

Consultation replies	Officer's comments
<p>Objector: Peter Woodstock</p> <p>The principal ground for objection is that the local committee is being asked to approve the TRO based on an officer's report that comprehensively fails to demonstrate that the permanent removal of ancient, inherited rights is justified. In my view, the officer's report is flawed as follows:</p> <p>It is factually correct that the BOAT is in the vicinity of an AONB. So are many other vehicular routes and the common right to navigate this byway, by use of mechanically propelled vehicles was established before the creation of AONB's. The common, ancient right of way should have primacy; It is factually correct but irrelevant that part of the byway runs within land managed by the National Trust. The National Trust has recently approved and supported the use of Frensham Little Pond for large-scale film set erection, with associated filming activity, including significant vehicular movement off the byway and over common land;</p> <p>1.1 The use of emotive language ("churned") to describe illegal attempts to scale the banks of the BOAT, discredits the officer and provides a good indication of the officer's bias;</p> <p>1.2 The Council's duty under Section 122 of the Road Traffic Regulation Act grants no right to comprehensively discriminate against all 4x4 drivers (specifically green lane enthusiasts) in response to reckless and illegal use of similar vehicles by others. Moreover, there is no duty to afford better provision for pedestrians than other users;</p> <p>1.3 This paragraph is a list of circumstances whereby the Council may take action. I will say that (a) 'danger' is not proven; (b) is not proven, the surface is unmade and the movement of material through rutting or other mechanisms does not constitute damage; (c) the proposed TRO seeks to remove the facility for passage, not enhance it; (d) the use of vehicles on this BOAT is not unsuitable giving regard to its existing character – the BOAT exists <u>because</u> of its use by vehicles over a sustained period; not in spite of it; the proposed TRO seeks to permanently wreck the character of the byway, rather than preserve it; (f) the application of a permanent TRO does not address this; (g) there is no evidence that air quality or any other aspect of environmental sustainability will be improved by the TRO;</p>	<p>The Byway was stated as running within the Surrey ANOB and through National Trust land because, for special areas in the countryside a TRO can be made where the County Council considers it expedient:-</p> <p>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.</p> <p>Churned refers to the physical condition of the byway.</p> <p>By considering all the options the Council is considering its 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).</p> <p>The Local Committee (Waverley) resolved 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 and the results of the consultation reported back to a future meeting</p>

<p>1.4 There is no evidence that the area's natural beauty will be enhanced or conserved by the TRO. The Surrey County Council has a poor record, in terms of taking action on air quality and is hardly well placed to cite it as a reason for imposing a TRO; similarly the National Trust are equally ill-suited to take the high ground on this issue;</p> <p>1.5 There is no evidence that the TRO is consistent with Council policy and in any case the Council is not bound by it – this is known because the Council so often fails to meet its policy aims;</p> <p>2.2 The officer's report asserts that deep rutting has been caused uniquely by an element of 4x4 drivers; whereas the rutting is just as likely to arise from agricultural vehicles and weathering affects: the ground to lower portion of axle clearance on a Land Rover Defender is just 9 ½ inches and this is the maximum rut depth possible.</p> <p>2.3 Because of the exemption provided for horses, motorcycles, and drawn carriages, it is not possible for the TRO to prevent further 'damage' to the surface;</p> <p>2.3 The officer's report does not provide details of the repairs cost estimate, it has no place in the report, as it is not supported (like so much of the report's content) by evidence;</p> <p>2.4 Since the officer's report was published, Surrey Police has invested in a number of off-road motorcycles, to better enable them to tackle illegal and anti-social behaviour on common land and rights of way;</p> <p>2.5 The officer claims that driving off the byway is "irresponsible". No, it is illegal and the offenders should be dealt with accordingly' there is no case for removing the ancient and</p>	<p>of the committee for a decision." Section (b) and (e) were used because the damage is created by 4x4s. The repairs required to withstand vehicular traffic and be sustainable would not preserve the character of the byway where it is especially suitable on horseback or on foot.</p> <p>The natural character of the byway has been significantly changed by a type of vehicular use which has not been sustainable on the surface. The surface condition is evidence itself that the natural beauty of the area has been substantially changed.</p> <p>The byway is in poor condition, sections of the byway still require significant repair and as such it is necessary to restrict traffic, coupled with programmes of repair as resources permit as stated in the policy.</p> <p>Agricultural vehicles do not use this byway for access because it is steep and narrow. The ruts have been created by an element of 4x4 users who have damaged the surface.</p> <p>Officers note that some damage can be attributed to those mentioned. However, the extent of their damage as opposed to that of 4x4s is substantially less.</p> <p>Paragraph 2.3 of the officer's report states that £40-60,000 would be required for repairs. A more detailed summary of repair costs has been provided within this report.</p> <p>Surrey Police off-road motorcycles unfortunately do not cover the area around Hindhead.</p> <p>Officers agree that it is illegal. A TRO does not change the legal status of a Byway.</p>
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<p>inherited rights of way to legitimate and responsible green lane users. Again the officer retorts to emotive language to describe “the smashing down” of a barrier that had been installed to enforce a seasonal TRO. Again, I will say that illegal activity by a minority should not be used as a means to impose prohibition on the wider community. See ‘Bus Drivers filmed breaking bridge barrier’ (Evening Standard Wednesday 23 November 2011). Should we have all buses banned from the streets? All across Surrey, vehicles (including Police and the Council’s contractors) routinely drive onto the footpaths causing danger, obstruction and damage. Should all affected roads be closed to traffic?</p> <p>2.5 what was the outcome of the police investigation – the YouTube films have been cited in the officer’s report, if they have a bearing on the proposed TRO, then we need to know the outcome of the subsequent investigation and or prosecution;</p> <p>3.1 indication here that the officer seeks to convert yet another byway into a bridle path and this is not consistent with the Council’s policy, lawful duty or any inferred right;</p> <p>3.2 The alternative solution is not to “do nothing”. Other authorities have had substantial success, in the management of byways and common land, by working with green lane and land access groups. It is significant that the officer’s report, so heavy in bias, extends to mislead the local committee in that the only options are a permanent TRO or nothing at all;</p> <p>5.3 these costs could be met by green lane/land access groups but it does require the Council to work with them;</p> <p>6.1 This is inferred but there is no evidence;</p> <p>7.1 The reference to Surrey Police suggests they support the prohibition – but this is not the case; instead Surrey Police should have acted sooner, to tackle the illegal use of vehicles off the byway; recognising this, they have now invested in the correct vehicles for law enforcement;</p> <p>8.1 what is the purpose of a durable byway that cannot be used as a byway?</p> <p>Again, the right of way is ancient and has been established without question. The Council should not seek to deny these inherited rights on the basis of this officer’s report that is</p>	<p>Officers have not had any updates from the police regarding the Youtube footage.</p> <p>A TRO does not change the legal status of a Byway.</p> <p>A seasonal TRO was considered in the report.</p> <p>Repairs amounting to £50-000+ would be required to repair the lane for vehicular traffic before a Seasonal TRO could be considered.</p> <p>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.</p>
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<p>includes many irrelevant facts and clear bias toward bridle path use.</p>	
<p>Objector: Four Wheel Drive Club</p> <p>We, as a club, object to the proposed TRO for the following reasons; The use of recreational motor vehicles on lanes with proven rights is a legitimate activity.</p> <p>We believe that the majority of damage has been caused by the large amount of water which runs off/down the hillside and erodes the byway.</p> <p>The lane has been closed for several months now and there does not appear to be any change in the condition of the surface.</p> <p>If the council is repairing a byway for one user, it should repair for all users.</p> <p>The vast majority of users of this and other byways do not deviate from the byway itself and we do not believe that the majority should lose access to yet another byway because of the minority.</p> <p>If steps are not taken to stop the water erosion then the condition of the byway will deteriorate whether or not there is a TRO of any sort.</p> <p>Rockey Lane - ROW No 92A and Boxalls Hill - ROW No 5 have been repaired and remain open to all vehicles. These are not showing any sign of wear since their repair. They are both on steep slopes and have much higher useage than byway 503 and therefore we cannot understand why this cannot be done to byway 503.</p> <p>We (4x4 users) have been driving this lane for many years and its condition has not changed significantly (documentary evidence available) – Indeed, any change to the byway can be attributed to water erosion rather than 4x4 use.</p>	<p>Officers agree that water run off is a substantial problem on the byway. However, to repair the byway to allow a drainage ditch to take the water away will reduce the usable width.</p> <p>Surrey County Council policy states that where a TRO is made due to the byway being in poor condition, repairs will be carried out as resources permit.</p> <p>Rocky Lane is beginning to show signs of wear after heavy use in only 2 years. Further repairs are now required to the steepest part of the lane. Stumping here has however solved problems with unlawful off-byway use. Scaplings or other small diameter aggregates are not recommended where vehicles climb slopes. The depth of erosion also requires significant amounts of imported materials - grading out deep erosion is not recommended as it disturbs stable sub-soils and results in more erosion.</p> <p>The byway has been in a poor condition for a number of years, but has substantially deteriorated in the last few. A TRO may have been a better solution earlier on to reduce the amount of erosion</p>

<p>This lane is not driveable with a standard 4x4 which means the actual useage by 4x4's is very small – which is confirmed from the Council's own monitoring.</p> <p>The biggest source of illegal useage reported is by legitimate 4x4 users. This is a remote area and by closing it to these legitimate users you will effectively be losing your best ally when it comes to monitoring illegal activity – not just illegal 4x4 users, but ALL illegal users.</p> <p>A number of possible measures could be used INSTEAD OF A TRO; Shallow ditches should be dug alongside the byway, to divert water away from the surface.</p> <p>Informing users of the importance of “looking after” the lanes, maybe by using magazines/forums.</p> <p>We, as a club, could assist in other measures, including raising funds to erect information panels at each end of the lane or working parties to clear vegetation.</p> <p>Instigate a one-way system for this, and maybe other lanes. For example, travelling down only would reduce the amount of wear to the surface. This could be compulsory or voluntary, which we would promote to our members</p> <p>Adopt a permit system. This is used successfully elsewhere and our club officials would be happy to administer this to alleviate the workload on SurreyCC</p> <p>Installation of “stumps” along the sides of the byway where the deviations have been occurring. This appears to have been successful on other byways.</p> <p>Cut back the vegetation along the length of the byway would enable sun and wind to help in drying out the surface.</p> <p>A seasonal TRO if absolutely necessary. We are more than happy to request that our members follow a voluntary restriction during wet weather. This has worked well on lanes in</p>	<p>and keep repair costs down.</p> <p>Unfortunately due to the width of the byway in places, these types of ditches would collapse with 4x4 wheels trying to squeeze by.</p> <p>Surrey County Council really appreciate voluntary work, however the level of repairs required on this byway would have to be done by contractors for safety reasons.</p> <p>A one way system may be useful on other byways, however for sections on this byway where vehicles are travelling in just one direction it would be too narrow for a pedestrian and a vehicle to safely pass.</p> <p>Officers agree that for the sections where illegal activity has occurred stumping would be a good idea.</p> <p>Voluntary restraint in wet weather could be a good solution. However, due to the criminal damage committed on the Surrey County Council barriers, it is unlikely that that element of 4x4 drivers would take notice of voluntary restraint.</p>
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<p>Hampshire.</p> <p>Scalping could be used to reinforce the sandy bed of the lane and reduce water erosion.</p> <p>Final note: We are concerned that the recent TROs are forcing legitimate byway users onto fewer and fewer byways, causing extra wear and tear on them and therefore larger future costs. Please consider all of our points before closing yet another.</p>	
<p>Objector: Ted Morrey</p> <p>I object to the application to prevent 4x4 motorized access to BOAT 503 Thursley because it's poor state results from lack of maintenance not over-use.</p> <p>Admirals Road, Chalkpit Lane, have been repaired to a good standard and are showing no signs of damage since their repair. This repair was subsidized by Esso. What efforts has Surrey made for subsidy to restore this byway instead of closing it?</p> <p>A mere 3.5% of all Surrey's rights of way are available for recreational motor vehicle use. Use of recreational motor vehicles on green lanes with proven rights is a legitimate activity. The Authority recognises that motor vehicle users also enjoy the 'amenity' of the area alongside pedestrians, horse riders and cyclists. This is an important resource for Green Lane Drivers in Surrey and the proposed closure follows the recent closure of other popular unclassified roads in Surrey. Access to the beauty of Surrey to motorized recreation users will be further reduced.</p>	<p>Esso subsidised the repairs, to improve access in part for their employees to enjoy. In this case the Landowners the National Trust would not be able to afford the level of contributions required for the repair.</p>
<p>Objector: Surrey Byways User Group</p> <p>We object to the proposed TRO, please find our response below.</p> <p>We believe the following factors are the main cause of the damage to the Byway:</p> <ul style="list-style-type: none"> • The large volume of rain water which runs off the hillside and erodes the Byway. • The heavily overgrown holly and other over hanging branches which stop the Byway drying out. 	<p>The condition of Byway 503 has deteriorated notably since initial proposals were discussed with the Surrey Byways User Group. The main cause of erosion is vehicles climbing the hill over wet fragile sandstone.</p> <p>Cutting back vegetation would only partly solve the problem, as there are spring lines in the hillside, which would not dry out.</p>

<p>A number of measures should be put in place instead of a TRO, these include:</p> <ul style="list-style-type: none">• Installing a series of large grips along the whole length of the Byway, to divert water from the Byway and onto the adjacent land. <p>This was discussed by Surrey County Council and SBUG in various SBUG meetings back in 2002 and 2003. It was agreed that the cause of erosion was due to excessive water and that a series of grips should help resolve the problem.</p> <p>Furthermore, there is documentary evidence that the condition has not changed dramatically in the last 6 years and that if measures are not take to resolve the water run-off after repairs then the condition will deteriorate whether or not a TRO of any sort is in place.</p> <ul style="list-style-type: none">• Cut back the holly and over hanging branches along the length of the Byway to enable the sun and wind to dry out the surface of the Byway. <p>In certain places, the holly, trees and other vegetation have encroached and reduced the width of the Byway. This should also be cut back to the official boundary line of the Byway.</p> <p>The vast majority of users do not deviate from the line of the Byway and the law abiding users should not be penalized by the small percentage of reckless users. To stop this behavior stumps should be installed to stop people deviating from the line of the Byway. This approach has proved successful in other Byways across Surrey.</p> <p>The closure of this Byway will increase pressure and extra wear on the remaining Byways and encourage further illegal activity in the area as people have fewer places to legally drive.</p> <p>There are other Byways (Rockey Lane, ROW No 92A and Boxalls Hill, ROW No 5), which traverse hillsides, which have recently been repaired and remain open to all vehicles. These are not showing any sign of wear since their repair and should be used as the model for this Byway.</p> <p>In these financially difficult times have you</p>	<p>Officers agree that grips will be included in any repairs.</p>
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<p>been able to secure any funding from the tunnel project or through sponsorship to carry out the restoration work.</p> <p>SBUG members would be pleased to volunteer their time to carry out work to help restore the Byway.</p> <p>Steve Sharp Surrey Byways User Group</p>	
<p>Objector: Phil Powell</p> <p>I object to the proposed TRO for the following reasons;</p> <p>I believe the following factors to be the MAIN cause of the damages to the above byway;</p> <p>1/ The large amount of water which runs off/down the hillside and erodes the byway.</p> <p>2/ The heavily overgrown Holly and other vegetation which stops the byway surface from drying out.</p> <p>A number of possible measures could be used INSTEAD OF A TRO; Shallow ditches should be dug alongside the byway, to divert water away from the surface. I believe this has previously been discussed in 2002 and 2003 and was agreed that ditches (grips) could help to resolve the problem. Cut back the vegetation along the length of the byway, indeed, back to the boundary line of the byway. This would enable sun and wind to help in drying out the surface.</p> <p>The huge majority of users of this and other byways do not deviate from the byway itself and I do not believe that the majority should lose access to yet another byway because of the very few. <i>It is possible that “stumps” could be installed along the sides of the byway where the deviations have been occurring.</i> This appears to have been successful on other byways.</p> <p>There are other byways (such as Rockey Lane & Boxalls Hill) which run along hillsides, which have been repaired and do not seem to be showing signs of “wear”. <i>These should be used as a model for this byway.</i></p> <p>The closure of this byway will also cause increased wear and tear on other byways in the area and could encourage more illegal activity as people have fewer places to drive legally.</p>	<p>Points commented on above</p>