



**REQUEST TO CONSIDER PROHIBITION OF
ALL VEHICLES ON PART OF BYWAYS OPEN
TO ALL TRAFFIC Nos. 518 & 520 IN ASH**

**SURREY COUNTY COUNCIL
LOCAL COMMITTEE (GUILDFORD)**

21st JULY 2005

KEY ISSUE

This report considers whether or not an Order should be made prohibiting the use of all vehicles on two byways in Ash.

SUMMARY

The Committee resolved on 3 March 2005 to publish a notice of intention to make a Traffic Regulation Order on parts of BOATs 518 and 520 in Ash. The notice was published on 13 May 2005. Eight objections were received within the statutory period. Members are asked to consider the objections and to decide whether the legal and policy criteria for making the Order still apply. Members must then decide whether the Order should be made. Alternatively, Members may decide to hold a Public Inquiry to decide the matter. There is no legal requirement to hold a Public Inquiry.

Report by

HEAD OF PLANNING & COUNTRYSIDE

Surrey Atlas Ref.:

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GUILDFORD B.C. WARD(S)

ASH SOUTH & TONGHAM

COUNTY ELECTORAL DIVISION(S)

ASH

BACKGROUND & POLICY

- 1 The County Council as the Traffic Authority has a power to make a traffic regulation order, (subject to Parts I and III of Schedule 9 of the Road Traffic Regulation Act 1984) where it considers it expedient:-
 - a) 'for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising, or
 - b) for preventing damage to the road or to any building on or near the road, or
 - c) for facilitating the passage on the road or any other road of any class of traffic (including pedestrians), or
 - d) for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicles in a manner which, is unsuitable having regard to the existing character of the road or adjoining property, or
 - e) without prejudice to the generality of paragraph (d) above for preserving the character of the road in a case where it is specially suitable for use by persons on horseback or foot, or
 - f) for preserving or improving the amenities of the area through which the road runs.'

- 2 The Council's policy as stated in document HT-92-007-M dated November 1992 is to make TROs only on grounds of significant danger to users of the routes or where the sub-soil is so unsuitable for vehicular use so as to make the route unmaintainable without excessive expenditure or significantly changing the nature of the route. A review of this policy has been requested and it may go before the Executive in the Autumn 2005. Until the policy is changed it remains the County Council's adopted policy.

SUMMARY OF OBJECTIONS

- 3 A summary of the points raised by those objecting is attached as **ANNEXE 1** and copies of their letters are attached as **ANNEXE 2**. The majority highlight that other remedies exist to remedy illegal use.

OFFICERS' COMMENTS

- 4 The Council's power under the Road Traffic Regulation Act 1984 is outlined above. The Council's policy, as stated by the Highways and Transport Committee in 1992 (Doc ref: HT-92-007-M) is to make Traffic Regulation Orders 'only on grounds of significant danger to users of the routes or where the sub-soil is so unsuitable for vehicular use so as to make the route unmaintainable without excessive expenditure or significantly changing the nature of the route.' The committee recommended that each request be 'assessed on its merits in relation to other routes throughout the County'.

- 5 Members are asked to consider the concerns expressed by local residents and those expressed by objectors to the Order.

- 6 Members must then decide whether the legal and policy criteria for making the Order still apply and whether or not the Council should proceed and make the Order.

FINANCIAL IMPLICATIONS

- 7 If the Committee decide that the Order should be made, advertising costs would be in the region of £500. If the Committee decide to hold a Public Inquiry the cost of the Inquiry would be approximately £1,000. The cost of purchasing and installing three lockable barriers and erecting appropriate signs will (as reported in March 2005) be approximately £1700. Costs will be met from the Rights of Way budget.

THE HUMAN RIGHTS ACT 1998

- 8 Under Section 6(1) of the Human Rights Act 1998, local authorities are required to act, as far as possible, in a way that does not breach rights contained in the European Convention on Human Rights.
- 9 Article 8 of the Convention specifies a right to respect for private and family life and the home and Article 1 of Protocol 1 protects the right for peaceful enjoyment of one's possessions. While the making of a Traffic Regulation Order would remove the rights of users to pass and re-pass over the BOAT in vehicles, in the officer's view the proposal does not engage any of the Articles in the Convention and does not have any Human Rights Implications.

SUSTAINABLE DEVELOPMENT IMPLICATIONS

- 10 There are no significant environmental or economic implications.

EQUALITIES IMPLICATIONS

- 11 There are no significant equalities implications. There would be sufficient width for wheelchair users ('invalid carriages') to pass beside the gates and access the BOAT.

DISCUSSION

- 12 Whilst under the Road Traffic Regulation Act 1984 the Council has the power to make a TRO on parts of BOATs Nos. 518 and 520 (Ash), in the officers view the objections have some weight and the criteria set out in the Council's policy have not been met.
- 13 There is no definition of what constitutes 'significant danger' in Document HT-92-007-M. The perception of local residents, who support the making of the order differs from the perception of the objectors. Objectors feel the routes are wide enough to accommodate the different users. Local residents are concerned that motorised traffic may cause an accident. To date, no actual accidents at this location have been reported. A copy of the letters from those supporting the order is available on request.

- 14 Ash Parish Council supports the making of a TRO. Guildford Borough Council supports the making of a TRO on the basis of preventing fly tipping and burning abandoned cars. Objectors are aware that fly-tipping and abandoned cars are an issue but reason that there are other less draconian measures available as a way of dealing with these nuisances. Some of those who have written in to object are concerned about the removal of public highway rights in general rather than the removal of the rights of four wheel drive users to use these BOATs.
- 15 With regard to the subsoil, in this instance it does not render the route excessively expensive to maintain.
- 16 Members are asked to consider the points for and those against and to decide, on balance, whether or not the legal and policy criteria for making the order have been met and whether or not to proceed with the order

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BACKGROUND PAPERS	File containing responses to the consultation, and all documents quoted in the report.
