

The Trail Riders Fellowship

MPV user evidence/Section 67(2) NERC

Use this form for any road that you believe retains its vehicular rights under NERC 2006 s.67(2)

Notes: This form is to be used to retrospectively record MPV user evidence in the five years before 2nd May 2006. It is the TRF's view that any vehicular use counts, as these routes are believed to be public carriageways and therefore use cannot be claimed to be in exercise of a private right (up until the commencement of NERC Act 2006). It will assist our argument if copies of these forms can be sent to all motoring clubs in your area, be they four or two wheeled users. Please append a map to this form (if multiple forms are being submitted for one route – one map will suffice). There was no use of these roads between Feb & Aug 2001 due to foot & mouth disease.

<i>TRF Reference:</i>		<i>District:</i>	
<i>Name of road:</i>		<i>Parish:</i>	
<i>County DM Number</i>		<i>County:</i>	

The object of this enquiry is to reach the truth of the matter, whatever it may be. You are therefore asked to answer the questions as fully as possible and not keep back any information, whether for or against the public claim. This is important if this information is to be of real value in establishing the status of the way.

Description of route:

<i>From (OS GR):</i>		<i>To (OS GR):</i>	
<i>Surface:</i>		<i>Width:</i>	

Details of person and type/period of use:

<i>First Name:</i>		<i>Surname:</i>	
<i>Address:</i>		<i>Telephone (home):</i>	
<i>County:</i>		<i>Telephone (work):</i>	
<i>Postcode:</i>			
<i>E-mail</i>			

<i>Period of use? (from mm/yy to mm/yy)</i>	
<i>How many times a year?</i>	
<i>If with others, how many vehicles in the group?</i>	
<i>For what purpose? (recreation/access/delivery/etc)</i>	
<i>Has the road varied over time? (Indicate on attached map)</i>	
<i>Have you ever worked for any owner or occupier of land crossed by the way? If so, give details.</i>	
<i>Have you ever obtained permission to use the route?</i>	
<i>Have you ever been challenged, stopped or turned back? If yes, give details.</i>	
<i>Have you ever seen notices on the route?</i> <i>"Private", "No road" etc.</i>	
<i>Is this a road whose main use, up until May 2006, has been with mechanically propelled vehicles?</i>	

PHOTOGRAPHIC EVIDENCE

Please append images of the lane. These images will show clear evidence of vehicular use. A narrow, grass surfaced route is clearly not 'mainly used' by MPV and NERC Act 2006 s.67(2)(a) will not apply.

Image Ref	Image description (direction camera pointing, grid ref., etc)

OTHER CLAIMED EXEMPTIONS UNDER NERC 2006

It is possible that vehicular rights have not been extinguished by NERC 2006 because of subsection 67(2), other than s.67(2)(a).

DECLARATION:

I hereby certify that, to the best of my knowledge and belief, the facts that I have stated in this form are true. I also certify that the map attached to this form, and signed by me, shows the used route.

Signature:

Date:

Continuation sheets. Please give details, including number of sheets and page references.

LEGAL AUTHORITY:

Natural Environment and Rural Communities Act 2006 (c.16)

Part 6 – Rights of Way Section 67

(1) An existing public right of way for mechanically propelled vehicles is extinguished if it is over a way which, immediately before commencement—

(a) was not shown in a definitive map and statement, or

(b) was shown in a definitive map and statement only as a footpath, bridleway or restricted byway.

But this is subject to subsections (2) to (8).

(2) Subsection (1) does not apply to an existing public right of way if—

(a) it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles,

(b) immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c. 66) (list of highways maintainable at public expense),

(c) it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles,

(d) it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles, or

(e) it was created by virtue of use by such vehicles during a period ending before 1st December 1930.

(3) Subsection (1) does not apply to an existing public right of way over a way if—

(a) before the relevant date, an application was made under section 53(5) of the Wildlife and Countryside Act 1981 (c. 69) for an order making modifications to the definitive map and statement so as to show the way as a byway open to all traffic,

(b) before commencement, the surveying authority has made a determination under paragraph 3 of Schedule 14 to the 1981 Act in respect of such an application, or

(c) before commencement, a person with an interest in land has made such an application and, immediately before commencement, use of the way for mechanically propelled vehicles—

Please return all pages to local TRF group RoW Officer