

(In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality of opportunity, environmental, financial, health, legal and human rights, personnel and property considerations.)

DERBYSHIRE COUNTY COUNCIL

**IMPROVEMENT AND SCRUTINY COMMITTEE
ENVIRONMENT AND HIGHWAYS PANEL**

02 FEBRUARY 2005

**Report of the Chair of the Environment and Highways Improvement
and Scrutiny Panel**

Review Examining the Use of Motorised Vehicles in the Countryside

1. Purpose of the Report

This report summarises the findings of the Improvement and Scrutiny review of the use of motorised vehicles in the countryside.

2. Information and Analysis

2.1 At its meeting on 22 March 2004, the Panel agreed that it would undertake a review in 2004/05 of the use of motorised vehicles in the countryside.

2.2 A copy of the draft project brief for the review may be found in Appendix 3.

2.3 A working group was formed comprising Councillor Hill and Councillor Bevan. The working group has consulted widely with key stakeholders to further the understanding of the issues. The working group has consulted representatives from:

- Trail Riders Fellowship
- Campaign to Protect Rural England
- Derbyshire Constabulary
- The Peak District National Park Authority
- Derby and Derbyshire Local Access Forum
- Peak District Local Access Forum
- Derbyshire County Council

In addition information has been gathered from various Government Departments / Agencies, local authorities, and recreational groups.

- 2.4 In April 2003 Derbyshire County Council's Countryside Service produced a 'Policy for the Management of Motorised Vehicle Use in the Countryside'. The information contained within the policy framework is still pertinent to this review.
- 2.5 It is not the purpose of this review to repeat the information outlined in the policy document. Members of the Environment and Highways Improvement and Scrutiny Panel have received a copy of the 'Policy for the Management of Motorised Vehicle Use in the Countryside' and it is advisable that Members are familiar with the policy and the size of the network within Derbyshire. This is shown in Appendix 4.
- 2.6 Fundamental concerns have been expressed by some recreational vehicle groups regarding aspects of the policy. The policy is scheduled to be reviewed in 2006 and this will provide organisations the opportunity to express their concerns.
- 2.7 **Legislation - Updates to the Policy for the Management of Motorised Vehicles in the Countryside**

There have been a number of developments, predominantly emanating from the Government, that have impacted on the issue of motorised vehicles in the countryside since Derbyshire County Council's policy was produced.

2.7.1 • **Defra proposals**

In 2004 Defra outlined new proposals for the use of mechanically propelled vehicles on rights of way. Defra launched a public consultation on the proposals with a deadline for responses being 19 March 2004. Defra is currently reviewing the feedback from the consultation.

A copy of the Defra consultation document can be found at www.defra.gov.uk/corporate/consult/mpvehicles/consultation.pdf

Impact of the Defra proposals:

In anticipation of the proposals becoming legislation, and the introduction of an earlier cut-off date for byway claims, vehicular user groups have already submitted a large number of applications for Definitive Map Modification Orders, totalling around 80 since July 2003. These seek to establish routes on the Definitive Map as Byways Open to All Traffic (BOATs) and affect existing footpaths, bridleways, Non Classified Highways (NCH's) and presently unrecorded routes. This has placed a considerable workload on the County Secretary's Division that deals with Definitive Map Modification Orders, with support from the Rights of Way team based in the Environmental Services Department.

2.7.2 • **Police Reform Act 2002 - Powers of seizure and disqualification**

On 1 January 2003 the police were given the power to seize vehicles which are being driven in a way which causes, or is likely to cause alarm, distress or annoyance.

2.7.3 • **The Discovering Lost Ways Project**

The Countryside and Rights of Way Act 2000 set a deadline of 1st January 2026 to register forgotten historic footpaths, bridleways and byways on the Definitive Map. The Discovering Lost Ways Project, managed by the Countryside Agency, is responsible for making sure that as many rights of way as possible are uncovered, in order to bring to an end the continuing uncertainty about “lost ways” for both landowners and the public alike.

Impact of the Discovering Lost Ways Project

Potentially through this project a significant number of applications to amend the Definitive Map will be submitted to the County Council. This may exacerbate the existing backlog of Definitive Map Modification Orders.

2.8 **Issues - Updates to the Policy for the Management of Motorised Vehicle Use in the Countryside**

The Derbyshire County Council policy outlines four key problem areas regarding motor vehicle activity in the countryside.

- Uncertainty over status
- Conflicts between users
- Physical deterioration
- Environmental damage and disturbance

Consultation with stakeholders and feedback from Members of the Local Access Forums generally concurs with the policy. In addition two further issues have emerged:

2.8.1 • **Motorcycling on the urban fringe**

A problem exists within Derbyshire, and nationally, of the illegal use of motor cycles on the urban fringe, particularly across open land, parks and cycle paths.

This is not a rights of way issue, but a concern to the general public and is a source of a number of complaints. Illegal off-road use can deter people from using green spaces, which in turn lead to concerns about community safety.

Anti-social behaviour tarnishes the reputation of all users of motorised vehicles in the countryside, including those who wish to legally use the network of unsealed minor highways

Powers now exist to confiscate vehicles and prosecute offenders. These powers have been utilised within Derbyshire.

2.8.2 • **Derbyshire County Council's internal mechanisms**

a) Management of the network of unsealed minor highways

At Derbyshire County Council the Rights of Way Team, based within the Countryside Service, manages the public rights of way network. The Network Management Division manages the county's road network, including the network of unsealed minor highways that are not recorded on the Definitive Map, but which are shown on the "list of streets" as non classified highways (NCHs).

Both the Rights of Way Team and the Network Management Division work within the Environmental Services Department.

The priorities of the Network Management Division are understandably focussed on reducing accidents and managing traffic flow. Inevitably, due to the relatively low level of traffic and accidents on the unsealed minor highway network, limited resources are directed towards the management of these routes.

In addition Network Management officers primarily deal with sealed highways. They do not necessarily have the knowledge and experience to deal with the specific issues, or the management techniques available to maintain unsealed highways in the countryside.

Problems caused by the limited resources and experience include:

- Limited information is available on the condition, use and route of NCHs
- Minimal maintenance is undertaken
- Maintenance can be inappropriate for the character of the surroundings
- Limited management of the network through the use of Traffic Regulation Orders or voluntary restraint

Experience and knowledge of managing unsealed minor highways is available in the Countryside Service working in co-operation with Consulting and Contracting Engineers (both work within the Environmental Services Department).

b) Backlog of Definitive Map Modification Orders

Due to the increase in applications to amend the Definitive Map and Statement, and the statutory processes which all highway authorities have to follow, it takes a long time to resolve each application.

A legal team within the County Secretary's Division of the Corporate Resources Department deals with applications for orders to amend the Definitive Map and Statement. Applications are generally assessed in chronological order of receipt. The County Secretary reports to the Regulatory - Licensing and Appeals Committee with recommendations for acceptance or rejection of the application.

A number of local authorities give officers with Rights of Way expertise delegated powers to make decisions on applications to amend the Definitive Map. Experienced officers are able to make decisions quickly using their knowledge of relevant legislation and evidence available. The process is perceived to be more of an administrative process than a legal process, and decisions do not need to be referred to a Committee for approval.

Problems caused by the existing system:

- It can take a long time for a decision to be made on an application to amend the Definitive Map. This, and the significant increase in applications, creates a backlog and in July 2004 officers were dealing with applications submitted in 2001
- Researching applications chronologically does not enable officers to prioritise the most contentious applications, or those which bring the most benefit to users of the rights of way network
- Different priorities can lead to a lack of co-ordination between the Rights of Way team and Legal Services team

3. Summary of Findings

The review has identified the need to:

- Improve information about, and the mapping of, the network of unsealed minor highways
- Speed up the process for clarifying the legal status of routes
- Improve the management, maintenance and enforcement of the network of unsealed minor highways
- Work with partners to achieve the objectives identified above

4. Recommendations

Appendix 1 outlines the draft recommendations. The associated Action Plan is contained in Appendix 2.

OFFICER RECOMMENDATION: That:

- (a) The Panel agrees the recommendations and the action plan outlined in the report.
- (b) The Chair of the Improvement and Scrutiny Panel presents the report to the Cabinet.
- (c) Following consideration of this report it is suggested that, should the Cabinet agree to implement the recommendations, the Improvement and Scrutiny Panel receives a report at a date to be determined, to outline progress made.

**JANET HILL
CHAIR OF ENVIRONMENT AND HIGHWAYS
IMPROVEMENT AND SCRUTINY PANEL**

APPENDIX 1

Recommendations

A number of the recommendations follow the advice outlined in the Government publication 'Making the Best of Byways' and are aims outlined in Derbyshire County Council's 'Policy for the Management of Motorised Vehicle Use in the Countryside'.

That: -

1. Derbyshire County Council works with the Peak District National Park Authority to gather and map information on the non-classified highway (NCH) network. Information gathered should include:

- Condition and use
- Sustainability
- Location

Work needs to be undertaken to determine an acceptable definition of the term sustainable with reference to the condition of unsealed minor highways. It is proposed that the Local Access Forums be consulted and can consider setting up a working group to advise on any proposals

2. The Director of Environmental Services reviews the most effective management arrangements for dealing with all unsealed minor highways and Traffic Regulation Orders.
3. Derbyshire County Council reviews the existing 'Policy for the management of motorised vehicle use in the countryside'. This review should commence as soon as possible in accordance with existing work programmes and forthcoming Government legislation.
4. Derbyshire County Council officers work, having regard to the findings of the Rights of Way Improvement Plan and in consultation with the Local Access Forums, to identify through routes that link the network and are:
 - Sustainable
 - Confident with legal status of route
 - Fulfil a strategic function
5. Derbyshire County Council officers identify, with regard to relevant findings of the Rights of Way Improvement Plan, NCH's that are likely to be rights of way that should be shown on the Definitive Map. Legal Services will then investigate and assess the evidence

to determine whether a Definitive Map Modification Order should be made on the basis of the evidence available.

The aim of this process is to identify a comprehensive record of unsealed minor highways with public vehicular access rights. This information can be recorded on a computer mapping system that incorporates definitive rights of way, unsealed minor highways with public vehicular access rights, and routes under investigation on it, together with a process of prioritisation.

6. In conjunction with relevant elements of the Rights of Way Improvement Plan and the Local Transport Plan, Derbyshire County Council develops a management strategy for the network of unsealed minor highways. The strategy might include for example:

- Additional signposting to improve users' awareness of rights and expected traffic
- Consideration of the possibility of erecting new signposts for unsealed minor highways not on Definitive Map
- Appropriate Traffic Regulation Orders on unsustainable routes
- A maintenance plan for the network of unsealed minor highways. The plan must be developed in conjunction with the County Council's network planning process and should be brought forward for consideration by Members.
- Encouraging voluntary groups to work with Derbyshire County Council to undertake agreed maintenance of the network of unsealed minor highways
- Investigating the potential advantages of adopting the Quiet Lanes Initiative

7. The existing processes for determining Definitive Map Modification Orders be reviewed. These include the following:

- Publish decisions on the County Council website and write to organisations/individuals on consultative list informing them of the decision and the appeals process
- Ensure that the newly created post within Legal Services works closely with the Rights of Way team
- Work with the Local Access Forums and officers dealing with the Rights of Way Improvement Plan to develop strategic criteria for prioritising Definitive Map Modification Orders
- After a 2 year period a review should be undertaken to identify the most appropriate department to carry out Definitive Map Modification Orders

8. A Code of Conduct for users be developed: -

- Work with the Peak District National Park Authority, Derbyshire Constabulary, National Farmers Union, and motor vehicle groups to develop a code of conduct for users. This code should be distributed widely and should include motor vehicle groups and motor vehicle retailers.
- The code of conduct should make it clear that if it is challenging you should not be there and that 'mudplugging' should be confined to private sites

9. The legal use of the network of unsealed minor highways be enforced: -

- Derbyshire County Council should record information about incidents that have occurred on the network of unsealed minor highways and give this information to the police
- Develop a campaign with the Derbyshire Constabulary, Community Safety Partnerships, user groups, Peak District National Park Authority and Derbyshire County Council to raise awareness of users rights and responsibilities and target illegal use
- Consider what physical barriers are feasible according to location and the legal position.

10. Powers be utilised to implement appropriate Traffic Regulation Orders having regard to current Government guidance

11. The Council encourage Community Safety Partnerships to look at the issue of the use of motor vehicles on the urban fringe and in rural areas: -

- Examples of good practice exist in Cornwall where they are trying to work with users and clubs to support supervised scrambling at private facilities.
- Across the district of Bolsover A-Frames are being used to prevent motorbikes from accessing areas such as alleyways and playing fields

It is recognised that the forthcoming legislation emanating from the Defra proposals could supersede the recommendations in this review.

Appendix 2 – Action Plan

The table below sets out the recommendations outlined in this report.

Recommendation	Implement Yes/No	Action?	Lead Officer	Timescale
<p>1. Derbyshire County Council works with the Peak District National Park Authority to gather and map information on the non-classified highway (NCH) network</p> <p>Work needs to be undertaken to determine an acceptable definition of the term sustainable with reference to the condition of unsealed minor highways. It is proposed that the Local Access Forums be consulted and can consider setting up a working group to advise on any proposals</p>		<p>Fill vacancy in PROW.</p> <p>Audit state of existing information</p>	R. Taylor	<p>Step 1 - Audit existing information by October 2005</p> <p>Step 2 – Develop plans for completing the process and report to Improvement and Scrutiny Committee by January 2006</p>
2. The Director of Environmental Services reviews the most effective management arrangements for dealing with all unsealed minor highways and Traffic Regulation Orders			D. Harvey	Completed
3. Derbyshire County Council reviews the existing ‘Policy for the management of motorised vehicle use in the countryside’			R. Taylor	Spring 2006
4. Derbyshire County Council officers work, having regard to the findings of the Rights of Way Improvement Plan and in consultation with the Local Access Forums, to identify through routes that link the network			R. Taylor	<p>Step 1 - Audit existing information by October 2005</p> <p>Step 2 – Develop plans for completing the process and report to Improvement and Scrutiny Committee January 2006</p>

Recommendation	Implement Yes/No	Action?	Lead Officer	Timescale
<p>5. Derbyshire County Council officers identify NCH's that are likely to be rights of way that should be shown on the Definitive Map. Legal Services will then investigate and assess the evidence to determine whether a Definitive Map Modification Order should be made on the basis of the evidence available.</p> <p>The aim of this process is to identify a comprehensive record of unsealed minor highways with public vehicular access rights</p>		<p>Fill vacancy in PROW .</p> <p>Audit existing information</p>	R. Taylor / Legal Services	<p>Step 1 - Audit existing information by October 2005</p> <p>Step 2 – Develop plans for completing the process and report to Improvement and Scrutiny Committee by January 2006</p>
6. In conjunction with relevant elements of the Rights of Way Improvement Plan and the Local Transport Plan, Derbyshire County Council develops a management strategy for the network of unsealed minor highways			Asst Director N.M. / P.E.	Annually
7. The existing processes for determining Definitive Map Modification Orders be reviewed			R. Taylor / Legal Services	October 2005
8. A Code of Conduct for Users be developed		Draft code developed	R. Taylor	Summer 2005
<p>9. The legal use of the network of unsealed minor highways be enforced:</p> <ul style="list-style-type: none"> - Derbyshire County Council should record information about incidents that have occurred on the network of unsealed minor highways and give this information to the police - Develop a campaign with Derbyshire Constabulary, community safety partnerships, user groups, Peak District National Park Authority and Derbyshire County Council to raise awareness of users rights and responsibilities and target illegal use - Consider what physical barriers are feasible according to location and the legal position 			R. Taylor	Commence October 2005

Recommendation	Implement Yes/No	Action?	Lead Officer	Timescale
10. Powers be utilised to implement Traffic Regulation Orders having regard to current Government guidance			Asst. Director N.M.	Ongoing
11. The Council encourage Community Safety Partnerships to look at the issue of the use of motor vehicles on the urban fringe and in rural areas			R. Taylor	Commence October 2005

APPENDIX 3

ENVIRONMENT AND HIGHWAYS IMPROVEMENT AND SCRUTINY PANEL

REVIEW EXAMINING THE USE OF MOTORISED VEHICLES IN THE COUNTRYSIDE

PROJECT BRIEF

1. Purpose of the Review

To investigate issues surrounding the use of motorised vehicles in the countryside, and to identify improvements that will enhance the management of unsealed minor highways including footpaths, bridleways and byways.

2. Objectives of the Review

- To identify the issues associated with motor vehicles on unsealed minor highways
- To establish, and to raise awareness amongst stakeholders of, the legal status regarding the use of motor vehicles on unsealed minor highways
- To review the effectiveness of Derbyshire County Council policy with regards to the management of motorised vehicles in the countryside
- To identify potential improvements to the management of unsealed minor highways
- To highlight examples of good practice

3. Big Issues

- Is current usage sustainable?
- What relationships exist between Derbyshire County Council and the recreational groups using the countryside and its unsealed minor highways?
- What powers are available to control usage? Are the powers being utilised?
- What are the financial implications associated with maintaining unsealed minor highways?
- What will the Government recommend following consultation with stakeholders on the use of motorised vehicles in the countryside?

4. Review Methodology

Extensive consultation will be undertaken with a variety of key stakeholders. Consultees will include:

- Derby and Derbyshire and the Peak District Local Access Forums. These are the statutory advisory bodies set up under the Countryside and Rights of Way Act to advise the County Council on countryside access improvements. They include representatives of walkers, cyclists, horseriders and vehicle users.
- Derbyshire County Council Countryside Service Officers
- Derbyshire County Council Highways Officers
- Elected Members
- Peak District National Park Authority
- Derbyshire Constabulary
- External experts

5. Outline Consultation Plan

- Prepare a plan including a balance of written and oral views of those groups and individuals outlined above.
- Develop further understanding by Elected Members through a series of interviews with expert witnesses at Improvement and Scrutiny meetings.

6. Outline Project Plan

- April 2004 I & S Panel approves the Project Brief and appoints a Working Group
- May to Sept 2004 I & S Working Group prepares consultation plan, gathers comparative information and undertakes consultation
- June 2004 I & S Panel receives a progress report
- Sept 2004 I & S Panel receives the final report which is incorporated as relevant into the Draft Rights of Way Improvement Plan.

APPENDIX 4

Public Rights of Way in Derbyshire

Status of route	Number of routes	Length (km)	As a % of the total length of paths in Derbyshire	Comparable figure across England (%)
Public Footpath	8778	4711	90	78
Public Bridleway	518	475	9	17
Road Used as a Public Path (RUPP)	76	54	1	3
Byway Open to All Traffic (BOAT)	3	2	0.05	2
TOTAL	9375	5242		

Derbyshire's Roads

Derbyshire County Council is responsible for a total of over 5,500km of roads, falling into the following categories:

(km)	Former Trunk Roads	Other Principal (A) Roads	B Roads	C Roads	Unclassified Roads (NCH's)
Built-up	41	192	193	324	1,939
Non Built-up	90	300	280	1,004	1,175
Total	131	492	473	1,328	3,114