

North Yorkshire County Council

Business and Environmental Services

Executive Members

28 September 2018

Proposed Prohibition of Motor Vehicles, U1858/9 Kirby Bank

Report of the Assistant Director – Highways and Transportation

1.0 Purpose Of Report

- 1.1 The purpose of the Report is to advise the Corporate Director, Business and Environmental Services (BES) and the BES Executive Members of, and to respond to, a potential legal challenge received from the Trail Riders Fellowship (TRF) following the resolution on 17 November 2017 to introduce a Prohibition of Motor Vehicles Traffic Regulation Order on the Unsurfaced Unclassified road, U1858/9 Kirby Bank.

2.0 Background

- 2.1 On 20 October and 17 November 2017, Reports were presented to the Corporate Director, BES and the BES Executive Members to advise on the results from a consultation and public advertisement exercise undertaken in relation to the introduction of a Prohibition of Motor Vehicles Traffic Regulation Order (TRO) on a section of the Unsurfaced Unclassified road, U1858/9 Kirby Bank and to seek approval for a recommended way forward. Copies of the Reports are attached as Appendix 1.
- 2.2 After considering all representations and objections submitted in response to the consultations and public advertisements and taking into account other possible options for preventing significant damage to the route, the Corporate Director, BES, in consultation with the BES Executive Members, considered it expedient for the TRO to be made for the reasons set out in the revised Statement of Reasons and subsequent Decision Record dated 17 November 2017 and that its continuing use by motor vehicles would be likely to cause further damage to the road and would also have an adverse effect on its existing character and the amenities of the area.
- 2.3 The TRO has not yet been made (sealed) and come into operation, neither have the relevant traffic signs been erected.

3.0 Legal Challenge

- 3.1 Following the decision to make the TRO detailed in Paragraph 2.2 above, a letter has been received from the Solicitors acting on behalf of the Trail Riders Fellowship (TRF), which contends that the making of the Order would be unlawful for the following reasons:
- The Council has failed to properly consider, or give adequate reasons for rejecting, the proposed exemptions to the TRO.
 - The Council has given inadequate reasons in respect of its duty to secure the expeditious, convenient and safe movement of vehicular traffic, pursuant to Section 122 of the Road Traffic Regulation Act 1984.

A copy of the letter is attached as Appendix 2 of this report.

- 3.2 With regard to the signage issue, the TRF claims that the Council has failed to properly consider the exemption proposed by the TRF in its objection to the TRO and that in resolving to reject the proposed exemption, the Council has taken into account irrelevant considerations and failed to take into account material considerations. The exemption proposed is for use with a motorcycle authorised by the TRF and conducted in connection with an event organised by the TRF pursuant to Regulation 5(b) of the Motor Vehicles (Competition and Trials) Regulations 1969 (this was referenced in Paragraph 4.6 of the Report dated 20 October 2017).
- 3.3 The Council rejected the proposed exemption on the grounds that such an exemption would require specialist signage which would need approval from the Department for Transport, would be difficult to enforce and enforcement would be resource intensive, requiring regular liaison with the TRF regarding the holding of organised events – furthermore, such an exemption would not be easily understood by users of the route even with signage.
- 3.4 The TRF claim that these conclusions in respect of enforceability and signage are unlawful for the following reasons:-
- The proposed exemption is expressly defined by relevant statutory provisions (i.e. the 1969 Regulations cited in Paragraph 3.2 above)
 - Section 2 of the Road Traffic Regulation Act 1984 expressly allows for the setting up of a procedure within a TRO for determining when an exception can be made (either generally or subject to a specified exemption, either at all times or on specified times, days or periods)
 - The proposed exemption would not be difficult to enforce if it included a requirement for prior notification and authorisation
 - The inclusion of the proposed exemption would not affect the continuing requirement to monitor the route for enforcement purposes (including days where events are not taking place)
 - The Council has failed to explain in specific terms why enforcement of the proposed exemption would be “resource intensive”
 - The proposed exemption can be adequately signed by signage prescribed in the Traffic Signs Regulations and General Directions 2016, including an associated plate legend indicating an exemption for permit holders with, where appropriate, a permit identifier (e.g. “except TRF permit holders”) – such signs would not be difficult for users to understand
 - If necessary, the Council can make an application to the Secretary of State for Transport for an alternative sign
- 3.5 With regard to the failure to comply with Section 122 of the Road Traffic Regulation Act 1984, Section 122(1) provides that it shall be the duty of every local authority upon whom functions are conferred by or under the 1984 Act so to exercise those functions as to secure 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. Section 122(2) further clarifies that this duty is to be carried out “as far as practicable” having regard to a number of matters, including the effect on the amenities of any locality affected and any other matters appearing to the local authority to be relevant.
- 3.6 The TRF claim that although the Council has made reference to this duty, they have not carried out the “balancing exercise” required by Section 122, i.e. that it will not be practicable to secure the expeditious, convenient and safe movement of vehicular traffic on the route once the TRO has been made (since a prohibition on vehicular traffic necessarily involves the consequence that there will be no movement of such traffic on the route) or properly weigh this in the balance in accordance with their statutory duty (including the potential to make a TRO including the proposed exemption specified in Paragraph 3.2 above) and give reasons for their conclusions.

4.0 Officer Response

Signage

- 4.1 Officers acknowledge that it was incorrect to advise Members that appropriate signage could not be provided to sign an exemption within the proposed Prohibition of Motor Vehicles. Signage in accordance with the 2016 Regulations (See Paragraph 3.4 above) prescribes signs which could be used to advise of exemptions for permit holders, if such an exemption were to be included in the proposed TRO.

Enforcement

- 4.2 Since the TRO would create a so-called “moving traffic” offence, it falls outside the remit of the Civil Parking Enforcement powers and the Council would therefore be dependent on the Police to carry out any enforcement – the Police have been consulted, although a response had not been received at the time of preparing this Report. Any response received before 28 September 2018 will be reported verbally at your meeting, although Officers acknowledge that whatever level of enforcement can be provided by the Police is not in itself a valid reason for rejecting the TRF’s request for the proposed exemption. Section 92 of the Road Traffic Regulation Act 1984 also allows a traffic authority to place bollards or other obstructions to prevent the passage of vehicles of any class in connection with a TRO of this nature – the bollards/obstructions may be either fixed or moveable and may be placed so as to prevent the passage of vehicles at all times or at certain times only.
- 4.3 The contents of the Reports dated 20 October and 17 November 2017 confirm that whilst all the comments of objectors were noted, continuing use by motorised vehicles can cause further damage to the route. Evidence in the route assessments carried out by the NYMNPA and more recently by County Council Officers shows that the majority of damage has been caused by two wheeled vehicles.
- 4.4 In light of the above and taking into account the fact that first hand evidence of such damage was also confirmed by persons with local knowledge and experience who attended and spoke at the meeting on 20 October 2017, on the basis of the evidence available, Officers consider that only removing all vehicular use can ensure that the route is preserved and that even the level of motor cycle traffic which would ensue if the TRF’s proposed exemption were included in the TRO would give rise to unsustainable harm to the route.
- 4.5 Officers recognise that the Council has a statutory duty under Section 122(1) of the Road Traffic Regulation Act 1984 to secure the expeditious, convenient and safe movement of vehicular traffic on the route, but contend that this duty has to be carried out (“balanced”) in the context of the damage liable to be caused by allowing an exemption for motor cycles as requested by the TRF and that by prohibiting all motor vehicles from using the route, they are taking into active consideration the effect on the amenities of the locality affected and other matters appearing to the local authority to be relevant, including preventing damage to the route and preventing its use by traffic which is unsuitable for its character, as specified in the revised Statement of Reasons and Decision Record, which are included in Appendix 1 and 3 respectively. In the circumstances of the present case these latter factors outweigh the duty to secure vehicular use of the route even to the limited extent which the TRF’s proposed exemption would entail.
- 4.6 Officers also acknowledge that the signage/enforcement issues referred to at Paragraphs 4.1 and 4.2 above are not in themselves valid reasons for rejecting the TRF’s request for the proposed exemption and that these issues are not now to be relied on as such.

5.0 Financial implications

- 5.1 The budget is available to introduce the restriction from the existing Signs Lines and TRO budget held by the Area Office.

6.0 Legal Implications

- 6.1 Consideration has been given to the potential for any legal implications arising from the recommendation.
- 6.2 A new process for the consideration of objections to TRO's was approved by the Executive on 29 April 2014 and County Council on 21 May 2014. The consideration of objections to TRO's is now a matter for the Executive and the role of the Area Constituency Committee is a consultative role on wide area impact TRO's. The consideration of objections has been delegated by the Executive to the Corporate Director – BES in consultation with BES Executive Members. The new decision making process relates to the provision and regulation of parking places both off and on the highway where an objection is received from any person or body entitled under the relevant statute. A wide area impact TRO is classed as a proposal satisfying all of the three criteria set out below:
- The proposal affects more than one street or road and
 - The proposal affects more than one community and
 - The proposal is located within the ward of more than one County Councillor.
- 6.3 The proposed TRO has not been classed as a wide area impact TRO and therefore the Area Constituency Committee's views have not been sought.
- 6.4 In the event that the BES Executive Members and BES Corporate Director resolve to follow the recommendations contained in this report, then in accordance with the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996, the County Council will be required to make a Traffic Regulation Order (with or without modifications) and publish a notice of making the Order in the local press. The County Council will also be required to notify the objectors of its decision and the reasons for making that decision within 14 days of the Order being made.
- 6.5 Where an Order has been made (i.e. sealed), if any person wishes to question the validity of the Order or any of its provisions on the grounds that it or they are not within the powers conferred by the Road Traffic Regulation Act 1984, or that any requirement of the 1984 Act or of any instrument made under the 1984 Act has not been complied with, they may apply to the High Court within six weeks from the date on which the Order is made.
- 6.6 In recommending the implementation of the proposed TRO as advertised for the reasons set out in this and previous Reports (save for the signage/enforcement issues previously raised in connection with the TRF's proposed exemption), Officers consider that the County Council is complying with its duty under Section 122 of the Road Traffic Regulation Act 1984 and has carried out the required balancing exercise in coming to that decision.

7.0 Equalities Implications

- 7.1 Consideration has been given to the potential for any adverse equality impacts arising from the recommendation. It is the view of officers that the recommendation does not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010. A copy of the Equalities Impact Assessment decision form is included in Appendix 1.

8.0 Recommendations

8.1 It is recommended that:-

- a) The grounds of the TRF's claim for considering that the making of the Order would be unlawful are noted
- b) The Corporate Director, BES, in consultation with the BES Executive Members nevertheless, on the basis of this report, approve the implementation of the Prohibition of Motor Vehicles Traffic Regulation Order on the Unsurfaced Unclassified road, U1858/9 Kirby Bank
- c) All persons who have made representations/objections are notified within 14 days of the Order being made.

Barrie Mason
Assistant Director – Business and Environmental Services

Author of Report: Jayne Charlton & Richard Pennell

Background Documents:None

North Yorkshire County Council**Business and Environmental Services****Executive Members****20 October 2017****Proposed Prohibition of Motor Vehicles, U1858/9 Kirby Bank****Report of the Assistant Director – Highways and Transportation****1.0 Purpose Of Report**

- 1.1 The purpose of the report is to advise the Corporate Director, Business and Environmental Services (BES) and the BES Executive Members of the results from a consultation and public advertisement exercise undertaken in relation to the introduction of a Prohibition of Motor Vehicles Traffic Regulation Order (TRO) on a section of the Unmetalled Unclassified road, U1858/9 Kirby Bank and to seek approval for a recommended way forward.

2.0 Background

- 2.1 The road runs from Toft Hill, Kirkby in Cleveland, to Beak Hills Farm where it becomes a tarmac lane running southwards into Raisdale as shown on the plan in Appendix 1
- 2.2 The northern section of the route runs through the Scheduled Ancient Monument (SAM) of Kirby Bank Trod (the scheduled area is a 10m wide strip encompassing the Trod, its embankment and a 2m protective strip over a distance of 400 meters) A SAM is a historic building or site that is included in the Schedule of Monuments kept by the Secretary of State for Digital, Culture, Media and Sport. The regime is set out in the Ancient Monuments and Archaeological Areas Act 1979 (1) which is administered by Historic England.
- 2.3 The Central section runs through a Site of Special Scientific Interest (SSSI), a Special Area of Conservation (SAC) and Special Protection Area (SPA). An SPA is the highest level of protection which can be given under European Law.
- 2.4 There is considerable erosion to all sections of the route described above caused by wheel ruts, and water run-off channelled down the ruts. It is considered that the wheel ruts have been caused predominantly by motor cycles as there are no parallel ruts which would be consistent with the use of 4 wheel drive vehicles. Erosion extends SAM and several alternative routes have been developed on the adjacent hillside (off the line of the highway). The central section has also been eroded and vegetation lost with deep linear ruts across its full available width.
- 2.5 The route is used on a regular basis by off road vehicles including two wheeled trials bikes and four wheel drive vehicles. The route is also a popular route for walkers and horse riders.

3.0 Consultation

- 3.1 Following a route assessment carried out by the North York Moors National Park Authority (NYMNP) and subsequent report, The County Council as Highway Authority was asked to implement a Prohibition of Motor Vehicles Traffic Regulation Order under the Road Traffic Regulation Act 1984 (the 1984 Act) on Kirkby Bank to prevent future damage to Kirkby Bank, specifically to the Scheduled Ancient Monument of Kirby Bank Trod.
- 3.2 The proposed Prohibition of Motor Vehicles will prevent two wheeled and four wheeled motor vehicles from using Kirkby Bank, unless requiring access to adjacent land and property, whilst maintaining access for walkers, horse riders and cyclists.
- 3.3 As part of the assessment carried out by NYMNP the numbers of two wheeled and 4 x 4 vehicles using the route were monitored between December 2012 and August 2014. The results showed that a daily average of three motorised passenger vehicles used the route which were predominantly two wheeled. Whilst there were recordings of 4 x 4 vehicles using the route, usage by these types of motor vehicle was infrequent.
- 3.4 A further condition survey has been carried out by officers during August 2017. A copy of the condition report is provided in Appendix 2. The survey has shown that there is currently significant damage to the route with ruts upto 40cm deep in parts. It is evident that the ruts have been caused by motorcycle use as they are single linear wheel ruts and markings and are not a consistent width apart. Whilst there is no evidence of recent damage to the stone slabs of the Trod as this is protected by vegetation, there are severe ruts within the SAM upto 30cm deep. The central section of the route which runs through the areas of SSSI, SAC & SPA are the most significantly damaged part of the highway with almost all the surface vegetation removed and deep ruts upto 40cm that represent a risk to users.
- 3.5 Consultation documentation was sent to key stakeholders and affected properties including the Elected Member and the Parish Council during May 2015 and the proposed Order was subsequently publicly advertised in August 2015.
- 3.6 A number of objections were received from statutory consultees and members of the public, including users of the route. Some of the objections raised concerns over the reasons for introducing the Order, as set out in the original Statement of Reasons, which related specifically to safety reasons, i.e. avoiding danger to persons or other traffic using the road. Officers therefore, reconsidered the reasons for proposing to make the Order and re-advertised it in December 2016. The Order and Statement of Reasons in its revised format gave specific consideration to the County Council's Duty under Section 122(1) of the Road Traffic Regulation Act 1984 and cited the prevention of damage to the road as one of the reasons for proposing to make the Order – a copy of the revised Statement of Reasons is attached to this Report as Appendix 3. All statutory consultees and key stakeholders were informed of the changes to the Order and asked for comments.

4.0 Consultation Results/Officer comments

- 4.1 All objections received in response to the consultation are included in the schedule attached to this report as Appendix 4. Any comments received from the initial consultation in May 2016 have also been included in the schedule.

- 4.2 A total of 26 objections have been received. 72 letters of support have also been received, however due to the numbers of objections the details of letters of support have not been included in this report however they are available at the Area Office. The Elected Member, who has also confirmed support for the proposed Order, has advised officers of receipt of supporting letters from stakeholders and members of the public.
- 4.3 Objections have been received from the Trial Riders Federation (TRF). The main reasons for their objections are;
- the restriction is over restrictive,
 - inadequate consultation
 - There will be a restriction on invalid carriages
- 4.4 With regard to the suggestion that the proposed Order is over restrictive, continuing use by motorised vehicles will cause further damage to the whole route. Only the removal of all vehicles will ensure that the whole route is preserved.
- 4.5 All statutory consultees and stakeholders were given 21 days to respond to the consultation. With regard to the TRF, initially they were not consulted, as at the time of the original consultation TRF were not listed on the County Council's list of statutory consultees and stakeholders. Officers subsequently recognised that it was appropriate to consult the TRF, as an organisation representing persons likely to be affected by the provisions of the Order (as prescribed by the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996) and ensured that a consultation was sent to the Federation giving them the statutory 21 days to respond to the letter.
- 4.6 The TRF has suggested an alternative proposal which essentially involves the introduction of a Prohibition of Motor Vehicles Order with exemptions for members of the TRF pursuant to Regulation 5(b) of the Motor Vehicles (Competitions and Trials) Regulations 1969, which authorises "*an event (involving the use of motor vehicles on a public highway) in which no merit is attached to completing the event with the lowest mileage and in which, as respects such part of the event as is held on a public highway, there are no performance tests and no route and competitors are not timed or required to visit the same places; except that they may be required to finish at the same place by a specified time*". . If such a specific exemption were included in the Order, it would be difficult to enforce and enforcement would be resource intensive. It would require regular liaison with the TRF regarding the frequency and prior notification of such events and enforcement on the days where events are not taking place.
- 4.7 With regard to the proposed modification to take account of invalid carriages, Section 20(1)(b) of the Chronically Sick and Disabled Persons Act 1970 provides that a mechanically propelled vehicle which is an invalid carriage complying with the prescribed requirements and being used in accordance with the prescribed conditions is to be treated for the purposes of the 1984 Act as not being a motor vehicle – the Order would not therefore require further modification in this respect.
- 4.8 A response was received from the local representative of the British Horse Society (BHS) who indicated the Society's support for the proposed order. A subsequent letter of objection was also received from the BHS the basis of the objection was that they consider the proposed Traffic Regulation Order to be against natural justice and there appears to be no outlined plan of working constructively with all users of the road.
- 4.9 It is acknowledged that the TRF have previously carried out voluntary repair works on the route with the NYMNPA however, without a restriction of use by motor vehicles, officers consider that it is not possible to ensure that the route is preserved.

5.0 Financial implications

- 5.1 The budget is available to introduce the restriction from the existing Signs Lines and TRO budget held by the Area Office.

6.0 Legal Implications

- 6.1 Consideration has been given to the potential for any legal implications arising from the recommendation.
- 6.2 A new process for the consideration of objections to TRO's was approved by the Executive on 29 April 2014 and County Council on 21 May 2014. The consideration of objections to TRO's is now a matter for the Executive and the role of the Area Committee is changed to a consultative role on wide area impact TRO's. The consideration of objections has been delegated by the Executive to the Corporate Director – BES in consultation with BES Executive Members. The new decision making process relates to the provision and regulation of parking places both off and on the highway where an objection is received from any person or body entitled under the relevant statute. A wide area impact TRO is classed as a proposal satisfying all of the three criteria set out below:
- The proposal affects more than one street or road and.
 - The proposal affects more than one community and
 - The proposal is located within the ward of more than one County Councillor.
- 6.3 The proposed TRO has not been classed as a wide area impact TRO and therefore the Area Committees views have not been sought.
- 6.4 In the event that the BES Executive Members and BES Corporate Director resolves to follow the recommendations contained in this report, then in accordance with the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996, the County Council will be required to make a Traffic Regulation Order (with or without modifications) and publish a notice of making the Order in the local press. The County Council will also be required to notify the objectors of its decision and the reasons for making that decision within 14 days of the Order being made.
- 6.5 Where an Order has been made (i.e. sealed), if any person wishes to question the validity of the Order or any of its provisions on the grounds that it or they are not within the powers conferred by the Road Traffic Regulation Act 1984, or that any requirement of the 1984 Act or of any instrument made under the 1984 Act has not been complied with, they may apply to the High Court within six weeks from the date on which the Order is made.
- 6.6 In recommending the implementation of the proposed TRO, officers consider that it will enable the County Council to comply with its duty under Section 122 of the Road Traffic Regulation Act 1984 to secure 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.

7.0 Equalities Implications

- 7.1 Consideration has been given to the potential for any adverse equality impacts arising from the recommendation. It is the view of officers that the recommendation does not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010. Appendix 5 includes a copy of the Equalities Impact Assessment decision form .

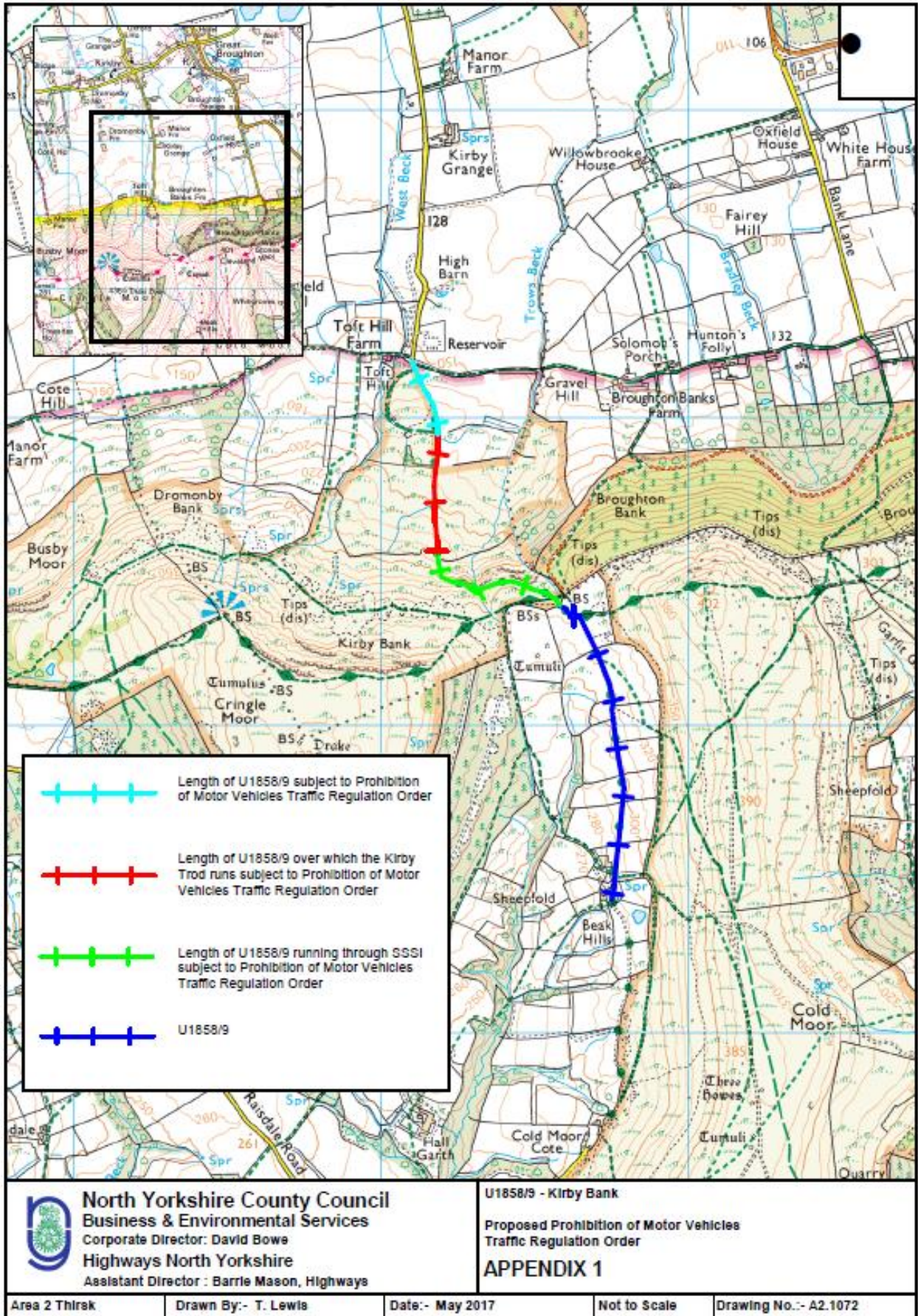
8.0 Recommendations

- 8.1 It is recommended that:
- a) the results of the consultation exercise are noted
 - b) The Corporate Director, BES, in consultation with the BES Executive Members approve the introduction of the Prohibition of Motor Vehicles Traffic Regulation Order on the Unmetalled Unclassified road, U1858/9 Kirby Bank

Barrie Mason
Assistant Director – Business and Environmental Services

Author of Report: Jayne Charlton

Background Documents:None



North Yorkshire County Council
 Business & Environmental Services
 Corporate Director: David Bowe
 Highways North Yorkshire
 Assistant Director: Barrie Mason, Highways

U1858/9 - Kirby Bank
 Proposed Prohibition of Motor Vehicles
 Traffic Regulation Order
APPENDIX 1

Area 2 Thirsk	Drawn By:- T. Lewis	Date:- May 2017	Not to Scale	Drawing No.-: A2.1072
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Condition Report – U1858/9/70 Kirkby to Raisdale

Report date: 25 August 2017

Route map: attached as appendix 1, route shown as a bold broken line

Detailed survey report: attached as appendix 2

Introduction

1. U1858/9/70 is situated in Kirkby and Bilsdale Midcable parishes, Hambleton inside the North York Moors National Park. The highway runs from the south end of Hall Lane (U1858/1/80) to the gate onto the track to Beak Hills (U1858/9/30).
2. U1858/9/70 is an unsurfaced, unclassified road that runs within Kirkby Bank Trod (a scheduled ancient monument shown on the map at appendix 1). The highway ascends the northern face of the Cleveland Hills meaning that the elevation of the northern end of the route is approximately 160 metres lower than the southern end.
3. The scheduled ancient monument (SAM) is approximately 400m long and 10m wide. The highway is within the scheduled area for the entire length of the monument and the used width is generally 2.4m along the whole route but varies significantly in places.

Current conservation designations on the route

4. Between points C and F on the map attached as appendix 1 the highway passes through an area designated as a special area of conservation (SAC), a special protection area (SPA), and a site of special scientific interest (SSSI). The highway is also within the boundary of the North York Moors National Park.

State of repair at the time of survey

5. The section between A and B (shown on the plan at appendix 1) is largely in a reasonable condition with a mostly grass surface. As can be seen in the photos, the highway between the start of the route and the scout building has pronounced "wheelings" and in one area (photo 1) surface wear on the gradient has caused the sub-surface to be exposed. The rest of the way to point B is largely grassed over but there is evidence of many ruts caused by past use.
6. The adjacent hedges are not encroaching on to the highway to any substantial degree. There was no evidence of recent damage to the stone slabs that are the visible part of the trod. However because part of this section of the highway is within the SAM any damage to the surface constitutes damage to the scheduled area.
7. The section between B and C continues to be largely grassed with some evidence of ruts now covered in vegetation. However, part of the route towards point C has one severe rut that is in places approximately 30cm deep. The presence of off road tyre prints in places suggests that the rut has, at least in part, been caused by motorcycle use. Given the slippery nature of the surface in places, the rut is deep enough to represent a risk for pedestrians, equestrians, and cyclists.
8. Where there are adjacent hedges or other vegetation it is not encroaching on the highway to any significant degree. There did not appear to be any recent damage to the visible stones of the trod but at the time of the survey it was largely covered in bracken at this point. However because all of this section of the highway is within the SAM any damage to the surface constitutes damage to the scheduled area.
9. The section C-D-E is the most significantly damaged part of the highway. Almost all of the surface vegetation has been removed. There are deep ruts that represent a

Condition Report – U1858/9/70 Kirkby to Raisdale

Report date: 25 August 2017

Route map: attached as appendix 1, route shown as a bold broken line

Detailed survey report: attached as appendix 2

Introduction

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State of repair at the time of survey

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6. The adjacent hedges are not encroaching on to the highway to any substantial degree. There was no evidence of recent damage to the stone slabs that are the visible part of the trod. However because part of this section of the highway is within the SAM any damage to the surface constitutes damage to the scheduled area.
7. The section between B and C continues to be largely grassed with some evidence of ruts now covered in vegetation. However, part of the route towards point C has one severe rut that is in places approximately 30cm deep. The presence of off road tyre prints in places suggests that the rut has, at least in part, been caused by motorcycle use. Given the slippery nature of the surface in places, the rut is deep enough to represent a risk for pedestrians, equestrians, and cyclists.
8. Where there are adjacent hedges or other vegetation it is not encroaching on the highway to any significant degree. There did not appear to be any recent damage to the visible stones of the trod but at the time of the survey it was largely covered in bracken at this point. However because all of this section of the highway is within the SAM any damage to the surface constitutes damage to the scheduled area.
9. The section C-D-E is the most significantly damaged part of the highway. Almost all of the surface vegetation has been removed. There are deep ruts that represent a

- risk to users and in many places the surface of the way is comprised mostly of rock. In addition, in places the rock has worn unevenly and created steps within the ruts.
10. The section E to F exhibits the most braided part of the highway survey. There are multiple ruts that are up to 40cm deep in places. At two points along this section users have sought to avoid rutted and wet areas by using higher ground to the north (photos 17 and 19). These “higher ways” have then also become rutted themselves. The ruts along this section are of such a depth and length that they would constitute a significant risk to pedestrian, equestrian and pedal cycle users.
 11. Furthermore, as the “higher ways” are not part of the highway these diversions may be seen as trespass and causing damage to private land.
 12. The section F to G is in much better condition than the previous section. The surface is again mostly covered in vegetation.

Works required to bring it to a maintainable standard

13. Before any works are undertaken in the vicinity of the trod NYCC heritage and Historic England should be consulted. Similarly before any works are carried out within the SAC, SPA, or SSSI NYCC heritage, North York Moors National Park and Natural England should be consulted.
14. The ruts along the highway need to be filled in or the width of the surface re-graded in order to make it useable by the public.
15. In those areas where the surface is predominantly vegetation the ruts should either be directly filled with earth with a final surface of laid turf or filled with earth and protected to allow the vegetation of the surrounding surface to re-colonise the damaged areas.
16. Within the SAM re-grading is unlikely to be an option open to the highway authority because of the damage that may be caused to the monument. Further advice should be sought from Historic England.
17. Where the surface of the highway is natural stone more extensive work would be required to remove the ruts and “steps”. This is because the rock would need to be broken and re-profiled to establish a usable surface.
18. As the section where the rock is exposed (C-D-E) is not within the SAM there should be no barrier on the highway authority carrying out the work. However, consideration must be given to how potentially heavy machinery would gain access to the area. Historic England may not allow it to pass over the SAM.
19. Advice should also be sought from the various responsible agencies regarding highway repairs within the SPA, SAC, and SSSI.
20. Owing to the degradation of the surface south of the trod it is not possible to determine whether the route was ever constructed or maintained to the standard required for vehicular traffic.

Unsealed Route Condition Survey

Route Name	Kirkby Bank Trod	Start Point	Southern end of Hill Road
ID/Road No	U1858/9/70 (Kirkby to Raisdale)	Grid Ref	454112 504174 (NZ 54112 04174)
Survey Date	22 August 017	End Point	Gate onto track to Beak Hills
Surveyor	SM & RJV	Grid Ref	454657 503358 (NZ 54657 03358)
Any Relevant Comments on Weather or Prevailing Ground Conditions			

Photo no.	Metres from start	Width of gateway or other limitation	Surface type	Water status	Evidence of use or disturbance	Approx no. of ruts	Width of main rut damage (cm)	Width of extreme rut (cm)	Depth of extreme rut (cm)	Total width (cm) of braiding (all linear ruts)	Comments
	0	3.3m gateway	MMS, SL, VG	D	General wear no specific class of user identifiable						
1	100		MMS, VG	D	General wear no specific class of user identifiable						Possible water damage on eastern side of highway where the sub surface has been exposed.
2	200		MMS, VG	D	General wear no specific class of user identifiable						
3	243		VG, SL	W	MB	2	150cm	15cm	10cm		No obvious signs of damage to or use of the trod
4	300		VG, SL	D	MB						
5	400		VG	D							
6	447		VG, SL	EM	MB, MQ?	3	150cm	30cm	30cm		EM = approx. 150cm wide 600cm long
7	485		VG, SL	W	MB	2	150cm	30cm	20cm		
8	500		VG, SL	W		2	180cm	25cm	35cm		
9	516		VG, SL	W		3	180cm	45cm	30cm		

Photos



Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7



Photo 8



Photo 9



Photo 10



Photo 11



Photo 12



Photo 13



Photo 14



Photo 15



Photo 16



Photo 17



Photo 18



Photo 19



Photo 20



22.08.2017 12:39

Photo 21



22.08.2017 12:41

Photo 22



22.08.2017 12:47

Photo 23



22.08.2017 12:47

Photo 24

Unsealed Route Survey – Key/Abbreviation Codes

Surface Type		Water Status	
NR	Natural rock	D	Surface mainly dry
SL	Soil/earth/sand/clay	W	Some water present
VG	Vegetation-grass	ESW	Extensive standing water (specify dimensions in comment box)
VH	Vegetation-heather	EM	Extensive mud (specify dimensions in comment box)
VO	Vegetation-other (specify in comments box)	WFX	Water flowing across route surface
P	Peat	WFL	Water flowing along route surface
MMS	Man-made surface – unsealed – stone/aggregate/gravel	WD	Water damage or washout visible
MMT	Man-made surface - sealed (e.g. tarmac/concrete)		
MMD	Man-made surface - degraded – e.g. broken up tarmac or concrete	Surface Disturbance/Evidence of Use	
MMO	Other man-made surface - specify in comments box	NMF	Non-motorised trampling by feet
O	Other surface not listed above- specify in comments box	NMH	Non-motorised trampling by horses
		NMC	Non-motorised 'wheeling' by pedal cycles
Ruts and Gullies		MB	Motorised - motorcycles
Record:		MQ	Motorised - quad bikes
1	Approx no.ruts across the surface at photo-point (or record 'none')	M4W	Motorised - 4x4 or other standard-sized passenger vehicles
2	Depth and width of deepest rut or gully in cm.	MT	Motorised - tractors or other large non-passenger vehicles

3	Width of the area of concentrated rut damage, in m	MM	Mixture of motorised vehicles
4	For braided routes, record the total width of braiding	All	Disturbance caused by all categories of user
		S	Stock damage

PROPOSED PROHIBITION OF MOTOR VEHICLES – U1858/9, KIRBY BANK

STATEMENT OF THE COUNCIL’S REASONS FOR PROPOSING TO MAKE THE ORDER

LEGAL POWERS AND DUTIES

Under Section 1(1) of the Road Traffic Regulation Act 1984 the County Council, as traffic authority for North Yorkshire, has powers to make a Traffic Regulation Order (TRO) where it appears expedient to make it on one or more of the following grounds:-

- (a) for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising, or
- (b) for preventing damage to the road or to any building on or near the road, or
- (c) for facilitating the passage on the road or any other road of any class of traffic (including pedestrians), or
- (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, or
- (e) (without prejudice to the generality of paragraph (d) above) for preserving the character of the road in a case where it is specially suitable for use by persons on horseback or on foot, or
- (f) for preserving or improving the amenities of the area through which the road runs; or
- (g) for any of the purposes specified in paragraphs (a) to (c) of subsection (1) of Section 87 of the Environment Act 1995 (air quality).

Section 122(1) of the Road Traffic Regulation Act 1984 also provides that it shall be the duty of every local authority upon whom functions are conferred by or under the 1984 Act so to exercise those functions as to secure 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.

REASONS FOR MAKING THE ORDER

The County Council considers that it is expedient to make this TRO on grounds (b), (d), (e) and (f) above, having taken into account its duty under Section 122(1) of the 1984 Act, for the following reasons:-

Location of Proposed Order

Kirby Bank, between the gateway at the southern end of Hill Road at Toft Hill and the gateway immediately south of the junction with the Cleveland Way National Trail.

The proposed Order is to assist in preventing the damage that some motor vehicles are causing on the route over which, in part, the old Kirby Trod runs. Kirby Bank Trod is a Scheduled Ancient Monument under the Ancient Monuments and Archaeological Areas Act 1979 and it is a criminal offence to destroy or damage a scheduled monument either intentionally or through recklessness. The County Council considers that implementing the proposed Traffic Regulation Order will prevent further damage to the road and The Trod, thereby preserving both the existing character of the road and the amenities of the area. Access will be maintained for persons requiring access to private land adjoining the road.

CONSIDERATION OF OBJECTIONS

Under the County Council's Constitution, the consideration of objections to a proposed TRO is delegated to the Corporate Director - Business and Environmental Services (BES) in consultation with the BES Executive Members. For each TRO where there are objections, it will be necessary to bring a report to the Corporate Director - BES and the BES Executive Members seeking a decision on the consideration of the objections. The report will include the views of the relevant local member who will also be invited to the meeting that considers the report. The Corporate Director - BES may wish to refer the matter to the Council's Executive for a final decision.

A report to the relevant Area Committee will only be necessary when there are objections to a wide area impact TRO.

A wide area impact TRO is defined as a proposal satisfying all of the three criteria set out below:

- The proposal affects more than one street or road and,
- The proposal affects more than one community and,
- The proposal is located within the ward of more than one County Councillor

The report will seek the views of the Area Committee and these views will then be included in a report to the Corporate Director - BES and the BES Executive Members seeking a decision on the consideration of the objections. The Corporate Director - BES may wish to refer the matter to the Executive for a final decision.

The existing arrangements for members of the public wishing to attend or speak at committee meetings will apply and it may be appropriate for the Corporate Director - BES to have his decision making meetings open to the public, so that the public and in particular those with objections, have the opportunity to put their views across directly.

N.B. The Corporate Director - BES has delegated powers to make decisions on TROs where there are no objections.

North Yorkshire County Council

Business and Environmental Services

Executive Members

26 May 2017

Proposed Prohibition of Motor Vehicles, U1858/9 Kirby Bank

SCHEDULE OF COMMENTS From 2015 Consultation and Advertisement and also December 2016 Advertisement**Schedule Comments from December 2016 advertisement**

Correspondent	Comments	Officer Comments
Trial Riders Fellowship	<p>Objects to the proposed traffic order, insofar as the restriction affects motorcycles, on the following grounds:</p> <p>1. Over restriction</p> <p>1.1. The Councils stated reasons for proposing the TRO do not justify a restriction of low-impact trail motorcycling as practised by members of the Trail Riders Fellowship on our organised motorcycle trail rides.</p> <p>1.2. Low impact motorcycling, conducted by TRF members in accordance with the TRF's Code of Conduct, does not result in greater impact to the road surface than one could expect from equestrian traffic. Wilson and Seney¹ undertook a comparative study of the erosional impacts of various users, including equestrians and motorcyclists, and published their findings in 1994. The study concluded that</p> <p>1.3. In circumstances where a road can sustain equestrian use, the findings of Wilson and Seney suggest that the road will also sustain motorcycle traffic.</p> <p>"horses produced significantly larger quantities of sediment compared to hikers, off-road bicycles, and motorcycles..."²</p>	<p>All comments noted however continuing use by motorised vehicles can cause further damage to the route. Evidence in the route assessments carried out by the NYNNPA and more recently by County Council officers shows that the majority of damage has been caused by two wheeled vehicles. Only removing vehicular use can ensure that the route is preserved</p>

Correspondent	Comments	Officer Comments
	<p>1.4. TRF's experience is that the overwhelming majority of vehicular related road damage is not caused by motorcycles, but by different classes of motor vehicles that have more than 3 wheels.</p> <p>1.5. TRF contends that this is the case on Kirkby Bank and that it would be over restrictive to ban motorcycle traffic, which is not responsible for the overwhelming majority of vehicle related impact on the road.</p> <p>1.6. TRF wishes to draw the Councils attention to the many examples of successful TRO solutions that selectively restrict non-motorcycle motor traffic. For example, the successful use of TRO's in East Sussex that impose seasonal restrictions on 4x4 access.</p> <p>1.7. Low-impact motorcycle traffic associated with TRF activity is not unsuited to the road and is in keeping with the roads character as a carriageway which has a contiguous stone trod for the accommodation of equestrian and pedestrian traffic.</p> <p>1.8. Trail motorcycling is a traditional and established form of traffic in the countryside. The County has a rich heritage of motorcycle clubs that pre-date WW1. That heritage forms an amenity which is beneficial to the wider public. The proposed order would have the effect of reducing that amenity, to the detriment of the public interest.</p> <p>1.9. Low-impact TRF motorcycle traffic does not use the stone trod. TRF contends that use of the trod by any class of vehicle, including pedal cycles, would constitute a nuisance at common law. TRF motorcycle traffic does not damage the trod because TRF members do not motorcycle on it, or near it. The stated reason of preventing damage to the trod and road can be met without prohibiting TRF motorcycle traffic.</p> <p>1.10. The existing character of the road is as a carriageway. The carriageway is comprised in a highway which includes a separate way set aside for the accommodation of equestrians and pedestrians. This is the stone trod. To maintain the character of the carriageway it is desirable to retain both its traditional traffic and evidence of that traffic's passing. Motorcycles are a traditional form of traffic on the</p>	<p>Such a restriction would be difficult to enforce and enforcement would be resource intensive. It would require regular liaison with the TRF and other user groups regarding the frequency and prior notification of events and enforcement on the days where events are not taking place..</p> <p>The Scheduled ancient monument extends for a width of 10 meters. All the existing damage is within the 10meter width. Any use outside of the 10m width could be considered as trespass</p>

Correspondent	Comments	Officer Comments
	<p>carriageway section of the road, especially those ridden in connection with club activity – such as organised TRF motorcycle rides. Seeking to ban such low impact motorcycle activity and evidence of their passing, would be detrimental to the traditional character of the road.</p> <p>1.11. Motorcycle tyre prints are to the carriageway as hoof prints are to a bridlepath and footprints are to a footpath. A carriageway's character includes evidence of the passing of carriages as well as the physical presence of carriages. Motorcycles are a traditional form of carriage, having been commercially available in the UK since 1896.</p> <p>2. Inadequate consultation</p> <p>2.1. TRF were not consulted at the preliminary stage of this process in accordance with the requirements of the Local Authorities' Traffic Orders (Procedure) Regulations 1996.</p> <p>2.2. The Council has recently conceded that its failure to consult TRF was sufficient to render a TRO process unlawful, as it substantially prejudiced the interests of TRF. That was not a minor technical error but a major procedural flaw that resulted in the process being unfair to the degree that it was quashed by High Court order.</p> <p>2.3. The statement of reasons does not adequately promote an informed consideration of the matters at hand. This pivotal document merely resolves to list the Council's choice of statutory reasons for making the order and then provides a nebulous allegation that "...some motor vehicles" are damaging the route, with observations as to the road's character and archaeological designation.</p> <p>2.4. Consultees are left speculating as to what the Council means by "...some motor vehicles". Does this include private motorised traffic or not? Does it include 4x4's, quadricycles, mobility scooters, motorcycles, HGV's? Without being provided with a greater degree of detail and substance as to the Council's reasoning, it is very difficult to submit a meaningful response on the matters that the Council might be considering.</p>	<p>TRF were consulted in email sent on 8th December 2016 which allowed 21 days to respond. Indeed this objection has been received and is included in the Appendix of the report,</p>

Correspondent	Comments	Officer Comments
	<p>2.5. Had TRF been informed at preliminary stage, adequate opportunity for meaningful engagement would have been provided. That would have afforded ample time to enquire as to the Councils concerns and reasoning. This was not done and the TRF is now being put at a disadvantage.</p> <p>2.6. The Councils ROWiP provides policies in respect of partnerships that are applicable to TRF. TRF is disappointed that the Council are not adhering to their policies, to the extent that this is putting TRF at a disadvantage.</p> <p>3. Restriction on invalid carriages.</p> <p>3.1. The order as drafted applies to “motor vehicle” with no definition provided within the order.</p> <p>3.2. The statutory definition of “motor vehicle” includes invalid carriages. It follows that the order appears to ban invalid carriages.</p> <p>3.3. A restriction on invalid carriages is not justified in the TRF’s opinion.</p> <p>3.4. TRF consider that the Council has not adequately performed its duties owed under the Public Sector Equality Duty, if indeed it has performed them at all.</p> <p>4. Alternative proposal</p> <p>4.1. TRF suggests that the road can be substantially improved by modifying the proposed TRO to provide an exemption for use with a motorcycle that is authorised by TRF and conducted in connection with an event organised by TRF pursuant to regulation 5 (b) of the Motor Vehicles (competitions and trials) Regulations 1969.</p> <p>4.2. Such an exemption would have the effect of the confining motorcycle use to that which is authorised by TRF and comprises part of an organised motorcycle trail ride, as typically held by TRF over the 46 years of TRF’s history.</p>	<p>TRF were consulted in email sent on 8th December 2016 which allowed 21 days to respond. Indeed this objection has been received and is included in the Appendix of the report,</p> <p>The challenge by way of Judicial Review was brought by the TRF and related to a different set of circumstances. The reasons for making the TRO are contained in the Statement of Reasons and are considered to be appropriate in this case, taking into account the complexity of the issues and the involvement of the parties.</p> <p>Again the comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the Trod is preserved</p> <p>TRF were consulted on 8th December 2016 – See 2.1 above</p>

Correspondent	Comments	Officer Comments
	<p>4.3. The order can provide for limits on group sizes. TRF's aim is to promote unobtrusive and low-impact trail motorcycling.</p> <p>4.4. TRF directors would be responsible for the authorisation of such use. The TRF's directors are bound by company law to act in the best interests of the TRF and this duty could not be reconciled with the authorisation of unsustainable use. The corporate structure of TRF acts as an inherent safeguard against unsustainable activity.</p> <p>4.5. Continued opportunity for low-impact motorcycle use would maintain the historic character and traffic of the road, without causing detriment to other users or the environment.</p> <p>4.6. Opportunity for TRF access would invite TRF's ongoing road conservation activity and investment, for the benefit of all responsible and sustainable users.</p> <p>4.7. TRF also suggests that the order is modified to take account of invalid carriages.</p> <p>4.8. TRF does not object to a 4x4 TRO</p>	<p>The term "motor vehicle" is defined in Section 136(1) of the Road Traffic Regulation Act 1984</p> <p>Invalid carriages are not treated as being motor vehicles for the purposes of the 1984 Act – see Paragraph 4.7 of the Report</p>
British Horse Society	<ul style="list-style-type: none"> • Has not received this as the British Horse Society NE Yorkshire Access Officer. Please could you confirm that you sent this to me under that capacity? I responded to a former TRO at this location so you must have my contact details (please note changed e-mail address) I therefore look forward to receiving official notification to the BHS. • Objects to only being given 21 days for replies to be submitted, since this is the Christmas period when volunteers are excessively busy. Considers that at least 30 days should be allowed over holiday periods. 	<p>Initial consultation was sent to BHS officer who supported the order.</p> <p>Extra time was allowed to allow all comments to be submitted. No objections have been rejected that have been received after the 21 day period.</p>

Correspondent	Comments	Officer Comments
	<ul style="list-style-type: none"> • As an individual objects to the proposed Traffic Regulation Order as believes that it is against natural justice and there appears to be no outlined plan of working constructively with all users of the road. In the first place historically the actual trod was NOT used by more than people on foot and horseback. That is why there are the erect stones which were placed to stop use of the trods by horses pulling carts. The vehicular road runs at the base of the route and this differentiation should be shown on your plans. • Much public money was spent on a working group, the Unsealed Route Management Advisory Group (URMAG) called by the National Park; where a compromise was reached regarding eliminating 4X4s but to work with the TRF as regards maintenance. In 2016 I rode across East Devon on unsurfaced roads, there being no bridleways. I knew these old roads from my youth to be more or less impassable. But now they were delightful, notices stating that maintenance work had been done by the local TRF. If the County Council worked with the user groups to fund and actually do proper repairs, then the user groups would feel a sense of ownership and police errant users. • If other councils can find positive ways of working with users groups, I would suggest that rather than wasting thousands of pounds of public money denying motors; that you put your energies into working with people in a constructive manner. 	<p>Comments noted</p> <p>It was considered that motorbikes can still cause damage to the Trod</p>
<p>British Horse Society</p> <p>Further response after consultation</p>	<p>Objection from British Horse Society who has contacted Judith Ratcliffe to establish that she had corresponded as an individual.</p> <p>Outline letter is too vague to support. It does not state whether the TRO is permanent or temporary, the latter to allow works to be carried out. Nor the actual physical rights that were enjoyed historically. That is the actual trods were never open to vehicles, hence the pairs of guard stones which denied access to carts, during the days of horse transport.</p> <p>#</p> <p>I am concerned that much public money was invested in the Unsealed Routes Management Advisory Group co-ordinated by the National Parks. It consisted of all</p>	<p>Comment noted</p> <p>Proposed TRO is permanent, .</p> <p>There is still the concern that motorcycles will damage the route if it is ridden on.</p>

Correspondent	Comments	Officer Comments
	<p>users and the Highway Authority and a consensus was reached. In this case the 4X4s agreed that they should be subjected to a TRO denying them access, but that the Trail Riders Fellowship had serious funds to contribute and labour to enable repairs to be made. The main problems being on the hillside rather than any damage along the flat at the base of the trods.</p> <p>I would suggest that a proper sign was erected near the trods stating that they were historically used on foot and horseback and that should still be allowed today. Horses will not damage the trods, since they were laid specifically for the use by horses.</p> <p>Devon County Council can have such wonderful unsurfaced roads through working with the TRF and considers that North Yorkshire should stop wasting money on legal stoppings up and concentrate on good working relationships with the using public.</p>	<p>Horses and riders will not be excluded from the route.</p> <p>Comment noted</p>
	<p>Objects to this traffic order as proposed . Has known and driven by motorcycle on the road for over thirty years. The road has never shown signs of damage caused by motorcycles. The road is robust and is not in my experience particularly frequented by walkers, cyclists or horse riders. The character of the road and its environs is not materially diminished by a relative few motorcycles; I have not observed 4x4 motors being any problem either.</p> <p>If traffic management is necessary, then proportionate restrictions (e.g. as you have used at Seggimire Lane) should be preferred..</p>	<p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>
	<p>Objects to this TRO. You have not considered the fact that there will be an ever increasing number of users wishing to use this green road using ELECTRIC MOTORCYCLES.</p> <p>Objector has ridden many green roads in Yorkshire including this one in past times. Enjoys getting away from the congested south east into the Dales and Moors. Owns a ZERO DS motorcycle and has used it on green roads and it has minimal impact on the road surface.</p> <p>It also creates very little noise and have no air pollution impact at source.</p>	<p>The main issue is with motorised vehicles. Would expect electric motorcycles to have an electric motor and would be covered by the order.</p>

Correspondent	Comments	Officer Comments
	Please tell me what your consideration is to permit ELECTRIC MOTORCYCLES.	

Schedule from August 2015 advertisement and May 2015 consultation

	<p>Respects NYCC's broad intentions managing our roads in the County generally but in the present case they are in his submission misconceived. As a regular user of the route affected and, after careful consideration, find that the issues or grounds for the TRO are not sufficiently made out. It seems to me that:</p> <ul style="list-style-type: none"> * the primary mischief which is sought to be averted - risk to the public - is simply not made out on any evidenced-based approach; and * the secondary objectives can be achieved through other means including voluntary curbs, codes, signage and liaison with responsible groups of users. <p>In more detail:</p> <p>The risk to the public - which of course must be the Council's prime concern - is I submit less on the route subject to the proposed restriction than on most surfaced single carriageway roads because the speeds of the traffic involved is so much lower. Typically in my experience, speeds are below 15 mph, or well under half those on most of the local single track metalled roads. At critical points all responsible users slow to walking pace. Where different users meet vulnerable travellers they generally stop or slow to a suitable passing speed. Further, any real risk is from occasional irresponsible four wheel drive visitors - but these, in my experience, must be rare.</p> <p>Professionally, and socially, I keep my antennae open. I have not heard of a single instance of an actual accident or collision, or injury related incident on this route. If there has been one, perhaps you could share suitably redacted details. Compare that with the situation on any of the metalled minor roads in our County and the evidence is clear: there is no epidemiological basis for a restriction.</p> <p>If a particular section offers a particular perceived risk then it can be signed or managed in a creative way. It must be wrong in principle to pass a fully proscriptive TRO to attempt to restrict the actions of a few irresponsible drivers. Firstly they will not pay attention to a TRO in any event and secondly this would not be done in respect of</p>	<p>The re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons</p> <p>Comments noted however motorised vehicles can cause damage to the route Only removing their use can ensure that the route is preserved</p>
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	<p>metalled roads where we all have anecdotal evidence or actual experience of foolhardy or dangerous drivers racing on A, B, C or other minor metalled roads with often fatal consequences. It is therefore no basis for a TRO to say that there may be some risk from irresponsible drivers where none has eventuated. In fact to the extent that there is any evidence of any potential risk then this indicates a lack of policing or resources neither of which are proper grounds for a TRO even if they existed.</p> <p>Once safety concerns are found not to justify a TRO, then the other issues, of preservation and conservation can be dealt with by less draconian measures than a TRO in line with that intended. I am sure that liaison with responsible groups such as the Trail Riders Fellowship can design and create viable low or zero cost options that secure the Council's statutory obligations while maintaining the access which is so important. This would of course be wholly inline with the principles of de-regulation that are now upon us and cost effective.</p>	
(2) after receiving redacted Route Assessment Report	<p>U1858/9 Kirby Bank - Prohibition of Motor Vehicles</p> <ul style="list-style-type: none"> * Average use by three motorcycles per day * No evidence that such usage is unsustainable * No evidence that general usage in dry or average conditions causes any difficulty * No evidence of whether rutting was recent or historic * No evidence as to whether the rutting was caused by recreational or by farm/work machines including farm ATVs/4x4s etc * No evidence that the rutting was getting worse or simply part of the heritage nature of the route * No evidence that any closure would improve the situation * No real consideration of professional / CC / contractor repair options * No evidence of any accidents * No evidence of any safety issues * One complaint in recorded history from a resident - albeit as to the state of some part of the route * One request for repair * No evidence of any repairs being conducted, whether in response to the request or at all 	<p>Again the re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons</p> <p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>

	<p>* No consideration of the options for voluntary repair ("adopt a trail scheme")</p> <p>* No evidence that there is a time-critical issue which could not be considered over a planned study obtaining real evidence</p> <p>It follows that the report, while being superficially comprehensive is on close-reading short on detail, time-related research and relevant evidence. It certainly does not meet the standards to be expected to justify the closure of a route he rides regularly causing no measurable or detectable damage, with total consideration for the environment and other users, in accordance with the TRF Code of Conduct.</p> <p>The report correctly identifies that there are no reasonable alternatives to the route for motor cycles.</p> <p>Closure of a historic right of way must, as you know, be a last resort where there is evidence of unsustainable wear that can only be prevented by that draconian option. Despite the arguments raised in the report, there is no such evidence merely conjecture, assumptions, and speculative assertion (properly admitted to be the same by the author who in fairness is at pains to concede that there was neither a historic basis for assessing wear or change, nor any real evidence as to causation).</p> <p>Resident would urge:</p> <ul style="list-style-type: none"> (a) the you invite your committee to send the matter out for a moderated series of user group meetings and discussions whereby evidence and options can be reflected on and canvassed (b) consider setting up a Kirby Bank stakeholder group to look at options for voluntary (cost free) management (c) send the report back to the NP inviting them to provide actual evidence of change and causation over a five year period (d) your committee to meet with the local TRF group for a demonstration of how responsible TRF Code of Conduct usage works, and how non-damaging un-metalled road usage is sustainable here. <p>Resident writes in personal capacity and am not instructed as counsel in the matter, nor writing in my role as a general counsel to the Board of the Trail Riders Fellowship.</p>	
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	<p>Objects to the TRO on this UCR ref U1858/9 .</p> <p>(i) You state that the safety of the public is an issue . What evidence have you that the closure of the route will improve the safety of the public ? How many incidents have you recorded last year & over the last five years ?</p> <p>(ii) Preserving and improving the amenity of the route . Have you discussed this issue with interested parties as to how jointly any necessary improvements may be implemented ?</p> <p>(iii) Protecting the Scheduled Ancient Monument known as Kirby Trod . Is the Trod damaged , if so what evidence have you that the damage was caused by the use of the UCR ?</p> <p>Wishes to strongly point out that the imposition of a TRO as proposed should be a last resort & not just an easy way for the council to abandon their responsibility to maintain this UCR . Furthermore , the use of the remainder of the route could well increase with persons using the resultant dead end roads to still enjoy as much of the beautiful scenery as they can whilst you abdicate your Statutory responsibility to maintain the UCR .</p>	<p>The re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons</p> <p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>
	<p>With reference to the above notice, I write to formally object to this proposal for the following reasons.</p> <p>Respects NYCC's broad intentions managing our roads in the County generally but in the present case they are in my submission misconceived. Is a regular user of the route affected and, after careful consideration, find that the issues or grounds for the TRO are not sufficiently made out.</p> <p>* the primary mischief which is sought to be averted - risk to the public - is simply not made out on any evidenced-based approach; and</p> <p>* the secondary objectives can be achieved through other means including voluntary curbs, codes, signage and liaison with responsible groups of users.</p>	<p>The re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons</p> <p>Comments noted however motorised vehicles can cause damage to the route Only removing their use can ensure that the route is preserved</p>

	<p>In more detail:</p> <p>The risk to the public - which of course must be the Council's prime concern - is I submit less on the route subject to the proposed restriction than on most surfaced single carriageway roads because the speeds of the traffic involved is so much lower. Typically in my experience, speeds are below 15 mph, or well under half those on most of the local single track metalled roads. At critical points all responsible users slow to walking pace. Where different users meet vulnerable travellers they generally stop or slow to a suitable passing speed. Further, any real risk is from occasional irresponsible four wheel drive visitors - but these, in my experience, must be rare.</p> <p>Neither myself or any of my friends who also use this byway have not heard of a single instance of an actual accident or collision, or injury related incident on this route. If there has been one, perhaps you could share suitably redacted details. Compare that with the situation on any of the metalled minor roads in our County and the evidence is clear: there is no "real basis" for a restriction.</p> <p>If a particular section offers a particular perceived risk then it can be signed or managed in a creative way. It must be wrong in principle to pass a fully proscriptive TRO to attempt to restrict the actions of a few irresponsible drivers. Firstly they will not pay attention to a TRO in any event and secondly this would not be done in respect of metalled roads where we all have anecdotal evidence or actual experience of foolhardy or dangerous drivers racing on A, B, C or other minor metalled roads with often fatal consequences. It is therefore no basis for a TRO to say that there may be some risk from irresponsible drivers where none has eventuated. In fact to the extent that there is any evidence of any potential risk then this indicates a lack of policing or resources neither of which are proper grounds for a TRO even if they existed.</p> <p>Once safety concerns are found not to justify a TRO, then the other issues, of preservation and conservation can be dealt with by less draconian measures than an TRO in line with that intended. I am sure that liaison with responsible groups such as the Trail Riders Fellowship can design and create viable low or zero cost options that secure the Council's statutory obligations while maintaining the access which is so important. This would of course be wholly in-line with the principles of de-regulation that are now upon us and cost effective.</p>	
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	<p>It seems that this proposal has not been thought out following the proper guidelines and I feel further review of the facts and figures should be taken into account before such drastic and unjustifiable measures are taken.</p>	
	<p>Writes to formally object to this proposal for the following reasons.</p> <p>I respect NYCC's broad intentions managing our roads in the County generally but in the present case they are in my submission misconceived. I am a regular user of the route affected and, after careful consideration, find that the issues or grounds for the TRO are not sufficiently made out.</p> <ul style="list-style-type: none"> * the primary mischief which is sought to be averted - risk to the public - is simply not made out on any evidenced-based approach; and * the secondary objectives can be achieved through other means including voluntary curbs, codes, signage and liaison with responsible groups of users. <p>In more detail:</p> <p>The risk to the public - which of course must be the Council's prime concern - is I submit less on the route subject to the proposed restriction than on most surfaced single carriageway roads because the speeds of the traffic involved is so much lower. Typically in my experience, speeds are below 15 mph, or well under half those on most of the local single track metalled roads. At critical points all responsible users slow to walking pace. Where different users meet vulnerable travellers they generally stop or slow to a suitable passing speed. Further, any real risk is from occasional irresponsible four wheel drive visitors - but these, in my experience, must be rare.</p> <p>Neither myself or any of my friends who also use this byway have not heard of a single instance of an actual accident or collision, or injury related incident on this route. If there has been one, perhaps you could share suitably redacted details. Compare that with the situation on any of the metalled minor roads in our County and the evidence is clear: there is no "real basis" for a restriction.</p>	<p>The re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons</p> <p>Comments noted however motorised vehicles can cause damage to the Route. Only removing their use can ensure that the route is preserved</p>

	<p>If a particular section offers a particular perceived risk then it can be signed or managed in a creative way. It must be wrong in principle to pass a fully proscriptive TRO to attempt to restrict the actions of a few irresponsible drivers. Firstly they will not pay attention to a TRO in any event and secondly this would not be done in respect of metalled roads where we all have anecdotal evidence or actual experience of foolhardy or dangerous drivers racing on A, B, C or other minor metalled roads with often fatal consequences. It is therefore no basis for a TRO to say that there may be some risk from irresponsible drivers where none has eventuated. In fact to the extent that there is any evidence of any potential risk then this indicates a lack of policing or resources neither of which are proper grounds for a TRO even if they existed.</p> <p>Once safety concerns are found not to justify a TRO, then the other issues, of preservation and conservation can be dealt with by less draconian measures than a TRO in line with that intended. I am sure that liaison with responsible groups such as the Trail Riders Fellowship can design and create viable low or zero cost options that secure the Council's statutory obligations while maintaining the access which is so important. This would of course be wholly in-line with the principles of de-regulation that are now upon us and cost effective.</p> <p>It seems that this proposal has not been thought out following the proper guidelines and feels a further review of the facts and figures should be taken into account before such drastic and unjustifiable measures are taken.</p>	
	<p>Objections to the proposed TRO on Kirby Bank.</p> <p>While my submission is a personal one. Would also like to inform you that he is a trail rider with 40 years experience, chair of the Teesside and North Yorkshire Trail Riders Fellowship and a member of the North Yorkshire Local Access Forum.</p> <p>Mr Cartwright is very disappointed with this proposal and particular its negativity. Would like to see what could be done to seek a solution or solutions that would be acceptable to all user groups. The Resident feels it is about facilitating access not prohibition.</p> <p>The brief letter stated the grounds for closure were safety, preservation, amenity improvement and protection of Kirby Trod</p>	<p>The re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons.</p> <p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>

	<p>With regard to safety can you provide any hard data on this. Evidence of incidents or indeed formal risk assessments? This argument of safety while it should be to the fore for all of us seems to be obtuse or even mischievous.</p> <p>With regard to the remaining arguments I see these as being combined. Preservation and protection while laudable (as a TRF member we see ourselves as a preservation society) comes in many forms and would like to see NYCC explore alternatives to a complete ban. I would suggest but not limited to such measures as temporary, seasonal, or directional restrictions. Doing so will ensure that this amenity will remain available to all users. Nr Cartwright is a regular user of the route and marvel and appreciate the country side and history that surrounds us. The damage to the Trod is criminal and came about by illegal use, a TRO does not stop that, it simply stops people like him appreciating our heritage. He appreciates there are limitations on funding within County but would encourage NYCC to explore external sources within the many user groups and will be proposing that the TRF make the offer of further donations.</p> <p>Appreciates the opportunity and would be very pleased to hear from NYCC if he can help in anyway to preserve "access for all" to this historical route.</p>	
	<p>Objects to the proposed TRO on the above named road. TRO's are supposed to be used as a last resort, I cannot find evidence of other controls having been tried or suggested. I would like to suggest one or a combination of the following could tried before resorting to a TRO. Signage, axle weight limit, ban on vehicles with 3 wheels or more, one way only (Downhill, Beak Hills to Toft Hill), Seasonal Closures, Total ban on 4x4's.</p>	
	<p>Strongly objects to your intention to put a Tro on Kirby bank, please forward me your reasons in detail for such a drastic decision. It appears as per usual that you are out to wipe out our minority pastime and the small local businesses we support. If you are successful of course you will only stop the law abiding riders amongst us and not the few who cause problems for the rest of us, and, as a result deflecting the Police from carrying out proper Police work as you create a new "CRIME".</p>	

	<p>Considers that your opinion of Trail riders in general is that we are a bunch of "Townie Yobs" When actually most of the are respectful.</p> <p>When the masses of ramblers make a mess of their thousands of miles of footpaths you fly in flagstones by helicopter to repair the damage they have caused, if any damage is perceived to have been caused by off-roading you try to impose a closure! If you hadn't persecuted our passtime and closed so many lanes as you have over the years there would not be such a problem with illegal riding, which you have inevitably caused yourselves.</p>	
	<p>Wishes to lodge my disappointment and objection to the proposed closure of the unclassified county road/ unmetalled road U1858/9 known as Kirby Bank. Understands that North Yorkshire County Council are seeking to close the road.</p> <p>Objector is a resident of Crathorne in North Yorkshire and hopes that views will be considered as part of the local community. Resident does not use a motor vehicle capable of navigating the road in question and has a standard road going car, but I does enjoy dog walking on the hills. Resident is a firm believer that the whole community should have a right to enjoy the countryside and excluding or criminalising/ labelling those who enjoy driving or riding roads that have not been metalled as destructive is not a positive move.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Understands that there are concerns about the route in question, but has as yet not come across an incident or accident where there has been any safety risk to the public, I would welcome the evidence that you have to refute this and look forward to the data in due course. <input type="checkbox"/> Notes comments re preserving and improving the amenity of this route – but for who? Shouldn't we try and be inclusive rather than exclusive? There are many routes not available to motorised vehicles all along the hillside, why close the limited number that remain? <input type="checkbox"/> Believes that motor vehicle user groups have in the past helped to preserve and maintain the route and therefore would prefer that the Council look to work with groups to preserve valuable amenities to benefit all in the community. <input type="checkbox"/> With regards to the route in question, believes that the gradient and width of the route at the most steep sections does however limit access for four wheeled vehicles and as such, believes that there is very little if any use by such traffic. 	<p>The re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons.</p> <p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved The resident was sent Route Assessment report authored by the North York Moors Park Authority</p>

	<p>Destruction of the surrounding land around the route i.e. grasses etc would be caused by 4x4's due to the limited access at certain points. Would it be possible to limit access to motorcycles which would not damage the surrounding area? An axle weight would address this issue</p> <ul style="list-style-type: none"> □ Also believes that the use of a TRO should be the last resort not your first response. Understands that a National Park Working Group (which includes 2 senior highways officers) has put forward an alternative solution which allowed limited access in a sustainable way, as a local community member, would like to stress my desire that you consider all options and opt for the way in which you can enable all in the community to enjoy the facility □ With regards to conservation of the route – will horses be permitted to continue to use the route? If so, believes that the damage caused by horses can be considerable and greater than that of limited axel weight vehicles, if horses are not restricted, believes the TRO based upon preservation is a mockery □ The Kirby Trod – The scheduled ancient monument The known surviving, flagged section forming Kirby Bank Trod, which forms the monument, extends from a point just east of The Warren, southwards uphill for just over 400m to a gateway onto the open moorland of the upper part of Kirby Bank. The route continues southwards up the hill, but appears to have been disturbed by later sledgeways and quarrying activity and so this southwards continuation of the route is not included in the scheduling. From the north end of the flagged section of Kirby Bank Trod, the route continues downhill (northwards) as a meandering hollow way, with a new, modern trackway to the west. <u>Again the route of the trod beyond the known extent of the flagged path is not included in the scheduling.</u> <p><u>Reference to</u> <u>http://list.historicengland.org.uk/resultsingle.aspx?uid=1405913</u></p> <p>The Trod section which is scheduled as noted above is rarely if at all used by vehicles, the Trod is nearly hidden from sight for most vehicle users and would be difficult to navigate. Should the scheduled section of the Trod wish to be preserved, Vehicle users should be deterred from using it and a diversion next to the site be used. Currently, I believe most users, including pedestrians do not</p>	
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	<p>use the Trod and simply use the grassy bank circa 20 metres to the left of the Trod as you walk up the bank.</p> <p>The remaining route is now a mixture of rock, hardcore type material, the resident does not believe that this material serves any natural or historic purpose. The resident acknowledges that there are marker points along the route made from huge stones/ stone blocks, but again, these are subject to all forms of natural erosion and these are standing pillars which would not get used or worn by vehicles as they are vertical.</p> <p>The resident therefore believes that the Trod although of importance can be preserved and maintained without exclusion to others.</p> <p><u>Summary</u> The resident believes that the issues under consideration and the concerns over preservation are only part of a bigger picture, can we manage the facility/ route for all. As a local resident, please could my views be considered and looks forward to at least an email confirming safe receipt of my objection. Please could you advise me of the outcomes in the future and provide meeting notes to detail that my concerns have been raised? I would also like to know under the freedom of information act the following information;</p> <ul style="list-style-type: none"> <input type="checkbox"/> What evidence has been gained to support the reasons for closure – safety concerns, use of the route by who and the frequency, how many walkers v's other users including horses, vehicles etc etc? <input type="checkbox"/> What other options were considered and if not implemented why not? <input type="checkbox"/> I also wish to have details of how many objections were received and how many people supported the proposal for a TRO 	
	<p>Objects to the proposed TRO to Kirby Bank. Lives in Swainby & along with lots of other TRf members uses this road regularly. The resident does not ever ride on the trod stones and it is obvious from the tracks at the side of the stones that most other riders do the same. The road can be managed & repaired, there is no need for a TRO ..The resident is considerate to other users and when he comes across walkers he slows down or stops to let them pass although in all the years. Has ridden this track for many years and this rarely happens .Everyone should be allowed to use OUR countryside to enjoy themselves, not just the chosen few.</p>	<p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>

	<p>Objects and has used the route for many years as a dog walker, mountain biker & trail rider.</p> <p>All riders are members of the TRF abide by the same code of conduct & are polite & courteous to other users (whether walkers, cyclists or horse riders) as & when seen.</p> <p>A group of Horses or Cyclists can cause just as much damage as a respectful trail rider.</p> <p>We always keep left of the ancient trod (as you go upwards) to avoid any damage to that.</p> <p>Considers it would be a great shame to close a long established right of way for a proportion of all current users.</p>	<p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>
	<p>..are you aware that this report is part of a project national parks had initiated on the future management of UCR in the parks boundaries. part of this process was the setting up of an advisory group consisting of myself ,John Richardson(chair of LARA),Catriona Cook mbe for the BHS,George Winn Darley representing land owners interests,Brynn Griffiths county councillor and nymnp board member,Allen Fullerton from NYCC highways and 3 senior parks officers including Karl Gerhardsen.After a day long site visit and discussion the concensus was a 4by4 ban and one way access for all other vehicles south to north(downhill).</p> <p>After the plan was put on hold due to budgetary restrictions, the TRF offered to fund parks to complete the agreed plan of works.This offer was made in front of the 3 senior park officers and as I remember Doug Huzzard. would ask you to include these facts in your report to the highways committee</p>	<p>Comments noted however officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only way to ensure that the route is preserved</p>
	<p>Would like to know on what evidence NYCC Highways have decided that the public road is only the width of the trod and its banks at the northern end. Historically this is incorrect, since these raised trods were built in such areas to separate the ridden and packhorse traffic from the wheeled traffic. Has doused the whole length and the width of the historic route is some 20 feet from the bottom of the banks,(it went into the rough to the east beyond the short grass) which would be expected historically. This flat area is more than sufficient for motorcycles to pass in a one way system as proposed by the</p>	<p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>

	<p>working group, without doing any damage. There was one minimal rut when we visited which had been over exaggerated in the later report to great damage.</p> <p>Objects to the proposed TRO since it is not based on factual evidence, and as such is a practice by a public authority cannot support it.</p> <p>Looks forward to hearing what evidence was deduced for the width of the public road.</p>	
<p>District Commissioner Stockton, Thornaby & District Scouts</p>	<p>Writes as capacity as District Commissioner for Stockton, Thornaby & District Scouts (Charity No: 524704). I and my District Executive Committee, are Trustees of the District Scout Council and responsible for our District Scout Camp Site which is situated adjacent to the green lane (U1858/9) at Hill Road at Toft Hill. We purchased the land and Warren Cottage on 30 November 1977. For your benefit I enclose a copy of the Conveyance and the HM Land Registry Certificate which shows we are the legal owners. As you will see, this includes the U1858/9 from the green gate at the end of Hill Road (at Toft Hill) to the end of our land boundary.</p> <p>On attending the Scout Camp Site last weekend, we noticed a laminated copy of the proposed Order attached to our gate.</p> <p>To say we are a little disappointed at the lack of consultation / communication between NYCC and ourselves prior to this issue of this proposed Order would be an understatement. We should like to be informed as to why we were not consulted prior to the issue of the proposed Order.</p> <p>Your proposed Order states that any motor vehicle will be prohibited from travelling along the U1858/9 "except for access for private land management". We are extremely surprised that as land owners, this proposed Order would forbid us from accessing our own land and the properties thereon. At the moment, we go through the metal gate (at Toft Hill), travel a little way along the U1858/9 (less than 30 yards) and then access the track / bridleway on the right hand side in order to gain access to Warren Cottage and the Scout Camp Site.</p> <p>Each year, the Camp Site is used by hundreds of Scouts, Guides and Duke of Edinburgh Award participants from February to December and the effect of not being able to gain vehicular access to Warren Cottage and Scout Camp Site would be</p>	<p>This objection has been satisfied as the TRO being considered allows access to private land. The District Commissioner for the Scouts has been made aware of the current provisions for access and is satisfied with the proposals.</p>

	<p>enormous. Whilst most Groups gain access to the Scout Camp Site from pedestrian routes, they do need to use transport to get camping equipment and food to the Scout Camp Site. There is also a requirement for business / maintenance vehicles to attend the site from time to time (we have a cess pit tank that needs emptying, as well as other basic maintenance - alarms, water filtration system, electrical etc). We also have a number of physically disabled members, who would not be able to access the Scout Camp Site if vehicular access was denied. If we were unable to gain vehicular access to our Scout Camp Site, your proposed Order would effectively close it down / leave us unable to use our own properties / land.</p> <p>In August 2013, we were contacted by North Yorkshire Moors National Park Authority and asked to complete a Consultation Paper regarding the U1858/9 and I attach a copy of our response to this.</p> <p>Therefore, on behalf of Stockton, Thornaby & District Scouts, I should like to object to your proposed Order on the basis that to close the U1858/9 would deny us (as land owners) full and proper access to our property/land, ie: Warren Cottage and the District Scout Camp Site as shown/noted in the attached HM Land Registry Plan and Conveyance of 30 November 1977.</p> <p>We would be grateful if you would consider amending to the proposed Order so that we could have "<i>unimpeded vehicular access for the first 30 yards of the U1858/9 at the end of Hill Road at Toft Hill in order to gain access to the track / bridleway for the purposes of accessing our property and land in order to carry out Scouting activities and land maintenance</i>". If this were acceptable to you, we would consider withdrawing our objection.</p> <p>We would suggest that to progress this matter to a satisfactory and mutually beneficial conclusion, we meet with you to discuss the situation and impact on our District Scout Camp Site or that the proposed Order can be amended to enable us to be able to gain full and proper access to our property.</p>	
	<p>Objects to the above proposal which is a valuable link which the resident has used for many years.</p>	<p>Comment noted</p>

	<p>Wishes to object to the proposed traffic regulation order (TRO) on this road.</p> <p>This is a road that the resident has used many times over the last 30 years, as it is an important unsurfaced road linking the north of the area, to the south.</p> <p>It has been sustainable for most of these years, It is in a reasonable state of repair, considering the only maintenance on this road was carried out by a group of volunteers approximately 14 years ago.</p> <p>Does not think this road should be closed without first trying other methods of managing sustainability for multi-users, such as sessional TRO's, weight limits/width restrictions. This lane in my view should be used downhill only in the winter months. These methods of management are cost effective and work well in other areas, such as Northumberland and the Isle of Man.</p>	<p>Comments noted officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only way to ensure that the route is preserved</p>
	<p>Writes to complain and object to the proposed closure of Kirby Bank</p> <p>Has used this legal road with my road legal motorcycle for over 20 years to cross both up and down Kirby Bank</p> <p>Has seen no increased use over the last 20 years or a deterioration in the road, which would cause the Highways dept to recommend closure by applying a TRO to Kirby Bank road</p> <p>Therefore strongly objects the implementation of a TRO to close this road</p>	<p>Comments noted however officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only way to ensure that the route is preserved</p>
	<p>Wishes to object to the above named order. Why have controls/restrictions not been considered before a full prohibition.</p>	<p>Comments noted however officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only way to ensure that the route is preserved</p>
	<p>Asks for someone to respond to this objection and tell me why this TRO is proposed.</p> <p>This seems unfair and unjust.</p>	<p>Comments noted however officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only</p>

	<p>The Road is sustainable, is in an ok state of repair, despite not had any maintenance since the TRF repaired the lane 15 or so years ago.</p> <p>Why have seasonal TRO's / weight/axle limits not been used to maintain multi users?</p>	way to ensure that the route is preserved
	<p>The resident states this is an enjoyable, lane which he has ridden his motorcycle over many years and therefore objects to the proposal to prohibit motorcycles. The surface for the majority of the route is hard packed stone. The view from the top is magnificent. And cannot see the benefit of closing it to legitimate, legal motorcycles.</p>	Comments noted
	<p>Wishes to object to the notice advertised on the lane.</p>	Objection noted
	<p>Would like to object to the proposal to close kirby to motor vehicles without proposing other such potential restrictions such as weight limits, seasonal access</p> <p>Has ridden this route many times and notice the damage caused by tree felling vehicles and would like to see this damage repaired properly before going to such final closure</p>	Objection noted
Trail Riders Fellowship	<p>Unfortunately is unable to give a full response to the order as you have not given a full account of reasons and evidence to back up your desire to close the road. There is also no reference to the recent work carried out by Moors National Parks on this specific route in conjunction with user group representatives and senior highway representatives from County Council at which a completely different strategy was agreed.</p>	Comments noted however officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only way to ensure that the route is preserved
	<p>Has received notification from the T.R.F regarding the possible closure of Kirby Bank and does not agree with the two reasons stated in the letter the first one being the safety of public using the route. Has been using the route for many years rarely sees walkers on the route at the same time as he is using it, and if so always stop and be polite and courteous to anyone on the trail even though we often get unsavoury remarks from certain walkers, so does not agree that we put anybody at risk by riding the trail. The second reason is to preserve the ancient monument known as Kirby Trod, we were advised to ride to the side of the ancient path and myself and my fellow trail riders always keep to the left of the trod, so we would not put any risk to the ancient trod.</p>	Comments noted however officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only way to ensure that the route is preserved

	<p>It is a great shame that we cannot all enjoy the beautiful area that we live in our trails are diminishing by the year and if this one also closes that would possibly be the last straw for me as it is my only hobby.</p> <p>Is aware that there is a minority of riders who abuse the land and give hard working T.R.F. members a bad name but these people will still ride the trails illegally and we would be unable to monitor people abusing the trails, as believes we help to manage trails, and would certainly report anyone misbehaving on any trail. Would ask to seriously review this matter before making a decision as it will affect a great many law abiding citizens enjoying their often as for myself a lifelong hobby, and at Fifty Seven years old and a local landlord would not consider himself irresponsible..</p>	
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Record of decision that Equality Impact Assessment is not required	
Directorate and service area	BES / H&T
Name and contact of officer(s) taking decision that EIA not required	
Jayne Charlton	
What are you proposing to do?	
Prohibition of motor vehicles except for access.	
Why are you proposing this?.	
The County Council as the Highway Authority considers that the recreational use of Kirkby Bank by motor vehicles to be unsustainable from a maintenance perspective. Also for a health & safety point of view given the existing damage that has occurred.	
Does the proposal involve a significant commitment or removal of resources?	
There are no significant financial implications as the cost of the necessary signing can be met by the signs lines and TRO's budget	
Will this proposal change anything for customers or staff? What will change?	
It will impact on the ability of individuals to use the route with motor vehicles.	
Will the proposal make things worse for people with protected characteristics (age, disability, sex, disability, gender reassignment, religion or belief, pregnancy or maternity, marriage or civil partnership)? (Customers, staff etc). How do you know? Do you have any evidence to support your assessment?	
No. This proposal has no negative effects on the groups as described above because it does not affect their right to use the route it only effects the way in which the route is used.	
If there might be a negative impact on people with protected characteristics can this impact be reduced? How?	
We don't believe that the proposals will bring a negative impact for residents or visitors with protected characteristics. However Thirsk Area office will continue to monitor feedback and comments about the scheme and consider whether any further changes are required.	
Could the proposal have a significant negative impact on some people with protected characteristics or a less severe negative impact on a lot of people with protected characteristics? If "Yes" more detailed analysis should be undertaken and an EIA completed.	
There is no information to suggest this.	
Does the proposal relate to an area where there are known inequalities (e.g. disabled people's access to public transport)?	
No	
Could the proposal have a greater negative impact on people in rural areas?	
No	

Could the proposal have a worse impact on people with less money? No		
Will the proposal have a significant effect on how other organisations operate (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? No		
Do the answers to the previous questions make it reasonable to conclude that there will be no or very limited adverse impacts on people with protected characteristics?	Yes	
Will there be no or limited adverse impacts on people in rural areas?	Yes	
Will there be no or limited adverse impacts on people with less money?	Yes	
Further analysis and full EIA Required		No
Decision not to undertake EIA approved by (Assistant Director or equivalent)	Barrie Mason	
Date:	10.10.2017	

North Yorkshire County Council

Business and Environmental Services

Executive Members

17 November 2017

Proposed Prohibition of Motor Vehicles, U1858/9 Kirby Bank

Report of the Assistant Director – Highways and Transportation

1.0 Purpose Of Report

- 1.1 The purpose of the report is to advise the Corporate Director Business and Environmental Services (BES) and the BES Executive Members of a procedural error following the recent approval of the proposed Prohibition of Motor Vehicles Traffic Regulation Order (TRO) on a section of the Unmetalled Unclassified road, U1858/9 Kirby Bank and to seek approval for a recommended way forward.

2.0 Background

- 2.1 On 20 October 2017 a report was presented to the Corporate Director BES and the BES Executive Members to advise of the results from a consultation and public advertisement exercise undertaken in relation to the introduction of a Prohibition of Motor Vehicles Traffic Regulation Order (TRO) on a section of the Unmetalled Unclassified road, U1858/9 Kirby Bank and to seek approval for a recommended way forward. A copy of the report is attached at Appendix 1
- 2.2 At the meeting and having considered all representations and objections submitted in response to the consultations and public advertisements, taking into account other possible orders which could be made in respect of the route and the current significant damage to the route, the Corporate Director BES, in consultation with the BES Executive Members considered it is expedient for the order to be made for the reasons set out in the revised Statement of Reasons and that its continuing use by motor vehicles is likely to cause further damage to the road and will also have an adverse effect on its existing character and the amenities of the area.
- 2.3 In recommending the implementation of the proposed TRO, it was considered that it will enable the County Council to comply with its duty under Section 122 of the Road Traffic Regulation Act 1984 to secure 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.
- 2.4 Since the meeting on the 20 October it has become apparent to officers that there has been a procedural error within the process. It has come to light that prior to the meeting on 20 October not all objectors and supporters who had made representations to the proposed traffic regulation order had been notified of the meeting.

2.5 Letters have been sent to the named contact for all 98 representations to the proposed Traffic Regulation Order, in objection or support, as referred to in the report present on 20 October 2017 (Appendix 1), to advise of this report being presented and to provide an opportunity for those persons who were not notified of the October meeting to attend on 17 November 2017.

3.0 Financial implications

3.1 As set out in Appendix 1 of this report, the budget is available to introduce the restriction from the existing Signs Lines and TRO budget held by the Area Office.

4.0 Legal Implications

4.1 As set out in Appendix 1 of this report

5.0 Equalities Implications

5.1 As set out in Appendix 1 of this report

6.0 Recommendations

6.1 It is recommended that:

- a) the results of the consultation exercise detailed in Appendix 1 are noted;
- b) the Corporate Director, BES, in consultation with the BES Executive Members approve the introduction of the Prohibition of Motor Vehicles Traffic Regulation Order on the Unmetalled Unclassified road, U1858/9 Kirby Bank.

BARRIE MASON
Assistant Director – Business and Environmental Services

Author of Report: Jayne Charlton

Background documents: None

North Yorkshire County Council

Business and Environmental Services

Executive Members

20 October 2017

Proposed Prohibition of Motor Vehicles, U1858/9 Kirby Bank

Report of the Assistant Director – Highways and Transportation

1.0 Purpose Of Report

- 1.1 The purpose of the report is to advise the Corporate Director, Business and Environmental Services (BES) and the BES Executive Members of the results from a consultation and public advertisement exercise undertaken in relation to the introduction of a Prohibition of Motor Vehicles Traffic Regulation Order (TRO) on a section of the Unmetalled Unclassified road, U1858/9 Kirby Bank and to seek approval for a recommended way forward.

2.0 Background

- 2.1 The road runs from Toft Hill, Kirkby in Cleveland, to Beak Hills Farm where it becomes a tarmac lane running southwards into Raisdale as shown on the plan in Appendix 1
- 2.2 The northern section of the route runs through the Scheduled Ancient Monument (SAM) of Kirby Bank Trod (the scheduled area is a 10m wide strip encompassing the Trod, its embankment and a 2m protective strip over a distance of 400 meters) A SAM is a historic building or site that is included in the Schedule of Monuments kept by the Secretary of State for Digital, Culture, Media and Sport. The regime is set out in the Ancient Monuments and Archaeological Areas Act 1979 (1) which is administered by Historic England.
- 2.3 The Central section runs through a Site of Special Scientific Interest (SSSI), a Special Area of Conservation (SAC) and Special Protection Area (SPA). An SPA is the highest level of protection which can be given under European Law.
- 2.4 There is considerable erosion to all sections of the route described above caused by wheel ruts, and water run-off channelled down the ruts. It is considered that the wheel ruts have been caused predominantly by motor cycles as there are no parallel ruts which would be consistent with the use of 4 wheel drive vehicles. Erosion extends SAM and several alternative routes have been developed on the adjacent hillside (off the line of the highway). The central section has also been eroded and vegetation lost with deep linear ruts across its full available width.
- 2.5 The route is used on a regular basis by off road vehicles including two wheeled trials bikes and four wheel drive vehicles. The route is also a popular route for walkers and horse riders.

3.0 Consultation

- 3.1 Following a route assessment carried out by the North York Moors National Park Authority (NYMNP) and subsequent report, The County Council as Highway Authority was asked to implement a Prohibition of Motor Vehicles Traffic Regulation Order under the Road Traffic Regulation Act 1984 (the 1984 Act) on Kirkby Bank to prevent future damage to Kirkby Bank, specifically to the Scheduled Ancient Monument of Kirby Bank Trod.
- 3.2 The proposed Prohibition of Motor Vehicles will prevent two wheeled and four wheeled motor vehicles from using Kirkby Bank, unless requiring access to adjacent land and property, whilst maintaining access for walkers, horse riders and cyclists.
- 3.3 As part of the assessment carried out by NYMNP the numbers of two wheeled and 4 x 4 vehicles using the route were monitored between December 2012 and August 2014. The results showed that a daily average of three motorised passenger vehicles used the route which were predominantly two wheeled. Whilst there were recordings of 4 x 4 vehicles using the route, usage by these types of motor vehicle was infrequent.
- 3.4 A further condition survey has been carried out by officers during August 2017. A copy of the condition report is provided in Appendix 2. The survey has shown that there is currently significant damage to the route with ruts upto 40cm deep in parts. It is evident that the ruts have been caused by motorcycle use as they are single linear wheel ruts and markings and are not a consistent width apart. Whilst there is no evidence of recent damage to the stone slabs of the Trod as this is protected by vegetation, there are severe ruts within the SAM upto 30cm deep. The central section of the route which runs through the areas of SSSI, SAC & SPA are the most significantly damaged part of the highway with almost all the surface vegetation removed and deep ruts upto 40cm that represent a risk to users.
- 3.5 Consultation documentation was sent to key stakeholders and affected properties including the Elected Member and the Parish Council during May 2015 and the proposed Order was subsequently publicly advertised in August 2015.
- 3.6 A number of objections were received from statutory consultees and members of the public, including users of the route. Some of the objections raised concerns over the reasons for introducing the Order, as set out in the original Statement of Reasons, which related specifically to safety reasons, i.e. avoiding danger to persons or other traffic using the road. Officers therefore, reconsidered the reasons for proposing to make the Order and re-advertised it in December 2016. The Order and Statement of Reasons in its revised format gave specific consideration to the County Council's Duty under Section 122(1) of the Road Traffic Regulation Act 1984 and cited the prevention of damage to the road as one of the reasons for proposing to make the Order – a copy of the revised Statement of Reasons is attached to this Report as Appendix 3. All statutory consultees and key stakeholders were informed of the changes to the Order and asked for comments.

4.0 Consultation Results/Officer comments

- 4.1 All objections received in response to the consultation are included in the schedule attached to this report as Appendix 4. Any comments received from the initial consultation in May 2016 have also been included in the schedule.

- 4.2 A total of 26 objections have been received. 72 letters of support have also been received, however due to the numbers of objections the details of letters of support have not been included in this report however they are available at the Area Office. The Elected Member, who has also confirmed support for the proposed Order, has advised officers of receipt of supporting letters from stakeholders and members of the public.
- 4.3 Objections have been received from the Trial Riders Federation (TRF). The main reasons for their objections are;
- the restriction is over restrictive,
 - inadequate consultation
 - There will be a restriction on invalid carriages
- 4.4 With regard to the suggestion that the proposed Order is over restrictive, continuing use by motorised vehicles will cause further damage to the whole route. Only the removal of all vehicles will ensure that the whole route is preserved.
- 4.5 All statutory consultees and stakeholders were given 21 days to respond to the consultation. With regard to the TRF, initially they were not consulted, as at the time of the original consultation TRF were not listed on the County Council's list of statutory consultees and stakeholders. Officers subsequently recognised that it was appropriate to consult the TRF, as an organisation representing persons likely to be affected by the provisions of the Order (as prescribed by the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996) and ensured that a consultation was sent to the Federation giving them the statutory 21 days to respond to the letter.
- 4.6 The TRF has suggested an alternative proposal which essentially involves the introduction of a Prohibition of Motor Vehicles Order with exemptions for members of the TRF pursuant to Regulation 5(b) of the Motor Vehicles (Competitions and Trials) Regulations 1969, which authorises "*an event (involving the use of motor vehicles on a public highway) in which no merit is attached to completing the event with the lowest mileage and in which, as respects such part of the event as is held on a public highway, there are no performance tests and no route and competitors are not timed or required to visit the same places; except that they may be required to finish at the same place by a specified time*". . If such a specific exemption were included in the Order, it would be difficult to enforce and enforcement would be resource intensive. It would require regular liaison with the TRF regarding the frequency and prior notification of such events and enforcement on the days where events are not taking place.
- 4.7 With regard to the proposed modification to take account of invalid carriages, Section 20(1)(b) of the Chronically Sick and Disabled Persons Act 1970 provides that a mechanically propelled vehicle which is an invalid carriage complying with the prescribed requirements and being used in accordance with the prescribed conditions is to be treated for the purposes of the 1984 Act as not being a motor vehicle – the Order would not therefore require further modification in this respect.
- 4.8 A response was received from the local representative of the British Horse Society (BHS) who indicated the Society's support for the proposed order. A subsequent letter of objection was also received from the BHS the basis of the objection was that they consider the proposed Traffic Regulation Order to be against natural justice and there appears to be no outlined plan of working constructively with all users of the road.
- 4.9 It is acknowledged that the TRF have previously carried out voluntary repair works on the route with the NYMNPA however, without a restriction of use by motor vehicles, officers consider that it is not possible to ensure that the route is preserved.

5.0 Financial implications

- 5.1 The budget is available to introduce the restriction from the existing Signs Lines and TRO budget held by the Area Office.

6.0 Legal Implications

- 6.1 Consideration has been given to the potential for any legal implications arising from the recommendation.
- 6.2 A new process for the consideration of objections to TRO's was approved by the Executive on 29 April 2014 and County Council on 21 May 2014. The consideration of objections to TRO's is now a matter for the Executive and the role of the Area Committee is changed to a consultative role on wide area impact TRO's. The consideration of objections has been delegated by the Executive to the Corporate Director – BES in consultation with BES Executive Members. The new decision making process relates to the provision and regulation of parking places both off and on the highway where an objection is received from any person or body entitled under the relevant statute. A wide area impact TRO is classed as a proposal satisfying all of the three criteria set out below:
- The proposal affects more than one street or road and.
 - The proposal affects more than one community and
 - The proposal is located within the ward of more than one County Councillor.
- 6.3 The proposed TRO has not been classed as a wide area impact TRO and therefore the Area Committees views have not been sought.
- 6.4 In the event that the BES Executive Members and BES Corporate Director resolves to follow the recommendations contained in this report, then in accordance with the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996, the County Council will be required to make a Traffic Regulation Order (with or without modifications) and publish a notice of making the Order in the local press. The County Council will also be required to notify the objectors of its decision and the reasons for making that decision within 14 days of the Order being made.
- 6.5 Where an Order has been made (i.e. sealed), if any person wishes to question the validity of the Order or any of its provisions on the grounds that it or they are not within the powers conferred by the Road Traffic Regulation Act 1984, or that any requirement of the 1984 Act or of any instrument made under the 1984 Act has not been complied with, they may apply to the High Court within six weeks from the date on which the Order is made.
- 6.6 In recommending the implementation of the proposed TRO, officers consider that it will enable the County Council to comply with its duty under Section 122 of the Road Traffic Regulation Act 1984 to secure 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.

7.0 Equalities Implications

- 7.1 Consideration has been given to the potential for any adverse equality impacts arising from the recommendation. It is the view of officers that the recommendation does not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010. Appendix 5 includes a copy of the Equalities Impact Assessment decision form .

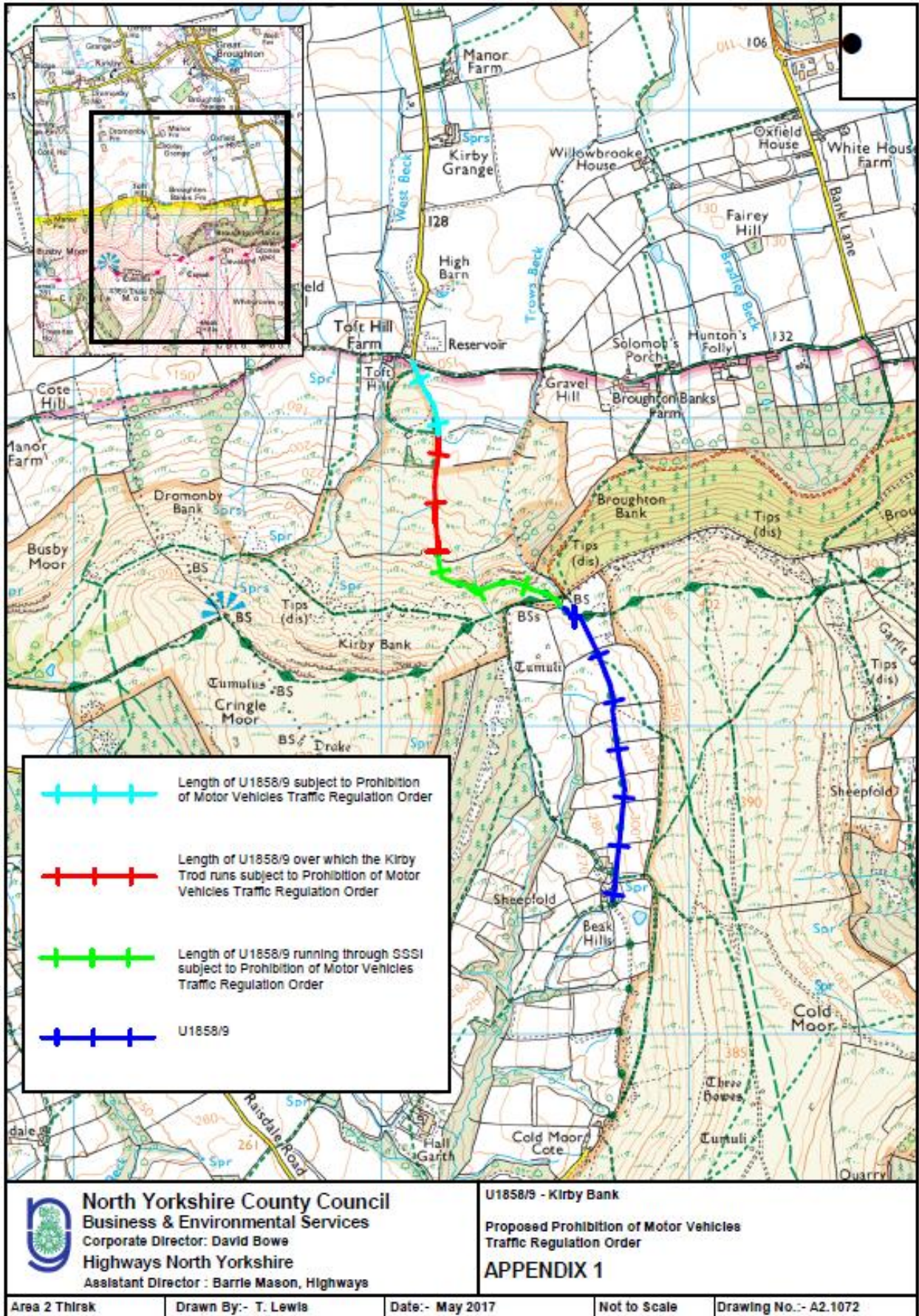
8.0 Recommendations

- 8.1 It is recommended that:
- a) the results of the consultation exercise are noted
 - b) The Corporate Director, BES, in consultation with the BES Executive Members approve the introduction of the Prohibition of Motor Vehicles Traffic Regulation Order on the Unmetalled Unclassified road, U1858/9 Kirby Bank

Barrie Mason
Assistant Director – Business and Environmental Services

Author of Report: Jayne Charlton

Background Documents:None



 **North Yorkshire County Council**
 Business & Environmental Services
 Corporate Director: David Bowe
 Highways North Yorkshire
 Assistant Director: Barrie Mason, Highways

U1858/9 - Kirby Bank
 Proposed Prohibition of Motor Vehicles
 Traffic Regulation Order
APPENDIX 1

Area 2 Thirsk	Drawn By:- T. Lewis	Date:- May 2017	Not to Scale	Drawing No.:- A2.1072
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Condition Report – U1858/9/70 Kirkby to Raisdale

Report date: 25 August 2017

Route map: attached as appendix 1, route shown as a bold broken line

Detailed survey report: attached as appendix 2

Introduction

1. U1858/9/70 is situated in Kirkby and Bilsdale Midcable parishes, Hambleton inside the North York Moors National Park. The highway runs from the south end of Hall Lane (U1858/1/80) to the gate onto the track to Beak Hills (U1858/9/30).
2. U1858/9/70 is an unsurfaced, unclassified road that runs within Kirkby Bank Trod (a scheduled ancient monument shown on the map at appendix 1). The highway ascends the northern face of the Cleveland Hills meaning that the elevation of the northern end of the route is approximately 160 metres lower than the southern end.
3. The scheduled ancient monument (SAM) is approximately 400m long and 10m wide. The highway is within the scheduled area for the entire length of the monument and the used width is generally 2.4m along the whole route but varies significantly in places.

Current conservation designations on the route

4. Between points C and F on the map attached as appendix 1 the highway passes through an area designated as a special area of conservation (SAC), a special protection area (SPA), and a site of special scientific interest (SSSI). The highway is also within the boundary of the North York Moors National Park.

State of repair at the time of survey

5. The section between A and B (shown on the plan at appendix 1) is largely in a reasonable condition with a mostly grass surface. As can be seen in the photos, the highway between the start of the route and the scout building has pronounced "wheelings" and in one area (photo 1) surface wear on the gradient has caused the sub-surface to be exposed. The rest of the way to point B is largely grassed over but there is evidence of many ruts caused by past use.
6. The adjacent hedges are not encroaching on to the highway to any substantial degree. There was no evidence of recent damage to the stone slabs that are the visible part of the trod. However because part of this section of the highway is within the SAM any damage to the surface constitutes damage to the scheduled area.
7. The section between B and C continues to be largely grassed with some evidence of ruts now covered in vegetation. However, part of the route towards point C has one severe rut that is in places approximately 30cm deep. The presence of off road tyre prints in places suggests that the rut has, at least in part, been caused by motorcycle use. Given the slippery nature of the surface in places, the rut is deep enough to represent a risk for pedestrians, equestrians, and cyclists.
8. Where there are adjacent hedges or other vegetation it is not encroaching on the highway to any significant degree. There did not appear to be any recent damage to the visible stones of the trod but at the time of the survey it was largely covered in bracken at this point. However because all of this section of the highway is within the SAM any damage to the surface constitutes damage to the scheduled area.
9. The section C-D-E is the most significantly damaged part of the highway. Almost all of the surface vegetation has been removed. There are deep ruts that represent a

Condition Report – U1858/9/70 Kirkby to Raisdale

Report date: 25 August 2017

Route map: attached as appendix 1, route shown as a bold broken line

Detailed survey report: attached as appendix 2

Introduction

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Current conservation designations on the route

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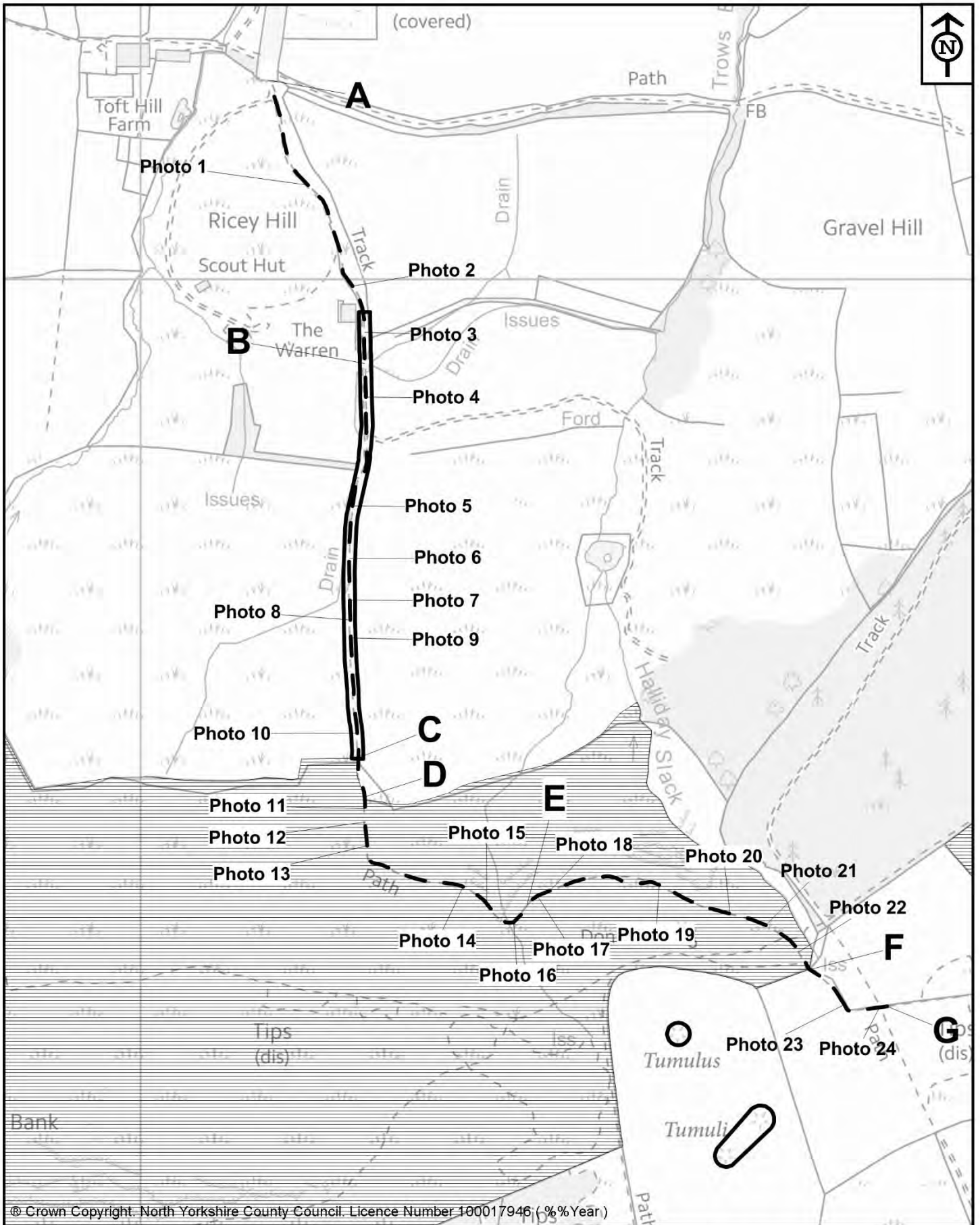
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6. The adjacent hedges are not encroaching on to the highway to any substantial degree. There was no evidence of recent damage to the stone slabs that are the visible part of the trod. However because part of this section of the highway is within the SAM any damage to the surface constitutes damage to the scheduled area.
7. The section between B and C continues to be largely grassed with some evidence of ruts now covered in vegetation. However, part of the route towards point C has one severe rut that is in places approximately 30cm deep. The presence of off road tyre prints in places suggests that the rut has, at least in part, been caused by motorcycle use. Given the slippery nature of the surface in places, the rut is deep enough to represent a risk for pedestrians, equestrians, and cyclists.
8. Where there are adjacent hedges or other vegetation it is not encroaching on the highway to any significant degree. There did not appear to be any recent damage to the visible stones of the trod but at the time of the survey it was largely covered in bracken at this point. However because all of this section of the highway is within the SAM any damage to the surface constitutes damage to the scheduled area.
9. The section C-D-E is the most significantly damaged part of the highway. Almost all of the surface vegetation has been removed. There are deep ruts that represent a


- risk to users and in many places the surface of the way is comprised mostly of rock. In addition, in places the rock has worn unevenly and created steps within the ruts.
10. The section E to F exhibits the most braided part of the highway survey. There are multiple ruts that are up to 40cm deep in places. At two points along this section users have sought to avoid rutted and wet areas by using higher ground to the north (photos 17 and 19). These “higher ways” have then also become rutted themselves. The ruts along this section are of such a depth and length that they would constitute a significant risk to pedestrian, equestrian and pedal cycle users.
 11. Furthermore, as the “higher ways” are not part of the highway these diversions may be seen as trespass and causing damage to private land.
 12. The section F to G is in much better condition than the previous section. The surface is again mostly covered in vegetation.

Works required to bring it to a maintainable standard

13. Before any works are undertaken in the vicinity of the trod NYCC heritage and Historic England should be consulted. Similarly before any works are carried out within the SAC, SPA, or SSSI NYCC heritage, North York Moors National Park and Natural England should be consulted.
14. The ruts along the highway need to be filled in or the width of the surface re-graded in order to make it useable by the public.
15. In those areas where the surface is predominantly vegetation the ruts should either be directly filled with earth with a final surface of laid turf or filled with earth and protected to allow the vegetation of the surrounding surface to re-colonise the damaged areas.
16. Within the SAM re-grading is unlikely to be an option open to the highway authority because of the damage that may be caused to the monument. Further advice should be sought from Historic England.
17. Where the surface of the highway is natural stone more extensive work would be required to remove the ruts and “steps”. This is because the rock would need to be broken and re-profiled to establish a usable surface.
18. As the section where the rock is exposed (C-D-E) is not within the SAM there should be no barrier on the highway authority carrying out the work. However, consideration must be given to how potentially heavy machinery would gain access to the area. Historic England may not allow it to pass over the SAM.
19. Advice should also be sought from the various responsible agencies regarding highway repairs within the SPA, SAC, and SSSI.
20. Owing to the degradation of the surface south of the trod it is not possible to determine whether the route was ever constructed or maintained to the standard required for vehicular traffic.






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**North Yorkshire
County Council**

Network Management
Highways & Transportation
County Hall
Northallerton
DL7 8AH

Key:
 Surveved route 
 Scheduled Ancient Monument 
 SSSI, SPA & SAC 

Map drawn on 29 August 2017
 Drawn by RJV 1:4500

North Yorkshire County Council

APPENDIX 1

Highway U1858/9/70
 Condition report map

File Ref No.

Unsealed Route Condition Survey

Route Name	Kirkby Bank Trod	Start Point	Southern end of Hill Road
ID/Road No	U1858/9/70 (Kirkby to Raisdale)	Grid Ref	454112 504174 (NZ 54112 04174)
Survey Date	22 August 017	End Point	Gate onto track to Beak Hills
Surveyor	SM & RJV	Grid Ref	454657 503358 (NZ 54657 03358)
Any Relevant Comments on Weather or Prevailing Ground Conditions			

Photo no.	Metres from start	Width of gateway or other limitation	Surface type	Water status	Evidence of use or disturbance	Approx no. of ruts	Width of main rut damage (cm)	Width of extreme rut (cm)	Depth of extreme rut (cm)	Total width (cm) of braiding (all linear ruts)	Comments
	0	3.3m gateway	MMS, SL, VG	D	General wear no specific class of user identifiable						
1	100		MMS, VG	D	General wear no specific class of user identifiable						Possible water damage on eastern side of highway where the sub surface has been exposed.
2	200		MMS, VG	D	General wear no specific class of user identifiable						
3	243		VG, SL	W	MB	2	150cm	15cm	10cm		No obvious signs of damage to or use of the trod
4	300		VG, SL	D	MB						
5	400		VG	D							
6	447		VG, SL	EM	MB, MQ?	3	150cm	30cm	30cm		EM = approx. 150cm wide 600cm long
7	485		VG, SL	W	MB	2	150cm	30cm	20cm		
8	500		VG, SL	W		2	180cm	25cm	35cm		
9	516		VG, SL	W		3	180cm	45cm	30cm		

Photos



Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7



Photo 8



Photo 9



Photo 10



Photo 11



Photo 12



Photo 13



Photo 14



Photo 15



Photo 16



Photo 17



Photo 18



Photo 19



Photo 20



22.08.2017 12:39

Photo 21



22.08.2017 12:41

Photo 22



22.08.2017 12:47

Photo 23



22.08.2017 12:47

Photo 24

Unsealed Route Survey – Key/Abbreviation Codes

Surface Type		Water Status	
NR	Natural rock	D	Surface mainly dry
SL	Soil/earth/sand/clay	W	Some water present
VG	Vegetation-grass	ESW	Extensive standing water (specify dimensions in comment box)
VH	Vegetation-heather	EM	Extensive mud (specify dimensions in comment box)
VO	Vegetation-other (specify in comments box)	WFX	Water flowing across route surface
P	Peat	WFL	Water flowing along route surface
MMS	Man-made surface – unsealed – stone/aggregate/gravel	WD	Water damage or washout visible
MMT	Man-made surface - sealed (e.g. tarmac/concrete)		
MMD	Man-made surface - degraded – e.g. broken up tarmac or concrete	Surface Disturbance/Evidence of Use	
MMO	Other man-made surface - specify in comments box	NMF	Non-motorised trampling by feet
O	Other surface not listed above- specify in comments box	NMH	Non-motorised trampling by horses
		NMC	Non-motorised 'wheeling' by pedal cycles
Ruts and Gullies		MB	Motorised - motorcycles
Record:		MQ	Motorised - quad bikes
1	Approx no.ruts across the surface at photo-point (or record 'none')	M4W	Motorised - 4x4 or other standard-sized passenger vehicles
2	Depth and width of deepest rut or gully in cm.	MT	Motorised - tractors or other large non-passenger vehicles

3	Width of the area of concentrated rut damage, in m	MM	Mixture of motorised vehicles
4	For braided routes, record the total width of braiding	All	Disturbance caused by all categories of user
		S	Stock damage

PROPOSED PROHIBITION OF MOTOR VEHICLES – U1858/9, KIRBY BANK

STATEMENT OF THE COUNCIL'S REASONS FOR PROPOSING TO MAKE THE ORDER

LEGAL POWERS AND DUTIES

Under Section 1(1) of the Road Traffic Regulation Act 1984 the County Council, as traffic authority for North Yorkshire, has powers to make a Traffic Regulation Order (TRO) where it appears expedient to make it on one or more of the following grounds:-

- (a) for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising, or
- (b) for preventing damage to the road or to any building on or near the road, or
- (c) for facilitating the passage on the road or any other road of any class of traffic (including pedestrians), or
- (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, or
- (e) (without prejudice to the generality of paragraph (d) above) for preserving the character of the road in a case where it is specially suitable for use by persons on horseback or on foot, or
- (f) for preserving or improving the amenities of the area through which the road runs; or
- (g) for any of the purposes specified in paragraphs (a) to (c) of subsection (1) of Section 87 of the Environment Act 1995 (air quality).

Section 122(1) of the Road Traffic Regulation Act 1984 also provides that it shall be the duty of every local authority upon whom functions are conferred by or under the 1984 Act so to exercise those functions as to secure 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.

REASONS FOR MAKING THE ORDER

The County Council considers that it is expedient to make this TRO on grounds (b), (d), (e) and (f) above, having taken into account its duty under Section 122(1) of the 1984 Act, for the following reasons:-

Location of Proposed Order

Kirby Bank, between the gateway at the southern end of Hill Road at Toft Hill and the gateway immediately south of the junction with the Cleveland Way National Trail.

The proposed Order is to assist in preventing the damage that some motor vehicles are causing on the route over which, in part, the old Kirby Trod runs. Kirby Bank Trod is a Scheduled Ancient Monument under the Ancient Monuments and Archaeological Areas Act 1979 and it is a criminal offence to destroy or damage a scheduled monument either intentionally or through recklessness. The County Council considers that implementing the proposed Traffic Regulation Order will prevent further damage to the road and The Trod, thereby preserving both the existing character of the road and the amenities of the area. Access will be maintained for persons requiring access to private land adjoining the road.

CONSIDERATION OF OBJECTIONS

Under the County Council's Constitution, the consideration of objections to a proposed TRO is delegated to the Corporate Director - Business and Environmental Services (BES) in consultation with the BES Executive Members. For each TRO where there are objections, it will be necessary to bring a report to the Corporate Director - BES and the BES Executive Members seeking a decision on the consideration of the objections. The report will include the views of the relevant local member who will also be invited to the meeting that considers the report. The Corporate Director - BES may wish to refer the matter to the Council's Executive for a final decision.

A report to the relevant Area Committee will only be necessary when there are objections to a wide area impact TRO.

A wide area impact TRO is defined as a proposal satisfying all of the three criteria set out below:

- The proposal affects more than one street or road and,
- The proposal affects more than one community and,
- The proposal is located within the ward of more than one County Councillor

The report will seek the views of the Area Committee and these views will then be included in a report to the Corporate Director - BES and the BES Executive Members seeking a decision on the consideration of the objections. The Corporate Director - BES may wish to refer the matter to the Executive for a final decision.

The existing arrangements for members of the public wishing to attend or speak at committee meetings will apply and it may be appropriate for the Corporate Director - BES to have his decision making meetings open to the public, so that the public and in particular those with objections, have the opportunity to put their views across directly.

N.B. The Corporate Director - BES has delegated powers to make decisions on TROs where there are no objections.

North Yorkshire County Council

Business and Environmental Services

Executive Members

26 May 2017

Proposed Prohibition of Motor Vehicles, U1858/9 Kirby Bank

SCHEDULE OF COMMENTS From 2015 Consultation and Advertisement and also December 2016 Advertisement**Schedule Comments from December 2016 advertisement**

Correspondent	Comments	Officer Comments
Trial Riders Fellowship	<p>Objects to the proposed traffic order, insofar as the restriction affects motorcycles, on the following grounds:</p> <p>1. Over restriction</p> <p>1.1. The Councils stated reasons for proposing the TRO do not justify a restriction of low-impact trail motorcycling as practised by members of the Trail Riders Fellowship on our organised motorcycle trail rides.</p> <p>1.2. Low impact motorcycling, conducted by TRF members in accordance with the TRF's Code of Conduct, does not result in greater impact to the road surface than one could expect from equestrian traffic. Wilson and Seney¹ undertook a comparative study of the erosional impacts of various users, including equestrians and motorcyclists, and published their findings in 1994. The study concluded that</p> <p>1.3. In circumstances where a road can sustain equestrian use, the findings of Wilson and Seney suggest that the road will also sustain motorcycle traffic.</p> <p>"horses produced significantly larger quantities of sediment compared to hikers, off-road bicycles, and motorcycles..."²</p>	<p>All comments noted however continuing use by motorised vehicles can cause further damage to the route. Evidence in the route assessments carried out by the NYNNPA and more recently by County Council officers shows that the majority of damage has been caused by two wheeled vehicles. Only removing vehicular use can ensure that the route is preserved</p>

Correspondent	Comments	Officer Comments
	<p>1.4. TRF's experience is that the overwhelming majority of vehicular related road damage is not caused by motorcycles, but by different classes of motor vehicles that have more than 3 wheels.</p> <p>1.5. TRF contends that this is the case on Kirkby Bank and that it would be over restrictive to ban motorcycle traffic, which is not responsible for the overwhelming majority of vehicle related impact on the road.</p> <p>1.6. TRF wishes to draw the Councils attention to the many examples of successful TRO solutions that selectively restrict non-motorcycle motor traffic. For example, the successful use of TRO's in East Sussex that impose seasonal restrictions on 4x4 access.</p> <p>1.7. Low-impact motorcycle traffic associated with TRF activity is not unsuited to the road and is in keeping with the roads character as a carriageway which has a contiguous stone trod for the accommodation of equestrian and pedestrian traffic.</p> <p>1.8. Trail motorcycling is a traditional and established form of traffic in the countryside. The County has a rich heritage of motorcycle clubs that pre-date WW1. That heritage forms an amenity which is beneficial to the wider public. The proposed order would have the effect of reducing that amenity, to the detriment of the public interest.</p> <p>1.9. Low-impact TRF motorcycle traffic does not use the stone trod. TRF contends that use of the trod by any class of vehicle, including pedal cycles, would constitute a nuisance at common law. TRF motorcycle traffic does not damage the trod because TRF members do not motorcycle on it, or near it. The stated reason of preventing damage to the trod and road can be met without prohibiting TRF motorcycle traffic.</p> <p>1.10. The existing character of the road is as a carriageway. The carriageway is comprised in a highway which includes a separate way set aside for the accommodation of equestrians and pedestrians. This is the stone trod. To maintain the character of the carriageway it is desirable to retain both its traditional traffic and evidence of that traffic's passing. Motorcycles are a traditional form of traffic on the</p>	<p>Such a restriction would be difficult to enforce and enforcement would be resource intensive. It would require regular liaison with the TRF and other user groups regarding the frequency and prior notification of events and enforcement on the days where events are not taking place..</p> <p>The Scheduled ancient monument extends for a width of 10 meters. All the existing damage is within the 10meter width. Any use outside of the 10m width could be considered as trespass</p>

Correspondent	Comments	Officer Comments
	<p>carriageway section of the road, especially those ridden in connection with club activity – such as organised TRF motorcycle rides. Seeking to ban such low impact motorcycle activity and evidence of their passing, would be detrimental to the traditional character of the road.</p> <p>1.11. Motorcycle tyre prints are to the carriageway as hoof prints are to a bridlepath and footprints are to a footpath. A carriageway's character includes evidence of the passing of carriages as well as the physical presence of carriages. Motorcycles are a traditional form of carriage, having been commercially available in the UK since 1896.</p> <p>2. Inadequate consultation</p> <p>2.1. TRF were not consulted at the preliminary stage of this process in accordance with the requirements of the Local Authorities' Traffic Orders (Procedure) Regulations 1996.</p> <p>2.2. The Council has recently conceded that its failure to consult TRF was sufficient to render a TRO process unlawful, as it substantially prejudiced the interests of TRF. That was not a minor technical error but a major procedural flaw that resulted in the process being unfair to the degree that it was quashed by High Court order.</p> <p>2.3. The statement of reasons does not adequately promote an informed consideration of the matters at hand. This pivotal document merely resolves to list the Council's choice of statutory reasons for making the order and then provides a nebulous allegation that "...some motor vehicles" are damaging the route, with observations as to the road's character and archaeological designation.</p> <p>2.4. Consultees are left speculating as to what the Council means by "...some motor vehicles". Does this include private motorised traffic or not? Does it include 4x4's, quadricycles, mobility scooters, motorcycles, HGV's? Without being provided with a greater degree of detail and substance as to the Council's reasoning, it is very difficult to submit a meaningful response on the matters that the Council might be considering.</p>	<p>TRF were consulted in email sent on 8th December 2016 which allowed 21 days to respond. Indeed this objection has been received and is included in the Appendix of the report,</p>

Correspondent	Comments	Officer Comments
	<p>2.5. Had TRF been informed at preliminary stage, adequate opportunity for meaningful engagement would have been provided. That would have afforded ample time to enquire as to the Councils concerns and reasoning. This was not done and the TRF is now being put at a disadvantage.</p> <p>2.6. The Councils ROWiP provides policies in respect of partnerships that are applicable to TRF. TRF is disappointed that the Council are not adhering to their policies, to the extent that this is putting TRF at a disadvantage.</p> <p>3. Restriction on invalid carriages.</p> <p>3.1. The order as drafted applies to “motor vehicle” with no definition provided within the order.</p> <p>3.2. The statutory definition of “motor vehicle” includes invalid carriages. It follows that the order appears to ban invalid carriages.</p> <p>3.3. A restriction on invalid carriages is not justified in the TRF’s opinion.</p> <p>3.4. TRF consider that the Council has not adequately performed its duties owed under the Public Sector Equality Duty, if indeed it has performed them at all.</p> <p>4. Alternative proposal</p> <p>4.1. TRF suggests that the road can be substantially improved by modifying the proposed TRO to provide an exemption for use with a motorcycle that is authorised by TRF and conducted in connection with an event organised by TRF pursuant to regulation 5 (b) of the Motor Vehicles (competitions and trials) Regulations 1969.</p> <p>4.2. Such an exemption would have the effect of the confining motorcycle use to that which is authorised by TRF and comprises part of an organised motorcycle trail ride, as typically held by TRF over the 46 years of TRF’s history.</p>	<p>TRF were consulted in email sent on 8th December 2016 which allowed 21 days to respond. Indeed this objection has been received and is included in the Appendix of the report,</p> <p>The challenge by way of Judicial Review was brought by the TRF and related to a different set of circumstances. The reasons for making the TRO are contained in the Statement of Reasons and are considered to be appropriate in this case, taking into account the complexity of the issues and the involvement of the parties.</p> <p>Again the comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the Trod is preserved</p> <p>TRF were consulted on 8th December 2016 – See 2.1 above</p>

Correspondent	Comments	Officer Comments
	<p>4.3. The order can provide for limits on group sizes. TRF's aim is to promote unobtrusive and low-impact trail motorcycling.</p> <p>4.4. TRF directors would be responsible for the authorisation of such use. The TRF's directors are bound by company law to act in the best interests of the TRF and this duty could not be reconciled with the authorisation of unsustainable use. The corporate structure of TRF acts as an inherent safeguard against unsustainable activity.</p> <p>4.5. Continued opportunity for low-impact motorcycle use would maintain the historic character and traffic of the road, without causing detriment to other users or the environment.</p> <p>4.6. Opportunity for TRF access would invite TRF's ongoing road conservation activity and investment, for the benefit of all responsible and sustainable users.</p> <p>4.7. TRF also suggests that the order is modified to take account of invalid carriages.</p> <p>4.8. TRF does not object to a 4x4 TRO</p>	<p>The term "motor vehicle" is defined in Section 136(1) of the Road Traffic Regulation Act 1984</p> <p>Invalid carriages are not treated as being motor vehicles for the purposes of the 1984 Act – see Paragraph 4.7 of the Report</p>
British Horse Society	<ul style="list-style-type: none"> • Has not received this as the British Horse Society NE Yorkshire Access Officer. Please could you confirm that you sent this to me under that capacity? I responded to a former TRO at this location so you must have my contact details (please note changed e-mail address) I therefore look forward to receiving official notification to the BHS. • Objects to only being given 21 days for replies to be submitted, since this is the Christmas period when volunteers are excessively busy. Considers that at least 30 days should be allowed over holiday periods. 	<p>Initial consultation was sent to BHS officer who supported the order.</p> <p>Extra time was allowed to allow all comments to be submitted. No objections have been rejected that have been received after the 21 day period.</p>

Correspondent	Comments	Officer Comments
	<ul style="list-style-type: none"> • As an individual objects to the proposed Traffic Regulation Order as believes that it is against natural justice and there appears to be no outlined plan of working constructively with all users of the road. In the first place historically the actual trod was NOT used by more than people on foot and horseback. That is why there are the erect stones which were placed to stop use of the trods by horses pulling carts. The vehicular road runs at the base of the route and this differentiation should be shown on your plans. • Much public money was spent on a working group, the Unsealed Route Management Advisory Group (URMAG) called by the National Park; where a compromise was reached regarding eliminating 4X4s but to work with the TRF as regards maintenance. In 2016 I rode across East Devon on unsurfaced roads, there being no bridleways. I knew these old roads from my youth to be more or less impassable. But now they were delightful, notices stating that maintenance work had been done by the local TRF. If the County Council worked with the user groups to fund and actually do proper repairs, then the user groups would feel a sense of ownership and police errant users. • If other councils can find positive ways of working with users groups, I would suggest that rather than wasting thousands of pounds of public money denying motors; that you put your energies into working with people in a constructive manner. 	<p>Comments noted</p> <p>It was considered that motorbikes can still cause damage to the Trod</p>
<p>British Horse Society</p> <p>Further response after consultation</p>	<p>Objection from British Horse Society who has contacted Judith Ratcliffe to establish that she had corresponded as an individual.</p> <p>Outline letter is too vague to support. It does not state whether the TRO is permanent or temporary, the latter to allow works to be carried out. Nor the actual physical rights that were enjoyed historically. That is the actual trods were never open to vehicles, hence the pairs of guard stones which denied access to carts, during the days of horse transport.</p> <p>#</p> <p>I am concerned that much public money was invested in the Unsealed Routes Management Advisory Group co-ordinated by the National Parks. It consisted of all</p>	<p>Comment noted</p> <p>Proposed TRO is permanent, .</p> <p>There is still the concern that motorcycles will damage the route if it is ridden on.</p>

Correspondent	Comments	Officer Comments
	<p>users and the Highway Authority and a consensus was reached. In this case the 4X4s agreed that they should be subjected to a TRO denying them access, but that the Trail Riders Fellowship had serious funds to contribute and labour to enable repairs to be made. The main problems being on the hillside rather than any damage along the flat at the base of the trods.</p> <p>I would suggest that a proper sign was erected near the trods stating that they were historically used on foot and horseback and that should still be allowed today. Horses will not damage the trods, since they were laid specifically for the use by horses.</p> <p>Devon County Council can have such wonderful unsurfaced roads through working with the TRF and considers that North Yorkshire should stop wasting money on legal stoppings up and concentrate on good working relationships with the using public.</p>	<p>Horses and riders will not be excluded from the route.</p> <p>Comment noted</p>
	<p>Objects to this traffic order as proposed . Has known and driven by motorcycle on the road for over thirty years. The road has never shown signs of damage caused by motorcycles. The road is robust and is not in my experience particularly frequented by walkers, cyclists or horse riders. The character of the road and its environs is not materially diminished by a relative few motorcycles; I have not observed 4x4 motors being any problem either.</p> <p>If traffic management is necessary, then proportionate restrictions (e.g. as you have used at Seggimire Lane) should be preferred..</p>	<p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>
	<p>Objects to this TRO. You have not considered the fact that there will be an ever increasing number of users wishing to use this green road using ELECTRIC MOTORCYCLES.</p> <p>Objector has ridden many green roads in Yorkshire including this one in past times. Enjoys getting away from the congested south east into the Dales and Moors. Owns a ZERO DS motorcycle and has used it on green roads and it has minimal impact on the road surface.</p> <p>It also creates very little noise and have no air pollution impact at source.</p>	<p>The main issue is with motorised vehicles. Would expect electric motorcycles to have an electric motor and would be covered by the order.</p>

Correspondent	Comments	Officer Comments
	Please tell me what your consideration is to permit ELECTRIC MOTORCYCLES.	

Schedule from August 2015 advertisement and May 2015 consultation

	<p>Respects NYCC's broad intentions managing our roads in the County generally but in the present case they are in his submission misconceived. As a regular user of the route affected and, after careful consideration, find that the issues or grounds for the TRO are not sufficiently made out. It seems to me that:</p> <ul style="list-style-type: none"> * the primary mischief which is sought to be averted - risk to the public - is simply not made out on any evidenced-based approach; and * the secondary objectives can be achieved through other means including voluntary curbs, codes, signage and liaison with responsible groups of users. <p>In more detail:</p> <p>The risk to the public - which of course must be the Council's prime concern - is I submit less on the route subject to the proposed restriction than on most surfaced single carriageway roads because the speeds of the traffic involved is so much lower. Typically in my experience, speeds are below 15 mph, or well under half those on most of the local single track metalled roads. At critical points all responsible users slow to walking pace. Where different users meet vulnerable travellers they generally stop or slow to a suitable passing speed. Further, any real risk is from occasional irresponsible four wheel drive visitors - but these, in my experience, must be rare.</p> <p>Professionally, and socially, I keep my antennae open. I have not heard of a single instance of an actual accident or collision, or injury related incident on this route. If there has been one, perhaps you could share suitably redacted details. Compare that with the situation on any of the metalled minor roads in our County and the evidence is clear: there is no epidemiological basis for a restriction.</p> <p>If a particular section offers a particular perceived risk then it can be signed or managed in a creative way. It must be wrong in principle to pass a fully proscriptive TRO to attempt to restrict the actions of a few irresponsible drivers. Firstly they will not pay attention to a TRO in any event and secondly this would not be done in respect of</p>	<p>The re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons</p> <p>Comments noted however motorised vehicles can cause damage to the route Only removing their use can ensure that the route is preserved</p>
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	<p>metalled roads where we all have anecdotal evidence or actual experience of foolhardy or dangerous drivers racing on A, B, C or other minor metalled roads with often fatal consequences. It is therefore no basis for a TRO to say that there may be some risk from irresponsible drivers where none has eventuated. In fact to the extent that there is any evidence of any potential risk then this indicates a lack of policing or resources neither of which are proper grounds for a TRO even if they existed.</p> <p>Once safety concerns are found not to justify a TRO, then the other issues, of preservation and conservation can be dealt with by less draconian measures than a TRO in line with that intended. I am sure that liaison with responsible groups such as the Trail Riders Fellowship can design and create viable low or zero cost options that secure the Council's statutory obligations while maintaining the access which is so important. This would of course be wholly inline with the principles of de-regulation that are now upon us and cost effective.</p>	
(2) after receiving redacted Route Assessment Report	<p>U1858/9 Kirby Bank - Prohibition of Motor Vehicles</p> <ul style="list-style-type: none"> * Average use by three motorcycles per day * No evidence that such usage is unsustainable * No evidence that general usage in dry or average conditions causes any difficulty * No evidence of whether rutting was recent or historic * No evidence as to whether the rutting was caused by recreational or by farm/work machines including farm ATVs/4x4s etc * No evidence that the rutting was getting worse or simply part of the heritage nature of the route * No evidence that any closure would improve the situation * No real consideration of professional / CC / contractor repair options * No evidence of any accidents * No evidence of any safety issues * One complaint in recorded history from a resident - albeit as to the state of some part of the route * One request for repair * No evidence of any repairs being conducted, whether in response to the request or at all 	<p>Again the re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons</p> <p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>

	<p>* No consideration of the options for voluntary repair ("adopt a trail scheme")</p> <p>* No evidence that there is a time-critical issue which could not be considered over a planned study obtaining real evidence</p> <p>It follows that the report, while being superficially comprehensive is on close-reading short on detail, time-related research and relevant evidence. It certainly does not meet the standards to be expected to justify the closure of a route he rides regularly causing no measurable or detectable damage, with total consideration for the environment and other users, in accordance with the TRF Code of Conduct.</p> <p>The report correctly identifies that there are no reasonable alternatives to the route for motor cycles.</p> <p>Closure of a historic right of way must, as you know, be a last resort where there is evidence of unsustainable wear that can only be prevented by that draconian option. Despite the arguments raised in the report, there is no such evidence merely conjecture, assumptions, and speculative assertion (properly admitted to be the same by the author who in fairness is at pains to concede that there was neither a historic basis for assessing wear or change, nor any real evidence as to causation).</p> <p>Resident would urge:</p> <ul style="list-style-type: none"> (a) the you invite your committee to send the matter out for a moderated series of user group meetings and discussions whereby evidence and options can be reflected on and canvassed (b) consider setting up a Kirby Bank stakeholder group to look at options for voluntary (cost free) management (c) send the report back to the NP inviting them to provide actual evidence of change and causation over a five year period (d) your committee to meet with the local TRF group for a demonstration of how responsible TRF Code of Conduct usage works, and how non-damaging un-metalled road usage is sustainable here. <p>Resident writes in personal capacity and am not instructed as counsel in the matter, nor writing in my role as a general counsel to the Board of the Trail Riders Fellowship.</p>	
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	<p>Objects to the TRO on this UCR ref U1858/9 .</p> <p>(i) You state that the safety of the public is an issue . What evidence have you that the closure of the route will improve the safety of the public ? How many incidents have you recorded last year & over the last five years ?</p> <p>(ii) Preserving and improving the amenity of the route . Have you discussed this issue with interested parties as to how jointly any necessary improvements may be implemented ?</p> <p>(iii) Protecting the Scheduled Ancient Monument known as Kirby Trod . Is the Trod damaged , if so what evidence have you that the damage was caused by the use of the UCR ?</p> <p>Wishes to strongly point out that the imposition of a TRO as proposed should be a last resort & not just an easy way for the council to abandon their responsibility to maintain this UCR . Furthermore , the use of the remainder of the route could well increase with persons using the resultant dead end roads to still enjoy as much of the beautiful scenery as they can whilst you abdicate your Statutory responsibility to maintain the UCR .</p>	<p>The re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons</p> <p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>
	<p>With reference to the above notice, I write to formally object to this proposal for the following reasons.</p> <p>Respects NYCC's broad intentions managing our roads in the County generally but in the present case they are in my submission misconceived. Is a regular user of the route affected and, after careful consideration, find that the issues or grounds for the TRO are not sufficiently made out.</p> <p>* the primary mischief which is sought to be averted - risk to the public - is simply not made out on any evidenced-based approach; and</p> <p>* the secondary objectives can be achieved through other means including voluntary curbs, codes, signage and liaison with responsible groups of users.</p>	<p>The re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons</p> <p>Comments noted however motorised vehicles can cause damage to the route Only removing their use can ensure that the route is preserved</p>

	<p>In more detail:</p> <p>The risk to the public - which of course must be the Council's prime concern - is I submit less on the route subject to the proposed restriction than on most surfaced single carriageway roads because the speeds of the traffic involved is so much lower. Typically in my experience, speeds are below 15 mph, or well under half those on most of the local single track metalled roads. At critical points all responsible users slow to walking pace. Where different users meet vulnerable travellers they generally stop or slow to a suitable passing speed. Further, any real risk is from occasional irresponsible four wheel drive visitors - but these, in my experience, must be rare.</p> <p>Neither myself or any of my friends who also use this byway have not heard of a single instance of an actual accident or collision, or injury related incident on this route. If there has been one, perhaps you could share suitably redacted details. Compare that with the situation on any of the metalled minor roads in our County and the evidence is clear: there is no "real basis" for a restriction.</p> <p>If a particular section offers a particular perceived risk then it can be signed or managed in a creative way. It must be wrong in principle to pass a fully proscriptive TRO to attempt to restrict the actions of a few irresponsible drivers. Firstly they will not pay attention to a TRO in any event and secondly this would not be done in respect of metalled roads where we all have anecdotal evidence or actual experience of foolhardy or dangerous drivers racing on A, B, C or other minor metalled roads with often fatal consequences. It is therefore no basis for a TRO to say that there may be some risk from irresponsible drivers where none has eventuated. In fact to the extent that there is any evidence of any potential risk then this indicates a lack of policing or resources neither of which are proper grounds for a TRO even if they existed.</p> <p>Once safety concerns are found not to justify a TRO, then the other issues, of preservation and conservation can be dealt with by less draconian measures than an TRO in line with that intended. I am sure that liaison with responsible groups such as the Trail Riders Fellowship can design and create viable low or zero cost options that secure the Council's statutory obligations while maintaining the access which is so important. This would of course be wholly in-line with the principles of de-regulation that are now upon us and cost effective.</p>	
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	<p>It seems that this proposal has not been thought out following the proper guidelines and I feel further review of the facts and figures should be taken into account before such drastic and unjustifiable measures are taken.</p>	
	<p>Writes to formally object to this proposal for the following reasons.</p> <p>I respect NYCC's broad intentions managing our roads in the County generally but in the present case they are in my submission misconceived. I am a regular user of the route affected and, after careful consideration, find that the issues or grounds for the TRO are not sufficiently made out.</p> <ul style="list-style-type: none"> * the primary mischief which is sought to be averted - risk to the public - is simply not made out on any evidenced-based approach; and * the secondary objectives can be achieved through other means including voluntary curbs, codes, signage and liaison with responsible groups of users. <p>In more detail:</p> <p>The risk to the public - which of course must be the Council's prime concern - is I submit less on the route subject to the proposed restriction than on most surfaced single carriageway roads because the speeds of the traffic involved is so much lower. Typically in my experience, speeds are below 15 mph, or well under half those on most of the local single track metalled roads. At critical points all responsible users slow to walking pace. Where different users meet vulnerable travellers they generally stop or slow to a suitable passing speed. Further, any real risk is from occasional irresponsible four wheel drive visitors - but these, in my experience, must be rare.</p> <p>Neither myself or any of my friends who also use this byway have not heard of a single instance of an actual accident or collision, or injury related incident on this route. If there has been one, perhaps you could share suitably redacted details. Compare that with the situation on any of the metalled minor roads in our County and the evidence is clear: there is no "real basis" for a restriction.</p>	<p>The re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons</p> <p>Comments noted however motorised vehicles can cause damage to the Route. Only removing their use can ensure that the route is preserved</p>

	<p>If a particular section offers a particular perceived risk then it can be signed or managed in a creative way. It must be wrong in principle to pass a fully proscriptive TRO to attempt to restrict the actions of a few irresponsible drivers. Firstly they will not pay attention to a TRO in any event and secondly this would not be done in respect of metalled roads where we all have anecdotal evidence or actual experience of foolhardy or dangerous drivers racing on A, B, C or other minor metalled roads with often fatal consequences. It is therefore no basis for a TRO to say that there may be some risk from irresponsible drivers where none has eventuated. In fact to the extent that there is any evidence of any potential risk then this indicates a lack of policing or resources neither of which are proper grounds for a TRO even if they existed.</p> <p>Once safety concerns are found not to justify a TRO, then the other issues, of preservation and conservation can be dealt with by less draconian measures than a TRO in line with that intended. I am sure that liaison with responsible groups such as the Trail Riders Fellowship can design and create viable low or zero cost options that secure the Council's statutory obligations while maintaining the access which is so important. This would of course be wholly in-line with the principles of de-regulation that are now upon us and cost effective.</p> <p>It seems that this proposal has not been thought out following the proper guidelines and feels a further review of the facts and figures should be taken into account before such drastic and unjustifiable measures are taken.</p>	
	<p>Objections to the proposed TRO on Kirby Bank.</p> <p>While my submission is a personal one. Would also like to inform you that he is a trail rider with 40 years experience, chair of the Teesside and North Yorkshire Trail Riders Fellowship and a member of the North Yorkshire Local Access Forum.</p> <p>Mr Cartwright is very disappointed with this proposal and particular its negativity. Would like to see what could be done to seek a solution or solutions that would be acceptable to all user groups. The Resident feels it is about facilitating access not prohibition.</p> <p>The brief letter stated the grounds for closure were safety, preservation, amenity improvement and protection of Kirby Trod</p>	<p>The re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons.</p> <p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>

	<p>With regard to safety can you provide any hard data on this. Evidence of incidents or indeed formal risk assessments? This argument of safety while it should be to the fore for all of us seems to be obtuse or even mischievous.</p> <p>With regard to the remaining arguments I see these as being combined. Preservation and protection while laudable (as a TRF member we see ourselves as a preservation society) comes in many forms and would like to see NYCC explore alternatives to a complete ban. I would suggest but not limited to such measures as temporary, seasonal, or directional restrictions. Doing so will ensure that this amenity will remain available to all users. Nr Cartwright is a regular user of the route and marvel and appreciate the country side and history that surrounds us. The damage to the Trod is criminal and came about by illegal use, a TRO does not stop that, it simply stops people like him appreciating our heritage. He appreciates there are limitations on funding within County but would encourage NYCC to explore external sources within the many user groups and will be proposing that the TRF make the offer of further donations.</p> <p>Appreciates the opportunity and would be very pleased to hear from NYCC if he can help in anyway to preserve "access for all" to this historical route.</p>	
	<p>Objects to the proposed TRO on the above named road. TRO's are supposed to be used as a last resort, I cannot find evidence of other controls having been tried or suggested. I would like to suggest one or a combination of the following could tried before resorting to a TRO. Signage, axle weight limit, ban on vehicles with 3 wheels or more, one way only (Downhill, Beak Hills to Toft Hill), Seasonal Closures, Total ban on 4x4's.</p>	
	<p>Strongly objects to your intention to put a Tro on Kirby bank, please forward me your reasons in detail for such a drastic decision. It appears as per usual that you are out to wipe out our minority pastime and the small local businesses we support. If you are successful of course you will only stop the law abiding riders amongst us and not the few who cause problems for the rest of us, and, as a result deflecting the Police from carrying out proper Police work as you create a new "CRIME".</p>	

	<p>Considers that your opinion of Trail riders in general is that we are a bunch of "Townie Yobs" When actually most of the are respectful.</p> <p>When the masses of ramblers make a mess of their thousands of miles of footpaths you fly in flagstones by helicopter to repair the damage they have caused, if any damage is perceived to have been caused by off-roading you try to impose a closure! If you hadn't persecuted our passtime and closed so many lanes as you have over the years there would not be such a problem with illegal riding, which you have inevitably caused yourselves.</p>	
	<p>Wishes to lodge my disappointment and objection to the proposed closure of the unclassified county road/ unmetalled road U1858/9 known as Kirby Bank. Understands that North Yorkshire County Council are seeking to close the road.</p> <p>Objector is a resident of Crathorne in North Yorkshire and hopes that views will be considered as part of the local community. Resident does not use a motor vehicle capable of navigating the road in question and has a standard road going car, but I does enjoy dog walking on the hills. Resident is a firm believer that the whole community should have a right to enjoy the countryside and excluding or criminalising/ labelling those who enjoy driving or riding roads that have not been metalled as destructive is not a positive move.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Understands that there are concerns about the route in question, but has as yet not come across an incident or accident where there has been any safety risk to the public, I would welcome the evidence that you have to refute this and look forward to the data in due course. <input type="checkbox"/> Notes comments re preserving and improving the amenity of this route – but for who? Shouldn't we try and be inclusive rather than exclusive? There are many routes not available to motorised vehicles all along the hillside, why close the limited number that remain? <input type="checkbox"/> Believes that motor vehicle user groups have in the past helped to preserve and maintain the route and therefore would prefer that the Council look to work with groups to preserve valuable amenities to benefit all in the community. <input type="checkbox"/> With regards to the route in question, believes that the gradient and width of the route at the most steep sections does however limit access for four wheeled vehicles and as such, believes that there is very little if any use by such traffic. 	<p>The re-advertised order in 2016 proposes to close the route to protect the route by preventing damage to the road, as cited in the revised Statement of Reasons.</p> <p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved The resident was sent Route Assessment report authored by the North York Moors Park Authority</p>

	<p>Destruction of the surrounding land around the route i.e. grasses etc would be caused by 4x4's due to the limited access at certain points. Would it be possible to limit access to motorcycles which would not damage the surrounding area? An axle weight would address this issue</p> <ul style="list-style-type: none"> <input type="checkbox"/> Also believes that the use of a TRO should be the last resort not your first response. Understands that a National Park Working Group (which includes 2 senior highways officers) has put forward an alternative solution which allowed limited access in a sustainable way, as a local community member, would like to stress my desire that you consider all options and opt for the way in which you can enable all in the community to enjoy the facility <input type="checkbox"/> With regards to conservation of the route – will horses be permitted to continue to use the route? If so, believes that the damage caused by horses can be considerable and greater than that of limited axel weight vehicles, if horses are not restricted, believes the TRO based upon preservation is a mockery <input type="checkbox"/> The Kirby Trod – The scheduled ancient monument The known surviving, flagged section forming Kirby Bank Trod, which forms the monument, extends from a point just east of The Warren, southwards uphill for just over 400m to a gateway onto the open moorland of the upper part of Kirby Bank. The route continues southwards up the hill, but appears to have been disturbed by later sledgeways and quarrying activity and so this southwards continuation of the route is not included in the scheduling. From the north end of the flagged section of Kirby Bank Trod, the route continues downhill (northwards) as a meandering hollow way, with a new, modern trackway to the west. <u>Again the route of the trod beyond the known extent of the flagged path is not included in the scheduling.</u> <p><u>Reference to</u> <u>http://list.historicengland.org.uk/resultsingle.aspx?uid=1405913</u></p> <p>The Trod section which is scheduled as noted above is rarely if at all used by vehicles, the Trod is nearly hidden from sight for most vehicle users and would be difficult to navigate. Should the scheduled section of the Trod wish to be preserved, Vehicle users should be deterred from using it and a diversion next to the site be used. Currently, I believe most users, including pedestrians do not</p>	
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	<p>use the Trod and simply use the grassy bank circa 20 metres to the left of the Trod as you walk up the bank.</p> <p>The remaining route is now a mixture of rock, hardcore type material, the resident does not believe that this material serves any natural or historic purpose. The resident acknowledges that there are marker points along the route made from huge stones/ stone blocks, but again, these are subject to all forms of natural erosion and these are standing pillars which would not get used or worn by vehicles as they are vertical.</p> <p>The resident therefore believes that the Trod although of importance can be preserved and maintained without exclusion to others.</p> <p><u>Summary</u> The resident believes that the issues under consideration and the concerns over preservation are only part of a bigger picture, can we manage the facility/ route for all. As a local resident, please could my views be considered and looks forward to at least an email confirming safe receipt of my objection. Please could you advise me of the outcomes in the future and provide meeting notes to detail that my concerns have been raised? I would also like to know under the freedom of information act the following information;</p> <ul style="list-style-type: none"> <input type="checkbox"/> What evidence has been gained to support the reasons for closure – safety concerns, use of the route by who and the frequency, how many walkers v's other users including horses, vehicles etc etc? <input type="checkbox"/> What other options were considered and if not implemented why not? <input type="checkbox"/> I also wish to have details of how many objections were received and how many people supported the proposal for a TRO 	
	<p>Objects to the proposed TRO to Kirby Bank. Lives in Swainby & along with lots of other TRf members uses this road regularly. The resident does not ever ride on the trod stones and it is obvious from the tracks at the side of the stones that most other riders do the same. The road can be managed & repaired, there is no need for a TRO ..The resident is considerate to other users and when he comes across walkers he slows down or stops to let them pass although in all the years. Has ridden this track for many years and this rarely happens .Everyone should be allowed to use OUR countryside to enjoy themselves, not just the chosen few.</p>	<p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>

	<p>Objects and has used the route for many years as a dog walker, mountain biker & trail rider.</p> <p>All riders are members of the TRF abide by the same code of conduct & are polite & courteous to other users (whether walkers, cyclists or horse riders) as & when seen.</p> <p>A group of Horses or Cyclists can cause just as much damage as a respectful trail rider.</p> <p>We always keep left of the ancient trod (as you go upwards) to avoid any damage to that.</p> <p>Considers it would be a great shame to close a long established right of way for a proportion of all current users.</p>	<p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>
	<p>..are you aware that this report is part of a project national parks had initiated on the future management of UCR in the parks boundaries. part of this process was the setting up of an advisory group consisting of myself ,John Richardson(chair of LARA),Catriona Cook mbe for the BHS,George Winn Darley representing land owners interests,Brynn Griffiths county councillor and nymnp board member,Allen Fullerton from NYCC highways and 3 senior parks officers including Karl Gerhardsen.After a day long site visit and discussion the concensus was a 4by4 ban and one way access for all other vehicles south to north(downhill).</p> <p>After the plan was put on hold due to budgetary restrictions, the TRF offered to fund parks to complete the agreed plan of works.This offer was made in front of the 3 senior park officers and as I remember Doug Huzzard. would ask you to include these facts in your report to the highways committee</p>	<p>Comments noted however officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only way to ensure that the route is preserved</p>
	<p>Would like to know on what evidence NYCC Highways have decided that the public road is only the width of the trod and its banks at the northern end. Historically this is incorrect, since these raised trods were built in such areas to separate the ridden and packhorse traffic from the wheeled traffic. Has doused the whole length and the width of the historic route is some 20 feet from the bottom of the banks,(it went into the rough to the east beyond the short grass) which would be expected historically. This flat area is more than sufficient for motorcycles to pass in a one way system as proposed by the</p>	<p>Comments noted however motorised vehicles can cause damage to the route. Only removing their use can ensure that the route is preserved</p>

	<p>working group, without doing any damage. There was one minimal rut when we visited which had been over exaggerated in the later report to great damage.</p> <p>Objects to the proposed TRO since it is not based on factual evidence, and as such is a practice by a public authority cannot support it.</p> <p>Looks forward to hearing what evidence was deduced for the width of the public road.</p>	
<p>District Commissioner Stockton, Thornaby & District Scouts</p>	<p>Writes as capacity as District Commissioner for Stockton, Thornaby & District Scouts (Charity No: 524704). I and my District Executive Committee, are Trustees of the District Scout Council and responsible for our District Scout Camp Site which is situated adjacent to the green lane (U1858/9) at Hill Road at Toft Hill. We purchased the land and Warren Cottage on 30 November 1977. For your benefit I enclose a copy of the Conveyance and the HM Land Registry Certificate which shows we are the legal owners. As you will see, this includes the U1858/9 from the green gate at the end of Hill Road (at Toft Hill) to the end of our land boundary.</p> <p>On attending the Scout Camp Site last weekend, we noticed a laminated copy of the proposed Order attached to our gate.</p> <p>To say we are a little disappointed at the lack of consultation / communication between NYCC and ourselves prior to this issue of this proposed Order would be an understatement. We should like to be informed as to why we were not consulted prior to the issue of the proposed Order.</p> <p>Your proposed Order states that any motor vehicle will be prohibited from travelling along the U1858/9 "except for access for private land management". We are extremely surprised that as land owners, this proposed Order would forbid us from accessing our own land and the properties thereon. At the moment, we go through the metal gate (at Toft Hill), travel a little way along the U1858/9 (less than 30 yards) and then access the track / bridleway on the right hand side in order to gain access to Warren Cottage and the Scout Camp Site.</p> <p>Each year, the Camp Site is used by hundreds of Scouts, Guides and Duke of Edinburgh Award participants from February to December and the effect of not being able to gain vehicular access to Warren Cottage and Scout Camp Site would be</p>	<p>This objection has been satisfied as the TRO being considered allows access to private land. The District Commissioner for the Scouts has been made aware of the current provisions for access and is satisfied with the proposals.</p>

	<p>enormous. Whilst most Groups gain access to the Scout Camp Site from pedestrian routes, they do need to use transport to get camping equipment and food to the Scout Camp Site. There is also a requirement for business / maintenance vehicles to attend the site from time to time (we have a cess pit tank that needs emptying, as well as other basic maintenance - alarms, water filtration system, electrical etc). We also have a number of physically disabled members, who would not be able to access the Scout Camp Site if vehicular access was denied. If we were unable to gain vehicular access to our Scout Camp Site, your proposed Order would effectively close it down / leave us unable to use our own properties / land.</p> <p>In August 2013, we were contacted by North Yorkshire Moors National Park Authority and asked to complete a Consultation Paper regarding the U1858/9 and I attach a copy of our response to this.</p> <p>Therefore, on behalf of Stockton, Thornaby & District Scouts, I should like to object to your proposed Order on the basis that to close the U1858/9 would deny us (as land owners) full and proper access to our property/land, ie: Warren Cottage and the District Scout Camp Site as shown/noted in the attached HM Land Registry Plan and Conveyance of 30 November 1977.</p> <p>We would be grateful if you would consider amending to the proposed Order so that we could have "<i>unimpeded vehicular access for the first 30 yards of the U1858/9 at the end of Hill Road at Toft Hill in order to gain access to the track / bridleway for the purposes of accessing our property and land in order to carry out Scouting activities and land maintenance</i>". If this were acceptable to you, we would consider withdrawing our objection.</p> <p>We would suggest that to progress this matter to a satisfactory and mutually beneficial conclusion, we meet with you to discuss the situation and impact on our District Scout Camp Site or that the proposed Order can be amended to enable us to be able to gain full and proper access to our property.</p>	
	<p>Objects to the above proposal which is a valuable link which the resident has used for many years.</p>	<p>Comment noted</p>

	<p>Wishes to object to the proposed traffic regulation order (TRO) on this road.</p> <p>This is a road that the resident has used many times over the last 30 years, as it is an important unsurfaced road linking the north of the area, to the south.</p> <p>It has been sustainable for most of these years, It is in a reasonable state of repair, considering the only maintenance on this road was carried out by a group of volunteers approximately 14 years ago.</p> <p>Does not think this road should be closed without first trying other methods of managing sustainability for multi-users, such as sessional TRO's, weight limits/width restrictions. This lane in my view should be used downhill only in the winter months. These methods of management are cost effective and work well in other areas, such as Northumberland and the Isle of Man.</p>	<p>Comments noted officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only way to ensure that the route is preserved</p>
	<p>Writes to complain and object to the proposed closure of Kirby Bank</p> <p>Has used this legal road with my road legal motorcycle for over 20 years to cross both up and down Kirby Bank</p> <p>Has seen no increased use over the last 20 years or a deterioration in the road, which would cause the Highways dept to recommend closure by applying a TRO to Kirby Bank road</p> <p>Therefore strongly objects the implementation of a TRO to close this road</p>	<p>Comments noted however officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only way to ensure that the route is preserved</p>
	<p>Wishes to object to the above named order. Why have controls/restrictions not been considered before a full prohibition.</p>	<p>Comments noted however officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only way to ensure that the route is preserved</p>
	<p>Asks for someone to respond to this objection and tell me why this TRO is proposed.</p> <p>This seems unfair and unjust.</p>	<p>Comments noted however officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only</p>

	<p>The Road is sustainable, is in an ok state of repair, despite not had any maintenance since the TRF repaired the lane 15 or so years ago.</p> <p>Why have seasonal TRO's / weight/axle limits not been used to maintain multi users?</p>	way to ensure that the route is preserved
	<p>The resident states this is an enjoyable, lane which he has ridden his motorcycle over many years and therefore objects to the proposal to prohibit motorcycles. The surface for the majority of the route is hard packed stone. The view from the top is magnificent. And cannot see the benefit of closing it to legitimate, legal motorcycles.</p>	Comments noted
	<p>Wishes to object to the notice advertised on the lane.</p>	Objection noted
	<p>Would like to object to the proposal to close kirby to motor vehicles without proposing other such potential restrictions such as weight limits, seasonal access</p> <p>Has ridden this route many times and notice the damage caused by tree felling vehicles and would like to see this damage repaired properly before going to such final closure</p>	Objection noted
Trail Riders Fellowship	<p>Unfortunately is unable to give a full response to the order as you have not given a full account of reasons and evidence to back up your desire to close the road. There is also no reference to the recent work carried out by Moors National Parks on this specific route in conjunction with user group representatives and senior highway representatives from County Council at which a completely different strategy was agreed.</p>	Comments noted however officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only way to ensure that the route is preserved
	<p>Has received notification from the T.R.F regarding the possible closure of Kirby Bank and does not agree with the two reasons stated in the letter the first one being the safety of public using the route. Has been using the route for many years rarely sees walkers on the route at the same time as he is using it, and if so always stop and be polite and courteous to anyone on the trail even though we often get unsavoury remarks from certain walkers, so does not agree that we put anybody at risk by riding the trail. The second reason is to preserve the ancient monument known as Kirby Trod, we were advised to ride to the side of the ancient path and myself and my fellow trail riders always keep to the left of the trod, so we would not put any risk to the ancient trod.</p>	Comments noted however officers consider that a Traffic Regulation Order prohibiting all motor vehicles is the only way to ensure that the route is preserved

	<p>It is a great shame that we cannot all enjoy the beautiful area that we live in our trails are diminishing by the year and if this one also closes that would possibly be the last straw for me as it is my only hobby.</p> <p>Is aware that there is a minority of riders who abuse the land and give hard working T.R.F. members a bad name but these people will still ride the trails illegally and we would be unable to monitor people abusing the trails, as believes we help to manage trails, and would certainly report anyone misbehaving on any trail. Would ask to seriously review this matter before making a decision as it will affect a great many law abiding citizens enjoying their often as for myself a lifelong hobby, and at Fifty Seven years old and a local landlord would not consider himself irresponsible..</p>	
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Record of decision that Equality Impact Assessment is not required	
Directorate and service area	BES / H&T
Name and contact of officer(s) taking decision that EIA not required	
Jayne Charlton	
What are you proposing to do?	
Prohibition of motor vehicles except for access.	
Why are you proposing this?.	
The County Council as the Highway Authority considers that the recreational use of Kirkby Bank by motor vehicles to be unsustainable from a maintenance perspective. Also for a health & safety point of view given the existing damage that has occurred.	
Does the proposal involve a significant commitment or removal of resources?	
There are no significant financial implications as the cost of the necessary signing can be met by the signs lines and TRO's budget	
Will this proposal change anything for customers or staff? What will change?	
It will impact on the ability of individuals to use the route with motor vehicles.	
Will the proposal make things worse for people with protected characteristics (age, disability, sex, disability, gender reassignment, religion or belief, pregnancy or maternity, marriage or civil partnership)? (Customers, staff etc). How do you know? Do you have any evidence to support your assessment?	
No. This proposal has no negative effects on the groups as described above because it does not affect their right to use the route it only effects the way in which the route is used.	
If there might be a negative impact on people with protected characteristics can this impact be reduced? How?	
We don't believe that the proposals will bring a negative impact for residents or visitors with protected characteristics. However Thirsk Area office will continue to monitor feedback and comments about the scheme and consider whether any further changes are required.	
Could the proposal have a significant negative impact on some people with protected characteristics or a less severe negative impact on a lot of people with protected characteristics? If "Yes" more detailed analysis should be undertaken and an EIA completed.	
There is no information to suggest this.	
Does the proposal relate to an area where there are known inequalities (e.g. disabled people's access to public transport)?	
No	
Could the proposal have a greater negative impact on people in rural areas?	
No	

Could the proposal have a worse impact on people with less money? No		
Will the proposal have a significant effect on how other organisations operate (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? No		
Do the answers to the previous questions make it reasonable to conclude that there will be no or very limited adverse impacts on people with protected characteristics?	Yes	
Will there be no or limited adverse impacts on people in rural areas?	Yes	
Will there be no or limited adverse impacts on people with less money?	Yes	
Further analysis and full EIA Required		No
Decision not to undertake EIA approved by (Assistant Director or equivalent)	Barrie Mason	
Date:.	10.10.2017	

FAO Richard Pennell
North Yorkshire County Council
County Hall
Northallerton
North Yorkshire
DL7 8AD

By Post and Email

Your Ref: Kirby Bank TRO U1858/9
Our Ref: MSS/TRF41/SS

15th February 2018

Dear Sirs

Traffic Regulation Order for Kirby Bank U1858/9

1. I am writing to you on behalf of my client, the Trail Riders Fellowship ('TRF'), concerning the proposed Traffic Regulation Order ('TRO') restricting all motor vehicle use of Kirby Bank; an unclassified road in North Yorkshire ('the Road'). The TRO is proposed to be made under s.1 of the Road Traffic Regulations Act 1984 ('RTRA'). Whilst North Yorkshire County Council ('The Council') resolved to make the TRO on 17 November 2017 it has not yet been formally made.
2. For the reasons set out below, it is TRF's firm case that the making of the Order would be unlawful for the reasons set out below. In summary:
 - i. The Council has failed to properly consider, or give adequate reasons for rejecting, the proposed exemption to the TRO.

- ii. The Council has given inadequate reasons in respect of its duty to secure the expeditious, convenient and safe movement of vehicular traffic, pursuant to Section 122 RTRA.
3. For the avoidance of doubt, if the Council proceeds to make the Order, contrary to the points set out below, TRF will seek to challenge its lawfulness.

Background

4. TRF's objections will be well known to you from their correspondence and the aim of this letter is not to replicate them.-
5. TRF organise low impact motorcycling trail rides. These happen only on certain days of the year, and involve driving low impact motorcycles on the Road. This does not involve driving on the Trod, and evidence has shown that the types of low impact motorcycle used do not cause greater impact to a road surface than horse riding would.

Ground 1: The Proposed Exception

6. Section 1 RTRA permits the Council to make a TRO where it is expedient to do so, having regard to the matters set out therein. Section 2 RTRA provides (in summary) that a TRO may be made:
 - (a) Either generally or subject to such exception as may be specified in the order or to be determined in a manner provided for by it, and
 - (b) Subject to such exceptions as may be so specified or determined, either at all times or at times, on days or during periods so specified.

7. The Council intends to make a TRO to restrict all motor vehicle use of the Road. TRF's case is that in doing so, the Council has failed to address its mind to, or properly consider the exception proposed by the TRF in its objection to the Order. Further, in resolving to reject the proposed exception, the Council has taken into account irrelevant considerations, and failed to take into account material considerations.
8. In their objection of 22nd December 2016, TRF expressly suggested that an exception should be made to the TRO,

“for use with a motorcycle that is authorised by the TRF and conducted in connection with an event organized by TRF pursuant to regulation 5 (b) of the Motor Vehicles (competition and trials) Regulations 1969” (paragraph 4.1 objection)”.

9. Regulation 5 (b) of those Regulations is as follows:

“an event in which no merit is attached to completing the event with the lowest mileage and in which, as respects such part of the event as is held on a public highway, there are no performance tests and no route and competitors are not timed or required to visit the same places; except that they may be required to finish at the same place by a specified time;”

10. The Council rejected the proposed exception. The reasons for this are set out in the Council's Decision Record as follows:

“The TRF also suggested an exemption for TRF members events. This option was discounted as an exemption would require specialist signage which would need approval from DFT; it would be difficult to enforce and enforcement would be resource intensive. It is also

considered that such an exemption would not be easily understood by users of the route even with signage” .

11. The Officer’s Report dated 20th October 2017 does not mention signage. The Officer’s response to the proposed exception was as follows:

“4.6: If such a specific exemption were included in the Order, it would be difficult to enforce and enforcement would be resource intensive. It would require regular liaison with the TRF regarding the frequency and prior notification of such events and enforcement on the days where events are not taking place”.

12. The Council’s conclusions in respect of enforceability and signage are unlawful for the reasons set out below.

i. The Council’s conclusion that the proposed exception would be unenforceable was manifestly unreasonable.

13. The Council’s conclusion that the proposed exception would be unenforceable was manifestly unreasonable and unlawful.

14. Firstly, the exemption proposed was for a use defined by Regulations (S5 (b) Motor Vehicles (Competitions and Trials) Regulations 1969 (“MVRs”)). The proposed exception is therefore expressly defined by relevant statutory provisions, and is reasonably precise. There is no good reason why such a definition cannot be included in an exemption to a TRO.

15. Secondly, and in any event, S2 RTRA expressly allows for the setting up of a procedure within the Order for determining when an exception can be made (see above, and also *Freight Transport Association v Royal Berkshire CC* (1981) RTR 95).

16. The Officer was clearly alive to the prospect of a prior notification / authorisation procedure being included in the exception (see Officer's Report – above). There is no rational reason as to why the proposed exception would be difficult to enforce or understand if it also included a requirement for prior notification (giving details of the event in question so that this could be tested against the MVRs) and authorisation. In particular:

- (a) If no notification were given, the use would be prohibited in the normal way as the exception would not apply.
- (b) If notification was given, and the Council was not satisfied that the use would meet the MVRs, the use would be prohibited in the normal way as the exception would not apply.
- (c) If notification and approval were given, the use would be permitted as falling within the exception in accordance with the details provided and authorised, which could be easily monitored on that occasion by the Council.

17. Thirdly, the Officer's concern that the imposition of an exception would mean that there would need to be "*enforcement on the days where events are not taking place*" is also manifestly unreasonable and wholly without foundation. On the days where events are not taking place, the exception would not apply, and the position in respect of the need to monitor the use of the route to ensure that there was no vehicular traffic would be exactly the same as it would be for a TRO that did not include the proposed exception.

18. Fourthly, the Council makes a generalised allegation that the proposed exception would be "*resource intensive*". This is not a rational basis for refusing the proposed exception, or, alternatively, there has been a failure to give adequate reasons in respect of this issue. This is because there will inevitably be some financial impact in many (if not all)

cases where an exception is proposed. There is absolutely nothing in the Officer's Report to explain what the specific resource implications would be, why or how they would be particularly prohibitive, or why or how this affects the balance that falls to be applied pursuant to Section 122 in determining whether the TRO should be made or whether an exception should be included.

19. For all of those reasons, the Council's approach to the enforceability of the proposed exception is erroneous, unreasonable and unlawful.

ii. The Council's approach to signage

20. As set out above, In the Council's Decision Record (dated 27 November 2017) it is recorded that:

"The TRF also suggested an exemption for TRF members events. This option was discounted as an exemption would require specialist signage which would need approval from DFT;"

21. The Council's approach amounts to an assertion that only those exceptions that can be explained by a sign already authorised by the Traffic Signs Regulations and General Directions can be included in a TRO. There is no support for this in Section 2 of the RTRA, which defines the power to include exceptions in the TRO widely as a matter of principle (see above).

22. It is correct that, by virtue of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996, after a TRO has been made, the Local Authority must sign the road to secure that adequate information as to the effect of the Order is made available to persons using the road. However, this is a requirement that arises after the TRO has been made, and is intended to ensure that the effect of the prohibition in the TRO is conveyed. These provisions cannot operate to proscribe the general power

contained in the primary legislation to make a TRO subject to exceptions, which is widely drawn.

23. In any event, the Council's conclusions in respect of its inability to adequately sign the proposed exemption were not explained in the Officer's Report, and were simply incorrect. This is because The Traffic Signs Regulations and General Directions 2016 ("TSRGD") allow signs prohibiting motor vehicles, with an associated plate legend indicating an exception for permit holder/s with, where appropriate, a permit identifier¹.
24. It follows that it would be open to the Council to accompany the sign prohibiting motor vehicles with a panel saying "except permit holders" or if the Council wanted further certainty to include a permit identifier (for example, to make the panel state "except TRF permit holders").
25. As set out above, the Council expressly discounted the proposed exemption on the basis that specialist signage was required which would require approval from the DfT. Those conclusions were manifestly erroneous, since, for the reasons set out appropriate signage was authorised by virtue of the TSRGD.
26. Further, there are no rational grounds for concluding that such signs would be difficult for users to understand. The effect of such a sign would be clear: if a user did not have a permit in accordance with the information on the legend, use would be prohibited.
27. In any event, if the Council considered that approved traffic signs were inadequate to convey the effect of the Order, an application could be made to the Secretary of State for an alternative (Section 64 RTRA). There is no evidence that the Secretary of State would refuse to give its approval for an alternative sign. The fact that an application may need to be made to the Secretary of State cannot be a sufficient reason to refuse to

¹ See Item 12 in Part 2 of Schedule 3, and Paragraph 15 (d) in Part 3 of Schedule 3

make a TRO with an exception as a matter of principle. This would mean that only TROs and exceptions that can be explained by a sign already authorised in the Traffic Signs Regulations and General Directions could be made. There is no support for that interpretation in the primary legislation.

Conclusion

28. In conclusion, in resolving to make the TRO, the Council has failed to address its mind to, or properly consider the exception proposed by the TRF in its objection to the Order. Further, in resolving to reject the proposed exception, the Council has taken into account irrelevant considerations, and failed to take into account material considerations. The Council's decision falls far short of the requirement of a decision to be intelligible and adequate as set out in *South Bucks v Porter* [2004] UKHL 33 (see further below).

29. For the reasons set out above, it is the TRF's case that the making of the TRO would be unlawful in all of these circumstances.

Ground 2: Failure to comply with Section 122

30. S.122 (1) RTRA provides that it is the Council has a duty to exercise the functions of the Act to secure 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 is to be carried out "as far as practicable" having regard to a number of matters set out in S.122 (2), including the effect on the amenities of the locality, and any other matters appearing to the Authority to be relevant.

31. Whilst the Council makes reference to its duty in Section 122 in Notice of Decision, Officer's Report and Statement of Reasons, as a matter of substance it is clear that the Council does not carry out the balancing exercise required by that Section.

32. Firstly, The Decision Record sets out that:

*In recommending the implementation of the proposed TRO, it is considered that it will **enable** the County Council to comply with its duty under Section 122 of the Road Traffic Regulation Act 1984 to secure 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"*

Emphasis added

33. Clearly, the TRO would **not** enable the expeditious, convenient and safe movement of vehicles by restricting all vehicle movement, since such traffic will be prohibited once the Order takes effect. Further, it is impossible to understand what the relevance of adequate parking facilities is to this case. The simple regurgitation of the language of the Regulations suggests that the Council is merely paying lip service to the s.122 duty.

34. There is no evidence that the Council has carried out, as a matter of substance, the balancing exercise required by Section 122. In particular, the Council has failed to recognise that it will not be practicable to secure the expeditious, convenient and safe movement of vehicles on the TRO route once the Order has been made, or properly weigh this in the balance in accordance with its statutory duty. In *Wilson and Troughear v Yorkshire Dales National Park Authority* [2009] EWHC 1425 (Admin) (paragraph 75 – 76), the Court confirmed that the Council was not absolved of their duty under S.122 to carry out the balancing exercise required even where the reasons for making the

Order meant that it was likely to be impractical to secure the expeditious, convenient and safe movement of vehicular traffic on the routes in question.

35. In addition, since the duty in Section 122 applies where the Authority proposes to exercise its functions pursuant to the Act, this would include exercising its power to make a TRO subject to TRF's proposed exception in accordance with Section 2 RTRA. Even if some form of TRO was necessary having regard to the factors relied upon to justify the Order, the Council does not carry out the balancing exercise required by Section 122 having regard to the lesser damage (on TRF's case, there would be no unacceptable damage – see its objection) that would be caused to the route if a TRO were made with the proposed exception (see *Wilson*, paragraph 77).

36. For all of those reasons, the Council has failed to carry out the balancing exercise required by Section 122 RTRA. Further or alternatively, the Council has given inadequate reasons in respect of any balance undertaken, having regard to the guidance given by the House of Lords in *South Bucks District Council and Another v Porter* [2004] UKHL 33 (confirmed as relevant in this context in *Wilson*):

“The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the ‘principal important controversial issues’, disclosing how any issue of law or fact was resolved. Reasons can be briefly stated, the degree of particularity required depending entirely on the nature of the issues falling for decision. The reasoning must not give rise to a substantial doubt as to whether the decision-maker erred in law, for example by misunderstanding some relevant policy or some other important matter or by failing to reach a rational decision on relevant grounds.”

37. As it stands, the Council has merely paid lip service to s.122 and in doing so give reasons for their conclusions that fall below the *South Bucks v Porter* standard. Furthermore they have failed to meet the s.122 requirement to carry out a separate balancing exercise for the TRO with the proposed exception; one that would have revealed the minimal damage (in the TRF's case, there would be no unacceptable damage) that the exception would cause to the Road. In these circumstances, if the TRO is made, it will be unlawful.

Conclusion

38. In conclusion, for the reasons set out above, TRF's case is that it would be unlawful to make the TRO.

39. As set out in detail in TRF's objection, TRF organise low impact motorcycling trail rides. These happen only on certain days of the year, and involve driving low impact motorcycles on the Road. The proposed exemption would continue to allow some use of the road, albeit at a reduced level controlled and monitored by the Council. The proposed exemption would thus allow for the Council's concerns as to damage to be met, whilst simultaneously allowing for its continued use and enjoyment by TRF in an acceptable way.

40. In view of the matters set out above, TRF requests that the Council reconsider this matter afresh, correctly undertake the balance required by Section 122 of the RTRA, and give proper and serious consideration to TRF's proposed exemption. If, notwithstanding the above, the Council proceeds to make the Order, it is hereby on notice that TRF will challenge the lawfulness of the TRO.

brain
chase
coles

Solicitors

Yours faithfully

 **Brain Chase Coles**
(mstevenson@brainchasecoles.co.uk)
Voicemail extension 501

Partners: Nicholas Maisey Chase *
Jonathan Coles (Notary Public)
Elizabeth Field (Family Mediator)

Solicitors: Sheila Farkes (Family Mediator)
Liz Watson (TFP)
Sarah Parker (TFP)

Consultant: Margaret Stevenson

Licensed Conveyancer: Lisa Rigby (GCILFX)

* Collaborative family lawyer and Resolutor Accredited Specialist

Conveyancing Executive: Jo Francis

Reasons for decision: -

As set out in the revised Statement of Reasons and to prevent unsustainable damage being caused to the U1858/9 by motorised vehicles and that its continuing use by motor vehicles is likely to cause further damage to the road and will also have an adverse effect on its existing character and the amenities of the area.

Details of any alternative options considered and rejected: -

Consideration has been given to other options by officers such as seasonal; one way; just 4x4 restriction orders, but these still involved the route being used by motor vehicles which is considered to be unsustainable. The Trial Riders Federation also suggested an order to include an exemption for TRF members events. This option was discounted as an exemption would require specialist signage which would need approval from the DFT; it would be difficult to enforce and enforcement would be resource intensive. It is also considered that such an exemption would not be easily understood by users of the route even with signage.

Conflicts of Interest

Please record below details of any conflict of interest declared by a Member or Officer regarding the decision and any dispensation granted by the Standards Committee or Monitoring Officer in respect of that conflict.

Conflict	Dispensation?

Background Papers

Please attach to this decision notice, for publication, the background papers that disclose any facts or matters on which this decision, or an important part of the decision, was based and which were relied on to a material extent in making the decision, but this does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

Signed
DAVID BOWE
Corporate Director

Publication Date: ***[to be inserted by Jackie Dawson/Julie Robinson]***

Directorate: Business & Environmental Services
.....

Note 1 regarding Executive decisions only: This decision will come into force, and may then be implemented, on the expiry of 5 clear working days after publication, unless any 6 members of the Council object to it and call it in by notice in writing (including e-mail) to The Assistant Chief Executive (Legal and Democratic Services).

Note 2: non-executive and non-key executive decisions by Officers are not subject to call in.

Reference Number: BES 16/17

NORTH YORKSHIRE COUNTY COUNCIL

DECISION RECORD

Re: Proposed Prohibition of Motor Vehicles, U1858/9 Kirby Bank

This record is produced in accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012

This form should be used to record:

- EXECUTIVE decisions (key or otherwise) taken by an individual Executive MEMBER; and
- EXECUTIVE decisions (key or otherwise) taken by an OFFICER (either alone or in consultation with an Executive Member)
- A non-Executive decision taken by an OFFICER which falls into one of the following descriptions:-
 - (i) under a specific express authorisation; or
 - (ii) under a general authorisation to officers to take such decisions and, the effect of the decision is to
 - grant a permission or licence;
 - affect the rights of an individual; or
 - award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.

(One form per decision)

The following decision has been taken: -

Having considered all representations and objections submitted in response to the consultations and public advertisements, taking into account other possible orders which could be made in respect of the route and the current significant damage to the route, the Corporate Director, Business and Environmental Services (BES), in consultation with the BES Executive Members considers it is expedient for the order to be made for the reasons set out in the revised Statement of Reasons and that its continuing use by motor vehicles is likely to cause further damage to the road and will also have an adverse effect on its existing character and the amenities of the area.

In recommending the implementation of the proposed TRO, it is considered that it will enable the County Council to comply with its duty under Section 122 of the Road Traffic Regulation Act 1984 to secure 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.

By whom: David Bowe, Corporate Director – Business and Environmental Services, in consultation with Executive Members County Councillor Don Mackenzie and County Councillor Andrew Lee

On: 20 October 2017

Was this an executive decision?

YES

If an executive decision, was it also a key decision?

NO

Contact for further information: Jayne.charlton@northyorks.gov.uk

Contact for copy of report considered: tricia.richards@northyorks.gov.uk

To: The Senior Legal and Democratic Technical Support Officer, Legal and Democratic Services - for onward circulation to:

All Members of the Council; All Management Board; All Management Board Secretaries; All Senior Managers; All Democratic Services Officers; All Corporate Development Officers; Senior Press Officer; Communications Officer

NORTH YORKSHIRE COUNTY COUNCIL

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By whom: David Bowe, Corporate Director – Business and Environmental Services, in consultation with Executive Members County Councillor Don Mackenzie and County Councillor Andrew Lee

On: 17 November 2017

Was this an executive decision?

YES

If an executive decision, was it also a key decision?

NO **[as a non-key**

decision by an officer, it is NOT OPEN TO CALL IN]

Reasons for decision: -

As set out in the revised Statement of Reasons and to prevent unsustainable damage being caused to the U1858/9 by motorised vehicles and that its continuing use by motor vehicles is likely to cause further damage to the road and will also have an adverse effect on its existing character and the amenities of the area.

Details of any alternative options considered and rejected: -

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Signed
DAVID BOWE
Corporate Director

Publication Date: ***[to be inserted by Jackie Dawson/Julie Robinson]***

Directorate: Business & Environmental Services
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