

Peak District Local Access Forum

Date: 12th October 2011

Item: 3

Title: REVIEW OF NPA STRATEGY AND POLICY TO MANAGE RECREATIONAL VEHICULAR USE

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Purpose of the Report

To agree a LAF response to the NPA's review of its motor vehicle strategy and procedure for making TROs

Background

The following draft papers were circulated to LAF Members in advance of the meeting, requesting written comments.

- **STRATEGY FOR THE MANAGEMENT OF RECREATIONAL MOTORISED VEHICLES IN THEIR USE OF UNSURFACED HIGHWAYS AND OFF-ROAD**
- **PROCEDURE FOR MAKING TROs**

The comments have been collated and summarised as follows, providing a basis for discussion at this meeting.

Report

The following is a summary of comments received:

Strategy review

Introduction and background

General Comments

- I think both of these documents contain very positive statements about the active management of unsurfaced highways, which is to be welcomed.
- We are disappointed that the problems of displacement are not addressed. There is a requirement for routes which challenge off road vehicles and their drivers which need to be met.
- Where is the recognition that there is a significant and growing demand from the public for recreational vehicle access to the countryside?
- Where is the recognition that this demand can only be met by preserving the integrity of the existing legal network and that reducing the resource while demand continues to increase can only lead to more illegal use?
- Where is the recognition that vehicle users have never had access to more than a small percentage (less than 2%) of overall routes and that the percentage available has dramatically reduced since NERC?
- Where is the commitment to fairness and balance in dealing with the supposedly competing interests of different users etc?

- There is no recognition that (recreational motor vehicle) activities are legitimate. Consequently the authors don't feel any compulsion to treat (them) with the same consideration that they automatically give to other users.

Legal Framework

- Attention should additionally be drawn to:
 - the raft of statute law contained in Road Traffic Regulations, Road Traffic Acts, Wildlife and Countryside Act etc to which the Authority is also bound to have regard.
 - the duty upon 'relevant authorities' to respect the legislation regarding National Parks should be documented. There is a clear requirement on neighbouring authorities to take account of the special characteristics of National Parks and policies which exist to protect them.
- It may be prudent to put a paragraph in the paper to help manage expectations. Members may think a new policy gives them a new legal authority, whilst others will be looking for carte blanche to impose blanket TROs across the Peak and another group will be feeling victimised by its very existence. All the Strategy and Procedure can do is clarify the legal position, define some issues and suggest appropriate response within what is legal and capable of being resourced. Thus some kind of template for considering may help define possible solutions, and some summary of what has been achieved so far illustrate what has in fact been achieved.

Priority routes

- This puts the PD Local Access Forum in an awkward and embarrassing position particularly when we went through a long drawn out process, attending user group meetings, etc. and of offering advice to the PDNPA and DCC on the use of MVs. Further, the very involved process of drawing up Management Plans and proposals taking up a vast amount of time by members of the LAF and Officers and then being accepted by the PDNPA.
- The exercise which identified the 23 'red' routes was well done, and, with the exception of Hurst Clough, has needed no amendment. A points system of key criterion and points score on a 1 to 5 scale was the subject of consultation before it was agreed, and gave transparency and consistency. This should be revised as necessary but retained as an accountable basis for making recommendations which may necessarily be based upon some degree of subjectivity.
- It is important not to overstate the problem. The major concern of community and pressure groups centres on seven routes only – School Lane, Chertpit Lane, Bradley Lane, Long Causeway, Chapelgate and Brough Lane and Washgates. For each of these the LAF has made recommendations which were supported by PDNPA. Had these recommendations been speedily acted on by the relevant authority all the opprobrium heaped upon both the Authority and the LAF would have been avoided. The issue is less one of the Authority needing to change its policies than one of the relevant authority needing to meet its statutory duty.
- A follow on from that might draw attention to the fact that perhaps some of the most abused (legally and physically) routes eg in Hope Woodlands arouse the least attention, because of their relative remoteness.

Key Principles

1. Statutory Purposes

Key Principle 1 refers to “optimising opportunities for understanding and enjoying the Parks special characteristics” – I think that a robust approach to tackling illegal and (equally important) legal use of unsurfaced highways through the use of TRO’s would be welcome.

How is it intended to evaluate these criteria objectively as part of the Making TROs process?

2. Communities

The paper correctly identifies particular problems relating to routes close to communities. Much of this is related to behaviour. The nature of the problem regarding those routes has a distinct dimension which is much less a relevant consideration on moorland routes away from all habitation. Conversely the moorland routes expose their own distinguishing features, which will include landscape and environmental matters and a sense of outrage at the sheer inappropriateness of MPV use in wilderness areas. Here the conflict is voiced less by local communities than by other recreational users – often visitors to the National Park. Thus it is again right that the paper suggests a range of relevant considerations regarding usage of different routes rather than any straight jacketed formula.

This principle needs to be given due weight as many local communities feel they aren’t heard and the needs of visitors are put above those of the locals. Where there is danger from vehicle activity (surface damage and speeding vehicles) local communities are much more exposed to these effects.

3. Legal Status

The paper needs to be explicit in stating the needs of all user groups have equal merit, and that no one group has right to inconvenience other users or monopolise a route. Indeed the principle of upgrade, where this may apply, is that no higher right may be accorded where it causes nuisance to those with existing entitlement.

Where is the commitment to preserving legal rights and the motoring heritage of this country? The answer of course is that there is none.

It is outside the scope of the new policy to address failures in current legislation, or show where it is not fit for purpose. There clearly are such instances, and a problem is that where these occur over determination of status it places additional pressure on the Authority by parties who have been aggrieved by the initial process. However there may be no harm in identifying a need to enumerate examples of failure in legislation when these may be deemed to have occurred with a view to using that evidence to support representation to HM Government to plug loopholes in current legislation.

Before involvement in management plans of routes it must be 100% clear that such routes have legal vehicular use. Where it is clear there is legal use the long term sustainability of the route should be considered, however, if a route proves to be far too costly to maintain it to a good standard and its impact on the local environment and community is of concern the appropriate TRO should be implemented.

4. Involvement of Users

We know there are two types of MV users, those that want to quietly and legally explore the Peak District and those who want the adrenalin rush by using the Peaks as an “adventure playground”. The Peaks are not the place for such adventure, in some cases illegal, use as identified in the draft strategy and policy document. However we shouldn’t penalise the responsible user who often goes unseen and unheard.

Whilst there may be a body of opinion that enforcement should increasingly rely on penalties and prosecution I am not of that persuasion. I believe an approach seeking consensus to be the right approach, and in the long term the most effective and cheapest – though not necessarily the easiest or quickest. What is needed is a long

term solution which is credible to all parties and so becomes embedded and accepted practice. There is not the resource to carry out intensive enforcement even if this could be shown to produce the desired outcome. Ultimately the sorts of codes of conduct which govern other sports should come to apply for MPV use as the activity, and its governing bodies, mature and learn that the way forward to getting better agreements for members does not lie in insisting on all, and exclusive, rights the whole of the time.

How will this be implemented?

Key Principles 4 refers to minimising damage and disturbance. Nowhere is there any reference to maintenance nor of the duty of the Highways Authority duty to protect and assert legal use and to accommodate public demand.

5. Illegal activity

Encourage the police to prosecute!

6. Role of HAs

I have difficulty with any concept that if a highways authority fails to discharge its duty it somehow becomes the National Park Authority's responsibility. There may be extenuating circumstances where the Authority feels it has to protect the landscape or whatever but the norm must be that whoever has the prime duty is accountable. If perceptions that making an Order would be the subject of successful legal challenge are held by the highways authority no legal magic wand of additional powers exists a National Park Authority can wave to meet a problem. Unless there is a significant difference of view between legal professionals, any sense the National Park may have that exercise of its own more limited powers is appropriate will be effectively undermined where the highways authority believes such action not to be within its own powers.

PDNPA (should) compel HA to repair damaged routes.

7. Sandford principle

Again this is a very important principle as many people, local and visitors alike, feel the special characteristics of the PDNP are being damaged for the many by the few.

Whether responsible or irresponsible, on many routes it is simply not possible that motorised vehicles can use them without destroying many of the special characteristics – a factor which should also be protected by the Sandford principle...?

8. Communications

Key Principle 8 and the Making TROs documents name various consultees then include the woolly phrases "other interested parties" and "statutory consultees or known interest groups". Who are statutory consultees and who are the interested parties or groups? In the interests of fairness we consider the motorists should be included, represented by a group or groups that have already been active in establishing partnership with users and managers. To date the point of contact with motorists has been PDVUG (Peak and Derbyshire Vehicle User Group), which is an umbrella organisation including members of the TRF/PROWI (Trail Riders Fellowship/Peak Rights of Way Initiative) and GLASS (Green Lane Association - not vehicle-specific). Being nation wide organisations we would like to see TRF/PROWI and GLASS nominated as consultees to represent trail bike riders and 4x4 drivers.

9. Action Plans

Who will write the action plan?

10. Resources

The paper should perhaps identify a criterion regarding the safeguarding of investment of public monies eg in resurfacing a damaged route.

Does this mean the above will only happen if funds allow?

These sections could be regarded by sceptics as ways of not doing things e.g. 'There are not sufficient resources, things will not happen for a long time.'

Key Principle 10 refers to the effective use of resources. A resource generally overlooked is the use of volunteers, but some recent precedents have been set.

PROCEDURE FOR MAKING TROs

Comments

Procedural considerations which will be made

- **Are there concerns as to the displacement or knock-on effects of the closure of a route?**
- **Are the necessary resources available?**

I feel strongly that these two points should be omitted.

There will always be implications for any action and displacement of use is one of them. If there is a problem we should solve it and if it creates another problem we need to tackle that. What future problems are created cannot reliably be predicted and there will always be new problems, the TRO policy is not something that finishes, it is in place to deal with issues that arise, now and in the future.

If something needs to be done it needs to be done, if we cannot afford it that does not mean it doesn't need to be done.

General points

1. Resources. There is widespread awareness that resources are limited but there is also a feeling that lack of resources is a constant theme and is used frequently to avoid taking action. A policy that is not adequately resourced is not a policy it is a wish list. I don't know how to phrase this but without sufficient resources little will happen however sound the policy and there is already a widespread perception that 'nothing ever happens'. This will continue without some firm commitment to adequate resources and the resulting action.
2. Is there a place for some consideration of looking for opportunities for off-roading activity which does not include conflict with other users, sustainability problems etc. For instance, the creation of specific routes for specific users only e.g. special tracks within forestry areas.