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Judicial review and the aftermath of a dodgy dossier

The judicial review was not concerned with the rights and wrongs of the LDNPA's decision: to continue to give a green light to 4x4s and motorbikes on the High Tilberthwaite and the High Oxenfell routes. We believe that the decision was fundamentally wrong, based on a poor assessment report which, even on its own terms, came to the wrong conclusion.

The question many people are asking themselves in disbelief is this: **how have we ended up with this surreal state of affairs?** How is it possible that the LDNPA, the public body set up for the conservation of the Lake District, is now fighting side by side with off-road motoring organisations - against UNESCO, the National Trust, the Friends of the Lake District, the Ramblers, eminent climate and environmental scientists and over 375,000 signatories to our petition?

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[Download our leaflet here](#)

LDNPA: we want to ban motor vehicles on green lanes

The sense of disbelief only grows when you see that the LDNPA said in a leaflet on green road driving in 2002 that “**green road driving is not compatible with National Park purposes**”. In 2003 the LDNPA wanted to ban motor vehicles on green lanes. Its corporate operations director, Bob Cartwright, said (as reported in the Westmorland Gazette of 15th August 2003): “One vehicle used irresponsibly in the wrong conditions can cause damage which takes ten years to repair.” He also said the Authority hoped a ban would foster an environment where off-roading would

“*Green road driving is not compatible with National Park purposes.*”

LDNPA Green Road Code leaflet 2002

become socially unacceptable in “England’s finest landscape - a place where people like to get some tranquillity.”

So what happened? A month later, in September 2003, the umbrella organisation for off-road motorists, LARA, said it would no longer cooperate with the LDNPA in the joint Hierarchy of Trail Routes scheme (see separate

article in this issue) – as revealed in the minutes of the joint Trails Management Advisory Group of 29 September 2003. This had the desired effect: the LDNPA changed its policy, showing clearly who is calling the tune on access for off-road motorists.

LDNPA to UNESCO: we are dealing with 4x4 damage

The contradictions continue. In its bid for World Heritage status published in 2015 the LDNPA set out in great detail how it is protecting the precious landscape of the Lake District against the impact of recreational motor vehicles, fighting legal battles to conserve green lanes, for instance by prohibiting recreational motor vehicles on Walna Scar Road near Coniston. It is not just ironic, but a cause for deep concern that this time the LDNPA fought a legal battle not for, but against conservation.

“*Just treat the natural world as though it is precious, which it is. And don’t squander those bits of it we have control of.*”

David Attenborough

LDNPA: green lanes are unsuitable for motor vehicles

In 2005 the LDNPA published a report on a consultation about green lane strategy, with the following comment: “These roads were never designed to withstand use by modern, heavier motorised vehicles...” a view endorsed by highway engineering experts. But in its 2019 Assessment Report for the Rights of Way Committee the LDNPA comes to a very different conclusion: the High Tilberthwaite route, we read on p. 39 under D, “lends itself to use by 4WD and motorbikes”.

Off-road motorists have every reason to be enthusiastic about an Authority that has not only adopted their views, but is prepared to fight for them in court; an Authority that, rather than envisaging a ban on non-essential motor vehicles, endorses the recommendation of off-road motorists to set up a consensus management group. Where has such a scheme been successfully introduced? - a question to which the LDNPA has no answer. The Authority bases the recommendation on its Assessment Report, a document with an inbuilt bias in favour of off-roading. The 80-page report misrepresents the LDNPA’s own survey evidence and statements from farmers and approvingly quotes claims that “driving and riding on unsealed roads for the sole purpose of a challenge ... is as much a part of the cultural history of the area as many other activities.” This is the first time the LDNPA openly presents off-road motoring on a par with walking and mountaineering. It is an astonishing and shameful claim.

What have we learned from the judicial review?

The first lesson is that the National Park Authority has wide, and worrying, discretionary powers. The only people who can scrutinise its decisions and make it change direction are its Members. They are not directly elected by, or accountable to, residents of the National Park but it is they who are responsible for the governance of the Authority, for its policies and for its strategic direction. They are also supposed to hold the Executive to account. We can only hope that they will realise that dodgy dossiers lead to dodgy decisions.

What we have also learned is that many people really do care deeply about the green lanes of the Lakes and want them to be freed from the damage and nuisance inflicted by non-essential motors. The success of the crowd-funding initiative (supported by 2,480 members of the public), while it did not lead to success in the High Court, gives us the assurance that the Green Lanes Environmental Movement (GLEAM), the organisation that took the LDNPA to court, and the LDGLA express the public's desire for the peace, tranquillity and beauty that green lanes embody.

“Keep the pressure on. The LDPNA is completely out of step both with the local community and the public who love the peace and solitude of the remaining wild places in this tiny overcrowded island of ours.”

*One of many comments on
CrowdJustice*

A new type of 4x4, or aliens in High Nibthwaite?

A convoy of off-road vehicles not seen before made an appearance at High Nibthwaite recently: small, fast and very expensive. The promotional video explains that it “clips trees and grazes tyres.” Unbelievable.

It also “hugs corners with precision, charges challenging terrain with confidence and launches with predictable flight.”

This is appropriately aggressive language for an aggressive vehicle and a macho attitude bent on dominating nature. But this comes at a heavy cost, both environmental (carbon emissions, damage to the track) and social, for residents, walkers and cyclists.

The Hierarchy of Trail Routes (HOTR)

This is the scheme currently in place on the green lanes of the Lake District – and according to LDNPA management it is a success. Which makes you wonder: if this is success, what does failure look like?

What exactly is the HOTR?

It is a partnership scheme set up in the 1990s by the LDNPA and offroading organisations which is supposed to deliver sustainable management of Lake District green lanes. It asks drivers (see



the HOTR sign below) not to travel in groups of above four 4x4s and six motorbikes, and not to “travel after dark or after wet weather” (after wet weather? Surely not a problem in the Lake District). It also classifies green lanes into three categories - Red, Amber and Green - where red routes are the most vulnerable (“proceed with great care...These routes are under the greatest pressure and there may be environmental issues plus the potential for misunderstanding or conflict with other users”) and green routes are the least problematic.

- List of red routes**
- Old Coach Road (U2236/U3132)
 - High Tilberthwaite (U5001)
 - Hodge Close or Stang End (U5002)
 - Little Langdale (U5003)
 - High Oxenfell (U5004)
 - Tarn Hows or Old Mountain Road (U5015)
 - Grizedale-Esthwaite (U5050)
 - High Nibthwaite – Parkamoor (U5051) – managed by a discretionary TRO
 - Ickenthaite (U5064)
 - Moss Wood (U5203)
 - The Riggs (U5213)
 - Stile End (U5255)
 - Gatescarth Pass (U5257) – managed by a permit-based TRO
 - Elterwater (U5529)
 - Rusland Pool (U5566) – managed by a seasonal TRO
 - Old Langdale Road (U5739)

What are the problems with the HOTR?

There are several basic problems : the scheme is voluntary, so cannot be enforced, and many drivers don’t observe it. More importantly, the scheme, even if it could be enforced, does not set any overall limits on the number of vehicles allowed to use the routes. On the High Tilberthwaite track for instance there have been up to 50 vehicles per day, according to vehicle loggers. Somewhat surprisingly assessment of the routes is not carried out by independent experts but by the motor cycle group TRF (Trail Riders Fellowship) and the 4x4 group, GLASS (Green Lane Association), with no involvement of non-motorised users or LDNPA or Cumbria County Council.

How did the HOTR start?

The LDNPA formally adopted the HOTR in 1999. It began as an initiative of the umbrella motoring group LARA (Land Access and Recreation Association) and was then developed jointly between LARA and the LDNPA. Later on other bodies were briefed on and introduced to the scheme, e.g. the Friends of the Lake District, the Ramblers and some Parish Councils. In 2006 Cumbria County Council took on the management of the HOTR, but the LDNPA continues to be “closely involved with access management” and all the signs on HOTR routes in the Lake District bear the LDNPA as well as the LARA logo.



What did Parish Councils say about the HOTR?

The Cumbria Association of Local Councils warned that putting up HOTR signs would attract off-road traffic – and that is exactly what happened. For instance, on the Tilberthwaite track the number of 4x4s rose from 30 a month to 163 a month on average, an over five-fold increase. There were also protests from residents of Little Langdale and the Langdales Society.

“I think it's disgraceful that the lanes of the Lake District should be abused as they are at present - and with the approval of the authorities! - and I just hope that common sense prevails, and peace is restored to our beautiful landscapes.”

Andrew Wordsworth, descendant and biographer of Wordsworth

LDNPA, said that the HOTR “had not eliminated erosion, irresponsible drivers and regular complaints about inappropriate vehicle use”. So even at a time with much lower traffic than today the LDNPA thought a ban on recreational off-road vehicles was the only solution.

After 20 years of the HOTR the High Tilberthwaite Road was in such a bad state that repairs were carried out at a cost of £100,000, according to Cumbria County Council. In the decades before the introduction of the HOTR no resurfacing was needed.

What is the LDNPA proposing now for High Oxenfell and High Tilberthwaite?

For High Oxenfell: do nothing, let the farmer suffer and walkers complain. For High Tilberthwaite the Authority takes up, almost word for word, the recommendation of the off-roaders: form a consensus management group. This is exactly the same concept as the Hierarchy of Trail Routes: get off-roaders and non-motorists round the table and let them thrash out a compromise.

To make this proposal sound like a new idea, the LDNPA had to disregard the existence of the HOTR. But the HOTR is very much alive. Both the Tilberthwaite and High Oxen Fell routes are part of it and have been since the late 1990s; both carry HOTR signs (the new HOTR sign (above) was only put up very recently – a sign for which LARA and the LDNPA claim co-responsibility.) As recently as 2015 the Countryside Access Adviser wrote in a letter that the LDNPA works closely with Cumbria County Council on access management and that the HOTR scheme “has been successful in terms of what it set out to achieve” (despite there being no success criteria). So the solution proposed by off-road motorists and the LDNPA is precisely what we have had for the last 20 years. It is also a scheme that benefits the off-roaders and nobody else.

Has the HOTR been a success?

The LDNPA never set any criteria for assessing the success of the scheme. But among the criteria for any green lanes management scheme surely should be the overall number of vehicles, surface damage and the impact on other users and on the environment. By those measures alone the HOTR has been a resounding failure. As early as 2003 Bob Cartwright, corporate operations director of the

“A society that doesn't look after its countryside is deeply irresponsible.

I don't mind if people want to love their vehicles and want to test them - but surely not in internationally beloved beauty spots.”

James Rebanks, author and Lake District farmer

What did the LDNPA survey show?

In its online survey the LDNPA asked users of the two routes for their preferred solution. The people adversely affected by motor vehicles – non-motorists – were overwhelmingly in favour of Traffic Regulation Orders (TROs) banning recreational motor vehicles. This is the option that an unbiased LDNPA ought to pursue.

You can read a more detailed critique of the HOTR [here](#).

Full details of the HOTR and its aims are on the Cumbria County Council [website](#).

