

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Culture and Recreation
Date:	8 March 2012
Title:	Proposal to make a Traffic Regulation Order on Kingsley Byway Open to All Traffic No.29 and Headley Byway Open to All Traffic No.36, together known as Cradle Lane
Reference:	3435
Report From:	Director of Culture, Communities & Business Services

Contact name: Vicky Bowskill

Tel: 01962 846891

Email: vicky.bowskill@hants.gov.uk

1. Executive Summary

- 1.1. The purpose of this paper is to consider requests to make a Traffic Regulation Order on Kingsley Byway Open to All Traffic (BOAT) No.29 and Headley BOAT No.36, together known as Cradle Lane, as shown on the attached plan, under section 1 of the Road Traffic Regulation Act 1984.
- 1.2. This paper seeks to provide the Executive Member with the necessary information to determine whether to give authority to make the aforementioned Traffic Regulation Order (TRO) now that formal consultations have been carried out.
- 1.3. The Executive Member is 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).

Extract from the **Road Traffic Regulation Act 1984**

1. The Traffic Authority for a road outside Greater London may make an order under this section (referred to in this Act as a 'Traffic Regulation Order') 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 any 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).

122. Exercise of functions by local authorities.

- 1) It shall be the duty of every local authority upon whom functions are conferred by or under this Act, so to exercise the functions conferred on them by this Act as (so far as practicable having regard to the matters specified in subsection (2) below) to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway or, in Scotland the road.
- 2) The matters referred to in subsection (1) above as being specified in this subsection are—
 - a) the desirability of securing and maintaining reasonable access to premises;
 - b) the effect on the amenities of any locality affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;
- bb) the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy);
- c) the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and
- d) any other matters appearing to the local authority to be relevant.
- 3) The duty imposed by subsection (1) above is subject to the provisions of Part II of the Road Traffic Act 1991.

2. Background

- 2.1. A report detailing the reasons for proposing to make a Traffic Regulation Order (TRO) on Kingsley Byway Open to All Traffic No.29 and Headley Byway Open to All Traffic No.36, also known as Cradle Lane, was considered by Executive Member on 26 September 2011.
- 2.2. The decision was made that Hampshire County Council should advertise its intention to introduce a **permanent** TRO to restrict motor vehicles with three or more wheels at all times, and a **seasonal** TRO to restrict two wheel motor

vehicles between 01 September and 31 May each year, as shown on the attached plan.

- 2.3. The advert was placed in the local press on 07 October 2011, notices were posted on site between 07 and 28 October 2011 and sent to the relevant statutory consultees.

3. Formal Consultations

- 3.1. In response to this formal consultation 184 objections were received between 07 and 28 October 2011, as detailed in Appendix 3 to this report.
- 3.2. Whilst the formal notice only specifically invites objections, 58 expressions of support were also received during the same period, as detailed in Appendix 4 to this report. However, it is clear from earlier consultation that there is strong local support for this proposal, as detailed in the Decision Report considered on 26 September 2011.
- 3.3. A further 4 objections and 8 expressions of support have been received since the formal consultation period closed. None of these have raised any new points not already covered in Appendix 4

4. Comments on Formal Consultations

- 4.1. The majority of the objections received are to the proposal to restrict two wheel motorcycles from this route. One of the main points of objection against the proposal to restrict motorcycles is that it is argued that studies have shown that motorcycles may do less damage to the surface of routes than horses do. There has been a clear indication that a legal challenge will be made should an Order restricting motorcycles be made, as to do so would go against the Council's own TRO policy and government guidance.
- 4.2. Only a few objections have been received relating specifically to the proposal to restrict motor vehicles with three or more wheels.
- 4.3. The main part of the surface damage that had occurred on this route prior to the repairs made last winter appeared to have been caused by inappropriate use by four wheel drive vehicles. This damage has been a significant part of the reason for proposing to make this TRO and it appears to be generally accepted that such use is not appropriate on this route.
- 4.4. In addition to concerns about surface damage, the issue of preserving the character of this rural lane has been raised. It is this aspect that is of greater concern with regard to use of the lane by motorcycles.
- 4.5. For more detailed comments on both objections and support please see Appendices 3 and 4.

5. Options

- 5.1. Due to the high level of responses received to the formal consultation detailed above, a meeting was held on Monday 09 January 2012 involving Council officers, Local Members, representatives of the affected Parish

Councils and motorised user groups.

5.2. During the meeting the following options were considered;

5.2.1 **Reopen the lane to all motorised traffic.**

There has been a significant amount of local objection to this option from non-motorised users of the route and local residents. Officers are of the view that the level and nature of motorised use previously seen on this lane is not sustainable and would result in a reoccurrence of the damage previously seen. It is unlikely that funds could be made available to carry out further repairs in the foreseeable future.

5.2.2 **Impose a permanent restriction against motor vehicles with three or more wheels to protect the surface of the lane from further damage, and a seasonal restriction on two wheel motorcycles to preserve the character of the lane, as proposed.**

A very significant level of objection was received to this proposal from motorised users. Whilst it appears to be generally accepted that use of this route by four-wheel-drive vehicles is inappropriate, Officers are of the view that the restriction of motorcycles does not adequately comply with the Council's TRO policy. In particular there is currently no evidence to suggest that motorcycles will have any significant impact on the surface of the lane following the extensive repairs that have been made, and there is a likelihood that less restrictive options to manage motorcycle usage might be effective if trialled.

5.2.3 **Impose a permanent restriction against motor vehicles with three or more wheels to protect the surface of the lane from further damage, but impose no formal restriction on two wheel motorcycles. Set up a local team to monitor the impact of motorcycle usage of the route, and work with motorcycle user groups to promote responsible behaviour.**

Officers are of the view that this option complies with the Council's TRO policy in that it represents the least-restrictive solution that will effectively resolve the issue of significant damage being caused to this route. This TRO would be combined with a robust system of monitoring the condition of the surface of this lane in consultation with the parish councils and the relevant user groups to accurately assess the impact of the various user groups on this lane.

5.3 At the meeting it was agreed that Option 5.2.3 (above) would be an acceptable solution to all those present.

5.4 Since the above meeting, significant concern has been expressed by certain local residents who are strongly opposed to the continued use of Cradle Lane by motor vehicles of any kind. Officers are of the view that there is currently insufficient evidence to support a restriction on motorcycles. However, a public meeting is being arranged to discuss these concerns.

6. Compliance with Hampshire County Council's Traffic Regulation Order Policy and Countryside Access Plans

- 6.1. The Countryside Access Team of Hampshire County Council has published a Traffic Regulation Order (TRO) policy, which was approved by the Executive Member for Recreation and Heritage in June 2006. This policy says that each case will be assessed on its individual merits and the least restrictive option will be sought after exploring alternative methods to manage the problems that exist.
- 6.2. This route was temporarily closed whilst surface improvements were carried out and has since then been gradually opened up to different classes of user to properly assess what level of use the route can reasonably sustain. This has clearly shown that the surface can sustain use by horses, horse drawn vehicles, cyclists and walkers.
- 6.3. Due to the narrowness of the route and the lack of passing places for motor vehicles with three or more wheels, it is likely that any use by such vehicles will cause significant damage to the surface and the ditches. It is not possible to widen or improve the route in this regard and as such Officers are of the view that a permanent restriction on motor vehicles with three or more wheels complies with the Council's policy for imposing a TRO.
- 6.4. Due to the high standard of the repairs that have been made on this route, particularly around the ford, it is unlikely that motorcycles will have any significant impact on the surface of this lane. As such the proposal to restrict motorcycles for nine months of the year is not necessarily the least restrictive option and therefore Officers are of the view that this does not comply with the Council's policy for imposing a TRO. An ongoing system of monitoring the condition of the route to more accurately assess the impacts of the different user groups on this lane is seen as a more appropriate way forward in this case.
- 6.5. This proposal also addresses the aims of the South Downs (Hampshire) Countryside Access Plan, in particular issues 2, 3 and 4 which talk about the problems that path users encounter with poor or damaged surfacing in localised areas, the limited availability of accessible and inviting routes and the lack of awareness of each others needs among those who use the countryside and those who manage countryside access.

7. Costs and Financial Implications

- 7.1. This route was the Countryside Service's top priority for Local Transport Plan funding for 2010/11 and this, together with Developers' Contributions from both Hampshire County Council and East Hampshire District Council (this last obtained through the Shipwrights Way project), enabled approximately £39,000 of work to be carried out. This level of investment was necessary in order to bring the route into good order, and it is unlikely that a similar sum will be available in the foreseeable future to repeat such an exercise.
- 7.2. The advertising costs for implementing this TRO will be in the region of £800, to be met from the Access Team budget. The cost of a new barrier at

the northern end (if required) will cost in the region of £1500 and the required traffic signs will cost around £600, to be met from the Shipwright's Way budget.

8. Conclusions and Recommendations

- 8.1. In light of the previous surface damage that has been attributed to excessive use by four wheel drive vehicles and the narrowness of the lane with a lack of passing places, Officers are of the view that a permanent TRO to restrict motor vehicles with three or more wheels does comply with the Council's TRO policy.
- 8.2. Given that it is strongly disputed that motorcycles will do any more damage to the route than horses, and the high standard of the recent repairs, Officers do not believe that motorcycles are likely to have a significant impact on the surface of the lane. As such, Officers are of the view that the proposal to impose a seasonal restriction on motorcycles does not comply with the Council's TRO policy. In view of this, Officers do not recommend that the proposed seasonal restriction against motorcycles be imposed, but that a robust system of monitoring the condition of the route and promotion of a voluntary code of good conduct for motorised users be implemented instead.

9. Recommendation

- 9.1 That the Executive Member supports the introduction of a permanent Traffic Regulation Order under section 1 of the Road Traffic Regulation Act 1984, to prohibit motor vehicles with three or more wheels from proceeding along Kingsley BOAT 29 and Headley BOAT 36, also known as Cradle Lane, as shown on the attached plan.
- 9.2 That a system be put in place to regularly monitor the condition of Cradle Lane to assess the impact that the various types of use may have on this lane. This information can then be used to inform future reviews of this Traffic Regulation Order.

CORPORATE AND LEGAL INFORMATION ABOUT THIS DECISION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	yes
Corporate Business plan link number (if appropriate):	
Maximising well-being:	yes
Corporate Business plan link number (if appropriate):	
Enhancing our quality of place:	yes
Corporate Business plan link number (if appropriate):	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report.

(NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
General Correspondence	HantsFile\CCRA\Countryside\Countryside HQ\Countryside Orders\Traffic Regulation Orders 1
Proposal File	VB\TRO\Kingsley BOAT29 & Headley BOAT36 – Cradle Lane
TRO Policy	www3.hants.gov.uk/row/making-changes/traffic-regulation-orders/tro-policy.htm
South Downs (Hampshire) Countryside Access Plan	http://www.hants.gov.uk/rh/countryside/access/south-downs.pdf

IMPACT ASSESSMENTS:

This decision has been assessed to see what impact it may have in the following areas. If it has been identified that there are possible implications which may have a negative impact this grid should identify the part of the report which covers the recommendation about how those potential negative impacts are managed or avoided.

Impact Level: **S**= Significant Impact **L** = Low Impact **None** = No impact

IMPACT AREA	IMPACT LEVEL	COMMENTS	WHERE COVERED IN REPORT (Where there are details of how impact could be managed)
Equality & Diversity Impact	L	The restriction of motorised vehicles with three or more wheels on this route will enable surface improvements to be maintained, making the route more easily accessible by a wider range of path users. To deliver this objective, the least restrictive option available has been recommended to the Executive Member in line with the Council's adopted policy.	6.4, 6.5, 8.2
Crime Prevention (under Section 17)	None	The introduction of the proposed Traffic Regulation Order will enable the restriction of motor vehicles with three or more wheels to be effectively enforced by physical structures, rather than policing. The proposals made are anticipated to have no impact on reported crime and disorder in this area.	6.3, 7.2
Environmental	L	The proposed restrictions will reduce use of the route by motorised vehicles, reducing environmental impacts in the local area.	6.5