

Chapel Gate Track – Proposal for a Temporary Traffic Regulation Order and investigation of the scope for and creation of an adjacent Public Bridleway
(Grid Reference: SK 093825 to SK113842)

Proposal and Recommendation

- 1. To ask the Peak District National Park Authority to make a Temporary Traffic Regulation Order (TRO) for motor vehicles for an 18 month period in respect of the Chapel Gate Track, and assess the scope and resources required and available to create a public bridleway (with safeguards to prevent vehicular use) adjacent to that track.**

Purpose

2. This is a proposal from the Peak District Local Access Forum (LAF) with its statutory remit to advise the National Park Authority and Derbyshire County Council. It is intended as a means of safeguarding the landscape and conservation importance of the area and improving the opportunities for enjoyment by legitimate users of this area in future. It follows production of a Management Plan for the Chapel Gate route (available as a background document following approval of recommended action in December 2009), and thorough consideration of options for management of the route together with National Park Authority and Derbyshire County Council officers at the LAF Sub Group meeting on 5th August 2010. This report follows subsequent consultation with Sub Group members and officers.

Strategic and Legal Framework

3. The recommended action is in line with:
 - “Making the Best of Byways” published by Defra in December 2005 as a helpful practical guide for local authorities managing and maintaining byways which carry motor vehicles. Defra Circular 20/10 regarding National Parks.
 - National Park purposes firstly to conserve and enhance natural beauty, wildlife and cultural heritage, and secondly to promote opportunities for the understanding and enjoyment of the special qualities of those areas by the public. (Environment Act 1995).
 - The National Park Management Plan 2006 -2011 and the Recreation Strategy and Action Plan 2010 – 2020 entitled “Active in the Outdoors.” (there is more about this in Annex 1). Action proposed in the National Park Management Plan is to: ‘Develop ways to positively manage motorised recreation in ways that are legal and sustainable.’
 - The National Park Authority’s Strategy to manage recreational vehicular use of unsurfaced highways and address off-road use as agreed in consultation with this Forum and other interests in October 2007 (Authority Min. 92/07 refers and see Annex 1).
 - In the Strategy, the Authority recognises that in certain situations, Traffic Regulation Orders may help to alleviate damage and trespass issues in relation to countryside access, and to protect areas of conservation value from suffering from damage. (there is more about this in Annex 2 which went to the full Authority meeting on 5 October 2007).
 - Derbyshire County Council’s review of its policy for managing motorised vehicle use in the countryside which is expected to be finalised in 2010.

Park – Wide Action

4. The use of motorised vehicles in the countryside has continued to be a priority area of work for the Forum throughout 2009 and 2010. The subject has been backed up by the work of a Sub Group in accordance with the National Park Authority’s Recreational Motor Vehicle Strategy. The Sub Group includes representatives of a number of different users, including recreation vehicle users.
5. In brief there are 346 routes in the National Park which may have vehicular rights, and 8 byways open to all traffic (BOATS). There is considerable uncertainty however over the extent of legal rights, and these are currently under review by the Highway Authorities.

-
6. A key action was to investigate the sustainability of routes and 23 "priority" routes were earmarked for closer inspection and action. A format for doing this was devised after consultation with LAF which allowed non subjective assessment of the sustainability of a large number of ways. The Chapel Gate track was in the top 8 routes which may be unsustainable and Management Plans were agreed for those routes in December 2009. An update on action relating to these routes and the Sub Group's conclusions regarding action required on the next 7 routes is included as a separate report to this meeting. The remaining 7 routes will be assessed and Management Plans prepared by March 2011.
 7. Work has continued to raise awareness on sensitive routes and legal issues. New signage detailing the code of respect and consequences of non-action has been developed and installed with the agreement of Highway Authorities. Monitoring routes for level of use has been backed up by Operation Blackbrook. This involves monthly visits by the Police, Peak District National Park Authority Rangers, Derbyshire.
 8. Action on routes in the Peak District and is summarised in the latest edition of the Newsletter "Staying on the Right Track" which will be circulated for this Forum meeting and is being made available to National Park Authority members and being put on the website.

Chapel Gate Track

9. Chapel Gate is a Byway Open to All Traffic (BOAT). It commences on Sheffield Road, Chapel-en-le-Frith (Rushup Edge road) and ascends towards Rushup Edge in a generally north easterly direction before descending to the Edale Road near Barber Booth, Edale. It is 2,700 metres long within the parishes of Chapel en le Frith and Edale in Derbyshire. Nobody is challenging the status of the route. A location map is attached to the report.
10. Nearby the Roych (NCH) which carries the Pennine Bridleway, lies within 100 metres of the west-end of this route, with work planned by the County Council. Little Mam Tor Road is approximately 4km east. The greater Castleton network of NCH's is accessed some 2kms south. Approximately 3km north is Jacobs Ladder (which is the subject of a TRO excluding all traffic except for access).
11. The sustainability analysis of the Chapel Gate route resulted in a top score of 15 out of 15 explained and detailed in the Management Plan which is a background paper to this report. This is based upon:
 - signs of physical damage (see photos included with the report)
 - protective designation (over half the route passes through the South Pennines Area of Conservation, the Dark Peak Site of Special Scientific Interest and the Peak District Special Protection area. A further stretch is Section 3 Moorland)
 - complaints about vehicular use conflicting with other users
 - damage to the character of the route, and
 - the free passage of non-motorised users being prejudiced.
12. Management Plan proposals agreed in December 2009 were to:
 - Identify the significant resources necessary to carry out repairs. (Action: Derbyshire County Council Countryside Service. Priority: Urgent. Timescale: 2010/11)
 - Seek voluntary assistance to manage use of the route (possible one-way system) and minor repairs. (Action: Derbyshire County Council Countryside Service / Peak District NPA Priority: Medium. Timescale: 2010/11)
13. Historically planings laid by the County Council around 1990 on a badly damaged section cost around £25,000 but not enough drainage was carried out and within 6 months all the work had been washed away. Derbyshire County Council engineers had estimated for the Management Plan that filling voids and surfacing with stone would cost around £200,000 and metal/tarmac surface (if approved) around £285,000. Annual maintenance thereafter was estimated at £20,000. Resources required were sought, but are not currently available from Derbyshire County Council given cuts it has had to make and other priorities. The Council has helpfully made £30,000 available for works in line with Management Plans this year, and that has been supported by the LAF Sub Group for use on Long Causeway and Brough Lane and for appropriate signage on a number of routes.
14. It was explained that unfortunately the significant funding to carry out the action plan for this route had yet to be identified. LAF Sub Group members were invited to discuss updating the plan to reflect this.

15. The Group considered that during a period when there has been no maintenance, there has been increased use by recreation vehicles. Damage to the surface of the way initiated by such use has become exacerbated by natural forces to the extent that this has become a landscape issue. Current use is self evidently not sustainable. There is increasing collateral damage both to the surrounding SSSI and to contiguous farm land. The way has become so seriously eroded that it is all but impossible to keep to it or navigate it except with winches. In addition to the conservation issues, rights of non vehicular users have become seriously compromised. A period of no official action has resulted only in escalating damage and the prospect of greater cost of repair, and greater negative environmental impact.

16. The Sub Group on 5 August looked at options for Chapel Gate in the knowledge of major funds not being available from Derbyshire County Council for surfacing and drainage works in the foreseeable future, the effects on users related to motor use (with the route being unusable for cycles and horse riding, passable but difficult for mountain bikers and walkers) and the special landscape and conservation interest which needs protecting and conserving in line with National Park purposes.

17. Options considered were:

- Doing nothing which was considered unacceptable given the profile of this route, outcome of the sustainability survey, existing usage and conflicts in an area of great importance from conservation and landscape points of view.
- Voluntary restraint is intended normally to reduce the use of a route whilst maintenance works are carried out and is normally valid for 3 months so would not be a useful or realistic tool in this case.
- Closing the route as being unsustainable (a comparison was made with the Mam Tor road years ago) was not thought possible or appropriate as it is capable of repair.
- Implementing a Traffic Regulation Order by the County Council as Highway Authority is not considered legitimate unless accompanied by resources to carry out appropriate surface improvements for the route to be improved. This is clearly not possible at present. There are other routes (Bradley Lane and Washgate) where the County Council have pursued consultation currently with a view to TRO's being imposed.
- Asking the Peak District NPA to impose a Temporary TRO for motor vehicles for 18 months. This would be the first time the of the Authority using those powers, but it is considered justifiable given the situation with Chapel Gate and the overriding need to protect landscape and conservation interests. This would not create any thin end of the wedge precedent: of all the ways surveyed this is the only one to have merited such recommendation, and then only after the initial solution was no longer realistically attainable. It is recognised that in line with its policy the Authority would first of all need to carry out an Environmental Impact Assessment to determine the case for using its powers introduced by Section 72 of the Natural Environment and Rural Communities Act 2006. Members of the Sub Group had regard to the requirements of s122 of the Road Traffic Regulations (1984). We were given a written note on them before our last lot of site visits, and the full LAF has in the past been briefed also as a follow up to the legal ruling regarding Yorkshire Dales NPA TRO proposals.
- Asking the Peak District NPA to explore the scope and resources available for creating a public bridleway within the area defining the present track. The option of an adjacent route depends upon a lot of things, not least the recorded definitive width, negotiations with the landowner etc. The idea would be to explore if a viable surfaced route could be created for all users except vehicle users. Bearing in mind that the likely outcome revolves around creating such a route if a TRO was used (since the route would still be 'unsafe' until repaired), then costing and exploring this action is something which would need to be looked into anyway. The degree of slope remains the challenge for any plans and works.
- As the Highway Authority has a number of statutory duties in connection with these unsurfaced highways, notably maintenance and enforcement. "The National Park Authority will not consider making a TRO solely as a result of such duties not having been carried out." This latter point was recognised at the meeting and the special case for action by the NPA was emphasised. The possible resource implications of such action are included in Annex 3.

Conclusion

18. The Sub Group proposed that, in light of vehicles leaving the Highway and damaging the protected land nearby, that the National Park Authority be asked to consider implementing a temporary TRO for 18 months on the following grounds:
 - Damage to protected landscape due to the condition of the highway
 - The safety of all users
19. To investigate what action can be taken whilst ensuring that in the short-term the condition of the lane does not deteriorate further, potentially increasing costs. This to include the scope for creation of a bridleway adjacent to the track within the area bounded by walls.
20. Peak District Officers said that they would take these recommendations back to managers, but stressed that Chapel Gate represented a unique challenge in the National Park, and that it would be vital to involve all partners in an open discussion about the future of the route and securing funding for repair and ongoing management of the BOAT as well as the proposed bridleway.
21. In essence the process we followed at the meeting was to consider a range of options from the least restrictive to the most restrictive. Consensus was reached about an option which was not the most restrictive, but which responded to the imperative of a crisis in the landscape and to a 'vulnerable track' which experience had shown to have got worse during a period of no action. In the meantime we agreed to continue to seek other practicable solutions.

Enclosures

Map of the Route

Photos of the Route

Annex 1 - Strategic Background

Annex 2 - Traffic Regulation Orders (TROs) - Proposed Peak District National Park Authority Policy and Procedure.

Annex 3 - Resources

Background Papers

- The Policy and Strategy to manage Recreational Vehicular use of Unsurfaced Highways and address off Road use in the Peak District National Park – National Park Authority 5 October 2007
- Chapel Gate Management Plan – December 2009

Report Author

John Thompson
Member of the Peak District Local Access Forum