

**TO:** Planning and Regulatory Committee

**DATE:** 10 July 2019

**BY:** Countryside Access Team Manager  
**DISTRICT(S)** Guildford Borough Council and  
 Mole Valley District Council

**ELECTORAL DIVISION(S):**  
 Horsleys  
 - Julie Iles

Dorking Hills  
 - Hazel Watson

**PURPOSE:** For Decision

**GRID REF:** 511436 149706

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**TITLE:** PROPOSED PUBLIC BYWAY OPEN TO ALL TRAFFIC (BOAT) NO.  
 137 (EFFINGHAM) AND (WOTTON) TRAFFIC REGULATION  
 ORDER (TRO)

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**This report seeks approval to publish a Notice of Intention to make a Traffic Regulation Order (“TRO”) for Byway Open To All Traffic No. 137 (Effingham) and (Wotton) also known as Drove Road, prohibiting vehicles exceeding 7ft in width.**

## **SUMMARY**

Members resolved to make an order at the Surrey County Council Local Committee (Guildford) on 23 June 2010 for a previous version of this report. Unfortunately no order was made within the statutory timescale, and therefore this second report is now presented.

BOAT 137 (Effingham) and (Wotton), also known as Drove Road, had barriers installed by Surrey County Council at either side of Critten Lane and at Ranmore Common Road approximately 15 years ago to discourage and prevent flytipping. There is a gap of 7 feet (2133mm) to the side of the barrier to allow all classes of users less than that width through.

The barriers were installed as an experiment to prevent and discourage flytipping. Since their installation there have been no complaints from users and fly tipping along the byway has reduced significantly.

Surrey County Council would like to promote the making of a Traffic Regulation Order under section 1(f) of the Road Traffic Regulation Act 1984 in order to preserve or improve the amenity of the area through which the road runs. The prohibition would apply to all vehicles exceeding 7 feet in width, such as tipper trucks. Exceptions will apply to landowners and managers requiring access to land that cannot otherwise be easily accessed.

The Council’s policy for making TROs states “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”. In this case damage was being caused by flytipping.

The Planning and Regulatory Committee is asked to approve the publication of a Notice of Intention to make a Traffic Regulation Order. It would be usual practise to take rights of way cases to the Local Area Committee, however, because in this instance it would

involve two committees the proposal is brought to this committee in accordance with the Surrey Code of Best Practice in Rights of Way Procedures.

## **OFFICER RECOMMENDATIONS:**

### **The Planning & Regulatory Committee is asked:**

- (i) If it considers that the grounds for making a TRO as outlined in the report are met, to approve the publication of a Notice of Intention to make a Traffic Regulation Order prohibiting vehicles exceeding 7ft in width, with a barrier and a gap at points A (grid ref. 511436 149706), B (grid ref. 511453 149709) and C (grid ref. 512013 149984) as shown on Drawing. No. 3/1/58/H18.

## **1. INTRODUCTION AND BACKGROUND**

- 1.1 BOAT 137 (Effingham) and (Wotton) extends from its junction with Ranmore Common Road in a south westerly direction to its junction with Critten Lane. It recommences on the western side on Critten Lane in a westerly direction to the parish boundary.
- 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 1 to 11 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
- 1.4 The Council's policy as agreed by the Executive on 6 January 2009 states:
  - a. Traffic Regulation Orders can be made by the County Council under the Road Traffic Regulation Act 1984. The County Council considers making Traffic Regulation Orders only as a last resort in line with Government advice set out in "Making the Best of Byways".
  - b. The County Council has a countywide assessment of all Byways Open to All Traffic in Surrey. This considers their current condition, spending on maintenance repair work within the last 10 years and evidence of vehicle related

unlawful activity on or adjacent to the byway. The assessment indicates the principal problem is erosion caused by vehicles, which then presents difficulties and dangers to non-motor users.

c. The County Council's policy is:

- that Traffic Regulation Orders be used pro-actively 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.
- 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.

- 1.5 The entry points to BOAT 137 off Critten Lane and Ranmore Common Road were subjected to flytipping for many years. As a result of the continuous flytipping barriers were installed as an experiment to discourage the dumping and have since proved very successful as shown by the photos in Annex 2.
- 1.6 The County Council as the Traffic Authority has the power to make a Traffic Regulation Order where it considers it expedient for preserving or improving the amenities of the area through which the road runs. Flytipping is an environmental polluter and a hazard to domestic animals and wildlife. It also costs public money to remove. The gates have preserved the lane from the illegal deposit of waste and improved what became an eyesore and a hazard for those who used the byway.
- 1.7 The Council's policy for making such orders states 'That where a countywide assessment indicates a Byway Open to All Traffic is in reasonable condition a Traffic Regulation Order can only be made to prevent significant damage to the route.' This TRO would therefore meet policy as it will protect the route from the damage flytipping can cause.

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## **2. ANALYSIS**

- 2.1 The BOAT entrances at either side of Critten Lane and at Ranmore Common Road have been key points over the years for flytipping due to its discreet location and ease of access to those vehicles that have the capacity to dump large quantities of waste. The barriers installed on an experimental basis have much reduced this problem.

## **3. CONSULTATIONS**

3.1 The following have been consulted:

- Land Access & Recreation Association (LARA)
- Surrey Byways User Group & Trail Riders Fellowship
- British Driving Society
- Range Rover Register
- GLASS

- Byways and Bridleways Trust
- Surrey Fire and Rescue Service
- Surrey Police
- Chief Medical Officer
- Freight Transport Association
- Road Haulage Association
- All Wheel Drive Club
- British Horse Society (BHS)
- The Open Spaces Society (OSS)
- Access Unlimited
- Cycling UK
- Effingham Parish Council
- Wotton Parish Council
- Guildford Borough Council
- The Ramblers
- Guildford Access Group
- Hazel Watson, County Councillor
- Julie Iles, County Councillor
- Mole Valley District Council
- Network Rail
- Statutory Utilities
- Adjacent Landowners

3.2 Surrey County Council has received feedback from the BHS, OSS, Effingham Parish Council, LARA and the Ramblers, all of whom have no objections to the proposal.

3.3 Surrey County Council received correspondence from the land agent of the Wotton Estate stating that they would like the gap to be a much narrower 4 feet 11 inches (1500mm) to prevent any further damage to the surface of the BOAT and to also prevent damage from illegal access to the adjacent land.

3.4 The Officer's view on the correspondence from the Wotton Estate is that the surface of the BOAT is not in a bad condition and so would not meet the Surrey County Council policy to make a TRO restricting users over 4 feet 11 inches (1500mm).

3.5 The Wotton Estate and Countryside Access Team have both carried out works at the Ranmore Common Road entrance to BOAT 137 in the last few months to reduce illegal access by vehicles to the adjacent land.

#### **4. OPTIONS**

4.1 It is the Officer's recommendation that a Notice of Intention to make a Traffic Regulation Order be made. This Order would prohibit vehicles over 7 feet (2133mm) wide from accessing the BOAT and discourage flytipping.

4.2 If the Committee decide not to agree with the recommendation then the order will not be made.

**5. FINANCIAL AND VALUE FOR MONEY IMPLICATIONS:**

- 5.1 If a Notice of Intention to make a TRO is published and an order made this would incur administrative and advertising costs of approximately £3,000. This will be met from the Countryside Access budget.
- 5.2 The barrier and gap infrastructure are already in place on site and so no money will need to be spent implementing the TRO.

**6. EQUALITIES AND DIVERSITY IMPLICATIONS:**

- 6.1 The barriers have greatly reduced incidents of flytipping which has made access for all users easier and safer.
- 6.2 The 7 foot gap allows accessibility for all users less than 7 feet in width.
- 6.2 Motorised vehicles over 7 feet (2133mm) wide will be restricted.

**7. OTHER IMPLICATIONS:**

<b>Area assessed:</b>	<b>Direct Implications:</b>
Crime and Disorder	Illegal flytipping will be greatly reduced compared with before the barriers were installed.
Sustainability (including Climate Change and Carbon Emissions)	No significant implications arising from this report
Corporate Parenting/Looked After Children	No significant implications arising from this report
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from this report
Public Health	Reduction of flytipping

**8. CONCLUSION:**

- 8.1 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 prevent danger to users.

**9. WHAT HAPPENS NEXT:**

- 9.1 Power for the Council to make TROs is contained in section 1, and subsequent sections, of the Road Traffic Regulation Act 1984. Should Members decide to proceed with the Traffic Regulation Order; a Notice of Intention to make an Order will be published in a local newspaper, on site and on the County Council’s website. All interested parties and user groups will be notified in accordance with the Local Authorities’ Traffic Orders (Procedure) (England and Wales) Regulations 1996.
- 9.2 The Officer with delegated authority in consultation with the Divisional Member and the Planning and Regulatory Chairman/ Vice Chairman may decide whether to

accede to any unresolved objections and decide whether the TRO may be made, with due regard to the provisions of the 1996 Regulations.

9.3 Where substantial (and relevant) objections are received or significant modifications proposed, the Officer with delegated authority in consultation with the Divisional Member and the Planning and Regulatory Chairman/ Vice Chairman, may refer the decision on whether the TRO should be made back to the Local Committee. Alternatively, they could decide that a Public Inquiry be held by an independent inspector to decide the matter. The costs of this would depend on the complexity of the matter.

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**Consulted:** Land Access & Recreation Association (LARA), Surrey Byways User Group & Trail Riders Fellowship, British Driving Society, Range Rover Register, GLASS, Byways and Bridleways Trust, Surrey Fire and Rescue Service, Surrey Police, Chief Medical Officer, Freight Transport Association, Road Haulage Association, All Wheel Drive Club, British Horse Society (BHS), The Open Spaces Society (OSS), Access Unlimited, Cycling UK, Effingham Parish Council, Wotton Parish Council, Guildford Borough Council, The Ramblers, Guildford Access Group, Hazel Watson - County Councillor, Julie Iles - County Councillor - Mole Valley District Council, Network Rail, Statutory Utilities, Adjacent Landowners, Legal Services

**Annexes:**

**Annex 1** – Drawing No. 3/1/58/H18

**Annex 2** – Photos showing flytipping before the barriers were erected.

**Sources/background papers:**

File for BOAT 137 (Effingham) – available to view at Countryside Access offices, Merrow Depot, Guildford by appointment.

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