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Peak District  
Green Lanes Alliance

## Saving our green lanes from off-road vehicles

### September 2018 Newsletter

#### **DCC re-runs the public consultation on the proposed TRO on Jacob's Ladder Please take part**

You may remember being told of a Derbyshire County Council (DCC) public consultation on a proposed Traffic Regulation Order (TRO) to exclude recreational motor vehicles on a route known as Jacob's Ladder in Stoney Middleton in our May 2018 newsletter. We asked you to take part in this consultation because Jacob's Ladder is an important route not only for walkers, cyclists and horse riders but local people. We believe its use by 4 x 4s and motor bikes is dangerous.

DCC has decided that they need to re-run this public consultation as the original one was flawed. The legal reasons for this are given below. **But the important thing is that any response made to the May/June 2018 consultation will not be taken into account when a final decision is made on the proposed TRO. If you want your views to be considered, you must take part in the new consultation.**

The closing date for the new consultation is **5 October 2018**. All the DCC papers associated with the consultation and a link to the on-line questionnaire can be seen at <https://www.derbyshire.gov.uk/council/have-your-say/consultation-search/all-consultations/consultation-details/proposed-prohibition-of-mechanically-propelled-vehicles-over-stoney-middleton-byway-open-to-all-traffic-no-15-known-as-jacobs-ladder.aspx>

Jacob's Ladder (which is also known as Stoney Middleton BOAT 15) runs from The Nook, in Stoney Middleton (SK 2324 7555) to New Road (SK 2344 7594). It climbs steeply from Stoney Middleton to New Road. Part of the route is through mature woodland. In places it is narrow, eroded to a hollow way and has exposed tree roots. The route used to be valuable for walkers, cyclists and horse riders. Most horse riders have ceased to use it because of concerns about their safety when meeting vehicles and the deep ruts. Many local residents, especially the elderly who used to visit the cemetery, have ceased to use it on foot for similar reasons. One resident has even been knocked down by a motor bike.



You can see a picture of how delightful the lane looked in about 1916 at <http://smhccg.org/village-and-surrounds/jacobs-ladder/> The photo on the left shows how it looked in April 2018.

The Parish Council has been asking Derbyshire County Council (DCC) for a Traffic Regulation Order (TRO) for at least 25 years. In 2013 it submitted a detailed written request for a TRO which set out the need for one and the supporting evidence. At the Meeting of the Cabinet Member for Highways, Transport and Infrastructure on 26 October 2017, DCC decided that the TRO should extend for the whole of the route and not just part of the route as officers had recommended.

PDGLA (along with the Parish Council, Friends of the Peak District and Peak Horsepower) have been campaigning for this TRO. Please

support this TRO which will still allow access for the disabled in invalid carriages, the emergency services, land management vehicles and access to the cemetery (at the bottom of the lane) but it will ban all other vehicles.

The background papers describe the legal grounds for the TRO in the document entitled "Jacob's Ladder final notice". These are elaborated further in the document "Jacob's Ladder final statement of reasons" (see the link above).

The closing date for the new consultation is **5 October 2018** You can respond most simply by answering a series of questions in the on-line questionnaire. In any free-form text area try to tailor your comments to the reasons DCC use to justify the TRO such as preventing danger, preserving the character of the route or improving the amenities of the area.

Alternatively you can respond in writing to Mike Ashworth, Strategic Director – Economy, Transport and Environment, County Hall, Matlock, DE4 3AG; or by email: [eteprow@derbyshire.gov.uk](mailto:eteprow@derbyshire.gov.uk) quoting reference WD93-15/TRO before 5 October 2018. All objections must state the grounds on which they are made. If you respond in writing or by email, make sure that you include your name and a contact address.

**This is an important consultation. Please take part.**





*Jacob's Ladder in April 2018 with exposed tree routes, limited width and poor visibility at a bend*

### **Why DCC is carrying out a further consultation on the proposed Jacob's Ladder TRO**

Making a TRO is a legal process. If it is not carried out correctly objectors can challenge the TRO in the High Court on procedural grounds and can get it quashed.

The following is a simple guide to the process to explain what went wrong with the original DCC consultation started in May and June 2018. We've included the complete names of the legislation involved and the relevant parts so that you can look things up and see the full text of the legislation if you want some light bed time reading.

The grounds for a TRO are laid down in the Road Traffic Regulation Act 1984. Section 1 lists grounds that apply everywhere and Section 22 applies to special areas such as a National Park. No other grounds (however appealing they sound) can be used. Preventing danger, preserving the character of the route or improving the amenities of the area are all valid reasons for a TRO.

The procedure that a local authority must follow when making a TRO is laid down in The Local Authorities Traffic Orders (Procedure) (England and Wales) Regulations 1996. These regulations allow the public and organisations to object to a proposed TRO or support one via a public consultation. They lay down the information that a valid objection must include (Regulation 8). They also require that objectors must be

informed in writing when either there is a public inquiry into the proposed TRO (Regulation 10 (3) (b)) or when the Order for the TRO is made (Regulation 17 (3))

In order to inform objectors in writing, the local authority needs some way of contacting them. Incredibly the on-line proforma used by DCC did not ask for the name, address or email address of those who took part. Therefore they had no way of contacting objectors as all responses by individuals on-line were anonymous. Even for organisations, the proforma only asked for the name of the organisation, not a contact address or email address.

This requirement to contact objectors is not hidden away in footnotes and links to other legislation. It is clearly stated. The earlier non statutory public consultation carried out before the latest public consultation had clearly demonstrated that there **would** be objectors to any proposed TRO.

PDGLA wrote to the Senior Solicitor at DCC in June 2018 pointing out that the design of the on-line proforma did not meet the requirements of the Regulations as far as contacting objectors is concerned.

Since the on-line proforma was flawed, and because of the history of off-roading organisations launching an appeal against a TRO if any mistakes are made in the process, DCC have decided the safest course of action is to re-run the consultation.

Although the regulations were made before the days of email and the internet, the Peak District National Park Authority has managed to adapt similar regulations applying to National Parks to an on-line consultation. A local authority in the south of England is currently using an on-line proforma to respond to a consultation on an Experimental TRO. Their proforma requires the name, address and email address of all responders. So it is easy enough to design and carry out a TRO consultation which allows people to respond on-line and which satisfies the statutory requirement to be able to contact objectors.

We appreciate the Cabinet Member for Highways is trying to meet the long-standing concerns of local residents and non-vehicle users of Jacob's Ladder by asking officers to consult on a TRO on this route. It is very frustrating that his efforts are being undermined by such elementary and avoidable mistakes by DCC officers. We do not expect officers to ask our advice but the Peak District National Park Authority has a lot of experience with implementing TROs now and would have been well placed to help them avoid this pitfall.

### **Cheshire Police Rural Crime Team prosecute off-roaders driving on SSSI in Peak District**

It's worth looking at the Facebook posting of 16 August 2018 at <https://www.facebook.com/CheshPolRural/>

Seven men from Grimsby on motor cycles rode across two SSSIs, across private land and along public footpaths. They then posted their activities on the internet. The Cheshire Police Rural Crime Team at Macclesfield investigated with help from other

Police Forces and Natural England and took the miscreants to court where they were given fines and community serve. Well done the Cheshire Police.