

Committee **AUDIT AND REVIEW**

Date: **6 November 2009**

Report: **LESSONS LEARNT FROM THE MANAGEMENT OF GREEN LANES
AND TRAFFIC REGULATION ORDER (TRO) PROCESS**

Purpose of report

1. The purpose of this report is to provide an assessment of the Authority's approach to the management of 'Green Lanes' and the TRO process and to identify lessons learnt from it, which should be taken into account in the development of future projects.

Strategic Planning Framework

2. The information and recommendation(s) contained in this report are consistent with the Authority's statutory purposes and its approved strategic planning framework:
 - **Corporate Plan**
Carry out a 'major project' review of the Traffic Regulation Order (TRO) application process.

Background

3. The approach to project reviews was agreed by the Audit & Review Committee on 15 September 2006. This review considers the lessons learnt from the Authority's approach to the management of green lanes and implementation of powers under sections 22BB and 22BC of the Road Traffic Regulation Act (RTRA) 1984. These powers enable the Yorkshire Dales National Park Authority to restrict, prohibit or regulate motorised vehicular use and other users of unsealed roads (including footpaths and bridleways) through the making of Traffic Regulation Orders (TROs) where such use is considered to be inappropriate and/or in order to protect the countryside or other users.
4. This review is different to other 'major project' reviews that have come before the Audit and Review Committee in that it considers the implementation of legislation by the Authority, within the National Park. However, this is still a 'project' as a project is defined as a temporary endeavour to achieve a desired outcome. It is a major project because it required a lot of Authority resources to achieve.

5. The Authority was the first national park authority to use the new powers granted to national park authorities following commencement of section 72 of the Natural Environment and Rural Communities (NERC) Act 2006. The National Park Authorities' Traffic Orders (Procedure) (England) Regulations 2007 came into effect on 1st October 2007. This paper summarises a review of the Authority's approach to making Traffic Regulation Orders (TRO) using the Audit and Review agreed model of questioning.
6. This review has been undertaken by the Access and Recreation Manager, who had the day to day responsibility for implementing the project through the Access and Recreation team, with input from the Authority's Solicitor and the Head of Park Management.
7. The Head of Park Management had overall responsibility for the delivery of the project within the Authority, and delegation of some of the stages of the TRO making process from the Authority. Access Committee took the decisions as to whether TROs should be made on the basis of the information before them.

A brief summary of the Project

8. The project was about identifying sensitive green lanes in the National Park, and putting management plans in place. During 2008, the Authority made two sets of Traffic Regulation Orders in April and July on 8 and 5 unsealed routes, respectively. This gave a total of 13 TROs on the most sensitive routes in the National Park. This was part of the implementation of the Best Value Performance Plan objective, requiring management plans (for example, do nothing, repair, monitor or TRO) on 75% of the 28 sensitive routes in the National Park by 2008. A full report of the project's outcomes and the way in which they were delivered is set out in the **Annex**. That report gives further information on the sometimes complex issues faced by the project, and how they were dealt with.
9. The outcome of the legal challenge in the High Court is now widely known. However, this outcome hides the more positive aspects. Members may not be aware of some of the ground breaking work that led up to this point and the dedication and effectiveness of the project team, working to some very tight deadlines to achieve the Best Value Performance Plan objective.
10. As identified in the **Annex**, the project has faced many challenges, of which the principal ones have been:
 - Identifying and developing a robust evidence based methodology, at the start of the process to define 'sensitive' green lanes, that could also be used to inform the appropriate management of these routes;
 - Having the staff resource required to implement the project to meet the Best Value Performance Plan objective in the timescale stipulated;
 - Ensuring that all interested parties were adequately involved throughout the process;
 - Finding other local authorities who had used the legislation to implement TROs on unsealed routes for reasons other than damage to the route;

- Endeavouring to meet the requirements of the legislation and Regulations despite the inadequacies of the Defra guidance associated with them;
- Losing the High Court case with the result that TROs on 4 routes were quashed.

11. All of the above challenges have engaged the project management team in a considerable amount of work. In terms of project management, the experiences gained in addressing these challenges have given rise to a small number of generic recommendations of relevance as lessons learnt for future projects (**Annex**). The other specific issues relating to the High Court case and the interpretation of new legislation are unlikely to be faced as general issues within other projects.

Conclusion

12. Overall this project was achieved, as measured by the Best Value Performance Plan 07/08 objective:

Identify the most appropriate measures to manage the use of motorised recreational vehicles on each sensitive 'green lane', and put in place management plans for 75% of sensitive routes by 2008.

13. This is despite the High Court ruling quashing 4 of the TROs meaning that management plans were not in place on 4 routes. However, 24 management plans are in place and these meet the Best Value Performance Plan target.

14. The current National Park Management Plan – The Yorkshire Dales: Today and Tomorrow builds on this objective:

AR2. Identify the most appropriate measures to manage the use of motorised recreational vehicles on each sensitive 'Green Lane', and put all such measures in place by 2011.

15. This objective is also on target to be delivered. However, no-one reading the Annex would come away with the view that any of the elements had been achieved particularly easily.

RECOMMENDATION

16. It is recommended that Members note the 'Lessons learnt' from the management of green lanes and Traffic Regulation Order (TRO) process and endorse the recommendations for future projects.

Kathryn Beardmore
Access and Recreation Manager

19 October 2009

Background documents: None

Lessons learnt from the management of green lanes and Traffic Regulation Order (TRO) process

1. INTENTION OF THE PROJECT

1.1 Why was the project set up?

1. The use of recreational motor vehicles on green lanes has been a long standing, and emotive issue in the Yorkshire Dales National Park. This is because the public rights of way and other unsealed routes with public access (that make up the green lanes¹) are an important resource for countryside recreation, part of the cultural heritage of the area, and contribute to the special qualities and character of the National Park.
2. Some green lanes are particularly sensitive to use by recreational motor vehicles: where it affects the enjoyment of other users, impacts on the local community, causes a loss of tranquillity, and/or effects wildlife habitats, archaeological features and/or the natural beauty of the Yorkshire Dales.
3. The Authority has had a long term objective of seeking to manage the use of green lanes, by recreational motor vehicles, where appropriate. In 2000, it had begun work with North Yorkshire County Council (NYCC) looking at a county wide approach to managing green lanes. The Authority concluded that, in order to manage use effectively it needed powers to apply Traffic Regulation Orders (TRO) in its own right. Following sustained lobbying by the Authority, and others, for national park authorities to be able to make TROs, a legislative opportunity came about for these powers to be granted as part of a package of measures in the Natural Environment and Rural Communities Bill, which later became the NERC Act 2006.
4. Following commencement of section 72 of the NERC Act, The Road Traffic Regulation Act 1984 (RTRA) was amended to give powers to national park authorities to restrict, prohibit or regulate motorised vehicular use and other users of unsealed roads (including footpaths and bridleways) through the making of traffic regulation orders where such use is considered to be inappropriate and/or in order to protect the countryside or other users.
5. Prior to commencement of section 72 of the NERC Act, work had begun on identifying the most sensitive routes in the National Park. It was already clear that the use of unsealed routes by recreational motor vehicles could affect both the enjoyment of other users and the habitat and landscape of the National Park. Complaints² received by the Authority from individuals and parish councils also illustrated how this activity, and the

¹ The term 'green lane' is often used, but has no legal meaning whatsoever. It is a physical description of an unsealed track often, but not always, of some antiquity. It may be a footpath, bridleway or byway or it may not be recorded as a public right of way on the Definitive Map at all.

² Complaints received through correspondence, in person, or through the Authority's Area Actions consultation process.

behaviour of some recreational motorised users, caused distress to both the local community and visitors seeking tranquillity and quiet enjoyment in the National Park. Work with North Yorkshire County Council on experimental TROs had already shown that TROs proved an effective means of dealing with these issues. Once the powers were given to the Authority, the Authority was clear that it could consider using them together with other management options, where appropriate.

1.2 What was it intended to achieve (objectives, outputs, outcomes etc)?

6. The intended **output** from the project was to help achieve the Best Value Performance Plan objective; set in April 2006:

Identify the most appropriate measures to manage the use of motorised recreational vehicles on each sensitive 'green lane', and put in place management plans for 75% of sensitive routes by 2008.

7. This objective has three elements, first identifying 'sensitive' routes, secondly identifying the most appropriate management measures, and then thirdly putting management plans in place.
8. The Authority undertook a detailed, evidence-based, desktop assessment of all 102 green lanes with possible or proven rights for recreational motor vehicles in the National Park. This was an initial 'sieve' to identify those routes that were considered as 'sensitive' based on clear criteria. The second stage was to look at the possible management options for these routes, and then identify and implement suitable management 'plans'. Making a TRO was one of several management options considered on each route.
9. The intended **outcome** of using the TRO powers was explained in the Authority's thematic strategy the 'Integrated Access Strategy'. This is summarised in the 'future strategy' as:

AS3 Safeguard the National Park from overall or irreversible damage through inappropriate activity and minimise conflict between different users.

AS4 Maintain the quality, diversity and scope of the National Park's recreational assets: consider each recreational activity in terms of where it should take place, in what volume and at what time. It must be recognised, though, that in many situations we have no legal means of control and so can only do so through education and encouraging users' voluntary restraint.

1.3 Original timescale

10. The objective was set for completion by the end of 2008. The timescale and target were purposefully ambitious, to reflect the importance Members placed on green lanes management and the desire to see progress. However, the timescale was set before it was known if national park authorities would be given powers to make Traffic Regulation Orders. Significantly it was also set before a methodology to identify

sensitive routes had been established. This meant that the actual number of sensitive routes, and by inference the amount of work needed for management, was also unknown.

1.4 Original funding/resources plan

11. Green lanes management had been a recognised area of work, and had been assigned the highest work programme priority 'A', since the start of the Authority's prioritisation process in 2004. A green lanes specific budget was identified from 2004/5 onwards (prior to this it was part of 'rights of way'). The budget has varied each year to cover predicted expenditure.
12. In 2006, a timeline and the TRO making procedure was broken down into individual elements with tasks allocated to individuals as far as possible - based on the Highway Authority Regulations pertaining to the relevant section of the RTRA 1984.
13. The projected cost for one TRO was estimated at £2,000 with 75 hours of staff time. The breakdown was:
 - £450 printing and postage of consultation documents
 - £500 advertising
 - £1000 Signing (recognized as possible over estimate as one bus stop sign on a pole could be as little as £200 each).
14. Whilst the amount of staff time had been identified, a resource plan outlining when the actual amount of staff resource would need to be available was not produced.

1.5 Proposed means of delivery

15. The green lanes management work programme had 2.5 fte allocated to its delivery in 2007/8 at the time the TROs were proposed. The majority of this was within the Access and Recreation Team, within the Park Management Department. The breakdown at that time was approximately Access Technician (0.75 fte), Access Officer projects (0.5 fte), Access and Recreation Manager (0.2 fte), Rangers (0.5 fte). Input from the Head of Park Management, the Solicitor, Senior Definitive Map Officer, ecologist, archaeologist, and Admin Support Officer equating to the remaining 0.55 fte between them.
16. The TRO making process was part of an 'on-going' area of work and given the work programme priority any budgetary and staffing requirements would be met by re-prioritising other work where possible.

2. THE REALITY

2.1 What was actually achieved?

17. During 2007/8 the Access Committee considered management plans for 28 sensitive routes and, under delegation from the Authority, agreed to Traffic Regulation Orders being made on 13 to prohibit use by recreational motor vehicles, for reasons of preserving the amenity and conserving the natural beauty. (The TRO process is explained in **Appendix 1** to this annex). Of the 13 TROs made 4 were later quashed by a High Court judgement. The development of green lane management plans was achieved by:

- **Commissioning research on noise levels from trail bikes and 4x4 using green lanes in relation to tranquillity (2004)**
Noise consultants, Scott Wilson, were commissioned to measure noise from vehicles on green lanes, and to compare these with background noise levels, and standards in relation to tranquillity and World Health Organisation and planning policy guidance on noise levels and standards.
- **Commissioning landscape advice on assessing amenity and natural beauty in relation to use of green lanes (2005)**
Julie Martin Associates (landscape architect) were commissioned to give professional advice on how to assess the impact of recreational motor vehicles and other users on green lanes from the perspective of natural beauty.
- **Developing evidence-based criteria to assess 'sensitivity' (November 2006)**
The Authority has undertaken a desk-top, GIS evidence-based assessment of all 102 green lanes with possible or proven rights for recreational motor vehicles in the National Park. Of these routes, 28 were considered to have high sensitivity.
www.yorkshiredales.org.uk/sensitivity_assessment_methodology_nov_06-2.pdf
- **Setting out a Green Lanes Management Framework (November 2006)**
This explained how the use of Green Lanes would be managed eg repair, voluntary restraint as well as TRO powers. The Framework was first drafted in May 2006, with a small member/officer working group, and following consultation was finalised in August 2006. This was amended in November 2007 after publication of Government Guidance and Regulations pertaining to National Park Authorities.
www.yorkshiredales.org.uk/green_lanes_framework_-_nov_07-2.pdf
- **Setting up of an informal advisory group of interested parties (August 2006)**
The Yorkshire Dales Green Lanes Advisory Group is made up of members of the Local Access Forum, co-opted members (representing other interested user groups), Natural England, North Yorkshire and Cumbria County Councils and the Authority's member Champion for Recreation Management. The main purpose of the group was to give the Authority informal advice on the preferred management option based on the route assessment reports.
- **Carrying out field based, assessments of all 28 sensitive routes (2006/7)**
This included considerations relating to national park designation and
 - The ecological sensitivity associated with the route;

- o The heritage of the route and its surroundings;
- o Conflict between recreational user groups;
- o Concerns of local residents and landowners/managers;
- o The durability of the route;
- o The condition of the route;
- o The uses of the route.

2.2 Final timescale

18. The final timescale for completion of the Best Value Performance Plan objective was April 2008.

2.3 Means of delivery

19. The project has been delivered using the existing staff resource as envisaged above. The only issue that arose was the timing of when the staff resource was actually available, set against when it was needed. Overall the staff resource required was available, when needed. However, there were two notable exceptions.

20. When the staff resource was needed was largely driven by ensuring the TRO statutory consultation process fitted with the Access Committee meeting cycle. This created a particularly heavy workload in a very short space of time, because of the length of consultations and the need to capture all comments in the report of consultation to Members. In addition the Access Officer went on a 3 months sabbatical immediately before the TRO making powers commenced, given that this was a relative short term absence, and the Authority's constrained on staffing costs, the post was not back-filled (this had been agreed sometime before).

21. The green lanes budget was adequate to meet all budgetary expenditure in relation to the TRO making process as follows:

Type of Costs	Breakdown	03/04	04/05	05/06	06/07	07/08	08/09	09/10	TOTAL
Data collection	loggers		1,360	6,755	4,160	3,792	3,140	3,029	22,236
	other equipment			643		4	1,628		2,257
Research and consultancy	Noise research		6,000	3,900					9,900
	Visual Impact (VI) (50% grant)				9,131				9,131
	landscape advice				2,247				2,247
Printing and stationary	TRO consultations					5,662	?		5,662
	Framework				39				39
	ETRO reports		?						?
	VI reports				?				?
	leaflet					1,266			1,266
Room hire and expenses	room hire			107	81	181	106	43	518
	expenses (YDGLAG)				108	165	?		273

Type of Costs	Breakdown	03/04	04/05	05/06	06/07	07/08	08/09	09/10	TOTAL
Legal expenses public notices						1,666	3,863		0 5,529
ETRO signage (payment to NYCC)		15,000							15,000
NERC signs for RoW						630		198	828
TRO signage							1,624		1624
Total		15,000	7,360	11,406	15,765	12,736	10,361	3,270	75,898

22. In addition there were costs incurred as a result of the High Court Challenge. These are dealt with later in this report.

3. SUSTAINING THE PROJECT

3.1 How will the work be taken forward now the project has finished?

23. Whilst the Best Value Performance Plan objective has been met green lanes management is still on-going. This work continues to be taken forward using the existing staff resource. For example, the Access Officer and Rangers are involved in various management aspects, on a day to day basis, and this will continue for the foreseeable future. The Access Technician's work continues to be dominated by green lanes work: maintaining the vehicle loggers, carrying out route and condition surveys. The Authority has made a commitment to review the TROs in five years from the date they were made. In addition, the four routes where TROs have been quashed are being re-assessed at the present time. The on-going resource implications are:

- Maintenance of the 30 vehicle loggers on sensitive routes around the National Park, to provide a continuous record of motor vehicle use for monitoring purposes (Access Technician);
- Carrying out annual condition surveys on all sensitive routes which are public rights of way, and walk over surveys of routes which are un-surfaced unclassified roads (Access Technician and Access Officer);
- Implementation of remaining management plans (Rangers and Access Officer);
- Education and enforcement of the TROs through working with the police (Rangers and Access Officers);
- On-going review of the 'sensitivity' assessments, so that any changes in sensitivity can be quickly picked up, and management options assessed (Rangers and Access Officer);
- Responding to Freedom of Information requests from users (Solicitor and/or others);
- Providing the Secretariat for the green lanes advisory group (Access Officer);
- Maintenance of the Authority's website to provide readily accessible up-to-date information for users on the status of routes (Access Officer);

4. LESSONS LEARNT

4.1 What went well and why?

24. Many aspects of the project went well, of particular note were:

- **Development of a sensitivity assessment methodology**
The research undertaken at the beginning of the project ensured that the case for the TROs on amenity and natural beauty grounds was backed up by recognised expert witnesses. This information then informed the sensitivity assessment methodology, and assessment reports. It has proved to be a robust and transparent approach that ensures that any TROs made were clearly based on evidence.
- **Delegation of part of the TRO process**
The TRO making process has many stages, and to speed up the process it was agreed by the Authority that aspects should be delegated to the Head of Park Management and the Access Committee. This involved amending the Authority's scheme of delegation:
 - Delegation to Head of Park Management – first stage of statutory consultation, decision taken following a case officers meeting. (An example of the Access committee papers first stage consultation before deciding to make a TRO www.yorkshiredales.org.uk/access17jan08managament15sensitiveroutes.pdf).
 - Delegation to Access Committee – decision to proceed to second stage of consultation and final decision whether to make a TRO. (An example of the Access committee papers second stage consultation deciding to make a TRO www.yorkshiredales.org.uk/access17apr08proposalsfor8tros.pdf).

The Authority's TRO decision making process was 5 months from start to finish. This is quick when the statutory periods for consultation are taken into account. Furthermore the delegation of the decision to the Access Committee meant that the Members involved had a real understanding of the issues when taking decisions.

- **Ensuring all interested parties were kept informed, and requests for information met**
The Authority received compliments from a number of individuals regarding information on its website being up-to-date and helpful for users. The three stage consultation process adopted allowed transparency and ensured those directly affected could have an input at every stage of the decision making process.

In addition, there have been numerous requests for information on all aspects of the Authority's management of green lanes. Some individuals have used the formality of a request under the Freedom of Information Act. All requests have been met as fully as possible, and in a timely manner.

- **Overall costs and economy of scale**
Undertaking the 13 TROs in two tranches allowed economies of scale and reduced the Authority's costs in terms of postage and advertising. One of the main cost saving was reducing the number of adverts in local papers. It is a statutory

requirement to advertise the Orders. If the Orders had each been advertised singularly the cost would have been in the region of £10,000.

- **Leading the way, nationally, in making TROs for reasons of natural beauty and amenity**

Beyond the ETROs made by NYCC, a search of the internet, and discussion with other local authorities before making the TROs did not yield examples of any other local authority having used the reasons of preserving the amenity, and conserving the natural beauty in the countryside. The Authority's officers have been contacted by other local authorities, including Ceredigion, Hampshire, Peak District, North York Moors, and Snowdonia National Park Authorities, as well as a number of consultants interested in the approach the Authority has taken.

- **Overall delivery**

Overall the day to day management of the project went well; everyone understood their role and did what was expected of them. Clear milestones were set throughout the project, based on achieving the Best Value Performance Plan objective. Communication amongst project team members was excellent: this was helped by those doing most of the work being in the same team, and the Access and Recreation Manager and Solicitor both being based at Bainbridge so any problems could be addressed as they arose.

4.2 What didn't go well and why?

25. There were several aspects of the project which didn't go well. One high profile, the other less obvious.

- **High court case**

26. The Land Access Recreation Association (LARA) and two individuals commenced court proceedings in July 2008, against the Authority, to quash TROs made on the first eight routes. However, when presenting their case to the High Court, LARA modified its position and asked that the court only quash TROs on four of the eight routes, since the TROs imposed on the remaining four routes accorded with the advice of the Yorkshire Dales Green Lane Advisory Group (YDGLAG).

27. The legal challenge was made under the Road Traffic Regulation Act 1984 (RTA). Such a challenge has to be made within 6 weeks of the orders being made, so is time limited. No challenge was made in respect of the five TROs made in the second tranche, so these were unaffected.

28. Following a two day hearing at the High Court in Leeds in June 2009 the Court upheld LARA's challenge. The Authority lost the case and the Court quashed the TROs on the 4 routes requested. LARA's legal challenge was successful on two main grounds:

- (1) failure by the Authority to have proper regard to the statutory requirements of S122 of the Road Traffic Act. The Judge concluded that 'the Authority had not demonstrated that it carried out the balancing exercise required by section 122 of the Road Traffic Act in respect of each of the TROs made; and

(2) the irrational approach of the Authority in only considering TROs that were full time, rather than TROs of a more limited nature, as an option where the status of the route in question as a Byway Open to All Traffic (BOAT) was unrecorded on the Definitive Map . (NB this ground only succeeded in respect of 2 routes).

29. The legal Judgment did not bring into question the Authority's sensitivity assessment methodology, or its findings. The Judgment also showed that the Authority had complied with the National Park Authorities' Traffic Orders (Procedure) (England) Regulations 2007 procedures in general terms – as this was one of the original grounds of challenge. However, the Authority had failed in one very important aspect, namely a failure to show compliance with the requirements of S122 (**Appendix 2**). The Judgment (see www.bailii.org/ew/cases/EWHC/Admin/2009/1425.rtf) gives clarity in the ways the Authority needs to be explicit in the future in relation to this section, and changes to the Authority's procedures have been recommended following this decision, and agreed by the Access Committee at its meeting on 16 July 2009. (See www.yorkshiredales.org.uk/access16july09troshighcourt.doc). Further the Judgment has enabled a framework to be laid out that the Authority, and other local authorities in England, can use when making TROs on green lanes in the future.

30. The Judgment also exposed serious inadequacies in Defra's guidance to national park authorities on the use of their new powers as neither made any reference to section 122. Defra recognised this in their letter to all national park authority chief executives dated 12 August 2009 which states:

'we believe that National Park Authorities should not be deterred from using their TRO-making powers because of the outcome of this court case. Defra acknowledges that section 122 of the Road Traffic Regulation Act 1984 is not referred to in either the regulations or Defra guidance, but a lesson to be learned from this case is that national park authorities should clearly demonstrate how the duty under section 122 has been undertaken in the TRO-making process'.

31. The Court Case did have significant financial implications for the Authority. The proceedings led to legal costs of some £42,000 being incurred as well as officer time spent defending the proceedings. Following the Judgment in favour of the Claimants, the Authority was ordered to pay the Claimants' costs amounting to £29,000. The Authority also had to pay its own Counsel's fees amounting to £13,000. It is considered likely that whichever national park authority used the new powers first, they would have been tested in the Courts and some provision for this was made when the green lanes budget was set. However, it is recognised that this was not made explicit within the Authority's 'risk assessment' management framework. Significantly, implementation of 'rights of way' legislation has only recently been added, alongside planning, as a generic risk for the Authority though this risk was always present. The new TRO powers simply extend this risk to a new part of the legislation.

32. An offer of settlement had been received from the Claimants after exchange of witness statements. The offer was reported to members at the Authority meeting in January 2009 with a recommendation to negotiate a settlement along the lines proposed by the Claimants. Members, however, resolved to reject the offer because they were not prepared to concede that the decision making process was flawed and that any negotiated settlement should be based on each party paying its own costs. If the

settlement offer had been accepted the financial cost of the proceedings would have been significantly reduced (to approximately £12,000 in total) and all TROs would have remained in place. The risk of contested proceedings was always high and this proved to be the case. There is a potential learning point for the Authority in how this decision to reject the offer of settlement was taken. Officers were not aware in advance of the meeting of the feeling that Members had against accepting the offer, and were thus caught by surprise, with no real opportunity to think through and advise upon the proposal to reject the offer (contrast the reference back system used by the Planning Committee in analogous circumstances). This can be addressed by the Working Group which is currently developing a protocol for member / officer relations.

- **Timescale for objective was challenging**

33. During the passage of the NERC Bill through Parliament it was expected that TRO powers for NPAs, would commence in October 2006. As this had the effect of inserting new sections into existing legislation, it was expected that the existing Regulations pertaining to Highway Authorities would also be used. However, just before the NERC Act received Royal Assent in May 2006, Defra informed the Authority that there would be new Regulations published, specifically for national park authorities and commencement of the powers would be delayed until these were written. These Regulations were published in October 2007, with the commencement of the TRO powers for NPAs at the same time. The timescale for delivery of the Best Value Performance Plan objective was not amended to take account of this delay.
34. Whilst overall the project went well, and the project management process was almost flawless meeting the objective put pressure on some of the more senior members of the project team. Time was not created specifically for project management, and at times there was no alternative but to undertake work outside normal hours to meet the timescale for project delivery. In addition, there was no assessment of the legal support required, and the impact the TRO work may have on planning casework. In addition the Court proceedings placed extra pressure on officer time.
35. In addition, the desire to meet the objective on time and for the Authority to be at the forefront of implementing the new legislation meant that a high risk strategy for delivery had to be adopted. It did not allow time for the Authority to 'test' the new TRO powers on one route, and identify pitfalls and lessons before applying the powers to further routes. Instead, 8 TROs were made together. Therefore, if something was procedurally flawed it could potentially affect all eight.

5. Recommendations for future projects

The Judgment has enabled a framework to be laid out that the Authority and other local authorities in England can use when making TROs on unsealed routes in the future.

The Authority should 'do what it says it is going to do' but it should be recognised that the timescale of objectives should be changed if circumstances change and to take account of the implications for the workload of some individual staff.

Use of a clear project management framework with key milestones and tasks allocated to individuals means a difficult project can be delivered on target.

THE TRAFFIC REGULATION ORDER MAKING PROCESS

The Traffic Regulation Order making process has the following steps:

Step 1 - Consultation with Local Highways Authority and other statutory consultees on possibility of making a TRO. [The decision to consult is taken by Head of Park Management. He takes account of informal advice received from Yorkshire Dales Green Lanes Advisory Group(YDGLAG) based on the assessment reports].

Step 2 – Following response to Step 1 consultation, decide whether to pursue TRO option. [This decision is taken by Access Committee].

Step 3 – Publish notice of intention and, taking account of all consultation responses received, decide whether or not to proceed with the TRO as proposed (or in some modified form). [This decision is taken by Access Committee].

Step 4 – TROs made and publicised, and any objectors informed as to why the Authority has not acceded to their objections.

A copy of the Regulations (Statutory Instrument) can be found at www.opsi.gov.uk/si/si2007/20072542.htm and the Guidance pertaining to these Regulations at www.defra.gov.uk/wildlife-countryside/issues/public/npguid-tro.pdf.

SECTION 122 OF THE ROAD TRAFFIC REGULATION ACT 1984

Section 122 RTRA 1984 imposes a duty on authorities in exercising their functions to make TROs as follows:

- (1) It shall be the duty of every local authority upon whom functions are conferred by or under this Act, so to exercise the functions conferred on them by this Act as (so far as practicable having regard to the matters specified in subsection (2) below) to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway or, in Scotland, the road.*
- (2) The matters referred to in subsection (1) above as being specified in this subsection are—*
 - (a) the desirability of securing and maintaining reasonable access to premises;*
 - (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;*
 - (bb) the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy);*
 - (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*
 - (d) any other matters appearing to . . . the local authority . . . to be relevant.*
- (3) The duty imposed by subsection (1) above is subject to the provisions of Part II of the Road Traffic Act 1991.*