

## 6. **PROPOSED TRAFFIC REGULATION ORDER AT WETTON (A76228/SAS)**

### **Purpose of the report**

1. This report presents the outcome of consultation with statutory consultees under Regulation 4 of the National Park Authorities' Traffic Orders (Procedure) (England) Regulations 2007 for the proposed future management of this route.
2. On the basis of the consultation, available evidence and the information in this report, it is recommended that the Authority should proceed to publication of its proposals for a permanent traffic regulation order (TRO) on this route. At such time, there will be an opportunity for consultees and members of the public to make comments on the proposals and which will be considered by this Committee before the decision is taken whether or not to make a TRO.

### **Recommendations**

3. **1. That the Authority publishes notice of its proposals for a Permanent Traffic Regulation Order under Section 22 BB(2)(a) Road Traffic Regulation Act 1984 that will have the effect of prohibiting use by mechanically propelled vehicles (subject to certain exceptions) at any time on the route at Wetton.**

### **Policies and legal obligations**

4.
  - National Park Management Plan – Partnership for Progress 2012-17 –W14
  - Strategy for the Management of Recreational Motorised Vehicles in their Use of Unsealed Highways and Off-road, and Procedure for Making Traffic Regulation Orders (TROs).
  - Sections 5(1) and 11A of the National Parks and Access to the Countryside Act (NPACA) 1949
  - Section 122 of the Road Traffic Regulation Act 1984
  - Defra's Guidance for National Park Authorities Making Traffic Regulation Orders under section 22BB Road Traffic Regulation Act 1984.

### **Background**

5. On 19 May 2017, Audit Resources and Performance (ARP) Committee approved actions in the key areas of work required to deliver the Strategy on managing recreational motorised vehicles (Minute 18/17). The Priority Routes Action Plan focused on those routes where the need for improved management had been identified. At Wetton, this included a proposed consultation on vehicle regulation.

### **The Route**

6. The route at Wetton runs from Manor House Farm, south westerly and then south to meet the Leek Road in the Manifold Valley. It is approximately 1.4 km long. Access to the northern end of the route is from the minor road to Back of Ecton. The southern end of the route can be accessed via Wetton to the east, Butterton to the west or from the north along the valley bottom. The relevant Highway Authority is Staffordshire County Council (SCC). A map showing the route is provided in Appendix 1.
7. The route is an unenclosed grass-surfaced route running along the valley bottom below Wetton Hill and within an extensive area of open country. The route is not passed by any roads throughout its length and does not pass any properties other than Manor House Farm to the north. The northern end of the route links to the minor road to Back of Ecton and the unclassified road cul-de-sac to Top of Ecton, the southern end of the route links

to the Manifold Way part of which is subject to a traffic regulation order made by Staffordshire County Council restricting all mechanically propelled vehicles.

8. The whole route passes through a Site of Special Scientific Interest (SSSI) and Natural Zone and the southern end passes through a Special Area of Conservation (SAC). The route passes through historic landscapes with nearby features including a possible site of an early mill, caves and fissures, a stone slab footpath, and the former Leek and Manifold Railway. A scheduled monument lies at the summit of Wetton Hill. The Manor House at the northern end of the route is listed. The route lies within the White Peak Landscape Character Area. The conservation interest is summarised in Appendix 2.
9. The route is an Unclassified Road (UCR). Wetton is an important recreational asset for all users providing access to Wetton Hill and the Sugar Loaf, a bridleway to/from Wetton Mill and linking to the Manifold Trail. Vehicle logging and evidence on the ground shows a relatively low level of use by both 4-wheeled and 2-wheeled mechanically propelled vehicles (MPVs).
10. Issues identified in the preparation of route management reports relate to the nature and condition of the route, and its environmental sensitivity. Detailed route management information is available at [www.peakdistrict.gov.uk/priorityroutes](http://www.peakdistrict.gov.uk/priorityroutes).

### **Consultation**

11. A consultation letter under Regulation 4 of the National Park Authorities' Traffic Orders (Procedure) (England) Regulations 2007 was sent to consultees on 12 June 2017. The list of those persons consulted is set out in Appendix 3.
12. The consultation letter set out the reasons for consulting on a TRO and the possible options available. Consultees were asked to comment on whether they thought a restriction was necessary and if so to state the nature, extent and duration of any restrictions. They were also asked to comment on any alternative management options. A summary of the responses are set out in Appendix 4.
13. Comments were also received from an individual/body who is not a consultee for this route. This endorsed in more detail the comments made by statutory consultees.

### **Issues Arising from the Consultation**

14. Various actions regarding the management of this route have been undertaken including voluntary restraint and logging vehicle use. During the period of voluntary restraint, there is evidence to suggest that use by motorcycles, in particular, continued. The need for improved management remains.
15. This consultation has identified that the majority of consultees that responded consider that issues could best be resolved by some form of TRO but there are differences as to the nature and extent of such an order. Suggested TRO options include:
  - A restriction on all mechanically propelled vehicles at all times on the full extent of the route
  - A width/weight restriction on 4-wheeled vehicles
  - A seasonal TRO or wet weather restriction
  - A permit/authorisation system for motorcycles
  - A one-way restriction

16. Two of the consultation responses recommended voluntary restraint at this time. One response considered that voluntary restraint could not be managed effectively on this route.
17. One of the other consultation responses did not believe that there was any present need for any formal restrictions. A number of other responses considered that pre-emptive action was required on this route.
18. The opportunity for repairs to the route was also offered by vehicle users and a number of the consultation responses also referred to the potential for conflict and the safety of the route for other users.

### **Grounds for Making a TRO**

19. Where it is proposed to make a TRO the Authority must be satisfied that a TRO would fulfil at least one of the purposes set out in s1(1) or s22(2) of the Road Traffic Regulation Act 1984 (Appendix 5). In the case of the Wetton route, the following purposes are considered relevant:
  - s1(1)(d) – for preventing 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
  - s1(1)(f) – for preserving or improving the amenities of the area through which the road runs
  - s 22(2) - for the purpose of conserving or enhancing the natural beauty of the area, or of affording better opportunities for the public to enjoy the amenities of the area, or recreation or the study of nature in the area
20. Factors which contribute to natural beauty include landscape quality, scenic quality, relative wildness, tranquillity, natural and cultural heritage features and associations. Conserving the flora, fauna, and geological and physiographical features will also conserve the natural beauty of the area. Amenity is viewed as the benefits afforded to people from what is seen and experienced and is dependent on the natural beauty of an area and the opportunities offered for recreation.
21. Natural Beauty - The route is in a National Park designated for its exceptional natural beauty and passes adjacent to an area of Natural Zone. As such it is particularly important to conserve that natural beauty. The landscape, habitat and wildlife in this area is of national and international importance. There are cultural heritage features of national, regional and local importance nearby. These and other undesignated assets all make a significant contribution to the character of the area. There is an impression of remoteness created by the dalesides.
22. The route is for much of its length grassy and trackless. The nature of the route and its setting in the landscape as well as the variety of natural and cultural heritage features adds to the experience of using the route. The route also gives the opportunity for quiet enjoyment and to experience tranquillity, one of the special qualities that people value most about the Peak District National Park. Tranquillity and the freedom from intrusion is encompassed by the Natural Zone designation.
23. Amenity - Although not all the features and interests are directly affected by mechanically propelled vehicles using the route, the presence, or anticipation of their presence, and/or evidence of their passing has an impact on the natural beauty in this area and can detract from the experience and enjoyment by others in this area. An increase in the level of recreational motor vehicle use could lead to greater disturbance to the tranquillity of an area and an increased potential for conflict with land management and other recreational users.

## **Section 122 of the Road Traffic Regulation Act 1984**

24. Before reaching a decision, the Authority must consider its duty under section 122 of the Road Traffic Regulation Act (RTRA) 1984. The duty under s122(1) is to secure twin objectives, namely the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway. The duty takes effect in 'so far as practicable' having regard to the matters specified in s122(2).
25. This is an important route as a means to link in with other rights of way and access. It is also an important route for recreational mechanically propelled vehicle (MPV) users passing through the area on part of a longer journey or circuit. For these MPV users, there is an alternative available in the form of metalled roads. For other recreational users for whom driving along the route is the main aim of their journey, a TRO would restrict and/or prohibit this recreational use. Other recreational routes in the Park would remain.
26. Concerns over conflict with vehicle users and the impacts resulting from their use have been raised which may deter/inconvenience some users. The safe and convenient use of the route by pedestrians and other possible users such as horse-riders, cyclists and carriage drivers could, therefore, be improved by the regulation of motor vehicle users.
27. In considering the factors set out in relation to s122(2):
  - Access to premises - any proposed restriction would only be for vehicles using the route as a through-road or for recreational use. Vehicular access to land adjacent to the route (for agricultural or land management purposes) would be unaffected.
  - Amenities of locality – prohibiting the use of the route by MPVs will lead to a modest reduction in noise and vehicle movements in the area. As for the enjoyment of recreational MPV users to access this route, it is necessary to use metalled roads. These offer an alternative for recreational vehicle users, albeit not of the same character as an unmetalled track. An unclassified UCR (as the route presently is) is not part of the road transport network. Heavy commercial vehicles do not use this route.
  - Air quality –recreational motorised vehicle use has a negligible impact.
  - Public Service Vehicles – as this is an unsealed route it is not used by such vehicles.
  - Disabled access – Recognised invalid carriages will not be affected by the TRO. Any TRO would not prevent the use by wheel chairs and trampers and would enhance the safety and enjoyment of such access. Access by other means by disabled users could also be obtained on application to the Authority.
  - Natural beauty/amenity – the restriction of MPVs would have a beneficial impact on the natural beauty of the area and amenity of other users.
28. To ensure expeditious and convenient use any TRO if made would contain exceptions in order to permit the following mechanically propelled vehicle usage:
  - Use by emergency services or by any local authority or statutory undertaker in pursuance of their statutory powers and duties.
  - Use to enable work to be carried out in or adjacent to the road
  - Use for the purposes of agriculture or land management on any land or premises adjacent to that road
  - Recognised invalid carriage
  - Use upon the direction of or with the permission of a Police Constable in uniform
  - Use with the prior written permission of the Authority

29. In balancing the duty in s122(1) and the factors set out in S122(2), the Authority believes preservation of the character of the route and enjoyment of the amenity and conservation of the natural beauty of the area outweighs unrestricted recreational motor vehicular use of the route notwithstanding that such a restriction will affect the expeditious and convenient use of the route by mechanically propelled vehicles.
30. Where a TRO is to be pursued, s122 would not require the Authority to proceed in stages starting with a least restrictive option. However, if a less restrictive option may achieve the desired outcome then it is a factor for consideration. Paragraphs 15 and 16 highlight the principal alternatives which have been identified from the consultation process. The main alternatives are considered more fully in the paragraphs below.
31. Width/weight restriction - A restriction which limits the use by four-wheeled motorised vehicles would reduce the overall numbers of MPVs. However conflict with other users and visual, physical and auditory impacts from 2-wheeled motorised vehicles would remain.
32. Seasonal restriction - The trackless nature of the route means that it is susceptible to damage. The designated areas adjacent to and through which the route passes are of value for their landscape, access value, habitat and wildlife. The passage of vehicles on this route has resulted in rutting in places. Whilst a seasonal restriction may help in reducing the impact on the route's condition to times when ground conditions are anticipated to be more suitable, there could still be impacts on the landscape and amenity of the area and during wet/soft ground conditions occasioned by periods of high rainfall. In view of the environmental sensitivity of the area, it is important that fixed periods allow protection of interests of acknowledged importance as outside the periods of prohibition, environmental and amenity impacts would continue. An additional provision which permits or prohibits use on an ad hoc basis determined by the Authority, is not considered consistent with the legislation relating to TROs. Adverse weather closures as identified by forecasts or by other means would also give rise to practical difficulties in ascertaining, notifying and implementing a closure on these grounds.
33. Permit/authorisation system – A permit system could allow responsible use in a controlled manner in which the condition of the route and impacts on adjacent land could be monitored. It could look to restrict motorcycle vehicle numbers to the current low levels of use on this route and could allow for a recovery period for the route and locality, the preservation of amenity of other users at times when no mechanically vehicles are present and to retain access for disabled users. Such a system could be on application and would not operate selectively or seek to impose requirements or place other limitations other than in terms of the day and levels of the use. However impacts would still remain although there is the potential for these to be more measured.
34. One-Way system – restricting mechanically propelled vehicles to downhill only could remove the potential for conflict through their passing and in places lessen the impacts on the route's surface. However conflict with other users and visual, physical and auditory impacts would remain.
35. Other Options - In view of the sensitivity of the area, it is not considered that the impacts could be both identified and adequately managed by a more selective TRO or other measure such as a scheme of voluntary restraint to a level which is acceptable and adequately supported and any recovery periods may not allow for the necessary protection of interests of acknowledged importance. Magnitude of impacts is greater in designated areas and there is no guarantee that the type, level and timing of use would not result in an adverse irreversible or cumulative impact on the integrity of these areas. The level of confidence in a less restrictive option achieving the outcome of protecting

the character of the route, natural beauty and amenity of the area is therefore not sufficient to be able to justify this course of action.

36. The enforcement of any TRO, including the use of barriers, would be undertaken in consultation with the Highway Authority and the police and having regard to the character of the route. Routine monitoring will identify if there are any problems.

### **Summary**

37. A key issue is the extent to which it is necessary to restrict current and future use by mechanically propelled vehicles to address the impacts arising from the hearing, meeting and seeing of recreational motor vehicles, or their passage, or the works required to manage that use.
38. Mechanically propelled vehicle use of the route impacts on the natural beauty and amenity of the National Park in the following ways:
- Damage to grassland
  - Definition of a vehicular route through use and any subsequent repairs to make sustainable
  - Impact on the SSSI and SAC
  - Impact on cultural heritage assets
  - Visual impact of vehicle movement in the landscape
  - Noise impact on wildlife and people
  - Deterrence of use by non-MPV users from presence or anticipation of vehicles
39. On balance, it is considered that continued use and any increase in use by mechanically propelled vehicles on this route would have an adverse impact on the ecological, archaeological and landscape interests, the amenity and recreational value of the area and the special characteristics of the route. To address this, a form of traffic regulation order which prohibits MPV use is considered appropriate.

### **Proposal**

40. On the basis of the evidence, consultation responses and duty under s122, it is proposed that the Authority publishes notice of its proposals under Regulation 5 of the 2007 Regulations for a permanent TRO over the full length of the route restricting all mechanically propelled vehicles at all times, save for those excepted, for the purposes of
- s1(1)(d) – for preventing 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
  - preserving or improving the amenities of the area through which the road runs (s1(1)(f) RTRA 1984)
  - conserving or enhancing the natural beauty of the area, or of affording better opportunities for the public to enjoy the amenities of the area, or recreation or the study of nature in the area (s 22(2) RTRA 1984)
41. In their consideration of whether a permanent full time TRO for all MPVs is the most appropriate course of action, it is necessary for Members to have regard to whether alternative options could have the same effect in relation to the character of the road, and the natural beauty and amenity of the area.
42. If Members wish to pursue the TRO option then a statement of reasons and a draft notice of proposals, draft order and map will be prepared and publicised in accordance with the 2007 Regulations.

**Are there any corporate implications members should be concerned about?**

43. **Financial:**  
In May 2016, Members supported an investment proposal framework for this area of work. Supplementary costs relate to:
- advertising and site works for any order that is made
  - public inquiry, where the decision is taken to hold one
  - defending potential High Court challenges, including Counsel's fees and an award of costs if unsuccessful.
44. The Authority's Resource Management Team have a standing item on their agenda to monitor external legal costs in relation to TROs.
45. **Risk Management:**  
There is an element of reputational risk to the Authority for deployment of a TRO or for not using this power. There is also the potential for legal challenge. The Authority must be confident that the grounds for action are clear and objective.
46. There is a risk that enforcement and prevention of illegal use will not be wholly effective. There will be a need to monitor and review over the longer-term. Physical measures and signage may be the target of vandalism and may need regular replacement.
47. **Sustainability:**  
This report addresses sustainability issues in the context of both the National Park Management Plan and the Authority's statutory purposes, duty and legal powers.
48. **Equality**  
The requirements of the Equality Act 2010 and in particular the public sector equality duty have been met in the consideration of proposals on this route and the ongoing requirements to have regard to the duty. The protected characteristics of most relevance to the making of a TRO on this route are those of age and disability. By restricting use of the route by mechanically propelled vehicles (but not recognised invalid carriages) a TRO could help to promote equality in the opportunity to enjoy the natural beauty and amenity of the area through which the route passes by the young, the elderly and the disabled.
49. **Background papers:**  
None
50. **Appendices**  
The following documents are appended to this report:
1. Map of the route
  2. Summary of the conservation interest
  3. List of consultees
  4. Consultation responses
  5. Grounds for making a TRO
51. **Report Author, Job Title and Publication Date**  
Sue Smith, Rights of Way Officer, 7 September 2017