



**BYWAY OPEN TO ALL TRAFFIC  
(BOAT) No. 529, PIRBRIGHT - REQUEST FOR  
TRAFFIC REGULATION ORDER**

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

**18<sup>th</sup> JUNE 2008**

**KEY ISSUE**

This report considers whether a Seasonal Traffic Regulation Order should be made for part of the route of Byway Open to All Traffic (BOAT) No. 529, Pirbright.

**SUMMARY**

The County Council has received an application from County Councillor Mike Nevins for a Seasonal Traffic Regulation Order (TRO) to be made for BOAT No. 529, Pirbright. The route is shown on the attached Drawing No. 3/1/61/H10 (**ANNEXE A**). In addition to the application a petition has also been received asking for the BOAT to be closed until it is repaired and then a permanent TRO put on it. A section of the BOAT has become deeply rutted following use by vehicles. The section will be repaired this summer and it is the officer's view that once the repairs have been completed a TRO will not be needed. It is also the officer's view that the request does not meet the Council's policy for making such Orders.

**Report by**

HEAD OF ENVIRONMENT &  
REGULATION

**Surrey Atlas Ref.**

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**GUILDFORD B.C. WARD (S)**

PIRBRIGHT

**COUNTY ELECTORAL DIVISION (S)**

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## OFFICER RECOMMENDATIONS

The Committee is asked to agree:

- (i) that the application for a Seasonal TRO not be approved.
- (ii) that the request be reviewed in a year's time following repairs to the surface of BOAT No. 529, Pirbright this year.

## INTRODUCTION AND BACKGROUND

- 1 BOAT No. 529, Pirbright runs along Malthouse Lane, from Ash Road (B380) at the southern end to Chapel Lane at the northern end. The southern section of Malthouse Lane, from point 'B' south-eastwards also has 'D' road status. It has a hardened surface and serves as an access road to properties. The section north of point 'B' runs over Pirbright Common. The Common is owned and managed by Guildford Borough Council and is a designated SSSI (Site of Special Scientific Interest). The surface of the BOAT over the Common is generally well compacted and free draining. It appears to be a fairly well used route for people travelling between Fox Corner and Pirbright village. A section measuring 87 metres north-westwards near point 'B' has become deeply rutted through increased use by 4x4 drivers and poor drainage.
- 2 County Councillor Mike Nevins has applied for a Seasonal Closure of BOAT No. 529, Pirbright, from 1 October to 31 March each year, starting this year. In his application he states that motor vehicles, motorcycles, bicycles and horse riders are being forced to drive or ride over the protected heathland because the BOAT is impassable and unsafe. He also says it is unsafe and impassable for partially sighted persons, users of wheelchairs, those who experience walking and those with small children or pushchairs. Mr Nevins would like barriers installed to protect the heathland from further erosion and 'off roading'. A 359-signature petition asking for the BOAT to be closed until it is repaired and then a permanent closure put on it accompanied his application. Should the BOAT following repair, become impassable, unsafe and dangerous to all users, he has asked that it be closed permanently. The closures would relate to motorised vehicles, including motorbikes, and horse drawn carriages. Signs and lockable barriers would be installed at points 'A' and 'B' with gaps at the side to provide access for walkers, horseriders, cyclists and wheelchairs. The route is shown on the plan attached as **ANNEX A**.
- 3 The County Council has powers to make a TRO under 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 any 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 especially 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.
- 4 The County Council's policy on the making of TROs, which was approved by the Executive in February 2006, states that they should be made only on grounds of significant danger to users of the routes, or where the subsoil is so unsuitable for vehicular use as to make the route unmaintainable without excessive expenditure, or significantly changing the nature of the route, and that each case be assessed on its own merits in relation to other routes throughout the County. Furthermore, the government document 'Making the best of Byways' states that co-operative management should be the first resort, and Traffic Regulation Orders avoided where possible. In this instance it is the officer's opinion that the criteria for making a TRO under the Council's policy is not met. Once the eroded section is repaired it will not be dangerous to users and it does not need excessive expenditure for those repairs.
- 5 It is currently planned to repair or improve 215 metres of the BOAT surface. However, 128 metres is dependent on additional funding being received from Guildford Borough Council and possibly Pirbright Parish Council. Otherwise the Countryside Access Team have re-prioritised their budget for this year to include repairing the 87m stretch near point 'B'. The material and methodology have been agreed with the Borough Council and Natural England. It is the officer's opinion that once the repairs have been completed, misuse of the adjacent SSSI by vehicles will be reduced. In addition Guildford Borough Council could undertake additional measures to prevent trespass by vehicles onto the common. The surface will be monitored once it has been repaired for any signs of adverse erosion.

**ANALYSIS**

- 6 The proposed repairs to the BOAT will resolve the issue by making the route suitable for all users, thereby reducing the amount of trespass by vehicles onto the Common.

**OPTIONS**

- 7 It is for Members to decide whether to make a Traffic Regulation Order in accordance with County Council policy.

## CONSULTATIONS

- 8 An officer from Natural England has visited the site with Mr Nevins and is of the opinion that the route has been damaged by excessive use by 4x4 drivers and that this has rendered it unusable by pedestrians and dangerous to horse riders. She says that if 4x4s have been driving off route this will have an adverse effect on the heathland of the surrounding SSSI. She recommends that the damage is repaired to make the route useable again and that it is vital users are prevented from driving across the heathland and that this can only be guaranteed by a seasonal closure with possible year round closure until the BOAT is repaired. Natural England are of the opinion that the BOAT would not be so appealing to 4x4 drivers once it is repaired and barriers installed to prevent 'off-roading'. They consider that only local people will then use it so it will not need further expensive repairs in the future.
- 9 All other statutory bodies and other interested parties have been consulted on the application. Objections to any restrictions for carriage drivers have been received from Mr Fry, Ms Brownrigg and the Open Spaces Society. Objections to any TRO, except for one whilst repairs are carried out, have been received from Mr Monk, the Surrey Byways User Group and the Trail Riders Fellowship. The Ramblers' Association agree with the application. Pirbright Parish Council propose that the whole length of the BOAT should be closed, made fit for use and then closed permanently for motor and horse-drawn vehicles. The police welcome the planned repairs but have raised concerns about the enforcement of any TRO. Guildford Borough Council have no objections to a TRO.

## FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

- 10 If a Traffic Regulation Order were made advertising costs in the region of £1,000 would have to be met from the Countryside Legal budget.

## EQUALITIES AND DIVERSITY IMPLICATIONS

- 11 The Human Rights Act 1998 imposes an obligation on local authorities to act in accordance with the rights and freedoms guaranteed under the European Convention on Human Rights ("the Convention Rights"). Infringements of Convention Rights by local authorities are enforceable in the UK courts. Primary legislation, of which the Road Traffic Regulation Act 1984 is an example, must be given effect in a way which is compatible with the Convention Rights. Where a local authority must act in a particular way to comply with primary or secondary legislation, it is not required to consider Convention Rights. Where, as in this case, the local authority has discretion to take action under the legislation, consideration must first be given as to whether that action will interfere with any of the Convention Rights. The officer recommendation to Members is not considered to interfere with any Convention Rights.

**CRIME AND DISORDER IMPLICATIONS**

- 12 There are no significant, but some minor crime and disorder implications.
- 13 Closure throughout the year is likely to increase the illegal use of alternative routes and open land, especially by motorcycles. Experience from other sites indicates barriers and signs may be frequently vandalised. Experience again indicates there may be a reduction in the amount of fly-tipping.
- 14 Surrey Police indicate they do not have the resources to enforce the proposed TRO.

**CONCLUSION AND REASONS FOR RECOMMENDATIONS**

- 15 The criteria contained in the County Council's policy for the making of Traffic Regulation Orders have not been met.

**WHAT HAPPENS NEXT**

- 16 Repairs will be carried out on the surface of the BOAT this summer. If the application is not approved all interested parties will be informed. If Members approve the application a Notice of Intention to make a Seasonal Traffic Regulation Order will be advertised for a statutory objection period. Following that period a decision would need to be taken on whether to proceed with the making of an Order. Officers will review the surface of the BOAT one year after the works have been completed. If a TRO is considered necessary they will again discuss the matter with Mr. Nevins. If it is decided to process a TRO the matter will be reported to the Local Committee for decision.

**LEAD OFFICER**

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**BACKGROUND PAPERS**

All documents quoted in the report. File may be viewed upon request.