

Policy CA17 :

Use of permanent Traffic Regulation Orders (TROs) on Recreational Highways

This Policy covers highways for which the main use is recreational. Recreational Highways are likely to fall into one of the following categories:

- Public footpaths, public bridleways, restricted byways and byways open to all traffic shown in the Definitive Map and Statement of Public Rights of Way in Warwickshire.
- Unclassified roads (UCRs) without a sealed surface (generally referred to as E roads) which are managed by the Countryside Access Team.
- Stubs of other UCRs (generally referred to as D roads and usually having a tarmac surface) which form a continuous route with a one of the above.

WCC will not seek to make a permanent TRO for a Recreational Highway either

- to avoid its maintenance liability or
- if it is not possible to enforce it without restricting access for permitted traffic.

N.B. enforcement may either be through the installation of barriers or through Police involvement.

WCC will give favourable consideration to the making a permanent TRO for a Recreational Highway

- where there is an actual or foreseeable long term danger to the public which a TRO would resolve (and which could not be resolved through routine maintenance).

In all other circumstances, each proposed TRO for a Recreational Highway will be considered on its own merits, based on the evidence available to WCC. Each proposed TRO must satisfy at least one of the grounds set out in section 1(1) the Road Traffic Regulation Act 1984 (RTRA84) or sections 22, 22A or 22C as appropriate. Additionally WCC must have regard to the matters specified in section 122(2) of the RTRA84.

Examples of cases where a TRO could be used are given in the background to this Policy.

TROs may be reviewed in the following circumstances

- where the TRO excludes one or more classes of user from a Recreational Highway
AND
- where evidence becomes available which demonstrates that the circumstances which led to the making of the TRO have changed.

A review may lead to a TRO being revoked or it may result in a variation which could either impose greater restrictions or lessen the existing restrictions.

Background

Consideration of TROs which may last indefinitely (or until varied or revoked) on Recreational Highways is a relatively rare occurrence within WCC. However, the number of requests has increased in recent years.

The main reason for these requests is as a result of use (or anticipated use) of recreational vehicles using the non-tarmac vehicular highways (unsealed unclassified roads and byways open to all traffic). This is often an emotive issue, and this Policy has been developed so that a consistent baseline approach for all Recreational Highways can be adopted across the County whilst still allowing local circumstances to be considered.

It is important to note that in addition to its powers contained in the Road Traffic Regulation Act 1984, it is also open to WCC to seek to extinguish a route under powers contained in the Highways Act 1980 if it can be shown that the route is unnecessary.

Pre-emptive restrictions or prohibitions will be considered if site circumstances are such that it is reasonably foreseeable that they could either give rise to a likelihood of danger to the public or serious damage. For example, if in winter an area has a high water table and is prone to regular waterlogging or the geology of the road make it susceptible to damage after period of adverse weather.

Enforcement powers for TROs generally rest with the Police. It is therefore preferable that TROs are enforced by physical barriers wherever possible, but barriers will not be used if they would restrict users who are not prohibited by the TRO.

Legislation does not require WCC to review a TRO once it has been made. However, if evidence is discovered which indicates that circumstances have changed, then it is open to WCC to use its discretion to review the TRO. There will normally be at least five years between reviews of a TRO.

Examples of the types of reasons and evidence which might lead to a Traffic Regulation Order (TRO) being made under the Road Traffic Regulation Act 1984 on Recreational Highways

N.B. As defined by RTRA84 s142 'road' refers to any class of highway and includes footpaths and bridleways.

This is not an exhaustive list and that there may be other situations which WCC will consider on its own facts and merit. Defra have published useful guidance entitled 'Making the Best of Byways' which will be of use when considering whether to make a TRO on Recreational Highways.

The normal aim is in favour of keeping the road open for as many classes of user as reasonably possible. The suitability and existence of alternative routes for each class of user should also be considered.

Section 1(1) Road Traffic Regulation Act 1984

- a. for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising**
- where a road coincides with a watercourse and it is not practicable (e.g. for environmental reasons or flood prevention) to construct or repair the 'road' to make it suitable for certain users in the near future
 - where a road runs parallel to or over a steep escarpment, particularly if it is unstable and or site or ground conditions preclude the installation of safety barriers.
 - where the natural character or built environment physically prevents certain traffic from travelling along the road
 - where a professional highway engineer, with specialist knowledge of road safety, considers that a junction with the road is dangerous
 - where a road has a proven accident record

<p>b. for preventing damage to the road or to any building on or near the road</p> <ul style="list-style-type: none"> ▪ where the underlying geology, or the lack of drainage (which cannot reasonably be improved) makes it prone to surface damage and surface repairs are unlikely to prevent the damage re-occurring quicker than would be expected under normal circumstances through normal wear and tear ▪ where a professional structural engineer demonstrates that the weight or volume of traffic on the road is or could damage a building (including a bridge) on or next to the road
<p>c. for facilitating the passage on the road or any other road of any class of traffic (including pedestrians)</p> <ul style="list-style-type: none"> ▪ where there is a documented ongoing conflict between particular classes of user
<p>d. for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property</p> <ul style="list-style-type: none"> ▪ where a vehicular road is too narrow to physically allow certain classes of user ▪ where a road passes through or over an international, nationally or locally designated and protected historic landscape (by statute) or archaeological site (i.e Scheduled Ancient Monument) and a professional archaeologist or landscape expert confirms that traffic would cause irreversible damage and mitigation measures cannot reasonably be implemented <p>N.B. Section 22 or Section 22A should be used if the purpose of a TRO is for conserving or enhancing the natural beauty of the area (flora, fauna and geological and physiographical features).</p>
<p>e. (without prejudice to the generality of paragraph (d) above) for preserving the character of the road in a case where it is specially suitable for use by persons on horseback or on foot</p> <ul style="list-style-type: none"> ▪ where a vehicular route leads onto a footpath or bridleway but is a cul-de sac for vehicles ▪ where traffic counts demonstrate that there is a significant level of traffic making the route unsuitable (due to the character of the road) to walkers and horses.
<p>f. for preserving or improving the amenities of the area through which the road runs</p> <ul style="list-style-type: none"> ▪ where Officers from the borough/district council's Environmental Health department (or another suitably qualified professional) confirms that the traffic using the road is having an unacceptable impact on the health of residents living on or next to the road i.e. noise and pollution levels.
<p>g. for any of the purposes specified in paragraphs (a) to (c) of subsection (1) of section 87 of the Environment Act 1995 (air quality).</p> <ul style="list-style-type: none"> ▪ this is unlikely to apply to recreational highways although it will be considered if a qualified professional demonstrates that the traffic on the road <u>is</u> breaching the Act
<p>Section 22 Road Traffic Regulation Act 1984 <i>applies only to designated areas including AONB, Local-authority-run Country Park, Nature Reserve, long distance routes, land owned by the National Trust, SSSI</i></p>
<p>i. conserving or enhancing the natural beauty of the area (flora, fauna and geological and physiographical features)</p> <ul style="list-style-type: none"> ▪ if a 'Red Data Book' species, classed as vulnerable, endangered or critically endangered has been recorded living/breeding/hibernating on the road and a professional ecologist confirms that traffic would significantly impact on the species and mitigation measures can not be implemented. Seasonal Orders should be considered if species are only susceptible to disturbance at certain times of the year. Orders should not be considered for species that are classed as locally or regionally rare but which are abundant elsewhere. ▪ preventing damage to a SSSI
<p>ii. affording better opportunities for the public to enjoy the amenities of the area</p>
<p>iii. affording better opportunities for the public to enjoy recreation</p>
<p>iv. affording better opportunities for the public to enjoy the study of nature in the area</p> <ul style="list-style-type: none"> ▪ Each case will be considered on its own merits as a special case.

Section 22A Road Traffic Regulation Act 1984

applies only to

- unclassified roads, restricted byways or byway open to all traffic in areas not covered by Section 22 above

i. conserving or enhancing the natural beauty of the area (flora, fauna and geological and physiographical features)

- as Section 22 above

Section 22C Road Traffic Regulation Act 1984

ii. for the purpose of avoiding or reducing, or reducing the likelihood of, danger connected with terrorism

- Each case will be considered on its own merits as a special case.