled down to a static, possibly declining, level.



Trials for production model 4WD vehicles are increasingly popular. Drivers can test their skills with little chance of damage to their vehicle or harm to the environment. Noise is not a problem. (Photo: Mike Williams)

The governing bodies and organisers of motor sport and recreation realise that many areas of the countryside are sensitive and/or popular with other users - walkers, riders, cyclists, etc - and they are careful to use land at a level where their activities will not cause undue disturbance. By exercising commonsense restraint on where and when motor events are organised, the governing bodies are able to strike a balance between their need for access to land and all other reasonable concerns. The real problems arise when broad policy statements are made which presume against motor sport and recreation, often on the basis of inaccurate assumptions on levels of activity and problems such as damage and intrusion.

*In Fit for the Future: Report of the National Parks Review Panel*, the Edwards Committee, in its recommendations to the Government, states:

The growth of several motorised sports has had an adverse effect on the environment, and on the enjoyment of the parks by others. While we do not favour their total

exclusion from the parks, they should take place only on those rare sites where there is no undue annoyance to other park users, or damage to the fabric of the parks themselves. In most cases, sites outside the parks should be sought. In this respect we welcome the development of regional strategies for countryside sports.

Motor sport and recreation welcomes the Edwards Report statement that motorised activities should not be automatically excluded and would be delighted if a proper system of recreational planning and provision could be developed. The idea that motor sports and recreation can, in practice, "use sites outside the parks" is not as easy as may be imagined. For some motor disciplines, the National Parks and similar remote areas may offer the only suitable facility, the better facilities, or be the traditional home of long-standing events. For example, stage rallying depends on access to large forestry plantations and Ministry of Defence land. These are mostly situated in National Parks and other designated areas. Green road driving can only take place where green roads exist - mostly the remoter areas of countryside.

In the absence of proper regional recreational planning it is very difficult for a local authority, or National Park management, to properly appreciate the value of the land and highways in their area. Such authorities are under considerable pressure from other activities and interests, so it can be difficult for them to strike a fair balance. We commend the Peak National Park Plan First Review (April 1989) for its efforts to show an understanding of the different motor disciplines:

13.65: Various forms of motor sports are practised in the Park ranging from informal non-competitive motoring for pleasure using public vehicular routes, to organised competitive events. Informal trail riding activity using low-noise motor cycles driven slowly and sensibly on vehicular rights of way may be reasonable in much of the countryside and can provide access for disabled people. There may however be specially sensitive areas where regulatory action for example Traffic Regulation Orders may be desirable. Problems arise mainly from irresponsible ("cowboy") riders with no respect for the countryside or for those who live, work or use it for quiet enjoyment.

13.68: Organisers of motor rallies and trials following set routes along public roads are required to obtain RAC approval in consultation with the Peak Board, and police before proceeding with any event involving more than 12 vehicles...Cooperation has remained good in relation to advice offered by the Board. No serious problems have arisen, and there have been few complaints. (LARA) has offered the Board consultation over trials and events held under the auspices of its member associations where they do not fall under RAC control. Agreed Codes of Conduct to be followed by all motor

sports organisers for such events will be sought.

13.72: Close cooperation with organisers of motor rallies and motor cycle trials and similar events will continue, with the object of ensuring that these activities take place in such areas and at such times as to minimise disturbance to local communities and other users of the Park and to minimise damage or disturbance to wildlife and archeological features. Codes of Conduct will be sought, both for competitive motor sports, and for the use of vehicular rights of way.

LARA believes that most National Parks are now recognising that blanket exclusions on motorised activities are not fair, effective or necessary. Without a proper regional recreation strategy, it is difficult for any park or local authority to fully appreciate the needs of motorised activity and how this may fairly be accommodated. In the absence of such information, LARA urges authorities to maintain regular liaison with the various motoring organisations and to seek positive management solutions to problems as and when they arise.

**LARA believes that management by exclusion is unnecessary, unfair and often counter-productive.**

LARA believes that most friction between motor users and others in the countryside arises from the activities of the "cowboy" driver or rider. The cowboy problem is not new, but little has been done to tackle it, and exclusion of organised events and legitimate users will not serve to lessen the problem of trespass, thoughtless and dangerous motor use. This is a problem that fluctuates and moves around and, under existing powers, is very hard to control. The problems of "cowboy" activity are discussed in a separate chapter later in these papers.

Motor sport and recreation has a fine tradition in the remote places of Britain. We are not seeking greater levels of access and accept the reasonable principle of *"access for all, but not to everywhere and not all the time"*, so long as this is fairly applied. The various disciplines of motor sport and recreation have different needs and problems. Some are easy to accommodate in remote and sensitive countryside, others are more problematic. With a will on all sides, a fair balance can be achieved.

## ORGANISING A MOTORCYCLE TRIAL

The Scott Trial has run almost every year since before the First World War in the Yorkshire Dales. For many years now the event has been settled on Arkengarthdale and Swaledale, with the start/finish near Richmond. The Scott is a classic one-day time and observation trial, where the riders complete a long (up to 70 mile) loop that takes them to groups of competitive "sections". It is undoubtedly the toughest one-day trial in the calendar and is as "traditional Yorkshire" as a sheepdog trial or fell race. Long-time organiser Norman Waters describes the care and preparation that goes into organising the Scott for its traditional late-October date:

- One year ahead: Book the hall for the presentations.  
Discuss the route with the Clerk of the Course.
- February: Write to the many landowners/tenants whose land is used, the Police, North Yorkshire County Council, for written permission and authority. Where any comment is received, arrange a site meeting at their convenience. Obtain special insurance for estate owners and Ministry of Defence where needed.
- July: Send the trial's regulations to the ACU head office for checking and authorisation to ensure insurance cover.
- August: Organise the printing of the trial regulations for issue to past entrants, police, NYCC, event officials. Print the observer's books and number check books. Obtain bibs for riders and observers. Check with the event's medical officers, St John's Ambulance, timekeepers, noise meter operators to ensure they can still attend.
- September: Liaise with local police office, giving them updated programmes. The map in the programme will now contain approximate timings for the event.
- October: Set out the start/finish area and mark the course - many man-days of work. Organise traffic marshalling and clear up after the event.
- Follow-up: All next week - check course for debris and damage. Clear up and settle amicably as required. Start thinking about the next year's event.



Eagle-eyed observers will notice that this trials motorcycle is not carrying a registration plate. That is because the event, the British round of the 1992 World Trials Championship, does not use public roads. (photo: G. Wilson)



## ORGANISED EVENTS ON THE HIGHWAY

### TYPES OF EVENT.

Many users of motor vehicles<sup>1</sup> for recreation use the highway and roads, which while not highways, are public roads as defined by the Road Traffic Act. These users can be divided into two main heads:

- (1) Those who use highways as of right and while not participating in competitive events. Such people would include motor cycle tourists and trail riders. These users are not subject to any additional controls above those imposed on everyday users of the highway and are not discussed further here.
- (2) Those who use highways and public roads in the course of competition and who are subject to legal controls involving various sorts of authorisation and permission. The highways used may be carriageways on which there is a right to drive or footpaths and bridleways on which there is no right to drive without lawful authority<sup>2</sup>.

The events (2, above) which use the highway can be further sub-divided.:

- (3) There are some speed events which take place on highways that have been closed to normal traffic by a particular Act of Parliament which also allows an event to be held without it breaching the provisions of the Road Traffic Act 1988<sup>3</sup>. When these events take place the highway laws on the course are suspended and the highway can generally be regarded as ordinary land, so far as public rights of use are concerned<sup>4</sup>.
- (4) Most motor sport events that use the highway do so whilst public rights are either wholly unaffected by the event or are partially restricted for the duration by traffic order or police intervention. The types of event that use the highway in this way are not races.

It is helpful to sub-divide this last category of event further as this makes the issues involved, and the various parties' approach to them, easier to understand:

- (5) Events (or parts of events) that take place on carriageways, whether sealed or unsealed, and,
- (6) Events (or parts of events) that take place on footpaths and bridleways (public paths).

## REGULATION OF EVENTS

The holding of motor sport events on the highway is regulated by the Road Traffic Act 1988. Section 12 deals with races and trials of speed:

- (1) A person who promotes or takes part in a race or trial of speed between motor vehicles in a public highway is guilty of an offence.
- (2) In this section "public way" means, in England and Wales, a public highway and, in Scotland, a public road.

"Public highway" is not defined in the Road Traffic Act 1988, but it is well defined in a series of cases, e.g.

A highway is a right of passage in general to all the King's subjects without distinction<sup>5</sup>

A highway is a way over which there exists a public right of passage, that is to say a right for all Her Majesty's subjects at all seasons of the year freely and at will to pass and repass without let or hindrance<sup>6</sup>.

The different classes of highway are also well considered in the cases:

At common law highways are of three kinds according to the restriction of the public rights of passage over them...A full highway or cartway .....a bridleway.....a footpath<sup>7</sup>.

Section 13 deals with the authorisation of other events:

- (1) A person who promotes or takes part in a competition or trial (other than a trial of speed) involving the use of motor vehicles on a public way is guilty of an offence unless the competition or trial
  - a. is authorised, and
  - b. is conducted in accordance with any conditions imposed, by or under regulations under this section
- (2) The Secretary of State may by regulations authorise, or provide for authorising, the holding of competitions or trials (other than races or trials of speed) involving the use of motor vehicles on public ways....
- (4) In this section "public way" means, in England and Wales, a public highway....

That seems clear. It is an offence to participate in or to promote races or trials of speed between motor vehicles on "public ways" which are

defined as being "public highways". It is an offence to participate in or promote any other motor vehicle event unless done in accordance with the rules for authorisation made by the Secretary of State. These rules were laid down in the *Motor Vehicles (Competition and Trials) Regulations (SI 414/69, 1674/74, 1657/76)* and are reproduced in the Appendix by kind permission of Her Majesty's Stationery Office.

Section 33 of the Road Traffic Act 1988 deals with the authorisation of events using footpaths and bridleways:

- (1) A person must not promote or take part in a trial of any description between motor vehicles on a footpath or bridleway unless the holding of the trial has been authorised under this section by the local authority.
- (2) A local authority shall not give an authorisation under this section unless satisfied that consent in writing to the use of any length of footpath or bridleway for the purposes of the trial has been given by the owner and by the occupier of the land over which that length of footpath or bridleway runs, and any such authorisation may be given subject to compliance with such conditions as the authority think fit.

The application of these regulations gives some latitude for interpretation and imposition of conditions by highway authorities. Wiltshire County Council publishes a set of guidelines (reproduced here by their kind permission) which is an excellent example of how highway authorities can work with event organisers to everyone's advantage. These guidelines were published in April 1992 and have not been updated to take account of the Road Traffic Act 1991.

#### MOTOR SPORT & PUBLIC RIGHTS OF WAY: A CODE OF PRACTICE FOR ORGANISERS OF EVENTS WHO WISH TO USE PUBLIC RIGHTS OF WAY IN WILTSHIRE.

##### Introduction

1. As I am sure you are aware, a number of tragic incidents in the past on a number of motor rallies have led to a re-appraisal of safety standards. Authorising bodies, generally, are reviewing standards for all forms of motor sport in the light of experience and I now also take the opportunity to issue this leaflet which sets out the requirements of the highway authority in respect of events which use or cross public rights of way in Wiltshire. Although primarily concerned with car rallies, it is also applicable to motor cycle trials and all-wheel drive events.

Standard Time	Competition Time	Place	Mileage	Total Mileage	Route and Instructions
6.46		Ilington	3	178½	R at fork by Church, L at road junction round Church, s.o. at next junction and R down narrow lane (thatched cottage on left).
6.49		*SIMMS HILL	1	179½	Non-stop from re-start at bottom to X roads at summit, s.o. over X roads and L at road junction down steep hill and R on joining tarred road.
6.54		Everton	1½	181	At junction of four roads, L at stone wall (avoiding sharp L to Mowry Tracey), s.o. at X roads (d.p. Newton Abbott) and at next X roads L along A35 (d.p. Chudleigh, Exeter). S.o. over next two X roads to
7.04		Chudleigh Knighton	3½	184½	Bear R at road junction and follow main road through Chudleigh to Alphington.
7.33		Alphington	9½	194	In Alphington at road junction sharp R taking Exminster road and in 2 miles L at A.A. bus (d.p. Sidmouth, Honiton A378) to Countess Weir.
7.42		Countess Weir	3	197	Petrol and supplies at J.R.P. Heath's Service Station just over X roads S.O. following A378. At roundabout R (d.p. Newton Poppleford, etc., A35) and s.o. to Newton Poppleford.
8.12		Newton Poppleford	10	207	S.o. for about 2 miles, where at road junction fork L (d.p. Sidford) leaving Sidmouth road to
8.22		Sidford	3½	210½	S.o. through village across Sidmouth-Honiton road to X roads, where L (d.p. Harcombe). In about ½ mile R (d.p. Harcombe). L at letter box in wall and again L to
8.28		*HARCOMBE HILL	2	212½	NON-STOP from foot of hill to 'special rest' on upper portion. Read regulations carefully: no signals or directions will be given to competitors during the test.
8.41		Summit	1	213½	Beyond summit R, and later L, when joining main road from Exeter to Colyton and Lyme Regis, near 17th milestone. At 17th m.s. keep L, ¼ m. later R. Avoid the Seaton Road and descend to village.

\* The start of all the road Sections are from Church Lane in the common; attention is drawn to Regulation 2, par. 1.

From the route card of the Motor Cycling Club's Exeter Trial, 1935

2. This leaflet is designed to ensure that public safety on the highway has first priority. Public rights of way are public highways.

##### The Position of the Highway Authority

3. I would draw your attention to the Motor Vehicle (Competition and Trials) Regulations 1969 and also to the RAC Motor Sport Association's (RACMSA) Regulations - particularly K.4.2.5 (1992 regulations) which require organisers to consult highway authorities where motoring events cross or use public rights of way. My primary concern is to ensure that members of the public who are entitled to use the public paths may do so in complete safety. I am also concerned to avoid undue damage to the unmetalled highways.
4. I would also mention K.11.5.1 which requires special stages to be on land over which the event has exclusive access.
5. The regulations issued by the RACMSA also require that such public paths are properly marshalled by officers who have a working knowledge of the rights the public are entitled to use. It is appreciated that this is quite often a difficult task as most motor clubs use the 1:50,000 OS

sheets which do not convey the full picture so far as public rights are concerned. The regulations also require the provision of alternative routes for the public to avoid competitive sections, if appropriate.

6. To assist motor clubs in meeting these requirements it is clear that there must be an increase in the amount of information provided, both to, and by, the County Council, and I would ask organisers therefore to follow the method of application set out in this leaflet.

#### Applications for Authority.

7. Details of the route - even if it is only provisional - should be submitted as early as possible, but certainly at least two months before the event. In view of the changing nature of the rights of way network I would encourage organisers to contact my rights of way section even at the planning stage, when helpful advice and assistance may be given to avoid public conflict and accurately identify public paths. (It may interest you to know that at least two "yellow roads" shown on the 1:50,000 maps within Wiltshire are not public roads at all)
8. Although map tracings have been customary in the past, these do take some time to plot against the rights of way map and may slow down the processing of your application. I would ask that, in future, organisers submit the route drawn on a 1:50,000 sheet if possible. I can then mark on and confirm the rights of way affected and return the original, or a copy, to you. This will enable your marshals to be properly briefed as to the public rights which actually exist.
9. Organisers are asked to specify the date of the event, start and finish times and if possible give an indication of the likely time of the day that a stage or group of stages will be in use. It may be possible, for example, to permit an event to run overnight whereas in daylight hours the more extensive use of the track by the public may preclude its use by a motor sport event.
10. Applications should be addressed to...

#### Highway Authority Conditions

11. Although all applications will be looked at individually, and on their merit, the following standard conditions will be applied:
  - a. Wherever a route crosses, or uses, a public path, then that path will have to be properly marshalled so that arrangements can be implemented to allow the public to use the right of way in safety. Arrangements may have to be made for the temporary halt of the event to allow this public use to proceed.
  - b. Any temporary alternative routes for the public must be agreed beforehand

and properly signed to avoid any possibility of conflict with event traffic.

- c. Any undue surface damage caused to the highway by vehicles connected with your event must be made good by your club. Arrangements must be made to ensure that any mud deposited upon a metalled highway is removed as soon as possible. Failure to carry out the necessary repairs could result in the County Council doing the work itself, charging you the costs incurred.
- d. Your club must indemnify the County Council as highway authority against any claims that may arise. I confirm that the insurance arrangements made by the RACMSA and ACU when issuing a permit are sufficient; I will however require to see a copy of the permit.
- e. Wherever a route uses or crosses a public footpath, bridleway or Road Used as a Public Path (RUPP) where public vehicular rights have not been proven, then I will require to see the written consent of the landowner involved that he is agreeable to the use of his land by vehicles. Again, if in doubt, please check with my Rights of Way Section first.
- f. Organisers will be asked to specify, in detail, the marshalling arrangements and temporary routes, if any, provided to allow for public use. I will also require details of how members of my staff can contact the Clerk of the Course during an event should problems arise that require immediate attention, e.g. location and telephone number of event control.
12. Additional conditions may be imposed for individual events.

#### General

13. Members of my staff may be present during the course of an event and should they observe breaches of the conditions they will report the matter to a responsible official of the event with the intention of having the matter rectified immediately. If satisfactory action is not taken, highway authority consent for the event may be withdrawn with immediate effect. Such instances will of course also be noted in respect of future applications by your club and reported to the police and RACMSA/ACU.
14. I hope you will appreciate that it is not my intention to discourage motor sporting events within the highway. I am only concerned to ensure that public highway safety and the general condition of the paths is preserved. I would wish to be of as much assistance to you as possible and it is fair to say that I have always had excellent cooperation from clubs who use the Wiltshire area. I would urge you to liaise closely with my staff at an early stage in the planning of events so that this situation may continue.

D.T. Gardner  
Director of Planning and Highways



## MOTORSPORT IN "PUBLIC PLACES"

The Road Traffic Act 1991 amends the Road Traffic Act 1988 as regards the places where certain offences can be committed. The amended offences of causing death by dangerous driving (section 1), dangerous driving (section 2), driving without due care and attention (section 3) can now be committed on "roads" and other "public places". This change was made to try to tackle the problem of enforcing against "joyriders" driving on car parks, open ground and parks, etc.

The motoring organisations immediately spotted the danger that most of their events take place in "public places" - a term that is not defined in the Act. Whether or not a place is a public place is a question of fact in each case, but it was thought that, for example, a moto-cross track could be a public place. After negotiations with the Department of Transport, the Government added a new section 13A to the Road Traffic Act 1988: Section 13A(1)

A person shall not be guilty of an offence under sections 1.2 or 3 of this Act by virtue of driving a vehicle in a public place other than a road if he shows that he was driving in accordance with an authorisation for a motoring event given under regulations made by the Secretary of State

Section 13A(2) sets out what these regulations may prescribe and The Department of Transport has produced a guidance note for motor events covered by the Road Traffic Act 1991. This is reproduced in the Appendix by kind permission of the Secretary of State for Transport (copyright reserved).

### Endnotes:

1. Road Traffic Act 1988 section 185 "...a mechanically propelled vehicle intended or adapted for use on the roads."
2. Ibid section 34.
3. e.g. Isle of Mull, Brighton and Birmingham.
4. Neither can rates be levied on highways temporarily closed by Act of Parliament for sport. See report on Birmingham Local Valuation Panel, the Daily Telegraph 10th August 1988.
5. Ms Salisbury v G. Northern Railway, 28 L.J.C.P 40.
6. Ex Parte Lewis (1888), 21 QBD 191.
7. Suffolk CC v Mason [1978] 1WLR 716 (C.A.)



One of the few byways in the north of England to be properly signposted, this ancient highway is part of the complex system of old and recent roads on Hartside in Cumbria. (photo: A.D. Kind)



Jim Kentish climbing Hustyn Hill on a 1939 998cc Vincent HRD in the MCC Lands End Trial

## THE ILLEGAL USE OF MOTOR VEHICLES: CONTROLLING THE "COWBOYS"

The illegal or unauthorised use of land and minor highways by motor vehicles is the most widespread and frequent vehicular problem both in the deep countryside and on the urban fringe. The usual term used to describe such drivers and riders is "cowboy", although illegal use covers a wide gamut, from the unintentional trespasser to the downright criminal. Obviously, the "cowboy" driver is seldom part of an organised set-up, although he may frequent areas often used by others of a similar persuasion. There are occasional "cowboy" or "pirate" motor sport events. These are formally organised events run outside the control or rules of the recognised governing bodies. Such events may well have no regard for noise control and lack adequate participant and third party insurance cover.

The question "What are you going to do to stop the cowboys" is often levelled at legitimate motor organisations by countryside managers and others. There is no simple answer. Some cowboys can be reached through personal contact, others through the motoring press, many by the wide distribution of "codes of conduct". This educative approach can only work best when properly co-ordinated. Codes of conduct and educational material must be available in local and tourist information centres and be carried and distributed by countryside wardens and rangers. The responsibility for such education rests across society, not solely on the shoulders of the motorsport organisations.

The concept of alternative sites where "cowboys" may ride and drive safely and without causing damage is often touted as the solution. The "trail park" or "wheels park" was very fashionable during the 1980s, with many local authorities investing significant sums of money. The stark reality is that the creation, funding and management of such sites is fraught with difficulty and few non-private sites have survived into this decade. Those sites that have lasted tend to cater more for the practice needs of the legitimate user, rather than for the casual fun of the "cowboy". That is simply a matter of harsh economics.

To blame the motor sport and recreation organisations for the activities of the cowboy riders and drivers is akin to holding responsible the Ramblers' Association for the excesses of football hooligans because both groups wear big boots. At present, road traffic law is very weak in the way the Acts are applied to certain vehicles. Under the present rules, two people could ride nominally similar motorcycles down the

high street, or across the local park, without insurance, helmets, driving licence, road fund, silencer, legal tyres, etc. One rider would stand to be prosecuted for all these omissions, while the other could avoid any charge. This difficulty and confusion has led to some police forces seemingly taking the view that action against "cowboys" is, most of the time, just not worth the bother.

## THE SCOPE OF THE ROAD TRAFFIC ACT 1988.

The Road Traffic Act 1988 is the principal statute governing the use of the highway, imposing various requirements such as the need to have a driving licence and third party insurance. The Road Traffic Act deals primarily with motor vehicle and cycle traffic in that pedestrian and equestrian road users are subject to few national, rather than local, controls. Road traffic law is now a complex and wide-ranging area of law and outside the scope of this paper. However, there are two issues of road traffic law which are of significance to recreational users of the countryside. These are,

- (1) to which highways and roads does the Act apply and,
- (2) to which vehicles and users does the Act apply?

## ROADS SUBJECT TO THE ROAD TRAFFIC ACT.

The question of where the Road Traffic Act applies is important in that the control of motor vehicle use is essential for safety where vehicles and other classes of traffic share the same ground. This should be considered with the staging of motor sport events on public paths. The Road Traffic Act 1988 does not define highway but does define road: Section 192 provides that:

...road in relation to England and Wales means any highway or any other road to which the public has access and includes bridges over which a road passes.

Just what "any other road" extends to cover has been subject to consideration by the courts since the Road Traffic Act 1930. It is always held to be a question of fact for the lower court considering the particular offence as to whether that offence took place on a "road" for the purposes of the Act. However, the courts have tended to give useful guidance in that decision.



### Harrison v Hill<sup>1</sup>

This case was on the interpretation of the Road Traffic Act 1930 in Scotland. Lord Sands held that the Act may well apply to private roads with no right of way for the public at all. The object of the Road Traffic Act was the protection of the public and it extended to all roads on which a motorist might encounter members of the public. It applies to any road where the public are to be found, not having gained access either by overcoming a physical obstruction or in defiance of a prohibition, express or implied.

### Davidson v Adair<sup>2</sup>

Lord Aitchinson said, again in regard to Scotland, that for the Road Traffic Act to apply it is enough if a member of the public could be on the road without trespassing or contravening an express prohibition. It would be an impossible view to take that a person could drive a car as recklessly or negligently as he liked in an avenue in his own grounds without contravening the Road Traffic Act. The application of this case to the law in England and Wales has been quite firmly restricted in a later case.

### Lock v Leatherdale<sup>3</sup>

Lord Widgery CJ specifically indicated the definition in Section 196(1) of the Road Traffic Act 1972 as the test for whether the Road Traffic Act would apply to a road. This would seem to suggest that the Act does apply in its entirety to footpaths and bridleways. The definition of road in the Road Traffic Act 1972 has been carried forward into the Act of 1988.

Oxford v Austin<sup>4</sup> laid down two tests:

- (1) Is there a definable way over which a vehicle could pass?
- (2) Is there access for the public or a section of the public?

If yes to both, then it is a road for the purposes of the Road Traffic Act.

### Lang v Hindhaugh<sup>5</sup>

Footpaths and bridleways are certainly highways for the purposes of the Road Traffic Act. Wilkinson's Road Traffic Offences, 12th edition, vol 1 at P41 is held wrong. [although this part of the judgement would seem to be correct, that part setting out the criteria which make and identify footpaths and bridleways is plainly wrong.]

These cases, and others, demonstrate that the Road Traffic Act can be used to control the use of motor vehicles and pedal cycles on any

highway regardless of its status. Although it is a question of fact in each case, the Act would also seem to apply to roads which are certainly not highways. Although the first two cases cited above are Scottish, the law on highways in each jurisdiction and the Road Traffic Acts of England and Scotland are similar enough for the principle to hold in English law. Thus, in a forestry plantation in England or Wales, a forest road which is not a highway of any description, but which is used by the public by tolerance or express permission or even by trespass on a reasonably regular basis, especially if the forestry company knows and takes no steps to exclude, will probably be covered by the Road Traffic Act.

Does this mean that the Act extends, on such a "private road", to cover the use of that road by the landowner and his invitees and, specific to motor sport, could the road be taken outside the scope of the Act, during the course of an event, by closing, or purporting to close, it to the public?

The position of the landowner is not well established. As regards carriageways, especially sealed motor roads, the fact that a road user is also the owner of the subsoil is not any defence to his breaching the Road Traffic Act. The landowner has no additional rights above those of the general public in his use of the surface of any carriageway that runs across his land. However, a landowner's use of footpaths and bridleways across his land tends to be viewed differently. Although such highway rights are assumed dedicated subject to the existing right of the landowner to drive vehicles along the path if he so desires, does this pre-existing use right extend to allowing the landowner and his invitees to use, say, vehicles which are not insured or roadworthy, to drive whilst intoxicated, or to allow persons under the licence holding age to drive there?

There seems to be no authority on this, but it is common experience that the police invariably take the view that a landowner may do what he wishes on his land, including public paths, as regards the use of motor vehicles - that "permission answers all". It seems anomalous that there should be this distinction between the protection afforded to the public on carriageways by the Road Traffic Act and the lesser protection seemingly given to the non-motorised user of footpaths and bridleways and this distinction is wrong. When the public acquire a footpath or bridleway right across land the landowner's interests are immediately diminished. The surface of the way is vested in the highway authority. Restrictions are placed on obstructing the way<sup>6</sup>,

There can be a complication in enforcing this section, even against drivers of vehicles that are "intended or adapted". Many roads recorded on the definitive map of rights of way as footpaths or bridleways are actually ancient carriageways. Under the principle of *Once a highway, always a highway*, the public is free to exercise the right to lawfully drive on these ways. If *prima facie* evidence of such higher rights is adduced, then it is unlikely that any prosecution would succeed. Indeed, in the past decade several such prosecutions of members of LARA organisations have been successfully defended, sometimes with substantial costs awarded against the prosecuting authorities, which had failed to adequately investigate the true status of the roads used.

This situation is a reversal of what should happen. Drivers and riders exercising their lawful rights on ancient highways are sometimes vulnerable to prosecution because these old roads are wrongly recorded as footpaths or bridleways. The definitive map is very inaccurate in this respect and will take many years to correct. Yet, drivers of unlicensed, uninsured, unroadworthy machines can freely use such roads (and open land) with little fear of prosecution.

### THE USE OF VEHICLES ON OPEN LAND

Section 34(1) of the Road Traffic Act 1988 creates an offence of driving motor vehicles on:

*Any common land, moorland, or land of any other description, not being land forming part of a road....without lawful authority (permission, in this context). Before the police can take any action they must be satisfied that the offending vehicle is "intended or adapted" for use on the road. As with use on roads, driving a moto-cross motorcycle, or a quad, on open land may not be an offence under section 34(1).*

In February 1991, a LARA local officer wrote to the police reporting that several motorcyclists were riding dangerously (and apparently illegally) in a local wood. It was pointed out to the police that the motorcycles were Yamaha trail bikes, sold as fully road-legal, even though they were now not carrying registration plates. The officer who responded to the complaint suggested that the police might not be able to take action because these "might not be road vehicles".

### USE OF VEHICLES BY LANDOWNERS

The question of the use of motor vehicles by landowners on their own

land is problematic. Leaving aside the use of vehicles for work on land, many farmers keep recreational vehicles or use work vehicles for recreation. The classic example would be the farmer's son who rides his moto-cross bike at will across his father's land. Is this use a legitimate part of family life and use of their property, or is it a change of use which is subject to planning control? This type of permissive use of the countryside certainly creates problems, especially in remote areas where such drivers can gain access to hills, often creating noise and disturbance for locals and visitors alike<sup>15</sup>. Such activity is very difficult to enforce against. Apart from the difficulty of collecting evidence in such places, there seems to be a tradition of internalising such problems within the community rather than seeking, or permitting, outside enforcement from police or local authorities<sup>16</sup>. If a farmer's son used the family (or other) land for riding his motor cycle around for pleasure then the General Development Order would appear to restrict him to 28 days or, if he is practising for racing, to 14 days. However, if the motor cycle is used as transport to round-up or inspect sheep, to visit a rabbit warren, to check gates at the other side of the farm, etc, then the fact that the driver enjoys the ride must be incidental to those necessary uses. Any remedy for an aggrieved neighbour must seem to lie in a private action for nuisance.

#### Endnotes:

1. Harrison v Hill [1932] SC(J) 13.
2. Davidson v Adair [1934] SC(J) 37.
3. Lock v Leatherdale [1979] RTR 201 DC.
4. Oxford v Austin [1980] RTR 416 DC.
5. Lang v Hindhaugh. The Times, 25th March 1986.
6. Highways Act 1980 section 137.
7. Ibid sections 137, 143 and 145.
8. Ibid section 130.
9. Public Order Act 1936 section 5
10. Highways Act 1980 section 161.
11. Rights of Way Act 1990.
12. Wildlife and Countryside Act 1981 section 59.
13. Burns v Currell [1963] 2 QB 433.
14. Anderton v O'Brien (1979) RTR 388.
15. See note 1 above.
16. A problem acknowledged, though not addressed, by the Lake District National Park SPB.
17. From discussions in 1990 with the Lake District and North Yorks Moors National Park Authorities.

## MOTOR VEHICLES ON THE BEACH OR FORESHORE.

Motor and motorcycle sport has run on sand from the earliest days. Sand racing, on both two and four wheels, is probably not as widespread now as in past years, but it remains popular in pockets, while motorcycle "beach racing" provides some of the biggest off-road events in Britain. "Sand racing" is usually used to describe events on flat tracks laid out on the firm sand of the strand - between high and low water. "Beach racing" describes a form of moto-cross using both the strand and dunes, sometimes with man-made jumps and pits as additional obstacles. The use of dunes is restricted to where there is no environmental danger. Any disturbance to the strand is, of course, cured by the next high tide. Illegal and potentially damaging use of vehicles on the beach and dunes is a problem in some places. This chapter should be read in conjunction with the section on "The Illegal Use of Motor Vehicles".

LARA urges that the police and local authorities should take action against the illegal use of vehicles on the coast wherever possible. Education and information may be effective where enforcement is impractical. Illegal use should not be used as a reason to deny access to organised events.

The commonly-used term "beach" is better defined as being the foreshore - the area of ground between ordinary high and low water mark. There is a presumption that the foreshore is held by the Crown<sup>1</sup>, but there are many stretches of beach that are owned or leased by others. It is common for local authorities, especially in holiday areas, to be freeholders or lessees. There is no right of public access to the foreshore across the land to the landward-side<sup>2</sup>. The area above highwater mark is land owned like any other land, regardless that it may look like the foreshore, or may be sandy dune.

There may well be customary rights for people to walk or sunbathe on a beach<sup>3</sup> and these rights may be so wide that they have the outward appearance of a *jus spatiendi*<sup>4</sup>. Users on foot seldom pass and repass along a particular strip of beach in the course of a journey and it is unlikely, although not impossible, that such user could give rise to a presumption of dedication of a public footpath. Horse riders may be more likely to establish a right of way in that they tend to travel a greater distance, along a more defined strip of sand, with a view to reaching a destination, even if they then often return the same way. In respect of foreshore held by the Crown, claimants of a public right of

way would not be able to rely on proving 20 years user, but would have to found their case on common law principles of use "time out of mind"<sup>5</sup>. Where a local authority makes bye-laws permitting, but regulating horse riding, this permission would act to stop any user rights accruing<sup>6</sup>. Sand (or land) yachts are vehicles and carriages<sup>7</sup>. Their helmsmen have no public right to use the foreshore, but operate by the same tolerances or permissions as pedestrian and equestrian users. Sand yachts can be controlled by bye-law for casual use and by conditions stipulated by the freeholder or lessee of the foreshore for organised competitions. Sand yachts with modern, high-technology rigs, are now capable of sailing at some three times the speed of the wind and velocities approaching 100MPH are possible<sup>8</sup>.

## HIGHWAYS ON THE BEACH.

There are two issues here: the use of the (whole) foreshore as a highway and the establishment and existence of highway rights across part of the foreshore. In *Beckett v Lyons Winn* L.J. said:

*For the sake of clarity I add that no right to use the foreshore as a highway was asserted; indeed, I do not see how it could be since there would be no identifiable termini.*<sup>10</sup>

This case concerned disputed rights to take a vehicle on to a foreshore to collect sea coal. The vehicle was driven on to the beach, but did not then travel further to another place. The driver simply sought patches of sea coal and collected these. However, there are, around the country, a number of highways that run across beaches and dunes. These are no different to any other highway in that they cannot be lost through disuse over the years but they can be lost by physical destruction<sup>9</sup>. Two significant examples of surviving coastal roads are:

"The Broomway" in Essex may be seen on Ordnance Survey 1:50,000 scale sheet 178 running from Wakering Stairs (ref 9787) to Fisherman's Head (0392), partly as BOAT, partly bridleway. It is approximately five and a half miles long and runs parallel to the coast, some quarter of a mile offshore.

The coach road across Morecambe Bay sands is, perhaps, the best known example. It runs from Hest Bank, near Morecambe (ref 4667) for over seven miles to Kents Bank (ref 3975). Once the main coach route from the main body of Lancashire to Grange-Over-Sands and the north, it presently carries RUPP status. The sands are quite treacherous and travellers are warned to seek the services of a local "sand pilot" before attempting a crossing. This route is shown on Ordnance Survey 1:50,000 scale sheet 97.

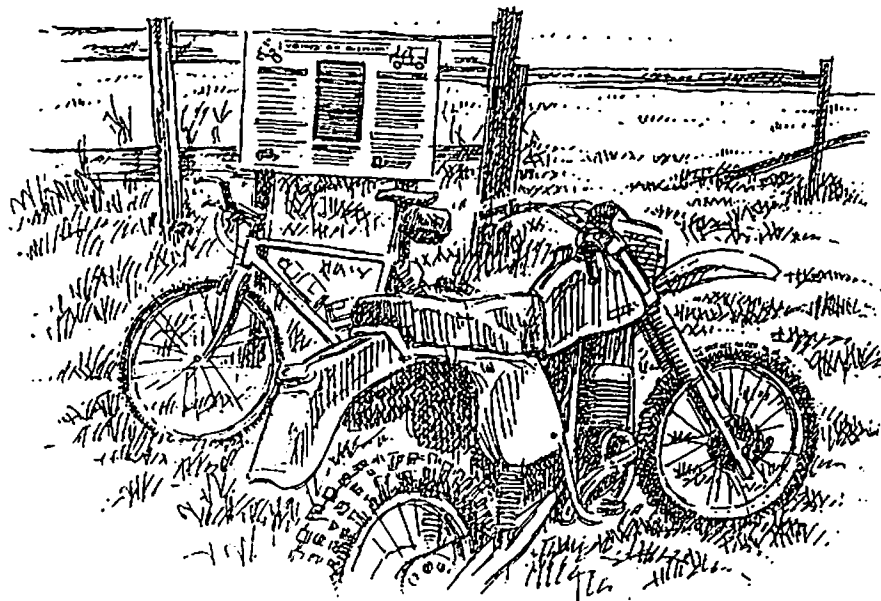
## MOTOR VEHICLES ON THE BEACH.

The unauthorised use of motor vehicles on beaches is a long-standing and widespread problem. It occurs at points all around the coastline where there is the necessary access and can range from small-scale, non-damaging use, to severe disruption of nature reserves, sensitive dunes<sup>10</sup> and popular beaches<sup>11</sup>. The nature of the misuse varies. Some examples are:

- (1) Using a vehicle to collect seacoal or sand without permission.
- (2) Using a vehicle to launch a boat across the foreshore without permission.
- (3) Local people driving or riding vehicles casually, both in their neighbourhood and, where the terrain allows, travelling longer distances up the beach.
- (4) People transporting special "off-road" vehicles long distances to drive and ride them on the beach and dunes.
- (5) People driving into the dunes to engage in aggressive or anti-social behaviour.

There are a number of legitimate uses of vehicles on the beach which should not be confused with illegal activities. For example:

- (6) Some owners and lessors of the beach allow restricted access to motor vehicles, usually subject to either, or both, the Road Traffic Acts and various bye-laws. For example, vehicles have long been permitted to drive along Pendine Sands in South Wales, conditional upon their obeying Road Traffic Act provisions and a 20MPH speed limit. By special arrangement the landowner at Pendine, in the person of the Secretary of State for Defence, will allow speed record attempts to be staged. It is not uncommon for there to be a specific permission to drive across a certain stretch of beach to launch boats, often conditional on the vehicle being removed to an adjacent carpark after launch.
- (7) There are a number of beach and dune sites regularly used for properly organised motor sport events, usually known as "sand racing" or "beach racing". This has taken place for many years at many locations as a very low-key type of event. In recent years there has been an upsurge in interest in motor cycle events using a combination of natural sandforms and huge bulldozed jumps and ditches. The biggest of these events is held every October at Weston-Super-Mare and attracts hundreds of competitors and many thousands of spectators. These events need the permission of the landowner or lessee and all run under the auspices of motor sport's governing bodies.



Illegal use of motorcycles on "green roads" and public paths can be a problem in places. The young rider of this ancient enduro bike seemed quite unaware that he was on a public road. (sketch by David Young)

The nature of the vehicles used needs to be considered. The basic classification is into those vehicles which are motor vehicles for the purposes of the Road Traffic Act and those which are not<sup>12</sup>. Since many of the vehicles used are, *prima facie*, not intended or adapted for use on a public road then section 34 of the Road Traffic Act 1988 is ineffective against their drivers. A further bar to enforcement by the police lies in the wording of section 34(1) of the Road Traffic Act 1988:

....if without lawful authority a person drives a motor vehicle

(a) on to or upon any common land, moorland or land of any other description, not forming part of a road..... he is guilty of an offence.

There is anecdotal evidence<sup>13</sup> that police forces will not seek to use section 34 as there is some argument as to whether or not the foreshore is "land", thus falling into the description of "land of any other



description". This, if true, seems a poor rationale as "shore" is defined in the dictionary as land bordering the sea or a lake. The argument that the foreshore does not fall within the scope of section 34 may be strengthened by the use, by many local authorities, of bye-laws specifically to exclude or regulate vehicular traffic on their beaches. Bye-laws may well be the most effective control on improperly used vehicles of all types.

## BYE-LAWS CONTROLLING USE OF THE FORESHORE.

Existing bye-laws are not consistent. Shepway District Council made "Bye-laws relating to the use of motor cycles and other vehicles" in August 1987. This is restricted to "open land" defined as "...land, whether enclosed or not, which is used as an amenity or for purposes of recreation or lies waste or unoccupied". On request from the motoring organisations during the consultation stage, Shepway District Council added a clause permitting properly organised motor sport events.

*"Provided that this byelaw shall not apply to any person taking part in a rally, trial, race or any other event held on any open land in pursuance of an agreement with the Council or landowner".* There is no specific mention of foreshore or beach in the bye-law.

Dwyfor District hold the Crown Lease for the foreshore in the District. Their bye-laws allow vehicles to drive on to Black Rock Sands for the purposes of parking and the Council also allows a car autotest each New Year's Day "under strict supervision".

Langbaugh on Tees Borough Council is the freeholder of various beaches in the Borough. The Council has recently adopted bye-laws controlling the use of vehicles on open land but it is not known if this specifically includes the foreshore. Motorcycle sand racing is regularly permitted under specific safety requirements. Southport Borough are freeholders of some foreshore in the Borough. The bye-laws here specifically refer to the "Seashore" as defined by the Coast Protection Act 1949. Vehicles are allowed on to controlled areas for parking and motor sport events are permitted with safety conditions.

All the above bye-laws are worded specifically to include all motor vehicles, not just, or other than, motor vehicles for the purposes of the Road Traffic Acts, e.g. "Motor Vehicle" means any motor car, motorcycle or any other mechanically propelled vehicle.

## Endnotes:

1. Hale's De Jure Maris (Hagreave's Law Tracts, 14).
2. Blundell v Catterall (1821) 5 B & Ald. 268.
3. Ibid.
4. A.G. v Antrobus [1905] 2 Ch 188.  
Beckett v Lyons [1967] Ch 449.
5. Highways Act 1980 section 31 could operate in respect of Crown land if there is agreement between the Crown and the highway authority in respect of that particular piece of land. An inference of dedication as a highway, by the Crown, may be taken under common law: Turner v Walsh (1881) 6 App Cas 636 (P.C.). The application of section 32 HA80 to Crown land would seem to be less difficult in that documentary evidence (experience shows) does tend to demonstrate public user reaching back a long time - perhaps being sufficient to show, or supportive in showing, dedication at common law.
6. Merstham Manor Ltd. v Coulsdon & Purley UDC [1937] 2 KB 77.
7. Taylor v Goodwin 4 QBD 228.
8. From a television programme on sand yachts, April 1991.
9. Clayden & Trevelyan: Rights of Way. A Guide to Law & Practice, 1983, The Ramblers Association.
10. Royal Society for Nature Conservation. Report: "Damage to wildlife sites by off road vehicles" 1987.
11. e.g. Druridge Bay: Northumberland County Council Coastal Plan 1991.
12. See the chapter The illegal use of motor vehicles.
13. From the Author's discussions with police re illegal use of various beaches in England and Wales.



## THE EFFECT OF DESIGNATION OF LAND ON MOTORSPORT

### ENVIRONMENTALLY SENSITIVE AREAS.

ESAs were introduced as a designation in a five-year experimental programme intended to encourage farmers to manage their land in such a way as to minimise the use of fertilisers, ploughing and other significant changes to the natural flora. Farmers who elect to join the ESA scheme are paid to compensate for any financial loss resulting from the conservation measures implemented. ESA designation was initially set in two wide categories, or "tiers" of land classification. Tier 1 is land already in arable or pasture use and is not so heavily protected as Tier 2. This is land largely free from the intrusion of agricultural improvement - rough pasture is typical. ESA schemes are managed by a project officer for each area and he decides what is not an acceptable use of land within the scheme. Motor sport became an early casualty of a farmer's decision to take ESA grants:

The hills around Lockwood Manor were designated as an ESA project area early in the scheme. A farmer there had regularly allowed a moto-cross club to hold events on his rough land in return for payment. On joining the ESA scheme the project officer ruled that the events could not continue and the farmer had to choose between ESA payments and the income from the sport. Inquiries revealed that the project officers are afforded wide discretion. There is no presumption against motor sport as such, rather it is the danger of disturbance to the land which is guarded against. Where any event might attract a lot of people and vehicles, whether as participants or spectators, these would have to be accommodated on a field not likely to suffer as a result of their presence. Events which take place on a limited area, such a moto-cross, may be more acceptable in an ESA than events which, although inherently gentler, like motor cycle trials, tend to roam across a much wider area.

It would seem that ESA designation is likely to be prejudicial to recreational events such as motor sport or horse eventing, especially where they may be an influx of spectators and vehicles. No record could be found of any application for planning consent for recreational purposes in an ESA area. How one would be considered is open to question, but the present elective nature of the scheme must reduce its value as a material consideration. If ESA classification becomes permanent or even compulsory then the effects on certain recreations may become more marked.

LARA recommends that where motorsport is an established use of land entering into the ESA scheme, then that sporting use should not be stopped unless it is clear that unrepairable environmental damage is likely to occur.

### SITES OF SPECIAL SCIENTIFIC INTEREST (SSSI).

SSSIs, it has been said, "sprout like mushrooms in the night" and are increasingly affecting sites traditionally used for outdoor active sport and recreation. The method of designation of SSSIs is such that, in the past, recreational organisations often did not know where and when designation happened. The occupier should, of course, bear the designation in mind when allowing any recreational activity on his land but, in practice, that is not always the case. So far as is known, motor sport and other recreation has not been listed as a prohibited operation under section 29 of the Wildlife and Countryside Act 1981, but it is certainly regularly listed under section 28 as an "operation likely to damage the special interest". Motor events may not now be held in SSSIs under the provisions of the General Development Order (see the chapter on *Access to the Countryside for Motor Sport and Recreation*)

Bigtown District Council wished to organise a motor cycle "beach race" on the foreshore and dunes on the river estuary in 1991. The Nature Conservancy Council is very concerned about the use of the dunes, which are presently an SSSI. Although the Council gave good assurances about reinstatement and additional works as a sort of "planning gain", the NCC is concerned about the level of illegal motor cycle activity in the dunes up the coastal strip in this area and fear that this might be increased as a result of the event.

Queen's Fell, a designated area of rough heath has been used for one moto-cross meeting per year for many years. This level of use presents no serious problem to the environment and the event has the approval of the Nature Conservancy Council and local authority.

### SSSIs AND RIGHTS OF WAY.

SSSI designations are expressed to exclude "metalled roads" which, by implication, suggests that they cover all other highways. If this is so then the typical list of operations likely to damage the special interest would be in open conflict with the rights of the public to pass and repass and the duties of the highway authority to maintain the surface and clear obstructions. The issue has been partially addressed in a recent public inquiry into minor highway status.

RUPPs 24 & 25 Bourn and No 1 Kingston: "The Porters Way"

On 30th August 1989 a public inquiry was held to consider the reclassification of the above contiguous RUPPs which form part of an ancient highway known as the Porters Way. This highway, well documented in the diary of an 18th century travelling clergyman and shown on Ogilby's map of 1675 as part of the Oxford to Cambridge road, is stated to be a public carriage road of 20' width in the Kingston Inclosure Award of 1815. Objections on amenity grounds were made by a number of persons and organisations which included reference to the designation of Kingston Wood, which borders much of the highway, as a Site of Special Scientific Interest "which would be at risk from traffic".

In disposing of these objections in paragraph 17 of his decision, the Inspector says: .....the conservation of flora and fauna, and the general peace and quiet of the countryside, they cannot constrain let alone remove the established public rights of way for vehicular traffic on Porters Way.

In the case of an obstructed unclassified county road in Clyro Community, Mid Wales.

This ancient highway has a nature reserve which is also an SSSI on both sides. It is presently obstructed and the Highway Authority have expressed an intention to seek an order under section 116 of the Highways Act 1980 to stop it up, subject to the retention of footpath rights. One reason given is that the necessary work to remove the obstructions and make the way reasonably passable to traffic would be operations likely to damage the site - construction of roads, use of vehicles likely to damage the woodland environment and destruction, removal or pruning of any plant. This case has not yet gone to the Justices. It is not clear if the Highway Authority regards the alleged conflict between the highway and SSSI as just a material point to its being unnecessary or that the SSSI designation overrides their powers and duties under the Highways Act.

**LARA recommends that the use of any minor highway should not be restricted simply because it passes through a SSSI.**

#### **COUNTRYSIDE STEWARDSHIP.**

The new Countryside Stewardship scheme from the Countryside Commission offers cash payments to landowners and tenants in return for an improvement to the environment. This may be the clearing-up of eyesores, or the provision of better access facilities. Anyone entering the scheme accepts a package of restrictions on what can be done on the land accepted into the Countryside Stewardship scheme.



Early days in the Lake District. A group of riders at Sadgill in Longsleddale are about to proceed to Stile End in Kentmere. These roads are still popular with adventurous motorcyclists.

McDonald's Farm contained a deep ravine used for many years, once a year, to provide sections for a motor cycle trial. Old Mr McDonald was a past president of the local motor club. Young Mr McDonald, ever conscious of the need to maximise farm income, joined the Countryside Stewardship scheme and provided public access in addition to the few footpaths that run across the land. When the next annual motor cycle trial was due, the Countryside Stewardship officer told the McDonalds that the terms of the agreement automatically excluded motorsport from the land. Even though the trial had run without any problem for almost 50 years, the McDonalds had a choice - take the money or allow the trial. Negotiations with the scheme officer suggested that motor sport was automatically excluded from land within the CS scheme, but that an exception might be negotiated. This negotiation proceeds.

**LARA recommends that the Countryside Stewardship scheme should not automatically exclude motorsport from land entering the scheme. The officers administering the scheme should always enquire if any land is so used when an application is made.**

#### **THE EFFECT OF OTHER DESIGNATIONS.**

There are two other cases of interest involving what might be described as designations of land.

- (1) An application for planning consent to develop a moto-cross course in Suffolk was rejected. A material consideration in the decision was that the course lay in the grounds of a listed building and the activity was deemed prejudicial to the amenity of the whole site and surrounding area.
- (2) Four wheel drive motor trials in Derbyshire were run on a particular piece of land by arrangement with the landowner. Part of this land included the site of an ancient mine, presently recorded as an ancient monument. The local authority advised that if the motor trials did not cease then a prosecution for damaging the site might result. The club voluntarily ceased use of the site.

### DESIGNATION AS A LONG DISTANCE ROUTE.

Although it is not, strictly, a designation of land, the designation of a route based on minor highways as a long distance route has implications for other highway users. A good example is the imposition of a prohibition of driving order on part of the South Downs Way and the seeking of a similar prohibition on the Great Ridgeway.

Section 51 of the National Parks and Access to the Countryside Act 1949 provides:

- (1) Where it appears to the [Countryside] Commission, as respects any part of England or Wales, that the public should be enabled to make extensive journeys on foot or on horseback or on a bicycle not being a motor vehicle along a particular route, being a route which for the whole or greater part of its length does not pass along roads mainly used by vehicles, the Commission may prepare and submit to the Minister a report under this section
- (2) A report...shall contain a map showing the route, defining those parts thereof over which there exists a public right of way, and indicating in each case the nature of that right .....
- (3) A report... may also include such recommendations as the Commission may think fit for the restriction of traffic on existing highways along which the route passes.

Thus, section 51(3) provides that it is in order for the Commission to make representations about restricting vehicular traffic on any highway which it is proposed should be part of a long distance route. Prohibition of vehicular traffic on ancient highways which have been designated as part of a long distance route is, apart from the South Downs Way, quite uncommon, although there are, or have been, agreements on voluntary restraint of use on the Ridgeway, Pennine Way and Cleveland Way and others.

One of the latest proposed long distance routes is the Equine Way, a walking and riding route cutting across the edge of the Northlands AONB. The report of the route survey and recommendations of the Countryside Commission's project officers was published giving the alleged status of all the minor highways proposed for the route. Unfortunately, many of the highways listed are attributed with an incorrect rights of way status because the nature of the investigation did not allow more than very cursory investigation and, in some cases, prima facie evidence of status openly available was ignored. This will not be in accordance with the requirements of section 51(2) and any approval given by the Secretary of State, necessary before the expenditure of public monies on the project, would appear to be invalid in that the Commission has not fulfilled its statutory requirements.

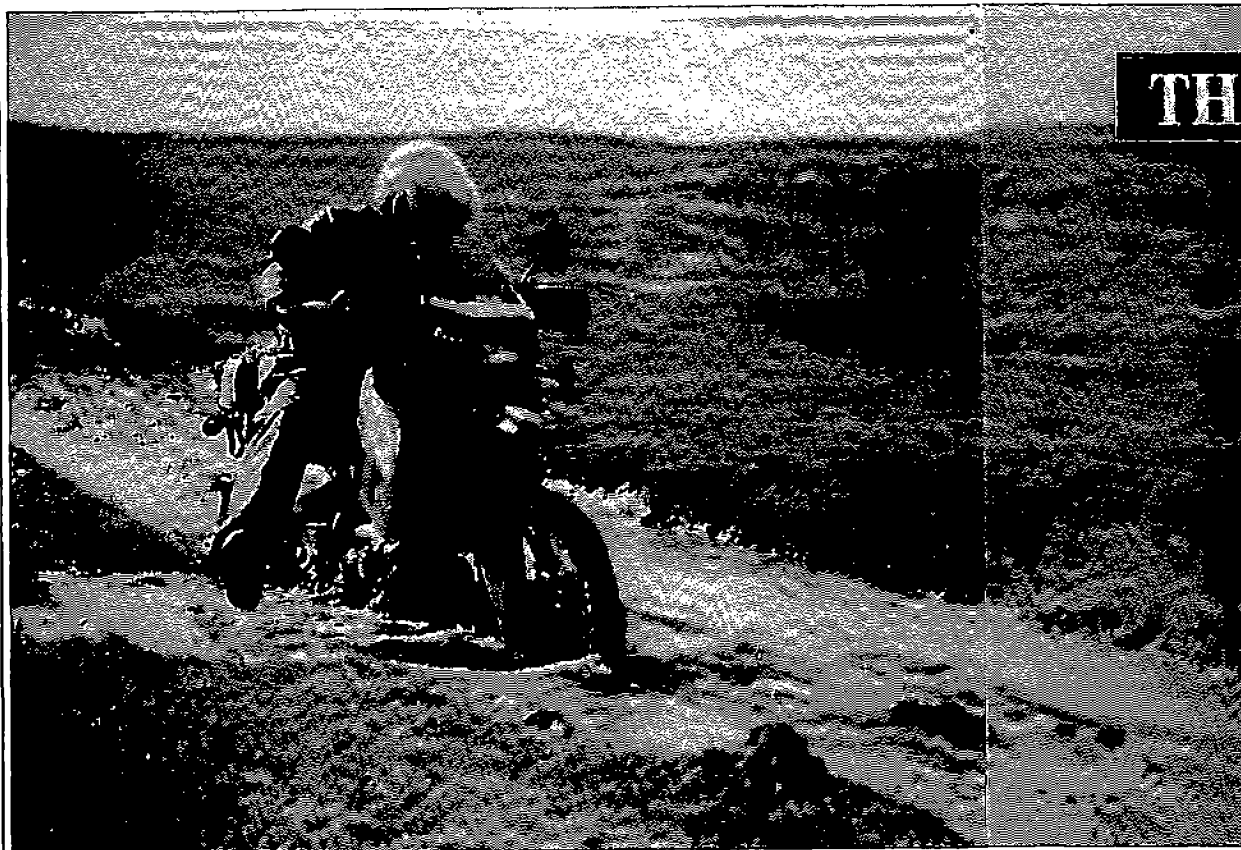
This is not a minor consideration. Failure to determine where existing public rights exist at an early stage may lead to landowners being paid to dedicate new public rights where ones already exist. There would also be a prejudicial effect on the interests of vehicular users if these ways are recorded inaccurately as bridleways when they are, in truth, carriageway highways.

**LARA recommends that the true status of minor roads should be thoroughly investigated before these are included in any long distance route proposal. All existing users should be given reasonable safeguards for their access rights.**

### CONCLUSION.

Designation of land presently places conservation higher in importance as a land use than recreation. In turn, "quiet recreation" is better assured than active and potentially disruptive activities. While there must plainly be an appropriate balance between all needs and uses in the countryside, various legitimate forms of recreation are presently being "chased off" long established sites because conservation needs are seen as overriding all else. In the planning process sites with a special value to recreation, especially where long-established, should be afforded some protection for these particular uses. The OASIS scheme has attractions, but would require a positive approach from all involved in the management of the countryside, demanding organisational structures which do not presently exist. If potentially disruptive sports are forced increasingly to seek planning consent rather than operate under the scope of the General Development Order, then these will suffer increasingly severe restrictions if the value of land for recreational purposes is not elevated to be weighed against the present superiority conservation considerations enjoy.





THE comments I've dropped in here and there in my article illustrate how fragile are the rights of access possessed by motorcycle riders. Fragile because there is a vociferous and influential group of folk who would have us forbidden from exercising those rights... while they themselves are campaigning to have total freedom to roam unrestricted over mountain and moor! Fragile because some motorised users of the countryside don't know, or don't care, that history has left us with a legacy of laws which restrict the places over which we can ride... even when the countryside round about doesn't look as if anyone owns it or even cares about it. Fragile because in the past 50 years over half of England's natural landscape has failed to escape the damaging hand of man. Fragile because nature conservation and the artificial energy of the engine appear to some folk to be incompatible.

The land surface of Britain is a finite

resource. Many demands (some say conflicting demands) are placed on it by an increasingly mobile and affluent society. Public concern and awareness are mounting. So must the concern and awareness of motorised users of the countryside be raised if aspirations are to be met. Bad news for motorcyclists who venture into deepest rural Britain is that there are sanctimonious folk who see motorised use of the countryside as wasteful, and those who do the motoring... as philistines.

Alan Kind, principal officer of the Land Access and Rights Association, was looking for a theme on which to base the Association's stand at the 1987 bike show. As I am the BMF's delegate to the LARA's management committee, Alan turned his attention my way. We could think of no more appropriate way of highlighting to everyone the problems of countryside access than to take a bike ride through some of the countryside in which the access rights are fragile to the

point of being eggshell-thin, and where the attention of conservationists is focused most keenly.

A plan evolved which would illustrate how appropriate modern large motorcycles are in the sensitive and treasured environment of our national parks, and would question the fallacies and untruths of the often-mentioned conflict that exists between motorised users of the countryside and those who represent the more acceptable face of recreation and conservation in the great outdoors. To underline the theme we chose three days for the ride which led up to what the countryside commission had designated National Parks Week.

Aims of the campaign had been to increase public awareness of the national parks; to establish a secure future for them and to create an understanding of how the parks are run. The aims aren't surprising since the 1968 Countryside Act compels the countryside commission (at taxpayers'

expense) "to provide and improve the facilities for the enjoyment of the countryside" and "... secure public access to the countryside for open air recreation". Furthermore, the wildlife and countryside Act of 1981 gave the commission specific responsibility of informing the public of its rights of access. Yet equally unsurprising, to those of us who know the discriminatory workings of this quango, was the total elimination of any motorised recreation from the two years of publicity campaigning. The countryside commission is well known for its keenness to promote the countryside only to those folk the controlling officers approve of... hence unstinting attempts to close large sections of the Ridgeway to vehicular traffic, and concurrently putting lots of money into creating long-distance footpaths and cycle routes; thus avoiding totally any commitment to open up the countryside to motorised recreational use.

Is all this news to you?

PURPOSEFUL TOURING THROUGH BRITAIN'S MOST BEAUTIFUL COUNTRYSIDE ASTRIDE A HONDA TRANSALP AND A KLR650 KAWASAKI

## THE RIDE FOR ACCESS

We'd like to bet that it is; it's unlikely that the CC has directed any of its campaign material at you, as a motorcyclist. Yet the 10 national parks of Britain are as much yours as they are anyone's. Alan and I knew almost nothing about the two-year campaign until we searched it out... and we're virtually in the business. To all intents and purposes the Watch over National Parks Campaign was an "in house" exercise. The Ride for Access was our small effort to take it to a wider audience.

### Stuck for Choice

There was no trouble finding machines on which to make this jaunt. All the big factories, and a good number of the not so big ones, produce large-capacity bikes that we thought would fill the bill. We'd be covering every type of highway that Britain's national parks could provide, with mileage in excess of 1,300 in 3½ days.

A problem was to know how to refer to the sort of bike we needed. The term "trail bike" has a lot to answer for! It sets the machines to which it refers apart from other bikes. Worse, it advertises that they are more capable than others of going places where, in the eyes of some people, motorcycles ought not to be.

In the end we decided that what we

wanted was an APM: an all purpose motorcycle. The buzz-word world of marketing refers to them as Paris-Dakar replicas — another damning indictment of the ignorance of the ad-men! We didn't wish to race from Paris to Dakar. Ahead of us were not 1,500 miles of Third World desert but some most beautiful stretches of English countryside. To dress up a machine to look as though it will cross Africa may sell a motorcycle today, but its styling could be its shroud tomorrow. The APMs which came our way were a KLR650 Kawasaki and a Honda Transalp 600V.

At 6.30 in the morning at the summit of Hartside Pass between Penrith and Alston (England's highest market town) the sun was just rising behind us. Before us was a view across the Eden Valley to the southern coast of Scotland, the Solway Firth and a whole panorama of the Lake District. We ceremoniously shook hands as we met; Alan arrived from Newcastle, and I came from just down the road in the valley. The single-cylinder Kawasaki and the vee-twin Honda struck up a tune which we hoped would remain in harmony for the full tour; and we struck off through the hairpins of the pass in the direction of the first of 10 parks.

But first we followed a unique sign. "Byway to Five Lane Ends"; it reads. So far as I know, with its fellow sign at the other end of the track, it is the only byway sign in

All types of right-of-way routes need repair from time to time. Failure to accept responsibility for repair can lead to pressure to close a path on grounds of "unsuitability" for traffic



Motorcycle Sport, March 1989 135

## RIDE FOR ACCESS

Cumbria. What it means is something of a puzzle... even to the experts. What it is saying is that the route is not a footpath, nor is it a bridlepath. I guess it is also, in a roundabout sort of way, saying that it isn't a motorway, either, and may not even be suitable for the majority of traffic which legally is entitled to travel on it. Legally, a byway is open to all traffic. But just as many of the surfaced mountain passes of Britain aren't suitable for passage of articulated trucks or buses, many "byways" are fit only to be driven over by agile vehicles, with agile drivers. Perhaps the most important message a byway sign carries is to potential non-motorised users. It advises them that along this track you may meet a motorcycle, or a Land Rover, or some other mechanical contrivance. It gives them a fair choice to avoid the possibility. The chances are that there is an equally usable footpath or bridleway close by, as an alternative. There are, after all, 120,000 miles of footpath and bridleway in Britain and only 5,000 miles of byway. As we were to see plenty of evidence in the following three days, there are many byways which are wrongly signed footpath or bridleway, often deliberately. Wrong signing is a prime cause of conflict... and it's not of our making in any way.

Thankfully Harescough Lane is not wrongly signed, and though not in a national park it gave us a gentle introduction to handling these bikes on slippery unsurfaced going. It also gave us heart that Cumbria's bureaucrats acknowledge that at least two miles of its unsurfaced public route network have vehicular rights.

Within 15 miles of our starting point, we crossed into the Lake District National Park. Not that there is a sign anywhere to tell you. There used to be, but not now. Why? We aren't sure; but guessed that it is an attempt to encourage visitors not to confine themselves to the Park. None of the National Parks displays signs marking the boundaries.

Our choice of unmade road in this park was the only one which, so far as we know, could have led us into trouble.

In 1980 the route had been the subject of a four-day public inquiry. Cumbria County Council had made application to regrade it to byway open to all traffic. Hitherto it had been shown on the definitive map held at the county council offices as a bridleway. Everyone and his aunt was against the county's proposals. In the vanguard of the opposition was the Lake district special planning board. Although each park planning board has jurisdiction over much of what goes in the parks, they don't have authority over rights-of-way status. Not unnaturally, there are many friends of the national parks who would like to see even that authority transferred to the park authorities. At any rate, officially the route remains a bridleway. There is reason to think otherwise in common law. Under revised rules for determining the status of rights of way,



One of the two "Byway" signs existing in Cumbria county. Walkers worried about meeting a trail bike or a Land Rover avoid this route introduced in 1981, the reasons for not upgrading given by the inspector would not be valid today. Consequently we used the route; and were treated to a beautiful early-morning view across Ullswater, defying the sign on the gate which forbade vehicles from passing through. We met no-one on the road, not even the sheep appeared offended by our passing... despite numerous impassioned claims to the contrary at successive inquiries.

Before descending into the valley of the River Lowther we stopped to record our crossing of one of northern England's most famous Roman roads — High Street.

Back on surfaced roads, we made a mental note as we passed Shap Abbey that here had been the end of the road for many a Cistercian monk. Those friars outposted from Fountains Abbey in Yorkshire to Shap had travelled as part of their journey not only the old road which now lies under the tarmac of the A6 which we'd be riding over in the next few minutes, but also the byway we would be taking in the Yorkshire Dales in two days time.

For the next 100 miles we explored the other extremes of Transalp and KLR handling. The A6 from Shap to Kendal is a rider's dream. The bends are heavy and the road surface much as it was when the M6 bypassed it. The M6 from junction 37 and the M56 to beyond Chester leave few memories except that both machines cruised easily at the illegal speeds that are increasingly commonplace on our motorways, and could cover a respectable 170 miles safely and comfortably between fuel stops — a task which many "touring" motorcycles fail to do.

Near Chester the KLR all but shed a lump of panelling that surrounds the radiator. A spare nut and bolt from the depths of my tank bag was tightened in place, with spanners from the depth of the Transalp toolbox. The box hangs alongside the rear wheel under the left side of the seat and incorporates a helmet lock. It took longer to get the tools back into the toolbox than it did to replace the panel. Almost by accident we managed to bundle them together in the order which Mr Honda's computer demands. At other times, when our patience was thinner, we failed completely to get the tools back into their housing. Why doesn't someone in Japan realise that post spanner-

wielding is just the wrong time to impose a puzzle on anyone? Chances are that if tools have been needed something hasn't been going right, and to have to fight with a bag of tools which seem to have expanded since removed just isn't fun.

## Snowdonia

Lunch stop was at a Little Chef at Betws y Coed with 200 miles exactly on the clock. This was National Park number two — Snowdonia.

The climb over the 1,263ft Crimen Pass between slate stone walls is thrilling when traffic-free, as it was on this day. The pass name refers to a hostelry built on the remote summit in the 1870s to slake the thirsts of navvies building the railway tunnel which passes beneath. So rowdy were the clients that the pub was closed and demolished. On its site now sits a car park overlooking splendid moorland views. We had no time to stop this trip.

The A470 took us through the slate workings at Blaenau Ffestiniog and past Britain's first "inland" nuclear power station at Trwsydd (built in 1965). Both are features of an industrial past and present which would now be regarded as unacceptable items in a national park. Trail Raiders Fellowship members had advised us on which routes to take in each park. The recommendation in Snowdonia was delightful. We traversed the west side of Cader Idris through a valley quarried eons ago by a glacier and past the sign that advised that there was no through road for motor vehicles. What was that? No through road for motor vehicles? But we'd just been through. It helps to be able to read between the lines.

There had been plenty of rain recently, and on tyre pressures which had been good enough for the M6 we had to take things carefully. There wasn't time to reduce pressures to get more grip. This was touring at its best. Just two of us with two motorcycles in empty country. No conflict here. It takes two sides to create a conflict. This Friday afternoon it felt as if there was only the two of us in Snowdonia... and we were on the same side. There was no one else on these miles of byway.

The Welsh fought hard against the erection of any national park sign boards. They resent the indifference of English visitors and second-homers to the Welsh language, and although Snowdonia is nowhere but in Wales the Welsh see it as a park for the English.

At Machynlleth, on the southern edge of Snowdonia Park is a centre for alternative technology. It is worth a few hours to see what can be achieved with solar cells, water wheels and windmills. But we wondered if the scientists there threw darts at pictures of Trwsydd and trail riders.

From Aberystwyth we got mixed up with heavy traffic heading for the Iris ferry at Fishguard. We contrived to overtake the

## HOW OTHERS SEE US



Cartoon which went out with a Royal Society for Nature Conservation press release in September 1987

"The use of the moors and open countryside by motorcyclists, whether they are trail riders who use legal rights of way, 'rough riders' (who do not) or competitors in trials causes greater problems than cars as the machines can penetrate deeper into remote areas and are usually very noisy and inappropriate in the quiet parts of the moorland. The committee considers that opportunities for motorcyclists to ride in rough terrain are limited in the Park because of the obvious conflict of interests and the disproportionate noise and intrusion."

"The Committee will continue to discourage the use of untarred and unmetalled moorland tracks, which are highways open to all traffic, in cases where this could result in increased numbers of visitors... and where local residents do not need an all-weather road."

"The Committee will try to reduce the use of remote parts of the Park by motorcyclists."

North York Moors National Park Plan — First Review — September 1984

slow-moving crocodile of trucks between long stretches of double white line, only to have the heavens open on us a couple of miles on, and the whole convoy overtake us again as we helped each other into water-pools. At least the task wasn't wasted. It rained in a way we've become accustomed to, and it was a bedraggled pair that dripped dry in the Copper Kettle café, on the way in to Cardigan. If you're in West Wales any time try the Copper Kettle; they make fine apple pie.

It was due south from Cardigan with the rain still teaming; through hamlets with names like Prices Gate and Red Roses. The weathermen informed us later that we'd been lashed by the tail end of a hurricane. Bikes designed to run spindle deep in water laugh at thunderstorms.

## Pembrokeshire Coast

So wet was it that we wouldn't have been surprised to see some of the puffins that appear on the Pembrokeshire Coast National Park logo wading across the road. This is the smallest yet most densely populated of the parks we would visit. It is designated chiefly for the beauty of its coastline. A 180-mile coastal path deserves a closer look... but not from the saddle of a bike. Near Tenby we took a short excursion down a byway through a wood to see the

rollers of the Atlantic. It isn't common for Ordnance Survey maps to show byways... but this one is marked as such. Strange, therefore, that the way to the beach is actually signed just as a footpath. And others wonder why there is conflict, and blame us for it.

Like many acres of national park, sections of the Pembrokeshire coast are given over to military purposes. Such training use is the subject of much invective. One famous stretch just outside the Pembrokeshire Park is at Pendine. Here between 1924 and 1927 the world land speed record was broken five times. We paid a pilgrimage visit as the sun set, and took a ride along the famous sands. When firing isn't a danger public traffic is permitted on the beach, subject to normal Road Traffic Act regulations and a 10 mph speed limit. The gable end of the Buckley Beach hotel carries a tribute to Malcolm Campbell and Parry Thomas. Parry Thomas tried once too often and was killed here on 3 March 1927 while attempting to regain the record from Campbell set earlier that year.

It rained harder still as we headed via Swansea to Cardiff and our stop for the night. The sort of rain that you can feel through the clothing on your thighs, makes you sink your neck even further between your shoulder blades, and gives you the impression of standing on the bow of a clipper ship. With water bouncing six inches from the forecure we took on a tank full of fuel in readiness for another early start the next day; the cashier didn't seem too impressed when we told her we were from the Lake District. We realised why when we asked her how far it was to Cardiff. "Don't know," she said. "Never been there." Cardiff was little more than an hour distant; 14½ hours since setting out. The mileometers had recorded 444 miles over as wide a variety of terrain as could be crossed by any vehicle. We had three parks under our wheels, seven to go.

## Brecon Beacons

"See Merthyr and die" someone said. The capital of British coal mining doesn't look too good at the best of times. On the second day of a tight schedule trip when it's still raining hard you can imagine how bad it looks. But the great blocks of sandstone that lie to the north, making up the Brecon Beacons national park, were our first appointment of day two. Some of Britain's longest stretches of unmade highway are in this park, and one of the most famous, the Gap Road, was our route into Brecon itself. It was the most challenging we had encountered so far. At the southern end a river has taken with it a lump of the roadway. On first inspection, the chasm looked impassable to heavyweight machines such as KLR and Transalp; but I'd been this way before with a GS BMW and lived to ride another day. By now I was convinced that what GS could do, so could its Japanese counterparts. Gravity took us down into the river, and the thought of how our reputation with Honda and Kawasaki would suffer if we

## RIDE FOR ACCESS

didn't make it, drove us up the other side. But not without incident which resulted in a broken carrier rack on the KLR.

When forward motion ceases on a 1-in-2 gradient, which is what we reckoned the climb out of this washout was, long legs are needed. In this instance ours weren't equal to the task. Here on the Gap Road we were reminded that trail designers, buyers and rider should expect that once in a while the terrain is going to win and the bike is going to take a dive. Inbuilt self preservation should be a main feature of all all purpose motorcycles. On this score the Kawasaki won the match.

It is a bad feature of the Transalp that makes a part of the very fragile fairing crash down ahead of anything else on the bike. It is a bad feature of the KLR that the protruding carrier rack is brittle alloy. On a big machine that isn't destined for the competition circuit the extra weight of stronger and more easily repaired steel would be no detriment.

It's unfortunate that the condition of one short stretch of the Gap Road could eventually lead to its complete disuse. The challenge of riding through the washout will be attractive to riders who aren't there to appreciate the scenery and who may abuse the rest of the trail. For those other riders who would more peacefully appreciate the wilderness of the Beacons the washout is a barrier which they may not wish to take on. If this was a footpath or bridleway it would be repaired

... maybe by a job creation group; but because it is a byway it stands to be left to deteriorate until its decay is used as a reason to close it. At which point maybe the route will be repaired ... to make it suitable for horses. The signs at each end of the trail which warn that the route is "Unsuitable for motor traffic" is no longer a deterrent ... it's almost true.

Atrocious weather and the struggle of the Gap Road made our ride down the Usk Valley through Abregavenny to the M4 more

## HOW OTHERS SEE US

On 17 August 1987 'The Guardian' published this from the scoffing pen of Richard Kelly:

"The trail riders are strong on image and much given to old fashioned courtesies. They will slow down their machines and even stop on a bridleway as they overtake, doffing their helmets and passing the time of day in an autole of old world charm. No Hell's Angels these, more your Cherubim and Seraphim, for ever on their knees before their imported oriental icon. They would erase the very marks of their tracks and the stench of their engines if they could. By such tactics they have managed to ingratiate themselves with the Sports Council, which manages an eclectic portfolio ranging from snooker to quarts."

Three days later a respondent to the same newspaper who admitted to being "ambivalent to the subject" prior to reading Mr Kelly's report opined:

"... there is room for everyone in the countryside ... it is not a place for prejudices - there are enough of these in the world already."

hasty than we had planned. More delay, when Alan took the A449 north while I insisted that it was south we wanted to be heading and waited in the shelter of a flyover for him to realize I was right. Just off junction 24 of the M4 we drip-dried ourselves in a transport café which disproves the theory that Little Chefs have completely eclipsed the Greasy Spoons.

The Severn Bridge was celebrating its first birthday by proving itself against a howling gale blowing up the estuary from the south.

## Exmoor

More delay came on the M5 as we picked our way along an eight-mile tailback of traffic and a tangled heap of car debris. A long trail along the summit of the Quantock Hills gave us a splendid, if rain-speckled, views over the Somerset countryside, and a dramatic panorama of Blue Anchor Bay and Exmoor thrusting out into the Bristol Channel.

Exmoor is the second smallest of the parks, and second least populated. It is a place for extra-careful riding. The oldest routes, through tarmac-covered now, are worn deep. Centuries of cartwheels and excavation of soil to create ditches have left the road surfaces far below that of the fields alongside. In spring the banks are covered in primroses, but there is no place to go if two vehicles meet each other at speed.

Making a splash in Street Gateford, in Masniles Lane. The Transalp, like the Kawasaki, revelled in this sort of terrain



For the first time, in Exmoor, we rode byways which appeared to be accepted for what they are: just another country road. There were no signs trying to deceive or deter us, only simple wooden guide posts no more than 2ft tall carrying the name of the next village and hamlet. Some theorists say that litter bins in a lay-by encourage folk to leave litter. Maybe the same principle applies to obtrusive sign posts. The main road followed the wandering course of the River Exe, but between Winsford and Dulverton the way we took climbed steeply from the valley floor to cross the 1,000ft contour. Exmoor, and Dartmoor which followed, are peaceful places, and the easy beat of both KLR and Transalp did nothing to disturb it.

## Dartmoor

We had time only to skirt the edge of Dartmoor Park. It is an area of hidden valleys, sudden streams, and the circling buzzard. It can be cold, waterlogged (although the late afternoon was now clear and dry) rocky and peatbound. At Chenton Bishop we crossed the A30, a main artery of the West Country, but the cause of one of the most momentous battles ever put up by a National Park authority and its supporters. Regular blockages in the artery occur just to the east of where we were, at Oukhampton. To bypass it meant a route to the north outside of the National Park, or one to the

south within the park favoured by engineers and accountants. The National Park authority lost a long and acrimonious battle against the southern route.

With the A30 behind us, we dropped steeply into the wooded valley of the River

## HOW OTHERS SEE US

In their brand new (September 1987) heavily conservationist and uncompromising book 'Greenprints for the Countryside' (subtitled *The Story of Britain's National Parks*) Ann and Malcolm MacEwan say unequivocally:

"The land based motorized sports are noisy and often destructive of the terrain. Motorbike trail riders flagrantly disregard the law and can be an unmitigated nuisance unless a special area can be set aside for them."

Teign on Dartmoor's northern borderland and rode out via the fine unmade road that continues where the narrow Fingles Bridge causes most other traffic to stop.

Again the sun was setting. We headed directly for M5 and north to M4. Our stop for this second night was Faringdon in Oxfordshire's Vale of the White Horse. The days mileage had been 399. We said a silent prayer that tomorrow (Sunday) would bring some good weather. Our first call was to the Ridgeway, perhaps the most public and sensitive of all Britain's ancient highways open to all traffic. A way which the Countryside Commission insist on calling The Ridgeway

Path (despite 37 miles of the total 85 of the Ridgeway having acknowledged vehicular rights).

## Third Day

No wonder that most British casual conversation revolves around the weather! We rendezvous-ed with a photographer on the summit of the Oxfordshire Ridgeway and it still persisted on raining as we rode a stretch of the Way over Chilton Down. One jogger and a gent walking his dog were company. This was to be our most demanding day yet, and we couldn't afford the time to wait for the weather to change. With almost certainly no good material in the can we made ceremonial pass through the underpass constructed to take the "Ridgeway Path" beneath the busy A34 highway and then left the Ridgeway in a hasty beat north.

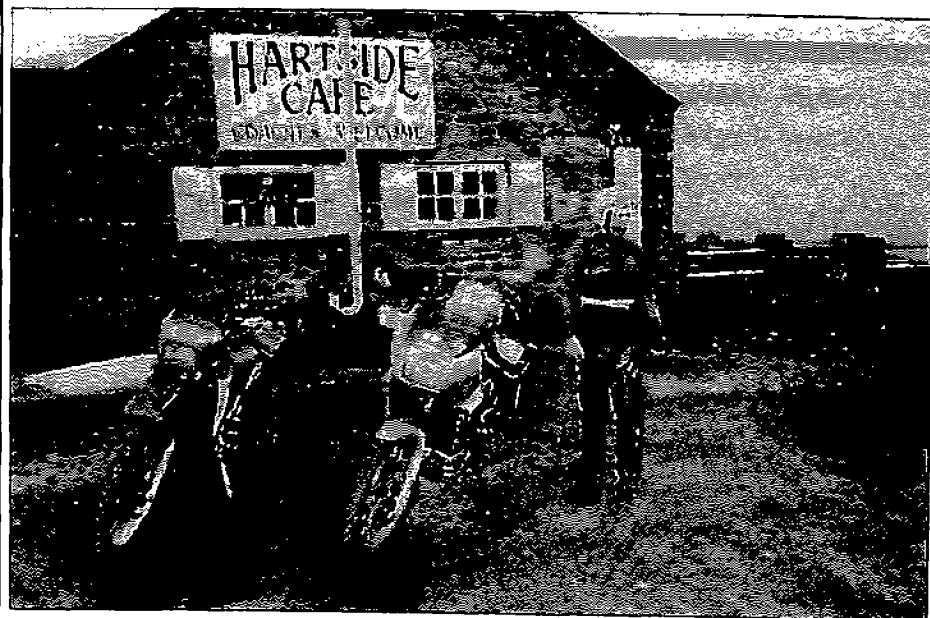
Even Sunday morning layers-in and stroll-

## HOW OTHERS SEE US

"We are quite unashamed and unabashed that we want to reduce vehicular use in many sensitive areas of the countryside, because we think that as far as possible they should be kept as quiet areas for people to walk and horse ride and go on pedal cycles and so on. We stick to that."

Alan Mattingly, Director of The Ramblers Association - from a presentation at Recreation Management '87, Harrogate, March 1987

The beginning. The café at the summit of Hartside Pass, between Alston and Penrith. Before the present road was built as a turnpike route, this spot was the site of a major junction where the track from Alston split. One way to Penrith and the west; the other to Carlisle and north.



## RIDE FOR ACCESS

ing church-goers of Oxfordshire and Northamptonshire could not be offended by the peaceful passing of the KLR and Transalp. Everyone should have respect for the wishes of others; riders of noisy motorcycles do not. We left behind no memory of our passing. The Midlands had nothing to offer us this trip, and we took M1 from Daventry (Junction 18) to Chesterfield (Junction 29). Not that I was really conscious of its being Chesterfield until I winced at the sight of a church steeple which looked ready to fall on us we rode beneath it. I then remembered that Chesterfield church has a spire that was built to look that way. As I rode by, I felt that if a spire can defy gravity... then maybe in due course we too will be successful.

The weather had changed. The north was bathed in warm sunshine. For the first time we shed our waterproofs.

### Peak District

Leaving Chesterfield, we had to put up with the trend in road signing which encourages us to use main routes. No signs could we find for B6051 which would take us directly, and scenically, into the Peak District National Park. Instead we were guided towards Sheffield and A625 into the Park.

The trail we took in the Peak was over Burbage Moor. At almost 1,400ft, on this now clear fine day, it provided a striking view over Sheffield City and illustrates the sort of pressure that the Peak Park is under. Only 250,000 people live in the areas of the National Parks in Britain, but at Peak summer periods their population reaches millions. Sixteen and a half million folk live within 90 minutes driving time of the Peak Park alone; being surrounded by the industrial zones of Lancashire, Yorkshire and the Midlands, and ringed by M1, M6 and M62 motorways. Over Burbage Moor that Sunday lunchtime we witnessed something of the pressure the Peak is under. In one glance from our rest stop on the summit we could see hang-gliders, serious walkers, mountain cyclists and people who just wanted to park their cars at a high place in which to read the Sunday paper. There were more folk in these few miles of trail than we were to encounter on the whole of the rest of the trip... and so far as we could tell from their expressions (and a few words) none objected to our sharing this bit of the world with them.

Forced to thread through metropolitan Sheffield, we resorted again to M1 to take us into the heart of Leeds and then into Wharfedale and onto Blubberhouses Moor and the eighth of our parks.

### Yorkshire Dales

The focus of our attentions here was a trail which has been subject to another pressure rarely experienced: that of being tarmaced. Mastiles Lane links Ribblesdale with Upper Wharfedale, and is another of those very old routes used extensively by the monks of



Subtle sign posting on Exmoor; the writer poses on the Transalp

Fountains Abbey on route to outlying stations. Extensions of Mastiles are traceable right over into the Lake District. The stretch we headed for begins near Malham, and as we descended to the village we could see only too well why in national park parlance this place is referred to as a "Honey Pot". Almost every square yard of the village green areas was taken up by a parked car. The pressure for surfacing Mastiles Lane comes from the need to try to get vehicles more effectively into and out of Malham. While this debate still goes on, other surfaced lanes nearby are subject to traffic regulation orders which deny vehicles right of access at certain peak visitor times. Management of tourism is... difficult.

We left the honey-seekers behind and climbed the steep limestone-wall bounded road that takes motorists past the 240ft high curving wall of pale limestone called Malham Cove. Limestone country is famous for the uncertain ways in which it naturally deals with water. The area around Malham is wrinkled with "dry valleys" which once carried water courses which have now gone underground. Mastiles Lane was the first on our tour which showed signs of being in need of some attention to rid it of water. Sportsmen who should not be playing on Mastiles may enjoy the thrill of blazing through deep water-filled ruts... but for tourists, which we were this trip, they are no fun.

Although fast running out of time, we couldn't resist one of the finest views to be had from any road in England. Only the adventurous will see it from a vehicle. The view down Wharfedale from the Cam Pasture above Kettlewell, especially as the shadows lengthen in the sinking sun, is well worth wasting some time.

From here it was a spirited pair that

followed the valley downstream to Grassington; full of converted lead miners' cottages. The road to Pateley Bridge, "capital" of Niddedale, climbs through a wild and bleak landscape with only the odd derelict mine building visible. This is the "Stump Cross" road. You must read elsewhere for enlightenment on Stump Cross.

Descending to Ripon we could see clearly across the wide Vale of York to the Hambleton Hills on the east side which very soon we would be climbing. In Thirsk, we took on petrol and were delayed by an attendant who insisted that it was not permissible to serve oneself.

### North Yorks Moors

This day had been one for road racing at Oliver's Mount in Scarborough. That's why, as we made our way on the A170 and over the tortuous Sutton Bank, the traffic stream from the other direction was well laced with motorcycles... many were being piloted by would-be Haslams. What we saw made us wince. When it's more usual to be riding with the motorcycle stream we don't often see a lot of the other guys' viewpoint. This late afternoon we did; and what we saw wasn't so good. Other road-users were made nervous by riders insisting on overtaking in the face of oncoming traffic at high speed, and on bends which would have needed a periscope to see round. To a man, each risk-taking rider was burning a headlight in bright daylight. Much in the way that an ambulance uses a siren or a police car a blue lamp? I certainly got that impression.

Directly behind us the swiftly setting sun was reflecting strongly in our mirrors. The route we were making for over the north York Moors was not one we wished to cover in the dark.

"Everywhere peace, everywhere serenity and a marvellous freedom from the tumult of the world..." It is heartening that in the main the same peace and tranquility remains to this day... despite motorcycles. This park contains perhaps the widest variety of scenery of any of the ten and retains a remarkable dense network of unsurfaced routes. The one we opted for was along the top of one of the many heather-covered north south ridges which typify this area. It was the longest trail of the journey and took us almost the full breadth of the park without tarmac. Ridge routes were favourites in old days where there was less cover for Highwaysmen and when valley bottoms were boggy and intractable. Today they are favourite for the views they afford. Though signed as not being suitable for motors, a standard finger type sign post along the way told us that it was a further 12 miles to Stokesley. In those 12 miles no-one else was around to share the blazing sunset with us, yet the National Park authority feels the need to close the route to vehicles. Why?

By the time we were in Stokesley it was well past lighting-up time and we had traversed our ninth National Park in three days. Just one more remained. This had been

our longest day. It was 10pm when we clocked off, with 450 miles covered.

We chose to sleep in our beds at home this night: Alan in Newcastle and I in the Eden valley in Cumbria. We met next day at Hexham on the A66 between Carlisle and Newcastle to polish off the last, and most remote, of the parks.

### Northumberland

Wide, open and largely empty, the Northumberland National Park is the third smallest but houses by far the fewest inhabitants. Only 2,219 live in its 398 square miles. Little wonder that you hardly ever see anyone there... especially in winter time. The Romans knew this area well but didn't think much of it, and spent many an unhappy year managing the building of Hadrian's Wall to mark the northern boundary of their empire and keep in the Britons. The wall forms the southern boundary of the park for many a mile.

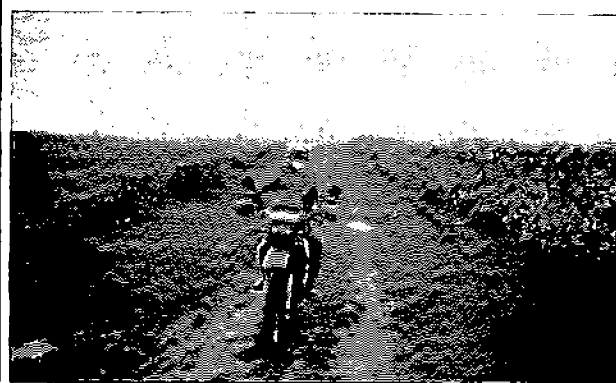
Our target was almost reached. Ten Parks in three and a half days... and not even a whisper of conflict! As we left the tarmac for the final time a pair of signs warned us that there was a five tonne weight limit on the route, but the signs at least reassured us that the authorities accept the vehicular status of this road. For this final half-day my wife Jennifer had joined us and was occupying the pillbox seat of the Transalp. It had begun to rain again and she asked why the bike seemed to be wandering about.

"It's your weight!" I replied. "Heavy weights make the front end light, and the steering wayward."

"It feels more like a flat tyre to me" she said.

I took a glance at the rear wheel just to indicate to her that I wasn't ignoring everything she said... and saw that the tyre was flat. About as flat as my ego, and as deflated as my mood when I contemplated repairing a puncture in a rutted green-lane with a chain-driven bike which didn't even have a stand.

Alan kind on the KLR Kawasaki flanked by limestone walls on Mastiles Lane, across Malham Moor, in the Yorkshire Dales



Can anyone understand what design philosophy excludes a centre stand from a bike of this type? We were destined to end this tour just as wet as we started and a lot muddier.

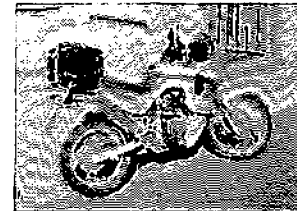
We could have tested our RAC membership by calling a patrol van to this rather remote spot. But we had spare inner tubes with us and it seemed like a good idea to go through the exercise. At least it would make for good tale telling; after all, if Honda didn't really expect us to carry out any repairs on the road why feature a tool kit in the specification? Pretty soon it didn't seem like such a good idea.

Lack of a centre stand meant that it needed all three of us to play a part in removing the rear wheel, and we could have done with at least another pair of hands when we came to replacing the wheel. In the dry convenience of your garage try replacing a wheel in a motorcycle that has to be heaved from the floor while juggling with chain adjusters, spacers and spindle. Now imagine what the same process might be like while condemned to a muddy rutted track in the wastes of Northumberland in a heavy rain storm! If the style of the Transalp and KLR is not just a facade then manufacturers should make dealing with episodes such as this less traumatic. The first step should be to fit shaft drive and the second to fit a centre stand.

The culprit was an old square nail from the shoe of a horse. In an ironical way, it seemed appropriate to the spirit of our trip.

Our plan had been to complete the tour at the same Pennine summit spot from which we had begun 1,552 miles and three and a half days ago. In the event darkness beat us, and on the fells above Bardun mill not so far from the A66 trunk road that links Newcastle and Carlisle we said our soggy farewells. Alan returned to Tyneside, and I to the Eden Valley.

Two days later both machines were paraded in front of Granada television cameras on the Derbyshire moors as a programme was made illustrating the many activities which take place in the Peak Park.



High-level hot exhaust pipes of the Transalp made use of slingover saddle near impossible

Two weeks later the two bikes, with maps and pictures of this Ride for Access, were centrepiece of the Land Access and Rights Association stand at the bike show. The main aim being an educational one, to draw attention to the many pressures which exist on the countryside, and emphasise the role that motorcyclists must play in creating a good climate for recreational use.

The machines were unwashed from the day we had departed the Northumberland moors. Despite a few grazes on the fairs of the Transalp, and a fractured carrier rack on the KLR, both bikes had stood the test in commendable fashion. They had proved more capable of regular 500 mile days than many other so-called touring mounts. Add a little more manufacturer understanding to the wide bars, large seats and a riding position which treats the spine gently, and these machines are worthy of more serious consideration as wide-ranging, sporting (in the real sense of the word) tourers with even wider horizons than most riders will ever give them... especially if luggage carrying is made easier and shaft drive specified.

Fuel consumption measured out at 53.5 mpg for the transalp, with the KLR travelling only half a mile less each gallon. But more than that, they had taken us through Britain's 10 National Parks with almost no-one noticing that we'd been there.

This tour had reminded us (if we ever needed reminding) that the surface of Britain, especially in the National Parks, is a treasure. As we stressed earlier it is a finite resource with many demands placed on it by our increasingly affluent and mobile society. The ride also showed us that the criticisms levelled at motorised users of the countryside, as illustrated in the insets to this article, are grossly overstated. That is not to say that no problems exist, for they do... on a few days each year, at isolated popular locations. The demands, though competing, are not conflicting.

With fairly worked out schemes of management, the British countryside is still large enough to accommodate the needs of all users while protecting the birds and bees at the same time. Management is the key; but management implies that along the way all the groups to be managed will be actively involved in the management plans. Contrary to what some pressure groups are looking for, management does not mean the total exclusion of any one class of user.

GEOFF WILSON



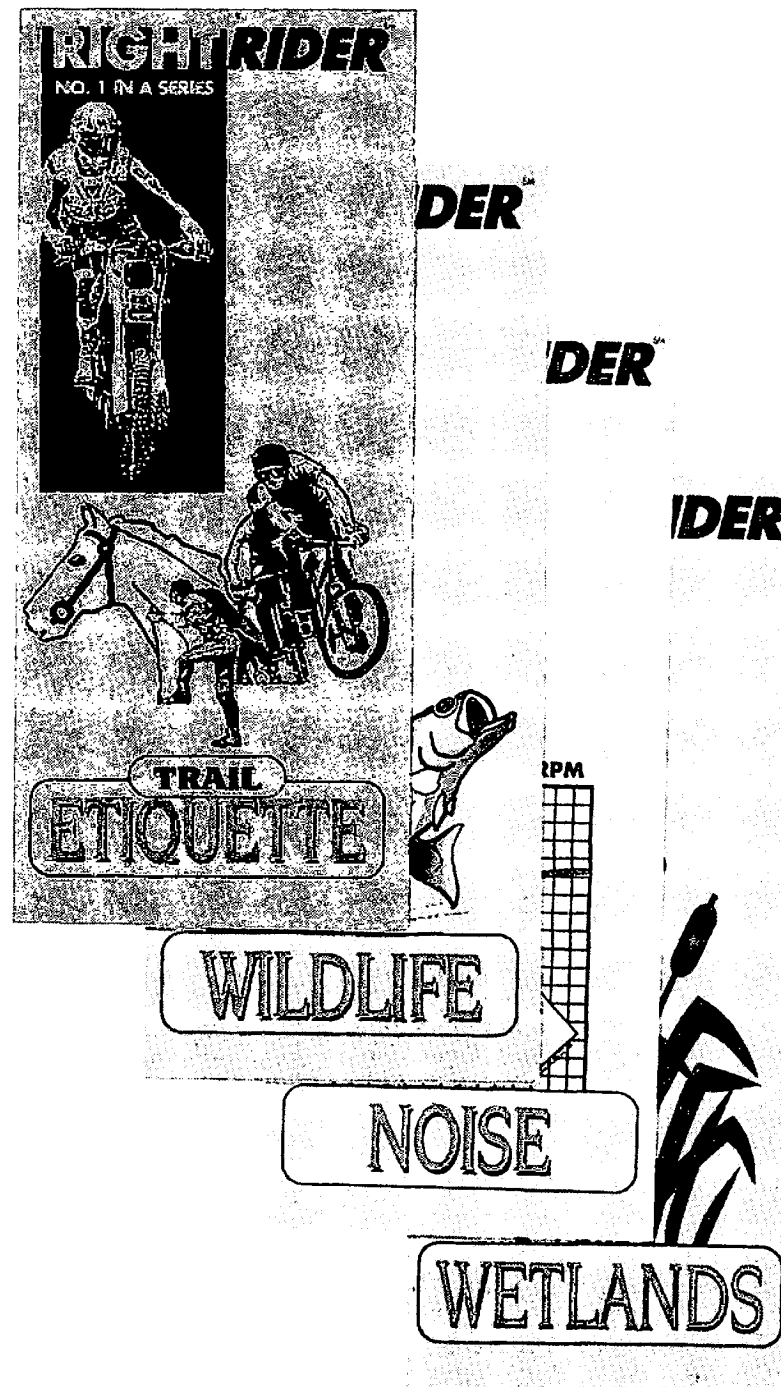
## GOOD PRACTICE IN THE UNITED STATES

Continuing the search into how recreational motorcycling may be harmonised with the increasing environmental concerns of the late twentieth century, Geoff Wilson, Director for Touring and Environment at the British Motorcyclists' Federation and past Chairman of the Motoring Organisations' Land Access & Recreation Association, considers what lessons there may be to learn from some activity in the United States of America.

*"The sky is a deep blue. Tumbleweeds roll across the dusty wagon train. Snowcapped mountains shine on the horizon. The view is breathtaking. It's practically like a trip back in time to the Old West. And the best part is, that you can enjoy it all from the seat of your motorcycle."*

So begins a feature in a magazine recently received from the USA. Cultures relating to land ownership and use differ from country to country. Not least do they differ between the USA and Britain. The reasons (or excuses) are many. They range from the USA not being saddled with a history of land being gifted to barons and knights of favour in the Middle Ages, through the USA not having undergone land enclosures, to land use being, on average, more intensive here than in the States. Whatever the reasons, the result is that almost none of Britain's land is *public* (in the sense that it is not government owned and does not have a general right of access onto it by the public).

This is not so in the United States, where a much lower percentage of land is under private ownership than here in Britain. What is not privately owned in the USA is known as *public land* and there is more than 270 million acres of it in just the 11 western states. It is mostly administered by the Bureau of Land Management (BLM), a government department. An agreement signed between the BLM and the American Motorcyclist Association (AMA) has opened up to motorcyclists a network of historic and scenic routes throughout the West, known as *Back Country Byways*. This agreement is designed to give motorcyclists and others an opportunity to experience the natural splendour of the West's public lands. The programme calls for the development of a system of rural routes that range from paved roads to dirt trails. Some of the trails follow in the tracks of wagon trains from the last century, while others provide access to scenic locations even further off the beaten path.



The American Motorcyclist Association, industry and land managers produce and distribute a wide range of excellent educational and informative material.



Riders and drivers in the USA enjoy designated areas and waymarked trails. With a some imagination and goodwill, why should these facilities not be available in Britain?

government officials completed a blueprint for distributing funds under the Symms National Recreational Trails Fund Act. The result is a spending plan that will benefit off-highway trail users in every state from Virginia to California. The Symms Act calls for up to \$30 million per year in funding for motorised and non-motorised trails over six years. The money represents a portion of federal taxes paid on fuel for off-road motorcycles and other vehicles, along with camp stoves and lamps. The trail-riding funding plan took effect on 1 October 1992, and states are now applying to draw money from it. By 1995 states will be required to set up a trail-planning council and commit a portion of their off-road vehicle and camping fuel tax revenue to trail projects in order to continue receiving money. In the meantime any state can qualify for funds to begin building and maintaining off-highway trails.

More than 18,000 miles of *Back Country Byways* through Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah and Wyoming have already been designated. Now follows an ongoing programme of development and maintenance. An example of how things can be done is taken from a report of a three day workshop staged in Parkesburg, West Virginia. Local motorcyclists involved in the West Virginia Recreational Vehicle Association joined with two industry-based national groups to invite land managers - the people who run national forests - to meet with motorcyclists - people who use that land - for the purpose of sharing vital information. A land manager from the Pennsylvania Department of Environmental Resources reported on a trail-riding programme in one of his state forests. There was some opposition to motorised recreation in the area, he said, but the programme has proved itself.

"I'm a resource manager" he told workshop participants. "I'm not going to put in something that creates problems, but we've found that there's little impact on wildlife on the trails and very few problems with other users". He went on to note that confirming legal riding areas has solved enforcement problems for his agency. By giving riders a legal place, he says, the problems of illegal use in environmentally sensitive areas has dropped off. The trails coordinator for the Wenatchee National Forest in Washington stressed that the key ingredient in any successful trail system is *planning*.

Under the plan, AMA members will be involved in projects ranging from roadside beautification and light maintenance to providing historical information about routes to travellers. The BLM will assist in the development of signs, brochures and other promotional materials concerning the importance of respecting public lands. Standards for these projects will be jointly established by the AMA and BLM, assisted considerably by representatives of motorised recreation who have seats on the Advisory Councils of the BLM. Imagine that! What chance vehicle representatives being taken onto the British National Park Committees?

A key ingredient to the success of this imaginative programme is volunteers. For generations to come volunteer help will ensure that scenic and historical routes do not disappear due to neglect and deterioration. However, goodwill alone never restored a footpath, bridleway or byway. Volunteer energy, enthusiasm and knowhow needs backing with finance. In the United States, for 1993, there have been some very positive moves in that direction also. Late in 1991 US

For 1993 the US Congress voted to appropriate \$7.5 million to the Symms Act. This congressional allocation was just the first step in putting that money to use. Next, the Federal Highway Administration went to work to divide the \$7.5 million amongst the states. Under the plan, every state will receive an equal allocation of \$69,952, plus an additional amount based on off-highway vehicle use (including motorcycles, all terrain vehicles (ATVs), snowmobiles, dune buggies, etc). Michigan tops the bill with a total funding of \$398,564. Already trail riding and driving groups have made plans to apply for grant money under the new programme.

The Clovis Sport Cycle Association has come up with a plan to expand recreational opportunities in Ned Hawk Park in the eastern part of New Mexico. The city park is open to everyone from hikers to off-highway motorcyclists, and the riders maintain the trails they use. The club has applied for funds to continue its trail maintenance work and to open 14 miles of new trails in the park that could be enjoyed by all users. The Volunteer Riders of Knoxville, Tennessee, are looking forward to opening the first designed trail system in the Royal Blue State Forest. This forest land was recently acquired by the state and has never been managed for off-highway vehicle use. The plan being put forward by the Volunteer Riders would create a 12 mile trail loop.

More and more states are opening their doors to off-highway motorcyclists. They are even issuing written invitations to see what they have to offer. It is a considerable turnaround from the days when off-road riders were considered irresponsible outlaws to be banned rather than welcomed. So, why the change? It is because states are discovering that off-highway recreation can be big business. Take the state of Colorado. A recent study there determined that as much as \$4,000 million flows into the state economy each year as a result of motorised recreation. And approximately \$120 million of that total, spent at petrol stations, camping equipment stores, restaurants, hotels, stores and dealerships, comes from motorcycle and ATV riders.

California, Colorado, Michigan, Montana, Ohio, Utah and Washington are amongst the states that have produced information material which includes maps of trails, information about legal requirements, sightseeing trips, and just about anything else you need to go riding. These states have realised that off-highway vehicle driving is a legitimate form of recreation, and they are now managing it in the same way that in Britain we manage only walking and, to a much lesser extent, horse riding and mountain biking. Would that the Countryside

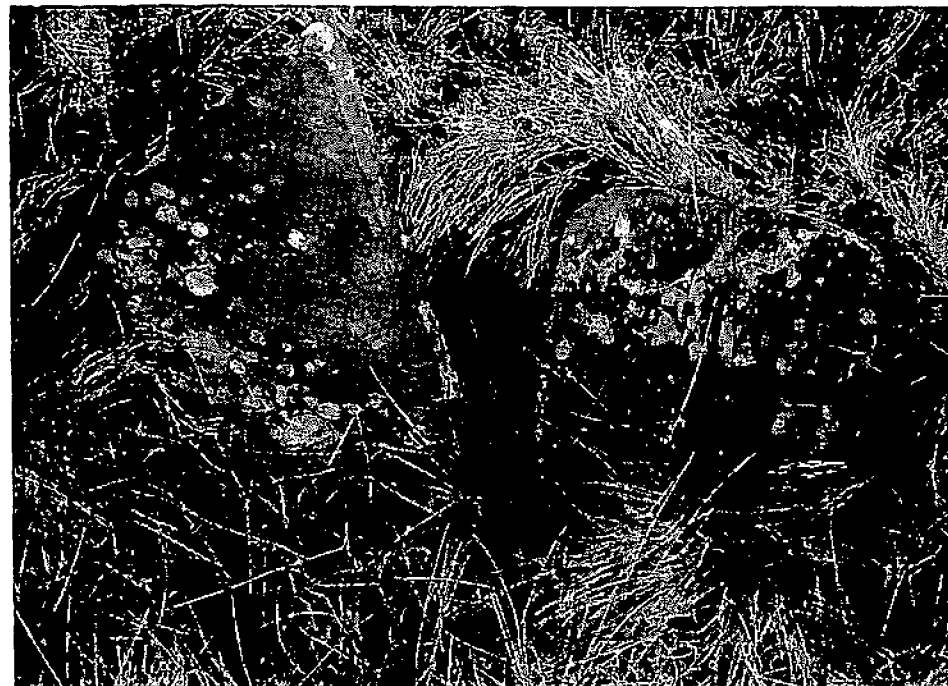


A Heritage Byway by any standard! This is the old main road up Teesdale, Cumbria. Once part of a coach route from London to Carlisle, this section was bypassed by John MacAdam's turnpike in the early 1820s (photo: G. Wilson)

Commission (the nearest thing we have in Britain to the BLM) and others would cease oppression of vehicle-user rights in Britain's beautiful places and follow the BLM's enlightened example. Not that every aspect of what works in the USA could be introduced in Britain, of course. History and culture cannot be ignored, but neither should they be used to blind our vision of new possibilities.

**HERITAGE BYWAYS** should be created in this country. Starting with the 4% of public rights of way that are byways now; and maybe even by creating some new routes for vehicles on the same principle that long distance paths have been created for walkers. *Heritage Byways* should be granted some protection status akin to that given to listed buildings. After all, why should an ancient route not be protected against downgrading or diversion, or even against inappropriate improvement? Features of old roads deserve preservation just as much as old motorcycles and the other vehicles which drove over them. And how could even the most insensitive amongst us ever do damage to a *Heritage Byway*? Funding from means such as those illustrated by the Symms Act could be used in Britain to provide recreational trails in selected parts of our existing forests and to plan new trails in projected community and national forests. What is suggested will not mean that Britain's beautiful places will be over-run by trail bikes and four-wheel drive vehicles. It would simply mean that the 5000 miles of unmade roads with vehicular rights (byways) which have escaped the tarmac machine would be protected for ever as examples of what roads used to be like in the 18th, 19th and early 20th centuries. Protected against being embraced into the 120,000 miles of footpath and bridleway. Or, that by planning for recreational motor activity in a sensitive way in new facilities, illegal use problems which bedevil us may in part, at least, be eliminated.

*Heritage Byways* would be routes which were once used by vehicles and transport which mostly no longer exists today. Pack horses, carts, carriages, stage coaches and the earliest steam-driven motor cars and motorcycles. Maybe even routes over which were carried aristocrats in horse-litters, or herds of cattle driven to market. Routes no longer being preserved by historical uses, yet which deserve protection as important pieces in the jigsaw that is our heritage and which would lose unique features if allowed to degrade in something less than a byway. A place for a motoring organisations' representative at the Countryside Commission and National Park Boards would help begin putting such plans in place.



Milestones, bridges and old gateposts give ancient highways character and interest. These features should be protected as part of the *Heritage Byway* designation. (photo: G. Wilson)

The first national parks were created in the United States more than half a century before the first park came into being in England. In 1916, by a stroke of President Woodrow Wilson's pen, the National Park Service Act brought 36 national parks under a single federal agency. One-time British Ambassador to the USA, James Bryce, called the parks "The best idea America ever had". Another visionary of the park service claimed that "It is the one thing we have that has not been imported". Eventually we followed the example of the United States. Let us do so again....but much more swiftly this time.

The BLM/AMA *Back Country Byways* agreement and the Symms Act could be used as blueprints for ending once and for all the financial and energy-sapping internecine warfare which exists here in Britain between motorised and some non-motorised user groups.



# **BAD PRACTICE AT TYNEHEAD: HOW TO CREATE A PROBLEM WHERE NONE EXISTED.**

This is a chronological account of the "gentrification" of an ancient highway.

- 1706: Henry Errington is recorded as being the leasholder of a smelt mill (for lead) at Tynehead, near Garrigill, Cumberland.
- 1793: John Cary's map of Cumberland clearly shows a road from Middleton in Teesdale to Alston running past Tynehead.
- Late 18C: There is considerable growth in mining activity in the North Pennines, necessitating improved access arrangements to and from the area. The topography of the area made it impossible or difficult for canals or railways to fully serve the North Pennines. Better roads are seen as the answer.
- 1823: Patterson's Roads, the "AA road atlas" of the time, describes the road up Teesdale, on the London -Carlisle route, as passing through Garrigill Gate, a settlement just north of Tynehead.
- 29 July 1823: John MacAdam reports to the Secretary to the Directors of the Royal Hospital for Seamen at Greenwich (owners of much of Alston Moor and environs) that the roads running through the Hospital's property in the vicinity of Aldstone (Alston) are "in a most deplorable state". He says that "the construction of the roads are altogether the worst that have yet come to his knowledge".
- 1829: Cary's revised map shows that a new turnpike (toll) road has been built up Teesdale. Greenwood's and Cary's maps show that the new turnpike has bypassed the section of road past Tynehead and Garrigill Gate.
- 1960s: Motorcyclists are known to regularly use the Tynehead road which is now recorded as an unclassified county road by Cumbria County Council. Use continues through 70s & 80s.
- 15 Sept 1988: Eden District Council grant planning approval for the reconstruction and development of the derelict property at Tynehead. In addition to the specified commencement date, the only condition specified was that "No obstruction shall be caused at any time to the route of public footpath 302009 which passes through the curtilage of the site". There is no mention of the unclassified county road which passes close by

the derelict building.

- 13 Oct 1989: A regular user of the old road, knowing nothing of the planning approval, writes to Cumbria's County Solicitor, alerting him to the building material, machines and rubble blocking the road at Tynehead and warning that it appeared that the building would be extended to encroach on the road. This user asked that the owner be made aware of the road and that the obstructions be removed.
- 16 Oct: Letter acknowledged. No further action until:
- 11 Oct 1990: User writes again to County Solicitor advising that the development appears to be on the course of the road.
- 26 Oct: County Solicitor replies. Says has never seen the first letter and proceeds to confuse the Tynehead road with another.
- 8 Nov: County Solicitor writes that the Director of Engineering says there is "no difficulty, but he would keep an eye on it".
- 16 Nov: User again asks the County Solicitor to advise the developer about the road and points out the historical nature and character of the way.
- 29 Nov: The County Solicitor advises that "He is still in the dark" and has again asked the Area Manager for a report. In the meantime, the developments proceed unabated.
- 17 Dec 1991: The user advises the County Solicitor that builders' material still blocks the road and that lawn turf has been laid across a section of carriageway. He asks if the road can be restored to a condition that does not look like someone's front garden.
- 19 Dec: The County Solicitor advises that the assistant who dealt with the case has left the Council He asks for letter references to trace the correspondence again.
- 23 Dec: User supplies this information again.
- 6 Jan92: The County Solicitor acknowledges. Says the letter of 23 Dec has been sent to the Department of Highways & Transportation "for comment".....
- 31 Mar: The user reminds the County Solicitor that no comments have been received for almost three months.
- 8 April: User decides to look at the planning papers at the offices of Eden District Council and finds that there is no mention of the UCR on any of the planning documents. The Development Control Department of Cumbria County Council, as a consultee, did comment to Eden District Council that "the former Middleton Road passes through the property

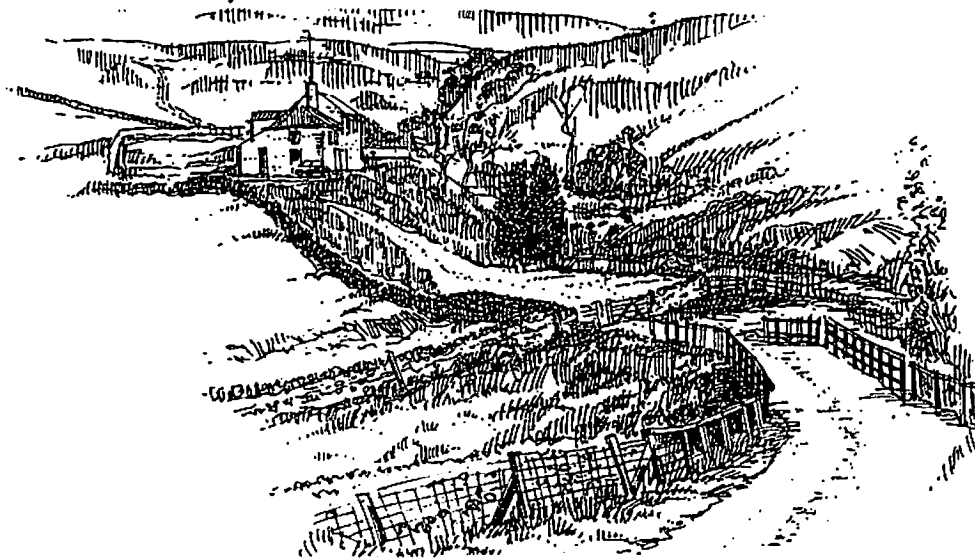
- as a pleasant footpath and should be safeguarded". The user writes to Eden District Council.
- 29 Apr: The Chief Planning Officer of Eden District Council replies that definitive footpath 302009 passes through the curtilage of the site and that he is satisfied it is not obstructed. He refers the matter of the UCR back to Cumbria County Council.
- 12 May: The user rings the Highways Department of Cumbria County Council. An officer tells him "UCR 3117 is shown in error on the CCC map of maintainable highways. It is common that our map is wrong and we regularly Tippex markings from the map". The County Solicitor is advised by the user that if no real action is forthcoming, then an action for maladministration will be seriously considered.
- May: The organiser of a mountain bicycle tour expresses serious concern that participants could easily get lost because the road at Tynehead is not visible.
- 4 June: The County Solicitor invites the user to a site meeting to investigate if signposting could alleviate the problems. The user agrees. By this time the road past the house has become a flagged and lawned garden with a small plantation of decorative trees.
- Autumn 1992: A sign is erected in a different place to that agreed at the earlier meeting.
- 7 Jan 1993: The user writes to the Director of Highways, Cumbria CC, advising that the sign is in the wrong place. The user repeats the background to the case, asking for comment on why there has been so little action over so long a time to safeguard this route.
- 13 Jan: Director of Highways replies that "there is no dispute by his authority over the status of the road and their obligations as a highway authority: it is an unclassified county road". Furthermore, he says that "Future owners (of the Tynehead property) will be made aware (of the road) because their solicitors will undertake a search when property transactions take place, and this would clearly indicate the presence of an unclassified road". This is a factual inaccuracy.
- 27 Jan: The Director of Highways at CCC agrees to re-erect the sign in the agreed location, in order that users are not deterred from riding across the lawn.

#### Present Day:

The user has been worn down. The nature of the road has been lost in this location. The status of the road has been weakened for the future..... especially in the eyes of future owners who will argue that "surely a road cannot cross this lawn and garden". Conflict will surely arise where for upwards of twenty years there has been none. Legitimate users may have to spend large amounts of time and money defending a right that was once clear and uncontested. All through no fault of the users.

Despite what was said by the Director of Highways, hard experience suggests that future purchasers' solicitors will NOT discover the presence of the road by pre-purchase searches.

Through significant maladministration and general unwillingness to carry out a clear statutory duty, both the County and District Councils have permitted the heritage of the old and dramatic highway to be changed out of all recognition. They have placed its status under threat for the present and future generations. What more can a simple layman do?



The old road crosses this county bridge and runs up to the rebuilt house at Tynehead. To the ordinary user it now appears that this is a private road that goes no further. (sketch: David Young)

## ACCESS TO THE COUNTRYSIDE FOR MOTOR SPORT AND RECREATION

### ACCESS BY RIGHT.

Unlike some other countries, such as the United States of America and Australia, there is no concept of public access land for all purposes in England and Wales. Access to land in England and Wales is mostly by some some form of permission (licence, access agreement, etc) or by statute (urban commons, some inclosure awards) but this is limited to access on foot or, much more rarely on horseback or cycle. There is no open land whereon the public are entitled or invited to drive vehicles of any sort, other than in organised events, except that some areas of foreshore are subject to byelaws which permit the use of certain non-motorised vehicles.

Access by right for vehicle users is thus confined to such highways as it may be legal for them to use: carriageways in their various forms. Obviously, most carriageways were used by horse-drawn vehicles before the invention of the motor vehicle. As examination of pre and post-motor age maps shows, most carriageways presently in use existed before the motor age and that proportion would rise further if ancient carriageways presently recorded as highways of another status were reclassified.

It is sometimes argued that an ancient carriageway does not carry a public right to drive a motor vehicle on it<sup>1</sup>. That is wrong. A carriageway is open to all vehicles regardless of motive power or size, save that physical restrictions may prevent certain vehicles from passing and repassing<sup>2</sup>. For example, a bridge under which a carriageway runs may be too small to allow the passage of certain vehicles. Drivers of these vehicles cannot necessarily demand that the obstruction be removed as the right of way may have been dedicated subject to the presence and potential obstruction of the bridge.

The mere fact that a public carriageway has been recorded as a highway of a lesser status and *prima facie* used as a highway of lesser status does not necessarily prejudice its continued availability to the public as a carriageway<sup>3</sup>. The maxim *Once a highway, always a highway* holds true<sup>4</sup>.

The public right to drive on a carriageway can only be taken away by certain legal processes<sup>5</sup>. A wrong classification imposed by procedures

carried out under any of the Countryside Acts of 1949, 1968 and 1981 does not remove public rights although, in some circumstances, these rights may be suspended for a period<sup>6</sup>.

### ACCESS BY PERMISSION.

This is permission in the sense of one man inviting another onto his land, or land in his keeping, as the consequence of a temporary agreement between them. The temporary nature of the agreement excludes sites which are, or become, dedicated wholly or primarily to motor sport activities. Access by permission, like use of the land by the owner himself, must be set against the public law, especially the relaxation of planning controls under the General Development Order. There is something of a grey area where activities step outside the scope of the General Development Order, but are still a long way from being a permanent or primary use of land. An example of this would be where a moto-cross event organiser negotiates to use a farm pasture twice in a year, leaving it for grazing the rest of the time, but does some engineering works on the track that are not permitted by the General Development Order.

There are four principal categories of access by permission:

- (1) Events making temporary use of land within the scope of the General Development Order.
- (2) Events purporting to make temporary use of land within the scope of the General Development Order but operating without its scope.
- (3) Events making use of land which plainly fall without the scope of the General Development Order
- (4) Events requiring permission/authorisation to use the public highway.

### THE NATURE OF EVENTS ON PRIVATE LAND.

Most competitive motor sport events, other than circuit racing and the few disciplines that exclusively use the public road network, take place on "private land" to use the term current in motor sport practice. At the bottom of the scale of complexity and sophistication of events the organiser of a club motor cycle trial for, perhaps 50 entrants, will negotiate with a farmer for use of a suitable area of land for the event. Traditionally, the event will be held on a Sunday morning, starting around 10:30AM, with the organisers turning up an hour or two earlier to set out the course and "sign-in" the entrants as they arrive. The competitors, once on the course, range freely over the land in use,

governed by the rules of the club and organisation within which they compete, rather than by the direct control of the landowner whose ground they are on. In such a situation it is unlikely that there will be many members of the public wishing to have access to the land, other than the odd spectator or interested party, or local people out dog walking, whether on rights of way, by tolerance, or as trespassers. At the end of the day's sport the organisers will remove the course markers, tidy up any litter and depart, returning the land to its everyday use and leaving the landowner richer by, perhaps, a bottle of whisky or, where the event is popular and the terrain more challenging, a few pounds for his trouble.

Contrast this with big motor sport events such as the Lombard RAC Rally. This event uses the public road network as a course around Britain, but actual competition takes place only on "special stages" which might be forest tracks (sometimes carrying a public right of way), race circuits or the grounds of a stately home or sewerage works. Access to these last are negotiated in much the same way as for the fields for the club motor cycle trial, but the manpower for circuit preparation, safety precautions and clearing away afterwards must necessarily be far greater.

The workload facing the organisers of autocross and moto-cross fall somewhere between the two, with moto-cross clubs facing quite significant organisational problems in storing and erecting safety fencing and roping and returning the ground to its original state after the meeting.

Most organisers and participants in motor sport traditionally take the view that "landowners can do what they like with their land" when faced with enquiries as to public liability, environmental considerations and prejudice to public access while the event is taking place. That is also a view taken by the landowners themselves - it is unlikely they would grant permission for an event and then seek to hedge it about with restrictions. How far this attitude is practical or true depends largely on its impact on the land and people living nearby, rather than on any resolute prosecution of the law by the authorities. Experience shows that a large car rally running at night, in winter, in a remote area of Wales is less likely to attract criticism, even if the event breaches regulations, than a small, well-managed and properly authorised moto-cross event held on a dry and dusty day upwind of a housing estate.



A production 4WD trial is an excellent example of a non-racing event held under the provisions of the General Development Order. The land is used "as found" with simple tapes and flags to mark the sections.

## EVENTS HELD UNDER THE GDO

Most competitive motor sport events held other than on proper race circuits operate within the scope of the General Development Order 1988 which includes:

### Permitted development

The use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for..... motor car and motorcycle racing including trials of speed, and practising for these activities.

This provision is interpreted as allowing motor cycle trials and other

non-racing events to take place on land for up to 28 days in a calendar year, while moto-cross and other racing disciplines can only operate for 14 days including practice for these racing days.

### NEW RESTRICTIONS IN SSSIs.

In 1987 the Royal Society For Nature Conservation (RSNC) published a report alleging significant damage to nature sites by recreational motor vehicles. The motor sport organisations argued strongly that this damage was almost always caused by "cowboy" drivers and riders, not by organised events. Notwithstanding motorsport's representations, the Department of Environment subsequently introduced legislative changes such that motor sport events can no longer take place within Sites of Special Scientific Interest unless planning consent is granted. The ongoing problem of "cowboys" on sensitive land was not addressed.

The Town and Country Planning General Development (Amendment) (No3) Order 1991 (S.I. 1991 No.2805) introduced, in early 1992, amendments to the General Development Order, such that motor sport no longer enjoys permitted development rights on land designated as a Site of Special Scientific Interest. There is no presumption against motorsport being granted planning consent to operate in SSSIs, but English Nature will be consulted on each application and the feeling among motorsport organisers is that such consent would be difficult to obtain.

LARA believes that these restrictions on motor events in SSSIs were not justified. What problems there are with vehicles result from "cowboy" activity. We hope that planning authorities will look favourably on planning applications for long-standing motor events now prevented from using their regular sites within the scope of the General Development Order.

### THE SCOPE OF THE GDO.

The General Development Order refers to the "use of any land" but does not define "land" in terms of the size or character of the land so affected. It is likely that the concept of the "planning unit" applies to the GDO provisions for motor sport and simply holding successive events in different but contiguous or neighbouring fields on a farm would breach the terms of the GDO, but this does not seem to have been tested in the courts. However, use of a detached unit of land belonging to the same farm would probably be acceptable for the GDO. It is a question of fact in each case.

The General Development Order does not grant any permission to perform operations on the land beyond bringing in moveable structures for the purposes of the event to be held. Thus it is not permissible to construct permanent tracks even if these are grazed by animals in the periods between events. Neither is it permissible to leave trackside facilities such as portable toilets and office cabins on the site between the events.

The GDO seems to make it permissible to leave the typical post/rope and chestnut paling fences commonly used in motor sport events erected between events as fences below two metres in height do not require planning consent. However, the decision in the *Streatley* case below throws doubt on this. The General Development Order is not inviolable. A local authority which wishes to prevent events that properly operate within the GDO have a powerful weapon in the Article 4 direction:

4(1) if either the Secretary of State or the appropriate local planning authority is satisfied that it is expedient that development of any of the classes specified in Schedule 1 to this order should not be carried out in any particular area, or that any particular development of any of those classes should not be carried out, unless permission is granted on an application in that behalf, the Secretary of State or the appropriate local planning authority may direct that the permission granted by article 3 of this order shall not apply to:-

- (a) all or any development of all or any of those classes in any particular area specified in the direction, or
- (b) any particular development, specified in the direction, falling within any of those classes.

The imposition of an Article 4 direction is, effectively, the end of the sporting activity on the site. If a local authority is minded to use an Article 4 direction it is usually indicative of some friction between the activity and the authority. If this has not been resolved by discussion and compromise within the terms of use granted by the General Development Order, then it is unlikely that either,

- (1) The Secretary of State will refuse to confirm the Article 4 direction, or
- (2) The local authority will be minded to grant planning consent for the activity, or
- (3) That planning consent would be gained on appeal to the Secretary of State.



Article 4 directions have been used as a "follow-up" weapon to stop an activity run under the terms of the General Development Order when an enforcement notice has been issued against exceeding the terms of the GDO and the activity has, through the appeal process, managed to retain some of the development enforced against, e.g. the *Streatley* case discussed below.

## EVENTS BREACHING THE GDO.

A number of events which run within the scope of the General Development Order breach the terms in some way. These breaches commonly include:

- (1) An excessive number of days use over the 14/28 days permitted.
- (2) Engineering works carried out on the land to make it better for the particular activity.
- (3) Equipment left permanently on site, such as toilet blocks, fences, and safety equipment.
- (4) Whether the nature of the use of the land, even though prima facie within the terms of the GDO, actually indicates that the sporting use of the land is now the primary, or a concurrent, use requiring that planning consent for the activity be sought.

*Bisset and Mortimor Motorcycle Club v S. of S. for Environment and Newbury District Council (1987)*

This is a case that illustrates many of the above points. It was appealed to the High Court as it was seen as being of great and widespread importance to motor sport, as well as because the site and events thereon were popular.

In the early 1980s a landowner allowed moto-cross meetings on his farm at Streatley, Berkshire, which lies in the Goring Gap, an Area of Outstanding Natural Beauty. The events were only occasional, not approaching the 14 days permitted in each year by the GDO. In 1985 Newbury District Council issued an enforcement notice against the landowner alleging:

- (1) The formation of a permanent track for moto-cross and the holding of events thereon.
- (2) The erection of a hut and platform for use in association with the moto-cross events.
- (3) The erection along the track of a chestnut paling, and other material, fence.
- (4) The excavation and levelling of the land for use in connection with the track.

The enforcement notice required the following steps:

- (1) Remove the hut.
- (2) Remove all fencing.
- (3) Plough up the excavated land.
- (4) Chalk infill and topsoil the excavated area.
- (5) Re-seed the excavated area with grass.
- (6) Cover the track with topsoil and re-seed with grass.

At the public inquiry into the enforcement notice the developments listed above were claimed to be needed for agricultural purposes, although their suitability for use at moto-cross meeting was admitted. In his decision letter of March 1987 the Inspector says: (para numbers from the report)

34. "The moto-cross use goes, in my view, far beyond anything which can reasonably be regarded as a temporary use of land envisaged in Class IV.2 of the GDO. To facilitate that use large-scale engineering and building operations have - I conclude - been undertaken; the track and hazards created within it are permanent physical features as are the formed pits area and the toilet and shower block.....The fact that events take place only six times a year does not I consider render the use a temporary one, the analogy with a horse racing course is apt - it does not lose its permanency in land use terms merely because race meetings are infrequent. My conclusion - as a matter of fact and degree - is that a permanent use of land for moto-cross subsists at this site in addition to an agricultural use. Not being a temporary use of land within...the GDO...it requires planning permission which has not been obtained.

36. "...the notice does not require the primary use as a permanent moto-cross track to cease. To that extent the Council have underenforced in relation to the mixed use alleged but it is not open to me to vary the requirement to make it more onerous.

38. "The track itself in the form in which it now exists also goes in my opinion far beyond anything which might reasonably be described as temporary. It may well, initially, have owed something to the action of tyres on the ground but on the balance of probability I conclude that to a degree significantly greater than mere tyre wear it has been formed by mechanical means, a view supported by the extent of banking along its route and the raised banks on the outside of the hairpin bends .....in all four cases (track, hut and platform, fencing and formed pits area) the outcome is, I conclude the result of engineering or other operations amounting, as a matter of fact and degree, to development and thus the appeal... must fail.

Most planning authorities are very cautious about supporting applications to formalise and extend existing motor sport activity or to grant permission for events where none have happened before. The nature of residents' objections may be easily guessed: noise, general disturbance, dust, loss of amenity and increased traffic on the roads<sup>9</sup>.

Even where a site has operated without problems (or without reported problems) under the GDO, an application for development or expansion of any sort is liable to bring objections. These objections are then likely to call into question the existence of the site at its present level of operation and development. Fear of living next to "another Brands Hatch" can be very real in residents' minds, even if past usage of the site suggests it is an unwarranted doubt.

Applications, both for new sites and to formalise existing ones, must be considered in light of changing patterns of life in the countryside. The traditional country farmer is quite likely to be tolerant, even welcoming, of events such as moto-cross and horse jumping. These are activities which the farmer and his family might well have pursued themselves at one time. The change in land ownership away from the traditional country person to the professional or newly-retired person choosing to live and, sometimes, work in the country has brought the traditional recreations head-to-head with people who have no history of accomodating these, a preconceived idea of what country life should be like and, most significant of all, the knowledge, desire and resources to invoke the political and legal system to block what they view as undesirable activities. Where a few years ago a moto-cross club could, perhaps, afford not to contest the loss of one site because another was easily available, that other site may well now accomodate a new house, a barn conversion or just a new and less tolerant occupant who does not wish to co-exist with what, to them, is a noisy intrusion. This change in patterns of occupation and the threat they pose are well illustrated in a complex case history:

Gerry's Hill is a farm near Swardale, a village some 15 miles south of Bigtown. A field at Gerry's Hill had been used for moto-cross racing for some ten years when, in 1988 an enforcement notice was served on the owner by Bigtown District Council alleging use in excess of the 14 days permitted by the General Development Order and unauthorised development comprising track improvements and permanently sited toilets and another cabin. The enforcement notice was suspended by agreement conditional upon the landowner submitting an application for planning consent to regularise the activity taking place, but this application, when submitted, was deficient and the enforcement notice was reactivated. The landowner appealed and the case went to public

inquiry in 1990. The issues at inquiry were similar to Streatly- the nature and extent of the track, the permanent presence of fencing and hard-standing which could be of use to both agriculture and moto-cross. The level and nature of the alleged excessive use was also considered. The landowner alleged that some of the use was by trespassers who broke into the track site and rode there without permission which, he maintained, could not be counted as user for the purposes of the GDO.

The Inspector found the issues in the enforcement notice proven except that he allowed the track to remain in its existing form. This meant that the site could be used for 14 days per year, but that the toilets and cabin would have to be sited and removed on each occasion.

A few miles southwest of Gerry's Hill lies the old wartime aerodrome at Harris. Part of this has been used as a kart circuit for many years. Indeed, it is now so well established that it is marked "kart circuit" on the latest Ordnance Survey map. The karting operates on a temporary planning consent from Northlands District Council. The planning consent came up for renewal in 1989 and this was passed without problem. Shortly after this the operators of the kart track approached the planning authority with a view to applying for 28 additional days use so that corporate entertainment and training days could be run. This application for additional use brought a wave of criticism from residents of the nearby villages, mostly complaining about noise and disturbance. It was suggested, off the record, that had the kart circuit operators applied for more days before the previous period of planning consent expired, the wave of complaint may well have prejudiced the granting of a further period even at existing levels of use.

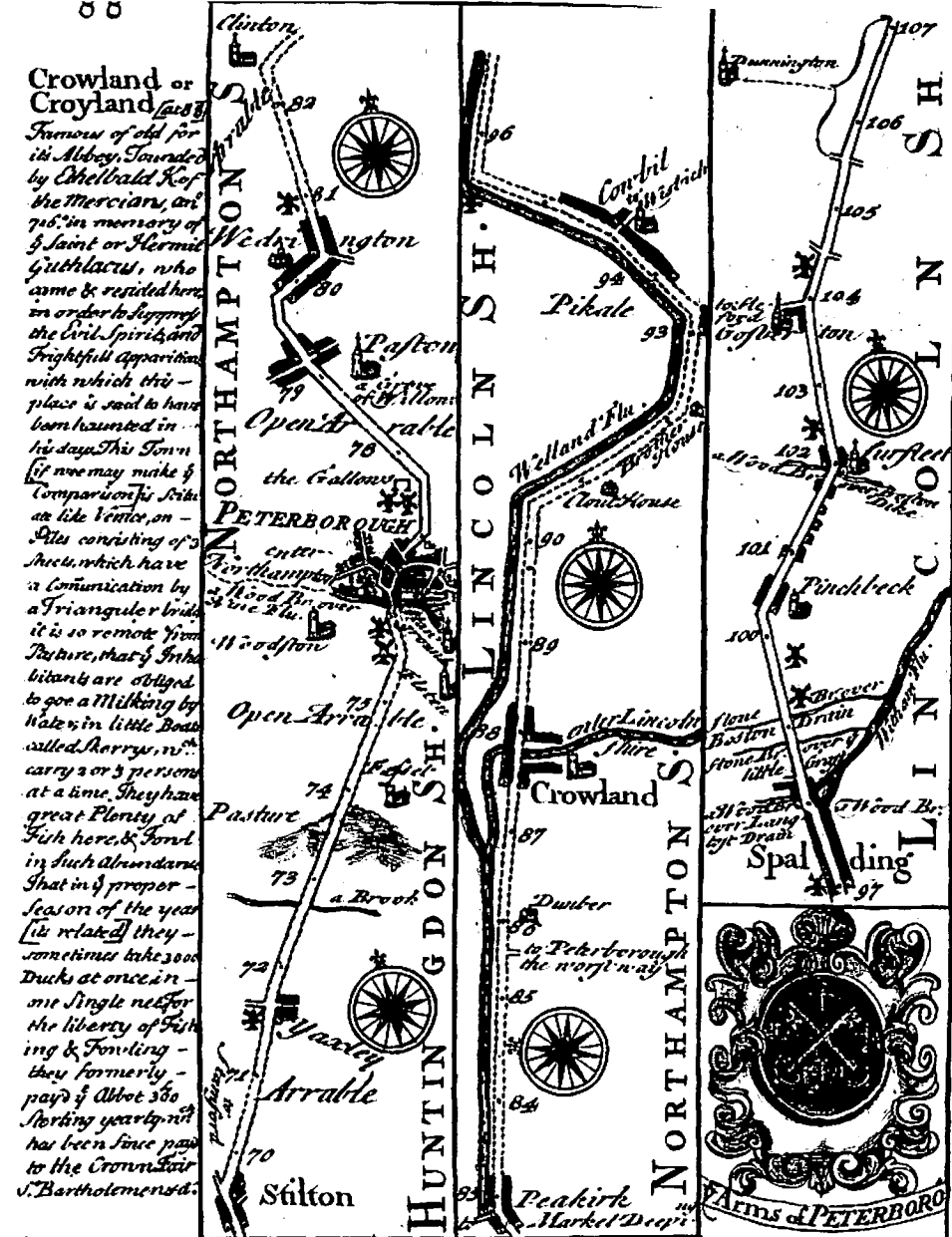
Another part of Harris aerodrome is presently used by a microlight aircraft club. These machines, although much quieter than early aircraft and limited as to time of operation, can be heard over a wide area around Harris and adjoining villages. There is also now a semi-commercial clay shooting club a mile or so to the west of the aerodrome. The policy of the district council is to allow sensitive conversion of agricultural barns and building no longer needed for their original purpose. This, together with some infill building has put more potential complainants in the space between the potentially noisy activities. There are also applications pending for two golf courses near Harris and there is a possibility that a parachute club may relocate there from a site some miles distant. All of this change to the pattern of settlement and use of the countryside in that part of the coastal plain has led, quite quickly, to the original motorised user of the area, the kart circuit, becoming just one of a number of sources of potential noise and disturbance and thus coming under pressure from old residents who were plainly tolerant enough not to take action against any disturbance they might have suffered, but who find the combined disturbances and several potential further ones too much. In addition, the pattern of residential development has brought new, and possibly less tolerant, residents to the area.

The future of the activities, assuming they are unable to reduce their noise outputs, would seem to lie in some strategic approach to deciding which activities operate where and when, so as to reduce disturbance to residents. There are problems with this; there is no framework or mechanism by which these diverse activities can negotiate what will undoubtedly amount to a reduction in levels of operation for all or most of them. Should they all seek to operate at the same time for a limited number of days in any year, or should each operate individually to share the noise across all available days? How can an activity such as microlighting which is very weather-dependent predict in advance on which days it will operate? Both District Councils involved in these cases above have been reluctant to enforce against the various activities where problems have arisen. The County Council does not seem to take a view on a strategic approach to facility provision for leisure of this nature and the likely outcome is that all the activities will continue to operate much as at present until something, be it an application for expansion, a complaint from a new resident, or possible conflict with a different leisure activity prompts some enforcement or control by the planning authorities.

#### Endnotes:

1. As strongly argued by Lord Denning in cases involving the reclassification of minor highways in Hampshire, 1990-92.
  2. Warner v Wandsworth District Board of Works (1889) 53 JP 41.
  3. Wildlife and Countryside Act 1981 section 56(1).
  4. Dawes v Hawkins (1860) 29 L.J.C.P. 343.
  5. E.g. Highways Act 1980 section 116.
  6. Suffolk CC v Mason [1979] AC 75.
  7. Town and Country Planning Act 1990 section 174.
  8. Dudley B.C. v S. of S. for Environment [1980] J.P.L. 181.
- E.g. recent cases in Durham, Derbyshire, Surrey and Cambridgeshire.

Green road riders and drivers are among the leading rights of way experts nationally. Their hard work in identifying and protecting old roads makes for a better recreational highway network not only for themselves, but also for horse riders, carriage drivers, cyclists and walkers. Documentary research of old maps and papers is at the core of this work. This is one of Owen and Bowens excellent pocket road maps of the mid 18 Century.



**PETERBORO** - Is so called from the Monastery founded in it by Wolpher, K. of the Merriars, and dedicated to S. Peter; which upon the Suppression of Religious houses, and the Foundation of this Bishoprick, Henry 8. R. was converted into a Cathedral Church, which is at this day a very stately structure, having in its windows curiously painted the History of the S. Wolpher its founder, & the Succession of all its Abbots. In the Choir of the Church lye interr'd 42 unfortunate Queens, Katherine of Spain, & Mary of Scotland. This Town was from an ancient Village & Borough, made a City & see of a Bishop, in 1154 by King Henry 2. The Mayor, Recorder, & 10th officers of the City, which has its Representatives in Parliament, are elected by 4 Dean & Chapter, and the R. Hon. of Exeter, who is Master Rotulorum, appoints Justices of the Peace. The Market house is a very neat Building; over it are held 6 Offices for the County & Sessions for 4 Hundred of Nissaburg. M. Sat. Fair June 25, Aug 6, & Sept 25.

## ROAD USED AS A PUBLIC PATH: ASPECTS OF A PROBLEMATIC HIGHWAY

### INTRODUCTION

This chapter looks at aspects of the minor highway classification *Road Used as a Public Path (RUPP)*, concentrating on the **conclusivity** and **evidential value** of that classification. Consideration of the practice and effect of (re)classification of RUPPs is not a new matter, but, in some cases, insufficient weight has been attached to the very fact that a particular way was recorded on the first definitive map as a *Road Used as a Public Path*. This aspect has great relevance for vehicular users of minor highways, to whom Byway Open to all Traffic (BOAT) status for former RUPPs is necessary.

With the general desire among highway authorities and government departments to rely, now and in the future, on the certainty and conclusivity of the definitive map, there may be a tendency to confuse the conclusive effect of a way being recorded as a RUPP, with the linked, but discrete, evidential value of that same recording. That evidential value may well be exploited by highway users in areas beyond the issue of statutory reclassification of RUPPs<sup>1</sup>

The creation and subsequent treatment of RUPPs, as a class of highway, is often indicative of poor planning, drafting and execution of the definitive map process. The overall result has been the *prima facie* loss of many thousands of miles of highway rights for certain classes of the public, together with the delays, frustrations and costs of the cumbersome, inexact and (frequently) pointless bureaucratic procedure involved in "reclassifying" the RUPPs<sup>2</sup>. This chapter will seek to set out an approach to reclassification of RUPPs (and former RUPPs) that will better achieve the aim of the definitive map - the true and faithful recording of public rights over minor highways<sup>3</sup>.

### RUPPS DEFINED AND THE CONCLUSIVE EFFECT OF THAT DEFINITION.

RUPPs are a creation of the first definitive map process as set out in the National Parks and Access to the Countryside Act 1949. They were defined, at the time of creation, in section 27(6) as

a highway other than a public path used by the public mainly for the purposes for which footpaths and bridleways are so used

A *public path* is defined as a highway which is a footpath or bridleway. From this definition, a RUPP is a highway other than a footpath or bridleway. There are only three classes of highway in English law: footpath, bridleway and carriageway<sup>4</sup>. If a RUPP is neither of the first two, *ergo*, it can only be a public carriageway.

The National Parks and Access to the Countryside Act 1949 is concerned with the recording of minor highways and all highways are public rights. There can be a private road, or a private way, but there cannot be a private highway.

A highway is a right of passage in general to all the King's subjects without distinction<sup>5</sup>

A highway is a way over which there exists a public right of passage....<sup>6</sup>

Thus, a RUPP as defined by the 1949 Act appears to be a public carriageway. This definition was also considered in *Suffolk County Council v Mason*<sup>7</sup>. Lord Diplock said: The definition of a 'road used as a public path'...must be a full highway, for otherwise it must be a public path...

In the same case, Lord Hailsham said:...there are some highways which not being footpaths or bridleways, must be considered as public carriageways but which, being used by the public mainly for the purposes of footpaths or bridleways (i.e. public paths) are to be given the third designation used in the maps of 'roads used as a public path'.

This definition of a RUPP must then be considered against the limitations on the conclusive effect of the 1949 Act and subsequent statutes. Section 32(4)(b) of the Act states :

where the map shows a bridleway, or a road used as a public path, the map shall be conclusive evidence that there was at the said date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than the rights aforesaid...

Thus the designation of a way as a RUPP is only conclusive as to there being a right of way on foot or horseback - i.e. a bridleway. This "conclusive status" is a separate issue from the true, or "root status" of the RUPP in that the National Parks and Access to the Countryside Act 1949 was concerned to identify and record rights of way for the benefit of walkers and horse riders. Thus, by making a RUPP

conclusive as to these rights, section 32(4)(b) sought to protect the "basic needs" of walkers and riders - their right of passage, while not purporting to confirm the existence of public carriageway rights, or public rights of drove, where these attach to a bridleway, rather than as part of the wider right of public carriageway<sup>8</sup>. However, while section 32(4)(b) is expressed not to be prejudicial to the possible existence of vehicular rights, it remains possible that section 27(6) tended to indicate that all RUPPs were vehicular.

RUPPs have never been a satisfactory class of highway and, by the run-up to the Countryside Act 1968, the need to tidy-up the definition and procedure was apparent. The Countryside Act 1968 introduced an unsatisfactory "three part" test for reclassifying RUPPs. The three elements of the test were:

- i. Do vehicular rights exist?
- ii. Would vehicular users suffer hardship if the RUPP was reclassified as other than a public carriageway?
- iii. Is the RUPP suitable for vehicular traffic?

The Wildlife and Countryside Act 1981 replaced this with the simpler test to determine the "true status" of a RUPP as the sole criterion for reclassification to BOAT or bridleway<sup>9</sup>. In summary, the recording of a way as a RUPP on the definitive map is not by express intent of the Act that created the classification, conclusive of that way bearing public vehicular rights.

### THE MEANING AND EFFECT OF RUPP STATUS OUTSIDE THE SCOPE OF DEFINITIVE MAP CONCLUSIVITY.

What, then, of the evidential value of a way being originally recorded as a RUPP? As explained above, the definition of a RUPP is plain - it is a public carriageway, mainly used as a (public) footpath or bridleway, this definition being qualified by its inclusion in the definitive map not being conclusive as to that carriageway status. So what? Until the introduction of the definitive map there was no conclusive record of highways at all<sup>10</sup> and there is still no conclusive record of any highways other than public paths, RUPPs and BOATs. Thus, a RUPP's public carriageway status is as open to challenge as the status of any other minor road, such as the ubiquitous "unclassified county road". Traditionally, the status of a highway is confirmed by the public using it. The public passes and repasses as of right and, if obstructed, complains to the highway authority, seeks redress in the

courts, or throws down the obstruction as appropriate.

The advent of the definitive map and its "conclusive effects" have somewhat obscured these traditional ways in which highway rights are asserted and protected. Conclusivity is not a bad thing. It would be advantageous to all highway users to have all their rights recorded and, by that recording, made conclusive. However, that conclusivity must not operate to exclude rights that are not, currently, shown on the record that confers the conclusivity. To do so would mean the loss to the public of many miles of highway rights. The first definitive map was clearly designed to confer conclusivity for walkers' and horse riders' rights<sup>11</sup>, but without prejudice to any higher rights over bridleways. Higher rights over footpaths (but not RUPPs reclassified wrongly as footpaths) may have been suspended by the wording of section 32(4)(a) of the National Parks and Access to the Countryside Act 1949, until the implementation of the Wildlife and Countryside Act 1981 specifically reversed this<sup>12</sup>.

It is necessary to look at the procedure by which public paths and RUPPs were recorded after 1949. The procedures are contained in Circular 81/50 from the Ministry of Town and Country Planning, which approves a set of guidance notes and procedures made by the Commons, Open Spaces and Footpaths Preservation Society, in collaboration with the Ramblers' Association<sup>13</sup>. This guidance note, on page 3, repeats the Act's definition of a RUPP quite clearly. In section 3- *Marking the maps*, the notes recommend listing all ways with apparent public rights. In 3.c it recommends the marking of:

All highways which the public have a right to use with vehicles, e.g. public cart-roads and lanes, including green (i.e. unmetalled) lanes, but which are mainly used as footpaths or bridleways.

Note that section 3.d points out that footpath and bridleway rights may well exist over *accommodation roads which are not open to the public with vehicles*. In section 3.m it recommends:

Highways which the public are entitled to use with vehicles but which, in practice, are mainly used by them as footpaths or bridleways, should be marked on the map "CRF" or "CRB" as explained in section 4 below, with a note in the schedule also that their main use is as a footpath or bridleway as the case may be.

In section 4, *Symbols to be used in marking maps*, it states the symbols to be used for each classification of highway:



Footpath.....FP  
 Bridle Road.....BR  
 Public Carriage or Cart Road or  
 Green (unmetalled) lane mainly  
 used as a footpath.....CRF  
 Public Carriage or Cart Road or  
 Green (unmetalled) lane mainly  
 used as a bridleway.....CRB

Thus, CRF and CRB classifications under these guidance notes are RUPPs, sub-divided again by virtue of the principal user at the time of the survey. Circular 81, above, clearly gave some cause for concern to those charged with conducting the surveys and making the draft definitive map. The effect of their recording ways as RUPPs, rather than as bridleways, was considered in Circular 58/53:

Representations or objections to the effect that a way shown on a Draft Map as a "bridleway" is in fact a "road used as a public path", or vice versa, have sometimes been made, presumably with a view to establishing the existence or absence of public rights other than on foot or on horseback; and on occasions the view has been expressed that the provisions of S27(6) and S32(4) are conflicting. The Minister thinks that the following comments might be helpful; it will be understood that any question on the interpretation of the Act is a matter for the courts.

The survey provisions of the Act are only directed to establishing the existence of such rights of way as are proper to footpaths and bridleways, and are not intended to settle the question whether the public have any other rights over such ways (e.g. a right of way for wheeled traffic). The surveying authorities are also required to show any way which in their opinion was a "road used as a public path". that is to say a highway which is used mainly, but not entirely for walking or riding (e.g. a Green Way such as the Berkshire Ridgeway). Section 27(6) gives a legal definition of both a "bridleway" and a "road used as a public path", but whether a way is shown as a "bridleway" or as a "road used as a public path" the survey will only determine (in the words of S32(4)) "that the public had thereover a right of way on foot and a right of way on horseback or leading a horse". It has been suggested in some quarters that a Definitive Map showing a way as a "road used as a public path" would provide prima facie evidence on the question of rights other than on foot or horseback, but it is difficult to see that a Court would accept such evidence in the face of the specific provision of Section 32(4) that "this paragraph shall be without prejudice (author's emphasis) to any question whether the public had any right of way other than the rights aforesaid."

This above seems to be an interpretation of what the actual surveyors

(rather than the "county surveyors") were charged to find, but does not adequately deal with the processes they followed, or the evidential effect of those processes. That is not surprising - the Act was concerned with recording public bridleway and footpath rights only. The surveyors (mostly) looked at, and enquired about, "Green Ways" to determine if these should be recorded as RUPPs or bridleways. Plainly, the criterion of decision was whether they (the surveyors) found that the "Green Ways" were, *prima facie*, public carriageways mainly used as footpaths or bridleways, or not. If the latter, they would obviously record the ways as (mainly) bridleways or (not uncommonly) footpaths. This is very different from the conclusive effect of recording the surveyors' findings in the definitive map. When so recorded, the Circular is correct.

The surveyors' terms "Carriage Road Footpath" and "Carriage Road Bridleway" have survived on several definitive maps. For example, a RUPP may be recorded as "CRB1234" rather than "RUPP1234". It is probably not significant that some highway authorities make no reference to RUPPs on their definitive maps or statements, relying instead on CRF and CRB. Those are simply alternative terms for RUPPs and recording a way on the definitive map as CRF or CRB cannot create a new class of highway. However, there is a more important aspect to this original recording of ways. This is where the surveyors recorded ways as CRF/CRB, but these were entered on the draft definitive map as footpaths or bridleways without good reason. In this situation, which anecdotal evidence suggests is not uncommon, then that original surveyor's recording as CRF/CRB would appear to be evidence as to the way bearing higher rights. Section 21 of the Highways Act 1980 provides:

A court or other tribunal, before determining whether a way has or has not been dedicated as a highway...shall take into consideration any...relevant document which is tendered in evidence, and shall give such weight as the court or tribunal considers justified by the circumstances, including...the status of the person by whom and the purpose for which it was made...

An original recording as CRF/CRB alone would probably not be sufficient to convince a tribunal of the existence of higher rights on a way, but together with other evidence - say a tithe map, good user or even the physical characteristics of the way, it could constitute adequate evidence to prove higher rights. Thus, an original but unsustained recording as a CRF/CRB may be nearly as valuable as that original recording being confirmed.

## RECONCILING THE HOOD CASE.

R v Secretary of State for the Environment, ex parte Hood [1975] 3 All ER is the case which set down the presumption that on review, under the Countryside Act 1968 procedures, RUPPs should be presumed to be bridleways as a sort of "default status" in the absence of positive proof to the existence of public carriageway rights, because the wording (see paragraph 2.3 above) of section 32(4)(b) of the 1949 Act plainly states that RUPPs are, at least, bridleways. Lord Denning said (at 246)

"The object of the draftsman (of the Act) was to include cartways over which there is a public right of cartway (His Lordship's emphasis), but which are used nowadays mainly by people walking or riding horses, like the Berkshire Ridgeway or the ways over the South Downs. The draftsman intended to exclude metalled roads used by motor cars.

"When the local authorities came in 1949 to prepare their maps under the Act, they divided the last category 'road used as a public path' into two sub-divisions which have no statutory authority. They divided them into 'CRF' and 'CRB' which denoted 'cartroad footpath' and cartroad bridleway' meaning, respectively that there was a public footpath along a cartroad, or a public bridleway along a cartroad. In that division the local authorities did not mean to say whether the cartroad was public or private for carts, because they did not know which it was. They only meant to say by CRF that there was a public footpath along a road; and by CRB a public bridleway along a road. That division was misleading because each of those subdivisions CRF and CRB was shown in the map as a 'road used as a public path'. That meant that it was shown as a highway other than a public path, i.e. other than either a footpath or a bridleway. Being a highway, it meant that it was a public cartway. Thus, CRF and CRB designated a public cartway used mainly for the purposes for which footpaths and bridleways are used."

His Lordship's interpretation of the mechanism and enquiry procedure by which the various public paths were recorded is flawed. As explained above, the procedures under which the first draft definitive maps were made are quite clear. The three classifications of highway - footpath, bridleway and RUPP are clearly defined. It is when the guidance notes start to lay down the criteria for evaluation and classification of the various paths that the term CRF/CRB enters. It seems quite clear from reading the whole of the guidance notes that the use of CRF/CRB was simply an attempt to do a thorough job. The surveyor should not be content to record that a public cartway was used as a footpath or bridleway (RUPP by definition), he should set down which of the two public paths it was mainly used as (RUPP sub-divided into CRF or



BMW Club members on the pass between Great and Little Langdales, the Lake District, during the 1985 international FIM Motocamp. If National Park proposals to close such minor roads to all but local traffic are implemented, then this gentle enjoyment would be impossible. (photo: G. Wilson)

CRB). The guidance notes do not purport to introduce a "new classification" of highway in CRF and CRB. Lord Denning's assertion that the recording of CRF/CRB does not indicate that the "cartroad" was public or private does not lie when read with section 3.m of the guidance notes.

Highways which the public are entitled to use with vehicles but which, in practice, are mainly used by them as footpaths or bridleways, should be marked on the map "CRF" or "CRB" as explained in section 4 below, with a note in the schedule also that their main use is as a footpath or bridleway as the case may be.

It is important to consider two other matters here.

- a. Not all highway authorities used the CRF/CRB designation. Some seemed quite content to record RUPPs as RUPPs, without any sub-division into classification by the apparent principal user at the time of the survey<sup>14</sup>.
- b. It is commonplace that in areas where RUPPs are (were) recorded, footpaths

recording of a way as a RUPP and its subsequent reclassification. In that time the RUPP may well have been upgraded in physical condition to something like an ordinary surfaced minor road, regularly used by everyday motor traffic. There may also be RUPPs which are regularly used by a few motor vehicles, but which very seldom see any walkers or riders. Neither situation is uncommon, but under the current reclassification tests, it would seem inevitable that these RUPPs must be reclassified as BOATs even though they do not fit the current definition.

However, if a way such as those described above, but which was not a RUPP, was to be claimed as a BOAT, then the issue of balance of user would certainly be material. In 1990 the Secretary of State for the Environment determined an appeal by Mr P. Halstead against the refusal of Lancashire County Council to make an order modifying the definitive map to show a minor country road as a BOAT<sup>19</sup>. In his consideration of Mr Halstead's evidence, the Secretary of State said:

....the evidence you have submitted does not indicate the balance of user and it is not possible to say that the above definition (of a BOAT) has been satisfied. The Secretary of State considers further examination of the position is necessary by the County Council in their role as highway authority.

It has been suggested that the person seeking the reclassification can sidestep this problem by citing their own use on foot. It is also suggested that, in practice, objectors to proposed BOATs will assert "that the way has only been used as a footpath/bridleway", thus providing evidence of suitable mix and balance of user. However, this assertion of footpath/bridleway use would have to be made to the surveying authority before they are able to make the DMO.

### "UNBALANCED BOATS".

What options are available where the balance of user requirements are not satisfied? If a highway is a public carriageway, but does not fit the criteria to allow it to be recorded as a BOAT, there is no other public record of conclusive status in which it may be recorded. If such a highway was publicly maintainable before 31 August 1835 then it is open to the highway authority to, at least, record the way in the list of maintainable streets made under the provisions of section 36 of the Highways Act 1980. It is also possible to so record a BOAT that has been reclassified from a RUPP if it is a "pre 1835 maintainable highway". This "dual status" can give users significant extra powers in obliging the highway authority to repair the way.

1. For example in defending a prosecution for driving a motor vehicle on a "footpath or bridleway" or in enforcing standards of repair. or as the basis for a DMMO.
2. There are few attributable references, but for example, the Cumbria Special Review, completed after the 1981 Act was in force, was acknowledged by many involved to be an exercise in expensive futility.
3. Perhaps the definitive map is not the correct vehicle for recording minor carriageways? See alternative views in "Footpaths, Bridleways & Carriageways" (LARA/Stevens 1989) and "Vehicles in the Countryside" (Rights of Way Review Committee, 1992).
4. This leaves out the questionable status of cyclepaths. Driftways, or rights of drove, cannot exist as a separate class of highway in English law, but may under Scotch law.
5. Ms Salisbury v G. Northern Railway, 28 L.J.C.P 40
6. Ex Parte Lewis (1888), 21 QBD 191 at 197
7. See Suffolk CC v Mason [1978] 1 W.L.R 716 (C.A.)
8. Since public rights of drove are part of the wider right of public carriageway, the fact that a way was, historically, used for driving would suggest that it was, and still is, a public carriageway.
9. Wildlife and Countryside Act 1981 section 54(3).
10. Records compiled under The Rights of Way Act 1932 are not conclusive.
11. But not cyclists' rights. Until section 30 of the Countryside Act 1968 permitted bicycles on bridleways, bicycles could only legally pass and repass on carriageways.
12. See Suffolk CC v Mason [1978] 1 W.L.R 716 (C.A.) and the discussion of Riley in the Rights of Way Law Review, section 8.2.
13. Not organisations with any love, then or now, for motorised use of unsurfaced highways. One might reasonably expect some "anti-vehicular presumption" in the recording of ways done by OSS and RA (not to overlook local councils) personnel. If these people were prepared to record a way as a RUPP, although such may well have been contrary to their wishes, it may well reinforce the value of that recording.
14. Others chose to record very few (e.g. North Yorkshire) or no (e.g. Dorset) RUPPs at all.
15. Typified by the RUPPs in the Riley case, but there are many other examples across the country. Prima facie incorrect reclassification is also starting to arise under 1981 Act procedures due to the history of the RUPP being insufficiently researched, weak presentation of the cases by users and/or highway authorities, and incorrect decisions by Inspectors.
16. R v Secretary of State for the Environment, Ex parte Riley 1989 JPEL 921
17. Letter from the Department of the Environment to LARA, 18 August 1992.
18. See notes 5 and 6 above.
19. DoE ref DRA/5065/529/19, 29 June 1990.

.....it is the duty of road authorities to keep their public highways in a fit state to accommodate the ordinary traffic which passes, or may be expected to pass along them. As the ordinary traffic expands or changes in character, so must the nature of the maintenance and repair of the highway alter to suit the change. No person really contests that principle.

There are two significant statutory limitations on maintenance for recreational traffic. One is where pedal cyclists use bridleways under the limited right granted in section 30 of the Countryside Act 1968. In this section, nothing obliges the highway authority "to do anything to facilitate the use of the bridleway by cyclists" - they must take the surface as they find it, save that it must be reasonably passable by walkers and horse riders. In the not infrequent situation where a highway recorded as a bridleway is, in truth, a carriageway, then it is open to the cyclist to pursue maintenance to a similar level as he could if the way was acknowledged to be a carriageway.

The other case is that highway authorities are not obliged, by section 54(7) of the Wildlife and Countryside Act 1981, to provide a metalled surface or made-up carriageway for vehicles on publicly maintainable byways open to all traffic. The authority could, however, be obliged to ensure such a byway is passable by vehicles, including ordinary bicycles. Many BOATs are also pre-1835 publicly maintainable highways where made-up carriageways could be demanded by the public.

### ORDINARY TRAFFIC.

The meaning of "ordinary traffic" is not well defined and has been discussed recently in light of Lord Denning's section 56 action against Hampshire County Council in 1988. Lord Denning argues that "ordinary traffic" means the usual type of vehicle that the residents of an area use. In most cases this means conventional passenger cars<sup>8</sup>. This is quite logical in light of how the present road network developed. Roads were surfaced with tarmac in response to a change in vehicular usage - the changeover from horse-drawn vehicles to motor vehicles. These first surfaced roads were quite inferior to the standards of most of today's highways and there has been something of a "leapfrogging" effect with cars improving to best use the road facilities available, with peoples' expectations of road quality then demanding further improvements.

But "ordinary traffic" must surely imply some consideration of the quantity or frequency of that traffic. If maintenance has,

traditionally, been demand-led, then is it reasonable to expect an unsealed or "green" minor carriageway to be properly made up if just one or two people say this is necessary to their present or desired future use? Of course, there is something of a "chicken and egg" situation here in that perhaps more people would use a highway if it was better equipped for their type of vehicle - an ordinary motor car. Cars facilitate easy travel by a slightly, or moderately, longer or more circuitous route than would be available without the use of most unsealed highways. This argument is often used to support applications for closure orders under section 116 on the grounds that a highway is unnecessary.

### EXTRAORDINARY TRAFFIC.

There have been a number of cases in recent years where use of minor unsealed highways by recreational four wheel drive vehicles has allegedly caused significant damage to the highway, sometimes imposing a significant bill for repair on the highway authority and making the way less passable to other users<sup>9</sup>. This problem may also be expressed to include the use of modern agricultural vehicles on minor highways. That these do similar, or more damage than recreational vehicles is readily admitted, but this tends to be excused on the grounds that the agricultural use is more justifiable or, even, that the landowner or occupiers have a right to use the highway in this way<sup>10</sup>. The question of concurrent private and public rights over minor highways is complex and rather beyond the scope of this inquiry, but as a general principle a landowner may use an ancient highway with public carriageway rights only as a member of the public may - he has no greater rights over the way than anyone else, at least while any private carriageway rights are subsumed into the wider public right.

Where use of a highway does significant damage then this use may, perhaps, be classed as extraordinary traffic<sup>11</sup> and the highway authority may be able to recover any excessive repair costs from the person responsible for the damage. It has been suggested that this principle could and should be applied where recreational motor traffic does damage to a minor highway. This idea is flawed and unworkable. Extraordinary traffic may be subdivided into traffic of excessive weight and of other extraordinary characteristics<sup>12</sup>. The cases seem to suggest that, weight aside, extraordinary traffic is dependent upon that traffic having some specific local purpose or commercial nature to it. Examples might include the building of a house, traffic from factory to wholesaler, and the carriage of quarry stone. Extraordinary traffic is

always a question of fact in each case and each case must be weighed against the nature and frequency of the usual traffic on the road. If the "usual traffic" on the road is the ordinary traffic of the area, then the nature of the ordinary traffic needs to be the criterion for assessing any extraordinary use. If ordinary traffic includes cars, farmers' vehicles, bicycles, etc, then use as of right by the public in ordinary road-going four wheel drive vehicles is little different in character. If the quantity or frequency of use is used to assess the ordinariness of the traffic then, as a question of fact, it must be known which vehicle in the course of use did the alleged damage. It would seem that extraordinary use can only be applied to the passage of one vehicle, especially where it is known to be excessively heavy, or to a series of passages where there is a clear nexus such as the vehicles all carrying the goods of one manufacturer or quarry. Where several persons use a highway as of right, even if in a group with friends, it is doubtful that a sufficient nexus to link them into extraordinary traffic can be shown to exist.

## VOLUNTARY RESTRAINT AND VOLUNTEER LABOUR

Motor recreation organisations have had a policy of voluntary restraint on minor highways that are damaged, or liable to damage, for twenty years. In some circumstances a cessation, or reduction, of motorised (equally horse, sometimes walker & cyclist) user will be sufficient to allow a road to "recover" naturally. In most cases, a period of voluntary restraint must be combined with a programme of repair to have the best effect. Many motorised recreation groups offer volunteer labour and materials to highway authorities for minor highway and public path repair. Some authorities make excellent use of these offers, others will not use volunteer labour at all.

**LARA recommends that highway authorities should develop an integrated scheme of minor highway repair using and encouraging volunteer participation. Where appropriate, voluntary restraint on use may be profitably used as part of this programme.**

## CONCLUSION.

The repair of highways is one area where a member of the public has a practicable and reasonably effective mechanism by which he can oblige the highway authority to take action where they have neglected their duty to maintain. Closure of minor highways to avoid upkeep costs is not uncommon and, it might be argued, prohibiting vehicles from minor

highways actually reduces upkeep costs since the ways are then largely restricted to non-vehicular traffic and cycles. This argument inevitably fails where agricultural vehicles are a major part of the damage problem as traffic regulation orders are invariably expressed to exempt access by such vehicles and, where a highway is downgraded from carriageway under section 116, landowners would, in practice, continue to use the way for access regardless of whether they had a private right of vehicular access previously subsumed in the public right which remains uninhibited by the closure.

Highway authorities would like maintenance liabilities for unscaled highways significantly restricted so as to give them effective discretion on what work they undertake. The authorities might profitably look to recovering some repair costs from streetward landowners of inclosed ancient highways and could also investigate treating heavy agricultural vehicles as extraordinary traffic where these use minor highways, perhaps encouraging farmers to develop totally private access routes to keep their vehicles off the highway as much as possible.

## Endnotes

1. Highways Act 1980 section 41.
2. Ibid section 42.
3. Ibid section 56.
4. In 1990 Devon County Council had record damages awarded against them to a motorcyclist injured in an accident on a poorly maintained road.
5. See note 3 above.
6. Jacob's Law Dictionary 1776.  
Absor v French (1678) 2 Show. 28.
7. Sharpness New Docks and Gloucester and Birmingham Navigation Company v Attorney General [1915] A.C. 654.
8. Attorney General v Scott (1904) 68 JP 502
9. Cases in: Northamptonshire, Powys, Dyfed, Hampshire, N. Yorks, Derbyshire and others in 1989-91.
10. West Sussex County Council: South Downs Way Management Plan, 1988.  
Cleveland Way Project Office: Cleveland Way Management Strategy 1990.
11. Highways Act 1980 section 59.
12. Hill v Thomas [1893] 2 Q.B. 333.



## TRAFFIC REGULATION ORDERS.

Traffic Regulation Orders (TROs) are a contentious issue. Some organisations view them as the ideal tool to clear recreationalist motor vehicles from the nation's ancient highways. Many motor users regard them as being too readily available to highway authorities as a way of banning a minority of users, often for non-relevant reasons. Wherever the truth lies, it is clear that TROs can be expensive, cumbersome, ineffective and inequitable to some degree in almost all cases where they are used or considered.

A traffic regulation order is an order that restricts or excludes all or certain classes of traffic on or from a highway so long as it is in force<sup>1</sup>. A traffic regulation order (TRO) can be temporary, to cover road works and emergency situations, or permanent, such permanency lasting as long as the order itself is valid.

A TRO does not operate to permit certain classes of traffic to use a highway. It is regulatory and makes it an offence to use the highway contrary to the provisions of the order, although the common law right to pass and repass still subsists. That right can only be removed by certain legal processes<sup>2</sup>. A traffic regulation order cannot in itself render legal that which is otherwise illegal. A TRO imposed on a bridleway in a forestry plantation would not permit motor racing to take place on that path. The overriding statutory offence still exists<sup>3</sup>. A TRO could, though, be imposed on the bridleway to facilitate the safe holding of a sporting event, be that a properly authorised motor trial or, say, a mass charity walk.

A traffic regulation order is usually made by the highway authority, but can, in the case of long distance paths, be made by the Secretary of State for Transport. The power to make orders comes, principally, from the Road Traffic Regulation Act 1984 and vests in the highway authority for an area. The use of TROs to prohibit certain classes of traffic on highways in the countryside is a contentious matter. Some view it as a proper use of discretionary power to improve the amenity of the countryside whilst others think such measures an unfair and unreasonable means of exclusion with virtually no right of appeal available.

### CONSIDERATIONS BEFORE TROs ARE IMPOSED

At present there is no requirement for a public inquiry to be held before a traffic regulation order is imposed. Motor recreation

organisations believe this is unfair where such a TRO would prohibit recreational traffic on a through route. A public inquiry should be required by law if there is significant opposition to the plan.

The *Local Authorities' Traffic Orders (Procedure)(England and Wales) Regulations 1989 SI 1989 No. 1120*, paragraph 5(1) requires the highway authority to consult with one or more organisations representing highway users before the order is made. Which organisation(s) this should be is not specified. Thus, it would be open to the highway authority to consult, say, the Automobile Association or Royal Automobile Club Motoring Services, neither of which directly represent recreational motorists. The highway authority may avoid even this mild duty if it appears to the authority in question that there are no such organisations. From the beginning of 1992 it is very difficult for any highway authority to claim that it cannot identify recreational motoring groups for consultation. All highway authorities have been notified of the LARA network of local representatives. These voluntary officers are designated to receive public path orders and consultations on other access matters such as TROs and stopping-up orders.

The Department of the Environment *Circular 2/93 (5/93 from the Welsh Office) Public Rights of Way* gives guidance on the use of TROs:

13. Conflicts over the type of use may occur on some public rights of way and authorities should look to solve these where possible by management measures, based on cooperation and agreement. User groups will often agree to measures involving voluntary restraint, which they themselves will help monitor. Under the Road Traffic Regulation Act 1984 orders can also be made to prohibit, restrict or regulate traffic using particular highways, including footpaths, bridleways and byways open to all traffic (BOATs). The term "traffic" includes pedestrians and persons driving, riding or leading horses or other animals of draught or burden. The Act sets out the purposes for which such orders may be made. These include preventing danger to persons or other traffic using the road, preserving the character of the road for use by persons on horseback or foot and preserving the amenities of the area through which the road runs. The Secretaries of State commend the use of such orders to prevent inappropriate use and to protect the countryside where this is necessary and other management measures have failed or are considered inadequate.

LARA welcomes and supports this recognition of the value of voluntary restraint. Where there are genuine problems with recreational vehicle use that cannot be solved by management strategies, then LARA will not oppose the intelligent and creative use of a traffic regulation order.

## PERMANENT TRAFFIC REGULATION ORDERS.

Traffic regulation orders are intended and regularly used as an effective and necessary means of traffic management. Their imposition is usually non-controversial, but orders such as those for closing-off the end of urban streets and prohibiting right turns on commuter routes can sometimes spark protest. Section 1(1)(a) of the Road Traffic Regulation Act 1984 says that a highway authority may make an order where it considers it to be expedient to do so:-

- (a) for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger, or
- (b) for preventing damage to the road or to any building on or near the road, or
- (c) for facilitating the passage on the road or any other road of any class of traffic (including pedestrians), or
- (d) for preventing 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, or
- (e) (without prejudice to the generality of para (d) above) for preserving the character of the road in a case where it is specifically suitable for use by persons on horseback or on foot, or
- (f) for preserving or improving the amenities of the area through which the road runs.

The most common use in recreational access of the permanent traffic regulation order is where a prohibition of driving order is imposed on a minor highway to prevent vehicles from using the way, or to restrict their free access in some way. The grounds for making an order, listed above, are so wide that a highway authority can make an order at any time. It does not have to wait until there is a problem resulting from traffic's use of a way, neither must there be any evidence that a problem exists or is likely to exist.

Probably the best known case involving a prohibition of driving order is that of the Great Ridgeway, part of a prehistoric track system across southern England, which has acknowledged carriageway rights in Oxfordshire, Berkshire and Wiltshire. Opponents of recreational vehicular use have long sought an order banning vehicles and in 1976 Oxfordshire made such an order but referred it to a public inquiry before confirmation. The Inspector recommended that the order not be made. Since then there have been various attempts to exclude recreational vehicles, principally initiated by the Countryside Commission because that part of the Great Ridgeway is designated as a long distance path. Although the three highway authorities have repeatedly refused to

make TROs since 1976, the Countryside Commission has, in 1990, persuaded the Secretary of State (who has jurisdiction because the way is a designated long distance path) to make the order excluding recreational vehicles on Sundays and bank holidays. A three week public inquiry was held in November 1992, with the Secretary of State's decision expected sometime in 1993.

(For a synopsis of the public inquiry and arguments, see Byway & Bridleway 10/92, 1/93)

The various organisations involved with recreational vehicular use of the Great Ridgeway have strongly opposed the Countryside Commission's attempt to have a prohibition of driving order imposed. Some eight years ago a voluntary code of restraint was agreed between the vehicular users and the Commission, whereby drivers kept off the Ridgeway on summer Sundays and bank holidays. This was very successful in reducing potential and real friction between users on the busiest days and it is, at bottom, the question as to whether it is proper to use a legal sanction to enforce a situation which has already been achieved by participants' co-operation that divides the two sides. A public inquiry would seem to be a reasonably fair way of deciding the issue and one that accords with the vehicle users' sense of natural justice.

The Great Ridgeway is a recreational route of national significance and the referral of the matter to the Secretary of State<sup>4</sup> takes the case beyond local prejudices and interests. Contrast this case with that of the prohibition of driving order recently imposed on parts of the South Downs Way in West Sussex.

The South Downs Way is a system of contiguous downland tracks on the north-facing ridge of the South Downs, principally situated in West Sussex. Like the Ridgeway, it is designated as a long distance path and much of the route carries acknowledged vehicular rights. In 1988 West Sussex County Council announced their intention to make an order prohibiting recreational vehicles from some stretches of the South Downs Way although little evidence had been adduced that there was any friction between motorised and non-motorised users. The order was duly made and some 350 individuals and organisations objected. The County Council's reasons for making the order were wide, but centred on conflict with other users and maintaining the amenity and character of the area.

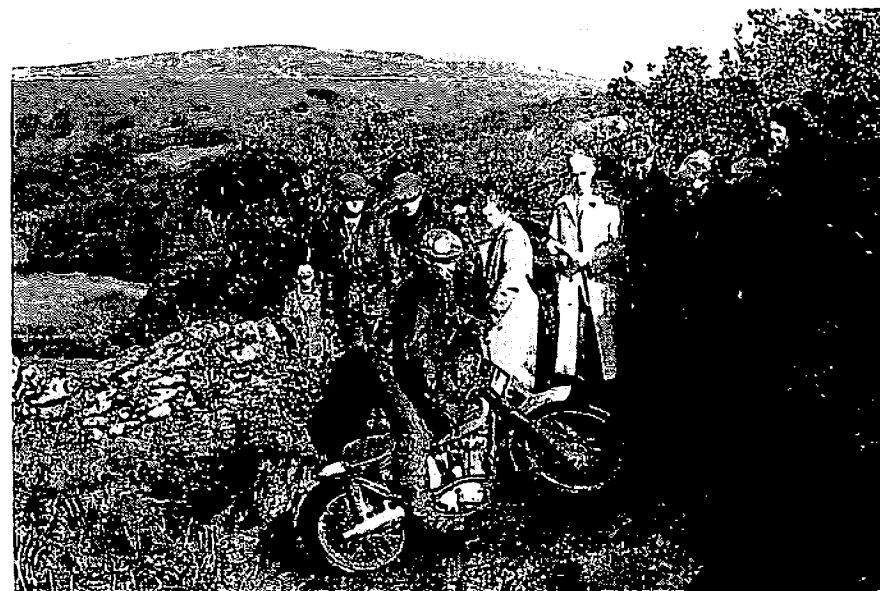
The motoring organisations lobbied councillors against the order, pointing out that the committee which made the decision had not been in possession of certain relevant papers and that some councillors and council officers were members of organisations opposed to vehicular use of the South Downs Way and, as such, there was a serious potential conflict of interests.

The County Council refused to hold a public inquiry on the grounds that weight of objections alone did not, automatically trigger the need to hold such and that holding inquiries was against Council policy. The order was duly confirmed and the principal opponents sought counsel's advice with a view to action in the High Court. Proceedings in the High Court were initiated on a number of technical grounds alleging deficiencies in the order. Before the case could come to court the Council withdrew the order and made another, apparently correcting the alleged deficiencies. The opponents of the order were obliged to withdraw from pursuing a second, concurrent, action because of cost. Although a similarly high number of objections was received by the Council subsequent to publishing the second order, their policy of refusing public inquiries was maintained and the order confirmed.

The parallels to the Great Ridgeway case are obvious. Both are long routes designated as long distance paths which gives them a recreational significance far beyond that of a local route. In both cases the reasons given for seeking the order were the alleged conflict between motorised and other users and the need to preserve the character and amenity of the area. The only difference is the approach of the local authority in each case. Whereas in the Ridgeway case the three local authorities have debated the matter and decided not to make the order in the knowledge that the matter of the whole route can be determined by the Secretary of State<sup>5</sup>, West Sussex County Council have gone ahead, deliberately denying the motorised users any form of further appeal on the merits of the order. Appeals on technical matters are, of course, largely irrelevant as these defects can be corrected.

The legality and effectiveness of certain aspects of the South Downs Way TRO are open to question and these issues are relevant to orders in other places.

- (1) The order provides for wooden "motor cycle traps" to be installed on the highway at intersections with other roads. The idea is that these open-box structures allow horses to step across whilst obstructing the entry of motor cycles. Apart from the boxes being quite ineffective in stopping a determined youngster on a motor cycle, the "traps" are a potential danger and a real obstruction to horse, walkers, disabled persons and cyclists. It is debatable whether it is open to a highway authority, in executing works to enforce a prohibition of driving order, to so obstruct and endanger other highway users<sup>6</sup>.
- (2) The order is effective against road users only so long as the statutory signs are in place. The high incidence of road sign theft by itinerants in country areas means that there may be occasions when there are no signs in place. In that situation use of the highway by motor vehicles would not seem to be an offence<sup>7</sup>.



Motorcycle journalist Ralph Venables writes: "...from 1948 to 1968 I organised well over 200 trials and scrambles - some of which have been in the confines of Exmoor and Dartmoor National Parks. At no time have I received any complaints from landowners, residents or local police....As a journalist I cover national motorcycle trials in such areas several times each year. I find that the events are well organised and the participants well behaved. To bar them from National Parks would, in my considered opinion, be unjustified and totally unfair....The photograph shows a rider in a trial in the middle of Dartmoor nearly 30 years ago. It would be hard to find a more innocuous occupation." (photo: R. Venables)

- (3) Statutory signs must be placed at all intersections with other highways. If a vehicle driver can legitimately gain access at a point where there is no sign informing him of the prohibition then he is probably not committing an offence by driving on the way. Since many intersections are with highways that bear common law vehicular rights, rather than publicly recorded vehicular rights, this presents the police with considerable evidential difficulties when considering an alleged offence.

The considerable problems of implementation and enforcement of traffic regulation orders are acknowledged by Surrey County Council in their handling of a recent proposed prohibition of driving order.

In 1990 Surrey County Council decided to defer their decision to make an order prohibiting vehicles on Wolvens Lane and Crockers Lane, Capel and Wotton (commonly known as Coldharbour Lane which suggests a Roman origin). The order was to prohibit all vehicles, replacing an earlier order, never implemented, which would not have

prohibited motor cycles. The first order attracted 472 separate objections, the second order a further 104. The objections to the first would also carry-over to go against the second.

In a report by the County Engineer, 19th September 1990, it is stated that various factors led to the Officers' recommendation to suspend the order-making process, including:

- (1) The proven effectiveness of voluntary restraint measures by vehicular users.
- (2) A recent survey concluded that there is little evidence of surface damage by improper use of vehicles.
- (3) The police indicated that they could not enforce such a prohibition and opposed the idea of a locked gate.
- (4) The ambulance services opposed the idea of locked gates as a matter of policy.
- (5) It was not possible to install a practical barrier that could prevent access to two wheeled vehicles while allowing safe and practicable access to equestrian traffic.
- (6) The costs of implementing the order would be £6,500 for advertising, signs and gates, plus ongoing maintenance and the costs of any public inquiry.

The flexibility of the traffic regulation order as a means of selectively controlling motorised traffic is increasingly being acknowledged<sup>8</sup>. An order can be made to apply to any class, or part of a class of traffic. It can be made for any period and permutation of time and the mechanism of enforcement can vary.

In Mid Wales, in 1990, Powys County Council responded to reports of damage caused to the ancient Monk's Road by four-wheel drive vehicles by prohibiting these (other than farmers' vehicles) whilst not prohibiting motor cycles from passage.

In 1986 Hertfordshire County Council responded to reports of damage to parts of Ermine Street at Goose Green by imposing a flexible prohibition of driving order. No vehicle of more than one and a half tonnes in weight can use the road. No four wheeled vehicle other than by permission (effected by issuing keys to a locked gate) or when a gate has been left open by the Council, dependent on ground conditions. Motor cycles are exempt from the prohibition.

#### IMPROPER USE OF TRAFFIC REGULATION ORDERS.

There are several cases where the order-making authority has used TROs in a situation where their use would seem improper. Examples include the following:

The threat of the use of traffic regulation orders to prohibit recreational vehicle traffic is still strong. Devon County Council has made an order to prohibit vehicles from a minor unclassified county road which they tried unsuccessfully to close under Section 116 procedures in 1990. The significant opposition to this closure led the magistrates to dismiss the application, but those same opponents have no right of appeal against the prohibition of driving order, save a largely unrealistic right to have the order set aside by the courts for bias.

Newcastle Upon Tyne City Council has imposed a order prohibiting vehicular traffic from driving on an unsealed road between Seaton Burn and Dinnington. This road is recorded as a public footpath on the definitive map and there is prima facie evidence that its origins are as an ancient general purpose highway, although that has never been tested. A letter in May 1989 to Newcastle Council asked why it was necessary to make an order prohibiting driving when the road was recorded as having only public footpath rights, with any member of the public driving there without proper authority liable to prosecution under the Road Traffic Act. The Council replied that the track is ....actually a road used to gain access to North East Mason Farm as well as several areas of land worked by various landowners and tenants.

An unusual, and perhaps inappropriate, use of an order prohibiting vehicular traffic was made by Staffordshire County Council in 1989. The order prohibited vehicular traffic from Camphill Road, Highgate Common, Enville on Saturdays, Sundays and bank holidays. In a letter of 16th May 1989 the County Surveyor said that the order was imposed because large numbers of motor vehicles, both cars and motor cycles, were "...involved in racing and time trials....The resultant crowds meant that visitors to the Country Park were inconvenienced....Since the introduction of the order the problem has gone away."

This would seem to be a remarkable response from the authorities to such a problem. It is not doubted that the "racing and time trials" were taking place but, if on a public road of any description then these would seem to be a serious offence under the Road Traffic Act. If the racing and trials took place not actually on the public road then the land owner could take action in the courts to prevent recurrence.

Notwithstanding the need to safeguard the public using the Country Park for leisure, although the problem may have been reduced or eliminated it is at the expense of the rights of the general public to use Camphill Road. The duty of Staffordshire County Council under Section 130 of the Highways Act 1980 is to protect and assert the rights of the public to enjoy the highway. This suggests that the first course of action should be for the Highway Authority to press the police to take action against what seems to be a serious breach of the Road Traffic Act. Only if this is properly pursued, but fails, would it seem to be open to the Highway Authority to take such action.

## TEMPORARY TRAFFIC REGULATION ORDERS.

The rules and procedure for the use of temporary TROs were changed by the Road Traffic (Temporary Restrictions) Act 1991. The principal changes concerned the use of "notices" prohibiting traffic in emergency situations and the duration of temporary orders. Temporary traffic regulation orders are in regular and widespread use by local authorities. Their usual purpose is to facilitate the safe repair of highways and to allow special events such as running and cycle races to safely take place on the highway for a limited period of time. A temporary traffic regulation order can be made for a period not exceeding 18 months (except for footpaths, bridleways, BOATs and cycle tracks, where the limit is 3 months) after which the permission of the Secretary of State is usually required for an extension. The warning given to the public before the imposition of a temporary traffic regulation order can be further reduced in an emergency situation where a notice, rather than an order can be made, without notice, for up to up to 21 days, whereupon it must be continued by an order, with proper notice given. Temporary traffic regulation orders are not such a threat to recreational motor vehicle users as are permanent orders, although temporary orders have been imposed on highways in bad repair, with a later intention to impose a permanent order.

## POLICE DISCRETION AND THE USE OF THE HIGHWAY.

The approach of the police to the conduct of recreational users of the highway varies considerably from force to force, area to area and time to time<sup>9</sup>. There is much to suggest that most police forces generally take such matters as the unauthorised use of motor vehicles on parks and footpaths seriously, but that a lack of resources usually means that effective enforcement cannot be offered to the complainants<sup>10</sup>. Some forces have established motorised "task force" units that are equipped to pursue and catch such offenders, as well as motor thieves who often strip vehicles on rough ground<sup>11</sup>. The police attitude to the use of traffic regulation orders and bye-laws, both against illegal users and legitimate travellers, also varies from an official objection to such an order being made<sup>12</sup>, to agreement with a promise of enforcement<sup>13</sup>. The police face considerable problems in preventing illegal acts on the highway while trying to facilitate the organisation of complex sporting events. It would seem that the police face a two-fold problem in, for example, the organisation and supervision of a major car rally. The event itself must, by law, be properly authorised by a number of bodies including the constabulary for the area<sup>14</sup>. The police will make

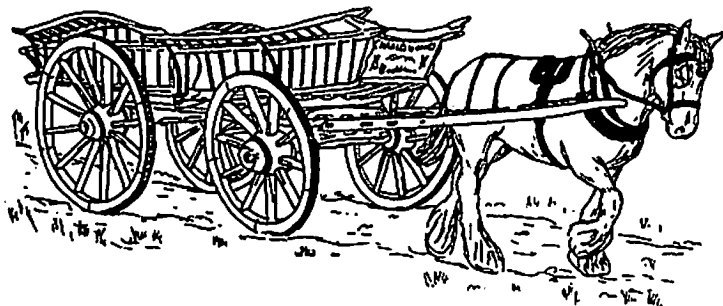
necessary arrangements for controlling traffic on and around the course, perhaps by seeking traffic regulation orders from the highway authority<sup>15</sup>, or, more likely, by using the residual power of any constable to control and direct traffic for the safety of the public<sup>16</sup>. The second element of the police's workload lies in enforcing against any problems which might arise from the event they are facilitating. It is generally accepted that the police cannot authorise any illegal act (in the absence of any specific statutory duty to do so.) so they must then act against any road traffic infringement in the course of the event itself, or by any spectator of the event. It would seem possible for the police to seek to exclude the public from any highway on the grounds that they face a danger from any sporting event, be that authorised or unauthorised<sup>17</sup>, but in doing so, the police cannot make legal that which, by statute, cannot be, or has not been, authorised.

## Endnotes

1. Road Traffic Regulation Act 1984.
2. E.g. Highways Act 1980 section 116.
3. Road Traffic Act 1988 sections 12 and 13.
4. Countryside Act 1968 section 32(1)(e).
5. Ibid.
6. Road Traffic Regulation Act 1984 section 92(1).
7. Road Traffic Regulation Act 1984 section 15(1).
8. Rights of Way Review Committee: Vehicles in the Countryside 1991.
9. There is no national policy or standard laid down by Parliament or the Association of Chief Police Officers (ACPO).
10. Author's experience over past 10 years.
11. E.g. Greater Manchester, West Midlands, Cleveland, Kent.
12. E.g. the Hambleton Drive Road, North Yorkshire 1991.
13. E.g. the South Downs Way TRO 1990.
14. Motor Vehicles (Competition and Trials) Regulations 1969 SI No 414.
15. Sometimes used for traffic control during rallies in Mid and North Wales.
16. Used for traffic control in Kielder and Scarborough Forests.
17. Road Traffic Act 1988 sections 35(1) and 37.



## The Ridgeway: rights of way public inquiries move into the big league



The long-awaited public inquiry into a proposed traffic regulation order (TRO) on a part of the Ridgeway Long Distance Route has taken place in Swindon. The inquiry occupied 10 long and busy days, not including the post-inquiry site visits or the pre-inquiry forum to explain procedures. The venue was one of the function rooms of the Wiltshire Hotel, the size and comfort alone raising proceedings some way from the usual rights of way public inquiry in some draughty village hall "out in the sticks". All the principal participants were furnished with microphones and the proceedings relayed up to the eighth floor so that the Inspector's back-up team could monitor and anticipate requests for photocopies of documents and proofs.

The back-up team of three, most ably marshalled by Mrs. Moore, was equipped with a direct telephone line, word processor and a collating copier that, at times, threatened to go into melt-down. The Inspector, Mr. M. Davies (from the Lord Chancellor's panel) insisted that everyone present should be furnished with copies of the relevant papers if they so wished. Interestingly, the proceedings were not tape recorded for the Inspector's later use. Mr. Davies relied on pre-prepared proofs, together with his handwritten notes during the proceedings. In view of the length and complexity of the inquiry, it might be thought prudent that the Inspector should have had the services of a stenographer?

### Nightmare

The scheduling of the inquiry was a nightmare. Mrs. Moore had spent many days before it opened on 20th October ringing round those supporters and objectors who wished to speak, trying to arrange convenient slots at appropriate points in the proceedings. As each day of the inquiry progressed, the schedule for that and the next couple of days would be furiously re-jigged to try to accommodate those who could attend only on one day, while keeping to the basic sequence of witnesses necessary to the proper consideration of the issue.

The structure of the proceedings was considerably different from a conventional rights of way inquiry. The supporters of the TRO bailed first. Led by barrister Simon Randall, the Department of Transport (DTP) as the order-making authority was represented by John Bethell who outlined the Secretary of State's responsibilities, the history of the application for the TRO and the Department's reasoning in making the order. When Mr. Bethell finished reading his proof of evidence, the objectors were given an opportunity to ask him questions of clarification, but not to cross-examine. The principal objectors were in two camps – the Byways and Bridleways Trust, represented by Bill and Ann Riley, and the Motoring Organizations' Land Access and Recreation Organization (LARA) represented by Tim Stevens, Don Lewis and myself. Each of the LARA team was allowed to ask questions as they were not represented by counsel.

### History of usage

The second Department witness was Roger Claxton of Persons Associates, the consultants who had researched and drafted the TRO on behalf of the DTP. Mr. Claxton explained how the order was to be applied and how and where it affected other highways butting or crossing the Ridgeway. Next came the DTP's most important witness, David Coleman of the Countryside Commission, whose inch-thick proof detailed the Commission's view on the history of usage of the Ridgeway, the code of voluntary restraint by motorists, the current management plan and a host of other details in support of the order. Once Mr. Claxton and Mr. Coleman had answered questions of clarification, other supporters of the order, such as the Friends of the Ridgeway and the Ramblers' Association spoke. These witnesses were cross-examined immediately by the opponents.

The opponents took the next turn. Bill Riley and the three LARA representatives had each produced a written proof to which they spoke. The supporters had the written proof some days before it was read and they

produced a written rebuttal of the evidence therein. Bill Riley went first, reading his proof of evidence and elaborating as necessary. Once his evidence was finished, Bill was cross-examined by Mr. Randall and the DTP's evidence of rebuttal read out by Mr. Coleman. Bill then cross-examined the three DTP witnesses, both on their evidence in chief and the rebuttal of his own evidence. Mr. Randall concluded that part of the proceedings by re-examining his three witnesses on matters raised in Bill Riley's cross-examination.

The three LARA witnesses went next, each reading his proof before being cross-examined vigorously by Mr. Randall. The Inspector was then obliged to break into the flow of the proceedings to allow several other objectors to the order to have their say, along with an appearance by the Ridgeway Officer, Jos Joslin. The rebuttal of LARA's evidence followed, after which each of the LARA officers was able to cross-examine the three DTP witnesses on the DTP's evidence in chief and the rebuttals. The LARA team had opted each to cover different aspects of the case. Tim Stevens dealt with the issue of conflict between users, I dealt with the history of the code of voluntary restraint and the lack of enforceability of the order, while Don Lewis, assisted by a space-age pocket calculator, dealt with the statistics in the Commission's monitoring survey into use of the Ridgeway.

After nine hard days, that just about brought things to a close. On the last day, Tim Stevens and Don Lewis gave a brief summing-up for LARA, followed by a more lengthy and detailed speech by Mr. Randall for the Secretary of State. Mr. Davies brought the inquiry to a conclusion by announcing the usual site visits, remarking too on the gentlemanly way the inquiry had been conducted. No date was given for the decision to be announced, but nobody present thought it likely to be under six months.

A synopsis of the evidence and arguments put forward by both sides will be reported in the next issue.

Alan Kind

## REPORT

### The Ridgeway public inquiry: the issues

My first report, in the last issue, on the public inquiry into the proposed traffic regulation order (TRO) on the Ridgeway explained the structure of the public inquiry and introduced the participants. This report tries to give a concise summary of the main issues and arguments.

John Bethell, the Department of Transport's representative, stressed that the Department had given serious consideration to the Countryside Commission's request for the TRO and had decided that the order would be the best course of action because "... the majority of motorized users of the Ridgeway are law abiding citizens ... (they) will see the signs and will observe the ban ... This will leave the minority lawbreaker significantly exposed ... Anyone driving on the Ridgeway in contravention of the TRO will not only be highly visible to whatever police officers are available for enforcement duties, but also to the wardens and members of the public who can, in turn, report the offence to the police."

### Problem of reporting offenders

Unknown to Mr. Bethell, Thames Valley Police had written to the Inspector on this very point. "The suggestion that possible offenders can be reported to the police by wardens or members of the public is extremely simplistic. In order to prove this type of offence 'beyond reasonable doubt' it would be necessary to identify positively any vehicle as a motor vehicle to which the prohibition applies and show that the driver gained access to the 'restricted route' via an entry point that was fully and correctly signed. A member of the public noting a registration number and reporting this to the police is not in a position to provide this level of evidence."

LARA's evidence had already stressed this point – that the TRO would be unenforceable in most cases and almost certainly completely ineffective against users of "illegal vehicles". Indeed, the owner of racehorse gallops adjoining the Ridgeway stated that people on scramble bikes regularly used the gallops as a race-track. Asked if Thames Valley Police responded to his complaints he pronounced them "absolutely useless."

### Voluntary code ineffective

The Department of Transport, although the proponent of the TRO, largely left it to the Countryside Commission to rehearse the arguments in favour. David Coleman, the Commission's officer at the inquiry, stressed that there had been pressure to remove vehicles from the Ridgeway since before World War II and that, in their view, the code of voluntary restraint had been "exhaustively tested for ten years" and found ineffective. Mr. Coleman also expressed the view that when the Commission decided in 1984 to seek a TRO it was the motoring organizations that withdrew from the bilateral code of

voluntary restraint. The motoring organizations disagreed strongly, maintaining that the Commission had "torn up" the code by electing to seek the TRO instead of continuing with voluntary measures. The arguments on this matter occupied some considerable time.

### Survey of Ridgeway use

The Commission's 1989 survey into levels of use of the Ridgeway and the attitudes of users was probably the biggest single area of debate. This report, it was argued, showed continuing high levels of vehicular use, demonstrating the failure of voluntary restraint, together with a high percentage of dislike of motor vehicles by non-motorized users. The survey was carried out in 1988 by professional market research organization at a cost of £47,550. A series of sampling points were set up along the Ridgeway and users invited to answer a series of attitude questions. The accuracy of this survey was brought into question by LARA and Bill Riley for the Byways and Bridleways Trust. LARA's Don Lewis identified several arithmetical inaccuracies, most significantly that the method of counting had plainly resulted in both non-motorized and motorized users being over counted by a factor of two. This extrapolates to a fourfold decrease in the potential for conflict between users. The Inspector was also concerned to arrive at the correct figures and asked for clarification and correction on several occasions.

Mr. Claxton, the representative of the firm which drafted the TRO for the Department, made two interesting statements. He said that he had been briefed to work "only from the definitive map", and the issue of other public roads adjoining the Ridgeway but not on the definitive map had not been considered. He had also been advised that "RUPPs bear full vehicular rights" and could be (and were) used in the delineation of alternative routes for drivers wishing to cross the Ridgeway. The BBT and LARA pointed out that there is no guarantee that these RUPPs will be reclassified as Byways Open to All Traffic (BOATs) – some, statistically, are likely to become bridleways, and that there are a number of non-definitive map public carriageways (slumbering rights) that will allow legal access to the Ridgeway, largely unaffected by the prohibition.

### BBT's arguments

Bill Riley, for BBT, demonstrated serious flaws in the drafting of the order. In places it was expressed to lie in the wrong parish, sometimes on alignments that are not the definitive line and, even, not the Ridgeway. Significant lengths of what is now the Ridgeway Long Distance Route have no proven antiquity, with its route only being established two centuries ago by Inclosure Awards. Bill stressed that the Ridgeway is a series of old trackways rather

than one particular strip, and that even 200 years ago the line varied from map to map. It was said that the whole character of the Ridgeway came from its having been, almost up to the present day, a busy public carriageway and that too much flattening of the ruts and ridges would destroy the very essence of the downland green road.

Several people spoke in support of each side of the argument. Former Ridgeway wardens and the "Friends of the Ridgeway" sparred with trail riders and four-wheel drivers, while both the British Horse Society and the British Mountain Bike Federation spoke strongly against the use of the TRO, but in favour of a voluntary but vigorous management approach.

### Alternatives by LARA

LARA put forward two outline alternatives to the order. One was the use of a new and well-promoted code on the whole length, flexible enough to allow the use of short lengths of Ridgeway in dog-leg crossing routes, thus avoiding the destruction of a wide corridor of green lane access on either side of the Ridgeway. The other proposal was to use a Sunday and bank holidays TRO only on the section between Waylands Smithy and Bury Down, this in recognition of a need to deal with the problems of too many cars parking on the Ridgeway adjacent to the road crossings. Both these ideas were dismissed by the Commission as actually confirming the need for the order as they proposed it.

Both sides presented their cases well, although the proponents of the TRO were weak on some legal and technical aspects, while LARA's witnesses and proposals contained some seeming contradictions. Hindsight is a wonderful gift, but doubtless this inquiry has taught the participants how to do it better if there is a next time.

Alan Kind, L.A.S.

### BYWAYS AND BRIDLEWAYS TRUST

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## THE ROAD TRAFFIC ACT 1988

From 1 July 1992, the offences of dangerous, careless and inconsiderate driving of a mechanically propelled vehicle on a road (sections 1, 2 and 3 of the Act as amended by the Road Traffic Act 1991) also apply to a public place.

The extension of road traffic law to public places has important consequences for those who take part or organise events involving motor vehicles in fields, parks or other areas where the general public is admitted either free of charge or on payment of an entrance fee.

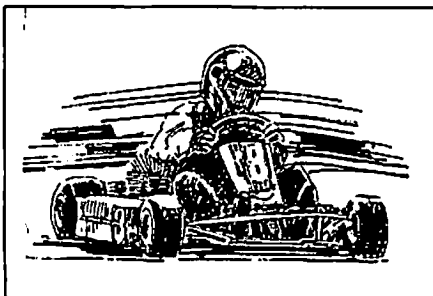
It is not illegal to organise or take part in an unauthorised motoring event in a public place, but drivers and riders should be aware that they are liable to prosecution if they drive dangerously or carelessly.

This guidance does not set out how authorised events should be run but how they should be authorised. There are many kinds of motoring events. Different rules are appropriate to minimise risk to participants, spectators and other members of the public who may be present.

A precise definition of 'event' or 'public place' cannot be given. If there is any doubt organisers should be advised to seek legal advice. Authorising bodies should consider whether the event requires drivers to drive dangerously. It is not the purpose of the Regulations to legitimise unnecessary dangerous driving, nor is it desirable to authorise an activity which is unlikely to be regarded as an event as this could give drivers a false sense of security.

Copies of the Road Traffic Act 1988 and 1991 and The Motor Vehicles (Off Road Events) Regulations 1992 are available from HMSO Bookshops or by post from HMSO Publications Centre, PO Box 276, LONDON, SW8 5DT. For telephone orders ring 071 873 9090.

The above offences do not apply to those taking part in "authorised" motoring events when driving in a public place other than a road, provided they are driving in accordance with the appropriate authorisation for that event. Section 13A allows for the "disapplication of sections 1 to 3 for authorised motoring events" and provides powers for The Motor Vehicles (Off Road Events) Regulations 1992 which introduces a system for authorising events.



The Motor Vehicles (Off Road Events) Regulations do not give powers to authorise events on a highway or road to which the public has access (including footpaths and bridleways) or places to which the public are not admitted. It is not foreseen that courts would regard purpose built stadiums, where the public have no access to the place where the event is staged, as a public place.

## THE ROLE OF AUTHORISING BODIES

There are 11 authorising bodies named in the Regulations. These have experience of most motor sports and each can authorise any type of off road motor event. They have rule books which clearly state the safety arrangements organisers must make so that risk to the public and those taking part is minimised.

### Application for authorisation

Authorising bodies are advised to provide a standard application form containing at least the following information:

- name and address of organiser,
- nature of event;
- date time and venue of the event,
- number of participants (approx), and
- the requirement to notify the police.

Each application should be considered on its merits. Authorising bodies should not refuse an application on the grounds that the applicant is not an affiliated person or body but may do so if they consider that they lack the expertise to authorise the event in question and that another authorising body is better qualified to do so. They should not be influenced by their own interests when deciding whether to grant or refuse an authorisation.

Profit-making organisations may be concerned about being in a position where they would be both authoriser and organiser of an event. Where this may lead to a conflict of interest, such organisations are advised either to ensure a third party organises an event or seek authorisation from another authorising body.

### Grant of authorisation

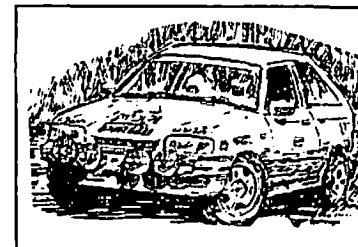
Authorisation should be in writing and should prescribe:

- type of event, event date(s) and venue(s), including any practice days,
- conditions - including compliance with safety rules which may be set down in rule books and the requirement to notify the police.

More than one event may be listed in the authorisation provided the details of each event and the conditions under which each is authorised are sufficiently clear.

If an authorising body refuses an application or revokes it before the event any police force which has been notified of the event should be informed as quickly as possible.

An authorising body is not required to be represented at every event. However, each authorising body should carry out periodic unannounced spot checks to ensure that the procedures are operating properly. They should keep a register of spot checks.



Persons carrying out spot checks on behalf of an authorising body should carry documentation giving them authority to withdraw authorisation at events they visit if they are not satisfied that any of the conditions attached to the authorisation are being, or will be, complied with. Notification of the revocation of authorisation should be issued on a standard form stating the event and the time and date that the notification was signed and handed to event organisers. The police should be notified as soon as possible and a copy of the revocation should be retained by the authorising body.

Authorising bodies should publish their fees and set out how fees will be calculated so that they are readily understood by applicants. Fees may vary for different events, but authorising bodies should not discriminate between events run by different organisations or clubs.

# THE ROLE OF MOTORING EVENTS ORGANISERS

The organiser of an event which includes the use of motor vehicles in a public place will need to obtain authorisation under section 13A of the Road Traffic Act 1988 if the event necessarily involves the driving or riding of vehicles in a manner which could be considered dangerous or careless.

For any event to be authorised on or after 1 October 1992 the organiser must give 6 weeks prior notice (organisers are advised to retain evidence of delivery - eg recorded mail, fax or signed receipt) to the chief officer(s) of police for the area(s) where the event will be held. A shorter period may be acceptable at the discretion of the police. Failure to give such notice would invalidate any authorisation granted by an authorising body.

Organisers shall apply for authorisation on an authorising body's standard application form for the purposes of section 13A.

If a venue is likely to be affected by adverse weather - to the extent that the event cannot be held there on the proposed date - when applying for authorisation, organisers may request authorisation for alternative venues or dates which the event can be switched to at short notice. The police will require 6 weeks notice of possible alternatives and must be notified as soon as possible if an authorised alternative is to be used.

Organisers will have the responsibility for ensuring that the event is held in accordance with any conditions attached to the authorisation, in particular those relating to the safety of the public and participants. Authorising bodies will visit events from time to time to ensure that the conditions attached to an authorisation are being complied with. They may revoke an authorisation if they are not satisfied that the conditions attached to the authorisation are being, or will be, complied with. In such circumstances, a notice of revocation will be issued and, once they have received a copy of the revocation notice, organisers will be responsible for informing those taking part in the event, immediately.

Those taking part in an event should be made aware that an authorisation does not exempt them from prosecution for offences which are drug or alcohol related - ie causing death by careless driving when under the influence of drink or drugs or driving under the influence of drink or drugs. (sections 3A and 4 of the Road Traffic Act)



It is an offence to organise or take part in a race or trial of speed between motor vehicles on a highway in England and Wales or a public road in Scotland. Motoring events, other than a race or trial of speed, on highways in England and Wales may be authorised by the Royal Automobile Club and on public roads in Scotland by the Royal Scottish Automobile Club. (sections 12 and 13 of the Act). Events which involve footpaths or bridleways are authorised by local authorities (section 33 of the Act). The disapplication of the dangerous and careless driving offences (sections 1-3 of the Act) apply only to events authorised under section 13A.

## The following are listed as authorising bodies in The Motor Vehicles (Off Road Events) Regulations 1992:-

**Amateur Motor Cycle Association Ltd**  
Darlaston Road  
WALSALL  
WS2 8XL  
tel 0922 39517 fax 0922 720980  
2-wheel & sidecar motocross, trials & enduros

**Association of Rover Clubs Ltd**  
10 Highfield Road  
Bagslate  
ROCHDALE  
OL11 5RZ  
tel/fax 061 456 8224  
4-wheel cross-country vehicle events

**Auto-Cycle Union**  
ACU House  
Wood Street  
RUGBY  
Warwickshire  
CV21 2YX  
tel 0788 541137 fax 0788 573585  
2-wheel, sidecar, 3-wheel & quad m/cycle events  
In England and Wales

**British Schoolboy Motorcycle Association**  
20 Glen Park Crescent  
Kingscourt  
STROUD  
Glos.  
GL5 5DT  
tel/fax 0453 766516  
2-wheel motocross for both sexes

**International Organisation of Professional Drivers Ltd**  
The Motor Sports Centre  
Sandbed  
HEBDEN BRIDGE  
West Yorkshire  
HX7 6PT  
tel 0422 843651 fax 0422 844171  
exhibition, stunt & power shows & competitions, corporate entertainment & other speed events

**National Autograss Sport Association Ltd**  
53 Andrew Drive  
Haywood Oaks  
BLIDWORTH  
Nottinghamshire  
NG21 0TX  
tel 0623 796494  
4-wheel autograss racing

**National Traction Engine Trust**  
'Penyghent'  
8 Chelmick Close  
CHURCH STRETTON  
Salop  
SY6 7BY  
tel 0694 723139 fax 724096  
steam powered & related vintage vehicle events

**NORA 92 Limited**  
37 Hazelrigg Close  
CASTLE DONINGTON  
Derbyshire  
DE74 2XE  
tel 0332 810418  
Quad, pilot & minirail racing

**The Royal Automobile Club**  
Motor Sports House  
Riverside Park  
Colnbrook  
SLOUGH  
SL3 0HG  
tel 0753 681736 fax 0753 682938  
4-wheel racing, rallying, trials, karting, cross country & other speed events

**Scottish Auto-Cycle Union Ltd**  
Block 2, Unit 6  
Whiteside Industrial Estate  
BATHGATE  
EH48 2RX  
tel 0506 630262 fax 0506 634972  
2-wheel, sidecar, 3-wheel & quad m/cycle events  
in Scotland

**Youth Motorcycle Sporting Association Ltd**  
135 Gregory Boulevard  
NOTTINGHAM  
NG7 5JH  
tel 0602 708988  
2-wheel motocross for boys & girls of school age

## CODE OF PRACTICE

ON

### NOISE FROM ORGANISED OFF-ROAD MOTOR CYCLE SPORT

THE NOISE COUNCIL

*In Association With*

THE MANCHESTER AREA POLLUTION ADVISORY COUNCIL

THE NATIONAL SOCIETY FOR CLEAN AIR AND  
ENVIRONMENTAL PROTECTION

THE MOTOR CYCLE INDUSTRY ASSOCIATION

THE AUTOCYCLE UNION

THE AMATEUR MOTOR CYCLING ASSOCIATION

THIS DRAFT IS REPRODUCED BY KIND PERMISSION OF THE NOISE COUNCIL AND PARTNERS. IT IS HOPED THAT THE CODE WILL BE RATIFIED BY THE DEPARTMENT OF ENVIRONMENT IN 1993. PLEASE CONTACT THE NOISE COUNCIL FOR THE FINAL VERSION.

#### DRAFT CODE OF PRACTICE ON NOISE FROM ORGANISED

#### OFF-ROAD MOTOR CYCLE SPORT

#### 1.0 INTRODUCTION

1.1 This Code of Practice applies to the use of motor cycles for all organised competitive off-road events such as :-

Enduro; Grass Track Racing; Moto-Cross; Rally Cross; Sand Track; Trials; Trail Cross; Beach Cross.

Annexe 1 describes the nature of these events.

1.2 The aim of the Code is to establish guidelines to ensure that suitable and reasonable actions have been taken to minimise the impact of neighbourhood noise from organised off-road motor cycling events.

The Code does not deal with potential damage to hearing of riders, spectators, or officials attending such events.

Also it does not cover noise due to the casual use of land for the riding of motor cycles.

1.3 Its terms are not intended to be hard and fast rules applied at every site, as it is recognised that local circumstances differ and more stringent or less stringent controls may be appropriate, in individual cases, even on the same site over different parts of the year and over a period of time.

1.4 This Code recognises that there is no mandatory requirement for any Organising Body to make application to hold a motor cycle event except in case of paragraph 2.1 (b) or (d). It is intended that Organising Bodies and Local Authorities will pay close attention to the terms of the Code in order to reduce noise disturbance. It is hoped that if difficulties arise from motor cycle events it will be possible to resolve them by formal consultation between the parties concerned in the light of the Code.

#### 2.0 LEGAL CONTROLS OVER MOTOR CYCLE EVENTS

2.1 The use of land for motor cycling may be subject to various legal controls which should be carefully observed at all times.

(a) Planning Permission

Use of a site for motor cycling events, (including practising) may, in some circumstances, require specific planning permission. This might be the case if land was used for more than 14 days in a year for the purpose of racing and/or permanent structures were erected on the site.

(b) Road Traffic Acts

- (i) Section 33 of the Road Traffic Act 1988 requires Local Authority authorisation for a motor cycle trial of any description on a footpath or bridleway. Such authorisation is not to be given without the written consent of the owner and occupier of the land over which the footpath or bridleway runs.
- (ii) The Motor Vehicles (off Road Events) Regulations 1992 make the offences of dangerous, careless and inconsiderate driving of a mechanically propelled vehicle on the road, apply to a public place. The above offences do not apply to those taking part in "authorised" motoring events when driving in a public place other than roads. The regulations prescribe authorising bodies, and conditions of authorisation.

(c) Nuisance Abatement

Section 80 of the Environmental Protection Act 1990 requires the Local Authority to serve an Abatement Notice in respect of a statutory noise nuisance arising from premises (including land). The notice may prohibit or restrict the occurrence or recurrence, for example, of noisy motor cycle events deemed to be a statutory nuisance. Similarly, Section 82 of the Act permits any person to lay a complaint in the Magistrate's Court on the grounds that he/she is aggrieved by the existence of a statutory nuisance. If the Court is satisfied that a statutory nuisance exists or is likely to recur, the Court will make an Order requiring its abatement in a specific time and/or prohibit its recurrence and require any necessary works to be carried out for that purpose. Fines may also be imposed.

The Control of Pollution Act 1974 provides similar noise nuisance abatement powers in Scotland. In the application of the Code of Practice to Scotland references to a Magistrates Court should be construed as references to the Sheriff.

\*\*\*\* Comment on N. Ireland Law to be included here.

(d) Bye Laws

Some Local Authorities have already made and others may make by-laws prohibiting the riding, driving or operation of any motor bicycles ..... not intended or adapted for use on roads ..... on any open land in the District. Although principally introduced to curb indiscriminate and individual noisy riders, they would preclude certain classes of events from taking place in those Districts.

3.0 CODES OF PRACTICE

- 3.1 Section 71(b) of the Control of Pollution Act 1974 empowers the Secretary of State to approve such codes of practice issued or proposed to be issued otherwise than by the Secretary of State as in his opinion are suitable for the purpose of giving guidance on appropriate methods (including the use of specified types of plant and machinery) for minimising noise.

Section 79 of the Environmental Protection Act 1990 (Section 72 of the Control of Pollution Act 1974 in Scotland) provides that regard shall be had to guidance given in any Code of Practice issued under Section 71 of the Control of Pollution Act 1974 in construing references to best practicable means.

- 3.2 Codes of practice do not in themselves create offences or have the force of law; their most important aim is to give advice to noise makers on appropriate methods of minimising noise so that annoyance to the public is reduced. They are also intended to be of assistance to local authorities and magistrates' courts (or the Sheriff in Scotland) when considering whether the best practicable means have been used for preventing, or counteracting the effect of the noise.

4.0 METHOD OF USE OF THIS CODE OF PRACTICE

- 4.1 It should be borne in mind by all Organising Bodies that motor cycle recreational events have a potential to create noise nuisance. It is preferable to organise events on land remote from noise sensitive areas. However, if this is not possible in planning an event on a site in proximity to noise sensitive areas, careful attention should be given to the need for noise control.

When considering the proximity of a site to noise sensitive areas, it should be recognised that noise from events is likely to be propagated over large distances.

In remote areas, although there may be no inhabitants or noise sensitive premises, adjacent land uses such as Country Parks and Wild Life Reserves, National Parks, Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty may be sensitive to motor cycle noise. In such circumstances the need for noise control should be considered.

**NOTE :**

'Noise Sensitive Areas' includes premises such as dwellings, a hospital, nursing home, residential home, school, place of worship, any place where quietness is a pre-requisite for work and where occupants are likely to be affected by noise during the event, and also includes land and water.

4.2

Where the use of a site is contemplated in a noise-sensitive area, the Code may be used to determine, before use starts, what constraints may be necessary to avoid disturbance. In this light, the organiser of an event should notify the Chief Environmental Health Officer of the Local Authority, at least 56 days in advance, giving full details of the proposed event on the standard form 'Local Authority Notification Document - (LAND)' - see Annexe 2. In the case of major events and events located near to noise sensitive areas, additional technical information and impact assessment may be required by the Local Authority.

The Local Authority should respond within 28 days to a notification, indicating the suitability of the venue and any special noise control measures considered necessary to minimise noise impact. In the event of such length of notice by the club not being possible, a local agreement should be reached on an acceptable time scale for notification and response. If the Environmental Health Officer does not respond within 28 days it can be assumed that he has no comments. Site meetings involving organisers and local authority may be helpful.

5.0

**REDUCING NOISE EMISSION**

5.1

The most effective and fundamental way of avoiding disturbance is to cut down noise at source. It is essential that all motor cycles using a site, either in practice, competition or for marshalling, be fitted with a suitable silencer complying with the relevant regulations for that event for competing machines. (See Annexe 3).

5.2

At events in sensitive areas, the Organising Body should undertake to provide a competent Official and a sound level meter (calibrated before use) to the minimum specification to BS5969, Class 2 (to be checked against the manufacturers specification annually), together with an engine speed indicator. Preferably all machines competing during the event should have their sound levels checked as per the procedure in Annexe 3. Where it is not practical to measure all machines, a selection of machines considered to be noisy should be tested.

5.3

Exclusion of a machine from an event is required by the regulations covering the event if noise levels are exceeded.

5.4

Environmental Health Officers may be able to assist with the carrying out of noise measurements during the event. Such arrangements should be made locally.

6.0

**REDUCING RECEPTION OF NOISE AT SENSITIVE PREMISES**

6.1

There are technical limitations in controlling noise emitted from individual machines (See Annexe 3). Other methods may have to be used to limit the overall noise of the event, thus minimising the impact of noise heard by neighbours. The following factors are relevant :-

- (a) access/egress for cars and the location of car parking.
- (b) location of start line, paddock and noise test area.
- (c) times and duration of events.
- (d) numbers of machines in operation simultaneously.
- (e) public address systems.
- (f) physical barriers provided to reduce sound propagation.

6.2

**CARS AND CAR PARKING**

Cars can often be a major source of noise disturbance. Car parking area and access/egress points should, wherever possible, be located away from noise sensitive areas.



6.3

Location of Start Line and Paddock

The start line area is often the largest single noise source and should, where practical, be sited in such a position that it directs the sound away from any noise sensitive premises. When designing site layouts, the maximum effect of local topography and natural screening should be sought. However, it should be noted that trees, whilst offering visual screening, often afford negligible sound attenuation in practice. The local prevailing wind conditions should be taken into account but alternative start line positions might need to be chosen in the light of the prevailing weather conditions on the day.

6.4

Organising bodies should strictly regulate or prohibit the running or testing of engines in the paddock at all times during the event. The need should be recognised for a separate test area for noise verification and testing purposes during scrutineering.

6.5

Times and Duration of Events

A judgement needs to be made on the suitability of a site taking into account the proposed frequency of its use. It is suggested that a site be used for not more than 10 days per year, with at least 4 weeks between events. In practice many clubs only require a site for 3 or 4 meetings a year. In noise-sensitive areas, the event should be limited to a single day only. A slightly longer single day is preferable to a 2 day event.

6.6

The duration of the event, including noise testing, practising and racing, should generally be restricted to between 10.00am and 6.00pm. However, where satisfactory noise control measures have been implemented events may start and finish by local agreement. In noise-sensitive areas, the duration of the event may have to be reduced.

6.7

Number of Machines in Operation Simultaneously

Recognition should be given to the maximum number of competitors who are likely to be on the course at any one time. Normally the limitations on numbers will be a function of the physical size and location of the start line, but a noise control option may be a reduction in the number of competitors in a race.

6.8

Public Address Systems

Public address systems can cause annoyance to nearby residents. Such systems should be operated sensibly to prevent irrelevant announcements, unnecessary comments or music. Noise from loudspeakers can be minimised by controlling the volume by the use of a number of small, strategically placed loud speakers in preference to large omnidirectional speakers, which are more likely to cause offence. In addition, where possible, speakers should be positioned facing away from noise-sensitive areas. Where possible, advantage should be taken of large screening structures. The organising body should instruct the PA Contractor to take account of these factors. In particularly noise sensitive areas PA systems should be prohibited.

An alternative method of communication between event officials may be possible using two-way radios.

6.9

A British Standard gives guidance on the design, construction, use and maintenance of sound distribution systems at outdoor stadia (BS6259 : 1982 BS CoP for Planning and Installation of Sound Systems).

6.10

Physical Barriers Provided to Reduce Sound Propagation

Annex 4 outlines details of the screening methods such as earth banks and straw bales.

7.0

GENERAL

7.1

Public Relations

Good public relations can minimise adverse reaction in a neighbourhood surrounding a proposed site. It is suggested that the organising body make every attempt to inform local people of the proposed event, giving a clear indication of the date, time and expected duration organiser and telephone number, where available; and how it will be organised with a view to minimising annoyance from noise. A copy of any letter of information sent should be sent to the Local Authority.

CONTROL OF MOTOR CYCLE EXHAUST NOISE

1. The Clerk of the Course may exclude any machine which he considers excessively noisy.
2. Random checks by official operators using approved noise meters (minimum Class 2) may be made of the sound level of any motor cycle taking part in any meeting.
3. The method and conditions for the measurement of exhaust noise shall be the official Federation of International Motor Cyclists test as follows :-

a)

The sound level meter microphone to be placed 50 cm from the exhaust pipe end, at an angle of 45 degrees measured from the exhaust centre line as near as possible to the height of the exhaust end, at least 20 cm above the ground. (See diagram next page).

If on a sidecar machine the exhaust discharges beneath the platform the microphone shall be positioned 20 cm above the ground, 50 cm from the sidecar and directed towards that area giving the highest sound level.

During a noise test machines not equipped with a gear box neutral must be placed on a stand.

The driver shall keep his engine running out of gear and shall increase the engine speed until it reaches the specified RPM. Measurements must be taken when the specified RPM level is reached. The RPM depends upon the mean piston speed corresponding to the stroke of the engine.

/CONTINUED.....

- b) The meter reading is to be taken when the engine RPM speed is equivalent to a mean piston speed of either 11m/sec, 13m/sec or 6.5m/sec depending on the following :-

- (i) 13 m/sec applies to 2-stroke Moto-Cross, Grass Track, Beach Cross, Rally Cross, Trail Cross.
- (ii) 11m/sec applies to 4-stroke machines in all events and Enduro and Super-Moto machines whether 2-stroke or four stroke.
- (iii) 6.5m/sec applies to all machines in Trials events.

- c) FIM Limits  
for 1992 are :

GRASS TRACK	-	102 dB(A)
MOTO-CROSS	-	102 dB(A)
RALLY CROSS/SUPER MOTO	-	96 dB(A)
SAND TRACK (beach racing)	-	102 dB(A)
TRIALS	-	87 dB(A)
TRAIL CROSS	-	102 dB(A)
BEACH CROSS	-	102 dB(A)
ENDURO	-	94 dB(A)

*N.B. The FIM limit is the maximum permitted and Clerks of the Course may specify lower levels at their discretion.*

- d) The ambient noise level within a 5 metre radius from the power source during tests must be at least 10 dBA below the maximum level allowed for the discipline, e.g. for Moto Cross the maximum is 102 dBA therefore ambient must not be greater than 92 dBA.

Due to the influence of temperature on noise tests, all figures are correct at 20 degrees C. For tests taken at temperatures below 10 degrees C there will be a +1 dBA tolerance and for tests below 0 degrees C, 1 + 2 dBA tolerance.

Riders are required to have the stroke of the engine marked on the crank case when presenting their machines for the noise test.

Any rider who fails to comply with the requirement to present his machine for testing shall be excluded.

It is not practicable to apply FIM noise limits to special events involving only older machines e.g. those manufactured before 1982.

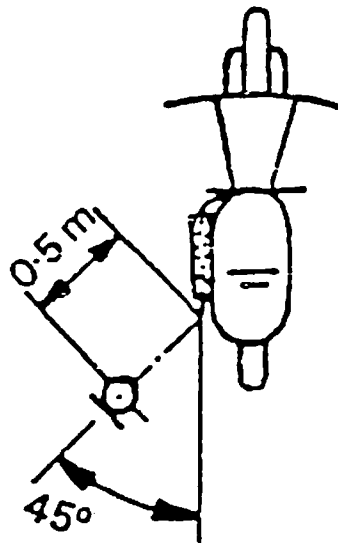
(ii)

The RPM will be given by the relationship :-

$$n = \frac{30,000 \times cm}{l}$$

in which n ..... prescribed RPM of engine  
 cm ..... fixed mean piston speed in m/s  
 l ..... stroke in mm.

The noise level for engines with more than one exhaust system will be measured on each exhaust end.



Microphone Position For Noise Measurement

#### A NOTE ON NOISE REDUCTION DUE TO SCREENING OF SOURCES

1. Buildings, screen walls or earth banks can give useful noise reductions provided the screening structure is high enough and close enough to the source. Also, to be effective, a screen needs to be fairly long in proportion to its height. Screens are least effective against low frequency sounds (e.g. engine roar).
2. Noise screening may be achieved by special constructions using straw bales, wooden panels etc; or advantage may be taken of permanent buildings or local topography. Careful positioning of vehicles (vans etc) could give some noise reduction.
3. The practical maximum sound reduction due to screening effects is around 15 decibels dB(A); and good screening usually achieves 7-10 decibels reduction. Any holes or gaps in screening seriously reduce its effectiveness for noise control.
4. Trees may only give sound reduction if they are densely formed to a depth of at least 10 metres. Unless trees are evergreen, noise reduction may be significantly reduced in winter.
5. The local EHO will usually be able to comment on the acoustical suitability of a screening proposal. Permanent structures may require planning permission and the Local Planning Authority should be consulted.

The RAC Motor Sports Association Limited

Motor Sports House, Riverside Park, Colnbrook, Slough, SL3 0HG  
Telephone: 0753 681736 Telex: 847796 Racing G Fax: 0753 682938

## THE RAC AND MOTOR RALLIES

The RAC Motor Sports Association Limited is the Governing Body of Motor Sport in Great Britain and has, since the late 1970's been an entirely separate company from the main RAC organisation, simply retaining the name and representatives at the highest Board level.

Within the RAC Motor Sports Association Limited the Competition Authorisation Section has been set up as the Authorising Body for motoring events on the public highway. The Office accepts this role not as part of motor sports governing body but as an Agent of the Minister Responsible for Transport. Authorisation is required under the Motor Vehicles (Competitions and Trials) Regulations 1969, (amended 1974, 1976 and 1982). This piece of legislation and its predecessor of 1965 were based on the report of an Advisory Committee set up to consider the legal control of all competitions and trials on the public highway involving motor vehicles. This Advisory Committee included not only national and local political representatives but also various amenity interests along with the motor sporting fraternity.

As well as giving a good deal of consideration to the organisation of rallies in a manner which would mitigate disturbance to the public, this committee considered what might be done where disturbance could not entirely be avoided, as is so often the case when a group of people indulge in an activity in a country as highly populated as our own. In this context the phrase "tolerable level of nuisance" was coined, and the Committee advised the Government that one event per month at night and two events per month during the day passing any particular point could be regarded as tolerable.

A later Review Committee, again consisting of representatives of all interested groups, reconsidered the legislation and extended the rationing of events to a maximum level of one night event every six weeks or a day event every three weeks, with a minimum of three weeks between any event. In practice, in few areas of the country is this maximum level of activity approached.

The Regulations require the Competition Authorisation Section to inform the local County Police Authorities and, where appropriate, consult with representatives of the National Parks, prior to Authorisation. Additionally the RAC MSA has regional Route Liaison Officers to assist with any local difficulties that may arise and who also liaise with the Police at a local level. The efforts of the organisers in putting on an event are considerable and time consuming, and their efforts are designed to not only provide enjoyment for the competitors in a popular sport, but also to ensure that an event complies with the legal requirements and minimises inconvenience and disturbance to the general public. The role of the office is to try and tread a middle line between the wishes of the organisers of, and participants in, motoring events on the public highway and the general public. All involved are well aware that events can exist only with the kind co-operation of countless residents all over the country.

RACMRALL/cl/200193

The RAC Motor Sports Association Limited

Motor Sports House, Riverside Park, Colnbrook, Slough, SL3 0HG  
Telephone: 0753 681736 Telex: 847796 Racing G Fax: 0753 682938

## PUBLIC HIGHWAY EVENTS

All motoring competitions held on the public highway, including motor cycle events, are governed by the Motor Vehicles (Competitions and Trials) Regulations 1969 (amended 1974, 1976, 1978 and 1982). Under this legislation the Competition Authorisation Section (CAS) of the RAC Motor Sports Association Ltd (RAC MSA) acts as the Central Agency for England and Wales on behalf of the Department of Transport. Scotland is handled in a similar fashion, albeit with a different system of processing, by the Royal Scottish Automobile Club (RSAC).

Although certain events are automatically Authorised under the legislation, in particular events involving no more than twelve competing vehicles, or those with no set route or timing on the public highway, all organisers should ensure that they are acquainted with the terms of the legislation prior to running any event for cars or motorcycles on the public highway. Copies are available from any HMSO.

The official title of the main document for England and Wales Instruments 1969 No. 414 Road Traffic and for Scotland No. 2019 (S166) 1976.

Most events which require Authorisation under the legislation must make application to the relevant office between two and six months prior to the planned date of the event, on an official application form (Form E404) in line with its accompanying notes (Form E405). The E404 must be accompanied by clean tracings in duplicate showing the public highway route and detailing the control points and time schedule for the event. The minimum period of 2 months is rigorously enforced.

Applications are checked for compliance with the legislation and also with a rationing system which is designed to limit the number of events using a particular section of road in a given period. A certain level of public relations work is required as a condition of the Authorisation being issued, this being designed to limit the impact of events upon local residents. Having accepted the application, the CAS then sends the event details to the Police Forces and National Parks involved with the route and will also confirm direct to the organisers all actions to be taken in response to any observations they make about the event. Organisers are also required to contact the Route Liaison Officers (RLOs) and gain their approval for the planned event. Before the granting of the actual Authorisation (Form E406) a fee will be required, as the CAS is required to be self-financing rather than a drain on Central Government finances. Events are Authorised for a fixed maximum number of starters and for maximum mileage as previously confirmed by the organisers.

For application forms, details of fees and any further information the following offices should be contacted;

### For events in England and Wales

Competition Authorisation  
Section (CAS)  
RAC Motor Sports Assoc.  
Motor Sports House  
Riverside Park  
Colnbrook  
Slough SL1 0HG  
Tel: 0753-681736

### For events in Scotland

Royal Scottish Automobile Club  
11 Blythswood Square  
Glasgow  
G2 4AG  
Tel: 041-221-3850

PUBHWY/cl/200193

1969 No. 414

# ROAD TRAFFIC

## The Motor Vehicles (Competitions and Trials)

### Regulations 1969

Made - - - 19th March 1969

Laid before Parliament 28th March 1969

Coming into Operation 1st April 1969

The Secretary of State and the Minister of Transport in exercise of their powers under section 36 of the Road Traffic Act 1962(a), as read with the Secretary of State for Wales and Minister of Land and National Resources Order 1965(b), and of all other enabling powers, and after consultation with representative organisations in accordance with section 260(2) of the Road Traffic Act 1960(c), hereby make the following Regulations :—

#### Commencement and citation

1. These Regulations shall come into operation on the 1st April 1969 and may be cited as the Motor Vehicles (Competitions and Trials) Regulations 1969.

#### Revocation

2. The Regulations specified in Schedule 1 to these Regulations are hereby revoked.

#### Transitional provisions

3.—(1) An event which was authorised before the coming into force of these Regulations by the Royal Automobile Club, a chief officer or officers of police, or a chief constable or constables, under such of the Regulations revoked by Regulation 2 of these Regulations as relate thereto, shall be treated, in so far as it is held after the coming into force of these Regulations, as authorised in accordance with these Regulations.

(2) Where an application for the authorisation of an event was made to the Royal Automobile Club, a chief officer or officers of police, or a chief constable or constables before the coming into force of these Regulations, being an event which is proposed to be held after the coming into force of these Regulations, but the event was not authorised before the coming into force of these Regulations, the Royal Automobile Club, chief officer or officers of police, or chief constable or constables may authorise such event in accordance with such of the Regulations revoked by Regulation 2 of these Regulations as relate thereto, as though the same had not been revoked.

(3) Where under the Regulations revoked by Regulation 2 of these Regulations an application for the authorisation of an event could be made to a chief officer or officers of police or a chief constable or constables, but no such application has been made before the coming into force of these Regulations,

an application for the authorisation of such an event which is proposed to be held or to begin on or before the 14th June 1969 may be made on or before the 14th April 1969, under such of the Regulations revoked as aforesaid as relate thereto, and the said chief officer or officers of police or chief constable or constables may authorise the event in accordance with such Regulations as aforesaid, as though the same had not been revoked.

(4) Where an application for the authorisation of an event which is proposed to be held after the coming into force of these Regulations was received by the Royal Automobile Club before the coming into force of these Regulations, the fee payable shall be the fee specified in such of the Regulations revoked by Regulation 2 of these Regulations as relate thereto, and Regulation 8 of these Regulations shall not apply in relation to such an event.

(5) An event which is authorised or treated as authorised under this Regulation shall be held in accordance with the conditions applying thereto specified in such of the Regulations revoked by Regulation 2 of these Regulations as relate thereto, subject to any modifications thereof made under those Regulations, and in accordance with any additional conditions imposed under those Regulations, as though the same had not been revoked, and Regulation 9 of these Regulations shall not apply in relation to such an event.

#### Interpretation

4.—(1) In these Regulations, unless the contrary intention appears, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“A” road” means a road to which has been allocated a route number commencing with the letter “A” by the Minister of Transport in England excluding Monmouthshire, or by the Minister of Transport or the Secretary of State in Scotland, Wales and Monmouthshire ;

“control point” means a place other than at the start or finish of an event where the route being followed by the competitors or the times being kept by them are checked ;

“event” means a competition or trial (other than a race or trial of speed) involving the use of motor vehicles on a public highway ;

“motorway” means a special road which (save as otherwise provided by or under regulations made or having effect as if made under section 13 of the Road Traffic Regulation Act 1967(a) can only be used by traffic of Class I or II of the classes of traffic set out, as respects England and Wales, in Schedule 4 to the Highways Act 1959(b), as amended by the Special Roads (Classes of Traffic) Order 1961(c) and the Special Roads (Classes of Traffic) (England and Wales) Order 1968(d), and, as respects Scotland, in Schedule II to the Special Roads Act 1949(e) as amended by the Special Roads (Classes of Traffic) (Scotland) Order 1964(f) and the Special Roads (Classes of Traffic) (Scotland) Order 1968(g) ;

“night event” means an event a part or the whole of which is intended to take place between the hours of 10 p.m. and 7 a.m. ;

“overall average speed on the public highway” in relation to a vehicle driven by a competitor in an event means the average speed calculated by reference to the interval between the time when the competitor commenced to drive that vehicle on the public highway in the event and the time when

(a) 10 & 11 Eliz. 2, c.59.  
(c) 8 & 9 Eliz. 2, c.16.

(b) S.I. 1965/319 (1965 I, p.785).

(a) 1967 c.76.  
(c) S. I. 1961/1210 (1961 II, p.2408).  
(e) 12, 13 & 14 Geo. 6, c.32.  
(g) S.I. 1968/1982 (1968 III, p. 5396).

(b) 7 & 8 Eliz. 2, c.25.  
(d) S.I. 1968/1966 (1968 III, p. 5372).  
(f) S.I. 1964/1084 (1964 II, p. 2398).

he finished so to drive and the total distance travelled on the public highway, but there shall be excluded from such interval any period during which the vehicle driven by the competitor was off the public highway or at a rest halt between such times ;

"performance test" means a test in which merit is attached to a competitor's skill in manoeuvring or controlling the vehicle, including maintaining the forward motion of the vehicle in adverse conditions ;

"problem" means a problem given to a competitor the setting or solution of which is necessary to enable him or assists him to complete the event, or which he is required by the rules of the event to set or solve, and in this context "problem" shall include any instruction given to a competitor to collect information or an object and "solution" shall be construed accordingly ;

"problem solving event" means an event in which the competitors are required by the rules of the event to travel the route by a fixed time and are given before that time the task of setting or solving a number of set problems, whether the problems are required to be set or solved before or after that time, and in which there is an average of more than one set problem for each three miles of route ;

"promoter" means the person who is primarily responsible for the organisation or arrangements of the event ;

"requirement" in relation to the rules of an event includes a requirement or an instruction to a competitor in the event compliance with which carries merit in the event or non-compliance with which carries demerit in the event, and cognate expressions shall be construed accordingly ;

"rest halt" means a place specified in the rules of the event as a place where the competitors are required to stop during the course of the event, or may stop during the course of the event without incurring a penalty or demerit in the event, in either case for the purpose of obtaining rest or refreshment ;

"route" in relation to an event means a route which the rules of the event require or are likely to cause the competitors taking part in the event to travel ;

"rules" in relation to an event includes any instruction given by or on behalf of the promoter of the event to a competitor in the event ;

"specified event" means an event, held not more than once each calendar year, specified in Schedule 4 to these Regulations ;

"standard conditions" has the meaning assigned to it in Regulation 9(1) of these Regulations ;

"time limit event" means an event in which the competitors are required by the rules of the event to travel the route of the event by a fixed time such that they will be caused to maintain an overall average speed on the public highway exceeding 10 miles per hour ;

"time schedule event" means an event in which individual competitors or groups of competitors are required by the rules of the event to arrive at or depart from control points at or between specific times or to arrive at the finish of the event at or between specific times.

(2) Any reference in these Regulations to any enactment or instrument shall be construed, unless the context otherwise requires, as a reference to that enactment or instrument as amended, re-enacted or replaced by any subsequent enactment or instrument.

(3) The Interpretation Act 1889(a) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament, and as if for the purposes of Section 38 of that Act these Regulations were an Act of Parliament and the Regulations revoked by Regulation 2 of these Regulations were Acts of Parliament thereby repealed.

#### *Authorisation of certain events*

5. Any event of one of the following descriptions, that is to say :—

- (a) an event in which the total number of vehicles driven by the competitors does not exceed 12, being an event no part of which takes place within 8 days of any part of any other event in which the total number of vehicles driven by the competitors does not exceed 12 and where either the other event has the same promoter or the promoters of both events are members of the same club in connection with which the events are promoted ;
- (b) an event in which no merit is attached to completing the event with the lowest mileage and in which, as respects such part of the event as is held on a public highway, there are no performance tests and no route and competitors are not timed or required to visit the same places, except that they may be required to finish at the same place by a specified time ;
- (c) an event in which, as respects such part of the event as is held on a public highway, merit attaches to a competitor's performance only in relation to good road behaviour and compliance with the Highway Code ;
- (d) an event in which all the competitors are members of the armed forces of the Crown and which is designed solely for the purposes of their service training ;

is hereby authorised.

#### *Authorisation of other events*

6.—(1) Events not authorised by the last preceding Regulation may be authorised by the Royal Automobile Club in accordance with these Regulations.

(2) An authorisation of an event given by the Royal Automobile Club under paragraph (1) of this Regulation may be varied or revoked by the Royal Automobile Club at any time before the event is held or begins.

#### *Applications for authorisation*

7.—(1) Applications for authorisation of an event shall be made to the Royal Automobile Club on a form (which may be obtained from the Royal Automobile Club) containing the particulars specified in Schedule 2 to these Regulations.

(2) Applications for such authorisation shall be made not less than 2 months before the date on which the event is proposed to be held, or if it is to be held on more than one date, the date on which the event is to begin, and, except in the case of a specified event, shall not be made more than 6 months before such date.

#### *Fees*

8.—(1) It shall be a condition of any authorisation of an event by the Royal Automobile Club that a fee, to be calculated in accordance with the next following paragraph of this Regulation, shall be paid.



(2) The fee referred to in the last preceding paragraph of this Regulation shall be a basic fee of £5 increased by £3 for each 50 miles or part thereof of the length of the route of the event on the public highway.

*Other conditions*

9.—(1) Subject to paragraph (2) of this Regulation an event, other than an event authorised by Regulation 5 of these Regulations, shall be held subject to such of the conditions specified in column 1 of Schedule 3 to these Regulations (in these Regulations referred to as "the standard conditions") as apply to the event in question in accordance with column 2 of that Schedule.

(2) The Royal Automobile Club to the extent specified in column 3 of Schedule 3 to these Regulations shall, subject to the provisions of the next following paragraph, have power to modify the standard conditions, and where this power is exercised in relation to a competition or trial the event shall be held subject to the standard conditions as modified.

(3) The Royal Automobile Club in exercising its power to modify the standard conditions applying to an event shall have regard to the need for securing the safety and preserving amenity for, and minimising the inconvenience suffered by, members of the public.

(4) Without prejudice to the foregoing provisions of this Regulation the Royal Automobile Club shall have, when authorising an event, power to impose such additional conditions as it may think fit for the purpose of securing the safety or preserving amenity for, or minimising the inconvenience suffered by, members of the public.

10.—(1) Before authorising an event the Royal Automobile Club shall not less than 6 weeks before the date on which the event is proposed to be held, or, if it is to be held on more than one date, the date on which the event is to begin, notify, in England and Wales, the chief officer of police and, in Scotland, the chief constable of any police area in which the route of the event on the public highway lies, whether partially or wholly.

(2) Before authorising an event the route of which lies in whole or in part along a road in England and Wales used as a public path shown on a definitive map prepared by the council of a county or county borough or a joint planning board pursuant to section 32 of the National Parks and Access to the Countryside Act 1949(a) the Royal Automobile Club shall consult with the highway authority for that road.

(3) Before authorising an event the route of which on the public highway lies in whole or in part in an area in England and Wales comprised in a National Park the Royal Automobile Club shall consult with the appropriate planning authority for the area concerned.

(4) In the last preceding paragraph of this Regulation the expression "appropriate planning authority" has the meaning assigned to it in section 6(6) of the National Parks and Access to the Countryside Act 1949.

*Grant of authorisations*

11. In exercising their discretion to authorise an event the Royal Automobile Club shall have regard to the following considerations—

(a) whether in all the circumstances it is likely that the conditions, subject to which the event if authorised would be required to be held, will be observed,

(b) the extent to which the holding of the event might prejudicially affect the safety, amenity or convenience of members of the public,

(c) the number of and the intervals between the events which have recently been held or are due to be held on or adjacent to the route of the proposed event on the public highway or in the locality where the proposed event is planned to take place, and

(d) the nature and suitability of the route of the proposed event on the public highway and the class or description of vehicles taking part in the event.

*Measurement of distance*

12. The length of the route, or any part thereof, of an event and the distance from such route of any point shall for the purposes of these Regulations be calculated by reference to the most recent edition of the one-inch Ordnance Survey Map of the area concerned.

Dated the 18th March 1969.

*William Ross,*  
One of Her Majesty's Principal  
Secretaries of State.

Dated the 18th March 1969.

*George Thomas,*  
One of Her Majesty's Principal  
Secretaries of State.

Given under the Official Seal of the Minister of Transport the 19th March 1969.

(L.S.)

*Richard Marsh,*  
Minister of Transport.

(a) 12, 13 & 14 Geo. c.97.

**SCHEDULE 2 (see Regulation 7)**

**PARTICULARS TO BE GIVEN IN THE APPLICATION FOR AUTHORISATION**

- (1) Name of promoter of the event.
- (2) Name of event.
- (3) Full name and address of applicant and daytime telephone number (if any).
- (4) Date(s) of event.
- (5) Maximum number of competing vehicles.
- (6) Interval at which competitors will be despatched from starting points.
- (7) Type of competing vehicles.
- (8) Mileage of the route of the event on the public highway.
- (9) Indicate the number of each current one-inch Ordnance Survey sheet traversed by the route of the event on the public highway.
- (10) Will the event be a (i) time schedule event, (ii) time limit event, (iii) a problem solving event?
- (11) Is the event a Specified Event under Schedule 4 of the Regulations?
- (12) Describe exactly (in words) the location of each starting and finishing point, and state whether it is on the public highway.
- (13) Will the rules of the event require or be likely to cause any competitor to traverse any length of public highway (other than a motorway) more than once? If yes, give the reasons why Standard Condition No. 6 should be modified.
- (14) Provide two identical tracings of the route of the event from each current one-inch Ordnance Survey sheet traversed by the route omitting any part of the route which is not on a public highway. Each tracing should show:—
  - (i) the number of the Ordnance sheet;
  - (ii) two intersecting grid lines appropriately numbered;
  - (iii) the location of any starting and finishing points;
  - (iv) the times when the first competitor is expected to leave any starting point and arrive at any finishing point (use the 24 hour clock for all times);
  - (v) the time and date when the first competitor is expected to arrive at any point where the route enters or leaves a map;
  - (vi) (with the letter "C") the location of any control point on a public highway and of any other point on such highway at which the rules of the event require or are likely to cause competitors to stop for any purpose or to slow down for the purpose of solving a problem;
  - (vii) (with the letter "R") the location of each rest halt and also the length of time it is expected to be open;
  - (viii) (with a cross (X)) any point where the route leaves or rejoins the public highway and also the time when the first competitor is expected to reach any such point. If the route leaves and rejoins the public highway at the same point, show both the time then the first competitor is expected to leave the public highway and the time when he is expected to rejoin it at that point;
  - (ix) (with arrows marked "F" or "B") lengths of any public highway which are footpaths or bridleways forming part of the route.

Send the completed application form with the tracings to the Royal Automobile Club, 31 Belgrave Square, LONDON, S.W.1.

**Declaration**

I declare that the event if authorised will be held in accordance with such of the standard conditions contained in the Motor Vehicles (Competitions and Trials) Regulations 1969 as apply to the event, subject to any modifications which may be made by the Royal Automobile Club, and in accordance with any additional conditions imposed by the Royal Automobile Club.

Signature of Applicant.....

Date.....

**SCHEDULE 3 (see Regulation 9)**

**STANDARD CONDITIONS**

1. Standard conditions	2. Application	3. Power to modify
1. Each event shall be held in accordance with the particulars of the event given in the application for authorisation of the event, except that an event may be held subject to such modifications of the particulars— (a) as may have been agreed with or required by the Royal Automobile Club, and  (b) as may be necessary to permit the event to take place in a case where part of the route of the event is closed or becomes impassable after the event is authorised.	All events.	None.
2. The total number of vehicles driven by competitors in any night event shall not exceed 120 and the total number of such vehicles in any other event shall not exceed 180.	All events.	The Royal Automobile Club has power to modify in respect of specified events.
3. The competitors shall be required by the rules of the event to observe a time-table such that:—  (i) the interval between the times of departure from the start of the event of the first and last competitors,  (ii) the interval between the time of arrival of the first competitor at and the time of departure of the last competitor from any control point on a public highway, other than a control point at which there is provided a rest halt,  (iii) the interval between the times at which the first and last competitors may be expected to pass any point on the route on a public highway, other than a point on a motorway, and  (iv) the interval between the times of arrival of the first and last competitors at the finish of the event,  shall not exceed 2 hours in the case of a night event, or 3 hours in the case of any other event.	All time schedule events, except events in which all the vehicles driven by competitors were registered under the Roads Act 1920 (a) before the 1st January 1930.	The Royal Automobile Club has power to modify  (i) in respect of the intervals specified in paragraph (iii) of this condition to the extent that the modification is necessary or expedient either in connection with a modification of standard condition No. 6 permitted in relation to an event or to permit the competitors to use private property on which part of the event is being held, and  (ii) in respect of specified events.

(a) 10 & 11 Geo. 5.c.72.

Schedule 3—continued

1. Standard conditions	2. Application	3. Power to modify
4. No person at a starting point or finishing point of an event or control point, other than a control point at which there is provided a rest halt, shall check or record for the purpose of the event the times being kept by the competitors after 2½ hours in the case of any night event or 3½ hours in the case of any other event from the time when the first competitor departed from that point, in the case of a starting point, or arrived at that point, in the case of any other point.	All time schedule events, except events in which all the vehicles driven by competitors were registered under the Roads Act 1920 before the 1st January 1930.	The Royal Automobile Club has power to modify in respect of specified events.
5. No competitor shall be dispatched from a starting point of an event at an interval less than one minute from the dispatch of the previous competitor.	All time schedule events, time limit events and problem solving events.	The Royal Automobile Club has power to modify in respect of specified events.
6. The rules of an event shall not require or be such as are likely to cause any length of public highway (other than a motorway) to be traversed more than once by a vehicle driven by a competitor during the course of the event.	All events.	The Royal Automobile Club has power to modify:—  (i) the extent that the modification is to permit the competitors to travel twice the same length of "A" road, or to reach a finishing point in the same place as a starting point, or to use a rest halt, private property on which part of the event is being held or a filling station, and  (ii) in respect of specified events.
7. No starting point or finishing point of an event shall be on a public highway.	All events.	The Royal Automobile Club has power to modify.
8. The rules of an event shall not require, or be such as are likely to cause, a competitor to stop or to slow down for the purpose of setting or solving a problem, a vehicle he is driving in the event on a public highway within 500 yards of any occupied dwelling, unless an adult occupant of the dwelling has given his consent in writing.	All events	None.
9. No point on a public highway at which the times being kept by competitors in an event are checked or recorded for the purposes of the event shall be situated less than two miles measured along the route of the event from any other point at which such times are so checked or recorded.	All time schedule events.	None.

Schedule 3—continued

1. Standard conditions	2. Application	3. Power to modify
10. The rules of an event shall be such that no greater merit accrues to a competitor for visiting certain control points rather than others or for reaching one finishing point rather than another.	All events.	None.
11. The rules of an event shall be such that once a competitor has been penalised for arriving at or departing from a control point along the route of the event after the time at or by which he was required by the rules to arrive at or depart from that point, the times at or by which he is required to arrive at or depart from subsequent control points along the route and to arrive at the finish of the event are adjusted so that he will not incur further penalties for failing to make up the time by which he was late and for which he has incurred a penalty.	All time schedule events.	None.
12. A person who is acting as an official of an event shall not set up or place on the carriageway or footway of any public highway any equipment to be used in connection with the event, nor shall he park any vehicle he is using on the carriageway of any public highway forming part of the route of the event, except at a place provided for the parking of vehicles.	All events.	None.
13. Where the route of an event contains roads across which there are gates or cattle grids:—  (a) the promoter of the event shall before the event takes place notify the occupiers of the land, other than any common land in England and Wales or land which is fenced off from the road, adjoining either side of the road between the gates, cattle grids, or a gate and a cattle grid of the holding of the event,  (b) competitors shall not be required to leave their vehicles in order to open or close a gate, and  (c) a person shall be posted at each gate until the last competitor has passed through the gateway for the purpose of ensuring that cattle do not pass through the gateway and closing the gate after the last competitor has	All events.	None.

1. Standard conditions	2. Application	3. Power to modify
<p>passed through the gateway:<sup>1</sup>            Provided that where the interested occupiers consent in writing a person may be posted for the above purpose in respect of more than one gate, not being in England and Wales a gate across a road on any common land or a gate across a road leading to any common land where there is not another gate or a cattle grid across the road between the gate and the common land. In this proviso the expression "interested occupiers" in relation to a gate means the occupiers of the land adjoining such lengths of road on either side of the gate as extend to another gate or a cattle grid across the road, other than land which is fenced off from the road.</p>		
<p>14. The average speed, calculated by reference to the distance travelled by a vehicle being driven by a competitor on the public highway and the time during which it is being so driven, which the competitors in an event are required by the rules of the event or may reasonably be expected having regard to the rules of the event to maintain over a part or the whole of the route of the event on the public highway shall—</p> <p>(a) be such as is not likely to cause competitors to exceed any speed limit imposed by or under any enactment in respect of any vehicle or on any public highway which forms part of the route of the event or drive at a speed which might be dangerous having regard to the nature of the route, and</p> <p>(b) without prejudice to the foregoing, not exceed—</p> <p>(i) in the case of vehicles of a class or description for which no speed limit is specified in Schedule 5 to the Road Traffic Regulation Act 1967, 50 miles per hour in so far as the route consists of a motorway, and 30 miles per hour in all other cases;</p> <p>(ii) in the case of goods vehicles and large passenger</p>	All events.	None.

1. Standard conditions	2. Application	3. Power to modify
<p>vehicles, 50 miles per hour in so far as the route consists of a motorway, and 25 miles per hour in all other cases;</p> <p>(iii) in the case of a vehicle constructed solely for the carriage of passengers and their effects, being a motor car adapted to carry not more than seven passengers exclusive of the driver, which is towing a caravan, in so far as the route does not consist of a motorway, 25 miles per hour.</p> <p>In this condition "goods vehicle" means a vehicle of the description of vehicles to which paragraph 2(1) of Schedule 5 to the Road Traffic Regulation Act 1967 applies, and "large passenger vehicle" means a vehicle of the description of vehicles to which paragraph 1(1) and (2) of that Schedule applies.</p>		
<p>15. The rules of an event shall be such as to require each competitor to take a rest period at intervals not exceeding each 200 miles which he drives whether continuously or not. The rest period shall not be less than one hour and may be taken as a passenger in a vehicle taking part in the event.</p>	All events.	None.
<p>16. The promoter of an event shall require each competitor driving in the event as a condition of entry to declare that there will be in force in relation to the user of the vehicle which he intends to drive during the event such a policy of insurance or such a security in respect of third party risks as complies with the requirements of Part VI of the Road Traffic Act 1960.</p>	All events.	None.
<p>17. The promoter of an event shall record the name and address of each competitor driving a vehicle in the event and the registered number and make of each such vehicle, and he shall send this information to the Royal Automobile Club if so requested.</p>	All events.	None.

## EXTRACTS FROM LARA's FORWARD PLAN, 1992-96

### 1. Outline of the Forward Plan

- 1.1 This outline summarises areas of work and programmes as detailed in the Forward Plan. Each section of the outline is referred back to its parent programme and, as an indication of the priority attached, the percentage of resources devoted to that programme is noted alongside. There is no prioritisation such that all, or most, resources are devoted to one or more areas of work to the exclusion of others. The balance of the programmes in the Forward Plan is indicative of the priority given to each, on the basis that the work is carried out concurrently.
- 1.1.1 The establishment of an internal structure for LARA including a Motorised Recreation Development Officer (MRDO), a Motorsport Development Officer (MDO) and an office providing administrative and secretarial support to the officers and committee. (Programme 4)
- 1.1.2 The establishment of procedures for an integrated working relationship with the Motorsports Facilities Unit to implement an integrated programme of work and to exchange information. (Programme 1.6)
- 1.1.3 The publication of a series of codes of conduct, advisory leaflets, reports and plans to educate participants. Some of these will be joint initiatives with member organisations and other organisations within the field of motor sport and recreation. (Programme 1)
- 1.1.4 The creation of joint initiatives with the national parks, Sports Council, Countryside Commission, Department of the Environment, National Farmers Union, Country Landowners Association, etc. promoting the responsible use of the environment and gaining acceptance for motorsport. (Programme 1 and see Appendix III)
- 1.1.5 To approach external organisations to gain access to forums, meetings, etc. (Programme 2)
- 1.1.6 To work with local authorities and other providers on the need for positive planning for motorsport. (Programme 2)
- 1.1.7 To provide a competent and developing specialist advisory service to member organisations. (Programme 3)
- 1.1.8 To develop joint regional initiatives in conjunction with the Sports Council and Motorsports Facilities Unit. (Programme 5)

### 2. Introduction

#### 2.1 Background

- 2.1.1 Motorsports are a product of twentieth century leisure patterns and technology. They constitute a set of legitimate activities whose attributes fall clearly within any commonly-held definition of sport. For participants and enthusiasts they are exciting, involving skill, physical exercise, achievement and great fun.

2.1.2 Motorsports have over 500,000 active participants and some disciplines may attract equally as many supporters and friends.

2.1.3 Motorsport faces problems, such as the loss of sites because of agricultural change, wider social pressures which fail to recognise the legitimacy of motorised recreation, resistance from powerful and articulate interests in the planning and non-statutory processes, and the inability of public authorities to understand or provide for the many motorsport disciplines.

2.1.4 These pressures make it doubtful whether, without a number of changes, largely the responsibility of the sports themselves, the present broad spectrum of participation will be maintained into the future.

2.1.5 The enduring popularity of motorsports, especially at the grass-roots club level, where some of the pressures are most acutely felt, would seem to merit support and assistance from both the national motorsport community and the representatives and agencies of sport in general.

### 2.2 The Structure of Motorsport and Recreation

2.2.1 The RAC Motor Sports Association (RACMSA) and the Auto Cycle Union (ACU) are the recognised representative federations of British motorsport within the international motorsport community.

2.2.2 The role of the RACMSA in respect of the use of the public highway for competitive events has been endorsed in statute. The RACMSA acts as agent for the Department of Transport in authorising the use of the highway in certain types of competition. This function is non-discriminatory, applying to all potential users of the highway for competition, not solely those clubs affiliated to the RACMSA.

2.2.3 Most motorsport activities are governed and controlled by these two national (not always Scotland) bodies, to whom the bulk of motorsport clubs are directly affiliated for advantageous reasons based on representation and legitimacy. However, there are some aspects and disciplines of motorsport which have evolved structures and governing bodies outside of those created by the RACMSA and ACU, such as the Amateur Motor Cycle Association (AMCA) The National Autograss Sport Association (NASA) and the British Motorcyclists' Federation (BMF).

2.2.4 These various governing bodies have remained almost totally independent of each other, and increasing specialisation over the past three decades has led to fragmentation of effort where consultation and co-ordination would have been useful, and an overall weakening of motorsport's position in the national decision-making forums. These forums have largely excluded the motorsport fraternity from their decision-making processes because motorsport could not provide a corporate channel through which to communicate.

2.2.5 LARA was formed in June 1986 following pressure from within the ACU.

for greater involvement in political action and the formalised procedures associated with land use planning and statutory environmental management, and to become more effective in securing the future legitimacy of motorcycle sport and recreation. These roles had previously been carried out ineffectually through informal consultative channels such as the ACU/BMF Countryside Committee.

- 2.2.6 Coincidental with this 1986 initiative at the ACU was the publication of the Sports Council report titled "Providing for Motorsport- From Image to Reality". The report concluded that, long overdue, was:

"...the formation of a national motorsport pressure group which would, through an activist role, and through advocacy and persuasion, become a respected consultee on all aspects of the provision of facilities, and the control of, motorsports"

- 2.2.7 Motorsport took that advice and created the Motoring Organisations' Land Access and Rights (now Recreation) Association (LARA). (See the constitution - Appendix II)

### 2.3 The role of LARA

- 2.3.1 LARA's prime role is to act corporately on behalf of, and for the benefit of, all its members in ways which benefit from a corporate approach; on issues which may require skills, expertise, knowledge and availability which cannot always be retained or adequately exercised independently by member organisations.

- 2.3.2 LARA also attempts to impart greater activist, persuasion and advocacy skills to member organisations in order that they may better represent their sports.

- 2.3.3 LARA provides a forum for discussion amongst organisations which previously had no regular contact, co-ordinates opinion. LARA draws members' attention to, and advises members on, important issues affecting their sport or recreation which might otherwise have been overlooked, or the importance of which not realised. Where appropriate, LARA provides an easy channel of communication to and from outside agencies which, otherwise, may not so easily have been contacted, or have consulted with member organisations individually.

- 2.3.4 LARA does not replace, and is not superior to, any of its member organisations.

- 2.3.5 LARA is not a quasi-governing body.

## 3. The Forward Plan

### 3.1 Background to the Forward Plan

- 3.1.1 The prospect of LARA being able to pull together organisations, some of

which are almost as old as the century, and others which are, historically, splinter groups of the older organisations, was not always certain.

- 3.1.2 The five years since the creation of the Association have confirmed that LARA can work very effectively with the goodwill of all member organisations.

- 3.1.3 It is now time for the Association to consolidate a future on the foundation created quite hurriedly in the early years.

### 3.2 Introduction to the Forward Plan

- 3.2.1 This plan will direct the work of LARA. It reflects the steering committee's strategy for the short and medium term. It will be a working tool for the Association.

- 3.2.2 The plan identifies the priorities in LARA's work and prioritises that work in accordance with income possibilities which include those outside of subscription income.

- 3.2.3 The plan recognises that, if motorsport and recreation is to continue to be able to satisfy the needs of all who wish to participate in all of its many disciplines, then it must show that it can change to accommodate good practice and improved standards in accordance with increasing environmental awareness throughout the world.

### 3.3 Objectives of the Forward Plan

- 3.3.1 The objectives over the next four years are to develop LARA as a body which provides a valuable and essential service for organisations within motor sport and recreation.

- 3.3.1.1 To develop a revised organisational structure for LARA.

- 3.3.1.2 To extend the network of Regional Motorsport Federations.

- 3.3.1.3 To increase levels of awareness and necessary environmental skills amongst participants and providers, enabling motor sport and recreation to remain legitimate in a changing world.

- 3.3.1.4 To carry that increased awareness to the "outside world" by taking motor sport issues into a wider forum.

- 3.3.1.5 To encourage local and national government, governmental agencies and other national organisations to accept the legitimacy of motor sport and recreation.

- 3.3.1.6 To encourage outside agencies to join in the education of users to eliminate irresponsible motorised activities and to encourage the joining of organised groups.

- 3.3.1.7 To encourage local authority and private sector providers in setting-up permanent multi-purpose sites and facilities which will be compatible with the environment and provide a much-needed recreational facility for the community at large.



- 3.3.1.8 To create a database of motor sport and recreation sites and facilities throughout Britain, in association with the Motorsports Facilities Unit.
- 3.3.1.9 To provide a specialist advice and support service to members relating especially to land use planning, rights of way and legal issues.
- 3.3.1.10 To provide a consultative body through which government and other agencies can reach all factions of motor sport and recreation.
- 3.3.1.11 To advise members of changes in the law affecting motor sports and recreation.
- 3.3.2 These objectives can each be allocated to one of the following categories:

EDUCATION, DEVELOPMENT, LIAISON,  
PLANNING, PROTECTION

#### 4 Programmes of Work

- 4.1 The general objectives incorporate the aims to be addressed as identified by Dr M. Elson in his study report to LARA in 1989 (appendix I) and have been translated into the following specific programmes, listed in priority order.

Programme 1: Education initiatives  
Programme 2: Effectiveness in outside forums  
Programme 3: Membership services  
Programme 4: Internal structuring  
Programme 5: Regional initiatives  
Programme 6: Facility development

#### 4.2 Analysis of Programmes

Each programme is explained in terms of:

Where we are now:	Background
What we want to do:	Planned objectives
Checks on what we have done:	Achievement indicators*
Finance needed:	Resources

\* It is not easy for LARA to measure its achievements and progress in the same quantitative ways that many other organisations do.

\* LARA's achievements will not be measured in terms of membership growth or national or world champions. These are the domain of LARA member organisations.

\* LARA's achievements will be measured in more subjective ways. The most

significant will be whether organisations continue to subscribe to, and support, the organisation in the medium and long term.

#### 6. Summary

6.1 The Forward Plan of the Land Access and Recreation Association (LARA) sets out the history, present operational structure and aspirations of an organisation unique within and to motorised recreation. Competitive motor sport and non-competitive recreational driving both face a difficult period as the developed countries struggle to find a balance between the urgent demands of environmental protection and the desire to keep the high level of personal freedom and mobility that the private motor vehicle typifies. Motor sport will not die, but it must change as the environment in which it takes place changes. Those changes can be reactive or proactive, voluntarily assumed or forced from outside, legislative or economic. However and whenever pressure for change comes, the structure that LARA provides gives motor sport and recreation the means to foresee the need to act and to work corporately and individually to prevent problems arising.

6.2 Because LARA is not a governing body of motor sport and recreation it does not impose rules or demand changes of participants, neither can it undertake any governing body function other than by agreement. LARA's strength and value comes from its ability to bring together the major organisations representing motor sport and recreation's many and diverse disciplines. Through LARA these organisations are able to appreciate each other's needs, aspirations and concerns, whilst presenting a unified voice of motor sport and recreation to the outside world.

6.3 LARA operates in five principle areas as set out in section 3.3.2: EDUCATION, DEVELOPMENT, LIAISON, PLANNING, PROTECTION and these have been translated into six specific programmes following the advice of Dr Martin Elson in his study report to LARA. These are, together with their Forward Plan section numbers:

- 4.2 EDUCATIONAL INITIATIVES
- 4.3 EFFECTIVENESS IN OUTSIDE FORUMS
- 4.4 MEMBERSHIP SERVICES
- 4.5 INTERNAL STRUCTURING
- 4.6 REGIONAL INITIATIVES
- 4.7 FACILITY DEVELOPMENT

It is important to realise that these programmes overlap in areas of work and that, although the six programmes form the basis of LARA's work over the next four years, they are structured so as not to be sacrosanct and can be subject to review and amendment such that LARA makes best use of its available resources. The structuring of the programmes allows them to be implemented and operated independently.

## **LAND USE—CODES OF CONDUCT FOR COMPETITION EVENTS**

Whilst it is appreciated that clubs to a great extent already carry out many of the elements of this code, it is essential to the continuance of orderly motor sport that the code is adopted without delay.

### **A. TIME AND REGULARITY EVENTS**

This code for Time and Regularity events on footpaths or bridleways will supplement the standing regulations for the organisation of these events. Where necessary disciplinary action will be taken if this code is not fulfilled.

1. Any competitive event that is routed along, or across, footpaths or bridleways must be endorsed in advance by the Highway Authority for the area.
2. The Organiser is responsible for obtaining authority from the landowners over whose land the event passes.
3. The Organiser is responsible for ensuring the event meets all requirements of the Road Traffic Act 1988 and the Statutory Instruments made thereunder.
4. Where practicable the Organiser shall make available a temporary alternative to a footpath or bridleway for the duration of the event, using suitable signposting. Where necessary such areas shall be marshalled by officials who are well briefed and properly identified to ensure that the event is seen not to unduly inconvenience other users, such as horse-riders, walkers, cyclists and other members of the public. The marshals should also have a working knowledge of the Rights of Use applying to the section.
5. The Organiser shall appoint an officer responsible for event liaison. The Liaison Officer is to submit his name and address to the local Highway Authority, the Parish Council, the Police and landowners over whose land the event passes. The Liaison Officer will thoroughly investigate any complaints and try to resolve any problems arising from the event.
6. Wherever possible the Liaison Officer shall maintain good relations with other path users in the area, such as horse-riders, walkers, cyclists, recreational motoring groups and orienteers. The Liaison Officer shall notify these groups in advance of an event where they are known to him.
7. All competitors must follow the Country Code.

## **MOTORSPORT CODES OF CONDUCT (continued)**

### **B. OTHER MOTORSPORT EVENTS (Competitive, but not speed-based)**

This code for other Motor Sporting Events on footpaths or bridleways will supplement the standing regulations for the organisation of these events imposed by the Governing Body. Where necessary disciplinary action will be taken if this Code is not fulfilled.

1. Any competitive event that is routed along, or across, footpaths or bridleways must be endorsed in advance by the Highway Authority for the area, unless the route of the event is on a highway of higher status.
2. The Organiser is responsible for obtaining authority from the landowners over whose land the event passes, unless the route of the event is on a highway of higher status.
3. The Organiser is responsible for ensuring the event meets all requirements of the Road Traffic Act 1988 and the Statutory Instruments made thereunder.
4. The regulations, final instructions and signing-on sheet of an event shall display the following sign:

‘This event is routed along and/or across public rights of way. Competitors must exercise caution and reduce their speed accordingly near other path users. Be especially careful near horses. Slow down, stop and switch off your engine if necessary’.
5. The Organiser shall appoint an officer responsible for event liaison. The Liaison Officer is to submit his name and address to the local Highway Authority, the Parish Council, the Police and landowners over whose land the event passes. The Liaison Officer will thoroughly investigate any complaints and try to resolve any problems arising from the event.
6. Wherever possible the Liaison Officer shall maintain good relations with other path users in the area such as horse-riders, walkers, cyclists, recreational motoring groups and orienteers. The Liaison Officer shall notify these groups in advance of an event where they are known to him.
7. All competitors must follow the Country Code.