

# **The Lake District 'Hierarchy of trails' scheme: nonsense on stilts**

*By Michael Bartholomew, chairman, the Green Lanes Environmental Action Movement*

## **1 Introduction**

Defra's publication *Making the best of byways* (December 2005) makes frequent references - at least eight - to the Lake District's Hierarchy of Trails (HOTR) scheme, presenting it as a model for consensual management of green lanes. This approval is unjustified.

Examination of public documents produced by the Lake District National Park Authority (LDNPA), the Cumbria County Council website, and an inspection of a number of routes in the HOTR show that the scheme creates the illusion, but not the substance, of a solution to the problem of managing recreational vehicles on green lanes. In reality, HOTR was devised by motor vehicle users, for the benefit of motor vehicle users. It confers benefits on no other green lane users.

## **2 The origins of HOTR**

The documentary source for the origins of HOTR is *Hierarchy of trail routes: first report, 1997*. The text for this was written by Alan Kind of Hodology (his consultancy) and was published jointly by LARA (the vehicle users' umbrella group, of which Alan Kind is an officer) and LDNPA in 1997, with 'original material' copyrighted by LARA, in 1997. All this is plainly set out on the inside front cover.

The report says that the scheme arose from discussions between vehicle users and LDNPA. The scheme's fundamental principle was that it should be 'authority approved, user-led', and should apply only 'non-statutory management measures' (p1). And it is perfectly clear that the users who led the project were not drawn from the full range of green lane users. 'Users', as far as the HOTR scheme is concerned, means 'motor vehicle users'. There is a very useful chronology of the development of the scheme on pp 8-9. The scheme was proposed on 14.7.94, when members of LARA met LDNPA officers and set up a working group. The scheme grew during the following year, with lots of site and committee meetings that involved numbers of motor-powered vehicle (mpv) user groups. On 27.9.95, fourteen months after the original planning meeting, the 'first meeting introducing HOTR principles to non-vehicular user groups and land managers' took place. Present at this introduction were representatives of the Ramblers, Country Landowners Association, National Trust, and other groups. It is crucial to note that the bodies represented at this presentation by the HOTR working group were not part of that group: the scheme was presented to them as a *fait accompli*, not as an invitation by LDNPA to join a foundational group that would look at the whole question of recreational motor vehicles on green lanes. The principles had already been decided and entrenched, and the 'users' (ie the vehicle users) were in charge.

On p10 the report congratulates LDNPA for having 'created an ethos of active self-regulation among the motor users'.<sup>1</sup> The idea that HOTR was, and remains, a model of consensual working, is simply preposterous. The *First report* openly, indeed proudly, proclaims the primacy of vehicle users in the scheme's inception and development. The HOTR scheme was 'a compact between the recreational vehicle users ... and the National Park Authority', designed to be a system of self-regulation by vehicle users<sup>2</sup>. No representatives of non-motorised user groups contributed to the scheme, and in all the documentation the scheme has produced, non-motorised users are virtually invisible. The route assessments were done by members of the Trail Riders Fellowship (TRF) – the group representing motorcyclists. If a working group representing every user group had been set up in 1993, it could never have come up with anything remotely resembling the HOTR scheme.

Eventually, in 2005, by which time the scheme had been running for over ten years, LDNPA consulted somewhat wider, 'focus groups'. When these groups were asked whether vehicles should be prohibited from high fell routes, unsurprisingly, 'there was no consensus in the focus groups for such action'.<sup>3</sup>

## **2 The criteria for success/failure of the HOTR scheme**

HOTR's criteria, such as they are, are nebulous and evasive. In 1997, success or failure of the scheme was to be 'measured in the finding of a fair balance between free use of what are, in the end, public roads, and acceptable self-imposed limitations'.<sup>4</sup> Neither an increase nor a decrease in the total volume of 4x4 and motorbike use, for example, would count as indicators of success or failure. The Authority records that, on monitored lanes, between 2002/3 and 2004/5 there was a 23% increase in motorbike use, and an 86% increase in 4x4 use: it does not say whether this counts for or against HOTR.<sup>5</sup> In 2005, LDNPA had got no further in defining the purpose of the scheme than saying that it is 'to promote a responsible attitude among users'.<sup>6</sup> The Authority acknowledged, however, that the criteria by which the scheme should be judged are inadequate.<sup>7</sup> Not one of the route assessments has been updated since 2007/8

A possible criterion – though not one canvassed in the HOTR scheme – is the general public's attitude to 4x4s and motorbikes on green lanes. LDNPA has done no research, but the adjacent Yorkshire Dales National Park Authority, by contrast, has conducted exhaustive research. The findings in the Dales could instructively be incorporated into LDNPA's conclusions about the HOTR scheme. (Briefly: the general public in the Dales, as in the UK at large, dislike encounters with vehicles or evidence of their activities.)

Cumbria County Council now sponsor the HOTR scheme. The working of the scheme is supervised jointly by the Council and the motorcyclists' group, the Trail Riders Fellowship – evidence, if further evidence were needed - that the scheme is not the result of consensual working among all green lane users. The CCC website calls the Lakes scheme 'a successful

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<sup>1</sup> It is odd that a document purporting to be a report issued jointly by LDNPA and LARA carries this self-congratulatory tribute to one of the authors of the report. Evidence, perhaps, that the report was written by LARA and just rubber-stamped by LDNPA?

<sup>2</sup> *HOTR – first report* (LDNPA & LARA. 1997), p6

<sup>3</sup> *Trail management – issues and options* (LDNPA Feb 2005) para 6.9

<sup>4</sup> *HOTR – first report*, p6

<sup>5</sup> *Trail management report*, (LDNPA Sept 2005) paras 2.7 – 2.16.

<sup>6</sup> LDNPA Feb 2005, para 4.10

<sup>7</sup> *Trail management report* (LDNPA Sept 2005), para 2.5.

project', yet gives no indication of what might constitute its success. The Lakes scheme aims neither to promote nor to prevent use of green lanes by recreational motor vehicles. It aims only to 'encourage responsible use'. These aims continue to be extremely vague. What are the indices of success or failure? The only index offered is the notion of 'responsible use.' Who is the arbiter of responsibility? What criteria are applied? Presumably, these criteria will be derived from the code of conduct. But no evidence is supplied that demonstrates that recreational vehicular use is significantly different in areas where no hierarchy scheme is in operation. In sum, what constitutes 'success', and what solid evidence is there that the Lakes scheme achieves it? What would failure look like?

Again, a comparison between the LDPNA/CCC approach and the approach of The Yorkshire Dales National Park Authority (YDNPA) is instructive. YDNPA set up a group to make recommendations about the management of green lanes. This group included walkers, cyclists, farmers, naturalists, motorcyclists, 4x4 users. Over the course of a couple of years it recommended the imposition of 10 Traffic Regulation Orders. If such a group had been convened by LDNPA back in 1994, would the results have been any different?

### **3 The cost**

According to the DEFRA publication *Making the best of byways* (p23), the Lakes Hierarchy scheme cost approximately £68,500 for one year (between April 1999 to April 2000). This sum takes account neither of the many hours of voluntary labour, nor of the input from the participating motoring organisations. According to the same source, the Lakes national park has approximately 170 km of potentially vehicular byways. The cost of the scheme for just one year, therefore, came out as £403 for each kilometre of byway. Is this a good use of public money? What precisely does the public have to show for it?

### **4 HOTR and the amenity of non-motorised users**

If a route is seriously degraded by the passage of vehicles, the HOTR scheme makes provision for the route's closure, although the recommended first resort is an appeal for voluntary restraint. No evidence of compliance with voluntary codes is supplied, although such evidence may readily be gathered by using vehicle logging devices. LDNPA notes that many 4x4 and motorbike users are not members of motoring organisations, and that some members of LARA and the TRF defy their own organisations' recommendations. After 'eight years of advice in the Green Road Code of Conduct certain aspects of voluntary restraint are ignored.'<sup>8</sup> Commercial operators will not support the scheme, even though they are major contributors to the volume of recreational vehicular use<sup>9</sup>. Only some routes are signed, and the signage that does exist does not ask for voluntary restraint – ie refraining from using it in bad weather or when the surface is degraded. It simply asks drivers/riders to proceed with care and be considerate, and points out that grazing stock or non-motorised users may be encountered.

If conditions on a lane are such that closure must be considered, HOTR's recommendation is that, in the first instance, temporary, or seasonal restrictions should be imposed. The test here will be the condition of the surface of the route. The scheme makes no allowance for the considerations that non-motorised users regard as paramount. HOTR pays no regard to the beauty of the route, to the peace and tranquillity that might be expected on it, to the

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<sup>8</sup> Ibid 2.15

<sup>9</sup> Ibid para 2.5

safety of non-motorised users, or to the route's potential amenity-value for groups such as the disabled, or families with children.

## **5. The bias built in to HOTR.**

The material produced by advocates of the scheme makes no secret of the fact that the scheme has come about as the result of a collaboration between, on one hand, the National Park and County authorities, and, on the other, groups representing mpv users – LARA and the TRF, for example. In the documentation published on Cumbria's website, it seems that a UCR and BOAT Survey Form used by CCC has a similar origin. The form looks as if it has been salvaged from the proposal that mpv lobby groups submitted to DEFRA, in the run up to the NERC debates, in an attempt to deflect Parliament from the path it was taking. DEFRA rejected the mpv lobby's proposals. The present, Cumbrian incarnation of the form has a number of boxes to be completed by the surveyor. In the box for comments on 'use and sensitivity', ecological and farming issues are specified. Then comes the word 'other'. Presumably, this refers to those who might have objections of one sort or another to the use of mpvs on the route in question. In filling in this box, how can the surveyor assess the extent of the loss of amenity to local residents, and to non-motorised recreational groups, that mpv use entails?

Furthermore, the form itself has no box for entering an assessment of the noise impact of motor vehicles on the route in question and on the landscape through which it runs. The noise inflicted on otherwise tranquil landscapes by trailbikers and 4x4 users is one of the most frequently-cited objections to their presence, yet the survey form makes no reference to noise – and in any case, the perceptions of the vehicle users, who make the noise, and the perceptions of those who have to hear the noise are always at odds.

## **6 Has the HOTR scheme been adopted elsewhere?**

No. Indeed it is not clear how energetically, if at all, it is now being promoted in the Lake District, or in its partner authority, Cumbria County Council. In 1995, LDNPA hosted a meeting of representatives of northern England NPAs, intended to publicise and recommend the HOTR scheme<sup>10</sup>. Evidently, none of the invitees was persuaded: HOTR has been introduced in no northern, or any other national park. The scheme is cumbersome, and when operated by LDNPA was expensive and very demanding on authority officers' time. (LDNPA spent £65,000 in the year April 1999/2000 to run the project.<sup>11</sup>) Nominally, Cumbria County Council still operates the HOTR scheme, but the Authority's website seems to indicate that the scheme has been languishing since 2007, when the last update was made. Moreover, when the Authority's green lanes were assessed, the assessors were members of motoring organisations, not professional Council officers, and the assessors used no rigorous, objective system for allocating particular lanes to particular categories in the HOTR scheme. At present, CCC's approach is seriously lopsided. On such a contentious issue as motor vehicles on green lanes, it is not equitable that such a disproportionate influence is wielded by a group whose activities make such an impact on the amenity of other groups.

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<sup>10</sup> HOTR - first report (LARA and LDNPA, 1997) p9.

<sup>11</sup> *Making the best of byways*, (DEFRA, 2005), p23

The hopelessly subjective and partial nature of the survey form can be made plain if one considers a thought-experiment designed to find out what would happen if two separate groups went out to survey the same set of green lanes, using this form. Suppose two groups, one made up of LARA representatives, and the other made up of local residents, farmers, and non-motorised recreational users, were charged to make surveys of green lanes. The two groups' results, it is safe to say, would be substantially different – not, it must be stressed because either of the two groups acted in bad faith. It would be because peoples' assessment of the management of recreational mpvs on green lanes is necessarily governed by their underlying beliefs about the appropriateness of motor vehicles deep in the countryside, away from the tarmac. It would be instructive to see the results if this thought-experiment were actually to be carried out.

## **7 Unsealed Unclassified County Roads (UUCRs)**

CCC's survey form is designed to cover both Byways Open to all Traffic (BOATs) and UUCRs (unsealed unclassified county roads). There are serious legal issues here. DEFRA have made it clear, in their guidance on the NERC Act, that no general presumption may be made about the rights of way status of UUCRs. All that may be presumed, in advance of research into the historical provenance of any particular route, is that the route is publicly-maintainable and that it bears rights of way for pedestrians. This means that if Cumbria includes UUCRs in its proposed hierarchy scheme, without first establishing conclusively what rights obtain on each and every one of them, it will be condoning illegal vehicular use on those routes that turn out not to have historic vehicular rights. The number of UUCRs that will turn out to bear only bridleway, or footpath rights, or even no public rights at all, is unknown, but it will not be zero. UUCRs should be withdrawn from the scheme until their status is clarified.

## **8 National Park Statutory Purposes.**

The most compelling interpretation of national park purposes<sup>12</sup> entails a presumption that park authorities should prohibit recreational motor vehicles from unsealed routes. Throughout the period of the development of the HOTR scheme, LDNPA's declared policy has been, and remains, that it is 'opposed to recreational green road driving'.<sup>13</sup> How this policy squares with the authority's initial – but now maybe vestigial - support for HOTR has never been clear. LDNPA acknowledges that 4x4s and motorbikes on green lanes are inappropriate, but insists that it is not empowered to prohibit them, in one grand sweep, nor even that it would do so, if it could. Even so, the introduction of schemes, such as HOTR, that effectively condone their use in national parks, in whatever numbers, is mistaken. In the countryside at large, schemes modelled on HOTR are just as unwelcome. HOTR is so deeply-flawed that its introduction *anywhere* will not succeed in satisfying the public's gathering concern about the damage and nuisance caused by recreational vehicles, on green lanes deep in the countryside.

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<sup>12</sup> The primary statutory purpose of National Parks is 'To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park.'

<sup>13</sup> LDNPA Sept 2005, para1.6

