

The High Court holds against the opponents of recreational motoring.

A recent decision clarifies the law on the presentation of 'modification order applications'.

R (on the application of the Warden and Fellows of Winchester College and Humphrey Feeds Limited) v. Hampshire County Council and the Secretary of State for Environment, Food and Rural Affairs [2007] EWHC 2786 (Admin).

For a copy of the judgment, go to: www.bailii.org and type 'Winchester College' into the search facility.

A major effect of the Natural Environment and Rural Communities Act 2006 was the 'cut off date' for applications to add byways open to all traffic (BOATs) to the definitive map. Essentially, any application made before 20 January 2005 is unaffected by NERCA and must be processed through to completion. The 'antis' were not happy with this limited saving provision and have been looking at ways of attacking the validity of applications made before 20 January 2005, in an effort to have these ruled 'not valid' in matters of compliance with the regulations controlling the format of applications.

Hampshire County Council processed and accepted two such applications for BOATs submitted before the

cut-off date, and the applicants in this judicial review case sought to quash the County's decision on the ground that the applications did not conform to the regulations, particularly in having 'copies' of the evidence, and in the notification of landowners. The applicants (supported by the Green Lanes Protection Group) engaged specialist counsel in George Laurence, QC, and Miss Ross Crail.

The case was heard by Mr George Bartlett, QC, sitting as a deputy High Court Judge, and he gave little weight to the applicants' case that, for an application to be valid, there must be strict and precise provision by the modification order applicant of photo-copies of all the evidence relied upon, and other matters. This decision will operate to safeguard a number of BOAT claims made before the cut-off date, but expect the 'antis' to seek to appeal against the Judge's decision – he refused to grant leave of appeal in what he sees as a very straightforward matter. This is indicative of how well financed the opponents of motor recreation really are.

'Off-roading drivers are targeted.'

From the BBC News website, 26 November 2007.

'Drivers and bikers who take their vehicles off-road in mid Wales are being targeted by police.'

"A dedicated officer has been brought in to cope with the influx of visitors who use remote tracks in the Elan Valley, which spans Powys and Ceredigion. The officer will target illegal off-roading and will also advise those who drive legitimately in the area. The project is jointly funded by Dyfed-Powys Police and the Countryside Council for Wales (CCW). The CCW is currently working with Ceredigion, Powys and Carmarthenshire councils on a project to create a network of off-road routes in the Cambrian Mountains. Off-roading and green lane driving is popular in rural Wales, but some who take part have been accused of damaging the countryside.

"Martin Blythe, chairman of West Wales 4x4 Group, said he needed to know more about the latest initiative, but welcomed anything that "made things clearer". "We do have a few members who green lane, but essentially our group does what we call trialling where we drive around a course at slow speed," he added. "Part of the attraction of green laning is seeing unspoilt

parts of the countryside. However, you always get a rogue element who spoil it for the rest."

"Wales' four police forces have attempted to crackdown on off-roaders in the past. Supt Steve Hughson of Dyfed-Powys Police said the force hoped to reduce illegal off-roading and damage to the Elan Valley and the Cambrian Mountains. "We will be providing information and education to local residents, businesses and visitors to the area to ensure that people know where they can legally go," he added. "We will also take positive enforcement action against people who ignore advice and break the law. This could result in vehicles being seized and confiscated."

"Linda Ashton of the CCW said: "We are working hard to strike a balance between the need to conserve wildlife, landscapes and people's quiet enjoyment of the countryside and the need to provide suitable opportunities for off-roaders to enjoy their activity."

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