

REF No.

1.

## DECISION RECORD

*Please complete all sections*

### DECISION MAKER

1. Adrian White, Head of Transport and Contract Services

### AUTHORITY BY REFERENCE TO SCHEME OF DELEGATION

2. Table 4 paragraph 11

### SUBJECT

3. Wolsingham Byway 157 (Hexham Lane) – Proposed Experimental Traffic Regulation Order

### DECISION If Key Decision insert No.

4. To agree to progress an Experimental Traffic Regulation Order to prohibit motor vehicles with 4 wheels or more to be driven on Wolsingham Byway 157 (Hexham Lane)

### ELECTORAL DIVISION/S

5. Weardale - Cllrs John Shuttleworth and Anita Savory

### CONSULTATION – CABINET PORTFOLIO HOLDER, OTHER MEMBERS & DATE

6. 4WD representatives, trail riders, cyclists, horse riders and walkers, local Members, the Wolsingham Wayfarers, the Parish Council, and the owners of the land

### RECORD OF ANY CONFLICT OF INTEREST DECLARED BY AN EXECUTIVE MEMBER

7.

### NOTES

1. The reference No. will be assigned by Democratic Services.
2. The relevant paragraph within the decision makers delegated powers should be identified.
3. A brief heading should be inserted.
4. Brief details of the decision should be inserted. This note must set out the substance of the decisions, options considered and the reasons for the chosen option. Take care not to divulge any commercially sensitive information. If it's a Key Decision insert the No.
5. List the electoral division/s that will be affected by the decision
6. Set out the consultation you have undertaken with Cabinet portfolio holder and others.
7. See Guidance "Consultation with Portfolio Holder".

### A NOTE OF DISPENSATION GRANTED BY THE HEAD OF PAID SERVICE IN RELATION TO THE ABOVE CONFLICT

8.

|  |
|--|
|  |
|--|

**ACCESS TO THE REPORT**

|  |
|--|
| Is the report open to the public (Part A)<br>Yes   |
| 9.<br>Is the report exempt (Part B) – if so please specify the exemption paragraph and the reason for exemption applying the Public Interest Test<br><br>N/A |

**BACKGROUND PAPERS**

|   |
|---|
| 10. <b>File held by Access and Rights of Way (Tel 03000 265332) named 'Background papers Wolsingham Byway 157 Delegated Decision Experimental TRO 2016' which includes:</b> <ul style="list-style-type: none"><li>• Copy of letter to consultees and responses in writing and notes of consultation meetings held</li><li>• DEFRA – Making the Best of Byways</li></ul> |
|---|

**CONTACT PERSON**

|                 |
|-----------------|
| Audrey Christie |
|-----------------|

**CONTACT NO.**

|              |
|--------------|
| 03000 265332 |
|--------------|

**AUTHORISED SIGNATORY**

|   |
|---|
| 11.  |
|---|

**DATE**

|            |
|------------|
| 12. 5/8/16 |
|------------|

This form must be sent electronically to [delegations@durham.gov.uk](mailto:delegations@durham.gov.uk) within 24 hours of the decision being made.

**NOTES**

- 8. See Guidance "Consultation with Portfolio Holder".
- 9. Please refer to the Access to Information Requirements that came into force from 1 March 2006 and the internal guidance that has been issued in this respect.
- 10. List papers used which the decision was based – see limitations on use. If used must be forwarded along with the delegated decision form, and report.
- 11. Person authorised to make the decision. When sent to democratic services, this will be an electronic signature.
- 12. Enter the date the decision was made.

## DELEGATED DECISION

### Regeneration and Economic Development



August 2016

### Proposed Experimental Traffic Regulation Order to prohibit motor vehicles with 4 wheels or more to be driven on Wolsingham Byway 157

---

#### Report of Adrian White, Head of Transport and Contract Services

---

##### Purpose of the Report

- 1 To consider the introduction of an Experimental Traffic Regulation Order to monitor the effectiveness of a motor vehicle access restriction in order to protect the byway for future sustained usage

##### Background

- 2 Wolsingham Byway 157 (Hexham Lane) is a 4km route crossing remote countryside from a point just to the north of Wolsingham and travelling northwards to Salters Gate. It is largely unsurfaced, crossing grazing land including moorland, traversing a gradient of 1:6 at 2 separate places and at its northern point being 345m above sea level. A plan showing the location is shown at **Document A**.
- 3 The byway status of the route is relatively recent, having been fully opened to all public users in 2005 following a public inquiry. Complaints about its deteriorating condition began in 2010 with the route becoming more rutted and evolving into a muddy quagmire in places due to motor vehicle usage. Some drainage works were carried out to the byway in 2013 which have made some improvement however the route has since carried a temporary traffic regulation order restricting access and has only been available to pedestrians and some of the owner's vehicular traffic.
- 4 A traffic regulation order was made in 2015 to prohibit all motor vehicles from proceeding along the byway. This was challenged in the High Court by the Trail Riders Fellowship (TRF) representing off road motor bikers with a Consent Order being made by the Court to quash the Order. It was however agreed by both parties that some management of the byway is needed and that the Council would reconsider its position, consult with all stakeholders and put forward some new proposals.

- 5 Consultation has taken place with those representing the main users of the byway (4WDs, trail riders, cyclists, horse riders and walkers), the local community including the local Members, the Wolsingham Wayfarers, the Parish Council, and the owners of the land. A summary of the consultation responses are found at **Document B**. The responses were diverse, extending from the view that all motor vehicle users should be prohibited to a suggestion of a seasonal restriction on some or all motor vehicular users. Other suggestions were also made including further works to the surface, managing/enforcing use, monitoring the route, and implementation of an experimental restriction. There was a consensus that management of the route is required and no consultee suggested that walkers, horse riders or cyclists should be prohibited. A decision on managing the byway is required within the legal criteria of the appropriate legislation while having regard to the consultees' responses. Voluntary restraint has been attempted previously without success and has not been suggested as a way forward and it is therefore considered that a traffic regulation order (TRO) is a suitable management choice. This approach is endorsed in a letter of 21 April 2016 to Highway Authorities from the Parliamentary Under Secretary of State for Transport, Andrew Jones M.P.; 'Use of 4xs and motorbikes on public rights of way', shown in **Document C**.

#### **Details of any alternative options considered and rejected when making the decision**

- 6 Traffic Regulation Orders (TROs) can be made for many reasons, as detailed in the legislation, and on a temporary, permanent, or experimental basis. For public rights of way a temporary order can be a maximum of 6 months but can be extended where agreed by the Secretary of State for as long as he considers necessary. Permanent orders can be worded to prohibit, restrict or regulate traffic such as times, dates, classes of user, weights of vehicles, number of wheels etc. It is possible to make an experimental order as a precursor to a permanent order which allows for immediate public feedback and, within certain time scale requirements, for minor changes to be made to the experiment within an overall timeframe of up to 18 months.
- 7 A temporary order is not an appropriate tool for long term management of the byway. The reasons are generally to accommodate works or to manage any danger to the public.
- 8 The 4WD users have suggested a seasonal closure over the winter months', however their view is not reflected in the other consultees' responses with whom there are conflicting comments. It is suggested that the damage caused to the byway surface previously, largely appeared to have been created by 4 wheeled vehicles. With much of the byway route being unsurfaced with a soft top soil overlying impervious materials, susceptible to changes in moisture there is a constant propensity for the soil to become saturated. This is regardless of season as the location means that the route experiences a harsher climate than the surrounding low lying areas and many recent summers have in any case seen prolonged wet spells. The soils have a low load bearing capacity and are very vulnerable to damage. Although it is accepted that various vehicles will impact the surface to different degrees,

other factors such as driving style cannot be controlled but would impact on the surface durability.

- 9 The degree of damage caused by different sized 4WD vehicles cannot be easily determined. The load bearing capacity of the subsoil is significantly affected by its moisture content and as greatest loads are applied by 4WD vehicles it would be beneficial to the byway for them to be prohibited.
- 10 The TRF expressed a view during the previous TRO process that motorbikes had not caused damage to the byway and that they should therefore not be prohibited from using it. It is considered that the assertion could be tested using an experimental order to prohibit 4WD vehicles but permitting motorcycles. Such an order would allow the condition of the route to be assessed over a period of time. The order could be converted into a permanent order if it is concluded to have been successful. An experimental order to prohibit just 4WDs was suggested by the TRF in the consultation referred to earlier.

### **Recommendations and reasons**

- 11 It is recommended that an experimental traffic regulation order is progressed to prohibit motor vehicles with 4 wheels or more from driving along Wolsingham Byway 157. It is however necessary to be satisfied that it would meet the relevant criteria as set out and assessed in **Document D**. This includes reasons for making an order under Section 1(1) of the Road Traffic Regulation Act 1984, a consideration of the Council's duties under Section 122 of the 1984 Act and an explanation of why an experimental order is preferred.

### **Decision**

- 12 To progress an experimental traffic regulation order to prohibit motor vehicles with 4 wheels or more from driving along Wolsingham Byway 157.

### **Background papers**

#### **1 Attached to this report**

|                   |   |
|-------------------|---|
| <b>Document A</b> | Plan showing location of byway  |
| <b>Document B</b> | Summary of consultation responses 2016  |
| <b>Document C</b> | Letter of 21 April 2016 from Andrew Jones M.P., Parliamentary Under Secretary of State for Transport, 'Use of 4x4s and motorbikes on public rights of way'  |
| <b>Document D</b> | Reasons for making an order under Section 1(1) of the Road Traffic Regulation Act 1984, a consideration of the Council's duties under Section 122 of the 1984 Act and an explanation of why an experimental order is preferred. |

**2 File held by Access and Rights of Way named 'Background papers Wolsingham Byway 157 Delegated Decision Experimental TRO 2016' which includes:**

- Copy of letter to consultees and responses in writing and notes of consultation meetings held
- DEFRA – Making the Best of Byways

---

**Contact: Audrey Christie**

**Tel: 03000 265332**

---

---

## **Appendix 1: Implications**

---

**Finance** – Signage and alteration of structures at either end of byway - from PROW revenue budget

**Staffing** – The proposal will be implemented and managed by the Access and Rights of Way Team

**Risk** – The experiment will assess if motorbikes cause damage to the byway surface but an experimental order allows for it to be altered or ceased should it be considered necessary

**Equality and Diversity / Public Sector Equality Duty** - It is considered that there are no Equality and Diversity or Public Sector Equality Duties to address

**Accommodation** - None

**Crime and Disorder** – the order will create an offence to drive a 4WD along the byway

**Human Rights** – Although the right to drive a 4WD vehicle along the byway will be prohibited this is through primary UK legislation. It is not considered that the proposal would be a breach of human rights

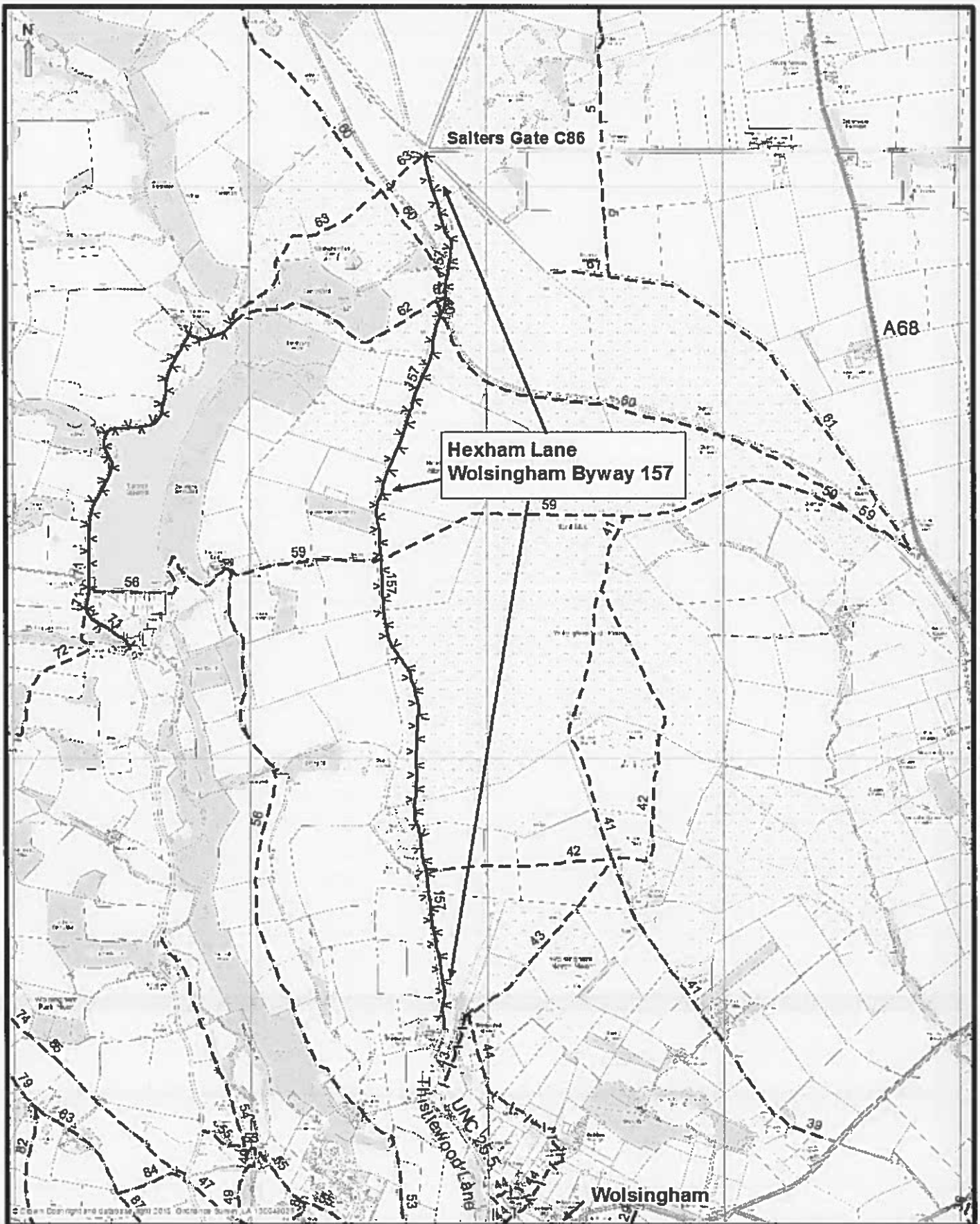
**Consultation** – with user groups, local community and owners of the land


**Procurement** – Work to be carried out by DCC Highways Operations

**Disability Issues** – The proposals will prohibit the drivers of all 4WD motor vehicles from being driven along the byway and does not specifically target or disproportionately affect disabled drivers

**Legal Implications** – It is considered that the order meets the criteria laid down in the 1984 Act and would create an enforceable traffic regulation order






  
**Durham**  
 County Council

IAN THOMPSON  
 CORPORATE DIRECTOR  
 REGENERATION AND  
 ECONOMIC DEVELOPMENT  
 DURHAM COUNTY COUNCIL  
 COUNTY HALL  
 DURHAM DH1 5UQ

**Wolsingham Byway  
 No. 157  
 Hexham Lane**

**Plan showing location of  
 Wolsingham Byway 157  
 Hexham Lane**

Scale: 1:15,000

Postcode: DL13 4JP (North)  
 DL13 3HG (South)

**Public Rights of Way / Highways  
 not affected by the proposal**

- - - - Footpath  
 | - | - | - Bridleway  
 V V V Byway

August 2016



## Hexham Lane management Summer 2016 consultation

Summary of responses from stakeholders who were asked for their views on a suitable solution to managing the byway.

Stakeholders consulted:  
Trail Riders Fellowship, LARA (co-ordinating 4WD response), County Councillors, Ramblers, local path users (Wolsingham Wayfarers), British Horse Society, Cycling UK and owners.

### TRF

|   |  |
|---|--|
| Suggestions for future                      | DCC should instigate a non statutory public inquiry to test all views<br>Suggesting and experimental order to just prohibit 4WDs.  |
| User preferences                            | Level ground best for all users but motorbikes will ride along any ruts  |
| Possible measures of unacceptable condition | Rutting to be expected<br>Mountain bike being able to ride in a rut without pedal hitting side<br>A good cart road standard  |
| General points                              | Agreed it's unreasonable to ban owner of adjoining land from using the byway in vehicles<br>Current condition of byway is now too good due to works carried out<br>Light motorbike use is good and ruts will self heal<br>Keen for route to be opened in September so that if motorbikes allowed back on there is some summer left<br>Enforcement can be difficult. Prohibition can lead to increased unlawful usage<br>Want carriage drivers accommodated – a 5'6" structure would accommodate<br>4WDs need to be managed, but fairly |

### 4WDs (LARA co-ordinating GLASS and ALRC)

|                        |   |
|------------------------|---|
| Suggestions for future | A seasonal closure over the winter months |
|------------------------|---|

### County Cllr Shuttleworth (Weardale)

|                        |   |
|------------------------|---|
| Suggestions for future | Measure the damage caused by the motor vehicular users. An experiment/temporary arrangement to ban vehicles |
| General points         | Countryside gets destroyed and no economic benefit  |

### Local Ramblers (Crook and Weardale)

|                        |  |
|------------------------|--|
| Suggestions for future | Fill the rutted section with rubble and bricks |
|------------------------|--|

### Local path user group (Wolsingham Wayfarers)

|                        |  |
|------------------------|--|
| Suggestions for future | Seasonal use by 2 wheeled vehicles only  |
|                        | Path condition could be monitored (Wayfarers willing to help)  |
|                        | Collaborative working with all stakeholders to discuss working together to keep the path in a suitable state of repair |

### British Horse Society

|   |   |
|---|---|
| Suggestions for future                      | <p>Seasonal restrictions</p> <p>Better surfacing at pinch points ie gateways and bypasses for pedestrians and horseriders. Like the hexagonal surface mesh material</p> <p>Hidden cameras for enforcement</p> <p>Warnings to users that if the surface damaged or abused it will be closed to them</p> <p>Self policing by eg TRF/user groups and promoting safe riding</p> <p>Fencing off 90 Acre allotment</p> <p>Where wanting to restrict quadbikes suggest the 'hobbit' style gates (5' gate, gate posts so that at bottom 3' and at top 5' gap)</p>   |
| User preferences                            | <p>Prefer a firmer surface,</p> <p>If a double tyre track lane to ride on the raised central width, ideally of at least 4' between parallel wheel ruts</p>  |
| Possible measures of unacceptable condition | Multiple and narrow ruts  |
| General points                              | <p>Clay and claggy mud create a risk of tendon damage and shoe loss for horses</p> <p>Need to carefully consider personal safety due to the remoteness of Hexham Lane</p> <p>Deteriorated surface condition has a bigger impact on horse riders than pedestrians. When horse riding there's 2 competing brains and can be difficult negotiating through a mess</p> <p>2WDs capable of making a mess due to riding style eg speed, multiple passes. Accept that 4WDs are likely to be more damaging due to their weight and size. Think that where initial damage made by 4WDs this will be worsened by 2WDs</p> <p>If land is damaged then the user that's done it should be excluded</p> |

### Cycling UK (formerly CTC)

|                        |   |
|------------------------|---|
| Suggestions for future | <p>Route should be made and kept available for walkers, cyclists and horse riders and opened as such asap</p> <p>Install drainage where needed</p> <p>Consider changing status to Restricted Byway</p> <p>Work with MPV users to agree and implement a strategy with condition that non adherence will result in a permanent TRO</p> <p>Seasonal MPV use but conditional that where prolonged wet periods (whatever season) a temporary TRO will be re-introduced</p> <p>Continue the TRO permanently</p> |
| General points         | <p>June 2016 the byway generally dry and could probably sustain all users but not after wet weather and inconsiderate use.</p> <p>Damage by MPVs is at the cost of other users</p>  |

### Owner 1

|                        |   |
|------------------------|---|
| Suggestions for future | <p>Should be shut to all motors</p> <p>Whole track should be fenced off</p>   |
| General points         | <p>Route not constructed to withstand motor use</p> <p>Had previously been damaged by excessive motor use that that it became impassible</p> <p>Due to the gradients on the route it had become a health and safety issue</p> <p>Damage had resulted in vehicles getting stuck and using wall stone to make a firmer surface. Also diverting off the route and damaging grazing capacity and therefore cross compliance issues</p> <p>Opening up byway will result in damage again and a waste of money</p> |

### Owner 2

|                        |   |
|------------------------|---|
| Suggestions for future | <p>Not to be opened to motor vehicles</p>   |
| General points         | <p>Peace and quiet now established with a return of wildlife</p> <p>Opening up to motors will increase chances of theft and poaching, gates being left open, catches broken</p> <p>Livestock can be spooked by vehicles due to noise and speed. Can lead to abortions in pregnant animals and the animals themselves becoming dangerous</p> <p>Will end up paying for maintenance of the lane as there will be damage</p> <p>Opening up byway would only benefit a small no. of people. Will affect farm business as more expensive to maintain the lane which is access to other parts of the farm.</p> <p>Better to divert resources on roads with potholes rather than this route used by only a few people.</p> |



**Department  
for Transport**

All Local Highway Authorities  
By email

From the Parliamentary  
Under Secretary of State  
Andrew Jones MP

Great Minster House  
33 Horseferry Road  
London  
SW1P 4DR

Tel: 0300 330 3000  
E-Mail: [andrew.jones@dft.gsi.gov.uk](mailto:andrew.jones@dft.gsi.gov.uk)

Web site: [www.gov.uk/dft](http://www.gov.uk/dft)

21 APR 2016

Dear colleagues,

### **Use of 4x4s and motorbikes on public rights of way**

As a result of discussion with Defra Ministers (who have written to National Park Authorities in similar terms) I am writing in relation to the difficult issue for Local Highway Authorities of controlling the use of 4x4s and motorbikes on public rights of way. It is clear that, in certain hotspots, there are three major problems:

- Conflict between motor vehicles and other users;
- Damaged route surfaces, especially where drainage is poor; and
- Illegal use of routes including where traffic regulation orders are in place.

The Government is nevertheless resolute that such problems must be addressed so that you can safeguard the network in your area for the greater enjoyment of all users. You, of course, already have considerable powers to deal with these problems; and you have local knowledge about users and how to go about encouraging voluntary restraint. But there may be the potential to make greater use of your traffic regulation order powers in controlling the misuse of motor vehicles, both on byways open to all traffic and other unsealed routes – building on, for example, the successful introduction of traffic regulation orders in both the Yorkshire Dales and the Peak District National Parks.

As you will be aware, the Road Traffic Regulation Act 1984 enables you to restrict, prohibit or regulate the use of routes through traffic regulation orders, which can be permanent, temporary or experimental. They can apply all year

or at specific times of year. Orders can prevent damage to a route, preserve the character of a route or conserve the natural beauty of an area, including flora and fauna, and geological features.

Without enforcement a traffic regulation order may have limited effect on preventing irresponsible use and therefore liaison with local police is an important aspect of any successful order. The police also have powers under the Police Reform Act 2002 to seize vehicles that are being driven in a careless and inconsiderate manner and in a way that causes alarm, distress or annoyance. Enforcement may also require physical barriers to control access, but these should be in keeping with the local area and not prevent other legitimate users using the route.

Temporary traffic regulation orders are easier to introduce, are more flexible and can be used where there is a likelihood of danger to the public or serious damage to a route, and if work is planned on or near a route.

Many unsealed routes are not recorded on the definitive map and statement, and clarifying their status by recording them, often as a restricted byway, can be a quicker and more direct way of managing motor vehicle problems. As you know, the Government's package of reforms to the process for recording public rights of way, due to be implemented later this year, will make this process more streamlined and less costly for all parties.

More detailed information on all these subjects is available in the Defra publications 'Making the Best of Byways' and 'Regulating the use of Motor Vehicles on public rights of way and off road'.

During the passage of the Deregulation Act through Parliament in early 2015, the Coalition Government committed to Defra and Natural England together establishing a Motor Vehicle Working Group of stakeholder experts to consider the issues around motor vehicular use of unsealed routes and make recommendations. However, the Government believes that locally brokered solutions will be far more effective in the long term and is keen that you share your considerable knowledge and expertise with each other, and with National Park Authorities, so that you can learn from each other and build on existing best practice.

To take this forward, the Government proposes setting up a one-off forum for all motor vehicle stakeholders to share their experiences and discuss ways of working together in the future. Defra has written to the Institute of Public Rights of Way (IPROW) and the Association of Directors of Environment, Planning and Transport rights of way managers group (ADEPT) to invite Local

Highway Authority representatives to participate in such a one-off forum. If you have any suggestions you would like to contribute ahead of this, please contact [jonathan.tweney@defra.gsi.gov.uk](mailto:jonathan.tweney@defra.gsi.gov.uk) or feed in your ideas via IPROW or ADEPT. If there is sufficient interest, Defra and Natural England will set up the forum; if it proves useful you may subsequently wish to consider setting up a more permanent forum yourselves, which the Government would of course be keen to support.

*Yours sincerely,*

*Andrew Jones*

**ANDREW JONES**

**Document D**

Reasons for making an order under Section 1(1) of the Road Traffic Regulation Act 1984, a consideration of the Council's duties under Section 122 of the 1984 Act and an explanation of why an experimental order is preferred.

- a Reasons for making an order under Section 1(1) of the Road Traffic Regulation Act 1984
- b a consideration of the Council's duties under Section 122 of the 1984 Act and
- c an explanation of why an experimental order is preferred.

- a The reasons for making a TRO are set out in Section 1 (1) of the Road Traffic Regulation Act 1984 the 1984 Act). In these circumstances it is considered that a number of these reasons are met:

**Section1(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**

*Hexham Lane is a largely unsurfaced remote byway with a gradient of 1:6 at two separate locations. Its poorly drained surface is very vulnerable to damage and liable to becoming rutted, waterlogged, muddy and uneven. It is considered that continued 4WD motor vehicle use of the route will add to its deterioration and create a more difficult and dangerous environment for all users.*

**Section 1(b) for preventing damage to the road or to any building on or near the road**

*The route has been subject to significant damage in the past. Repairs to the Ninety Acre Allotment section of the byway carried out over summer 2013 dealt with creating a more formal drainage system which has made significant improvement to the surface, and much of it has re-vegetated. The ground is however largely unsurfaced and some of the drainage issues have persisted and have not revegetated. The route is not formally constructed as a road and is largely a route across rough pasture. It is not designed, nor is it able to withstand significant motor vehicle usage of which 4WDs are considered the most damaging. The route would be subject to significant future damage if use is not managed.*

**Section 1(c)for facilitating the passage on the road or any other road of any class of traffic (including pedestrians)**

*Prior to works carried out in 2013 the condition of Hexham Lane had deteriorated such that sections had become traversable with great difficulty for*



*all users due to the size of the ruts and significant areas of deep mud and standing water. The deterioration of the surface of Hexham Lane is considered to be inevitable should 4WD motor vehicles continue to use it and will make passage along the road more difficult for all users. The prohibition proposed will give the route a much greater chance to sustain its current condition so facilitating passage along it.*

**Section 1(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**

*The environment of the byway is remote, climbing from just above Wolsingham to Salters Gate which lies at a height of 345 metres above sea level. The unfenced route passes directly across agricultural land, being rough pasture or moorland (sheep and cattle). The moorland sections and the southern end are more evident on the ground, being largely unvegetated, whereas the rough pasture (prior to 2005) was more subtle visually, being a shorter growing grass swathe across the grazed fields. The physical character of the route is more likely to change should 4WD motor vehicular use continue as the ground would suffer more damage, reducing its grazing capacity and agricultural character.*

**Section 1(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**

*It is considered that this byway is a route which is especially suitable for use by persons on horseback or on foot. The route is unsurfaced and has not been specifically constructed for use by vehicular traffic. Continued usage of the byway by 4WD motor vehicles and associated damage to the surface would change the character of the road, making it less suitable and more difficult to use for pedestrians, equestrians and cyclists.*

**Section 1(f) for preserving or improving the amenities of the area through which the road runs**

*The amenity of the area around the byway, in terms of the public, is its pleasant, remote and rural location within the North Pennines Area of Outstanding Natural Beauty. Although the byway is an amenity for all public users the degradation of its surface has an overall negative impact. The route becomes more difficult to use, those public paths connecting to it become less attractive to users and the landscape through which the byway runs becomes degraded and less pleasant.*

- b Further to being satisfied that one or more of the above is relevant it is also necessary to consider the duty imposed by section 122 of the 1984 Act. This requires the Council when exercising its functions under the Act to secure the

expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and as far as possible to have regard to the matters specified in subsection (2) below. It is therefore asking Councils, when managing traffic under the provisions of the 1984 Act, to have regard to other specified issues that are not necessarily 'traffic' issues.

It is considered that the reasons for making a TRO embrace the purpose of Section 122(1). However it is also important to consider the provisions of section 122(2) as follows:

**(a) *The desirability of securing and maintaining reasonable access to premises***

The proposed prohibition only covers recreational vehicles, and will not prohibit access to adjoining land by the owners, tenants and their lawful invitees because they will be exempted within the wording of the order.

**(b) *The effect on the amenities of any locality affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;***

It is not considered that the proposal will have any impact on heavy commercial vehicles as the route is not appropriate for such use. As described earlier the amenity of the area around the byway is pleasant, remote and rural. Although the byway is an amenity for all public users the degradation of its surface has an overall negative impact. The route becomes more difficult to use, those public paths connecting to it become less easy or attractive to use.

**(bb) *the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy)***

The limited numbers of motor vehicles using the route would have a minimal effect on air quality.

**(c) *The importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and***

There are no anticipated effects on public service vehicles (eg buses, taxis and coaches). As this is an unsealed route it is not used by such vehicles and drivers of such vehicles are unlikely to desire to use the route. In reality it is not a route that a reasonable person would drive such a motor vehicle over.

**(d) *Any other matters appearing to the local authority to be relevant***

Officers have considered appropriate guidance for the management of byways. In particular DEFRA's 'Making the Best of Byways' has been consulted which is also referenced in a recent letter of 21 April 2016 from Andrew Jones M.P., Parliamentary Under Secretary of State for Transport, in which he promotes the use of TROs to manage motor vehicles on byways and other unsealed routes.

- c An experimental order rather than a permanent order would give the opportunity to assess and monitor the condition of the byway and to be able to alter or cease the experiment should monitoring suggest that a different management approach is more appropriate. If the experimental order is successful it can be converted into a permanent order.