



**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 MARCH 2012

KEY ISSUE

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

SUMMARY

The Local Committee (Waverley) resolved at its meeting on 16 September 2011 to publish a Notice of Intention to make a Traffic Regulation Order on BOAT No. 503 (Thursley). The notice was published in the Farnham Herald on Friday 28 October 2011. Five objections were received within the statutory period. Members are asked to consider whether the legal and policy criteria for making the Order still apply. Alternatively, Members can decide to hold a Public Inquiry to decide the matter. There is no legal requirement to hold a Public Inquiry.

OFFICER RECOMMENDATIONS

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

The grounds for making a TRO as outlined are met, and a Order should be made 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**).

1 INTRODUCTION AND BACKGROUND

1.1 The Byway is situated north of Haslemere just east of the Devil's 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.

1.2 A report was taken to the September 2011 meeting of the Local Committee (Waverley) where it was 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 (Annex 1) and the results of the consultation reported back to a future meeting of the committee for a decision."

Reason for decision:

"A TRO 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."

1.3 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).

1.4 Members agreed to advertise a notice of intention for the following reasons:

b) for preventing damage to the road or to any building on or near the road, 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.

The above are powers that the County Council has as the Traffic Authority 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 to do so.

1.5 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 (ANOB) 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 and is this instance section (a) applies:

(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 the route are in poor condition e.g. deep/founderous mud and/or significant rutting/erosion.

2 ANALYSIS

2.1 High Button 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.

ITEM 7

- 2.2 The main problems that High Button, one of Surrey worst byways, suffers from, are: drainage problems, eroded slopes, illegal activity and water erosion.
- 2.3 There are water erosion problems to surrounding bridleways on the same geology but they are nowhere near as extreme as this is because the erosion is exacerbated by vehicle activity. The main cause of erosion is 4x4s climbing the hill over wet fragile sandstone. The byway is always relatively wet as there are spring lines in the hillside.
- 2.4 Since the temporary closure has been put in place the metal gates have been damaged three times and a element of 4x4 vehicles have been making a concerted effort to bypass them.
- 2.5 Repairs at the cost of £9950 have been made to a section that starts just south of Roundles Cottage north to the access gate to the back of Boundless Farm. This particular section is wide enough for the track and a large drainage ditch to carry away the substantial amounts of water run off.
- 2.6 However, for a 430 metre section from Roundles Cottage south, the byway has eroded a couple metres deep in places and huge quantities of material would be required to bring it back up to a usable level for 4x4s. £26,000 has been estimated at current material costs for a basic resurface. However, as part of the basic resurface a ditch would be required to run along the edge of the track within the gullied sections to reduce future water erosion.
- 2.7 The widths of the gullied sections are not wide enough to fit in a ditch and allow enough room for a vehicle and a person to safely pass. To prevent damage to the surface a ditch is essential to lead the water run off and to stop any new surface erosion. When the width is narrow, a 4x4 will be liable to slip off the surface into the ditch causing damage and blocking the ditch. A blocked ditch will result in more water erosion of the repaired surface. Officers do not have resources to monitor this on a regular basis.
- 2.8 If the route were to be repaired to a standard suitable for vehicular traffic and for other traffic to safely pass and be sustainable, this would cost in excess of £50,000. The cost of material could easily increase those costs. Repairing the byway to a standard that could withstand vehicular use whilst being safe for all other users would take up over half the Countryside Access Capital budget. At the moment the level of 4x4s trying to illegally enter the byway would suggest that any repairs would not be prevented from damage.
- 2.9 Users have suggested that additional options should be considered such as voluntary restraint or a permit scheme. In this instance, there would be no way to police such schemes because the byway is relatively remote and the current budget can not sustain any additional administration costs.

Substantial repairs are required in the first place to bring the byways surface up to a level that can be both useable and sustainable.

3 OPTIONS

- 3.1 Members are asked to consider whether the legal and policy criteria for making the Order still apply. Members must then decide whether the Order should be made. 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 Another 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.
- 3.3 Members may choose to apply alternative management options, such as voluntary restraint or permit schemes. These options would not be viable until the byway was repaired to a standard that could sustainably withstand 4x4 traffic. In addition both officers and the Police do not have any additional resources to monitor or administer such schemes. So future damage may not be prevented.
- 3.4 Alternatively, Members can decide to hold a Public Inquiry to decide the matter. There is no legal requirement to hold a Public Inquiry.

4 CONSULTATIONS

- 4.1 Three individuals objected and two groups, the Four Wheel Drive Club and the Surrey Byways User Group. Waverley Borough Council welcomes the proposal and has no objection. Please see **Annex 2** for their full consultation replies and officer comments.

5 FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

- 5.1 Repairs will be made within this financial year at an estimated cost of a minimum of £26,000 from the Capital budget allocated to the Landscape and Access Team.
- 5.2 If a TRO were made further, advertising costs in the region of £500-700 would have to be met from the Landscape and Access budget.
- 5.3 One set of barriers and signs are required and will cost in the region of £1500-1800, which would have to be met from the Landscape and Access Team Maintenance budget. The rest of the existing barriers and signs are compatible with the permanent closure and do not require upgrading. Those barriers have already been installed to enforce the temporary closure.

5.4 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 TRO will prevent further damage to the surface and once repaired it will improve accessibility for all users except any motorised vehicle or horse drawn carriages over 1500mm (4ft 11ins) who 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 CONCLUSION AND RECOMMENDATIONS

8.1 To safeguard the BOAT from further deterioration Members are asked to approve that an Order be advertised in the following terms:

‘THIS Order may be cited as “The Surrey County Council Byways Open to All Traffic No. 503 (Thursley) (D 136) Traffic Regulation Order 2011” and shall come into operation on -- 2012.

- (i) In this Order unless the context otherwise requires-
 - “enactment” means any enactment whether public general or local and includes any order byelaw rule regulation scheme or other instrument having effect by virtue of an enactment
 - “motor cycle” has the same meaning or is to interpreted in accordance with the provisions specified for that expression in column 2 of the Table contained in the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078)
 - “motor vehicle “ has the same meaning as in Section 136 of the Act
- (ii) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended applied consolidated re-enacted by or as having effect by virtue of any subsequent enactment

8.2 NO person shall use, cause or permit any motor vehicle or any horse drawn vehicle over 1500mm (4ft 11ins) width to enter or proceed along BOAT 503 (Thursley) 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.

9 REASONS FOR RECOMMENDATIONS

9.1 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.

10 WHAT HAPPENS NEXT

10.1 Should Members decide to proceed with the TRO, a Traffic Regulation Order will be made. It will also be published in a local newspaper and on site and all interested parties and user groups will be consulted.

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BACKGROUND PAPERS:	None