



## **OFFICER REPORT TO LOCAL COMMITTEE (WAVERLEY)**

### **BYWAY OPEN TO ALL TRAFFIC 503 THURSLEY (D136): REQUEST TO CONSIDER A TRAFFIC REGULATION ORDER (ROAD TRAFFIC REGULATION ACT 1984)**

**16 September 2011**

#### **KEY ISSUE**

This report seeks approval to publish a Notice of Intention to make a Traffic Regulation Order (TRO) for Byway Open to All Traffic (BOAT) 503 (Thursley) (D Road 136) known as High Button.

#### **SUMMARY**

The BOAT has extensive surface and bank damage. The erosion caused by an irresponsible element of 4x4 users has resulted in deep ruts and severe degradation of the byway surface. BOAT 503 is 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." The subsoil is predominately soft greensand and closure to vehicles would prevent damage to the road and conserve the natural beauty of the area. Barriers with a 1500mm (4ft 11ins) width gap would be placed at points A and B (see ANNEX 1) to allow walkers, cyclists, horse riders, quads, most horse drawn carriages and motorcycle access.

## **OFFICER RECOMMENDATIONS**

### **The Local Committee (Waverley) is asked to agree that:**

The grounds for making a TRO as outlined are met, and a Notice of Intention to make an Order should be published for Byway Open to All Traffic 503 (Thursley) (D136) to prevent damage to the road, for preserving the character of the road in a case where it is especially suitable for use by persons on horseback or on foot and for conserving the natural beauty of the area, as shown on Drawing Number 3/1/20/H46 (Annex 1) and the results of the consultation reported back to a future meeting of the Committee for a decision.

### **1 INTRODUCTION AND BACKGROUND**

- 1.1 The Byway is situated north of Haslemere just east of the Devils Punch Bowl and Gibbets Hill in an Area of Outstanding Natural Beauty (AONB). The section to be closed will extend from a point 100m south of the junction of the Byway with Bridleways 96 and 159 Thursley near Roundles Cottage to its junction with Gibbet Road (Public Byway 502 Thursley) near Gibbet Hill. A large majority of the byway runs within Hindhead Common owned by the National Trust. Excessive erosion caused by 4x4s on the soft greensand surface has caused the byway to be severely degraded in sections. 4x4 vehicles have also churned up the steep banks and adjacent land.
- 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

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- 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 County Council as the Traffic Authority also has an additional power to make a Traffic Regulation Order as above, for special areas in the countryside. Byway 503 lies within the Surrey Hills Area of Outstanding National Beauty (AONB) and land that belongs to the National Trust, which is held by the Trust inalienably. This means a TRO can be made where the County Council considers it expedient:

For the purpose of conserving or enhancing the natural beauty of the area, or of affording better opportunities for the public to enjoy the amenities of the area.

1.5 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.

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 The physical condition of Byway 503 (Thursley) means it is in need of significant repair. Substantial sections of the byway are severely rutted or have deep gullies. There are also sections of both deep and foundrous mud, which qualifies it to be classed as a condition 3 byway, as described above. The policy as agreed by the Executive on 6 January 2009 states that a Traffic Regulation Order be used proactively on these condition 3 byways where it is considered necessary to restrict traffic, coupled with programmes of repair as resources permit.

2.2 The surface of BOAT 503 has been badly damaged and will cost a significant amount to improve it. The surface of the byway has been degraded significantly in the last few years by an element of 4x4 users that use it irresponsibly and in a harmful manner. Equestrian and motorbike use does not appear to have contributed to the level of erosion caused by 4x4s. The photos below show the degraded surface.



2.3 Repairs will be substantial, costing in the region of £40-60,000. These costs are mainly due to the erosion and loss of material to the byway surface as a result of intensive and irresponsible use. A permanent TRO would prevent further damage to the surface both now and when the first section of byway repairs, are carried out in the next 12 months. A permanent width restriction prohibiting 4x4s and wider vehicles will enable the repairs to be engineered to preserve the character of the road in a case where it is suitable for equestrians, cycles and motorcycles. Repairs done on well-used byways, which have not been closed to vehicles, show that the life expectancy of an unsealed surface is less than 10 years; bridleways typically have a life expectancy of more than 15 years.

2.4 Should a seasonal TRO be used ? Seasonal TROs have been successful in Surrey where the surface is prone to erosion during the wet winter months and where the surface condition is the predominate issue – typically these have been level clay routes, where the clay subsoil has a much reduced bearing capacity when hydrated. A seasonal TRO would not work on Byway 503 because of the amount of use, some of it entirely irresponsible, and the fact that the greensand is equally likely to wear whether dry or hydrated. If the byway were open during the summer months, the Police would have difficulties policing it successfully due to its relatively remote location. This is likely to mean that the byway could be damaged further, which the current Landscape and Access Team Maintenance budget would not be able to cover.

2.5 The majority of the irresponsible use on the byway has been from those driving off the byway onto the banks and into the adjacent land. Since the Temporary Traffic Regulation Order has been in place the barrier has been smashed down and removed by irresponsible 4x4s trying to get on the byway. Video clips seen by officers on websites such as “YouTube”, clearly showing 4x4s dangerously driving on the byway in an attempt to get up the steep banks as a challenge, have been forwarded on to the Police.

### **3 OPTIONS**

3.1 It is the officer's recommendation that a Notice of Intention to make a TRO prohibiting all vehicles over 1500mm (4ft 11ins) width be published, and the results of the consultation be reported to a future meeting of this committee for a decision. A width restriction of 1500mm (4ft 11ins) will effectively exclude all motor vehicles, except quad- and motorbikes, whilst permitting use by many horse-drawn carriages.

3.2 The alternative solution would be to do nothing. Without the TRO the condition of the route is likely to further deteriorate and would soon be unusable to anything other than a specially adapted 4x4 vehicle. When the byway is then repaired it would require much more imported material and have much greater cost, which the Landscape and Access Maintenance Budget local allocation will not be able to cover.

### **4 CONSULTATIONS**

4. Please see Annex 2 for consultation replies.

### **5 FINANCIAL AND VALUE FOR MONEY IMPLICATIONS**

5.1 If a Notice of Intention to make a Seasonal TRO is published this would incur an advertising cost of approximately £500-700 which would have to be met from the Countryside Access (County Hall) budget.

- 5.2 Repairs are scheduled, which will cost £26,000 from the capital budget allocated to the Landscape and Access Team. This is likely to cover the repair of around one half of the damaged section if repaired to equestrian standards, and around one-third if repaired to accommodate vehicles.
- 5.3 If a Seasonal TRO were subsequently made, further advertising costs in the region of £500-700 would have to be met from the Countryside Access (County Hall) budget.
- 5.4 Barriers, traffic signs and installation costs in the region of £2000 would be met from the Landscape and Access Team Maintenance budget. These barriers are currently in place as the byway has already been closed on a temporary basis. One barrier will need to be replaced as it has been vandalised.

## **6 EQUALITIES AND DIVERSITY IMPLICATIONS**

- 6.1 The TRO will prevent further damage to the surface and once repaired it will improve accessibility for all users.
- 6.2 Motorised vehicles and some horse drawn carriages over 1500mm (4ft 11ins) will be restricted.

## **7 CRIME AND DISORDER IMPLICATIONS**

- 7.1 Surrey Police have no objection to TROs where suitable barriers can be installed to aid enforcement, as they have no additional resources to police vehicle bans.

## **8 REASONS FOR RECOMMENDATIONS**

- 8.1 Officers do not have delegated powers to make or advertise TROs. Officers support the decision to make a TRO because it would meet Surrey County Council Policy and would protect the durability of the byway by preventing damage to the road and conserving the natural beauty of the area.

## **9 WHAT HAPPENS NEXT**

- 9.1 Should members decide to proceed with the TRO, a Notice of Intention to make a Traffic Regulation Order will be published in a local newspaper and on site and all interested parties and user groups will be consulted.
- 9.2 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.

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**BACKGROUND PAPERS:** None

**DIVISION:** Waverley Western Villages