

DERBYSHIRE COUNTY COUNCIL

**MEETING OF CABINET MEMBER – HIGHWAYS, TRANSPORT AND
INFRASTRUCTURE**

7 July 2015

Report of the Strategic Director – Economy, Transport and Environment

**REPAIRS TO CHAPEL-EN-LE-FRITH BYWAY OPEN TO ALL TRAFFIC 144
– CHAPEL GATE**

(1) **Purpose of Report** To consider the feedback from consultations carried out on the Council's planned improvements to Chapel-en-le-Frith Byway Open to All Traffic (BOAT) 144, known as Chapel Gate, and agree the next steps.

(2) **Information and Analysis** The County Council commenced improvements to Chapel Gate in October 2014 as part of its 2014-15 Green Lane Action Plan. The Plan had identified several routes that were considered to be in poor condition. The route is currently subject to a Traffic Regulation Order (TRO) implemented by the Peak District National Park Authority, which has the effect of preventing use by motorised vehicles. It is therefore available to pedestrians, cyclists, horse-riders and horse and carriage drivers.

Severe water erosion over the years has resulted in a surface that is in disrepair and unusable by many classes of user. The planned repairs of this section of the route included covering rock steps that had been created by erosion as well as attending to drainage along sections of the route.

Work commenced on 20 October 2014 and was suspended on 24 October 2014 owing to a considerable number of representations made by mountain bikers via email and social media. The main thrust of the objection to the work was the covering of the rock steps which have, for many years, provided a challenge to biking enthusiasts. However, the representation highlighted a lack of consultation with users and identified how consultation could be improved going forward when undertaking work on such remote routes. The concerns regarding adequate consultation on this route have now been addressed and, in addition a revised procedure, is recommended going forward to ensure members of the public are given the opportunity to comment on future Council proposals.

Between 5 and 11 December 2014, a consultation exercise was undertaken with the following organisations.

Peak Horse Power
British Horse Society (Derbyshire) (BHS)
Endurance GB (Derbyshire Group – equestrian interest)
Ramblers Association (Derbyshire)
Dark Peak Bridleways Association
Peak District Local Access Forum (PDLAF)
Peak District National Park Authority
Peak and Northern Footpaths Society
Disabled Ramblers Association
Chapel-en-le-Frith Parish Council
Edale Parish Council
Natural England
Ride Sheffield
Friends of the Peak
Peak MTB
Keeper of the Peak (Twitter Feed)
British Driving Society
County Councillor Jocelyn Street (Local Member)
National Trust
Open Spaces Society
Landowners

The relevant extracts from the comments offered by the consultees are appended to this report. The overall consensus is that the repairs should continue and to a standard that takes into account the character of the area. Strong opposition to the scheme has been received from the mountain biking representatives. There is an understanding that work is required, however, doubts have been raised over the extent of the work that may ultimately interfere with the character of the route for mountain bikers. Whilst it is appreciated that this route currently provides excellent opportunities for mountain bikers, leaving the route in a less commodious condition for others creates a route which will be less accessible to other classes of user.

The general character of the route is that of a remote upland track, however, bridging the gap between what is a well maintained highway, whilst maintaining the character of this upland route, is a challenge. A rugged surface of this nature may well be tolerated on a footpath, however, Chapel Gate is a carriageway and therefore needs to be available to a wide type of user whose needs and expectations will vary. The Council is therefore obliged to repair the route to a standard that is reasonably accessible to all types of user.

To this end, materials natural to the area will be used for the repairs. Improved drainage will provide a sustainable route and improve access to the

countryside, providing opportunities for less able persons to enjoy the surrounding landscape. Furthermore, much of the existing bedrock will be retained as is practicable unless it presents a danger to users.

Further liaison will take place once the structural design has been completed.

Summary of Comments

Overall, the responses received from the consultees showed support for the work that had been started but with caution, given the sensitivity of the site. Significant points raised in the consultation are discussed below.

There is clear evidence that mountain bikers would not wish to see the challenges the route currently presents changed to a point where the rocky features are removed. In this regard, the design will retain some of the rock surface where it does not present a danger to users.

The Peak District National Park Authority has advised that the steps provide interest and that users would not expect a surface of a uniform nature. With the TRO in place it suggests that the route will recover.

Comment: The route will not recover to the extent that it will be available to a wide range of users. The bedrock has been exposed for many years and forms a barrier and potential obstruction to users.

The Peak District Local Access Forum (PDLAF) has urged continuing consultation to reach an agreed solution and urges that the works are completed in a sensitive and appropriate manner with minimal disturbance to the areas of conservation value.

Comment: Revised plans will be shared with the PDLAF to provide the reassurance requested.

The Disabled Ramblers Association has made a very pertinent point. Whilst it accepts that rocks steps might prevent a mobility scooter from proceeding on a footpath, which is acceptable to the organisation, it points out that Chapel Gate is a carriageway and large rock steps have no place on a carriageway.

The Local Member, Councillor Jocelyn Street, has been consulted and her comments are appended below. Following consultation in her constituency area there appears to be a lack of support for the scheme. Specific answers to her comments are provided below:

- The repairs are incomplete and it would be difficult to gauge the standard of the final repair at this point in time. The final surface will be a mixture of gritstone and, where appropriate, setting stones to assist drainage.

- Continued use by motorised vehicles is being monitored by the Peak District National Park Authority which implemented the TRO.
- The status of the route legally precludes the erection of barriers.
- Chippings will not be used. The construction will include measures to reduce scouring and the route will be inspected to ensure that minor repairs are carried out to reduce the risk of a significant failure of the drainage system.
- Improvements to any part of the path network receive fair consideration within available budgets. Where there is a clear risk to users, this will become a priority which is the case with Chapel Gate.

There are differing views over how the route should be repaired but the County Council, as the Highway Authority, is the body with which the decision rests and must take a view on what is a reasonable repair.

The duty of the County Council extends to providing a route which is reasonable and capable of carrying the ordinary traffic of the area. In this case, the “ordinary traffic” is that which would be expected in an upland setting. It is acknowledged that the TRO prevents motorised traffic using the route, however, there is an opportunity to provide access for a wider range of users which have been prevented from gaining access owing to its condition for many years.

As indicated above, the majority of consultees support the improvement work and this encouraging response supports the importance of the route as a facility which should be available to a wider range of users. With this in mind, it is recommended that the work should continue following minor revisions to the drainage system and retention of as many of the natural features as is reasonable and safe to do so as a consequence of the consultation.

Future Consultations

As a result of the lessons learnt from the above exercise, a revised procedure is proposed for consulting users on future works to non-classified highways of this type, where there is likely to be significant and obvious changes to the infrastructure that will alter the character of the route.

It is recommended that consultations will take the following format and last no more than two months:

- Via the County Council's website.
- The Local Member.
- Parish/Town Council.
- The Peak District National Park Authority where appropriate.
- The relevant Local Access Forum.

The outcome of the consultation will be determined by the Strategic Director – Economy, Transport and Environment in liaison with the Cabinet Member for Highways, Transport and Infrastructure.

(3) **Financial Considerations** The expenditure can be contained within the approved 2013-14 Green Lanes Action Plan.

(4) **Legal Considerations** Section 41 of the Highways Act 1980 places a duty on the County Council to maintain a highway maintainable at public expense. This byway is publicly maintainable and therefore, under normal circumstances, the standard of maintenance should be to a standard capable of carrying the ordinary traffic of the area. This means that a user would expect a route in this locality to be reasonably accessible by all forms of transport legally entitled to use the route. Given the fact that motorised vehicles are precluded by virtue of the TRO now in place, a robust bridleway surface will satisfy the requirements of the statutory duty.

(5) **Environmental and Health Considerations** Consideration has been given to the County Council's Rights of Way Improvement Plan in considering this application and preparing this report.

Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property and transport considerations.

(6) **Key Decision** No.

(7) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(8) **Background Papers** Held on file within the Rights of Way Section of the Economy, Transport and Environment Department. Officer contact details – Peter J White, extension 39673.

(9) **OFFICER'S RECOMMENDATIONS** That the Cabinet Member:

9.1 Agrees to the implementation of the scheme with the revisions outlined in the light of the consultation feedback in liaison with the Peak District Local Access Forum.

9.2 Supports future schemes of this nature being subject to two months public consultation as detailed in the report.

Mike Ashworth
Strategic Director – Economy, Transport and Environment

Results of the Consultation – extracts italicised

Organisation	Comments
Peak Horse Power	<i>“We would like to see repairs which will permit access for riders to the whole of the Chapel Gate route. To be avoided at all costs are repairs which will make the route wholly impassable by riders or more dangerous and difficult for them than it currently is.”</i>
British Horse Society (Derbyshire) (BHS)	<i>“The broad principle of repairing the byway is supported by the BHS.”</i> <i>“Owing to its isolated and remote location the byway is not heavily used by riders at present but there is scope for encouraging more usage bearing in mind that the way connects to the Pennine Bridleway and also forms part of the newly designated Kinder Loop. You will be aware that the Kinder Loop is intended to be a significant means of promoting equestrian tourism in the Peak Park and the present surface condition of Chapel Gate is not up to a standard conducive to horse-riding visitors.”</i>
Endurance GB (Derbyshire Group – equestrian interest)	Supports the repairs and opposes the retention of the steps.
Ramblers Association (Derbyshire)	<i>“Our view is that the resurfacing will improve Chapel Gate for walkers and so we support the Council's actions in this regard”.</i>
Dark Peak Bridleways Association	<i>“Since this is an area of outstanding natural beauty and within the Peak District we as a group feel that repairs should be kept to a minimum. Leave the exposed bedrock/slabs and make good the work that has already taken place. The money would be better spent on making gateways less of a danger/hazard as most of us riders have encountered an accident at one time or another.”</i>
Peak District Local Access Forum (PDLAF)	Specific Comments: The PDLAF urge continued consultation and updates from Derbyshire County Council (DCC) in order that a reasonable agreed solution is reached.

	<p>In this specific, case the surrounding character includes relative naturalness/wildness and ruggedness.</p> <p>The unfinished works cannot be left as they are, therefore, the PDLAF urge their completion in a sensitive and appropriate manner.</p> <p>The PDLAF recommend an approach to the top boggy section which is minimal in disturbance to the Site of Special Scientific Interest/ Special Protection Area/Special Area of Conservation.</p> <p>Bedrock is an acceptable surface for horse-riders as part of a challenging route.</p> <p>On the boggy section there should be alignment with the established route.</p> <p>The PDLAF would like DCC to explore further whether it is possible to have something that is tramper friendly whilst still retaining a significant challenge feel. The bedrock steps could be sculpted in some way to allow both - using a combination of sets to heighten in places with reducing the height of the bedrock along part of the length of some of the steps. A route for trampers could snake up the steps leaving a straighter steep section down the middle for bikes.</p>
Peak District National Park Authority	<p>Does not consider it necessary to cover the steps as it provides interest.</p> <p>Expectation (for the user?) would not be for a uniform route.</p> <p>With the TRO in place, the National Park suggests the route will recover.</p> <p>Aggregate should not be imported and used for repair because of the risk of wash-out.</p>
Peak and Northern Footpaths Society	<p><i>"The works being carried out seem sensible and proportionate to this Society."</i></p>

Disabled Ramblers Association	<p><i>“While natural features such as rock steps might prevent a mobility scooter from proceeding on a footpath and is acceptable to us, Chapel Gate is not a footpath, it is a carriageway. Large rock steps have no place on a carriageway. These are not a natural feature of the landscape but are the result of wear, abuse and lack of maintenance over many years. When properly maintained, the carriageway is not too steep and is sufficiently wide. We would therefore expect that a Class 3 Mobility Scooter would, once repairs are effected, be able to negotiate the whole of the route from Sheffield Road to Barber Booth.”</i></p> <p><i>“As a Byway, we would expect to see the repairs to Chapel Gate done in such a way as to meet our criteria for a Category 3 ramble. That is ruts, stones and steps of no more than 100mm.”</i></p>
Chapel-en-le-Frith Parish Council	<p>Concern expressed over continued use by motorised vehicles. Requested barriers to be installed. Expressed concern that <i>“There appears to be a growing concern at the amount of money being spent on this project when there are repairs needed to the highway and paths in more populated areas which are not being undertaken due to budget restraints.”</i></p>
Edale Parish Council	No response.
Natural England	<p><i>“Natural England wish to see the right of way open to all users.</i></p> <p><i>Natural England welcomes consultation as a means to establishing the best outcome where multiple users/demands exist for a landscape or feature. Maintenance is the responsibility of DCC and Natural England will only comment on the potential impacts upon protected sites.</i></p> <p><i>DCC has a duty to maintain SSSIs in addition to their responsibility to maintain highways.</i></p> <p><i>Natural England agree in principle to the proposals presented by DCC, but require more detail for the realignment/cutting/restoration sections prior to the assent being issued.”</i></p>

Ride Sheffield	<p>Supports the views of Friends of the Peak, British Mountaineering Council (BMC) and Peak District MTB.</p> <p>NB the BMC was not consulted and no formal response has been received.</p>
Friends of the Peak	<p><i>“In summary therefore, intervention - where necessary - must be minimal, sensitive (to both the locale and user groups' needs) and sustainable. The current plans do not fulfil these criteria and therefore we ask you to work with the National Park Authority and user groups to improve them.”</i></p> <p><i>“We recognise that this may be more costly (e.g. pitched stone interventions vs graded surfaces) but we are clear that it will be much more likely to succeed. We would therefore ask that you give serious consideration to allowing some budget flexibility to complete these repairs in a more sensitive and sustainable manner.”</i></p>
Peak District MTB	<p><i>“Remove all materials that have been placed on the route and return it to its original state.</i></p> <p><i>If maintenance or repair to this route is unavoidable we request the current materials are removed and replaced with a planned and designed stone setting approach to reasonably accommodate all amenity users as has been achieved on the Roych nearby.</i></p> <p><i>Should the larger steps be removed we request smaller steps remain and that solid bedrock is left intact and visible, remaining consistent with the nature of the high moorland trail.</i></p> <p><i>That all maintenance is as sensitive, minimal and sustainable as possible for this and all future work on rights of way.”</i></p>
Keeper of the Peak (Twitter feed)	<p><i>“Overwhelmingly users of this path are not in support of the planned work. Your justification for the works is not supported by recommendations of subject matter experts in this area.</i></p>

	<i>Your actions have galvanised an important and influential cross-interest group against Derbyshire County Council and you must take steps to work with and respect this group."</i>
British Driving Society	No response.
County Coucillor Jocelyn Street (Local Member)	<p><i>".. repairs are perceived as unsympathetic and unsightly and are completely spoiling the look of the countryside. The levelling of the track is particularly upsetting everyone. It is apparently making it an eyesore. I have heard from people who no longer wish to visit "because of it.</i></p> <p><i>"... off-roaders still use this route illegally and the police have no manpower to enforce the TRO. It is felt the repairs facilitate this illegal use. My constituents would like to see money spent on creating physical barriers to prevent access onto the track by off-road vehicles but which would still enable access by pedestrians, cyclists and horse riders. These current repairs do not appear to aid these users.</i></p> <p><i>"I am told by regular users that the chippings make it hazardous to walk as they are very easy to skid on. People who know it well and have done so for many years tell me that in any event they will be washed away."</i></p> <p><i>We are constantly being told that there is no money for the maintenance, repair and clearance of rural paths requiring relatively small sums of money to enhance people's lives yet substantial sums can be expended on works that nobody seems to want.</i></p>
National Trust	<p><i>"The importance of a solution that first and foremost is in keeping with the surrounding landscape of this part of the National Park i.e. more natural and rugged.</i></p> <p><i>The importance of seeking a solution that provides access in a way that suits the range of users of this particular route. Due to its BOAT, Kinder Loop (horse-riding) and high quality mountain bike route statuses I think the</i></p>

	<i>particular challenge is finding a way forward that allows for adventurous mountain biking and disabled access with everything in between. As technology improves and people's aspirations increase this issue is going to come up more and more and Chapel Gate provides an opportunity to meet this challenge constructively. It won't be easy but further consideration of techniques; thinking creatively; and detailed consultation with users could lead to a very good solution."</i>
Open Spaces Society	Unable to comment due to no local representative.
Landowners	Only one landowner responded and supports the repair.