

**Kingsley BOAT29 and Headley BOAT36, Cradle Lane
Summary of Representations to Proposed Traffic Regulation Order
07 to 28 October 2011**

Objections

Categories;
Surface Damage and maintenance
Compliance with Policy/Legislation
Fairness/Appropriateness of proposed restrictions
Alternative Solutions
Other

Summary of points made in objection to the proposed Traffic Regulation Order in **184** representations from both individuals and the following groups;
Trail Riders Fellowship (TRF)

Objection	Officer's Comment
Surface damage and maintenance;	
Responsible trail riders must be road legal, taxed and insured. The TRF promote a voluntary code of conduct that sees trail riders travelling in groups of no more than 6 and showing consideration to other users, such as stopping for horses and slowing or stopping for other non-motorised users. It is not fair to penalise law-abiding trail riders out of prejudice, or to tar them with the damage caused by 4x4s.	Noted.
No fact based evidence has been presented to demonstrate that trail bikes should be excluded from this route. Reports made by those that support the ban are exaggerated and unrealistic.	All reports of inconsiderate use by trail riders which we are aware of have been anecdotal and no evidence has been presented. Statistics of reports to the police prior to the route being closed for repairs are not available due to changes in the way that the police record these reports.

	The very damaging use that occurred, particularly around the ford, appears to be the result of use by 4x4s.
If motorised use is being made that is anti-social or causing damage to the surface then this is illegal and the police have powers to deal with this. Banning lawful motorised users is not an appropriate response to illegal use.	Some evidence has been found on YouTube of damaging use by 4x4s. Statistics of reports to the police prior to the route being closed for repairs are not available due to changes in the way that the police record these reports. However, even responsible 4x4 use is likely to cause damage due to the vulnerable nature of this route - even given the substantial repairs made.
Considerable repairs have been made due to damage that was largely caused by 4x4s. The prohibition of 4x4s on this route is supported. However, there is no evidence to suggest that trail bikes have caused any significant damage, and the repairs that have been made are to a standard that could easily support responsible use by trail bikes. The fact is that trail bikes weigh significantly less than a horse and rider, and a rubber tyre cannot dig into the ground in the same way that a metal-clad hoof can. As such it is not possible for trail bikes to do as much damage as horses do. If trail bikes are banned, horses should be as well.	<p>Whilst there is evidence that 4x4s have caused significant damage to this route, no evidence has been presented that demonstrates any significant damage caused by trail bikes. It is likely that the standard of repairs made can support responsible use by trail bikes.</p> <p>Ongoing monitoring of the surface and associated drainage features could be seen as a more suitable option in the first instance.</p>
Further restrictions will place greater pressure on those routes that remain open, leading to further damage and potential closures in the future. It will also encourage motorised users to ignore restrictions as they have nowhere else they can legally ride.	The Council's TRO Policy states that each individual case will be considered on it's merits.
The problems on this route have been caused by a failure of the Council to maintain the route to an adequate standard for the legal users. The Council should not use a TRO to shirk their maintenance responsibilities.	The Council has a duty to maintain routes for the reasonable user, to support the ordinary traffic of the day. The County Council's stated policy is to prioritise repair and maintenance to benefit non-motorised users on Byways Open to All Traffic. HCC has now repaired this route to a

	standard suitable for reasonable use; on this specific route, due to its vulnerable nature, officers do not believe that use by 4-wheeled vehicles can be sustained.
The works have been allowed to settle for an extensive period over the summer, and the concrete sleepers through the ford make this route ideal for multi-user use. The ford and it's approaches will not dry out over the summer so a seasonal restriction is not appropriate.	Noted.
It was originally proposed to open the route to motor vehicles on a trial basis to properly establish the appropriate level of use. This has not happened so there has been no trial to demonstrate whether or not trail bikes have any significant impact on the surface. It is not appropriate to restrict trail riders just in case they do any damage.	Noted.
Studies have shown that hikers, horses and rainwater do more damage to track surfaces than cycles and motorcycles.	The study cited was inconclusive due to the number of variables (e.g. soil type, gradient, drainage and precipitation), but did suggest this to be the case.
The damage has been caused by poor drainage and lack of maintenance, not vehicular use.	Drainage issues have been addressed with the recent works and the surface is now suitable for reasonable use. It has not been possible to improve the route to a standard that can maintain the level of vehicular use that has been made in the past.
The repairs have deliberately been done to a standard that will not support motorised use so that a TRO can be justified.	The repairs have been done to a standard that can sustain reasonable use by the main user groups in keeping with the character of the lane as a rural route. The only surface that could sustain regular use by motor vehicles at the level seen in the past is tarmac and this would not be appropriate in this setting.

<p>Compliance with Policy/Legislation;</p> <p>The proposed seasonal restriction of trail bikes does not comply with the Council's Traffic Regulation Order Policy. This policy states that the least restrictive option will be sought in each case and any proposal will comply with defra's 'Making the Best of Byways' document and recent government guidance entitled 'Regulating the Use of Motor Vehicles on Public Rights of Way and Off-Road. No alternative management options have been trialled.</p>	<p>A closure has been in place to allow surface works to settle and has been gradually reopened to non-motorised users. The trial period of use by motor vehicles that was originally proposed has not been carried out and no other management options have been trialled.</p> <p>HCC's TRO policy does not address the issue of preserving the character of rural routes under s1(d) and 1(e) of the RTRA 1984, but it does not preclude the use of these sections.</p>
<p>The Council is failing in its duty under s122 of the Road Traffic Regulation Act 1984 to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians).</p> <p>The Council is also failing in its duty under s130 of the Highways Act 1980 to assert and protect the rights of the public to the use and enjoyment of the highway</p>	<p>In making this decision, the Executive Member for Culture and Recreation must consider the options available and balance the needs of the affected user groups.</p> <p>The Council has a duty to maintain highways for the reasonable user and to maintain the surface to a standard that can support the ordinary traffic of the day. Where use is not reasonable, or is extraordinary to the extent that it is damaging, powers exist under s1 of the RTRA to restrict that use in order to maintain the route in a condition that can sustain reasonable use by the majority of other legitimate users.</p>
<p>As per HCC policy, please engage with motorised user groups to work towards resolving these problems without the need for a Traffic Regulation Order.</p>	<p>A meeting was held involving local Members and representatives from Kingsley and Headley Parish Council's, Trail Riders Fellowship and the Hampshire Countryside Access Forum in January 2012 to explore options to resolve the issues on this route.</p>
<p>The character of this lane has been significantly altered by the extensive works that have been carried out and is, now</p>	<p>It is agreed that a restriction on 4x4s would appear to be appropriate in this case.</p>

<p>more than ever, not incompatible with responsible use by trail bikes. Therefore it is not appropriate to apply a restriction for the purposes of preserving the character of this lane. The lane is not especially suitable for use by persons on foot or horseback to a degree where it justifies this overly restrictive exclusion of motorcycles. A restriction on 4x4s should be sufficient to safeguard the surface of the lane.</p>	<p>Whilst the repairs that have been carried out have had an effect on the character of the surface, Officers are not of the view that this has had a significant impact on the general character of the lane as a rural route. Therefore s1(d) and 1(e) of the RTRA 1984 could apply.</p>
<p>The Council has not been complying with their TRO Policy by carrying out a 3 yearly review of all TROs. All the alternatives to permanent TRO should be considered at each review with a view to reducing the level of restriction if possible.</p>	<p>Officers are aware of this and are currently working to set up a process to ensure that each TRO is reviewed every three years.</p>
<p>The Decision Record dated 26 September states that one of the reasons for imposing the TRO is to protect the investment that has been made in the repairs on this lane. This is not a legal ground for making a TRO.</p>	<p>Noted.</p>
<p>Cradle Lane is recorded on the List of Streets, classified as a D-road. As such vehicular use is both suitable and in keeping with the character of the road. Prohibiting vehicular use will constitute a failure to preserve the historic character of this D-road.</p>	<p>Cradle Lane is recorded as the T231. A 'T' road is an unclassified vehicular highway maintainable at public expense, but unmetalled. This lane has a dual classification as it is also recorded on the Definitive Map and Statement of public rights of way as a Byway Open to All Traffic.</p>
<p>If this TRO is to be reviewed next year, then an Experimental TRO should be proposed, not a permanent one. Therefore it can only be assumed that this review would lead to a tightening of the restriction.</p>	<p>Noted.</p>
<p>Hampshire Countryside Access Forum considered a report 'Solutions for BOATs' which set out alternative options to permanent TROs. The Decision Report considered on 26 September made no mention of this report.</p>	<p>Noted.</p>

<p>The Decision Report states that the proposal is compliant with HCC Corporate Strategy 'enhancing our quality of life'. This proposal does not protect local distinctiveness and diversity or respect Hampshire's heritage. Therefore it is not compliant with this strategy.</p>	<p>The proposed restriction of motor vehicles on this route would act to preserve the rural character of this lane for the enjoyment of a wide section of path users. However, it would disadvantage motorised users who would no longer be able to enjoy this recreational resource.</p>
<p>Fairness/Appropriateness of proposed restrictions;</p>	
<p>This Traffic Regulation Order would threaten trail-riding as a legitimate and historic pastime.</p>	<p>The Council has a duty to maintain the highway network in a safe and convenient condition for reasonable use. Where types of use (e.g. motorised and non-motorised) become incompatible on a particular route, the Council must take steps to ensure that the route can be maintained in a suitable condition for as wide a section of the public as possible. The use of Traffic Regulation Orders is one way of doing this.</p>
<p>The entire rights of way network is available to walkers. A large percentage is also available to horses and cyclists. Only a very small percentage is available to motorised users. Many routes were closed to motorised users by the Natural Environment and Rural Communities Act 2006. Motorised users feel very strongly that those routes that remain open to them should be protected from further restrictions. There is a feeling that the Council has an aim to close all routes to motorised vehicles and this is strongly opposed.</p>	<p>Motorised users have access to the entire network of vehicular highways throughout the county, including many unmetalled vehicular highways. The majority of these are now unsuitable for use by non-motorised users due to the speed and volume of motorised traffic.</p> <p>In contrast, around 6% of the rights of way network is classified as Byway Open to All Traffic, with a number of these already subject to TROs.</p>
<p>Byways are ancient roads and the right of motorised users to make use of these roads should never be removed. To do so is unfair and prejudiced.</p>	<p>Byways Open to All Traffic came into existence when there was far less vehicular traffic on the roads, and before large 4x4 vehicles were in common use. These ancient roads were never intended to carry the volume of motorised traffic that wish to make use of them today and many such routes are simply unsuited to this volume of motorised traffic.</p>

<p>The proposed restriction of two wheel motor vehicles would include electric cycles. These are virtually silent and non-polluting, and are being promoted nationally as part of sustainable transport. Can these be excluded from the restriction?</p>	<p>Electrically assisted pedal cycles of a specification that meets legislative requirements, as outlined in the DfT factsheet, are not classed as motor vehicles and would not be affected by the proposed TRO. Any electrically powered vehicles that are classed as motor vehicles would be included in the proposed restriction.</p>
<p>Some trail riders have disabilities that would prevent them from accessing the countryside without their trail bikes. This TRO would discriminate against them.</p>	<p>Motorised mobility vehicles are not classed as motor vehicles and would not be included in any restriction. If people with disabilities are no longer able to access the route on their trail bike, they could still do so using a motorised mobility vehicle or electrically assisted pedal cycle of a suitable specification.</p>
<p>Non-motorised traffic is generally higher during the months of June, July and August. This is the same period that trail bikes would be allowed access under the proposed seasonal restriction. This only serves to increase the likelihood of conflict between motorised and non-motorised users and as such is illogical. Amenity would be improved if the restriction were reversed and motorised use were allowed only in the quieter winter months. This would be the least restrictive option.</p>	<p>Noted.</p>
<p>The inclusion of the lane as part of the Shipwright's Way does not preclude shared use to include motorised vehicles on some sections.</p>	<p>The fact that this BOAT is now included in the Shipwrights Way, a long distance promoted route for non-motorised users, has not prompted this proposed TRO. There is no reason why some sections of a promoted route cannot also carry rights for motorised users where those sections are of an appropriate legal status and can reasonably sustain vehicular use.</p>
<p>Trail riding has been a legitimate a popular pastime for over 100 years, as has horse riding, cycling and walking. As such, the routes available for motorised users should enjoy</p>	<p>Noted.</p>

the same level of protection as for non-motorised users.	
Alternative solutions;	
Reports have been made of trail riders riding up and down the lane repeatedly. This could be prevented using a one-way TRO.	Whilst this may have some benefit, it would be impossible to enforce using barriers and impractical to police.
Has a permit scheme been considered to control the amount of motorised use permitted on this lane? This has been successful in Kent.	It is the type of use rather than the volume which is the problem, and so permits are unlikely to be effective in this case. A permit scheme may be considered for this route in the future, depending on the findings of ongoing monitoring and promotion of a voluntary code of good practice for motorised users.
The presence of trail bikes on any route deters mountain bikers from excessive speeds, improving safety for all users. Mountain bikers often travel at greater speeds than trail bikes.	Noted, although no evidence has been presented to support this.
Given that safety has been highlighted as a concern, why has a speed restriction not been considered? 5mph was suggested by one objector.	Whilst this may have some benefit, it would be impossible to enforce and impractical to police.
Closing the lane will only serve to increase local pollution as the alternative route for motor vehicles via the main roads is longer and will be travelled at higher speeds.	Noted.
A more appropriate solution could be to apply a width restriction of 1.5 metres. This would exclude 4x4s, but allow quads, tricycles and motorcycles, all of which have a significantly lower impact on the surface.	Noted.
A weight restriction should be imposed to prevent heavy 4x4 vehicles, but allow lighter vehicles, including quads, that are not likely to cause damage to the lane.	Whilst this may have some benefit, it would be impossible to enforce and impractical to police.

Other;	
On a number of occasions TRF members have assisted the emergency services in finding and accessing other byway users who have been involved in an incident. A number of TRF members are first aid trained, which represents an asset in the countryside.	Noted.
Where motor vehicles have been restricted from using other BOATs, the routes have become very overgrown and difficult for non-motorised users to access. The presence of motorised use helps to keep BOATs in good order for everyone.	Noted.
There is no genuine user conflict on this route.	There have been reports of user conflict on this route from non-motorised users who have felt intimidated by motorised users or have had difficulty using the route due to surface damage caused by motorised use.

Support

Categories;
Surface Damage and maintenance
Fairness/Appropriateness of proposed restrictions

Summary of points made in support of the proposed Traffic Regulation Order in **58** representations from both individuals and the following groups;

Ramblers, British Horse Society, Headley Parish Council, Bordon Environmental Conservation Group, Romsey and Fordingbridge Footpath Society, Frensham Riding Club

Support	Officer Comments
Surface Damage and maintenance;	
This TRO is essential to prevent a reoccurrence of the damage that has happened previously.	Whilst it seems clear that 4x4 vehicles have caused significant damage in the past, it is argued that in fact motorcycles do no more damage than horses. The only way to test this is to allow use by motorcycles for a trial period and closely monitor the impact on the surface.
Motor vehicles present a direct danger to non-motorised users, especially on surfaces that have become rutted, making it more difficult to control a motor vehicle effectively.	Whilst the TRF promote a voluntary code of conduct which sees many trail riders showing a high level of consideration to non-motorised users, not all motorised users are members of this group or adhere to this code. Inappropriate vehicular use could pose a danger to non-motorised users.
Motorised use is likely to damage the surface and erode the ditches.	It is agreed that use by 4x4s would cause damage. However, whether or not motorcycles would cause significant damage is challenged and has not been tested.
The significant investment of taxpayers' money in repairing this lane must be protected. Otherwise it will be very unlikely that this kind of repair could be carried out again in the future.	Noted.
This area naturally has fragile soils and poor drainage, making it unsuitable for motorised use.	Noted.

The repairs that have been made have restored this lane to a condition that is useable by the majority of path users. A minority must not be allowed to ruin it again for everyone.	Noted.
Fairness/Appropriateness of proposed restrictions;	
Number of non-motorised users will increase now this is part of the Shipwright's Way, making this TRO even more essential. Motorised use is incompatible with a long distance promoted route for non-motorised users.	The fact that this BOAT is now included in the Shipwright's Way, a long distance promoted route for non-motorised users, has not prompted this proposed TRO. There is no reason why some sections of a promoted route cannot also carry rights for motorised users where those sections are of an appropriate status and can reasonably sustain vehicular use.
Motorised use is not appropriate for rural rights of way.	HCC's TRO policy does not address this view, focussing wholly on the management of surface damage and maintenance.
This ancient and valuable track should be protected and preserved for the future by preventing further damage to it.	HCC's TRO policy does not address the issue of preserving the character of rural routes under s1(d) and 1(e) of the RTRA 1984, but it does not preclude the use of these sections.
Even where damage is not caused, the noise made by motor vehicles seriously detracts from the enjoyment of non-motorised users.	HCCs TRO policy does not address this view, focussing wholly on the management of surface damage and maintenance.
The proposed TRO will reduce user conflict on this route.	That is not a valid ground for imposing a TRO.
Thousands of miles of county roads have had to be surfaced with tarmac to make them suitable for motorised use. Unmetalled roads are not suitable for motorised use and should be protected for the enjoyment of non-motorised users.	HCCs TRO policy does not address this view, focussing wholly on the management of surface damage and maintenance.