



Lake District
National Park

Lake District Green Lanes Alliance
Steering Group

By email

contact@ldgla.org

17 September 2020

Dear LDGLA Steering Group

Our Reference: ExBd/RL/CM
Subject: High Oxen Fell and High Tilberthwaite after the Judicial Review

I refer to your open letter to Members of 31 August 2020, regarding High Oxen Fell and Tilberthwaite unsealed public roads after the Judicial Review. Our Chairman, Mike McKinley, has asked me to respond to the points you raise.

In essence, you restate the cases that have been already considered by Members of the Rights of Way Committee in October 2019 by bodies such as GLEAM, and by some of the signatories of your letter. As you will know, the Committee agreed that Tilberthwaite road should be maintained in its current condition by our partner Cumbria County Council, and that we create a partnership management group of invited key partners and stakeholders to work collaboratively to monitor usage and condition; undertaking necessary activities to help mitigate any new issues that may arise. And for the High Oxen Fell road that again Cumbria County Council maintains the road surface at its current condition, and we work with them and the National Trust to monitor surface condition. Since that decision was taken, nothing has significantly changed – and there is consequently no current reason or justification for reconsidering our decision.

What will steer future discussions and possible reconsideration are any findings gathered through the recommended management group. As you will be well aware, before the application for judicial review by GLEAM we were looking to bring together, in early 2020, the various interested parties to form such a management group (for U5001). This group would operate through consensus and its membership would steer and monitor a fully collaborative approach to the establishment and proving of a long-term sustainable management regime for the unsealed section of the U5001 public road. The activities of such a task and finish group could include - continued monitoring of use, attitudes, surface condition. It would also look to ensure appropriate maintenance is provided and would contribute to development of a project that tests and agrees at a point in time the adequacy of the management approach for the road. If changes to the current management are recommended, then this would be considered at the appropriate juncture.

Given the judicial review we felt it was inappropriate to form the management group prior to the judges' decision. And since that time we have had to focus our attention on managing the national park in light of the needs and impact of Covid-19. In this context we need to review the timing and formation of the group to ensure we deploy our resources to the highest priorities across the park, and make sure that such a group can work effectively in partnership. Given monitoring of the route use and its condition is on-going, and our focus on general visitor management across the national park is necessary - it is likely we will look to establish the working group early in 2021. This will continue the work as agreed before the judicial review application but somewhat delayed.

To pick up on the specific points, and bullet points that you raise:

- Policy documents and management plans were referred to in the assessment report, and, as you know, the Sandford principle which underpins all this has been adjudged to have been applied correctly.

You refer to UNESCO and ICOMOS – as you will know, this was the subject of a complaint by one of your signatories in December 2019. Our response at the time is in the box below, and nothing new has occurred since then:

Your complaint then refers to the subsequent response by the LDNPA to the letter.

You will be aware that the UNSECO letter contains no actual analysis of the report or our evidential findings to any degree that adds anything to the issues.

I note that one of your blog entries refers to the recent article in The Guardian www.theguardian.com/uk-news/2019/nov/19/lake-district-under-pressure-to-ban-4x4s-from-farm-tracks , but you fail to mention the quote in the article that says: *“Mechtild Rössler, the director of the Unesco World Heritage Centre, said the authority would not lose its world heritage status but Unesco was monitoring events closely. She added: “While the Unesco World Heritage Centre follows the situation at the Lake District world heritage site closely with the authorities concerned and our advisory bodies, the world heritage status is not at risk.”*

It is therefore misleading to keep referring to the danger of losing World Heritage Status in your complaints, blogs and change.org website entries.

This aspect of your complaint raises no new points for us to address.

- The National Trust, and the Ramblers put their view to members of the Rights of Way Committee in writing, and by a presentation at the committee meeting. Therefore, their concerns have already been considered by the Authority before reaching our decision. Nothing new has occurred since.
- The issue of disruption to farmers was discussed within the committee report and assessed by members of the committee when reaching their decision. Your reference to 'other residents on the route' is a little misleading – there is only one dwelling alongside these two unsealed roads, and that is not fully occupied.
- Quoting 86% of non-motorised users believing MPVs to impact on the special qualities of the area is cherry-picking data. It must be seen in context. As you are aware, our Countryside Access Adviser explained to members of the committee that:

For a start, usage is not binary. A large number of walkers and cyclists also said that they have used the route with an MPV at one time or another, generally to a lesser degree of frequency than they have walked the route. The figure cited is not 86% of walkers and cyclists – it is 86% of those walkers and cyclists who use the road, and have never used an MPV (however infrequently), and have completed the survey, and wished to express a view on future management.

The actual number is around 140 respondents. That's 50% of those never having used an MPV, and just over 30% of all those who have walked or cycled the road and completed the survey. To put it in context, it is 140 people out of the 300,000+ people, organisations, and bodies contacted and encouraged to complete the survey.

We cannot simply ignore the views of anyone who has used the road in an MPV (especially as many mainly use the road as a walker or cyclist); as circular 12/96 stresses, "*it is important to keep in mind and fully consider the views of all in the Parks.*" Quite a low percentage of survey participants were non-MPV users, but this is hardly a fault of the survey, it could well be a reflection of the possible lack of concerns amongst the wider walking public using these two roads.

- Similarly with the preferred option figures. The 80% you cite at High Oxen Fell was, in reality, 36 respondents.
- All the comments received from people about the impact (or otherwise) of MPVs on their enjoyment were published and were available to members as part of the committee report analysis and appendices. These views have therefore already been taken into account, and there is nothing new to add to this at present.
- We have not argued that TROs excluding recreational motor vehicles from these stone built roads would disadvantage people with limited mobility.

You conclude your open letter by asking us to reconsider our decision. I can only re-iterate my earlier comment. Since the decision was taken, nothing has significantly changed, and all your comments and bullet points have already been fully considered, as set out above. There is consequently no current reason or justification for reconsidering our decision.

Yours sincerely



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