



## **Natural Environment and Rural Communities Act 2006**

### **When was it passed?**

- The Natural Environment and Rural Communities Act (NERC) received Royal Assent on the 30 March 2006.
- The key rights of way provisions (sections 66-72) were commenced on 2<sup>nd</sup> May 2006.

### **Before we start ...**

Keep in your mind the differences between the different sources of information:

- The Definitive Map and Statement – a record of the existence, alignment and status of public rights of way.
- The “List of Streets”, which are ways maintainable at public expense, often referred to as ‘adopted’. A duty to keep this list was introduced by the Highways Act 1980. This document holds no information on route status / rights. The list of streets details A roads, B roads and ‘class 3 roads’ as well as UCRs (see below). Unclassified County Roads (UCRs) form the ‘bridge’ between the ROW network and the ‘road’ network although the term has no legal meaning. Unsurfaced UCRs are sometimes shown on OS maps as ‘Other Routes with Public Access’ (or ORPAs) as a row of dots. The County Council is responsible for UCRs.
- Routes shown on both the Definitive Map and the List of Streets are known as ‘dual status routes’ and maintenance responsibility is therefore shared between ROW management and Highways.
- The term ‘green lane’ is often used but has no legal meaning whatsoever.

### **Briefly, what will the NERC Act mean?**

- It will remove rights (with exceptions, see below) for Mechanically Propelled Vehicles (MPV) on footpaths and bridleways where no valid application for a byway has been received. For ‘dual status routes’, the Definitive Map has been confirmed as the reference point, rather than other sources of information such as the “list of streets”. There are five exceptions:
  - highways that are part of the ‘ordinary roads network’,

- highways that are little used by motor vehicles but are nonetheless likely to be part of the 'ordinary road network',
- ways that have been expressly created or constructed for motor vehicles,
- ways that have been created by the construction of a road intended to be used by MPVs,
- ways that had been in long use by MPV before 1930, when it first became an offence to drive 'off-road'.
- Byway claims based on historic evidence are no longer possible and can now only lead to the status of restricted byway. The cut-off date for claims has been announced as 20<sup>th</sup> January 2005.
- Any routes shown on the Definitive Map as 'Road Used as Public Path' (RUPP) have become 'Restricted Byway'. These are open to walkers, horse-riders, cyclists and carriage-drivers (horse and cart), but not to a mechanically propelled vehicle.
- Gives National Park Authorities the power to make traffic regulation orders on rights of way and some UCRs within their boundaries. This power has a planned start date of 1<sup>st</sup> October 2006. County Councils become significant consultees.

## Implications for Cumbria

- In total CCC has 15 outstanding byway claims – 3 of which were received before 20<sup>th</sup> January 2005. The remaining 12 will have to be investigated as 'Restricted Byway' status rather than 'Byway'.
- There are no RUPPs in Cumbria.
- We don't know how many 'dual status' routes there were in total in Cumbria, an estimate would be about 100. In the LDNP, 83% of the ways used in the Hierarchy of Trail Routes (HoTR) have been confirmed as UCRs, while the rest (17%) has been confirmed as byways or bridleways.
- The LDNPA would like to hand over the HoTR management and the Trails Management Advisory Group (TMAG). The YDNPA are proposing to establish an advisory group to make assessments and recommendations to their access committee.
- Moving towards a 'Hierarchy of Trail Routes' approach for the whole county, involves cross-referencing the "List of Streets" (which in one district alone can have up to 6,000 routes) with maps of the UCR network held by area highway engineers, and local knowledge of which routes are unsealed and which routes can be sustainably used. This scoping activity may throw up 'cul de sac' rights. Work has already begun in association with the Trail Riders Federation.
- Further management implications of a county-wide HoTR approach are:
  - Signage – consistent signage across the county approved by key partners, contact info, variation in design according to route and rights, working in partnership with police etc.

- Monitoring / Code of conduct – HoTR approach to responsible use of trails/routes and the use of loggers – budget implications, etc
- Repairs / Maintenance – Cumbria County Council and service delivery partners may have additional responsibility to repair and maintain routes.

