



OFFICER REPORT TO LOCAL COMMITTEE (WAVERLEY)

CATTLE GRIDS: HINDHEAD COMMON

20 September 2013

KEY ISSUE

To consider the objection received from Mr Bob Milton on behalf of the British Horse Society relating to the proposal from the National Trust for the installation of cattle grids and bypasses on Hindhead Common following the advertising of the Public Notice and decide whether to submit the application to the Secretary of State for Transport for determination.

SUMMARY

Members approved the publication of a public Notice at their meeting on 14 December 2012 in relation to an application under section 82 of the Highways Act 1980 for the installation of cattle grids and bypasses on a number of Byways Open to All Traffic (BOATs) at Hindhead Common. The locations are shown on Drawing no. 3/1/14/H50 (attached at **Annexe 1**). The Notice was placed in a local newspaper in accordance with the legislation and one objection was received. Where an objection has been received, the County Council cannot proceed to determine the question in relation to the provision of cattle grids and associated by-pass gates and must forward it to the Secretary of State for Transport for determination.

OFFICER RECOMMENDATIONS

The Local Committee (Waverley) is asked to:

- (a) Consider the objection,
- (b) Agree, in light of the Officer's report, that it is expedient to place cattle grids and provide by-pass gates on BOATs 21a Haslemere and 500, 501, 502 and 503 Thursley (as shown on Drawing No. 3/1/14/H50) and that the purpose for which a right to install gates is exercisable will be adequately achieved by the provision of a cattle-grid and,

- (c) Approve the submission of the application to the Secretary of State for Transport for determination.

1 INTRODUCTION AND BACKGROUND

- 1.1 The National Trust has applied under section 82 of the Highways Act 1980 for the installation of cattle grids on a number of Byways Open to All Traffic (BOATs) at Hindhead Common. This relates to BOATs 21a Haslemere and 500, 501, 502 and 503 Thursley as shown on Drawing no. 3/1/14/H50 (attached at **Annexe 1**). The National Trust own the land involved apart from the one shown at location 7. The land at location 7 is unregistered at the Land Registry. The adjoining landowner has been consulted on the proposals but has made no response to date.
- 1.2 Following the opening of the new road tunnel on the A3, it was always the intention of the National Trust to reconnect the internationally important heathlands on the Punchbowl to those on Hindhead Common. This will be the first time in an English context that two important fragments of heathland, formerly divided by a main road, have been re-connected to restore the landscape and ecological unit. They are submitting an application to the Planning Inspectorate for fencing to enable a continuation and extension of the extensive conservation grazing by cattle and ponies for the long-term management of the commons. Where BOATs cross the fence-lines, cattle grids are needed to allow legitimate motorised vehicle access with bypass gates for other users.
- 1.3 Hindhead Common and the Devil's Punch Bowl, represent an outstanding area of landscape, which is nationally and internationally important for the wildlife associated with its heathland. Over decades without grazing and the other traditional uses on the commons such as heather and gorse cutting for fuel, much open heathland was lost as pine and birch took over. The site holds both dry and wet heathland and mires as well as areas of ancient woodland. The internationally protected Dartford warbler, woodlark and nightjar nest there and other interests include uncommon plants, rare invertebrates and beetles, and the rare nail fungus, associated with pony grazing.
- 1.4 The long-term, sustainable management of the Devil's Punch Bowl SSSI is best achieved by extensive livestock grazing. The rationale for this is contained within the most recent National Trust Biological Evaluation and there is also useful information on this subject in the RSPB publications Conservation Grazing on Lowland Heaths (RSPB 2004) and the Lowland Heathland handbook (RSPB 2003). It is important to stress that in the Devil's Punch Bowl some of the rare and notable species present are associated with ancient woodland and scrub habitats, though there are also many heathland specialists present. For this reason, a dynamic mosaic of open heath and woodland is the most ecologically desirable state for the site.
- 1.5 The application relates to the installation of nine cattle grids and bypass gates, five of which already exist on the ground. The National Trust has agreed to pay for and construct all of the associated works, which will comply with the British standard for such structures. In agreement with the County Council, they will also be responsible for the future maintenance. The numbering on the plan, **annexed at 1**, relates to the description of works to be carried out as detailed below:

- 2) BOAT 21a Haslemere – an existing cattle grid. A new 3.0-metre wide bypass gate to be constructed on the eastern side.
- 3) BOAT 502 Thursley – an existing cattle grid and bypass gate. No works required.
- 4) BOAT 503 Thursley – install new 3.0-metre wide cattle grid and 3.0-metre wide bypass gate on northern side, 3.0-metres to the east of the metal barrier.
- 5) BOAT 500 Thursley – install new 3.6-metre wide cattle grid and 3.0-metre wide bypass gate, 3.0 metres east of junction with Public Bridleway No. 103 Thursley. Fill in part of existing pond and construct gate on southern side of cattle grid.
- 6) BOAT 500 Thursley – install new 3.6-metre wide cattle grid and 3.0-metre wide bypass gate on western side.
- 7) BOAT 500 Thursley – an existing cattle grid. Repair damaged grid and install new 3.0-metre wide bypass gate on western side.
- 8) BOAT 500 Thursley – install new 3.6-metre wide cattle grid and 3.0-metre wide bypass gate, 3.0 metres north of junction with BOAT 501.
- 7i) BOAT 500 – remove existing cattle grid and reinstate level surface.
- 9) BOAT 501 Thursley – an existing cattle grid and bypass gate. No works required.
- 8i) BOAT 501 - remove existing cattle grid and reinstate level surface.
- 10) BOAT 501 Thursley – existing cattle grid. Install new 3.0-metre wide bypass gate on western side.

1.6 Following the Committee decision on 14 December 2012, a Public Notice was placed in the local newspaper on 31 May and 7 June as required under the legislation. Schedule 10 of the Highways Act 1980 indicates the procedure for determining the provision of cattle grids. This is set out in **Annexe 2**. The Public Notice invited comments on the determination of the following question as required under sections 82 or 86 of the Act –

- (a) whether it is expedient to place any part of a cattle-grid in, or provide a by-pass on, any such land not forming part of a highway and not belonging to the highway authority as is mentioned in section 82(4), or
- (b) whether it is expedient to provide a by-pass along any part of a highway, or
- (c) whether the purpose for which a right to install gates is exercisable will be adequately achieved by the provision of a cattle-grid.

1.7 One objection was received to the proposal from Mr Bob Milton, Common land advisor Southern Region for the British Horse Society. Mr Milton's letter of objection together with the Council's response to him is at **Annexe 3**. The Officer's view is that the legislation allows for the installation of cattle grids with by-pass gates, which become publicly maintainable, subject to prior compliance with Schedule 10. The effect on any private rights will be considered and discussed with the National Trust as necessary.

2 ANALYSIS

2.1 The Highways Act 1980 sections 82 to 90 give highway authorities power to provide, manage and enter into agreements for cattle grids and bypasses in or adjacent to the highway. The main provision is contained in Section 82 and Section 87 provides for the highway authority to enter into an agreement with a landowner should it be necessary for an access or gate to be placed in

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conjunction with a cattle grid on land that is not highway. An agreement may be required in this respect, which would allow for the granting of highway rights.

2.2 Where a representation is duly made and not withdrawn following advertising of the proposal, the application together with the representation and the Council's observations on it must be forwarded to the Secretary of State for Transport for determination. The Minister shall either cause a public inquiry to be held or afford to any person by whom a representation has been duly made and not withdrawn, and this Authority, an opportunity of appearing before and being heard by a person appointed by the Minister. After the Minister has considered the report of the person who has held the Inquiry, or the person appointed as described above as the case may be, -

- a) The Minister may, where he is the highway authority, proceed to determine the question;
- b) Where he is not the highway authority, the authority may determine the question in the affirmative if the Minister consents, but not otherwise, and subject to compliance with any conditions subject to which consent is given.

2.3 If cattle grids were installed this would allow, with the proposed fencing, conservation grazing to reconnect the internationally important heathlands on the Punchbowl and Hindhead Common. It is therefore considered expedient that the cattle grids and by-pass gates are installed and the purpose for which a right to install gates is exercisable will be adequately achieved by the provision of a cattle-grid.

3 OPTIONS

3.1 It is the Officer's recommendation that the application be forwarded to the Secretary of State for Transport for determination.

3.2 The alternative solution would be to reject the application.

4. CONSULTATIONS

4.1 Public Notices were placed in the local newspaper for two successive weeks and the Notices and plan were also placed on site, in Waverley Borough Council Offices, Haslemere library and letters sent to interested parties including user groups and the police. Only one objection was received within the statutory 28-day objection period, which was from Mr Bob Milton.

5 FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

5.1 The National Trust has agreed to undertake all the works and maintain the structures in the future.

5.2 The cost of advertising the statutory Notice will be recouped from the National Trust.

5.3 If a public inquiry were held, costs in the region of £4,000 would be met from the Countryside Access team budget.

6 EQUALITIES AND DIVERSITY IMPLICATIONS

6.1 The cattle grids and bypass gates will provide access for all users of the BOATs.

7 CRIME AND DISORDER IMPLICATIONS

7.1 There are no crime and disorder implications.

8 CONCLUSION AND RECOMMENDATIONS

8.1 Following the publication of the statutory Notices Members are asked to:

- (a) Consider the objection,
- (b) Agree, in light of the Officer's report, that it is expedient to place cattle grids and provide by-pass gates and that the purpose for which a right to install gates is exercisable will be adequately achieved by the provision of a cattle-grid and
- (c) Approve the submission of the application to the Secretary of State for Transport.

9 REASONS FOR RECOMMENDATIONS

9.1 Officer's do not have delegated powers to proceed with cattle grid applications. Officer's support the installation of cattle grids and by-pass gates.

10 WHAT HAPPENS NEXT

10.1 Should Members agree with the Officer's recommendation, the application will be forwarded to the Secretary of State for Transport for determination. All interested parties and user groups will be informed.

10.2 If Members do not agree the National Trust will be informed accordingly.

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BACKGROUND PAPERS:	File 3/1/14 Hindhead Cattle grids

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