

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

**BYWAY OPEN TO ALL TRAFFIC
521 (ASH) (D68)
REQUEST TO CONSIDER A TRAFFIC
REGULATION ORDER
ROAD TRAFFIC REGULATION ACT 1984**

28 NOVEMBER 2012

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) 521 (Ash) (D Road 68) known as Drovers Way.

SUMMARY

Members may recall approving the making of a Seasonal Traffic Regulation Order in 2009, which closed BOAT 521 from 30 September to 1 May each year. However, during the summer months the BOAT has suffered from vehicular damage, which has created ruts and wallows in the clay surface. The BOAT 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." An all year round TRO would protect the surface from further damage. Barriers with a 1.52m (5 feet) width gap will be retained at points A and C (see **Annexe 1**) to allow walkers, cyclists, horse riders, quads and motorbikes access.

OFFICER RECOMMENDATIONS

The Local Committee (Guildford) 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 521 (Ash) (D68) to prevent damage to the surface and to facilitate the passage of all other class of traffic on the byway, as shown on Drawing Number 3/1/54/H17 (**Annexe 1**).

1 INTRODUCTION AND BACKGROUND

- 1.1 The section of byway is situated in Ash Green and runs between its northern continuation along Drovers Way in the north to Ash Green Lane East (BOAT 518) in the south. The byway runs through a SNCI (Site of Nature Conservation Importance).
- 1.2 The BOAT 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."
- 1.3 Members may recall approving the making of a Seasonal Traffic Regulation Order in 2009, which closed the route from 30 September to 1 May each year. However, during the summer months the BOAT has suffered from vehicular damage, which has created ruts and wallows in the clay surface. This has made the surface difficult for walkers, cyclists and horse riders to use and this year the byway was closed early during August and September to prevent further damage. It was assessed as condition 3 prior to the making of the Seasonal TRO. Following improvements to the surface and ditching works, it was assessed as condition 1. Since the route was reopened to 4 wheel drive vehicles the surface has deteriorated to condition 3. An all year round TRO would protect the surface from further damage. Barriers with a 1.52m (5 feet) width gap will be retained at points A and C (see **Annexe 1**) to allow walkers, cyclists, horse riders, quads and motorbikes access.
- 1.4 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).
- 1.5 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
 - 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)

1.6 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.

1.7 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.

1.8 Level of physical condition in the annual byway assessment:

(a) Good- predominantly good throughout length of route.

(b) In need of some repair- e.g. short section of mud or limited rutting/erosion.

(c) 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 section of BOAT 521 in question has suffered from excessive erosion and the clay sub soil simply cannot handle the axle load of even light 4x4 vehicles in these conditions. This has resulted in the BOAT becoming difficult to use for other user groups such as those on foot, horseback or on bicycle.

2.2 The making of a TRO will be a proactive response in line with policy as agreed by the Executive on 6 January 2009.

2.3 Repairs are scheduled to take place soon at a cost of £1,100. These will involve levelling and filling in the ruts and wallows to improve the surface.

A TRO will help prevent damage to the surface after repairs are made and facilitate the passage of all other class of traffic on the byway.

3 OPTIONS

- 3.1 It is the Officer's recommendation that a Notice of Intention to make a TRO prohibiting all vehicles over 1.52m (5 foot) width be published, and the results of the consultation be reported to a future meeting of this committee for decision. A width restriction of 1.52m (5 feet) will effectively exclude all motor vehicles, except quad- and motorbikes, whilst permitting use by many horse drawn carriages.
- 3.2 The exclusion of most motor vehicles will ensure that the clay surface does not deteriorate.
- 3.3 The alternative solution would be to do nothing. With just a seasonal TRO the condition of the route is likely to further deteriorate, eventually to the point where it is 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 Countryside Access Maintenance Budget local allocation will not be able to cover.

4 CONSULTATIONS

- 4.1 No objections were received from the Surrey Police, the Four Wheel Drive Club and the Trail Riders Fellowship. The Four Wheel Drive representative agrees that the solution is the correct one. He states that the cost of bringing it back to proper condition is not justified and has no objection on the grounds of safety. The Trail Rider Fellowship, while preferring to see all byways kept open for all users, supports the proposal as the byway surface is not suitable for heavy vehicles.
- 4.2 Letters of support were received from Ash Parish Council, the Ramblers and five local residents. Guildford Borough Council had no comments to make.
- 4.3 An objection was received from the Open Spaces Society. They do not support the proposal to close the "BOAT permanently to motorised vehicles on the grounds that the highway authority has a duty under section 41 of the Highways Act 1980 and case law to maintain the highway as dedicated to the public so as to be reasonably passable to ordinary traffic."
- 4.4 Officers will be repairing the surface of the byway at a cost of £1,100; funding to repair BOATs is limited and done on a priority basis. The natural clay surface is not suitable for withstanding four-wheeled motorised use.

5 FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

- 5.1 If a Notice of Intention to make a TRO is published this will incur an advertising cost of approximately £500-700, which would have to be met from the Countryside Access Team budget.
- 5.2 Repairs are scheduled at a cost of £1,100 from the Maintenance budget allocated to the Countryside Access Team.
- 5.3 If a TRO were subsequently made further advertising costs in the region of £500-700 would have to be met from the Countryside Access Team budget.
- 5.4 Traffic signs and installation costs in the region of £500 would have to be met from the Countryside Access Team Maintenance budget.

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 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 Byway Open to All Traffic No. 521 (Ash) (D 68) Traffic Regulation Order 2013" and shall come into operation on (date to be completed).

- (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

NO person shall use, cause or permit any motor vehicle with four or more wheels and any horse drawn vehicle over 1.52m (5 ft) width to enter or proceed along BOAT 521 (Ash) (D68) from a point (grid ref 9042:5008) 71 metres south of Drovers Way in a southerly direction for 316 metres to the junction with Ash Green Lane East.

9 REASONS FOR RECOMMENDATIONS

- 9.1 Officers do not have delegated powers to advertise TROs. Officers support the decision to make TROs because it would meet Surrey County Council Policy and would protect the byway from further damage.

10 WHAT HAPPENS NEXT

- 10.1 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.
- 10.2 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:	File 3/1/54 Proposed TRO - BOAT 521 Ash

Version No. 1 Date: 08/11/12 Initials: DP No of annexes: 1

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