LARA – The NEXT TEN YEARS

1996 Anniversary Conference 1996

New Ideas for Co-operative Management

A conference to celebrate the progress made by LARA
in its first ten years of existence, but more than that,
a conference to introduce a range of new ideas

Heritage Motor Centre, Gaydon, Warks

PROGRAMME

09:30	Registration & coffee	
10:00	Introduction:	Andrew Bennett MP, Chairman, Environment Select Committee
10:10	LARA – Ten years of Achievement:	Alan Kind, Byways & Bridleways Trust
10:40	Launch of New Initiatives:	Geoff Wilson, LARA Deputy Chairman
11:10	Coffee and biscuits	
11:30	Motor Sport & Access in National Parks:	Bob Cartwright, Lake District National Park
12:00	Lunch:	The Rooftop Restaurant
13:00	LARA Question Time:	A panel of experts addresses your queries
13:30	Codever – a New Idea from Europe:	Jean Pierre Steiner, Chairman, Codever
14:00	BOATs, RUPPs, & Reform:	Angela Sydenham, (ex)Chief Legal Adviser, CLA
14:45	The 'Impact Report': actions and progress:	Tim Stevens, LARA Information Officer
15:15	What next? Taking these ideas forward:	Chairman's Summing Up

15:30 Afternoon Tea, and an opportunity to enjoy the museum and the displays by LARA members. The hall will remain open until 18.00, and LARA officers will be available, so that conversations started over lunch can be continued in a relaxed atmosphere.

This Conference is supported by

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1996 Conference – The Next Ten Years

New Ideas for Co-operative Management

MOTORING ORGANISATIONS' LARA LAND ACCESS & RECREATION ASSOCIATION

Alan Kind, LLB, LLM

Chief Executive, Byways & Bridleways Trust
(Alan was LARA's first Motor Recreation Development Officer, 1986–1994)

The Road Behind, the Road Ahead

Friends, Romans

When I received my invitation to speak at this conference my first thought on reading the title for the slot was that I would be here to heap garlands on the Association's successes and hand out back-pats to my erstwhile colleagues. That did not really appeal much (you can't string out self-congratulation to 35 minutes unless you are a political party in office or a bunch of actors and directors awarding each other Oscars) so I went back to Tim Stevens for clarification of the purpose of this paper. 'Tell people about countryside management' he said, 'how it has changed, and LARA's role within that change, past, present and future'. So – let's try that that line of attack and see if together today – your views are essential here – we can learn lessons from the past and make predictions and intelligent suggestions for the future.

Origins

LARA came into being in 1986 as a reaction to growing pressure on motor sport and recreation in the countryside (permanent circuits like Brands Hatch have never really been within LARA's remit) and its formation was something of a milestone in marking a new dialogue between the competition organisations, the 'access' side, and the motorcycle manufacturers (if, sadly, not the car manufacturers). The bike makers saw their market being steadily eroded by economic, environmental and social pressures; car rallying was under sustained attack by ramblers in Wales; motorcycle trail riding was struggling to become a tolerated countryside use; and, perhaps the biggest demon so far, the graph for four-wheel-drive vehicles sales and usage was beginning to rise steeply. To some extent the formation of LARA followed the advice given in Martin Elson's report to the Sports Council on the problems recreational motoring faced and the solutions the sport should explore. Looking back now I do not think that the Elson report alone was crucial to LARA hatching when it did. The organisation would have come about if that report had not been commissioned, but it served to show that outside analysis of the problems reflected motor sport's own realisation that something had to be done – and preferably quickly. LARA was never intended by its originators to be a 'pressure group', demanding new rights, more facilities and the rest, although it was quickly demonised as such by the traditional opponents of motorised enjoyment of the countryside. 'Enjoyment' – there is a difficult word in the sensitive 1990s. Did not a recent countryside minister go on record as saying that the countryside is not to be enjoyed, only experienced? This perhaps encapsulated LARA's initial struggle – to deal with the view that the countryside exists just for those who own it (and may thereby do just about as they wish) and those who want 'quiet enjoyment' – that resonant phrase with a thousand definitions. But people who want to have fun (by their own definition) – to move faster than walking pace – who get dirty and enjoy it – who would not wish to harm a lesser godwit, but probably wouldn't know when they had seen one – where would their place be in this countryside of entrenched exclusionary attitude?

Double maxim?

In this early phase LARA defined itself not as a pressure group but as a representational and information agency to the many disciplines of countryside motor sport and recreation. Know thine enemy is always a good maxim; so is please engage brain before operating mouth, and it was in this latter way that LARA operated – learning about the politics, legalities and tactics of countryside management as it is practised – and becoming active in the processes. This is, I think, what the early guiding hands on the LARA committee already knew – that where you have a representative sitting at the meeting table, well-briefed and positive in outlook, it is far harder for a sport to be marginalised – victimised at worst case – and much easier for the others present to feel some tolerance, sympathy (put it how you will) about an activity that they might not particularly like but, worse, knew little of and had no contact with. In these early days LARA's greatest achievement was in being there – going well-briefed to the important forums and balancing the half-truths and occasional hysteria, putting some truth into the hitherto apocryphal. Of course, some forums (like Countryside Link and the Council for National Parks) were barred to LARA by incumbent members who already knew the truth and did not want it clouded by facts.

Evolution's engine

But, even if LARA was not totally sparked by 1986's Elson Report to the Sports Council, and if it wasn't intended to be a drum-banging pressure group, the work done in the early days certainly did accord with Professor Elson's recommendations about what motor sport and recreation must do in order to survive and even flourish. Go, he said (and here I paraphrase), and develop an agency which will become, through advocacy and persuasion, a respected consultee on all aspects of provision and control. This advice was taken seriously and LARA integrated these tenets into the first Forward Plan (1992-6) along with a programme of information materials both for people within the sport and also those with whom the sport came into contact – sometimes not completely amicably. This was very much a team effort involving co-operation between full-time and voluntary officers, between the quite disparate disciplines that comprise motor sport and recreation. One of the first publications was Footpaths, Bridleways and Carriageways, an attempt to put the record straight and resolve misunderstandings caused by casual, sometimes deliberate misuse of terminology and forcing BOAT issues out into open debate.

LARA soon allowed the smaller motor organisations a voice in the higher corridors – even ministers' doors opened, which had not happened before. Government saw that the sport as a whole was taking its own, and others', concerns more seriously than before and a breathing space slowly opened up in which LARA could develop. Other initiatives followed, such as the Access Guide of which over 70,000 copies (through four editions) have been printed and distributed on request. What other access sport has produced and disseminated such comprehensive and reader-friendly basic information on such a scale? The smaller Questions of Countryside Motorsport code of behaviour also had a huge print run. This one spelled out, quite plainly, the very basic rules about motor trespass, noise and annoyance and was unashamedly aimed at cowboy motor users – even those within the sport itself. The regular news-sheet LARA News provides a valuable exchange of up-to-date information and flags up good and bad practice in countryside management, while LARA's latest Forward Plan (1996–) spells out for the sport that it must have reasonable aspirations, clear targets, and a programme-based structure to reach these goals.

Win some ...

Perhaps LARA's most visible success in the early period lay in its ability to assemble and co-ordinate a response to the attempt in the early 1990s to impose traffic management by compulsory order on the Ridgeway. This proposal was, I believe, the low point of 'bad old school' period in countryside management thinking. The research used to support the ban was muddled, ill-prepared and off-target, but the mind-set of officialdom, the flat refusal to discuss and negotiate, meant that these failings were overlooked. In truth, the real point on trial at the public inquiry was not whether a few private motorists should be allowed to drive on a green lane on some Sundays, but the method – the processes – by which such a decision should be reached. The decision of that public inquiry was not just a small win for low-budget amateurs against a rich and publicly-funded agency on an issue which, in the wider scheme, is minor, irrelevant even, but a noticeable watershed in how countryside managers approach motorsport (and other activities which do not carry universal approval). I don't think that many within motorsport are silly enough to think that the Ridgeway decision makes them safe from criticism or prohibition for all time (be sure that it does not), but many realised that it bought them time and space in which to develop mechanisms and abilities to negotiate solutions to problems before they become unmanageable. Again, the Elson-indicated, LARA-adopted principles of advocacy and persuasion paid dividends.

... Lose some

In this past ten years there is, I fear, one signal failure in which LARA was involved. This was the attempt by the Sports Council to have recognised the fundamental value of the countryside to active outdoor recreation, even to the extent of designating 'sites and areas of special recreational importance'(OASIS in SC jargon). That this initiative did not find greater favour was not the Sports Council's fault. That organisation must be praised for seeing the gap in provision between 'quiet recreation' and permanent, built facilities, and trying to identify and assert the needs of the millions of people involved in active (robust?) outdoor recreation and sport. It is relatively easy to produce a statutory plan or strategy flagging built facility provision ('with 3.2 million people locally we estimate that a further six swimming pools are needed') and not difficult to say 'This landscape is ideal for walking and bird-watching' but rather harder to identify, quantify and safeguard the needs of peripatetic sports like motorcycle trials or car rallies. Perhaps the failure to formalise a system for acknowledging the requirements of some active recreation reflects a deep-seated, though perhaps mostly subliminal, view that in accepting the legitimacy of motorised recreation, a countryside manager is thereby giving it a 'seal of approval' and lessening his ability to criticise and control.

Traditionally, motorsport was certainly not on the countryside manager's approved list and sleeping with – even talking to – the enemy might be viewed askance by that manager's peers and employers. Now, as the Sports Council has been statutorily emasculated and pulled out of countryside recreation to concentrate on breeding the cricket and netball stars of the next century, and as the Countryside Commission narrows rather than expands its scope and

suffers funding cuts, what official encouragement is there for diverse groups of countryside users and managers to talk and plan together? Not a lot, it seems, although LARA has managed to launch and sustain some valuable dialogues – the currently-proposed 'Hierarchy of trail routes' in the Lake District shows that with goodwill and some respect on both sides a great deal may be achieved. Such extra-statutory processes will, I think, become increasingly essential to the fair and reasonable management of countryside resources during the next few years, even if some people in positions of influence decry them as consorting with the forces of darkness. But, whatever the successes of local dialogue, without a government agency properly charged with – and funded for – looking after the needs of active recreation in the countryside, progress must be occasional, sparse and uncoordinated. The government really should look again at this yawning chasm in provision and management and move to place a bridge across it.

Silly questions

What of the immediate future? Will LARA teach everyone to love motor rallying? Will ramblers throw rose petals into the path of trail riders? Will signs spring up announcing '4WDs this way – free beer'? Probably not, but LARA may, nay must, succeed in improving tolerance levels of non-motor users, and the performance and public face of its own participants. Will that happen? I doubt if the day will come when the AGM of the Ramblers' Association does not have (as it again does this year) a strong motion and resolution against motorised recreation, and it is highly unlikely that any landowner finding out that what he though was his private road is, in reality, an ancient highway, will jump through hoops with a beaming smile... Current individual attitudes to vehicles will not significantly soften and there are, I believe, two major national obstacles ahead which motor sport and recreation must acknowledge and meet.

Baby you can't drive your car

The first is that society is starting to fall out of love with the motor vehicle. Not my car, you understand. I need that to go to work, the supermarket, walk the dog and have a drive out to where I go rambling and cycling. No, your car. That is a nasty, dangerous, polluting, clogging thing and it must be strictly regulated. Of course there will be exceptions. That nice Mr Kinnock had to go by chauffeur-driven limo to the television studio because his announcement of European Union traffic curbs was too important to take a chance with public transport. And Mr Gummer has just told us all that car controls must acknowledge that people in the countryside (i.e. in his constituency) have to be able to drive around, while buses are a good thing for the proles in the towns, humping stones (sorry, kilos) of frozen beefburgers home from Tesco. And the needs of business – you may be a commercial traveller selling video nasties, but that is commerce and thus far more vital than a car journey out into the countryside for a day's relaxation. But this debate about who gets to walk and who can drive is, in the longer term, incidental. Clampdowns on motoring will come, in who may drive, what for, and where. And what could be easier, or on the face of it more necessary, than to regulate access to the countryside by putting up 'no entry' signs? How will motor sport and recreation get around this shift in public and official attitudes? With difficulty, I fear.

Logic may say that where traffic in the Lake District (as a pre-eminent example) is controlled to reduce congestion, then touring motorcycles should be exempted (or even encouraged) because they do not cause or contribute to snarl-ups, but logic seems unable to make a shift in pre-formed and largely unshiftable manager-attitudes. Logic may say that a motorcycle trial uses far less by way of natural resources, and creates far less damage to the whole environment, than does a football match involving Manchester United, or Pavarotti singing in Milan, but which is the environmental villain? Bread and circuses will not be finished, even when the fat man sings, but that chap there in the Barbour jacket, on that tiny motorbike – 'Yes you sir! Do you realise you are destroying the environment with that evil machine?' My local flying club has just formed a syndicate and bought an ex-RAF jet trainer. This thing is as noisy as military aircraft inevitably are and burns hundreds of pounds of fuel an hour. Is it frowned upon as a selfish, frivolous pollutant? No. And neither will be Concorde, when it returns later this year simply to take paying customers on pleasure flights, spreading kerosene residues across the local bird sanctuary and through the atmosphere.

Do as I say, not as I do

There is, and will remain, tremendous hypocrisy in the debate about who may, where and why, burn fossil fuels for transport, but motor sport, just as in the 'fuel crises' of years past, will remain a convenient bad example, to be expunged and vilified in the pages of the paper you read as you jet to Goa for your third foreign trip of the year. That is the first part of the two-pronged problem. There is other obstacle in the path of the future and here motor recreation is not so innocent and wronged and, perhaps, LARA and its member organisations have not been as positive as they might in finding a solution. This is the joint problems of noise, illegal use and erosion. Noise annoys. One man's music is another's annoyance. There are many such sayings and they hold some truth, but for motorsport the best must remain less sound, more ground or, in reality, more sound, less ground. I dare say we all have memories of uplifting aural experiences. For some it is the aforementioned Pavarotti or even Motorhead at the Monsters of Rock festival. Each man to his own, and I have often journeyed with a LARA committee man who likes country and western music (When it comes to c&w, I'm with

Buddy Rich). One of my own favourite recollections is hearing Phil Read on the works MV 500 practising on Oliver's Mount, whilst we waited in a traffic jam miles short of Scarborough back in 1975 – doesn't time fly? Music to my ears, but.... To their eternal credit, the motorcycle industry and the British Motorcyclists' Federation tackled and largely cured the problem of noisy motorbikes on the road. These days, when I hear a noisy motorcycle the reaction is not 'Oh God, another one' but rather 'Oh, a noisy bike, haven't heard one for a while, what a pain he is'. But off-tarmac motor cycling is another matter altogether.

We are told that noise limits have been brought down for trials, scrambles, enduros, etc, but for the life of me I cannot tell the difference. This is a very personal thing, but I think the average motocross race (as opposed to the individual bikes) is as noisy as ever, while trials bikes and trail bikes may actually have got noisier than the whispering Fantics and Hondas of the early 1980s. I have not yet heard a satisfactory explanation of why off-road motorcycles should be allowed to be any noisier than their road-legal cousins. Yes, silencing can affect power output, but surely we have grown beyond the noise = power attitude and, if silencing rules are properly enforced (which, I tell you from experience, they are sometimes not) then it is the same disadvantage for everyone. Noise is a ready supply of nails for the coffin of motorcycle sport (cars and 4WDs do not seem to have this problem) and the participants seem ever-ready to bang them in.

Legislature arise!

A significant part of the noise problem lies in, and is compounded by, illegal use of motorcycles (there is some illegal use of cars, but this is very small by comparison). My own view, after watching the situation for the past ten years, is that it is not as serious as before in most places, but remains a real problem almost everywhere and a very serious one in more locations than one might imagine. Now, the motoring organisations adversely affected by illegal motor use will say (rightly, I think) that this is not really their problem. They have no power to control and scant to influence. Even where illegal riding involves motor club members (which it undoubtedly sometimes does) this is difficult to adequately prove such that disciplinary action may be taken. The idea of providing 'trail parks' to where these cowboy motorcyclists may be re-directed has been tried, tested, and found largely impracticable. Designated sites may make some small dent in the problem (and they can provide a nice sports facility for the wider community) but illegal motorcycling requires action by the police and courts if it is to be effectively stopped. I say this in the knowledge that I have a member of parliament sitting close by.

This is a serious environmental problem (where it occurs) spoiling peoples' quality of life, and it requires the attention of parliament in tightening up the law of what is a 'motor vehicle', toughening sanctions against offenders by allowing the confiscation of machines (many of which are stolen – with the police powerless to intervene), and in advising the police, CPS and courts that these are not trivial matters to be disregarded time after time after time. An ordinary motorcyclist or driver stopped in a spot-check and found to have no road tax would reasonably expect to be booked, but just as with the problems caused by 'new age travellers' occupying highways, it seems that the less law-abiding you are (no licence, tax, MoT, insurance, silencer, etc) the more chance you have of getting away with your sins unpunished.

A new weasel word?

Erosion is another facet of this problem. Motor vehicles do cause erosion in the countryside. So do walkers (seen Skiddaw lately?) So does the agricultural industry. One of LARA's successes must be in driving home to motor users the need to temper their activities with the avoidance of marking the ground unnecessarily. I say 'unnecessarily' rather than 'at all'. We hear increasingly this new buzz word sustainability, suggesting that no activity should take place if it alters the ground it uses. In truth, a level of ground damage actually can be sustainability in practice. Our network of green lanes was not made by teams of stout peasants with shovels digging out a wide hollow track. Highways were mostly formed by the damage inflicted upon the ground by generations of users.

If adequate use ceases then, surprisingly quickly, nature will re-assert and the highway disappear or become largely useless. If this is what people want then let them be open about it. If not, let everyone involved in countryside use and management be not frightened to admit that damage through use can be – not always, and depending upon its level and nature – a most effective (and certainly a most cost-effective) form of minor highway management. But erosion is not always so benign. There is no doubt (at least in my experience) that motorcycles and 4wds can cause real problems to other path users in places. Where this happens some level of management is necessary. That can be local advice and voluntary restraint (a system pioneered by LARA and its members and now widely accepted as a management tool) or, where appropriate, formal restrictions on the use of a minor highway – traffic regulation orders. Most highway authorities are now far more aware of the need to use TROs fairly and only where necessary, but too many bad examples of their use still remain for users to have total confidence in the managers' objectivity. This, of course, is where the recent moves developing dialogues work towards management being fair and open – just what many opponents-on-principle of motor recreation do not want to see.

Keep your powder dry

What else of the future? I keep a close watch on mechanisms of control of access to the countryside, both on highways and

open land. Our current processes of control are based on long-evolved legal processes in which the ability of countryside managers to actually manage are limited. My own past view has been 'a jolly good thing too' as giving managers carte blanche to control access at their discretion would mean a swift exclusion for their personal bêtes noires. That fear remains. There are counties – and national parks – where I simply would not trust the access managers to treat motorised (or for that matter bicycle and horse) users fairly and reasonably. What a dreadful indictment of our system that is, and what a grim portent for the future. The current legalistic system of determining the status and subsequent usage of minor highways, whilst providing some essential safeguards, is increasingly looking like a cul-de-sac in terms of getting a complete and workable minor highway network.

The system is essentially self-defeating. As users learn to work within the system they teach their opponents to oppose better. As the arguments become more technical the 'ratchetting' effect leads to more spurious decisions by Inspectors and more recourse to the courts. As the process evolves, so ever-more cases are uncovered or created and added to the backlog list. Opponents of motor use (or bicycles and horses) now try what I call 'front end management' – they influence who may use a particular track by fighting bitterly about its status, when the system should ascertain status less acrimoniously, then decide, on the facts, who should be able to use it. Similarly, opponents of site-based sports constantly badger for planning controls and processes to be made more formal, more legalised, more regulated as a way of creating a broad presumption against such activities. 'Prove', they say, 'that you are innocent, as we cannot prove you are guilty'.

Hand me down my telescope

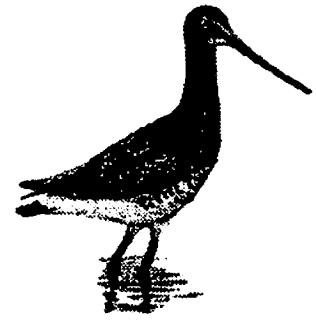
There are two other factors which, I believe, will significantly alter public and government views about the provision and management of public access. One is 'the right to roam' whereby, if statutorily granted, walkers gain the legal right to walk freely over most open land. When this comes (as both Labour and Lib-Dems promise it will, and public opinion might ultimately force upon the Conservatives) what need then for public footpaths? Then couple this with the other major (and quite unexpected) shift in access provision in recent years – the dramatic success of the Sustrans-inspired pattern of discretionally-provided, high quality rail-trails and upgraded paths. Will this, when set against a realisation (if only behind closed doors) that Recreation 2000 has not really dented the backlog of definitive map problems nationally, spark a change in thinking towards a 'more modern', 'planned-for-today's-needs', system of access provision? I am not saying that it should, just that in any value for money analysis, some types of provision might show up a lot better than others?

A new day dawning?

Will such change come about? I think it unlikely that we will wake up one day in, say, 2001 and read that 'The government has announced that, henceforth, active recreation in the countryside will be managed by a fair, impartial and totally discretionary system'. The current processes will not simply be torn up. But, where the various parties build a basis of trust and consensus, based on open discussion of the issues in each case, then they certainly will develop the basis of consensual management largely within the current legalistic system – a consensus which, if seen to work, could be eased across to become the statutory basis for future management. As trust develops, so the need to explore the limits of legal technicalities will be reduced. It will be difficult but not impossible, and LARA has made significant moves in that direction.

What of motor sport and recreation in particular? Well, as I said before it is unlikely to become hugely popular overnight and the burden of initiating dialogue with sometimes reluctant authorities will remain on the drivers. Motor sport cannot afford to stop pushing for more dialogue or it will be whittled-down to a permanent-site-only rump. What of LARA? Well, from its shaky start, mistrusted at times by its own member groups, it has survived internal assassination attempts and grown in value to a point where all within motor sport must surely realise that such a service agency is essential to their future. Motor sport and recreation still faces an uncertain future and must, to use that dreadful term, interface with countryside managers – playing as active a role as possible in the management process.

Or wither. The choice is gavotte or garrotte.



A Godwit

1996 Conference – The Next Ten Years

New Ideas for Co-operative Management

MOTORING ORGANISATIONS' LARA LAND ACCESS & RECREATION ASSOCIATION

Geoff Wilson
LARA Deputy Chairman
BMF Director for Touring
FIM Touring Commission President

LARA's New Initiatives - 1996 Onwards

Whatever new projects LARA sets out on in the next few years it plans to stay true to its founding principles:

- The most fundamental being that it will continue to act corporately on behalf of, and for the benefit of, all its members in ways that benefit from a corporate approach; and on issues which may require skills, expertise, knowledge, cooperation, consensus and availability which cannot always be retained or adequately exercised independently by member organisations.
  – Fundamental because LARA is not a governing body, but some of its member organisations are, and LARA does not seek to replace or be superior to any of its member organisations
- Secondly LARA will continue to provide a forum for discussion amongst organisations which previously had no regular contact, and consequently will serve to coordinate opinion.
  – Important because anything less than well coordinated plans and approaches leaves opportunities for those who are being influenced to do nothing.
- Thirdly, and perhaps the most important for the future, LARA will continue to develop as a channel of communication to and from outside agencies which, otherwise, may not so easily have been contacted, or have consulted with member organisations individually.
  – Desperately important, because we realise the problems of communicating with and consulting effectively with ten or more organisations. The only problem with this is that when going out to consultation some organisations count more on the quantity of replies than on the quality. When LARA responds it is on behalf of ten organisations, and motorsport should be given full credit for such a high level of coordination. Would that some other organisations with which we have to communicate would make talking with them as easy as we are trying make talking with us.

These are the basic principles on which LARA was founded, and they appear to be as relevant today as they were when first drafted in 1986. However, what will change is the manner in which the principles are exercised. In jargon terms LARA will be moving away from a 'programme' based operation to a 'project' based one. The programme base of the last five years was the correct one. It enabled the operation to create structures and ways of working which, now in place, will be the foundation for the next five years, which we hope will be more an action, or project based, phase.

The plan for action is based on the following points:

- To have Motor Sport and Recreation included in planning strategies in accordance with the 1995 report from the House of Commons Environment Committee.
- To encourage Motor Sport and Recreation clubs to be more involved in the planning process.
- To encourage, and where possible lead, greater coordination of resources and thought amongst the wide spread of interest groups for the resolution of countryside recreation management problems, and the ultimate abandonment of the adversarial, solution imposing and expensive systems which currently predominate.
- To develop LARA's expertise in user led participatory resource management and management by agreement, encouragement and consensus, as illustrated by the Lake District National Park Hierarchy of Trail Routes Initiative and the Trail Riders Fellowship/Country Landowners Association joint Rapid Response System.
- To develop the Heritage Motorsports Venue Scheme which grades sites on a basis of historical use ranging from 10 to 50 years and over.
- To create a 'Motorsport in Conservation Areas' database.
- To identify and develop locations of good practice in the management of land for motor sport and recreation through pilot and model exercises.
- To further develop Local/County etc. Liaison Groups and Regional Motorsport Forums, through which local motorsport development plans may be created and local projects executed.

The internal combustion engine applied to a motor vehicle is now over 100 years old. Common opinion for the first decade or so was that there was no future in the new form of propulsion. After-all steam traction was still relatively recent, and since the advent of the steam train roads had deteriorated rather than been improved.

No! Personal mobility on motorcars and motorcycles was to be nothing more than a fad, and at best would be just a recreational diversion for wealthy wasters...

Nature quite often dictates that things run a sort of circle. And maybe there is a lesson to be learned from those beginnings of motoring. Where motoring began as something not to be taken too seriously; a rather specialised recreation; perhaps that is where it is heading again.

If motoring does becomes less and less acceptable as a means of mass transport, and less and less fashionable because of the pollution it creates when hundreds of millions of people do it, perhaps it will become increasingly popular as a recreational activity on a level that will be acceptable because of the thrills and commercial activity which surrounds it. Despite a public concern (in principle at least, if not really in practice) for the environmental damage being done by the motorcar, motorsport is gathering increasing media attention. For 1997 ITV has 'stolen' Formula One from the BBC – the result of which is that BBC is to switch its attention to the British Touring Car Championship, the most competitive in the world. A championship created to promote manufacturers and models to the TV audience of millions. Success on the box translates into sales.

Yet in the eyes of single issue activists Motorsport and Recreation remains in the same category as the Newbury bypass, fox hunting, veal calf exporting, mad cow disease and tobacco advertising, and all those other popular issues which when debated in depth fall short of decisions based on either fact or truth ... neither of which maybe just aren't available.

However, in 1995 motorsport and recreation WAS the subject of more top level debate than it has been for many, many years.

Vehicular use of the countryside was a major consideration of the House of Commons Committee which looked at the Environmental Impact of Leisure Activities – the special aspects of which will be addressed this afternoon.

MOTORSPORT - THE PROFESSIONAL SCENE

Motorsport more specifically was even the subject of a debate in the House of Lords, when Lord Astor of Hever, President of the Motorsport Industry Association, put forward a debate to 'call attention to the United Kingdom motorsport industry'. A debate which drew attention to the 1.3 billion turn-over of the industry, including 750 million of that total in foreign earnings, and to the 55,000 people employed full-time in the industry and 100,000 or so who work in it part time. A debate which spent some time advising the government against support of the ban on tobacco advertising threatened by the European Parliament. A debate which skipped-over very quickly the threats posed to motor racing by environmental pressures.

Their Lordships glossed over a major point. For if motorsport is worth saving, defending and promoting for the advantages it brings to Britain's commerce and exchange it cannot do so on the back of another fragile partner. No matter what happens to tobacco advertising motorsport and recreation must stand alone. The world's leading Touring Car Championship owes nothing to tobacco advertising. France, Germany and China already ban tobacco advertising on competition vehicles. Motorsport has nothing directly to do with tobacco, but it does have a lot to do with the environment. The Lords Astor, Hesketh, Montague, & Strathcarron should not avoid that.

Maybe it will take some years yet for it to be fully realised, but motor sport's impact on the environment threatens continued expansion. It seems that we cannot count on the motorsport industry to play a major role in dealing with this issue. Since the beginning of LARA the Motorcycle Industry in Britain has been a very active member of the association. The motorcar industry has been prominent by its absence.

British motorsport (cars at least) IS doing very nicely thank you. It has the World Rally Champion in Colin McRae, and most likely the next Formula One World Champion in Damon Hill. All this without too much government intervention so far. But the industry alone cannot be left to deal with the environmental issues that will ultimately try to entrap it. Ultimately not even the House of Lords will be able to protect a motorsport which is not fully in tune with public opinion.

One of LARA's key objectives for the next five years will be to find an advocate who will bring the car sport industry into the LARA partnership. In 1995 the Auto-Cycle Union, the governing body of motorcycle sport in Great Britain produced its very own Environmental Code. A first in motorsport, if not amongst all governing bodies. Through LARA it is intended that the ACU's Environment Code will be more widely adopted within motorsport and recreation. The security of motorsport in an environmentally conscious world is not something which can be bought with billion dollar turn-overs or the threat to thousands of jobs. Ask beef farmers what security a profitable industry affords you if the public is turned against you.

MOTORSPORT AND PLANNING - THE NOT SO PROFESSIONAL SCENE

I mentioned earlier the role of LARA in helping create an integrated planning and development policy for motorsport and recreation. There can be little doubt that this is where LARA's prime function currently lies.

In September 1994, LARA began a process of responding to Local Plans throughout England and Wales which were available for public consultation. This process included writing to all 340 District and Borough authorities with a request that LARA be placed on the local plan mailing list. Only 26 are now outstanding.

When looking at local plans and countryside strategies, the main headings of concern for LARA are leisure, sport and recreation, environment (both built and natural), and transport. And the subjects we hope to have included in the Plans are basically motorsport venues and vehicular rights of way.

This becomes a very important difference when considering the types of issue which LARA tends to deal with. For example, we are becoming very familiar with the statement that 'motor sport and recreation activities are more likely to be successfully accommodated outside x, y and z designated areas, on land of little landscape or wildlife value'; however, we are much less familiar with the progression from this into the suggestion 'however, we suggest a, b and c as suitable areas'. Section 52 of Planning Policy Guidance document 17 makes some attempt to cover this. PPG17 states that 'where there is a clear demand for noisy sports activities, it is important that planning authorities

seek to identify sites which will minimise conflicts with other users'.

Planning authorities must 'seek to identify' it says. Nothing could be less demanding could it? PPG17 doesn't require planning authorities to identify sites ... just to seek to identify. The problem is that seeking is prone to failure to find.

However, the problem does not start with this excuse for a policy contained in PPG17. It begins with motorsport and recreation clubs which in the main fail totally to indicate 'clear demand' for their activities. And those that do are more often turned down if they apply for formal planning permission. The result is a great divide of mistrust in the formal planning system, which in principle, according to PPG17 should provide for motorsport, but in practice fails in large measure to do so.

Over the next ten years LARA will take the initiative to encourage user groups to take the lead in illustrating the demand for motorised recreational activity facilities.

Gone should be the days of clubs secretly and privately seeking permission from sympathetic landowners to run autograss or motocross on a suitably knobbly piece of hillside in return for a bottle of whisky. Because in the late 20th century although a piece of land may itself be private, the results of any activity which take place on it most surely aren't. Noise, erosion, gatherings of people, are certainly public business, and if any number of the public don't like what is taking place on a piece of private ground they will use every means possible to say so. Motorsport clubs need to be ahead of this game. And above all they need to be seen to be a senior player in the game. The game that is known as the Planning Process. A process which LARA knows well, after communication with over 300 local authorities, which is getting more and more sophisticated, and which can only be made full use of when you know the rules and are prepared to play by them.

If a potentially uncontrolled activity is properly managed, this in turn will lead to environmental improvement. If this was not the case it would be difficult to argue on environmental grounds for proper management in place of illegal activity. The Environment Committee, in its report concerning the Environmental Impact of Leisure Activities, stresses that such activities can not be banned because they will continue to take place illegally.

The most obvious solution is management, and the most likely way to ensure that such management is successful is to reach it by consensus. This is the ethos of the way in which LARA works, and given the opportunity, will increasingly work over the next ten years.

In terms of results, Councils have agreed to make a variety of changes to their plans as a result of LARA's representations. Amongst them are:-

> '...Where a proposed trail passes along a byway or other vehicular route, the Council will inform users that vehicles may also legitimately use that part of the route ...'

> '...the Planning authority will support the use of management agreements drawn up in consultation with relevant bodies to secure integrated use of any development area...'

> '...The District Council will encourage consultation and positive management measures to minimise conflict between [motor car and motor cycle racing] and other interests...'

> '...In addition to the network of classified roads, there are byways, tracks and other unsurfaced roads which are also public highways open to vehicles. In some cases these [Byways, tracks and unsurfaced roads] can contribute to the character and appearance of the landscape and built environment and some may have recreational value in their own right ... the overall policies of the Local Plan can help to protect the character and setting in the landscape and built environment of such byways, tracks and other roads from the effect of development on adjacent land...'

In addition, several Councils have agreed to replace references to 'footpaths' with 'rights of way' and the outmoded term 'motorcycle scrambling' with something more meaningful, thereby correcting long-standing misnomers which potentially led to misunderstanding and conflict.

An important side-effect of our responses, particularly at the Inquiry stage, is the relevance to many other countryside sports of what LARA is doing. Although not an initial reason for carrying out this work, it is interesting, and from time to time very surprising, to note how many issues are the same for many types of countryside based sport and recreation.

Although the percentage of authorities possessing a policy of some kind regarding motorsports has been found now to be higher than cited in the Elson Report (of 1986), still only around 3% actually identify sites for motorsport disciplines, and no plans indicate sites for recreational off-road venues in an attempt to relieve pressure on vehicular rights of way.

Several plans note that there is an increase in off-road vehicular activity which may become a problem, but fail to address the problem. Others include a policy concerning where motorsport venues should NOT be located, but give no indication of where they should therefore go. And in a similar vein some plans state that few opportunities exist even though need has been proven. In areas where major motorsport venues already exists, local plans frequently fail to recognise the venue of smaller, grass-roots sites.

One of the most important parts of a response to a local plan, especially at the further evidence stage, is local knowledge, examples and statistics clarifying why a policy needs amending. Thus the value of local people's input cannot be over stressed. LARA has recently tried to collate this type of information by initiating the **Heritage Motorsports Venue Scheme** which sets out to grade sites throughout the country which have been important for motorsport activity for at least ten years and up to fifty years or more. LARA was one of the few organisations to give qualified support to the Sports Council's ill-fated OASIS ideas some years ago. The Heritage Motorsports Venue Scheme reflects the principles of the OASIS scheme.

At a much earlier stage is the project to collate information regarding sites which are important for motorsport activities

which take place legitimately on designated land such as SSSIs, through negotiation and agreements. Indeed this brings back the notion of consensus, and the fact that policies in a plan are much more likely to be successfully implemented if they have the agreement of all interested parties.

Another project, as yet not begun, will be to research what percentage of motorsport activity takes place under 14 day permitted development rules, and how much is on sites which have been granted planning permission.

One of the first authorities to study in some depth the question of Noisy Sports in particular was Hampshire County Council in 1988. Reading that report again reminds me that little has changed in terms of how motorsport is provided for and managed in the planning process. But all here know that eight years is no time at all in which to introduce major changes in thinking and culture. However, what has changed since 1988 is the climate to accommodate the necessary changes. And at LARA we hope that the next five years will see that climate improve further. For motorsport and recreation has been just as guilty as local and national government officials of being strong on saying what are the problems but weak on saying how they should be solved. In the next ten years expect motor sport and recreation to take some major leads, which growing involvement in the planning process has only heralded.

Traditionally motor sports take place for the most part outside of the planning system and generally without contact with environmental health authorities in terms of noise control. The practice of motor sports has traditionally remained largely self managing. The reasons for this are manifold, and in a climate of continuing loss of sites and failure to plan for future use, the reasons for this become only excuses that need further questioning.

- Clubs and commercial enterprises avoid making planning applications because the restraint and conservation orientated policies of most councils does not favour motor sports and formal submissions draws attention and objections which may not otherwise exists if they act within the permitted development allowances. Site loss has brought clubs into contact with local authorities, but the general feeling is that when this occurs planning consent is either refused or granted only subject to very onerous conditions. In short, the clubs feel the odds are stacked against them. That's how it was ten years ago, and that's how it remains today ... in the eyes of motorsport clubs.
- The knock-on effect of this wariness is an absence of permanent facilities for many motorsport activities which in turn portrays an air of transience and non-conformity, which in turn makes it very difficult for the activities to be accepted by the local community. It also means that the sports organisation and clubs are reluctant to invest in facilities, which denies them access to Sports Council grant aid.

None of this is totally new thinking of course. However, despite the problems which Hampshire and others (many others) have identified over the past ten years very little has been done to produce solutions to the problems ... either by planning authorities or the motoring organisations themselves.

AGREEMENT BY DESIGN, NOT CONSULTATION

Our opinion is that a major reason for this is that there is a lack of willingness amongst the wide body of interested parties to reach what has been called **agreement by design.** The traditional way in which problems of this nature have been solved in Britain is through consultation – a process which involves an organisation asking a lot of other organisations and individuals what they think. Then, in private, the source organisation makes its decisions for action on an all or nothing basis. It is a step or two on from the no consultation of fifty or so years ago, but it fails to meet the expectations of anyone but those who happen to agree with the decision when it is made.

The traditional consultation process is what I call an arms-length process, rather than a face to face process. Motor sport and recreation knows all about being kept at arms-length. That's the position we have found ourselves in for far too long.

We hope that LARA in its new project based role will be able to set some examples which indicate that solutions can be created by consensus-building. This process cannot be done at arms-length. It must be done face to face – across a table:

- Where people are fully involved in finding their own solutions to their own problems.
- Where prejudices and falsehoods can be fairly challenged with no fear of simple dismissal.
- Where the 'value' of one activity should not be measured against that of another.
- Where the powerful do not get their own way regardless.
- Where there is no sell-out to a highly vocal minority.
- Where there is a willingness to try unfamiliar or non-legalistic approaches.
- Where there is no fear of hidden agendas or of the implications of reaching successful conclusions.

As Alan Kind explains in his summary of LARA's work to date, the association has spent most of its first ten years setting a new foundation for the development of motor sport and recreation in accordance with the recommendations of the Sports Council 'Providing for Motorsport' report in 1986.

Two of the less prominent recommendations in that report were that motorsport and recreation should

- ... go further than consultation to take on negotiative roles where appropriate.
- ... promote more sophisticated procedures for decision making

LARA's future project based initiatives will serve to put those foundations to good use.

MOTORING ORGANISATIONS' LARA LAND ACCESS & RECREATION ASSOCIATION

Framework for participatory project:

LARA/LDNP HIERARCHY OF TRAIL ROUTES JOINT INITIATIVE.

1. BACKGROUND

In the Lake District National Park at the present time we have been presented with a quite rare opportunity to apply some vision and imagination to the participatory management of the vehicular unsurfaced roads in the Park. There would appear to be great potential for creating a model which should be able to be applied elsewhere in the country.

We have achieved some consensus amongst users, land managers, National Park and Local Authorities that the past twenty years of claim and counter claim has achieved little to solve the perceived problems surrounding vehicular recreation in the countryside. The consensus extends to an agreement that the various legal processes which have been employed over the past twenty years have not served any party very well.

2. OBJECTIVES

2.1 To bridge gaps which currently exist between rights, responsibilities and perceptions of green roads (UCR + RUPP + byway) and their use, and to use the bridge as a route to a form of effective use management which the law has proved incapable of achieving.

2.2 To make progress in resolving long outstanding issues surrounding the use of motor vehicles for recreational purposes in the countryside.

3. PRINCIPLES BEING APPLIED

3.1 The basic principle being pursued is that of creating by consensus a 'hierarchy' of unsurfaced vehicular routes, i.e. some routes only for certain classes of vehicle (by weight or type), some which will sustain all weather/all season use, some which would benefit from more sophisticated types of management, and some routes with special historical qualities which could be designated 'Heritage Byways'.

3.2 Several working meetings of user and authority representatives have taken place over the past nine months which have progressed these ideas considerably.

4. CURRENT POSITION

4.1 So convinced are we in LARA that this work will have benefit for others, and that it may be transportable as a model, that we have established LARA funding for a special project for the research, analysis and recording of the development of the initiative, through to whatever conclusion is reached by mid 1996.

4.2 Fundamental to the success of the initiative which is being implemented currently in the Lake District National Park is the presentation, publication, launching and circulation of a report on what we think is a unique project. It is hoped that by producing a quality report, both in content and presentation style, it will be granted high status which will encourage others to adopt it as a model.

4.3 However, this particular aspect of the project is one which LARA is not adequately able to support, either financially or in expertise. Much of LARA's corporate thinking has been moulded by previous Countryside Commission and Sports Council reports. Consequently we would regard Countryside Commission support for the design, layout, publication and launch of the initiative as being an ultimate example of participatory planning and management as precisely spelled out in the conclusion to the recent report *Good Practice in Planning and Management of Sport and Active Recreation in the Countryside.*

5. AIMS

5.1 To publish a quality report which will record the details of what we think is a unique initiative, undertaken jointly by the Lake District National Park Authority and the motoring organisations' Land Access and Recreation Association, to investigate innovative management techniques which may be applied to recreational motor vehicle activity in the National Park.

5.2 To publish a report which will contain examples of good practice and recommendations which will serve as a model to other authorities.

5.3 To produce a report which will be an example of systematic critical evaluation of management in practice, and of participatory planning and management.

6. METHODOLOGY

6.1 To undertake a study and recording of:

+ the background to the issues which led to the creation of the LDNP/LARA Hierarchy of Trail Routes Working Group in the Lake District National Park
+ the processes involved in mobilising, facilitating, servicing and motivating the volunteer Working Group.
+ the immediate conclusions drawn by the Working Group
+ the systems put in place to ensure that the Hierarchy of Trail Routes principle remains a dynamic operation.

6.2 A researcher has been appointed who will work initially for six person-weeks (30 days) on the study. The researcher appointed currently works in The Peak Park, and they are willing to release her on an *ad hoc* basis to undertake the work in the Lake District. Office space, facilities and transport where required for field study work, is being supplied by the Lake District National Park Authority.

7. FUNDING

Funding has been supplied by LARA centrally, The Sports Council, the Trail Riders Fellowship, The Association of Rover Clubs, The All Wheel Drive Club, the North Lakes 4 x 4 Club, and the Cumbria Rover Owners Club. The Lake District National Park Authority is contributing facilities etc.

8. OUTPUTS

8.1 A 16/24 page A4 quality report which can be used as a working document for other authorities involved in the management of Rights of Way.

8.2 The advancement of the objectives set out in 2 above through wide circulation of the report to land, access and recreational management agencies.

9. SUBSEQUENT ACTIONS

9.1 Circulation of the study report which may be titled (for example) *A Critical Examination of Motorised Recreation Management in the Lake District National Park through the implementation of a Hierarchy of Trail Routes.*.

9.2 The implementing of structures similar to those which it is hoped will be successful in the Lake District in other National Parks and areas where the procedures adopted may be usefully imported.

9.3 Integration of the unsurfaced routes hierarchy into the wider based considerations of the current Lake District Traffic Management Initiative.

10. REPORT PUBLICATION

10.1 Style:

It is anticipated that the the published report should reflect the usual style and quality of Countryside Commission and Sports Council reports. An example of the style, size and weight that is anticipated is the Countryside Commission document from 1993 titled *National Target for Rights of Way*, but with 12 or 16 pages inside a cover.

10.2 Target Audience:

+ National Park Authorities
+ County and District authorities with the duty to manage Rights of Way.
+ Other Land Management Agencies (CLA, NFU, National Trust etc.)
+ Planners charged with recreation provision responsibilities.
+ LARA Member Organisations & other non-affiliated groups.

10.3 Production:

The design, layout and presentation of a report of this style is judged to be outside of LARA's expertise base. Neither will the present funding stretch to financing a report which matches the usual quality of Countryside Commission and Sports Council documents. Other assistance is being sought with this aspect of the work.

10.4 Funding Requirements:

LARA is looking for further funding for the publication of the report. It is anticipated that the Countryside Commission may assist with this.

10.5 Timescale:

We are anticipating that the Hierarchy of Trail Routes Report will be ready for publication in late 1996 or early 1997, when it is hoped that trials will have been carried out on the practical aspects of the Hierarchy of Trail Routes principle.

10.6 Launch:

Arrangements yet to be considered.

GW 10.4.96 Ref: LARA/LDNPHOR.001

MOTORING ORGANISATIONS' LARA LAND ACCESS & RECREATION ASSOCIATION

Motor Sport & Access in National Parks

Bob Cartwright, Head of Park Management
Lake District National Park Authority

What is SPORT?

What are National Parks for?

How will they be 'co-operatively managed' in the next 10 years?

I will explain my definition of Sport,
the Environment Act 1995 definition of National Park purposes,
and my opinion of the techniques we will employ
to achieve co-operative management.

Competitive Motor Sport : how was it for you, darling?

I will briefly explain the costs and benefits
of accommodating events in a National Park

Recreational 'Off-Road' Driving : 'it's good to talk'

I will describe how a 10 year old and a 45 year old sat down to talk
about how work and play can co-exist
and what lessons are being learned

The full text of Bob Cartwright's address to the conference
will be available with the post-conference papers.

MOTORING ORGANISATIONS' LARA LAND ACCESS & RECREATION ASSOCIATION

Angela Sydenham MA LLB
Solicitor with Birketts, Ipswich
(Formerly Chief Adviser to the CLA and member of the Byways Working Party)

BOATs, RUPPs, & Reform
Changing Old Laws to Suit New Needs

1 INTRODUCTION

Section 56 of the Wildlife and Countryside Act 1981 provides as follows :

(a) Where the map shows a footpath, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover a right of way on foot, 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 that right;

(b) Where the map shows a bridleway, the map shall be conclusive evidence that there was at the relevant 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 those rights;

(c) Where the map shows a byway open to all traffic, the map shall be conclusive evidence that there was at the relevant date a highway shown on the map, and that the public had thereover at that date, a right of way for vehicular and all other kinds of traffic;

(d) Where the map shows a road used as a public path, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way 017 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 those rights.

Suggestion :

The Definitive Map should be conclusive as to what is not there, as well as to what is. There should be a limited period in which applications could be made for additions and upgradings. After that date, the map should be definitive and alterations made only under formal procedures.

Perception of Damage :

Many consider that the presence of vehicles in the countryside on anything other than normal highways causes damage.

The Reality :

The true position seems to be that some unsurfaced roads can take vehicles without any damage at all and that others are only damaged at certain times of the year. There are however some highly publicised cases where extensive damage has been done.

Reform :

This talk looks at various suggestions for the reform of the law relating to vehicles on the public right of way system. It looks at some of the recommendations of the Byways Working Party, suggestions from the CLA (though not at this stage official CLA policy), and the proposals of GLEAM (Green Lanes Environmental Action Movement).

continues ...

2 DEFINITIONS

The term BOAT causes consternation being a 'byway open to all traffic' It is generally accepted that Byway would be a better term. The alternative (new) definitions of Byway are –

(i) 'Byway' means a carriageway, the surface of which is not sealed against the penetration of water;
(Byways Working Party)

(ii) 'Byway' means a carriageway which is not provided with a metalled surface throughout its length –
'Carriageway' – means a highway carrying vehicular rights
'Metalled' – means sealed with tar or concrete;
(CLA definition)

(iii) 'Byway' means a road which is unsurfaced –
A 'surfaced' road is a road which has been surfaced or re-surfaced within the last 40 years with the intention that it should be used by motor vehicles. All other roads are 'unsurfaced' (GLEAM)

3 DEFINITIVE MAP

(i) Those byways as defined which are not on the Definitive Map should be added;

(ii) Carriageways which do not meet the definition should be deleted as a Legal Event Order i.e. one which needs no advertisement; (Byways Working Party)

(iii) Existing RUPPs and BOATs bridleways and footpaths which meet the new definition should be re-classified as Byways; (CLA)

(iv) There should be a right to apply under section 54 – for a RUPP to be classified as a BOAT – in a fixed period of two years. Thereafter if there was no application or re-classification order pending all RUPPs should be re-classified as bridleways; (CROWC)

(v) Objections to re-classifications and modification orders should only be 'duly made' if they relate to the existence of vehicular rights. (Byways Working Party).

4 TRAFFIC REGULATION ORDERS

These are expensive and are said to cost between £3,000 and £4,000 each.

The Byways Working Party made the following recommendations –

(i) The cost of advertising Traffic Regulation Orders (TROs) on byways should be reduced, e.g. by simplifying the wording of advertisements and doing away with the requirement to advertise in the London Gazette by substituting pre- advertisement consultation with national user groups and direct notification of a made TRO to such groups;

(ii) The Traffic Signs Regulations and General Directions should be amended to allow the use on byways of signs of less costly and less urban appearance and scale;

(iii) Authorities should publicise the policy considerations within which they will consider the regulation of traffic;

(iv) The guiding principal for TROs on byways should be 'No TRO restriction without representation at a Public Inquiry';

(v),Under appropriate circumstances a body approved for the purpose by the Highway Authority should be empowered by a TRO to regulate vehicular use on behalf of the Highway Authority;

(vi) Highway Authorities should be empowered concurrently with the Police to prosecute breaches of Tros in respect of byways.

The CLA recommends that there should be additional grounds for making TROs which include –

(a) avoiding disturbance to livestock, game or wildlife; and

(b) protecting flora, fauna, geographical or geological features.

The CLA also suggests automatic restrictions on byways shown on the Definitive Map. These would include –

(i) Motor vehicles exceeding certain unladen weight to be excluded, e.g. 2.5 tonnes;

(ii) Special tyres to be put on vehicles (flotation tyres);

(iii) Speed limits of 20 miles per hour;

(iv) Use restricted to specialised groups, eg LARA members;

(v) Use to be banned during winter months, say October to April;

(vi) Continued use throughout the year for agricultural and forestry vehicles which amount to the 'ordinary traffic of the neighbourhood';

(vii) Permitted local variations by Highway Authorities for specific byways, eg additions or removal or restrictions for specific vehicles (four-wheel drive, two-wheel vehicles, horse drawn vehicles etc).

'Traffic Enablement Orders' :

GLEAM has suggested that motorised vehicles should be banned from unsurfaced road except for access to land or property unless the Highway Authority has made an Order permitting such use – a 'Traffic Enablement Order'. They have defined motor vehicle in accordance with Section 185(1) Road Traffic Act 1988 'a mechanically propelled vehicle intended or adapted for use on roads'.

Statutory guidelines would need to be published on the consideration which would need to be taken into account. The Orders could be applied to any length of road, any type, weight or width of vehicle. The Orders could be any period of time either permanent, temporary or seasonal, depending on the surface. In making Orders consideration would have to be given to the needs of other users.

5 SIGNS

The Byways Working Party proposed that Section 57 of the National Parks and Access to the Countryside Act 1949, which requires the removal of false or misleading statements which are intended to deter use should be extended to byways. Currently it only covers footpaths and bridleways.

The CLA suggests that were there to be national restrictions with local variations on the use of byways, then there should be signs setting them out where the byways leave other highways carrying vehicular rights.

6 MAINTENANCE

The Byways Working Party recommended :

(i) Highway Authorities should review their policies and practices in relation to the sealing and improvement of byways;

(ii) Voluntary work by user groups under strict guidance of the Highway Authority should be encouraged;

(iii) The standards to be prescribed by the Secretary of State for Transport under the New Roads and Street Works Act for reinstatement after public utility work should make specific provision for byways;

(iv) Highway Authorities should have a statutory defence in legal proceedings to enforce the duty to repair a byway in circumstances where it is in the overall interests of the amenity of the area and the conservation of the countryside to avoid the sealing of the byway ;

(v) All byways recorded on the Definitive Map should be highways maintainable at the public expense;

(vi) There should be a presumption in favour of consent for the surfacing of a byway to improve or facilitate essential access to adjoining land for agricultural purposes;

(vii) Highway Authorities should have a specified defence in legal proceedings to enforce the duty to repair a byway in circumstances where a residential property served by the route is not a principal dwellinghouse.

On the other hand the CLA is concerned that Highway Authorities are avoiding their legal duties. Section 53(7) of the Wildlife and Countryside Act 1981 stipulates that 'nothing shall oblige a Highway Authority to provide a metalled carriageway on a BOAT'. It seems that at least one Authority considered that if it adds an unsurfaced carriageway to the Definitive Map as a BOAT, then Section 54(7) enables it to reduce its liabilities for maintaining the surface of the way. This means that the Authority refuses to surface such ways when the nature of the ordinary traffic of the neighbourhood (e.g. farm traffic or recreational motor vehicles) would make it essential to provide a metalled carriageway on such ways. Further, some Authorities consider that if they add an unsurfaced carriageway to the Definitive Map as a BOAT, they can remove it from the list of streets.

The CLA suggestions are therefore that Section 54(7) of the Wildlife and Countryside Act 1981 should be repealed and that Section 36(6) should be amended to make it clear that the list of streets maintainable at public expense should include all highways of whatever classification.

continues...

7 JURISDICTION

The Byways Working Party recommended the following :

(i) Subject to an exception where the extinguishment or diversion of a footpath, bridleway or byway forms part of an application involving vehicular highways other than byways:

(a) the Magistrates' jurisdiction under Section 116 of the Highways Act 1980 should be removed altogether in respect of extinguishment and diversion of footpaths and bridleways – thereby terminating the present concurrent jurisdiction; and

(b) the jurisdiction of the Magistrates in respect of the extinguishment and diversion of RUPPs and BOATs should be transferred to Highway Authorities, and to the Secretary of State in opposed cases, by making the procedures under Sections 118 and 119 applicable thereto.

(ii) A power should be available under Sections 118 and 119 for downgrading byways or bridleways;

(iii) Where other powers are available to Local Authorities to close or divert footpaths and bridleways, they should be extended to cover byways.

8 CONCLUSION

The Byways Working Party's recommendations are fairly tame. Since the publication of the Report, the debate has moved on. Certain provisions are uncontroversial. These include the term 'byway' rather than 'byway open to all traffic' and the technical amendments to legislation such as Section 56 of the National Parks and Access to the Countryside Act 1949 (Misleading Notices) and amending Sections 118 and 119 of the Highways Act 1980 so that they cover byways as well as bridleways and footpaths.

On the other hand, the repairing responsibilities of Highway Authorities for byways is controversial. Highway Authorities want to cut down on their obligations, while landowners want to see highways properly repaired for the ordinary traffic of the neighbourhood. In between are those who are concerned that the character of these ancient lanes should be preserved by sensitive and appropriate maintenance and repairs.

Traffic Regulation Orders are even more difficult. Although the Byways Working Party's Report suggests that the advertising of TROs should be simpler, they also suggest that there should be no TRO restriction without representation at a Public Inquiry. This would increase the expense and complications of TROs and is unlikely to find favour with landowners. At the other extreme, the GLEAM recommendation that there should be no vehicular access on unsurfaced roads unless there were a Traffic Enabling Order is not likely to find favour with LARA. The debate will therefore continue.

The current position over byways is far from satisfactory. More Government resources are needed to produce accurate and up-to-date definitive maps and to do physical works to the lanes. The law needs to be clarified and amended. Meanwhile, there must be more understanding and imagination on all sides. The only way forward is co-operation, not confrontation.

Although, of course, as an independent lawyer, I am bound to argue the best case for my client, whether Highway Authority, landowner or user.

1996 Conference – The Next Ten Years

New Ideas for Co-operative Management

MOTORING ORGANISATIONS' LARA LAND ACCESS & RECREATION ASSOCIATION

THE FUTURE OF BYWAYS: A LEGAL FRAMEWORK

A report to the Rights of Way Review Committee
by the Byways Working Party October 1992

David Bays	Association of County Councils
Bill Kershaw	LARA
Ted Mason	Hampshire County Council
Michael Rolt	Powys County Council (Chairman)
Angela Sydenham	Country Landowners Association
Steve Tivey	Cheshire County Council
John Trevelyan	Ramblers Association

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1: Introduction

1.1 The working party's terms of reference

1.1.1 The Working Party was established by the Rights of Way Review Committee following consideration by the ACC of legislative proposals made by Hampshire County Council following a well attended conference in Winchester in October 1989. We agreed that our terms of reference should be 'To consider law and practice relating to byways and the reclassification of RUPPs and to make recommendations ':

We sought to establish general principles for discussion and agreement where we consider the existing law and practice to be deficient. Our purpose was to restrict change to what we see as essential to allow byways to meet the demands arising from shared use by walkers, horse-riders and drivers of vehicles, in particular 4-wheel-drive all terrain vehicles. In our recommendations we have endeavoured to achieve consensus and to provide a legal framework within which decisions affecting individual highways could be taken locally.

Throughout this report the word 'byway' means the vehicular highway given a new definition in paragraph 3.4.4, i.e. a carriageway the surface of which is not sealed against the penetration of water.

1.1.4 The report represents the views of the individual members of the working party, not their organisations.

1.2 Meetings – In addition to our meetings, we made a site visit to some byways in Avon: we are grateful to Avon County Council for making that visit possible.

2: General Findings

2.1 Introduction

An increase in the use of unsurfaced country tracks, in particular by four wheel drive vehicles, has coincided with reclassifications under the Wildlife and Countryside Act 1981. This has stimulated a vigorous debate about the role these vehicular highways should play in countryside recreation and the impact of recreational use on farmers and landowners - and vice versa. Opinions tend to be polarised; some wish to exclude altogether recreational vehicles from unsurfaced roads. Others argue that there are ways and means by which the whole range of lawful users of these highways can be accommodated in their collective enjoyment, and business, in the countryside. We have tried to steer a 'strait and narrow' course by concentrating on the underlying issues and the legislative framework within which appropriate and locally determined decisions can be implemented.

2.2 The importance of byways

2.2.1 We noted that there was already recognition that these highways (defined by us hereafter as 'byways') were often of great recreational importance, but that this importance was not being reflected in the relevant legislation or in their management by highway authorities. In this sense the byway

has a greater affinity to other recreational routes (footpaths and bridleways) than to the main highway network.

2.2.2 In the recent past byways have been regarded as the least important highways under the control of highway engineers. The byway is however an integral part of the recreational rights of way network as a whole meriting, we believe, special management to protect it against inappropriate maintenance, use or development. We recognise throughout this report the importance of byways to landowners and farmers who have to use them for access.

2.3 Recreational and utilitarian use

2.3.1 The uniqueness of the byway to the public is its potential for the widest range of uses for countryside recreation. We consider this should be recognised as the byway's primary public function. With the exception of agricultural/forestry access and for occasional access by vehicles for maintenance purposes (eg reservoirs, transmitters) the byway does not, and we submit, should not, serve any utilitarian transportation purpose. The byway should not be treated as just another kind of vehicular highway, but as a primary recreational asset in its own right.

2.3.2 We consider that existing legislation (especially that related to maintenance) ignores this critical difference and operates to put the byway at risk of being debased and compromised for countryside recreation. The essence of our recommendations is that the byway should be specifically recognised as a recreational asset and subjected to an appropriate regime of repair, maintenance, management and regulation, with account being taken of the interests of farmers and landowners. This would apply to byways whether or not recorded for the time being on the definitive map. We recognise the constraints upon highway authorities in allocating resources from stretched highway and recreation budgets.

2.4 Maps and lists of byways

2.4.1 At present some roads which are 'unsuitable for motor cars' (perhaps because of little or no maintenance over the years) are recorded in highway authorities' lists of publicly-maintainable streets no differently from roads which are perfectly suitable for ordinary traffic. At the same time, some ways recorded on definitive maps as byways open to all traffic (BOATs) or roads used as public paths (RUPPs) are in use as adequately surfaced minor roads.

2.4.2 In both cases this failure to distinguish between the surfaced and unsurfaced roads can only lead to confusion: we make recommendations to end the confusion.

2.5 Standards of maintenance

2.5.1 We consider it desirable that a hierarchy of public vehicular highways should be recognised by highway authorities using maintenance standards as the criteria. The standards applied to byways would range widely to recognise the difference between wild and rocky and boggy mountain tracks with deep river crossings, and traditional lowland green lanes (with a few shallow pot-holes) able to take the occasional passage of private cars. The common factor would be the substantial absence of a sealed surface.

2.6 Use, abuse and traffic regulation orders

2.6.1 We did not consider in any detail evidence of vehicular use (or abuse) of byways. Hampshire's Conference revealed no evidence of widespread overuse, misuse, or abuse of these routes by recreational vehicles. Surface damage and/or nuisance has become an issue in some well reported cases. The introduction of voluntary restraint and the carrying out of voluntary repairs by the organised user groups may sometimes overcome problems.

2.6.2 Where there is risk of lasting or regular damage, Traffic Regulation Orders (TROs) may be necessary. We make suggestions to encourage highway authorities to work with the organised user groups. We believe that:

(a) TROs should be used only where they are properly justified.

(b) The diminution of public rights whether by TROs or otherwise should not be seen as a means of dealing with problems such as itinerants, litter dumping or trespass, for which other remedies are available.

3: Defining a 'Byway'

3.1 Byways under the 1981 Act

The inclusion of a way on a definitive map and statement as a 'byway open to all traffic' (BOAT) can, and in the case of (a) below could, come about by any of the following means:

(a) Reclassification under the 1968 Countryside Act of a way which was previously shown, (or could have been shown) as a RUPP on a definitive map. The tests to be applied for reclassification were those set out in paragraph 9 of Schedule 3 to that Act and were repealed by the 1981 Act.

(b) Reclassification under section 54 of the 1981 Act of a way shown on a definitive map as a RUPP. The test to be satisfied is set out in subsection (3)(a) of that section, namely that a public right of way for vehicular traffic has been shown to exist.

(c) Addition of a way not previously shown on the definitive map under section 53(3) (c) (i). The test to be satisfied is that the way is a 'byway open to all traffic' as defined in section 66(1) of the Act, namely that it is a 'a highway over which the public has a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used'.

(d) Change in classification, under section 53(3)(c)(ii), of a way previously recorded on the definitive map and statement as a footpath or bridleway. The test to be satisfied is as in (c).

3.1.2 The test which applies to (c) and (d) is essentially the same test that should have been applied to the original inclusion on the definitive map as a RUPP of a way subsequently reclassified under (a) or (b). However it is clear that all ways now shown or having the potential to be shown on definitive maps as byways open to all traffic do not form an easily identifiable and homogenous group when their surface, use or character is considered. This is especially true since there is no provision in the 1981 Act for a byway which ceases to be 'mainly used for the purposes for which footpaths and bridleways are so used' to be removed from the map. In other words, if a way first included as a RUPP in the 1950s was made up in the 1960s and is now an 'ordinary' metalled road, it is still necessary for it to be shown on the definitive map as a BOAT.

3.2 General Principles

3.2.1 We interpret the intention of the existing legislation as being that definitive maps should identify vehicular ways which, by their nature, are not likely to be used much, if at all, by ordinary motor traffic. They are therefore correspondingly of potential interest to people seeking to use the countryside for recreation whether as walkers, horseriders, cyclists or drivers of suitable vehicles. We have noted above the importance of byways to farmers and landowners.

3.2.2 We propose that the legislation be amended in order to identify byways more accurately and to protect for the public their particular character. The recommendations that follow spell out our ideas on those amendments.

3.3 The Name

3.3.1 Byways may comprise a small percentage of the public rights of way network. (estimated at about 5% nationally) but they are valued equally highly by the recreational motorist, the carriage driver and by people on foot, on horseback and bicycles. They can be particularly suitable for use by the disabled. Byways are an 'off road' refuge for the exercise and enjoyment of the widest possible range of countryside highway uses. Our recommendations are aimed at identifying those vehicular highways which are not suitable or normally used by the public to take ordinary vehicles and to give them special recognition in terms of appropriate repair, maintenance, management and regulation, according to local circumstances.

3.3.2 We consider that the word 'byway' best describes these highways and that the additional phrase 'open to all traffic' is an unnecessary addition, given the often unwarranted anxieties that the phrase can engender. We therefore recommend that the term 'byway open to all traffic' be replaced with 'byway'.

3.4 Definition of 'byway'

3.4.1 Although it is easy to conjure an image of an ancient sunken track or stone- walled green lane winding across the moors and say 'that's what we mean by a byway', we have not found it easy to come up with a simple and unambiguous definition.

3.4.2 We propose that byways should be defined by distinguishing them from higher class road which have a surface that is sealed against the penetration of water.

3.4.3 We considered whether this could be achieved by defining a byway as a carriageway other than a made-up carriageway, linked to the definition in section 329 of the Highways Act 1980, in which 'made-up carriageway' means 'a carriageway, or a part thereof, which has been metalled or in any other way provided with a surface suitable for the passage of vehicles'. However we rejected that approach as we wish our definition to encompass ways which were in the past provided with a sealed surface but have now deteriorated so that ordinary motor vehicles do not use them.

3.4.4 We recommend the following as a starting point:

'Byway means a carriageway the surface of which is not sealed against the penetration of water'.

3.4.5 We are importing the definition of carriageway from section 329(1) of the 1980 Act ('a 'carriageway' means a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles').

3.4.6 As the definition of 'byway' needs to be worded to include a byway which is sealed in parts, but which is mainly unsealed, our proposal will require more specific consideration if it is to be used as a basis for legislation.

3.5 Recording byways on the definitive map

3.5.1 The following amendments to the 1981 Act appear to be needed if our proposal to change from 'byway open to all traffic' to 'byway' (para 3.3.2) and to identify byways by reference to their surface (para 3.4.2) are adopted. We recommend that they be made.

(a) Amendment of the term 'byway open to all traffic' to 'byway' in each place where it appears.
(b) Replacement of the definition of 'byway open to all traffic' in section 66(1) with the new definition of 'byway'.
(c) Provision in section 53(3)(5) to allow deletion from the map, by means of a 'legal event' modification order (i.e. one which needs no advertisement), of a carriageway which has ceased to be a byway under our new definition because its surface has been sealed.
(d) A means for adding to the map byways meeting the definition.

3.5.2 Where the definition in section 66(1) is used in other Acts there will be a need to apply our proposed definition to the other legislation.

3.5.3 The process of deleting a byway by a legal event order is simple and need not involve much delay. With this in mind we considered whether also to recommend the addition of byways to the map in this way by permitting surveying authorities to make legal event orders to add to the definitive map as byways ways already recorded as carriageways on the list of publicly maintainable highways which authorities are required to keep under section 36 of the Highways Act 1980. The arguments for and against such a change are as follows:

For: The vehicular rights test should be satisfied convincingly by the recorded liability of the highway authority to keep the highway in repair. Admission of a liability to keep a carriageway in repair is eloquent proof of the existence of vehicular rights.

Against: The list of maintainable highways is convincing evidence only of a liability to maintain and not status. The process by which additions and deletions to the list are made is administrative, not legal. No assurance can be given about the quality of such lists.

3.5.4 Our aim is to make the deletion and addition process as simple and expeditious as possible. But we recognise the problems attached to the addition of byways by a process which does not involve advertisement and the possibility of challenge and a nagging doubt about the quality and completeness of section 36 lists for this purpose leads us to conclude that byways should not be added in this way to the map by reference to these lists alone.

3.6 Transition from current 'byway open to all traffic' to new 'byway'

3.6.1 As the purpose of the proposed new definition of 'byway' is to record more precisely on the definitive map those highways which have a character which it is particularly important to conserve, it follows that whilst all the new 'byways' are likely to be ways which are, or could be, shown currently as 'byways open to all traffic', the reverse is not true.

3.6.2 Furthermore, as our associated proposals below (para 4.3.6) seek to relate the maintenance liability to the character of byways and their utility to farmers and landowners and to discourage highway authorities and others from spending scarce resources on 'improving' them unnecessarily, it is important that those ways which do not meet our new definition be identified and deleted from the map before these associated powers take effect.

3.6.3 We therefore recommend that the amendments proposed in 3.5.1 above be brought into operation after a specified period, before the proposals at 4.3.6 become operative, so as to allow authorities to make orders under the new power proposed in

3.5.1 (c) to take off the definitive map ways which do not meet the new definition of 'byway'.

3.7 Allied matters

3.7.1 The statutory reclassification of the status of RUPPs is widely misunderstood. We believe that our new definition of byway may go some way to dispelling largely ungrounded fears that confirmation of BOAT status per se will be attended by an influx of vehicles of all kinds damaging to countryside recreation and to farming and landowning interests. Nevertheless the change of definition alone is unlikely to reduce the volume of objections related to matters unconnected with the crucial issue of the existence, legally, of vehicular rights. The experience of those dealing with the reclassification of RUPPs is that few objections deal with the relevant statutory tests. A significant burden of work arises for local authorities and for the Department of the Environment/Welsh Office in dealing with contested reclassifications at public inquiry.

3.7.2 Accordingly we recommend that paragraphs 6 and 7 of Schedule 15 to the 1981 Act should be amended to make it clear that an objection is 'duly made' only if it relates to the existence of vehicular rights (or the existence of bridleway rights) in the particular case in question. These difficulties have recently been canvassed in the case of *Lasham Parish Meeting v Hampshire County Council and the Secretary of State for the Environment* which we consider gives added weight to our recommendations

3.7.3 In chapter 5 we deal with the regulation of use by traffic, and with amenity considerations which are relevant to the great majority of objections to reclassification orders.

3.7.4 We noted that the offence of displaying a misleading notice likely to deter public use under section 57 of the National Parks and Access to the Countryside Act 1949 applies to a footpath, bridleway and a RUPP but not to a BOAT. We recommend that section 57 should apply to a byway.

4: Maintenance & Making-up of Byways

4.1 Maintenance issues and dilemmas: present position

We believe that the existing law puts byways in a precarious position. This arises from the uniquely potentially damaging range of lawful uses (and abuses) of byways; and the conventional response by highway authorities to calls for repair in respect of only one of the lawful uses - the vehicular one.

4.1.2 We believe that most byways are of ancient origin.

4.1.3 We considered the case of a typical byway at risk:

(a) It is an old track, which came into existence and was of public utility before 1836 so is maintainable at public expense. (NB a track coming into existence after 1836 is not repairable unless it has been adopted.)

(b) It is a much valued local amenity for walkers, the disabled, horseriders, cyclists and the drivers of suitable vehicles, but the surface has been badly damaged.

(c) A notice under section 56 of the Highways Act 1980 is served on the highway authority: responsibility for repairing the highway and that it is out of repair has to be admitted.

(d) The highway authority's lawyers will advise that the byway must be put into a condition to render it suitable for the passage of the ordinary traffic of the locality at all seasons of the year. If vehicles using the track have become heavier over the years, the burden of repair has been increased accordingly.

4.1.4 In respect of the byway under discussion here the highway authority has to decide:

(a) What is the ordinary traffic of the locality: does it include ordinary low slung motor cars?

(b) What extent and scope of repair will satisfy the magistrates? The magistrates are not experienced in judging these matters and by law cannot give guidance as to the works which should be carried out.

(c) How best to secure value for money.

4.1.5 These issues are relatively easy to determine in respect of the main vehicular highway network. The working party are concerned about the effect of a 'road engineers' response to these problems which (in order to secure value for money) may be to provide a sealed/black top/chippings surface against the penetration of water, and to mitigate the effects of erosion and motive forces in wet weather.

4.1.6 We believe that the law relating to byways should as a general rule operate to discourage all forms of surface sealing or other inappropriate 'improvements' that would change the character of byways. We are sustained in this view by the numerous references in official policy aimed at protecting and conserving the countryside. Appropriate ancillary works such as drainage should be encouraged. We also believe that voluntary work by user groups under the strict guidance of the highway authority should be encouraged.

4.2 Extent of the maintenance liability : the future

4.2.1 Our recommendations at 4.3.6 would operate to ensure that the law and practice relating to byways are consistent with countryside conservation policies. We see these as being that

(a) All byways should be maintained, within the proposed definition, to a reasonable minimum standard consistent with their setting, location, recreational and essential access traffic by farmers and landowners but not so as to require works to adoption standards under the private street works code (4.4).

(b) Environmental and farming and landowner factors rather than public 'transportation' factors should be taken into account in determining the standard and method of repair and the materials to be used.

(c) Where a byway has been maintained to a certain standard, that standard of maintenance should continue unless good cause is shown to the contrary.

(d) The highway authority should generally have a defence (e.g. in section 56 proceedings) in circumstances where it is in the overall interests of the amenity of the area to avoid sealing the surface of a byway. There should also be a specific defence where the track concerned leads to a dwelling which is a second home.

(e) Final reinstatements by public utilities and others should be consistent with the above. In addition special engineering care should be exercised over the contractor's working methods, trench refilling and effects on natural and man-made drainage. On completion, the byway should be able to fulfil its previous function and similarly to resist weathering and the loadings imposed by normal recreational and access traffic. We believe that the standards to be prescribed by the Secretary of State for Transport under the New Roads and Street Works Act should make specific provision for byways.

4.2.2 The Department of Transport asked if we could provide an estimate of the effect on public expenditure of these proposals. We have not been able to come up with

comprehensive information (the costs would in any case vary between different parts of the country according to different geological factors). Hampshire County Council has recently produced a report which demonstrates that the cost of carrying out works consistent with use approximating to our proposals may not be excessive. This report also suggests that subsequent maintenance costs may be of the order of £50 per kilometre per year. We also have some examples from Powys where sealing was undertaken purely as a response to legal enforcement under section 56; these indicate that the cost of such works is of the order of £40 per metre and part of these costs would be avoided if the defence we suggest was available to the highway authority.

4.3 Protection against 'sealing' and improvement

4.3.1 The ability of any person to carry out the sealing of the surface of a highway (and other improvements) to make a BOAT suitable for the passage of vehicles, depends on whether the BOAT is maintainable at public expense and if so to what standard, and whether planning permission is required. The law relating to the maintenance of BOATs is complex and the working party seek to avoid it being made more complex. In summary the existing position is this:

(a) BOATs which were formerly recorded as RUPPs are maintainable at public expense. The number of maintainable vehicular highways is increasing, but not all ways brought on to the map are maintainable at the public expense, e.g. a way which came into existence after 1835 and which was added to the definitive map as a BOAT under a section 53 modification order.

(b) The duty of a highway authority to provide a BOAT with a surface suitable for vehicular use depends on its age. If it existed before 1836 the saving in section 54(7) of the 1981 Act does not apply, and the highway authority can be obliged to provide a metalled surface or other means leg drainage) if that is necessary to make it suitable for the passage of vehicles. We believe that many, if not most, BOATs came into being before 1836, so the existing enforceable burden of maintenance must be very significant.

(c) Private individuals may be responsible for maintenance in various ways. In certain circumstances action may be taken against the highway authority and the highway authority then has a remedy against the individual.

(d) The maintenance or improvement of the surface of a publicly maintainable BOAT is permitted development for the purposes of the planning legislation if it is carried out by the highway authority. Anyone other than the highway authority needs planning permission to maintain or improve a publicly maintainable BOAT.

(e) The unadopted BOAT, mentioned at (c) above, is one which is not maintainable at the public expense but which is available for all public uses including the vehicular one. Works of maintenance (including sealing) or improvement within the boundaries of such a highway are permitted development and can be carried out by anyone.

4.3.2 We recognise the enormous range of types of byway: in mountainous and moorland terrain, in deep rural, semi-rural, urban fringe, and urban settings. We recognise also the range and scope of circumstances of maintenance responsibilities, of highway authorities, of private individuals and also those cases where no-one is responsible for maintaining byways suitable for the passage of vehicles. Any move to promote the protection of byways against sealing and improvement must take these complexities into account.

4.3.3 It appears to the working party that one appropriate mechanism for preventing the inappropriate sealing and improvement of byways particularly by individuals, and in any case the logical progression of existing law, would be to make all byways shown on the definitive map maintainable at the public expense, and this we recommend below. This would vest the surface in the highway authority and, more significantly, ensure that other persons require planning permission to seal or improve a byway.

4.3.4 We acknowledge the legitimate concerns of farmers and landowners who may have need to surface a byway to improve or facilitate essential access to adjoining land for agricultural purposes. In such cases we believe that planning authorities (and Planning Policy Guidance) should take these factors into account with a presumption generally in favour of consent. On the basis of the new definition of byway and the proposed statutory defence proposed at 4.2.1(d) above the duty to maintain would not oblige highway authorities to carry out works to adoption standards. We believe that a proposal to make all ways brought on to the map maintainable at the public expense should not increase significantly the burden on highway authorities.

4.3.5 We further considered the position of a highway authority faced by proceedings to enforce repair of a byway brought by the owner of a residential property seeking a better road surface for domestic purposes. We concluded that the highway authority should have a specific defence in circumstances where the residential property is a 'second home' ie not a principal dwelling-house.

4.3.6 Accordingly we recommend that:

(a) Highway authorities review their policies and practices in relation to the sealing and improvement of byways.

(b) Voluntary work by user groups under strict guidance of the highway authority should be encouraged.

(c) The standards to be prescribed by the Secretary of State for Transport under the New Roads and Street Works Act for reinstatement after public utility work should make specific provision for byways.

(d) Highway authorities should have a statutory defence in legal proceedings to enforce the duty to repair a byway in circumstances where it is in the overall interests of the amenity of the area and the conservation of the countryside to avoid the sealing of the byway.

(e) All byways recorded on the definitive map should be highways maintainable at the public expense.

(f) There should be a presumption in favour of consent for the surfacing of a byway to improve or facilitate essential access to adjoining land for agricultural purposes.

(g) Highway authorities should have a specific defence in legal proceedings to enforce the duty to repair a byway in circumstances where a residential property served by the route is not a principal dwelling house.

4.4 Private Streets

4.4.1 Part XI of the Highways Act 1980 contains codes relating to the making up of new and private streets. As the term 'private street' includes a highway that is not maintainable at public expense, the codes will apply to some byways as we propose them to be defined.

4.4.2 We propose above that all byways should be maintainable at public expense. This would normally have the effect of dis-applying these codes, but we believe that the codes should still apply. There is precedent for this in paragraph 13 of

Schedule 23 to the 1980 Act. This made similar provision in respect of earlier legislation making certain public rights of way maintainable at public expense.

4.4.3 We think that in practice the continued application of the codes will have little effect on the recreational byway because the codes are likely to be applied only in cases where the byway serves a significant residential or industrial purpose.

5: Road Traffic Regulation on Byways

5.1 Introduction

In our general findings (2.6) we assume that it may be necessary to control or prohibit the use of certain byways by vehicular traffic, or by certain classes of vehicular traffic, to prevent damage to the highway and from abuse by some drivers who enjoy 'getting stuck in the bog'. Such management may be necessary to ensure that the use of a byway is available for recreation generally and to enable access to be gained to land along its route.

5.1.2 We believe that the grounds in sections 1 and 22 of the Road Traffic Regulation Act 1984 for making traffic regulation orders (TROs) are generally adequate to cover the circumstances we have in mind. However it seems that the present cost of making TROs, and the implications of signing them, may deter highway authorities from embarking on the TRO route in all but the most serious cases.

5.1.3 There is a power under section 249 of the Town and Country Planning Act 1990 which has been used to regulate vehicles in urban areas. We can see no reason why this could not also be used as a management tool on byways in the countryside.

5.2 The grounds for making TROs

5.2.1 The Road Traffic Regulation Act 1984 gives highway authorities power to make TRO's on roads (including byways):

(a) For avoiding danger to persons or traffic.
(b) For preventing damage to the road.
(c) For facilitating the passage on the road of any class of traffic including pedestrians.
(d) For preventing the use of the road by unsuitable vehicular traffic in relation to the characteristics of the road.
(e) For preserving the character of the road in a case where it is especially suitable for use by persons on horseback or on foot.
(f) For protecting the amenity of the area through which the road runs.

5.2.2 These wide powers are supplemented by section 22, which enables a TRO to be made in designated special areas of countryside for the additional purpose of conserving or enhancing the natural beauty of the area or of affording better opportunities for the public to enjoy the amenities of the area or for recreation or the study of nature in the area.

5.2.3 By way of a restriction on these wide powers the Act requires that the Secretary of State's consent shall be obtained in the case of any TRO preventing access by any class of vehicular traffic for more than 8 hours in 24 to any premises accessible only from the road. Such consent is in practice only likely to be forthcoming in exceptional circumstances and after a public inquiry. However we accept that access along byways to residential properties or for essential agricultural, forestry or public utility reasons which cannot be met in other ways, should not be prevented even though that very access may be the root cause of difficulties such as surface damage. The imposition of a TRO may still be appropriate but normally would have to include an 'except for access' clause.

5.3 The regulations

5.3.1 In paragraph 5.1.2 we point out the cost implications of TROs for highway authorities. We feel that the Regulations governing the making and signing of TROs are unnecessarily complicated and expensive in their application to byways. We recognise their appropriateness to the main highway network which serves the nation's economic, commercial and social infrastructure.

5.3.2 Different considerations could, and should, apply to byways which nowadays serve mainly a recreational purpose. The number of commercial interests affected by the regulation of traffic on a byway will, in most cases, be limited compared with those in respect of the main highway network as will be the volume of vehicular traffic. We recognise also that a TRO could alter patterns of recreational use on adjoining and more distant byways.

5.3.3 The Rights of Way Review Committee has recently amended the Code of Practice on consultation to secure consultation with user groups and landowners prior to the making of TRO's. We consider that such consultation and modification will not increase the cost of the regulation of traffic overall because, in appropriate cases, and as the result of consultation and voluntary restraint, the regulation of traffic by TRO may not be required at all. Much will depend on the quality of consultation, flexibility and above all on understanding and goodwill. We feel that the measures to be taken by highway authorities to implement and enforce the regulation of traffic on byways should be commensurate with the impact that a TRO is likely to have on the public and on the interests of those using premises served by them.

5.3.4 Accordingly we recommend that:

(a) The cost of advertising TROs should be reduced, e.g. by simplifying the wording of advertisements and doing away with the requirement to advertise in the London Gazette by substituting pre-advertisement consultation with national user groups and direct notification of a made TRO to such groups.
(b) The Traffic Signs Regulations and General Directions be amended to allow the use on byways of signs of less costly and less urban appearance and scale.

5.4 TROs and classification of a way as a byway

5.4.1 As noted in paragraph 3.7.1, most people objecting to a byway classification do so out of concern over the potential impact of vehicular use on the surface of the way, conflict between users in vehicles and those on foot or horseback, and the impact of vehicles in the countryside. We believe that these concerns should be addressed when the correct status of the way is being considered. Vehicular status and vehicular use are separate legal issues, but the present administrative separation makes little sense to the general public, who are less concerned about the legalities of status, and history, than with the current and future use of the way.

5.4.2 Hampshire County Council proposed that at the time a surveying authority made a decision about byway classification it should at the same time consider the likelihood and implications of vehicular traffic. We agree with this and we recommend that authorities publicise the policy considerations within which they will consider regulation of traffic. (The question of these criteria is currently under consideration by

another working party set up by the Rights of Way Review Committee which is examining the issues raised in the CLA's 'Better Way Forward' document.) Hampshire also proposed that if the regulation of traffic were proposed it should be challengeable at a public inquiry at the same time as the reclassification. This is an attractive idea, but it gives rise to the following difficulties:

5.4.3 First, a public inquiry into a byway order will be examining the existence of vehicular rights, whereas discussion of the pros and cons of a proposed TRO starts from the presumption that vehicular rights exist. An inspector would presumably therefore see no point in considering the TRO aspect unless and until he had decided, after hearing the evidence, that the byway order should be confirmed. There is thus the prospect of a two-stage inquiry, into (i) the byway order, and then (ii), if that is confirmed, the proposed TRO. The two stages could be several months apart.

5.4.4 Second, an aim in suggesting that the likelihood and implications of vehicular traffic be considered at the same time as the byway classification is to direct concerns on 'amenity' grounds towards support for traffic regulation and away from objection to the byway order, where such objection does not address the question of status. If that aim succeeds to the extent of the byway order being unopposed, the surveying authority will be able to confirm it as an unopposed order: there will be no reference to the Secretary of State and no public inquiry.

5.4.5 If that happens, then there will also be no public discussion on traffic regulation, unless the authority has made a TRO and exercises its discretion to hold an inquiry. Those concerned about vehicular use will be frustrated if they do not have a say. This will apply equally to those who wish to use the way in motor vehicles (if they are denied the chance to argue at a public inquiry against a TRO) and those who wish to restrict or prevent motorised use of the way (if there is no TRO).

5.4.6 The conclusion has to be that the link will not always work, and, on the one occasion when a link can be made (the first example above), a two-stage inquiry will be needed.

5.4.7 The only solution to these problems which meets all the demands of the public is to give the public a statutory right to object to the authority's decision on restriction or prohibition of vehicular traffic even if the decision is to do nothing, and for that objection to be heard and decided by a person independent of the authority. However that cuts right across the existing provisions for traffic regulation where there is no requirement for a public inquiry: we do not believe that local and central government will see the conflicts over use of byways being sufficiently great to justify an exception being made.

5.4.8 We therefore conclude that it is not feasible to make a formal link between the Traffic Regulation Order and the Byway Reclassification Order.

5.4.9 Nevertheless we wish to remind highway authorities of their powers to hold a public inquiry into a Traffic Regulation Order, especially in circumstances where the regulation of recreational traffic is a contentious matter and the ability to enforce the order may turn on the attitude of the local community and of a wide range of users. We recommend that the guiding principle for TROs on byways should be 'no TRO restriction without representation at a public inquiry'.

5.5 Encouraging self-regulation

5.5.1 We believe it would be a bonus if the regulation of vehicular traffic could operate in a way to increase the influence of the organised vehicular interests among vehicle users. The emergence of LARA as an organised federation of motoring organisations interested in countryside recreation has received practical recognition by some highway authorities who have a constructive and productive dialogue with it on a range of issues, including reclassifications, modifications and the voluntary maintenance of RUPPs and BOATs and joint working with other user groups.

5.5.2 It must be said that LARA (and indeed any organised user group) can exert an influence only on those who are associated with it in some way. We think the influence of LARA on the unsocial and the so far 'unclubbable' driver could be promoted in appropriate TRO cases by ensuring that public use may be controlled or mediated through a body approved for the purpose by the highway authority instead of by a named officer of the highway authority. There is precedent in the Regulations governing motor sports, where the RAC act as the agents for Government.

5.5.3 The following example demonstrates our thinking. A highway authority considers that:

(a) The regulation of vehicular traffic on a byway is desirable for one or more of the qualifying grounds in the 1984 Act.

(b) Controlled public use is possible under a regime of on-the-spot pro-active management and supervision closely related to the capacity of the surface to take vehicular traffic or some other factor eg weather conditions, the 'style' of driving and likelihood of conflict.

(c) Without that regime of close supervision the byway would have to be 'closed' for public vehicular use except, perhaps, for light recreational vehicles.

5.5.4 We think it unlikely that highway authorities will have the resources to manage byways in this way. The kind of management we have in mind is unlikely to be achieved directly through the highway authority's officers. Control at a distance may therefore tend to reduce the opportunity for public use that could otherwise be achieved by 'local' management by user bodies. In these cases the involvement of LARA or another body approved by the highway authority in the regulation of traffic could increase significantly the scope for public use.

5.5.5 There will be many variations on this theme; where active control by those involved is likely to be generally acceptable and lead to a greater public use, than could be achieved if management were solely in the hands of the highway authority (who will have more pressing priorities).

5.5.6 We therefore recommend that in the circumstances outlined in paragraph 5.5.3 a body, approved for the purpose by the highway authority, could under the terms of an appropriately drafted Order regulate use on behalf of the highway authority. This could be achieved for example, by the approved body issuing plates or other marking devices to show that the vehicle is of a type or class authorised to use the byway at times and in circumstances specified in the TRO. Although it is for the courts to interpret the law we believe that no amendment of the 1984 Act is required to achieve 'delegation' of active control by highway authorities. We believe that an appropriately drafted TRO is a way of providing limited vehicular user consistent with the capacity of surfaces to withstand use by vehicles and to mitigate conflict with other users.

5.5.7 Our overall conclusion is therefore that a TRO on a byway should be made only if discussions with organised user groups and parish and district councils, and perhaps experimental trials

to secure voluntary restraint, have failed to diminish conflicts of use and damage to surfaces to a manageable and reasonable level.

5.6 Enforcement

5.6.1 Highway authorities will be reluctant to make TROs if there is little or no prospect of them being complied with or if enforcement is not a practical proposition. We believe that barriers and other physical measures to prevent the passage of unauthorised vehicles may not be effective in all cases.

5.6.2 As the law stands now only the police have jurisdiction to prosecute a breach of a TRO regulating the passage of vehicles. In the almost certain knowledge that the police have greater priorities and could not cope with the task of routinely enforcing TROs in the countryside, we recommend that highway authorities should be empowered concurrently to prosecute breaches of TROs in respect of byways.

6: Stopping-up & Diversion of Byways

6.1 The use of the magistrates' court

6.1.1 The only general power available for the stopping up and diversion of byways is that contained in section 116 of the Highways Act 1980. This provides for an application by the highway authority to the magistrates court for extinguishment if the highway is 'unnecessary'; or diversion if a diversion would make the highway 'nearer or more commodious to the public'. The jurisdiction is ancient in origin, springing from times when the Magistracy - sitting in Quarter Sessions - was the main administrative authority in the County.

6.1.2 Concern has been expressed in recent years about the suitability of the magistrates' jurisdiction. In particular suggestions have been made that the jurisdiction should be transferred to the Secretary of State. In view of the general thrust of this report, (that byways are part of the definitive map recreational rights of way network), this suggestion requires close examination.

6.1.3 Although section 116 applies also to footpaths and bridleways, in practice diversion or extinguishment of these ways is normally dealt with by orders made under section 118 or section 119 of the Act.

6.1.4 We believe there is a powerful argument for abolishing resort to section 116 in respect of RUPPs and BOATs, involving its replacement with appropriate parallel powers to those to be found in sections 118 and 119.

6.1.5 County highway authorities have been consulted about these possible changes. It appeared that little use was made of section 116 for extinguishment or diversion orders in respect of footpaths and bridleways and that most, but by no means all, authorities would be happy to see the magistrates' jurisdiction relating to RUPPs and BOATs transferred to the Secretary of State. A substantial minority, however, wished to retain the route to the magistrates as an alternative particularly where such extinguishment or diversion is required in connection with a scheme involving other vehicular roads.

6.1.6 Accordingly we recommend that, subject to an exception where the extinguishment or diversion of a footpath, bridleway or byway forms part of an application involving vehicular highways other than byways,

(a) The magistrates' jurisdiction be removed altogether in respect of extinguishment and diversion of footpaths and bridleways - thereby terminating the present concurrent jurisdiction.

(b) The jurisdiction of the magistrates in respect of the extinguishment and diversion of RUPPs and BOATs be transferred to highway authorities, and to the Secretary of State in opposed cases, by making the procedures under sections 118 and 119 applicable thereto.

6.1.7 Other issues to surface in our discussions were:

(a) The need for highway authorities to have a specific power to charge for an application made to them under section 118 or 119; a parallel power is available under section 117 in the magistrates' procedure. We noted current proposals by the Department of the Environment to make regulations under the Local Government and Housing Act 1989 to enable authorities to charge for such orders.

(b) A useful provision in section 116 enables the magistrates, in making a stopping-up or diversion order, to retain a lesser public right over the way, thereby ensuring its retention as a highway, i.e. the power to close or divert subject to retention of bridleway or footpath rights. We recommend that such a power should be available under sections 118 and 119 for downgrading byways or bridleways.

6.2 Other powers

6.2.1 In those cases where there are powers available to local authorities applicable to footpaths and bridleways we recommend that byways should also be included, e.g. section 32 of the Acquisition of Land Act 1981 (extinguishment in connection with compulsory purchase powers) and sections 257 and 258 of the Town and Country Planning Act 1990 (diversion or extinguishment of footpaths or bridleways affected by development; acquisition or appropriation for planning purposes).

1996 Conference – The Next Ten Years

New Ideas for Co-operative Management

MOTORING ORGANISATIONS' LARA LAND ACCESS & RECREATION ASSOCIATION

Tim Stevens
LARA Information Officer

The Impact Report – and what we are doing about it

The report said:

Possible damage caused by vehicles driving 'off road' was mentioned in the evidence we received. Much of the concern seemed to be linked to established tracks known as 'green lanes'. In the Peak District we saw green lanes which were anything but green, suffering from a substantial amount of rutting which made them very difficult even for four-wheel drive vehicles to use. A substantial increase in the sale of four-wheel drive vehicles has occurred in recent years, and has been blamed for the problem. LARA suggested that most of the blame should be laid on the shoulders of highway authorities, who have failed to carry out their duty to maintain such routes. In particular, the failure to maintain drains causes serious problems. There seems to be some substance to this view – certainly, it seemed that members of LARA were doing more than some highway authorities to improve drainage. We commend the current negotiations in the Lake District which aim to involve the motoring organisations directly in maintenance work on the Garburn Road. This is an existing right of way which has been identified by the National Park Authority as one of a limited number of sustainable routes where off-road driving might be managed so as to be compatible with other uses.

Before lunch, we heard from the head of park management in what is arguably the one area of the world under the greatest pressure from all sides, the Lake District. I will not dwell on the work going on there, but I remind you of all the voluntary maintenance done by many LARA members. We have heard about the Green-Lane-Day initiative too. Work is continuing at all levels to help with these ideas, and in particular, to persuade those authorities who do not allow volunteers from LARA to work on the routes we all need.

We are taking the bread from the mouths of the road-menders, they say. We ask: What road menders are they then? That is only one of the excuses, but slowly and surely we are overcoming them.

Then we read:

We recommend that the Government carefully examine the mechanism contained in the Wildlife and Countryside Act 1981 whereby Roads Used as Public Paths (RUPPs) have to be reclassified as Byways Open to All Traffic (BOATs) if vehicular rights are shown to have ever existed. Instead, in consultation with all interested parties, they could be reclassified as bridleways or footpaths.

Does anyone feel an attack coming on? We thought the haunting spectre of Suitability was dead, but it seems it won't lie down. We will continue to oppose any idea of a return to the old suitability test, for three major reasons (not to mention some minor ones).

One, that most green roads only escaped the tarmac treatment BECAUSE they were judged to be unsuitable for motors in the 1920s and 30s. At the same time, they dropped off the list for regular maintenance by the lengthsman of the time. So, if they were avoided then, and have not been touched since, it is easy to claim that they are unsuitable still. And who does the judging? Not trail riders, that is for sure, but why ever not?

Two, that once a suitability test is back in force, every green lane, as soon as it is to be considered, will BECOME unsuitable. There are plenty of people who will see to that, and there is plenty of machinery around to help to do the work of destruction. Don't tell me it won't happen; it happened the last time, and it still happens, here and there, doesn't it?

Three, that all the while we are fighting unreasonable tests, applied to the routes we need but never to footpaths or bridleways, we cannot spend so much time doing the constructive, co-operative, work that everyone agrees needs to be done.

The report continues:

With regard to local authorities and the re-designation of certain routes, we recommend that national park and highway authorities initiate collaborative negotiations between motoring organisations, other rights of way users and local communities in seeking management solutions to the use of green lanes before resorting to statutory traffic controls.

This is another endorsement for talking, for Voluntary Restraint and similar measures. We will continue to work with all authorities, and hope that those who do not yet see the benefit of this co-operation will eventually see the light. Strangely, they are often the same authorities who do not want help with maintenance. The first job, though, is for us to contact all the new authorities who started work on April 1, and for this we are looking for new volunteers to act as county respondents for rights of way matters, and regional officers for competition and sites. We have always been stretched to cover the 11 counties in Wales, for instance, but now there are 22. And half of them have inherited experienced officers, used to working with us...

Let's read on:

We hope that local negotiations between LARA, local highway authorities and management bodies will be successful in finding ways of permitting four-wheel drive vehicles to use most green lanes without causing the lanes to deteriorate further, spoiling them for other users or making life intolerable for local residents and without resorting to expensive Traffic Regulation Orders which are hard to enforce. If this approach is to succeed (and especially if there is an increase in the number of drivers interested in rough terrain driving), land must be make available for this activity.

We recommend that planning strategies should identify clearly both sites where intrusive activities are to be restricted and sites where such activities are to be permitted or encouraged. We urge the Government to issue appropriate guidance to local authorities on the preparation of structure plans.

We heard from Geoff Wilson this morning how vigorously LARA has been getting to grips with the planning process, and how slowly the authorities have been getting to grips with the facilities we need. Of course, they say, this report from the Environment Committee is merely a recommendation, it has not got the force of statute, they don't have to take notice They say the same of the 'appropriate guidance' more of which is promised. True, all true. None of it has any more weight than our code of practice, and we stick to ours, so why shouldn't they stick to theirs? Isn't that part of the deal?

What does the report say about such codes? Quite a lot, actually:

We believe that codes of practice and a framework of voluntary co-operation are part of the way forward for the management of motorsports in rural areas and we commend all who have established such initiatives.

We would like to point out that problems are most likely to arise where people are either unaware of the code or determined to ignore it. It must be remembered that the majority of leisure users of the countryside do not belong to a sporting organisation. It is often the mavericks, not affiliated to any recognised body, who cause the problems. In all the areas we visited, some motor and mountain bikes and off-road vehicle users go onto open land and/or use bridleways and green lanes in a manner which startles walkers and horses, churns up the ground and spoils the enjoyment of others.

We therefore believe that it is important to get them [Codes] disseminated to a much wider audience, providing them to those who are not members of a sporting organisation, via guidebooks, leaflets and manuals.

We note the excellent work done by most governing bodies of sport to produce codes of practice. The evidence shows that the governing body of almost every sport or leisure activity has drawn up a code of practice designed to prevent or minimise damage and nuisance. Most of this advice is clear and sensible, and likely to produce the desired result – if known and followed.

You will have seen in the conference papers a copy of LARA's Access Guide, kindly sponsored again by Suzuki GB, and issued by them with every 4x4 that they sell. There are three codes within it, on pages 16, 20, & 21, along with lots of advice on many aspects of motoring recreation and competition. Leaflets containing the relevant text are under development in a few counties and national parks, and we regard it as a priority to make this information as widely available as we can. Those delegates today who are from local authorities or national parks are invited to take advantage of this idea.

We read on:

A cause for concern is that although LARA have a code of practice, it is not always observed. We regret that some

companies, for example Land Rover, do not draw buyers' attention to this code of practice.

We would also note that some businesses selling four-wheel drive vehicles are training drivers on routes which cannot sustain such use. We approve of training facilities being set up, but we regret that some are not fully environmentally conscious.

We recommend that retailers of four-wheel drive vehicles, whether new or second-hand, draw purchasers' attention to LARA and its code of conduct for off-road vehicles, and we commend those who already do so.

We also recommend that organisations involved in training four-wheel drive users produce a code of practice in consultation with LARA.

It is too early to make any firm promises, but progress is being made on all these ideas, some more quickly than others. Recently we have assisted in the birth of two organisations, each aimed at filling niches in the market-place, and both fitting in rather nicely with the recommendations of the Report. One, the Commercial Motor Sports Association, aims to draw into a single group all those involved in motoring activities not currently catered for by the existing governing bodies. Activities such as indoor karting, and corporate entertainment operations; not Sport, exactly, as we use the term, and not purely Recreation, either. The other, the Federation of Off-Road Driving Schools, brings together what those of us in LARA's green-road wing call 'the commercial operators'. Much criticism has been aimed at those who dare to run their businesses by using the Queen's Highway to make money, as if this was in any way different from those who run sponsored walks at one end, and those who run bus services at the other end of the spectrum.

The advantage of having federations to talk to was covered earlier today; LARA acts as such a group for its members, and we look forward to welcoming both these new groups into LARA – just as soon as they have had their General Meetings and their treasurers have something to rattle in their tins. It clearly would be impossible for us to contact all the 100 or so safari schools, and all the karting centres, and so on, but there is another advantage of co-operation in this way. Simply, it makes it easy to apply peer-group pressure. That is what makes codes of conduct work, and I am pleased to say that both these new groups have taken our advice on board, and are working on their own versions of good practice guides.

I wish I could say the same about the car makers and distributors. Don't get me wrong; we enjoy very good relations with many of the manufacturers and importers. We would not be here, in these hallowed surroundings, today, if that were not so. I mean no criticism of those who do work with us. But, I have to tell you, that relations with the groups that represent these good people are stalled. The Motorcycle Industry Association has been an active member of LARA from day one, but the corresponding body for the car makers declines, so far, to help us. They say that not all their members make 4x4 vehicles, and so they advise us to contact those who do individually. Wonderful, if only there was time to liaise with over a dozen firms, all with different ways of working, scattered over the country, and all wanting to know what the 'opposition' are doing before they take the plunge themselves. How much better to deal with one group, like we do with the MCI. But at least the SMMT did reply to our letter. That is not much in the way of progress, but more than we have achieved with the retail dealers association. This is a shame, as the most useful thing that could help to spread the word, would be to get a LARA code hanging on the gear lever of every second-hand 4x4 ever sold. For sure, the average owner of a new 4x4 is not likely to want to face the brambles. Scratches carry no cred in the school run. Second or third hand is a different matter. But, left to our own devices, with no help from the retailer's association, not even the combined membership of the All Wheel Drive Club could hope to vist all second hand dealers and convince them to do anything so helpful.

Why am I telling you this? Because some of you might be able to help us to master this particular problem. A change of mind is much easier if the pressure comes from the inside. Peer group pressure, you understand; it keeps us all up to speed.

One last look at the report:

We have to stress, however, that there will be some conflicts until firstly, quieter machines are developed and used and, secondly, a balance is struck between allowing vehicles on legal routes, providing suitable land for informal motorsports, and preventing the illegal use of land elsewhere.

It would obviously aid their case if manufacturers of leisure equipment, such as ... trail bikes, and so on were to develop quieter motors to minimise disturbance and noise pollution.

If only someone would really get to grips with 'allowing vehicles on legal routes, providing suitable land for informal motorsports, and preventing the illegal use of land elsewhere'. Half our problems would be solved in an instant. Who should be doing all of this?

We are working on it, in various ways, but again we need your help. Here I address in particular those who are members of LARA clubs. We need you to be obnoxious. I know this will be harder for some than for others, but it must be done. We have to realise that the days of turning a blind eye, or a deaf ear, are over. Yes, you will get yourself a bad reputation by reporting illegal use, and insisting that action is taken. But, just think about it a moment. Hasn't illegal use given us all a bad reputation already? The organisers, and the authorities, are in many cases reluctant to act, but if we insist, they will do it, but equally it is up to us, our colleagues and our clubs to make sure it never gets that far. Equally, but for different reasons, the authorities are very reluctant to do anything about providing facilities. It costs money, and gets them no votes, so far as they know, because we have all kept our heads down for too long. What they do know, from experience, is that there will be abuse, and there will be noise.

We have heard from Alan Kind about his perceptions about noise, and he is a reasonable chap. Fairly reasonable anyway. He is not one of those strange people who think everything would be fine and dandy if green lanes were recorded as Byways by diligent trail riders and then only used by ponies and traps. I can honestly say I have never even seen him wearing red socks, or any colour of bobble hat. Of course, he is right, and particularly about noise. Let us all face up to the facts. The MPs who wrote the Report have it wrong themselves, in a way, as the makers do make quiet bikes, quieter than anyone could have imagined back in the 1960s. I well remember helping to pull a new Honda trail bike out of a Mid-Wales bog in the early 1970s, and only when it was on terra-slightly-firma did anyone realise it was still ticking over. So, it can be done, and it is done. Why don't we ALL do it?

I conclude with a brief word about another idea. Not a direct response to the Impact Report, but something that will help to resolve some of the problems that it brought into focus. In the papers you have for this conference is a document from the TRF, a Strategy for Green Lanes. Don't try to read it now, but do take it away and pore over it. And do let us know how it might be even better. It is not just of interest to those who use old badly maintained motorbikes on much older, much more badly maintained roads. It sets the scene for an idea of more general application.

For some time, we in LARA have been thinking about a deal which I have been calling a Concordat, with local authorities, with those who also need our resources, both for recreation and competition, and with the others we need to work with. But this is more than a fancy title. There are all sorts of ways in which the authorities, for instance, are supposed to help us. They should be making proper provision for us in their Planning processes, as we have heard, and ensuring that when a need or a problem is identified that there is something done about it which goes beyond the traditional knee-jerk 'Ban it' reaction. They also have all sorts of duties and powers regarding the routes we need, and all sorts of guidance about how to exercise their authority. But they do not often do any of it, do they? We all know that they are strapped for cash, but do they realise how much better it would be for them, and for us, if we put all the antagonism behind us, and started to help each other? This is not the first time you will have heard this idea at this conference, but like all good ideas, it bears repeating.

The Concordat idea simply means that we set out in plain terms and in black and white what we need and what we want from the authorities, and from other groups, and what we can offer them in return. We ask them for a commitment to these ideas, in return for a commitment from us. Nothing legally binding, but a sort of gentlemen's agreement, if that is permissible in these PC times. And it is all based on the idea that each of us has limited amounts of time. We can spend that time flailing at each other with blunt instruments, as we have for too many years, or we can spend the time helping each other. As we have heard, the flailing about has got no-one anywhere. Time to offer each other a helping hand, surely?

In a nutshell, the Concordat will say:

If you have a problem which affects us, you MUST seek our help, and we WILL help – we promise.

Management by co-operation. Working together.

Worth a try, do you think?