



6. An outline of the progress being made to undertake the work funded from the current capital programme is summarised, together with a high level view of the audit being undertaken on all 352 BOATs for suitability to install gates. Gating is used to support the current closure programme, which is used to mitigate routes against damage in the wetter periods of the year and allow for surface recovery.
7. The paper outlines some proposed changes that will be made to the BOP, including the introduction of a summer closure process using <sup>1</sup>TTROs linked to Met Office Weather Warnings, and the ability to monitor / re-audit and close some Amber routes, if they start to deteriorate during winter closure period. Improved signage and web-based information linked to temporary closures are also highlighted in the paper.
8. Finally, the paper outlines the need to continue to refine our approach to management of the BOAT network with any lessons learnt from a more extensive review of the BOP over the winter months. The development of a new work programme for 2025-2030 will form the basis of a further paper for consideration by Executive Member for Countryside and Regulatory Services Decision Day, in early 2024.

### Contextual information

9. Hampshire County Council has statutory responsibility as the Highway Authority for the management and maintenance of 2,883 miles (4,639km) of Public Rights of Way (PROW). The network is made up of the following categories:

Code	Category	Legitimate users	Miles	No. Routes	%
FP	Footpaths	Walkers only	2,070	5,883	72%
BW	Bridleways	Horse Riders, Cyclists & Walkers	476	970	17%
RB	Restricted Byways	Carriage Drivers, Horse Riders, Cyclists and Walkers	157	261	5%
BOAT	Byway Open to All Traffic	Motorised Vehicles, Carriage Drivers, Horse Riders, Cyclists and Walkers	180	352	6%
			2,883	7,466	100%

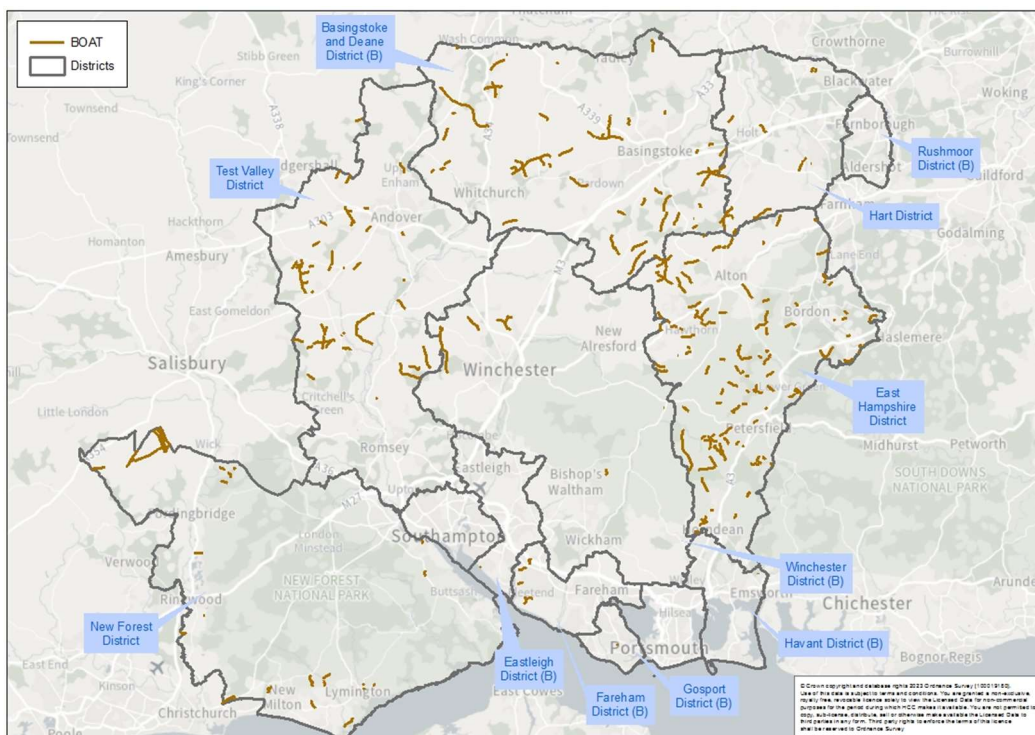
10. The County Council's statutory responsibility for Public Rights of Way falls into two main areas.
  - a. The management of the legal records, the definitive map and statement. These documents record the status, width, alignment, and limitations on individual paths. It should be noted that these are generally 'public rights' that exist across private land.
  - b. To assert and protect public access through the management and maintenance of rights of way. To ensure that routes are available for safe use by the public, the council has specific duties to manage signage, surfaces, and bridges.

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<sup>1</sup> TTRO Temporary Traffic Regulation Orders

11. The legal definition of a BOAT is defined by *Section 66(1) of the Wildlife and Countryside Act 1981* which defines a byway open to all traffic (“BOAT”) as: “a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used”.
12. Although there is a relatively low number of BOATs in the county, due to the use of the routes by motorised vehicles, they have a converse effect on the scale and frequency of issues and associated complaints. Complaints are mainly from communities impacted, concerning noise, safety and surface damage which can reduce use by other users and impact on the connectivity of the wider network.
13. The costs of repairing and maintaining BOATs is higher than other routes as more expenditure is required for maintenance, repairing drainage and surfacing. It should be noted that average costs for surfacing have increased over the last 3 years rising from £77 per linear metre in 2020 to £110 per linear metre, a 42% increase in costs in 2023.

### The Network of Byways Open to all Traffic



14. Due to the relatively high number of BOATs within the South Downs National Park (SDNPA), the Council works closely and in partnership with SDNPA. There are particular issues here due to the soil type, ground conditions and drainage, and the potential for noise disturbance within the National Park. This year the SDNPA are funding (£30,000) the provision of new information panels on BOATs to raise awareness of the national park, encourage safe and responsible use of the byway network, whilst also directing (Via QR Codes) users to more information and live information on seasonal closures.
15. The Executive Member for Recreation and Heritage approved a report [[Draft Hampshire County Council Policy Regarding the Use and Management of Motor Vehicles on Rights of Way and unsurfaced Roads in the Countryside](#)] in

November 2007 which set out the County Council policies for managing BOAT's and established a clear and defensible approach to the management of access to the countryside by lawful motorised users.

16. This paper and policy, set out:

- a) An understanding that the use of countryside paths and tracks by motor vehicles is an emotive subject. Some people feel strongly about their historic rights of access, whilst others object strongly to such use on the grounds of its impact. As the County Council has the legal duty to record and maintain these routes, it is important for all concerned to know what to expect from the County Council when problems arise and for the County Council to act fairly and consistently.
- b) The statutory role that the County Council has, requires asserting and protecting the public's legal rights to use and enjoy the public rights of way network, including motorised vehicles which are taxed, tested and insured on the byway network. It also highlighted the need to not conflate damage to the highway by private vehicles who have a private right of access (e.g. Farmers) or illegal use by untaxed / insured vehicles which is a criminal offence.
- c) It highlights that the Council would not proactively encourage motorised vehicles, and that the council would take action to limit or prevent access for motorised vehicles if this was resulting in damage to the route, environment or the ability of other users to exercise their rights.
- d) It commits the County Council to consider each route on its own merit.
- e) To prioritise repairs to benefit non-motorised users.
- f) And to encourage responsible behaviours.

17. The Executive Member for Culture, Recreation and Countryside approved a report in October 2016 titled Byways Update – Traffic Regulation Orders 2016. This report outlined the outputs and lessons learnt from an Experimental Traffic Regulation (ETRO) programme, which was operated in 2014/15 and recommended the need to establish a more evidenced led and agile way of managing the county's network of Byways resulted in the development of the Byway Operational Procedure (BOP).

18. The BOP assists the County Council with the decision-making process in the management of the BOAT network through gathering evidence and taking action to mitigate damage to the routes.

19. Annual inspections are undertaken on routes that are identified as having concerns (prioritised on reports received and local teams' knowledge). These inspections generate a score and allocate the routes into one of three categories;

- **Green** (No action required),
  - **Amber** (Moderate damage identified). Minor maintenance as required. Monitor for defined period,
  - **Red** (Significant Damage). Major maintenance required. Voluntary Restraint or Temporary Closure needed. Monitor for defined period. Further Mitigation if needed.
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20. Temporary Traffic Regulation Orders (TTROs) are used to support a programme of winter closures in order to undertake minor works, prevent further damage during our wettest seasons and to allow the routes to rest and reconstitute themselves. The use of TTROs allows a more dynamic approach, as the statutory process for these closures is more concise. This approach has generally been welcomed by the communities and user groups. Development stalled slightly during the pandemic, but last year was the first year that gates were introduced to physically close the routes to prevent illegal use.
21. The 352 Byways in the county all have now been assessed, of these 12 have been identified as Red (11 of these will be closed under this Winter's closure programme), 91 Amber and 249 Green.
22. The County Council is halfway through a 3-year (2022/23/24) capital investment programme which has focused on the resolution of health and safety issues concerning bridges and associated infrastructure and on maintaining Byways. To date this programme has seen capital investment on 4 Byways and completion of BOP Audits by staff on all 352 byways, and installation of 20 gates to be used as part of the seasonal closure programme.
23. Hampshire County Council has been working positively with the South Downs National Park Authority (SDNPA) and with affected communities and user groups. Work with the SDNPA has resulted in a refreshed commitment to collaborate and support the County Council on Byways, and through working with communities has resulted in new membership to the Hampshire Countryside Access Forum (HCAF<sup>2</sup>) which in part represents impacted communities and motorised user interests.

#### **Trial improvements to current operating procedure.**

24. It is proposed to review and update the BOP to support Hampshire County Council's need to mitigate the damage to BOATs so that it reduces the need for repair and keeps the routes open for use as much as possible.
25. Currently only routes classified as 'Red' are closed as part of the County Council's seasonal (winter) closure programme. It is proposed to trial 'Amber' routes that are observed during the Winter (October – May) period, as deteriorating and following rapid assessment to be added to the closure list. This amendment to procedure will reduce the risk of routes deteriorating further in the winter season.
26. Weather has a significant impact on the surface of a route, and this is exacerbated on Byways which are used by motorised vehicles, cyclists, horses, and pedestrians. Over recent years the frequency of heavy rain fall over the summer months has increased with some substantial weather events occurring over the summer months. It is proposed that a summer closure process be introduced in the BOP process, linked to Met Office weather warnings. On

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<sup>2</sup> Note the Countryside Access Forum is a statutory forum (Crow Act 2000), to advise the local authority on matters associated with access to the countryside.

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reviewing summer weather patterns over the previous 3 years this is likely to be only one or two occasions each year across the network and any occasion would be limited to a 5 day period following rainfall.

27. A programme of work linked to the installation of refreshed / new onsite signage at the entrances to BOAT's (with gates for closure) is progressing. Signage will include information about the route, why closures are occasionally necessary and where to find the latest information about the status of the BOAT online using QR codes and weblinks.
28. Improvements to the online information that clarifies the process for the escalation of mitigations through TTRO and TRO will be completed to assist with transparency to all users and communities.
29. We are also researching the options for introducing an advisory speed limit for vehicles using unsurfaced roads.

### **Delivery Programme 2025-2030**

30. There is currently a capital allocation for the management of the rights of way network. This allocation is used primarily associated with the management of Health and Safety (H&S) requirements of the Bridges on the network, but also includes the maintenance of the surface of paths (including Byways). A further allocation of £800,000 is budgeted 2024/25. A further delivery programme is required to determine the future resource requirements to meet the County Council statutory requirements in the management of Rights of Way and BOATs. This will be included in a work programme for 2025-2030 to be approved at a future Decision Day.
31. The whole network of unsurfaced public highways<sup>3</sup> will be considered to determine the most cost effective and sustainable management of Byways and other unsealed routes used by motor vehicles.
32. The delivery programme will seek to identify the annual maintenance needed on the byway network to ensure effective water, drainage, air and light management.
33. It will establish priority areas and a more robust programme of annual assessment and review (BOP), with a view to speeding up mitigation.
34. The review will refresh the County Council's commitment to work closely with communities including working with HCAF. It will also outline a desire to engage in an extended partnership with the National Parks and with District and Borough Councils to assist with enhancements that will increase the quality of access to the countryside and access to nature. An initial focus will be with the SDNPA and with East Hants District Council.

### **Finance**

35. The Council is halfway through a £600,000 3-year capital investment programme funded from local resources, which has focused on the resolution of

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<sup>3</sup> This includes 'T'- Roads as recorded on the Highways List of streets.

health and safety issues concerning bridges and associated infrastructure and on maintaining Byways. To date this programme has focused the capital investment on 4 Byways and progressed the completion of BOP Audits by staff on all 352 byways resulting in the installation of 20 gates to be used as part of the seasonal closure programme.

<b>Delivery plan for investment in Byways</b>	<b>2020/23 Actuals £'000</b>	<b>2023/24 Forecast £'000</b>	<b>2024/25 Forecast £'000</b>	<b>Total £'000</b>
Spend	80	270 <sup>4</sup>	250	600

36. Maintenance costs are increasing. In 2019 the County Council was paying £77 per linear metre - over the last 2 years we have completed surfacing works on 4 routes at a cost of £110 per linear metre (a 42% increase in costs).
37. During 2023/4 the SDNPA has allocated a £30,000 contribution towards the County Council's work on Byways. These funds will be used to provide new information panels on BOATs to raise awareness of the national park and safe and responsible use of the byway network, whilst also explaining our management and directing (Via QR Codes) users to live web-based information on seasonal closures.

### **Performance**

38. The completion of the initial audits of all 352 Byways has resulted in an increase in the number of assessed routes in the Red and Amber categories, it has also shown that some routes that were initially classed as Red (2019 / 22) have now been reclassified as Amber or Green following the investment in surface improvements.
39. A good example of this work is the effect of surfacing on Snailing Lane, Hawkley 25. This route deteriorated extremely quickly, but after closing and undertaking works, it is now used frequently by walkers, cyclists and horse riders. This was classified as Red and following works is now an extremely well-used Green route (see pictures before and after on the next page):

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<sup>4</sup> £175,000 already committed with a further £95,000 currently being considered for works in 23/24



40. The list below, were all once classified as RED

Wield 19 (Green)	Wield 20 (Amber)
Selborne 67/ Worldham 38 (Amber/Green)	Ellisfield 13 (amber)
Selborne 66 (G)	Chawton 9 (green)
Upton Grey 19 (green)	Tunworth 7 (green)
Hawkey 745 (amber)	Worldham 40 (amber)
Bentworth 23 (green)	Bentworth 27 & 28 (Green)



41. Works completed as part of capital programme and work planned for 24/25<sup>5</sup>

<b>Works Completed on BOATs or due to be complete 2022 / 24</b>	<b>Works listed on BOATs projects planned for 2024/25</b>
Wield. 17	East Meon. 41 (also 45, 46 and 48)
East Meon. 47	Burghclere. 40
East Meon. 49	Bramshott and Liphook. 44
Langrish. 14 (work underway)	Horndean. 46
<sup>6</sup> Colemore and Priors Dean. 22	

### Consultation and Equalities

42. The nature of this decision is procedural and will not have any direct impact on protected characteristics itself, but any decision on future investment priorities will be assessed as they are developed. Consultation will be undertaken on proposals that will follow in the new year, when updating the Byways Operational Procedure and developing the 2025 / 30 work programme.
43. During 2023 the Hampshire Countryside Access Forum has refocused its attention to help advise the County Council and other authorities on matters relating to access to the countryside. The forum has membership representing communities, businesses, landowners and users (including accessibility). At the last meeting the forum (3/10/23) agreed to establish an advisory group to support the review of the BOP and the development of the work programme.

### Climate Change Impact Assessments

44. Hampshire County Council utilises two decision-making tools to assess the carbon emissions and resilience of its projects and decisions. These tools provide a clear, robust, and transparent way of assessing how projects, policies and initiatives contribute towards the County Council’s climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process ensures that climate change considerations are built into everything the Authority does.
45. The use of the climate change tools is not considered relevant for this paper as it is not relating to any specific projects for delivery. A future report will utilise the tools to assess the impact on the type of material used and construction process for the wider programme of works.

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<sup>5</sup> To identify the route location online go to <https://maps.hants.gov.uk/rightsofwaydefinitivemap/>

<sup>6</sup> Potentially brought forward to into 2024/25

## **Climate Change Adaptation**

46. The unsealed surface of Byways means that wet weather can have a considerable impact on the surface, with both susceptibility to erosion and level of water retention linked to drainage and ability to soakaway. In some areas of the county, particularly in the South Downs, the soil type combined with the high levels of use within the National Park exacerbate these issues. This is why a process of winter closures was initially instigated, and why we this is being extended to include new summer closures linked with MET Office weather warnings. These allow the routes to prevent excessive damage, rest and drain before been re-opened.

## **Carbon Mitigation**

47. The carbon mitigation tool and/or climate change adaptation tool were not applicable because this is an overview and update paper of existing work with minor changes to an existing procedure, the tools will be used when producing the follow up paper, to be produced during 2024.

## **Conclusions**

48. There are several challenges associated with the management of Byways Open to All Traffic (BOATs) in Hampshire. This paper outlines the service approach to the management of the routes and use of the Byways Operational Procedure (BOP) and clarifies the priorities for intervention and mitigation.
  49. The audit of all 352 Byways has resulted in an increase in the number of assessed routes in the Red and Amber categories, it has also shown that some routes that were initially classed as Red (2019 / 22) have now been reclassified as Amber or Green following the investment in surface improvement.
  50. The report recommends that Executive Member for Countryside and Regulatory Services approves the trial review of procedures and the development of a work programme for 2025-2030 to be approved at a future Executive Member Decision Day in 2024.
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**REQUIRED CORPORATE AND LEGAL INFORMATION:**

**Links to the Strategic Plan**

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

**Other Significant Links**

<b>Links to previous Member decisions:</b>	
<u>Title</u>	<u>Date</u>
<b>Direct links to specific legislation or Government Directives</b>	
<u>Title</u>	<u>Date</u>

<b>Section 100 D - Local Government Act 1972 - background documents</b>	
<p>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.)</p>	
<u>Document</u>	<u>Location</u>
None	

## **EQUALITIES IMPACT ASSESSMENT:**

### **1. Equality Duty**

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 by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) 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.

### **2. Equalities Impact Assessment:**

The nature of this decision is procedural and will not have any direct impact on protected characteristics itself, but any decision on future investment priorities will be assessed as they are developed. Consultation will be undertaken on proposals that will follow in the new year, when updating the Byways Operational Procedure and developing the 2025/30 work programme.

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