

**AGENDA ITEM No.13**

PEAK DISTRICT NATIONAL PARK AUTHORITY

NATIONAL PARK AUTHORITY MEETING

9 FEBRUARY 2007

RECREATION & EDUCATION

PART A

**1 PROPOSED POLICY AND STRATEGY TO MANAGE RECREATIONAL VEHICULAR USE OF UNSURFACED HIGHWAYS IN THE PEAK DISTRICT NATIONAL PARK (ROW(VEH)A7621/RP)**

**Proposal**

- 1 To seek approval for the policy and strategy to manage recreational vehicular use of unsurfaced highways in the Peak District National Park with further consultation and review after 12 months. Delegation of authority is proposed to make Traffic Regulation Orders (TROs) where appropriate. Support is also sought for the Derbyshire County Council proposals for defining sustainable and unsustainable routes as well as a Code of Conduct for users and for encouraging the support of our other Constituent Highway Authorities for this.

**2 RECOMMENDATION:**

**That:**

1. **The proposed Peak District National Park Authority policy and strategy to manage recreational vehicular use of unsurfaced highways in the Peak District National Park be approved.**
2. **If approved, this policy is subject to 12 months of widespread consultation and implementation and after this time a further report is made on the success or otherwise of the policy and strategy.**
3. **Following the application of the relevant provisions of the Natural Environment and Rural Communities Act 2006 to the National Park Authority, the Director of Recreation and Education (and in future the Director of Operations), be delegated authority to authorise the making of experimental, temporary or permanent Traffic Regulation Orders (TRO's) under the Road Traffic Regulation Act,1984 together with the Head of Law . In the case of unresolved objections to a proposed Order, a report would be made to the Services Committee.**
4. **The Derbyshire County Council Improvement and Scrutiny Committee Sustainable Communities/Cultural and Community Services Proposals for Defining Sustainable and Unsustainable Routes in Derbyshire report, and the Code of Conduct for vehicle Users in the Countryside attached as Annexes B and C in this report are noted and approved and support sought for this from our other constituent highway authorities.**

### **Policy/Legal Background**

- 3 The National Park Management Plan approved by the Authority includes an outcome that by 2011, all people, visitors and residents alike, especially those from disadvantaged communities, children and young people and the elderly should:
  - Feel welcome in the National Park
  - Have the opportunity to participate in diverse recreational activities that enhance the qualities of their lives.
- 4 In terms of actions, the Authority has previously undertaken to act on issues from the National Parks Recreation Workshop at Cheltenham in April 2006, including:
  - Shifting emphasis from passive to active recreation provision for visitors and local residents, pursuing, in addition to walking, a targeted promotion of active sports such as cycling, mountain biking and canoeing in suitable locations and subject to appropriate controls
  - Develop ways to positively manage motorised recreation in ways that are legal and sustainable.
- 5 This policy and strategy has been prepared against this National Park and Authority approach. The aim is to judge each route on its individual circumstances with options then including physical improvements, voluntary restraint, permit-systems, or ultimately a prohibition through a TRO.
- 6 The Authority's Standing Orders regarding Access and Rights of Way include provision for completing Public Path Diversion Orders under S.119 of the Highways Act and other Orders under S.257 of the Town and Country Planning Act, 1990.

### **Key Issues**

- 7 To provide a policy and plan of action to address the issue of managing recreational vehicular use of unsurfaced highways within the National Park and to provide a framework to address the issue proactively, both in terms of assisting in the provision of information to users and investigating the sustainability of routes on the ground.
- 8 In terms of new powers to make Traffic Regulation Orders (TROs) the Road Traffic Regulation Act 1984 will allow the Authority to process temporary orders for a period of 6-18 months, and experimental orders for a period of up to 18 months. Objections may not be made to temporary orders but may be made to a permanent orders, or the conversion of an experimental TRO to a permanent one, and these must be considered by the Authority as the Order Making Authority who may decide if a public inquiry is appropriate.
- 9 The powers to make TROs are identical to those currently available (and which will continue to be available) to the Highway Authority. This policy and strategy highlights issues such as surface maintenance where the Highway Authority has a statutory duty of care, and makes it clear that where TROs are requested on such routes where statutory duties are not being carried out, then the Highway Authority should continue to hold responsibility to make the order.
- 10 It is intended that if approved, the policy will be implemented as a working document. After 12 months a further report will be made to Members reviewing the policy. During this time the general public, landowners and interested parties will have an opportunity to comment and review the policy. This report will also inform the Authority of the success or otherwise of the actions and suggest a way forward.

## **APPENDIX**

### **Background**

- 1 The draft policy and strategy to manage recreational vehicular use of unsurfaced highways sets out to identify the scale of the issue and to suggest a plan of action.
- 2 The policy is initially focussed on Derbyshire (which has by far the largest number of issues within the Park) and any continuation of routes partly within Derbyshire. However, liaison and consultation has also involved our other 6 constituent Highway Authorities.
- 3 A balanced approach is proposed to the issue, whilst acknowledging that it will provide real change both on the ground and in providing accurate information to all the interested parties. This draft policy provides as much information as is presently available; however, as the issue is explored further more information and proposals will inevitably come to light.
- 4 To reflect the significant public interest in the issue, and the number of parties that are involved, the policy and strategy is intended as a starting point for ongoing consultation, involvement and works that will be reviewed after a year to ascertain the success or otherwise of the proposals, resource implications and the need for any changes in the light of experience.
- 5 The draft policy and strategy recommends an approach that will attempt to assist in the proactive management of the routes in question. However, where there is an irreconcilable situation that cannot be resolved by proactive action and management the needs of conservation will take precedent over those of access, in line with Sandford Principle.

### **Resources**

- 6 Initial sustainability surveys by National Park Rangers and the Rights of Way Officer on around 180 'other routes with public access' (generally recorded as Non-classified Highways - the status of which is unclear but which *may* carry vehicular rights) in Derbyshire indicated that around 25 routes may have sustainability issues which will need to be addressed. It is possible to predict therefore that as almost 400 routes may have vehicular rights, then approximately 60 routes across the National Park as a whole may have sustainability issues. A variety of options to address these issues are available, including use of the new TRO powers. Each option will however have significant resource implications.
- 7 The policy and strategy sets out a number of opportunities for the Access and Recreation Service to assist both in identifying issues and in particular the scale of the issue across the park. Ranger staff will play a crucial role in disseminating information and this will inevitably lead to an increase in workload which will have to be monitored and reviewed in relation to other priorities.
- 8 Potentially the resource issue could be considerable as a legal process, open to objection and potentially leading to a public inquiry, must be followed for each TRO. It is highly likely that a large number of objections will be received in each case of permanent TRO that the Authority makes. The Authority needs to be aware that there would be considerable resource implications if such powers are widely utilised.

- 9 In its consultation document concerning this proposed legislation, Defra notes that:
- Informal discussions with NPAs indicate that only a relatively small number of permanent / experimental TROs are likely to be made using the new powers, perhaps one per NPA per annum. Although the absolute number is small, they will address problems that are significant in the local context of the parks.
- 10 And estimates that:
- *Each TRO takes 100 hours of NPA staff time once the decision has been taken to pursue the TRO management option.*
  - *The average costs of making and implementing each TRO is £5200.*
- 11 With only a single, part time officer in post to deal with the issue (as part of his overall responsibilities), Members must be aware that limited resources are available to make TROs regardless of sustainability issues at the present time.
- 12 It is also very important to note that in making a TRO on a route, the Authority must consider other users, such as walkers, cyclists, horse-riders and the disabled. In purely practical terms this means that only four-wheel drives will be restricted, not motorbikes, which, by their very nature are able to easily gain access to most sites. The true test of a TRO's effectiveness will therefore be in ensuring adequate policing of these routes, such policing is of course not a matter directly for the Authority to implement, and Members are asked to note the coordinated police response on the issues - attached as Annex F.
- 13 In relation to the process and resources for delegating powers for making TROs, it is recommended that requests for TROs are investigated by the Rights of Way Officer and a report is submitted to the Director of Recreation and Education, detailing relevant information such as use, problems with dispersal of use if a route with a TRO, conservation and ecological issues, as well as the likely impact a TRO should have. The Director of Recreation and Education, will decide whether a TRO is appropriate on the basis of that report.
- 14 The Director of Recreation and Education will advise the Services Committee in cases where there are unresolved objections to a proposed Order. Members will also be advised on any decision to hold a Public Inquiry due to objections to a Permanent TRO.

### **Risk Management**

- 15 The safety of the public accessing the National Park is of paramount importance, and part of the policy recommends a course of action, both working with landowners and user groups, and also to assist in signage at properties.
- 16 There is a perception that with TRO powers being available to the Authority, they will be used widely, but in practice other approaches will be tried first in most cases and user interests and the public need to be aware that very limited resources are available to the Authority at present to tackle these issues.

### **Human Rights, Equalities, Health & Safety**

- 17 The rights of legitimate users are identified as a crucial aspect of this policy, but the rights of landowners to use and access their land in safety is also subject to recommended actions. The safety of users is also considered within the policy and strategy.

### Consultees

- 18 Internally there has been consultation with the Management Team, Head of Access and Recreation, Head of Law, Head of Conservation, Democratic Services, Head of Policy and Partnerships, the Member representative for Sport and Recreation who is also our representative on the Local Access Forum.
- 19 Externally there has been consultation with the Peak District Local Access Forum, Derbyshire County Council - Environment Department, Derbyshire Constabulary, and the six other constituent Highway Authorities covering the National Park area
- 20 Some members of the Local Access Forum have sent copies of the draft policy to their respective user groups or made responses of their own. Where possible all such comments have been noted and if the suggestions are considered reasonable, alterations to the draft policy and strategy have been made.
- 21 Meetings have taken place between officers of this Authority and representatives of vehicle user groups.
- 22 Annex E is the considered joint response to the draft policy by the Ramblers Association, together with the response to that at officer level from the Authority. Where considered reasonable, these proposals have been taken into account and the draft policy changed. However, it is interesting to note that the Association would like to see the Authority take a much firmer stand on making TROs.
- 23 Annex F shows the coordinated response from the Derbyshire Constabulary.
- 24 Any other consultation responses will be reported verbally at the meeting.
- 25 If approved, widespread consultation will take place , with the policy available via the Authority website, as hard copy if requested and at visitor centres, as well as at other appropriate locations. This next stage of consultation and implementation will be the subject of a further report in 12 months time to the Authority or Services Committee as appropriate.

### Enclosures

- 26 **Annex A** - The Draft Peak National Park Policy and Strategy to manage recreational vehicular use of unsurfaced highways.  
**Annex B** – The Derbyshire County Council Improvement and Scrutiny Committee Sustainable Communities/Cultural and Community Services Proposals for Defining Sustainable and Unsustainable Routes in Derbyshire report.  
**Annex C** - The Code of Conduct for Vehicle Users in the Countryside in Derbyshire.  
**Annex D** - Traffic Regulation Orders (TROs) - Peak District National Park Authority Policy and Procedure.  
**Annex E** – Summary of the coordinated response from the Ramblers Association together with a summary of the response from the Peak District National Park Authority.  
**Annex F** – Coordinated response from the Derbyshire Constabulary.

**List of Background Papers** (not previously published)

- 27
- Making the Best of Byways (DEFRA)
  - Use of Mechanically Propelled vehicles on Rights of Way – the government's framework for action (DEFRA)
  - Improvement and Scrutiny Committee - Sustainable Communities/Cultural and Community Services - Report of the Strategic Director – Environmental Services (Derbyshire County Council)
  - Code of Conduct for Vehicle Users in the Countryside
  - Hierarchy of Trail Routes Experiment (Lake District National Park Authority)
  - Draft Management of the use of green lanes in the Yorkshire Dales Plan (Yorkshire Dales National Park Authority)
  - Regulating the use of motor vehicles on public rights of way and off road - A guide for Local Authorities, Police and Community Safety Partnerships
  - Letter from Mr Bob Kelly of 5 January,2007 on behalf of the Ramblers Association for the whole Peak Park area groups, and response from Richard Pett dated 19 January 2007.
  - Letter of 22 January,2007 from Chief Superintendent Flint of Derbyshire Constabulary
  - Consultation letter from Defra of 25 January,2007 on the implementation of section 72 of the NERC Act (National Park Authority powers to make TRO's)

**Report Author**

- 28 Richard Pett – Rights of Way Officer

**Publication date**

- 29 1 February 2007