

Hope Valley Community Forum, 7pm on 22nd June 2005
Topic: Off-road Vehicle Use of Public Rights of Way

Chair:- Tony Hams (Chair, Peak District National Park Authority (PDNPA))

Introduction The Chair introduced the Forum, one of four forums which were being introduced in High Peak Borough Council Area, Derbyshire Dales District Council have been running Area Forums since 1999. They were a way of consulting with local people with direct access to senior representatives from the National Park Authority, County, District, Borough and Parish together with the Police and other bodies. Future subjects for discussion at the HV Forum would be Access to Services/Joined-up Working in September, Council/National Park Budget setting/consultation in December and Affordable Housing issues in March. These topics had been chosen after consultation with Parish Councils and other bodies working within the Hope Valley Area.

Speaker:- Mike Ashworth (Asst Director of Environmental Services, Derbyshire County Council (DCC)).

The Chair introduced Mike Ashworth (MA) to the meeting and invited him to give a short talk about the current position with regard to vehicle use on public rights of way.

MA explained that as a highway authority the County Council has a legal duty to protect the rights of all lawful users on 'public rights of way', including motor vehicle users where applicable. However, the Council recognised that motor vehicle use over public rights of way in beautiful areas of the countryside such as the Hope Valley was a public concern. Considerable work had already been undertaken to address this issue.

In April 2003 Derbyshire County Council Countryside Service produced a 'Policy for the management of motorised vehicle use in the countryside'. Copies of this were available from the Council at County Hall, Matlock (by request by telephone to the Rights of Way Team, (01629 580000)).

In February 2005 a report 'Examining the use of Motorised Vehicles in the Countryside' was submitted to the Council's Improvement and Scrutiny Committee. This provided recommendations from the Committee's Environment and Highways Panel resulted which contained an action plan. The action plan was approved by the Council and the details of the approved actions currently being worked on. Further details can again be obtained from DCC Rights of Way Team.

Whilst they were interrelated, the major issues the Council was trying to address were:

- Uncertainties about legal status
- Conflict between users
- Physical deterioration
- Environmental damage

The Council did not have enough resources available to meet the scale of right of way problems throughout the County as quickly as everyone would wish. There were always competing priorities. However, in response to a significant increase since 2003 in claims for 'byways open to all traffic' (BOATs), with 117 such claims currently outstanding, a dedicated officer had been appointed to process these claims.

Summary of discussion

Q Roland Butcher, Great Hucklow Parish Council

- RB referred to 4x4 vehicles using routes which were shown as footpaths on maps he had seen. He asked why do DCC did not co-operate more with Parish Councils and work with them to resolve rights of way problems

A MA responded:

- DCC had 4 full time rights of way officers, and they also liased with PDNPA officers who were concerned with rights of way matters. But the Council did rely on Parish Councils to identify local problems. If the problem was one that related to illegal use, then the Police would become involved.

Q David Hoskins (Derbyshire Dales District Councillor for Hathersage ward, and Eyam resident)

- DH referred to his understanding of ongoing problems with rights of way in and around Eyam, and asked what could be done to control misuse.

A MA responded:

- "mudplugging" was the term that was applicable where a route was continuing to be used by 4x4 motor vehicles even though it had become so churned up that normal use was barely possible. The Council did not condone it, nor would the responsible motor group members who were present. DCC was particularly concerned where wilful damage was caused, eg by to nearby tree trunks when used as winches help extricate vehicles from mud.
- If the use of a particular ROW was not sustainable, ie if there was significant ongoing damage, then a TRO would be used to control traffic.

Q Ken Osbourne, Green Lane Association (GLASS)

- KO explained that he deplored mudplugging and advocated sensible driving. It was a few irresponsible users that made the mess. He advocated the use of voluntary restraint.
- He mentioned that there were many positive aspects to the work they did eg taking out wheelchair users to places they would not normally be able to get to.

Q Mr McDonald, Eyam resident

- Mr McD said that some footpaths in Eyam had deteriorated to such an extent that they were too bad to use. He considered that this was due to motorbike use.
- He asked what could be done to stop it.

A MA explained:

- Where there was no reasonable argument that the route was anything but a footpath or a bridleway, then vehicular use would clearly be illegal, and the Police could take action. But where there was uncertainty about the legal status for vehicles, a TRO, supported by a physical barrier, could sometimes be used to stop it.
- DCC's Legal officers, in the County Secretary's Division, including Stephen Brent (SB) who was at the meeting had the task of examining the relevant historic records from which the legal status could be judged
- Where a there was footpath or bridleway shown on the definitive map which led directly onto a byway or NCH then it might be difficult to take action on the basis that the footpath or bridleway was necessarily shown correctly. Such situations could lead to an application to the DCC to change the recorded status from footpath to byway.
- DCC would generally only consider taking action. such as introducing a TRO [Traffic Regulation Order] if there was clear evidence of **sustained environmental damage**.
- The Government's new transport plan stated that the need to improve ancient RsOW must be recognised.

Q Steven Barton, Great Longstone Parish Council

- SBA referred to damage taking place on Bramley Lane by inappropriate use. He asked if this constituted criminal damage.

A MA responded:

- In theory this was possible, but evidence would need to be found to show that a particular person or other body had committed an offence. In practice this was difficult.

Q Geoff Thornton, Little Hucklow Parish Council and landowner

- GT asked why, when rights of carriage on a ROW are established from evidence of historic commercial use this should not lead to an automatic presumption of access rights for modern motor vehicular users?
- GT also stated that he had been notified of a DMMO application, and had been unable to get any information about what the intentions of the applicant, who lived 40 miles away, were.

A MA responded

- The DCC legal team should be able to give any available information about any particular application
- In determining the status of a RoW there was no essential difference between historic commercial use by horse-drawn carriages and other vehicle and recreation use
- If proposed legislation in the Natural Environment and Rural Communities Bill was enacted and became law, historic carriage use would not automatically mean a presumption in favour of motor vehicle rights.
- In the new legislation under the Countryside Act 2000 (yet to be brought into force), there was a new status of 'restricted byway' which would exclude motor vehicle use

Q Brian Gill, Peak and Northern Footpaths Society

BG considered that:

- The Roman Road over Snake Pass was not safe and there had been accidents there with riders and motorcyclists
- Motorcyclists were scrambling there all over the place
- New legislation would not be retrospective
- A TRO was needed to deal with the situation

A MA responded:

- a TRO was a method of control but it was not always appropriate. This was not always the best answer to such problems.

Q John Biggins, local resident

- JB suggested that the Council was in a position to make more TROs and questioned why DCC could not tackle difficult issues

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- MA responded: With limited resources, the Council had to prioritise. DCC also had to act wholly within the national law.

Q Doug Mason, local resident

- Recent highway refurbishments by the laying of scrapings to improve lane surfaces have encouraged off-road use and increased the speed of vehicles using them.

A MA responded:

- he was aware of the need for the Council to take care of how vehicular routes are maintained. There was a difficult balance to be struck between the surface of a route being easy enough for walkers and horse riders to use but not so smooth as to encourage higher vehicular speeds.

John Thompson, Director of Recreation and Education, PDNPA

JT welcomed the presentation on a complicated issue by Mike Ashworth, and the helpful comments and information so far at the meeting. He thought the work done through the County Council's Committee and Scrutiny Committee provided a helpful range of actions for the future which Peak District NPA would be pleased to work on further within the legal framework with the County Council, Police and other partners in the light of feedback from this Forum. He was particularly keen to see how the County Council would define "reasonable sustainability".

Q Cllr Mrs J Bevan

JB explained that she had also served on the County Council until recently, and had been a member of the panel established by the Council's Scrutiny Committee. She perceived that the problems arose not from long-standing trail users but from 'gangs' of new users

She was interested to know about 2 questions :

- (1) What was the status of RsOW currently undergoing legal challenge? She was aware that some 4x4 drivers were acting as if they were entitled to use routes that were subject to challenge as potential BOATs (When she had raised this with the Minister through Patrick McLoughlin MP, she had been informed that the question was not easy to answer).
- (2) was money being taken from normal footpath work to deal with problem areas (such as the £75,000 which she understood had been spent on repairs at Baslow RUPP 10)?

A MA responded:

- Re. (1), he understood that legislation was likely to be implemented soon to clarify the position.
- Re. (2) major schemes relating to difficult RoW problems were isolated from the main Council budget for routine RoW work. The Council also gave funding to the NPA for certain RoW work, and the NPA maximised their budget by use of match funding.

Q Andrew Chadwick, Abney resident and landowner

AC explained that:

- He personally repaired the route of a RoW, using material supplied by DCC, and used it appropriately.
- In spite of this, the RsOW on Shatton Moor were 'as wide as this room'
- This was related to use by hang-glider pilots. He understood that hang gliding had been prohibited in 1994 but they were still using the area
- Hang-gliders were also causing a problem for horse riders, and he wanted to know how they would be policed.

A MA commented that:

- DCC was generally keen to pursue opportunities to work with Parish Councils and with local residents on maintenance where they had an interest in carrying out maintenance on particular routes, of which this was an example.
- As far as the hang-gliding problems that were reported were concerned, this sounded like irresponsible recreational use that was out of balance with the character of the area, but the authorities could only consider taking whatever action might be within their legal powers.
- Planning status of hang-gliding use would be checked and followed up by PDNPA

PC McGregor explained that:

- Policing had to be a balance of different measures, but there was no criminal offence of hang-gliding.
- The Police were becoming very concerned about the instances of illegal direct action by individuals in the area to counteract vehicle use (whether this use was lawful or not was beside the point). There were currently serious problems around Abney Moor. A device with sharp metal protrusions had been hidden in a large puddle on a ROW. A local horse rider had come across it and it had been removed by the police; until then it had been capable of maiming any person or animal who might have come into contact with it, regardless of who the intended target might have been.
- Obstructions and dangerous structures on RsOW also caused delays and problems in the event of emergencies.

Q Andrew Byford, Clerk to Derwent and Hope Woodlands Parish Meeting

- AB considered that signs put up by PDNPA around Brink's Road which indicated bridleways were not helpful, because they contained warnings that the driving of vehicles on them was an offence even though the Definitive Map did not always show higher rights.
- AB also pointed out that he had problems with ramblers gaining access to his property

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- Those RsOW were being investigated – AB would be informed officially
- SB explained that there were no compulsory requirements for the wording of signs to indicate rights of way – they were not traffic signs, so a bridleway sign which contained additional advisory wording was permissible. The warning referred to appeared appropriate to deter driving of vehicles if there was a risk that someone doing so could be prosecuted.

Q Is there any control over noise level?

A PC McGregor responded:

- Vehicles must be fitted with silencers compatible with EU standards
- 80-90% of motorbikes using the area are legal, if not legal can prosecute under Road Traffic Law
- Motocross bikes are not designed for use on the road therefore do not have to comply with the same legislation; but where they do not, their use on highways is illegal.
- Noise carries in the countryside because it is generally quiet
- Noise enforcement as a matter of public nuisance is not a police matter but the responsibility of Environmental Health.

Q Long term Derbyshire resident

Stated that:

- The non legal users of RsOW were outsiders coming into the area
- Non legal users could be caught by police using off-road bikes
- There was a need for maps to be published to show where people were allowed to go.

Q Ian Baillie, Trail Riders Association

- IB considered that the introduction of more legislation would not deter law-breakers. He suggested that the authorities introduced a hierarchy of trail routes initiative, as there was in the Lake District

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- MA said that he was aware of the initiative. He favoured pro-activity and accepted the need for vehicular routes to be correctly identified and then mapped. A map to show legitimate vehicular routes could then be published, which would be a significant benefit. In addition PDNPA's rights of way officer has been working on a 'Code of conduct' with user groups. More joint working was required.

Q Local resident

- suggested that the authorities needed to identify and make people aware of suitable legal places for off-roaders to go

Q David Walker, local resident

DW Stated that:

- Visitors contribute significantly to the local economy
- Vehicle use can't be prevented so it must be controlled and allowed in certain areas

A MA responded:

- There will always be irresponsible thrill seekers who will try to ride where they are not supposed to – they should be stopped
- Private enterprise may assist in this, eg by developing areas for off-roading away from RsOW

Q Steve Rutherford, Bradwell resident

- SW recalled coming across a statistic that the average amount spent per visit by visitors to the Peak District was 27 pence.
- He felt that a lot of confused thinking surrounded proposals for new legislation and that use should be made of the present framework to encourage everyone to use lanes responsibly
- He explained that he only used RsOW as a motorcyclist. He was entitled to legal use trails but often got verbal abuse from ramblers.
- He had been physically prevented from using a NCH by PDNPA ranger (in a red Jacket)
- Everyone (not just motor bikers) needed to be educated about the law on rights of way

A MA responded:

- For routes where the status was uncertain, it was contentious whether use was legal or not. Until any legislative changes were introduced, the Council had to operate under the existing law
- There were better ways of producing and disseminating information but this would not solve all the problems.

Q Derek Taylor, Eyam Village Society

- DT suggested that with 117 claims to be processed using existing legislation, it seemed as though there was a campaign to get the status of RsOW processed under this legislation and before new law comes into force

A SB responded:

- Most of these 117 outstanding claims are recent
- Anyone can make a claim. Some are from organisations, eg TRF, some are from individuals, therefore it is not easy to say that there is a 'campaign' as such, though obviously organisations may work in a co-ordinated way.

Q Richard Jarman, resident and horse rider

RJ suggested that bikes and horses were incompatible types of use, and that the NPA should develop more concessionary riding routes

Q Vice Chair, Shatton Parish Meeting

Stated that since people had been talking about these same issues for 20 years, the planning authority should have sorted these problems out by now

Q local resident, walker and trail rider

- Stated that there were a number of outstanding byway claims dating back to 1993, and asked when these would be processed

A SB responded:

- DCC are dealing with all these claims.
- Each claim took 12 months to or more to determine, and then there might be a public inquiry. It was a lengthy process because each claim required individual consideration, but the Council was trying to speed up. It was the more complicated claims that had been outstanding for longest.

Q Anne Buckley, Eyam resident

- AB felt that there was a lot of frustration because residents did not have a voice in these issues
- She asked whether there was any way in which the status of BOATS and byways could be changed to footpaths

A SB responded:

- The highway authority must work under the legal duty to 'assert and protect' all public rights to use highways, including vehicular rights. Regrading BOATS and bridleways as footpaths requires the same legal order-making and confirmation process as regrading footpaths to bridleways and BOATS. The law required all claims for regrading to be determined on the basis of the relevant historical

evidence only. The Council did not receive many claims for downgrading; it seemed that overall the original Definitive Map more often under-stated than over-stated the true status of the paths on it.

- The on-going process of investigating the regrading claims was slow and resource-intensive.
- It was possible that in the future the work involved with the BOAT and other claims might be programmed on an area basis.

Q Owner, Gas Gas Motors and TRF member

- She explained that the business imported road legal motor bikes into the UK
- and that she rode one only where was legal to.
- She was concerned that the introduction by DEFRA of a ban on motor sport on agricultural land under SPF schemes (now under review) would lead to more “cowboys” on green lanes

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- Was there a timescale for classification issues to be resolved?

A MA explained that:

- There was an existing definitive map to which the existing claims related. Timescale for determining these claims was difficult to estimate, but it could be expected to take at least 3-4 years to all go through. The current time limit for submitting DMMO claims to DCC was 2026 but much depended on future legislation
- There were also the Council's records of all non-classified highways. It was envisaged that those which were not imperviously metalled would be evaluated for possible recording in the definitive map. The surveying work that was needed to start this process would begin shortly.

Jim Dixon, Chief Executive Peak District National Park Authority.

He was impressed by the number of people who attended the meeting, the breadth of communities they represented, and the constructive nature of the comments on all sides of the debate.

It has sent a clear message that proper use and protection of their countryside environment mattered very much to the community. The problems referred to could not be resolved by any single authority in isolation. It was now up to Derbyshire CC with the PDNPA, other authorities and the Police to work together to find practical solutions to problems in certain areas.

The Forum meeting ended at 9pm.