

Upton Grey, Mapledurwell and Up Nately, and Greywell Parish Councils
Hampshire County Council, The Castle Winchester SO23 8UL 25th November 2024

Dear Sirs,

REQUEST FOR AN EXPERIMENTAL TRAFFIC REGULATION ORDER OF MECHANICALLY PROPELLED VEHICLES ORDER FOR CERTAIN BOATS WITHIN THE PARISHES

For ease of reading, this document has been prepared in the following sections:

I. Introduction

II. experimental Traffic Regulation Orders

III. Preventing damage to the road, and preserving the character of the road for use on horseback or on foot

IV. Preventing unsuitable use by vehicular traffic

V. Conserving or enhancing the natural beauty of an area which includes conserving flora and fauna, and geological or physiographical features

VI. Universal Services and their BOATs

VII. Conclusion

Appendix 1: Location of the BOATs

I Introduction

The Byways Open to All Traffic ("BOATs") described in this document are located in the parishes of Upton Grey, Mapledurwell and Up Nately, and Greywell. BOATs are described as highways over which the public right of way is for vehicles and all other kinds of traffic, but which are used mainly for the purposes for which footpaths and bridleways are used.

During winter months, the surfaces of the BOATs described here degrade in wet weather, and their conditions become deformed and impassible, to the extent that they exclude users who have a right to use the byways, including horse riders, cyclists, walkers, wheelchair users and local residents.

With this background, residents of the surrounding villages, their Parish Councils, and landowners are together requesting the Roads authority and Hampshire County Council to make an experimental Traffic Regulation Order ("eTRO") for the temporary prohibition of mechanically propelled vehicles with three wheels or more ("Motorised Vehicles") from proceeding in any direction over the BOATs listed in Schedule 1, in accordance with Section 14(1) of the Road Traffic Regulation Act 1984, for the winter season period to May, as soon as is practicable.

II Experimental Traffic Regulation Orders

The application of ETRO's is covered in DEFRA's 'Regulating the use of motor vehicles on public rights of way and off road,' published in December 2005.

Section 5.3 explains the process for making an ETRO:

"Local traffic authorities have powers under the Road Traffic Regulation Act 1984 to make experimental orders for up to 18 months to test a scheme of traffic control before deciding

whether to make it permanent. Experimental controls can be introduced quickly because the normal order-making procedures do not apply. Traffic restrictions can also be withdrawn or modified quickly if they are unsuccessful or if they need to be adapted. Local traffic authorities must follow the procedures laid down in 'The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996' when making an experimental order. Such orders must be advertised at least 7 days before the order comes into effect, and the consultation requirements must be followed before the order is made. This includes the requirement to consult organisations representing persons likely to be affected by any provision in the order, which the order making authority thinks it appropriate to consult. Where an order is intended to be made permanent, objections may be made within 6 months of the order being made, or subsequently varied by the authority."

Section 5.2 of the same document makes the following point which may be helpful:

" On rights of way, traffic regulation orders have generally been used where rights are already recorded in the definitive map of public rights of way. However, it is not widely appreciated that the power in the 1984 Act does not preclude the making of a traffic regulation order restricting or banning vehicles or other traffic even where rights are not recorded in the definitive map. It is therefore possible to make a traffic regulation order before the outcome of a definitive map modification order is known. In such cases, even where a definitive map modification order application is successful in establishing vehicular rights, vehicular use will continue to be restricted or banned under the terms of the traffic regulation order. "

ETRO's are generally used in situations that call for monitoring and reviewing, such as monitoring byway condition to evaluate the cause of deterioration. They may eventually lead to a Permanent traffic regulation order ("PTRO"), depending on the view of the Highways authority. PTRO's can apply all year round or at specific times of the year, and can be used for the winter months October to March.

PTROs need to be supported by evidence that the order will achieve one (or more) of the following outcomes:

- Prevent damage to the road or any building on or near the road; Facilitate the passage of any kind of traffic (including pedestrians);
- Prevent unsuitable use by vehicular traffic;
- Preserve the character of the road in the case where it is particularly suitable for use on horseback or on foot, or preserve or improve the amenities of the area through which a road runs;
- Conserve or enhance the natural beauty of an area; which includes conserving flora and fauna, and geological or physiographical features.

In the case of the BOATs that are the subject of this request, the following sections provide the current benchmark status of the BOATs during the winter months. We believe that an ETRO order will give the evidence that one of more of the required outcomes for a PTRO would be achieved.

III Preventing damage to the road, and preserving the character of the road for use on horseback or on foot

The significant deterioration of the BOATs during the wet months of October to May is due to motorised vehicles creating deep ruts.

The photos show how the surface of the BOATs is destroyed and their condition made unattractive and almost unpassable for those who wish to use them: ramblers and walkers, local horse riders, cyclists, and villagers with their children and prams.

An ETRO would allow the Authority to determine whether two of the outcomes for a possible future PTRO would be fulfilled:

- Preventing damage to the road; and,
- Preserving the character of the road for use on horseback or on foot.

IV Preventing unsuitable use by vehicular traffic

Most vehicles using the BOATs seem to be doing so at night. These BOATs, because of their multiple five exits, are a hotspot for poachers. Neighbours hear their shots, and the tracks of their four-wheel drive cars can be seen across the fields the following day.

Poachers drive quickly along the BOATs looking for their prey, and have no compunction about destroying the verges of the BOATs and driving across the fields.

V Conserving or enhancing the natural beauty of an area which includes conserving flora and fauna, and geological or geographical features

This condition includes the important conservation of the flora and the fauna. Sadly, the unsuitable use of motorised vehicles by poachers results in scenes like the following, from the BOATs. These pictures are distressing to landowners, walkers, their children, ramblers, horse riders and all others that enjoy the use of the BOATs.

Having an ETRO would conserve and preserve the fauna, and satisfy the condition for a Permanent traffic regulation order.

VI Universal Services and their BOATs

Having an ETRO for a winter closure would, we believe, be in line with Universal Services' strategy for the BOATs.

We believe that the BOATs suffer the level of damage to the extent that, in addition to reducing maintenance needs, there are numerous additional conditions which would support a PTRO, and that an ETRO for a winter closure to the 1st May would provide the evidence. This would be a Byways Operational Procedure, Stage 2 intervention, which would support keeping the BOATs physically open for legal users.

The ETRO will complement the approach to managing the network in a more sustainable way, and ensure that the BOATs are maintained to cope with the level of use required for legal users. The ETRO will support the commitment to maintaining the rural character and environment. The ETRO minimises conflict between leisure, farming and land management purposes and the

community that live in the area, all of whom wish to have BOATs in good repair during the winter months and available for the enjoyment of legal users.

Having an ETRO for the BOATs supports the objective of having a more dynamic and effective approach to their management.

It helps with reducing costs. The cost of maintenance of these BOATs to the Highways authority will be reduced. The local farmers have suggested that they might be able to source physical barriers to prevent motorised vehicles from entering the BOATs, and that these would be in keeping with the local surroundings and will not exclude users who continue to have a right to use the route, such as horse riders, cyclists, walkers, wheelchair users and any residents with private access rights.

VII Conclusion

There is common agreement between stakeholders that an ETRO would be the right way of testing whether a regular seasonal approach should be taken. The ETRO would be quick to implement, has flexibility, and would cover many of the conditions for consideration of a future PTRO.

Preserving the BOATs over the winter months is very important for our parishes and landowners, and for those from further afield who enjoy making use of them . We hope that the Highway authority and Councillors will give their considered opinion and approval.

Please do contact the below if there are any questions or if further information is required.

Upton Grey Parish Council