



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

**BYWAYS OPEN TO ALL TRAFFIC 538 & 539 WEST HORSLEY
REQUEST TO CONSIDER A TRAFFIC REGULATION ORDER
ROAD TRAFFIC REGULATION ACT 1984**

8 December 2010

KEY ISSUE

Members are also asked to consider whether they wish to proceed in light of the 258 objections received and the demand for a public inquiry.

SUMMARY

The Local Committee for Guildford resolved at their meeting on the 23 June 2010 to publish the Notice of Intention to make a Traffic Regulation Order (TRO) on Byways Open to All Traffic 538 (Silkmore Lane) & 539 (Fullers Farm Lane) in the Parish of West Horsley. Members are asked to consider whether a Traffic Regulation Order should be processed in light of the 258 objections, many of whom have requested a public inquiry. During the consultation period it was noted that there were certain details that require modifying from the advertised proposal, they include:

- Horse drawn vehicles should be excluded from the Notice and Order, as it was not the intention of the Local Committee to include them.
- To clarify gates are required for the TRO and to include 1.5 m gaps adjacent to the gates.
- The council's failure to mention in the Statement of Reasons its obligations under Section 122 of the Road Traffic Regulation Act 1984.

OFFICER RECOMMENDATIONS

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

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, which include repairing Fullers Farm Road and placing speed advisory signs on both Byways, as shown on Drawing Numbers 3/1/72/H12 (see appendix 1) and 3/1/72/H13 (see appendix 2).

1 INTRODUCTION AND BACKGROUND

- 1.1 Two Hundred and fifty eight objections were received in response to the initial 'Notice of Intention' to make Traffic Regulation Orders for Byways 538 (Silkmore Lane) & 539 (Fullers Farm Lane). From the responses, mistakes were highlighted in the 'Notice of Intention' that will require modifying.
- 1.2 Members are asked to consider the Council's duty under Section 122 of the Road Traffic Regulation Act 1984, to conduct an adequate balancing exercise to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians).
- 1.3 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'
 - g) for any of the purposes specified in paragraphs (a) to (c) of subsection (1) of section 87 of the Environment Act 1995 (air quality)
- 1.4 The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996, permit order making authorities to hold a public inquiry. Except in two specific situations (neither of which apply here) the Council is not statutorily required to hold a Public Inquiry where there are objections to a TRO, but may choose to do so as a means of

providing an open and independent forum for discussion of the issues when there has been a significant amount of objections.

1.5 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.

1.6 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.

1.7 Level 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.

2 ANALYSIS

2.1 Mistakes were made in the 'Notice of Intention' that need clarifying and a new 'Notice of Intention' with modifications needs to be reissued.

2.2 Responses to the initial 'Notice of Intention' raised concerns that other management options had not been considered first.

2.3 The legal advice taken by officers advises a public inquiry into the proposals is the best course of action should Members wish to continue with the TRO process.

2.4 Officers are in the process of arranging repairs to Fullers Farm Lane. This repair job is in response to complaints from users about the surface condition and the overgrowth of vegetation on the Byway.

2.5 No complaints have been received in relation to Silkmore Lane.

3 OPTIONS

3.1 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 DEFRA's (2005) document 'Making the best of byways'.

3.2 Speed advisory signs will be put up on Silkmore Lane, which may be repaired next year if funding is made available.

3.3 Repairs will be made to Fullers Farm Road and speed advisory signs will also be put up. Surfacing repairs will be made to the section of byway rutted near Fullers Farm as well as drainage works to reduce the flow of run off down the byway. Vegetation will be cut back to improve sight lines.

4 CONSULTATIONS

4.1 Two hundred and fifty eight objections were received from horse riders, carriage drivers, dog walkers, trail riders, 4x4 users and the Surrey Access Forum, the majority of whom live in Surrey.

4.2 Many of the objections were very comprehensive covering a range of arguments against the use of Traffic Regulation Orders when other management options have not yet been tried. The key arguments are listed below:

- The Council's failure to implement the recommendations made in the Council Officers' report, that measures other than TROs be taken.
- The Council's failure to comply with Surrey County Council TRO policy.
- Not considering other management options first. The Local Committee Protocol states that petitions will only be accepted where the issue cannot be, or has not been, adequately resolved outside the Committee (by ordinary communication with officers or through SCC complaints procedure, or by local Member advocacy).
- There are no reported incidents or accidents and usage has not been measured.

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- No illegal use of Fullers Farm Lane has been reported. Motorbikes appear to have used the small strip of forest adjacent to Silkmore Lane. This should be reported to the police and is an issue for the landowner.
- One of the reasons stated in the petition was to avoid danger to persons or other traffic using the byway because the width of the byways restrict views and make passing difficult. Both Byways are defined, as having 20ft widths in the Definitive Statement. Contractors will cut back vegetation to improve sight lines and there are sufficient passing places. Silkmore Lane already has good sight lines and sufficient passing places.
- Dangerous driving should be reported to the police.
- These Byways are in relatively good condition compared to other byways. They were both classed as Condition 2 which means they are 'in need of some repair- e.g. short section of mud or limited rutting/erosion. There is money in the budget to repair the section of Fullers Farm Road that has some rutting and to repair the drainage issue from all the water runoff.
- Some of the trail riders argue that they do not cause as much damage as four-wheel drive vehicles, because they are not as heavy. They also argue that there is not any concrete evidence to suggest that they use the routes unsuitably.
- The council's failure to perform its duty under Section 122 of the Road Traffic Regulation Act 1984, to conduct an adequate balancing exercise between the case for the TRO and its duty to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians).
- The council's failure to mention in the Statement of Reasons its obligations under Section 122 of the Road Traffic Regulation Act 1984.
- That the TRO unfairly penalises legitimate legal and courteous recreational trail riders who adhere to the relevant codes of conduct when using green lanes, especially given they can only use less than 4% of Surrey's rights of way.
- That all users should be treated fairly, including trail riders as well as walkers, cyclists, horse drawn carriage drivers, horse riders and 4x4 users.
- There is a lack of evidence to justify the reason for the decision.
- Failed to take the least restrictive course of action first.
- Many of the responses request a public inquiry.

5 FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

- 5.1 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.
- 5.2 If a TRO is pursued the Notice of Intention to make a TRO with modifications will be published and this will incur advertising costs of approximately £500-700 that will be met from the Countryside Access Budget.
- 5.3 If the Committee decide to hold a Public Inquiry the cost of the Inquiry would be approximately £8,000 to £12,000 although this is only an estimate and the costs could be higher depending on the number of objectors/objections and the length of the inquiry.
- 5.4 If a TRO is subsequently made further advertising costs in the region of £500-700 will be met from the Countryside Access Budget.
- 5.5 Barriers, traffic signs and installation costs in the region of £1500 per byway would have to be met from the Landscape and Access Team Maintenance budget.

6 EQUALITIES AND DIVERSITY IMPLICATIONS

- 6.1 The surface improvements on Fullers Farm Lane would improve accessibility for a wide range of users.
- 6.2 Sections of Silkmore Lane will remain difficult to pass in wet weather for all users due to the surface conditions.

7 CRIME AND DISORDER IMPLICATIONS

- 7.1 Flytipping used to be quite a problem on Silkmore Lane before the ends were left rough to discourage it.
- 7.2 There are no other crime and disorder implications.

8 CONCLUSION AND RECOMMENDATIONS

- 8.1 The request for Traffic Regulation Orders for both Fullers Farm Lane and Silkmore Lane does not meet County Council Policy. Members are therefore asked to approve that other management solutions should be applied and the TRO proposals be withdrawn.

8.2 Funding has been made available for Fullers Farm Road so maintenance works will repair the surface and provide passing places. Sight lines will also be improved for all users by cutting back the vegetation.

8.3 Advisory speed notices will be placed on both byways to encourage responsible speeds.

8.4 The Surrey Hills Byway User Group has a campaign to encourage responsible use of the Byways through education. Signs have been placed at important junctions and key points along byways. The user groups and the Police are handing out leaflets. These signs and leaflets encourage the public to report unlawful use of the byways

9 REASONS FOR RECOMMENDATIONS

9.1 Officers do not have delegated powers on TROs or Petitions. Officers support the decision not to make TROs because they do not meet Surrey County Council Policy and it is good practice that other management solutions should be applied first.

10 WHAT HAPPENS NEXT

10.1 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 member of public who submitted the petition will also be informed.

10.2 Should Members decide to proceed with the TRO, a new Notice of Intention to make a Traffic Regulation Order with modifications will be published in a local newspaper and on site and all interested parties and user groups will be consulted.

10.3 After the advertising period has expired, Members will 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. At this stage it is likely that Members will be advised to arrange for a public inquiry to be held to consider the matter in the light of so many objections. The inquiry would be arranged by the Council. The Inquiry Inspector will make a report to the Council at the end of the inquiry following which Members will again be asked to consider whether to make the order in the light of the Inspector's recommendations.

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BACKGROUND PAPERS: Defra (2005) *'Making the best of byways'* UK
Local Authorities' Traffic Orders (Procedure) (England and
Wales) Regulations (Statutory Instrument 1996 No. 2489)

Version No. 1 Date: Time: Initials: HLG No of annexes: 2