

**CABINET MEMBER FOR HIGHWAYS, TRANSPORT AND WASTE –
CLLR BRIDGET WAYMAN**

COMMUNITIES AND NEIGHBOURHOOD SERVICES

OFFICER CONTACT: Michael Crook, 01225 713349, michael.crook@wiltshire.gov.uk

REFERENCE: HTW-04-20

**Temporary Traffic Regulation Order to Allow Repairs
to The Ridgeway National Trail**

Purpose of Report

1. Wiltshire Council is repairing a section of The Ridgeway National Trail which has been damaged by motorised vehicles. A Temporary Traffic Regulation Order (TTRO), made under the provision of the Road Traffic Regulation Act 1984, s.14(1) was put in place in Spring and Summer 2019 to prohibit motorised vehicles, enabling trial repairs to be made to some of the damaged areas. Additional work is required to fill ruts and repair the grass surface, so a further order is sought for Spring and Summer 2020. This will give sufficient flexibility to undertake the works when the weather and ground conditions allow, and to enable the repairs to consolidate.

Relevance to the Council's Business Plan

2. The Business Plan has an underlying theme of creating strong communities and working in partnership. The council has been approached by a number of organisations with an interest in The Ridgeway requesting that a permanent Traffic Regulation Order (TRO) is put in place in the interests of the public. Also under the strong communities title is a "Personal Wellbeing (Prevention)" heading, which goes on to say "I can take responsibility for my wellbeing [through the provision of] ... Good countryside access and cycling and walking opportunities."
3. This stretch of the Ridgeway currently does not meet the National Trail Standards due to its rutted surface condition and poor drainage. This can only serve to discourage its use, which is not in line with the strategic aims of the document.

Main Considerations for the Council

4. Under s.130 of the Highways Act 1980, Wiltshire Council has a statutory responsibility to assert and protect the rights of the public to the use of and enjoyment of any highway (which includes public rights of way) for which they are the highway authority.
5. Under s.41 of the Highways Act 1980, Wiltshire Council has a duty to maintain the highway. This requires the Council to ensure that the surface of public rights of way are in state of good repair for public use.
6. The Ancient Monuments and Archaeology Areas Act 1979 makes provision for the investigation, preservation and recording of matters of archaeological or historical interest and for the regulation of operations or activities affecting such matters. This part of the Ridgeway is within the Stonehenge & Avebury World Heritage Site (WHS, designated in 1986) so it is afforded the highest level of protection available.

7. Wiltshire Council adopted the Stonehenge & Avebury WHS Management Plan in March 2016 and is part of the WHS Management Panel which monitors the Management Plan. The council is responsible for the delivery of 35 actions within the plan. The Council is also a signatory and delivery partner to the North Wessex Downs Area of Outstanding Natural Beauty Management Plan 2019 - 2024. The key relevant policies in this document are as follows:
 - Strategic Objective S10: Protect archaeological and historic features, sites and their landscape setting against inappropriate development and management practices
 - Policy HE01: Support efforts to ensure that sites, features and landscapes of historical importance are appropriately identified, recorded and managed
 - Policy HE04: Work closely with the Stonehenge and Avebury World Heritage Site Partnership and other groups to develop shared objectives and deliver joint actions in support of the World Heritage Site Management Plan
 - Policy HE06: Support initiatives that seek to provide long-term sustainable management of important heritage assets for social and economic benefits
 - Policy TLA05: Promote greater accessibility to the North Wessex Downs for users of all abilities for quiet enjoyment and improved health and wellbeing
8. The Ridgeway is also one of England and Wales' 15 National Trails. All the National Trails have a set of standards that they should meet in order to qualify for government funding. Currently this stretch of the route is failing to meet those standards and there is a risk of partial or full loss of this funding.

Background

9. The Ridgeway National Trail is a walking route running for 87 miles from Overton Hill near Avebury to Ivinghoe Beacon in Buckinghamshire. The first 3 miles run north to south in the Stonehenge, Avebury and Associated Sites World Heritage Site (WHS). It also lies within the North Wessex Downs Area of Outstanding Natural Beauty and the National Cycle Network uses part of this stretch. Between Overton Hill and the River Thames at Goring, it also promoted as a National Trail for horse-riding and cycling.
10. These first 3 miles of The Ridgeway have the highway status of a Byway Open to All Traffic, and so may be lawfully used by walkers, cyclists, horse riders, horse and carriages and motorised vehicles. The passage of motorised vehicles has continued to damage the surface despite the seasonal winter closures since 2005 by a permanent TRO which prohibits vehicular use from October to May. Large ruts have formed in which water settles and cannot easily drain away and there are major problems with deep and slippery mud. This has made it very difficult for non-motorised users such as walkers, cyclists, horse riders, horse and carriage drivers and mobility scooters to use the byway. The seasonal TRO is enforced by gates installed at Overton Hill and Hackpen Hill.
11. There is now concern that damage to the surface (and archaeology recently discovered along the route itself) is still occurring during the summer months when vehicles can legally use the route. In May 2018, Wiltshire Council extended the seasonal closure by 21 days by an emergency notice under the Road Traffic Regulation Act (1984). This was because the route had not dried out by the time it was due to reopen and the passage of motorised vehicles was found to have "*left the surface of the byway severely rutted and it is still holding water in numerous locations*". The photo accompanying Wiltshire Council's press release shows ruts, some filled with water, extending over almost the whole width of the Ridgeway. The press release and picture can be found at Appendix 1.
12. A 'carriageway' is defined in s.329 of the Highways Act as 'a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles'. A Byway Open to All Traffic is a carriageway the use of which is mainly for the purposes for which footpaths and bridleways are used, i.e. by walkers and horse-riders.

The courts have held that the duty upon the highway authority is, “to put a highway in such repair as to be reasonably passable for the ordinary traffic of the neighbourhood at all seasons of the year” (R. v High Halden, 1859), and to, “keep the road as dedicated to the public in such a state as to be safe and fit for ordinary traffic” (Lindley J in Burgess v Northwich Local Board, 1880). Stretches of the Ridgeway are currently failing to meet these requirements so it is necessary to undertake repairs. Previous repair work on this stretch of the Ridgeway has used limestone, however the government has now established standards for National Trails which for this section of The Ridgeway render those earlier methods of repair and the materials used, inappropriate. The National Trail Standards are attached at Appendix 2. These standards now require:

“surfaces in good condition and appropriate to the geology and soils over which the trail passes”. The local geology is chalk, so limestone would not be appropriate

“conservation measures within the trail corridor that protect and/or improve habitats or historic features”. Recent surveys have shown that The Ridgeway is, in effect, an archeo-reserve. Many of the undulations across the trail have been identified as archaeological features and must be protected as part of the Outstanding Universal Value of the World Heritage Site (see Issues Relating to World Heritage Site status section). Hard, more robust materials such as limestone could damage the archaeology through scouring action. A permeable membrane would be required over large areas so would require some prior levelling of the ground. As the undulations themselves are archaeological features, this would be out of the question

13. The Ridgeway Surface Protection Group, which comprises National Trust staff, council staff and WHS archaeologists, has concluded that “local” materials would be appropriate. Notes of the approach agreed by all parties are attached at Appendix 3.
14. The permanent Seasonal TRO closing the byway from October to May was extended by a TTRO in Spring and Summer 2019. This enabled works to be undertaken and was intended to give time for the fill to settle and a grass sward to develop. This has been reviewed recently and it is not yet felt that it has “taken” as well as had been hoped. Additional works are also required. To ensure compliance, barriers would be closed across the route. Emergency vehicles and landowners would be given access if required.
15. A further TTRO is therefore sought for Spring and Summer 2020 to enable completion of the aforementioned works. The draft TTRO is included in Appendix 4. It is proposed that testing would be undertaken in the Summer of 2021 to determine the robustness of the repaired surfaces. This will then allow consideration to be given as to whether or not to seek to extend the implementation periods for the permanent TRO currently in place and if so to which type(s) of motorised vehicles to which it would potentially apply.
16. Following the intention to make a decision report, an objection was received to the proposed TTRO. This was as follows.

“I object to the order as it unnecessarily restricts use to byways both made-up for motor vehicle use and not within the repair area – namely Avebury 1 south of its junction with Avebury 3 (Green Street) at SU124708 and Winterbourne Bassett 10 north of its junction with Winterbourne Bassett 9 at SU124738.

Both of these byways are level stone tracks open to agricultural use all-year round and form through routes with what would become cul-de-sac byways should the order be made unmodified.

I would not object to a modified order exempting the above two lengths of byway for (at a minimum) motorcyclists, and welcome the long overdue repair of the highway surface.”

17. Following consideration of this response, the extent of the proposed TTRO will be reduced slightly. From the north, instead of the barrier being located at the Hackpen Hill road junction a barrier will be installed just south of the junction between WIBA10 and WIBA9/BBAS14. This stretch will be available to all users, including motorised vehicles
18. The other request, to move the restriction from the junction between AVEB1 and AVEB5 north up to AVEB1 and AVEB3 will not be possible as 2 of the test areas are within this stretch of The Ridgeway. It will still be possible for motorised vehicle users to travel along AVEB1, turn north-west along AVEB5 and then east along AVEB3 as far as The Ridgeway. At that point motorised vehicle users would have to turn around and make their return journey along AVEB3.
19. The revised TTRO is included in Appendix 5

Overview and Scrutiny Engagement

20. There has been no Overview and Scrutiny engagement in this item.

Safeguarding Implications

21. There are no applicable safeguarding considerations.

Public Health Implications

22. Considerations relating to the public health implications arising from the making of a TTRO are not considerations permitted within the Road Traffic Regulation Act 1984 ('1984 Act'). The Ridgeway is a Byway Open to All Traffic, so it provides access to the countryside for a range of users. The current poor condition of the surface makes it difficult to negotiate at times, which discourages the public from using the route and presents an unacceptable risk of injury. The overall aim of this project is to find an acceptable long-term solution to the continuing damage to the byway.

Procurement Implications

23. There are no applicable procurement considerations.

Equalities Impact of the Proposal

24. Considerations relating to the equalities impact of the making of a TTRO are not considerations permitted within the 1984 Act. However, Byways Open to All Traffic can allow those with mobility impairments to access the countryside in a way they otherwise could not, i.e. by motorcycle or car. The Council has had due regard to its duties under s.149 of the Equalities Act 2010 and has considered the potential impact of the proposed TTRO on users with mobility impairments. The proposed TTRO would temporarily restrict access for mechanically propelled vehicles but it is considered that the long term benefits to walkers, equestrians and cyclists would outweigh that inconvenience. In this context, the proposed TTRO acts as the primary management tool to deliver the objective of protecting the surface and underlying archaeological features from further damage while repair works are undertaken to restore a suitable and safe surface condition for the majority of users.

Environmental and Climate Change Considerations

25. This stretch of The Ridgeway is in an Area of Outstanding Natural Beauty and the Stonehenge and Avebury World Heritage Site. Issues relating to these designations have been discussed above in the background section.
26. When the seasonal TRO was originally put in place, the trail had the chance to dry out and self-heal before being re-opened to motor vehicles at the start of May. The wetter spring and summer season being experienced as a consequence of climate change are not providing that opportunity and the trail surface is not now recovering before being reopened. As a result, an unacceptable amount of significant additional damage is occurring, which the council as the local highway authority responsible for repair and maintenance is required to rectify and, as far as possible, to prevent.

Risk Assessment

27. The council requires a TTRO to be put in place in order that it can undertake these additional works and to provide time to let the repaired ground settle without undue disturbance. If the council does not take this approach and allows the route to re-open when the current permanent seasonal TRO ends:
- the repair works undertaken in 2019 will be damaged
 - it will not be possible to test the robustness of the surfacing as planned, meaning an informed decision about whether or not there is a need for future controls would not be possible
 - Wiltshire Council would fail in its statutory duty to maintain the highway and ensure a safe surface for users
 - Wiltshire Council would not be undertaking its obligations as set out in the 2016 Stonehenge & Avebury World Heritage Site Management Plan and the North Wessex Downs AONB 2019 – 2024 Management Plan, both of which have been adopted by the council.

Financial Implications

28. The cost of the TTRO, additional works and testing can be undertaken within current revenue budgets.

Legal Implications

29. The process of introducing a TRO is governed by the Road Traffic Regulation Act (1984) and associated procedural regulations. Failure to adhere to the statutory processes, or not to be able to show that all the matters to be addressed in the considerations leading to the decision to make an order have been fully satisfied before a decision is made, could potentially result in the decision being challenged in the High Court.

Options Considered

30. Wiltshire Council has a duty to keep the surface of the byway in good repair for users, therefore the only option available to meet the duty is to carry out repairs to the severe ruts caused by the passage of motor vehicles. The repairs can only be carried out in safety and without further damage to the byway if motor vehicles are temporarily prohibited from using the byway.

Reason for Proposal

31. Wiltshire Council is required to undertake repairs to a section of the Ridgeway National Trail which has been significantly damaged by motorised vehicles.

Proposal

32. To apply a Temporary Traffic Regulation Order to a section of The Ridgeway as detailed in the revised TTRO document from 1 May to 30 September 2020. This would enable Wiltshire Council to undertake additional repair work and to give time for the repairs to settle.

The following unpublished documents have been relied on in the preparation of this Report:

Appendices

- 1 – Press release and photograph (<http://www.wiltshire.gov.uk/news/articles/repair-works-to-ridgeway-national-trail>)
- 2 – National Trail Standards, p8 of The New deal; Management of National Trails in England from April 2013 (<http://publications.naturalengland.org.uk/publication/6238141>)
- 3 – Ridgeway Surface Repair Meeting to assess the condition of the byway
- 4 – Proposed Temporary Traffic Regulation Order
- 5 – Revised Temporary Traffic Regulation Order and plan