

5. **PROPOSED TRAFFIC REGULATION ORDER AT WETTON HILLS (A76228/SAS)**

Purpose of the report

1. This report provides information on the works undertaken by Staffordshire County Council, as the Highway Authority, during September 2019. Members are asked to consider whether these have an effect on the decision made in September 2018 to proceed to make a permanent traffic regulation order (TRO) on the Wetton Hills route.

Recommendations

2. **1. That Members confirm a resolution from the options set out in the report at paragraph 17.**

Policies and legal obligations

3.
 - National Park Management Plan 2018-23
 - 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.

Background

4. In June 2017, statutory consultees were consulted under Regulation 4 of the National Park Authorities' Traffic Orders (Procedure) (England) Regulations 2007 (the 2007 Regulations). Members of the Audit Resources and Performance (ARP) committee visited the route on 14 September 2017 prior to the committee meeting on 15 September 2017 at which it was resolved to proceed to publish notice of proposals for a TRO to prohibit use at all times by mechanically propelled vehicles on the route at Wetton (Minute 41/17). The consultation on the proposed TRO under Regulations 5-7 of the 2007 Regulations took place from February 2018 to April 2018. A further ARP Members' site visit took place on 6 September 2018 (Appendix 1). At the ARP Committee meeting on 7 September 2018, it was resolved to make a permanent TRO that will have the effect of prohibiting use by mechanically propelled vehicles at all times on this route (Minute 48/18). The full report and minutes, which Members are asked to re-read, can be found [here](#).
5. In March 2019, it was reported that a notice (pursuant to s56 of the Highways Act 1980) to repair the route had been served on the relevant Highways Authority, Staffordshire County Council (SCC) (minute 15/19). In response, SCC commenced works on the route on 2 September 2019. A temporary traffic regulation order made by SCC is in force to facilitate the works.

The Proposed Traffic Regulation Order

6. As a result of the impact from mechanically propelled vehicles on the archaeological and landscape interests, the natural beauty, amenity and recreational value of the area, and the special characteristics of the route, it was considered expedient at the September 2018 ARP meeting to make a permanent order prohibiting all mechanically propelled vehicles (save for certain exempted vehicles) at all times on the following grounds of the Road Traffic Regulation Act 1984 (RTRA):
 - 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
7. Members also considered the duty under section 122 of the Road Traffic Regulation Act (RTRA) 1984 (Appendix 2) to secure (so far as is practicable) 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 and had regard to the matters specified in s122(2). The view was taken that the need to preserve the amenity and conserve the natural beauty and character of the route outweighed the needs of mechanically propelled vehicular users of the route notwithstanding that such a restriction will affect the expeditious and convenient use of the route by mechanically propelled vehicles.

The Works

8. The route is approximately 1.4 km long. A scheme of works by SCC have taken place in a number of affected areas along the length of the route as shown in the attached plan (Appendix 3).
9. SCC's works to re-grade and infill the vehicle ruts commenced in September 2019 and are substantially complete. Details of the works are set out in SCC's method statement which is attached (Appendix 4).

Comment

10. The condition of the route was covered in some of the representations made under Regulations 4 and 7 of the 2007 Regulations. Respondents were variously of the view that this was due to lack of maintenance or that vehicle use was unsustainable on a route of this type. Some representations stated that where there was damage it was difficult to negotiate and unsafe and unsightly; others that the route should be repaired before considering a TRO.
11. The Authority is not the Highway Authority with its attendant responsibilities for maintenance. Maintenance and the condition of the route will only be relevant to a TRO proposed by a NPA in so far as changes to the condition of the route influence the effect that vehicles are having on other users and the environment of the area and the NPA's assessment of the impact on natural beauty and amenity.
12. Before reaching their decision, members of the ARP committee were made aware of the extent of deterioration on the route and that there was support from a number of organisations and individuals for repairs to be undertaken. At that time, however, there was no undertaking that repairs were considered to be necessary and hence would be forthcoming nor for any proposed detail or timing. Some members had inspected the route (at the site meeting on 6 September 2018).
13. When considering the grounds for making an order on this route, the ground of preventing damage to the route (s1(1)(b) of the RTRA) was not identified nor was this set out in the accompanying statement of reasons (Appendix 5) which identified interests and impacts. Members also considered a range of other options for the management of the route including deferral and abandonment which could have allowed for delayed or no action if it was felt that prospective improvements to the condition of the route justified either course.

14. The re-grading and infilling works by SCC were substantially completed over a period of 2 weeks during September 2019. Before the Authority proceeds with making a TRO on this route, Members are being given the opportunity to consider whether these works have any effect on the decision in September 2018 to make a TRO prohibiting use by mechanically propelled vehicles.

Proposal

15. Members are asked to consider whether the proposed change in condition to these sections of the route results in changes to the following:
- the grounds for making an order
 - the appropriate terms of the order
 - the merits of alternative options, including public inquiry, deferral, or abandonment.
16. In having regard to the above, members will need to take into account:
- the expediency of making an order
 - the balancing exercise set out in s122 of the RTRA
 - the statutory purposes of the National Park, in accordance with ss 5 and 11A of the NPACA 1949
 - any re-consultation that may be required as a result of any substantial changes to the proposed order.
17. The following alternative resolutions are suggested:

(i) Confirmation of Permanent TRO

Resolution: the resolution at the ARP Committee meeting on 7 September 2018 is confirmed and the Authority proceeds to make 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 at all times at Wetton Hills (subject to specified exemptions).

(ii) Partial TRO (partial restriction)

Resolution: (i) the Authority proceeds to make a Permanent Traffic Regulation Order under Section 22 BB(2)(a) Road Traffic Regulation Act 1984 in terms different from those previously proposed to be made, to be specified by this Committee (ii) that if a substantive change is made to the TRO as previously proposed, an opportunity for further comments to be made is given in accordance with Regulation 12 and representations arising from this consultation reported thereafter to this Committee.

(iii) Public Inquiry

Resolution: the Authority appoints an inspector to hold a public inquiry and publishes notice of the public inquiry in accordance with Regulation 9 of the 2007 Regulations.

(iv) Deferment

Resolution: the Authority defers a decision on making a TRO at Wetton Hills, such deferment being subject to review.

(v) Abandonment

Resolution: the Authority abandons pursuing a TRO at Wetton Hills at this present time.

18. If the order is made as previously proposed and resolved, subject to any minor modifications as may be required (to be finalised by officers), a notice of proposals, order and map will be prepared and publicised. A decision notice giving reasons for not acceding

to the grounds for objecting will also be provided within 14 days of making the order. To this end, Members are asked to consider the comments at Appendix 6, which would form the basis of reasons for not accepting objections.

19. If Members decide to make an order in substantially different terms to those in the proposed order, affected persons will be notified of this and an opportunity will be provided for further comments to be made and considered.

Are there any corporate implications members should be concerned about?

20. **Financial**

In May 2016, Members supported an investment proposal framework which included adding £26k to the baseline budget to deliver the green lanes action plan. 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.

21. **Risk Management**

There is an element of reputational risk to the Authority for deployment of a TRO or for not using this power. This issue is likely to be of considerable public interest. The Authority must be confident that the grounds for action are clear, objective and defensible.

22. **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.

23. **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 requirement to observe that duty.

24. **Background papers:**

[Report and minutes from ARP committee meeting on 7 September 2018.](#)

25. **Appendices**

The following documents are appended to this report:

1. Site inspection notes (6 September 2018)
2. S122 Road Traffic Regulation Act 1984
3. Map of the route
4. Staffordshire County Council's method statement
5. Statement of reasons
6. Summary of objections and responses

26. **Report Author and Job Title**

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