



Department for
Communities and
Local Government

Temporarily removing restrictions on the use of the Stray, Harrogate, imposed by the Harrogate Stray Act 1985, to facilitate Harrogate Borough Council hosting the Tour de Yorkshire 2017

The Harrogate Stray Act 1985 (Tour de Yorkshire) Order
2016 (Draft)

Explanatory Document by the Department for Communities
and Local Government

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Chapter 1

Introduction

- 1.1 The Tour de Yorkshire is a multiple stage cycle race developed as a regular legacy race, following the successful hosting of the Tour de France in Yorkshire in July 2014. The route of the stages of the event is yet to be announced but Harrogate Borough Council will host a stage.¹ The Council considered that several parts of the Harrogate Stray Act 1985 (the 1985 Act) and related byelaws would prevent or restrict it from exercising their general power of competence in hosting the Tour de Yorkshire. They wrote to the Secretary of State asking he use his powers under section 5 of the Localism Act 2011 (the 2011 Act) to make an order to temporarily disapply or amend parts of the 1985 Act and related byelaws for 2 sections of the Stray for the sole purpose of hosting the Tour de Yorkshire 2017.
- 1.2 The Secretary of State provisionally agreed with the Council that several provisions of the 1985 Act prevent or restrict them from exercising their general power of competence in hosting the Tour de Yorkshire, and so took the necessary step of launching a public consultation on the proposal to enable the Council to use the general power of competence to host a stage of the Tour de Yorkshire 2017.
- 1.3 The consultation proposed the temporary disapplication or amendment of provisions of the 1985 Act and related byelaws for two sections of the Stray from 23 April to 3 May 2017 for the sole purpose of hosting the Tour de Yorkshire. The 2 areas of the Stray for which the 1985 Act and related byelaws would be disapplied or amended are shown on the map referred to in the draft Order.
- 1.4 This Explanatory Document provides the background to the consultation, a summary of the consultation responses, the Government response to the consultation, and an explanation of the Secretary of State's consideration of the conditions that must be met for him to use his powers under section 5 of the 2011 Act to make an order to temporarily disapply or amend parts of the 1985 Act and related byelaws for 2 sections of the Stray for the sole purpose of hosting the Tour de Yorkshire 2017.
- 1.5 This Explanatory Document is laid before Parliament in accordance with section 7(2) of the 2011 Act together with the draft of the Harrogate Stray Act 1985 (Tour de Yorkshire) Order 2016 that the Secretary of State proposes to make under section 5(1) of the 2011 Act.

¹ Further information can be found at www.visitharrogate.co.uk/inspire-me/harrogate-loves-cycling/tour-de-yorkshire-2017

Chapter 2

Background to the Consultation

The Tour de Yorkshire 2017

- 2.1 In order to host the Tour de Yorkshire 2017, the Council intends to use some of the area of land in Harrogate known as the Stray. The Stray is owned by the Duchy of Lancaster but managed by the Council. Its use and management has been regulated since 1770 by a succession of private acts, the current being the 1985 Act. The 1985 Act and the related byelaws are appended to this document.
- 2.2 The route of the stages of the event is yet to be announced but the Council will host a stage in Harrogate at the same location as the Tour de France 2014, which is on West Park Road/A61 Harrogate town centre and adjacent to the Stray. The Council anticipates that they will need to section off approximately 14.56 hectares of the 80 hectare Stray for a maximum of 11 days, which would be occupied by temporary infrastructure to support the Tour. The Council would ensure that the Stray is returned to its original state after the event.
- 2.3 It is likely that the temporary infrastructure would comprise:
- Facilities for the anticipated number of spectators, possibly including 2 grandstands accommodating 80 people each;
 - Positioning of media vehicles, team buses and support vehicles;
 - Large screen televisions;
 - Additional temporary public conveniences – approximately 100 toilets;
 - Temporary waste management facilities;
 - First aid points;
 - Parking facilities on area 2 (see map on page 8);
 - An area for commercial merchandising kiosks and tents;
 - An area for a fan park with family and fun activities related to the race and cycling in general;
 - Catering facilities;
 - An enclosed secure technical zone to park up to 100 trucks;
 - Temporary surfaces/roads for support vehicles (consisting of team cars, cars for officials and medical vehicles); and
 - Additional temporary roads as a “peel off” to the side road to avoid a bottle neck

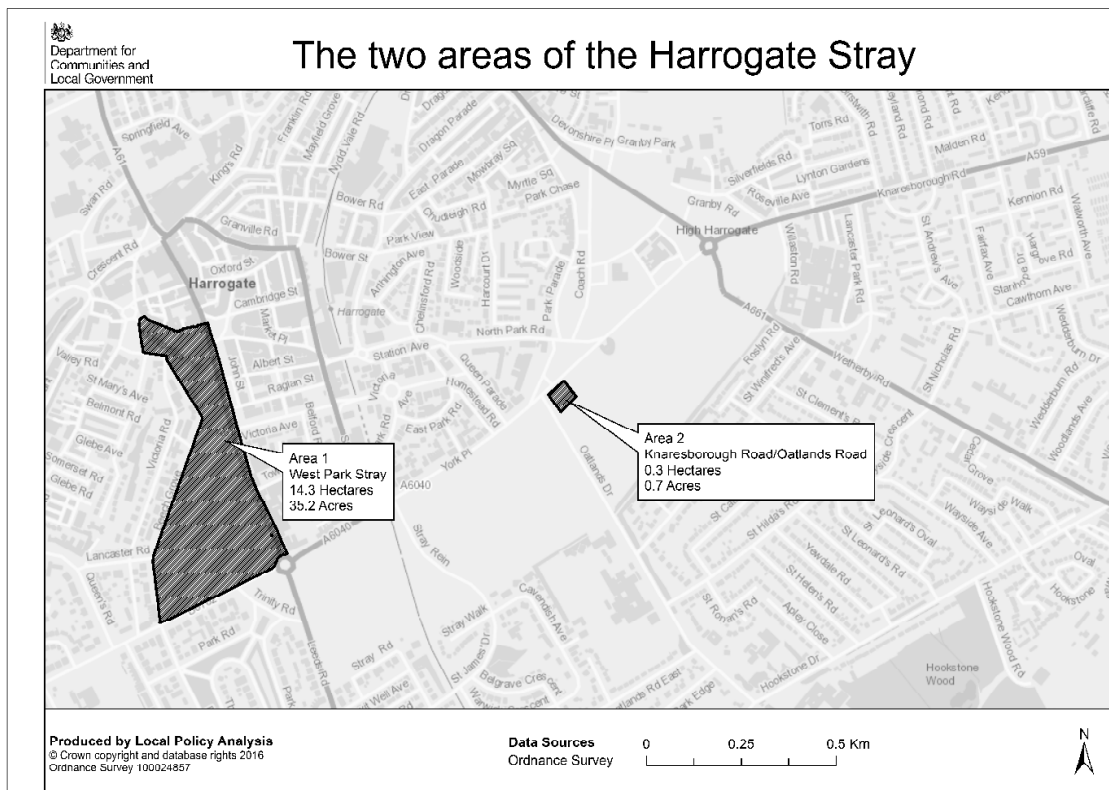
The General Power of Competence

- 2.4 To host a stage of the Tour de Yorkshire 2017, the Council proposes to use their general power of competence. The general power of competence is provided for in section 1 of the 2011 Act. It gives councils confidence in their legal capacity to act for communities and is designed to allow local authorities to innovate. Prior to the 2011 Act, local authorities could only do what Parliament had provided they could do – local authorities were given discrete, often narrowly defined powers. The general power of competence was provided on the basis that local authorities would be able to do anything that an individual with full capacity might do, other than that which is specifically prohibited, with some limitations.
- 2.5 The Council has presented to Government a compelling case for using the general power of competence to host the Tour de Yorkshire 2017: the general power of competence is a broad power and the economic merits of hosting the Tour are significant. The general power of competence applies in these circumstances as an individual with full capacity would have the power to host a cycle race on someone else's land, subject to complying with any applicable legal restrictions and obtaining the landowner's consent. The reasoning for this is set out below:
- the Stray comprises land;
 - any individual can own land (in this case the Stray is owned by the Duchy of Lancaster);
 - a landowner can grant someone the right to manage the land (the Stray is managed by the Council);
 - the right to manage land can include the right to enter into contracts to license the land for certain purposes; and
 - the grantee can then enter into a contract with the organisers of the Tour de Yorkshire to allow the event to take place on that land.
- 2.6 As it is established that an individual (other than the Council) could host an event such as the Tour de Yorkshire on someone else's land, the next question is whether there are any legal obstacles to the Council doing that and whether the general power of competence provides that such obstacles can be removed.
- 2.7 The 1985 Act governs the management of the area within Harrogate known as the Stray. The Council is identified as the body holding these management functions on behalf of the Duchy of Lancaster. The 1985 Act and related byelaws include various obligations and restrictions on the Council. A number of these have been identified as preventing the Council from hosting the Tour de Yorkshire 2017:
- a) section 4(2), which requires the Council to maintain and preserve the aspect of the Stray (this could be problematic given the siting of temporary infrastructure on the Stray);

- b) section 4(3), which requires the Council to protect trees, shrubs, plants, turf and herbage growing on the Stray (this could be problematic given the siting of temporary infrastructure on the Stray);
 - c) section 4(4), which imposes a requirement that where the Council ‘inclose’² part of the Stray they are to provide an area, at least the size of that ‘inclosed’ area, within 100 metres of the Stray (this is impossible as there is no appropriate substitute area);
 - d) section 5, which gives inhabitants of the Borough of Harrogate free access to the Stray (the necessary temporary infrastructure will require parts of the Stray to be ‘inclosed’);
 - e) section 6(1)(d), which imposes limits on the number of aircraft landings allowed (this could be problematic given media, VIP visits and judging requirements);
 - f) section 6(4) which sets out restrictions regarding area (3.5 hectares) and time (maximum 5 weeks) attached to a licence to ‘inclose’ the Stray (the necessary temporary infrastructure for the Tour de Yorkshire requires 14.56 hectares of the Stray and while the hosting of the Tour de Yorkshire only requires 10 days, there are other events throughout the year that would then exceed the maximum time period);
 - g) byelaw 3, made under section 7 of the 1985 Act, which prohibits the removal of soil or plants (this could be problematic given the siting of temporary infrastructure on the Stray); and
 - h) byelaw 17, made under section 7 of the 1985 Act, which prohibits the use of radios etc. causing annoyance (this could be problematic given media, public address systems and judging requirements).
- 2.8 The draft Order disapplies sections 4(2), 4(3), 4(4), 5 and 6(4) of the 1985 Act, and byelaws 3 and 17 made under section 7 of the 1985 Act, from 23 April to 3 May 2017, for the sole purpose of hosting a stage of the Tour de Yorkshire. The draft Order also amends section 6(1)(d) of the 1985 Act so that there are no limits on the number of aircraft landings allowed from 23 April to 3 May 2017 for the sole purpose of hosting the Tour de Yorkshire.
- 2.9 The 2 areas of the Stray (totalling 14.56 hectares) for which the 1985 Act and related byelaws would be disapplied or amended are shown on the map referred to in the draft Order. An indicative map is shown below for information. A detailed map has been prepared for the draft Order and is available at the offices of the Department for Communities and Local Government (2 Marsham Street, London SW1P 4DF) and Harrogate Borough Council (Council Offices, Crescent Gardens, Harrogate, HG1

² ‘Inclose’ is the language used in the 1985 Act.

2SG). The map is marked “Map referred to by the Harrogate Stray Act 1985 (Tour de Yorkshire) Order 2016” and is dated 24 March 2016.



The Localism Act 2011 – “Barrier Busting” Power

2.10 As well as providing the general power of competence the 2011 Act also provides that the Secretary of State may, if he thinks that a statutory provision prevents or restricts local authorities from exercising the general power of competence, and if certain statutory conditions are met and if Parliament approves, make an Order to amend, repeal, revoke or disapply that provision (see section 5). The 2011 Act includes the power to amend or disapply a statutory provision for a particular period (section 5(6)). The proposed draft Order would disapply and amend parts of the 1985 Act from Sunday 23 April to Wednesday 3 May 2017 for defined areas of the Stray for the sole purpose of hosting the Tour de Yorkshire 2017.

2.11 The statutory conditions that the Secretary of State has to consider (section 6(2)), where relevant, to be satisfied before making such an Order are that –

- The effect of the provision is proportionate to the policy objective intended to be secured by the provision;
- The provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it;
- The provision does not remove any necessary protection;

- The provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise; and
- The provision is not of constitutional significance.

2.12 Before making such an Order, the Secretary of State must consult: such local authorities, such representatives of local government, and such other persons, if any, as the Secretary of State considers appropriate (section 5(7)).

Chapter 3

Consultation

The Consultation Undertaken

- 3.1 The Secretary of State consulted over an 8 week period (24 March 2016 to 19 May 2016) on the 'Proposal to enable Harrogate Borough Council to use the general power of competence to host a stage of the Tour de Yorkshire 2017'. The consultation is available here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510609/160323_Harrogate_TDY_2017_Consultation.pdf
- 3.2 The consultation invited comments on the proposal to enable the Council to use the general power of competence to host a stage of the Tour de Yorkshire 2017 and asked for views on the statutory conditions.
- 3.3 The statutory consultees were the Council, the Duchy of Lancaster, and the Stray Defence Association (a non-political organisation which represents the views of those who seek to protect the Harrogate Stray).
- 3.4 The Council promoted the consultation to their residents and businesses in a number of ways:
- The consultation documents were made available on the Council's 'Have Your Say' internet pages;
 - A feature in the local newspaper, the Harrogate Advertiser, invited comments to the consultation;
 - The detailed maps were displayed on a notice board in the foyer of the main Council Offices at Crescent Gardens, and Customer Services staff in the Council knew how to refer enquiries made by telephone or by personal callers;
 - Over 800 letters about the consultation were sent to local residents and business, to the Chamber of Trade and Civic Society and to the Stray Defence Association; and
 - The Council displayed public notices at 30 suitable locations close to the affected areas.

Representations Received as a Result of the Consultation

- 3.5 The Department received 21 responses to the consultation. Of these, fifteen were from members of the public, one was from the Vice President of the Harrogate Chamber of Trade and Commerce, 2 were associated with the running of the Harrogate Christmas Market and the remaining three were from the statutory consultees.
- 3.6 As a statutory consultee, the Council considered that the objective of the draft Order was undoubtedly worthwhile, and overwhelming when compared to the relatively small disadvantages. They provided their

consideration of how each of the statutory tests were met in accordance with the consultation questions. The Duchy of Lancaster, as a statutory consultee, supported the proposals in the consultation document. The Stray Defence Association, also as a statutory consultee, offered support for the Tour de Yorkshire 2017 but sought reassurances regarding the drafting of the Order, given their view that necessary protections were being removed. In particular, they sought reassurances that the Stray will not suffer any long term detriment and that its full legal protection will be restored as soon as this 'temporary suspension' of the Parliamentary Act is at an end.

- 3.7 There were 5 other responses that supported the proposals. These came from 4 individuals and the Vice President of the Harrogate Chamber of Trade and Commerce. The responses drew attention to the significant opportunities presented by the Tour de Yorkshire, the necessary amendments to facilitate the event and the temporary nature of the disapplication which meant that it was a proportionate response that was in the public interest.
- 3.8 There were 7 responses, 5 from individuals and 2 associated with the running of the Harrogate Christmas Market, which did not indicate support or objection to the proposals, but raised concerns and suggestions. These responses raised concerns about local disruption, damage to the Stray, setting a precedent for repeated disapplication of the Stray's historic protection and use of the land for commercial profit. They also included suggestions that the land should be fully restored following the event, the event should be free to access and any commercial profit should be reinvested in the local area.
- 3.9 There were 6 responses from residents objecting to the proposal due to concerns about damage to the Stray, the disruption to local transport, use of the land for commercial profit and the potential impact on local businesses.
- 3.10 6 of the responses raised concerns about the potential precedent that would be set by again using the 2011 Act to temporarily disapply the 1985 Act, given that it was disapplied for the Tour de France 2014. The Government did state in the consultation document that future requests to make an Order under the 2011 Act may not necessarily be granted, given that there is a longer term option to amend the 1985 Act. However the Parliamentary process required to amend a private Act is likely to take approximately 2 years following extensive consultation and expenditure on fees for specialist drafting and advice. As such, while the review and potential primary legislation provides a potential long term solution, in the short term an order under the Localism Act 2011 seems the appropriate mechanism for dealing with the issue.

Proportionality

- 3.11 The Council considered that the objective of the draft Order was undoubtedly worthwhile, and overwhelming when compared to the relatively small disadvantages. They referred to the economic, sporting, social and other benefits of the Tour to the local economy, local residents and visitors. Four of the other responses also highlighted the economic, sporting, social and other benefits that the Tour will bring to Harrogate, which are likely to continue after the event. Six respondents were concerned about the precedent that would be set, and the Stray Defence Association sought reassurances from the Council that the proposal covered only a limited period of time and that the affected areas would be wholly returned to its previous state after the event.

Fair Balance

- 3.12 The Council considered that the potential detriment and interests of persons adversely affected by the Order were minimal as the lack of access to a small part of the Stray will only be for a very limited amount of time when the Tour infrastructure is sited on the Stray. Four of the consultation responses raised concerns about physical damage to the Stray.

Necessary Protection

- 3.13 The Council do not believe that the Order will remove any necessary protection as the Stray continues to be protected for public access in the long term, and they will return the land to its original state after the Tour de Yorkshire 2017. They considered that it is not necessary to protect access to the entire Stray for a very limited period when access to the vast majority is maintained during that period. In their view the public will, in any event, derive different sporting and recreational benefit from the visit of the Tour. The Stray Defence Association though considered that the proposed suspension of the 1985 Act would remove necessary protection to the Stray. They considered that this could only be justified if written assurances were provided from the Council that the Stray would be wholly reinstated and its full legal protection will be restored following the Tour de Yorkshire 2017.

Rights and Freedoms

- 3.14 The Council considers that rights and freedoms are not adversely affected by the Order, as the 1985 Act already provides for the Council to use its management powers to maintain the Stray and restrict access, so people already expect that their rights of access to the Stray may be temporarily restricted. The Council also confirmed that the rights and freedoms in regard to the Stray can continue to be exercised throughout the period of the visit – the only restriction will be the geographical limitation as to which parts of the Stray may be used to exercise these

rights and freedoms. Two of the consultation responses raised concerns about the proposed limitation to local rights of access to important parts of the Stray.

Constitutional Significance

- 3.15 The Council expressed the opinion that the proposals fall well short of having any constitutional significance and that the proposed Order is merely suspending the operation of some provisions of purely local significance for a short period. No other respondents commented on this question.

Chapter 4

Government Response to the Consultation: Laying the Draft Order

Power to amend, repeal, revoke or disapply statutory provision that prevents or restricts local authorities from exercising the general power of competence under section 5 of the 2011 Act

- 4.1 Following consultation and consideration of the statutory conditions, the Secretary of State has decided that several parts of the 1985 Act and related byelaws do prevent or restrict the Council from exercising the general power of competence in hosting a stage of the Tour de Yorkshire 2017, and it is appropriate for him to use his powers under section 5(1) of the 2011 Act to lay before Parliament an Order to disapply or amend parts of the 1985 Act and related byelaws, for the period of 23 April to 3 May 2017, for the sole purpose of hosting the Tour de Yorkshire 2017. The two areas of the Stray for which the 1985 Act and related byelaws would be disapplied or amended are shown on the map referred to in the draft Order.
- 4.2 Another way the policy objective could be secured is to undertake a longer term review of modern uses of the Stray with a view to amending the 1985 Act permanently so as to potentially permit the Council to host this type of larger sporting and entertainment event on the Stray. A review offers the potential for a better long term and predictable solution and the right approach to the use of public resources. Given wider public funding constraints and a potential recurrent need for Parliamentary time, future requests to make an Order under the 2011 Act may not necessarily be granted, given that this longer term option to amend the Act itself could be available.
- 4.3 However the Parliamentary process required to amend a private Act is likely to take approximately 2 years following extensive consultation and expenditure on fees for specialist drafting and advice. As such, while the review and potential primary legislation provides a potential long term solution, in the short term an order under the Localism Act 2011 seems the appropriate mechanism for dealing with the issue.

Compliance with Conditions in Section 6 of the 2011 Act

- 4.4 The Secretary of State has considered carefully the responses to the consultation, which are summarised in chapter three of this Explanatory Document. There were 21 responses. Of those that commented on the proposal, eight were supportive, seven raised concerns and six objected to the proposals. On balance, the Secretary of State considers that the

conditions in section 6(2) of the 2011 Act are met as the concerns raised through the consultation are addressed in a number of ways, including:

- The reassurances provided by the Council that the Stray will be returned to its original state very shortly after the event;
- The temporary nature of the draft Order: for ten days only it disapplies five provisions and amends one provision of the 1985 Act, and disapplies 2 byelaws;
- The purpose limit applied to the proposed disapplication and amendment of the 1985 Act and related byelaws: it is solely for the Tour de Yorkshire 2017;
- The area limit to the proposed disapplication and amendment of the 1985 Act and related byelaws: the draft Order applies to 14.56 hectares of the 80 hectare Stray; and
- No precedent is set for any future events on the Stray: if the Council wished to again temporarily disapply sections of the 1985 Act in order to use their general power of competence to host an event on the Stray, another Order would be required to again amend the 1985 Act for that purpose. The Government did also state in the consultation document that future requests to make an Order under the 2011 Act may not necessarily be granted, given that there is a longer term option to amend the 1985 Act.

4.5 In accordance with section 7(2) of the 2011 Act, the following sets out the Secretary of State's reasons for considering that the conditions in section 6(2) of the same Act are satisfied in relation to the proposals.

Proportionality

4.6 The Council have provided appropriate reassurances that all land will be returned to its original state shortly after the event and all items of infrastructure will be removed as quickly as possible. The period of restricted access will be from 23 April to 3 May 2017. Certain limited tasks required for re-instatement may need to be completed later in the year – for example, reseeding grass cannot be done during very dry weeks. The disapplication of five provisions of the 1985 Act and 2 related byelaws, and amendment of one provision of the 1985 Act is time-, area- and purpose-limited, and the Tour de Yorkshire 2017 is likely to bring significant advantages to the area in terms of growth and other opportunities. For example, the Tour de Yorkshire 2016 reportedly resulted in £60 million expenditure in the region on accommodation, food, drink, transport and other items³. Accordingly, the Secretary of State

³ <http://letour.yorkshire.com/2016/tour-de-yorkshire-boosts-economy-by-%C2%A360-million>

considers that the effect of the provision is proportionate to the policy objective intended to be secured by the provision.

Fair Balance

- 4.7 The Secretary of State has time-, purpose- and area-limited the disapplication and amendment of the 1985 Act and related byelaws to ensure the impact on any interests affected is for the shortest time necessary, for the smallest area possible and the only purpose is for hosting the Tour de Yorkshire 2017. Accordingly, the Secretary of State considers that the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it.

Necessary Protection

- 4.8 The 1985 Act will still ensure that the Stray is protected for public access in the long term, the proposed amendment will only have effect for 10 days in relation to identified areas of the Stray, and the Council has provided appropriate reassurances about the reinstatement of the Stray following the Tour de Yorkshire 2017. In their response to the consultation the council confirmed that "Harrogate Borough Council will ensure that the land is returned to its original state after the Tour". Accordingly, the Secretary of State considers that the proposal will not remove any necessary protection.

Rights and Freedoms

- 4.9 The proposal would disapply the provision in the 1985 Act that provides the inhabitants of the borough to have free access to the Stray and a privilege at all times of enjoying recreation upon the Stray without payment. However, the proposed disapplication and amendment will only have effect for 10 days and affect less than a fifth of the area of the Stray. As the 1985 Act allows the Council to restrict access when exercising its management powers to maintain the Stray, the public do not have a reasonable expectation that their rights and freedoms will always be exercisable to their fullest extent across the Stray.
- 4.10 The Secretary of State considers that whilst the proposed temporary area and purpose specific disapplication will prevent persons from exercising free access to less than a fifth of the Stray for 10 days, it is not the case that they might reasonably expect to exercise free access to the Stray across the full Stray at all times. Accordingly, the Secretary of State is satisfied that the draft Order will not prevent any person from continuing to access any right or freedom that they might reasonably expect to continue to exercise.

Constitutional Significance

- 4.11 The draft Order suspends the operation of some provisions of local significance for a very short period. Accordingly, the Secretary of State has concluded that the proposals have no constitutional significance.

Other Requirements under the 2011 Act

- 4.12 The Secretary of State conducted an 8 week consultation exercise on the proposal between March 2016 and May 2016 and is satisfied that the consultation met the requirements of section 5(7) of the 2011 Act. More details of the consultation and the responses received are set out in chapter three of this Explanatory Document, in accordance with section 7(2) of the 2011 Act.
- 4.13 Also in accordance with section 7(2) of the 2011 Act, the Secretary of State can confirm that no changes have been made to the draft Order as a result of the representations.

Compatibility with the legal obligations arising from membership of the European Union

- 4.15 The Secretary of State is satisfied that the provisions of the draft Harrogate Stray Act 1985 (Tour de Yorkshire) Order 2016 are compatible with the legal obligations arising from membership of the European Union.

Parliamentary Procedure

- 4.17 Under the statute, the Secretary of State, when making an Order, must recommend to Parliament the procedure he thinks Parliament should apply – negative, affirmative or super-affirmative. The Secretary of State is recommending the negative procedure, since he considers the draft Order to be a minor and technical instrument. This is because the impact of the Order will only be on one authority (Harrogate Borough Council) and it will not affect local authorities more generally. The Order would only provide for a short and temporary disapplication of part of a local Act, and the disapplication would only be applied to less than a fifth of the area of the Stray. Furthermore, as with the previous Order for the Tour de France 2014, which itself was considered under the negative resolution procedure, this Order would not insert any new provisions into the 1985 Act.

Conclusion

- 4.23 This Explanatory Document is laid before Parliament in accordance with section 7(2) of the 2011 Act together with the draft of the Harrogate Stray Act 1985 (Tour de Yorkshire) Order 2016 that the Secretary of State proposes to make under Section 5(1) of that Act. The purpose of the draft

Order is to temporarily remove some restrictions on the use of the Stray, Harrogate, imposed by the 1985 Act and related byelaws, to facilitate Harrogate Borough Council hosting the Tour de Yorkshire 2017.

- 4.24 The Government is satisfied that the requirements under the relevant sections of the 2011 Act have been met. This includes that the draft Order serves a purpose under section 5(1), that the conditions under section 6(2) have been met, and that the appropriate consultation has been carried out in accordance with section 5(7).

Chapter 5

Additional information

Matters of Interest to the House of Commons

- 5.1 This instrument applies only to England.
- 5.2 The instrument applies only to England as it is entirely concerned with part of a local government area in England (Harrogate Borough Council). Part 1 of the Localism Act 2011 (the 2011 Act) provides that local authorities in England may exercise a general power of competence and that the Secretary of State has the power to make an order enabling local authorities to exercise that power.
- 5.3 In the view of the Department, for the purposes of House of Commons Standing Order 83P, the subject-matter of this instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter; or the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament; or the National Assembly for Wales if equivalent provision in relation to Wales were included in an Act of the National Assembly for Wales.
- 5.4 The Department has reached this view because it considers that the primary purpose of the provisions in this instrument relate to local government, which is within the devolved legislative competence of the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales.

Extent and Territorial Application

- 5.5 This instrument applies to England as the relevant powers being exercised relate to England.
- 5.6 The territorial application of this instrument is set out in paragraphs 5.6 and 5.7 under “Other matters of interest to the House of Commons”.

European Convention on Human Rights

- 5.7 Marcus Jones, Parliamentary Under Secretary of State at the Department for Communities and Local Government, has made the following statement regarding Human Rights:

“In my view the provisions of the draft Harrogate Stray Act 1985 (Tour de Yorkshire) Order 2016 are compatible with the Convention rights.”

Guidance

5.8 No guidance is necessary to accompany this Order.

Impact

5.9 The impacts of this Order are described in Chapter 4 of this Explanatory Document.

Regulating Small Business

5.10 The legislation does not apply to activities undertaken by small businesses.

Monitoring and Review

5.11 The effect of the Order is to disapply five provisions of the 1985 Act and 2 related byelaws, and amend one provision of the 1985 Act, in a way that is time-, area- and purpose-limited, so no monitoring or review is necessary. Harrogate Borough Council expects the Tour de Yorkshire to bring significant advantages to the area in terms of growth and other opportunities, and these will be assessed.

Contact

5.12 Ruth Miller at the Department for Communities and Local Government
Telephone: 0303 444 400 or email: ruth.miller@communities.gsi.gov.uk
can answer any queries regarding this instrument.

Annex A – Harrogate Stray Act

The Harrogate Stray Act 1985



Harrogate Stray Act 1985

CHAPTER xxii

ARRANGEMENT OF SECTIONS

1. Citation
2. Commencement
3. Interpretation
4. Management of Stray
5. Access to Stray
6. Stray to be free from encroachments
7. Byelaws
8. Removal of unlawfully parked vehicles
9. Use of parts of Stray for certain purposes
10. Council may charge for changing-rooms
11. Pump rooms and Wells
12. Protection of Wells mineral waters.

ii c. xxii Harrogate Stray Act 1985

Section

- 13. Restriction on right to prosecute
- 14. Liability of directors, etc
- 15. Penalty for obstruction
- 16. Correction of errors in deposited plan and book of reference
- 17. Application of general provisions of Public Health Act 1936
- 18. Saving for Duchy of Lancaster
- 19. Repeals
- 20. Transitional provisions

SCHEDULE – Enactments repealed -

- Part I Local Acts
- Part II Confirmation Acts

ELIZABETH II



1985 CHAPTER xxii

An Act to re-enact with amendments certain local enactments in force within the borough of Harrogate; to confer further powers on the Council of the Borough of Harrogate with respect to the management of the Stray; and for other purposes.

[16th July 1985]

WHEREAS -

(1) The borough of Harrogate (hereinafter referred to as “the borough”) is under the management and local government of the Council of the Borough of Harrogate (hereinafter referred to as “the Council”):

(2) By virtue of the Local Government Act 1972 (hereinafter referred to as “the Act of 1972”) the borough was constituted on 1 April 1974 and comprises the former boroughs of Harrogate and Ripon, the former urban district of Knaresborough, the former rural districts of Masham, Nidderdale, Ripon and Pateley Bridge, Wath, Wetherby (except the parishes of Bardsey cum Rigton, Boston Spa, Bramham cum Oglethorpe, Clifford, Collingham, East Keswick, Harewood, Scarcroft, Thorner, Thorp Arch, Walton, Wetherby and Wothersome) and Wharfedale (except the parishes of Arthington, Bramhope, Carlton and Pool) and in the former rural district to Thirsk, the parishes of Ellen Thorpe, Humberton, Kirby Hill, Langthorpe, Milby, Norton-le-Clay and Thornton Bridge:

1972 c.70.

- (3) Certain local enactments were in force in the said former

Borough of Harrogate and by section 262 of the Act of 1972 it was provided that, subject to certain modifications, certain local statutory provisions should continue to apply to the area, things or persons to which or to whom they applied before that date:

(4) It was further provided by the said section 262 that certain local statutory provisions should cease to have effect at the end of 1984; but the Non-metropolitan and Welsh Counties (Local Statutory Provisions) Order 1983 has subsequently provided that such local statutory provisions shall cease to have effect at the end of 1986:

S.I. 1983/919

(5) The management of the Stray and Wells in the borough is by statute vested in the Council and it is expedient that it should remain so:

(6) It is expedient that certain of the said local statutory provisions should be re-enacted with amendments:

(7) It is expedient to confer further powers on the Council and that the other provisions contained in this Act should be enacted:

(8) The purpose of this Act cannot be effected without the authority of Parliament:

(9) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Act of 1972 have been observed:

(10) The plan showing the land which may be used for the purposes of this Act and a book of reference thereto containing the names of the owners or reputed owners, lessees or reputed lessees and the occupiers of those lands and describing the same have been duly deposited in the office of the Clerk of the Parliaments, House of Lords and in the Private Bill Office, House of Commons and with the proper officer of the North Yorkshire County Council which plan is referred to in this Act as the deposited plan:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

1. This Act may be cited as the Harrogate Stray Act 1985 Citation

2. This Act shall come into operation on the expiry of a period of three months beginning with the date on which it is passed. Commence-
ment

3. In this Act unless the context otherwise requires - Interpretation
 - "the borough" means the borough of Harrogate;
 - "contravention" includes a failure to comply and "contravene" shall be construed accordingly;
 - "the Council" means the Council of the Borough of Harrogate;
 - "pump rooms" means the pump rooms associated with the Wells;
 - "Stray" means the area in Harrogate known as the Stray and more particularly delineated and shown edged green on the Stray Plan;
 - "Stray Plan" means the plan showing the land to which this Act applies marked "Stray Plan" and prepared in triplicate one copy of which has been deposited in the office of the Clerk of the Parliaments, House of Lords, one in the Private Bill Office, House of Commons and one in the office of the chief executive of the Council;
 - "Wells" means those wells and associated springs situate on the Stray.

- 4-(1) The management of the Stray and of the wells shall remain vested in the Council. Management
of Stray
 - (2) The Council shall maintain and preserve the aspect of the Stray.
 - (3) The Council shall protect the trees, shrubs, plants, turf and herbage growing on the Stray and shall prevent all persons, other than the Council in the course of management, from felling, cutting, lopping or removing such vegetation and from digging clay, loam and soil therefrom.

(4) The Council may improve the Stray or a part thereof so far as may be necessary or desirable for the purposes of health, recreation and enjoyment and may thereon -

- (a) make and maintain roads and footpaths;
- (b) plant trees, shrubs and plants for the purposes of ornament and shelter;
- (c) let the pasturage of the Stray other than for feeding swine or geese;
- (d) provide pounds for impounding stray cattle:

Provide that the Council shall not exercise their powers under paragraph (a) above in such a way as to inclose any part of the Stray unless they have, in exchange for the land comprised in such inclosed part, dedicated as public open space other land within the borough not being -

- (i) less in area than the inclosed part and being equally advantageous to the inhabitants of the borough as public open space; and
- (ii) as measured from its nearest point to any part of the Stray more than 100 metres therefrom.

5. The inhabitants of the borough shall have free access to and a privilege at all times of enjoying recreation upon the Stray without payment but subject to the provisions of this Act.

Access to Stray

6. – (1) Subject to the provision of this section the Council shall maintain the Stray free from all encroachments save for -

Stray to be free from encroachments

- (a) temporary encroachments for the preservation of trees and shrubs;
- (b) such lawful permanent inclosures as exist at the commencement of this Act;
- (c) such repairs, rebuilding or improvements as are necessary to maintain the public conveniences at Devonshire Place in working order; and
- (d) not more than 12 temporary encroachments in any year for the setting aside of part of the Stray for the landing and take-off of aircraft capable of descending or climbing vertically provided that such aircraft shall not be engaged in the public transport of passengers for hire or reward.

(2) It shall not be lawful for any persons other than the Council without the consent of the Council in writing to make any temporary or other inclosure of any part of the Stray or to put any tents, kiosks, fences, posts, rails or other matters or things thereon or to make any road or footpath.

(3) Without prejudice to the generality of subsection (2) above, the Council may grant a licence to any person, at such reasonable fee and subject to such conditions as they may determine, to inclose any part of the Stray for the purpose of holding -

- (a) circuses, pleasure fairs, shows or other public entertainments; or
- (b) displays; or
- (c) events for the raising of funds for charitable purposes.

(4) The Council shall not exercise their powers under subsection (3) above so as to permit -

- (a) more than 3.5 hectares of the Stray to be inclosed at any time; and
- (b) the stray to be inclosed for more than five weeks in any year.

(5) It shall be lawful for any person inclosing part of the Stray in pursuance of a licence so to do granted to him under subsection (3) above to charge for admission to the inclosure.

(6) Nothing in this section shall affect the rights of the British Gas Corporation under paragraphs 1 and 2 of Schedule 4 to the Gas Act 1972.

1972 c.60.

7. – (1) The Council may make byelaws in respect of the Stray for all or any of the following purposes:-

Byelaws

- (a) for the improvement and management of the Stray and the preservation of good order and conduct among persons frequenting it;
- (b) for the prevention of nuisances and annoyances;
- (c) for the prevention of the cutting or digging, firing, or otherwise removing or displacing turf, sods, gravels, clays, sand, gorse, heather, ferns, brackens, bushes, trees and the like;
- (d) for the regulation of sports and games;

- (e) for the prevention of vehicles being parked or driven, or horses being exercised, on any part of the Stray not set apart by the Council for the purpose;
- (f) for the prevention of the posting of bills or placards on any wall, railing, fence, tree, lamp-post, walk, path or seat or elsewhere and the prevention of any other injury to or the removal of any such wall, railing fence, tree, lamp-post, walk, path or seat;
- (g) for the prevention of all acts and things tending to the injury or disfigurement of the Stray or the interference with the use thereof by the public for purposes of exercise and recreation;
- (h) for regulating the hiring or riding of horses and other animals;
- (i) for preventing horse-racing or the racing of other animals.

(2) Byelaws made under this section may provide that persons contravening the byelaws shall be liable on summary conviction to a maximum fine of an amount not exceeding level 2 on the standard scale.

8. – (1) If any vehicle is left without authority on the Stray the Council may remove the vehicle for safe custody, and may recover from the person responsible the expenses reasonably incurred in such removal and safe custody.

Removal of unlawfully parked vehicles

(2) In this section “person responsible” has the same meaning as in section 102 (8) of the Road Traffic Regulation Act 1984.

1984 c.27

9. – (1) Notwithstanding anything contained in section 6 (Stray to be free from encroachments) of this Act or any other enactment the Council may use -

Use of parts of Stray for certain purposes

- (a) the part of the Stray delineated on the deposited plan and thereon numbered 1 for the construction of a public conveniences; and
- (b) the part of the stray delineated on the deposited plan and thereon numbered 2 for the construction of changing-rooms.

(2) The Council shall not exercise the powers contained in subsection (1) above except with the agreement of the Chancellor of the Duchy of Lancaster as freeholder of the Stray.

(3) In their application to development authorised by this Act, Article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order 1977 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.

S.I. 1977/289.

10. The Council may charge for admission to and use of the changing-rooms on the Stray.

Council may charge for changing-rooms

11. – (1) The Council shall maintain and protect -

Pump rooms and Wells.

- (a) the Wells;
- (b) the pump rooms; and
- (c) the supply of water without charge from the public drinking fountain situate outside the Royal Pump Room.

(2) The Council may -

- (a) improve the pump rooms; and
- (b) make byelaws for the regulation and use of the pump rooms; and
- (c) demand charges for admission to the pump rooms; and
- (d) subject to paragraph (c) of subsection (1) above, levy charges for the supply of water for consumption from the Wells.

(3) Byelaws made under this section may provide that persons contravening the byelaws shall be liable on summary conviction to a maximum fine of an amount not exceeding level 2 on the standard scale.

12. Any person who, without the authority of the Council or without reasonable excuse -

Protection of Wells' mineral waters.

- (a) pollutes or contaminates the waters of the Wells; or
- (b) diverts the supply of water to the Wells; or
- (c) carries out works which interfere with, or which cause interference with, the supply of water to the Wells; shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

13. The written consent of the Director of Public Prosecutions is needed for the laying of an information of an offence created by or under this Act by any person other than a party aggrieved, the council or a constable.

Restriction on right to prosecute.

14. – (1) Where an offence under this Act, or against any byelaw made under this Act, committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.

Liability of directors, etc.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

15. Any person who intentionally obstructs any officer of the Council acting in execution of this Act or of any byelaws made under this act shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Penalty for obstruction

16. – (1) If either the deposited plan or the deposited book of reference is inaccurate in its description of any land, or in its statement or description of the ownership or occupation of any land, the Council after giving 10 days' notice to the owner, lessee and occupier of the land in question may apply to two justices having jurisdiction in the borough for the correction thereof.

Correction of errors in deposited plan and book of reference.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, House of Lords and a copy thereof in the Private Bill Office, House of Commons and with the proper officer of the North Yorkshire County Council, and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Council to exercise the powers of this act in accordance with the certificate.

(4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.

17. Section 304 (Judges and justices not to be disqualified by liability to rates) and section 328 (Powers of Act to be cumulative) of the Public Health Act 1936 shall have effect as if references therein to that Act included references to this Act.

Application of general provisions of Public Health Act 1936. 1936 c. 49.

18. Nothing in this Act except as expressly provided therein shall -

Saving for Duchy of Lancaster.

- (1) extend or operate to authorise the Council to take, use, enter upon or in any manner interfere with the lands and premises comprising of the Stray or any manorial rights or other rights of whatsoever description of Her Majesty in Right of Her Duchy of Lancaster without the consent in writing of the Chancellor for the time being of the Duchy of Lancaster (which consent may be given either unconditionally or subject to such conditions and upon such terms as the Chancellor shall deem necessary or appropriate);
- (2) take away, prejudice or diminish any estate, right, privilege, power of authority vested in or exercisable by Her Majesty, Her Heirs, successors in the right of her said Duchy.

19. The enactments specified in column (2) of the Schedule to this Act are repealed to the extent specified in column (3) of that Schedule.

Repeals.

20. – (1) (a) Anything begun under an enactment repealed by this Act may be continued under any enactment in this Act relating to the same matter as if begun under that last-mentioned provision.

Transitional provisions.

(b) Where any period of time specified in, or having effect in relation to, an enactment repealed by this Act is current at the date of the coming into operation under this Act of any provision thereof relating to the same matter, that provision of this Act shall have effect as if it were in force when that period began to run.

(2) Nothing in this section shall affect the operation of the Interpretation Act 1978 or of section 254 of the Local Government Act 1972.

1978 c. 30.
1972 c. 70.

Section 19

SCHEDULE
ENACTMENTS REPEALED
PART I
LOCAL ACTS

Session and chapter (1)	Title or short title (2)	Extent of repeal (3)
10 Geo. 3. c.94 (1770)	The Act for dividing and enclosing such of the Open Parts of the District called the Forest of Knaresborough, in the County of York, as lie within the Eleven Constableries thereof; and for other purpose therein mentioned.	The whole Act.
4 Geo. 4 c.xxxv. (1823)	An Act for paving, lighting, watching, cleansing, and improving the Town of Knaresborough in the West Riding of the County of York, and that Part of the Township of Scriven-with- Tentergate which adjoins the said Town, and is called Tentergate.	The whole Act except sections XVIII to XXVIII.
4 & 5 Vict. c. xvi.	Harrogate Improvement Act 1841	The whole Act.
9 & 10 Vict. c. cxiii.	Harrogate Waterworks Act 1846	The whole Act.
32 & 33 Vict. c. xvii.	Harrogate Waterworks Act 1869	The whole Act
49 & 50 Vict. c. lxxvii.	Ripon Corporation Act 1886	The whole Act except sections 6, 7, 10, 11, 21 to 23, 25 and 40 to 42.

Schedule continued

Session and chapter (1)	Title or short title (2)	Extent of repeal (3)
56 & 57 Vict. c. ccix.	Harrogate Corporation Act 1893.	The whole Act except section 23 and the remainder of Part II so far as it relates to the area shown on the deposited plan thereto as Bogs Field.
57 & 58 Vict. c.xx.	Local Government Board's Provisional Orders Confirmation (No 2) Act 1984	The references to Knaresborough in Schedule C.
60 & 61 Vict. c. ccxxxii.	Harrogate Waterworks Act 1897.	The whole Act except sections 4, 9, 10 and 11.
60 & 61 Vict. c. ccxxxvii.	Harrogate Corporation (Waterworks Transfer) Act 1897	The whole Act
1 Edw. 7 c. ccxvi.	Ripon Corporation Act 1901	The whole Act
1 Edw. 7 c. ccxv.	Harrogate Water Act 1901.	The whole Act except sections 4, 8, 14, 32 and 35.
1 Edw. 7 c. cclxviii.	Harrogate Corporation Act 1901	The whole Act.
2 Edw. 7 c. cxxii.	Knaresborough Improvement Act 1902.	The whole Act except Parts II and IV.
3 Edw. 7 c. xxxvii.	Harrogate Water Act 1903.	The whole Act.
1 & 2 Geo. 5 c. lii.	Harrogate Corporation Water Act 1911.	The whole Act.
14 & 15 Geo. 5 c. xxxiii.	Harrogate Corporation Act 1924.	The whole Act

Schedule continued

**PART II
CONFIRMATION ACTS**

Session and chapter (1)	Title or short title (2)	Extent of repeal (3)
29 & 30 Vict. c. 106	Local Government Supplemental Act 1866 (No 3)	The Order relating to Harrogate dated 6 June 1866.
30 & 31 Vict. c. 67	Local Government Supplemental Act 1867 (No 4)	The Order relating to Harrogate dated 3 June 1867.
31 & 32 Vict. c. cliii.	Local Government Act 1868 (No 6)	The Order relating to Harrogate dated 9 June 1868.
32 & 33 Vict. c. cxxiv.	Local Government Supplemental Act 1869.	The Order relating to Harrogate dated 23 January 1869.
34 & 35 Vict. c.i.	Local Government Supplemental Act 1871	The two Orders relating to Harrogate dated 6 June 1870 and 9 July 1870.
34 & 35 Vict. c. clxxxvii.	Local Government Supplemental Act 1871 (No 4)	The two Orders relating to Harrogate dated 31 May 1871
40 & 41 Vict. c.ccxlii.	Local Government Board's Provisional Orders Confirmation (Atherton, & c.) Acts 1877.	The Order relating to Harrogate dated 30 May 1877.
49 & 50 Vict. c. xviii.	Local Government Board's Provisional Orders Confirmation (No 2) Act 1886.	The Order relating to Harrogate dated 5 April 1886.
54 & 55 Vict. c. lxxvii.	Local Government Board's Provisional Orders Confirmation (No 4) Act 1891.	The Order relating to Knaresborough and Tentergate.

PART II CONFIRMATION ACTS

Session and chapter (1)	Title or short title (2)	Extent of repeal (3)
57 & 58 Vict. c. xlvi.	Local Government Board's Provisional Orders Confirmation (No 5) Act 1894.	The Wharfedale Union Order 1894.
60 & 61 Vict. c. cxxxvii.	Local Government Board's Provisional Orders Confirmation (No 3) Act 1897.	The Harrogate Order 1897.
60 & 61 Vict. c. cxli.	Local Government Board's Provisional Orders Confirmation (No 14) Act 1897.	The Harrogate Order (No 2) 1897.
61 & 62 Vict. c. xxxv.	Local Government Board's Provisional Orders Confirmation (No 3) Act 1898.	The Wetherby Rural Order 1898.
63 & 64 Vict. c.clxxix.	Local Government Board's Provisional Orders Confirmation (No 3) Act 1898.	The Harrogate (Extension) Order 1900.

Annex B – Stray Byelaws



Working for you

THE COUNCIL OF THE BOROUGH OF HARROGATE

BYELAWS

Made under Section 7 of the Harrogate Stray Act 1985 by the Council of the Borough of Harrogate, with respect to the Stray.

1. Throughout these Byelaws the expression "the Council" means the Council of the Borough of Harrogate, the expression "The Act" means the Harrogate Stray Act 1985 and the expression "the Stray" has the meaning assigned to it by Section 3 of that Act.
2. An act necessary to the proper execution of duty on the Stray by an officer of the Council or by any person employed by the Council shall not be deemed an offence against these Byelaws.
3. A person shall not on the Stray remove or displace any soil or plant.
4. A person shall not on the Stray light any fire or place or throw or let fall a lighted match or any other thing so as to be likely to cause a fire.
5. A person shall not on the Stray walk run stand sit or lie upon any grass, turf or other place where adequate notice to keep off such grass, turf or other place is exhibited always provided that such notice shall not apply to more than one-sixth of the area of the Stray.
6. A person shall not on the Stray:
 - (i) bathe wade or wash in any ornamental lake pond well stream or other water

- (ii) without reasonable excuse foul or pollute any such water
- 7. A person shall not except in pursuance of lawful agreement with the Council turn out or permit any horse, ass, donkey, cattle or sheep to graze upon the Stray.
- 8. A person shall not exercise or ride any horse on the Stray except on any area which has, by notices conspicuously displayed, been designated by the Council as an area where horse riding is permitted, or on a bridleway.
- 9. A person shall not use any part of the Stray for racing of horses or dogs.
- 10. (a) No persons shall drive or ride any motor vehicle over or across any part of the Stray other than a part laid out as carriageway always provided that in connection with any special event or occasion taking place upon the Stray the Council may upon not more than five weeks in any year set apart a portion or portions of the Stray for the use of any class or classes of motor vehicle or permit more than 3.5 hectares of the Stray to be set apart at any time. As regards any portion or portions so set apart this Byelaw shall not be deemed to prohibit the driving in or on such portion or portions by the route designated by the Council.
- (b) No persons shall ride any bicycle or tricycle over or across any part of the Stray except:-
 - (i) on a part of the Stray laid out as carriageway;
 - (ii) on a path identified as for use by cyclists and pedestrians on the annexed plan;
 - (iii) where in connection with any special event or occasion taking place upon the Stray, the Council may upon not more than five weeks in any year set apart a portion or portions of the Stray for the use of any class or classes of bicycle or tricycle or permit more than 3.5 hectares of the Stray to be set apart at any time. As regards any portion or portions so set apart this Byelaw shall not be deemed to prohibit the cycling in or on such portion or portions by the route designated by the Council.
- (c) Any officer of the Council may remove any vehicle or bicycle which is on the Stray in contravention of these Byelaws for safe custody.
- 11. A person shall not on the Stray:
 - (i) except as hereinafter provided erect or place any post, pole, rail, fence, tent, booth, stand, building or other structure provided that this prohibition shall not apply whereupon an application to the Council they grant permission to erect any post, rail, fence, pole, tent, booth, stand, building or other structure, upon such occasion and for such purposes as are specified in the application.
 - (ii) affix any bill, placard or notice to or upon any tree, plant, wall, fence, barrier,

building, seat or other erection or ornament.

(iii) without reasonable excuse remove or displace any barrier, fence, post, seat or any part of any erection, ornament or any implement provided for use in laying out and maintenance of the Stray.

(iv) climb any wall, fence, tree, barrier, post or other erection.

12. A person shall not on the Stray sell or offer or expose for sale or let to hire or offer or expose for letting to hire any commodity or article unless in pursuance of an agreement with the Council or otherwise in the exercise of any lawful right or privilege by virtue of which he is authorised to sell or let to hire on the Stray such commodity or article.

13. Where the Council set apart any part of the Stray as may be designated by the Council and described in a noticeboard affixed or set up in some conspicuous position on the Stray for:-

(i) the delivery of lectures sermons or speeches.

(ii) the holding of athletic sports meetings, and (iii)

the playing of ball games

and specified in the notice, no person shall use any other part of the Stray for these purposes.

14. A person shall not on the Stray drive, pitch or chip a hard golf ball.

15. A person resorting to the Stray and playing or taking part in any game for which the exclusive use of any space on the Stray has been set apart shall:-

(i) not play on the space any game other than the game for which it is set apart.

(ii) in preparing for playing and in playing use reasonable care to prevent undue interference with the proper use of the Stray by other persons.

(iii) when the space is already occupied by other players not to begin to play thereon without their permission.

(iv) where the exclusive use of the space has been granted by the Council for the playing of a match not to play on that space later than a quarter of an hour before the time fixed for the beginning of the match unless he is taking part therein.

(v) except where the exclusive use of space has been granted by the Council for the playing of a match in which is taking part not use the space for a longer time than two hours continuously if any other player or players make known to him a wish to use the space

16.

(i) In these Byelaws, unless the context otherwise requires:

"model aircraft" means an aircraft which either weighs not more than 5 kilogrammes without its fuel or is for the time being exempted (as a model aircraft) from provisions of the Air Navigation Order.

"power-driven" means driven by the combustion of petrol vapour or other combustible vapour or other combustible substances or by one or more electric motors or by compressed gas

"radio-controlled" means controlled by a radio signal from a wireless transmitter or similar device

"jet-propelled or rocket-propelled" means driven by jet propulsion or by means of a rocket, other than by means of a small reaction motor powered by a solid fuel pellet not exceeding one inch in length

(ii)

(a) No person on the Stray shall release any jet-propelled model aircraft for flight or control the flight of such an aircraft

(b) No person shall cause any jet-propelled model aircraft to take off or land on the Stray.

(iii)

- (a) Where any part of the Stray has, by a notice conspicuously exhibited on the Stray, been set apart by the Council for the flying of power-drive model aircraft, no person in any other part of the Stray shall release any such aircraft for flight, or control the flight of such an aircraft, and no person shall,
 - i) cause such an aircraft to take off; or
 - ii) without reasonable excuse, cause such an aircraft to land, in such other part of the Stray
- (b) Where an area within a part of the Stray so set apart for the flying of power-driven model aircraft is designated by the Council as an area from which aircraft may be launched and is described in a notice affixed or set up in some conspicuous position on the Stray, a person shall not release such an aircraft for flight, or cause such an aircraft to take off, in any part of the Stray other than that area.

(iv) No person shall-

- (a) in the Stray release any power-drive model aircraft for flight or control the flight of such an aircraft; or
- (b) cause any such aircraft to take off or land on the Stray, unless it is attached to a control line or radio-controlled and is kept under effective control

(v) A. No person shall –

- i) on the Stray release any power-driven model aircraft for flight or control the flight of such an aircraft; or
- ii) cause any such aircraft to take off or land on the Stray, unless-
 - a) the noise emitted by the aircraft gives a noise measurement of not more than 82dB(A) at a distance of 7 metres from the aircraft when measured by means of the equipment described, and by the method set out, in the code of practice issued in pursuance of the approval given by the Control of Noise (Code of Practice on Noise from Model Aircraft) Order 1981; and
 - b) subject to paragraph A.(b) above shall not have effect in relation to an aircraft to which the fitting of a silencer or similar device is not reasonably practicable
- B. Paragraph A.(b) above shall not have effect in relation to an aircraft to which the fitting of a silencer or similar device is not reasonably practicable.

17. A person shall not on the Stray operate or cause or permit to be operated any

wireless set, gramophone, amplifier, tape recorder, or similar instrument so as to make or cause or permit to be made any noise which is so loud or so continuous or repeated as to give reasonable cause for annoyance to other persons using the Stray

- 18 Every person who shall offend against these Byelaws shall be liable on summary conviction to a fine not exceeding one hundred pounds.



03/23/2010 09:17:50

STRAY FOOTWAYS TO BE SUBJECT OF AMENDMENT TO BYE-LAWS

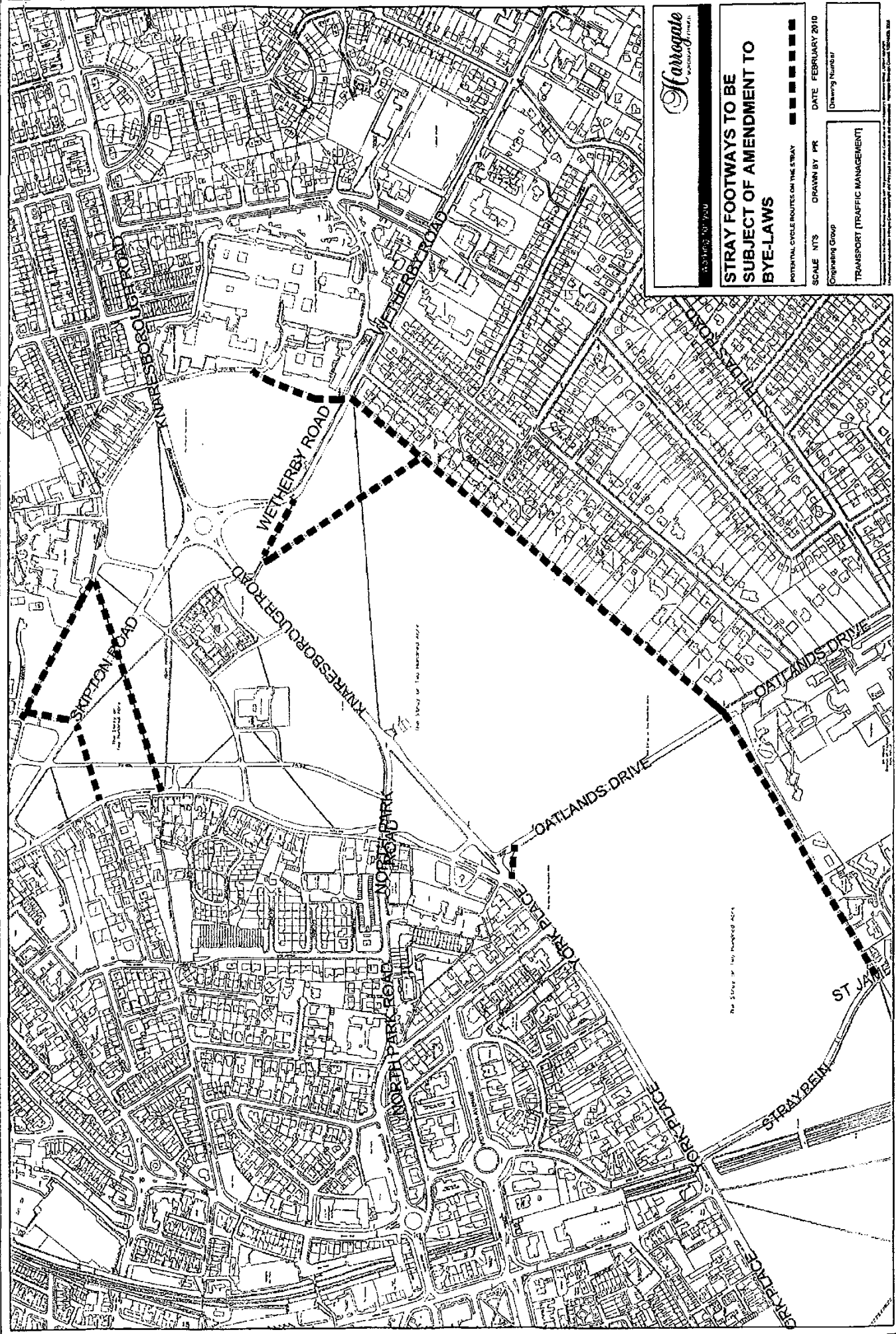
POTENTIAL CYCLE ROUTES ON THE STRAY

SCALE NTS DRAWN BY PK DATE FEBRUARY 2010

Engineering Group

TRANSPORT (TRAFFIC MANAGEMENT)

Drawing Number

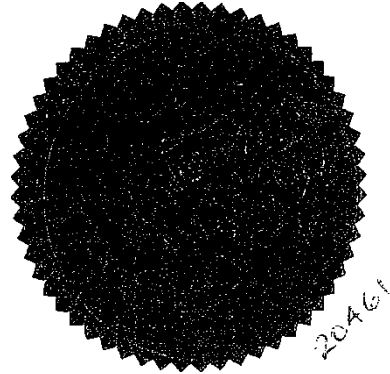


19. The byelaws made by the Council of the Borough of Harrogate on 1 August 1986 and confirmed by the Home Office on 29 July 1986 relating to the Stray are hereby revoked

GIVEN under the Common Seal of the Council of the Borough of Harrogate this

.....^{8th}..... day of February.....2011

THE COMMON SEAL OF THE)
COUNCIL OF THE BOROUGH OF)
HARROGATE is hereunto affixed)
under the authentication of)



Peter Rowson
.....
Head of Legal and Democratic Services

The foregoing byelaws are hereby confirmed by the Secretary of State and shall come into operation one calendar month after the date of confirmation

Signed by authority of the Secretary of State

P. Rowsell

P Rowsell
Senior Civil Servant
in the Department for Communities and Local Government
LONDON, SW1E 6DU

Date: 6 May 2011