



**OFFICER REPORT TO LOCAL COMMITTEE
(GUILDFORD)**

**BYWAY OPEN TO ALL TRAFFIC
515 (SHERE) & 137 (ABINGER)
TRAFFIC REGULATION ORDER**

30 SEPTEMBER 2009

KEY ISSUE

This report seeks approval to publish a Notice of the Intention to make a Traffic Regulation Order (TRO) for Byways Open to All Traffic 515 (Shere) known as Beggars Lane and 137 (Abinger) known as Drove Road.

SUMMARY

The above BOATs have been temporarily closed since October last year on the grounds of likelihood of danger to the public and in order to prevent further damage to the surface of the highway. These particular BOATs are currently assessed as condition 3 in the countywide assessment. Condition 3 is the highest level for which the criterion states, “in need of significant repair- whole route or substantial sections of route in poor condition e.g. deep/founderous mud and/or significant rutting/erosion.” Officers would like to promote the making of a permanent TRO to safeguard further damage to the routes. A successful capital funding bid has made available £100,000 for the repair of both Beggars Lane and Drove Road. The prohibition would apply to all vehicles exceeding 1500mm in width. Exceptions will apply to landowners and managers requiring access to land, which cannot otherwise be easily accessed. Lockable barriers with a 1500mm width gap beside them to allow walkers, cyclists, motorcycles, horse riders and most horse drawn carriages would be placed at either end.

OFFICER RECOMMENDATIONS

The Local Committee (Guildford) is asked to agree that:

The grounds for making a TRO as outlined below are met, and a Notice of the Intention to make an Order should be published for Byways Open to All Traffic 515 (Shere) and 137 (Abinger) prohibiting motor vehicles exceeding 1500mm (5ft) in width.

1 INTRODUCTION AND BACKGROUND

1.1 The County Council as the Traffic Authority has the power to make a traffic regulation order, (subject to Parts 1 to 111 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'

1.2 The Council's policy as agreed by the Executive on 6 January 2009 states:

- (1) That Traffic Regulation Orders be used proactively where a countywide assessment indicates a Byway Open to All Traffic is in poor condition, in need of significant repair and it is considered necessary to restrict traffic, coupled with programmes of repair as resources permit.
- (2) That where a countywide assessment indicates a Byway Open to All Traffic is in reasonable condition a Traffic Regulation Order be only made on grounds of significant danger to users of the route, or to prevent significant damage to the route
- (3) That the revised Priority Statement and Targets for Public Rights of Way be adopted.

1.3 These byways are a central point in the byway users network and immensely popular with 4x4 enthusiasts, as is shown by the consultation, which has resulted in increased use. However, the routes also have a high level of irresponsible use with vehicles damaging banks and surrounding land. This has led to large wallows forming off the surfaced track, in adjoining land, and the historic banks have been badly affected.

1.4 As a result of the condition of the byways temporary closures were made due to the likelihood of danger to the public and in order to prevent further damage to the surface of the highway. They came into operation on the 23 October 2008 and were due to expire on 23 April 2009. Due to the condition remaining the same the County Council applied for the temporary closure to be extended and the Secretary of State for Transport has continued it in force until 23 April 2010.

- 1.5 The Council's policy for making such orders states "That TROs be used proactively where a countywide assessment indicates a BOAT is in poor condition, in need of significant repair and it is considered necessary to restrict traffic, coupled with programmes of repair as resources permit." These particular BOATs are currently assessed as Condition 3 in the countywide assessment. Condition 3 is the highest level for which the criterion states, "in need of significant repair- whole route or substantial sections of route in poor condition e.g. deep/founderous mud and/or significant rutting/erosion."
- 1.6 A significant expenditure is required to repair the surface so it is adequate and safe for users. A successful bid for capital funding of £100,000 from County Council resources has meant the repair of the BOATs is possible. This is a large investment into Beggars Lane and Drove Road, and shows what is required to deal with the consequences from the erosion and misuse.
- 1.7 The Drove Road was completely remade by a cable company in 1998 when an estimated £50,000 was invested in bringing the track up to class 1 forestry road standard prior to them laying a fibre optic cable along the route. Since 2001, £17,900 has been spent on repairs to the Drove Road and Beggars Lane.

2 ANALYSIS

- 2.1 The BOATs in question have a number of problems. Excessive erosion caused by intensive use and unsustainable activities have not only damaged the route but have resulted in the BOATs becoming unusable by other groups such as those on foot, horseback or bicycle with potential safety implications.
- 2.2 Repairs to the byway will improve the surface of the Byways and resolve the danger to the public. However, the costs of repairs will be substantial and without changing the character of the way completely (e.g.: by providing a sealed Tarmac surface), it is unlikely that any kind of unbound surface would sustain the level of use. A TRO prohibiting vehicles will make an unbound surface more sustainable.
- 2.3 4x4 vehicles appear to be the predominate cause of erosion. Motorcycles and horses do not appear to be causing the bulk of the damage.
- 2.5 A TRO prohibiting vehicles will maintain a historic route for future generations to enjoy by safeguarding further damage to the routes by restricting vehicles. It will also be a proactive response in line with policy as agreed by the Executive on 6 January 2009.

3 OPTIONS

- 3.1 It is the Officer's recommendation that 'Notice of Intention to make a TRO' prohibiting motor vehicles over 1500mm (5ft) width be published, and the results of the consultation be reported to a future meeting of this committee for decision.
- 3.2 The exclusion of motor vehicles will ensure that the surface condition does not deteriorate further after the current capital funding is spent on its repair for a foreseeable period.

3.3 An alternative solution would be to do nothing. In the absence of a TRO the route could quickly deteriorate to the condition it is in now, and Council investment would have been in vain.

4 CONSULTATIONS

4.1 A list of groups and individuals consulted is attached at ANNEX 1. A summary table of comments from those objecting and supporting the order is attached in ANNEX 2.

4.2 Twenty letters of objection were received from individuals, The Surrey Byway user group, Byways & Bridleways Trust and the Four Wheel Drive Club.

4.3 Those in support include: Shere Parish Council, Guildford Borough Council, Surrey Police, Ramblers' Association, Surrey Hills Board and the National Trust.

5 FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

5.1 If Notice of Intention to make a TRO is published this will incur advertising costs of approximately £500-700 which will be met from the Countryside Legal Budget.

5.2 If a TRO is subsequently made further advertising costs in the region of £500-700 will be met from the Countryside Legal Budget.

5.3 A successful capital funding bid for £100,000 means there are sufficient funds for the maintenance.

6 EQUALITIES AND DIVERSITY IMPLICATIONS

6.1 The surface improvements would improve accessibility for a wide range of users.

7 CRIME AND DISORDER IMPLICATIONS

7.1 The barriers authorised by the TRO should reduce adjoining land being accessed and damaged.

7.2 Surrey Police are supportive of TROs prohibiting vehicles which will discourage criminal elements where suitable barriers can be installed to aid enforcement, as they have no additional resources to police vehicle bans.

8 CONCLUSION AND RECOMMENDATIONS

8.1 To safeguard the BOATs from further unsustainable uses Members are asked to approve publish of Notice of Intention to make an Order.

9 REASONS FOR RECOMMENDATIONS

9.1 Officers do not have delegated powers to issue Notice of Intention to make a Traffic Regulation Order. The proposed TRO is supported by officers because of the long-standing benefits the closure will have to the BOATs surface condition, as well as the benefits it will bring to a range of users.

10 WHAT HAPPENS NEXT

10.1 Should members agree to publish a Notice of Intention to make an order, the notice will be published in a local newspaper and onsite and all interested parties and user groups will be consulted.

10.2 Members will then be asked to consider any representations at a future committee meeting to decide whether the legal and policy criteria for making the order still apply. Members will then decide whether the order should be made.

10.3 Alternatively, Members may decide to hold a public inquiry to decide the matter. There is no legal requirement to hold a public inquiry.

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BACKGROUND PAPERS:

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