



**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**

9 March 2010

KEY ISSUE

Members are asked to consider whether the making of Traffic Regulation Orders for Byways Open to All Traffic 538 and 539, West Horsley should be processed in light of the 1018 letters of objection and 53 letters of support received. In making this decision Members must take into account the objections and representation received following the publication of the County Council's intention and modified intention to make such orders. Letters of representations will be available before the committee meeting.

SUMMARY

The Local Committee for Guildford resolved at their meeting on 8 December 2010 to publish the Modified 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 TRO should be processed in light of the 1018 letters of objection and 53 letters of support received. Many of those that objected have requested a public inquiry to examine the facts impartially.

OFFICER RECOMMENDATIONS

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

The grounds for making a TRO, as outlined below, have not been met. Therefore other management options will be applied. These include repairing Silkmore Lane and actively monitoring both byways. Fullers Farm Road has already been repaired.

1 INTRODUCTION AND BACKGROUND

1.1 As Members will recall a petition from West Horsley residents was submitted to Guildford Local Committee at its meeting on the 10 March 2010. Officers presented a report (see annex 4) in response to the petition at Guildford Local Committee on 23 June 2010, recommending the following:

"The Committee 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, 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)."

1.2 The Local Committee resolved:

"That the grounds for making a Traffic Regulation Order are met, and a Notice of the Intention to make an Order should be published for Byways Open to All Traffic 538 and 539 (West Horsley) prohibiting all motor vehicles, between points A-B on drawings No3/1/72/H12 (Appendix 1) and 3/1/72/H13 (Appendix 2).

Reason for the decision:

To protect the Byway from unsuitable use and to avoid danger to persons or other traffic using the Byway."

1.3 A Notice of Intention was issued and as a result 262¹ objections were received. Many of these objections highlighted mistakes within the notice that would need to be modified. As a result officers presented a report (see annex 5) at Guildford Local Committee on 8 December 2010 with the following recommendation

"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)."

1.4 The Local Committee resolved :

"The grounds for making a Traffic Regulation Order are met, and a modified Notice of Intention to make an Order should be published for Byways Open to All Traffic 538 & 539 (West Horsley) prohibiting all motor vehicles, between points A-B & C-D on drawing No 3/1/72/H12 (Appendix

¹ The amount of objections previously counted has been amended to include a recount and withdrawn objections.

1) and between points A-B on drawing No 3/1/72/H13 (Appendix 2). Gates would be installed at the above points with a 1.5 metre gap adjacent to the gates.”

Reason for decision:

To prevent damage to the road or to any building on or near the road. To prevent 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.

- 1.5 In response to both the ‘Notice of Intention’ and ‘Modified Notice of Intention’ 1017 letters of objection have been received and 53 letters of support.
- 1.6 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).
- 1.7 Members are asked to consider the Council’s duty under Section 130 of the Highway Act 1980, which places a duty of the highway authority to assert and protect the use and enjoyment of highways by those entitled to use them as well as the Council’s duty to publicly maintain the byways.
- 1.8 Members are asked to consider the Council’s statutory duty to have regard to the advice of the Surrey Countryside Access Forum under section 94 (4) of The Countryside and Rights of Way Act 2000. Their advice (which is attached in full as annex 3) is that there is insufficient evidence to suggest that the vehicular use of the BOATs in question presents a significant danger to the public. Furthermore the County Council’s survey of BOATs would suggest that neither BOAT 538 nor BOAT 359 is in a particularly bad condition. Condition 2 byways may require some repair due to short sections of mud or limited rutting/erosion, whilst the majority of the lengths, of those byways are in good condition.
- 1.9 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 to 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)

1.10 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.

1.11 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.*

1.12 The Priority Statement and Targets for Public Rights of Way states the County Council will process TROs in accordance with its policy as the need arises. Processing TROs is number 8 of 9 in the Priority Statement.

1.13 In annually assessing their physical condition (in accordance with part 1 of the County Council's TRO policy) byways are grouped into one of the following categories

- 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

Fullers Farm Road (West Horsley Byway 539- D257)

- 2.1 Fullers Farm road was re classified as a Byway Open to All Traffic in 1994; it is also a D road and therefore carries public vehicular rights.
- 2.2 Fullers Farm Road has now been fully repaired and as such reclassified as condition 1, under the Annual Byway Assessment. The surface condition does not present a danger to any user.
- 2.3 There have not been any reported incidents on Fullers Farm Road involving motor vehicles and there is no evidence of illegal activity on the byway.

Silkmore Lane (West Horsley Byway 538- D250)

- 2.4 Silkmore Lane was re classified as a Byway Open to All Traffic in 1994 and is also a D road. Vehicular traffic has used the byway for many years. Annex 9 shows use of the byway dating back to 1989. The byway has been suitable for use for many years.
- 2.5 Silkmore Lane is still a condition 2 byway. A bid for funding from the Landscape and Access Team Maintenance budget has been made for around £6000+ to make repairs to the sections that require maintenance.
- 2.6 No incidents of anti social behaviour or illegal activity on the byway have been reported to the police.
- 2.7 Accidents have been reported on Silkmore Lane that involves some users slipping over on the slippery clay surface and in the rutts.

3 OPTIONS

- 3.1 Fullers Farm Road is now a condition 1 byway and as such does not meet County Council Policy for making a TRO. Officers recommend that Fullers Farm Road continue to be monitored as a part of the annual assessment of byways a management method be adopted in accordance with Defra's (2005) document 'Making the best of byways'.
- 3.2 Silkmore Lane remains a condition 2 byway and as such does not meet County Council Policy for making a TRO. Officers recommend that it be

repaired. Such repairs will be scheduled once the bid for funding from the Landscape and Access Team maintenance budget is successful. Once it is repaired it will be monitored as with Fullers Farm Road.

4 CONSULTATIONS

- 4.1 Objections were received from a wide variety of sources including Surrey Access Forum, British Horse Society, Surrey Byways User Group, South and Southwest Trail Riders Fellowship (TRF), Surrey TRF, Kent TRF, Surrey School Boys Trials Club, Auto Cycle Union, Range Rover Register, 4x4 users, equestrians, carriage drivers, dog walkers, local stables, rights of way 540 Landowners association and local people.
- 4.2 In total 1018 letters of objection were received including the 262 that were received in response to the first notice of intention. Some of those that initially objected also objected to the modified notice of intention. 14 of those objections came from local West Horsley residents. A large majority of the rest came from Guildford Borough residents and Surrey residents.
- 4.3 In total 53 letters of support were received from local residents, the Campaign to Protect Rural England, Horsley Preservation Society, Ramblers Society and the owner of most of Byway 539.
- 4.4 Many of the objections and representations were very comprehensive covering a range of arguments both for and against the use of Traffic Regulation Orders. **Please refer to the key arguments in both annex 6 & 7. Annex 8 includes letters of representations that include photographic evidence.**

5 FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

- 5.1 If the bid for funding is successful from the Landscape and Access Team Maintenance budget repairs will cost £6000+.
- 5.2 If a TRO is pursued advertising costs in the region of £500-700 will be met from the Countryside Access Budget. Barriers, traffic signs and installation costs, which would be in the region of £1500 per byway, would have to be met from the Landscape and Access Team Maintenance 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 considerably higher depending on the number of objectors/objections and the length of the inquiry.

6 EQUALITIES AND DIVERSITY IMPLICATIONS

- 6.1 The surface improvements on Fullers Farm Lane have improved 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. Proposed repairs to Silkmore Lane will go on the maintenance list subject to the availability of funding. When these have been completed accessibility will be improved for everyone.

7 CRIME AND DISORDER IMPLICATIONS

- 7.1 Flytipping has previously been a problem on Silkmore Lane; so the sections at either end that now require maintenance were not repaired in 2005 along with the rest of byway. The intention being to discourage flytippers.
- 7.2 There are no other crime and disorder implications.

8 CONCLUSION AND RECOMMENDATIONS

- 8.1 The request for TROs for both Fullers Farm Lane and Silkmore Lane does not meet County Council Policy. Members are therefore asked to approve the use of other management solutions and the withdrawal of the proposed TROs.
- 8.2 Fullers Farm Road has now been repaired and is safe for all users.
- 8.3 Silkmore Lane repairs will be scheduled once the bid for funding is successful and it has reached the top of the maintenance list.
- 8.4 Advisory speed notices will be placed on both byways to encourage responsible speeds.
- 8.5 Members of the Surrey Hills Byway User Group have been placing and replacing advisory signs on both byways as part of a campaign to encourage responsible use of the Byways through education. 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 have delegated powers to take where there are significant objections. Officers recommend not using TROs to address perceived defects because these cases do not meet Surrey County Council's policy nor has there been any evidence to show unsuitable use. It is also good practice that other management solutions should be given full consideration before making TROs.

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. These include repairing Silkmore Lane and actively monitoring both byways.

10.2 Should Members decide to proceed with a TRO for either or both byways substantiated grounds for closure referred to in paragraph 1.9 of this report must be put forward and minuted given the likelihood of further challenge. Members will also be asked to consider whether or not to include motorcycles in that restriction.

10.3 Should Members decide to proceed with the TRO on Silkmore Lane, an order will be made. Four gates will be placed at points A, B,C & D as shown on Drawing Numbers 3/1/72/H12 (see annex 1).

10.4 Should Members decide to proceed with the TRO on Fullers Farm Road, an order will be made. Two gates will be placed at points A and B as shown on Drawing Numbers 3/1/72/H13 (see annex 2).

10.5 Should Members call for a public inquiry in light of so many objections, the Council would arrange the inquiry. 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 inspectors 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: 9

Annex 1- Silkmore Lane Plan
Annex 2- Fullers Farm Plan
Annex 3- Countryside Access Forum
Annex 4- 23 June 2010 Report
Annex 5- 8 December 2010 Report
Annex 6- Table of objections
Annex 7- Table of supporting comments
Annex 8- Letters of representation
Annex 9- Photos