About the Green Lanes Protection Group (GLPG)

1 The Green Lanes Protection Group (GLPG) is an informal alliance of 25 environmental, landowning and recreational organisations that share the aim of achieving a workable regulatory framework – legislation and firm government advice – which will protect green lanes from unsustainable recreational use by motor vehicles. It further aims to protect users on foot, horseback, pedal cycle and horse drawn carriages from the noise, pollution, danger, damage and disruption caused by recreational motor vehicles. Equally, those who use green lanes for the purposes of necessary access – farmers, gamekeepers and landowners – also need protection from the nuisance caused by recreational motor vehicles. Green lanes are the 5000 mile network of unsealed highways created for and by horses and carts. The network is made up of Byways Open to All Traffic, a category of right of way, and unsealed tracks on the Lists of Streets maintained by the highway authorities. The membership of GLPG is set out at the foot of this page.

Summary of this response to Question 11 in the Call for Evidence

2 Section 67 the NERC Act, through which the government intended to control and reduce use by mechanically propelled vehicles of rights of way and other unsealed highways in the wider countryside, has failed to protect the nation's network of green lanes. New legislation is urgently needed to close the gap in the NERC Act which has allowed the use and abuse of green lanes by recreational motor vehicles to continue to grow since the Act came into effect. Section 67 of the Act should be amended to give protection from motor vehicle damage to unsealed routes on the List of Streets. Two annexes of photographs show the nature of motor vehicle damage being done to green lanes.

Background

3 One of the intentions of the NERC Act was 'to limit the basis on which rights of way for mechanically propelled vehicles may be acquired and end the situation whereby historic use by non-mechanically propelled vehicles, such as horse-drawn vehicles, can give rise to a right of use by modern mechanically propelled vehicles'. This aim was made clear in the Use of mechanically propelled vehicles on rights of way, the Defra consultation document published in December 2003 in anticipation of the NERC Act.
In his introduction to the consultation document the then Minister for Rural Affairs, Alun Michael, said: 'As Rural Affairs Minister, I have been approached by many individuals and organisations who are deeply concerned about problems caused by the use of mechanically propelled vehicles on rights of way and in the wider countryside. I share these concerns, having seen for myself examples of damage to fragile tracks and other aspects of our natural and cultural heritage in various areas of the country. There is considerable concern about behaviour that causes distress to others seeking quiet enjoyment of the countryside ...

I do not think that it makes sense that historic evidence of use by horse drawn vehicles or dedications for vehicular use at a time before the internal combustion engine existed can give rise to rights to use modern mechanically propelled vehicles. Those who suffer from vehicle misuse find this incomprehensible....'

Following this consultation Defra published (January 2005) The Government’s framework for action. This set out its intention to legislate to curtail claims for motor vehicular rights of way where those claims derive from historic use and dedication for use by non-mechanically propelled vehicles. These proposals formed the basis of Part 6 of the NERC Act.

Part 6 of the Act extinguished unrecorded public rights for mechanically propelled vehicles on some but not all green lanes. It protected from use by recreational motor vehicles only those which were already classified as rights of way, i.e. were on the Definitive Map of Rights of Way as footpaths or bridleways and those not covered by certain exemptions.

Subsection 67(2)(b) of the Act specifically exempted from the extinguishment of motor vehicle rights green lanes that are not classified as rights of way but are recorded as highways on the “List of Streets”. These are the routes known as unsealed unclassified county roads (UUCRs) and normally shown on the OS map as Other Routes with Public Access. In its subsequent guidance to Authorities on Part 6 of the Act Defra explained that this exemption for routes on the List of Streets was to 'guard against ... unintended consequences on the ‘ordinary roads network’' (Part 6 of the Natural Environment and Rural Communities Act 2006 and Restricted Byways A guide for local authorities, enforcement agencies, rights of way users and practitioners Version 5 - Defra, May 2008).

The problem

Despite the no doubt best of intentions at the time when the Act was drafted, the exemption for routes on the List of Streets under S67 (2) (b) has had serious unforeseen consequences of quite another kind - continuing and growing motor vehicle use of and damage to those green lanes which are on the List of Streets. This use and damage takes place throughout the countryside, including in the National Parks (one of which, the Lake District, is now a World Heritage Site), in the Areas of Outstanding Natural Beauty and on the National Trails. Photographs of typical motor vehicle damage to unsealed routes on the List of Streets (ie the UUCRs) are in Annex 1.
9 This is not what Parliament intended when it set out to put an end to historic use by horse-drawn carts and carriages giving rise to a right of use by modern mechanically propelled vehicles.

10 We know from our members that the scale and extent of the problems which S67 of the NERC Act sought to address have grown rather than diminished since the NERC Act came into effect. The growth in the problem is in part due to driving on green lanes with a motor vehicle having become an increasingly popular leisure activity since 2006. For example, according to data collected by the Motor Cycle Industry Association, over 59,000 trail and enduro motorbikes (the type of motor bike used 'off-road') were newly licensed in the ten years ending December 2015. This figure excludes 118,000 newly licensed 'adventure motorbikes', sales of which are also increasing. The latter is a type of vehicle designed to be capable of use both off- and on-tarmac. (There are no data for the recreational use of 4x4s off-road, but monitoring of websites and observations on the ground by our members indicates that this has also grown exponentially since 2006).

11 The growth in the problems which the Act was intended to address is also due to the failure of the Act to protect from use by mechanically propelled vehicles the 3269 miles of green lanes on the List of Streets. (The rest of the green lanes network consists of the 2700 miles of Byway Open to All Traffic. Photographs showing typical motor vehicle damage to BOATs is included for information at Annex 2).

12 Unsealed routes on the List of Streets were not created or engineered to withstand use by modern motor vehicles. In the light of the growing impact which recreational motor vehicle use of these routes is having - on local communities (residents, landowners, farmers, horse riders, carriage drivers, walkers and cyclists), on the National Parks, AONBs, National Trails and the countryside generally, and on repair costs to highway authorities - it is no longer tenable to regard UUCRs, as Defra did in 2006, as part of the ordinary roads network.

The solution

12 The solution is to amend the NERC Act either to:

a) extinguish unrecorded motor vehicle rights on unsealed routes on the List of Streets, with exceptions only for emergency service vehicles, residents requiring access, landowners and tenants, or

b) classify unsealed routes on the List of Streets as either Restricted Byways or BOAT according to suitability.

13 Of these two options GLPG as a whole favours a) (extinguishment). Cycling UK, one of our member organisations, favours option b).

14 Under the Highways Act 1980 all the routes concerned would remain maintainable by the relevant highway authority.
Conclusion

15 The damage being done to green lanes on the List of Streets is severe and growing. Dealing with it is an urgent issue. GLPG asks the Select Committee to recommend that new legislation is needed to close the loophole in S67 of the NERC Act which allows the public to use all unsealed highways on the List of Streets with mechanically propelled vehicles.

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Annex 1: Typical motor vehicle damage to unsealed routes on the List of Streets

Tilberthwaite, UUCR Lake District World Heritage Site
Oxenfell, UUCR Lake District World Heritage Site

High Knitehwaite, UUCR Lake District World Heritage Site
Newton Poppleford, UUCR East Devon AONB

Coleson Bank, UUCR North York Moors National Park

Borough Hill UUCR, Leicestershire
Annex 2: Typical motor vehicle damage to Byways Open to All Traffic
Moscar Cross Sheffield, BOAT Peak District National Park

Drakes Lane BOAT, North Downs AONB
Boat through a bluebell wood in North Downs AONB

Viking Way, Boat Lincolnshire

Simonburn, Boat Northumberland National Park
Bucklebury, BOAT North Wessex Downs AONB

Langrish, BOAT South Downs National Park

Long Causeway, Peak District National Park. Now repaired, resurfaced and protected by a Traffic Regulation Order