



## **OFFICER REPORT TO LOCAL COMMITTEE (MOLE VALLEY)**

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

**9<sup>th</sup> DECEMBER 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 (BOAT) 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 protect the routes from further damage. A successful capital funding bid has made available £100,000, which is currently being used to repair both Beggars Lane and Drove Road. Guildford Local Committee agreed on the 30 September 2009 that Notice of the Intention to make an Order should be published for Beggars Lane. The prohibition would apply to all vehicles exceeding 1500mm in width. Exceptions will apply to landowners and managers requiring access to land that cannot otherwise be easily accessed. Lockable barriers with a 1500mm width gap beside them would be placed at either end to allow walkers, cyclists, motorcycles, horse riders and most horse drawn carriages.

#### **OFFICER RECOMMENDATIONS**

**The Local Committee (Mole Valley) 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 un 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 us 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 users and so get substantial use. However, the routes also suffer 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 to avoid danger to the public and 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 level of 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.

**Issues raised by Tim Smith (Rights of Way Officer- Four Wheel drive Club) at Mole Valley Committee on 23 September 2009.**

3.3 The Surrey Hills Byway User Group has initiated a campaign to encourage responsible use of the Byways through education. Signs will be placed at important junctions and key points along byways which will run inline with a leaflet which will be handed out by the user groups. These signs and leaflets should encourage the public to report unlawful use of the byways. Whilst this is a positive move that may reduce some of the negative impacts of vehicular use it is unlikely to prevent physical damage to this route. Advisory signs and leaflets

have been on BOATs in the area in recent years but have not proved effective in the longer term in reducing damage.

- 3.4 Tim Smith asked the County Council to consider the option of a permit scheme. Officers feel that it would not be effective in this instance because substantial resources from both the County Council and the Police would be needed to administer the system. The Council's policy as agreed by the Executive states a TRO can be made to prevent significant physical damage to a route. A permit scheme does not limit the number of users and without considerable police resources, limiting physical damage seems unlikely. It would also not be possible to distinguish between those permit holders that use the byway responsibly and those that do not. A Permit Scheme in Kent for a similar length had 500 applications for permits, which is what one would expect for one of Surrey's most popular routes if not more. This would result in large administrative costs to deal with the applications and additional costs to cover expenses such as specialised gates. Any deterioration of the physical condition of the route through possible extensive use by permit holders will need large investment to keep it safe for all users. It is unlikely that this level of continued funding could be found from the Rights of Way maintenance budget, in addition to the £100,000 already spent.
- 3.4 Tim Smith stated that resurfacing Byways and then placing a Traffic Regulation Order is not the practice of other authorities. Officers emphasise that nor is it the practice of Surrey County Council. Every Traffic Regulation Order is case specific and alternative management schemes are considered. In this specific case the Officers feel that it is important to prevent damage to these Byways and therefore preserve the character of them through permanent closure.

#### **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 & Capel Parish Councils, Guildford Borough Council, 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.
- 5.4 If Members choose to pursue a permit scheme administration costs would be met by permit applications, however the scheme would be very time consuming for staff. If Notice of Intention to make an Experimental TRO is published this will incur advertising costs of approximately £500-700. If the experimental TRO is

subsequently made further advertising costs in the region of £500-700. Both of which will be met both from the Countryside Legal Budget.

- 5.5 A permit scheme would require the provision of heavy-duty combination locks in the region of £700, to be met from the Countryside Maintenance Budget, as well as an additional £500 for the Road Traffic Signs.

## **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 have already reduced damage to adjoining land.

- 7.2 Surrey Police have no objection as long as suitable barriers can be installed to remove the need for enforcement, as they do not have available officers for this task.

## **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 Should members agree to publish a Notice of Intention to make an Experimental order for a permit scheme the same process as above will be necessary.
- 10.4 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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