

DURHAM COUNTY COUNCIL

At a Meeting of **Highways Committee** held in Committee Room 2, County Hall, Durham on **Friday 13 March 2015 at 9.30 a.m.**

Present:

Councillor G Bleasdale in the Chair.

Members of the Committee:

Councillors C Kay (Vice-Chairman), B Armstrong, D Bell, H Bennett, O Gunn, D Hicks, K Hopper, S Morrison, O Temple, R Todd, J Turnbull and R Young.

Also Present:

Councillor J Shuttleworth.

1 Apologies for Absence

Apologies for absence were received from Councillors J Allen, D Hall, R Ormerod, J Robinson and M Wilkes.

2 Substitute Members

Councillor O Temple was substituting for Councillor M Wilkes.

3 Minutes

The minutes of the meeting held on 9 February 2015 were agreed as a correct record and signed by the Chair.

4 Declarations of interest, if any

Councillor Temple explained that he was substituting for Councillor Wilkes, however, he had registered to speak on behalf of a constituent in his electoral division regarding the proposed waiting restrictions at Consett Academy and would contribute to the debate but not vote on the item.

5 Wolsingham Byway 157 (Hexham Lane) - Proposed Traffic Regulation Order to prohibit motor and horse-drawn vehicles

The Senior Rights of Way Officer informed the Committee that the purpose of the report was to seek endorsement to make a permanent Traffic Regulation Order (TRO) to prohibit motor and horse drawn vehicles being driven along Wolsingham Byway 157 (Hexham Lane).

(for copy see file of Minutes).

The Committee were provided with a presentation which detailed the following:

- location plan of the area
- photograph of the northern end of the byway (Salters Gate)
- ninety Acre allotment – looking southwards from northern entry (September 2005, November 2012, July 2013 and December 2014).
- Culvert crossing November 2012 and May 2014
- Southern end looking North – June 2013 and December 2014
- Thistlewood Lane (southern end of the byway) – September 2005 and May 2014
- legal framework for making a Traffic Regulation Order
- alternative options
- summary of objections

(for copy of presentation see file of Minutes).

The Senior Rights of Way Officer informed the Committee that the byway had been established quite recently following a public inquiry, and in 2005 it was opened up fully to motor vehicles. Prior to 2005 the gate observed at Salters Lane was a stile/wall. Since 2010 the Council had received reports that surface of the byway was significantly deteriorating, following which the byway was monitored for a period of time. During this time it had been noted that the surface was very uneven and large parts were unsurfaced. The dip illustrated at the 90 acre allotment section had become increasingly difficult to use.

In 2012, officers contacted vehicular organisations seeking constraints of when to use the byway and to use with reasonable care and attention. Notices were also displayed on site. However, throughout 2012 the condition of the byway deteriorated further despite the representations made and the public notices. In summer 2013 the County Council instigated some drainage repair works and introduced a temporary six-month closure to allow the ground to recover and to observe how well the repairs would work. Some parts of the byway did recover. Unfortunately, some parts were of clay-like consistency and remained particularly wet. Since that time the byway had been constantly reviewed as to whether to lift the temporary restriction and allow vehicular access to the byway once again. The Committee were shown photos of the work following the repairs. The Committee's attention was also drawn to a letter of support for the traffic regulation order from the National Farmers Union on behalf of some of the owners.

The Senior Public Rights of Way Officer explained the legal framework for making a traffic order, in the context of Hexham Lane, which was detailed in the report. She also brought guidance issued by DEFRA and a good practice document from LARA, on behalf of the motorised vehicular user groups, to the Committee's attention.

The Highways Development Manager informed the Committee that the Council had been reasonable, rational and had offered a balanced approach with regard to the situation. Other Local Authorities had also experienced similar problems. Naturally, there were many different ways to manage such a situation and it had been regrettable that some of the representations made expressed that the County Council had been over zealous.

The Committee were assured that the Council had taken notice of all the advice provided through the exercise and looked at alternative solutions, including voluntary restraints with

user groups. Other alternatives were also detailed in the report, however, it was felt that they didn't offer the County Council the ability to protect the byway from further damage.

The Highways Development Manager informed the Committee that 203 representations had been received to the proposal with many of the representations containing comments rather than objections. The Highways Development Manager then summarised the main issues raised which included:

- the byway was a valued part of the local byway network;
- allow for the improvements to be tested;
- closure would be a loss of resource;
- the Council had a duty to maintain the byway;
- motor cyclists had a lighter impact or no greater impact than horses;
- the condition of the route was safe;
- closure would have a negative impact on environment and tourism;
- introduce seasonal restrictions.

In terms of the representations made, the Highways Development Manager made the following points:

- there was general agreement with the sentiments that the byway was valued and this was essentially why the County Council had felt the need to press ahead with the proposal. This was for the benefit of non-motorised users and for linkage to the public right of way network;
- the Council felt that it did not need to experiment to test the improvements given the evidence witnessed to date;
- the route would remain a byway and there would be no loss of resource. The only difference being that the route would be protected for walkers, cyclists and equestrian activities;
- the byway was not being closed to all users, so whilst there may be a loss of impact from one group of users, there could be potential gains from other groups of users;
- comments regarding the impact of motor cycles having a lighter or no greater impact than horses were not accepted. Tyres of motorbikes left deep linear tracks on the land which created a depression, which filled with water. There were also greater speed differences between the two which impacted on the land. The Highways Development Manager explained that they were not discriminating against motorcycles and it was simply the taking of a rational decision;
- representations alluding to the safety of the route were considered subjective points and it was argued that it may be felt 'safe' by some users, but it could not be argued that it was not safe for all users;
- use of volunteers for maintenance had been raised however, this was not considered a solution in this instance;

- the County Council had engaged with many user groups, held various discussions and had a considerable amount of contact. Attempts had been made to resolve many issues and this would continue with all users of the public rights of way network;
- suggestions regarding seasonal restrictions had been made however, MET office advice for UK weather was for variable seasons and there was no guarantee that there would be a completely dry surface at any point. For example, the Council could allow access in a summer season, however, this could be dominated by a spell of wet weather as has happened in recent years. This would result in the same problems being experienced at present;
- suggestions that the Council were discriminating against disabled four wheel drive users were refuted as the proposal would apply to all motorised users.

The Committee then listened to representations from one of the local members, Councillor Shuttleworth. He highlighted that Hexham Lane had been a contentious issue for many years, particularly the use of four wheel drive vehicles and trail riders, destroying the byway surface. His view was that the use of vehicular use to this extreme was detrimental to the farming community and supported the recommendation towards the permanent prohibition of motor vehicles and horse drawn vehicles.

The Committee then heard from a representative of the Trail Riders Fellowship (TRF). The organisation represented somewhere in the region of 3000 members and had played an integral role in terms of having the route opened up many years ago. The representative also pointed out that not all motorcyclists who would have used the byway were members of their organisation.

The organisation felt that the repair works carried out to the route had been done to an exceptional standard and suggested that the Council should re-open the route and allow for it to be tested. The TRF commented that they had approached the Council with an offer of their expertise which hadn't been taken up. The organisation had worked extremely closely with Councils all over the country, with much partnership work being carried out with Northumberland County Council and North Yorkshire County Council. The partnership approach with Northumberland County Council had been very successful and had resulted in the introduction of a weight restriction. The TRF asked the Committee to defer their decision and suggested they worked with organisations in an attempt to maintain the purpose of the route, i.e. open to all.

The Committee then heard from a representative of the Green Lane Association (GLASS). The representative felt that their members should be allowed to sensibly drive the route. The organisation had a code of conduct in place to ensure sensible driving took place. The representative informed the Committee that he had personally never been able to drive the route because of the restriction in place, however, he had been able to walk the byway. During his walk, he had witnessed vehicles on the byway, shooting parties, tractors etc. Concern was expressed that GLASS and other bodies were not contributing most of the damage to the route and asked that a single direction traffic regulation order and possible other restrictions would be a sensible and pragmatic approach rather than a permanent, blanket closure.

The Committee then heard from a motorcycle user of the route. In his representation to the Committee he expressed concern at the unfair procedure at the Committee meeting, the time afforded to the objectors as opposed to the time allowed by officers to present their case. The objector also felt that the report was one-sided in favour of the closure and didn't fully reflect the 200+ objections received to the proposal. He also felt that disabled users were being discriminated against, given that many disabled users had difficulties in walking or cycling. He expressed a view that the proposal as it stood at present would mean that the Council were supporting the contradiction of any proposed ban given that shooting parties and private owners were being allowed to use vehicles on the byway. All of the damage to the byway had been caused by parallel tracks as opposed to motorcycles. The private use was to remain and he questioned whether the Council had been influenced by landowners and the costs in maintaining the byway. He added that should the only influence relate to costs of repairs, there was a view that organisations may offer some form of contribution to maintain the byway.

The Senior Rights of Way Officer queried how usage of the route between 1970s and 1980s was possible when it was only opened fully in 2005. Any use prior to 2005 was by other means by access and not by lawful public right of way. Officers views regarding linear loading and creation of depressions for water flow had already been discussed. In relation to the points regarding discrimination to disabled users, there are a number of off road routes throughout the County.

In terms of landowner use, the Senior Rights of Way Officer confirmed that landowners had driven over the byway to access adjoining land whilst the vehicle restriction was in place, simply because it was not deemed possible to prevent them from doing so. In some respects, their movements had tested the repairs that had been made which had, in part, enabled them to come to a judgement regarding the issue.

The Highways Development Manager clarified for all parties concerned that the County Council could not legally prohibit landowner access and that arrangement would continue should the scheme go ahead.

The Committee then heard from the land agent on behalf of the Wolsingham Estate. The agent spoke in support of the permanent closure of the byway to all motorised vehicles including motorcycles. In his representation to the Committee, the agent explained that the byway was not constructed as a road and as such, was not designed to withstand motor vehicle or motorcycle usage. Prior to the temporary repairs carried out by the County Council, the byway had been so badly damaged, through excessive use by motorised vehicles of all types, that it was considered to be impassable. Given the gradient of parts of the byway, it was considered a health and safety issue to be used as a track for undertaking agricultural work and other estate use.

Those vehicles that persisted in using the byway and had become stuck in thick clay and mud had removed stones from walls to assist them in freeing themselves. Vehicles had also been circumventing the track which had caused damage to grazing capacity and had seen landowners running the risk of compliance with obligations as specified by DEFRA and the rural payments agency. In addition to this the presence of vehicles came as a disturbance to livestock, wildlife and moorland birds.

In the event that the restriction was lifted, it was felt that the condition of the byway would revert to its previously bad state, require more remedial works year on year and would be a waste of taxpayers' money.

Councillor O Gunn asked for clarification over some comments made regarding shooting parties and noticed that papers included references to access being allowed to 'tenants and their lawful invitees'. Councillor Gunn assumed that lawful invitees were the shooting parties, given that there were no other references to them. Councillor Gunn had asked for clarification as she was concerned at the level of vehicular access.

The Highways Development Manager reiterated that the Council could not legally prohibit access to the landowner and his invitees. The Council were of the view that the level of access would not be significant and certainly not to the level which had caused the damage witnessed previously. The Council had a proposal for the introduction of a permit system and the level of usage would be up to the landowner.

Councillor B Armstrong agreed with the representations made by Councillor Shuttleworth and referred to the Salters Gate/Drovers Road area in her Electoral Division, which lead to the byway. She had received numerous complaints from residents about vans and trial bikes in the area. Councillor Armstrong also queried if Wolsingham Moor had any economic value similar to an area of fell land in her Electoral Division.

At this point the TRF asked if they could clarify the issue raised by Councillor Armstrong. The Vice-Chairman explained that a fair procedural process was applied every meeting and to deviate from the procedure would be unfair on those people who had made representations in the past.

The Senior Rights of Way Officer explained that the byway had been shut since 2013, therefore, the activities mentioned by Cllr Armstrong could not be attributed to usage of the byway. Wolsingham Moor differed to Hedleyhope Fell which was a Durham Wildlife Trust site. Farming and shooting would primarily be the two activities taking place along Hexham Lane, along with the grazing of sheep.

Councillor Turnbull queried the access for any possible shooting party and asked if the byway was the only route through to the landowner's property and if there was alternative access for landowners rather than the byway.

All parties involved were unsure of the query regarding access but it was suggested by the agent of the landowner that any shooting activity would tend to take place at the northern or southern part of the land and to reach the southern section any vehicles would likely need to travel across the byway than travel the length of it.

Resolved

That having considered the evidence and representations made, that the Committee set aside the objections and advise the Corporate Director, Regeneration and Economic Development that it endorses the proposal to proceed with a permanent prohibition of motor vehicles and horse drawn vehicles.

6 Consett Academy, Consett - Proposed Waiting Restrictions

The Committee considered a report of the Corporate Director, Neighbourhood Services regarding objections to a proposed scheme of waiting restrictions around the vicinity of Consett Academy (for copy see file of Minutes).

The Committee were informed that the scheme had been devised as a result of a planning condition imposed during the agreement of a planning application for the Academy site. The Strategic Highways Manager provided the Committee with a presentation which detailed the following:

- location plan
- planning condition
- proposal
- consultation area
- photos of the areas where representations were made

(for presentation see file of Minutes).

An informal consultation encompassing all affected properties in the immediate vicinity and statutory consultees was held between 14 April 2014 and 4 July 2014. A total of 37 responses had been received out of 134 letters. Of the 37 responses, 18 were in favour of the proposals and 19 were against. Further letters were sent to those people who had made representations clarifying a number of issues which lead to the resolution of the issues raised. However, three people still wished to maintain their objections.

Durham Constabulary, North East Ambulance Service and the local Member of Parliament supported the proposals.

The remaining objections were then summarised for the Committee and these were detailed in the report. The objections expressed concern that the proposal would displace parking elsewhere (namely Oakdale, Ashdale, Elmdale and affect residential parking and the point was also made that motorists already parked on 'Keep Clear' lines at present, querying the need to change them to double-yellow lines.

The Strategic Highways Manager explained that school gate parking was a problematic issue, across the County and not easy to resolve. There was an acceptance that some vehicle displacement may occur during the Academy at peak times and this would have to be monitored once the Academy was open and operating. The Committee were also informed that the restrictions had been designed to control and regulate parking around the most sensitive areas where children would gain access to and from the Academy.

Councillor Temple spoke as the local Councillor for the area and explained that the scheme appeared logical and reasonable, however, he had one minor issue regarding the current white advisory lines near to a residents property. The occupant of a nearby property had registered an objection essentially because he felt that access would be made more difficult to his property and asked if this particular issue could be looked out without jeopardising the scheme.

The Strategic Highways Manager informed Councillor Temple that he would be prepared, through consultation with the resident, to revisit this part of the proposal, commenting that there could be scope to reduce a restriction contained in the relevant legal order. The Principal Solicitor, Highways and Development confirmed that this was possible to undertake, providing it was in line with the Committee's wishes.

Councillor Turnbull spoke of his general support for the scheme and hoped that proper enforcement would take place in the area to ensure that motorists were adhering to the restrictions once implemented. Councillor Turnbull also asked how the Council would monitor those vehicles that would then park in other areas where there were no restrictions thus causing issues elsewhere.

In response, the Strategic Highways Manager informed the Committee that officers would have to determine prioritisation of areas for enforcement for which good intelligence was necessary. The lack of restrictions on short stretches of road with no restrictions may lead to motorists attempting to park in such areas.

Councillor B Armstrong highlighted that there were other areas of Medomsley Road, near to the Academy site, which also created problems. This included traffic obstructions and cars parking on pavements which caused congestion and poor traffic flow.

The Strategic Highways Manager explained that the scheme presented may assist with some of the issues raised by Councillor Armstrong. Concerns about the displacement of vehicles by Councillors were noted this would be monitored once the Consett Academy was open and in operation.

Resolved

That the Committee endorse the proposal detailed in the report and that the Head of Legal and Democratic Services be authorised to amend the legal order, if necessary, pending the outcome of further consultation with Councillor Temple's constituent.