



Department for
Communities and
Local Government

Proposal to enable Harrogate Borough Council to use the general power of competence in hosting the Grand Départ of the 2014 Tour de France

Consultation

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Chapter 1

The consultation

Why we are consulting

1. In January the proposed route of the 2014 Tour de France was announced, which includes the finish of the first stage – the Grand Départ – adjacent to the large open area in Harrogate known as the Stray. Harrogate Borough Council considers that sections of the Harrogate Stray Act 1985, a private Act, prevent or restrict necessary infrastructure from being sited on the Stray. As they wish to use the general power of competence to host this event, they wrote to the Secretary of State for Communities and Local Government making an application to temporarily disapply the relevant sections of the Harrogate Stray Act 1985 for particular areas of the Stray from 23 June to 8 July 2014 for the sole purpose of hosting the Tour de France.
2. The general power of competence was provided to local authorities in the Localism Act 2011. It gives a local authority the legal capacity to do anything that an individual can do, with some limitations. The statute 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. The statute includes the power to amend or disapply a statutory provision for a particular period. The proposed Order would disapply parts of the Harrogate Stray Act 1985 from 23 June to 8 July 2014 for defined areas of the Stray for the sole purpose of hosting the Tour de France. A draft Order is enclosed at Appendix A.
3. The statutory conditions that the Secretary of State has to consider, 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.

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.

4. In making such an Order the Secretary of State must recommend to Parliament the procedure he thinks Parliament should apply. The level of scrutiny recommended (negative, affirmative or super-affirmative) will depend on his view of the complexity and impact of the Order, and may be informed by representations on the proposals received during the consultation process.
5. Accordingly, the Secretary of State is now consulting on a proposal to enable Harrogate Borough Council to use the general power of competence in hosting the Grand Départ of the Tour de France 2014.

Who we are consulting

6. The Secretary of State is consulting:
 - Harrogate Borough Council;
 - The Duchy of Lancaster; and
 - The Stray Defence Association.

We also welcome comments from members of the public, local businesses and the local voluntary sector who are likely to be affected by the proposal.

How to respond

7. Your response must be received by 7 January 2014. It can be sent by email to collaborate@communities.gsi.gov.uk or in writing to:

Ruth Miller
Department for Communities and Local Government
Zone 3/J1 Eland House
Bressenden Place
London, SW1E 5DU

Please title your response 'Response to proposal regarding the Tour de France 2014.'

Confidentiality and data protection

8. Any responses to this consultation may be made public. If you do not want all or part of your response or name made public, please state this clearly in the response. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.
9. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you want other information that you provide to be treated as confidential, please be aware that,

under the Freedom of Information Act 2000, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

10. If, after the conclusion of the consultation required by the Localism Act 2011 the Secretary of State considers it appropriate to proceed with the making of an Order, the Secretary of State must lay before Parliament an explanatory document that includes details of any consultation undertaken, any representations received as a result of the consultation, and any changes (if any) made as a result of those representations.
11. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. The Department will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Chapter 2

The proposal

The 2014 Tour de France

12. The Tour de France is an annual multiple stage cycle race. Most of the stages are held in France, though increasingly two or three stages are held in nearby countries. When London hosted the Grand Départ in 2007 it is estimated that the event generated £73 million of economic benefit to London and £35 million was generated in publicity.¹
13. Welcome to Yorkshire², with Harrogate Borough Council and other local authorities and partners, submitted a bid to the organisers of the Tour de France, the Amaury Sport Organization, to host the early stages on the 2014 Tour. This bid was successful, and the proposed route was announced in January. The Grand Départ will start in Leeds on 5 July and the finish line is in Harrogate town, opposite the Hotel du Vin on West Park Road. For stage two on the following day, the race will again pass through Harrogate. Further information can be found at the websites for Welcome to Yorkshire and Harrogate Borough Council: <http://letour.yorkshire.com/the-grand-depart-2014> and <http://www.harrogate.gov.uk>.
14. Welcome to Yorkshire anticipates that hosting the race will bring significant economic benefits to the area and encourage more people to cycle more often. Some of the key areas of anticipated expenditure include up to £1.8 million on accommodation, up to £6 million in retail spend per stage, up to £6.2 million in food and catering spend per stage and equivalent media value of approximately £15 million. Indicative crowd modelling, which Harrogate Borough Council sees as providing a conservative estimate, indicates that at least 188,000 people will watch the race in the Harrogate District on 5 July and at least 157,000 people on 6 July.
15. In order to host the Tour and provide the necessary extensive arrangements, Harrogate Borough Council proposes 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 Harrogate Borough Council. Its use and management has been regulated since 1770 by a succession of private acts, the current being the Harrogate Stray Act 1985, which is reproduced at Appendix B.
16. The precise requirements for the 2014 Tour are not yet known³, but on the basis of current understanding, Harrogate Borough Council anticipate that they will need to

¹ The Tour de France: The Grand Depart 2007, Report to Transport for London, by Social Research Associates, October 2007.

² Welcome to Yorkshire is the destination management organisation for Yorkshire.

³ Once the Technical Document for 2014 is produced by the Amaury Sport Organization, Harrogate Borough Council intend to make clear their detailed expectations of how the Stray will be used to make the experience for all involved safe and enjoyable.

section off 19.5 hectares of the 80 hectare Stray for a maximum of 16 days, and that it would be occupied by temporary infrastructure to support the Tour. The Council would ensure the Stray was returned to its original state after the event. The Duchy of Lancaster supports the proposals described in this consultation document.

17. It is likely that the temporary infrastructure would comprise:

- An enclosed secure technical zone, to include approximately 130 trucks, and temporary living accommodation to be provided close to the technical area for the technicians to stay whilst they set up the infrastructure to support the Tour de France;
- Facilities for the anticipated number of spectators, to include at least two grandstands accommodating 80 people per stand (required by the Amaury Sport Organization);
- A large screen for spectators;
- An area for merchandising kiosks and tents (required by the Amaury Sport Organization);
- Approximately 300 toilets;
- Catering facilities;
- An area for spectators for the second day of the tour;
- Temporary roads for support vehicles (there are approximately 250 support vehicles consisting of team cars, cars for officials and medical vehicles);
- Car parking (although Harrogate Borough Council is working to accommodate as much car parking as possible within the municipal car parks);
- An assembly point for approximately 180 advertising vehicles (a procession of floats that precede the cyclists in crossing the finish line);
- Provision for emergency vehicles; and
- A helicopter landing area.

The general power of competence

18. To host the Tour de France, Harrogate Borough Council intends to use the general power of competence. The general power of competence was provided for in section 1 of the Localism Act 2011. It gives councils confidence in their legal capacity to act for communities. It is designed to allow local authorities to innovate. Prior to the Localism Act 2011, local authorities could only do what Parliament had provided they could do – they were given discrete, often narrowly defined powers. The general power of competence was provided on the basis that local authorities are able to do anything that an individual with full capacity might do, other than that which is specifically prohibited, with some limitations.

19. Harrogate Borough Council has presented to Government a compelling case for using the general power of competence to host the Grand Départ: the general power of competence is a broad power and the economic merits of hosting the Tour de France are significant.

The issue

20. However, Harrogate Borough Council considers that several parts of the Harrogate Stray Act 1985⁴ prevent or restrict them from exercising the general power of competence in hosting the Tour de France. It is likely that the Harrogate Stray Act 1985:

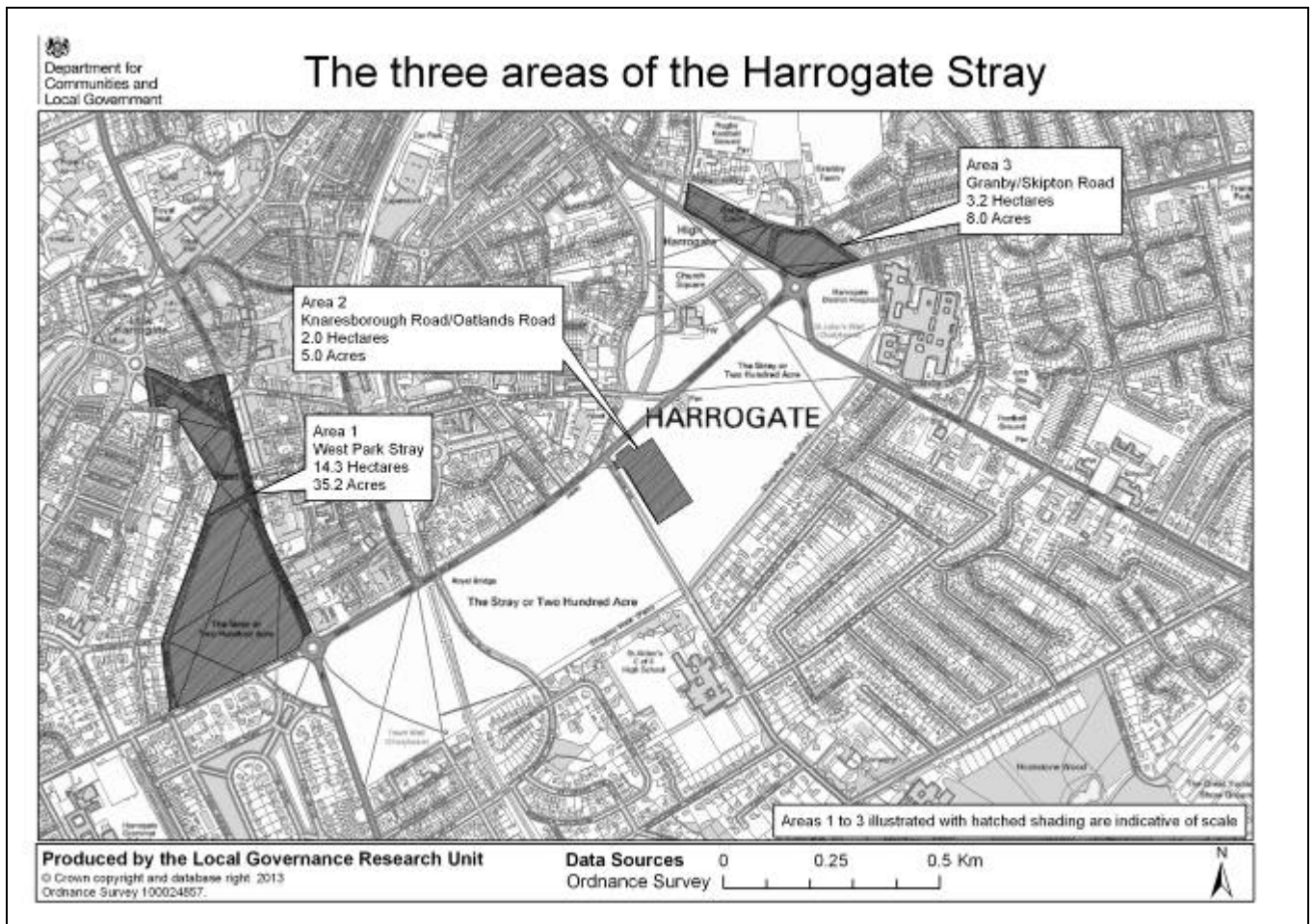
- Limits the use of the Stray to 3.5 hectares. The necessary infrastructure for the Tour de France requires significantly more land – 19.5 hectares;
- Limits the period of use to five weeks in a year. Whilst the hosting of the Tour de France only requires 16 days, there are other events throughout the year that would then exceed the maximum time period;
- Limits the number of helicopter landings. This is problematic given media and judging requirements;
- Limits the construction of temporary roads and footpaths; and
- Provides that inhabitants of the borough are to be able to enjoy recreation at all times upon the Stray.

The proposed solution

21. Harrogate Borough Council is seeking a short and temporary disapplication of parts of the Harrogate Stray Act 1985 for three sections of the Stray. The Secretary of State agrees with Harrogate Borough Council that several parts of the Harrogate Stray Act 1985 prevent or restrict them from exercising the general power of competence in hosting the Tour de France. The Secretary of State is therefore proposing to lay before Parliament an Order, using his powers in section 5(1) of the Localism Act, to disapply parts of the Harrogate Stray Act 1985 from 23 June to 8 July 2014 for defined areas of the Stray for the sole purpose of hosting the Tour de France.

22. The three areas of the Stray for which the Harrogate Stray Act 1985 would be disapplied by the Order are shown on the next page:

⁴ Sections 4.2, 4.3, 4.4, 5, 6.1d and 6.4.



This is an area of 19.5 hectares, out of the total 80 hectares of the Stray. Detailed maps have been prepared for the draft Order and are available at the offices of the Department for Communities and Local Government (Eland House, Bressenden Place, London, SW1E 5DU) and Harrogate Borough Council (Springfield House, Kings Road, Harrogate, HG1 5NX).

23. It is possible that the disapplication would only be required for a smaller area. The Government understands the Council are working on options that would see less of the Stray being used. For example, the Council may only require 17.5 hectares if the area of the Stray by Oatlands Drive (marked on the map as Area 2) is not required. The Secretary of State's preference is for the Council to use the smallest parcel of land possible, so as to minimise disruption, and anticipates that even if the Order as currently drafted is laid before Parliament and then approved by Parliament, the Council will only inclose land and make temporary roads and footpaths where this is required in order to effectively host the Tour de France.
24. The Government understands that the main period of restricted access will be between 2 July and 8 July, but that a slightly longer timeframe is proposed given the necessary preparation works such as the installation of temporary water, electricity and sewerage to the technical area. The Government understands that all land will be returned to its original state shortly after the event. All items of infrastructure will be removed by 8 July, but certain limited tasks required for re-instatement may need to be completed later in the year – for example, reseeded grass cannot be done during very dry weeks.

Chapter 3

Statutory conditions and Parliamentary procedure

Proportionality

25. The effect of a provision made by an Order under section 5(1) of the Localism Act must be proportionate to its policy objective. A policy objective might be achieved in a number of different ways, one of which may be more onerous than others and may be considered to be a disproportionate means of securing the desired outcome. Before using his powers from section 5(1) of the Localism Act the Secretary of State must consider that this is not the case and there is an appropriate relationship between the policy aim and the means chosen to achieve it.
26. The Secretary of State has taken the initial view that introducing an Order by section 5(1) of the Localism Act is proportionate to ensuring that Harrogate Borough Council can use the general power of competence to host the 2014 Tour de France. This is particularly the case given the likely significant economic impact of hosting the Grand Départ.
27. Another way of securing the policy objective would be to seek an amendment to the Harrogate Stray Act 1985. However, this would likely take more time than is available and involve more public resource. It would also be difficult to secure the time and purpose-limited temporary enclosure that an Order can allow. The Localism Act 2011 was expressly drafted to allow for the temporary repeal of primary legislation, and so is ideally suited to this purpose.

Fair Balance

28. Before using his powers in section 5(1) of the Localism Act, the Secretary of State must be of the opinion that a fair balance is being struck between the public interest and the interests of any person adversely affected by the Order. It is possible to make an Order which will have an adverse effect on the interests of one or more persons only if the Secretary of State is satisfied that there will be beneficial effects that are in the public interest. Whenever an Order imposes or increases a burden for a person, it adversely affects their interest, so the Secretary of State must take in to account any new or increased burdens when considering whether or not this condition is met.
29. The Government is aware that the interests of persons who use the Stray for recreational purposes could be affected by the proposal. However, this needs to be balanced against the public interest in ensuring the successful delivery of the opening stages of the Tour de France, particularly given the potential economic benefits and growth potential that the Tour de France brings to the area. The Government considers

that enabling this short and temporary enclosure will genuinely assist that delivery whilst minimising impact on local communities who will still be able to access and enjoy the majority of the Stray.

30. The Government is proposing to time-limit and purpose-limit the disapplication of the Harrogate Stray Act 1985. This will ensure the impact on any interests affected is for the shortest time necessary, and the only purpose is the hosting the opening stages of the Tour de France 2014.

Necessary protection

31. The Secretary of State may not make an Order using their powers in section 5(1) of the Localism Act if he considers that the proposals would remove any necessary protection. The notion of necessary protection can extend to economic protection, health and safety protection, and the protection of civil liberties, the environment and national heritage.
32. The Government does not consider that the proposal will remove any necessary environmental or other protection. The Harrogate Stray Act 1985 already permits that the Stray may be used for events, and part of the land included in the proposal is used annually for the pleasure fairs and for the occasional circus. Harrogate Borough Council will ensure that the land is returned to its original state.

Rights and freedoms

33. An Order cannot be made using powers from section 5(1) of the Localism Act unless the Secretary of State is satisfied that it will not prevent any person from continuing to exercise any right or freedom that they might reasonably expect to continue to exercise. This condition recognises that there are certain rights that it would not be fair to take away from people using an Order. Any right conferred or protected by the European Convention on Human Rights is a right that a person might reasonably expect to keep.
34. The proposal will disapply for 16 days the provision in the Harrogate Stray Act 1985 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. This right is subject to the provisions of the Act. In practice, the main period of restricted access will be for seven days from 2 July to 8 July. The Government considers that as events do take place on the Stray that require similar enclosure, and Harrogate Borough Council periodically restricts access in 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, since this is already restricted by the Act itself.
35. The Government does not think that the proposed disapplication would affect rights or freedoms protected by the European Convention on Human Rights. The Government considers that any interference with the public's rights and freedoms is minimal and reasonable in achieving a proportionate proposal.

Constitutional significance

36. The Secretary of State may not make an Order using their powers in section 5(1) of the Localism Act if he considers that the provision made by the Order is of constitutional significance.
37. The Government does not consider that this proposal to disapply parts of the Harrogate Stray Act 1985 from 23 June to 8 July 2014 for defined areas of the Stray for the sole purpose of hosting the Tour de France has constitutional significance.

Parliamentary process

38. In making such an Order the Secretary of State must recommend to Parliament the procedure he thinks Parliament should apply. These options are:
- Negative resolution procedure: The order may be made unless Parliament either disagrees within 40 days of laying or (within 30 days) recommends upgrading either to the affirmative or super-affirmative procedures. The negative resolution procedure is most suitable for minor and technical instruments;
 - Affirmative resolution procedure: Both Houses of Parliament must expressly approve the draft order before the order can be made. They have 40 days to consider it first. They can also (within 30 days) recommend upgrading the procedure to super-affirmative. The affirmative procedure is more appropriate for instruments that have more extensive impact, but which are still straightforward and about which consultation respondents did not raise any real concerns; or
 - Super affirmative procedure: This requires the Minister to have regard to representations, House of Commons and House of Lords resolutions, and Committee recommendations that are made within 60 days of laying, in order to decide whether to proceed with the order and (if so) whether to do so as presented or in an amended form.
39. The Secretary of State has taken the initial view that the negative resolution procedure would be the appropriate to recommend to Parliament, as he considers the draft Order as 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 quarter of the area of the Stray. Furthermore, the Order would not insert any new provisions into the Harrogate Stray Act 1985.

Chapter 4

Issues for consultation

40. Having regard to the application from Harrogate Borough Council, the Secretary of State is considering making an Order under the statute which, if Parliament approves, would disapply parts of the Harrogate Stray Act 1985 from 23 June to 8 July 2014 for defined areas of the Stray for the sole purpose of hosting the Tour de France.

41. Under the statute, the Secretary of State can make the Order only if:

- 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.

The Secretary of State welcomes the views of consultees and others on these matters when responding to the consultation.

42. 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 welcomes the views of consultees and others on the appropriate level of Parliamentary scrutiny that he should recommend.

43. Comments are invited on the proposal to enable Harrogate Borough Council to use the general power of competence in hosting the Grand Départ of the Tour de France 2014, and in particular:

- **Is the effect of the provision proportionate to the policy objective intended to be secured by the provision?**
- **Taken as a whole, does the provision strike a fair balance between the public interest and the interests of any person adversely affected by it?**
- **Is the provision removing any necessary protection?**
- **Is the provision preventing any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise?**
- **Is the provision of constitutional significance?**

- **Is the draft Order a minor and technical instrument and so suitable for consideration in Parliament under the negative resolution procedure?**

Draft Order laid before Parliament under section 7(2) of the Localism Act 2011 to which the Secretary of State has recommended that the negative resolution procedure under section 16 of the Legislative and Regulatory Reform Act 2006 should apply.

DRAFT STATUTORY INSTRUMENTS

2014 No.

LOCAL GOVERNMENT, ENGLAND

The Harrogate Stray Act 1985 (Amendment) Order 2014

Made - - - - *****

Coming into force in accordance with article 1.

The Secretary of State, in the exercise of the powers conferred by section 5(1) and (6) of the Localism Act 2011(a), makes the following Order.

The Secretary of State considers that there are statutory provisions which prevent or restrict the general power conferred by section 1 of the Localism Act 2011, which Harrogate Borough Council seeks to exercise.

The Secretary of State considers the conditions contained within section 6(2) of the Localism Act 2011 are satisfied.

The Secretary of State has consulted in accordance with section 5(7) of the Localism Act 2011 and has, following this consultation and in accordance with section 7(2) of the Localism Act 2011, laid a draft Order and explanatory document before Parliament.

Pursuant to section 15 of the Legislative and Regulatory Reform Act 2006(b), the negative resolution procedure (within the meaning of Part 1 of that Act) applies in relation to the making of the Order.

Neither House of Parliament resolved within the 40-day period referred to in section 16(3) of that Act that the Secretary of State should not make the Order(c).

Citation and commencement

1. This order may be cited as the Harrogate Stray Act 1985 (Amendment) Order 2014 and shall come into force on the day after the day on which this Order is made.

(a) 2011 c.20

(b) 2006 c.51

(c) The expression “40-day period” is defined in section 16(7)(b) of the Legislative and Regulatory Reform Act 2006

Temporary disapplication of the provisions of the Harrogate Stray Act 1985

2.—(1) For Harrogate Borough Council to host the 2014 Tour de France and associated purposes the following provisions of the Harrogate Stray Act 1985(a) are disappplied for the period specified in paragraph (2) in relation to the areas specified in paragraph (3) –

- (a) section 4(2) to (4) (management of the Stray);
- (b) section 5 (access to the Stray);
- (c) section 6(1)(d) (cap on the number of temporary encroachments for setting aside land for the landing or take-off of aircraft allowed in any one year); and
- (d) section 6(4) (limitations on the ability for Harrogate Borough Council to grant a licence to inclose the Stray for specified purposes).

(2) The period specified for the purpose of paragraph (1) begins at 07:00 on Monday 23rd June 2014 and ends at 22:00 on Tuesday 8th July 2014.

(3) The areas specified for the purpose of paragraph (1) are the areas identified as Areas 1, 2, and 3 (shown by shading) on the map prepared by Harrogate Borough Council, marked “Tour de France 2014 Three Areas of the Harrogate Stray”. Further details of Area 2 are provided on the map prepared by Harrogate Borough Council, marked “Tour de France 2014 Area 2 of the Harrogate Stray”. Prints of these maps, signed by a member of the Senior Civil Service in Department for Communities and Local Government, are deposited and available for inspection at the offices of the Secretary of State for Communities and Local Government and in the offices of Harrogate Borough Council.

Date	<i>Name</i> Parliamentary Under Secretary of State Department for Communities and Local Government
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EXPLANATORY NOTE

(This note is not part of the Order)

The Harrogate Stray Act 1985 is a local Act which confers powers, obligations and restrictions on Harrogate Borough Council in respect to the management of the area in Harrogate known as the Stray.

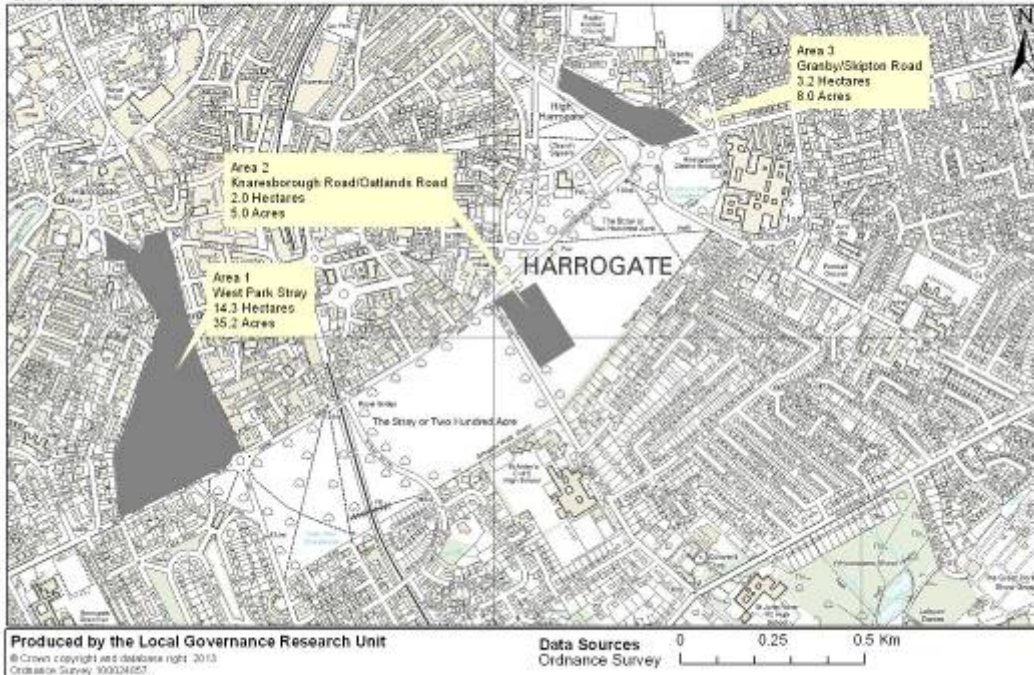
Section 5(1) of the Localism Act provides the Secretary of State with the power to amend, repeal, revoke or disapply a provision that prevents or restricts a local authority from exercising the general power – this Order is made under that power..

This Order temporarily disappplies the provisions of the Harrogate Stray Act 1985 set out in Article 2(1) for the period of time specified in article 2(2).

Maps showing the areas to which the disapplications apply have been prepared by Harrogate Borough Council and have been deposited in the offices of the Secretary of State for Communities and Local Government and the offices of Harrogate Borough Council. An indicative map, prepared by the Department for Communities and Local Government, is included below.

(a) 1985 c.xxii

The three areas of the Harrogate Stray



DRAFT



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, Thorer, 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 Constaberies 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.

Schedule continued

**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 10) Act 1900.	The Harrogate (Extension) Order 1900.