

A person wearing a motorcycle helmet and gear is riding a motorbike on a dirt path. The path is surrounded by green grass and trees. In the background, there are hills and a utility pole. The entire image has a green tint.

# CALLING TIME ON OFF-ROADING

The case for ending recreational driving on green lanes by motorbikes, 4x4s and quad bikes.

[WWW.GLEAM-UK.ORG](http://WWW.GLEAM-UK.ORG)  
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**GLEAM**  
GREEN LANES  
ENVIRONMENTAL  
ACTION MOVEMENT



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## 1. SUMMARY

Green lanes are precious, historic features of the landscape. They are an essential part of the rights of way network for walkers, cyclists, horse-riders and carriage-drivers. They are part of wildlife habitats and local ecosystems. Farmers, land managers and residents use them to access their land and property. Seven thousand miles of them, including in the national parks, areas of outstanding natural beauty and on the national trails, are currently open to off-roading by 4x4, motorbike and quad bike drivers.

Off-roading destroys surfaces and is a public nuisance for people on foot, horse or cycle, including people who are disabled. It disrupts farming activities and it brings noise, pollution and the depletion of nature into otherwise tranquil, unspoilt areas.

The highway law on green lanes is archaic. It goes back to when the only vehicles using highways of any kind were horse-drawn. Only recently has the law made any distinction between a horse-drawn cart and a 4x4 or a motorbike<sup>1</sup>. Highway and national park authorities do have powers to close green lanes to 4x4s and motorbikes by means of Traffic Regulation Orders (TROs), but these Orders are rarely used.

The UK and Welsh Governments recognise that off-roading is a problem, but at present (2023) they have no plans to stop it. Ministers and Defra think that new official guidance will make TROs cheaper, less complicated and easier to use. GLEAM's opinion, based on long experience all over the country, is that this will not work.

Green lanes play an important part in schemes for family-friendly active travel, but not if the lanes are open to motor vehicles.

New legislation is needed to prohibit non-essential motor vehicles from all green lanes.



<sup>1</sup>The Countryside and Rights of Way Act (2000) and the Natural Environment and Rural Communities Act (2006) were the first laws to distinguish between public rights for horse-drawn and motorised vehicles.

## 2. GREEN LANES

### 2.1 Terminology, statistics and definitions

Throughout this document we use the term 'off-roading' to mean driving motor vehicles for recreational purposes along green lanes. 4x4 and motorbike users who drive and ride on green lanes assert that they are not 'off-road' at all but are in fact using 'roads'. We use the commonsense, widely understood notion that a 'road' is a tarmacadamed highway.

There are over 7,000 miles of green lane in England and Wales<sup>2</sup>. They are all 'unsealed' (ie, they have no sealed surface of tarmac or concrete). They may have a stone, gravel or cobbled surface, or they may simply be grass. They may be bounded on one or both sides by centuries-old walls, banks or hedges, or they may have no defined boundary at all.

The term 'green lane' has no legal status. It signifies an unsealed countryside track. Green lanes are of two types – the 3,100 miles of 'Byway Open to all Traffic' (BOAT) and the 4,200 miles of Unsealed Unclassified Road (UUR).

There is an established legal right to use a BOAT with any kind of motor vehicle but BOATs are defined in law as 'highways used by the public mainly for the purpose for which footpaths and bridleways are used'<sup>3</sup>. This makes walkers, cyclists and horse riders the majority users of all BOATs.

The legal position for the UURs is different because the precise rights of way on them are unknown. As a minimum, they all bear legal rights for pedestrians. Beyond that, no-one knows who else might be legally entitled to use any particular UUR. If a UUR is found to carry historic rights which allow motor vehicles to use it today, this will be solely because it was used in the past by horse-drawn carts and carriages. Meanwhile, in the absence of legal certainty, no-one can be prosecuted for driving on a UUR: 4x4s and motorbike drivers can use them with impunity.

<sup>2</sup> GLEAM survey establishes lengths of green lanes in England and Wales | GLEAM (gleam-uk.org)

<sup>3</sup> Wildlife and Countryside Act 1981

## 2. GREEN LANES

### 2.2 History

Most green lanes came into existence to serve the needs of a rural, horse-drawn society whose horizons were local. With the coming of the motor car, countryside tracks that became links in the emerging motor road network were tarmacked, creating what Defra calls 'the ordinary road network'. Tracks not essential for motor car use were left unsealed, becoming what are now called green lanes.

From around the mid-1990s, second-hand 4x4s and relatively inexpensive, rugged motorbikes became available. Increasingly large numbers of them started to appear on tracks never designed or modified to accommodate them. Off-roading became widespread. Its impact has been disastrous.

Electrically powered 4x4s and motorbikes may make some difference, but not for some years yet. The difference will be to noise and emissions. Electric vehicles will inflict just as much damage as conventional ones. They are heavier, and it is weight, coupled with forward motion and fast-spinning wheels, that carves the ruts, strips off the grass, and destroys surfaces. The environmental damage and nuisance impacts on walkers, cyclists, equestrians and disabled people will also continue with electric vehicles.

Two green lanes untouched by motor vehicles:



### 3. THE PROBLEM

The problem with off-roading is fivefold: difficulties for farmers; damage to the fabric of green lanes; loss of beauty and tranquillity and the depletion of nature; jeopardy and loss of amenity for non-motorised users; and particular difficulties for disabled people.



### 3. THE PROBLEM

#### 3.1 Farmers

Many green lanes cross directly over farmland. Others are used to move animals and agricultural machinery. Farmers are, in short, essential users of green lanes. But green lane driving disrupts everyday farming activities, puts livestock at risk, increases workloads and adds to costs.

- On soft ground ruts can be so deep that it becomes impossible or dangerous to get farm machinery along the track.
- On hilly ground with hard underlying surfaces, the grass gets ripped off and tracks erode to rough boulders or rocky steps that even tractors cannot negotiate.
- It is difficult moving animals along a rutted track and stock can scatter if they hear or meet motor vehicles.
- Farm machinery and stock are often unable to pass or be passed by 4x4s, a problem exacerbated when 4x4s are moving in convoy.
- Farm vehicles and stock risk collision with fast moving motorbikes
- Gates are left open, stock strays, gets muddled up with other farmers' animals and gets onto the roads or onto arable crops.
- Farm animals get frightened and injured in their fields (e.g. pregnant ewes)
- Farmers are having to pay for fencing, walling and barriers to protect their stock and to stop vehicles driving over crops and grassland.
- Farm gates, walls and fences are being damaged or vandalised.
- When off-roaders get stuck, stones are taken out of field walls to fill in ruts, and trees are damaged by 'winching' (winching is how 4x4s get themselves out of ruts or over boulders).
- Verges and underlying drainage pipes are driven over and damaged.
- Vehicle litter (hub caps, tyres, bumpers, exhaust pipes) is left on the land.
- Farmers and their families are disturbed by night driving.

### 3. THE PROBLEM

#### 3.2 Damage to the fabric of green lanes

Green lanes that are simply grass or earth can't withstand regular use by 4x4s and motorbikes. Even green lanes that have surfaces of stone, gravel or cobbles rapidly deteriorate. Drains, ditches, tree roots and verges get damaged.



### 3. THE PROBLEM

#### 3.3 Depletion of nature and the loss of beauty and tranquillity

It is shocking that the UK is one of the most nature-depleted countries in the world<sup>4</sup>. To halt this decline, to help nature recover and to combat climate change, we need a radically different relationship with the natural environment. This includes how we use green lanes. We say that driving on them and damaging them for fun is an assault on nature and that there is solid scientific evidence that off-roading is having a negative impact on the ecology of surroundings areas<sup>5</sup>. The main impacts are through erosion, pollution and disturbance of ecological balance.

It is now understood that being in the natural environment greatly benefits people's health and wellbeing<sup>6</sup>. Green lanes should be an easy way of getting out into nature and a way of enjoying it. They have no stiles, which makes them ideal for people with poor mobility. Unspoiled and unused by motor vehicles, green lanes are a family-friendly, wheelchair-friendly way of enjoying the countryside, away from the hustle and bustle of towns, traffic noise, pollution and the stress that comes with an urban environment. Green lanes make substantial contributions to the Active Travel schemes that the government is promoting.



<sup>4</sup> Nature for People, Climate and Wildlife, Defra Policy Paper 2021

<sup>5</sup> For scientific references see 269609\_83b2ff3ed0424349b1581b1d63d86cic.pdf (savethelakedistrict.com)

<sup>6</sup> Natural England Access to Evidence - Health and the natural environment

### 3. THE PROBLEM

#### 3.4 Public nuisance and loss of amenity

Encounters between walkers/cyclists/disabled people/horse riders on the one hand and 4x4s/motorbikes/quad bikes on the other are rarely agreeable and are often hazardous. Damaged surfaces make walking, cycling, horse riding, carriage driving and using a mobility scooter unpleasant or impossible. Vehicle noise and fumes from loudly revving engines are fundamentally out of place and upsetting deep in the countryside if you have gone there for fresh air, peace and tranquillity. The noise of motorbikes, especially if they are revving to get up a steep hill, carries for miles where there is no woodland to muffle the sound of their exhausts. Encounters can also be dangerous, particularly on narrow lanes, on blind bends and on any lane where there is nowhere to get out of the way of oncoming vehicles.



### 3. THE PROBLEM

#### 3.5 Disabled people and green lanes

Green lanes should be safe and enjoyable for the disabled no less than the able-bodied. People who are sight- or hearing-impaired, learning disabled or mobility impaired should all be able to use green lanes. Off-road 4x4 drivers argue that because they can take disabled passengers they are providing a service for people with disabilities who could not otherwise enjoy the countryside. This is a false argument. The needs of the vast majority of people with disabilities who want to get into the countryside will be met by well-maintained tracks free of ruts, motorbikes, quad bikes and 4x4s, regardless of whether 4x4s are carrying disabled or able-bodied people. All these vehicles make surfaces difficult or impassable and put disabled people at risk. For people who cannot walk, rugged versions of hand-propelled wheelchairs and electric mobility scooters have opened up exciting ways of getting into the countryside, but they all need decent surfaces.



## 4. THE CURRENT LEGAL REMEDY

### 4.1 Traffic Regulation Orders

At present, the main legal remedy available to deal with the impacts of green lane driving is the Traffic Regulation Order (TRO). These Orders can be made by highway and national park authorities. Only one of various legal grounds need apply.

The legal grounds for making a TRO are:

- (a)** The avoidance of danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising.
- (b)** The prevention of damage to the road or any building on or near the road.
- (c)** The facilitation of the passage of any kind of traffic (including pedestrians) on the road or any other road.
- (d)** The prevention of the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property.
- (e)** The preservation of the character of the road in the case where it is particularly suitable for use on horseback or on foot.
- (f)** The preservation or improvement of the amenities of the area through which the road runs.
- (g)** For reasons of air quality
- (h)** For conserving or enhancing the natural beauty of the area
- (i)** For affording better opportunities for the public to enjoy the amenities of the area, or recreation or the study of nature in the area<sup>7</sup>

<sup>7</sup> Road Traffic Regulation Act 1984, S1, S22 and S22A. Ground (i) applies only in special areas (e.g.in/adjacent to National Parks, AONBs, SSSIs, National Trails and Inalienable National Trust land)

## 4. THE CURRENT LEGAL REMEDY

### 4.2 Traffic Regulation Orders – the issues

TROs can be made only one by one, lane by lane. They are not widely used and the TRO system as a whole is proving an inadequate solution to what is a widescale, nationwide problem involving many thousands of miles of track.

Making a TRO on a green lane is a complicated, expensive, long-drawn-out process and prone to costly litigation by the off-roading organisations. All TROs require evidence gathering, large-scale public consultations, advertisements in local papers, notices posted on-site, and careful legal drafting. All of this is very demanding for hard-pressed and cash-strapped highway or national park authorities contending with many conflicting priorities. Faced with damaged green lanes, with demands for TROs from rural communities and with legal threats and challenges from off-roading organisations if they try to make TROs, most authorities tend either to do nothing, or to make expensive, ineffectual, sometimes repeated repairs.



## 4. THE CURRENT LEGAL REMEDY

### 4.2 Traffic Regulation Orders – the issues

GLEAM does not believe that making TROs, one by one over 7,000 miles of countryside track, can ever be a solution. There is, however, powerful evidence from the full-time permanent TROs that have been made, that excluding 4x4s and motorbikes allows green lanes to recover, prevents further damage and improves amenity for non-motorised users and farmers.



## **4. THE CURRENT LEGAL REMEDY**

### **4.2 Traffic Regulation Orders – the issues**

#### **There is, currently, no obligation to even consider using a TRO**

If a TRO is necessary, highway and national park authority can impose them. But they must first carry out an initial public consultation. But there is no obligation to use a TRO or to carry out a consultation. The TRO system is thus not fairly balanced between those who want TROs and those who oppose them. A parish council concerned that one of its most attractive features, a beautiful green lane, is being destroyed by off-roading, and that the associated damage, noise, pollution or danger are causing annoyance to residents, cannot require its highway or national park authority even to consult on whether there should be some kind of TRO. Nor can walker, cyclist or horse-rider groups.

#### **Legal risks**

If a TRO is imposed, it is likely to be challenged by off-roading organisations. Litigation may follow, pursued sometimes all the way up to the High Court. The authority will have to deploy legal staff and resources to defend their TRO. Plainly, they should always make sure that their orders are legally watertight before they impose them, but there are many legal intricacies in the TRO process, and off-roading organisations are adept at finding legal flaws. Local authorities understandably decide that trying to make TROs is not a good use of their time and money.

#### **Repair and re-repair**

Requests for TROs from residents and local communities tend to focus on ruined surfaces. As highway authorities are legally obliged to keep all types of highway, including green lanes, in a state of decent repair, most highway authority responses (if any) to requests for TROs will focus on surface conditions. If action is taken, the pattern becomes 'temporary TRO, repair, re-open'. The off-roaders are soon allowed back and the dismal cycle of damage and nuisance starts all over again. Green lane repairs are expensive and come at high cost to the public purse. It is impossible, no matter how much money cash-strapped local authorities spend on repairs, to transform a network of ancient cart tracks into routes capable of withstanding the impact of modern motor vehicles in unrestricted numbers.

## 4. THE CURRENT LEGAL REMEDY

### Surface damage does not work as a grounds for TRO

The highway authority legal duty to maintain green lanes, regardless of the cause of damage, means that in most cases ‘for preventing damage to the road’ will not work on its own as a legal ground for making a TRO to stop green lane driving. Using it could lay the authority open to legal challenge.

### Grounds for TROs that have worked

TROs relying on broadly environmental considerations or preserving the amenities of an area for the public are not as easily open to legal challenge from green lane drivers, provided they are properly made<sup>8</sup>. However, most TRO authorities are slow to use them, perhaps because these grounds involve making difficult judgements about whether the benefits for nature and for the amenity of residents and non-motorised users outweigh the loss of amenity for green lane drivers.

### Preventing the likelihood of danger

For avoiding danger or the likelihood of danger is to us an obvious reason for making a TRO. Legally, highway authorities do not have to wait for an accident to happen before they can act. Where danger is likely, TRO authorities should be carrying out a professional health and safety assessment based on the character of the lane. We are aware of few such assessments.

### Selective TROs

Not every TRO has to be a full, 24-7, all-the-year-round order. For example, a TRO might apply to 4x4s but not to motorbikes; it might apply only during the winter months; it might be strictly time-limited; or it might introduce a one-way system. Such TROs are a sticking plaster, not a cure. If TROs are to be the government’s chief means of protecting green lanes (see 5.1 below), they must exclude all off-roading and they must be permanent.

### ‘Voluntary restraint’ as an alternative to TRO

Off-roading organisations try to persuade TRO authorities that before a TRO is considered, they should agree to a voluntary scheme under which they would ask their members to keep away from a specified lane, e.g., in wet weather or during certain months of the year. Where such schemes have been tried, there is no evidence of any reduction in the number of vehicles using the lanes concerned. Schemes for voluntary restraint simply waste time.

<sup>8</sup> Legal errors by authorities are fairly common, leading to TROs being abandoned or quashed. See The use of Traffic Regulation Orders to restrict motor vehicle use of green lanes | GLEAM (@gleam-uk.org)

## 5. OTHER SOLUTIONS

### 5.1 Agreements between government and green-laning organisations?

A solution currently (early 2023) supported by Ministers and being canvassed by Defra is to divide green lanes into those that are 'suitable' for green lane driving and those that are 'unsuitable' – and to secure agreement from the off-roading organisations that they will not challenge TROs on lanes deemed unsuitable. Whether and how this can be achieved is not yet clear.

We think it impossible for Whitehall to decide centrally which of the 7,000 miles that make up our green lanes are suitable for being driven over with a motor vehicle and which are not. These decisions will have to be made by the highway and national park authorities. DEFRA will have to supply criteria to be used in deciding into which category a lane is to be placed. Criteria obvious to us include:

- is there highway authority signage saying 'unsuitable for motor vehicles'?
- have repairs been made and failed?
- is the track a dead end for motor vehicles?
- is it part of or adjoining a SSSI?
- is it in a national park or AONB?
- it is part of a National Trail?
- it is in a highly tranquil area<sup>9</sup>?
- it is of high amenity to non-motorised users?
- is it narrow with blind bends?
- is there somewhere to get out of the way of motor vehicles?
- can walkers, horse riders and cyclists be passed by motor vehicles without encroaching on the 1.5m and 2m distances specified in the Highway Code?
- are verges, trees or boundaries being damaged by motor vehicles?
- do off-roaders leave the track and drive over and damage adjoining land?
- is there noise disturbance to residents?

Defra hopes that dividing lanes into the two groups – suitable and unsuitable for motor vehicles – can be achieved; that it will not be contested by the off-roading organisations; and that the necessary TROs can be made without opposition or legal challenge. It also intends to rewrite the official guidance on the making of TROs with a view to making Orders easier and cheaper to put in place. However, Ministers have also said that they 'will legislate in future if these proposed solutions prove inadequate'<sup>10</sup>.

<sup>9</sup> As assessed by the CPRE methodology Mapping Tranquillity (cpre.org.uk)

<sup>10</sup> Lord Benyon to GLEAM\_Redacted.pdf (gleam-uk.org)

## 5. OTHER SOLUTIONS

### 5.2 New legislation

GLEAM welcomes Ministerial recognition both of the damage and nuisance being caused by off-roading and a new willingness to act. However, long experience tells us that the proposals at 5.1 will, indeed, prove inadequate. They may also be unachievable.

Our position is that new legislation is necessary and that this should extinguish motor vehicle rights on all green lanes. Parliament needs to recognise that green lanes are a superb natural asset and that all 7,000 miles of them should be protected from motor vehicle use. Parliament achieved this for footpaths and bridleways when it passed the 2006 Natural Environment and Rural Communities Act. It is time to do the same for green lanes.

Exemptions to extinguishment can easily be made for anyone who genuinely needs access with a motor vehicle – farmers, occupiers, residents and their visitors, and the emergency services. No-one would be denied access to green lanes or the enjoyment they offer. All that would change is that recreational motorbikes, 4x4s and quad bikes would be left where the tarmac stops. All recreational expeditions along green lanes would be undertaken on a bicycle, horse, mobility scooter or horse-drawn vehicle – or on a pair of feet. To us, that seems a perfectly reasonable expectation.

## 6. FURTHER READING

Off-roading organisations try to show that their activities are harmless, even beneficial, and that TROs are rarely necessary. Their arguments and the examples they use to illustrate them are ill-founded, sometimes preposterous. We have issued rebuttals to the following claims: that off-roading is of benefit to people who are disabled<sup>11</sup>; that it is of economic benefit<sup>12</sup>; and that TROs are seldom needed<sup>13</sup>.

## 7. MORE ABOUT GLEAM

You can find out more about GLEAM and you can join us at [www.gleam-uk.org](http://www.gleam-uk.org), or email us at [info@gleam-uk.org](mailto:info@gleam-uk.org)

## 8. GLOSSARY

**AONB:** area of outstanding natural beauty

**BOAT:** a highway open to all traffic but used by the public mainly for the purpose for which footpaths and bridleways are used

**DEFRA:** The Department for the Environment, Farming, and Rural Affairs – the government department that has responsibility for green lane affairs in England

**GLEAM:** the Green Lanes Environmental Action Movement

**GREEN-LANING:** a term used by off-roading organisations to signify their activities

**SSSI:** Site of Special Scientific Interest

**TRO:** traffic regulation order - the principal legal means by which green lanes may be closed to off-roading

**UUR:** unsealed, unclassified road. An unsealed highway that is maintainable by the highway authority, but whose precise public rights are unknown – hence ‘unclassified’.

<sup>11</sup>Green Lane Management – Inclusivity and Effectiveness GLEAM's rebuttal of the Green Lane Association's publication 'Inclusive Countryside Access – A stepping stone to improved inclusivity in green lane management & usage culture' | GLEAM [gleam-uk.org]

<sup>12</sup>Gleam Autumn 2022.pdf [gleam-uk.org]

<sup>13</sup>Recreational Motor Vehicle Use of Green Lanes – Don't be Misled on the Facts, GLEAM's rebuttal of a guide to

"Managing Motor Vehicle Use in the Countryside" published by the Land Access & Recreation Association | GLEAM [gleam-uk.org]









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