

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Culture, Recreation and Countryside
Date:	18 January 2018
Title:	Byways – Traffic Regulation Order - Proposal to make Traffic Regulation Orders
Report From:	Director of Culture, Communities & Business Services

Contact name: Jo Heath

Tel: 01962 847717

Email: jo.heath@hants.gov.uk

1. Recommendations

1.1. That the Executive Member for Culture, Recreation and Countryside approves the proposal to make Traffic Regulation Orders under section 1 of the Road Traffic Regulation Act 1984 to restrict all motorised users with 3 wheels or more on **Bentworth Byway Open to All Traffic Nos. 23, 27 & 28 and Wield Byway Open to All Traffic Nos. 19 & 20** and to amend the draft Order to restrict all motorised users with 3 wheels or more on **Wield Byway Open to All Traffic No 17, Selborne Byway Open to All Traffic No 67 and Worldham Byway Open to All Traffic No 38.**

2. Executive Summary

2.1. The purpose of this paper is to seek authority to make Traffic Regulation Orders (TRO) on Bentworth Byway Open to All Traffic (BOAT) Nos. 23, 27 & 28, Wield BOAT Nos. 17, 19 & 20, Selborne BOAT No 67 & Worldham BOAT No 38, as shown on the attached plans (Appendix C & D), under section 1 of the Road Traffic Regulation Act 1984.

3. Contextual Information

3.1. In 2013, concerns were raised about the deteriorating surface of some byways by legitimate legal users using routes that could not sustain the volume / weight or, in some cases, users that were purposely attempting to make the surface more challenging.

3.2. As part of the ongoing process and following best practice, an informal consultation was carried out from 26 October 2016 to 23 November 2016 outlining proposals.

- 3.3. On the 6 December 2016¹ a report was submitted seeking approval from the Executive Member Culture, Recreation and Countryside to instigate an approach to managing 11 Byways Open to All Traffic. These 11 Byways were split into 3 groups A, B and C, the proposal for Group A was that there should be continued monitoring of the routes with NO proposal for a TRO. The routes included in groups B and C are the focus of this paper.
- 3.4. Following informal consultation and consideration, a further report was submitted on the 15 June 2017² the recorded decision approved the intent to formally advertise the Council's intention to introduce permanent TROs.
- 3.5. The TROs were advertised for a 3 week period on 21 July 2017.
- 3.6. The draft Order for Selborne BOAT No 67 & Worldham BOAT No 38 was re-advertised on 11 August 2017, due to an error in the Order.
- 3.7. During this period 227 replies were received, 214 negative and 12 supporting. The BOATS in Group B (Table 1) received 15 objections and 3 supporting. The BOATS in Group C received 199 objections and out of these 158 were objecting specifically to motorbikes being included in the TROs. The objections relate to private access rights, the use of gates, perceived lack of maintenance, failure to follow HCC policy and Defra Guidelines and questions about the extent of damage. However the great majority of objections came from motorcycle users who challenge the evidence that their use of these routes is causing significant damage.
- 3.8. The Trail Riders Fellowship (TRF), in its objection, has asked for a public inquiry, given the significantly high number of objections received compared to support for the proposal. Hampshire County Council's legal team have recommended that consideration be given to whether a public inquiry should be held, and has suggested there would be a strong possibility of a High Court Challenge if we were to proceed without a Public Inquiry.
- 3.9. In consideration of the objections received and following a review of the routes and evidence, it is proposed to amend the TROs in Group C to the same as those in Group B i.e. a permanent restriction against all motorised users with 3 wheels or more rather than all motorised users. This will enable the proposed amended TROs to progress and allow further dialogue with objectors and monitoring of the affected routes. This will be in line with the proposed, more dynamic approach to managing the BOAT network which is in development, and which was initially outlined and discussed at the

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http://www3.hants.gov.uk/councilmeetings/advsearchmeetings/meetingsitemdocuments.htm?sta=&pref=Y&item_ID=7960&tab=2&co=&confidential

² <http://democracy.hants.gov.uk/ieListDocuments.aspx?CId=169&MId=286&Ver=4>

Hampshire Countryside Access Forum in September 2017, where it received general support and consensus.

3.10. Table 1

Original Proposal	Byway Open to All Traffic	Amended Proposal
<p>Group B - It is proposed to impose a permanent restriction against all motorised users with 3 wheels or more, under section 1 of the Road Traffic Regulation Act 1984.</p>	<p>Bentworth 23 Bentworth 27 Bentworth 28 Wield 19 Wield 20</p>	
<p>Group C - It is proposed to impose a permanent restriction against all motorised users, which can be properly justified under section 1 of the Road Traffic Regulation Act 1984.</p>	<p>Wield 17 Selborne 67 Worldham 38</p>	<p>It is proposed to impose a permanent restriction against all motorised users with 3 wheels or more, under section 1 of the Road and Traffic Regulation Act 1984.</p>

4. Compliance with Hampshire County Council’s Traffic Regulation Order Policy and Countryside Access Plans

4.1. 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 2006³. 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 and recommendation to amend the proposed TROs in Group C.

³ <http://documents.hants.gov.uk/rightsofway/tro-policyandstatement.pdf>

5. Road Traffic Regulation Act 1984

- 5.1. Consideration has been given to the Road Traffic Regulation Act 1984 and the proposals meet some or all of the following criteria under Section 1;
- (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)

6. Department for Environment, Food and Rural Affairs (DEFRA)

- 6.1. Consideration has been given to 2005 DEFRA publication “Making the best of byways”.

CORPORATE OR LEGAL INFORMATION:**Links to the Strategic Plan**

Hampshire maintains strong and sustainable economic growth and prosperity:	Yes
People in Hampshire live safe, healthy and independent lives:	Yes
People in Hampshire enjoy a rich and diverse environment:	Yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes

Other significant links

Links to previous Member decisions:		
Title	<u>Reference</u>	<u>Date</u>
Byways – Traffic Regulation Orders 2016 - Decision	7960	6/12/16
Byways – Traffic Regulation Orders 2016		15/06/17

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

None

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:

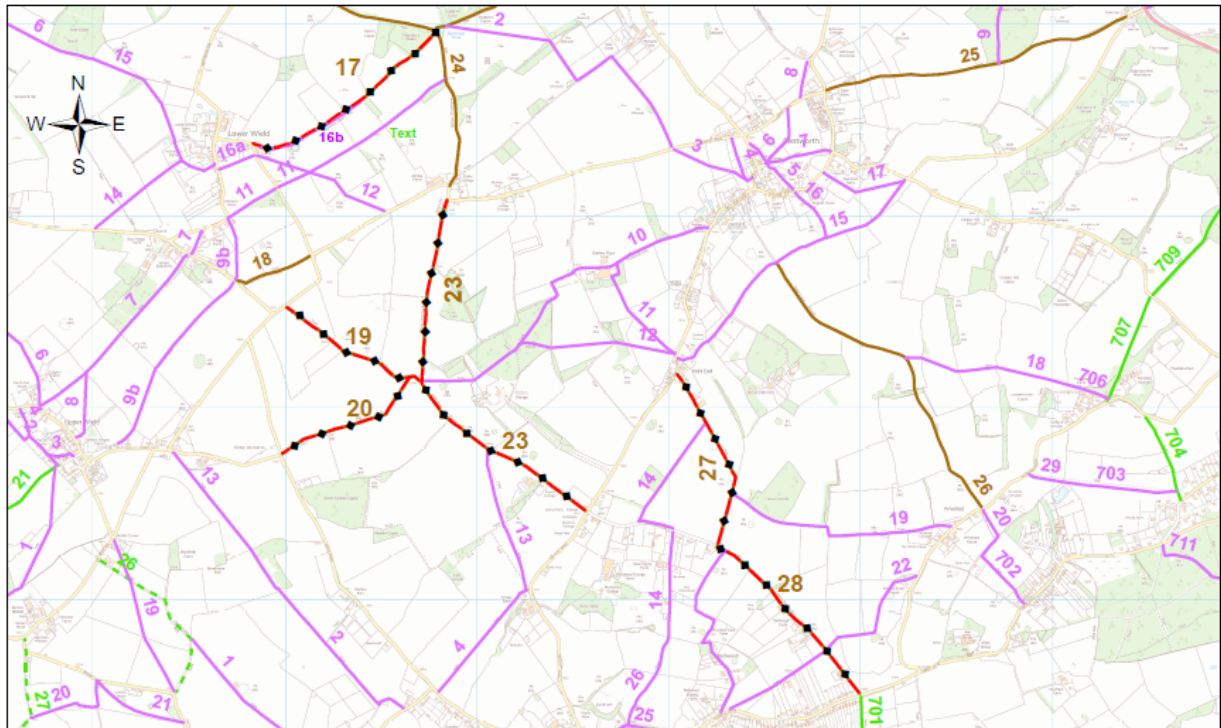
- a) This decision does not affect any people who fall into the protected characteristics.
- b) A decision to continue to restrict access by motorised vehicles on some routes will enable surface improvements to be maintained, making routes more easily accessible by a wider range of path users, including those who are less mobile. It does not affect mobility scooter users.
- c) To minimise the impact on motorised vehicle users the least restrictive option available has been recommended in line with the Council's adopted policy.
- d) This affects byways in the rural areas of East Hampshire District.

2. Impact on Crime and Disorder:

- 2.1. There will be a requirement to actively manage the closures of routes, where applicable, including working closely with Country Watch.

3. Climate Change:

N/A



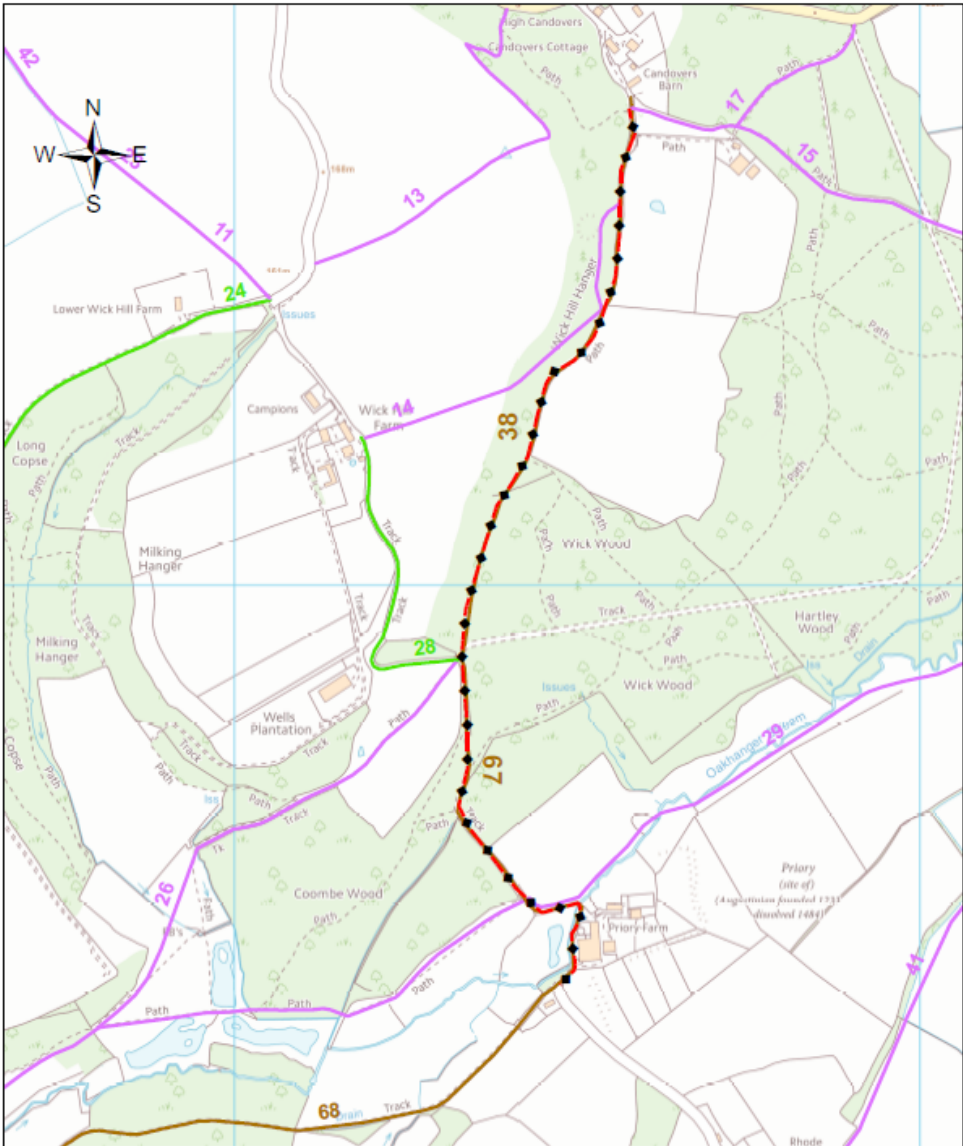
Hampshire
County Council
Countryside Access Team
Culture, Communities & Business Services
Castle Avenue
Winchester
SO23 8UL

TRO's Bentworth 23, 27 & 28 and Wield 17, 19 & 20

- ◆— TRO on BOAT
- Existing Public Footpaths
- Existing Byway

SCALE 1: 22000
DRAWN TP
DATE 29.03.2017

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TRO's Selborne 67 & Worldham 38



Countryside Access Team
 Culture, Communities & Business Services
 Castle Avenue
 Winchester
 SO23 8UL

SCALE 1:7000
 DRAWN TP
 DATE 29.3.2017

- TRO
- Existing Byway
- Existing Bridleway
- Existing Public Footpath

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