

# Public Document Pack

## North Yorkshire County Council Business and Environmental Services - Executive Members & Corporate Director Meetings - Department

Friday, 17 December 2021 / 2.30 pm

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### A G E N D A

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1 **Apologies for Absence**

2 **Declarations of Interest**

3 **Exclusion of the public from the meeting during consideration of item(s) # on the grounds that it/they each involve the likely disclosure of exempt information as defined in the paragraph(s) # of Part 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government (Access to information)(Variation) Order 2006**

#### **Items for Executive Member decision**

#### **Items for Corporate Director decision**

- |    |  |                   |
|----|--|-------------------|
| 4  | Proposed Waiting Restrictions - West End, Richmond (Pages 3 - 18)                                      | Neil Linfoot      |
| 5  | Proposed Disabled Parking Bay - Aldbrough St John (Pages 19 - 34)                                      | Neil Linfoot      |
| 6  | Review of Parking on High Street, Northallerton (North of Friarage Street) (Pages 35 - 50)             | David Kirkpatrick |
| 7  | Highways Capital Programme 2021-22 (Pages 51 - 64)   | James Gilroy      |
| 8  | Covert Activity Policy (Pages 65 - 82)   | Jo Boutflower     |
| 9  | Trading Standards Tasking Filter and Matrix (Pages 83 - 104)   | Jo Boutflower     |
| 10 | Opposed Public Bridleway Scot Pit Lane, Brompton and Northallerton (Pages 105 - 122)                   | Penny Noake       |
| 11 | Opposed Public Bridleway No 20 Brook House Farm, Middleton Tyas Diversion Order 2021 (Pages 123 - 130) | Penny Noake       |

#### **Any Other Business**

- 12 Date of next meeting – 21 January 2022

#### **Circulation:**

##### **Executive Members**

Derek Bastiman  
Don Mackenzie

##### **Officer attendees**

Karl Battersby  
Jane Connolly  
Michael Leah

##### **Presenting Officers**

Neil Linfoot  
David Kirkpatrick  
James Gilroy  
Jo Boutflower  
Penny Noake

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**North Yorkshire County Council**  
**Business and Environmental Services**  
**Executive Members**

**17 December 2021**

**Proposed Introduction of Waiting Restrictions – West End, Richmond**

**Report of the Assistant Director – Highways and Transportation**

**1.0 Purpose of Report**

- 1.1 The purpose of this report is to advise the Corporate Director Business and Environmental Services (BES) and the BES Executive Members of the outcome of the public consultation and statutory advertisement which took place with regard to this proposal and to ask for a decision to be made as to whether or not the proposed Waiting Restrictions should be introduced.
- 1.2 A decision from the Corporate Director BES and the BES Executive Member for Access is sought regarding the proposed Recommendation outlined in this report.

**2.0 Background**

- 2.1 Your officers have been made aware of an ongoing issue with the parking of vehicles on the A6108 Reeth Road and an adjacent section of Cravengate at the western end of Richmond.
- 2.2 The parking of vehicles on the A6108 at the location in question which is adjacent to the junction with Westfields has been observed to cause problems for the free flow of traffic in and around the junction and on occasions requires drivers travelling into the Town to travel over an area of hatched road markings in the centre of the carriageway. These markings are provided as part of a right turning facility for vehicles turning into Westfields which then puts the drivers of these vehicles into conflict with those who may cross into the hatched area.
- 2.3 A mini-roundabout was installed relatively recently at the junction of the A6108 and Cravengate and it has been noted that drivers are parking cars on a regular basis in very close proximity to the roundabout. Drivers turning left into Cravengate at the roundabout can then be obstructed and need to give way to opposing traffic approaching the roundabout.
- 2.4 In order to alleviate the problems which had been identified, a proposed scheme of 'No Waiting At Any Time' restrictions was identified which is as shown on the map provided with this report as Appendix A.
- 2.5 With reference to the map Members will note that in order to avoid drivers simply migrating from the specific areas mentioned above, the proposed scheme also seeks to introduce similar waiting restrictions on nearby sections of the A6108.

- 2.6 The opportunity was also taken to propose that an existing system of 'Limited Waiting' restrictions on the adjacent section of the A6108 Victoria Road which allow parking between 8:00 am and 6:00 pm Monday to Saturday should be changed to a 'No Waiting At Any Time' restriction. This section of road is relatively narrow with a formal traffic calming pinch point and the limited waiting restrictions are considered to be something of an anomaly.

### **3.0 Consultation**

- 3.1 The proposal has been the subject of consultation and public advertisement in accordance with the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996. The enabling Traffic Regulation Order (TRO) was advertised for public comment in the local press, published on North Yorkshire County Council's website and by means of a Legal Notice placed on street in accordance with the requirements of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations.
- 3.2 A copy of the accompanying 'Statement Of Reasons' which accompanied the details of the proposal is provided with this report as Appendix B.
- 3.3 At the conclusion of the consultation and public advertisement stages, a number of comments both in support of the proposal and objecting to the proposal had been received. These are summarised in Appendix C along with officer comments.

### **4.0 Officer Comments**

- 4.1 Officers have considered each of the responses received and have summarised those responses along with an officer comment as Appendix C for consideration. A total of four residents have responded to the consultation exercise expressing their support for the scheme whilst two residents and one local business have registered their objections.
- 4.2 In view of the concern expressed by the proprietors of the business in Reeth Road which has premises adjacent to the junction with Westfields, a site meeting was held with them in order to discuss the issues in question.
- 4.3 Following this meeting an amendment to the proposed scheme was investigated which shortened the proposed length of road subject to Waiting Restrictions and provided an area for two cars to park which would have a 15 minute limited period of waiting.
- 4.4 The revised proposal, was discussed with the proprietors of the business but was deemed as not acceptable as the parking was said to be too far away from the premises. In view of this and returning to the road safety concern which generated the proposal to introduce waiting restrictions on this section of road in the first place, it is considered that the originally proposed and advertised waiting restrictions should be introduced. This would still allow unrestricted parking within approximately 40 metres of the business premises in question.
- 4.5 The proposed measures will also enable the County Council to comply with its duty under Section 122(1) of the Road Traffic Regulation Act 1984 to exercise its functions as road traffic authority to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) as well as its network management duty under Section 16 of the Traffic Management Act 2004 to secure the expeditious movement of traffic on the authority's road network.

## **5.0 Financial Implications**

- 5.1 If the proposed waiting restrictions were to be introduced then the provision of the associated road markings and sign would be funded from the Area Office 'Signs, Lines and Traffic Regulation Orders' budget.
- 5.2 The approximate cost of providing these items would be £1000.

## **6.0 Equalities Implications**

- 6.1 An initial equality and impact assessment screening form has been completed for the proposed waiting restrictions and a copy is provided with this report as Appendix D.

## **7.0 Legal Implications**

- 7.1 The process for the consideration of objections to Traffic Regulation Orders was approved by the Executive on 29 April 2014 and County Council on 21 May 2014.
- 7.2 The consideration of objections to Traffic Regulation Orders (TROs) is now a matter for the Executive and the role of the Area Committee is changed to a consultative role on 'wide area impact TROs'. The consideration of objections has been delegated by the Executive to the Corporate Director of Business and Environmental Services (BES) in consultation with BES Executive Members.
- 7.3 The decision making process relates to the provision and regulation of parking places both off and on the highway where an objection is received from any person or body entitled under the relevant statute. A 'wide area impact TRO' is classed as a proposal satisfying all of the three criteria set out below:
- The proposal affects more than one street or road and;
  - The proposal affects more than one community and;
  - The proposal is located within the ward of more than one County Councillor.
- 7.4 The proposed TRO for this part of Richmond has not been classed as a 'wide area impact TRO' and therefore the Area Constituency Committee's views have not been sought.
- 7.5 In the event that the BES Executive Members and BES Corporate Director resolves to follow the Recommendations contained in this report, then in accordance with the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996, the County Council will be required to make the relevant Traffic Regulation Orders (with or without modifications) and publish a notice of making the Orders in the local press before the Order comes into operation. The County Council will also be required to notify the objectors of its decision and the reasons for making that decision within 14 days of the Order being made.
- 7.6 In accordance with the protocol for BES Executive Member reports, the Local Member will be provided with a copy of this report and be invited to the meeting on 17 December 2021. During the consultation process the Elected Member for the area has indicated that they are in support of the proposals.
- 7.7 Where an Order has been made (i.e. sealed), if any person wishes to question the validity of the Order or any of its provisions on the grounds that it or they are not

within the powers conferred by the Road Traffic Regulation Act 1984, or that any requirement of the 1984 Act or of any instrument made under the 1984 Act has not been complied with, they may apply to the High Court within six weeks from the date on which the Order is made.

- 7.8 In recommending the implementation of the proposed TRO, officers consider that it will enable the County Council to comply with its duties under Section 122 of the Road Traffic Regulation Act 1984 and Section 16 of the Traffic Management Act 2004, as detailed in Paragraph 4.2 to 4.5 of this report.

## **8.0 Climate Change**

- 8.1 A climate change impact assessment has been carried out, see Appendix E. The impact of any changes to the waiting restrictions will be negligible as parking is available on the adjacent highway

## **9.0 Recommendations**

- 9.1 It is recommended that:
- i) The intention to implement 'No Waiting At Any Time' restrictions as detailed on the map in Appendix A under the delegated authority of the Corporate Director, BES, is noted.
  - ii) That the Assistant Chief Executive (Legal and Democratic Services) be authorised to seal the relevant Traffic Regulation Order to give effect to the proposed 'No Waiting At Any Time' restrictions as identified on the map in Appendix A and that the objectors are notified within 14 days of the Order being made.

BARRIE MASON

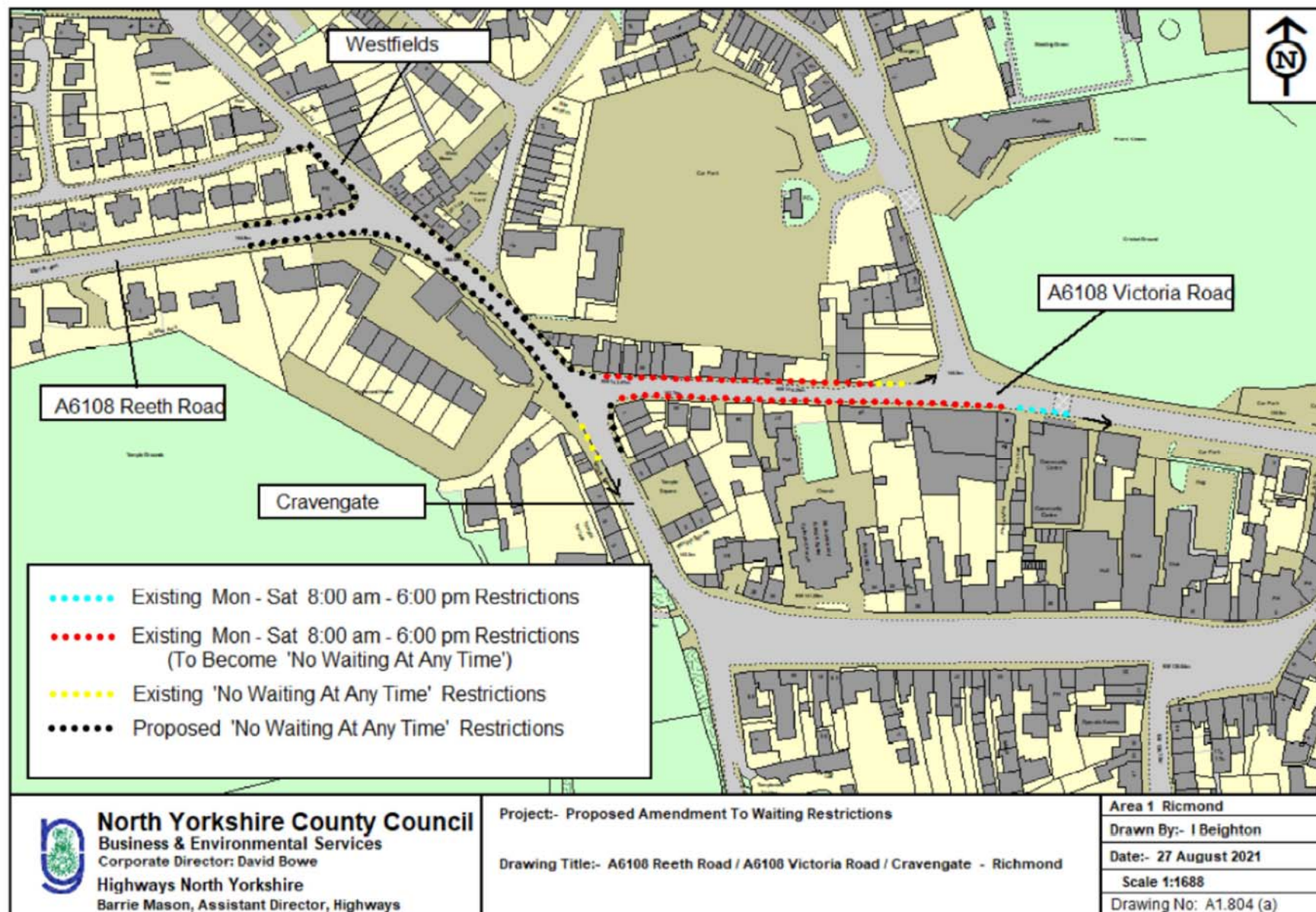
Assistant Director – Highways & Transportation, Business and Environmental Services

Author of Report: Ian Beighton

Background Documents: None



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**PROPOSED INTRODUCTION OF / AMENDMENT TO WAITING RESTRICTIONS**

**A6108 REETH ROAD / A6108 VICTORIA ROAD / CRAVENGATE - RICHMOND**

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

**LEGAL POWERS AND DUTIES**

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

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

Section 122(1) of the Road Traffic Regulation Act 1984 also provides that it shall be the duty of every local authority upon whom functions are conferred by or under the 1984 Act so to exercise those functions as to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway.

**REASONS FOR MAKING THE ORDER**

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

**Location(s) of Proposed Order**

The proposal seeks to introduce 'No Waiting At Any Time' restrictions on the A6108 Reeth Road in order to prevent vehicles being parked in inappropriate locations such as adjacent to the junction with Westfields. Vehicles parked at this location are causing eastbound through traffic to have to pass on the off-side of the road in the face of oncoming traffic.

The proposal also seeks to introduce 'No Waiting At Any Time' restrictions on Cravengate adjacent to a mini-roundabout junction. Vehicles parked at this location (sometimes within the circulatory area of the mini-roundabout) are creating problems for through traffic.



As part of the proposal, certain sections of existing 'No Waiting Monday to Saturday 8:00 am – 6:00 pm' restrictions will also be converted to 'No Waiting At Any Time' restrictions. The latter restriction is considered to be more appropriate for the locations in question which are on a narrow section of the A6108.

The proposal is as illustrated on Plan A1.804 (a).

Traffic Officer - Ian Beighton (Area 1 Highways)

### **CONSIDERATION OF OBJECTIONS**

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

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

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

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

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

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

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

**Results Of Consultation On Proposed Waiting Restrictions - Sleegill, Richmond**Schedule Of Responses In Support

Consultee	Consultee Comment	Officer Comment
Resident 1 (Victoria Road)	In support	
Resident 2 (Victoria Road)	In support	
Resident 3 (Victoria Road)	In support	
Resident 4 (Victoria Road)	In support but would also request the introduction of additional raised Traffic Calming Measures in Victoria Road to slow the speed of vehicles	This is a separate issue not connected with the proposed amendment to the Waiting Restrictions. The section of Victoria Road in question does however have a 'Priority' give and take road narrowing and is subject to a 20 Mph Speed Limit

Schedule Of Responses Not In Support

Resident 1 (Victoria Road)	Concerned that delivery vehicles will not be able to load / unload on proposed Double Yellow Lines	An exemption will be made for such vehicles to load / unload
Resident 2 (Victoria Road)	Concerned that Double Yellow Lines will prevent them from park temporarily to load / unload goods and people from a car which may take longer than the Parking Enforcement Officers will deem to be reasonable	An exemption will be made to allow for such loading and unloading but a vehicle left unattended for an extended period of time will attract the attention of the Parking Enforcement Officers
	Parked cars have never been observed in this part of Victoria Road so why change the existing set up ?	The opportunity has arisen as part of the proposal to introduce additional Waiting Restrictions nearby and it is considered appropriate in order to rectify an anomaly in this narrow part of road which would allow vehicles to be parked at certain times of the day / week. A further benefit would be that the existing posts and signs which relate to the Limited Waiting restrictions could be removed so improving the street scene
	If visitors to the property are forced to walk from nearby parking places then there will be a danger owing to the narrow nature of the footways in this part of Victoria Road	Noted
	The proposed amendment to the waiting restrictions will devalue the property	Noted
Business 1 (Reeth Road)	Concerned that vehicles will be unable to load / unload on the proposed Double Yellow Lines	An exemption will be made to allow for such vehicles to load / unload (whilst still requiring drivers to have regard to the impact of this on other road users)
	Request that a 'Loading Bay' is provided	Not appropriate for a single commercial premise where loading / unloading could take place on the proposed waiting restrictions anyway
	Customers will be put off visiting the premises. The premises currently operate as a retail outlet and a 'click and collect' collection point and this trade will also be adversely affected	Noted but on-street parking will still be available within approximately 40 metres of the premises
	Should the waiting restrictions be introduced then it is likely that the shop will need to be closed and a beneficial asset for the community will be lost	Noted

<b>Initial equality impact assessment screening form</b> (As of October 2015 this form replaces 'Record of decision not to carry out an EIA')			
<b>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.</b>			
Directorate	BES		
Service area	H&T		
Proposal being screened	Proposed introduction of waiting restrictions – West End, Richmond		
Officer(s) carrying out screening	Neil Linfoot		
What are you proposing to do?	Introduce waiting restrictions along the above named road to address parking concerns and safety concerns		
Why are you proposing this? What are the desired outcomes?	Residents and 3 <sup>rd</sup> parties have requested waiting restrictions to address the parking concerns		
Does the proposal involve a significant commitment or removal of resources? Please give details.	No		
<b>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?</b> As part of this assessment, please consider the following questions: <ul style="list-style-type: none"> <li>• To what extent is this service used by particular groups of people with protected characteristics?</li> <li>• Does the proposal relate to functions that previous consultation has identified as important?</li> <li>• Do different groups have different needs or experiences in the area the proposal relates to?</li> </ul> <b>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 <a href="#">Equality rep</a> for advice if you are in any doubt.</b>			
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		✓	
Marriage or civil partnership		✓	
<b>NYCC additional characteristic</b>			
People in rural areas		✓	
People on a low income		✓	
Carer (unpaid family or friend)		✓	

<b>Does the proposal relate to an area where there are known inequalities/probable impacts</b> (e.g. disabled people's access to public transport)? Please give details.	No.			
<b>Will the proposal have a significant effect on how other organisations operate?</b> (e.g. partners, funding criteria, etc.). <b>Do any of these organisations support people with protected characteristics?</b> Please explain why you have reached this conclusion.	No impact			
<b>Decision (Please tick one option)</b>	EIA not relevant or proportionate:	<input checked="" type="checkbox"/>	Continue to full EIA:	<input type="checkbox"/>
<b>Reason for decision</b>	The proposed waiting restrictions will have no negative impact on people with protected characteristics (or NYCCs additional characteristics) and will enable the County Council to comply with its duties under Section 122 of the Road Traffic Regulation Act 1984 and Section 16 of the Traffic Management Act 2004			
<b>Signed (Assistant Director or equivalent)</b>	Barrie Mason			
<b>Date</b>	06/12/21			



## Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk)

**Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:**

Planning Permission  
Environmental Impact Assessment  
Strategic Environmental Assessment

However, you will still need to summarise your findings in the summary section of the form below.

Please contact [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk) for advice.

<b>Title of proposal</b>	<b>Proposed Introduction of Waiting Restrictions – West End, Richmond</b>
<b>Brief description of proposal</b>	<b>Introduction of waiting restrictions on A6108 to address parking issues and safety concerns regarding traffic entering hatched area for right turn lane</b>
<b>Directorate</b>	<b>Business and Environmental Services</b>
<b>Service area</b>	<b>Highways and Transportation</b>
<b>Lead officer</b>	<b>Neil Linfoot</b>
<b>Names and roles of other people involved in carrying out the impact assessment</b>	<b>Ian Beighton</b>
<b>Date impact assessment started</b>	<b>20/11/2021</b>

**Options appraisal**

Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.

**Other options of waiting restrictions were considered but the problem can arise at all times of the day so the 'no waiting at any time' was deemed the most suitable for the location**

**What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?**

Please explain briefly why this will be the result, detailing estimated savings or costs where this is possible.

The implementation costs are to be met from the local team 'Sign Lines and TROs budget', the long term impact is that the road markings will need to be refreshed at certain points throughout the lifetime of the Order. This will be undertaken within current programmes and the overall impact will be minimal



How will this proposal impact on the environment?		Positive impact (Place a X in the box below where	No impact (Place a X in the box below where	Negative impact (Place a X in the box below where	Explain why will it have this effect and over what timescale?  Where possible/relevant please include: <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
Minimise <b>greenhouse gas emissions</b> e.g. reducing emissions from travel, increasing energy efficiencies etc.	Emissions from travel	X			Initially this may have an impact as people who normally park here will need to find elsewhere to park, but once they are aware of the restrictions will not return to park in this location		
	Emissions from construction		X				
	Emissions from running of buildings		X				
	Other		X				
Minimise <b>waste</b> : Reduce, reuse, recycle and compost e.g. reducing use of single use plastic			X				

How will this proposal impact on the environment?  N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.	Positive impact (Place a X in the box below where)	No impact (Place a X in the box below where)	Negative impact (Place a X in the box below where)	Explain why will it have this effect and over what timescale?  Where possible/relevant please include: <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
Reduce <b>water</b> consumption		X				
Minimise <b>pollution</b> (including air, land, water, light and noise)		X				
Ensure <b>resilience</b> to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers		X				
Enhance <b>conservation</b> and wildlife		X				
Safeguard the distinctive characteristics, features and special qualities of <b>North Yorkshire's landscape</b>		X				
Other (please state below)		X				

**Are there any recognised good practice environmental standards in relation to this proposal?** If so, please detail how this proposal meets those standards.

The works will comply with the Traffic Signs Regulations and General Directions 2016 and in addition will utilise primrose yellow paint which is identified for use in conservation areas

**Summary** Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

The proposals will be utilised to address a safety concern raised by residents and also the travelling public and other bodies which will have a positive impact on road safety at the location in question

### Sign off section

This climate change impact assessment was completed by:

<b>Name</b>	<b>Neil Linfoot</b>
<b>Job title</b>	<b>Improvement Manager</b>
<b>Service area</b>	<b>Highways and Transportation</b>
<b>Directorate</b>	<b>Business and Environmental Services</b>
<b>Signature</b>	<i>N Linfoot</i>
<b>Completion date</b>	<b>20/11/2021</b>

**Authorised by relevant Assistant Director (signature):** Barrie Mason

**Date:** 06/12/21

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## North Yorkshire County Council

### Business and Environmental Services

#### Executive Members

17 December 2021

#### Proposed Introduction of 'Disabled' Parking Bay Spenceley Place - Aldbrough St John

#### Report of the Assistant Director – Highways and Transportation

##### **1.0 Purpose of Report**

- 1.1 The purpose of this report is to advise the Corporate Director Business and Environmental Services (BES) and the BES Executive Members of the outcome of the public consultation and statutory advertisement which took place with regard to this proposal and to ask for a decision to be made as to whether or not the proposed 'Disabled' Parking Bay should be introduced.
- 1.2 A decision from the Corporate Director BES and the BES Executive Member for Access is sought regarding the proposed Recommendation outlined in this report.

##### **2.0 Background**

- 2.1 The County Council promotes a scheme whereby residents in possession of a disabled persons parking permit (commonly referred to as a 'Blue Badge') can apply for a formal 'Disabled' parking bay to be provided adjacent to their property. Such bays have appropriate road markings and an accompanying information sign.
- 2.2 As part of the application process certain qualifying criteria need to be met. Once the application has been validated then an appropriate Traffic Regulation Order needs to be promoted which involves the usual process of consultation and advertising of the details.
- 2.3 In this particular instance a request for a 'Disabled' Parking Bay has been received and validated from a resident of a property in Spenceley Place in Aldbrough St John. The proposed location for the bay is as shown on the map provided as Appendix A.

##### **3.0 Consultation**

- 3.1 The proposal has been the subject of consultation and public advertisement in accordance with the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996. The enabling Traffic Regulation Order (TRO) was advertised for public comment in the local press, published on North Yorkshire County Council's website and by means of a Legal Notice placed on street in accordance with the requirements of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations
- 3.2 A copy of the accompanying 'Statement Of Reasons' which outlines the details of the proposal and was used in conjunction with the consultation and advertising is provided with this report as Appendix B.

- 3.3 At the conclusion of the consultation and public advertising stages, a number of comments which objected to the proposal had been received.

#### **4.0 Officer Comments**

- 4.1 Officers have considered each of the responses received and have summarised these responses along with a corresponding officer comment in Appendix C. Two residents of Spenceley Place have objected along with the local Parish Council.
- 4.2 With regard to these comments Members will note that these all follow the same theme in suggesting that the provision of the formal 'Disabled' Parking Bay will have a knock on effect in reducing the availability of on-street parking for other residents. The housing development in question is 'mature' with limited off-street parking and many residents do rely on being able to park vehicles on the carriageway with such space being at a premium.
- 4.3 Whilst the comments received are understood, it is considered that the effect of the introduction of the proposed 'Disabled' Parking Bay will be negligible in reducing the opportunity for on-street parking. If introduced the bay in question would be 6.6 metres in length and marked parallel to the carriageway. A car parked informally at the same location would take up a space of approximately 6 metres so the actual effect on parking by providing the new bay would be very limited with care being taken when marking it out to ensure that sufficient space remained between it and the end of the cul-de-sac to still allow a car to be parked.
- 4.4 The proposed measures will enable the County Council to comply with its duty under Section 122(1) of the Road Traffic Regulation Act 1984 to exercise its functions as road traffic authority to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) as well as its network management duty under Section 16 of the Traffic Management Act 2004 to secure the expeditious movement of traffic on the authority's road network.

#### **5.0 Financial Implications**

- 5.1 If the proposed 'Disabled' Parking Bay was to be introduced then the provision of associated road markings and signing would be funded from the Area Office 'Signs, Lines and Traffic Regulation Orders' budget.
- 5.2 The approximate cost involved would be £ 250.

#### **6.0 Equalities Implications**

- 6.1 An initial equality and impact assessment screening form has been completed for the proposed waiting restrictions and a copy is provided with this report as Appendix D.

#### **7.0 Legal Implications**

- 7.1 The process for the consideration of objections to Traffic Regulation Orders was approved by the Executive on 29 April 2014 and County Council on 21 May 2014.
- 7.2 The consideration of objections to Traffic Regulation Orders (TROs) is now a matter for the Executive and the role of the Area Constituency Committee is changed to a consultative role on 'wide area impact TROs'. The consideration of objections has



- been delegated by the Executive to the Corporate Director of Business and Environmental Services (BES) in consultation with BES Executive Members.
- 7.3 The decision making process relates to the provision and regulation of parking places both off and on the highway where an objection is received from any person or body entitled under the relevant statute. A 'wide area impact TRO' is classed as a proposal satisfying all of the three criteria set out below;
- The proposal affects more than one street or road and;
  - The proposal affects more than one community and;
  - The proposal is located within the ward of more than one County Councillor.
- 7.4 The proposed TRO for this proposal has not been classed as a 'wide area impact TRO' and therefore the Area Constituency Committee's views have not been sought.
- 7.5 In the event that the BES Executive Members and BES Corporate Director resolves to follow the Recommendations contained in this report, then in accordance with the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996, the County Council will be required to make the relevant Traffic Regulation Orders (with or without modifications) and publish a notice of making the Orders in the local press before the Order comes into operation. The County Council will also be required to notify the objectors of its decision and the reasons for making that decision within 14 days of the Order being made.
- 7.6 In accordance with the protocol for BES Executive Member reports, the Local Member will be provided with a copy of this report and be invited to the meeting on 17 December 2021. The Local Elected Member for the area is in support of the proposals.
- 7.7 Where an Order has been made (i.e. sealed), if any person wishes to question the validity of the Order or any of its provisions on the grounds that it or they are not within the powers conferred by the Road Traffic Regulation Act 1984, or that any requirement of the 1984 Act or of any instrument made under the 1984 Act has not been complied with, they may apply to the High Court within six weeks from the date on which the Order is made.
- 7.8 In recommending the implementation of the proposed TRO, officers consider that it will enable the County Council to comply with its duties under Section 122 of the Road Traffic Regulation Act 1984 and Section 16 of the Traffic Management Act 2004, as detailed in Paragraph 4.2 to 4.4 of this report.
- 8.0 Climate Change**
- 8.1 A climate change impact assessment has been carried out, see Appendix E. The impact of any changes to the waiting restrictions will be negligible as parking is available on the adjacent highway

## **9.0 Recommendations**

### **9.1 It is recommended that:**

- i. The intention to introduce a 'Disabled' Parking Bay as outlined in this report under the delegated authority of the Corporate Director BES is noted.
- ii. That the Assistant Chief Executive (Legal and Democratic Services) be authorised to seal the relevant Traffic Regulation Order to give effect to the proposed 'Disabled' Parking Bay (subject to the amendments and recommendations approved by the Corporate Director (BES) in consultation with the BES Executive Member for Access in light of the objections received) and that the objectors are notified within 14 days of the Order being made.

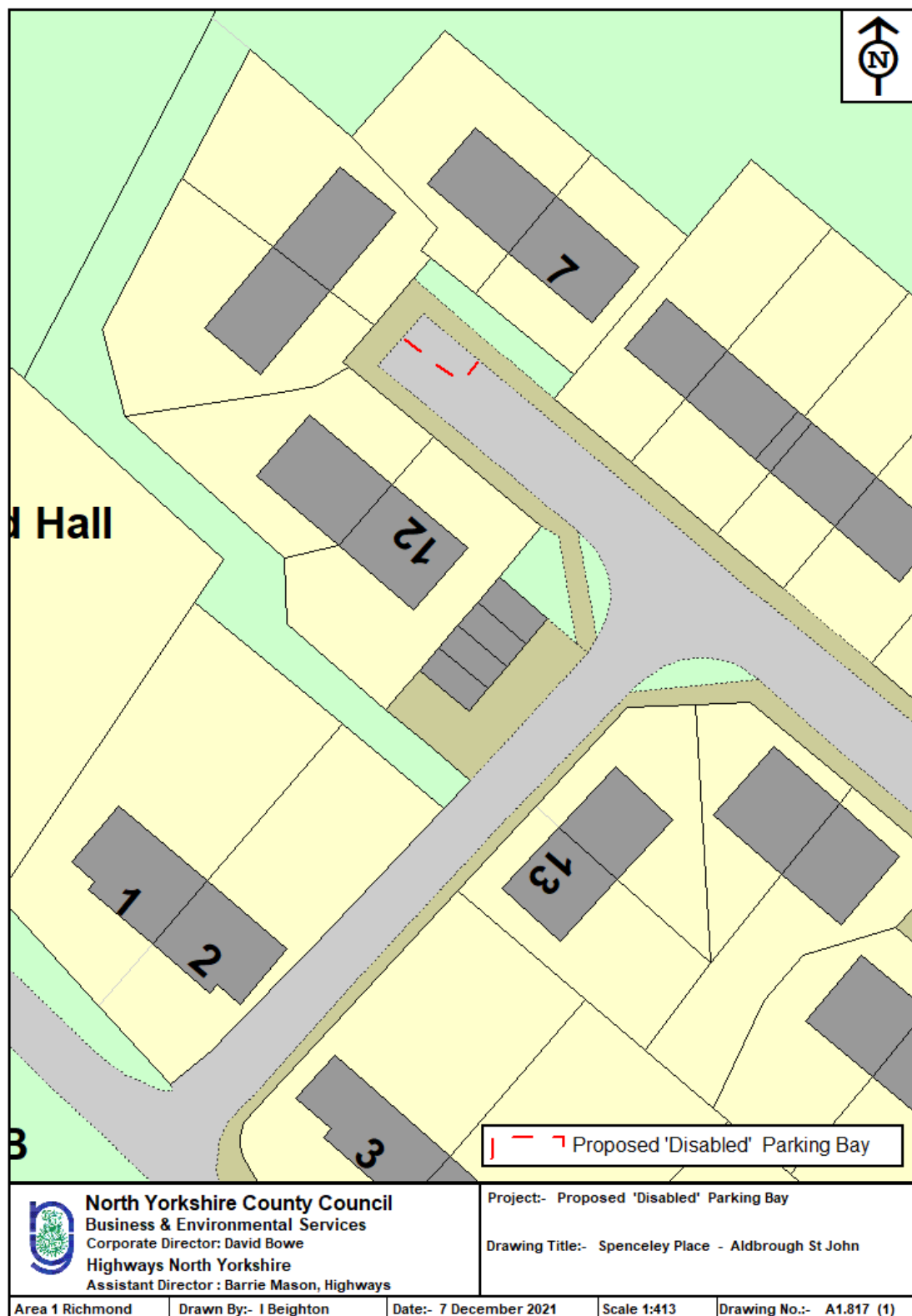
BARRIE MASON

Assistant Director – Highways & Transportation, Business and Environmental Services

Author of Report: Ian Beighton

Background Documents: None

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**PROPOSED 'DISABLED' PARKING BAY - SPENCELEY PLACE, ALDBROUGH ST JOHN****STATEMENT OF THE COUNCIL'S REASONS FOR PROPOSING TO MAKE THE ORDER****LEGAL POWERS AND DUTIES**

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

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

Section 122(1) of the Road Traffic Regulation Act 1984 also provides that it shall be the duty of every local authority upon whom functions are conferred by or under the 1984 Act so to exercise those functions as to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway.

**REASONS FOR MAKING THE ORDER**

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

**Location(s) of Proposed Order**

A request has been made for the introduction of a 'Disabled' Parking Bay adjacent to properties at the western end of Spenceley Place.

The application has been made by a local resident under the terms of the County Council's procedure for the provision of 'Disabled' Parking Bays and having given consideration to the request it is considered that the provision of a 'Disabled' Parking Bay would be appropriate in this instance.

If the 'Disabled' Parking Bay is introduced then it would be available for use by any vehicle displaying an appropriate and valid blue badge parking permit.

The extent of the proposal is as illustrated on Drawing A1.817 (a)

Traffic Officer - Ian Beighton (Area 1 Highways)

**CONSIDERATION OF OBJECTIONS**

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

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

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

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

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

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

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

**Proposed 'Disabled' Parking Bay - Spenceley Place, Aldbrough St John**Schedule Of Responses Not In Support Of Proposal

<u>Consultee</u>	<u>Consultee Comment</u>	<u>Officer Comment</u>
Parish Council and two Residents of Spenceley Place	The proposal would decrease the amount of on-street parking available for other residents.	The bay that would be formally marked out would have a length of 6.6 metres which is not significantly longer than the section of unmarked road which would be taken up by a car parked in a line of other cars parallel to the kerb which would be approximately 6 metres.



**Initial equality impact assessment screening form**

(As of October 2015 this form replaces 'Record of decision not to carry out an EIA')

**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.**

<b>Directorate</b>	BES		
<b>Service area</b>	H&T		
<b>Proposal being screened</b>	Proposed introduction of Disabled Parking Bay, Spencely Place, Aldbrough St John		
<b>Officer(s) carrying out screening</b>	<b>Neil Linfoot</b>		
<b>What are you proposing to do?</b>	Introduce Disabled Parking Bay		
<b>Why are you proposing this? What are the desired outcomes?</b>	Residents has requested the installation of the bay outside their property to secure parking outside their property		
<b>Does the proposal involve a significant commitment or removal of resources? Please give details.</b>	No		
<p><b>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?</b></p> <p>As part of this assessment, please consider the following questions:</p> <ul style="list-style-type: none"> <li>To what extent is this service used by particular groups of people with protected characteristics?</li> <li>Does the proposal relate to functions that previous consultation has identified as important?</li> <li>Do different groups have different needs or experiences in the area the proposal relates to?</li> </ul> <p><b>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 <a href="#">Equality rep</a> for advice if you are in any doubt.</b></p>			
<b>Protected characteristic</b>	<b>Yes</b> <b>No</b> <b>Don't know/No info available</b>		
Age		✓	
Disability		✓	
Sex (Gender)		✓	
Race		✓	
Sexual orientation		✓	
Gender reassignment		✓	
Religion or belief		✓	
Pregnancy or maternity		✓	
Marriage or civil partnership		✓	

<b>NYCC additional characteristic</b>				
People in rural areas		✓		
People on a low income		✓		
Carer (unpaid family or friend)		✓		
<b>Does the proposal relate to an area where there are known inequalities/probable impacts</b> (e.g. disabled people's access to public transport)? Please give details.	No.			
<b>Will the proposal have a significant effect on how other organisations operate?</b> (e.g. partners, funding criteria, etc.). <b>Do any of these organisations support people with protected characteristics?</b> Please explain why you have reached this conclusion.	No impact			
<b>Decision (Please tick one option)</b>	EIA not relevant or proportionate:	✓	Continue to full EIA:	
<b>Reason for decision</b>	The proposed disabled parking bay will have no negative impact on people with protected characteristics (or NYCCs additional characteristics) and will enable the County Council to comply with its duties under Section 122 of the Road Traffic Regulation Act 1984 and Section 16 of the Traffic Management Act 2004			
<b>Signed (Assistant Director or equivalent)</b>	Barrie Mason			
<b>Date</b>	06/12/21			



## Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk)

**Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:**

Planning Permission

Environmental Impact Assessment

Strategic Environmental Assessment

However, you will still need to summarise your findings in in the summary section of the form below.

<b>Title of proposal</b>	<b>Proposed Introduction of Disabled Parking Bay, Spencely Place Aldbrough St John</b>
<b>Brief description of proposal</b>	<b>Introduction of Disabled Parking Bay</b>
<b>Directorate</b>	<b>Business and Environmental Services</b>
<b>Service area</b>	<b>Highways and Transportation</b>
<b>Lead officer</b>	<b>Neil Linfoot</b>
<b>Names and roles of other people involved in carrying out the impact assessment</b>	<b>Ian Beighton</b>
<b>Date impact assessment started</b>	<b>20/11/2021</b>

**Options appraisal**

Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.

**What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?**

Please explain briefly why this will be the result, detailing estimated savings or costs where this is possible.

The implementation costs are to be met from the local team 'Sign Lines and TROs budget', the long term impact is that the road markings will need to be refreshed at certain points throughout the lifetime of the Order. This will be undertaken within current programmes and the overall impact will be minimal

# APPENDIX E

How will this proposal impact on the environment?		Positive impact (Place a X in the box below where)	No impact (Place a X in the box below where)	Negative impact (Place a X in the box below where)	Explain why will it have this effect and over what timescale?  Where possible/relevant please include: <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
Minimise <b>greenhouse gas emissions</b> e.g. reducing emissions from travel, increasing energy efficiencies etc.	Emissions from travel		X				
	Emissions from construction		X				
	Emissions from running of buildings		X				
	Other		X				
Minimise <b>waste</b> : Reduce, reuse, recycle and compost e.g. reducing use of single use plastic			X				
Reduce <b>water</b> consumption			X				

# APPENDIX E

<p>How will this proposal impact on the environment?</p> <p><b>N.B.</b> There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p><b>Positive impact</b> (Place a X in the box below where</p>	<p><b>No impact</b> (Place a X in the box below where</p>	<p><b>Negative impact</b> (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
<p>Minimise <b>pollution</b> (including air, land, water, light and noise)</p>		X				
<p>Ensure <b>resilience</b> to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers</p>		X				
<p>Enhance <b>conservation</b> and wildlife</p>		X				
<p>Safeguard the distinctive characteristics, features and special qualities of <b>North Yorkshire's landscape</b></p>		X				



<p>How will this proposal impact on the environment?</p> <p><b>N.B.</b> There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<b>Positive impact</b> (Place a X in the box below where	<b>No impact</b> (Place a X in the box below where	<b>Negative impact</b> (Place a X in the box below where	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
Other (please state below)		X				

**Are there any recognised good practice environmental standards in relation to this proposal?** If so, please detail how this proposal meets those standards.

The works will comply with the Traffic Signs Regulations and General Directions 2016

**Summary** Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

The impact of the introduction of the Disabled Bay has no impact as parking is already utilised by the resident in the local and this proposal will just ensure that they can park near their property

**Sign off section**

This climate change impact assessment was completed by:

<b>Name</b>	<b>Neil Linfoot</b>
<b>Job title</b>	<b>Improvement Manager</b>
<b>Service area</b>	<b>Highways and Transportation</b>
<b>Directorate</b>	<b>Business and Environmental Services</b>
<b>Signature</b>	<i>N Linfoot</i>
<b>Completion date</b>	<b>20/11/2021</b>

**Authorised by relevant Assistant Director (signature): Barrie Mason**

**Date: 10/12/2021**

**North Yorkshire County Council**  
**Business and Environmental Services**  
**Executive Members**

**17 December 2021**

**Review of Parking on High Street, Northallerton (North of Friarage Street)**

**Report of the Assistant Director – Highways and Transportation**

<b>1.0 Purpose of Report</b>
1.1 To apprise the Corporate Director of Business and Environmental Services (BES) and BES Executive Members, of the findings of a parking review on High Street, north of Friarage Street, Northallerton.

**2.0 Background**

2.1 In February 2020, Northallerton BID Company Ltd submitted a petition requesting the County Council reviews its existing on-street parking operation on High Street, Northallerton in the context of its parking policy and extends the free parking allowance from its current duration of 30 minutes to two hours with immediate effect.

2.2 The petition was reviewed by way of the County Council's Right to Challenge Parking Policy Petition Scheme with the findings and recommendations presented to and approved by The Executive on 28 July 2020. The report resolved that the existing Pay and Display (P&D) system on High Street remained an appropriately applied parking management operation in accordance with the strategic approach and policy objectives, but agreed to investigate the potential for increasing the free parking time allowance on that part of High Street north of Friarage Street.

2.3 It should be noted that due to the Covid-19 pandemic it was not considered appropriate to carry out the review at that time. Whilst the effect of the pandemic continues, it is now to a much lesser degree and conditions are more representative of a pre pandemic situation allowing a more accurate study to be conducted.

**3.0 Existing Operation**

3.1 The existing pay and display scheme on High Street provides 30 minutes free parking on-street with charges applying thereafter at rates of 80pence per hour up to a maximum stay of 2 hours costing £1.60. There is a no return period of 3 hours in operation.

3.2 The application of charges is in accordance with the County Council's parking strategy and consistent with the national approach. That approach is to firstly encourage drivers to seek off-street parking for the benefit of the highway environment and operation. This is done by making on-street parking more expensive where charges apply and/or are time restricted.

## 4.0 Performance Monitoring

4.1 As mentioned in previous reports dealing with parking on High Street, there are limited data sets available to review and draw definitive conclusions. Whilst this information can provide sufficient guidance on any trends that may be occurring e.g. increased transactions or a reduction in the number of PCNs issued, it is not absolute and any decision must include the full consideration of the strategic approach to parking management and the broader traffic management and transport policy objectives.

4.2 The following data sets have been used in this analysis;

- P&D Ticket Machine Transaction Data from 2015 - 2020
- Enforcement Data - Penalty Charge Notices (PCNs) issued

### P&D Machine Transaction Data

4.3 The 30 minutes free parking allowance has been part of the pay and display scheme since charges were introduced in 2014 and transaction data is available for all those years. For the purposes of this review, that data is focused on transactions made at P&D machines north of Friarage Street only. Given the physical separation of this part of High Street from the main retail area and parking provision, it is reasonable to consider the vast majority of transactions will be at machines on that part of High Street and therefore the transaction data offers a good degree of accuracy.

4.4 The data shows the number of transactions for the area north of Friarage Street increased in the 3-year period 2015 to 2018 from 129,807 transactions in 2015/2016 to 160,899 in 2017/2018 however, in the following 2 years transactions have decreased gradually with 136,070 transactions being made in 2019/20. The data for the latest year(s) has been discounted, as it is not representative of normal conditions due to the Covid-19 pandemic.

4.5 The 129,807 transactions in 2015/16 were split between the different tariffs as follows; 30 minute tariff free 74,476 (57%), one hour paid 23,242 (18%) and two hours paid 32,089 (25%).

4.6 Comparatively, in the most recent year 2019/20 the 136,070 transactions were split between the different tariffs as follows; 30 minute tariff free 81,833 (60%), one hour paid 21,999 (16%) and two hour paid 32,238 (24%)

4.7 Whilst it is acknowledged transactions have decreased, the figures remain above that of the first year charges applied. Furthermore, there is clear indication that tariff type demand has remained consistent with the free period accounting for around 60% of transactions. Of course, it is not possible to identify whether drivers may have then purchased additional time.

4.8 For comparative purposes, transaction figures for Hambleton District Councils Applegarth short stay off street car park have been obtained to determine if off-street parking has similarly decreased in the same period. The tariffs for the short-stay car park are as follows; 1 hour free and two hours paid.

4.9 This data shows that transaction figures remained relatively constant throughout, with 244,505 transactions in 2015/16 and 243,676 in 2019/20. The 244,505 transactions in 2015/16 were split between the different tariffs as follows; 1 hour free 142,751 (58%) and two hours paid 101,754 (42%). Comparatively the 243,676 transactions in 2019/20 were split; 1 hour free 145,712 (60%) and two hours paid 97,964 (40%)

#### Enforcement Data - Penalty Charge Notices

- 4.10 Since the introduction of the 30 minutes free parking concession a total of 6099 penalty charge notices (PCNs) have been issued for parking contraventions on the part of High Street to the north of Friarage Street. Of those notices 1851 were for not displaying a valid ticket and 4248 were for parking after the expiry of a paid for ticket (the data does not provide information about what tariff band the expired ticket related). These are the expected contraventions typical of P&D operation. The issue of these PCNs is distributed relatively evenly during this period with the numbers of PCN's for both offences reducing on a year on year basis between 2015 and 2021, thus providing an indication of improving compliance levels.
- 4.11 The annual breakdown of the number of PCNs issued are detailed in the table below.

Penalty Charge Notices issued on High Street, Northallerton			
Date	Contravention (Code 06) Parked without clearly displaying a valid pay and display ticket	Contravention (Code 05) Parked after the expiry of paid for time	Total
2015/2016	802	395	1197
2016/2107	1040	467	1507
2017/2018	754	360	1114
2018/2019	619	266	885
2019/2020	581	202	783
2020/2021	452	161	613
<b>Total</b>	<b>1851</b>	<b>4248</b>	<b>6099</b>

## 5.0 Data & Policy Appraisal

- 5.1 It is acknowledged that there has been a more recent decline in the number of transactions on the section of High Street to the north of Friarage Street, which is consistent with the findings of the previous report(s) looking at the whole operation. However, the demand between tariff types has remained consistent, showing the free 30 minute parking offer remains the most popular tariff which suggests it is sufficient for visitors to carry out those short task/errands which it is intended to support.
- 5.2 Nevertheless, it is acknowledged that parking charges must be appropriate and play a key part in parking and traffic management operations. However, given the current circumstances where the P&D operation has remained constant throughout and there is no evidence to indicate that charges are problematic, any change would be in effect a policy and strategic decision.
- 5.3 To increase the free time allowance would be inconsistent with the policy approach of encouraging drivers to seek off-street parking provision as a first choice. Increasing the on-street 30-minute period free period to 1 hour on the High Street to the north of Friarage Street would create the same offer as currently exists in the Applegarth short stay car park and therefore could encourage greater on-street parking demand at the expense of off-street with a potential increase in congestion as drivers prioritise on-street more than currently is the case.
- 5.4 In addition to this, Northallerton already benefits from this allowance which is not afforded elsewhere, save for Knaresborough Market Place (20 minutes). To provide a greater free parking period on any part of High Street only serves to exacerbate the

variation and is inconsistent with how Pay and Display parking is applied throughout the county.

- 5.5 Such a move would also be inconsistent with the national, regional and local policy approach to encourage modal shift away from the private car to more sustainable modes of transport such as walking, cycling and greater use of public transport. To offer increased free on-street parking would be directly opposed to this approach.
- 5.6 There are numerous factors, which effect visitor numbers and high street trade, any decline cannot solely be placed on parking charges, particularly when they have not been raised since implementation and usage has in some years increased. The use of the nearby short stay off-street car park has remained consistent, therefore, indicating that this is not a broader issue. This section of High Street has also seen the recent opening of more businesses and others planned to open in the near future, which is likely to increase footfall and parking demand in this area.
- 5.7 Given the current operation is in accordance with the strategic approach to parking management, and supportive of the wider policy objectives there is no justification to extend the 30-minute free parking allowance.
- 5.8 This information has been presented to and discussed with Councillor Don Mackenzie – Executive Member for Access and the local Elected Members Cllr Blades and Cllr Dickinson.
- 5.9 All were understanding of the findings, the need to apply a consistent parking management strategy and were in favour of the existing P&D operation remaining unchanged. It was also suggested that operating different time allowances on different parts of the High Street may be confusing and result in an increase in the number of motorists receiving PCNs.
- 5.10 To add some context to the above, it is worth noting the extensive and varied parking offer available in Northallerton. This is set out below;
- There are 270 on-street Pay and Display parking bays in Northallerton (High Street P&D Zone). Charges are, free for up to 30 minutes and 80p per hour up to 2 hours maximum stay.
  - The surrounding disc parking operation is made up of 13 zones providing spaces for 405 vehicles, including permit holders. The zone is operates 8am – 6pm and different time allowances apply dependent upon the zone location and the duration of stay for disc holders ranges between 30 minutes and 3 hours maximum stay.
  - Hambleton District Council provides 548\* off-street pay and display car parking spaces in Northallerton, these are:
    - Applegarth short stay car park: 151 spaces (138 spaces + 13 disabled parking bays). Charges, 1 hr Free, up to 2 hrs £1.20 (and per hour thereafter)
    - Applegarth long stay car park: 259 spaces (249 spaces + 10 disabled parking bays). Charges, 1.20 per hour up to £4.80 for all day
    - Forum west short stay car park: 74 spaces (71 spaces + 3 disabled parking bays). Charges £1.20 per hour
    - Forum east long stay car park: 64 spaces (60 spaces + 4 disabled parking bays). Charges £1.20 per hour

(\*current provision. Proposals to amend the car park layouts were consented to earlier in the year but do not have any significant impact on provision)

- The free off-street parking offer in HDC car parks has now ended and the latest off-street charges have applied as of the 1<sup>st</sup> April 2021. There is currently a promotion in operation in Northallerton that provides free parking in the off-street car parks in the lead up to Christmas.
- The Crosby Road pay and display car park is currently operated via lease (25 years) from HDC to the Central Northallerton Development Company Limited as part of the Treadmills development. This provides 200 spaces, 8 disabled parking spaces and 4 EV Charging bays. A total of 212 spaces. Charges are £1 for 2 hours, £2 for 4 hours and £4 for 24 hours,
- The Tesco Car Park offers 2 hours free stay, however with it being a private car park we do not have the exact figure for how many spaces are on offer, but believe it to be in the region of 250. Some of which are designated for blue badge holders and parent & child.
- In total there are in the region of 760 designated off-street parking spaces available in Northallerton, offering a range of time allowances, free and paid parking.
- Combined there are 1635 designated on and off-street parking spaces in Northallerton of which 1030 are paid and 605 are free of charge.
- There are also other parking opportunities on unrestricted roads further out of the town centre for those who may wish to include a walk to the High Street. The livestock market provides parking on certain days too at competitive rates. On the basis of the above, the range and scale of the parking offer in Northallerton is considered to be very good for a market town of its size.

## **6.0 Consultation**

- 6.1 As this review resulted from the decision of the Executive not to uphold the petition of Northallerton BID to extend the current 30 minute free parking allowance to 2 hours, it has also been carried out accordance with the Right to Challenge Parking Policy Petition Scheme.
- 6.2 Northallerton BID responded to the petition and their comments are included in full in Appendix A.
- 6.3 No responses to the latest review were received from Northallerton Town Council, Federation of Small Businesses or Hambleton District Council. However, responses from each were received to the original review of the High Street with both the Town Council and Federation of Small Businesses being in support of the original petition whilst Hambleton District Council expressed their support for parking operations that support the economic success of the town.

## **7.0 Future Opportunity - Smart Parking**

- 7.1 The success of the smart parking trial in Harrogate has provided a strong case for the introduction of the same or similar system elsewhere in the county and Northallerton is an obvious and key location where the system could be next introduced.
- 7.2 The main advantages of such a system are, drivers use the App via their smartphone to locate a free space and to make payment – i.e. no need for the use of cash or bank card, and the parking session ends automatically when the driver leaves the space. The experience in Harrogate has shown that this proved to be more time and cost effective and improved overall customer satisfaction. In addition, linear charges are applied i.e. pay by the minute, so drivers pay only for the exact duration they are parked.



- 7.3 Sensors installed in all parking bays provide real time information and detailed performance data which can be studied to identify shifts in parking demand and longer terms trends providing greater insight for quicker strategic decision making.
- 7.4 Analysis of performance data and user feedback for the Harrogate trial showed that smart parking had the following benefits;
- Improves customer experience
  - Benefits the local economy
  - Benefits the environment
  - Improves operational and strategic insight
  - Is financially beneficial to both users and the Local Authorities
- 7.5 In more detail, over the initial 18 month period of implementation in Harrogate over 600 users were surveyed by email about their experience of using smart parking, the results were;
- 83% said that using smart parking alleviated stress normally associated with using a pay and display machine.
  - 93% said that smart parking is more convenient than using a pay and display machine.
  - 89% believed a smart parking solution makes parking easier.
  - 62% of users said that they stay longer in Harrogate town because they don't have to worry about a pay and display ticket expiring.
  - 32% of users check availability in-app before they arrive at their destination resulting in fewer miles being driven.
  - 56% of users said that they had saved time finding a car parking space. This will have led to fewer miles driven in the town and reduced CO2 emissions.
  - 23% of users thought that live availability has helped reduce congestion caused by cars looking for parking spaces.
- 7.6 There are clear advantages and benefits from the introduction of smart parking and, for this reason, the County Council is actively working on the development of its own infrastructure and business model for providing smart parking services. The development of such a project for Northallerton will include stakeholder engagement.
- 7.7 To date, the sensors have been ordered and it is expected they will be installed in the spring of 2022. There will be a period prior to the app based parking payment operation going live where the sensors will collect data only. However, this is still a positive as the County Council will be able to gather real time data to better understand parking occupancy, average stay length, parking distribution etc., giving unprecedented insight in to parking demand within the pay and display zone and better informing future parking management decisions.
- 7.8 Another feature of the proposed business model is to promote the smart parking infrastructure on the national parking platform. This means the system would be accessible to a range of parking payment providers in a commercial market which should generate better rates (i.e. convenience fee) for drivers. The business model element of the project is still in development so it not possible at this time to confirm a date that it would be operational but a further update will be provided at the meeting on 17 December 2021.
- 7.9 It is the County Councils intention to implement smart parking throughout the county where it operates pay and display parking and potentially within other limited waiting areas, such as in some of the busier disc parking zones.



## **8.0 Conclusion**

- 8.1 In conclusion to the above it is determined that there is insufficient data evidence to suggest that there would be a parking and traffic management benefit from increasing the free parking allowance on High Street, north of Friarage Street.
- 8.2 Therefore, any decision must be taken in the context of the strategic and policy approach to parking management, which is to encourage off-street parking. Providing the same free parking allowance on street as can be found in the nearby off-street car park(s) is contrary to that approach and would be detrimental to the parking operation.
- 8.3 This section of High Street has seen the recent opening of more businesses and others planned to open in the near future, which is likely to increase footfall and parking demand in this area. Therefore, taking all factors into account it is necessary to maintain the current parking operation to effectively manage the parking demand. The County council will however, take forward further development of a smart parking type approach for the High Street, Northallerton as set out in section 7 of this report and will liaise with the BID and other stakeholders as the project progresses.

## **9.0 Equalities Implications**

- 9.1 It is considered that there are no equality implications arising from the existing parking operation remaining in its present format and operation. The assessment is included as Appendix B to this report.

## **10.0 Financial Implications**

- 10.1 There are no additional financial implications as a result of maintaining the current parking operations.
- 10.2 There may be financial implications arising from a decision for further development of the smart parking approach and these will be detailed in a further report in due course.

## **11.0 Legal Implications**

- 11.1 There are no implications resulting from the existing Traffic Regulation Order providing for charges in the Pay and Display zone(s) ("the TRO") remaining without change.

## **12.0 Climate Change Impact Assessment**

- 12.1 The proposed will not have any climate change impact. The assessment is included as Appendix C to this report.

### **13.0 Recommendations**

- 13.1 It is recommended that The Corporate Director, Business and Environmental Services (BES) in conjunction with the BES Executive Member for Access approves,
- i. The existing P&D parking operation on High Street, Northallerton remains unchanged.
  - ii. The County Council continues its development of a smart parking system with the aim of introduction to Northallerton, which will be the subject of a further report in due course.

KARL BATTERSBY  
Corporate Director  
Business and Environmental Services

Author of report: Andrew Clare / David Kirkpatrick

Background documents: None

## **NORTHALLERTON BID RESPONSE TO NYCC REPORT ON PARKING ON NORTHALLERTON HIGH STREET (NORTH OF FRIARAGE STREET)**

Thank you for granting us the opportunity to respond to the report on Northallerton High Street parking north of Friarage Street prepared for the Business and Environmental Services Executive in September 2021.

We were disappointed that contrary to the report, NYCC failed to consult us before publication. Furthermore, despite the stated intention expressed at a previous NYCC Executive meeting, to the best of our knowledge other key stakeholders such as Northallerton Town Council, Hambleton District Council and Northallerton Parish Church also were not consulted.

The findings of this report are in our view a significant missed opportunity for everyone who visits, shops and works in Northallerton. They are also a missed opportunity for NYCC because an extension of the rigid 30 minutes' free parking in this section from Friarage Street to Quaker Lane would send a strong signal that the Council supports our businesses and is fully invested in helping our local economy.

This is an opportunity for flexibility and positive thinking. An extension to one-hour free parking in this area would hugely benefit trade and footfall in Northallerton. Given the Council's implacable opposition to extending free parking in the central High Street, here is a chance to achieve a compromise that can work for all parties.

The report totally ignores the case made by Northallerton BID, based on concerns about the negative impact on trade expressed by High Street businesses that short and restricted 30-minute free parking causes anxiety for car owners to return to their vehicles and thus has a negative impact on shops and businesses. It also makes no mention of traffic flow, such an important element of previous NYCC parking reviews and the rationale for the P&D regime in the first place.

We make the point again – Northallerton is competing against neighboring towns such as Darlington and Middleborough where extended free parking is now well established. We are not even on an equal footing within our own county, as Bedale, Richmond, Stokesley and Thirsk benefit from much more generous free parking provision.

We note from the BES report that data from 2018-19 is not provided and that although a Table 5 appears, there are no Tables 1-4. Is there something missing? Also, where is the NYCC policy for off-street parking stated?

We absolutely support sustainable transport, but the “modal shift” from the private car quoted in the report is clearly some way off, especially when bus services in Northallerton are so infrequent and irregular. Also, plans to improve or introduce cycle ways have not progressed beyond the planning stage.

In principle, the BID is very supportive of measures such as smart parking that could improve motorists' experience in the High Street. However, we do not see it as an alternative to an extension of free parking and are concerned to see that no timescale has been given for its introduction.

In conclusion, we urge NYCC and its successor authority to undertake a comprehensive overhaul of parking in Northallerton.

<b>Initial equality impact assessment screening form</b> (As of October 2015 this form replaces 'Record of decision not to carry out an EIA')  <b>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.</b>			
<b>Directorate</b>		Business and Environmental Services	
<b>Service area</b>		Highways and Transportation	
<b>Proposal being screened</b>			
<b>Officer(s) carrying out screening</b>		David Kirkpatrick/Andrew Clare	
<b>What are you proposing to do?</b>		following review, retain the 30 minute free parking allowance on that part of High Street, Northallerton, north of Friarage Street	
<b>Why are you proposing this? What are the desired outcomes?</b>		This is proposed on the basis there is insufficient evidence to suggest there is a parking or traffic management benefit from doing so and to do so is inconsistent with the strategic approach	
<b>Does the proposal involve a significant commitment or removal of resources? Please give details.</b>		No	
<b>Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristic</b> As part of this assessment, please consider the following questions: <ul style="list-style-type: none"> <li>To what extent is this service used by particular groups of people with protected characteristics?</li> <li>Does the proposal relate to functions that previous consultation has identified as important?</li> <li>Do different groups have different needs or experiences in the area the proposal relates to?</li> </ul> <p><b>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 <a href="#">Equality rep</a> for advice if you are in any doubt.</b></p>			
<b>Protected characteristic</b>	<b>Yes</b>	<b>No</b>	<b>Don't know/No info available</b>
Age		No	
Disability		No	
Sex (Gender)		No	
Race		No	
Sexual orientation		No	
Gender reassignment		No	
Religion or belief		No	
Pregnancy or maternity		No	
Marriage or civil partnership		No	
<b>NYCC additional characteristic</b>			
People in rural areas		No	

People on a low income		No	
Carer (unpaid family or friend)		No	
<b>Does the proposal relate to an area where there are known inequalities/probable impacts</b> (e.g. disabled people's access to public transport)? Please give details.	No.		
<b>Will the proposal have a significant effect on how other organisations operate?</b> (e.g. partners, funding criteria, etc.). <b>Do any of these organisations support people with protected characteristics?</b> Please explain why you have reached this conclusion.	No		
<b>Decision (Please tick one option)</b>	EIA not relevant or proportionate:	X	Continue to full EIA:
<b>Reason for decision</b>	To conclude the review into the potential extension of the free time parking allowance on High Street, Northallerton.		
<b>Signed (Assistant Director or equivalent)</b>	Barrie Mason		
<b>Date</b>	06/12/21		



## Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk)

**Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:**

Planning Permission  
Environmental Impact Assessment  
Strategic Environmental Assessment

However, you will still need to summarise your findings in in the summary section of the form below.

Please contact [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk) for advice.

<b>Title of proposal</b>	<b>Parking Review, High Street, Northallerton</b>
<b>Brief description of proposal</b>	<b>To retain the existing 30 minute free parking allowance following a review of the parking arrangements on the section of the High Street to the north of Friarage Street, Northallerton.</b>
<b>Directorate</b>	<b>BES</b>
<b>Service area</b>	<b>Traffic Engineering</b>
<b>Lead officer</b>	<b>David Kirkpatrick</b>
<b>Names and roles of other people involved in carrying out the impact assessment</b>	<b>Andrew Clare</b>

<b>Date impact assessment started</b>	<b>November 2021</b>
<b>Options appraisal</b> The review was consider with the purpose of considering the potential for extending the 30 minute free parking allowance	
<b>What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?</b> On review of data and parking policy/strategy, there is no clear basis for increasing the free time allowance and the existing operation shall continue. Therefore, having no impact on council budgets	

How will this proposal impact on the environment?		Positive impact (Place a X in the box below where)	No impact (Place a X in the box below where)	Negative impact (Place a X in the box below where)	Explain why will it have this effect and over what timescale?  Where possible/relevant please include: <ul style="list-style-type: none"> <li>Changes over and above business as usual</li> <li>Evidence or measurement of effect</li> <li>Figures for CO<sub>2</sub>e</li> <li>Links to relevant documents</li> </ul>	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
Minimise <b>greenhouse gas emissions</b> e.g. reducing emissions from travel, increasing energy efficiencies etc.	Emissions from travel		X				
	Emissions from construction		X				
	Emissions from running of buildings		X				
	Other		X				

How will this proposal impact on the environment?  N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.	Positive impact (Place a X in the box below where)	No impact (Place a X in the box below where)	Negative impact (Place a X in the box below where)	Explain why will it have this effect and over what timescale?  Where possible/relevant please include: <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
Minimise <b>waste</b> : Reduce, reuse, recycle and compost e.g. reducing use of single use plastic		X				
Reduce <b>water</b> consumption		X				
Minimise <b>pollution</b> (including air, land, water, light and noise)		X				
Ensure <b>resilience</b> to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers		X				
Enhance <b>conservation</b> and wildlife		X				
Safeguard the distinctive characteristics, features and special qualities of <b>North Yorkshire's landscape</b>		X				
Other (please state below)		X				



**Are there any recognised good practice environmental standards in relation to this proposal?** If so, please detail how this proposal meets those standards.

None

**Summary** Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

No impacts have been identified within the assessment. The proposals are to consider amendment to the parking management of the respective on street parking area, which are considered acceptable in terms of scale and potential impact to the highway network.

### Sign off section

This climate change impact assessment was completed by:

<b>Name</b>	David Kirkpatrick
<b>Job title</b>	Traffic Engineering Team Leader
<b>Service area</b>	Traffic Engineering
<b>Directorate</b>	BES
<b>Signature</b>	D Kirkpatrick
<b>Completion date</b>	22.12.20

**Authorised by relevant Assistant Director (signature):** Barrie Mason

**Date:** 06/12/21

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## North Yorkshire County Council

### Business and Environmental Services

#### Executive Members

17 December 2021

### Highways Capital Programme 2021/22

#### Report of the Assistant Director – Highways and Transportation

##### **1.0 Purpose of Report**

- 1.1 To seek agreement from the Corporate Director, Business and Environmental Services (BES), in consultation with the BES Executive Member for Access, to authorise additions to the Highways Capital Forward Programme for Structural Highway Maintenance identified since the last Highways Capital Programme report dated 20 August 2021.
- 1.2 To update the Corporate Director, Business and Environmental Services (BES), and BES Executive Member for Access on schemes moved from the 2021/22 Highways Capital programme in to future years.
- 1.3 To update the Corporate Director, Business and Environmental Services (BES), and BES Executive Members on the delivery of 2021/22 capital programme and current assumptions regarding funding for 2022/23.

##### **2.0 Background**

- 2.1 The Highways Capital Programme is made up of four specific elements; these are Street Lighting; Bridges and Structures; Integrated Transport and Structural Highway Maintenance. Each of these elements is subject to prioritisation methods based upon an assessment of the required outcomes.
- 2.2 BES Executive Members will be aware that usual practice is to present two main reports per year; one in the summer, identifying schemes to be added to the forward programme; followed by a winter report, when necessary changes to the programme are reported along with the headline allocations for the programme for the year after.
- 2.3 In line with 2.2 above, the report was considered at the BES Executive Members meeting held on 20 August 2021.
- 2.4 Although advanced planning is maximised through the implementation of a three-year rolling capital works programme, there are occasions when it is necessary, for sound operational reasons, to introduce new schemes into the forward programme.
- 2.5 In a similar way it is sometimes not possible to deliver programmed schemes in the financial year initially intended, these schemes are then re-programmed into later years when implementation of works can take place.

### **3.0 New Schemes to be added to the Forward Capital Works Programme**

- 3.1 It is proposed to add 27 new schemes, with the combined value of £1.1M, to the Forward Capital Programme. As outlined at the BES Executive Members Meeting on 20 August 2021, entry on to the forward programme does not guarantee delivery in a specific year. It does however approve the proposed scheme for future delivery. By adding these schemes to the forward programme now, it provides additional time for design and development, ahead of the production of the 2023/24 annual programme.
- 3.2 The proposed schemes were identified through ongoing asset condition and engineering assessments carried out since the forward programme was approved on 20 August 2021.
- 3.3 A full list of schemes to be added to the forward programme is listed in Appendix 1

### **4.0 Schemes moved from the 2021/22 delivery programme in to future years**

- 4.1 Delivery of the 2021/22 capital programme has progressed well. The vast majority of schemes have been delivered, with a small number of remaining schemes planned for delivery in Q4.
- 4.2 The 2021/22 annual programme delivery is continually monitored and reviewed to identify schemes that are at risk of non-delivery in year. This process has identified 37 schemes to the value of £4.2M that are unable to be delivered fully in 2021/22. Details of the schemes to be moved can be found in Appendix 2.
- 4.3 These 37 schemes have now been moved from 2021/22. The funding for these schemes will be from future year's highways capital budgets. The schemes will be added to the forward programme ready for them to be allocated to future annual programmes as required. However, it is anticipated that the vast majority of these schemes will be delivered as part of 2022/23 annual programme.
- 4.4 Several schemes in Area 1 (Richmondshire) were planned for delivery in Q2 2021/22, however delays in finalising design and procurement information, meant that the earliest that they could be delivered in 21/22 would have been later in Q3. Given potential weather conditions, it was felt that it would be more prudent to move these schemes in to early 22/23 to combine with schemes planned for delivery in the 22/23 annual programme.
- 4.5 Based on the current predictions of delivery for the remainder of this financial year we are currently £3.5M over programmed. We will continue to monitor and review the 2021/22 delivery programme to manage any further changes in predicted spend. Should any further schemes be identified as undeliverable in year, they will be moved in to future years with an update provide at a future BES Executive Members Meeting.

### **5.0 Funding assumptions for 2022/23**

- 5.1 Following the Government's budget announcement in October, we are awaiting final confirmation of the LTP settlement from the Department of Transport. It is anticipated that annual funding for 2022/23, 2023/24 and 2024/25 will be in the region of £40M per year, which is in line with the settlement received for 2021/22, although this is not yet confirmed.

- 5.2 Officers have been developing the 2022/23 annual programme, based on various funding scenarios, one of which being a funding settlement of £40M. This funding scenario also takes in to consideration the impact of schemes moved in to 2022/23 from previous years as outlined in 4.3 and the impact of funding an over programming of the 2021/22 annual programme as outlined in 4.5.
- 5.3 Design work for the 2022/23 annual programme is substantially complete and we will be working closely with NY Highways over the next few months to plan and resource delivery on the ground from early April 2022.
- 5.4 Further design work on schemes within the forward programme is ongoing. This work helps to ensure that we have a number of designed schemes ready for delivery in 2023/24 and beyond. Should any additional in year funding become available in 2022/23 we would then be in a position to bring designed schemes forward for delivery in year.

## **6.0 Financial Implications**

- 6.1 Any additional costs associated with implementation of the scheme/s named in Appendix 1 will be accounted for as part of the routine strategic management of the Highways Capital Works annual Programme for the year in which the schemes are added to.
- 6.2 Budgets for schemes carried over from 2021/22 will remain in the financial year 2021/22, helping to manage the 2021/22 delivery programme. As outlined in section 4.5, we are currently £3.5M over programmed for 2021/22. Funding for this over programming has been accounted for as part of the 2022/23 annual programme budget, as outlined in section 5.2.
- 6.3 The contents of this report make no changes to the BES Capital Plan expenditure limits.

## **7.0 Equalities Implications**

- 7.1 An Equality Impact Assessment screening form was included as part of the Capital Programme overall and this found that an Equality Impact Assessment was not required. As these schemes are typical maintenance schemes it is deemed that the original screening form included schemes of this type and that there will be no Equality Implications arising from this recommendation, see Appendix 3.

## **8.0 Legal Implications**

- 8.1 The County Council as Local Highway Authority has a wide range of statutory duties imposed by a variety of legislation relating to highways and transportation and also has a wide range of duties imposed by legislation in its capacity as Lead Local Flood Authority, Street Authority and Local Traffic Authority. This includes a duty under s41 of the Highways Act 1980 to maintain highways maintainable at the public expense and a duty under s122 of the Road Traffic Regulation Act 1984 to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway. Under s16 of the Traffic Management Act 2004, the County Council is also required to manage its road network to secure the expeditious movement of traffic in that network.

8.2 The forward programme has been developed and prioritised in line with the County Councils duties and responsibilities under the above and other legislation, including the Transport Act 2000 and the Flood and Water Management Act 2010.

## **9.0 Climate Change Impact**

9.1 A climate change impact assessment has been carried out, see Appendix 4. This has identified that the development of a forward programme will help to improve efficiency of delivery, reducing waste and emissions through improved coordination and planning of works.

## **10.0 Recommendation**

10.1 It is recommended that the Corporate Director, Business and Environmental Services (BES), in consultation with BES Executive Member for Access authorises additions to the Highways Capital Forward Programme for Structural Highway Maintenance identified since the last Highways Capital Programme report dated 20 August 2021.

BARRIE MASON  
Assistant Director - Highways and Transportation

Author of Report: James Gilroy

Background Documents: None

**Schemes to be added to the Forward Capital Programme**

District	Location	Address	Scheme Type	Est Cost
Hambleton	C159 Great Langton to Little Langton landslip	Hambleton	Landslip	£500,000
Scarborough	Newton Mulgrave Road	Newton Mulgrave	Surface Dressing	£41,940
Scarborough	A174 Ellerby Bank	Ellerby	Surface Dressing	£71,832
Scarborough	Castle Lane Cattle Grid	Danby	Cattle Grid	£46,000
Ryedale	Great Barugh Footway	Great Barugh	Footway R&R	£20,000
Ryedale	Hanging Grimston	Kirby Underdale	Landslip	£25,000
Harrogate	U719 St Hildas Road	Harrogate	Carriageway R&R	£74,347
Harrogate	U739 St Ronans Road	Harrogate	Carriageway R&R	£10,448
Harrogate	U738 St Ronans Close	Harrogate	Carriageway R&R	£2,835
Harrogate	U202 Apley Close	Harrogate	Carriageway R&R	£12,285
Harrogate	U718 St Helens Road	Harrogate	Carriageway R&R	£46,018
Harrogate	U894 Yewdale Road	Harrogate	Carriageway R&R	£30,744
Harrogate	U861 Windsor Road	Harrogate	Carriageway R&R	£4,872
Harrogate	U22 Arncliffe Road	Harrogate	Carriageway R&R	£32,844
Harrogate	U729 St Leonards Road	Harrogate	Carriageway R&R	£31,122
Harrogate	U728 St Leonards Oval	Harrogate	Carriageway R&R	£16,153
Harrogate	U727 St Leonards Close	Harrogate	Carriageway R&R	£1,763
Harrogate	U817 Wayside Grove	Harrogate	Carriageway R&R	£6,541
Harrogate	U816 Wayside Crescent	Harrogate	Carriageway R&R	£33,600
Harrogate	U822 Wedderburn Lodge	Harrogate	Carriageway R&R	£3,066
Harrogate	U3152 Cedar Grove	Harrogate	Carriageway R&R	£4,284
Harrogate	U3171 Wetherby Road	Harrogate	Carriageway R&R	£882
Harrogate	U3170 Wetherby Road	Harrogate	Carriageway R&R	£9,534
Harrogate	U818 Wayside Walk	Harrogate	Carriageway R&R	£26,902
Harrogate	U815 Wayside Close	Harrogate	Carriageway R&R	£5,985
Harrogate	U394 Innisfree Close	Harrogate	Carriageway R&R	£6,353

**Schemes to be moved from the 2021/22 delivery programme in to future years**

District	Scheme Description	Year	Budget	Reason
Richmondshire	Cravengate, Richmond	18/19	£150,000	Moved for operational reasons
Richmondshire	Area 1 Feetham R&R	20/21	£100,000	Moved for operational reasons
Richmondshire	Area 1 Satronside R&R	20/21	£100,000	Moved for operational reasons
Richmondshire	Area 1 Worton Layby R&R	20/21	(part of Worton R&R)	Moved for operational reasons
Richmondshire	Area 1 Worton R&R	20/21	£308,600	Moved for operational reasons
Richmondshire	Area 1 Worton Village R&R	20/21	(part of Worton R&R)	Moved for operational reasons
Richmondshire	Area 1 - Cat 4b Patching	21/22	£208,242	Moved for operational reasons
Richmondshire	Area 1 C28 Lucy Cross to Aldbrough St John R&R	21/22	£63,800	Moved for operational reasons
Richmondshire	Area 1 C32 Beggarmans Road Fleet Moss R&R	21/22	£47,900	Moved for operational reasons
Richmondshire	Area 1 C35 Pinkers Pond to Middleham Gallops R&R	21/22	£102,500	Moved for operational reasons
Richmondshire	Area 1 Gilling West Drainage	21/22	£50,000	Moved for operational reasons
Richmondshire	Area 1 West Scafton Drainage	21/22	£15,000	Moved for operational reasons
Richmondshire	Area 1 U1227 St Giles Farm Road R&R	21/22	£10,000	Moved for operational reasons
Richmondshire	Area 1 U207 Sedbusk to Litherskew R&R	21/22	£59,900	Moved for operational reasons
Richmondshire	Area 1 U3129 Track to Harmby Moor House R&R	21/22	£50,200	Moved for operational reasons
Richmondshire	Area 1 U933 Newbiggin to Street Head R&R	21/22	£10,900	Moved for operational reasons
Hambleton	Area 2 Felixkirk R & R	20/21	£67,478	Coordination with Utilities Works
Hambleton	Area 2 Thirsk Market Place Phase 1 Special	20/21	£175,000	Reprogrammed for 22/23 to reduce town centre impact.
Hambleton	Area 2 Beakhills Landslip	20/21	£62,400	Design finalised in Q3, unsuitable for delivery in Q4 21/22. Moved to 22/23 for delivery
Hambleton	Area 2 Topcliffe Road Drainage	20/21	£331,200	Design finalised in Q3, unsuitable for delivery in Q4 21/22. Moved to 22/23 for delivery
Hambleton	Area 2 Stillington Drainage	21/22	£50,000	Design finalised in Q3, unsuitable for delivery in Q4 21/22. Moved to 22/23 for delivery
Scarborough	Area 3 Cat 3,4,5, Parkfield Footway	18/19	£15,000	Moved for operational reasons



District	Scheme Description	Year	Budget	Reason
Scarborough	Area 3 Scalby Drainage	20/21	£39,520	Design finalised in Q3, unsuitable for delivery in Q4 21/22. Moved to 22/23 for delivery
Scarborough	Area 3 Scarborough Footway R&R (Huntriss)	20/21	£124,800	Moved to avoid clash with other planned works
Scarborough	Fryup Dale Bridge	20/21	£10,250	Scheme design being finalised
Scarborough	Area 3 Brompton Ings Landslip	21/22	£20,000	Design finalised in Q3, unsuitable for delivery in Q4 21/22. Moved to 22/23 for delivery
Scarborough	Area 3 Burniston Road Roundabout R&R	21/22	£43,895	Linking scheme with other planned works in 22/23
Craven	Area 5 Storiths Lane	21/22	£100,000	Design and Geotechnical Surveys ongoing - awaiting final design information.
Harrogate	Area 6 High Bridge Knaresborough Surfacing	18/19	£100,000	Coordination with other nearby works
Harrogate	Area 6 Cat 1,1a,2 West Park Harrogate Footway R&R (Parliament Street)	19/20	£200,000	Moved to future years to reduce town centre impact
Harrogate	Area 6 Greenhow Hill Landslips , including Red Brae Bank	20/21	£475,000	Reprogrammed to start Q1 22/23 to avoid winter weather
Harrogate	Area 6 New Road Scotton Drainage	20/21	£26,000	Design finalised in Q3, unsuitable for delivery in Q4 21/22. Moved to 22/23 for delivery
Harrogate	Accessibility Area 6 - Leadhall Lane, Harrogate	21/22	£3,500	Coordination with other nearby works
Selby	Area 7 Barlby R&R	20/21	£70,496	Linking scheme with other planned works in 22/23
Bridges (Selby)	Whitley New(7)	20/21	£264,490	Design delays
Bridges (Harrogate)	Oakbeck (6)	21/22	£600,000	Scheme being delivered over year end.
Bridges (	Gatehouse (1)	21/22	£150,000	Design delays

<b>Initial equality impact assessment screening form</b> (As of October 2015 this form replaces 'Record of decision not to carry out an EIA')			
<b>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.</b>			
<b>Directorate</b>	Business and Environmental Services		
<b>Service area</b>	Highways & Transportation		
<b>Proposal being screened</b>	Highways Capital Programme 2021/22 - Approval of schemes not included at previous BES Executive Members meeting.		
<b>Officer(s) carrying out screening</b>	<b>James Gilroy</b>		
<b>What are you proposing to do?</b>	Agree additions to the capital programme in advance of the next scheduled capital programme BES Executive Member report.		
<b>Why are you proposing this? What are the desired outcomes?</b>	Minimise the duration between scheme identification and agreement for inclusion on the agreed capital programme.		
<b>Does the proposal involve a significant commitment or removal of resources? Please give details.</b>	No, the proposal will result in reprioritisation of the current allocations to enable the additional schemes to be delivered.		
<b>Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristic</b> As part of this assessment, please consider the following questions: <ul style="list-style-type: none"> <li>To what extent is this service used by particular groups of people with protected characteristics?</li> <li>Does the proposal relate to functions that previous consultation has identified as important?</li> <li>Do different groups have different needs or experiences in the area the proposal relates to?</li> </ul>			
<b>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 <a href="#">Equality rep</a> for advice if you are in any doubt.</b>			
<b>Protected characteristic</b>	<b>Yes</b>	<b>No</b>	<b>Don't know/No info available</b>
Age		✓	
Disability		✓	
Sex (Gender)		✓	
Race		✓	
Sexual orientation		✓	
Gender reassignment		✓	
Religion or belief		✓	
Pregnancy or maternity		✓	

Marriage or civil partnership		✓	
<b>NYCC additional characteristic</b>			
People in rural areas		✓	
People on a low income		✓	
Carer (unpaid family or friend)		✓	
<b>Does the proposal relate to an area where there are known inequalities/probable impacts</b> (e.g. disabled people's access to public transport)? Please give details.	<b>No, the proposals do not negatively affect any groups of people.</b>		
<b>Will the proposal have a significant effect on how other organisations operate?</b> (e.g. partners, funding criteria, etc.). <b>Do any of these organisations support people with protected characteristics?</b> Please explain why you have reached this conclusion.	<b>No, the proposal will have no effect on how other organisations work.</b>		
<b>Decision (Please tick one option)</b>	EIA not relevant or proportionate:	✓	Continue to full EIA:
<b>Reason for decision</b>	The allocation of funding is based on the 'manage, maintain and improve' (MMI) hierarchy set out in LTP4 which has been the subject of a full EIA. This concluded that the introduction of fewer improvement schemes may have a greater impact on people with mobility difficulties or without access to private vehicles as there will be fewer new facilities provided e.g. pedestrian crossings, dropped kerbs, bus stop accessibility improvements; however, it is also considered that prioritising maintenance, particularly for footways, through the MMI hierarchy is likely to produce a net benefit for people with the same protected characteristics; particularly in terms of age and disability.		
<b>Signed (Assistant Director or equivalent)</b>	Barrie Mason		
<b>Date</b>	06/12/21		



## Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk)

**Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:**

Planning Permission  
Environmental Impact Assessment  
Strategic Environmental Assessment

However, you will still need to summarise your findings in the summary section of the form below.

Please contact [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk) for advice.

<b>Title of proposal</b>	<b>Highways Capital Programme 2020/21 – October 2020/21 Update</b>
<b>Brief description of proposal</b>	To seek agreement from the Corporate Director, Business and Environmental Services (BES), in consultation with BES Executive Member for Access, to authorise additions to the Highways Capital Forward Programme for Structural Highway Maintenance identified since the last Highways Capital Programme report dated 20 August 2021.
<b>Directorate</b>	<b>BES</b>
<b>Service area</b>	<b>Highways and Transportation</b>
<b>Lead officer</b>	<b>James Gilroy</b>
<b>Names and roles of other people involved in carrying out the impact assessment</b>	
<b>Date impact assessment started</b>	<b>03.12.2021</b>

**Options appraisal**

Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.

No other options were progressed for adding schemes to the forward capital programme.

**What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?**

Please explain briefly why this will be the result, detailing estimated savings or costs where this is possible.

It is hoped that the forward programme will help to reduce costs. Adding schemes to the forward programme does not have an immediate financial cost, however it provides the ability for operational teams to develop more efficient programmes of work when identifying schemes for delivery within an annual programme.

How will this proposal impact on the environment?		<div> <div>Positive impact (Place a X in the box below where</div> <div>No impact (Place a X in the box below where</div> <div>Negative impact (Place a X in the box below where</div> </div>			Explain why will it have this effect and over what timescale?	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
<b>N.B.</b> There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.					<b>Where possible/relevant please include:</b> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>		
Minimise <b>greenhouse gas emissions</b> e.g. reducing emissions from travel, increasing energy efficiencies etc.	Emissions from travel	x			More efficient planning and coordination of future highway works, will help to reduce emissions from construction vehicles.		
	Emissions from construction	X			More efficient planning and coordination of future highway works, will help to reduce emissions from construction vehicles.	Where possible – ensure that vehicle mileage is reduced by planning vehicle movements / diversion routes etc	
	Emissions from running of buildings	X					
	Other		x				
Minimise <b>waste</b> : Reduce, reuse, recycle and compost e.g. reducing use of single use plastic		X			A more longer-term programme will potentially increase the potential for in-situ materials recycling on highway		

How will this proposal impact on the environment?  N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.	Positive impact (Place a X in the box below where)	No impact (Place a X in the box below where)	Negative impact (Place a X in the box below where)	Explain why will it have this effect and over what timescale?  Where possible/relevant please include: <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
				schemes, helping to reduce waste sent to landfill.		
Reduce <b>water</b> consumption		x				
Minimise <b>pollution</b> (including air, land, water, light and noise)	x			Improving road surface quality		
Ensure <b>resilience</b> to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers	x			Delivery of landslip schemes to help potential reduce severance issues		
Enhance <b>conservation</b> and wildlife		x				
Safeguard the distinctive characteristics, features and special qualities of <b>North Yorkshire's landscape</b>		x				
Other (please state below)		x				

**Are there any recognised good practice environmental standards in relation to this proposal?** If so, please detail how this proposal meets those standards.

N/A

**Summary** Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

The development of a forward programme will help to improve efficiency of delivery, reducing waste and emissions through improved coordination and planning of works.

#### Sign off section

This climate change impact assessment was completed by:

<b>Name</b>	<b>James Gilroy</b>
<b>Job title</b>	<b>Team Leader Highway Asset Management</b>
<b>Service area</b>	<b>Highways and Transport</b>
<b>Directorate</b>	<b>BES</b>
<b>Signature</b>	<b>J Gilroy</b>
<b>Completion date</b>	<b>03.12.2021</b>

**Authorised by relevant Assistant Director (signature):** Barrie Mason

**Date:** 06/12/21



## North Yorkshire County Council

### Business and Environmental Services

#### Executive Members

17 December 2021

#### Covert Activity Policy

#### Report of the Assistant Director (Growth, Planning and Trading Standards)

##### 1.0 Purpose of the report

- 1.1 To review the Covert Activity Policy with the Corporate Director (BES) with the Executive Member for Open for Business, Cllr. Derek Bastiman, and to seek continued approval for its use.
- 1.2 To report the Corporate Director (BES) with the Executive Member for Open for Business, Cllr. Derek Bastiman, on the use made of the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016 and covert activity during October 2020 to September 2021.

##### 2.0 Background to the Report

- 2.1 The Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016 (IPA) provide a legal framework for the lawful interference with an individual's right to a private and family life under article 8 of the European Convention on Human Rights (ECHR) following the Convention's incorporation into UK law by the Human Rights Act 2000. The Acts allow local authorities to undertake covert activities within the legal framework provided that they are done solely for 'the prevention or detection of crime or disorder'. The Acts does not grant powers to authorities and does not prevent unauthorised covert activity taking place. However, unauthorised activity may result in a claim for breach of human rights against the County Council, and in cases where the covert activity has secured evidence for use in criminal trials, that evidence may be excluded by a judge as unfairly obtained.
- 2.2 The trading standards service uses RIPA and IPA in the course of investigations into offences contrary to consumer protection legislation and the Fraud Act 2006, and conspiracy to defraud contrary to common law. Veritau Ltd investigates theft from and fraud against the County Council and might also adopt covert techniques to secure evidence in such cases. Service departments will also investigate gross misconduct involving financial or other abuse of clients.

##### 3.0 Covert Activity Policy

- 3.1 Executive Members and the Corporate Director (Business and Environmental Services) last reviewed the Covert Activity Policy on 18 December 2020. There have been no legislative changes since the last report, however, the Authority was inspected by the Investigatory Powers Commissioner's Office (IPCO) on 30 November 2021. The formal written outcome of the inspection is expected before Christmas, however, it was a very positive inspection with verbal feedback commenting on the quality of the authorisations and the clarity of both the policy and procedure documents.

- 3.2 It was suggested that the purpose of the non-RIPA surveillance included in the table in annex 2 of the policy be expanded from:  
*'Investigations into gross misconduct by an NYCC employee involving financial or other abuse of NYCC clients.'*
- 3.2.1 To make clear that the technique would only be used by in cases involving vulnerable service users. It is, therefore, proposed to amend the policy as follows:  
*'Investigations into gross misconduct by an NYCC employee using their employment to facilitate financial or other abuse of vulnerable NYCC clients and service users.'*
- 3.3 The Act requires local authorities to have a collaboration agreement with a body certified by the Secretary of State to act as the single point of contact with telecommunications providers for the acquisition of communications data under IPA. NYCC continues to be a member of the National Anti-Fraud Network (NAFN), which is so certified. NYCC officers make applications via the NAFN website. NAFN completes all contact with communications providers, and submits applications on to the Office for Communications Data Authorisations (OCDA).

#### 4.0 Report on Covert Activity

- 4.1 From October 2020 to September 2021, there was one authorisations for directed surveillance and no applications or authorisations for the use of a covert human intelligence source (CHIS) under RIPA.

Date	Type of Authorisation	Investigation	Outcome
Dec 2020	Directed surveillance	Building work	On-going prosecution for conspiracy to defraud and money laundering

- 4.2 From October 2020 to September 2021 applications were made via NAFN, and authorisations granted to acquire the following communications data:

Date	Type of Authorisation	Investigation	Outcome
Nov 2020	4 x entity data 2 x event data	Building work	On-going prosecution for conspiracy to defraud and money laundering
Dec 2020	1 x entity data 2 x event data	Building work	On-going prosecution for conspiracy to defraud and money laundering
Jan 2021	2 x entity data 1 x event data	Illicit tobacco	Report submitted for prosecution
Feb 2021	2 x entity data 1 x event data	Building work	On-going prosecution for conspiracy to defraud and money laundering
Feb 2021	1 x entity data	Home improvement work	On-going investigation
March 2021	1 x entity data	Trade mark infringement	No further action – offender overseas
April 2021	1 x entity data 2 x event data	Building work	On-going prosecution for conspiracy to defraud and money laundering
June 2021	1 x entity data 2 x event data	Building work	On-going prosecution for conspiracy to defraud and money laundering
July 2021	4 x entity data 2 x event data	Building work	On-going prosecution for conspiracy to defraud and money laundering

## **5.0 Training**

- 5.1 NAFN received Home Office funding to provide online investigatory powers training to enforcement officers. An e-learning platform was launched during 2021 and enforcement staff have completed six modules on IPA. Two new starters also completed online awareness training on RIPA.

## **6.0 Oversight**

- 6.1 An IPCO inspection took place on 30 November 2021 as set out in paragraph 3.1 above. The formal written outcome is expected before Christmas 2021.
- 6.2 IPCO requires an annual return of the numbers of directed surveillance and CHIS authorisations granted for the calendar year by 31 January in the following year. Figures for 2020 were returned to IPCO on 7 January 2021. The next return is due by 31 January 2022.
- 6.3 Oversight of communications data requests takes the form of an annual IPCO inspection at the NAFN offices. NAFN was audited in October 2021 and received a good report with no recommendations or action points.

## **7.0 Legal Implications**

- 7.1 Reviewing and reporting on the policy and its use enable compliance with the Acts and codes of practice issued under RIPA. There are no other legal implications from this report itself although ensuring that a policy is in place and properly implemented helps to protect the County Council from claims for breaches of article 8 of the European Convention on Human Rights (the right to a private and family life) and from the exclusion of evidence in criminal proceedings.

## **8.0 Financial Implications**

- 8.1 There are no financial implications arising from this report.

## **9.0 Equalities Implications**

- 9.1 It is the view of officers that there are no equalities implications arising from the recommendations. A decision record sheet covering the decision not to complete an equalities impact assessment in relation to the introduction of the filter and matrix is attached as appendix B.

## **10.0 Climate Change**

- 10.1 Consideration has been given to the potential for any climate impacts arising from the recommendation. It is the view of officers that the recommendation has a neutral impact on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030 and a copy of the Climate change impact assessment screening form is attached as appendix C.

## **11.0 Recommendations**

- 11.1 That the Corporate Director (BES) with the Executive Member for Open for Business, Cllr. Derek Bastiman, notes the use made of RIPA from October 2020 – September 2021.
- 11.2 That the Corporate Director (BES) with the Executive Member for Open for Business, Cllr. Derek Bastiman, approves the continued use of the Covert Activity Policy and the proposed amendment set out in paragraph 3.2.

Matt O'Neill  
Assistant Director (Growth, Planning and Trading Standards)

Author of report: Jo Boutflower, Head of Business and Consumer Services

Background documents: None

## COVERT ACTIVITY POLICY

### SCOPE:

This policy applies to all employees of North Yorkshire County Council.

### PURPOSE:

- To set the criteria under which authorisation of covert activity under the Regulation of Investigatory Powers Act 2000 may be granted.
- To set the criteria under which authorisation of covert activity outside the Regulation of Investigatory Powers Act 2000 may be granted.
- To designate officers who may authorise covert activity.
- To set requirements for the internal oversight of covert activity.

## 1. THE LEGAL FRAMEWORK

The European Convention on Human Rights (ECHR) was incorporated into UK law by the Human Rights Act 1998. Article 8 of ECHR sets out that everyone has the right to “...respect for his private and family life, his home and his correspondence”, and that a local authority may not interfere with this right except “...as is in accordance with the law and is necessary in a democratic society... for the prevention of...crime...”<sup>1</sup>

The Regulation of Investigatory Powers Act 2000 (RIPA) was enacted to put a framework in place to allow for the lawful interference of an individual's article 8 rights in compliance with ECHR. It was supplemented by the Investigatory Powers Act 2016 (IPA) and the Acts defines three types of covert activity which may be undertaken by local authorities. These are:

### 1.1 Directed Surveillance

This is surveillance which is not intrusive<sup>2</sup> but which is targeted at an individual or individuals, is covert, and is likely to result in the obtaining of private information<sup>3</sup>.

Private information includes any information relating to a person's private or family life<sup>4</sup>, including family or professional/business relationships. Information which appears public, such as conversations in the street or material posted on social media, may still be private information as it will be likely that the individual has a reasonable expectation of privacy even though they are acting in public<sup>5</sup>.

### 1.2 Covert Human Intelligence Sources (CHIS)

A person is a CHIS if he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating:

- the covert use of such a relationship to obtain information or to provide access to any information to another person; or
- the covert disclosure of information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.<sup>6</sup>

<sup>1</sup> RIPA sets out other statutory grounds (ss. 22(2), 28(3) and 29(3)) but local authorities may only use RIPA ‘for the preventing or detecting of crime’ (see Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 and Regulation of Investigatory Powers (Communications Data) Order 2010. See also s. 60A(7) Investigatory Powers Act 2016 IPA

<sup>2</sup> Intrusive surveillance is surveillance that takes place on residential premises or in a private vehicle by means of an individual or surveillance device on the premises or in the vehicle (S.26(3) RIPA).

<sup>3</sup> S.26(2) RIPA

<sup>4</sup> S.26(10) RIPA

<sup>5</sup> Para 3.4, page 16, Covert Surveillance and Property Interference Code of Practice (August 2018)

<sup>6</sup> S.26(8) RIPA

### 1.3 Acquisition of Communications Data

Communications data is the ‘who’, ‘when’, ‘where’ and ‘how’ of a communication but not the content. There are currently 2 categories of communications data:

**Entity data**<sup>7</sup> - which identifies the location a communication was sent from or its destination. It includes IP addresses, cell site (location by triangulation from mobile phone masts) data, online parcel tracking.

**Events data**<sup>8</sup> - the use made by a person of a communication service. This would include outgoing call logs or information about redirection services. Local authorities may not obtain internet connection records, a type of events data.

### 1.4 Restricted Covert Activity

Local authorities may not undertake the following types of covert activity under the framework:

- intrusive surveillance<sup>9</sup>,
- property interference<sup>10</sup>, or
- the interception of communications<sup>11</sup>.

Intrusive surveillance is surveillance that takes place on residential premises or in a private vehicle by means of an individual or surveillance device on the premises or in the vehicle. Property interference is the entry onto or interference with property or wireless telegraphy. It would include, for example, the fitting of a tracking device to a vehicle<sup>12</sup> or the installation of a recording device in a residential property. The interception of a communication is anything which obtains the content of that communication, for example, placing a wiretap on a phone.

### 1.5 Authorisation of Covert Activity under RIPA

Covert activity which meets the RIPA criteria must be authorised in accordance with the Act. An application must be made on the appropriate form<sup>13</sup> and authorised by an officer meeting the prescribed offices, ranks, and position<sup>14</sup>. The authorisation will not be valid until judicial approval has been obtained from a magistrates’ court<sup>15</sup> and so covert activity must not take place until both the internal authorisation and judicial approval have been obtained. Authorisations must be cancelled as soon as the activity is concluded<sup>16</sup>. Further information about the authorisation process can be found in the Covert Activity Procedures document.

<sup>7</sup> S.261(3) of the Investigatory Powers Act 2016 (IPA)

<sup>8</sup> S.261 (4) IPA – see also s. 62 IPA for the restriction in relation to internet connection records

<sup>9</sup> S.26(3) RIPA

<sup>10</sup> Paragraph 7.1, page 56, Covert Surveillance and Property Interference Code of Practice (August 2018)

<sup>11</sup> Ss.18 and 73 IPA

<sup>12</sup> It is not property interference for a vehicle owner or operator to fit such a device, see paragraph 7.49, page 66, Covert Surveillance and Property Interference Code of Practice (August 2018) for public authority vehicles <sup>13</sup> Current forms may be obtained from the trading standards service, legal services or Veritau

<sup>14</sup> The list of current authorising officers & designated officers can be found at appendix 1

<sup>15</sup> Ss. 37 & 38 Protection of Freedoms Act 2012

<sup>16</sup> Regulation of Investigatory Powers (Cancellation of Authorisation) Regulations 2000

## 1.6 Authorisation of Covert Activity outside RIPA

The Investigatory Powers Tribunal has considered the authorisation and use of covert activity outside the RIPA framework. It has observed that:

*“RIPA does not require prior authorisation to be obtained by a public authority in order to carry out surveillance. Lack of authorisation does not necessarily mean that the carrying out of directed surveillance is unlawful”<sup>17</sup>.*

The tribunal has considered in detail the process of authorising activity outside RIPA. The case<sup>18</sup> involved the placing of a covert silent video recorder in the sitting room of a flat occupied by a severely disabled young woman in response to a number of petty thefts. The thefts did not meet the ‘serious’<sup>19</sup> threshold for intrusive surveillance under RIPA. A superintendent had authorised the covert activity and had recorded her reasons:

*“...the particular conduct could not be authorised under RIPA but that this did not necessarily mean that the actions proposed could not be lawfully undertaken, even though it would be without the protection that an authorisation under RIPA would afford. The Act itself states that any such deployment outside RIPA does not necessarily mean that it is unlawful.”<sup>20</sup>*

The superintendent had considered the necessity and proportionality of the activity and the risk of collateral intrusion. She had also considered guidance issued by the Office of the Surveillance Commissioner.<sup>21</sup>

The Investigatory Powers Tribunal agreed with the submission by Cleveland Police that the force had acted “...exactly as the public would have expected it to act”. The tribunal endorsed the procedure adopted by the superintendent, “i.e. a procedure as close as possible to that which would be adopted if an authorisation could be obtained from a...relevant authorising officer [under RIPA].”

## 1.7 Authorisation of the Acquisition of Communications Data

Communications data may only be obtained using the IPA framework. Other statutory powers must not be used to acquire communications data.

Applications must be made via a collaboration agreement partner, currently NAFN, and approved by the Office for Communications Data Authorisations. Applicants must make a relevant senior officer (as listed in appendix 1) aware of the application before it is submitted.

All contact with a communications provider must be via the single point of contact (SPOC) employed by the collaboration partner.

<sup>17</sup> C and the Police & Secretary of State for the Home Department IPT/03/32/H

<sup>18</sup> BA & others and the Chief Constable of Cleveland Police IPT/11/129/CH, IPT/11/133/CH & IPT/12/72/CH

<sup>19</sup> Intrusive surveillance may only be undertaken in relation to ‘serious’ crime as defined by ss.80(2) & (3)

<sup>20</sup> S.80 (general saving for lawful conduct)

<sup>21</sup> OSC Procedures & Guidance, December 2011, paragraphs 231-233

## 1.8 Data Assurance

Regard must be had to the guidance on the procedures and safeguards to be applied in relation to the handling of any material obtained by the use of covert means set out in each code of practice<sup>22</sup>.

Such material must be clearly labelled and identified on each data pathway on which it is stored. Applications should identify the data pathways to be used to store material in order that the authorising officer understands where it will be stored and can give appropriate instructions within the authorisation. Officers must comply with the North Yorkshire County Council Documents and Record Management Policy and covert activity procedures in allocating a retention period to material.

The annual report to Members includes the results of data safeguarding dip sampling which is undertaken by the RIPA co-ordinator.

## 2. USE OF COVERT ACTIVITY BY NYCC OFFICERS

Covert techniques may be used by NYCC officers acting in the course of their employment only in the accordance with the table set out in appendix 2 of this policy. Where a company or individual<sup>23</sup> is contracted by NYCC to undertake covert activity, such activity must be authorised as if it was undertaken by NYCC employees and only in accordance with the table in appendix 2.

Authorised covert activity may only be undertaken in accordance with the Covert Activity Procedures. This document is maintained by the RIPA Co-ordinating Officer, from whom a copy can be obtained.

The welfare obligations arising from the use and conduct of CHIS are such that NYCC is not equipped to meet them properly. Accordingly, third party (non-employee) CHIS will only be deployed in joint operations with a police force in situations where the force concerned can source, authorise, manage and safeguard the CHIS.

Surveillance product must be stored and disposed of in accordance with the Documents and Records Management Policy, and only used for the purpose for which it was obtained.

If covert activity concerns the acquisition of communications data, the National Anti-Fraud Network (NAFN)<sup>24</sup> must be used to fulfil the SPOC function.

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<sup>22</sup> Chapter 9, Covert Surveillance and Property Interference Revised Code of Practice, August 2018 Chapter 8, Covert Human Intelligence Sources Revised Code of Practice, August 2018 Chapter 7, Acquisition and Disclosure of Communications Data Code of Practice, March 2015

<sup>23</sup> Including Veritau Ltd when acting as NYCC's internal fraud investigator

<sup>24</sup> See appendix 1 for contact details to obtain access to NAFN. A collaboration agreement is now a requirement by virtue of s.74 IPA



### 3. SENIOR RESPONSIBLE OFFICER

The senior responsible officer is the Assistant Director - Growth, Planning and Trading Standards reporting to the Corporate Director - Business and Environmental Services. He is responsible for<sup>25</sup>:

- ensuring authorising officers are of an appropriate standard,
- ensuring the integrity of the CHIS process,
- overseeing the reporting of errors,
- implementing any action plans following inspections.

### 4. RIPA CO-ORDINATOR

The RIPA co-ordinator function is provided by the trading standards service<sup>26</sup>. The RIPA co-ordinator undertakes the following functions:

- maintains a central record or directed surveillance and CHIS<sup>27</sup>,
- contacts the nominated officer in each relevant service area to obtain quarterly updates on training needs,
- manages the arrangement and provision of appropriate training,
- maintains the Covert Activity Policy and Covert Activity Procedures documents.

### 5. TRAINING

Any officer who intends to apply for a covert activity authorisation must receive appropriate training and all officers using covert techniques will receive on-going annual training relevant to their covert activities and responsibilities. This must be considered as part of the annual appraisal process for relevant employees. The RIPA co-ordinator maintains a register of training needs.

### 6. OVERSIGHT

BES Executive Members receive quarterly updates on the use of RIPA, and also consider an annual report on the Covert Activity Policy to ensure that it is fit for purpose and being implemented properly.

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<sup>25</sup> Paragraph 4.41, page 39 Covert Surveillance and Property Interference Code of Practice (August 2018) and paragraph 9.1, page 55, Covert Human Intelligence Sources Code of Practice (August 2018)

<sup>26</sup> See appendix 1 for contact details

<sup>27</sup> Paragraphs 8.1 and 8.2, pages 68-69, Covert Surveillance and Property Interference Code of Practice (August 2018) and paragraph 7.1, page 35, Covert Human Intelligence Sources Code of Practice (August 2018)

Authorising Officers **Head of Paid Service** Chief Executive

**Legal & Democratic Services**

Assistant Chief Executive (Legal & Democratic Services) (Acting Head of Paid Service in the absence of the Chief Executive)

Legal Manager (People)

Legal Manager (Corporate Services)

**Growth, Planning and Trading Standards** Head of Business & Consumer Services Head of Multi-agency Safeguarding Team

Senior Responsible Officer

Assistant Director (Growth, Planning and Trading Standards)

RIPA Coordinating Officer

Head of Business and Consumer Services – in respect of training and day to day management

Intelligence and Information Assets Officer – in respect of the central record, source record and audit

To arrange authorisation to access NAFN please contact the Head of Business and Consumer Services

**Covert activity may only be undertaken in accordance with this table:**

<b>ACTIVITY<sup>28</sup></b>	<b>SERVICE<sup>29</sup></b>	<b>PURPOSE</b>
DS	TS	investigations into criminal offences suspected to have been committed in connection with the supply of goods or services by a business to consumer(s) and which attract at least a maximum penalty of up to six months' imprisonment
DS	TS	investigations into suspected criminal offences arising from the sale of alcohol or tobacco products to those under the age of 18
DS	IF	investigations into theft and fraud perpetrated against NYCC
NR-IS	TS	investigations into fraud and unfair commercial practices <sup>30</sup> perpetrated in a repeated and targeted manner against vulnerable residents
NR-IS	IF	Investigations into fraud or theft perpetrated against a resident of County Council residential premises.
NR-IS	IF or service depts	Investigations into gross misconduct by an NYCC employee using their employment to facilitate financial or other abuse of vulnerable NYCC clients and service users.
CHIS	TS	to facilitate online test purchase operations involving the use of a covert identity and communication with an individual suspected of a criminal offence suspected to have been committed in connection with the supply of goods or services by a business to consumer(s) and which attracts at least a maximum penalty of up to six months' imprisonment
CHIS	TS	to facilitate face to face test purchase operations and/or to collect goods ordered online from an individual suspected of a criminal offence suspected to have been committed in connection with the supply of goods or services by a business to consumer(s) and which attracts at least a maximum penalty of up to six months' imprisonment
CD	TS	Events and/or entity data for investigations into criminal offences suspected to have been committed in connection with the supply of goods or services by a business to consumer(s)
CD	IF	investigations into theft and fraud perpetrated against NYCC

<sup>28</sup> DS = directed surveillance, CHIS = use and conduct of a covert human intelligence source, CD = acquisition of communications data, NR-DS = directed surveillance outside RIPA, NR-IS = intrusive surveillance authorised outside RIPA

<sup>29</sup> TS = trading standards, IF = internal fraud investigators (Veritau Ltd)

<sup>30</sup> As defined by the Consumer Protection from Unfair Trading Regulations 2008

<b>Initial equality impact assessment screening form</b> (As of October 2015 this form replaces 'Record of decision not to carry out an EIA')			
<b>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.</b>			
<b>Directorate</b>	BES		
<b>Service area</b>	Trading Standards		
<b>Proposal being screened</b>	Revised Covert Activity Policy		
<b>Officer(s) carrying out screening</b>	Jo Boutflower		
<b>What are you proposing to do?</b>	Review and amend the covert activity policy to include details of data assurance methods.		
<b>Why are you proposing this? What are the desired outcomes?</b>	To ensure that covert activity and the acquisition of communications data can be undertaken in appropriate circumstances in a lawful, necessary and proportionate manner with safeguards in place to protect the human rights of third parties, and clients and employees of the County Council.		
<b>Does the proposal involve a significant commitment or removal of resources? Please give details.</b>	No.		
<b>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?</b> As part of this assessment, please consider the following questions: 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?  <b>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 <a href="#">Equality rep</a> for advice if you are in any doubt.</b>			
<b>Protected characteristic</b>	<b>Yes</b>	<b>No</b>	<b>Don't know/No info available</b>
Age		X	
Disability		X	
Sex (Gender)		X	
Race		X	
Sexual orientation		X	
Gender reassignment		X	
Religion or belief		X	
Pregnancy or maternity		X	
Marriage or civil partnership		X	
<b>NYCC additional characteristic</b>			
People in rural areas		X	
People on a low income		X	
Carer (unpaid family or friend)		X	

<b>Does the proposal relate to an area where there are known inequalities/probable impacts</b> (e.g. disabled people's access to public transport)? Please give details.	No.			
<b>Will the proposal have a significant effect on how other organisations operate?</b> (e.g. partners, funding criteria, etc.). <b>Do any of these organisations support people with protected characteristics?</b> Please explain why you have reached this conclusion.	No.			
<b>Decision (Please tick one option)</b>	EIA not relevant or proportionate:	<input checked="" type="checkbox"/>	Continue to full EIA:	<input type="checkbox"/>
<b>Reason for decision</b>	<p>The amended policy ensures that covert activity is only undertaken where the impact, and particularly the right to respect for private and family life under article 8 of the European Convention on Human Rights, on anyone who is the subject of, or collateral to, the covert activity has been considered and that it is considered by a senior officer that despite the risk of intrusion, the activity is necessary and proportionate bearing in mind the objective it seeks to achieve, and that the policy reflects the current law.</p> <p>The revised policy will ensure that covert activity is deployed in a consistent manner and that it is not deployed in response to an individual's protected characteristics.</p>			
<b>Signed (Assistant Director or equivalent)</b>	Matt O'Neill			
<b>Date</b>	01/12/21			



## Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk)

**Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:**

Planning Permission  
Environmental Impact Assessment  
Strategic Environmental Assessment

However, you will still need to summarise your findings in in the summary section of the form below.

Please contact [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk) for advice.

<b>Title of proposal</b>	Covert Activity Policy
<b>Brief description of proposal</b>	Annual report on the use of covert activity and review of the policy
<b>Directorate</b>	BES
<b>Service area</b>	Growth, Planning and Trading Standards
<b>Lead officer</b>	Jo Boutflower
<b>Names and roles of other people involved in carrying out the impact assessment</b>	N/A
<b>Date impact assessment started</b>	01/12/21

**Options appraisal**

Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.

There is no alternative. RIPA and IPA provide a legislative framework to manage the lawful interference with an individual's article 8 ECHR rights. Statutory codes of practice recommend an annual report on the use of the legislation.

**What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?**

Please explain briefly why this will be the result, detailing estimated savings or costs where this is possible.

It is cost neutral but compliance with RIPA and IPA ensures the council acts lawfully when it undertakes covert activity.

How will this proposal impact on the environment?		Positive impact (Place a X in the box below where)	No impact (Place a X in the box below where)	Negative impact (Place a X in the box below where)	Explain why will it have this effect and over what timescale?  Where possible/relevant please include: <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
Minimise <b>greenhouse gas emissions</b> e.g. reducing emissions from travel, increasing energy efficiencies etc.	Emissions from travel		X				
	Emissions from construction		X				
	Emissions from running of buildings		X				
	Other		X				
Minimise <b>waste</b> : Reduce, reuse, recycle and compost e.g. reducing use of single use plastic			X				
Reduce <b>water</b> consumption			X				
Minimise <b>pollution</b> (including air, land, water, light and noise)			X				



How will this proposal impact on the environment?	Positive impact (Place a X in the box below where)	No impact (Place a X in the box below where)	Negative impact (Place a X in the box below where)	Explain why will it have this effect and over what timescale?  Where possible/relevant please include: <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
Ensure <b>resilience</b> to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers		X				
Enhance <b>conservation</b> and wildlife		X				
Safeguard the distinctive characteristics, features and special qualities of <b>North Yorkshire's landscape</b>		X				
Other (please state below)		X				

**Are there any recognised good practice environmental standards in relation to this proposal?** If so, please detail how this proposal meets those standards.

N/A

**Summary** Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

The proposal has not impact on the environment, it ensures the council acts lawfully in the conduct of its investigations.

#### Sign off section

This climate change impact assessment was completed by:

<b>Name</b>	<b>Jo Boutflower</b>
<b>Job title</b>	<b>Head of Business and Consumer Services</b>
<b>Service area</b>	<b>Trading Standards (GPTS)</b>
<b>Directorate</b>	<b>BES</b>
<b>Signature</b>	<b>J L Boutflower</b>
<b>Completion date</b>	<b>01/12/21</b>

**Authorised by relevant Assistant Director (signature):**

**Date:** Matt O'Neill

## North Yorkshire County Council

### Business and Environmental Services

#### Executive Members

17 December 2021

#### Trading Standards Tasking Filter and Matrix

#### Report of the Assistant Director - Growth, Planning and Trading Standards

##### **1.0 Purpose of the report:**

- 1.1 To report to the Corporate Director Business and Environmental Service (BES) and the Executive Member for Open for Business, Cllr. Derek Bastiman, on the use of the trading standards filter and matrix from 1 September 2020 to 31 August 2021.
- 1.2 To seek approval for the continued use of the filter and matrix.

##### **2.0 Background to the report**

- 2.1 The Corporate Director (BES) and BES Executive Members approved the filter and matrix on 27 February 2015, and it was implemented from 1 April 2015. It has been subject to minor amendments on a number of occasions. The last report was made on 18 December 2020. The current filter and matrix is produced as Appendix A to this report.
- 2.2 The filter and matrix was introduced to enable the Trading Standards Service (TSS) to manage and allocate reduced resources. The reduction in core budget of £784,000 between 2015/2016 and 2021/2022 has been mitigated by successes the Service has had in obtaining income and in securing corporate and external funding to run specific delivery programmes and projects. However, the impact on core work is such that there are fewer resources to provide investigative and inspection work outside those service delivery programmes and projects. TSS uses the filter and matrix mechanism to manage the volume of complaints and service requests received. It ensures that there is an agreed, consistent and transparent approach to the response provided to all such complaints and service requests.

##### **3.0 Complaints and Service Requests**

- 3.1 In recent years, the TSS has received around 7,000 consumer complaints per year via the Citizens Advice Consumer Service helpline, with 2018-19 recording the lowest number at 6,282. In contrast, the last two years have shown an upward trend with 7,297 complaints received between 1 September 2020 and 31 August 2021, and 6,475 received between 1 September 2019 and 31 August 2020.
- 3.2 The former downward trend was noted nationally over several years. It is believed that the ready availability of online advice for straightforward consumer enquiries, such as someone wanting to know what their statutory rights are before returning goods, and the ability to contact large retailers about complaints easily via their social media accounts is responsible for the reduction. It is notable that the downward trend has reversed since the beginning of the pandemic, with increases over the last two reporting periods largely attributable to coronavirus related complaints. Further analysis of these complaints is provided at paragraph 5.1 below.

- 3.3 Charts showing the number of complaints received, filtered, scored through the matrix and tasked for 1 September 2020 to 31 August 2021 are set out in Appendix B. Charts for the same period in both 2019-20 and 2018-19 are included for comparison purposes. There has been a significant increase in the overall number of complaints tasked to officers for intervention in both this and the preceding reporting periods compared to September 2018 – August 2019. In that period, 590 complaints were tasked, equating to 9% of complaints received (6,282). This increased the following year to 1,252 (19.3%), but has decreased during the current reporting period to 885 (12%).
- 3.4 There are two reasons for the increase in percentage of complaints tasked. Firstly, the majority of coronavirus related complaints were tasked to officers because of the public health risk. Secondly, the reduction in straightforward complaints as a result of consumers' self-help noted in paragraph 3.2 above means that a higher percentage of complaints received by the service warrant intervention. This situation will require further monitoring as we emerge fully from the effects of the pandemic, and if necessary for amendments to be made to the filter and matrix to maintain its efficacy.
- 3.5 In addition, approximately 1,500 service requests are made each year for business advice (including animal health and food), no cold calling zones, weight restriction enforcement, and education work. A reduction has been noted during the pandemic with 1,051 service requests received between 1 September 2020 and 31 August 2021, and 1,105 service requests received between 1 September 2019 and 31 August 2020. This compares with 1,361 between the 1 September 2018 and 31 August 2019. The service offered free business advice during the pandemic until 1 October 2021 in order to support businesses through difficult trading conditions. However, the pandemic inevitably led to a reduction in new product launches and a reduction in overall trade for many sectors meaning there was a lower demand for proactive advice.

#### **4.0 Proposed Amendments to the Filter and Matrix**

- 4.1 It is not proposed that any changes be made to the filter or matrix this year. The pandemic has significantly affected service delivery priorities. However, the filter and matrix has worked appropriately for coronavirus related complaints as reported in section 5 below.
- 4.2 It was not considered that any amendments to the filter and matrix were required as we approached the end of the EU exit transition last year. This situation remains the same, and in fact the recognition period for EU conformity assessment marking (the CE mark) has been further extended to at least 1 January 2022. There is some uncertainty about this date following the publication of the Building Safety Bill without an end date. Should the recognition period end in January 2022 the shift to the equivalent UK mark should happen during the next reporting period and the situation, and the need for any consequential amendments, will be kept under review as the new regulatory landscape develops.

#### **5.0 Impact of the Coronavirus Pandemic**

- 5.1 Coronavirus related complaints fall into three categories broadly concerning;
- a. consumer rights in relation to goods and services that could not be delivered due to coronavirus restrictions,
  - b. problems with products such as face coverings, sanitiser and tests, and
  - c. alleged breaches of the business restrictions or Covid security requirements themselves.

- 5.1.1 Reporting ability in relation to Covid complaints is limited, and the numbers below will underreport to some extent. The sudden and temporary nature of the pandemic and its effects means reporting codes had to be added to the complaints system quickly and reactively, and they have not been able to capture every issue as it developed. The top five sectors or breaches that generated Covid related complaints during this reporting period were:

<b>Nature of complaint</b>	<b>Sept 2020 – Aug 21</b>	<b>Sept 2019 – Aug 20</b>
Business closures/restrictions	191	190
Holidays and other cancellations	35	115
Weddings	30	14
Medical & protective equipment	24	26
Other events	12	1

- 5.1.2 Complaint numbers for September 2019 to August 2020 are included for comparison purposes. It should be noted that both weddings and other events are likely to have been included in the figure for holidays and other cancellations initially as reporting ability was particularly limited at the beginning of the pandemic. Whilst the substance of closures and cancellation complaints is the same, it is worth noting that the nature of products falling into the medical and protective equipment category has changed. Twenty-four complaints in 19/20 related to face masks or coverings whilst this had dropped to 15 in 20/21, with test kits becoming a recent source of complaints with 6 logged to date.
- 5.1.3 At the beginning of the pandemic, a protocol was agreed with all the district council environmental health services to agree a division of responsibilities in respect of different types of premises and so ensure a consistent and comprehensive approach to complaints response. This protocol was used very constructively throughout the business restrictions period, and helped build good working relationships to carry forward into reorganisation.
- 5.2 Dip sampling of complaints shows that the filter and matrix was effective, and that complaints which would have been expected to be tasked for reasons of safety and protecting the health of residents and others, were allocated and led to interventions.
- 5.3 Although complaint numbers increased as a result of the pandemic, tables 1 and 2 in appendix B show a consistent pattern of peak months across the year. This continues to be consistent with earlier years. The only exception was April 2020, which dropped more than would have been expected in a typical year as a consequence of the first lockdown.

## **6.0 Equalities**

- 6.1 It is the view of officers that there are no equalities implications arising from the recommendations. A decision record sheet covering the decision not to complete an equalities impact assessment in relation to the introduction of the filter and matrix is attached as appendix C.

## **7.0 Financial**

- 7.1 There are no significant financial implications for the County Council arising from the recommendations.

## **8.0 Legal**

- 8.1 The filter and matrix is designed to provide a consistent and transparent process by which to deploy resources and so, applied correctly, would assist with responding to complaints or legal arguments that particular enforcement action should or should not have been taken.

## **9.0 Climate Change**

- 9.1 Consideration has been given to the potential for any climate impacts arising from the recommendation. It is the view of officers that the recommendation has a neutral impact on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030 and a copy of the Climate change impact assessment screening form is attached as appendix D.

## **10.0 Recommendations**

- 10.1 That the Corporate Director (BES) in consultation with the Executive Member for Open to Business, Cllr. Derek Bastiman, note the contents of this report and approve the continued use of the filter and matrix.
- 10.2 Subject to such approval, that the TSS reports on the use of the filter and matrix to the Corporate Director (BES) and the Executive Member for Open to Business in December 2022.

Matt O'Neill  
Assistant Director Growth, Planning and Trading Standards

Author of report: Jo Boutflower, Head of Business and Consumer Services

Background Documents: None

**FILTER AND MATRIX**

<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
1. Does the identified problem fit within the NYCC TS remit?		<b>REFER</b>	Refer to other agency if appropriate
2. Would the identified problem be best dealt with by another agency?			Refer to other agency if appropriate
3. Is the complaint anonymous or of poor reliability?	<b>RECORD</b>		Record for intelligence purposes if complaint relates to safety, doorstep crime, animal health & welfare, or underage sales.
4. Does the identified problem link to local priorities?		<b>RECORD INTEL IF APPROPRIATE</b>	<b>Reject</b> if problem is incapable of causing detriment in North Yorkshire
5. Does the problem cause or risk injury or death?	<b>GO TO 12</b>	<b>GO TO 5</b>	
6. Does the problem involve a risk to animal welfare?	<b>GO TO 12</b>	<b>GO TO 6</b>	
7. Does the problem cause an animal disease risk?	<b>GO TO 12</b>	<b>GO TO 7</b>	
8. Does the problem cause or risk significant consumer detriment?	<b>GO TO 12</b>	<b>GO TO 8</b>	
9. Does the problem affect a vulnerable consumer even where detriment is low?	<b>GO TO 12</b>	<b>GO TO 9</b>	
10. Does the commercial practice amount to an aggressive practice?	<b>GO TO 12</b>	<b>GO TO 10</b>	
11. Does the problem provide a suspected offender with significant financial benefit?	<b>GO TO 12</b>	<b>GO TO 11</b>	
12. Does the problem cause or risk significant business detriment?	<b>GO TO 12</b>	<b>RECORD</b>	Record for intelligence purposes if appropriate
13. Is the identified threat/risk happening now, continuing or is it imminent?		<b>EDUCATE &amp; RECORD</b>	Consider proportionate use of education/media and make an intelligence submission as appropriate
14. Does action help to stop the activity taking place?		<b>EDUCATE &amp; RECORD</b>	Consider proportionate use of education/media and make an intelligence submission as appropriate
15. Is there level 2 or 3 offending or a sector-wide issue suitable for a regional or national referral?	<b>REFER or TASK</b>		Refer to regional tasking (for Scambusters or NTG referral) where appropriate
16. Is there a reputational risk to NYCC if no action was undertaken by NYTS?	<b>TASK</b>	<b>TASK</b>	Task in accordance with the tasking matrix

FACTOR	NONE Score 0	LOW Score 1	MODERATE Score 6	HIGH Score 10	SCORE	COMMENTS
Public Safety	No risk of harm/injury	Low risk of harm/injury	Risk or reports of minor harm/injury	Risk or reports of major harm/injury		
Vulnerable Consumer/ Aggressive Practices	No indication of vulnerability /aggression	Low indication of vulnerability /potential aggressive practice	Vulnerable persons affected/ aggressive practice used	Vulnerable persons specifically targeted/ aggressive practice targeted at vulnerabilities		
Financial Detriment (include wider economic impact)	No financial detriment	Total value estimated at less than £1,000	Total value estimated at £1,000 to £10,000	Total value estimated at over £10,000		
Environmental Impact	Impacts climate change score 5	Impacts ecosystem quality score 5	Impacts resources score 5	Impacts human health score 5		
Animal Welfare	No risk to animal welfare	Low harm/risk score 5	Medium harm/risk score 10	Major harm/risk score 25		APPLY ANIMAL WELFARE ASSESSMENT CRITERIA
Animal Disease Risk	No animal disease risk	Low animal disease risk	Risk or reports of minor disease issues	Risk or reports of major disease issues		
Reputational Risk	No media or public interest	Low media or public interest	Corporate priority or some media or public interest	Significant media or public interest		
Trader Profile (divisor of 2 applies for Primary Authorities)	No longer trading	Single outlet or local online presence	Multiple outlets or reach	National or international chain of outlets or trading website		
Trader History	Positive history	No known history	3 or fewer justified complaints in 12 months	Relevant previous convictions, cautions, more than 3 justified complaints in 12 months or on-going investigation		

**SCORING**      **0 - NFA**      **1-13 - Monitor/NFA**      **14-22 – Advise**      **23+ - Investigate**



**ANIMAL WELFARE ASSESSMENT CRITERIA**

To determine the matrix score for the 'Animal Welfare' category use the following criteria. If the relevant condition is not listed, professional judgment should be used to match to an equivalent level of severity.

<b>MINOR HARM/RISK</b>	<b>SCORE 5</b>
Uncorroborated reports from walkers of lame animals in fields.	
<b>MEDIUM HARM/RISK</b>	<b>SCORE 10</b>
Abscess (single)	
In-growing horn (no broken skin)	
Lameness (partial weight-bearing)	
Referral from another agency re lameness	
Rupture (single)	
Tail biting	
<b>HIGH HARM/RISK</b>	<b>SCORE 25</b>
Abscess (multiple)	
In-growing horn (broken skin)	
Lameness (severe)	
Rupture (multiple)	
Tail biting (severe, multiple animals)	

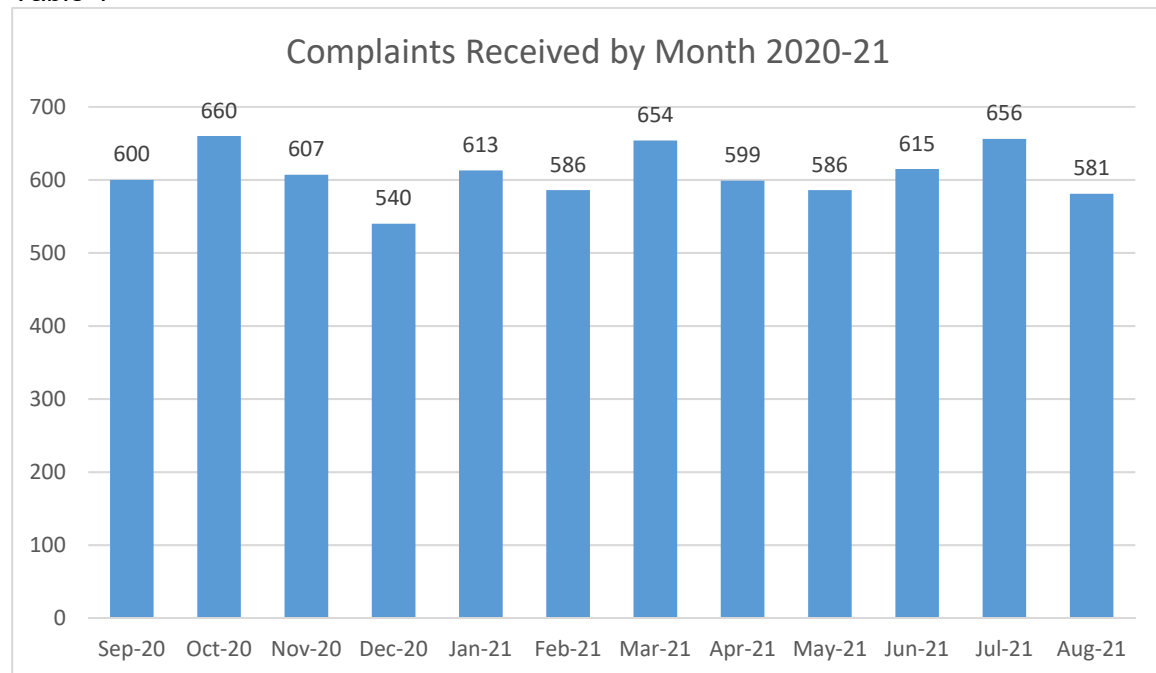
**HEALTH & SAFETY EXECUTIVE ENFORCEMENT MANAGEMENT MODEL**

<b>SERIOUS PERSONAL INJURY/SERIOUS HEALTH EFFECT</b>
It is credible that a fatal injury could occur.
It is credible that an injury could occur that results in a permanent or irreversible disabling condition, or requires immediate treatment in hospital.
It is credible that a health effect could occur that causes a permanent, progressive or irreversible condition.
It is credible that a health effect could occur that causes permanent disabling, leading to a lifelong restriction of work capability or a major reduction in quality of life.

**COMPLAINTS RECEIVED AND TASKED**

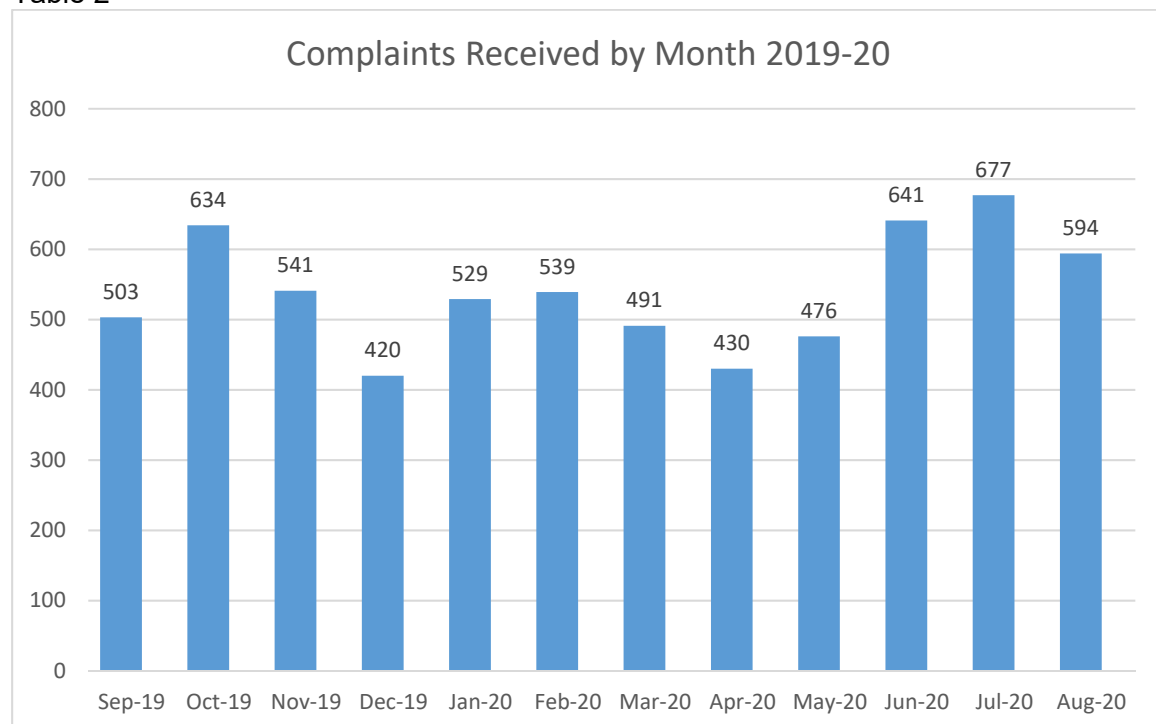
The total complaints received from 1 September 2020 to 31 August 2021 was 7,297, with monthly totals shown in table 1 below.

Table 1



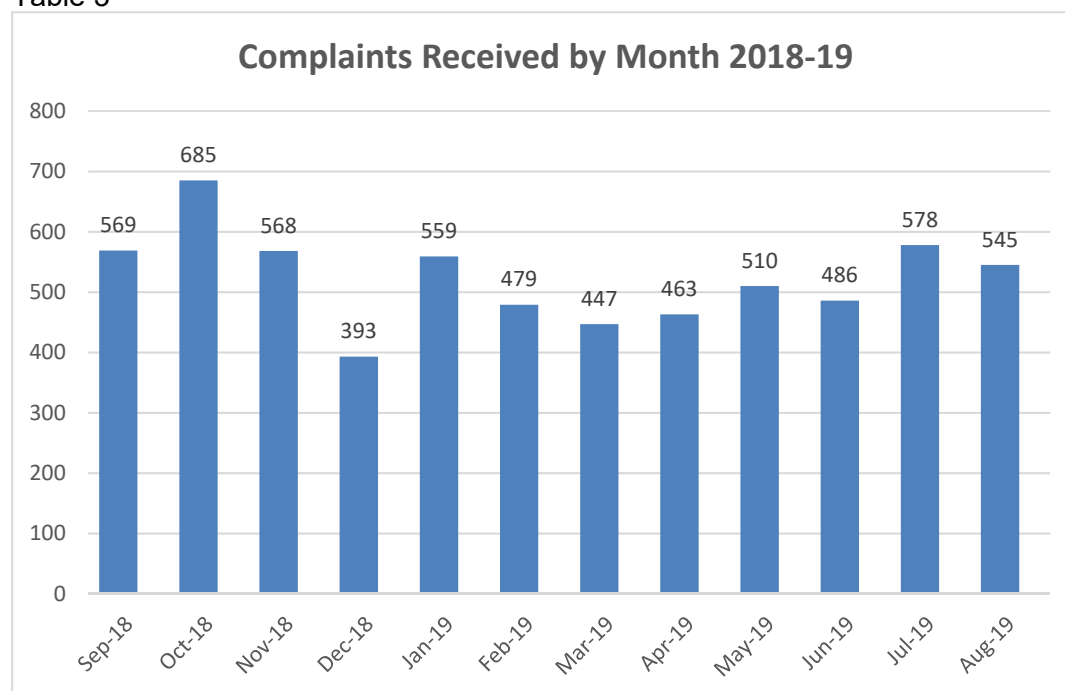
6,475 complaints were received from 1 September 2019 to 31 August 2020, with monthly totals shown in table 2 below.

Table 2



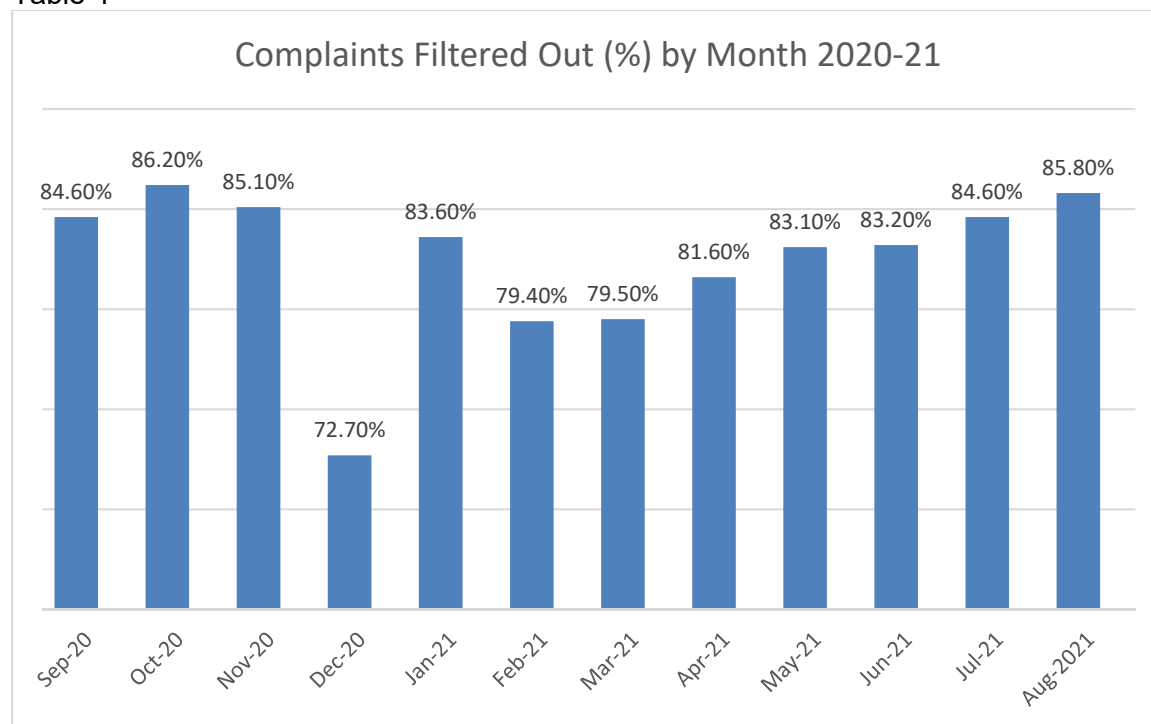
6,282 complaints received from 1 September 2018 to 31 August 2019, with monthly totals shown in table 3 below.

Table 3



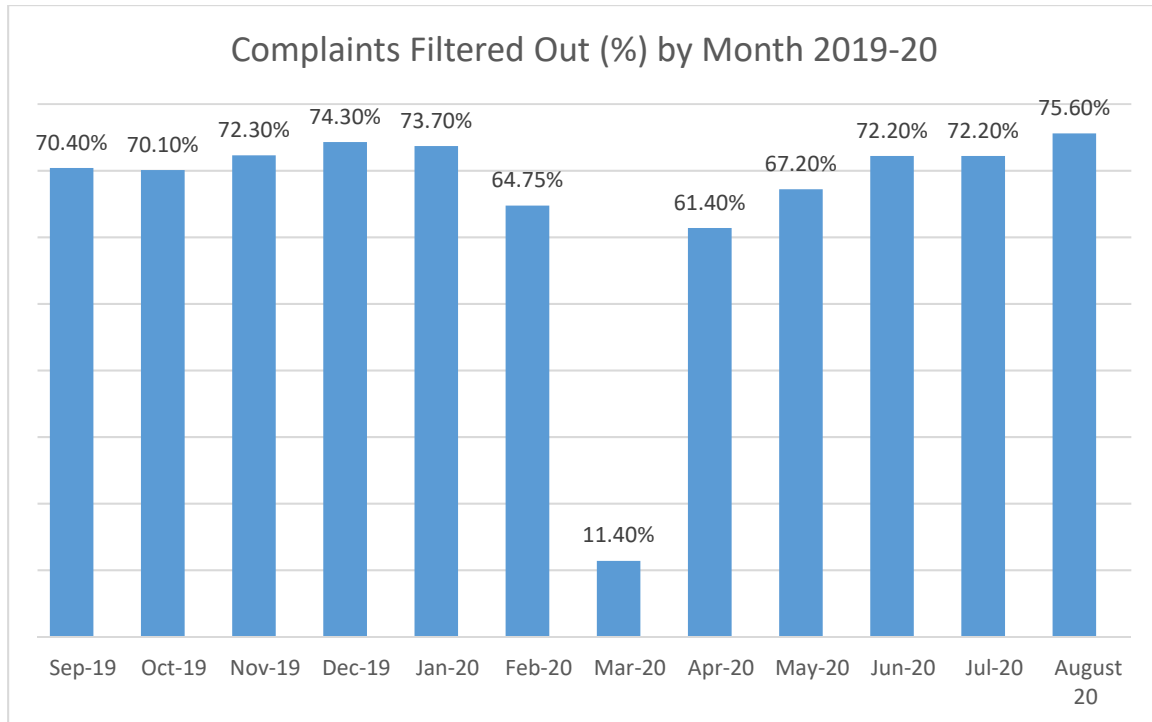
6,020 (82%) of the 7,297 complaints received during September 2020 – August 2021 were filtered out. The percentage of complaints filtered out by month is shown in table 4 below.

Table 4



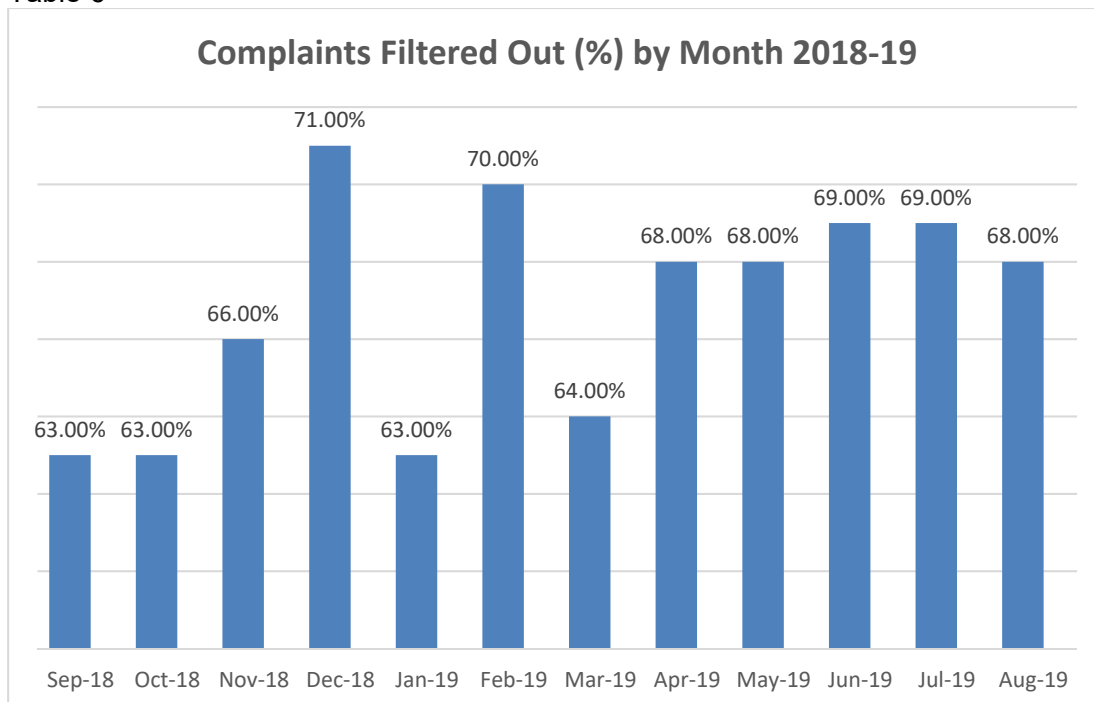
4,606 (71%) of the 6,475 complaints received in 2019-20 were filtered out, with monthly percentages shown in table 5 below.

Table 5



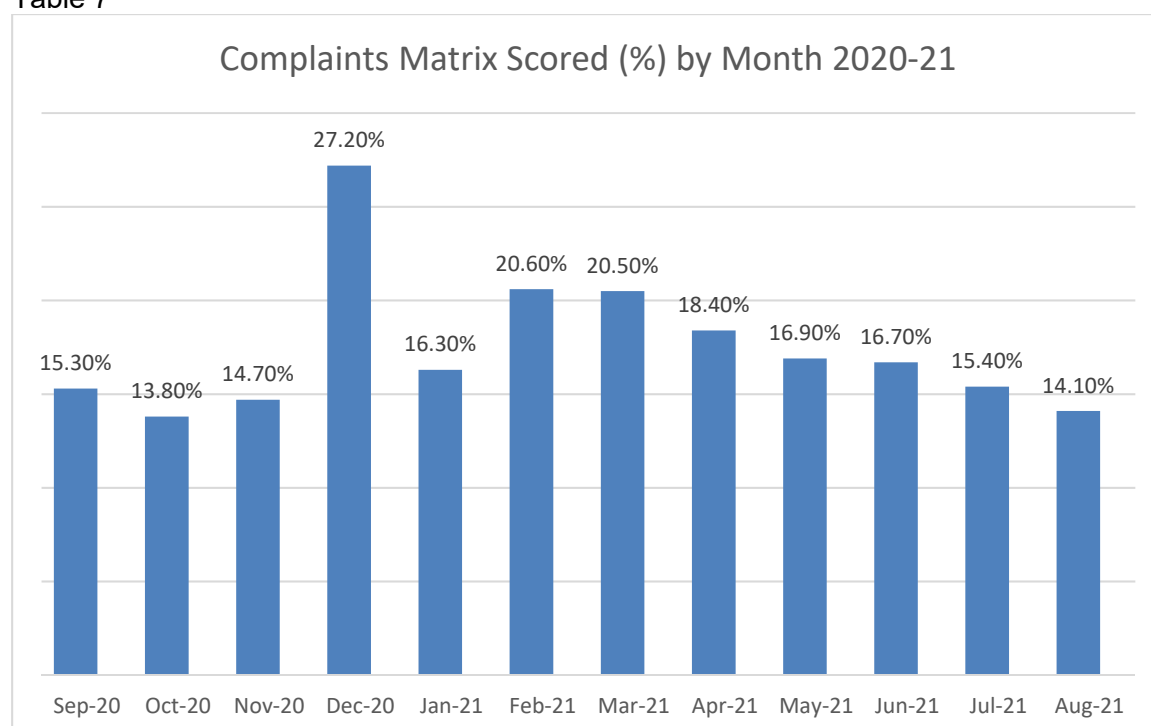
4,171 (66%) of the 6,282 complaints received in 2018-19 were filtered out, with monthly percentages shown in table 6 below.

Table 6



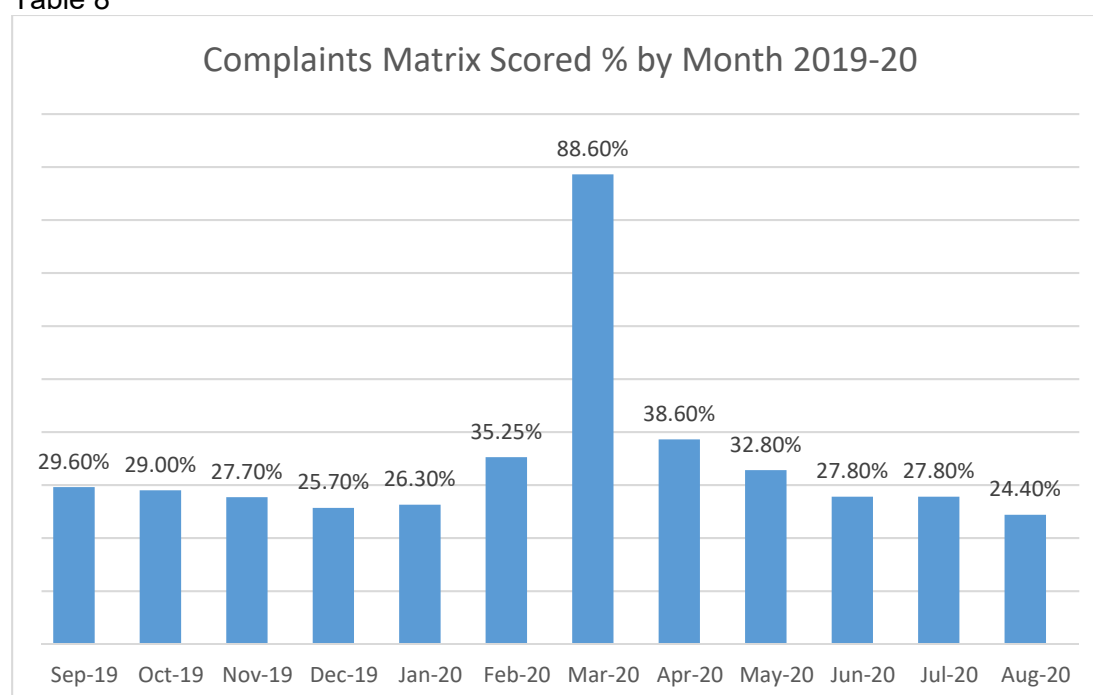
1,277 complaints (18%) passed through the filter and were matrix scored. The percentage of complaints scored each month is shown in table 7 below.

Table 7



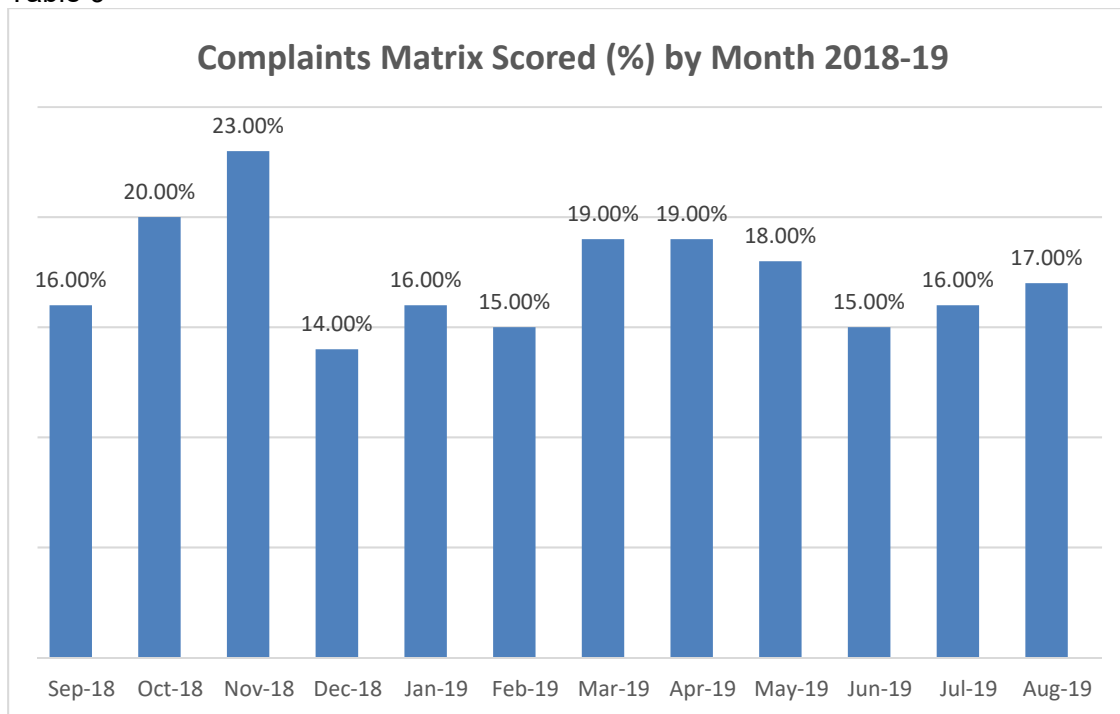
1,869 complaints (29%) passed and were scored in 2019-20, with the percentage scored each month shown in table 8 below.

Table 8



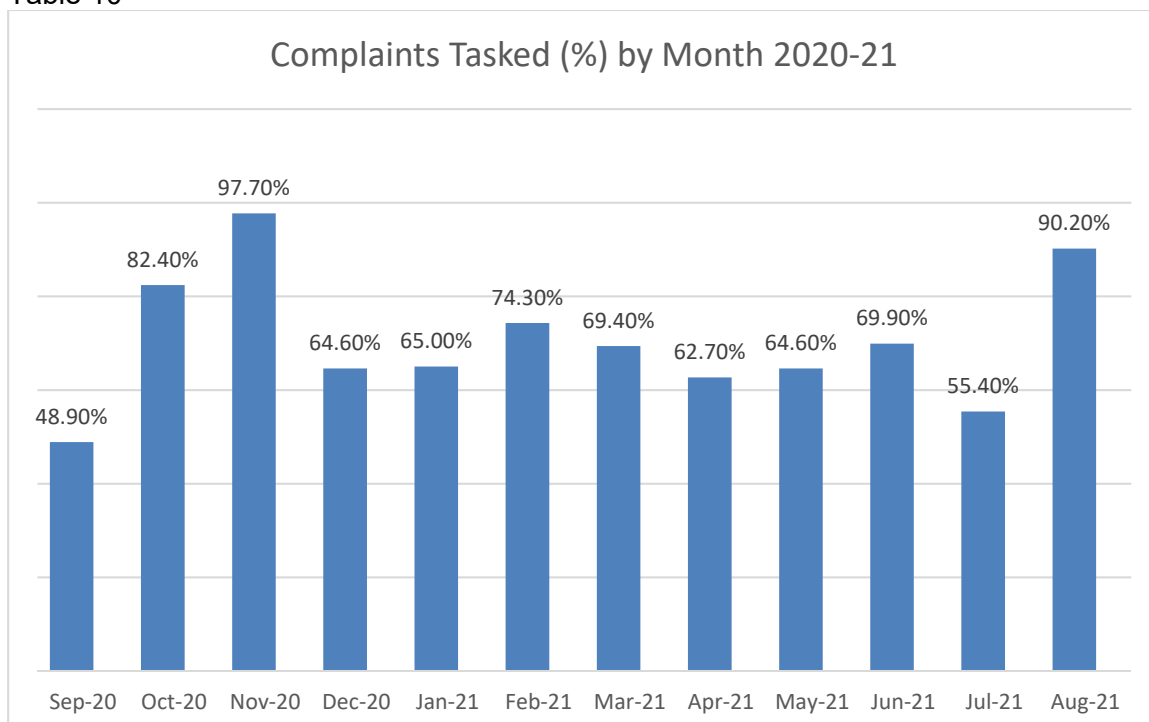
1,093 (17%) passed and were scored in 2018-19, with the percentage scored each month shown in table 9 below.

Table 9



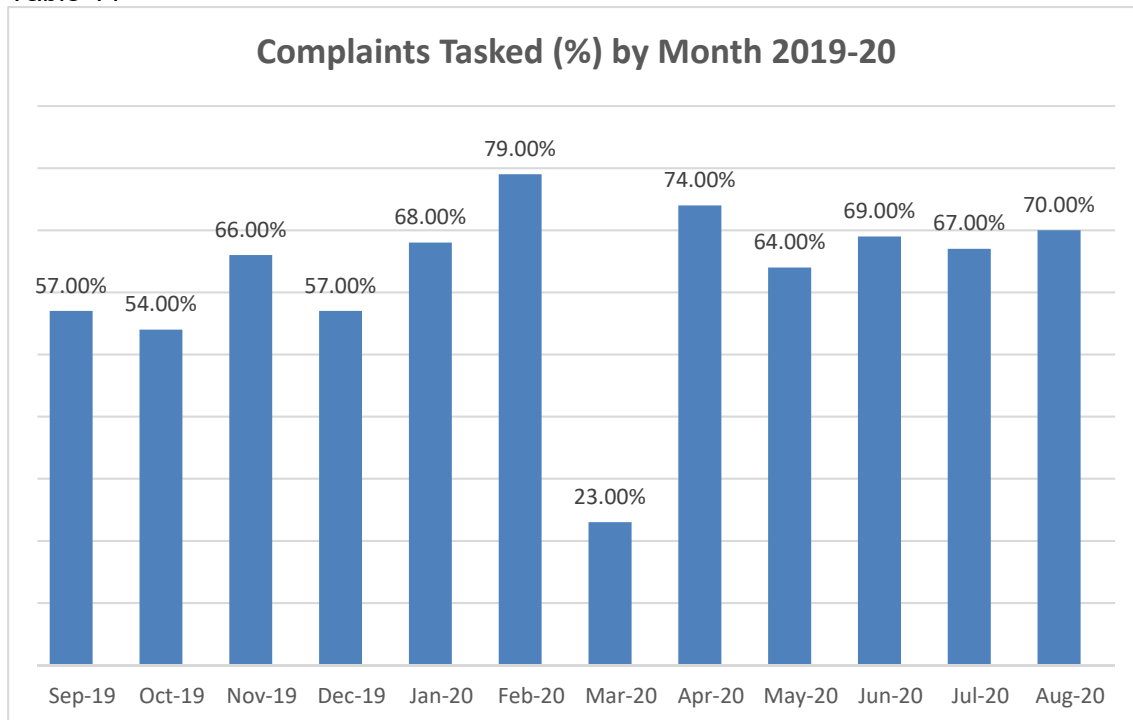
885 (69%) of the 1,277 scored complaints were tasked. The percentage of scored complaints tasked each month is shown in table 10 below.

Table 10



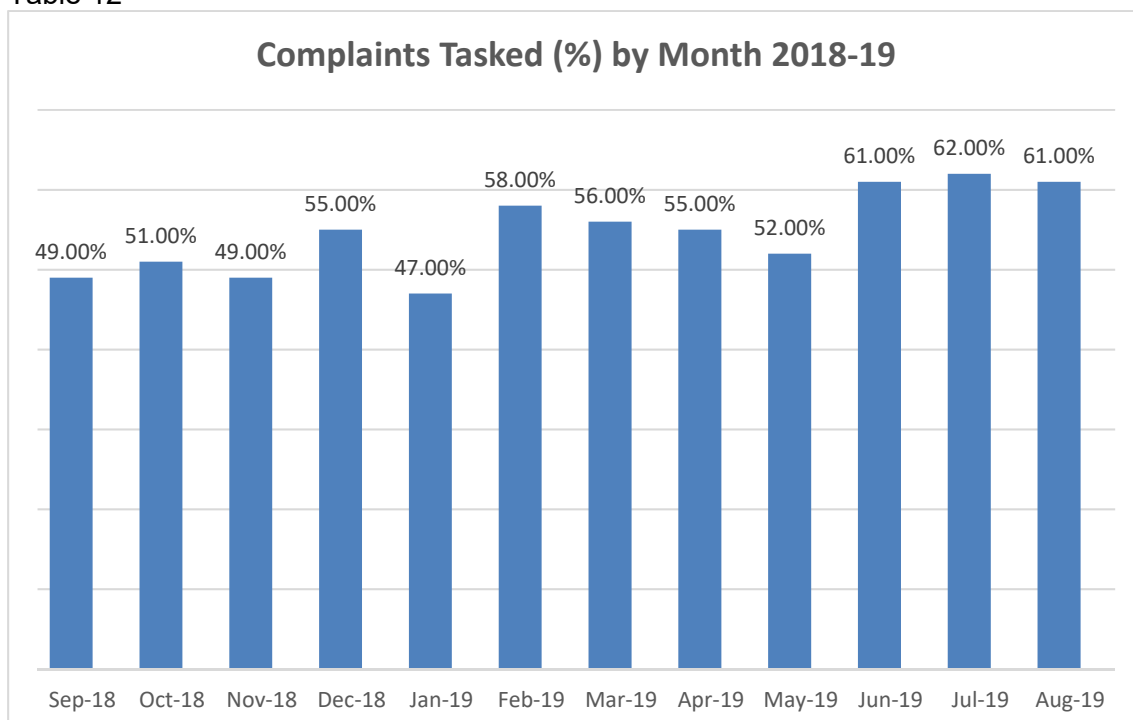
1,252 (67%) of the 1,869 scored complaints were tasked in 2019-20, with the monthly percentage shown in table 11 below.

Table 11



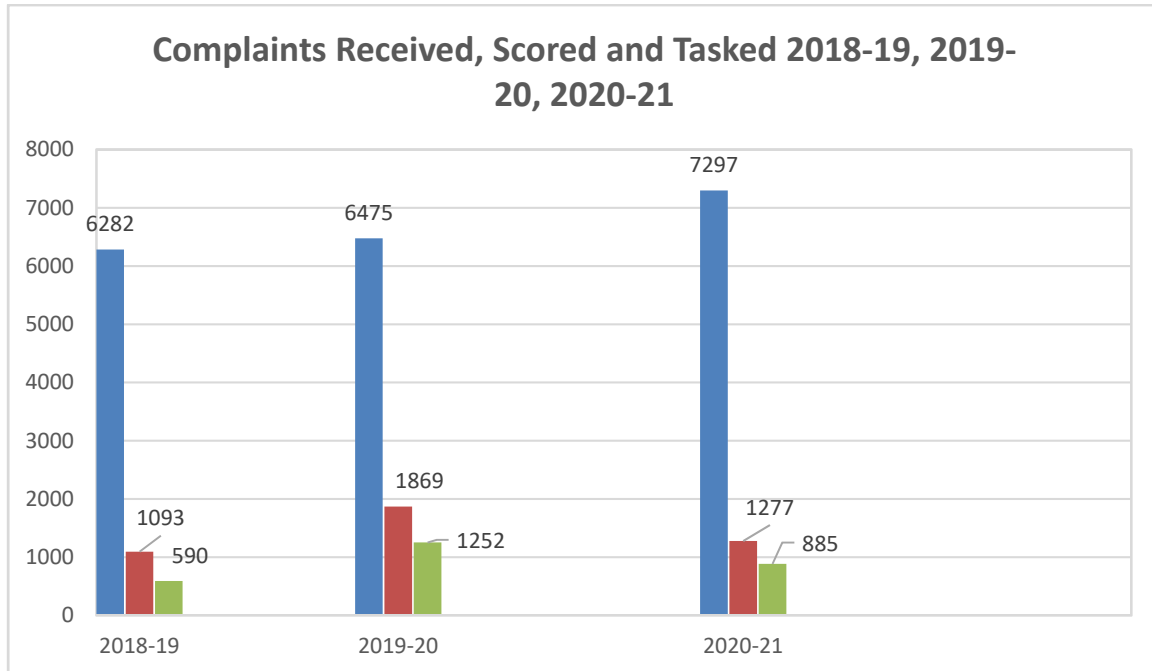
590 (54%) of 1,093 scored complaints were tasked in 2018-19, with the monthly percentage shown in table 12 below.

Table 12



A comparison of complaints received, scored and tasked over the last three reporting periods is produced as table 13 below.

Table 13





<b>Initial equality impact assessment screening form</b> (As of October 2015 this form replaces 'Record of decision not to carry out an EIA')  <b>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.</b>			
<b>Directorate</b>	BES		
<b>Service area</b>	Trading Standards		
<b>Proposal being screened</b>	Trading Standards Tasking Filter and Matrix		
<b>Officer(s) carrying out screening</b>	Jo Boutflower		
<b>What are you proposing to do?</b>	To report on the use and effectiveness of the Trading Standards tasking filter and matrix.		
<b>Why are you proposing this? What are the desired outcomes?</b>	The filter and matrix was introduced to ensure that as the trading standards budget was reduced resources were properly and consistently allocated. Reporting annually provides oversight and helps to ensure that the filter and matrix is still fit for purpose.		
<b>Does the proposal involve a significant commitment or removal of resources? Please give details.</b>	No. The available resources are unaffected by this decision although it would result in those resources being allocated differently. The purpose of this is to make their deployment more effective and for the benefit of North Yorkshire residents.		
<b>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?</b> As part of this assessment, please consider the following questions: <ul style="list-style-type: none"> <li>• To what extent is this service used by particular groups of people with protected characteristics?</li> <li>• Does the proposal relate to functions that previous consultation has identified as important?</li> <li>• Do different groups have different needs or experiences in the area the proposal relates to?</li> </ul> <b>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 <u>Equality rep</u> for advice if you are in any doubt.</b>			
<b>Protected characteristic</b>	<b>Yes</b>	<b>No</b>	<b>Don't know/No info available</b>
Age		X	
Disability		X	
Sex (Gender)		X	
Race		X	
Sexual orientation		X	
Gender reassignment		X	
Religion or belief		X	
Pregnancy or maternity		X	
Marriage or civil partnership		X	

<b>NYCC additional characteristic</b>				
People in rural areas		X		
People on a low income		X		
Carer (unpaid family or friend)		X		
<b>Does the proposal relate to an area where there are known inequalities/probable impacts</b> (e.g. disabled people's access to public transport)? Please give details.	No.			
<b>Will the proposal have a significant effect on how other organisations operate?</b> (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion.	No.			
<b>Decision (Please tick one option)</b>	EIA not relevant or proportionate:	X	Continue to full EIA:	
<b>Reason for decision</b>	The revised policy is being put in place to ensure NYCC resources are allocated in a transparent and consistent manner and to the benefit of North Yorkshire residents.			
<b>Signed (Assistant Director or equivalent)</b>	Matt O'Neill			
<b>Date</b>	24/11/21			



## Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk)

**Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:**

Planning Permission  
Environmental Impact Assessment  
Strategic Environmental Assessment

However, you will still need to summarise your findings in in the summary section of the form below.

Please contact [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk) for advice.

<b>Title of proposal</b>	Trading Standards Tasking Filter and Matrix
<b>Brief description of proposal</b>	Annual report on the use of the trading standards tasking filter and matrix with no recommendation for any amendments
<b>Directorate</b>	BES
<b>Service area</b>	Growth, Planning and Trading Standards
<b>Lead officer</b>	Jo Boutflower
<b>Names and roles of other people involved in carrying out the impact assessment</b>	N/A
<b>Date impact assessment started</b>	25/11/21

**Options appraisal**

Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.

No, the filter and matrix has been used by the service since 2015 to manage the allocation of resources to consumer complaints. Approval is sought for amendments to the filter and matrix is sought where the service has found it does not manage particular types of complaints appropriately. There is no such request this year as dip sampling has shown the filter and matrix to be working effectively across the range of trading standards' responsibilities.

**What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?**

Please explain briefly why this will be the result, detailing estimated savings or costs where this is possible.

It is cost neutral – the purpose of the filter and matrix is to ensure that the service's resources are allocated in a consistent, transparent and effective way.

## Appendix D

How will this proposal impact on the environment?		Positive impact (Place a X in the box below where relevant)	No impact (Place a X in the box below where relevant)	Negative impact (Place a X in the box below where relevant)	Explain why will it have this effect and over what timescale?	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
<b>N.B.</b> There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.					<b>Where possible/relevant please include:</b> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>		
Minimise <b>greenhouse gas emissions</b> e.g. reducing emissions from travel, increasing energy efficiencies etc.	Emissions from travel		X				
	Emissions from construction		X				
	Emissions from running of buildings		X				
	Other		X				
Minimise <b>waste</b> : Reduce, reuse, recycle and compost e.g. reducing use of single use plastic			X				
Reduce <b>water</b> consumption			X				
Minimise <b>pollution</b> (including air, land, water, light and noise)			X				

# Appendix D

How will this proposal impact on the environment?	Positive impact (Place a X in the box below where relevant)	No impact (Place a X in the box below where relevant)	Negative impact (Place a X in the box below where relevant)	Explain why will it have this effect and over what timescale?  Where possible/relevant please include: <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
Ensure <b>resilience</b> to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers		X				
Enhance <b>conservation</b> and wildlife		X				
Safeguard the distinctive characteristics, features and special qualities of <b>North Yorkshire's landscape</b>		X				
Other (please state below)		X				

**Are there any recognised good practice environmental standards in relation to this proposal?** If so, please detail how this proposal meets those standards.

N/A

**Summary** Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

Although the filter and matrix does not directly affect the environment, the impact on the environment of any product or service complained about is part of the scoring matrix. Trading Standards does have enforcement responsibilities in relation to some environmental legislation and this element of the scoring matrix ensures that adequate resources are allocated to such complaints.

### Sign off section

This climate change impact assessment was completed by:

<b>Name</b>	<b>Jo Boutflower</b>
<b>Job title</b>	<b>Head of Business and Consumer Services</b>
<b>Service area</b>	<b>Trading Standards (GPTS)</b>
<b>Directorate</b>	<b>BES</b>
<b>Signature</b>	<b>J L Boutflower</b>
<b>Completion date</b>	<b>25/11/21</b>

**Authorised by relevant Assistant Director (signature):**

**Date:** Matt O'Neill

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## North Yorkshire County Council

### Executive Members

17 December 2021

### Opposed Public Bridleways No.s 10.19/28 & 10.110/43, Scot Pit Lane, Brompton and Northallerton Modification Order 2021

#### Report of the Assistant Director – Travel, Environmental and Countryside Services

##### **1.0 Purpose of the report**

- 1.1 To advise the Corporate Director of Business and Environmental Services (BES) of the proposed submission to the Secretary of State (SoS) of an opposed Definitive Map Modification Order (DMMO).
- 1.2 To request the Corporate Director, in consultation with the Executive Member for Access, to authorise that North Yorkshire County Council (NYCC) in its submission of the opposed Modification Order to the SoS will take a neutral stance in relation to confirmation of the Order.

##### **2.0 Background**

- 2.1 The application for the Definitive Map Modification Order (DMMO) to add a public bridleway over Scot Pit Lane was submitted to the County Council in May 2019.
- 2.2 An earlier DMMO application for the same route was made in 1994 based on user evidence. This was rejected when it was considered in 2004 on the grounds that no legal date of challenge to use had been established by the applicant.
- 2.3 The current application was supported by a range of historical documentary evidence and photographic evidence of physical features. It also made reference to the 24 evidence of use forms submitted in the previous application but did not submit any new user evidence. A plan showing the application route is attached to this report as Plan 2.
- 2.4 An informal consultation was carried out and several objections were received. After consideration of the available evidence, it was determined that the evidence was insufficient to justify the making of an Order. Consequently the authority rejected the application in May 2020.
- 2.5 The Applicant appealed to the Secretary of State (SoS) under Schedule 14 of the Wildlife and Countryside Act against the Council's decision not to make an order. An Inspector considered the case and allowed the appeal, directing the Council to make the Order as applied for within the application [see **Appendix A** for a copy of the Appeal Decision].
- 2.6 The DMMO was sealed on 21 May 2021 and was advertised as statutorily required. An objection was received from the landowner, and this remains outstanding. The County Council cannot confirm a DMMO where there are outstanding objections; the Order must be forwarded to the SoS for resolution.

### **3.0 Representations made to the Order**

- 3.1 The landowner has submitted an objection to the sealed order based on the validity of the historical evidence.
- 3.2 During the formal consultation we received several representations in support of the order and the addition of the route as a public bridleway, from:
- Brompton Town Council
  - the local representative of the Byways and Bridleways Trust
  - the applicant (on behalf of the BHS)
  - 'Brompton Villagers' – a bundle of letters from 21 individuals submitted without any covering information using a pro-forma letter of support (the majority of these did not give any contact details or state their full names).
- 3.3 Although support for the addition of the bridleway to the Definitive Map was received, no further evidence was submitted.

### **4.0 Representation made by the local members**

- 4.1 No formal representations were received from the local councillors in response to the consultation regarding the Order.

### **4.0 Financial implications**

- 5.1 As the evidence submitted consists only of documentary evidence, not user evidence, it is probable that the Order would be resolved by written representations.
- 5.2 There would be an unavoidable cost to the Authority in preparing a submission to the SoS, and responding to any queries raised by the SoS. These costs would relate to officer time which would be met by the respective staffing budgets.

### **6.0 Equalities Implications**

- 6.1 It is the view that the recommendations do not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010.

### **7.0 Legal Implications**

- 7.1 The opposed Modification Order would be determined by an Inspector appointed by the SoS, and, as stated above, determination will most likely be by way of written representations.
- 7.2 The Inspector, on the basis of the evidence and the legal criteria will decide whether or not to confirm the opposed Modification Order. If he/she decides to confirm the Order, the routes will be added to the Definitive Map and statement in accordance with the details within the Modification Order.

### **8.0 Climate Change Implications**

- 8.1 The DMMO, if confirmed, would add a bridleway that is not currently recorded as a public right of way within the County Council's records. However this is not a route for mechanically propelled vehicles so confirmation of the order it is not likely to have a positive or negative impact on climate change.

## 9.0 Current Decision to be made

- 9.1 In submitting an opposed Order to the SoS the County Council must express its stance in relation to confirmation of the order.
- 9.2 The current decision to be made is which stance the County Council is to take within its submission of this opposed DMMO to the SoS and needs to decide whether, on the basis of the available evidence, it:
- supports confirmation of the Order,
  - believes the Order should not be confirmed, or
  - considers the evidence is either so finely balanced, or is particularly unclear and wishes to take a neutral stance.
- 9.3 The authority was not satisfied in 2020 that there was sufficient evidence submitted to warrant the making of an Order, however, on appeal the arguments put forward by the Authority for refusing to make the Order were rejected by the Inspector who directed the Authority to make the Order. Following the making of the Order, no further evidence has been put forward to change officers' initial view on the matter, therefore it is officers' opinion that there are no grounds to support the confirmation of the Order.
- 9.4 Where an authority has been directed to make an order after an appeal by an applicant has been upheld, the Planning Inspectorate (PINS) Guidance Note No. 1 states that:  
*'In such circumstances, where an OMA [order making authority] has previously assessed the facts of the case and decided the making of an order is not justified, it may opt to oppose confirmation of the order or it may choose to adopt a neutral stance whereby it neither supports nor objects to confirmation.'*
- 9.5 Therefore, the current decision still to be made is whether the County Council should actively oppose confirmation of the Order it was directed to make, or take a neutral stance, declining to offer any further interpretation and evaluation of the evidence, or comment on the pertinence of the objection to the Order.
- 9.6 If a stance is taken opposing the confirmation of the Order the County Council will be required to give a statement of case positively demonstrating why the Order should not be confirmed.
- 9.7 If a neutral stance is taken, the responsibility for presenting the case for and against the order to PINS will rest with the applicant and the objector respectively.
- 9.8 Whilst officers retain the view that the available evidence is not persuasive in supporting the confirmation of the Order, nor are they of the view that the evidence can be interpreted to clearly demonstrate that no public rights exist.
- 9.9 In conclusion, it would seem the most appropriate and pragmatic course of action for the Council to adopt a neutral stance in line with the guidance in Guidance Note No.1 when submitting the case to PINS, allowing the Inspector to come to his/her decision based on the cases made by both the applicant and the objector.

## **10.0 Recommendation**

- 10.1 That the Director authorises the Authority to adopt a neutral stance in relation to confirmation of the Order within its submission of the opposed Modification Order to the Secretary of State.

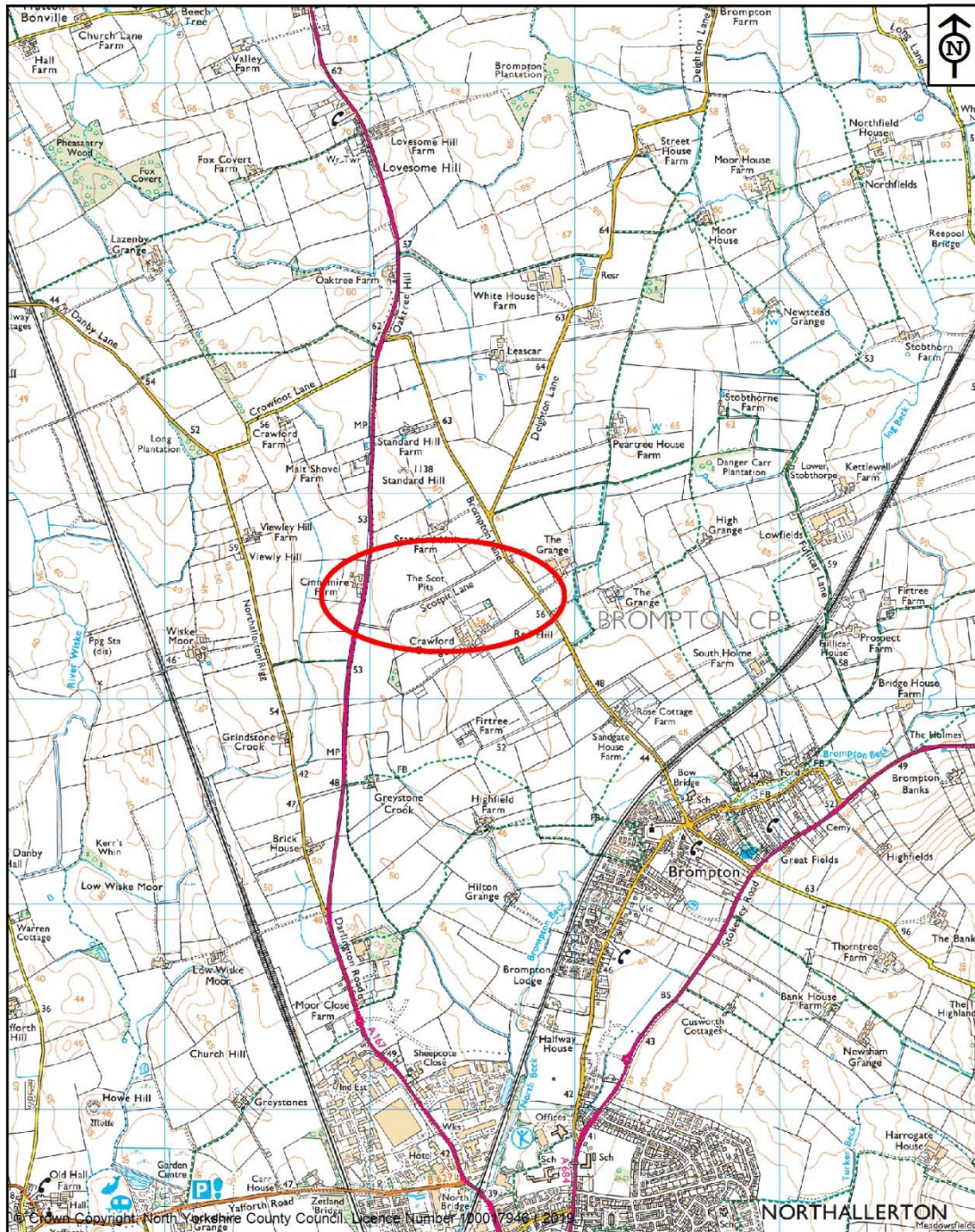
MICHAEL LEAH



Assistant Director: Travel, Environmental & Countryside Services

Author of report: Sarah Blakemore

Background papers: File Ref HAM/2019/06/DMMO

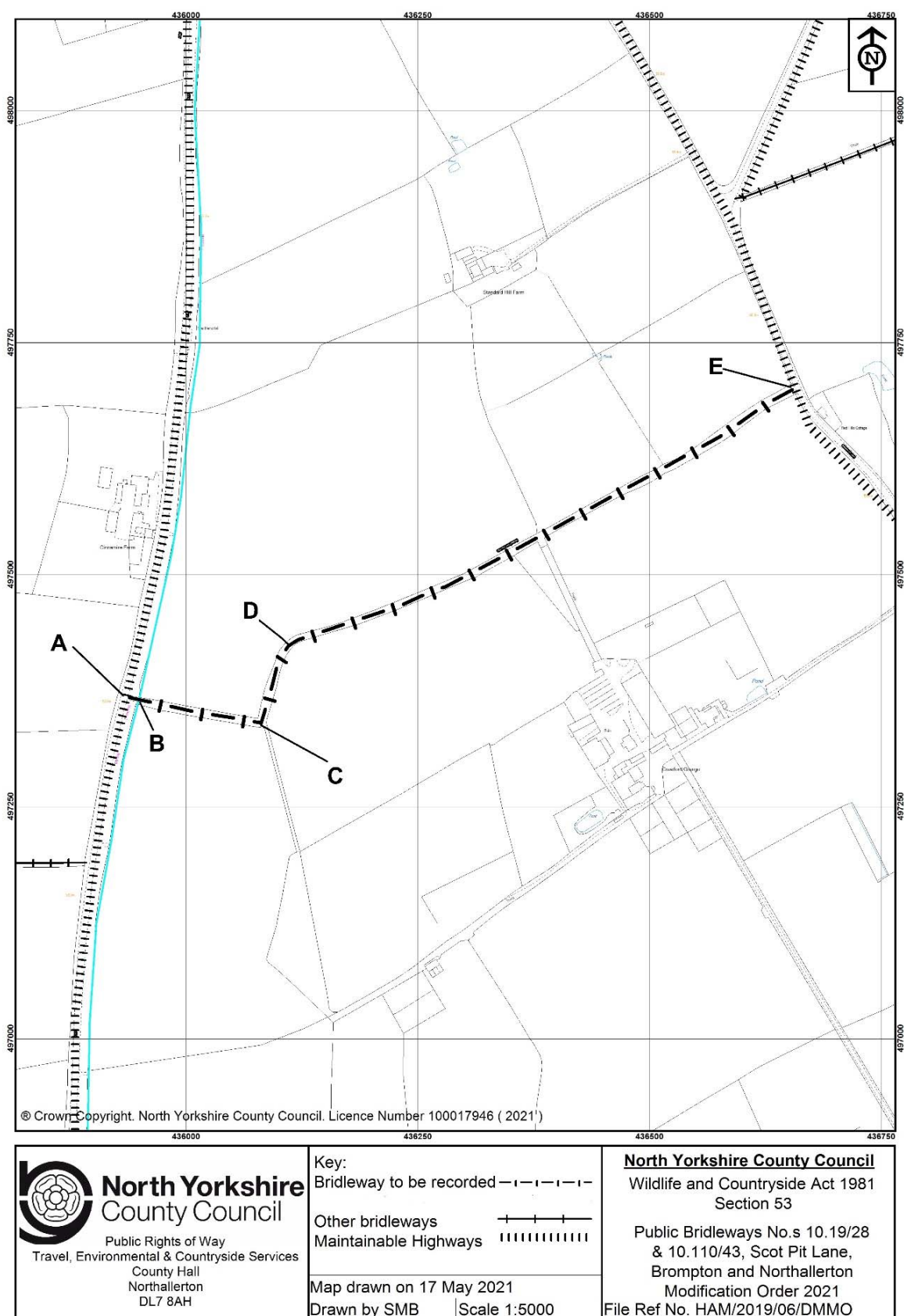
## PLAN 1 - Location Plan



 <p><b>North Yorkshire County Council</b></p> <p>Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p><b>Location</b></p>  <p>Map drawn on 20 November 2019 Drawn by RWA      Scale 1:25000</p>	<p><b>North Yorkshire County Council</b></p> <p><b>Scot Pit Lane Location Plan</b></p> <p>File Ref No. HAM/2019/06/DMMO</p>
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**PLAN 2 – Plan showing the detail of Scot Pit Lane**



**North Yorkshire County Council**

**Executive Members**

**17 December 2021**

**Opposed Public Bridleways No.s 10.19/28 & 10.110/43, Scot Pit Lane,  
Brompton and Northallerton Modification Order 2021**

**AUTHORISATION**

I approve / do not approve the recommendation set out above

.....

ANY ADDITIONAL RECOMMENDATION or COMMENT:

.....

.....

Karl Battersby  
Corporate Director - BES

Signed: .....Date: .....

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# Appeal Decision

**by Edward Cousins BA, BL, LL.M, Barrister**

an Inspector on the direction of the Secretary of State for Environment, Food and Rural Affairs

**Decision date: 23 March 2021**

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## **Appeal Ref: FPS/P2745/14A/7**

- This appeal is made under section 53(5) and paragraph 4(1) Schedule 14 of the Wildlife and Countryside Act 1981 against the decision of North Yorkshire County Council ('the County Council') not to make an Order under section 53(2) of that Act.
- The application dated 27 May 2019 ('the Application') made by Mrs Caroline Bradley, as Applicant, for and on behalf of the British Horse Society was refused by way of notice from the County Council dated 11 May 2020.
- The Appellants claim that a public bridleway along Scot Pit Lane, Brompton, North Yorkshire should be recorded in the Definitive Map and Statement for the area.

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## **SUMMARY OF DECISION: The Appeal is allowed**

### **PRELIMINARY MATTERS**

1. I have been directed by the Secretary of State for the Environment, Food and Rural Affairs to determine an appeal ('the Appeal') under Section 53(5) of, and Paragraph 4(1) to, Schedule 14 of the Wildlife and Countryside Act 1981 ('the 1981 Act').
2. I have not visited the site. However, I am satisfied that I can make my decision without the need to do so.
3. The Appellant relies upon historical documentation in support of the Appeal, to which reference will be made below.

### **The Appeal**

4. The Appeal is made against the County Council's decision not to make an order in respect of the Application to add a public bridleway from the A167 to Brompton Lane along a route known as Scott Pit Lane, North Yorkshire ('the Application Route'), and thereby should be recorded on the definitive map and statement for the area.

### **The Application Route**

5. The Application Route is identified on the Location Map and Order Plan contained in Appendices 1 and 2 to the statement of reasons ('the Statement of Reasons') filed by the County Council in support of the refusal to make a Definitive Map Modification Order ('a DMMO') to add the bridleway identified



as commencing from the A167 at Grid Reference 4359 4973 along Scot Pit Lane to Brompton Lane (C40) at Grid Reference 4366 4976.1.

## MAIN ISSUES

### Summary

#### ***The Definitive Map and Statement***

6. Insofar as definitive maps and statements are concerned, local authorities are required, subject to the determination of objections, to maintain definitive maps and statements of public footpaths and bridleways in their areas. These maps are conclusive as to the rights shown. However, the local authority is under a duty to keep them under continuous review and to amend them accordingly. It therefore follows that the definitive map is always subject to modification under section 53 of the 1981 Act.

#### ***The Tests***

7. Section 53(3)(c)(i) of 1981 Act specifies that an order should be made following the discovery of evidence which, when considered with all other relevant evidence, shows that '*a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist...*'.
  - (1) Test A: Does a right of way subsist on the balance of probabilities?
  - (2) Test B: Is it reasonable to allege that a right of way subsists? For this possibility to arise it will be necessary to demonstrate that a reasonable person, having considered all the relevant evidence available, could reasonably allege a right of way to subsist. If there is a conflict of credible evidence, but no incontrovertible evidence that a right of way could not be reasonably alleged to subsist, then it is reasonable to allege that one does.<sup>2</sup>
9. Thus, for the purposes of this Appeal Decision, and having regard to the legal principles and evidential base which I analyse below, in my judgment, I need only be satisfied that the evidence meets Test B - the lesser test.
10. For the purposes of this Appeal Decision, I also find that any historic user evidence referred to by the Appellant is not relevant to support dedication in accordance with Section 31 of the 1980 Act.<sup>3</sup> However, I am satisfied that

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<sup>1</sup> 27 May 2019 HAM/201906DMMO Scot Pit Lane, Brompton. The Application Route is delineated as lying between points A-B-C-D on the Order Map.

<sup>2</sup> See the judgment of Owen J in *R v Secretary of State for the Environment, ex p. Bagshaw and Norton* (1994) 68 P&CR 402. Also see *Todd v The Secretary of State for Environment, Food and Rural Affairs* [2004] 1 WLR 2471 per Evans-Lombe J. Thus, the test to be applied under Test B is not whether the evidence establishes that a right of way exists, but whether a right of way can from the evidence reasonably be alleged to exist. If it can, the authority must make the DMMO notwithstanding that it may not consider that the evidence is sufficient to establish that the right of way in fact does exist.

<sup>3</sup> On 10 May 2004 the County Committee for Hambleton met to determine an application for a DMMO relating to the bridleway based upon user evidence. Item 277 of the Committee Report it was resolved that the application be not pursued for the reasons stated in the Officer's Report to the Director of Environment Services. This decision was not the subject of any appeal made following this decision.

user evidence may support documentary evidence in relation to a claim for a public right of way at common law.

## **THE EVIDENCE AND ITS ASSESSMENT**

11. In this contextual framework the common law rule is "*Once a highway always a highway*". There is no extinctive presumption or prescription arising from the non-exercise of rights of passage, save only when this arises from natural causes such as inroads of the sea or landslips. In order to extinguish or even vary a right, intervention by statute has always been necessary.<sup>4</sup> If it can be demonstrated that a way is an ancient highway the fact that it has fallen into disuse, for example because another more convenient highway has been dedicated, does not cause it to cease to be a highway.

*'Mere disuse of a highway cannot deprive the public of their rights. Where there has once been a highway no length of time during which it may not have been used would preclude the public from ever resuming the exercise of the rights to use it if and when they think proper'*<sup>5</sup>

In *Dawes v Hawkins*<sup>6</sup> Williams J stated that:

*'It is also an established maxim, once a highway always a highway: for, the public cannot release their rights, and there is no extinctive presumption or prescription'*.<sup>7</sup>

12. Thus, in essence, it is necessary to consider whether the documentary and other evidence is sufficient to support the dedication of a public right of way under common law, or whether such evidence merely indicates that a way existed, but its status was no more than a private right of way. This requires consideration of three main issues: whether the owner of the land had the capacity to dedicate a highway, whether there was express or implied dedication by the landowner and whether there has been acceptance of the dedication by the public.<sup>8</sup>

### **At Common Law**

#### ***Introduction***

13. In support of her case, the Appellant provides a detailed analysis of the mapping evidence relied upon, together with physical features said to be of relevance to her case. It is submitted by her that for the purposes of Test B there is sufficient evidence to support the case that it is reasonable to allege that a right of way subsists and has subsisted over the Application Route.
14. The County Council having determined not to make an Order, has led the case as to why they say they should not be directed to do so. They have produced a comprehensive Statement of Reasons dated 16<sup>th</sup> June 2020 in

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<sup>4</sup> See *Eyre v New Forest Highway Board* (1892) 56 JP 517.

<sup>5</sup> See *Harvey v Truro Rural District Council* [1903] 2 CH 638, at 644, per Joyce J.  
<sup>6</sup> (1860) 8CB (NS) 848.

<sup>7</sup> See also *Robinson Webster (Holdings) Ltd v Agombar* (2002) 1 P & CR 20.

<sup>8</sup> See *The Secretary of State for the Environment, Transport, and the Regions v Baylis* [2000] EWCA Civ. 361 where there can be acceptance by the local authority on behalf of the public.

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response. The County Council acknowledges that physically a lane has historically existed on the ground which follows the line of the Application Route. It is also acknowledged that the mapping evidence depicts the presence of a way. However, it is submitted that these facts cannot in themselves be interpreted as implying the existence of public rights. The County Council therefore seeks to refute the analysis promoted by the Appellant on the basis that it is not possible to draw the conclusions that the Appellant seeks to do, and that the photographs and other evidence fail to address its highway status.

15. It is further asserted by the County Council that no single piece of evidence submitted is sufficiently strong to meet the evidential test, i.e., there is not sufficient 'synergy of evidence' which allows disparate strands of evidence be woven together to create a single body of evidence.<sup>9</sup> Nor do the documents when viewed together provide sufficient evidence to satisfactorily and reasonably allege the existence of public rights so as to justify the making of a DMMO. It is therefore submitted that there is insufficient evidence to demonstrate that the Application Route is and has always been a public right of way.
16. Other responses have also been made in opposition to the Appeal from a number of interested parties.

***Historical Mapping and other documentation***

17. The historical mapping and other evidence led by the parties for the purposes of this Appeal Decision is as follows:
18. *The 1717 Jeffries map; the 1817 Greenwood's map; and the 1822 Langdale's map* - those opposing the Appeal submit that the Application Route is not depicted on these maps. It is contended that such commercially produced maps were sold to the public and would only show routes that would only be available to the public to use. Thus, Scot Pit Lane would have been included if it had been an established public highway at the time that each map was drawn.
19. I consider that this contention in itself, when considered in the context of other evidence, does not provide conclusive evidence that the Application Route did not have the status of a public highway. This is a factor to weigh in the balance when drawing the appropriate conclusions based upon the 'synergy of evidence'.
20. *Mr Croffield's Estate Plan 1765*<sup>10</sup> - This plan was prepared for the owner of the Estate to enable the Estate to be managed, and to identify the boundaries of the land holding. The Application Route is identified as a through route labelled Scot Pit Lane. It is submitted by the Appellant that it is shown in the same manner as other contemporary public roads, such as Brompton Lane C4. It is also identified as being open at both ends, thereby depicting it as a road for the use of the public and noted as such by Mr Croffield as the owner

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<sup>9</sup> The County Council relies upon the concept of 'synergy of evidence' as not being sufficiently present in this case. This was a phrase adopted by Evans-Lombe J in the case of *Todd v The Secretary of State for Environment, Food and Rural Affairs* [2004] 1 WLR 2471.

<sup>10</sup> NYCRO ref. ZEK 1/10

of the Estate. It is further contended that the Estate Plan shows the Application Route separated and fenced or walled off from the properties on either side for its entire length and continuous with the public highway network.

21. It is acknowledged by the County Council that Mr Croffield's Estate Plan of 1765 does record Scot Pit Lane, together with the former Turnpike Road. However, it is contended that this was a privately produced map which was not intended for the public to use, so there would be no requirement to indicate whether or not the lane was a highway. Indeed, it is said that it appears to have been produced to record the landowner's holdings. It is therefore submitted by the County Council that this plan has no evidential value.
22. I disagree with that contention and I note that the Application Route is identified as a through route labelled Scot Pit Lane, and apparently open at both ends. I find that the Plan provides evidential value in support of the Appellant's case when viewing the overall effect of the mapping evidence as a whole.
23. *Highways Act 1773, Section 69* – Named Roads – the Appellant relies upon this section as supporting the interpretation that common highways had to be named before an indictment for obstruction or disrepair could be pursued. However, it is contended by the County Council that although the Pins Consistency Guidelines address this issue, and conclude that although the statutory element is probably correct, it is a matter of fact that nowadays many public highways are not named, and some private roads are. Again, it is contended by the County Council that this evidence has no evidential value.
24. I find that the fact that Application Route has borne a name ('Scot Pit Lane') through the centuries, together with other evidential factors, provide support for the proposition that the way historically has had the status a public highway.
25. *Quarter Sessions Records 1809 for Northallerton* – In the Records for year 1809 there is a reference to a request made asking for an adjournment. This related to a charge made against the Inhabitants of Northallerton arising from the non-maintenance of a certain road known as 'Scot Pit Lane'. The request for the adjournment states that "*Mr Dixon the overseer of the Highways will prove that a great deal has been done to make the Road good and that he hopes the Defendants will be prepared against the next Sessions to get the Indictment discharged*".<sup>11</sup>
26. It is submitted by the Appellant that these Records provide evidence that the Application Route was considered at that time to be a public road with vehicular access, and its status is a legal Court record. However, those objecting to the Appeal take issue as to the accuracy of these Quarter Sessions Records of 1809. It is contended that the Report is not a plea, nor does it constitute a finding of legal fact, but is a mere administrative entry.

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<sup>11</sup> NYCRO Reference QSB 1809/1/9/8.

27. I disagree with that interpretation. It does appear that these Records provide evidence in support of the proposition that as far back as 1809 Scot Pit Lane was treated as a public highway for maintenance purposes.
28. *Tithe Map for Brompton 1839* – The Appellant relies upon this map as identifying the Application Route for its entire length. It bears the apportionment number – 235 and is depicted as a ‘Lane’ with a land area, but no value apportioned for the Tithe. It is submitted by the Appellant that this depiction of the Application Route on the Tithe Map and its description, and the lack of any Tithe value being apportioned, is consistent with the Application Route being a maintained vehicular highway used by the public at the time of the assessment.<sup>12</sup> It is further contended by the Appellant that the Application Route is depicted in the same way as the public vehicular highways such as Brompton Lane C4, and that it connects to what are now public routes such as Fullicar Lane which bears the apportionment number – 975. A minor lane off Fullicar Lane also has an apportionment number – 592 and is listed in the apportionment record as a ‘lane’ in the same manner of depiction as the Application Route, with no value apportioned for Tithes.
29. Again, issue is taken by those objecting to the Appeal as to the accuracy of the Tithe Map and the inclusion of the Scot Pit Lane. Apportionment as No. 235 appears to allocate Scot Pit Lane as a private holding of a named individual. It is said that the Application Route does not appear on the list of Public Highways at the time, which all commence with the number ‘9’. This is said to be conclusive evidence that Scot Pit Lane was a private, and not a public way. It is contended that its apparent omission from the list of public highways negates much of the remaining evidence. In essence, it is submitted that the evidence relied upon by the Appellant in the form of the Tithe Map fails to provide clear and cogent evidence that the Application Route is a public highway. Indeed, it is asserted that there is evidence which suggests a contrary interpretation.
30. I find that the depiction of the Application Route on the Tithe Map with an apportionment number and its description, and the lack of any Tithe value being apportioned, is supportive of the Application Route having public rights of access at the time. I find that the fact that the number ‘9’ is omitted is not conclusive evidence in itself that Scot Pit Lane was a private, and not a public right of way.

### ***OS Mapping***

31. The establishment of the Ordnance Survey (“the OS”) in England and Wales was in response to a military need in the early part of the 19<sup>th</sup> century for detailed accurate mapping arising from the threat of invasion. Prior to that mapping was produced on a more haphazard basis reflecting a variety of individualistic historical needs, commercial or otherwise. Over the decades since then the OS has developed a variety of maps to meet the growing need for accurate and up-to-date revisions of the United Kingdom. The production of maps for sale to the public became an activity of increasing importance

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<sup>12</sup> National Archives IR30/42/55, and IR29/42/55. It is said that it was common for no Tithes to be payable in respect of roads as such areas were deemed to be unproductive.

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from the early part of the 20<sup>th</sup> century. The more recent OS surveys and mapping provide an accurate representation of routes on the ground at the time of survey – historically by means of trigonometry and latterly by means of satellite technology.

32. Reliance is placed by the Appellant upon the following maps -
33. *Ordnance Survey - 1<sup>st</sup> Edition 1:10560 - 6 inch to 1 mile maps.*<sup>13</sup> The Appellant relies upon the fact that the Application Route existed as an enclosed lane named as 'Scotpits Lane'. She contends that this is clearly demonstrated as a road and through route identified in the same manner as other contemporary public roads. Reference is made by the County Council to the fact that the Application Route appears to be shown as gated at each end. However, it is submitted by the Appellant that this does not preclude it from being a public route as gates were not uncommon on minor public routes. In addition, the fact that a gate may be shown at the junction of the Application Route with the Durham Turnpike Road (the current A167), is likely to be on the basis that a turnpike road attracted a toll or charge for use - hence adjoining public roads were usually gated.
34. *Ordnance Survey - County Series 1:2500 - 25 inch to 1 mile maps 1894-1898* – It is said by the Appellant that this series contains valuable extra information. Although the Books of Reference (otherwise known as "Area Books") were no longer published from the mid 1880's, at the time that Yorkshire was surveyed for the 25 inch maps the area of individual land plots were still shown on the maps. The land area is shown on the public maps indicating that they were distinct and separate from the surrounding fields or hereditaments. The Appellant contends that the Application Route is identified on this map with a reference number 419<sup>14</sup> identified as Scotpit Lane. This indicated, so it is contended, that this is identified as a separate and distinct route with public rights.
35. *Ordnance Survey revised New Edition - 1-inch map 1898* – The Appellant relies upon this edition of the Ordnance Survey as being of value in relation to the recording of roads. Map sheet 42 Northallerton identifies the Application Route by reference to the Map Key as an enclosed third-class metalled road (fenced) as a through route and open at both ends. Again, this, so it is said, provides evidence that the Application Route was a public carriage road.
36. *OS 1:25,000 (2½ inch) Maps of Great Britain 1937-1961*<sup>15</sup> – OS Map Sheet SE39 published in 1952 shows the Application Route as a vehicular route in the same manner as other contemporary public vehicular roads. It is identified as 'The Scot Pits'. Also, it is not labelled with the designation 'FP' for 'footpath' indicating, so it is said by the Appellant, that this demonstrates that Application Route was an ancient roadway with higher user rights.
37. However, it must be reiterated that the depiction of a way on an OS map is not, of itself, evidence of a highway. Similarly, the lack of depiction of a

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<sup>13</sup> Yorkshire Sheets 55 and 56 published in 1857.

<sup>14</sup> It is to be noted that this number is the OS field numbering system – not to be confused with the Tithe Apportionment No 235. Both relate to what is now described as the Application Route.

<sup>15</sup> Otherwise known as the 1:25,000 is known as the 'Provisional Edition' or 'First Series' and was the forerunner of the modern Explorer and Outdoor Leisure maps.

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route on the OS mapping cannot necessarily be relied upon as an indication that there was not a publicly used way on the ground. The County Council in general seeks to discount such evidence on the mantra that the depiction of a way on an OS map is not, of itself, evidence of a highway. I agree with this interpretation. However, they provide strong evidence of an existing route on the ground throughout the last two centuries.

### ***Land ownership***

38. *Land Registry Mapping Inspire 2019* – The Appellant contends that this shows the Application Route as unregistered and separate to the surrounding land holdings. It is said that this conforms with Mr Croffield's Estate Plan dated 1765 and supports the public nature of the route. The Appellant also relies upon the fact that the Application Route links east/west to a corresponding public route which is now a current day public bridleway.
39. The further point is made by the Appellant that the Application Route remains unregistered at HM Land Registry. She acknowledges in her Final Comments that the land on each side of the Application Route has recently been registered to the same owner but contends that it is therefore doubtful that there is an existing owner. Further the Appellant asserts that the fact it remains unregistered supports the view that it is a public right of way.
40. I agree that it is somewhat odd that the land forming the Application Route remains unregistered, but the simple explanation may be that no-one could prove title to it. However, I find that in itself this does not provide the inference that the Application Route therefore is a public right of way, but merely that there is no known owner of the land. In the absence of such evidence of ownership, the land belongs to the owners on either side under the *ad medium filum* presumption if the route is in fact a highway.

### ***The Dropped Kerb***

41. In addition, an issue has arisen over the presence of a dropped kerb ('the Dropped Kerb') on the main A167 road at the junction with the western end of the Application Route. This can be seen from the photographs included as part of the evidence. It is submitted by those opposing the Appeal that had the Application Route been historically a public route the expectation would be that there should be no kerb – dropped or otherwise, across its end. Dropped kerbs may be authorised by the Highway Authority where the landowner may require vehicular access to private land, so it is argued.
42. For her part, the Appellant submits that this is an irrelevant consideration as to whether the Application Route is a public thoroughfare, or not. This evidence should be disregarded due to the presence of other similar features where public access is allowed from public roads. Indeed, it could be argued that the presence of the Dropped Kerb is intended in fact to facilitate access by the public to the Application Route, similar to a pavement cross over. I therefore discount this evidence as being supportive of the case presented by the County Council, and other interested parties.

### ***Level of the Application Route***

43. As to the submission that the level of the Application Route is physically higher than the surrounding land, it is said by the County Council that this aspect has not been investigated due to the Covid-19 restrictions. However, it is stated that this could only be interpreted that the landowner wished to ensure that the Application Route remained dryer, and more accessible as part of the requirement for private access to the surrounding fields. This, so it is submitted by the Council, in itself cannot be interpreted to the effect that the Application Route was therefore necessarily available for public use.
44. I reject this submission as having little relevance as to the determination of the status of Application Route.

### ***Direct Access***

45. A further submission is made by the Appellant to the effect that the Application Route would have served as a direct access to Brompton township is rejected by the County Council for the reasons set out in paragraph 8.5 of the Statement of Reasons. Based upon the measurements set out, it is submitted that the effect that any use made of Scot Pit Lane would have to shorten journeys in fact would result in longer journeys.
46. Without being able to conduct a detailed physical assessment on site owing to Covid-19 restrictions, I do not propose to consider this point as part of the analyse of this Decision.

### ***User Evidence***

47. In relation to user evidence the County Council states in its letter dated 17 November 2020 that there has not been any change in circumstances such that the user evidence can be relied upon in this Appeal. I have not dealt with the user evidence in detail but consider that at face value the evidence, some of which dates back to the 1920's, is supportive of the documentary evidence in showing continued use over the claimed route.

### ***Other Interested Parties***

48. Letters of Objection have also been received from Mr T Howard, Mr Mark Corner, and Ms Gill Evans, together with a detailed letter from Mr Paul Langthorne, who lives at Crawford Grange, Brompton. Mr Langthorne makes specific and detailed reference to the Brompton Tithe Maps and Schedules dated 1839 to demonstrate that Scot Pit Lane is not included as a public highway. He also makes reference to the various other points that have already been raised by the County Council relating to the fact that the Application Route is gated at both ends, and that there is evidence of the Dropped Kerb which, so it is said, provides evidence that it is not a public roadway.
49. Issue is also taken as to the mapping evidence relied upon by the Appellant. Mr Langthorne rejects such evidence as not being supportive of the claim that the Application Route is, and historically has been, a public highway. He submits that such evidence is insufficient for such a finding to be made. He also relies upon the fact that the original Committee decision of the County



Council in 2004 referred to the fact that Scot Pit Lane was not shown as excluded from the Finance Act 1910 Assessment. Mr Langthorne submits that if it had been shown as excluded, then this Assessment would have indicated that Scot Pit Lane at the time was believed to be a public way maintainable at public expense. Therefore, in such circumstances, the implication to be made is that it was in private ownership at the time.

50. I find that these submissions do not take the matter much further for the reason that they broadly repeat the submissions made by the County Council. These I have already considered in my findings, above.

## **SUMMARY**

51. Drawing together the various strands, and taking into account the competing submissions, I remind myself that the test to be applied under Test B is not whether the evidence establishes that a right of way exists, but whether a right of way can from the available evidence reasonably be alleged to exist. If it can, the authority must make the DMMO notwithstanding that it may not consider that the evidence is sufficient to establish that the right of way in fact does exist.
52. In my judgment, for the purposes of the Appeal there is sufficient available evidence of the historical existence of a long-standing dedicated physical route to support the proposition that a public right of way on the ground along the line of the Application Route can reasonably be alleged to have arisen for the use of the public.
53. My reasons are as follows:
- (1) With three exceptions, the balance of the historical mapping evidence on successive maps since at least 1765 until the most recent edition of the OS map, together with other documentary evidence, is strongly suggestive of the fact that there has been a through route dedicated for the use of the public along the Application Route;
  - (2) Further, although it is not conclusive evidence in itself, I consider the fact that the Application Route is a lane identified within the local community by name i.e., 'Scot Pit Lane' is also a matter of some significance;
  - (3) The fact that the County Council acknowledges that the mapping evidence has consistently depicted the existence of the Application Route, and that there is no dispute that it exists as a way on the ground, is also of some significance;
  - (4) I do not accept the significance of the apparent depiction of gated ends to the Application Route on the maps as demonstrating the lack of public access. There are many public routes throughout England and Wales which are gated, the purpose of to prevent straying animals;
  - (5) I also do not accept the challenges made by the County Council to the accuracy of the evidence provided by the 1809 Quarter Sessions Record, or the 1839 Tithe Map for Brompton;

- (6) I further reject the suggestion that the Dropped Kerb provides any or any sufficient evidence that the Application Route is a private way. In fact, I find that the evidence of the Dropped Kerb, if anything, is supportive of the Appellants' case in that it could be construed as providing an easier method of access from other public highways to and through the Application Route;
- (7) Finally, I disagree with the County Council's submission that when the various pieces of evidence when viewed together fail to provide overall a sufficiency of evidence to support the Appellant's case.

## **CONCLUSIONS**

- 54. I therefore conclude that in all the circumstances there has been discovery of sufficient evidence upon which it is reasonable to allege that a right of way subsists in accordance with Test B. In other words, a reasonable person having considered all the relevant evidence available could reasonably allege a right of way to subsist.
- 55. Thus, having regard to these and all other matters raised in the written representations I conclude that the Appeal should be allowed.

## **FORMAL DECISION**

- 56. In accordance with paragraph 4(2) of Schedule 14 to the 1981 Act North Yorkshire County Council is directed within 12 months of the date of issue of this Appeal Decision to make an order under Section 53(2) and Schedule 15 of the Act to modify the Definitive Map and Statement for the area to add a public bridleway identified as commencing from the A167 at Grid Reference 4359 4973 along Scot Pit Lane to Brompton Lane (C40) at Grid Reference 4366 4976 identified in the Application dated 27 May 2019, and more particularly delineated as lying between points A-B-C-D on the draft Order Map contained in Appendix 2 to the Statement of Reasons.
- 57. This decision is made without prejudice to any decisions that may be given by the Secretary of State in accordance with his powers under Schedule 15 of the 1981 Act.

*Edward Cousins*

**Inspector**

## North Yorkshire County Council

### Executive Members

17 December 2021

### Opposed Public Bridleway No. 20.46/24, Brook House Farm, Middleton Tyas Diversion Order 2021

#### Report of the Assistant Director – Travel, Environmental and Countryside Services

#### 1.0 Purpose of the report

- 1.1 To advise the Corporate Director of Business and Environmental Services (BES) of an opposed Public Path Diversion Order and the proposal to refer it to the Secretary of State for resolution. A location plan is attached to this report as **Plan 1**. The route is shown on **Plan 2**.
- 1.2 To request the Director and Executive Member to authorise the opposed Diversion Order be referred to the Secretary of State, and that the Authority supports the confirmation of the Order within its submission to the Secretary of State (SoS).

#### 2.0 Scheme of Delegation

- 2.1 Within the County Council's scheme of delegation, it is delegated to the Assistant Director - Travel, Environmental and Countryside Services, to decide whether to abandon an opposed Diversion Order where the Authority is of the opinion that the requirements to confirm the Order may not be met and where an Inspector appointed by the SoS may decline to confirm the Order, or to recommend to the Director-BES that the Order be referred to the SoS for confirmation.

#### 3.0 The Application

Applicant:	Mr. Edward Speir
Date of application:	16/10/2020
Type of Application	Diversion Order S.119 Highways Act 1980
Parish:	Middleton Tyas
Local Member:	Cllr. Angus Thompson
Applicant's grounds for making the application	To remove bridleway users from the potential risks from farm machinery manoeuvring in the yard, as identified in an independent risk assessment carried out in the wake of a recent fatal accident on a Public Right of Way elsewhere in North Yorkshire, and to enhance the applicant's privacy and security.

#### 4.0 Relevant legal criteria

- 4.1 Under Section 119 of the Highways Act 1980, the County Council, having consulted any other local authority, may divert a Public Right of Way where it appears to the Authority that in the interests of the owner of the land crossed by the Public Right of Way described in the Order it is expedient that the line of the route should be diverted.

- 4.2 The County Council charges applicants for the costs incurred in the processing/making of diversion Orders, as provided for by the Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 (S.I. 1993/407), amended by regulation 3 of the Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 (S.I. 1996/1978).
- 4.3 Where an Order is opposed, the County Council cannot confirm the Order; it can only be confirmed by the Secretary of State. The Secretary of State will confirm an Order if the appointed Inspector is satisfied that:
- i) in the interests of the landowner it is expedient to divert the footpath, and
  - ii) the diversion will not be substantially less convenient to the public as a result of the Order, and that it is expedient to confirm the Order having regard to the effect which:
    - (a) the diversion would have on public enjoyment of the route as a whole;
    - (b) the coming into operation of the Order would have, as respects other land served by the existing public right of way; and
    - (c) any new public right of way created by the Order would have, as respects the land over which the right is created and any land held with it.
- 4.4 There is a legal requirement to consult with any other local authority or local authorities in whose area the land concerned is situated.

## **5.0 Reason for the diversion of the bridleway**

- 5.1 The Brook House Farm manager's family recently experienced a tragic fatal accident on their farm, elsewhere in North Yorkshire, in which a walker, using a public right of way through the farmyard, was fatally injured by a reversing farm vehicle.
- 5.2 As a consequence, an independent contractor was hired to carry out a risk assessment at Brook House Farm, where the bridleway runs along the side of a working farm yard. The assessment recommended that the bridleway be diverted, particularly as two potentially dangerous bends were identified which could result in an accident, especially with bike riders riding at speed around the bends.
- 5.3 The diversion would also potentially enhance the privacy and security of the applicant's home which also borders the bridleway, though this is less of a factor as the bridleway meets an unclassified road outside the farm house, which would remain available to the public (albeit as a dead-end) after the diversion has been implemented.
- 5.4 All the land affected by the diversion is in the family ownership of the applicant.

## **6.0 Responses to the initial consultations**

- 6.1 No objections were received at informal consultation. The Diversion Order was made and was duly advertised by notice on 11/06/2021.

## **7.0 Responses to the publication of the sealed order**

### **7.1 The objections received were as follows:**

- Both Objectors were concerned about the change of the surface of the bridleway from compacted stone to a mixture of compacted stone and grass. They argued that the grass surface would be less suitable for use by cyclists and pedestrians, especially during bad weather. The surface of the diverted route will be compacted aggregate apart from the section between Points F and H, which will be grass. The additional bridle gate is necessary for stock control, however the applicant has indicated that all bridle gates will remain open apart from those times when stock is being moved (as is the case with the existing gate). The DMO does not feel that the additional gate or the grass surface will make the new route substantially less convenient for users.
- Both Objectors were also concerned about the development of agricultural land and a potential detrimental effect on wildlife which the diversion would represent. The DMO is of the opinion that the proposal does not represent an undue development of agricultural land and the County Council Ecology team did not express any concerns over the proposal at the informal consultation stage and made no further response at formal consultation.
- One objector complained that the diversion represented a 325% increase in the length of the bridleway. The DMO is of the opinion that this is not a fair comparison as it does not include the length of the unclassified road which forms part of the route, and which would not be affected by the Order. In fact, the increase in length of the route between Points B and C (the start and end of the section to be diverted) is only about 30%, which represents no more than a couple of minutes walking time, at most.
- One objector stated that, in their opinion, there was no need to move a route which has been in use for many decades. In particular they did not believe that there was a significant safety risk as they were a regular user and had never met a farm vehicle and part of the route would still be on access tracks, so the danger would remain. The DMO feels that this opinion, whilst no doubt genuinely held, would not be sufficient to override the recommendations of an independent risk assessment. The assessment identified the risks of farm machinery manoeuvring (and in particular, reversing) in the yard, rather than travelling forwards along the access roads as being the main risk.

### **7.2 As is quite common, no specific expressions of support for the proposal were received during the formal consultation.**

## **8.0 Representation made by the local member**

### **8.1 No comments were received from the local Member.**

## **9.0 Financial implications**

### **9.1 If the opposed Order were to be submitted to the SoS, it would be most likely to be resolved by written representations, or possibly by a public inquiry.**

### **9.2 There would be a non-rechargeable cost to the Authority in preparing a submission to the SoS and responding to any queries raised by the SoS. These costs would be for officer time which would be met by the respective staffing budgets. If the Inspector chose to hold a public inquiry, the costs of arranging, hosting and supporting the Inquiry would fall to the Council.**

## **10.0 Equalities implications**

- 10.1 Consideration has been given to the potential for any equality impacts arising from the recommendations. It is considered that the outcome would have no impact on the protected characteristics identified in the Equalities Act 2010.

## **11.0 Legal implications**

- 11.1 The opposed Diversion Order would be determined by an Inspector appointed by the SoS, by way of, as stated above, either written representations or public inquiry.
- 11.2 The Inspector, on the basis of the legal criteria summarised in paragraph 4.3 above, would decide whether or not to confirm the opposed Diversion Order. If he/she decides to confirm the Order, part of the existing route(s) would be extinguished and the proposed route would be added to the Definitive Map.

## **12.0 Climate change implications**

- 12.1 The proposal is merely to divert part of the existing public bridleway on to an alternative alignment very close by. The confirmation of this order would have no positive or negative impact on climate change.

## **13.0 Current decisions to be made**

- 13.1 The decisions to be made at this stage are, firstly, whether the Order is to be abandoned, or is to be forwarded to the SoS for resolution.
- 13.2 Secondly, if it is decided that the matter is to be forwarded to the SoS then a further decision will need to be made, namely which stance the authority would take within its submission to the SoS towards the confirmation of the Order; that is the Authority needs to decide if it:
- supports confirmation of the Order,
  - does not support confirmation of the Order,
  - considers the circumstances are so finely balanced, or are particularly unclear and wishes to take a neutral stance.

## **14.0 Conclusions**

- 14.1 The prime motive for requesting this diversion has arisen from the farm manager's family having had direct experience of a fatal accident involving a walker and farm machinery. Their subsequent independent risk assessment identified similar potential risks at Brook House Farm and recommended the diversion of the bridleway.
- 14.2 Two objections to the Order have been received from members of the public, which are outlined above together with the Definitive Map Officer's comments.
- 14.3 In conclusion, it is felt that the objections would not prevent the Order from meeting the relevant legal tests to be confirmed, and do not carry sufficient merit to outweigh the recommendations of the independent health and safety risk assessment undertaken for the farm manager.

- 14.4 It is the view of officers that the proposed diversion of the bridleway would not be substantially inconvenient to the legitimate users of the route, overall it is considered that the relevant criteria is met, and that the Order should therefore be referred to the Secretary of State and that the Council should support confirmation of the Order.

**15.0 Recommendation**

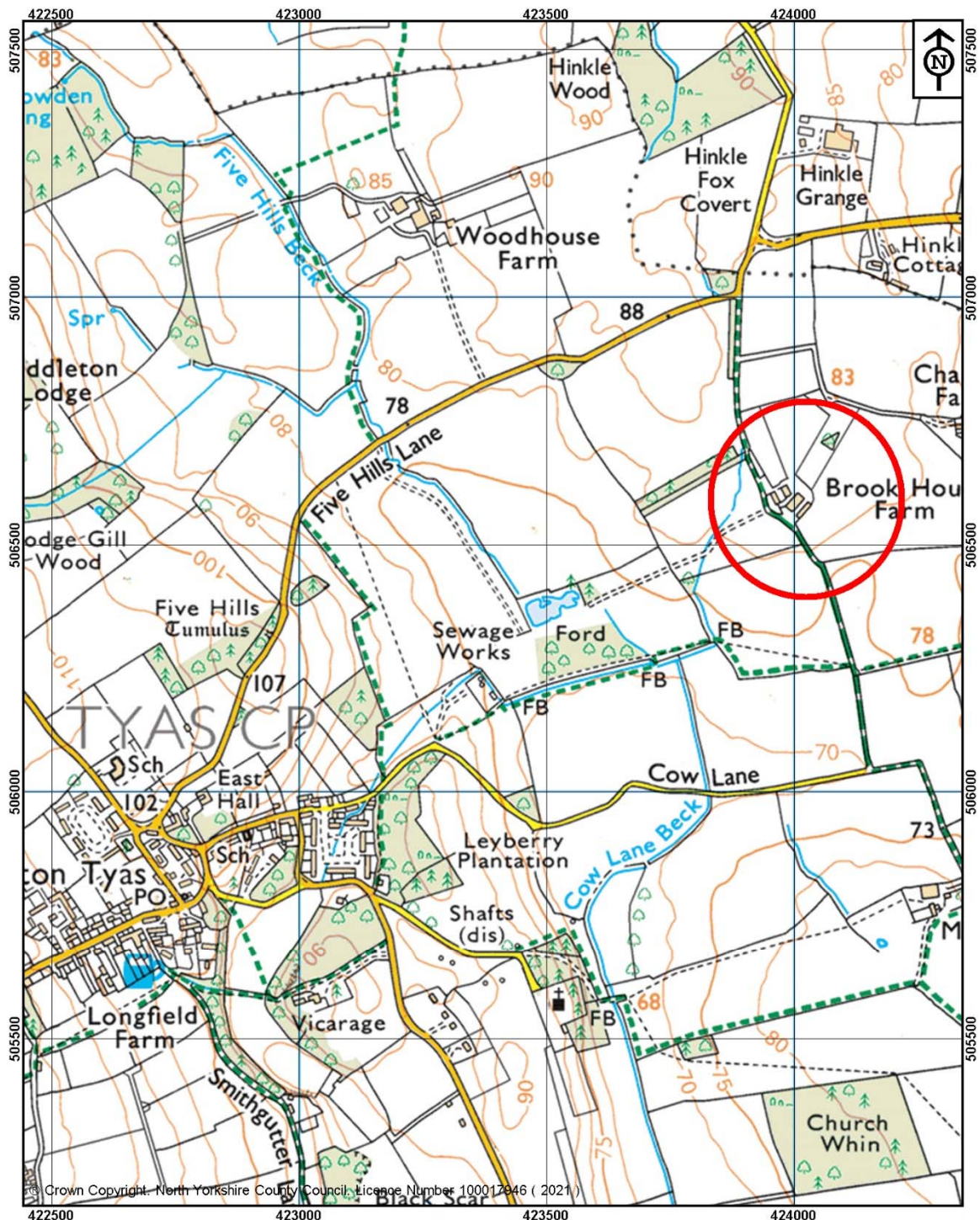
- 15.1 That the Director authorises the Authority to refer the opposed Diversion Order to the Secretary of State for resolution, and to support the confirmation of the Diversion Order within the submission.


MICHAEL LEAH  
Assistant Director Travel  
Environmental and Countryside Services

Author of report: Steve Metcalfe

Background papers: File Ref RICH-2020-10-DO

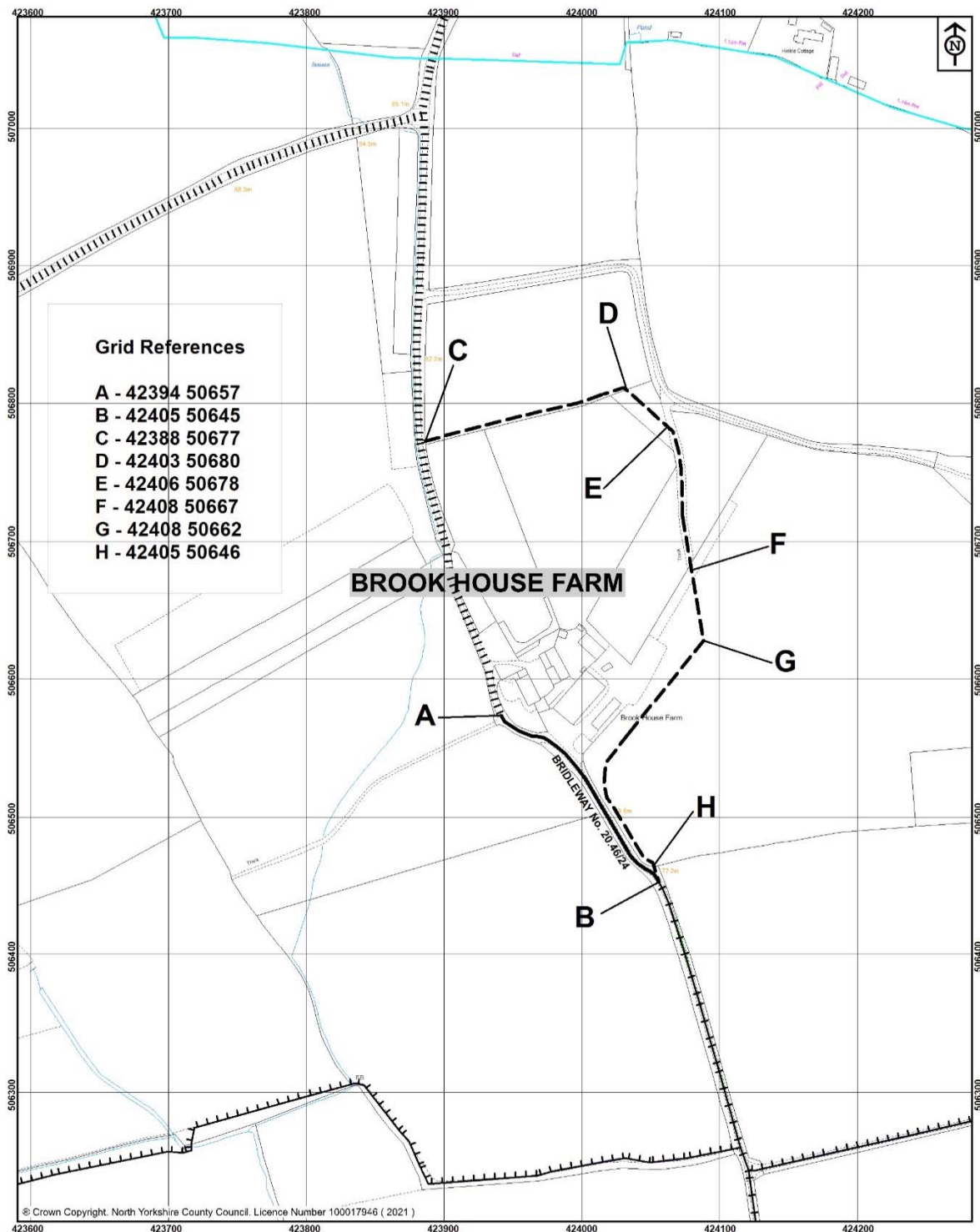
# PLAN 1




 <p><b>North Yorkshire County Council</b></p> <p>Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p><b>Brook House Farm Middleton Tyas LOCATION PLAN</b></p> <p>Map drawn on 5 March 2021 Drawn by SCM Scale 1:10000</p>	<p><b>North Yorkshire County Council</b></p> <p><b>File Ref No. RICH/2020/10/DO</b></p>
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## PLAN 2



 <p><b>North Yorkshire County Council</b> Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p><b>Key:</b></p> <ul style="list-style-type: none"> <li>Bridleway to be added</li> <li>Bridleway to be deleted</li> <li>Other footpaths</li> <li>Other bridleways</li> <li>Maintainable Highways</li> </ul> <p>Map drawn on 12 April 2021 Drawn by SCM</p>	<p><b>North Yorkshire County Council</b> Highways Act 1980 Section 119 Bridleway No. 20.46/24 Brook House Farm Middleton Tyas Proposed Diversion Order 2021</p> <p>Scale 1:2500 File Ref No. RICH/2020/10/DO</p>
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**North Yorkshire County Council**

**Executive Members**

**17 December 2021**

**Opposed Public Bridleway No. 20.46/24, Brook House Farm, Middleton Tyas  
Diversion Order 2021**

**Report of the Assistant Director – Travel, Environmental and Countryside Services**

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**AUTHORISATION**

I approve / do not approve the recommendation set out in the report.

ANY ADDITIONAL RECOMMENDATION or COMMENT:

.....  
.....

Karl Battersby

Corporate Director - BES

Signed: .....Date: .....