

**Business and Environmental Services Directorate
Highways and Transportation Service**

**Management and
Maintenance of
Unsurfaced Unclassified
Roads**

DRAFT

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Executive Summary

The minor highways, footpaths, bridleways and byways of North Yorkshire constitute an extremely important resource for countryside recreation. They have intrinsic value as well, contributing to the 'patchwork quilt' character of the countryside, with historic interest and often providing a haven for wildlife.

As with any other class of user, use by motorised vehicles can give rise to problems which the Council, as the highway authority, needs to address by means of effective management. However because motorised use of rural routes can be such an emotive topic, provoking strong responses from those affected by such use as well as from users themselves, a clear management strategy is required to help the Council carry this out.

This document is aimed at the management of the County Councils Unsurfaced Unclassified Road network (i.e. those 'roads' without a tarmac or concrete surface) which is identified in the Section 36(6) List of Streets as a response to increased use and increasingly higher profile of the network.

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PART 1 POLICY FRAMEWORK

INTRODUCTION AND CONTEXT

The County of North Yorkshire covers 800,000 hectares (3200 square miles) with a highway network of over 9000 km (6000 miles) of roads. The County Council is responsible for providing services to over half a million people including management of the highway network. The County Council also works in partnership with the Borough Councils who act as agents for highway maintenance in Harrogate and Scarborough urban areas.

The County Council seeks to provide a high quality service with the aim to work with and support the people of North Yorkshire to fulfill our mission to be a 'responsive and caring County Council providing good quality and efficient services'. This aim is expressed through a simple and clear vision statement: -

North Yorkshire – a place of equal opportunity where all can develop their full potential, participate in a flourishing economy, live and thrive in secure communities, see their high quality environment and cultural assets maintained and enhanced: and receive effective support when they need it.

The successful management of the highway network is fundamental to the ability of the County Council to deliver this vision. The highway network is fundamental to the economic, social and environmental well being of the community. Consequently the use of appropriate management systems is essential in achieving this.

NETWORK HIERARCHY

A network hierarchy is a means of classification whereby the maintenance network is categorised on the basis of the volume and composition of traffic using it whilst recognising the difference in traffic levels between urban and rural roads. The hierarchy should also take account of risk assessment and the role of the particular section of the carriageway, footway or cycleway in the network.

The hierarchy is the foundation of a coherent, consistent and auditable maintenance strategy and is fundamental in determining policy priorities. It is the link between maintenance policy and implementation and will assist in determining standards for design and new construction.

It is important that hierarchies are regularly reviewed to reflect changes in network characteristics and use so that maintenance policies, practices and

standards reflect the actual current use of the network. Accordingly, the County Council will review the hierarchies on an annual basis.

The aim of the road hierarchy is to:

- allow programmes of inspections to be set to enable statutory duties to be fulfilled
- allocate resources according to the importance of the road within the network
- set policies and standards according to the importance of the road within the network

It is the intention to use the hierarchy as an indication of the standard of repair required to keep the road in reasonable condition having regard to its function and the volume of traffic using it.

The network hierarchy is sub-divided into three sections to cover carriageways, footways and cycleways, and the local hierarchies for North Yorkshire in 2009-10 are as follows:

Category	Hierarchy	Type of Road	Detailed Description
	Description	General Description	
1	Motorway	Not applicable	Not applicable
2	Strategic Route	Trunk and some Principal "A" roads between Primary Destinations	Routes for fast moving long distance traffic with little frontage access or pedestrian traffic. Speed limits are usually in excess of 40mph and there are few junctions. Pedestrian crossings are either segregated or controlled and parked vehicles are generally prohibited.
3a	Main Distributor	Major Urban Network and Inter-Primary Links. Short-medium distance Traffic	Routes between Strategic Routes and linking towns to the strategic network with limited frontage access. In urban areas speed limits are usually 40mph or less, parking is restricted at peak times and there are positive measures for pedestrian safety.

3b	Secondary Distributor	B and some C class roads. Some unclassified urban bus routes carrying local traffic with frontage access and frequent junctions	In rural areas these roads link the larger villages and industrial sites to the Strategic and Main Distributor Network. In built up areas these roads have 30mph speed limits and very high levels of pedestrian activity with some crossing facilities. On street parking is generally unrestricted.
4a	Link Road	Roads linking between the Main and Secondary Distributor Network	In rural areas these roads link the smaller villages to the distributor roads. In urban areas they are residential or industrial or inter-connecting roads with 30mph speed limits random pedestrian movements and uncontrolled parking.
4b	Local Access Road	Roads serving limited numbers of properties carrying only access traffic	In rural areas these roads serve small settlements and provide access to individual properties and land. They are sometimes only single lane width and unsuitable for HGV. In urban areas they are often residential loop roads or culs de sac.
5	Back Street	Roads serving limited numbers of properties	Only applicable to urban areas, will typically be the rear access road to terraced properties
6	Unsurfaced Road	Unsurfaced Road, may provide access to residential / commercial properties or connect to the surfaced highway network	Only applicable in 'rural' locations includes those roads locally known as 'Green Lanes' or 'County Roads'.

Carriageway Category	Urban	Rural	Total
2	62.574	214.751	277.325
3A	154.262	460.317	614.579
3B	289.036	835.732	1124.768
4A	321.495	1516.577	1838.072
4B	1270.531	3096.386	4366.917
5	48.878	0.560	49.438
6	2.303	747.687	749.990

9021.089

The objective of this document is to set out a policy that can be used to ensure a consistent and fair approach to the management of these highways.

RELEVANT LEGISLATION AND BACKGROUND

Much of highway maintenance activity is based upon statutory powers and duties contained in legislation and precedents developed over time as a result of claims and legal proceedings. It is crucially important that all those involved in highway maintenance, including Council Members, have a clear understanding of their powers and duties, and the implications of these.

Even in the absence of specific duties and powers, authorities have a general duty of care to users and the community to maintain the highway in a condition fit for its purpose. This principle should be applied when developing policy and strategy.

In addition to a general Duty of Care, there are a number of specific items of legislation provide the basis of powers, duties, and responsibilities relating to Highway Maintenance, regulating the environmental affects of operations, and Health and Safety:

The Highways Act 1980
The New Roads and Street Works Act 1991
Road Traffic Regulations Act 1984, and the Traffic Signs and General Directions 2002
Road Traffic Act 1988
Road Traffic Reduction Act 1997
The Local Authorities (Transport Charges) Regulations 1998
The Transport Act 2000
Traffic Management Act 2004
Railways and Transport Safety Act 2003
National Parks and Access to the Countryside Act 1949
Countryside Act 1968
Wildlife and Countryside Act 1981
Wildlife and Countryside Act 1981
The Environmental Protection Act 1990
The Weeds Act 1959
Ragwort Control Act 2003
Rights of way Act 1990
Countryside and Rights of Way Act 2000
European Water Framework Directive 2000
The Clean Neighbourhoods and Environment Act 2005
The Environmental Assessment of Plans and Programmes Regulations 2004
The Health and Safety at Work Act 1974
Management of Health and Safety at Work Regulations 1992
Construction (Design and Management) Regulations 1994
Natural Environment and Rural Communities Act 2006

There is also further legislation, not specifically related to highways, street and traffic functions, but dealing with wider community issues that may affect the service we provide: -

Local Government (Miscellaneous Provisions) Act 1982

Town and Country Planning Act 1990

Disability Discrimination Act 1995

Criminal Justice and Public Order Act 1994

Human Rights Act 1998

Freedom of Information Act 2000

Local Government Act 2000

Civil Contingencies Act 2004

In the development of policy and strategy the first priority will always be to ensure compliance with our statutory duties and fulfilling our duty of care.

WHAT ARE THE PROBLEMS?

The 1997 Department of the Environment, Transport and the Regions (DETR) publication 'Making the Best of Byways' highlighted three key issues that cause problems relating to the use of motorised vehicles on Byways. Broadly, these were:

- uncertainty surrounding what rights exist
- conflicts between users focussed on the alleged impact of motor vehicles on the amenity value of the countryside
- physical deterioration of routes as a result of insufficient maintenance and / or unsustainable levels of use by motor vehicles

There are also concerns over the environmental damage and disturbance that can sometimes be caused by this activity, both within the highway itself and in the wider countryside.

Complaints regarding motorised vehicle activity in the countryside may often arise from a combination of these problem areas.

UNCERTAINTY OVER STATUS

Whilst these highways appear on the List of Streets (LoS), i.e. highways that are maintainable at public expense, their inclusion within the LoS does not confer 'user rights' e.g. public use of mechanically propelled vehicles (MPV's) , a number of years ago the County stated that as a minimum the routes would be identified as 'footpath', i.e. pedestrian use only. Some of the routes have been

identified as being of 'dual status' i.e. they appear on both the LoS and the Definitive Map and Statement.

CONFLICTS BETWEEN USERS

Conflict between users can arise when walkers and horse riders (and possibly cyclists and carriage drivers too) using these minor highways perceive that their pursuit of peaceful and quiet enjoyment is disturbed by the presence of motor vehicle users.

Conflict can also occur between motor vehicle users and land owners/occupiers and residents living adjacent to these routes. Typically, the conflicts arise from a feeling, on the part of the resident or landowner etc, that their peace and quiet or privacy has been disturbed by the motorist(s).

Though conflicts of this type often arise from a perception that such use is not appropriate, these perceptions are often allied to a lack of certainty over the rights that actually exist on the route, both on the part of the aggrieved walker, horse rider or local resident etc and on the part of the motorist.

Some users, typically walkers and horse riders, as well as residents and landowners etc, feel that motor vehicle activity poses a threat to their physical safety. These concerns may well be heightened by the physical characteristics of the routes such as width, visibility or gradient.

PHYSICAL DETERIORATION

The routes discussed in this document tend to be used by all classes of user. They do not have sealed surfaces and will not have been subject to any reconstruction work with general motor traffic use in mind. In many cases they will have had only limited maintenance carried out on them over the last fifty years or more. They may therefore be susceptible to physical deterioration through natural forces or use, excessive or otherwise, or a combination of these factors. Natural forces may exacerbate damage that arises in the first place through use, especially where the route relies on natural drainage or rudimentary highway drainage provision. (Many routes in North Yorkshire appear to have natural springs rising along their length which creates problems itself and exacerbates other ones.) Conversely, highways of this kind can also be prone to damage arising initially through natural forces (e.g. water flows following very wet weather). This then makes them susceptible to further damage through use.

It should be acknowledged that damage caused to these routes is often found to be attributable to more than one type of usage and can include legitimate use by

landowners or occupiers, notably tractor and other agricultural vehicle movements. Significant damage can also be caused by other users, particularly equestrian use after periods of wet weather. However, rightly or wrongly a large proportion of those who complain about physical deterioration along these sorts of routes consider recreational motor vehicle users as being most to blame. Physical deterioration of this nature can not only impair the use and enjoyment of these routes by other users but can also create conditions which jeopardise their physical safety. In exceptional circumstances routes can become virtually impassable for all users bar those drivers who enjoy the challenge of such conditions. This obviously has implications in terms of the Council's duty under s130 (1) of the 1980 Act (see above) and can impact on those who may use such ways to access land or premises.

ENVIRONMENTAL DAMAGE AND DISTURBANCE

Excessive use of these minor roads and tracks by motor vehicles can result in damage to their intrinsic landscape, heritage and ecological character. (Conversely, limited use can help ensure that routes remain clear from encroaching vegetation which benefits both other users and wildlife.) As in the case of cobbled and paved ways, many of these routes have been surfaced using materials and methods of construction which lend character, distinctiveness and historical interest to the route itself and wider landscape setting as well as enhancing enjoyment of the way by users. The surface damage that can result from intense or inappropriate use of these routes by motorised vehicles is not only a cause for concern in itself but also detracts from their appeal as resources for countryside recreation. Damage to adjacent trees resulting from their use as winching points for vehicles in difficulty is also a concern. The relatively unspoilt nature of many of these minor highways, as well as adding to the visual appeal of the countryside, often provides opportunities for wildlife to flourish. The verges and banks of these routes can hold assemblages of plants now rare elsewhere within the countryside and can support invertebrates, small mammals, amphibians and reptiles. They can thus be of significant ecological value. These routes can also act as important 'corridors' for the movement of wildlife and are often characterised by ancient boundaries which are important in their own right, both in terms of their antiquity and, as is particularly the case with ancient hedgerows, as valuable habitats. As well as the obvious consequences resulting from vehicles damaging and disturbing ecologically sensitive routes, such use can impact on the wider environment in terms of the noise and pollution associated with some motor vehicles and the visual 'scar' on the landscape which can result from intensive use of particular routes.

MANAGEMENT STRATEGIES

The County Council has a duty as the local highway authority for the county of North Yorkshire, to ensure that all roads and footways are managed and

maintained in a safe condition having regard to the amount and nature of the traffic using them. It is also the aim to provide a road network with a condition and environment that are acceptable to the people of North Yorkshire and the travelling public. In the pursuit of this aim, the County Council is committed to ensuring that all funds available for the service are used as effectively as possible.

DRIVING ON FOOTPATHS AND BRIDLEWAYS

The police have a duty to enforce the legislation dealing with the unlawful driving of 'mechanically propelled' vehicles on footpaths and bridleways and so complaints regarding this type of use should also be a matter for the attention of the police. Where these problems are shown to exist, North Yorkshire exercises its powers to erect appropriate barriers or structures to protect the interests of legitimate users.

MAINTENANCE

The unsealed appearance of these routes can be an important part of the way in which they fit in and harmonise with the surrounding countryside. They are a feature of, as well as a route through, the countryside. For this reason, maintenance of these ways must, wherever possible, not only be commensurate with the purpose for which they are primarily used but also, if an 'urbanised' appearance is to be avoided, sensitive to the general appearance and character of the surroundings.

In some circumstances, however, standard maintenance measures normally associated with these routes may not be sufficient to prevent or reverse their physical deterioration. Where substantial engineering solutions are identified as necessary to achieve a route capable of sustaining intensive use, there may be adverse side-effects such as loss of amenity or harm to the historic character of the route and thus be considered to be excessive in terms of the overall cost to the authority and the benefit that would be derived. It may therefore be necessary to institute alternative management measures such as voluntary restraint or traffic regulation.

Prior to any maintenance works being carried out it is important to establish the existence of any wildlife or heritage value the route may have. Such considerations may have a bearing on the nature or extent of such works. In order to ensure that finite resources are targeted effectively, a means of prioritising maintenance works has to be implemented. Factors such as the route's importance, the scale of work required and the level of valid complaints received will need to be considered when deciding how to allocate resources.

HIGHWAY INSPECTIONS

The establishment of an effective inspection regime incorporating inspection frequencies, items to be recorded and nature of response supported by an assessment procedure based on risk probability is the key element in addressing the fundamental objectives of the highway maintenance strategy:

- Network Safety
- Network Serviceability
- Network Sustainability

The regime will be applied systematically and consistently, and a standardised comprehensive recording system will be adopted so that the risk assessment procedure will be clear and transparent. Inspections and surveys will be undertaken under the following categories:

Assessment Survey

The initial survey undertaken on a route to determine: route, condition, purpose, usage, damage, issues around sustainability.

Safety Inspections

Regular comprehensive inspections of all highway elements in addition to routine scouting of street lighting and illuminated signs and less frequent specialised inspections for electrical safety – network safety

Service Inspections

Detailed inspections appropriate to the requirements of particular highway elements for network serviceability together with inspections for regulatory purposes for network availability and reliability and less frequent inspections for network integrity – network serviceability

Condition Surveys

Surveys to identify deficiencies in the highway fabric, which are likely to affect Network Value – network serviceability and sustainability

The recording system for inspections and surveys will facilitate analysis such that a holistic view may be taken of maintenance condition and trends related to network characteristics and use.

The system will also provide for recording service requests and complaints or other information from users or other third parties and will include what action or non-action is to be taken. It is proposed that the inspection, assessment and recording system will be monitored for the first twelve months and then reviewed to take into account any lessons learnt.

The strategy covering frequency and type of inspections / surveys will be identified following the initial 'assessment survey' of each of the UUR's.

VOLUNTEERS

Some groups and individuals are keen to get involved in practical maintenance tasks in the countryside. Recreational vehicle user groups, including those active in North Yorkshire, hold events where, in co-operation with highway authorities, they carry out vegetation clearance, drainage work and resurfacing on the sorts of ways discussed in this document. This work not only assists highway authorities by helping to conserve finite resources, it sends a positive message to the local community regarding motorised vehicle users in the countryside and helps those involved in the works value their environment (Volunteers can be covered by the authorities insurance under specified conditions).

RESTRAINT AND REGULATION

Where other measures have failed or are considered inadequate to deal with the kind of problems identified in this document, some form of restraint or regulation has to be considered.

The Department of the Environment (DoE) circular 2/93 (paragraph 13) advocates the use of management measures based on co-operation and agreement whilst the House of Commons report on the Environmental Impact of Leisure Activities recommends that authorities should initiate collaborative negotiations between users before resorting to statutory traffic controls.

'Making the Best of Byways' is more specific, advocating management by means of voluntary restraint agreement.

Voluntary restraint agreements have no legal status but depend on the good will and support of users in avoiding routes at times or in situations where the particular route concerned could otherwise easily become damaged. The Motoring Organisations' Land Access and Recreation Association (LARA), who pioneered this system of management, produce voluntary restraint notices that can be used to inform people of the agreement.

DoE circular 2/93 commends the use of TROs to prevent inappropriate use and to protect the countryside where all other management measures have failed or are considered inadequate. The various grounds on which a TRO may be made are listed in Appendix 2.

TROs can be targeted to suit particular circumstances. For instance they can be permanent, temporary or experimental, they can be worded to apply to particular categories of user and they can be weight or width related. Signs have to be erected advising the public of the TRO and barriers can be erected to prevent use of the way concerned in contravention of the Order.

Should the Council wish to make a TRO on a pre-emptive basis, it would need to be able to defend its position by demonstrating a reasonable risk that the situation it was intended to prevent would otherwise arise.

SUSTAINABLE USE

The Council is determined to work towards achieving a more sustainable future and is committed to promoting the conservation and sustainable use of resources such as the network of minor ways that are the subject of this document, including the natural and built environments of which they form part. The appendix to the Policy Statement for the Management of Motorised Vehicle Use in the Countryside lists some of the factors that the Council will examine when considering whether current or required management of a particular way is sustainable.

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Part 2 -POLICY STATEMENT

In defining the maintenance and management policies and strategies for the network of Unsurfaced Unclassified Roads the County Council wishes to adopt a holistic, route based approach that will seek to maximise sustainable use for as broad a range of network users as possible.

The County Council also intends that these maintenance and management policies and strategies provide a consistent baseline for service delivery across the County that can be enhanced by management proposals developed by the two National Park Authorities whose powers under the NERC Act 2006 came into force on the 1st October 2007.

In pursuance of this aim North Yorkshire will:

Fulfill its duty to resolve doubt that may exist over the level of rights subsisting over particular routes and where necessary ensure that routes are correctly signposted and waymarked.

In accordance with advice contained in 'Making the Best of Byways' ensure that the standard of maintenance on these routes is consistent with the purposes for which they are used, the level of the amenity of the area and the conservation of the countryside.

Prioritise maintenance works using the following factors:

1. routes where public safety is deemed to be at risk
2. an objective assessment of the condition of the route's surface
3. the importance of the route to the overall network
4. the recorded level of valid complaints
5. the level of use

Seek to involve vehicle users in voluntary restraint agreements where there is a need to prevent further surface damage resulting from continued use with motor vehicles and remedial maintenance measures have failed or are considered not to be sustainable

Seek to make targeted Traffic Regulation Orders (TROs) after appropriate consultation only where other available management measures have either failed or are considered inappropriate and:

1. there are well-substantiated public safety concerns or
2. use of the route by motor vehicles, whether in general or by specific types, is considered not to be sustainable

Continue to monitor the effectiveness of maintenance measures, voluntary restraint agreements and TRO's and review the situation where such measures are found to be ineffective, having undesirable effects or are no longer justified.

Where appropriate, use its powers under Section 66 of the Highways Act 1980 to erect barriers etc within footpaths or, bridleways, for the purpose of safeguarding persons using the way.

Through liaison with users and other groups, consider utilising voluntary effort on the maintenance of these minor roads and tracks provided that:

1. volunteers are covered by adequate insurance; the work is approved by the authority; and
2. notification of any works is provided to (adjacent) landowners and other interested individuals or bodies when appropriate

Support and promote measures aimed at encouraging responsible driving and sensible use of the network.

Ensure that this Policy document is kept under review and any necessary amendments incorporated on a three yearly basis.

PART 3a – STRATEGY FOR CLARIFYING / CONFIRMING ROUTE STATUS

1. Identify 'Dual Status' routes because the NERC Act effectively extinguished vehicular rights on dual status routes, (1a) subject to the exceptions laid out in the Act.

2. Compare the Unsurfaced Unclassified Road (UUR) Network with the PRow Network to ascertain whether elements of the UUR network complete PRow routes which will provide a list of UUR's whose 'status' can be identified to reflect that of the adjoining PRow network.

3. Undertake 'Assessment Surveys' for all UUR's to ascertain potential maintenance requirements and those that are most susceptible to damage by MPV's, i.e. routes with sustainability issues and identify the provisional extent of any maintenance works. The intention is to provide training to PRow volunteers who will then survey the network on an annual basis (commencing 1st April 2010).

3a For UUR's within the National Parks and Areas of Outstanding Natural Beauty (AONB's) in addition to the NYCC criteria identified in items 2 and 3 above incorporate the Qualitative Route Assessment Criteria developed by Yorkshire Dales Green Lanes Advisory Group [YDGLAG] (e.g. additional conditions relating to noise and enjoyment of area using Ecological Sensitivity, Heritage Sensitivity, Surface Sensitivity, Tranquility Sensitivity, Overall Sensitivity and Potential Demand). (Appendix 4 – NPA's and AONB's Qualitative Route Assessment Criteria).

4. Identify Route Maintenance and Management options following assessment survey and consult and engage user groups and if appropriate initiate both democratic and legal processes necessary to impose TRO's restricting use.

4a Ensure that any unrecorded footpath, bridleway and restricted byway rights are recorded on the definitive map and statement by the cut-off date of 2026, regardless of whether they are also shown on the list required to be kept under section 36(6) of the Highways Act 1980, the 'list of streets'.

5. Review and revise strategies for the UUR network that compliment those within the Highway Maintenance Plan which covers the 'surfaced' Highway network for example:

Frequency of Safety Inspections (based upon risk, exposure to risk)

Inspection criteria (defects and defect investigatory levels)

Route Management Options

Route Maintenance Options

Works Prioritisation Process - Maintenance / Improvement works

PART 3b – Draft Timetable

Activity Number	Start Date	Estimated Duration	Lead
1	November 2009	2 months	PRoW / Highways Asset Management (HAM)
1a	December 2009	2 months	PRoW / Highways Asset Management (HAM)
2	November 2009	2 months	PRoW / Highways Asset Management (HAM)
3	January 2010	6 months	PRoW / Highways Asset Management (HAM)
3a	January 2010	TBC	NPA's and AONB's
4	June 2010	Not Applicable, on going	UUR Liaison Group
4a	TBC	Unknown	TBC
5	April 2010	Annual review	HAM / Liaison Group

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APPENDIX 1: Management of Motorised Vehicle Use in the Countryside

Definition of Sustainable Use

For the purposes of this Policy Statement, 'sustainable use' means, given a reasonable level of maintenance, use by vehicular traffic of a kind and/or in a manner or to an extent, which does not cause damage or pose an unacceptable risk of permanent harm, to one or more of the following:

1. The fabric of the route itself; any building on or near the route; the character of the route, particularly in terms of its contribution to the amenity value of the local area
2. Any non-pest animal or plant species native to the British Isles (particularly any species of acknowledged vulnerability)
3. Any features of nature conservation, biodiversity, geological, landscape, archaeological or historic value (whether within or beyond the route or
4. The passage and enjoyment of other kinds of user for which the route may be especially suitable

APPENDIX 2: Traffic Regulation Orders

Under the Road Traffic Regulation Act 1984 (as amended by subsequent legislation), a Traffic Regulation Order may be made on a route when it appears expedient to make it:

1. 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
2. for preventing damage to the road or any building on or near the road, or
3. for facilitating the passage on any road of any class of traffic (including pedestrians), or
4. 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
5. for preserving the character of the road in a case where it is especially suitable for use by persons on horseback or on foot, or
6. for preserving or improving the amenities of the area through which the road runs in National Parks, AONB's, SSSI's, nature reserves, National Trust land and on National Trails for the purposes of conserving or enhancing the natural beauty of the area or for affording better opportunities for the public to enjoy the amenities of the area or recreation or the study of nature of the area.

APPENDIX 3 - FACTORS / ISSUES FOR CONSIDERATION

Would the route meet any ROWIP priorities e.g. Circular walk / ride etc?

If the route is a dead end, does the route provide any recreational use e.g. ends at a panoramic view?

Is the route a landscape feature in its own right?

Seek advice from local authority archaeologists / English Heritage regarding the vulnerability of each site to motorised vehicle traffic:

- Scheduled monuments
- Listed buildings
- Archaeological sites

(Only interested in sites that are within close proximity (500m) to the route, or those that the route leads toward)

World Heritage sites

Ecological Issues – In particular European Protected Species Legislation
Protected Landscapes – Apply extra conditions relating to noise and enjoyment of area (limited to the NPA's and AONB's)

Site of Special Scientific Interest (SSSI)

SSSIs are the country's very best wildlife and geological sites. They include some of our most spectacular and beautiful habitats including heather-clad heathlands, flower-rich meadows, and remote uplands moorland and peat bog.

Special Area of Conservation (SAC)

This is a European designation. Compared with other designations SACs tend to be large, often covering a number of separate but related sites. Almost all UK SACs are based on Sites of Special Scientific Interest (SSSI). In planning law, they are effectively afforded the highest possible protection.

Specially Protected Area (SPA)

This is a European designation. The EC Directive on the Conservation of Wild Birds is designed to protect wild birds, and includes selection of areas most suitable for them to be designated Special Protection Areas (SPAs). All SPAs are also SSSIs.

Environmentally Sensitive Area (ESA)

Introduced in 1987 to offer an incentive in order to encourage farmers to adopt agricultural practices which safeguard and enhance parts of the countryside of particularly high landscape, wildlife or historic value. The scheme has now closed.

Limestone Pavement Order

This is a designation under the Wildlife and Countryside Act which protects areas of limestone pavement from damage or removal of the limestone.

Scheduled Ancient Monument

Scheduling is currently the only mechanism for legal protection specifically for archaeological sites. The word 'monument' covers the whole range of archaeological sites. Scheduled monuments are not always ancient, or visible above ground.

National Nature Reserves (NNRs)

Are places where wildlife comes first. They were established to protect the most important areas of wildlife habitat and geological formations in Britain, and as places for scientific research. This does not mean they are 'no-go areas' for people. It means that we must be careful not to damage the wildlife of these fragile places. It means that every NNR is 'nationally important' and that they are all among the best examples of a particular habitat. It also means that NNRs are carefully managed on behalf of the nation. They are either owned or controlled by Natural England or held by approved bodies such as Wildlife Trusts.

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APPENDIX 4 - The National Park Authority's and Areas of Outstanding Natural Beauty Qualitative Route Assessment Criteria

The Yorkshire Dales National Park Authority's approach to 'green lane' management is outlined in the framework document, 'Management of the use of green lanes (unsealed routes) in the Yorkshire Dales National Park' and was produced by the Authority following consultation.

The framework translates our broad policies and objectives into a framework for the management of green lanes in the National Park, ensuring a consistent, case by case approach is taken in line with good practice, legislation and guidance.

In summary the framework outlines factors that need to be considered in evaluating the impact of recreational motor vehicles on green lanes in the Yorkshire Dales National Park including:

- The ecological sensitivity of the route
- The heritage of the route and its surroundings
- The landscape impact of use particularly in relation to tranquility
- Conflicts between recreational user groups
- Concerns raised by local residents and land managers and owners
- The surface sensitivity of the route
- The use of routes

The methodology has also been extended to cover not just the byway network but all routes with possible or proven rights for motor vehicles. This includes routes with a BOAT application received before 20th January 2005 and unsurfaced unclassified roads not shown on the Definitive Map.

For routes which have proven mechanically propelled vehicular rights, or where such rights are a possibility, identifying suitable management options will revolve around a detailed assessment of the route. Possible options for management of individual routes, identified in the framework, include:

- do nothing
- repair the route
- maintain the route
- seek voluntary restraint on use of the route from specified users and
- place legal restriction (Traffic Regulation Order – TRO) on use of route from specified users. For example:
 - limit use the route to a specified number of users each month (a permit system):
 - seasonal restriction on use (preventing use at specified times of the year):

- other partial restriction (for example, preventing use for certain number of days or at certain times of the day); or
- all year round restriction on use

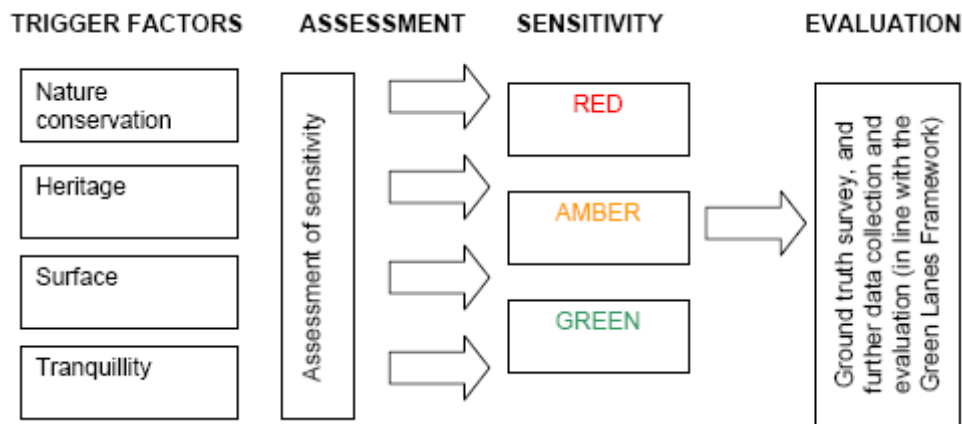
Out of 102 routes with possible or proven mechanically propelled vehicular rights, 28 were assessed as high sensitivity, these reports goes to an advisory group (Yorkshire Dales Green Lane Advisory Group) set up to give advice on management measures on individual unsealed routes.

Sensitivity Assessment

The Vulnerability Assessment assesses three categories of sensitivity which are:

- High vulnerability (coded RED) – highly sensitive requiring immediate action
- Unknown vulnerability (coded AMBER) – potential for damage which requires more detailed assessment and/or monitoring
- Low vulnerability (coded GREEN) – relatively robust and able to withstand current usage by users

Importantly, any one factor can trigger a route being coded red = ‘high vulnerability’ / highly sensitive.



Methodology used for the Yorkshire Dales National Park assessment of unsealed routes

Demand for the use of the route

Mapping potential demand of individual routes is important to ensure that management decisions take into account wider network considerations. Long routes with good links into other parts of the network of unsurfaced routes and the wider road network are likely to have a high potential demand for recreational motor vehicle users, whereas short isolated routes or ones that are effectively dead ends for motor vehicles would be expected to attract little use.

In considering this factor the level of use of a route by walkers, cyclists, horse riders and carriage drivers is also taken into account, together with use as part of a promoted recreational route.

The potential demand/level of use of a route is also necessary to inform the sensitivity of a route with the different factors to be considered. Clearly the impact of motor vehicles on nature conservation, heritage, the route surface and tranquility is likely to depend on the number of motor vehicles using the route. Routes which are unattractive to recreational motor vehicle users and have low levels of use/potential demand, are likely to be less sensitive.

Potential route demand has been assessed using the criteria in the table below.

Evidence potential demand/level of use	Potential Demand
Route with poor connectivity to the rest of the network with little value to recreational motor vehicle users (eg. joins road link to a footpath). Routes with little history of use by recreational motor vehicles.	LOW
Routes with moderate connectivity and/or moderate potential demand. Includes short linking routes and long no through routes for motor vehicles.	MODERATE
Route with high levels of connectivity, and/or high appeal to motorised users and/or other non-motorised users (joins two road links or joins road link to another unsurfaced route).	HIGH

Ecological sensitivity of the route

Nature designations provide useful initial criteria for assessing the sensitivity of a habitat to the potential physical impacts of motorised vehicles. National Nature Reserve and Sites of Special Scientific Interest (SSSI) carry the highest national designations for nature conservation with international designations Special Areas of Conservation (SACs) and Specially Protected Areas (SPAs) carrying even higher protection.

In addition nature designations including and Local Nature Reserve could provide important information on the relative sensitivity of these sites to pressure from users. In the National Park there are also areas with a high ecological sensitivity (ESAs) that are not covered by local, national or international designations but are still important habitats and have sensitive species, particularly of breeding birds.

Ecological sensitivity has been assessed using the criteria in the table below.

Evidence on ecological sensitivity	Ecological sensitivity
Low sensitivity.	GREEN
Moderate or unknown. Land in ESA agreements or of botanical interest. May have national or European designations but not thought to have highly sensitive features.	AMBER
High sensitivity. National or European designations which may have vulnerable features. Highly sensitive features such as blanket bog or flushes. Important and sensitive species.	RED

Heritage sensitivity of a route

Assessment of the sensitivity of heritage features along a route relates directly to the records of ancient monuments and scheduled monuments. In developing the criteria for heritage features, proximity to the route is an important factor, together with the potential sensitivity of the feature to disturbance through the impacts of motor vehicles.

Heritage sensitivity has been assessed using the criteria in the table below.

Heritage sensitivity	Heritage sensitivity
Low sensitivity. No vulnerable heritage features identified.	GREEN
Moderate or unknown sensitivity.	AMBER
High sensitivity. sensitivity heritage features along route, or in close proximity.	RED

Surface sensitivity of a route

The ability of a route to sustain use by motor vehicles is considered to largely dependent on the existing route surface, topography and drainage of the route.

The route surface can vary from deep peat, through grassland on top of limestone, to a stony track. On some routes, extensive changes have been made to the drainage and surface through engineering works. On many routes existing route surface, topography and drainage have been assessed through conducting condition surveys, which have been completed by Highway Asset Management staff at North Yorkshire County Council and Yorkshire Dales National Park Authority. Where a condition survey has not been carried out recently then information from the Area Ranger has been used for the assessment.

The Surface sensitivity of the routes was then scored according to the following criteria.

Evidence of surface sensitivity	Surface sensitivity
Good quality surface and drainage eg stone track with good surface water run-off.	GREEN
Moderate quality surface with good drainage and topography, or good quality surface but the drainage is a significant factor. Routes where extensive engineering work has been carried out.	AMBER
Vegetation surface eg acid grassland over peat, or moderate quality surface where drainage and/or topography are significant factors.	RED

(NB It should be noted that any visual impact of damage or erosion is not considered at this point – this will be considered as part of the detailed route assessment if necessary).

Tranquil area assessment

Tranquility has been identified as one of the key special qualities that affect the recreational experience in the National Park. An assessment of the tranquil areas of the National Park was carried out using a model developed by the Council for the Protection of Rural England (CPRE). This involves identifying major sources of noise generation in and around the National Park such as major roads, quarries and railways and mapping these. Buffers are then drawn around these noise sources which will then show the parts of the National Park expected to have the highest levels of tranquility.

The tranquility of the routes is assessed according to the following criteria.

Evidence on tranquillity	Tranquillity sensitivity
Route close to significant noise sources with less than 30% of the route in tranquil area and moderate use/potential demand, or 30% to 80% of route in tranquil area with light use/potential demand.	GREEN
30% to 80% of route in tranquil area with moderate use/potential demand, or less than 30% in tranquil area with heavy levels of use/potential demand, or more than 80% of route in tranquil area and with light level of use/potential demand.	AMBER
30% to 80% of route in tranquil area with heavy use/potential demand or more than 80% of route in tranquil area and with moderate or heavy level of use/potential demand.	RED

How the sensitivity assessment is being used to prioritise

All the routes that are assessed as having a high vulnerability (RED) in one of the four areas of nature conservation, heritage, surface condition and tranquility will

be considered to be a potentially 'sensitive' route. Based on the experience in the North Pennines detailed fieldwork may of course lead to this assessment changing.

It is not possible to gather detailed information and undertake an in-depth evaluation on all the sensitive routes at the same time, and so further prioritisation will be needed. To decide priorities two factors may need to be considered. Firstly whether a route is sensitive in more than one of the four areas, and secondly what the potential demand/use level is of an individual route.

Clearly a route could be sensitive due to a number of factors but if use levels are low, or non-existent, then it may not be a good use of resources to look at this route, over and above a sensitive route with high levels of use to begin with.

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APPENDIX 5 – An Example of Voluntary Restraint on the Unsurfaced Unclassified Road Network

Cumbria County Council / Lake District National Park

Since the summer of 2002 the **108** UUR's within the Lake District National Park have been managed under a new and simplified system that resulted from a two year Hierarchy of Trail Routes Experiment (**There are approximately 1000 UUR's in North Yorkshire**). Each route has been assigned to one of three categories based on a number of considerations, including the quality and impact of the route, popularity with other users and levels of conflict, whether the route is sustainable at any particular time and the levels of recorded vehicular rights

ROUTES WITH MINIMAL USE & INTERVENTION (also known as 'green routes' proceed with caution): these routes are assessed as being sustainable for recreational motor traffic at all times. Recorded use is minimal and no problems or valid complaints over vehicular use have been identified. Some routes may be short, dead end routes where no or little use has been recorded and turning round may be a special problem. The management policy here is one of non-intervention unless problems arise, when consideration will be given to moving a route into another category. These routes will not be signed but the advice contained in this Code still applies.

ROUTES WITH MODERATE USE & INTERVENTION (also known as 'amber routes' proceed with special care and attention and follow advice given by signs): these routes are subject to moderate levels of use by recreational motor vehicles and a greater degree of sensitivity and responsibility is necessary to drive or ride them. They may also be used by a significant number of walkers, cyclists and horse-riders. They could also pass by houses, go through farmyards or close to stock pens. The surface of the route may mean that use by recreational motor vehicles is not sustainable in all weathers. These routes will be signed, and advice specific to each route as well as general green road code information will be provided. Please heed this advice.

ROUTES WITH SIGNIFICANT USE & ACTIVE INTERVENTION (also known as 'red routes' proceed only with great care and follow advice on signs explaining special controls in place): these routes experience significant use and attract the greatest number of valid complaints regarding vehicular use. They are under the greatest pressure and are subject to the greatest conflict between different classes of user and between users and the environment. Some of the routes cross the high fells and are badly eroded. For these reasons they need more active management. Recreational vehicle users are asked to comply with a variety of voluntary restraint controls. For example, 4x4s will be advised not to use certain routes, one way traffic will be recommended on others or users may be asked not to use a route between holiday dates when it is heavily used by walkers and horse-riders. Red routes will

be signed, and advice given specific to each route as well as general green road code information will be provided. Please heed this advice.

All 'green' use routes are surveyed once a year while the 'amber' and 'red' routes are surveyed twice each year by joint teams of National Park staff and representatives of vehicle user groups. The 'red' routes are also monitored in detail for levels of vehicular use. Changes in condition or an increase or reduction in valid complaints could lead to a route being moved into a different colour code. Lack of compliance with the voluntary restraints on the 'red' routes may lead to more restrictive legal controls through Traffic Regulation Orders (TROs). This innovative management approach does not prejudice the legal status of routes however.

Management of routes will also include maintenance and repair. This could range from large-scale drainage and re-surfacing projects involving National Park Authority (NPA) Estate Teams and private contractors through to manual maintenance tasks carried out by NPA Voluntary Wardens and local users acting as voluntary lengthsman.

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Glossary of Terms

1. List of Streets - a requirement of Section 36(6) Highways Act 1980 for the Council to make and keep up to date a list of streets that are maintainable at the public expense
2. Adopted Highway - A highway that is maintainable at public expense following the completion of an agreement under s38, Highways Act 1980 or previous legislation
3. Category 6 Carriageway - these are unsurfaced routes (Unsurfaced Unclassified Roads) recorded on the List of Streets, which are considered to have, as a minimum footpath rights
4. Definitive Map and Statement -the document which provides legal proof of the existence of Public Rights of Way (Public Footpaths, Public Bridleways and Byways Open to All Traffic)
5. Traffic Regulation Order - (TRO) An Order made under the Road Traffic Regulation Act 1984 which can prohibit or restrict all or particular classes of traffic from specified routes. They can be permanent, temporary or experimental, they can be worded to apply to particular categories of user and they can also be weight or width related
6. Dual Status Routes
There are routes that appear on both the Definitive Map and the list of streets, these are referred to as "dual status" routes.

The Highways Act 1980 Section 36(6) imposes a duty on the Authority to keep and maintain a "list of streets" which is a list of highway maintainable by the Authority at public expense. Essentially the list of streets records the County Council's maintenance responsibilities.

The Definitive Map and Statement pursuant to the Wildlife and Countryside Act 1981 Section 56 is a document which provides conclusive evidence as to the particulars it contains. This is evidence as to the public rights in respect of various highways. Essentially, it donates a legal status of public rights in relation to a highway. It is not concerned with maintenance.

The list of streets and the Definitive Map and Statement are different types of records. The list of streets is concerned with maintenance responsibilities and the Definitive Map and Statement is concerned with legal status.

7. Ratione Tenurae (RT) Roads
The term "ratione tenurae" relates only to the liability to maintain a road, not the status of a road. RT roads are privately maintainable. Therefore, so long as a road was one of the types described (i.e. footpath, bridleway, unsurfaced carriageway, etc) the NERC provisions will apply to it.
8. The NERC Act 2006 and Highways Maintainable at Public Expense

Subsection 67(2)(b) – List of Streets

This subsection concerns ways that are not recorded on the definitive map and statement, but are recorded on the list (that local authorities are required to keep under section 36(6) of the Highways Act 1980) of highways maintainable at public expense – often referred to as the ‘list of streets’. *Inclusion of a route on the list of streets is not conclusive evidence of what rights it carries and there can be no presumption that any highway shown on the list of streets carries vehicular rights.* Each case must be considered on its own merits. As highways shown on the list of streets are sometimes depicted on Ordnance Survey maps as “other routes with public access (ORPA)”, it follows that there can be no presumption that routes depicted as such on Ordnance Survey maps carry vehicular rights. In any event, the representation of any road, track or path on a map published by the Ordnance Survey is no evidence of the existence of a right of way over it.

Nonetheless, the intention behind subsection 67(2)(b) is to guard against widening the scope of these provisions to the point where they could have unintended consequences on the ‘ordinary roads network’. *Although, there can be no presumption about the status of highways shown on the list of streets, there are countless people who access their properties by minor highways, without any recorded rights. They do so relying solely on the fact that these roads are shown on the list of streets as being maintainable at the public expense.*

In these circumstances, the Government considered it prudent to ensure that any mechanically propelled vehicle rights over such ways are excepted from the effects of section 67(1).

The Government is aware that there are highways with unsealed surfaces, many within National Parks that would fall within this exception and are vulnerable to abuse by mechanically propelled vehicles. It is open to the local highway authority to apply traffic regulation orders to such highways and the new powers to enable National Park authorities to make traffic regulation orders, in section 72 of this Act, should help in this respect;

Section 72

This section inserts two new sections in the Road Traffic Regulation Act 1984 (sections 22BB and 22BC) giving each National Park authority powers to make traffic regulation orders and other traffic-related orders under that Act. The orders must be in relation to roads that are within in the National Park boundaries and are either byways open to all traffic, restricted byways, footpaths or bridleways shown in a definitive map and statement or unsealed carriageways.

Section 72 applies to:

1. A byway open to all traffic
2. A bridleway
3. A restricted byway
4. A footpath; and
5. A carriageway where the surface of the carriageway is **not** concrete, tarmac or coated roadstone (**i.e. unsurfaced, e.g. Unsurfaced Unclassified Road**)

To make an order the highway must:

1. Be a highway the section applies to
2. Be within the boundary of the National Park; and
3. Have no other traffic regulation order on it

The National Parks can only make its own TRO if all three of the conditions are met. If one or more of the conditions are not met, then they cannot make an order. Therefore, a Park could not make an order for a tarmac road, for any part of a road outside the Park boundary or for a road where the County Council already has a TRO in place. Also, a Park could not make an order to revoke a county council TRO. The Park must consult the relevant highway authority before making the order, but they do not need the County Council's consent to make an order.

9. The Countryside & Rights of Way Act 2000

The List of Streets and Unrecorded Rights of Way

DEFRA wrote to all local authorities in England on the 28 November 2006.

The Countryside & Rights of Way Act 2000, sections 53 to 56 2026 (cut-off date for extinguishment of unrecorded rights of way) and the Highways Act 1980, section 36(6) (the 'list of streets').

In the Countryside and Rights of Way Act 2000 the Government fulfilled its commitment in Chapter 11 of the 2000 Rural White Paper, which announced that Government would: "*set a deadline of 25 years for registering forgotten historic footpaths and bridleways on the local definitive maps of the rights of way network*". Section 53 of the Countryside and Rights of Way Act provides that on 1st January 2026 all historic rights of

way that have not been recorded on the definitive map and statement will be extinguished.

It has been brought to our attention that some local authorities believe that there is no need to record a public right of way on the definitive map and statement where that right of way is also shown on the list required to be kept under section 36(6) of the Highways Act 1980, the so-called 'list of streets'.

However, the list of streets is a local highway authority's record of all highways that are maintainable at public expense; it is not a record of what legal rights exist over that highway. And there is no exemption, under sections 53 or 54 of the Countryside and Rights of Way Act 2000, from the extinguishment of unrecorded rights over a way on the basis that it is shown on the list of streets.

Consequently, any route that on 1 January 2026 is shown on the list of streets but not on the definitive map will have any unrecorded rights extinguished, subject to the terms of the Countryside & Rights of Way Act 2000.

Local authorities are therefore urged to ensure that any unrecorded footpath, bridleway and restricted byway rights are recorded on the definitive map and statement by the cut-off date of 2026, regardless of whether they are also shown on the list required to be kept under section 36(6) of the Highways Act 1980, the 'list of streets'.

10. The Highways Act 1980

In addition to a general Duty of Care, there are a number of specific pieces of legislation which provide the basis for powers and duties relating to highway maintenance. The main legislation in England and Wales is given below, followed by the key territorial differences.

The Highways Act 1980 sets out the main duties of highway authorities in England and Wales. In particular, Section 41 imposes a duty to maintain highways maintainable at public expense, and almost all claims against authorities relating to highway functions arise from the alleged breach of this section. Section 58 provides for a defence against action relating to alleged failure to maintain on grounds that the authority has taken such care as in all the circumstances was reasonably required to secure that the part of the highway in question was not dangerous for traffic.

11. The Traffic Management Act 2004

The Traffic Management Act 2004 introduces in England a number of provisions including:

- Local Authority duty for network management

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