

## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Executive Member for Culture, Recreation and Countryside
<b>Date:</b>	15 August 2014
<b>Title:</b>	Proposal to make a Traffic Regulation Order on Hook Byway Open to All Traffic No.1 and Winchfield Byway Open to All Traffic No.14
<b>Reference:</b>	6047
<b>Report From:</b>	Director of Culture, Communities & Business Services

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#### 1. Executive Summary

- 1.1. The purpose of this paper is to consider requests to make a 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 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 -

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).

**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 Hook Byway Open to All Traffic (BOAT) No.1 and Winchfield BOAT No.14, was considered by the Executive Member for Culture, Recreation and Countryside on 3 July 2014.
- 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 on Hook BOAT No.1 and Winchfield BOAT No.14, as shown on the attached plan.

- 2.3. The advert was placed in the local press on 11 July 2014, notices were posted on site between 10 July and 1 August 2014 and sent to the relevant statutory consultees.

### **3. Formal Consultations**

- 3.1. In response to this formal consultation 1 objection and 3 comments were received between 11 July and 1 August 2014, as detailed in Section 4 of this report.
- 3.2. Although no specific expressions of support were received during the same period, possibly as the formal notice only specifically invites objections, one expression of support has been received since the formal consultation period closed.
- 3.3. The vast majority of consultees returned no comment.

### **4. Comments on Formal Consultations**

- 4.1. The only objection received during the consultation period was from the All Wheel Drive Club. They object to the proposal to restrict access for motor vehicles with three or more wheels because they think that better policing and better maintenance would prevent the damage and allow everyone to enjoy the routes. They state that all motorised vehicle users with three or more wheels are being discriminated against due to the actions of some users and lack of maintenance by the Council. They also question whether invalid carriages will be restricted as they have three or more wheels. The All Wheel Drive Club also objected during the earlier informal consultation.
- 4.2. The main part of the surface damage that has occurred on these routes appears to have been caused by four wheel drive vehicles. This damage has been the main reason for proposing to make this TRO and it appears to be generally accepted that such use is not appropriate on this route. The route is unsuitable for motor vehicles with three or more wheels due to the ground conditions not being free draining, the area being heavily shaded, the narrowness of the route with a lack of passing places for motor vehicles with three or more wheels and the route being a 'dead end' for motor vehicles with three or more wheels due to a TRO preventing access at the southern end (Old Potbridge Road). This restriction has been proposed in order to improve the surface of these routes and allow them to be used and enjoyed by walkers (including mobility scooters), cyclists, horse riders, horse-drawn carriage drivers and two wheel motor cyclists. Whilst the objection to this proposal is noted, the road damage concerns are such that officers are of the view that the proposed restriction is appropriate and it is very unlikely that funds could be made available to carry out ongoing repairs and enforcement on this route should a TRO not be implemented.
- 4.3. Comments were received during the consultation period from Winchfield Parish Council, British Driving Society and Hampshire County Council's Crime and Disorder Risk Advisor.

- 4.4. Winchfield Parish Council commented that they specifically requested during the first consultation that the proposed order would be extended to prohibit two wheeled vehicles from these routes. This comment is noted. However, as two wheel motor vehicles do not appear to be responsible for much of the current damage, Officers are of the view that a proposal to restrict them from these routes would not be implementing the least restrictive option and therefore not complying with the Council's TRO policy.
- 4.5. The British Driving Society commented to request that carriage drivers are included as a stakeholder group that would continue to be entitled to use these routes (this proposal was not suggesting restricting carriage drivers anyway), and to request that, when implementing any changes, particular attention could be paid to sight lines, gate widths and ensuring there is sufficient space to allow a carriage driver safe access on and off the road. These aspects will be given careful consideration should a TRO be made. Installing barriers, signs and checking widths and sight lines will take place after the six weeks of advertising of a made TRO.
- 4.6. Hampshire's Crime and Disorder Risk Advisor provided the following information: this is a very low crime area and there have been no crimes around the location of Hook BOAT No.1 and Winchfield BOAT No.14 in the last 6 months. The impact of the proposed changes will not affect Crime and Disorder and there are no implications from a Section 17 perspective.
- 4.7. Although only one expression of support has been received from Winchfield Parish Council, and that was a few days after the closing date of the consultation period, it is clear from the earlier consultation that there is strong local support for this proposal, as detailed in the Decision Report considered on 3 July 2014.
- 4.8. Consultees who made no comment during this consultation, but may have commented during the earlier consultation, were: The Ramblers, Open Spaces Society, British Horse Society, Byways and Bridleways Trust, Land Access and Recreation Association, Cyclists Touring Club, British Motorists Federation, Trail Riders Fellowship, Auto Cycle Union, Road Haulage Association, Freight Transport Association, National Farmers Union, Campaign to Protect Rural England, Local Member (Cllr Glen), Hampshire County Council (Highways and Environment), Hart District Council, Hook Parish Council, Hampshire Police, Fire and Ambulance and local residents.

## **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. 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 also addresses 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, which may be through implementing methods of preventing damage by inappropriate or unsuitable use.

## **6. Costs and Financial Implications**

- 6.1. The advertising costs for implementing this TRO and the cost of a barrier and signage at the northern end will be in the region of £1000, to be met from the Access Team budget.

## **7. Conclusions and Recommendations**

- 7.1. In light of the surface damage that has been attributed to use by four wheel drive vehicles, the unsuitable ground conditions, the narrowness of the route with a lack of passing places for motor vehicles with three or more wheels and that the route is a 'dead end' for motor vehicles with three or more wheels (a TRO prevents access at the southern end), Officers are of the view that, it is not possible or sustainable to improve or widen the route. Therefore a permanent TRO to restrict motor vehicles with three or more wheels does comply with the Council's TRO policy.

## **8. Recommendation**

- 8.1. 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 Hook BOAT No.1 and Winchfield BOAT No.14, as shown on the attached plan.

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

<b>Hampshire safer and more secure for all:</b>	yes
<b>Maximising well-being:</b>	yes
<b>Enhancing our quality of place:</b>	yes

**Other Significant Links**

<b>Links to previous Member decisions:</b>		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
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	5918	3 July 2014

**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 Correspondance	Hantsfile Reference: Countryside Orders \ Traffic Regulation Order 5 \ Hook & Winchfield
Proposal File	ES\TRO\Hook BOAT1 & Winchfield BOAT14
TRO Policy	<a href="http://www3.hants.gov.uk/row/making-changes/traffic-regulation-orders/tro-policy.htm">www3.hants.gov.uk/row/making-changes/traffic-regulation-orders/tro-policy.htm</a>
Hampshire Downs Countryside Access Plan	<a href="http://www.hants.gov.uk/rh/countryside/access/hampshire-downs.pdf">http://www.hants.gov.uk/rh/countryside/access/hampshire-downs.pdf</a>

## **IMPACT ASSESSMENTS:**

### **1. Equality Duty**

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;

Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

#### **Due regard in this context involves having due regard in particular to:**

The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;

Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;

Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

### **1.2. Equalities Impact Assessment:**

Please see Impact Assessment on Page 8.

### **2. Impact on Crime and Disorder:**

2.1. The introduction of this permanent Traffic Regulation Order on Hook BOAT No.1 and Winchfield BOAT No.14 will have no impact on Crime and Disorder in the area.

### **3. Climate Change:**

The proposal to restrict motor vehicles with three or more wheels will have a positive impact on the environment of the local area.

Restricted use of motorised vehicles in arduous conditions is positive for energy consumption and therefore climate change.

**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.	5.2
Crime Prevention (under Section 17)	None	The introduction of the proposed Traffic Regulation Orders 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.	6.1
Environmental	L	The proposed restrictions will reduce use of the route by motorised vehicles, reducing environmental impacts in the local area.	5.2