

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Culture, Recreation and Countryside
Date:	3 July 2014
Title:	Proposal to apply for a Traffic Regulation Order on Hook Byway Open to All Traffic No.1 and Winchfield Byway Open to All Traffic No.14
Reference:	5918
Report From:	Director of Culture, Communities & Business Services

Contact name: Esther Smeardon

Tel: 01962 832352

Email: esther.smeardon@hants.gov.uk

1. Executive Summary

- 1.1. The purpose of this paper is to consider requests to make a permanent Traffic Regulation Order on Hook Byway Open to All Traffic (BOAT) No.1 and Winchfield BOAT No.14, 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 advertise the Council's intention to make the aforementioned Traffic Regulation Order and begin the formal consultation.

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 -

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

for ***preventing damage to the road*** or to any building on or near the road, or

for facilitating the passage on any road or any other road of any class of traffic (including pedestrians), or

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

(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

for preserving or improving the amenities of the area through which the road runs.

For any of the purposes specified in paragraphs (a) to (c) of subsection (1) of section 87 of the Environment Act 1995 (air quality).

2. Background

- 2.1. This route has been subject to temporary closure since 1st November 2013 – initially for 6 months until 1st May 2014 and then extended for another 9 months until 1st February 2015 – owing to the significant surface damage that has occurred.
- 2.2. The surface conditions of Hook BOAT No.1, and to a lesser extent Winchfield BOAT No.14, have been very badly damaged primarily by vehicle use, especially in wet weather conditions. The route has become virtually impassable (on foot, bike and horse as well as in a vehicle) at most times of the year, because it is heavily shaded and rarely dries out. Even in the most difficult conditions, some 4x4 vehicle users have continued to drive along the route, causing even more damage.
- 2.3. The damage may be exacerbated because the route from A30 along Hook BOAT No.1 and Winchfield BOAT No. 14 is effectively a 'dead end' for vehicles as it leads to Old Potbridge Road, which has a Traffic Regulation Order prohibiting access using any motor vehicle having three or more wheels (unless associated with premises on that section of Old Potbridge Road). This applies to the length of Old Potbridge Road between a point 376 metres south west of its junction with the B3016 Odiham Road and its south western point of termination. Therefore all vehicles using Hook BOAT No.1 and Winchfield BOAT No. 14 have no option but to return the way they came.
- 2.4. On some occasions the landowner has reported fences and gates being removed, in order for vehicles to turn around, or to allow 'rescue' vehicles to winch stranded 4x4 vehicles out of the worst sections. This has sometimes left livestock unsecured and also caused damage to trees. It appears that walkers have also damaged fences by climbing over as they try to avoid the worst sections.
- 2.5. Officers consider that the route is able to sustain the current level of use by walkers, cyclists, horse riders, horse drawn vehicles and 2 wheel motorbikes. However it is very vulnerable to damage by vehicles with 3 or more wheels, as evidenced by its current condition which includes ruts more than 2' deep.
- 2.6. In order to limit restrictions whilst also taking practical measures to protect this route from further erosion it is desirable to exclude motorised vehicles with 3 or more wheels at all times of year as the surface is very vulnerable to damage.

- 2.7. Repairs are planned for the near future should the Traffic Regulation Order come into force, so all permitted users will have a suitably surfaced route.

3. Informal Consultations

3.1. Ramblers

The Ramblers has been consulted on this proposal and is in support of it. Their Representative commented that they feel the BOATs should be categorised as Restricted Byways (closed to all motor vehicles including motorcycles).

3.2. Open Spaces Society

The Open Spaces Society has been consulted on this proposal but has made no comment.

3.3. British Horse Society and British Driving Society

The British Horse Society and the British Driving Society have been consulted separately on this proposal but returned a combined response in support of it. They commented that they would like to ensure that carriage drivers using these BOATs are taken into consideration when changes affecting access are made.

3.4. The Byways and Bridleways Trust

The Byways and Bridleways Trust has been consulted on this proposal but has made no comment.

3.5. Land Access & Recreation Association

The Land Access & Recreation Association has been consulted on this proposal and has replied as the Trail Riders Fellowship (see 3.8 below).

3.6. Cyclists Touring Club

The Cyclists Touring Club has been consulted on this proposal but has made no comment.

3.7. British Motorists Federation

The British Motorists Federation has been consulted on this proposal but has made no comment.

3.8. Trail Riders Fellowship

The Trail Riders Fellowship has been consulted on this proposal and is in support of it. The Loddon Vale TRF Committee has also commented to say that they feel the proposal is not the only option available and they would support a TRO for motor vehicles above a certain width or weight so as not to exclude quad bikes, as they feel these do not cause damage and are quite rarely used. They also commented that they would like to see one of the footpaths on Old Potbridge Road become a BOAT to allow users to continue on their journey at the current dead-end, stopping Hook BOAT No.1 and Winchfield BOAT No.14 being used twice.

3.9. Auto Cycle Union

The Auto Cycle Union has been consulted on this proposal but has made no comment.

3.10. All Wheel Drive Club

The All Wheel Drive Club has been consulted on this proposal and is not in support of it. They commented that lack of adequate maintenance by the Council is not an acceptable reason to restrict access by motor vehicles.

3.11. Road Haulage Association

The Road Haulage Association has been consulted on this proposal but has made no comment

3.12. Freight Transport Association Ltd

The Freight Transport Association has been consulted on this proposal but has made no comment

3.13. National Farmers Union

The National Farmers Union has been consulted on this proposal but has made no comment.

3.14. Campaign to Protect Rural England

The North East Hampshire District Group of the Campaign to Protect Rural England (CPRE) was not consulted on this proposal but has commented to say they are in support of it.

3.15. Local Member - Councillor Glen

Councillor Glen has been consulted on this proposal and is in support of it. The District Councillors for Hook and Odiham wards are aware of this proposal.

3.16. HCC – Highways Management

Hampshire Highways has been consulted on this proposal and has no objection to it.

3.17. HCC – Environment Department

Hampshire Environment department has been consulted on this proposal but has made no comment.

3.18. HCC – Crime & Disorder Risk Advisor

Hampshire's Crime and Disorder Risk Advisor has been consulted on this proposal and has provided the following information. The area is very low in crime, with no crime around the location of BOAT No.1 and BOAT No.14 in the last 6 months and the impact of the proposed changes will not affect Crime and Disorder and there are no implications from a Section 17 perspective.

3.19. Hart District Council

Hart District Council has been consulted on this proposal but has made no comment.

3.20. Parish Councils: Hook and Winchfield

Hook Parish Council and Winchfield Parish Council have both been consulted on this proposal and are both in full support of it. In addition, both Hook Parish Council and Winchfield Parish Council would like to see two-wheeled motor vehicles banned. Winchfield Parish Council feels this would be in the interests of the safety of walkers and because motorcycles cause damage to the surface of the byway and to the surrounding flora.

3.21. Hampshire Police, Fire and Ambulance

Hampshire Police, Fire and Ambulance have been consulted on this proposal. Hampshire Police are in support of it. Hampshire Fire and Ambulance have made no comment.

3.22. Local Residents

Local residents have been consulted on this proposal and two have responded. One of the responses said that all residents fully support the proposal.

4. Comments on Informal Consultations

- 4.1. The Ramblers has commented that it would like to see this restriction extended to include motorcycles. Both Hook Parish Council and Winchfield Parish Council also raised this concern due to the possible damage that motorcycles might cause. However, it is felt that motorcycles are not currently having a significant detrimental effect on the condition of the surface and therefore excluding motorcycles from exercising their right to use this route would not be appropriate at this time. This is in line with the Council's policy on seeking the least-restrictive option in each case.
- 4.2. It has been suggested by the Trail Riders Fellowship that one of the footpaths on Old Potbridge Road become a BOAT to allow users to continue on their journey at the current dead-end, stopping Hook BOAT No.1 and Winchfield BOAT No.14 being used twice. This has been considered. However, the surface conditions of Hook BOAT No.1 and Winchfield BOAT No.14 are not suitable for vehicles due to the excessive damage caused even by one pass, the existing Traffic Regulation Order covers the section of Old Potbridge Road where Winchfield BOAT No.14 emerges and the agreement of landowners would need to be gained for motorised vehicular rights to be dedicated on a footpath or evidence of vehicular rights would need to be provided (as the NERC Act extinguishes motorised vehicular rights for routes on the Definitive Map). For these reasons this suggestion is not considered a suitable option.
- 4.3. It has also been suggested by the Trail Riders Fellowship that a TRO for motor vehicles above a certain width or weight so as not to exclude quad bikes would be better, as they feel these do not cause damage and are quite rarely used. This has been considered, however a TRO for motor vehicles above a certain width or weight is very difficult to monitor and enforce.
- 4.4. The British Horse Society and the British Driving Society have commented on the use of access restrictions to enforce the proposed TRO and for these to not affect their users. Hampshire County Council will be very careful to install the correct barriers for permitted users.
- 4.5. The All Wheel Drive Club has commented that Hampshire County Council should be carrying out better maintenance of this route rather than proposing a TRO to restrict motor vehicles of 3 or more wheels. However, the route is considered unsuitable for motor vehicles, regardless of increased maintenance, due to the ground conditions not being free draining and the area being heavily shaded.

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

- 5.1. 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 (www3.hants.gov.uk/row/making-changes/traffic-regulation-orders/tro-policy.htm). 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. The recommendations contained in that policy have been taken into account in developing this proposal.
- 5.2. This proposal is also in line with the aims of the Hampshire Downs Countryside Access Plan, in particular issues 2, 3 and 5 which talk about the problems that path users encounter in using vehicular highways to link between traffic-free routes and the need to properly maintain existing rights of way (<http://www.hants.gov.uk/rh/countryside/access/hampshire-downs.pdf>).

6. Recommendations

- 6.1. It is recommended that Hampshire County Council should advertise its intention to introduce a **permanent** Traffic Regulation Order under section 1 of the Road Traffic Regulation Act 1984 to restrict vehicles with three or more wheels on Hook Byway Open to All Traffic (BOAT) No.1 and Winchfield BOAT No.14 on the attached plan.
- 6.2. Once comments have been received on this proposal from interested parties a further report should be prepared for the Executive Member seeking approval for the making of the abovementioned Traffic Regulation Orders, should it still be considered appropriate to do so in light of those comments.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

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

DocumentLocation

General Correspondance

Hantsfile Reference: Orders by Parish\TROs\Hook and Winchfield

TRO Proposal File: Hook 1 and Winchfield 14

Countryside Access Team,
Countryside Service, Castle Avenue,
Winchester, SO23 8UL

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 on this route will enable surface improvements to be maintained, making the route easily accessible by a wide range of path users.	
Crime Prevention (under Section 17)	None	The introduction of the proposed Traffic Regulation Orders will enable the restrictions to be effectively enforced by physical structures, rather than policing. The area is very low in crime; suffering no crime around the location of Hook BOAT No.1 and Winchfield BOAT No.14 in the last 6 months and the proposals made are anticipated to have no impact on increasing crime and disorder.	
Environmental	L	The proposed restrictions will reduce use of the route by motorised vehicles, reducing environmental impacts in the local area.	