Fritz Groothues – written evidence (NER0020)

Evidence submitted to the House of Lords Select Committee on the Natural Environment and Rural Communities Act 2006

Question 11 in the call for evidence: Are there any parts of the Act which are currently in force that need to be re-considered as a result of developments since 2006?
Section 67 2 (b) of the Act

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1. We are submitting this evidence as joint owners of a small house in Little Langdale in the Lake District, bought by our families in 1956. We have also sought the views of local farmers, other residents and rambling associations and, although we cannot claim to represent them in a formal way, we know that they support our submission.

2. Our submission focuses on the effects of the NERC Act on one particular area in the Lake District, a stretch of land between Coniston and Little Langdale, part of the estate left by Beatrix Potter to the National Trust and the nation on the condition that it be preserved for future generations. In 1930 the Chairman of the National Trust, John Bailey, wrote in The Times that of all the stretches of land owned by the NT ‘not one of them .... was better worth saving and holding than this glorious stretch of mountain, moor and tarn.’ For over 60 years we and many others have been walking on this land and cherished its exceptional beauty and tranquillity.

3. In contrast to a number of footpaths and bridleways in this area, two unsurfaced green lanes are included on the ‘List of Streets’ as Unsealed Unclassified Country Roads (U5004 High Oxenfell – Hodge Close) and U5001 (High Tilberthwaite – Little Langdale). They are therefore excepted from the effects of section 67(1) of the NERC Act and motor vehicles are allowed to use them. There is no clear reason why these tracks differ in status from other, similar routes. A slightly wider and more easily navigable track from High Tilberthwaite to Little Langdale is in fact classified as a bridleway and closed to motor vehicles.

4. As the examples of U5001 and 5004 in the Lake District demonstrate, exempting green lanes on the ‘List of Streets’ from the extinguishment of motor vehicle rights has had disastrous consequences on these lanes themselves and on a uniquely beautiful landscape, degrading other users’ experience and endangering the livelihood of traditional Lake District farms.
5. Until approximately the year 2000, these tracks were only used by local farm traffic, walkers and, while the copper and slate mines were still operating, by horse-drawn vehicles. The two tracks were not, and are not, part of the ordinary roads network in the sense implied by the NERC Act, so closing them to motor traffic would have had no unintended consequences for the network of roads in the area. The tracks are not needed by any residents to access their properties. They are, however, essential for the farmers at High Oxenfell and High Tilberthwaite to reach their livestock.

6. Since the NERC Act came into effect in 2006, and despite a voluntary restraint scheme put in place by the Lake District National Park Authority, there has been an exponential increase in the number of recreational off-road vehicles on these two tracks. For 2005, the Lake District National Park Authority gives usage figures for U5001 (High Tilberthwaite to Little Langdale) of 30 4x4s and 80 motor cycles per month. Since then the National Park Authority has not monitored the tracks, but the farming family at High Tilberthwaite has counted an average of 450 4x4s a month, sometimes as many as 30 vehicles a day, and many more motor cycles than before.

7. These green lanes are being commercially exploited by a company offering recreational tours in off-road vehicles, travelling in convoys of up to four large 4x4s three to four times a day. In addition, individual 4x4 drivers now promote the tracks on social media to off-road enthusiasts nationally, further accelerating growth in vehicle numbers. This image, taken from a YouTube video, shows several individual 4x4 drivers and in the background a commercial convoy on an eroded section of the Tilberthwaite track. The extent of the erosion is clearly visible.

8. The effects of allowing this activity here, in this area of exceptional beauty and tranquillity, are devastating. The off-road vehicles can be seen and heard from far away and
affect a much wider area than the linear routes on which they travel. At many times of the
day throughout the year quiet enjoyment of this part of the National Park is no longer
possible. The tracks here are not only a means to access the special qualities of the Lake
District National Park, but are themselves a valued part of those special qualities. They have
been badly eroded, in many places more than a metre deep.

9. There are also serious repercussions for the farmers along the routes. In an open letter
the High Tilberthwaite family wrote that ‘access with a quad bike to take feed to animals or
see to their welfare is becoming increasingly difficult’. The letter concluded: ‘The problem of
increased access pressure is making us seriously consider relinquishing the tenancy of
Tilberthwaite Farm which has been in the family since 1960.’

10. Subsection 67(2)(b) of the NERC Act reflects the Government’s awareness that tracks
such as these on the ‘List of Streets’ would be ‘vulnerable to abuse by mechanically
propelled vehicles’. The Act specifies the instrument to be used by Highway and National
Park Authorities to prevent this type of problem, namely Traffic Regulation Orders (TROs).

11. DEFRA has set out clear guidelines for National Park Authorities on Traffic Regulation
Orders, based on the need to preserve natural beauty and amenity. Whereas the Yorkshire
Dales and the Peak District use TROs in line with DEFRA guidance, the Lake District National
Park Authority appears to act independently, preferring to rely on a scheme of voluntary
regulation. In the High Oxenfell – High Tilberthwaite – Little Langdale area such a scheme
has now been in place for over 20 years, resulting in a massive increase in off-road traffic.

12. Although the National Trust has a duty to preserve the land it owns and the working
farms on it, the NT does not have traffic regulation powers. It does, however, have an
influential voice in the Lake District Partnership, which so far it seems unwilling to use in
pursuance of its conservation duty.

13. Given the need to extend the environmental protection to routes on the ‘List of Streets’,
we ask the Select Committee to recommend an amendment to Section 67 of the NERC Act,
thus extinguishing unrecorded motor vehicle rights on routes on the ‘List of Streets’. If this
and other such areas are to be preserved for future generations, urgent and decisive action
is needed now.

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