

HAMPSHIRE COUNTY COUNCIL

Decision Report

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| Decision Maker: | Executive Member for Culture, Recreation and Countryside |
| Date: | 15 June 2017 |
| Title: | Byways – Traffic Regulation Order 2016 / 17 - Proposal to advertise 'intention' to make Traffic Regulation Orders |
| Report From: | Director of Culture, Communities & Business Services |

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1. Executive Summary

- 1.1. The purpose of this paper is to seek authority to advertise 'intention' to make Traffic Regulation Orders 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 D), 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 Orders and begin the formal consultation.

2. Contextual Information

- 2.1. 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. On the 4 October 2016 a report was submitted seeking approval from the Executive Member Culture, Recreation and Countryside to instigate an approach to managing the 10 Byways Open to All Traffic.
- 2.2. The Decision Recorded on 6 December 2016¹ approved the proposed approach and the commencement of the Traffic Regulation Orders for these Byways. This included authorisation to; undertake informal consultation (5.1) and the production of this paper post consultation which seeks authorisation to advertise our intention to make an order (5.2.i).

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

- 2.3. An informal consultation was carried out from 26th October 2016 to 23rd November 2016 outlining proposals. We received 35 replies, 10 negative, 10 supporting and 15 who were concerned about access to properties and land. As this proposal directly effects the rights of users, particularly motorised vehicle users, the negative comments were mainly associated with the prevention of access, maintenance standards and impact on other users i.e. carriage riders, horseriders etc. Many of these comments have been resolved through clarification. It is likely that those issues identified by motorised uses will form objections within the formal consultation, which will be the next stage of this process.
- 2.4. A summary of the comments and questions from those who replied to the informal consultation along with the responses given, is attached in Appendix C.
- 2.5. Following the assessments and consultation, the recommendations for future sustainable management of these routes are:-

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| <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>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>Byway Open to All Traffic:</p> <p>Bentworth 23</p> <p>Bentworth 27</p> <p>Bentworth 28</p> <p>Wield 19</p> <p>Wield 20</p> <p>Byway Open to All Traffic:</p> <p>Wield 17</p> <p>Selborne 67</p> <p>Worldham 38</p> |
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N.B Groups 'as indicated' in previous related papers

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

- 3.1. 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 2006². This policy

² <http://documents.hants.gov.uk/rightsofway/tro-policyandstatement.pdf>

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.

4. Road Traffic Regulation Act 1984

- 4.1. 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)

5. Recommendations

- 5.1. It is recommended that Hampshire County Council should advertise its intention to introduce **permanent** 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 all motorised users 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.**
- 5.2. The proposal to make the order must be published in the local press, and the order and map showing the effects of the order must be made available for public inspection for a period of at least 21 days after the notices have been displayed.
- 5.3. Once comments have been received on these proposals from interested parties a further report should be prepared for the Executive Member Decision Day on 18 September 2017, seeking approval for the making of the above mentioned 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**

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| Hampshire safer and more secure for all: | yes |
| Maximising well-being: | yes |
| Enhancing our quality of place: | 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 | 7772 | 4/10/16 |

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

Questions and Answer following informal consultation to prohibit Motor Vehicles on Bentworth BOAT Nos 23, 27 & 28 & Wield BOAT Nos 17, 19 & 20.

- ***Will access to properties, stables etc be prohibited?***

No, the intention would be to install any structures in the same positions of the existing gates, and therefore not impeding property or landowner's access to their properties or land.

- ***Will Carriage drivers still have access?***

Where possible it would be our intention to leave gaps with a minimum width of 1.6m to the side of existing gates or install Kent carriage Gaps or similar structure where necessary. This will allow access for Horses and Carriage drivers.

- ***Motorcycles should be included.***

This comment has been noted.

- ***I believe BOATs 27 and 28 are currently subject to a permit system? Surely this should have limited numbers? Can you not extend the system to the other three?***

The permit scheme was subject to a legal challenge and is not in use.

- ***You cannot use TROs to avoid your statutory duty of maintenance.***

This comment has been noted.

- ***You have a duty to assert and protect the rights of all users.***

This comment has been noted.

- ***Please can you provide me with more information as to why these TRO have been proposed, who proposed them and what alternatives are being made for recreational four wheel drive users?***

Please see the report.

- ***Is there anything that volunteers can help with, in order to make them more sustainable to 4x4s?***

Voluntary restraint from using routes when the weather, conditions and surface render them unsuitable for use.

This process has been considered in line with our Policy

<http://www3.hants.gov.uk/row/vehicles-row/vehicles-policy.htm>

Questions and Answer following informal consultation to prohibit Motor Vehicles on Selborne and Worldham BOAT Nos 67 & 38.

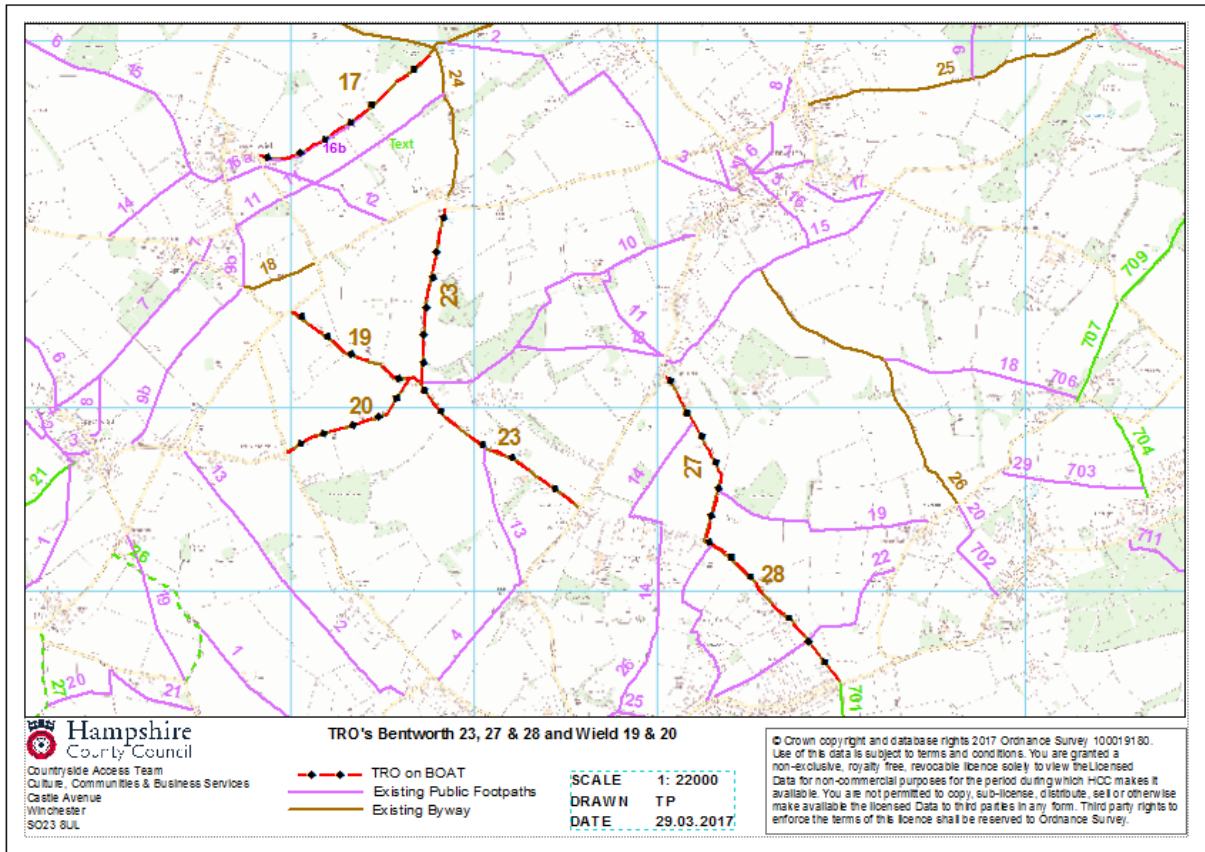
- ***Will access to properties, stables etc be prohibited?***

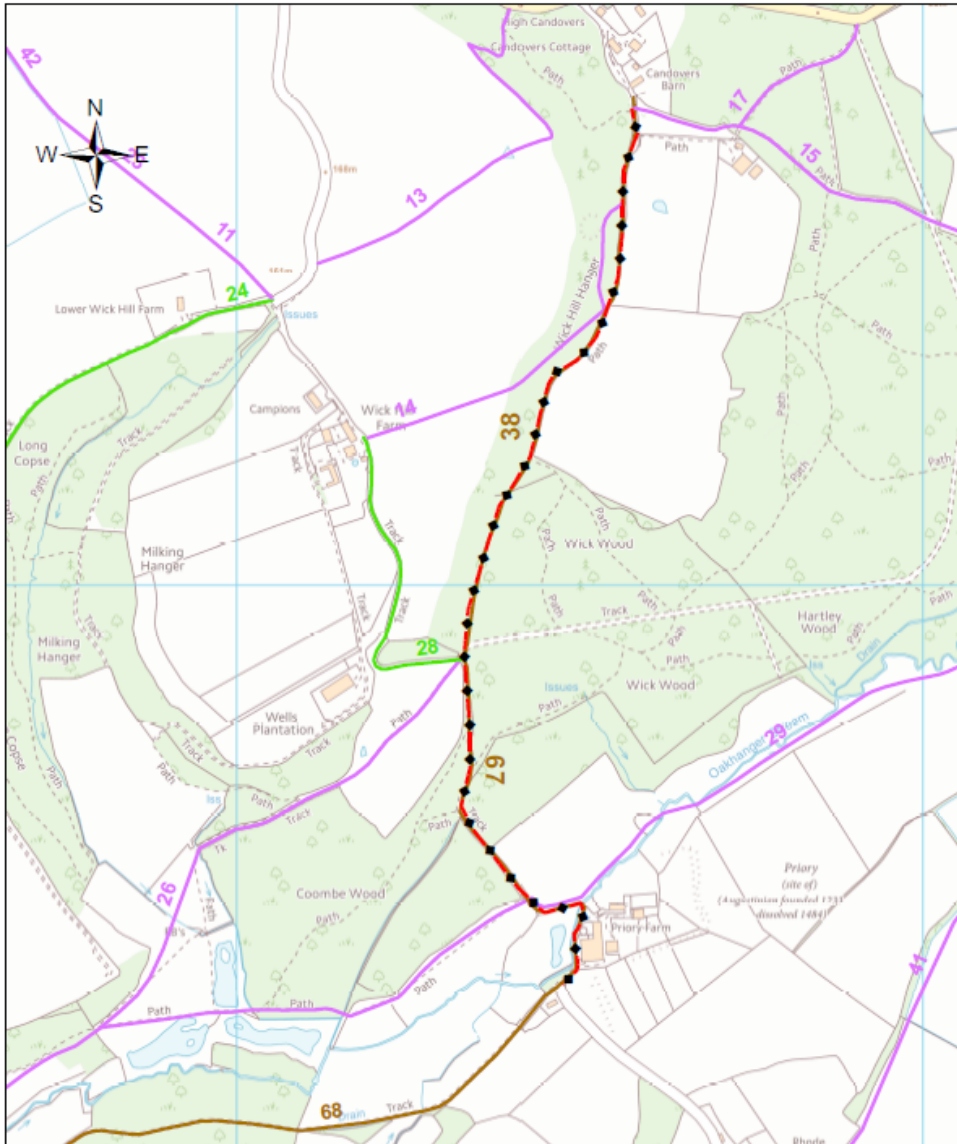
No, the intention would be to install any structures in the same positions of the existing gates, and therefore not impeding property or landowner's access to their properties or land.

- ***Will Carriage drivers still have access?***

Where possible it would be our intention to leave gaps with a minimum width of 1.6m to the side of existing gates or install Kent Carriage Gaps or similar structure where necessary. This will allow access for Horses and Carriage drivers.

This process has been considered in line with our Policy
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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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