



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

**BYWAYS OPEN TO ALL TRAFFIC 538 (D250) WEST
HORSLEY
REQUEST TO RECONSIDER THE NEED
FOR A PUBLIC INQUIRY**

ROAD TRAFFIC REGULATION ACT 1984

7 DECEMBER 2011

KEY ISSUE

This report seeks approval to reconsider the need for a public inquiry in light of the repairs made to Byway Open to All Traffic (BOAT) 538 (West Horsley) (D Road 250) known as Silkmore Lane.

SUMMARY

On the 9 March 2011, Guildford Local Committee resolved to proceed with a Public Inquiry. Since 9 March 2011, Silkmore Lane has been fully repaired to a standard that can withstand vehicular use and is easily accessible by users such as equestrians and those on foot. The main concern linked to Silkmore Lane was that it was out of repair and specifically difficult to use for those on foot or horseback. Other issues surrounding irresponsible use is a matter for the Police and cannot be used in this case as there have been no reported incidents of anti social behaviour or illegal activity on the byway. Surrey County Council has no power as the Traffic Authority to make a Traffic Regulation Order where it considers it expedient for preventing irresponsible use.

OFFICER RECOMMENDATIONS

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

In light of the successful repairs to Byway Open to All Traffic 538 (West Horsley) there is no longer a need to proceed with a Public Inquiry.

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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 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 262 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 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) 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."

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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' 1018 letters of objection were received and 53 letters of support. This was reported to Guildford Local Committee on 9 March 2011 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.
Therefore other management options will be applied. These include repairing Silkmore Lane and actively monitoring both byways. Fullers Farm Road has already been repaired."*

- 1.6 The Local Committee resolved:

"A public inquiry should be held to determine if a Traffic Regulation Order should be made on Silkmore Lane."

Reason for decision:

"The repair work to Fullers Farm Road has improved the byway and it now no longer meets the policy criteria for a Traffic Regulation Order. A more detailed consideration of Silkmore Lane is required to establish if a Traffic Regulation Order should be made."

- 1.7 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).
- 1.8 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.
- 1.9 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

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- 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.

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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 Successful repairs have now been made to Silkmore Lane, which have levelled out and improved the surface condition of the byway. The byway is now more accessible to all users.

2.2 Due to the repairs the byway is now in Condition 1, which means that it is in good condition predominantly throughout the length of the byway.

2.3 No incidents of anti social behaviour or illegal activity on the byway have been reported to the police.

3 OPTIONS

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

4 CONSULTATIONS

4.1 The previous report taken to the March 2011 Committee attached to this report (Annex 1) includes a summary of the formal consultations (Annex 2 & 3) that took place.

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, and The Ramblers.

5 FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

5.1 There will be no costs implications should Members resolve a Public Inquiry is no longer required.

5.2 Should Members wish to proceed with the Public Inquiry. The cost of the inquiry is estimated to cost at least £20,000. Costs could be considerably

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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 Silkmore Lane have improved accessibility for a wide range of users.

7 CRIME AND DISORDER IMPLICATIONS

7.1 There are no crime and disorder implications related to the decision the committee makes.

8 CONCLUSION AND RECOMMENDATIONS

8.1 Silkmore Lane is now a Byway in good condition and as such is assessible by all users, including those on foot and horseback.

8.2 Officers therefore recommend not proceeding with a public inquiry, as the main issue of repair has been resolved.

9 REASONS FOR RECOMMENDATIONS

Officers do not have delegated powers to make decisions where there are significant objections. Officers have tried the alternative management option to repair the byway, which has been a success and has made the byway accessible to all. The condition of the byway will be closely monitored to make sure it does not deteriorate unnecessarily. The surface condition of the byway was the main concern of local residents and this has now been dealt with. Should the byway suffer from any nuisance behaviour, it should be reported to the police. As the byway is in good condition it does not meet Surrey County Council's policy to make a Traffic Regulation Order.

10 WHAT HAPPENS NEXT

10.1 If Members agree with the recommendation not to proceed with a public inquiry, no further action will be taken; except the byway will be closely monitored.

10.2 Should Members maintain their vote for a public inquiry in light of so many objections and the resolution of the main issue, the Council would arrange the inquiry. Members would be requested to give evidence. 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: 3

Annex 1- Report to March 2011 Committee
Annex 2- Table of objections
Annex 3- Table of supporting comments