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**PEAK
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Peak District National Park Authority (Washgate Prohibition of Mechanically Propelled Vehicles) Traffic Regulation Order 2017

Regulation 14 Decision Notice

National Park Authorities' Traffic Orders (Procedure) (England) Regulations 2007

12 July 2017

The Authority has made a traffic regulation order dated 6 July 2017 that will have the effect of prohibiting use by mechanically propelled vehicles at any time along the route known as Washgate which (1) in the County of Derbyshire, commences from Booth Farm (grid reference SK 057 680), proceeds in a south westerly direction for a distance of 1000 metres or thereabouts to meet the county boundary at the River Dove and bridge (grid reference SK 053 674) and (2) in the County of Staffordshire, from the county boundary at the River Dove and bridge, proceeds for a distance of 500 metres or thereabouts ending at Tenterhill (grid reference SK 049 673).

Mechanically propelled vehicles on this route have an adverse impact on the ecological, archaeological and landscape interests, the natural beauty, amenity and recreational value of the area, and the special characteristics of the route. It is therefore considered expedient to make a permanent order prohibiting all mechanically propelled vehicles at all times to meet the Authority's statutory purposes and in the overall public interest.

The Authority considered that it is expedient to make the order for the purposes of:

- preserving or improving the amenities of the area through which the road runs
- conserving or enhancing the natural beauty of the area, or of affording better opportunities for the public to enjoy the amenities of the area, or recreation or the study of nature in the area.

In balancing the duty in s122(1) to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the factors set out in S122(2) of the Road Traffic Regulation Act (RTRA) 1984, the Authority believes the need to preserve the amenity and conserve the natural beauty of the route outweighs the needs of mechanically propelled vehicular users of the route notwithstanding that such a restriction will affect the expeditious and convenient use of the route by mechanically propelled vehicles. For vehicles seeking to use the affected route as a through-road, there are alternative routes on metalled roads in the area.

Representations objecting to the making of the order were received under Regulation 4 and 7 of the National Park Authorities' Traffic Orders (Procedure) (England) Regulations 2007 ("the Regulations"). The Authority considered these at meetings of the Audit Resource and Performance Committee on 18 September 2015 and 7 September 2016 and confirmed its decision at a meeting of the Audit Resource and Performance Committee on 3 March 2017 (www.peakdistrict.gov.uk/committees). In accordance with Regulation 14 of the Regulations, the Authority summarises below the objections raised and gives its reasons for not acceding to them.

Objections were also submitted in November 2016 in response to the consultation on the proposed modification under Regulation 12 of the Regulations for an exemption for specified motorcycle events. These were reported to the committee meeting on 3 March 2017 (www.peakdistrict.gov.uk/committees).

This Regulation 14 decision notice accompanies the order made on 6 July 2017, the notice of making and the map showing the extent of the proposed restrictions. These may be viewed at www.peakdistrict.gov.uk/vehicles and at Aldern House, Baslow Road, Bakewell, Derbyshire, DE45 1AE from 8.45am to 5pm Monday to Friday (closed Bank and Public Holidays and closed at 3pm on Christmas Eve).

Objection	Response
<p><u>Amenity</u> Objections raised included the importance offered by Washgate to enjoy and explore the countryside by a chosen recreational activity. It was considered that there was a lack of alternative routes in comparison to those available for other users. Comments were made on the route's value in terms of its historic use and as a network link away from busy main roads. Restrictions would impact on the amenity of a group of users, including those reliant on motorised transport for access. The activity was also referred to as being beneficial for tourism and the local economy.</p>	<p>Washgate is an important recreational asset for all users and is important as a means to access other recreational opportunities.</p> <p>The Authority is conscious of the limited number of routes available for recreational motor vehicles users as compared to that available for other users in the National Park. The characteristics of this route means that it is valued by many different users yet there is evidence of impacts occurring on this area of conservation and amenity interest.</p> <p>Whilst it is recognised that motorised vehicle users, in undertaking their chosen form of recreation, also appreciate the special qualities of the area, the continued use of this area by this mode of transport is adversely affecting those special qualities to a greater extent than other users.</p> <p>In cases where there is a conflict between the NPA's two statutory purposes, greater weight shall be attached to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage.</p> <p>The route will still be available for non-motorised use and the TRO will not prevent those with limited mobility using wheelchairs and tramper-style vehicles, subject to physical limitations of the route. Reasonable access by other means will also be provided for disabled users in accordance with the Authority's ongoing duty.</p> <p>Access is also available for the Bemrose Trial and Reliance Cup Trial, subject to such terms as required by the Authority.</p> <p>All recreational users are important to the local economy.</p>
<p><u>Historic Motor Cycle Trails</u> Objectors were concerned over the potential loss of long-established motorcycle trials and considered that they formed an important part of the heritage of the area. These events were said to be well-managed, of short duration, and had a minimal impact.</p>	<p>The Authority recognises the heritage value of long-established motor vehicle events.</p> <p>The historic nature of the route and its setting in the landscape as well as the variety of natural and cultural heritage features and the physical characteristics of this route means that it is valued by many different users yet there is evidence of conflict and damage occurring on this area of conservation and amenity interest.</p> <p>The use of this route by the Bemrose Trial and Reliance Cup Trial will be balanced with their impacts on wider amenity</p>

<p><u>Historic Motor Cycle Trails cont.</u></p>	<p>and conservation concerns and subject to such terms as required by the Authority.</p>
<p><u>Impact on the Environment</u> Objections considered that the natural beauty, landscape, and the environment of the area were unaffected by vehicles because of the distances involved and the impacts from farming. The route and its use by vehicles was also said to contribute to the cultural heritage with responsible motorcycle use being considered compatible with quiet enjoyment in a National Park.</p>	<p>National Parks were designated on grounds of their scenic value and recreational opportunities.</p> <p>The route is not only a means to access special qualities but also a valued part of those special qualities. The physical and historic nature of the track and its setting in the landscape along with natural and cultural heritage features adds to the experience of using the route. The route also gives the opportunity for quiet enjoyment and to experience tranquillity, one of the special qualities that people value most about the Peak District National Park. Noise from motorbikes in particular can carry over large distances</p> <p>Evidence is available to show that environmental damage is occurring as a result of motor vehicle recreation, both directly and indirectly. The impacts on the natural beauty of the National Park, and on its special qualities, are not just confined to the linear route and its character but also affect the wider environment. This impact and the anticipation of the presence of motorised users can detract from the experience and enjoyment by other users. Section 5 of the National Parks and Access to the Countryside Act 1949, covering the purpose of understanding and enjoyment of the special qualities of National Parks, suggests a focus on quiet outdoor countryside recreation associated with the wide open spaces, wildness and tranquillity to be found within the National Park. (Defra 2007)</p> <p>The definition of natural beauty recognises that England has a landscape that is formed through the interaction of man-made and natural processes. It includes the wildlife and cultural heritage of an area as well as its natural features.</p> <p>Tranquillity is more than simply noise; it includes the landscape setting, natural sounds and visual intrusion.</p>
<p><u>Damage</u> The restriction on 4-wheeled vehicles was noted with objectors considering that motorcycle use would have little impact on the condition of the route. Objections identified that the pitched section of the route is in a good condition and this has remained unchanged. Damage was seen as being caused by 4x4s and water run-off.</p>	<p>The order is not being made on the grounds of preventing damage to the route but instead for reasons relating to amenity and conservation.</p> <p>Maintenance and condition of the route is a separate matter to the reasons for making the order although the state of disrepair of the route and its sustainability can be factors for the NPA to take into account when considering the impact on natural beauty and amenity.</p> <p>Evidence is available to show that environmental damage is occurring as a result of motor vehicle recreation, both directly and indirectly. 4-wheeled use has been physically restricted from part of this route since 2009 but vehicular impacts are continuing.</p>

<p><u>Damage cont.</u></p>	<p>The natural beauty and amenity of the area and of other users is affected by motorised vehicle use on this route. This vehicle use is contributing to the route deterioration and where there is disrepair this detracts from the amenity of the route and area.</p> <p>The NPA is not the Highway Authority with its attendant responsibilities for maintenance.</p>
<p><u>Discrimination</u></p> <p>Objections considered that the enjoyment of other users was being unfairly promoted at the expense of vehicle users who were a minority group with only a small percentage of the rights of way network. Access should be provided for all and even though all recreation users have an impact only vehicle users were being discriminated against. It was considered that the irresponsible behaviour of a few was affecting responsible motorised users. Disabled users rely on these routes to access the countryside and regard should be given to human rights and the Equality Act. Concerns were also expressed about prejudice in the decision-making process and the blockage of the route by boulders.</p>	<p>The National Park is for everyone and use of recreational motor vehicles on routes with proven rights is a legitimate activity. The Authority does not have a policy of banning use of these green lanes as a matter of principle, and there are opportunities for recreational motor vehicle users to enjoy the area on other routes by their chosen mode of transport.</p> <p>The Authority will promote opportunities for everyone to understand and enjoy the National Parks' special qualities in a responsible way but where there is a conflict with the conservation of these special qualities then action will be taken including the use of TROs where appropriate.</p> <p>It is the Authority's view that recreational motor vehicle use needs to be managed on some 'green lanes', and that this may include restrictions on use using the powers granted to NPAs. This is assessed on a case by case basis. In this case, the need to preserve the character and amenity and conserve the natural beauty outweighs the needs of mechanically propelled vehicular users of the route notwithstanding that such a restriction will affect the expeditious and convenient use of the route by mechanically propelled vehicles.</p> <p>The route will still be available for non-motorised use and the proposed TRO will not prevent those with limited mobility using wheelchairs and tramper-style vehicles, subject to physical limitations of the route. Reasonable access by other means will also be provided for disabled users in accordance with the Authority's ongoing duty.</p> <p>There are also users with other characteristics such as hearing or visual impairment or learning difficulties that might be affected by motorised users on the route. Damage and associated loss of amenity also affects these users of this route.</p> <p>Access is also available for the Bemrose Trial and Reliance Cup Trial, subject to such terms as required by the Authority.</p> <p>The Authority operates a democratic process via the consultation and the consideration at committee. Decisions are made in an open and transparent way and Members consider all relevant arguments and evidence put before them before making a final decision.</p>

<p><u>Displacement</u> Objections considered that a closure as well as disrupting the network of vehicle route could lead to pressure being placed on other routes and areas and increased environmental concerns and conflict between users on these routes. An increase in illegal use may occur which would be difficult to prevent.</p>	<p>The Authority recognises that the closure to vehicles is likely to place additional pressure on other routes. However the matter has become urgent and requires a specific response within the context of the work on other routes. Monitoring to determine the amount of displacement onto other routes will be continued.</p> <p>Illegal use will be monitored and addressed with the Highway Authority with regards to the appropriate selection of barriers and the police in relation to enforcement.</p>
<p><u>User Conflict</u> Objections identified that the majority of users are responsible and respectful. Respondents were not aware of any conflict but considered that better signage would assist. It was noted that the area has a number of alternative routes for non-motorists who seek to avoid vehicles.</p>	<p>Washgate is an important recreational asset for all users. All users need to act responsibly and courteously in order to reduce the potential for conflict</p> <p>Mechanically propelled vehicles are visually and aurally intrusive and there may be difficulties in passing and avoiding other users. Government guidance suggests that ‘a level of recreational vehicular use that may be acceptable in other areas will be inappropriate in National Parks and incompatible with their purposes.’ (Ref: Guidance for National Park Authorities making Traffic Regulation Orders under section 22BB Road Traffic Regulation Act 1984, Defra, 2007).</p> <p>The Authority does not accept that it is reasonable to expect non-motorised users to go elsewhere to avoid conflict. There are also alternatives for motorised vehicle users where they do not come into conflict with others to the same extent and, for those seeking to use the affected route as a through-road, there are alternative routes on sealed metalled roads in the area.</p> <p>The Highway Authority has a statutory duty to signpost and waymark public rights of way. The NPA supports them in this duty and, where appropriate, seeks to also provide advisory signs.</p>
<p><u>Economic Impact</u> The closure of this lane and others was said to have a detrimental effect on tourism and the local economy due to a loss of revenue from vehicle users.</p>	<p>All recreational users are important to the local economy. Closing routes to motor vehicles can have beneficial as well as negative effects on the local economy.</p> <p>The route will still be available for non-motorised use.</p> <p>Access is also available for the Bemrose Trial and Reliance Cup Trial, subject to such terms as required by the Authority.</p>
<p><u>Alternatives</u> Objectors considered that a permanent ban was unnecessary and that alternatives should be considered. These included a restriction on 4x4s, allowing historic</p>	<p>The management of recreational motorised vehicles within the National Park is a high priority work area for the Authority. Members of vehicle user groups are on the Peak District Local Access Forum informing and advising the NPA.</p>

Alternatives cont.

motorcycle trials, permit systems and organised events, seasonal closures, repairs and maintenance, education, voluntary restraint and the retention of access to Leycotes Farm from Booth Farm. Working in partnership and the willingness for vehicle users to be part of the solution was emphasised. Provision of signage, alternative routes and electric bikes were also raised.

NPA Members are aware that a variety of measures can be used to resolve issues around recreational vehicular use. The consultations undertaken offer the opportunity to suggest alternatives and for them to be considered by Members. All consultation responses have been given due regard. The decision to pursue a different course of action after having regard to all relevant considerations doesn't negate this.

Where a least restrictive option achieves the desired outcome then this may be a factor for consideration. The use of this route by the Bemrose Trial and Reliance Cup Trial will be balanced with their impacts on wider amenity and conservation concerns and subject to such terms as required by the Authority.

In view of the nature of the route and area, it is not considered that the impacts could be adequately managed by a more selective TRO or other measures such as a scheme of voluntary restraint and would not achieve the outcome of protecting the natural beauty and amenity of the area in accordance with the Authority's obligations in respect of its statutory purposes.

The route will remain a priority and the monitoring, management and review of measures adopted will continue to take place.

4-wheeled vehicles have an impact on the route and adjacent land by virtue of their width and weight. At certain times on certain sections of the route there may be less impact by motorcycles on the route surface although other impacts remain. The same applies to electric motorcycles although there is scant evidence at present of these being used within the Peak District National Park on unmetalled roads.

The NPA is not the Highway Authority and does not have responsibility for maintenance. The NPA adopts a range of measures to reduce the impact of motorised use, including the use of volunteers where the works are of a nature suitable for volunteering. The NPA recognises that working in partnership with all those involved is conducive to effective management in the long-term for the route network as a whole.

It is recognised that there is a cost (both direct and indirect) of making TROs, but it is considered necessary to take this action in the overall public interest and to meet the obligations of the National Park Authority in respect of its statutory purposes.

An exemption to the order makes it clear that use to access premises at Leycote from Booth Farm is unrestricted.

Information

Comments were made relating to suitability of the supporting evidence, the consultation process, grounds for making a TRO, the legality of the proposal and details of the code of conduct.

The statement of reasons and the route management reports set out the different components of natural beauty and impacts and are there to provide relevant factual information; they do not seek to make a judgment on the final decision to be made.

The consultations undertaken offer the opportunity for additional matters to be raised and for them to be considered by Members.

There is no requirement to identify comparative use and impacts when identifying impacts from mechanically propelled vehicles.

The legislation allows for TROs to be made on grounds of natural beauty and amenity and the NPA is the appropriate authority to make the decision on whether this outcome would be met by a restriction.

TROs will be considered where appropriate having regard to all relevant considerations at the time including comments provided in response to the consultation undertaken and by undertaking the balancing exercise provided by s122 of the RTRA 1984.

On the balance of probabilities, the evidence available to the NPA at this time leads to the conclusion that there are public vehicular rights over the route and, as the route is unsurfaced, the Authority has power to make a traffic regulation order over the whole route.

Members of vehicle user groups are on the Peak District Local Access Forum and together with the Green Lanes Forum contributed to the code of conduct at www.peakdistrict.gov.uk/greenlanecode.