Land Access and Recreation Association (LARA) – supplementary written evidence (NER0087)

The question before the select committee under which we submit this evidence is:

‘The changing context since 2006 [11] Are there any further parts of the Act which are currently in force that need to be re-considered as a result of developments since 2006?’

From The Motoring Organisations’ Land Access and Recreation Association (LARA).

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1. The mileage of unsealed roads in England.

1.1. At the Select Committee meeting I spoke briefly about the small mileage of unsealed public roads compared to footpaths, bridleways and restricted byways. There is no recent survey, but reliable and indicative figures for England are available from two surveys.

1.2. In 1974, as for every year thereabouts, the Society of County Treasurers and County Surveyors’ Society collected and collated ‘road mileage data’ from highway authorities (then mainly county councils). This was from returns for the ‘Standard Spending Assessment’ of money from central government, and so one would expect reasonable accuracy and honesty. For “Green Lanes [which] are unsurfaced roads with rights of passage for vehicles”, the mileage was 4,234 miles. That can only have reduced over the years since.

1.3. In 2000 the County Surveyors’ Society collected data from ‘all highway authorities’ in England. This returned:

- Footpaths: 91,000 miles.
- Bridleways: 20,100 miles.
- RUPPs: 3,705 miles.
1.4. The great majority of the RUPPs in 2000 then became restricted byways. A few ended up as BOATs, with probably a few more as bridleway. Of this total of 6,561 miles of unsealed road / BOAT, a significant portion is dead-end road (more so since NERCA 2006), and a significant portion are ‘outliers’: remote roads isolated from others. Yet more are already managed by traffic regulation order.

1.5. ‘Repairing’ some of the road broken by the NERCA provisions (as per our submission) would enhance the viable network, spread the load, and facilitate better ‘trade off’ management.

2. **Making Ways For Horses.**

2.1. *Making Ways For Horses* is the primary report and policy document from the Equestrian Access Forum, a body with membership including the British Horse Society, the Byways and Bridleways Trust, the South Pennines Packhorse Trails Trust, and the British Driving Society.

2.2. This report advocates a ‘single status for footpaths, bridleways and restricted byways.’

2.3. We would welcome our equestrian friends gaining much-needed additional access for horses. Far better surely to give equestrians additional access than to take away from motorists the small mileage that they already share, generally perfectly happily, with horse riders.

2.4. Derbyshire and the Peak District are said to have relatively few miles of bridleway compared to the national average. It would be better to improve horse riders’ access by finding a way to provide additional access for them, rather than take away the little shared access that recreational motorists now enjoy.

3. **The cost of maintenance of unsealed roads.**

3.1. Repairing roads and rights of way costs money. It is easy to demonise maintenance of unsealed roads as disproportionate. Generally it is not, and ‘bad examples’ are not restricted to vehicular highways. In 2015, at the request of the same horse riding community that now seeks to prohibit motorists in the Peak District, Derbyshire County Council repaired Wigley Lane, a restricted byway with no motor vehicle rights, at a cost of £59,552 for about one-third of a mile. That is £180,000 a mile. Cyclists and walkers did not think that Wigley Lane was out of repair anyway.
4. **LARA’s Traffic Management Hierarchy. Good Practice in Traffic Management on Unsealed Public Roads.**

4.1. In March 2013 LARA published the first edition of this report. LARA uses no weasel words and is clear that there are some unsealed roads where an all-motors traffic order is genuinely necessary, and lower-level management has been shown not to work. Equally, there are many - probably most - roads where the management needed is simply individual commonsense by the public.

4.2. The Traffic Management Hierarchy was well-received by land managers and user organisations. In the near-four years since publication, the use of traffic orders has continued to become more sophisticated and tailored to the actual problem in many authority areas. The use of ‘blunt instrument’ traffic orders has declined noticeably. LARA’s report now needs updating to keep pace with the good practice coming out of highway authorities’ own assessments.

5. **Proving the Status of Unsealed Unclassified Roads: A Practical Approach.**

5.1. LARA believes that some organisations seek to make the status of individual unsealed public roads into a much more complex and expensive issue than it is, or needs be. This is how we propose to deal with the matter. Simple, quick, cheap, and non-adversarial.

5.2. The question of the status of unsealed unclassified roads is not a new issue. It was been a live topic since (at least) the Cumbria Special Review in the early 1980s, and was considered and consulted in the processes that led to the Countryside and Rights of Way Act 2000. This was the Government’s view then:

5.3. **Department of the Environment, Transport and the Regions. Improving Rights of Way in England and Wales 1999.**

[2.10] The proposition that unclassified roads should be brought into the rights of way system would have advantages only if it could be achieved without a major increase in bureaucracy. Several practical problems would have to be overcome. Although section 36 of the Highways Act 1980 requires local authorities to maintain a list of highways maintainable at public expense, not all of these may be suitable for recording on definitive maps and it would be necessary to define more precisely which roads would qualify. Furthermore, the Government believes that the recording of these roads on definitive maps would place an unacceptable burden on highway authorities
if, as we believe, this would require individual definitive map orders to be made on a case by case basis. The effect would be to place a duty on highway authorities similar to that presently imposed by section 54 of the Wildlife and Countryside Act 1981 to reclassify RUPPs.

5.4. **An Economic Appraisal of the Proposals: Improving Rights of Way in England and Wales 2000.**

[49] We estimated that around 6,000 miles of unsealed unclassified roads that might be available in England and Wales for recording on the definitive map. The cost of recording unclassified roads on the definitive map would vary depending on the ease of establishing the rights over them. Our survey suggested authorities anticipated this to be a costly process, requiring expenditure of £19m. A further cost of £2.3m could be incurred by central government as a result of the need for public inquiries.

5.5. **LARA says:**

5.5.1. This assessment of the scale of a blanket screening-by-order approach to unsealed unclassified roads remains valid.

5.5.2. It would be a massive administrative undertaking and would block the definitive map process for years.

5.5.3. Nobody rationally disputes that the very great majority of screened-by-order unclassified roads would be found to carry public vehicular rights: “We are prepared to accept that the vast majority of unsealed rural routes shown in the list of streets held by most highway authorities are likely to be shown to be carriageways on investigation.” Dave Waterman, DEFRA, 11 June 2012.

5.6. **LARA proposes:**

5.6.1. Where any person sets out an evidence-based case that a specified unclassified road is either a footpath or a bridleway, then LARA’s member organisations will carefully assess that evidence, carry out further research if necessary, and will present the evidence to the surveying authority under s.53(2)(b) of the Wildlife and Countryside Act 1981. If the evidence in the case points to the road’s being a footpath or bridleway, then the surveying authority will make the appropriate order. It will be the surveying authority’s decision.

5.6.2. This initial informal enquiry can be facilitated by the Local Access Forum if parties prefer.
5.6.3. Where there is persuasive evidence in any case, the motoring organisations will acquiesce in and publicise temporary traffic regulation provided there is no unreasonable delay in the process.

5.6.4. The ‘very great [vehicular] majority’ of unsealed unclassified roads are thereby kept out of the order process, avoiding needless expenditure of public and volunteer resources.

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