

Sir, I am writing to you with a response from Cycling UK on the above proposed traffic regulation order.

We note, initially, that we have requested, twice, copies of risk assessments completed prior to the resurfacing of the route, copies of accident records/statistics, and a copy of the road safety audit mentioned in the consultation letter. To date, none of the requested information has been provided, and we comment that this has made the task of offering you a formal response significantly more difficult.

The Council is proposing to make an order that would provide an experimental scheme to prohibit the use of Bamford Clough for vehicular traffic except in the uphill direction, northwards for a trial period of 18 months... The road is a byway open to all traffic of single-track width and with severe gradients of up to about 35%, which has been closed to traffic for several years through successive temporary orders made by the Council under section 14 of the Act, and currently remains closed to traffic to avoid a likelihood of danger to the public.

The County Council commissioned a Road Safety Audit the findings of which were that it is considered that the road presents hazards to road users associated with its layout, surfacing, gradients, and restricted width between stone boundary walls. In the event of resumption in the use of the road without legal restriction, its use by vehicular traffic in both directions would raise a significant likelihood of danger through drivers of vehicle travelling on the road being forced to halt on the gradients and reverse for some distance to allow vehicles travelling in the opposite direction to pass by.

The prohibition under the proposed experimental scheme is anticipated to be an effective measure for enabling the vehicular use of the road to resume whilst continuing to avoid a likelihood of danger to road users from the hazards presented by the characteristics of the road. It is not anticipated that the prohibition will cause substantial detriments to the convenient and safe movement of traffic or to on or off- highway parking provision.

We fail to understand from the information provided the nature of the proposed experiment or how it would be monitored and assessed - the closure appears, on face value, to offer a restriction without any control or comparative data in order to amount to any form of a valid experiment.

Further, we question the nature of several statements in the consultation letter:

its use by vehicular traffic in both directions would raise a significant likelihood of danger through drivers of vehicle travelling on the road being forced to halt on the gradients and reverse for some distance to allow vehicles travelling in the opposite direction to pass by.

Given that this route has received regular vehicular traffic for decades (as evidenced in the DMMO Process) we question the evidence base for this position. Nor do we see how this justifies restrictions on the use of bicycles or motorbikes on the route - neither form of two-wheeled vehicle would create the sort of physical impediment requiring other users to 'reverse' or stop in order to allow others to pass. Indeed given the width of the track we believe there is more than adequate passing room for bicycles, horses, motorbikes or walkers to pass in two directions without in any way impeding other users.

We also draw attention to the recent judgement in *Stubbs (on behalf of Green Lanes Environmental Action Movement) v Lake District National Park Authority & Ors [2020] EWHC 2293 (Admin)*, Where the judge pointed out that:

We have no actual evidence of any accidents, incidents or injuries to any users of either of these roads, which are largely unconfined in width. GLEAM (paragraph 46, Appendix 2.4) have provided links to videos and timings showing walkers having to move off the Tilberthwaite Road to avoid motorbikes. But watching these videos at the recommended timings merely shows walkers stepping to one side-much as they would if they were approached by mountain bikes or horses: there does not appear to be any animosity shown by the walkers who appear to be quite tolerant, and safe, passing something coming in the opposite direction. There are also complaints about the risks posed to walkers by mountain bikers – but again, we have no direct evidence of any incidents or accidents. Studies elsewhere with regard to conflicts between users have generally tended to show that the perception of danger when creating mixed use routes is far greater than the resultant reality once the routes have been created.

Whilst it is conceded that this route is narrower than unconfined route identified in *Stubbs*, we believe that the comments regards walkers and other users stepping aside and giving each other space undoubtedly applies to the use of Bamford Clough by two-wheeled (rather than four-wheeled) users, and as such the proposed restriction has little justification on the basis of prevention "of danger through drivers of vehicle travelling on the road being forced to halt on the gradients and

reverse for some distance to allow vehicles travelling in the opposite direction to pass by” as identified in the proposal.

Further, it is pointed out that there is a lack of identified accident history on this route. This route, as a public highway with motor vehicle access, will be subject to Standardised police accident reporting criteria for traffic incidents resulting in injury under the STATS 19 procedure. A review of STATS19 data via crashmap.co.uk reveals a single fatal vehicular accident in 2006, but no other significant history of accidents. It is therefore postulated that future risk is entirely based on speculative risk of conflict/danger rather than proven risk, we do not see how that can justify the proposed restriction or offer a valid baseline dataset in order to amount to a valid experiment

We suggest that it is an open question as to whether this potential/speculated increase in risk has been directly caused by the decision of the highway authority to Tarmac this route in 2021 - if so we would openly question what level of risk assessment was done beforehand, and why adequate risk mitigation measures were not taken during the design and works stage. We suggest that it cannot be right or fair for users to be penalised and restricted due to local authority errors and lack of consultation prior to resurfacing.

We also question why the identified risk is limited to vehicular use. The introduction of a sealed surface on this route has led to concerns voiced by other users as to its safety in wet or icy weather, and the lack of traction offered by tarmac for horses is well documented. We question whether the risk to walkers and horse riders walking downhill on this route, particularly in winter conditions, is not at least as high, or even higher, than the risk to (or from) bicycle use.

Another significant relevance of the Stubbs judgement is confirmation that any decision on this proposed restriction has to engage the Sandford Principle and take into account the dual (and equal) National Park priorities, including that of promoting enjoyment of the special features (including through open-air recreation). The consultation as it stands has simply not demonstrated the existence of irreconcilable conflict significant enough to justify the proposed restriction on use through ETRO applying to all vehicles (including bicycles). Nor has it identified management steps taken to try and minimise or reduce potential conflict (through, for example, signage, voluntary restriction, permit schemes or skid reducing surface treatments). We believe that the legal responsibilities here have not been fully thought through and require careful reconsideration.

As such, we cannot support the proposed ETRO in its current form without modification to remove the restriction on all vehicles so as to permit non-mechanically propelled vehicles and/or bicycles to travel in both directions.

kind regards

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Cycling UK