

Position Statement:

Unsurfaced Unclassified Roads (UUR) in North Yorkshire

Background

Government Control of 'highways' is split as follows:

List of Streets – Dept for Transport (DfT).

Definitive Map and Statement – Dept for Environment, Food and Rural Affairs (DEFRA).

This being the case, it is usual local authority practice for the management of highways to be split as follows:

Carriageways, Footways, Verges and Back Streets – Highways team.

Public Rights of Way – Countryside team.

The County Council has a duty to maintain a safe highway network which is conferred by s41 of the Highways Act 1980, in order to best carry this out it has approved (via the Highway Maintenance Plan) functional hierarchies for roads and footway which are in line with the recommendations of Well-maintained Highways, the code of practice for highway maintenance management. These hierarchies are dependent upon traffic volumes:

Category	Description
1	Motorways & Trunk Roads (not the responsibility of NYCC as Local Highway Authority)
2	Strategic Route (A roads between primary destinations)
3a	Main Distributor Road (Major urban networks)
3b	Secondary Distributor (B and some C and U road bus routes carrying local traffic)
4a	Link Roads between the Main and Secondary Distributor network
4b	Local Access Road (serving limited numbers of properties)
5	Back Streets
6	Unsurfaced Unclassified Roads (serving limited properties)

The County Council does not have a specific policy for the management of UURs in North Yorkshire; however, these routes do form part of the network of Highways Maintainable at Public Expense. Management of each particular UUR is carried out on a route specific basis.

Although almost all of the 740km of UURs in the County have historically received no formal maintenance, other than perhaps some local repairs undertaken by landowners, the increase in the leisure use of routes by recreational Mechanically Propelled Vehicles (MPV) has resulted in problems (both perceived and actual) which require effective management. All UURs are historic routes which have endured over time from ancient trods, cart tracks etc and as a result, they have not benefited from any formal construction design. This often means that the route drainage, if any exists, is limited to historic grips and ditches which have become inefficient due to limited maintenance.

Although these routes have existed in a sustainable condition for decades, whether or not due in some part to local landowners carrying out repairs, in recent years the County Council has become aware of the increased recreational use of MPVs which is in some cases resulting in deterioration in condition of these routes. Although no formal condition

survey has been undertaken, the County Council has developed its own Unsurfaced Road Condition Assessment (URCA), which is also being used by a National Park Authority for its own route surveys. The URCA uses a standard format to collect information relating to: evidence of type of use; depth of ruts; width of areas affected by ruts; and type of surface. The URCA also records information based on chainage along the route and a visual record is made by collecting photographs. In addition the anecdotal evidence and the increasing number of complaints suggests that in some cases the condition of routes is getting worse and action is appropriate. Route deterioration is accelerated by:

- Local topography
- Width of route
- Route drainage
- Surface condition
- Surface material

The routes which display the worst damage are often the steepest gradients where even 4x4 vehicles can wheel spin in winter weather, further loosening and removing loose surface material. Other routes susceptible to severe damage are those routes running across peat fields or in other low lying areas which have poor drainage. Once the surface stone (if present in the first place) has been damaged or effectively removed due to current use, the level of the route becomes lower than the adjacent land and then acts as a drainage ditch for this surrounding land. From this point on, damage can occur rapidly, making routes dangerous for all users where routes have steep cross-falls.

Partners

If the route in question is a 'dual status' Public Right of Way (PRoW) and UUR, or parts of the route are dual status then management of the routes is agreed with Waste and Countryside Services (WACS). If a UUR joins two or more PRoW together to form a contiguous route then WACS are consulted upon any proposals. If a route is within or adjacent to a National Park or Area of Outstanding Natural Beauty, these bodies are also be consulted.

User Rights

UURs have the same rights as all 'highways' ie the public have a right to pass and re-pass and as the LHA, the County Council has a duty to protect and assert these rights and case law has established that the duty to maintain the condition of these routes to be to the standard necessary to accommodate the ordinary traffic which passes or may reasonably be expected to pass along the highway.

The term 'UUR' is also misleading as the word 'road' may be understood by customers to infer the right to use MPVs when in fact there may be no such right existing in respect of a UUR. A UUR may have MPV rights, but this may not necessarily have been recorded. In such circumstances we would usually invite those claiming such rights to demonstrate adequate proof. If a route is in a poor state of repair, in order to prevent further damage it is possible to enforce any prohibition of the use of MPVs on UURs with the 'No Motor Vehicles' sign and a Traffic Regulation Order (implemented using the Road Traffic Regulation Act 1984).

Current UUR Operational Management Process

1. Complaint received regarding condition of route;
2. Survey to assess condition;
3. If the condition of the route is dangerous or likely to become dangerous soon, or other circumstances exist as set out in the RTRA Section 1 (see below) it is appropriate to consider options for management of the route including implementation of a Temporary Traffic Order (TTO), usually, although not exclusively, prohibiting use by MPVs;
4. Whilst the TTO is valid, investigate the cause of the damage further and longer term management options for the route. These include, but are not limited to: downhill use only, voluntary restraint, seasonal restrictions, permanent Traffic Regulation Order.
5. Repairs to route arranged if appropriate.

Longer Term Management Options for UURs

Various management options are available in respect of UUR's , however with some options the engagement of user groups will be key. Options chiefly include:

Do Nothing
Voluntary Restraint
Traffic Regulation Order
Repair Route

Do Nothing

This can be an option if the route is currently sustainable and will soon self-regenerate which can be the case on some routes across grassland with little evidence of a defined surface.

Voluntary Restraint (by those user groups who may be likely to cause damage)

This can be a useful resource for those routes which are able to sustain some MPV use. It is first necessary to consider what use is causing the damage to the route and then approach relevant user groups to discuss the issues. If the main user groups are agreeable to voluntary restraint this can be a useful approach and their support can be shown by incorporation of their organisations logos as part of any route signage. This combined with media coverage helps to get the message across to other related user groups. For example knowledge that a National Motorcycle Group has volunteered restraint may influence the decision of the members of other groups to exercise restraint. It can also provide a means of being able to keep a route open for use, albeit limited in some way which is usually preferable to a TRO.

Voluntary restraint may include:

Downhill travel only
Seasonal use only
Use during a fixed number of days per year
Voluntary weight/ width restriction

Condition survey data would be required prior to a decision to use voluntary restraint as an option. For example if survey data indicated that the current use is predominantly in a downhill direction during the summer months, then voluntary restraint may not improve the current situation and mean that other options need to be considered.

Traffic Regulation Order (TRO)

These orders are a legitimate option for effective route management and can be an effective way of preventing damage to the route by MPVs where voluntary restraint or the 'do nothing' option are unlikely to be appropriate for the circumstances.

Examples of TROs includes:

Use in one direction only;

Seasonal use only;

Weight restriction;

Width restriction; and,

Vehicle classification (MPVs or MPVs excluding motorcycles, MPVs and horse riders etc)

It should be noted that implementation of a TRO is not a 'last form of defence', but is just one of the management options to be investigated.

Repair Route

If the route is sustainable, only minor repairs to drainage with the reinstatement of some stone may be sufficient to prevent further damage occurring. If more major repairs are required then other management options must form part of the management plan or damage will re-occur in the future which will require further repairs and a cycle of unsustainable damage/repair will result.

If major repairs are undertaken the route must be formally monitored regularly to assess condition, any future damage will result in TROs being implemented, if appropriate to save the route requiring further repair.

If route repair to accommodate MPVs (ie at a minimum compacted stone) will change the character of the route and the heritage of the surrounding area, then the implementation of a TRO should be investigated with any repairs made following TRO being in keeping with the local character.

Conflict between recreational user groups

Historically, use of these routes has been by ramblers and horse riders. These user groups tend to have the least impact on UURs, with many routes having received no formal maintenance activity except by landowners who were in many cases the only users of MPVs on these routes. Landowners also tend to avoid these routes at the wettest time of year and often carry out maintenance themselves or avoid using the routes altogether until in some cases the routes have self-repaired. These groups reported very little conflict.

In recent years the County Council has seen an increase in the amount of correspondence regarding UURs compared to other road categories.

Examples of complaint include: Impact on peace and tranquillity, Intimidation, Route damage.

TRO Formal Process

The formal process for the implementation of a TRO is set out in the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 ("the LATOP 1996") and comprises:-

- Consultation with statutory consultees (including any organisations representing persons likely to be affected by the TRO)
- Notices in press and on site
- Consideration and determination of objections received in accordance with the Council's Constitution Publication of notice of making TRO (including notifying objectors within 14 days of making the Order)
- Implementation of TRO (including installing required signs etc.)

(N.B. The LATOP 1996 also make provision for a public inquiry to be held before making a TRO in certain circumstances where an objection has been made to the proposal)

Section 1 of the Road Traffic Regulation Act 1984 empowers traffic authorities to make Orders regulating traffic and sets out the following purposes for which Orders may be made (the sections underlined are particularly relevant to UUR TROs):-

- (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 22 of the 1984 Act adds a further purpose which applies in the case of roads in, or forming part of, or adjacent to or contiguous with a National Park or an area of outstanding natural beauty. – this is for the purpose of conserving or enhancing the natural beauty of the area, or of affording better opportunities for the public to enjoy the amenities of the area, or recreation or the study of nature in the area. (The reference to "conserving the

natural beauty of an area” is construed in this context as including a reference to conserving its flora, fauna and geological or physiographical features).

Section 22A of the 1984 Act provides that this further purpose can also be applied to roads which are not within a National Park or an area of outstanding natural beauty and Section 22BB enables a National Park Authority to make a TRO on a BOAT, restricted byway, a bridleway or a footpath or a carriageway whose surface is not made up.

Section 122 of the 1984 Act places traffic authorities under a duty to exercise any of their functions under the 1984 Act in such a way (so far as is practicable having regard to a list of specific matters set out in Section 122(2)) as to secure the expeditious, convenient and safe movement of traffic (vehicles and pedestrians) and the provision of suitable and adequate parking facilities on and off the highway. These matters are:-

- the desirability of securing and maintaining reasonable access to premises;
- the effect on the amenities of any locality affected and, specifically, the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;
- the strategy prepared under Section 80 of the Environment Act 1995 (national air quality strategy);
- the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and
- any other matters appearing to the local authority to be relevant.

The power to make a TRO arises “*where it appears to the authority making the Order that it is expedient to make it*” (Section 1 of the 1984 Act). “Expedient” in this context means “advantageous, advisable on practical grounds, suitable, appropriate”. In general terms, the authority has to be satisfied that the making of the Order is expedient, which indicates that they have a wide discretion in the matter. Case law has established that this can only be challenged on the grounds of unreasonableness and whether the authority’s judgement (i.e. in making the Order) has taken into account the relevant facts.

Section 2 of the 1984 Act specifies the provisions which may be included in an Order. Basically, an Order may contain three kinds of provision:-

- provisions prohibiting, restricting or regulating the use of a road, or of any part of the width of a road, by vehicular traffic, or by vehicular traffic of any class specified in the Order (e.g. prohibiting vehicles from waiting or loading and unloading, requiring vehicular traffic (of any class) to proceed in a specified direction or prohibiting it from so proceeding);
- provisions prohibiting, restricting or regulating the use of a road, or of any part of the width of a road, by, or by any specified class of, pedestrians; and
- provisions specifying through routes for heavy commercial vehicles, or prohibiting or restricting the use of heavy commercial vehicles in such zones or on such roads as may be so specified, as they consider expedient for preserving or improving the amenities of their area or of some part or parts of their area.

The provisions contained in a TRO may be subject to exceptions (either at all times or at times, on days or during periods so specified) – TROs can also be implemented on an experimental basis (for up to 18 months).

Section 3(1) of the 1984 Act provides that a TRO cannot prevent access for vehicles to any premises situated on or adjacent to a road and which are only accessible from that road, for more than 8 hours in any 24 hour period, unless the traffic authority are satisfied that it is expedient to do so (for certain specified reasons) and it is stated to that effect in the Order.

Section 14 of the 1984 Act also allows a traffic authority to restrict or prohibit temporarily the use of a road in certain circumstances (because of existing / proposed works, because of the likelihood of danger to the public, or of serious damage to the road or for litter clearing and cleaning purposes).

UUR Pilot Project

Government Control of 'highways' is split as follows:

List of Streets – Dept for Transport (DfT).

Definitive Map and Statement – Dept for Environment, Food and Rural Affairs (DEFRA).

This being the case, it is usual local authority practice for the management of highways to be split as follows:

Carriageways, Footways, Verges and Back Streets – Highways team.

Public Rights of Way – Countryside team.

These teams have specific areas of expertise with surfaced and unsurfaced routes respectively; however, a small number of PRoW in urban areas are surfaced and to the general public they are expected to be managed as regular footways (as opposed to PRoW footpaths) and a small number of roads are unsurfaced. The Pilot Project has been set up to trial the management of routes in two of NYCCs seven areas by those teams with expertise of managing routes based upon their surface, not their formal designation, with the objective of improved management of the whole highway network.

The UUR Pilot Project is internal arrangement within the directorate of Business & Environmental Services and refers to the management of UURs by the County Councils Waste And Countryside Services (WACS) team on behalf of the Highways and Transportation (H&T) team as follows:

1. Pilot will run in the first instance until the 31 March 2017, when a decision will be taken as to how to proceed after this time;
2. The area of the County included is that which matches that of the borough of Scarborough;
3. The activities involved in the Pilot include Route Inspections (where required), responses to Customer Requests, removal of obstructions, repair work and liaison with the National Park;
4. Investigation into any permanent Traffic Regulation Orders or 'stopping-up' processes would be undertaken in conjunction with the local Area Highways Office in Whitby;
5. Route alignment queries will remain with the Highways & Transportation Division at highwayassetmanagement@northyorks.gov.uk ;

6. The officer responsible is Ian Kelly: Countryside Access Manager. Correspondence should be directed in the first instance through the Customer Service Centre or by emailing paths@northyorks.gov.uk

There are 138 UUR routes in the Scarborough District area totalling 156km.

The 2nd part of the Pilot Project is for the management of Urban Surfaced PRoW by the County Councils H&T team on behalf of WACS as follows:

1. Pilot will run in the first instance until the 31 March 2017, when a decision will be taken as to how to proceed after this time;
2. The area of the County included is that which matches that of the district of Ryedale;
3. The activities involved in the Pilot include Cyclic Highway Safety Inspections, responses to Customer Requests, repair work etc;
4. Investigation into any permanent Traffic Regulation Orders or 'stopping-up' processes would be undertaken in conjunction with the WACS team at County Hall;
5. Route alignment queries will remain with the WACS Division at paths@northyorks.gov.uk ;
6. The officer responsible is Richard Marr: Area Manager for Areas 3 and 4. Correspondence should be directed in the first instance through the Customer Service Centre or by emailing area4.kirbymisperton@northyorks.gov.uk

There are 28 Urban Surfaced PRoW in the Ryedale District area totalling 3.2km these are mainly in and around the Malton area. These have all received a Highway Safety Inspection in line with other surfaced footways and in addition to potholes being filled on South Parade, Norton, The Manor Vale to Golf Club footpath, Kirkbymoorside has been resurfaced.