

West Somerset and Exmoor Bridleways Association

NEWS UPDATE

Driving with mechanical vehicles on Restricted Byways

RUPPs

In Somerset until 2006 we had a number of RUPPs, Roads Used as Public Paths. These are mostly green lanes with no tarmac, many with high banks and so narrow that it would be impossible to get a horse past a car. There are forty two such lanes in the Exmoor National Park area.

It was unclear if RUPPs carried motorised vehicle rights or not. It was possible to submit a claim to Somerset County Council to have RUPPs upgraded to BOATs, Byways Open to All Traffic, which do carry motorised vehicle rights. Thirty four claims to upgrade RUPPs to BOATs were submitted in the Exmoor National Park and about a hundred and ninety in the whole of Somerset.

Restricted Byways

Then under the Natural Environment and Rural Communities Act 2006, all RUPPs became Restricted Byways, which are effectively bridleways. However this did not extinguish pre-existing motor vehicle rights if they could be proved. Under the Act, applications for upgrade to BOATs made after January 2005 required more onerous criteria than those made before that date. Twenty six of the thirty four claims made respecting Restricted Byways within the National Park were made before that date. It was likely that almost all would become BOATs.

Challenge to applications to upgrade

In Somerset most of the applications for upgrading included only a list of the documents on which the application was based, rather than copies of the evidence. Similar applications in Hampshire were challenged in court in a case supported by the Green Lanes Protection Group, with encouragement from the West Somerset & Exmoor Bridleways Association and the Exmoor Society. The Court of Appeal recently held that copies of the evidence must be submitted; lists of evidence are not sufficient.

It thus appears that these early applications for upgrading Restricted Byways to BOATs are now invalid. They must be brought again under the new, more stringent criteria, making them less likely to succeed. Also motor vehicles will have more difficulty in mounting a defence to a prosecution for driving illegally on a Restricted Byway on the basis that a valid claim for motor vehicle rights has been submitted. This means that there should be fewer motor vehicles using the Restricted Byways. This is great news for horse riders.

New applications to upgrade

One of the new criteria to upgrade a Restricted Byway for use by motorised vehicles is that in the 5 years before 2 May 2006 the route was predominantly used by motor vehicles.

Another criterion is to show that vehicular rights were established before 1930 - use here has to be by the public, and so use by the landowner, his servants and those to whom he would be deemed to have given permission, such as a group shooting on his land with his permission, would not count.

If you have such a Restricted Byway near you it would be wise to collect information from those who rode or walked this route. In our village we have a 95 year old woman who was driven around by her parents in the 1920s and started driving herself in 1930. She rode a horse throughout the 1920s and 1930s, and so knew the paths and lanes in the Minehead and the

Exmoor area well. She has described where cars and motor bikes could be driven then: they had less power than today and could only use easier routes. She considers that in the area she knows, any route that is not tarred today would not have been used by motor vehicles before 1930. Below is a draft of her statement. I suggest that this model be followed if others can give similar evidence. You may like to consider talking to a similar person in your area now.

I hope that this brings you up to date on Restricted Byways and enables you to decide whether you, or your friends, need to take action in collecting statements. I shall be dealing with these issues on behalf of the West Somerset and Exmoor Bridleways Association, so do contact me for information or advice and please send me a copy of any statement you have taken.

Chris Binnie
16 May 2008

Dear

Driving with mechanical vehicles on roads prior to 1930.

My name is ... of I was born in 1913 and lived with my parents in Minehead. In the early 1920s my parents bought a motor car and we used it frequently to visit our friends in the district and to meets of the Devon & Somerset Staghoums which occur across Exmoor. I started driving myself about 1930 and have continued to live the majority of my life in Minehead or Wootton Courtenay.

I well remember the routes that we and other vehicles took in the 1920s. Cars, and motor bikes as well, in those days were of low power with poor brakes and were not able to negotiate steep hills or bad road conditions. Thus they always took the easiest route from place to place. I know of no route that we or other motorised vehicles took in those days which is not a tarmac road today.

In particular we used to visit Cloutsham Farm regularly for meets and always used the route from Chapel Cross to Webbers Post. Stoney Street which links Luccombe village to Webbers Post was never used by motor vehicles then as it was too difficult for motorised vehicles.

Similar comments apply to other untarmaced routs which have occasionally been used by motor vehicles since, such as O'way which links Minehead with Timberscombe, Slade Lane which links Pitt Bridge to Slade farm in Timberscombe parish, and Brattleton Brake which links Winsford to the A396 road to Dulverton.

I have read this note and this accurately reflects my statement.

Sign
Date
witness