

Appendix 2

Policy for Managing Byways Open to All Traffic (BOATs) and MPVs in Surrey

The aim of this policy is to set out how the Countryside Access Team will manage Byways Open to All Traffic (BOATS) for the benefit of all users, in line with the legislation and to reduce conflict and damage. This policy is not looking to promote or encourage the use of Surrey's BOATS by motorised users but recognises that we have a duty under S. 130 Highways Act to assert and protect the rights of all users.

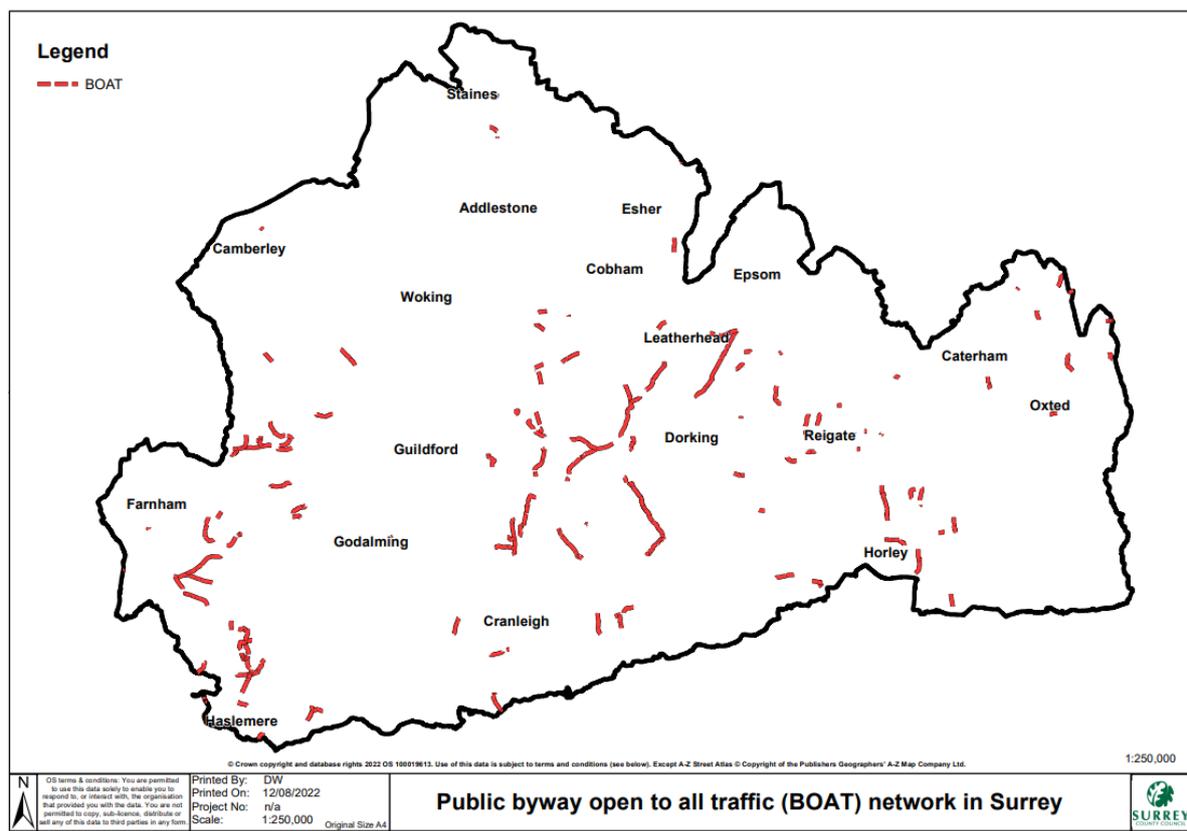
Background

A BOAT is a way over which the public have a right of passage with mechanically propelled vehicles (MPVs) and all other traffic including walkers, cyclists, horse riders, horse drawn carriages and mobility vehicles. Although MPVs have a right there is no requirement on the County Council to maintain the highway to a standard suitable for all of the ordinary traffic using them.

There are over 3500 kilometres (km) of public rights of way in Surrey, 125.8km are BOATs made up of 118 paths and is 3 per cent of the network. 39 paths have a historical Traffic Regulation Order which make them unavailable either to motor vehicles >1500mm or are unavailable to all motorised users (Annex 2a, List of BOATs and Traffic Regulation Orders (TROs) April 2020).

Overall, throughout the country they account for 2 per cent of the public right of way network. In 2006 the Natural Environment and Rural Communities Act (NERCA) removed the vehicular rights to 50 per cent of the available national network by changing the category of RUPP (Roads Used as a Public Path) into Restricted Byways. This had differing levels of impact on Local Authorities. As Surrey did not have any RUPPs the BOAT network remained unaltered during these changes.

Surrey's BOATS are not evenly spread throughout the county with fewer in the East. Existing TROs have also impacted the connectivity of the network.



The Need for a Policy

Surrey's public rights of way network is well used by its 1.2 million residents as well as tourists and visitors from neighbouring counties who use the network to access and enjoy Surrey's picturesque countryside. In certain locations this can put pressure on routes and adjacent areas, creating conflict between users and residents or affect the character and amenity of an area.

The County Council recognises the rights that MPV users have along BOATs. S. 54(7) of the Wildlife and Countryside Act 1981 however states that nothing obliges us to provide a BOAT with metalled carriageway or a surface suitable for the passage of vehicles. Surrey is not looking to encourage or promote use by motor vehicle users.

In Department for Environment, Food & Rural Affairs (DEFRA) Making the Best of Byways ([Making the Best of Byways](#)) section 2.1 states that 'in general, there is minimal direct conflict between byway users'. This is reflected in the incidents reported to Surrey Countryside Access Team. However, many non-motorised users and residents believe that motor vehicles should not be on the rights of way network. Where conflict does exist the main areas of concern are:

- a) Damage to the surface or inappropriate use and damage of boundary banks, or lack of maintenance.
- b) Perceived risks to the safety of all users.
- c) The impact of noise on a surrounding community or residence.
- d) Damage and disturbance to the environment, ecologically or landscape protected areas.

In Making the Best of Byways DEFRA recommends “that a clear policy is developed by Highways Authorities to manage BOATs and to minimise conflict”. This policy will set out how Surrey will manage the BOAT network, what action it will take, in what order, and where they will work in partnership to provide the best possible conditions for users, within the relevant legal, budgetary, and environmental constraints.

BOATs by their nature have an individual character and topography and run over differing geological conditions ranging from sandstone, chalk to Wealden Clay. They can be sunken with steep banks, run through open areas, such as Heathland or through woodland. They can also run through protected areas like sites of specific scientific interest (SSSI). Therefore, each BOAT must be considered on its own merits, issues, and considerations, creating an individual, tailored solution.

Although BOATS are available for walkers, cyclists, and horses, we recognise that the network provides access to people in vehicles who would otherwise be unable to reach the wider countryside such as the elderly or people with disabilities, and that many enjoy the historic right of accessing the countryside by driving or riding motorbikes. Most users remain within the width of the BOAT and act in a lawful and responsible manner. However, some BOATs suffer from anti-social behaviour and extreme damage by those users looking for a challenging or technical experience.

It is these routes which can become the focus for request for the rights of motorised users to be removed as they are often seen as the cause of damage to the surface. However, it may be the fact that the BOAT requires maintenance or repair which is the responsibility of the Highway Authority.

Each local Authority is required to have a Rights of Way Improvement Plan. The statutory guidance issued by DEFRA states: “wherever possible, proposals for improving rights of way should not unduly benefit one class of user at the expense of another. Improvements that are intended to benefit cyclists, harness-horse drivers, horse riders, horse riders or walkers should not unduly restrict lawful motorised use of public vehicular rights of way.”

Private access should not be affected by any actions necessary to manage a BOAT. It may be necessary to give combinations or keys to those who have a private right or need to access land adjacent to an affected BOAT.

Management of BOATs and Motorised Vehicle Use

The Countryside Access Team will manage the inspection, assessment, and maintenance of BOATs in line with their priority statement focussing on issues where there is a concern regarding safety of users (Annex 2b: Public Rights of Way Maintenance and Enforcement Priority Statement). They will consider local issues and requirements on a case-by-case basis and to the benefit of walkers, cyclists, and horse riders.

The Countryside Access Team will look to reduce the potential for conflict, environmental and ecological pressures and misuse of BOATs, including anti-social behaviour, when within our powers, and will work with landowners and land managers as well as the Police to help resolve such issues.

It may be necessary to continue to monitor the BOAT, its condition and reported activity. Associated reports will be recorded to provide a full picture.

Following application for a TRO, the Countryside Access Team will inspect the BOAT in line with the Council's priority statement, and depending on funding, take any action necessary on safety grounds or to enforce an existing TRO.

Any repair works that may be needed to avoid a TRO will be prioritised in line with the SCC Public Rights of Way Maintenance and Enforcement Priority Statement and identified as part of the capital programme is followed alongside the policy. All options available will be fully explored and all partners engaged to try and resolve the issue.

Before considering any requests for a TRO we will consult with the Surrey Countryside Access Forum (SCAF). The SCAF are a statutory independent forum created under the Countryside and Rights of Way Act 2000 and made up of representatives of user groups, landowners, and other interest groups such as health and conservation. They are there to advise decision making regarding public access in Surrey.

Section 1 of the Road Traffic Regulation Act 1984 sets out the grounds and describes the criteria that can be considered in the making of a TRO.

It provides that a TRO may be made where it appears to the authority making the order that it is expedient to make it –

- 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, [or*
- 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).]*

Section 22 and 22A of the 1984 Act then provides, in addition to the above, that in the case of Areas of Outstanding Natural Beauty (AONB) and certain other environmental designations, the Council should, in addition to (a) to (g), consider the purpose of conserving or enhancing the natural beauty of the area, or of affording better opportunities for the public to enjoy the amenities of the area, or recreation or the study of nature in the area.

Making a TRO should be considered as a last resort option. The Countryside Access Team will consult with stakeholders including user groups, communities and users before committing to processing a permanent TRO. The preferred option would always be to maintain the rights of as many categories of users as the BOAT will support.

How it Works in Practice

Figure 1. Process for the Management of Byways and Mechanically Propelled Vehicle Use

