

Annex D

BYWAY OPEN TO ALL TRAFFIC (BOAT) No. 526 (CAPEL & WOTTON) (D287) WOLVENS LANE

1. A public consultation was carried out between 2 March and 19 April 2021. Notices were placed on-site and all statutory and other interested parties were written to, including user groups, Mole Valley District Council, Capel and Wotton Parish Councils, landowners and adjoining landowners, the Police, the Surrey Countryside Access Forum and Surrey Hills Byways Group. Legal Services has approved this report.
2. 491 responses were received to the consultation. The varied and qualitative nature of them means that whilst it is difficult to report exact numbers it is possible to infer general trends of support for each option. Some care must be taken in the interpretation. Some respondents expressed their preferences in general terms, or by supporting one or more options. Sometimes an option was expressed as a supporting preference and sometimes as an objecting preference, sometimes with caveats which are also noted below. It may be possible to make some assumptions when looking at the numbers. For example, those supporting option 1, most likely would object to option 4 even if this was not explicitly stated. Estimated percentages are drawn from those responses that clearly drew attention to support or objection- many fell outside this rigid categorisation.
3. Approximately 63% of responses were in support of some sort of restriction to motorised vehicles, whilst approximately 35% objected to any type of restriction. Option 1 gained the most support (45%) but also the most objections (32%). There was only a small amount of explicit support for an experimental order and permit scheme (9%).

Other relevant statistics include:

21 suggested imposing a speed limit.

2 said they used the Byway in motor vehicles because they needed disabled access.

2 suggested the route needed proper signage.

6 suggested imposing a Public Space Protection Order (PSPO).

79 mentioned danger/safety concerns, of those 13 mentioned near misses.

1 suggested a weight or width limit might be applied.

10 noted that access was required for carriage drivers.

140 respondents are motorcyclists.

12 respondents had used it in a 4x4 or similar vehicle.

4. Many responses were not entirely clear what option they were supporting
5. The following points are a sample of points raised by respondents:
 - a. Vehicles (including carriages) endangered or is incompatible with the other groups of users.
 - b. The current restrictions should be made permanent.
 - c. Options 1-2 might stymie business activities.
 - d. Closure of Wolvens Lane would reduce or prevent vehicles used in off-roading from being abandoned or burnt out.

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- e. There should be a weight limit on use.
- f. More motorbikes seem to use it now that it has been resurfaced and they travel more quickly as do cyclists.
- g. It should be returned to an ordinary bridleway.
- h. It should be kept closed to 4x4 only.
- i. The value of the investment on its improvement would be protected if limits are imposed as to its use.
- j. Those on two wheels cause significantly less damage.
- k. How would a permit system work and be policed? People would simply ignore it and locks, keys and codes would simply be copied or passed on.
- l. Driving at speed infringes upon the peace and tranquillity of the area.
- m. The recreational use of the countryside results in loss of amenity and challenges whether the Council was taking its stewardship of the AONB seriously.
- n. It should be possible to maintain access to those who need it whilst restricting recreational use.
- o. Recently it has been a treat to see Wolvens Lane as it is as should be - quiet and without traffic.
- p. Larger motorised mobility vehicles must be able to get through.
- q. It would be wrong to close this appreciated byway to all vehicles because of the actions of a minority.
- r. As far as I'm aware there haven't been any accident involving vehicles.
- s. A permanent TRO will not stop the reckless minority, such as teenagers and young adults on illegal motocross bikes.
- t. A permit system could work but would need regular police presence and enforcement.
- u. All groups can co-exist.
- v. Motorcycles are narrow and can easily pass other users.
- w. Green laning is an important form of exercise for some who can't walk any distance.
- x. Motorcycles are fairly benign in terms of damage unless stuck in previous water damage.
- y. A speed limit would be a sensible restriction.
- z. Several responsible and organised groups are campaigning to promote the safe and legal use of motorcycles on green roads.

- aa. Covid restrictions have closed many private off-road practice areas. Once lockdown has been removed their should be a reduction in both walkers and illegal riders.
- bb. There are now very few places where we can ride legally.
- cc. Surrey has over 2000 miles of footpaths and bridleways but only 76 miles of BOAT. Closing these will destroy a piece of history.
- dd. I do not believe the minimal motorbike traffic has an impact on air quality.
- ee. Legal motorcyclists are being hounded and blamed for the irresponsible behaviour of the few illegal riders.
- ff. As a walker and cyclist only, I have found no problems with off-road motorcyclists, who are without fail courteous.
- gg. Restrictions would run counter to allowing as many citizens as possible from appreciating the countryside.
- hh. The lane is wide enough to accommodate everybody.
- ii. Closing this lane would only increase the use/load on others in the area.
- jj. Laws already exist to prevent illegal or nuisance use.
- kk. Motorcycles cause less damage than horse because there point load contact patch is bigger than a horses hoof.
- ll. I have experienced 2-wheel permit schemes elsewhere and both have failed.
- mm. Legal trail riders have a permit already called road tax.
- nn. There should be appropriate signage/information at the trail head.
- oo. The Police should deal with irresponsible users as they do on ordinary roads.

Responses were received from various key stakeholders, user groups and statutory consultees as outlined below.

- Surrey Highways
- Surrey Police
- Surrey Safety Engineering Team
- Mole Valley District Council
- Capel Parish Council
- Wotton Parish Council
- Shere Parish Council
- Westcott Village Association
- Surrey Hills Area of Outstanding Natural Beauty Planning Advisor
- Wotton Estate
- Forestry England
- The Ramblers
- The British Horse Society
- Cycling UK

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- The British Driving Society
 - Trail Riders Fellowship (TRF)
 - The Surrey Countryside Access Forum (SCAF)
 - The Surrey Countryside Access Forum (SCAF)
 - Green Lanes Environmental Action Movement (GLEAM)
 - Green Lane Association (GLASS)
 - Dan Brown Horseman
6. Surrey Highways - The legal position on restricting the use all motor vehicles and horse drawn vehicles over 1.5m in width on a D-Class Road/Byway is heavily weighted towards only installing such restrictions where there is a strong safety reason for doing so, rather than for maintenance reasons. Therefore Surrey Highways fully supports the comments provided by Matt Smith of the road safety team regarding the reasons for the installation of this restriction.
 7. Removal of the current structures would lead to deterioration of the recently repaired road surface, which could create safety concerns for walkers, cyclists, equestrian and powered 2-wheeled users.
 8. Funding is not available for mitigation measures to provide passing places and associated signing for safe use by motor and horse drawn vehicles with a width exceeding 1.5 metres (4 feet 11 inches).
 9. Sign only measures would be ineffective at preventing the use of this D-Class road by motor and horse drawn vehicles with a width exceeding 1.5 metres (4 feet 11 inches).
 10. Leaving the current structures in place would be the most effective measurement if no one requires vehicular access. Surrey Highways has used locked gates and bollards with a wide enough gap at the side in order to try to maintain vehicular access for farm vehicles. However, these measures are quickly vandalised resulting in motor and horse drawn vehicles over 1.5m (4 feet 11 inches) maintaining access in spite of the existing signs and TRO being in place.
 11. Surrey Highways fully supports the proposal to restrict access to this byway (D287 Wolvens Lane) in order to prevent damage to the recently repaired surface. The option to leave concrete blocks or some other obstruction to the north of the property, marked with reflective material, with appropriate signs, whilst maintaining a sufficient gap to enable all users except motor and horse drawn vehicles over 1.5m (4 feet 11 inches) to continue to use this byway (D287 Wolvens Lane) is the most effective measure.
 12. Police – Chris Cannon, Road Safety & Traffic Management Team, Surrey and Sussex Police has responded taking into consideration the legal restraints and the local policing concerns. His preferred option is:
 - 1) Leave the concrete blocks or some other obstruction at the north end but ensure that they are clearly marked and separated so that there is sufficient gap for a horse to pass between, but not wide enough for a car.
 - 2) Implement a No vehicles except for access TRO and related signing along the full length.
 - 3) At the southern end, install a locked gate or something similar, so that access for motor vehicles can be restricted to the property holder, but with an access point for pedestrians, cyclists and horse riders.
 13. He states that road safety is the most pressing consideration here and having potential conflicts with our most vulnerable road users, is obviously to be avoided. It is also for

the local authority to implement a scheme that is not going to be over reliant on enforcement, that can be anticipated from the outset. It is difficult to envisage any obstruction that provides safe access for horses but restricts access for motorcycles.

14. He says his preferred option (as set out in 4.4 above), would maintain access to the residential property, but physically restrict access to other motor vehicles and in so doing, reduces the road safety risk. This would prevent/ deter casual access by a motor vehicle and consequently anyone then found on the BOAT in a motor vehicle will have had to have intentionally overcome the obstructions, more easily providing guilty knowledge which will assist with a conviction.
15. Mole Valley Safer Neighbourhood Police Team provided anonymised police reports of all activities reported to them since 2017. 54 reports in total were allocated to Wolvens Lane since January 2017. Most of these related to vehicle nuisance and damage, other road related offences or general suspicious activities. There do not appear to have been any reports of actual accident or injury. No reports of any kind were received after February 2021.
16. Safety Engineering Team Leader, Surrey County Council (Matt Smith)- has visited the site and carried out a safety audit. He has commented as follows:
 - BOAT 526 along Wolvens Lane is approximately 4km long and is generally on a downhill gradient from south to north.
 - The resurfacing which has taken place for much of the length of Wolvens Lane has improved the surface on which all users of BOAT 526 will benefit, compared to the previous surface.
 - The new surface is likely to result in an increase in speeds of all motorised traffic and cyclists (especially those cyclists travelling northbound in a downhill direction).
 - There are very few locations where opposing vehicular traffic is able to pass as the width of Wolvens Lane is restricted to one lane for the vast majority of its length.
 - Passing and overtaking manoeuvres for cyclists and motorcyclists can be performed. However, quad bike users and four-wheeled vehicles are either likely to be required to reverse extensive distances or enter the adjacent tree-lined verges (if the available verge width allows entry).
 - There are locations with severely restricted forward visibility along Wolvens Lane due to vertical and especially horizontal carriageway alignments.
 - Vehicular drivers / riders approaching the sections with restricted visibility may place other users (pedestrians, cyclists, equestrians as well as other vehicular users) at risk of conflict. This is of concern if vehicular traffic approach speeds are inappropriate.
 - Non-motorised users of Wolvens Lane proceeding in the opposing direction to vehicular traffic as well as users proceeding in the same direction as vehicular traffic are at risk of conflict if visibility sightlines are restricted.
 - The speed differential between pedestrians and vehicular traffic may place pedestrians at increased risk of vulnerability, especially if sightlines are restricted (i.e. moderate speeds of vehicular traffic may appear unacceptably fast to pedestrians).

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Opening Wolvens Lane BOAT creates potential safety concerns for users of the route. Suggested options for the re-opening of the BOAT are shown below:

Options:

- 1) Remove concrete blocks and permit vehicular traffic within Wolvens Lane without further mitigation.
NB. This may result in concern of conflicts due to the potential speed differential between permitted users of Wolvens Lane, as well as issues due to restricted sightlines and lack of passing places.
 - 2) Remove concrete blocks and permit vehicular traffic within Wolvens Lane with mitigation measures, such as creation of passing places and appropriate signing on the approaches to sections where sightline restrictions are present.
 - 3) Remove concrete blocks and provide No Motor Vehicles (except for access) signing restrictions along the full length of Wolvens Lane.
NB. This is likely to create an expectation of enforcement to be undertaken by Surrey Police, so consultation would be required. Plus there is an expectation that such signing may be ignored by existing and regular users of Wolvens Lane who use the length on quad bikes / motorcycles / four-wheeled vehicles.
 - 4) Leave the concrete blocks or some other obstruction to the north of the property, but ensure that they are clearly marked and separated so that there is sufficient gap for a horse to pass between, but not wide enough for a car and retain existing prohibited traffic signing.
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17. Mole Valley District Council- Community Safety and Enforcement Team in response to the suggestion that they could promote a Public Space Protection Order (PSPO) had concerns that as a Council they do not have any resources for enforcement and would be interested to know the Police's views on enforcement. They are also concerned that a PSPO might open the Council up to further requests for PSPOs on non-Council owned land and create expectations amongst residents that would not be achievable. They had concerns that this might not be the correct mechanism for restricting activities on public rights of way. Adria Kinloch was keen to hear what the Police and SH Byways User Group views were.
 18. Closure of the BOAT 526 to motorised vehicles would also help reduce, even if not completely prevent, vehicles used in off-roading from being abandoned and often burnt out. MVDC has removed 2 such vehicles from Wolvens Lane in the last 2 years at a cost of £445.
 19. Capel Parish Council - In response to the consultation, the Parish Council has stated it strongly supports option 1, namely the promotion of a permanent TRO on the above BOAT to restrict all motorised vehicles with 2 or more wheels and all horse drawn carriages exceeding a width of 1500mm (4'11") from using the BOAT. The Parish Council has had the benefit of advice from Stephen Whale, Counsel, of Landmark Chambers.
 20. Prior to the recent works and temporary closure the surface of the BOAT, its boundary banks and neighbouring land had suffered significant misuse from motorised vehicles including motorbikes. But this misuse was not the only issue. Motorised vehicular use caused danger to pedestrians and equestrians. It damaged the BOAT. Motorised vehicular use is unsuitable having regard to the existing character of the road and adjoining land, which is a beautiful part of the Surrey Hills AONB. It had significant adverse impacts upon the amenities of the area, generating significant noise and light pollution as well as being contrary to the objective of improving air quality. Horse

drawn carriages exceeding a width of 1500mm give rise to several of these same issues.

21. The temporary closure to motorised vehicles for the recent resurfacing works has been enormously positive for local residents, and for the surface of the BOAT and the boundary banks. It has precluded the misuse referred to above over several months, as well as preventing the other adverse impacts described.
22. Officers are right to be concerned that a re-opening of the BOAT to motorised vehicles would lead to damage to the surface and boundary banks, undoing the recent resurfacing work, and endanger other users. This would inevitably re-occur. Use by horse drawn carriages exceeding a width of 1500mm would exacerbate these problems. Re-opening would also give rise to a return to all the other adverse impacts described above.
23. The County Council is entitled in the circumstances of this case to rely upon any or all of grounds (a)-(g) in section 1 of the Road Traffic Regulation Act 1984 (“the 1984 Act”) to justify the promotion of a TRO of the kind supported. It would be expedient to make such an order having regard to the past issues and the likely future issues following any re-opening. The County Council is not constrained by its policy for making TROs, which is narrowly drawn and which does not encompass all of the section 1 statutory grounds for making a TRO.
24. It is customary for TROs to have exemptions, such as for landowner access or for emergency vehicles, and the County Council will no doubt consider the feasibility of including such exemptions in any proposed order. Groups such as the Trail Riders Fellowship sometimes seek to oppose TROs on procedural grounds, including by reference to section 122 of the 1984 Act. It is perfectly plain that this section does not preclude the making of a TRO, but the County Council will need to ensure that it carries out the section 122 balancing exercise: see Trail Riders Fellowship v Hampshire CC [2020] PTSR 194 at [40] for a helpful summary of the approach to be adopted. Incidentally, the first instance decision in the High Court in that case confirms that the County Council would not be obliged to operate a permit scheme entitling permit-holders to continue to use the BOAT.
25. An independent report authored by Kieran Foster and dated 30 September 2020 was commissioned by Capel Parish Council. In it he outlined the history, designation and recent problems affecting both Wolvens Lane and Coldharbour Lane (BOAT 527). He provided both photographic and video evidence alongside written analysis of user conflict. Various options were discussed, including both TROs and PSPOs.
26. In his conclusion and analysis of options he found that the most effective way of managing problem behaviours would be through a combination of tactics involving:
 - a. A proportionate and targeted legal order to deal with illegal and/or abusive use of the byways in question and adjoining land, whilst also retaining legal use for responsible users. Enforcement of such a legal order would require support from the police.
 - b. Depending on the format of the restriction imposed the use of locking metal barriers that controlled access to the route and prevented illegal use could offer significant benefits in preventing unauthorised users and deterring illegal access.
27. The recommendations set out at the end of the report are as follows:

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- i. Capel Parish Council liaise with Mole Valley District Council to impose a PSPO on by 526 (and 527) and the surrounding accessible land to prohibit unauthorised motor vehicle access
- ii. Restrictions should be consulted carefully with responsible motorised access groups.
- iii. A suggested format is:
 - a) Restricting motorised use to member of recognized organisations that promote responsible use (via use of key or code)
 - b) Restricting motorised use in winter
 - c) Prohibiting all motorised use at night
 - d) Prohibiting permitted users from using winches or anchors to extract vehicles.
 - e) Alongside the prohibition of all motorised access to identified publicly accessible land on either side of the byway at all times (the extent to be set out on a map).
- iv. Justifications include the negative impact of irresponsible use and damage, and the severe deterioration in the condition of the route in winter months and the quality of life of local people
- v. An order of this format would be a practical and effective way of preventing problem use that avoids the need for a complete ban on use by motor vehicles and is therefore least interventionist and most proportionate.
- vi. Any PSPO should not restrict any primary source of access for residents or their staff, residents or employees.
- vii. It should include the installation of barriers or locking gates at appropriate locations, but these should not prevent access for residents.
- viii. A scheme should be set up in partnership with the Parish Council(s), AONB and users groups to allow permitted users to pass using either keys or codes.
- ix. Support should be sought from Surrey Police and the Surrey Police and Crime Commissioner.
- x. Enforcement would be through spot checks and penalties or prosecution by the police or Council enforcement officers. The burden would be reduced since anyone without permit would be in contravention of the PSPO.
- xi. Once consultation on the scope and type of restrictions has been agreed a proposed PSPO can be drafted and passed to the District Council (the author was willing to assist with this).
- xii. The District should carry out the formal stages of statutory consultation before moving to any formal adoption and publication of the order.

- xiii. The District should consider the order on the basis of its merits, the evidence supplied and how it affected the people of the locality, in accordance with legislation.
28. Wotton PC – Agreed that their preference was option 3 but as follows: To promote an experimental TRO, which would ban all motorised vehicles, except those who had been issued with a permit to use the BOAT. Numbers of permits would be restricted. Horse drawn carriages would also be restricted as in Option (1). We would assume the permits would be issued in relation to landownership, land management and maintenance issues on and along the lane. This could include representatives/ agents of Wotton Estate, EDG Matthews, Forestry Commission, Surrey County Council and other landowners adjoining Wolvens Lane.
29. Clive Smith, Surrey Hills AONB Planning Adviser – has responded saying that strong support is given from an AONB aspect to Option 1 which is to promote a permanent TRO on the above route to restrict all motorised vehicles with 2 or more wheels and all horse drawn carriages exceeding a width of 1500mm from using the BOAT. Option 2 would be insufficient for reasons explained later. Option 3 would be difficult to manage, enforce and would be open to abuse. Option 4 would seriously damage the wider public interest in seeking to enjoy this much valued route, again for reasons explained below.
30. If, or when the BOAT is re-opened to motorised vehicles, some irresponsible motorised vehicle drivers will continue to damage the surface and boundary banks. But the harm caused to the public interest would go beyond that. Section 85 of the Countryside and Rights of Way Act 2000 requires public bodies, including the County Council, to have regard in its decision making to the purpose of conserving and enhancing the natural beauty of an AONB. It reads: "In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty."
31. Consequently, when considering the future use of this important public right of way the County Council should not only consider it from a highway aspect but also the implications a decision would have on the Surrey Hills AONB. Natural beauty is not just about the look of a landscape but includes such matters as its tranquillity, sense of remoteness and landscape features.
32. The Surrey Hills AONB Management Plan 2020-2025, which the County Council and constituent District and Borough Councils have formally adopted, is at pains to conserve and enhance the character of the Surrey Hills AONB and promote its benefits for the health and wellbeing of society. Therefore, the use of this route for the wider public beyond those wanting to take motorised vehicles and horse drawn carriages, needs to be given great weight in any County Council decision of its future.
33. Wolvens Lane is a valued area for the public to escape the pressures of modern life, particularly for those living in urban areas, for their health, including mental health, and wellbeing. These benefits have become increasingly recognised as being important. Health authorities are beginning to work together with other public bodies, including the County Council, to promote measures for the public to get out and enjoy the countryside.

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34. Wolvens Lane forms part of the recently formed Leith Hill Greenway, a multiuser route starting from Denbies at Dorking. It is a route where users seek to keep away from cars. The use of this route by motorised vehicles can often seriously impinge upon the enjoyment of a greater proportion of the public wishing to walk, cycle, run or ride on horses along this otherwise attractive route. The potential conflict between these users and motorised vehicles can pose a danger, or perceived danger. The noise and speed of some of these vehicles spoil the tranquillity, sense of remoteness and general beauty of this route which the public come hoping to enjoy. Many of the public would likely be discouraged from using the route if motorised vehicles were to be present.
35. Further, motorised vehicles can damage the surface of the route. The Surrey Hills AONB Director has observed that the new surface has bedded in well and he witnessed many cyclists, walkers and horse riders enjoying it recently. He was disturbed by 3 motorcycles the noise and character of which he found intrusive.
36. These all seem to be weightier considerations in determining the future use of this route than the ability of a few in motorised vehicles to use this route. Horse drawn carriages wider than 1500mm, though less imposing and damaging than motorised vehicles, tend to damage the surface of the route for the enjoyment of other users and so also should be precluded.
37. Westcott Village Association – Tim Way, Chairman of Westcott Village Association has provided a representation on behalf of Westcott which is an unparished ward. In addition, James Leaver a member of the Committee has been leading on their collaboration with Wotton Parish Council and Capel Parish Council (for Coldharbour), Wotton Estate and National Trust. They found through this process that their respective communities and organisations share very similar views.
38. The Village Association has been copied into over 30 responses to the consultation from members of the Westcott community and beyond and has picked up on recurring themes. Following what we understand was an investment in excess of £100,000 for the resurfacing works, we believe that Surrey County Council's temporary closure of Wolvens Lane to motorised 4WD vehicles was a very wise way to protect this investment while it established the longer-term plan.
39. Over the last few months, with the improved surface, the temporary closure to motorised 4WD and the opening of the Leith Hill Greenway, Wolvens Lane has once again, become a safe and attractive amenity for walkers, cyclists and horse riders. At times, particularly at weekends, the lane has become really quite busy but in a far more pleasant way. The environment is now generally much quieter as these users are compatible with each other and the protection of the Surrey Hills AONB.
40. We have noted that the smooth surface does, however, enable users to move faster, particularly pedal cyclists, and it is necessary for everyone to stay alert and to be considerate to one another. Scrambler and tourer bikes have also continued to use the route during the temporary closure in quite significant numbers. Whilst many riders are generally considerate, their bikes are still very noisy and the new surface enables greater speed which is incompatible with the change that has been brought about. This is particularly concerning where a single-track D class road has a speed limit of 60 miles per hour.
41. The old rutted and muddy Wolvens Lane used to draw off-road enthusiasts on 2 and 4 wheels, motorised and unmotorised. Consultation responses from members of the Westcott community confirm past instances where there were near misses with dogs and children when walking the lane due to inconsiderate or adrenalin fuelled driving on

the route or straying off it onto the banks/ adjoining land. The vehicle debris which has been collected by James Leaver and family alongside the route highlights just how careless and damaging some of this activity used to be.

42. We are now in a new world with the resurfaced lane which has been warmly received. Some of those same off-road enthusiasts (2 wheel motorised only at the moment) are now finding the repaired lane "boring" and there have been many reports in consultation responses of motor bikes leaving the lane to perform jumps on and off the banks and straying onto adjoining Forestry Commission and Wotton Estate land. The risks for other users, revving of engines, environmental and physical damage this causes to the Lane itself and banks is unacceptable. When coupled with engine noise and helmets and their focus on thrill seeking, the spatial awareness of the rider is compromised and introduces safety risks for other users, their children and dogs. As the consultation letters state, challenging these behaviours has occasionally been met with a hostile or intimidating response.
43. The behaviours by this minority place a disproportionate drain on resources of the Police, Councils, private landowners, the Forestry Commission and the National Trust who waste time pursuing the reporting of antisocial behaviour/ crime and have to effect repairs to stumping, fencing etc. It should also be noted that it is virtually impossible to report a crime or antisocial behaviour in real time on Wolvens Lane because significant parts of it have no mobile phone signal which is an added challenge to put a stop to repeat offenders. We have also seen in some of the responses you will have received, that even the responsible 4WD and motorbike riders seem to be incapable of educating or controlling the errant behaviours of less considerate users in their peer group.
44. We note that all but one response from our community directs Surrey County Council to pursue **Option 1 and restrict all motorised vehicles**. Within your four options there is not an option which would restrict all motorised vehicles but enable the continuation of horse drawn carriages over 4'11" in width. We think this is a shame and would like to see this. We believe this is compatible with the overall objectives, would not cause damage to the surface, and would enable the continuation of use by a recreational horse and carriage business based in Westcott. It provides economic benefit and low impact pub visits and excursions for visitors to our beautiful area.
45. In summary, WVA's stated preference for Option 1 (accommodating horse drawn carriages if possible) is based on the following principles: -
 1. To protect the Council's significant financial investment in the resurfacing work
 2. To preserve the safety and quiet enjoyment of the Lane for compatible users
 3. To preserve the AONB and the sensitive environment the lane passes through
 4. To contain the financial and management burden for the local taxpayer (police and councils), landowners and other stakeholders

Stuart Boreham representing the Green Lane Association (GLASS) would like to work with the County Council to introduce physical measures to prevent damage to the BOAT and its banks from motorised users. GLASS offer working parties to make repairs, give out leaflets to users to encourage good behaviour, would work in partnership with the Council providing support against irresponsible behaviour.

46. Also, GLASS would help with educating users with the installation of appropriate signing. GLASS has provided bespoke signs successfully in Hampshire asking vehicular drivers not to use the BOAT under certain weather conditions. He has sent an example of a case in Wiltshire where the County Council, in conjunction with the

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landowner and GLASS, had made improvements to a BOAT. This included installing posts and wire with old telegraph posts buried underneath at the sides to stop vehicles going off the track. Stone axle twistors had also been installed to prevent fly tipping and to slow vehicles down.

47. Permit holders in Kent have to sign up to a Code of Conduct and show vehicle documents including car insurance, tax and driving licences. He suggested that if Surrey was going to administer a Permit Scheme that maybe permits could be restricted to Surrey residents only or within say a 30-mile radius to reduce numbers. Any gate locking code needs to be changed regularly to prevent misuse. Mr Boreham has also cited examples of a voluntary one-way system in Wales, although acknowledged the safety implications if it was ignored. He also mentioned that in other areas a lot of BOATs have seasonal TROs.
48. Shere Parish Council - The council at their meeting on 7th April 2021 agreed that they would be in favour of Option 1 - To promote a permanent TRO to restrict all motorised vehicles with 2 or more wheels and all horse drawn carriages exceeding a width of 1500mm (4'11") from using the BOAT.
49. Wotton Estate - Edward Cheevers, Senior Surveyor for Batcheller Monkhouse has responded as the managing agent for the Wotton Estate. He states that Wotton Estate has been significantly affected partly by the mistreatment of the byway, most notably by rogue 4x4 users, due to it owning a significant stretch of the byway and adjoining land. The Estate would be in favour of supporting Option 3 and a system whereby permits are given to those which have a necessary use of the byway. We do not see that the cause of the significant problems which have occurred along the length of the byway in recent years have been caused by horse drawn carriages. Hence this group may object unless sufficient permits are offered to these users, which at present the Estate would support as it does not seem to be them who stray from the byway and cause damage.
50. The most important factor which will need to be managed is that the permit scheme is properly rolled out and that there is sufficient traceability on those users given access. Alongside this, it will be more important than ever to stop those rogue users from gaining access by using force. As we see so often, closure of one area either causes more intent on breaking through and resulting in even more harm or moving to another area altogether which may not even have been targeted before and thus spreading the problem. The Estate would still require access at all times and so this will need to be factored into any barriers/gates or otherwise.
51. Forestry England - Joan Clark, District Land Agent, SE Forest District, has responded saying that as a neighbouring landowner of the BOAT in question, they welcomed Surrey County Council's recent efforts to significantly repair Wolvens Lane. They fully support the ambition to implement a permanent solution to preventing damage and increasing public safety both on the BOAT itself and adjoining land that is inevitably impacted by motorised vehicles from the byway. Previous measures taken by them to confine the motor vehicle use to the track have failed to resolve the issue and have been a drain on their limited resources. Having considered the options put forward, they fully support and endorse Surrey County Council to progress and recommend Option 1 – "to promote a permanent TRO to restrict all motorised vehicles with 2 or more wheels and all horse drawn carriages exceeding a width of 1500mm (4'11") from using the BOAT".
52. As a landowner they feel Option 1 is the most robust, and safest means by which to ensure we can continue to provide safe public access to the nation's forests. When we

consider the wide range of user groups that are known to make use of this route, it is clear that Option 1 continues to promote access to the majority of users including walkers, cyclists, horse riders and carriage drivers. They recognise that the 4x4 user group that have traditionally used this BOAT will be affected by this proposal but on balance the impact is marginal compared to the higher proportion of other users and their current and future safety, which remains their upmost concern.

53. Forestry England feel that the combined effect of the road having an unrestricted national speed limit, narrow sections with limited visibility and the historic evidence of misuse and environmental damage, particularly on the surrounding ancient woodland, provides a strong evidence base for this proposed TRO and resulting restriction. They recognise that there will be inevitable challenges in the practical implementation of any TRO and would welcome the opportunity to be actively involved in the design and specification of the resulting solution that arises from any final option proposed e.g. gates/barriers, siting of these etc. This is particularly important given the local nuances in the layout of the lane, turning areas and our existing access arrangements into Forestry England landholding.
54. The Ramblers (Dave Cavanagh) - are in favour of Option 1.
55. The British Horse Society: (Penny Tyson-Davies) - Supports option 3, noting that emergency vehicles of various sorts, local residents and larger mobility vehicles will need to have access either by key/code or gap and permit. It is unlikely anything will stop noisy motorbikes or electric bikes, but they should be properly insured and obey rules of speed and quietness. There could be notices informing them of this. Mountain bikes some cause more damage and disturbance than motorised vehicles. Barriers to prevent fly tipping were favoured. Once the experiment was finished, she believed people would be happy with the result and it could be made fully legal especially as this area has been so badly abused. Since the repairs those 4x4 people who like to go off-roading may no longer be interested.
56. Cycling UK – Bob Eberhard has stated he supports Option 1. All the criteria (a)-(g) identified by the Council for making a TRO apply to Wolvens Lane. In addition, the Council must have spent a sizeable proportion of its limited path maintenance budget on the repair and resurfacing of Wolvens Lane, which should not have to be repeated because of possible further damage because of unrestricted access by cars & motor bikes.
57. The British Driving Society (Gail Brownrigg) preferred option 3 initially as a trial TRO period on motorised vehicle, to be reviewed after 6, 12 or 18 months.
58. Trail Riders Fellowship (TRF) – John Vannuffel and Steven Taylor have responded stating that the TRF objects to full restriction of motorcycle access. They would consider supporting the use of statutory regulation to place conditions (a permit scheme) on responsible motorcycle access but reserves its position as to whether a permit system for motorcycle access is justified. They are unconvinced of the case to use an experimental traffic regulation order (“ETRO”) to test a permit system. Permit systems are well established as a successful means to improve green roads for all responsible users. They need not be complicated to impose and maintain, or an inconvenience for responsible users. Indeed, the benefits of a successful permits system can improve the road for all responsible users (including trailriders) to enjoy. Unlawful behaviour on or near the road has a cost to the public purse that is a factor to consider. Permit schemes need not be expensive and can be most cost-effective. A permit system can be delivered by traffic regulation order (“TRO”) or public space protection order (“PSPO”).

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59. They prefer the PSPO option as being the cheaper and more effective tool. The illegal behaviours complained of in the consultation letter, sit more appropriately with the use of PSPO powers rather than TRO powers. They reinforce that TRO powers are limited to placing restrictions on roads, whereas a PSPO covers the road and reaches beyond to adjacent public space. The process of making, reviewing and varying (if necessary) a PSPO is simpler and less onerous than that for making and varying an ETRO or TRO. Although PSPO's can be kept in effect permanently, the requirement to renew them every three years provides a regular timescale to review and improve the solution. PSPO restriction can be more readily varied than ETRO (or TRO) restrictions.
60. The use of physical barriers is not an appropriate or effective means to enforce a permit scheme for motorcycle access. They acknowledge that physical barriers have proven highly effective at enforcing 4x4 restrictions and observe that this frees up police resources to address illegal motoring issues to the benefit of all responsible users including trailriders. A motorcycle permit system can be as simple as requiring permit holders to carry a photocard driving license and to stop and produce it at the request of police, or persons authorised by Surrey County Council to enforce a PSPO. The application process need only convey that requirement and record the permit holder's identity (for enforcement purposes). The process of applying for a permit provides useful opportunity for education. For example, a learning pack could be delivered. The administration of a permit scheme can be automated and need not be onerous on Surrey County Council or the users of the scheme.
61. TRF has worked with East Sussex County Council, Kent County Council, Buckinghamshire County Council, and Powys County Council to develop permit schemes. Justified permit schemes need not involve a significant degree of difficulty or administrative burden and can successfully deliver cost-effective improvements where they are convenient for trailriders to use.
62. Surrey Hills Byways Working Group (SHBWG): No specific response was received on behalf of the working group although several individual members responded including Clive Smith on behalf of the AONB above.
63. The Surrey Countryside Access Forum (SCAF) was established as the Statutory Advisor on Public Recreation for the County by Surrey County Council under section 94 of the Countryside and Rights of Way Act 2000 (the CROW Act). They considered the consultation at their meeting in April 2021 and, in summary, members unanimously agreed that wherever possible, access to the countryside should be maximised for all users, and that the use of existing public rights of way should not be unnecessarily restricted. They felt that if restrictions are imposed, they can have the effect of moving the problem to other parts of the countryside, causing ever more problems in fewer and fewer places. They commented and agreed unanimously that:
- Motorised vehicles of four or more wheels should not unduly damage a surface that was designed for their use.
 - Damage to boundary banks by irresponsible users, or those uneducated in the laws relating to public rights of way, could have been prevented quite easily by the use of various forms of barriers, be that fencing or posts.
 - Some simple eye-catching and succinct signage should be erected at each access point to the BOAT, and also at points along it where drivers or riders might be tempted to deviate from the legal route. This should inform them that it is illegal to stray off the road, and that penalties can be incurred by those doing so.

- As usage of the road increases, the likelihood is that the speed of cyclists, motorcyclists and motorised vehicles will necessarily decrease as they negotiate their way around other users on the road. This happens successfully on other BOATs. We would also suggest that were a signed speed limit to be introduced on the BOAT.
 - Officers expressed concerns about the width of the BOAT at certain points preventing passing. This is true of most single-track country roads, and it is our view that users expect in those circumstances to reverse, drive slowly, and/or wait for a suitable passing place to occur
64. The consultation offered four options for consideration. Our response to these options is as follows:
- We would prefer Option 4 – that the BOAT has no restrictions.
 - We would like to suggest that a Public Space Protection Order could be instated for the first three years after the BOAT is re-opened. This will allow for a review period during which there could be a very flexible response by the authorities to any unacceptable behaviour by ‘rogue’ users.
 - Should the above prove to be unsustainable, then we would be happy to consider Option 3 – experimental TRO with permit system – as an option. We do not consider the case has been made for any other type of TRO.
 - We would like to see a concerted effort by SCC, Surrey Hills AONB, and other user groups such as GLASS, TRF and Cycling UK, to further promote and advertise Codes of Conduct and the legal status of PROWs to new users coming into the countryside who are perhaps not so familiar with the law and what is appropriate behaviour.
65. The SCAF concluded that Wolvens Lane is a wonderful example of a BOAT that allows access to some of the most beautiful parts of the Surrey Hills to users who, for various reasons including failing health or increasing age, find access into the countryside difficult. It is a jewel in Surrey’s crown. For them to be able to drive there, either in horse-drawn carriage or 4x4, is extremely important both for their well-being and mental health. Wolvens Lane is one of the many BOATs in Surrey that provides such an opportunity, and so should be kept open to all users.
66. Green Lanes Environmental Action Movement (GLEAM): Diana Mallinson noted that they were aware of long-standing problems on this lane and surrounding land from their own and member observations and the minutes of SBUG. She acknowledged that Surrey, the Police and others had taken measures to try to stop recreational 4x4 users and motorcyclists from damaging the land and banks, such as stumps, fencing and barriers. The Police have also issued notices under 2. 59 of the Police Reform Act 2002 and coronavirus regulations. These measures have not worked.
67. Surrey repaired the land in 2015 and then again in 2020 at a cost of £25,000 per kilometre. GLEAM supports Option 1 prohibiting all motor vehicles (with exceptions for access, emergency vehicles and invalid carriages). They do not think Option 3 would work as it relies in part on voluntary policing. With regard to the points in sections 1-22 of the Road Traffic Regulation Act 1984.
- a. Avoiding danger – parts of the land are too narrow to allow 4x4 to pass in safety or for a motorbike to pass a horse

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- b. Preventing damage – Surrey have had to make substantial repairs twice in last 5 years.
 - c. Facilitating passage of any class off traffic – parts of the lane are too narrow for 4x4 to pass another with ease
 - d. Preventing use of the road by vehicular traffic which is unsuitable for the character of the road – This is a historic sunken lane, not suitable for motor vehicles.
 - e. For preserving the character of the road where it is especially suitable for those on foot or on horseback – A BOAT is a right of way for vehicles used mainly by walkers and horse riders.
 - f. For preserving or improving the amenity of the area – The land and the area around it is being degraded by damage to the boundaries and adjoining land by motor vehicles.
 - g. Conserving or enhancing natural beauty – the damage and noise caused by the vehicles degrade the natural beauty of this part of the AONB.
 - h. Enjoyment of the AONB by the public – the non-motorised public cannot enjoy the amenity of the land and adjacent land when motor vehicles are using the land or have caused damage to it
68. Green Lane Association (GLASS): Phil Hobson their rights of way officer wrote on their behalf with the following comments.
69. Under the Temporary Traffic Regulation Order currently in force the BOAT has remained open to motorcycles and horse drawn vehicles under 1.5m in width.
70. This is a vehicular highway maintainable at public expense. The lawful passage of vehicles will result in normal damage requiring normal maintenance. It acknowledged that there has been misguided, irresponsible and damaging use of the highway and its banks. GLASS would support measures to prevent deviation from the highway. It is not clear why concerns about damage have arisen now that repairs have taken place. It is considered that measures to control such damage should have been in place already and was interested to know what if any such measures had been considered.
71. It is obvious that users may cause a danger to other users. The Council should employ whatever measures it would normally apply in such situations in order to reduce the potential for conflict.
72. The assertion that the route is dangerous on narrow sections with no room for passing places is equally applicable to any narrow rural land without footway. The facts support the conclusion that measures might be put in place such as passing places, refuges, warning signs, speed limits, traffic calming or a one-way system. If no such measures have been fully considered it would suggest on balance that the issues cited are not of sufficient significance to warrant the proposed TRO.
73. Alternative measures are available to implement some traffic management, such a PSPOs, which are more adaptable and can be periodically reviewed, allowing for the adjustment of restrictions on the basis of evidence.

74. Repairs have been undertaken to the route so there is no need for a TRO on the basis that the way is in "*poor condition, in need of significant repair and it is considered necessary to restrict traffic, coupled with programmes of repair as necessary*". Is it the Council's policy to repairs to such a standard, exceeding what would normally be required, so that vehicle users are encouraged to behave in such a manner that is likely to cause danger to others?
75. The submissions of Mr McLachlan of Capel Parish Council at the Mole Valley meeting of March 2020, outlining his desired outcome of the prohibition of motorised vehicles, are somewhat at odds with the conclusions reached in the independent report commissioned by the Parish. At this meeting Surrey acknowledged that damage had occurred, but works had been undertaken to successfully curtail such acts. The Council said it was not aware of any increase in abusive behaviour and no such reports had been made to SHBWG. It was further stated that funding had been acquired for further repairs which would include measures to prevent egress and noted that BOATS were only 4% of the network, providing legitimate means of access for those who would otherwise be unable to. The Council concluded there was no need for a TRO. What could then have happened in this time, given that it has not been open to motorised vehicles, to change the Council's position.
76. If the Council can demonstrate use to the detriment of others, and that less restrictive measures have been unsuccessful then GLASS would support the introduction of more robust measures.
77. GLASS has supported restricted measures elsewhere and were involved in the discussions which led to the report written by Kieron Foster for Capel Parish Council and which outlined several possible restrictions.
78. GLASS is not persuaded there is a strong case for a TRO to be made. The Council has made repairs, so the next step should be to see if these measures have resolved the issues to a satisfactory extent. If it is subsequently demonstrated that some form of traffic management is required then Surrey should give consideration to a PSPO, which is a more flexible tool.
79. Private rights and wayleaves: In addition to considerations of repair it is also essential that a full awareness of private rights is obtained. The Council cannot restrict such private rights or the wayleaves of those organisations requiring utilities access.
80. Dan Brown Horseman owns a local business which uses Wolvens Lane frequently to access the countryside through providing carriage driving to all, particularly the young, old and those with disabilities. Most of his carriages have a width of 1.5 metres but some are wider. When taking their horses into account this exceeds 1.5 metres. He was concerned that any solid restriction at that width would be dangerous for his horses. The alternative of a farm width gate and key works well elsewhere and would be essential to allow his business to use it. An immovable width barrier would significantly affect his business.
81. Whilst he appreciated the damage caused to the banks along Wolvens Lane and welcomed measures to keep 4x4 drivers on the correct route had had never in 40 years experienced any problems with 4x4s. Cycling probably had a wider reaching impact. He believed sharing was probably the best way forward, in the assumption that the way was adequately maintained.

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82. He also noted that whilst there were many nearby routes for pedestrians and horse riders there were none for motor vehicles. Closure of the route would remove the amenity for the use of 4x4 drivers and potentially others.
83. In conclusion he thought options 1 and 2 should be avoided. He had concerns about the policing, cost and administration of option 3 and supported option 4. His suggestion was that (assuming access was available for carriages all year round) that a seasonal closure might be considered during wet winter months.