

North Yorkshire County Council
Business and Environmental Services

Executive Members

Friday 28 September 2018

PRESENT:

David Bowe (DB)
Jayne Charlton (JC)
Jane Connolly (JEC) minutes
Grant Frew
Alison Fuller
Alan Kind

Cllr Don Mackenzie (DM)
Catriona Gatrell (CG)
Jackie Cove-Smith
Judith Ratcliffe
Doug Cartwright
Cllr Heather Moorhouse

Cllr Andrew Lee (AL)
Richard Pennell (RP)
Mary Frew
Diana Mallinson
Rod Jackson

- 1.1** Before the meeting commenced DB confirmed with Cllr Mackenzie and Cllr Lee that they had received statements of support for the Traffic Regulation Order (TRO) on Kirby Bank from the following people; Trevor Mitchell, Planning Director, Yorkshire from Historic England, Tom Chadwick, Chair of the North York Moors Association and Bill Tait, Chair of Ryedale BW Group. Cllr Mackenzie and Cllr Lee confirmed that they had received and read these statements.
- 1.2** David Bowe (Chair) welcomed everyone to the meeting, he introduced the Executive Members and officers and explained how the meeting would be conducted. He then asked Jayne Charlton to provide a statement on the Kirby Trod report she was presenting today.
- 1.3** Jayne Charlton's statement - Reports were presented on the 20 October and 17 November 2017 to advise of the results of the consultation and public advertisement of a Traffic Regulation Order Prohibition of Motor vehicles on Kirby Bank U1858/9.
- 1.4** You may recall that a section of the bank is a Site of Special Scientific Interest (SSSI), special area of conservation, is a special protection area , and the northern section runs through the Scheduled Ancient Monument (SAM) of Kirby Bank Trod.
- 1.5** The purpose of introducing the order is as set out in the reports of October and November 2017, may I draw your attention to the reasons for making the order in the reports Appendix 1. These include the considerable erosion to all section of the route, caused by: -
- wheel ruts
 - Water run off
 - Predominantly caused by two wheeled vehicles.
- 1.6** The erosion extends to the SAM
Since the decision of 17 November 2017 to introduce the TRO preparations have been made to make the order. All associated signage was ordered and are in stock.
- 1.7** A letter has been received from solicitors acting on behalf of the Trail Riders Fellowship (TRF) which contends that the making of the order would be unlawful as the council failed to properly consider or give adequate reasons for rejecting proposed exemptions to the TRO and that the Council has given inadequate reasons in respect of its duty to secure the expeditious, convenient and safe movement of vehicle traffic pursuant to Section 122 of the Road Traffic Act. A copy of the letter is available in Appendix 2 of the report.

- 1.8** With regard to signage the TRF claims that the Council failed to properly consider exemptions, that the Council has also taken into account irrelevant considerations and that it failed to take account of material considerations.
- 1.9** The Council rejected the proposed exemption on the grounds of the fact that specialist signage would be required, approval would be required from the Department of Transport (DfT) for the signage, it would be difficult to enforce and any enforcement would be resource intensive. The TRF claim that the conclusions in the report are unlawful because the proposed exemptions are expressively defined by relevant statutory provisions; Section 2 of the Road Traffic Regulation Act (RTRA) 1984 allows for TRO's to include exemption; an exemption is not difficult to enforce in prior notifications included in TRO; that exemptions would not require continued enforcement monitoring.
- 1.10** The TRF also believed that the Council failed to explain specifically why enforcement was resource intensive and they also stated that the route could be signed as prescribed in Traffic Signs Regulations and General Directions 2016 with associated plate and would not be difficult to understand.
- 1.11** With regard to the failure to comply with Section 122 of the RTRA 1984 the TRF have claimed that although the Council has made reference to its duty they have not carried out the "balancing " exercise which is required in section 122 of the act.
I will now give the officer response to all these claims.
- 1.12** With regard to the signage it is acknowledged that it was incorrect to advise members that signage could not be provided to sign exemptions. Signage in the TSR&GD 2016 prescribes signs which could be used to advise of exemptions.
- 1.13** In terms of enforcement a Prohibition of Motor Vehicles is a moving traffic offence so that would fall outside of the Civil Parking Enforcement and would therefore be dependent on the Police to enforce. The Police have been consulted but to date no response has been received. Officers do acknowledge that whatever level of enforcement can be provided by the Police, this is not a valid reason for rejecting the request for an exemption. Section 92 of the RTRA allows the Traffic Authority to place bollards or other obstructions to prevent the passage of vehicles in connection with a TRO.
- 1.14** The reports in October and November 2017 confirm that whilst comments of all objectors were noted, continuing use of motorised vehicles can cause further damage to the route. On the basis of evidence available from officers and local people who spoke in 2017 officers consider removing all motorised vehicle use can ensure the route is preserved and that even the level of motor cycle use which could ensue if an exemption for TRF purposes were included would give rise to unsustainable harm to the route.
- 1.15** An assessment was carried out this week and photographs available show the condition of the route.
- 1.16** It is recognised by officers that the County Council has a statutory duty under Section 122(1) of the RTRA 1984 to secure the expeditious, convenient and safe movement of vehicular traffic on the route, but contend that this duty has to be carried out and balanced in the context of damage liable to be caused by allowing an exemption as requested.
- 1.17** By prohibiting all motorised vehicles Officers are taking into active consideration the effect on the amenities of the locality affected and other matters appearing to the local authority to be relevant, including preventing damage to the route preventing use by traffic unsuitable for its

character as specified in the revised statement of reasons, which are set out in Appendix one and three respectively.

- 1.18** These latter factors outweigh the duty to secure vehicular use of the route even to the limited extent which the TRF exemption would entail.
- 1.19** Officers have acknowledged that signage of experimental issues referenced in the report are not in themselves valid reasons for rejecting the TRF's request for the proposed exemption and these issues are not now to be relied on as such.
- 1.20** A further legal submission was received late yesterday which legal would advise on.
- 1.21** *"I am speaking as Chair of the Kirby, Great Broughton and Ingleby Greenhow Local History Group which currently has 92 members, many of whom have written individual letters of support for the prohibition of motor vehicles on the UUR U1858/9 Kirby Bank. As well as supporting bodies represented here today, the prohibition is supported by Great and Little Broughton Parish Council, the North York Moors National Park Archaeology Services, the North Yorkshire Moors Association and Historic England. The Kirby Trod is unique in England, the only known similar surviving embanked flagged Trod being in mid-Wales, which was similarly built by Cistercian Monks in medieval times. As you know, 400 meters of the Trod has been listed as a Scheduled Ancient Monument (SAM) and the scheduling includes 10 metres width along its whole 400 meter length and includes the ground beneath the monument. This is to protect it from erosion and undermining of the embankment which would destabilise the Trod. It was scheduled because of its age, its rarity, its diverse associated features (e.g. embankment, guide posts) and the very fact that it has so far survived, whereas it is estimated that 80% of the overall network of North York Moors Trods has been lost. (referenced from Trods of the North York Moors; Christopher P Evans 2008). It is therefore extremely important to protect this SAM from further damage; in fact, it is against the law to cause "reckless or deliberate damage to a monument" (Historic England), which is precisely what motorised vehicles are doing and would continue to do, particularly to the Trod's embankment. No one needs to use motorised vehicles on this road; indeed the southern end at the steepest part of the bank is often impassable for four wheeled vehicles. Now we are in the 21st century and packhorse trains no longer exist and there is a tarmac highway, the B1257, two miles to the East giving full motorised access to Bilsdale and Raisdale, the only purpose of the path in question is to allow recreational access on foot and by horse to the beauty of Kirby Bank and, via the Bank, to the Moors. Motorised vehicles are inappropriate in such a setting and the damage they cause to the Trod is illegal.*
- 1.22** David Bove thanked Mrs Cove-Smith for her statement and asked Mary Frew to speak next.
- 1.23** Mrs Frew introduced herself as the chair of Kirby Parish Council and explained that the statement was being made on behalf of the Parish Council.

“Kirby Parish Council supports wholeheartedly the recommendation to implement a full Prohibition of Motor Vehicles TRO on Kirby Bank. This matter has been raised over many generations of inhabitants of the village from at least 1979 onwards, nearly 40 years, and continues to cause concern to both the Parish Council and pedestrian and horse-riding residents and visitors. The route is not suitable for ordinary traffic, so the use can only be by the few leisure vehicles that are built or adapted for off-road use. This small number of users is easily outweighed by the number of pedestrians and horse-riding users of Kirby Bank, whose use is being impinged upon and in some cases actually prevented by the damage being caused underfoot, making the route unsafe for humans and horses. I cannot stress more strongly how valuable a leisure facility Kirby Bank is for local residents, for both their physical and mental well-being, it being the only access by foot from the village onto the serenity and open spaces of the Moors.

Also the route passes over the Kirby Trod, a scheduled Ancient Monument, being the only extant Trod on a build embankment in the whole of England. This is being seriously damage with ruts caused by the wheels of the motorised leisure vehicles. It is a criminal offence to cause damage to an Ancient Monument, so any exemption even for occasional use would be against the law as no guarantee can be given that damage would not occur. It is impossible to avoid travelling over the Trod when taking this route across the Moors, as the full width of the public right of way is included in the area covered by the scheduling. The land adjacent to the Trod is not in public ownership so any diversion onto this land by leisure vehicles in order to avoid the Trod would be trespass.

North Yorkshire County Council has the power to protect this area, a local amenity and Scheduled Monument, valued for its beautiful countryside, tranquillity and historic significance, under Section 1 (1) of the Road Traffic Regulation Act 1984, for which grounds (b) preventing damage to the road, (c) facilitating the passage on the road of pedestrians, (d) preventing the use of the road by vehicular traffic which is unsuitable having regard to the existing character of the road, (e) preserving the character of the road where it is specially suitable for use by persons on horseback or on foot, and (f) for preserving amenities of the area through which the road runs, five out of the seven grounds are met. This is not just Kirby’s local amenity, both leisure and historic, but also part of the historic heritage of North Yorkshire and the rest of the UK. Please take the necessary steps this afternoon to protect this area. Thank You”

1.24 David Bowe thanked Mrs Frew and asked Grant Frew to make his statement next.

1.25 *"In December 2014 the North York Moors National Park Assessment Report on Kirby Bank was published. From readings taken from its logging calculator, in the course of one year, the report concluded that 97% of motorised use was by motorbikes.*

The report also identified that on the Scheduled Monument there was "considered erosion caused by wheel ruts – that – "the erosion extended across the Trod Bank and several alternative routes which have been developed on the adjacent hillside" I will return to that. The damage on Kirby Trod is considerably more severe on its southern section, to the extent that local horse riders now consider the route unsafe. There are real concerns for its suitability for walkers too. There is abundant testimony and photographic record to validate this view. Damage by motorised vehicles can occur, and frequently does occur, very quickly. In October 2002 the Trail Riders' Federation undertook repair work on Kirby Bank. Just two months later Kirby Parish Council at their December meeting report that the route had "been churned up by motorised vehicles leaving it difficult for walkers."

In 2012 Kirby Bank Trod was awarded Scheduled Ancient Monument status by English Heritage. Within just one year it had been placed on what is now Historic England's Heritage At Risk Register.

If there is continuing motorised vehicle use of the unstable geology of Kirby Bank, repairs will need to be frequent and always temporary and the damage, perhaps, permanent. For North Yorkshire County Council there are cost implications too of frequent repairs. I should like, briefly, to highlight to further issues. Firstly, under the Ancient Monuments and Archaeology Areas Act, 1979, it is a criminal offence to destroy or damage a scheduled monument, either intentionally or through recklessness.

Secondly, Kirby Bank Trod- as a scheduled monument extends for a width of 10 metres. Any use by motorised vehicles beyond that point constitutes trespass.

If any further degrading of Kirby Bank by motorised leisure vehicles is permitted there will be three main consequences. 1. an economic impact on local businesses, B&Bs, pubs, shops, when visitors on the three long distance footpaths no longer "drop down" to local villages via Kirby Bank; 2.a loss of a valued local amenity resulting for local residents in a well-being, health and cultural deficit and 3. a destruction of a unique English monument. A great loss to our heritage in North Yorkshire.

1.26 David Bowe thanked Mr Frew for making her statement and asked Judith Radcliffe to speak next.

1.27 *My name is Judith Ratcliffe. I am a horse rider with over 20 years' experience of riding my horse on this road. This road on Kirby Ban is an unclassified road which originally would have been used by travellers on foot, horse drawn vehicles and pack horses. The responsibility for these highways was passed from the Rural District Councils to the County Councils following the Local Government Act of 1929.*

Since then, many of these highways have been sealed with a black top surface but others like Kirby Bank have remained unsealed and unchanged. Regular use by motorised vehicles could never have been envisaged when the Council decided not to tarmac the surface. The County Council does not have sufficient resources to maintain these roads so their condition deteriorates. The last 20 years has seen minimal horse use because the surface has been so damaged by motorised trail bikes that it has become quite difficult to use by use by motorised trail bikes has increased significantly.

I used to ride my horse up this road in order to access other Bridleways on the moors and have observed over the last few years that it has been damaged to such an extent that it has become quite difficult and challenging for horses.

The most sensible and cost effective course of action to protect Kirby Bank from further MPV damage is that proposed by the County Council, namely implementation of a permanent traffic regulation order prohibiting mechanically propelled vehicles.

We are told that there are ways and means of controlling MPVs so as to have a no more damaging effect than that of a horse. My intimate knowledge of this road and my common sense tells me that this is absolute bunkum.

I urge Members to support the officer's recommendations that the proposed permanent traffic regulation order be approved.

1.28 David Bowe thanked Mrs Ratcliffe and asked Diana Mallinson to make her statement.

- 1.29** Mrs Mallinson introduced herself and explained that she was making her statement on behalf of the Yorkshire Dales Green Lanes Alliance.

I'm speaking about some implications of the event and permit exemptions proposed by the Trail Riders Fellowship (TRF) to the traffic regulation order (TRO) for Kirby Bank, and how other authorities deal with the issues the TRF raise in their solicitors' letter.

The TRF say their organised motorbike rides do not use the Trod section of the route, solicitor's letter, paragraph 5, presumably because of the risk of damage to the ancient monument. They cannot therefore object to a TRO in the Trod section, because they do not use the Trod. Motor vehicle use of the adjacent land is illegal, section 34 of the Road Traffic Act 1988, whether as part of the events proposed by the TRF or otherwise, unless the landowner has given permission. Other authorities, e.g. Kent, the Lake District, have permit TROs to limit the number of motorbikes and 4x4 or to reduce illegal use of adjacent land. But these TROs are resource intensive, in issuing permits and in trying to ensure compliance.

Peak District National Park Authority (NPA) made a TRO in 2017 which exempts use by two long established motorbike events per year on a stone surface called Washgate. The events are allowed on terms specified by the NPA, which monitors compliance by the event promoters and participants. Again this TRO is resource intensive for the authority. Two other promoters asked for exemption for their events, but the NPA refused exemption because these events use of Washgate was not long established.

Other authorities, e.g. the Peak District NPA and the Yorkshire Dales NPA, have decided the need to preserve the amenity and natural beauty of the route outweighs its expeditious and convenient use by the recreational motor vehicles, in considering section 122 Road Traffic Regulations Act 1984. You have heard from others how a TRO prohibiting motorbikes and 4x4s would make non-motorised use more expeditious, convenient and safer than it is at present, which is also a criterion in section 122 (1), the TRF solicitors letter, paragraph 20. Please make the TRO as you decided to do last year.

- 1.30** David Bowe thanked Mrs Mallinson and asked Alison Fuller to make her statement.

- 1.31** Mrs Fuller explained that she was making a statement on behalf of the North York Moors Green Lanes Alliance.

We support the introduction of a permanent traffic regulation order to prohibit the use of motor vehicles on this road. We ask that this order is made, sealed, at the earliest opportunity and at the very latest by 1 December 2018 to ensure that it can be made under the existing procedures. This road has been very badly damaged by motor bikes. This is a key off road route to access the moor for walkers, horse riders and cyclists and for many years, in particular horse riders and cyclists have been prevented from using it due to the deep ruts caused by vehicular use. This loss of amenity is completely unacceptable and is one of the reasons that a traffic regulation order can be made.

We ask that this road is repaired to take use by walkers, horse riders and cyclists. However, unless there is a permanent traffic regulation order in place, we think any repair, short of a sealed surface, will be unsustainable for use by motor vehicles; indeed it has been repaired before but damaged again by motor vehicle use.

We do not agree with the statement made in point five of the letter from the TRF's solicitors; Brain Chase Coles. Motor bikes used in motor cycling events do cause damage and no mention has been made of the number that would take part in these trail rides. Motor bikes cause ruts, which are a result of the abrasive action of the wheels turning combined with the weight of the vehicle. In no way could this be compared to the impact on a road surface by horse riding as horses do not cause ruts. No evidence has been provided in support of the statement made by Brain Chase Coles and therefore it is invalid and meaningless.

We urge you to support the officer's recommendation.

- 1.32** David Bowe thanked Mrs Fuller and all those attending to support the recommendation of the report. He then asked that those opposed made their statements and invited Doug Cartwright to speak next.

1.33 *My name is Doug Cartwright and I am here today as a local resident of North Yorkshire, a motorcycle trail rider and as Northern Director for the Trail Rider Fellowship, an organisation dedicated to the conservation of the green road network. For your information I am also Vice Chair of the NYCC LAF but I am not here today in that capacity.*

As a trail rider I value the heritage that we have in the country to pursue my hobby of sustainable motorcycle trail riding. It is with great disappointment that I have observed the activities leading to the proposed permanent TRO on Kirby Bank. Two weeks ago I travelled this road in both directions on my electric motorbike. It was quite passable and during that visit I did not encounter anybody, either landowner, farmer or user of any type. In fact I did stop on the Bank and have a coffee and Mars Bar and appreciated the good weather, the stunning views and contemplated the historical significance and the legacy of the route that I was using. I have used this route myself since I started trail riding and have never encountered opposition or unpleasantness.

As TRF Director I can say that we are deeply disappointed in the recommendation of this report and leads us to a loss of confidence in the Council. The proposal itself shows considerable bias and poorly argued logic for a TRO, with evidence of influence from pressure groups. Although we are disappointed in the extreme with the proposed permanent TRO we do acknowledge that some people and a few local residents just dislike us.

The TRF have suggested substantial compromise, which did not go down well initially with many of our members, but if adopted would result in a significant number of motorcycle free days. Motorcycle use is perfectly sustainable on this road.

This report also shows a callous disregard for equality impact assessment. It is clear that the council has shown little understanding of the diversity of access. Motorcycle trail riding provides many health benefits and the ability to access areas not available to those with limited mobility. Today feels like a re-run of Seggimire Lane. I made a similar statement on that at the time and most of you know the events which took place resulted in this road being reinstated. This particular road has proved to be a sustainable road for multiple user access including motorcycle trail riders. Along with many trail riders I have enjoyed myself travelling that road on many occasions since.

So in conclusion I am asking that you reconsider this proposed permanent TRO and see to understand and implement the various suggestions put forward by the TRF and I am making the offer that we would be very pleased to facilitate a group of all stakeholders to make a recommendation to the Council. At the very least we would ask that the Council reconsider this proposal or that it is put forward for independent public inquiry.

1.34 David Bowe thanked Mr Cartwright and asked Mr Jackson to speak next.

1.35 *My name is Rod Jackson and visiting the Countryside is my main leisure activity and pleasure. Unfortunately due to a combination of ailments I am unable to walk to any of the locations, Kirby Bank being one of them, but I am still able to access these locations on my motorcycle. Fortunately my condition is not serious enough to class me as disabled but ironically the last time I attempted to walk an unclassified road was on a PDNPA site visit to access Stanage Edge for, among other things, disabled scooter use. After about one and a half kilometres, I could not continue and had to rest sat on a rock and re-join the group of the way back down, including the disability scooter who completed the full journey. I needed several physio appointments the following weeks for my back to recover from this walk.*

An electric mountain bike was then purchased and although great fun on local bridleways, I reluctantly had to sell the bike as it was making my knees much worse.

The motorcycle I ride, at a sedate pace to appreciate the views and tranquillity, is a fourteen year old 250cc air cooled Yamaha, which is fully road legal with MOT, insurance and road vehicle licence tax.

Over many years I have made a lot of friends from all parts of the country and now being 74 years old and retired have the time to organise small groups of like-minded friends, between four and six, and lead them on two, three and four day trips helping the rural economies by supporting B&Bs, cafes, petrol stations, shops and pubs etc.

Last year I almost gave up motor cycling when I had three motorcycles stolen from my locked garage, two nights before one of my trips, but in spite of all the trauma and costs of increase insurance and security requirements, I replaced two of the motorcycles as I could not imagine filling my time and exercising in a more pleasant and enjoyable way.

I now find another threat to my chosen leisure activity in the form of this proposed TRO on Kirby Bank. So I most strenuously object to any such proposal that would prohibit the use and amenity of Kirby Bank to members of the public, especially those with physical and medical conditions whose only option is to access the route by motorcycle.

Thank you for the opportunity to share my thoughts.

1.36 DB thanked Mr Jackson for his statement and asked Alan Kind to speak next.

1.37 *I am Alan Kind and the Directors of the Trail Riders Fellowship Limited have asked me to address the Committee against a decision to make this traffic order. I should add that I have known and occasionally used this public highway on motorcycle, pedal cycle, and foot, for about 35 years. I inspected the lower parts of the road in 2014 and drafted a report Kirby Bank Trod – Notes on the Historical Status and Present day Traffic Management of this public road. A report by LARA, July 2014. This was submitted to North Yorkshire County Council at the time. I should be pleased to touch on some key issues.*

The claims that motorcycles damage the route. No they do not. This is a wide road, the stones of the trod are a horse causeway at the side, and it was and remains a sustainable road for motorcycle traffic. The pressure groups who allege damage and unsustainability are largely those whose claims were proved false by the recent experimental traffic order process on Seggimire Lane.

The TRF is happy to share this public road with other users, as it has always done. The TRF has proposed an alternative type of traffic order, reducing the number of days during which this road is open to motorcycles. If anyone says how do you enforce this?, well I reply, how do you enforce a complete prohibition? Surely the council should work with responsible motorcyclists to find a management and use balance and not just exclude them wholesale. We respectfully say to the Committee that there is established and respected national government guidance in Making the Best of Byways, and that on all the facts the Council's proposed order goes against this guidance without good reason.

The TRF frequently finds "nimbyism" and bias in the use and management of unsealed roads. When this is tested it is most often found to be unsubstantiated. We are concerned, for example, about the Parish Council Chairman's offer to fund maintenance / management of the road in return for a TRO. This information was only made available after the prior decision, via a decision record. This is why a public inquiry is the fairest, most transparent and respected way of dealing with this sort of case. If anyone says that a public inquiry is expensive, well, all traffic management had a cost and an inquiry would certainly be cheaper than slugging it out in the High Court.

A sizable proportion of TRF members are disabled, or at least of an age and condition where other means of use of our minor roads is difficult or impossible for them. These people deserve more consideration than this proposal currently affords them, and the TRF's time-limited access solution can work to accommodate their needs. The TRF cares about the heritage and the well-being of the road, and its users.

The TRF is concerned about compliance with the statutory process – for example, documents required to be deposited and available at a public library were not. The Council's officers are aware of the TRF's concerns in a letter from the TRF's solicitor that you received yesterday. Members have been informed via this letter of the procedural errors in the publication of the proposals it would be perverse for Members to confirm the TRO with the knowledge of procedural flaws. But a public inquiry would give the Council time to re-advertise and correct any procedural flaws and avoid causing any prejudice to the public.

1.38 DB thanked Mr Kind for his statement.

1.39 Cllr Moorhouse asked to say a few words.

1.40 Cllr Moorhouse explained that she was disappointed that those objecting to the TRO had not attended other meetings as that could have saved a lot of money and with regard to Seggimire Lane there is information that it isn't working despite what has been said.

- 1.41** Cllr Moorhouse was aware of another temporary TRO in another parish which was being used by other uses and the Police were trying to sort it but were not able to. She continued to explain that the weather makes things good and bad and those in attendance who supported the TRO were up on the Trod on a regular basis so were aware of its condition.
- 1.42** With regard to the challenge that the Trod is not a historic monument, Cllr Moorhouse stated that she was not happy with this comment.
- 1.43** DB then requested that Legal view was provided and Catriona Gatrell was invited to make comment.
- 1.44** Catriona Gatrell, Head of Legal Services explained that because of the late submission yesterday of a letter from the TRF solicitors, it was prudent to consider this and provide legal advice.
- 1.45** With regard to the option to refer the matter to a public inquiry, this has never been suggested before and as decision maker DB can make that choice and it is an option for consideration.
- 1.46** CG explained that the letter from the TRF's solicitors gave a variety of reasons why this matter should go to public inquiry and that she would answer each one in turn;
1. Lack of procedural fairness – the fact that a further meeting has been held to address issues raised in comments from the TRF shows that we are seeking to ensure procedural fairness in the process and engaged properly with the issues.
 2. Alleged unavailability of documents – CG confirmed that the County Council had done what it is procedurally required to do. She advised that the matter had been on-going for three years with opportunities to make representations during that time. It can happen that documents which have been deposited at local facilities cannot be located by staff when requested, but that does not mean they have not been deposited as required by legislation. If people cannot view documents in a certain place the notices clearly state that documents can be viewed at County Hall.
 3. Equalities duty – the duty has clearly been considered and an assessment as to whether to proceed with a full Equalities Impact Assessment was undertaken and forms part of the report. It is the Councils decision as to whether a full Impact Assessment is required. DB and the Executive Members have been able to hear further evidence on this point at the meeting and are able to take this into account alongside the officer assessment when making a decision.
 4. Change of mind on reasons for implementing the TRO – the fact that the Council have brought a further report means we have given consideration to the points raised by the TRF. The reasoning may have altered, but is adequate and clear for a decision to be taken. She reminded DB and the Members of the position set out in paragraphs 4.4 and 4.5 of the report.
 5. Members will be confused by the report – CG informed DB that the Members are able to ask any questions and that the report contains the necessary information and reasoning for a decision to be taken. CG confirmed that in her view DB and the Members were quite capable of making the decision.
 6. Allegation that we have taken into account financial advantage. CG stated that this was not a relevant consideration and this had never been a consideration in this matter.
- 1.47** CG informed DB that it was for him, in consultation with the Executive Members to decide how to proceed with this matter. With regard to holding a public inquiry, there was no basis in the matters raised by the TRF supporting the holding of a Public Inquiry and that all the relevant information enabling DB and Members to make an informed decision has already been made available and considered in detail at this and previous meetings.

- 1.48** DB then asked Cllr Mackenzie if he would like to make any comments
- 1.49** Cllr Mackenzie confirmed that he was not confused and his decision was to approve the implementation of the Traffic Regulation Order on Kirby Trod. He stated that he had no hesitation in following the advice of the Legal Officer and if there are those who don't then they should do what they feel is necessary.
- 1.50** Cllr Lee concurred with his Executive colleague and confirmed that he had complete clarity on the issue. If certain groups have issue with the Legal process then they may bring a challenge.
- 1.51** DB thanked everyone for the representations that had been provided and following the advice from the Highways Officer and Legal Officer he supported the recommendation in the report.