

North Yorkshire Local Access Forum

11 October 2017

Management of Unsurfaced Unclassified Roads in North Yorkshire

Report of the Secretary

1.0 Purpose of the Report

- 1.1 To bring to the Forum's attention the County Council's statement of current practice for the Management of Unsurfaced Unclassified Roads.

2.0 Background

- 2.1 The Chair has requested that the attached report and appendix be added to the agenda for information, in order to bring it to Members' attention.

3.0 Recommendation

- 3.1 That the Forum notes the statement of current practice for the Management of Unsurfaced Unclassified Roads.

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Report author: Kate Arscott, Secretary to North Yorkshire Local Access Forum

Background Documents: None

North Yorkshire County Council
Business and Environmental Services

Executive Members

21 July 2017

Management of Unsurfaced Unclassified Roads in North Yorkshire

Report of the Assistant Director – Highways and Transportation

1.0 Purpose Of Report

- 1.1 For the Corporate Director, Business and Environmental Services (BES) in consultation with BES Executive Members to note the statement of current practice regarding the Management of Unsurfaced Unclassified Roads (UUR) in North Yorkshire.

2.0 Background

- 2.1 The County Council is under statutory duty to record highways in two different ways as follows:
- a. Definitive Map and Statement, recording types of public paths; and,
 - b. List of Streets.
- 2.2 It is under the Highways Act 1980, Section 36(6) that the County Council as Local Highway Authority maintains a 'List of Streets' (LoS) that are maintainable at public expense in North Yorkshire. The list covers both classified and unclassified roads and includes those routes which are commonly referred to as Unsurfaced Unclassified Roads (UURs).
- 2.3 The Wildlife and Countryside Act 1981 (as amended), requires the County Council as Surveying Authority, to maintain the Definitive Map and Statement (DMS). This is the legal record of Public Rights of Way. The DMS formally records the user rights of all routes as divided into each of four categories as follows:
1. Footpath: Pedestrian use;
 2. Bridleway: As above with the addition of horse riders and pedal cyclists;
 3. Restricted Byway: As above with the addition of non-motorised vehicles (e.g.horse and carts); and,
 4. Byway Open to All Traffic: All traffic permitted.
- 2.4 Inclusion of a route in the LoS does not itself provide evidence of the extent of permitted use of that route (e.g. whether permitted use extends to equestrian or vehicular use). The County Council acknowledges that routes included in the LoS are public highway but over which as a minimum the public has a right on foot. Other than in the case of classified roads (i.e. A, B & C roads), in respect of which it is accepted public rights extend to motorised vehicular use, each route has to be considered

independently and any claim of public rights exceeding pedestrian user require to be proved. In common with a number of highway authorities the County Council's position has for some time now been that permitted use of 'surfaced' unclassified roads extends to use by Mechanically Propelled Vehicles (MPVs) though there is no strict legal basis for taking that stance.

- 2.5 There is no general rule for determining the extent of permitted user over UURs. As mentioned above the County Council's position, in accordance with Government guidance, is that the extent of use for such routes is a matter to be determined for each route independently.
- 2.6 The County Council's policies and strategies for managing and maintaining the highway network are set out in the Highway Maintenance Plan 2006 (HMP). The plan identifies the vision, goals and values of the County Council as they relate to highway maintenance and with reference to the National 'Well - Maintained Highways' Code of Practice for Highway Maintenance Management. That code was superseded in 2016 by 'Well-managed Highway Infrastructure' although the 'old' Code is not being withdrawn until October 2018, to allow local highway authorities the time to align their current policies to incorporate the 36 recommendations within the new Code.
- 2.7 Neither the Codes of Practice nor the County Council's HMP address UURs. Nationally, they form a tiny element of the overall road network with little or no vehicular traffic, they are excluded from the 'road length' return (Form R199b) to the DfT and they do not form part of the revenue or capital budget allocation formulae used by either the DfT or DCLG in distributing highway maintenance funding for local highway authorities.
- 2.8 Part of the County Council's management of the highways network is through the establishment of a functional hierarchy based upon the recommendations of the Code of Practice. This categorisation is derived from traffic volume and composition and categories span (in order of importance) from Category 1 - Motorways and Trunk Roads (which are not the responsibility of the County Council) through Category 2 – Strategic Routes down to Category 4b – Local Access Roads, in addition to the Code of Practice categories we have added two further categories; Category 5 – Back Streets and Category 6 – UURs. As Category 6, the lowest category, UURs are the lowest priority for highway management.
- 2.9 In North Yorkshire the UUR network consists of about 1,000 routes totalling approximately 740 kilometres (about 7% of the total highway network length); although a small proportion of the network with extremely low traffic flows, the UUR network generates much interest from the various recreational users who seek to use it for differing purposes (walking, horse riding, pedal cycling, off-road motorcycling and 4x4 driving). This represents a substantial liability that needs to be managed and maintained as efficiently as resources allow.

3.0 Problems on UURs

- 3.1 In recent years there has been a significant growth in recreational usage of MPVs on the UUR network in North Yorkshire. Three recurring issues arising from this are:

- uncertainty as to whether or not the public right over any particular route actually extends to use by MPVs on the route concerned
- conflicts between users which tend to focus on the perceived impact of MPVs on the amenity of the countryside and,
- physical decline of route condition as a result of unsustainable levels of use by MPVs (these routes have never required maintenance in the past; however, the increased use of MPVs for recreational purposes over the last 10 years has seen a number of notable cases of route surface deterioration).

3.2 The appended note seeks to regularise the operational management by the local Area Highway Office teams for managing UURs, and to encourage shared maintenance costs with other organisations, if appropriate and minimise the physical deterioration on the route.

3.3 It is intended to provide a baseline for consistent service delivery across North Yorkshire with the intention of working closely in particular with the two National Park Authorities in the County but also with other groups that have a particular interest in the issues concerned.

3.4 The Highways Act 1980 section 56 provides any person (complainant) the opportunity to serve a notice on the local highway authority seeking that it admit responsibility for maintaining that highway. Subsequently the complainant may then seek an order from the Crown Court that the highway is out of repair.

3.5 The note outlines a structured methodology for responding to challenges raised with the County Council whether they are by way of the threat of a section 56 notice or having actually received one. The aim is to achieve a more consistent response to future s56 notices across the whole of the County.

4.0 Overview

4.1 Management of the UUR network will still be reactive (ie in response to Customer Service Requests); the note sets out the procedure to be followed.

4.2 The note identifies the County Council's duty as local highway authority. As stated previously, whilst UURs appear on the LoS their inclusion does not automatically mean that rights exist for use of MPVs on the route concerned. The County Council acknowledges that as a minimum the public's right over UURs extends to pedestrian use but that other higher rights may exist if they can be proved.

4.3 Conflict generally arises between users because walkers and horse riders consider that quiet enjoyment of the countryside is disturbed by the presence of MPV users.

4.4 UURs do not have sealed surfaces and many have not been the subject of any significant change in character since they were first created. In many cases they will have had no maintenance carried out on them over the last fifty years or more. They may therefore be particularly susceptible to physical deterioration through more

intense modern use, excessive or otherwise, or a combination of use and natural factors.

4.5 Use by MPVs is capable of causing significant damage to a UUR. Such physical damage can not only impair the use and enjoyment of a route by other users but can also create conditions which jeopardise the safety of all users. In exceptional circumstances a route can become impassable. This also impacts on those with private rights to use the routes to access land or premises and can have a profound demand on the Council's resources given its duty to assert and protect the rights of the public under s130 (1) of the Highways Act 1980.

4.6 A quick reference guide is appended to the guidance note which lists the procedure to be followed when dealing with queries (including section 56 notices) raised about the condition of UURs.

5.0 Equalities Implications

5.1 Consideration has been given to the potential for any adverse equality impacts arising from the note and an Equalities Impact Assessment (EIA) screening form is attached as Appendix B.

5.2 The EIA screening form concludes that there are no known equality impacts and a full EIA is not required.

6.0 Financial Implications

6.1 The note is current practice and costs are within existing capital budgets.

6.2 The receipt of customer service requests may identify the need to undertake reactive maintenance activities (removing vegetation, cleaning of drainage grips etc.), hence the reference within the note to encourage partnership working with users from the various stakeholder groups.

6.3 The use of volunteers from the various stakeholder groups would potentially maximise the outcome of the investment by the County Council.

7.0 Legal Implications

7.1 The County Council receives various challenges from users of UURs. The appended note will provide a standardised method by which officers are able to manage UURs and the response to challenges.

8.0 Recommendation

8.1 It is recommended that the Corporate Director BES, in consultation with BES Executive Members:

- (a) note the content of this report and the Management of UURs within North Yorkshire document appended to this report.

BARRIE MASON
Assistant Director – Highways and Transportation

Author of Report – Neil Leighton

Background Documents

None

Management of Unsurfaced Unclassified Roads in North Yorkshire

This document provides clarity to staff within the Highways and Transportation teams who are responsible for the maintenance of Unsurfaced Unclassified Roads (UUR) that are included in the List of Streets.

Background

This note sets out the procedures followed when queries are raised about the condition of UURs and factors to be taken into consideration when responding. This will assist in achieving, although each particular UUR is dealt with on a route specific basis, consistent procedures are followed throughout the County.

The 740kms of UURs in the North Yorkshire have historically received minimal maintenance, other than perhaps some local repairs undertaken by landowners. In more recent times significant use of such routes recreationally particularly by Mechanically Propelled Vehicles (MPVs) has given rise to a number of issues. UURs are historic routes which have endured over time and include ancient trods, cart tracks etc. They were not constructed or designed with high intensity use of any kind in mind and particularly not by MPVs. This often means that the route drainage if any exists is limited to historic and rudimentary grips and ditches.

Although these routes have traditionally existed in a sustainable condition, in recent years the increased recreational use of MPVs is in some cases, resulting in significant deterioration in condition. Route deterioration is accelerated by:

- Difficult local topography
- Width of route
- Inadequate route drainage for the intensity of modern day usage
- Inadequate surface construction for the intensity of modern day usage

The routes which display the worst damage are often those with the steepest gradients where vehicles can wheel spin in poorer weather conditions, loosening and removing surface material. Other routes susceptible to severe damage are those routes running across peat fields or in other low lying areas which have difficult drainage. Once the surface stone (if present in the first place) has been damaged or effectively removed through 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 especially dangerous for MPVs where routes have steep cross-falls.

User Rights

The term 'UUR' can often be misunderstood. 'Road' may be interpreted by customers to infer the right to use MPVs when in fact there may be no such right existing in respect of a UUR. On the other hand the right to drive MPVs may be exercisable over any particular UUR but this may not be clearly recorded anywhere. In such circumstances the Council's position is that those claiming such rights need to demonstrate with adequate proof that such rights exist.

The extent of the County Council's responsibility is to maintain highways for which it is responsible in a suitable condition for use by the ordinary traffic using that highway. **The key question is to determine what the ordinary traffic is in any one case.** In the case of UURs the County Council's position is Unclassified Unsurfaced Roads (UURs) recorded in North Yorkshire County Council's List of Streets are public highways maintainable at public expense. Given this the County Council acknowledges that the extent of public rights over those routes must as a minimum extend to pedestrian user though higher public rights may well exist. Determining the extent of any higher public right is a matter for assessment on a route by route basis.

Appendix A

Use of UURs by the public beyond pedestrian user will not generally be prevented by the County Council except where circumstances dictate that control or prevention of such use is appropriate. Use of legal orders will be considered where necessary.

The full extent of public highways should be kept clear of obstruction at all times. In its role as the local highway authority the County Council is under a duty to assert and protect the right of the public to the use and enjoyment of public highways in North Yorkshire including UURs and will take appropriate action to remove any unauthorised obstruction of such highways.

If a route is in a poor state of repair arising from use by MPVs an option is to introduce a Temporary Traffic Order under the Road Traffic Regulation Act 1984 so prohibiting the use of MPVs. 'No Motor Vehicles' signs can be erected once an order is in force.

Any person can serve notice on the County Council under s56 of the Highways Act 1980 where they feel the condition of a highway is inadequate. The Council can of course seek to counter such notices and ultimately the matter can be taken to the Magistrates Court. The court may issue an order requiring the Council to undertake repair works in the event it is satisfied the route is not in the condition it ought to be. Such a scenario amounts effectively to a reactive, rather than a proactive approach to management of highway resources and without sustainable long term management a route may be damaged again by MPV use and require further repair.

Public Rights of Way

Some UURs are what is termed "dual status" (i.e. they are recorded as a Public Right of Way (PRoW) on the Definitive Map & Statement and are also included in the List of Streets). If a route (or part of it) is "dual status" then management of the route should be agreed with Transport, Waste and Countryside Services (TWACS). If a UUR links two or more PRoW together to form a contiguous route then TWACS should be consulted upon any proposals. If a route is within or adjacent to a National Park or Area of Outstanding Natural Beauty, these bodies should also be engaged with as part of the route management.

Network Priority

The County Council has implemented a functional hierarchy for roads (approved as part of the Highway Maintenance Plan in 2006) which is in line with the recommendations of "Well-maintained Highways", the DfT endorsed Code of Practice (CoP) for highway maintenance management. These hierarchies are dependent upon traffic volumes and composition and although UURs do not form part of the CoP, they are included as part of the NYCC Plan as having the lowest standards i.e. category 6 roads namely, UURs. In North Yorkshire UURs do not benefit from a cyclical Highway Safety Inspection; however, UURs are inspected as required following Customer Service Requests, for example, to ensure rights of access are not obstructed or to monitor condition. In the absence of a cyclical HSI, UURs currently receive no programmed maintenance from the County Council, although it is acknowledged that local landowners may make repairs to these routes in order to be able to exercise their own private rights.

Initial Response to complaints/queries

On receipt of a complaint/query about the condition of a UUR undertake the following initial procedure and checks:

1. Customer request received regarding condition of a route.
2. Check that route is included on the List of Streets
3. Route condition review with Network Management team (survey undertaken if required).
4. If condition is dangerous or would become dangerous soon, consider implementing a TTO. If condition is not yet dangerous, respond to customer request.
5. Whilst TTO is in force, investigate route (user groups causing damage, route importance, National Park or AONB, cost of repairs, external funding contributions).
6. Identify appropriate management actions, partnering where possible and appropriate (TWACS team, National Park, AONB, landowners, user groups), if TRO is required, begin process.
7. Arrange repairs, following TRO implementation (where applicable).

Note: If a route is not included on the List of Streets it may still be a *ratione tenurae* highway (roads which are maintainable at private expense but over which the public has a right of way) and the County Council as local highway authority has a duty to protect and assert highway rights.

Longer Term Options

There are various long term management options available. For some options the engagement of user groups will be key.

Options chiefly comprise one or a combination of the following:

- Do Nothing
- Voluntary Restraint
- Permanent 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 no history of a defined surface.

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

This can be a useful course of action for those routes which are able to sustain some MPV use but to a limited degree. It is first necessary to consider what use is causing the damage to the route and then approach relevant users (preferably through recognised groups if they operate in the area) to discuss the issues. If agreement can be reached with users on voluntary restraint, their support can be reflected by incorporation of their organisations logos as part of

any route signage. This helps to get the message across to other related user groups (for example knowledge that a national MPV user 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 restricting certain users (most commonly MPV users) completely through a Permanent TRO.

Voluntary restraint by MPV users may include:

- Downhill travel only
- Seasonal use only
- Use during a fixed number of days per year
- use by vehicles of less than a particular weight/ width

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.

Permanent Traffic Regulation Order (PTRO)

These orders are a legitimate option for effective route management where voluntary restraint or the 'do nothing' option are unlikely to be appropriate for the circumstances.

Examples of PTROs include:

- Use in one direction only;
- Season use only;
- Weight restriction;
- Width restriction; and,
- Prohibition of a user classification (i.e. MPVs, MPVs excluding motorcycles, MPVs and horse riders etc)

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

Repair Route

If the route is in principal 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 options must be investigated to prevent damage re-occurring in the future which will require further repairs resulting in a cycle of unsustainable damage/repair.

If major repairs are undertaken the route must be formally monitored regularly thereafter to assess condition. In the event of any further damage introduction of a PTRO should be considered if appropriate to save the route from requiring further and repeated major 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 is likely to be a sensitive issue then the implementation of a PTRO should be considered along with any repairs made being in keeping with the local character and following PTRO implementation.

Route Management

Management of a route should take into account the following factors:

- Considerations relating to national park/ AONB designation;
- The ecological sensitivity associated with the route;
- The heritage of the route and its surroundings;
- Potential for conflict between recreational user groups;
- Availability of alternative routes;
- Concerns of local residents and landowners/managers;
- The durability of the route;
- The condition of the route;
- The uses of the route; and,
- Whole Life Cost of route management.

Considerations relating to National Park/ AONB designation

National Park Authorities (NPA) and Areas of Outstanding Natural Beauty (AONB) are unique places designated because of their special qualities and the opportunity for people to enjoy them. Any proposals concerning routes within a NPA (or AONB) should be consulted upon with the NPA (or AONB). The NPA may have funding available to contribute to repairs. RTRA 1984 s22(2) provides three additional reasons for the implementation of PTROs within such areas :

- for conserving or enhancing the natural beauty of the area.
- affording better opportunities for the public to enjoy the amenities of the area.
- for recreation or the study of nature in the area.

The ecological sensitivity associated with a route

Many routes in North Yorkshire are within close proximity to sites of national and European importance from a habitat or wildlife viewpoint. Many areas are designated as Special Areas of Conservation, Special Protected Areas, Sites of Special Scientific Interest and National Nature Reserves. Other areas although not officially designated as protected are ecologically valuable because of ground nesting birds or plant species.

Some of the specific landscape characters identified within the County are:

Sandstone Landscapes
Limestone Landscapes
Upland Fringe and Valley Landscapes
Coastal Landscapes
Chalk Landscapes
Gritstone Landscapes
Siltstone and Sandstone Landscapes
Areas offering remoteness and solitude.
Tranquillity (including sounds of nature, bird calls, wind, water)

Proximity to designated sites and season of the year are particularly significant and may affect; what works may be undertaken and when.

The heritage of the route and its surroundings

UURs can be a prominent part of the historic environment. Some features are included on the schedule of monuments maintained by English Heritage; others are included on the Historic Environment Record.

Hundreds of classes of monuments have been 'scheduled' amongst them Kirby Bank Trod.

In addition to this many other routes are of historic significance (including various Roman roads and drovers pack horse routes).

The impact of differing cultures adds to the sense of place felt within different communities.

Specific heritage examples within the County are:

Urban Landscapes

Farmed lowland and valley Landscapes

Roman Forts

Archaeological human activity

Mining industry (lead and lime)

Water Mills

Religious buildings (Abbeys, Castles, Cathedrals and Pories)

Again proximity to designated sites is particularly significant and may affect what management may be appropriate; what works may be undertaken and when.

Care should be taken to ensure proper consultations are undertaken where a designated heritage site may be affected (whether that site may be the UUR itself or nearby features)

Potential for conflict between recreational user groups

Historically, recreational use of UUR routes has been by ramblers and horse riders. These user groups generally have low physical 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.

The relatively recent growth in the numbers of recreational MPV users has resulted in increasing conflict between different users. Although all of the individual stakeholder groups wish to continue to use the routes, they often have differing and/or opposing views which can make it challenging to find a solution which is considered appropriate by the County Council to meet the need of all those interested.

In recent years the County Council has seen an increase in the amount of complaint regarding UURs compared to other road categories with some users raising concerns regarding use of routes by other users.

Examples of complaint include:

- Impact on peace and tranquillity

- Intimidation and risks to safety of users
- Route damage

Examples of concerns of local residents and landowners/managers include:

- Use in inappropriate conditions (wet periods) causes damage
- When the route itself becomes damaged, MPV users travel on adjacent land (and cause further damage to this land).
- Intimidation (often when challenged)
- Safety concerns through sparsely populated (lightly trafficked villages).

The availability or otherwise of alternative routes should be taken into consideration when forming management proposals for a UUR particularly if there are several other routes nearby for walkers and horse riders.

Durability of the route

Durability is affected by type of surface, geometry and topography of route, efficiency of route drainage and level and type of use.

There are various route surfaces and routes may have differing surface materials along their length. Most of this will be due to the patchwork type of maintenance (if any) in the past. Route surfaces include; compacted stone, grassland, rock, peat and even some tarmac sections.

Many routes across the County are durable for large sections, with a short section, often on a steep incline suffering damage due to MPVs loss of traction, with the resultant wheel spinning leading to loosening of the surface material.

Drainage is a major factor affecting route durability. Route drainage should be maintained, additionally off-route ditches which, if blocked, can result in major flows of water which overwhelms route drainage. Any water flowing along UURs has the potential to wash away the surface.

The condition of the route

Although no standard condition survey exists for UURs to the following are examples of maintenance need:

- Evidence of type of use;
- Depth of ruts;
- Width of areas affected by ruts; and,
- Type of surface.

The uses of a route

Most surfaces suffer from damage during wet conditions. Many UURs surface are comprised of vegetation which is easily damaged and takes a long time to re-generate. Use of UURs particularly MPV use by landowners carrying out winter stock feeding, and by recreational MPV users, can be significant during the wet months and the recent meteorological trend towards wetter summers is also impacting on the conditions of routes.

Whole Life Cost of route management.

Costs of management options vary, from negligible; where if damage is identified early enough, a route can simply be left to regenerate itself, usually in the case of routes across peat moors or other grasslands with no defined surface, to many thousands of pounds; where routes can require major drainage repairs to culverts, excavation of ditches and the importing of hundreds of tonnes of stone materials to reinstate the surface. For routes which recreational users consider to be important, there may be various groups which are willing to contribute to repair work. Usually contributions are limited to arranging working parties to carry out localised repairs to grips and ditches and this should be supported; however, groups may be prepared to financially contribute to major repairs. Any offer of a contribution from external organisations should be considered when deciding upon the management of a route. When accepting offers of working parties it is important that repair works are coordinated, discussed with landowners as appropriate and overseen by the County Council. It will be appropriate to seek legal advice where work by volunteers and receipt of financial contribution is proposed. Construction specifications are the responsibility of the County Council and imported material must be sympathetic with the locality. The local NPA, AONB or NY TWACS team may be able to provide advice. Legal agreements may be necessary to ensure works are carried out to the required standard and where use of voluntary labour and receipt of funding is proposed. Before works are undertaken in whatever circumstances a pre and post works photographic survey should be arranged, it should be made clear, especially to any group financially contributing, that in the event of any future damage, further management options will need to be considered including PTRO implementation.

Information and Evidence Gathering

Part of the process of route management should be engagement with the TWACS team to give consideration to any affect to the PRoW network and with all stakeholders. In the National Park areas the National Park officers have some experience of this and will have stakeholder contact details in most cases and they may wish to assist with the stakeholder engagement.

In addition to local groups (Parish Council, land owner/ occupiers, affected residents etc) there will be several recreational groups who may be prepared to provide resources for the on-going management of routes. TRF, GLASS, BHS and LARA have all offered to provide working parties and in some cases funds to contribute to repairs.

In the cases where a route is in such a condition as to be a danger to users, or that it is considered will become dangerous soon, it can be appropriate to implement a TTO without delay in the first instance. If a TTO is implemented this must only be seen as a short term fix and not a long term solution. TTOs are limited to being in force initially for 18 months (although this can be extended by application to the Secretary of State for Transport). It should be noted that recreational MPV users are often well aware of when a TTO ends and many groups arrange to travel these routes as soon as a TTO expires. The 18 month TTO period should be used to formulate longer term management options.

Data Loggers

The County Council has access to data loggers which are available to survey the number and class of vehicles using a route. Data Loggers are usually dug into the surface and have the ability to differentiate between motorcycles and other vehicles, 4x4 vehicles can also be identified. Quad bikes and small all-terrain vehicles are likely classified as 'unspecified motor vehicle' and not mistaken for either a 4x4 or motorcycle. Pedal cycles are not always recorded.

Appendix A

Clearly predominant use over weekend periods will indicate recreational use and other analysis of this data to prove/ disprove prevalent user groups and dates/ times of use will contribute to management decisions.

TRO Formal Process

When considering the implementation of a Traffic Regulation Order whether it be permanent or temporary, officers should engage with and seek advice from the County Council's Legal Services team at the earliest opportunity.

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.)

Section 14 of the 1984 Act 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).

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 seem 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).

Appendix A

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

Appendix A

- 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.

Checklist for making a TRO

1. What is the predominant use on the route including the predominant MPV use?
2. Is there evidence of recent severe deterioration of the route caused by vehicles of any particular class or as a result of other events for example flooding /unseasonal weather or just normal wear and tear?
3. Is there a danger or likely to be danger if use continues to any particular user group (walkers, horse riders, MPV users)?
4. Is damage caused by recreational use? Is the damage minor or serious and is it apparent that a particular use is responsible?
5. If the traffic regulation is to be extended to use by horse riders, will any adjoining bridleways or other PRowWs be affected?
6. Does use of the route affect the character and/ historic features of the landscape?
7. Is the route within a Specially Protected Area or Special Area of Conservation? If so the impact on breeding birds may require the precautionary principle to be applied as specified in the conservation objectives of Natura 2000 sites.
8. Is the route within another conservation designation area (National Nature Reserve, Local Nature Reserve, Ramsar Wetland Site or Site of Special Scientific Interest) or a National Park or Area of Outstanding Natural Beauty?
9. Is the route part of, or is the use of the route having an effect on, a Scheduled Monument? These cannot usually be reinstated; therefore protection of these should be taken as soon as practicable.
10. Are route users straying off the route and causing damage to non-highway areas, eg, wildflower areas, wetlands, limestone escarpments, heather moorland etc?
11. When preparing TROs consider what the outcome of the regulation will be and use the most appropriate reason specified in Section 1 of the 1984 Act for making the Order and citing in the Statement of Reasons (SoR).
12. Recent TRO Reports have included sections titled; Consultation and Advertisement, Officer Comments and Conclusion, with appendices including Drawings, Summary of comments received with officer responses, Statement of Reasons, Order schedules, Consideration of objections and Initial Equality Impact Assessment screening form.
13. It is important to follow the procedure set out in the 1996 Regulations to minimise the risk of a legal challenge to the TRO. UUR TROs are likely to be subject to greater scrutiny from those user groups affected by the prohibition contained in the Order. Areas that have been cited as part of legal challenges against County Council proposals in the past are:
 - a. Failure to have regard to material consideration e.g. not properly demonstrating that s122 of the RTRA has been considered. To avoid this occurring all future UUR TROs must make specific reference to s122 of RTRA and how the County Council's duty in this regard has been met.
 - b. Final SoR differing from the advertised SoR; Any changes to SoR as part of the TRO process must be followed by a new consultation exercise, which explains why it is being carried out.
 - c. Failure to comply with statutory process for implementing orders e.g notification to objectors were not carried out within the appropriate timescale of within 14 days of making the order (regulation 17(3) of the LATOP 1996); All TRO consultation and requirements must be carried out in accordance with the LATOP 1996.

Stakeholder Organisations

Yorkshire Dales National Park Authority
North York Moors National Park Authority
British Horse Society and Local Bridleway Group (if applicable)
Byways and Bridleways Trust
Ramblers Association
Cyclists Touring Club
International Mountain Bike Association
Natural England
Land Access & Recreation Association
Trail Riders Fellowship
Green Lane Association
Yorkshire Dales Green Lane Alliance
North York Moors Green Lane Alliance

Legislation

Highways Act 1980

The Natural Environment and Rural Communities (NERC) Act 2006;

Road Traffic Regulation Act (RTRA) 1984;

Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996;

Wildlife and Countryside Act 1981

Definitions of designated sites of ecological importance

Special Areas of Conservation and Specially Protected Areas

Large areas of the County have been identified as important conservation areas in a European context. There are two European designations that apply in the North Yorkshire area which are Specially Protected Areas (SPA) and Special Areas of Conservation (SAC). The two areas often overlap as SPAs are designated for bird conservation and the SACs for habitat conservation.

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

National Nature Reserves

National Nature Reserves (NNRs) are established to protect the most important areas of wildlife habitat and geological formations in Britain, and as places for scientific research. 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 English Nature or held by approved bodies such as Wildlife Trusts.

Sites of Special Scientific Interest

There are over 4,000 Sites of Special Scientific Interest (SSSIs) in England, covering around 7% of the country's land area. Over half of these sites, by area, are internationally important for their wildlife, and designated as Special Areas of Conservation (SACs), Special Protection Areas (SPAs) or Ramsar sites. Many SSSIs are also National Nature Reserves (NNRs) or Local Nature Reserves (LNRs).

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.

Notification as a SSSI gives legal protection to the best sites for wildlife and geology in England. Natural England now has responsibility for identifying and protecting the SSSIs in England under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000).

Locations of national environment and designations is available via the web enabled interactive map MAGIC; managed by Natural England in partnership with Defra, Historic England, Natural England, Environment Agency, Forestry Commission and Marine Management Organisation.
<http://magic.defra.gov.uk/>

Quick Reference Guide

1. Customer request received regarding condition of a route.
2. Check that route is included on the List of Streets
3. Route condition review with Network Management team (survey undertaken if required).
4. If condition is dangerous or would become dangerous soon, consider implementing a TTO. If condition is not yet dangerous, respond to customer request.
5. Whilst TTO is in force, investigate route (user groups causing damage, route importance, National Park or AONB, cost of repairs, external funding contributions).
6. Identify appropriate management actions, partnering where possible and appropriate (TWACS team, National Park, AONB, landowners, user groups), if TRO is required, begin process.
7. Arrange repairs, following TRO implementation (where applicable).

Note: If a route is not included on the List of Streets it may still be a *ratione tenurae* highway (roads which are maintainable at private expense but over which the public has a right of way) and the County Council as local highway authority has a duty to protect and assert highway rights.

Appendix B

Initial equality impact assessment screening form (As of October 2015 this form replaces 'Record of decision not to carry out an EIA')			
<p>This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.</p>			
Directorate	BES		
Service area	H&T		
Proposal being screened	Internal Note: Management of Unsurfaced Unclassified Roads in North Yorkshire		
Officer(s) carrying out screening	Neil Leighton		
What are you proposing to do?	Provide clarity to Highway Operations staff who manage the network of Unsurfaced Unclassified Roads in the County.		
Why are you proposing this? What are the desired outcomes?	To ensure a consistent approach in the management of UURs countywide		
Does the proposal involve a significant commitment or removal of resources? Please give details.	No – UURs are currently managed using the highway maintenance capital programme funding. This guidance does not change this. The note does allow partnership working with National Park Authorities and appropriate user groups, who may provide some financial resource and/ or volunteer staff.		
<p>Is there likely to be an adverse impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics? As part of this assessment, please consider the following questions:</p> <ul style="list-style-type: none"> • To what extent is this service used by particular groups of people with protected characteristics? • Does the proposal relate to functions that previous consultation has identified as important? • Do different groups have different needs or experiences in the area the proposal relates to? <p>If for any characteristic it is considered that there is likely to be a significant adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your Equality rep for advice if you are in any doubt.</p>			
Protected characteristic	Yes	No	Don't know/No info available
Age		✓	
Disability		✓	
Sex (Gender)		✓	
Race		✓	
Sexual orientation		✓	
Gender reassignment		✓	
Religion or belief		✓	
Pregnancy or maternity		✓	

Appendix B

Marriage or civil partnership		✓	
NYCC additional characteristic			
People in rural areas		✓	
People on a low income		✓	
Carer (unpaid family or friend)		✓	
Does the proposal relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details.	Although the proposal relates to rural areas, the UUR network is used predominantly for recreational use. The note will have a positive effect of all users of the UUR network as it provides clarity for management and maintenance.		
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? Please explain why you have reached this conclusion.	The guidance note allows partnership working with other organisations (National Park Authorities); it will have a positive effect, but not a significant effect, on how these operate and these organisations do not support people with protected characteristics.		
Decision (Please tick one option)	EIA not relevant or proportionate:	✓	Continue to full EIA:
Reason for decision	The Note will ensure a consistent approach is taken to UUR management Countywide and will have no negative impact on people with protected characteristics (or NYCCs additional characteristics).		
Signed (Assistant Director or equivalent)	<i>Barrie Mason</i>		
Date	<i>14 July 2017</i>		