

CABINET MEMBER FOR HIGHWAYS AND TRANSPORT - CLLR R TONGE

DEPARTMENT OF NEIGHBOURHOOD AND PLANNING

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REFERENCE: HT-012-10

**HT-012-10 BYWAYS OPEN TO ALL TRAFFIC LUDGERSHALL 30
AND CHUTE 32,34 AND 36 PROPOSED TRAFFIC REGULATION
ORDER**

Purpose of Report

Report on the objections and representations received to a formal consultation regarding the proposal to place a Traffic Regulation Order (TRO) on the Byways Open to All Traffic (BOAT) Ludgershall 30 and Chute 32, 34 and 36 in order to prohibit members of the public from using these rights of way with motor vehicles at any time.

- (ii) Recommend that a permanent Traffic Regulation Order be placed on the section known as Honey Bottom, Byways Open to All Traffic Ludgershall 30 and Chute 32.
- (iii) Recommend that a non-statutory Public Inquiry be held to discuss the proposed Traffic Regulation Order for Byways Open to All Traffic Chute 34 known as Chantry Lane, and Chute 36, to prohibit members of the public from using these rights of way with motor vehicles at any time.

Consultation

Formal consultations regarding the proposed TRO were carried out by letter between 8 October and 2 November 2009 with Rights of Way User Groups (walkers, horse riders, cyclists and vehicular user groups), statutory undertakers, Chute Parish Council, Ludgershall Parish Council, the Wiltshire Council Member for the area, local residents and with the general public by means of newspaper advertising, the Wiltshire Council website and notices placed at the end of the byways.

The consultation has been to seek the views of interested parties, before the Council decides whether or not a TRO should be made. This report, together with **Appendices 1–13**, is provided in order to enable that decision to be made.

A number of objections have been received raising concerns that political motivation and bias are behind the proposed Order. The Trail Riders Fellowship (TRF) has indicated that it will pursue a judicial review if the Council decides to implement the TRO as drafted without first holding a Public Inquiry. The TRF asks that motorcycles be removed from the Order for Chute Byways 34 and 36 and that a modified management regime be applied to Ludgershall Byway 30 and Chute Byway 32. The proposal has resulted in over 200 items of correspondence being received either in support of or objecting to the TRO. It is clear that there is substantial public interest and concern. The Council is not statutorily required to hold a Public Inquiry where there

are objections to a TRO, but may choose to do so as a means of providing an open and independent forum for discussion of the issues before an independent Inspector, who will make a recommendation to the Council about the proposed Order.

The Council is not bound to follow the Inspector's recommendation but will have to be able to show that it has good reasons should it decide not to do so.

56 objectors requested that their comments, from an earlier informal consultation carried out in January and February 2009, be taken forward to the formal consultation. 75 objections were received during the formal consultation, 59 of which were from new objectors. 16 objectors had made comments during both the informal and formal consultation. A total of 115 individuals/organisations have objected to this proposal. The All Wheel Drive Club, the Green Lane Association (GLASS), Devizes District Motor Club and other motorised users have objected to the proposed TRO. Wiltshire Bridleways Association has objected to a permanent TRO on Chantry Lane and Chute Byway 36. The Trail Riders Fellowship has objected to permanent TRO on Chantry Lane and Chute Byway 36 if it includes motorcycles.

70 supporters requested that their comments from the informal consultation be taken forward to the formal consultation. 16 expressions of support were received during the formal consultation, 15 of which were from new supporters. 1 supporter made comments during both the informal and formal consultation. A total of 85 individuals/organisations have supported this proposal. Natural England, North Wessex Downs AONB, Wiltshire Wildlife Trust, the local Police Officer, the Council Member, The Ramblers, CPRE, GLEAM, Chute Parish Council, residents of Upper Chute and surrounding villages and other walkers and horse riders have expressed support for the proposed TRO. Wiltshire Bridleways Association supports a permanent TRO on Honey Bottom. The TRF has recommended that a modified management programme be applied to Honey Bottom.

An information letter was sent on 10 March 2010 to all who had commented during the consultation process informing them that the report to Cllr Mr. R. Tonge would recommend that a permanent TRO be placed on the section known as Honey Bottom, BOAT Ludgershall 30 and Chute 32 and that a non-statutory Public Inquiry be held to discuss the proposed TRO for BOAT Chute 34 known as Chantry Lane, and Chute 36, the effect of both Orders being to prohibit members of the public from using these rights of way with motor vehicles at any time. People were given 21 days, i.e. until Wednesday 31 March 2010, to forward any comments they wanted to add before the report was finalised. 14 objection comments were received and 1 letter supporting the TRO for Honey Bottom but objecting to the proposed independent Public Inquiry for Chantry Lane and Chute Byway 36.

Copies of the correspondence received from the objectors and the supporters have been provided to the Cabinet Member for information.

Options Considered

- (i) Implement a permanent Traffic Regulation Order for Byways Open to All Traffic Ludgershall 30, Chute 32, 34 and 36 to prohibit members of the public from using these rights of way with motor vehicles at any time.
- (ii) Not implement a permanent Traffic Regulation Order for Byways Open to All Traffic Ludgershall 30, Chute 32, 34 and 36 to prohibit members of the public from using these rights of way with motor vehicles at any time.
- (iii) Hold a non-statutory Public Inquiry to consider the proposed Traffic Regulation Order.

- (iv) Implement a permanent Traffic Regulation Order for Byways Open to All Traffic Ludgershall 30 and Chute 32, known as Honey Bottom and hold a non-statutory Public Inquiry to consider the proposed Traffic Regulation Order for Byways Open to All Traffic Chute 34, known as Chantry Lane and Chute 36.

Reason for Decision

Following the consultation process the benefit to the local community of a TRO on the Honey Bottom section has been positively established. Honey Bottom is a grass surfaced byway and is especially suitable for those on foot or on horseback. It is susceptible to damage by motorised vehicles to the extent where the enjoyment of other users is severely affected. The TRO will also ensure that the community of Lower Chute will be able to access Collingbourne Woods without concern of meeting motorised traffic. The damage to Chantry Lane cannot solely be attributed to motorised vehicular use. Whilst closed to public use with motor vehicles over the winter of 2009/10, significant weather damage and water erosion has taken place. The safety concerns of the community are based on eye witness and anecdotal accounts and are not substantiated by arrests and convictions. As there is no specific statistical evidence of illegal use and confrontation, an independent Public Inquiry would offer an opportunity for all sides to debate these issues in public and obtain the view of an independent Inspector.

DECISION MADE

I approve that:

- (i) A permanent Traffic Regulation Order be placed on the section known as Honey Bottom, Byways Open to All Traffic Ludgershall 30 and Chute 32.**
- (ii) A non-statutory Public Inquiry be held, to obtain the views of an independent Inspector on whether to implement a Traffic Regulation Order on Byways Open to All Traffic Chute 34, known as Chantry Lane and Chute 36 to prohibit members of the public from using these rights of way with motor vehicles at any time.**

This decision was published on 18th May, 2010 and will come into force on 26th May, 2010.

The following supporting documents are attached:

HT-012-10 - Byways Open to all Traffic Ludgershall 30 and Chute 32, 34 and 36 - Report

HT-012-10 - Byways Open to all Traffic Ludgershall 30 and Chute 32, 34 and 36 - Appendix 1

HT-012-10 - Byways Open to all Traffic Ludgershall 30 and Chute 32, 34 and 36 - Appendix 2

HT-012-10 - Byways Open to all Traffic Ludgershall 30 and Chute 32, 34 and 36 - Appendix 3

HT-012-10 - Byways Open to all Traffic Ludgershall 30 and Chute 32, 34 and 36 - Appendix 4

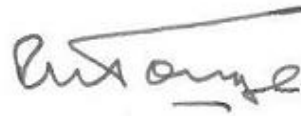
HT-012-10 - Byways Open to all traffic Ludgershall 30 and Chute 32, 34 and 36 - Appendix 12

HT-012-10 - Byways Open to all Traffic Ludgershall 30 and Chute 32, 34 and 36 - Appendix 13

The following supporting documents are available from the officer named above:

- Appendix 5 Photographs of East Meon taken 9 March 2009. As the report was included it was necessary to include photographs of Halnaker Lane.
- Appendix 6 Land Access and Recreation Association v Yorkshire Dales National Park Authority – Case No: CO/6215/2008. The case was quoted from by Objectors and addressed in Appendix 2.
- Appendix 7 Making the Best of Byways – Defra Guidance. This guidance has been quoted from extensively in Appendix 2.
- Appendix 8 Regulating the use of motor vehicles on public rights of way and off road – Defra Guidance. This guidance has been quoted from extensively in Appendix 2.
- Appendix 9 Vanessa Clark, Assistant County Archaeologist's comments on Chantry Lane. Comments have been included for information following extensive debate on the surface of Chantry Lane by both objectors and supporters of the proposal.
- Appendix 10 The use of invalid carriages on public rights of way. Invalid carriages have been discussed in Appendix 2.
- Appendix 11 Rights of Way County Council Survey 2009 – This survey has been quoted from in Appendix 2.

Date: ...17th May, 2010.....



Cllr Dick Tonge
Cabinet Member for Highways and Transport