



**Byways Open to All Traffic 538 & 539 West Horsley:
Request to consider a Traffic Regulation Order (Road
Traffic Regulation Act 1984)**

Surrey County Council Local Committee (Guildford)

23 June 2010

Key issue

This report is in reply to the 179-signature petition submitted to Guildford Local Committee on 10th March 2010. The petition asked that Traffic Regulation Orders be considered on a case-by-case basis for West Horsley Byways 538 & 539.

Summary

The Committee will recall the petition submitted by residents of West Horsley to the Local Committee on March 10th 2010. The petition requested that Surrey County Council consider making Traffic Regulation Orders (TROs) to prohibit use by 2 wheeled and 4 wheeled vehicles on Byways Open to All Traffic (BOATs) 538 known as Silkmore Lane & 539 known as Fullers Farm Road, West Horsley. Both Byways have been considered on a case-by-case basis to see what can be done for public safety and their preservation. Both Byways have been classed as condition 2 in the Byway Annual assessment, which means they are not eligible for a TRO under Surrey County Council Policy.

Recommendations

The Committee is asked to agree that:

- a) the grounds for making a TRO as outlined below have not been met because they do not meet County Council policy. Other management options should be applied instead, that include repairing Fullers Farm Road and placing speed advisory signs on both Byways. As shown on Drawing No. 3/1/72/H12 (see appendix 1) and No. 3/1/72/H13 (see appendix 2).

Background

1. The County Council as the Traffic Authority has the power to make a Traffic Regulation Order, (subject to Parts I to 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 vehicular traffic 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 on foot, or
 - f) for preserving or improving the amenities of the area through which the road runs'
2. The Council's policy as agreed by the Executive on 6 January 2009 states:
 - a) 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.
 - b) 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
 - c) That the revised Priority Statement and Targets for Public Rights of Way be adopted.
3. The Priority Statement and Targets for Public Rights of Way states we will process TROs in accordance with County policy as the need arises. Processing TROs is number 8 of 9 in the priority statement.
4. There are three levels of physical condition in the annual byway assessment:
 1. Good- predominantly good throughout length of route.
 2. In need of some repair- e.g. short section of mud or limited rutting/erosion.
 3. 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.

Byway Open to All Traffic (BOAT) 538 / Silkmore Lane

5. Byway Open to All Traffic (BOAT) 538 in West Horsley, known as Silkmore Lane, was a case study for good practice solution choices in 'Making the best of byways'. A document produced by Defra in December 2005 (Defra: 2005). In 2003 reconstruction work involved cleaning out the longitudinal drainage ditches and reprofiling the track. The byway was left for 6 months to dry out after which resurfacing work was undertaken. The repairs to the 500 metres of the byway cost between £20,000 and £25,000. Both ends were left rough to discourage illegal use and flytipping.
6. In 2008 Silkmore Lane was a condition 1 in the Byway Annual Assessment, which states that it was predominately good throughout its length. Then in 2009, its condition was reassessed to a 2 which states it is 'in need of some repair-e.g. a short section of mud or limited rutting/erosion'. Under this years assessment it will remain a 2. The reason for this being the two sections that were left rough have deteriorated. The repairs are on a resurfacing list, but are not urgent, so will not be put forward until next year. The Council's maintenance budget is directed towards those byways that are in Condition 3, in need of significant repair.
7. No complaints were received with regards to the condition of the byway before the petition, nor have any reports been made to the police concerning dangerous driving or illegal vehicles.

Byway Open to All Traffic (BOAT) 539 / Fuller Farm Road

8. BOAT 539, West Horsley known as Fullers Farm Road is situated within the Surrey Hills Area of Outstanding Natural Beauty (ANOB). Complaints were received on the condition of the byway before the petition was submitted to Guildford Local Committee. In response to the complaints repairs will be made on the southern section of the Byway, towards Fullers Farm that has become rutted. The rutts have increased in size due to vehicular use and water runoff, which is being funnelled into the farmer's field.
9. The surface will be repaired, along with a vegetation cut back to improve sight lines and passing places on the narrow top section towards Fullers Farm. The northern section of the byway towards Blakes Lane has adequate width for vehicles passing other users and vehicles.

Analysis

Silkmore Lane (West Horsley 538)

10. The petition states that the condition of Silkmore Lane has deteriorated as a consequence of excessive use by motor vehicles. Silkmore Lane has been classed as a condition 2 because of the two rutted sections that need repairing. The vast majority of the Lane is in very good condition, especially when compared to Condition 3 Byways in Surrey. Silkmore Lane is not going to be prioritised for maintenance this year because of budget restraints.

11. The petition asks that the byways be considered on a case-by-case basis to see what can be done for public safety and the preservation of these rights of way.
12. There had been no complaints prior to the petition on the condition of the surface to Surrey County Council. The sub soil is clay and becomes rock hard in the summer. In the winter months the clay surface can deteriorate. The rough ends of the byway have reduced flytipping as there have been fewer incidents reported. There are adequate passing places along the length of Silkmore Lane where users can pull in to allow one another to pass. The full width as stated in the Definitive Statement is 20 feet (6m), so there is room on the verges for vehicles to pull into.
13. Speed advisory notices will be put up by Countryside Access Officers to encourage users to drive at responsible speeds. Locals will be encouraged to report illegal use of the byways.
14. The Council's policy for making TROs states "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 dangers to users of the route, or to prevent significant damage to the route." Silkmore Lane has been classed as a 2 in the countywide assessment. A 2 means it is in need of some repair- e.g. short section of mud or limited rutting erosion. This TRO would therefore not meet policy, as the damage is not considered significant, as it is limited to two sections that have been purposely left rough to discourage flytipping.

Fuller Farm Lane (West Horsley 539)

15. The petition states that Fullers Farm Lane has a safety issue. The safety issue being that the byway is not wide enough to allow cars to pass either pedestrians or horses and the track is narrow and eroded and becomes a chalk stream in wet weather.
16. The section towards Fullers Farm is rutted, but there is money available to repair the route. Hopefully, the repairs will be completed this summer, if not by the end of the year. The repairs will include covering up the tree roots, cutting back the vegetation so users will be aware of each other sooner and providing passing places. The Definitive Statement states the width of the byway as 20 feet (6m) so where appropriate, passing places on the narrow southern section will be made available. The repair work will deal with the problems raised in the petition.
17. Speed advisory signs will be placed on this byway to encourage users to slow down.
18. Like Silkmore Lane, Fullers Farm Lane is a Condition 2 so a TRO can only be made on grounds of significant danger to users of the route, or to prevent damage to the route. Officers have received funding to repair the route and the potential damage and safety issues will be dealt with.

Options

19. Both Byways are condition 2 so do not meet County Council Policy. Officers recommend TROs should not be made and that other management methods be adopted in accordance with 'Making the best of byways'.
20. Speed advisory signs will be put up on Silkmore Lane, which may be repaired next year if funding is made available. Repairs will be made to Fullers Farm Road and speed advisory signs will also be put up.

Consultations

21. In response to the consultation thirty-six letters and emails were received in support of the TROs, 5 against the TROs and 1 neutral response were received. The responses to the consultation are tabled in Appendix 3.
22. Highlighted in the responses to the consultation was the concern for the availability of funding for repairs. Funding has been made available to repair the gullies and poor surface condition on Fullers Farm Lane due to it them being high on the list of maintenance.
23. Silkmore Lane is not a priority and may be repaired next year if funding is made available. This would still apply if a TRO were to meet Council policy on this lane. The maintenance budget will be directed towards those byways that are condition 3. "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". Silkmore Lane only has two short sections of rutting.
24. Many of those that responded were concerned with the speed of vehicles using the lanes. Countryside Access Officers will put up advisory notices on both byways to encourage responsible speeds. Reckless drivers should be reported to the police.
25. General litter has been stated as an issue. Officers feel there has not been a significant amount to consider a TRO. Rubbish is an issue on many rights of way and would have to be in significant quantities to meet the test for a TRO.
26. Many state that Silkmore Lane is impassable when wet and difficult to walk and ride. Silkmore Lane has been put on the maintenance list so will eventually be repaired. In the summer the clay sub soil becomes rock hard and more usable. However, the ends have been intentionally left rough to deter flytipping.
27. Elaine Scott recorded the vehicles that use the byway at weekends (see appendix 3). We do not have data for these two byways, as funding for counters is limited. However, other local byways where we have counters on attract up to 250 movements per month with roughly 10 percent of that amount using the byways between 10pm and 6am. The damage on these byways is more prevalent and significant throughout their length hence they are condition 3. Users are entitled to use the byways at any hours.

However, if they are being used for illegal reasons the particular users should be reported to the police.

28. A few were concerned with the damage of the bluebell wood adjacent to Silkmore Lane. The damage caused in the wood is not on the public highway and is therefore the concern of the landowner.
29. Avril Sleeman on behalf of the British Horse Society (BHS) and Gail Brownrigg object to the proposal for TROs on the ground that they do not meet policy. The BHS is opposed to any TRO, which restricted the use of BOATs by carriage drivers or was imposed to prevent the illegal use of lane adjoining the BOATs; illegal use is a criminal matter and should not be dealt with by TROs, which prevent legal users from using the way.
30. The Trail Riders Fellowship has suggested that local farmers accessing their land have caused some of the rutting. Officers do not have evidence to suggest this is the case or not.

Implications (Financial, Equalities, Community Safety, Environmental)

31. A successful bid for funding from the Landscape and Access Team Maintenance budget has been made for Fullers Farm Lane for around £10,000+. These repairs will have to be made regardless of a TRO.
32. If a TRO was pursued the Notice of Intention to make a TRO will be published and this will incur advertising costs of approximately £500-700 that will be met from the Countryside Access Budget. If a TRO is subsequently made further advertising costs in the region of £500-700 will be met from the Countryside Access Budget.
33. Barriers, correct traffic signs and installation costs in the region of £1,500 per byway would have to be met from the Landscape and Access Team Maintenance budget.
34. If the Committee decide to hold a Public Inquiry the cost of the Inquiry would be between £1,000-£3,000.
35. The surface improvements on Fullers Farm Lane would improve accessibility for a wide range of users. Silkmore Lane will remain difficult to pass in wet weather for all users.
36. Flytipping used to be quite a problem on Silkmore Lane before the ends were left rough to discourage them. There are no other crime and disorder implications.

Conclusion and reasons for recommendation

37. The request for Traffic Regulation Orders for both Fullers Farm Lane and Silkmore Lane do not meet County Council Policy. Members are therefore asked to approve that other management solutions are applied.
38. The Surrey Hills Byway User Group has initiated a campaign to encourage responsible use of the Byways through education. Signs have been placed

at important junctions and key points along byways which had ran in line with a leaflet being handed out by the user groups and Police. These signs and leaflets encourage the public to report unlawful use of the byways.

What happens next

39. If Members agree with the recommendation not to proceed with TROs because they do not meet County Council policy, other management options will be applied that include repairing Fullers Farm Road and placing speed advisory signs on both Byways. The petitioners will also be informed.
40. Should members go against the officers recommendation a Notice of Intention to make a Traffic Regulation Order will be published in a local newspaper and onsite. All interested parties and user groups will be consulted. Members would 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 and whether the order should be made.
41. Alternatively, Members may decide to hold a public inquiry to decide the matter. There is no legal requirement to hold a public inquiry.

Contact details

Responsible Officer: Debbie Spriggs
Countryside Access Team Manager
020 8541 9343
debbie.spriggs@surreycc.gov.uk

Contact Officer: Hannah Gutteridge
Countryside Access Officer
020 8541 8941
hannah.gutteridge@surreycc.gov.uk

Background papers

Defra (2005) 'Making the best of byways' UK: P37