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## SUPPORTED BY



## IT'S GOOD NEWS WEEK!

**Defeat for Mrs Masters in the Court of Appeal sees at least part of the infamous *Nettlecombe* case consigned to the dustbin of bad law.**

**Scottish Ministers confirm that Dere Street will not be closed to motorists, and recommend instead a co-operative management approach for the future.**

**LARA's Workshop 2000 is confirmed for the end of September in Derby:**

**Getting it right (50 years late)**

*Gearing-up to respond to the new access legislation*

*DETAILS INSIDE*

## THE SCREWS TIGHTEN ON THE COWBOYS

### LARA WELCOMES STIFF NEW PENALTIES FOR DAMAGE

Any cowboys out there had better beware! When the new countryside legislation comes into force, possibly some time in 2001, the rules protecting Sites of Special Scientific Interest will be considerably strengthened. At present, it is not usually a criminal offence for a 'third party' to damage an SSSI, and this has caused a lot of management headaches for English Nature. If the measures currently going through Parliament pass into law – as is generally expected – then *anyone* causing damage to an SSSI is liable to be prosecuted, and that includes 'cowboy' drivers and riders if they leave tyre marks, batter down vegetation, or harm wildlife. The fine? The maximum possible is £20,000 per offence. The chance of being caught? Higher than you might think. These offences can be monitored and reported by English Nature staff, and other responsible people like national park rangers, using photographic evidence to back up their observations. Motor clubs in a number of places are already co-operating with the land management authorities to identify and report offenders whose idiocy threatens their long-standing events.

## DERE STREET CLOSURE BID REJECTED

### LARA convinces the Scottish Ministers that management is better than banishment

**In a case that has become known as ‘the Scottish Ridgeway’, Ministers of the new Scottish Parliament have refused to confirm an order that would have extinguished public vehicular rights on a section of the Roman road Dere Street, near Jedburgh.**

At the public inquiry in Kelso on 13th June 2000, the Scottish Borders Council argued for the confirmation of an order made under Scottish town and country planning legislation. This was essential, said the council, because motor vehicles were allegedly damaging Dere Street, which is a scheduled ancient monument. LARA opposed the proposal, not because proper and fair management of Dere Street is not vital, but because the council’s reasoning was muddled, motorists were being unfairly blamed, and the council’s ‘solution’ would, in truth, achieve very little improvement.

LARA told the Reporter (the Scottish equivalent of an Inspector), Mr Alexander Bell, that a lot of the reason for the surface becoming wet and susceptible

Off Road Club, members would also volunteer labour for road improvement. If access is denied to them by a confirmed Order, they would have no incentive to offer that assistance.”

On the enforcement of the Order: “There was no evidence of any Police advice on the enforceability of this Order against vehicular use. From the evidence on experience in the Northumberland National Park. I find that the manpower required for effective enforcement makes it highly doubtful that the Order could be enforced.”

Mr Bell goes on: “A balance has to be struck on the competing claims for enjoyment of amenity by local farmers and by leisure users of the road. This aspect was not fully addressed by the council... In my view, the amenity of other road users has not been given adequate consideration in the anxiety to stop the illegal scrambler bikes... It is my conclusion that the Order is not the appropriate course to adopt. Instead, a temporary closure under the Roads (Scotland) Act, coupled with a management

**Editor’s note:** Perhaps the Countryside & Rights of Way Bill (if it *ever* escapes from the House of Lords) will help here? It should close a loophole and facilitate the prosecution of cowboy riders on machines that are not ‘street legal’.

to damage lies in the presence of a big plantation of conifers, screening the road from the sun and wind that it needs in order to dry out. In the sections of road that can see the sun, the surface is still resilient and largely in good condition – bar a few potholes and tractor ruts.

Furthermore, Mr Bell was told, the Scottish Borders Council participates in the local scheme to manage motorcycle access to the Cheviots area – extending from Northumberland well into the Scottish Borders. There is no virtue, LARA told him, in a big local scheme to influence and educate motorcyclists (some of whom ride illegally and thoughtlessly) being seriously damaged by one of the scheme’s partners ‘going it alone’ and imposing an unwarranted and ineffective ban on one of the most important parts of the green road network thereabouts.

Mr Bell acknowledges this unwise ‘independent action’: “There was no consultation with LARA or TRF or other user groups on this Order. TRF members would welcome some restrictions on use as part of a management scheme. Like the Scottish

scheme, seems more likely to achieve the aim of quiet enjoyment of the road, with a level of traffic which will not further damage the scheduled Ancient Monument.”

LARA’s Motor Recreation Development Officer, Tim Stevens, commented “It is heartwarming to read such a piece of sheer common sense as this. LARA went into this public inquiry being as ever, absolutely straight. We told Mr Bell that there is a problem with cowboy motorcyclists up in the Cheviots, and we agreed with the Council that Dere Street needs some repair and care. And we were honest too in saying that it would be counter-productive across the whole region to blow a big hole in the network of green lanes available to careful, lawful users, while the cowboys would take not a blind bit of notice. Now it is up to all of us – in partnership, we hope, with the Scottish Borders Council – to turn words into positive actions, get Dere Street appropriately repaired, and keep plugging away to educate and, if necessary prosecute, the cowboy element that is the real problem here and elsewhere.”

## GOODWOOD FESTIVAL OF SPEED GETS DIRTY

LARA Member Organisations, the Auto-Cycle Union and the Motor Cycle Industry Association, combined forces under the Ride Off-Road banner at this year's Goodwood *Festival of Speed*, held at the famous West Sussex venue in June, providing the Festival's thousands of visitors with the opportunity to experience off-road motorcycle sport 'in the dirt'.

Nearly 300 newcomers, between the ages of 6 and 66 (and, we suspect, some over!), were able to experience motocross and trials over specially made training courses under the expert tuition of the ACU's qualified coaches. Thanks to the Off-Road Group of the MCIA, Festival visitors were able to try a range of motocross bikes, from 50cc up to 400cc, provided on the day by Kawasaki, KTM, Honda, Suzuki, and Yamaha, with coaches of the calibre of Neil Prince, Jeremy Whatley, Fred and Geoff Mayes, on hand to teach them the basic skills required to ride safely. Coaches from the ACU's South Eastern Centre, under the leadership of National Coach, Colin Boniface, were also kept busy as they introduced people to the exacting sport of trials on a range of bikes from Yamaha, Beta, and Gas Gas.

LARA's very own Motorsports Development Officer, David Kersey, was on hand to dispense information and advice to visitors about which club to join, and where to ride legally, while the MCIA's Maria Garcia and Rachel Lavender had all the info on where to buy bikes and all the gear.

The next Ride Off-Road day will be held at the British Superbikes meeting at Mallory Park on 17th September. The circuit's purpose built motocross track will be in use, and this time only riders from 6-17 years of age will be catered for.

## SUSTRANS WANTS YOU BANNED

Those nice people at Sustrans, with their multi-millions of Lottery grant, have come right out of the closet now in their attitude to motor vehicles in the countryside. Sustrans' Mark Strong, writing in *The Meresman* (summer 2000), the countryside journal of East Sussex County Council, states "Sustrans believes that byways, RUPPs many other country tracks and indeed some minor roads should be closed to all motor traffic, with the exception of legitimate residential, business or farm access. Such proposals would benefit walkers, horse riders, horse drawn carriages and cyclists alike."

Motorsport club members may wish to bear this in mind when Sustrans proposes schemes local to them. Look long and hard at the legality and desirability of what is proposed. Sustrans' long-term aim is to annexe as much as possible of the road network for cyclists. Horse riders lose out. Motorists lose out.

It seems just a little ironic that Sustrans is so against motorists while it overlooks the 'public profile' of cyclists. Newspapers, TV and radio are full of reports of lunatic cyclists 'buzzing' pedestrians, where footpaths have been made (often against public opinion) into 'cycle tracks'.

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## LARA'S WORKSHOP 2000

### Getting it right (50 years late): Gearing-up to respond to the new access legislation

This weekend workshop takes the first in-depth look at the task facing both the voluntary and public sector when the Countryside and Rights of Way Bill passes into law. The new legislation will introduce a number of additional opportunities and burdens: the '25 year cap' on the definitive map, and 'local access forums' are just two new workloads that will change the way we all have to operate.

This is a difficult journey that none of us can take without a route map. This workshop will bring together experienced volunteers from a number of outdoor pursuits, local government professionals, and governmental organisation officers, to separate the obstructions from the opportunities. At the end we will know what the experts - the people at the sharp end - think has to be done to make the formidable task set by the new legislation attainable. If you think you have the answer - or have no idea at all what to do next - this forum can benefit you and benefit from you.

The programme is split into units across the weekend of 30th September - 1st October, and is to be held at an industrial training centre in Derby. Accommodation is available at very reasonable rates. Please register your provisional booking now on the booking form attached to this issue of LARA News. We will send you further details of the fee (purely to cover accommodation, meals, etc.) and the workshop programme.

**Supported by the CCPR Outdoor Pursuits Division Access Focus Group**

## **LUMB LANE, DUMB ATTITUDE?**

**Richard Marshall, National Rights of Way Officer for the Trail Riders Fellowship writes:**

Four members of the Trail Riders Fellowship's Peak Group were prosecuted under the Road Traffic Act 1988 at Alfreton Magistrates Court on the 19/20th July, for driving motor vehicles on Lumb Lane, Hazelwood. Lumb Lane is recorded as a bridleway on the Derbyshire County Council's definitive map of rights of way, but motorcyclists have used it since the early 1930s, there is documentary evidence that it is a general-purpose road, and a BOAT claim was lodged way back in 1978.

This case went ahead despite our previous success in defending members in a similar prosecution over alleged unlawful driving on Grimsell Lane, Holmesfield. We thought after that outcome that the Crown Prosecution Service, supported and serviced by Derbyshire County Council, would think twice before proceeding with this second prosecution, but no. So, with the essential support of the TRF's Fighting Fund, the top highway solicitor Michael Orlik, was engaged to defend our members. The Crown Prosecution Service also again wheeled out star barrister David Braham QC to put the case for the Crown. A significant part of our defence was based on evidence of long and regular use by motorcycle trials between 1934 and 1952. We found this through contacting local ACU clubs. To support our riders Ivan Rhodes, past president of the Vintage Motor Cycle Club, appeared in court as a witness. He was able to corroborate the documentary evidence with his

own recollections, particularly as we had his name on the trials results sheet for an event that used Lumb Lane in 1949! After a two-day trial in front of a bench of three lay magistrates, the riders were acquitted. Our particular thanks go to Ivan Rhodes, Brian Harwood of Derby Pathfinders MCC and Geoff Sleath of the Midland Classic MCC for their assistance in contributing to the triumph of justice over prejudice.

During the preparation of the defence case, we carried out further detailed research into the history of Lumb Lane, and turned up significant evidence for a number of other lanes in this and neighbouring parishes. As a consequence, the East Midlands Group of the TRF will be submitting another byway claim for Lumb Lane and five additional lanes. It's an ill wind...

Now that this second prosecution has run its course, we will be lodging complaints with the Crown Prosecution Service and Derbyshire County Council about these cases and the wanton waste of public funds. Two trials, together taking up over five days of court time to conduct, plus the lawyers' costs, and time spent by the Derbyshire County Council rights of way officer preparing the two failed cases - this must have cost the public at least £50,000. And all for 'level 3', non-endorsable traffic offences: the equivalent of parking without lights!

I ask motorists please to exercise restraint when using Lumb Lane and other green lanes in the area. We have again defeated prejudice and demonstrated our rights, but with rights come responsibilities.

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## **TAKING THE STING OUT OF NETTLECOMBE?**

A big sigh of relief went around rights of way enthusiasts and local authorities alike in early August, when the judgement of the Court of Appeal was finally delivered in the long-running 'Masters case' saga. Mrs Marlene Masters, a mainstay of the anti-access group GLEAM, has for some years now been battling to close a former road used as a public path (RUPP) across her farm at Maperton, Somerset. Mrs Masters sought an order to remove the RUPP from the definitive map, but when the case went to public inquiry, the

Independent Inspector decided that not only was the RUPP correctly on the definitive map in the first place, but that it should now be recorded in the definitive map as a byway! Mrs Masters appealed to the High Court and lost; she then appealed to the Court of Appeal. This time she not only lost (with the Court of Appeal confirming again the existence of a public road), but the Appeal Judges, in a victory for common sense and the public interest, also reversed, at least so far as RUPPs are concerned, the troublesome *Nettlecombe* High Court decision. A nice, but undoubtedly very expensive, own-goal!