



Report to the Hampshire County Council

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ROAD TRAFFIC REGULATION ACT 1984

INTENTION TO MAKE A TRAFFIC REGULATION ORDER AT EAST MEON BOAT No. 42- HALNAKER LANE

Date of Inquiry: 18 November 2008

Ref: DPI/Q1770/08/14

GLOSSARY AND ABBREVIATIONS

BOAT	Byway open to all traffic
VRS	A voluntary restraint scheme
TRO	Traffic Regulation Order
HCC	Hampshire County Council
AONB	Area of Outstanding Natural Beauty
Defra	Department for the Environment, Food and Rural Affairs
TRF	Trail Riders Fellowship
SDW	South Downs Way
OSGR	Ordinance Survey Grid Reference

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CASE DETAILS

- The Hampshire County Council is considering the making of a permanent Traffic Regulation Order (TRO), the effect of which would be the prohibition of the use of Byway Open to All Traffic (BOAT) No. 42, in the parish of East Meon, Hampshire, to all public motor vehicles for a distance of 4440 metres, from County roads C28 to U165.
- On 7th May 1996 the Council made a TRO prohibiting the use of BOAT No.42 (from road C181 northwards to road C28) by motor vehicles with three or more wheels.
- On 18 May 2000 the Council made a second TRO again prohibiting three and four wheeled vehicles, this time from road C181 southwards to road U165, thereby effectively prohibiting the specified vehicles for a distance of 4440 metres between C28 and U165.
- The Council, in December 2007, also made a temporary TRO for 6 months, which it has extended for a further 6 months, prohibiting motorcycles from BOAT 42, pending finalisation of the Council's consideration of the above matter.
- The Council intends to extend the permanent Orders mentioned above, to include a prohibition on all mechanically propelled public vehicles, in accordance with the criteria specified in the Road Traffic Regulation Act 1984.
- Before proceeding with this permanent TRO to prohibit all motor vehicles from BOAT 42 the Council requested that a non-statutory Public Inquiry be held to take evidence and inform the Council of the case for and against their intended TRO proposal. Following the report of the Inquiry the Council would consider the findings and recommendation of the Inspector before reviewing its stated intention to make the TRO.

SUMMARY OF RECOMMENDATIONS

I recommend that the Council proceed to make the Traffic Regulation Order in respect of BOAT 42.

1 PREAMBLE

- 1.1 I held a non-statutory public local inquiry on 18th November 2008 at the Meonstoke Village Hall, Meonstoke, Hampshire, to hear objections to, representations about and support for the Council's proposal to make the above-mentioned TRO. The Order, if made, would authorise the prohibition of all private mechanically propelled vehicles from the Halnaker Lane, BOAT No. 42, generally between County Roads C28, west of East Meon, and U165 Long Down Lane/Droxford Road, near the property known as HMS Mercury. A map of the length of BOAT No. 42 being considered for traffic restriction is at Inquiry Document (ID) 1.
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There was no request for any adjournment of the Inquiry.

- 1.2 The stated purpose of the Order would be to restrict motor traffic on BOAT No. 42 thereby preventing danger to persons or other traffic using the Byway, prevent surface damage to the Byway, prevent damage to adjacent property, protect the environment by reducing vehicular noise and emissions and preserve the character of the Byway for use by persons on foot, horseback or in horse drawn carriages.
- 1.3 The scheme to which the Order relates would involve the erection of prohibition notices and/ or locked barriers to prevent the use of the Byway by public motor vehicles from a point along BOAT 42 at OSGR 466800 123140 to a point at OSGR 467520 119150. Local agricultural vehicles and some other private vehicles would be exempt from the TRO.
- 1.4 I was instructed to conduct this Inquiry in accordance with Section 9(2) of Part 11 of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 and to report to the Hampshire County Council. I made a widespread unaccompanied site inspection on 17th November 2008 and, following requests at the Inquiry, a targeted unaccompanied site inspection on 19th November 2008.
- 1.5 At the start of the Inquiry there were 31 objections to the proposal for making a permanent Order and 9 letters of support for the proposal. 4 persons opposed to the Order appeared at the Inquiry with 10 persons expressing support for it appearing. At the Inquiry a batch of 100 proforma letters, all individually signed and commented on by residents of the village of East Meon, was submitted in support of the proposals for the TRO.
- 1.6 The main grounds for objection to the proposal were that a permanent proposal was unnecessary, it was a waste of public resources, too many motor vehicular routes have already been lost in the area thereby restricting the enjoyment of trail riders and a voluntary restraint scheme (VRS) should be employed as an alternative to a permanent TRO. There was further concern that the Order could not be enforced, whilst preserving adequate passage for horse drawn vehicles and that enjoyment of the countryside by those using motor vehicles could not be provided by the use of alternative routes.
- 1.7 The main grounds for supporting the proposal were that it would improve safety, reduce maintenance costs, and enhance the environment through the reduction in vehicular traffic noise near BOAT 42.
- 1.8 This report contains a brief description of the area, the gist of the cases presented together with my conclusions and recommendations. Lists of appearances and documents are attached at Annex A and B respectively. The proofs are as originally submitted and unless so marked do not take account of how the evidence was affected by cross-examination and other aspects of the Inquiry.

2. PROCEDURAL MATTERS & LEGAL SUBMISSIONS

- 2.1 As there are no set rules to be followed for a public inquiry into TRO's the Inquiry was conducted in accordance with The Highway (Inquiries Procedure) Rules 1994. The Council confirmed that it had complied with all necessary statutory formalities in accordance with Sections 7,8,9 and 10 of The Local Authorities' Traffic Order (Procedure) (England and Wales) Regulation 1996 and that all relevant statutory bodies had been consulted on the proposed Order. A list of those bodies and individuals consulted is at ID2. No procedural issues were raised at the Inquiry.
- 2.2 A small, but pertinent, legal point was raised by the Trail Riders Fellowship in respect of the explicit provisions of the Road Traffic Regulation Act 1984 that governs TROs. This point hinged upon an oral quotation apparently from Counsel on a previous occasion, the gist of which was that TROs should only be used for motor traffic purposes. The County Council's solicitor countered the assertion by quoting from the relevant section of the Act, in an attempt to demonstrate that the RTRA has regard for pedestrians and cyclists within its definition of "traffic". There was no acceptance either way by either party on this point and I deal with it at Paragraph 8.21 of my Conclusions.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 BOAT 42, known locally as Halnaker Lane is, in part, part of the South Downs National Trail that runs from the eastern fringe of Winchester generally eastwards to the western edge of Eastbourne. In so doing the National Trail runs through the South Downs National Park as an intricate network of Byways criss-crossing this part of rural Hampshire and rural West Sussex.
- 3.2 BOAT 42 itself runs almost due south from a point at Drayton Cottages, about 1.5km west of the village of East Meon, on the East Meon to West Meon rural road, to a point on the rural U165 Long Down Lane/Droxford Road near HMS Mercury.
- 3.3 From the north the Byway passes through an exclusive rural area, classified as an Area of Outstanding Natural Beauty (ANOB), and through countryside that consists of irregular shaped fields flanked by the large Hen Wood, before crossing the high ground that carries the C181 Coombe to East Meon road. Thereafter it climbs steeply and traverses Wether Down to join the U165 County Road to the south.
- 3.4 Apart from the adjacent and substantial woodland of Hen Wood the area adjacent to BOAT 42, which, itself, is fence and hedge lined, is a mixture of arable and pasture land, with the surrounding topography comprising rolling but steep and irregular formed chalk Downland.
- 3.5 Very few dwellings lie close to the Byway. The nearest village of East Meon is established 1 km to the north.
- 3.6 The surface of the Byway is partly metalled and partly soil, grass, exposed flint or polished chalk through which grooving and depressions

are frequently found. There are local wet spots, in the lower lying areas of depression. On the steeper sections longitudinal rutting and uneven ground is prevalent along the track, which is often contained between hedges and other obstructions sometimes set higher at adjacent field level. Because of this the track acts as the natural drainage course for some of the adjacent farmland. Because of the steep sides of its cross section and significant overgrowth its usable width for passage is often restricted.

- 3.7 BOAT 42 is part of the South Downs Way, which the Countryside Commission thought of originally in 1969 and, as the concept came to fruition in the 1980s, is now a well established feature across southern England.

4 THE CASE FOR THE HAMPSHIRE COUNTY COUNCIL

The Material Points were:

The proposal

- 4.1 The County Council intend to make a new TRO to prohibit any motor vehicle from proceeding along East Meon BOAT No.42 from a point near its junction with West Meon Road C28 to its junction with U165 Long Down Lane/Droxford Road. The existing Order, which prohibits vehicles with 4 or more wheels from proceeding along part of BOAT No.42, would be revoked and the current but temporary prohibition of motorcyclists along BOAT No.42 would expire.
- 4.2 The purpose of the proposed Order would be to avoid danger to persons or other traffic using the BOAT No.42 or any other road or to prevent the likelihood of any such danger arising. It would also be to prevent damage to the BOAT No.42 or to any building on or near BOAT No.42 and its successful implementation would preserve the character of the Byway for use by persons on horseback, cycle or foot.
- 4.3 The Order would be enforced by the erection of suitably worded notices and barriers. Statutory signs would be, to a degree, out of keeping with the surroundings, but could be erected if other measures fail. The County Council would work with the police to pursue those breaking the law in respect of the TRO. People could also report incidents straight to the police and this type of reporting has been successful in West Sussex. The Council would be prepared to provide a key for horse drawn carriage drivers to enable them to enter the BOAT from highways thereby making the barriers effective whilst not penalising legitimate users.

Relevant policy and consultation

- 4.4 The County Council has produced a relatively recent policy (2007), which is set out on pages 83 and 84 of the Council dossier at ID2. The policy recognises motor vehicle user rights to access Rights of Way and the un-surfaced highway network, but states that the TROs would be introduced if there is concern about this. Of relevance are the following sections

drawn from the County Council policy:

- The Council does not encourage motor vehicle use of the un-surfaced road network or rights of way but acknowledges that responsible use on some routes is sustainable.
- Action will be taken to prevent access by motor vehicles if this is damaging to the route or local environment or conflicts with the reasonable interest of walkers, riders, cyclists or carriage drivers.
- The Council will prioritise repair and maintenance to benefit non- motorised users on BOATs and will pursue those private concerns responsible for surface damage.

4.5 The County Council policy conforms to Defra guidelines. Alternative solutions have been considered since 2003. Consultation on proposed TROs was widespread with an extensive list of those consulted set out on page 34 and 35 of ID2.

4.6 In respect of the TRO before the Inquiry the prime concern is founded upon the lack of compatibility of the characteristics of the BOAT with motor vehicles, not about numbers of complaints or users. However the case for the TRO is one based largely on reported problems associated with perceived safety risks faced by users and caused by motorbikes using the route at speed and in groups. The threat is exaggerated by the narrowness of the BOAT, which is concentrated with users at weekends. Other requests for a banning of motorcycles relate to noise, nuisance and motorcycle use being out of keeping with a quiet rural area, as well as the routes designation as part of the South Downs Way. It is accepted by the Council that there are strong arguments for and against the Order and much of the case for action is a matter of subjective judgement. The County Council recognises that the East Meon Parish Council considers that the use of BOAT 42 has increased steadily over recent years.

4.7 In assessing the need for a TRO on a Byway the County Council considers each case on its own merits. There is no policy of "comprehensive prohibition of BOAT traffic by stealth across the County". In addition, every TRO once confirmed would be reviewed by officers of the Council at least once every three years to determine whether circumstances have altered.

4.8 The Traffic Regulation Act 1984 clearly stipulates that TROs can be applicable for pedestrians and cyclists as well as for motorised traffic.

4.9 The local road network provides convenient, adequate and commodious alternative routes for the motor traffic that would be banned from BOAT 42.

5. THE CASE FOR THE SUPPORTERS

The material points were:

East Meon Parish Council (S1)

- 5.1 The Parish Council's views reflect those of a significant body of concerned parishioners, who were surveyed for their views on the curtailment of motorbike, quad bike and four wheeled drive usage on the South Downs Way. Approximately 100 local people support the curtailment of motor biking along the South Downs Way. (Annex 1 of S1). They do so:
- For the safety of other users
 - To protect the historic ways
 - To stop local noise pollution
 - To stop destruction and deterioration of route way
 - To maximise enjoyment for predominant users
- 5.2 The primary concern of the Parish Council is the safety of pedestrians, equestrians and cyclists where safe passage and enjoyment conflicts with that of motorbike usage. The current physical features of BOAT No. 42 increase danger arising from motorcyclists. Much of the Byway is already rutted, including significant 4 by 4 vehicle track rutting, wet, narrow, and constrained by hedges and banks thereby compressing the available width for use by all users and making safe passage difficult.
- 5.3 There is proven evidence of effective management in the Yorkshire Dales National Park at Mastiles, which relies on a TRO similar to the one proposed by the County Council, and this promotes the case for similar action on the South Downs Way because it has transformed the quality of the Yorkshire site (S1- Annex 3).
- 5.4 There are 6 BOATs within the parish but BOAT 42 has the greatest problems primarily because it is the most popular route for walkers, cyclists and equestrians. These activities are popular with locals and visitors throughout the year. For many years there have been regular complaints about motorcycles, with about 50 complaints over the last 6 years made directly to the Chair of the Parish Council.
- 5.5 Rural roads are dangerous. Traffic is steadily increasing on them and given these dangers non-motorised users rely on the relative safety of and access to Byways instead.
- 5.6 BOAT 42 is a national heritage trail on the South Downs Way. Its surface has become deeply rutted and has deteriorated badly. Perversely this makes it more of an attractive challenge to motorcyclists but its characteristics now impede and deter other users. Along with its surface

the character and safety of the Byway has and is continuing to deteriorate significantly.

- 5.7 The Parish have expressed a reasonable request to a local motorcycle "club" to avoid use of a particular local track near BOAT 42 after inclement weather but this request was ignored. This shows that reliance for a voluntary restraint scheme (VRS) would not work.
- 5.8 A 100 household strong individual letter "round robin" submission has been signed by residents which represent a 35% of households return from the village with an overall population of 1200 residents. These demonstrate strong and frequent use of the BOAT and concerns amongst residents.
- 5.9 There are better local alternative routes for motorised traffic. There is no demonstrable need for the use of BOAT 42 by motorcycles.
- 5.10 Despite the temporary emergency TRO banning motorcyclists the problem persists and abuse is greatest at weekends. Although it is accepted that the Trail Riders Fellowship members are a responsible body with considerate riders, other motorcyclists constituting the vast majority of users are not.
- 5.11 There is overwhelming local support for the proposals. No local objection has been expressed to the Parish Council despite widespread publicity. It is recognised that parishioners' primary concern for safety and enjoyment conflicts with that of motorbike usage.
- 5.12 Restoration of the quality of the Byway surface could be accomplished following the removal of all motorised vehicles as has been proven in the Yorkshire Dales National Park. An independent thesis which examined the effectiveness of Byway management there is attached as Annex 3 to inquiry document S1/A. Photographic evidence of the poor condition of BOAT 42 is also attached as Annex 2 to S1/A.

The Ramblers Association (S2)

- 5.13 There is clear evidence of rutting by both motorcycles and four-wheel vehicles. BOAT 42 is difficult to walk at present and this is a concern of the Ramblers Association who fears that BOAT 42 will be rendered useless for walking by vehicle use. The temporary ban has helped and this must be made permanent. It is not accepted that the surface damage is due to water erosion.

Ms Tina Atkinson (S3)

- 5.14 The condition of Halnaker Lane is such that it cannot safely be used on foot or horseback these days. The motorcycle ban should be confirmed to help it recover for the majority who wish to use and enjoy it.

Mrs Alice Geaves (S4)

- 5.15 As a horse rider the use of South Downs Way is preferable to the local road network but because of the surface condition of BOAT 42 the

southern section from Coombe Cross to HMS Mercury is best avoided.

- 5.16 Motorcycles and horses are not compatible on BOAT 42 and more often than not the motorcyclists ride the Byway in groups. They are a particular threat. Horses easily get "spooked" particularly if they cannot see the approaching motorcycle, which, because of the nature of the Byway and its surrounding topography and vegetation, can be a frequent circumstance. Young riders become apprehensive and the horse picks up on that. The young feel intimidated and fearful. Some riders are very polite and stop, but it is a fact that some, perhaps most, do not.
- 5.17 Equestrians ride the Byway every day, motorcyclists mostly on weekends but during the week also. In contrast mountain bikes present no problem for horses.

Mr Christopher Geaves (S5) and (Exhibit 3 and 4 of ID2).

- 5.18 BOAT 42 has steep sections, blind bends, constrained cross section and a surface that has become dangerous through deep rutting as a result of motorcycle use. The prime concern of Byway users is safety and whilst it is accepted that some motorcyclists are polite, others are abusive and all like riding difficult sections through the mud. When the BOAT is in most demand in the summer the motorcyclists ride fastest, often in packs with, at times, 60-80 riders. This coincides with peak use by other users. Incidents have been reported to the police who have made efforts to intervene. Occurrences have dropped following the temporary prohibition order, but some persist.
- 5.19 Photographic evidence showing the constrained terrain of BOAT 42 and damage from inappropriate use by mechanically propelled vehicles is at document S5/A.

Dr Gillies O'Bryan-Tear (S6)

- 5.20 Despite being a local resident familiar with the Byway and a frequent mountain biker, Dr O'Bryan-Tear has fallen from his bicycle twice because of the current unsatisfactory state of the surface of BOAT 42. There is a particularly steep and treacherous section at the southern end. All the rutting along BOAT 42 is a result of mechanically propelled vehicles with mountain bikers and horses causing little damage.

Mr Andrew Gattiker (Trail Officer, South Downs Way) (S7)

- 5.21 Currently the South Downs Way, of which BOAT 42 is a part, carries 25 million people a year, with about 20,000 being long distance walkers or riders.
- 5.22 It is a very important national recreational asset throughout the year and cherished by many.
- 5.23 All National Trails are managed to a prescribed quality and there are clear targets to increase the percentage of traffic free trails year on year and to reduce vehicular off road problems. Based on feedback from users their main remit is peace and tranquillity and consequently the proposal for a

TRO should be confirmed.

Mrs A Parker-Martin (S8)

- 5.24 As a local resident Mrs Parker-Martin avoids using BOAT 42 on the weekends because of the intensity of motorcyclists.

Dr Brenda King, representing the British Horse Society

- 5.25 From conversations with local people, objections to 4x4 vehicles and motorbikes on BOAT 42 are not solely based on damage, but also on social and environmental reasons including noise, drug and alcohol abuse, crime, litter and anti-social behaviour. A TRO would therefore not be effective in dealing with those problems. However the BHS would support a TRO if it were needed for path repair.
- 5.26 Despite the ban on 4 wheeled vehicles, which do significant damage, the track is still rutted but the problem with motorcycles is that they create a third track which makes passage on horseback dangerous and difficult for the horse as illustrated in the photographs at ID3. Therefore the BHS would support the principle of the TRO.

Mr Wilson Atkinson

- 5.27 As a local long term resident it is clear that the BOAT is now used more than ever.

WRITTEN SUPPORT

In addition to the points set out above the material points arising from written support for the TRO were:

- 5.28 Despite the temporary closure of BOAT 42 illegal use by motorcyclists persists although numbers have reduced. However significant increase in walkers and horses has been witnessed on the BOAT since the temporary ban on motorcyclists was introduced.
- 5.29 Horses and motorcyclists should not share the same paths and there is real evidence of an incident on 28th July 2008 when a motorcyclist caused distress to horse and rider on Halnaker Lane. Teaching children to ride would be more difficult unless motorbikes are removed from bridleways.

Society of Sussex Downsmen (Exhibit 5 of ID2)

- 5.30 The Society's remit is to protect the beauty of the Downs. There is clear evidence of motorcycle use on BOAT 42 and as part of the pleasure for people using the South Downs Way is to get into the peace and tranquillity of the countryside the existing TRO should be extended in order to permanently ban motorcycles. That would help with the maintenance, safety and particularly the quality of experience that users of this important national facility have.

6. THE CASE FOR THE OBJECTORS

Mr Dave Tilbury on behalf of the Trail Riders Fellowship (TRF).

- 6.1 The TRF is a reputable body of motorcyclists now 30 years old. One of its functions is to protect green lanes now and for future generations. The TRF was formed in response to the Road Traffic Regulation Act of 1968.
- 6.2 On BOAT 42 the volume of use by motorcycles is insufficient to create real conflict between users and therefore cause danger, noise or disproportionate damage to the surface of the Byway. The justification for the Order is based on prejudice, politics and "NIMBYism".
- 6.3 The condition of BOAT 42 is better today than it was 20 years ago. Significant damage was caused to the surface of the route by those vehicles used to remove fallen trees, following the 1987 storm. Motorcycles do limited damage. Grooving can be caused by water run off.
- 6.4 Local motorcycle clubs, including the TRF, have long enjoyed the BOAT and this was drawn to the attention of those responsible for the creation of the South Downs Way but they dismissed the issue of compatibility of the SDW with motorcycle use. The principle that one group should not be disadvantaged for the benefit of another by the creation of the SDW has been swept aside, with obvious long term consequences.
- 6.5 Recent experience of TRF members is that BOAT 42 is not overburdened with cyclist, horse-riders and walkers. So potential conflict is limited anyway although there is still clear evidence of 4x4 vehicle use even though such vehicles have been banned for 12 years.
- 6.6 The Highway Authority has not adduced any statistics to support the current proposal and reports of conflicts are anecdotal largely based on advice from one resident and the East Meon Parish Council. A TRO will have no impact on irresponsible illegal users and their actions should not deny recreational opportunities for legitimate users. In any event Council advice is that TROs should only be implemented for motor traffic reasons.
- 6.7 A trail rider is unlikely to exceed 15-20 mph and rides to a Code of Conduct (with others in mind) but it is accepted that the TRF would only represent about 10% of motorcyclists using BOAT 42 and that other motorcycle clubs whose members were perhaps less responsible would have many more. Many similar BOATs face closure to the trail rider who progressively is being squeezed out of many counties in England.
- 6.8 Equestrian, cycling and walking use of BOAT 42, with motorcycles on it, is preferable to the use of surfaced roads. Under normal circumstances the volume of motorcycle use cannot constitute a danger to others.

Mr Steve Freeman

- 6.9 As a longstanding trail rider, Mr Freeman is amazed that there has been little change to the condition of BOAT 42 for many years, although it appears to him that there are fewer walkers these days. Despite frequent visits to BOAT 42 Mr Freeman has no experience of any conflict.

Mr Richard Hemingway

- 6.10 Mr Hemingway is the Horse Officer for the Southern TRF but has no experience of problems between horses and trail riders. He has undertaken two short surveys on a summer Saturday between 9am and 1pm when 9 mountain bikes and 9 walkers were observed and another comparative autumn survey when 6 walkers only were observed.
- 6.11 Mr Hemingway accepts that a lane is more susceptible to damage during wet weather and that difficulties between horses and motorcycles could arise on an enclosed and constrained byway.

Mr Tony Griffiths

- 6.12 Mr Griffiths has regularly ridden and walked BOAT 42 which he regards as being in good condition. On the last occasion he observed about 10 persons on foot and 2 mountain bikers on the byway. In his opinion, motorcyclists would not exceed 20mph and he has no experience of incidents.

WRITTEN OBJECTIONS

Apart from the points made above the material points arising from written objections were:

- 6.13 Active members of the non-profit making clubs (TRF, DGLC) promote proper conduct whilst using approved Byways, giving way to cyclists, horses and ramblers, keeping gates shut and honouring the country code. The code of conduct of the TRF is set out at ID4. Over the past 20 years, a succession of Byways has been closed to motorcyclists. Riding motorcycles on these old turnpikes and unsurfaced roads is an extremely enjoyable way to appreciate the countryside. Promoting TROs limits peoples' access to the countryside. The more Byways that are closed the more saturated the remaining ones become, and their condition worsens.
- 6.14 Seasonal Orders could be used to help Byways recover and Councils could actively seek help from clubs towards the repair of damaged routes.
- 6.15 A study in Surrey concluded that, "in most cases motorcyclists have not been the cause of damage or erosion to BOATs".
- 6.16 The normal cause of surface deterioration on BOATs arises from timber extraction activities and agricultural vehicles, not motorbikes.
- 6.17 If damage to the BOATs is caused by Trail Riders a seasonal ban should be employed not a comprehensive TRO. The Council has a duty to keep Byways open.
- 6.18 Ramblers have over 30 times as many rights of way available to them as vehicle users yet they have a disproportionate say in the future of Byways. It is feared that in due course there will be a total ban on motorcycles using Byways in Hampshire.
- 6.19 Byways are very old roads that have been used by all citizens since the

invention of the wheel and give real enjoyment to many who ride them. The byways have been open for hundreds of years with little or no maintenance.

- 6.20 It is arguable that horses do more damage than motorcycles and riders are often seen in groups of 3 or 4 whilst walkers can be seen in groups of 50. Motorcycling is concentrated on the weekends because motorcyclists tend to work during the week.

6.21 There is no evidence that motorcyclists cause accidents on Byways despite a reported 20,000 long distance walkers and horse riders every year.

7 WRITTEN EVIDENCE FROM INTERESTED PERSONS

The material points were:

Mr Dick Williams

- 7.1 Mr Williams is a mountain biker of East Meon. There are other BOATs in a similar condition to BOAT 42 but the real issue is about compatibility of use, not just condition of the route. There has been little loss of enjoyment elsewhere but there has been complaint. However if a TRO is imposed on BOAT 42 users may be forced to overburden other routes. The County Council's policy of considering each BOAT on its own merits is flawed and a comprehensive analysis should be undertaken to enable the Council to consider the whole network effects of TROs.

Mr A Fry of BHS (Assistant Access and Bridleway Officer for Hampshire)

- 7.2 Horse drawn vehicles should not be restricted by the TRO. Proper Highway Code signs should be erected. A barrier in the form of a "Kent Carriage Gap" should be deployed to allow horse drawn carriages but restrain motor vehicles. The current physical arrangement on BOAT 42 is probably illegal. In terms of restricting motorcycles the track is a reasonable one. Complaints from local people about speeding are probably exaggerated.

8. CONCLUSIONS

Introduction

- 8.1 Having regard to the foregoing I have reached the following conclusions, references being given in brackets[] to earlier paragraphs of this report where appropriate.
- 8.2 If I am to recommend that the proposal for the TRO prohibiting all public motor vehicles along Halnaker Lane is made it must be shown that on balance, and having regard to the relevant policies of the HCC, that it is expedient and overall in the public interest.

The proposals

- 8.3 There is sustained objection to the principle of introducing a TRO which would prohibit all motor vehicles from BOAT 42, because that would include motorcycles within the ban. There is however no sustained objection to the continued longstanding prohibition of 3 or 4 wheeled motor vehicles, whilst there are persuasive arguments in the public interest for continued prohibition of them [5.2, 5.26, 6.5]. No evidence was adduced whatsoever arguing for the BOAT to be reopened to 3 or 4 wheeled motor vehicles. I therefore dismiss any issue of whether there needs to be justification for the banning of 3 or 4 wheeled vehicles from material consideration as to whether or not the proposed, all embracing, TRO should be made.
- 8.4 There is strong and consistent objection to the inclusion within the Order of motorcycles, particularly from members of the Trail Riders Fellowship. In my view it is this issue alone on which concentration must be made in order to determine whether or not the proposed TRO should go ahead.
- 8.5 In this respect it is clear that the HCC considers that the relative merits of whether or not to prohibit motorcycles from BOAT 42 is a fine balance with strong arguments on either side [4.6]. I concur with that view and further conclude that in the case for or against the TRO, there is no overwhelming balance of argument, one way or the other.
- 8.6 I therefore turn to the consideration of the objectives for the Order set by HCC. In this regard, the Council set a series of points upon which it seeks to justify the TRO including the compatibility of the proposals with its own policy [4.4]. These were:
- The avoidance of danger to walkers, cyclists and horse riders,
 - The prevention of such danger arising,
 - Physical damage to the surface of the byway,
 - Physical damage to any building on or near the BOAT, and
 - The preservation of the character of the Byway for use by walkers, cyclists and horse riders.
- 8.7 In my opinion these are reasonable and pertinent measures on which to

judge the justification for the proposal, but they must be weighed against the removal of the longstanding legal rights of motorcyclists themselves to ride this BOAT and enjoy the experience of so doing.

- 8.8 In support of its specification of the parameters for justification of the TRO, the Council cite its own policies in respect of TROs. It claims that its intention to create a TRO banning motorcyclists from BOAT 42 is consistent with those policies. In my opinion it is clear that the Council's parameters for justification of the TRO are universally consistent with the prescribed policies of the Council. I therefore conclude that the intention to implement the TRO is consistent with HCC policy.
- 8.9 I further conclude that the Council in drawing up and advancing its proposals consulted widely, appropriately and adequately with relevant bodies. [4.5, 4.6].
- 8.10 I therefore turn to consider the issues of danger, damage and the preservation of the character of the BOAT.
- 8.11 In terms of the avoidance of dangers to users of the BOAT it seems to me that in the absence of evidence of incidents, save for the occasional report, there is no objective measure which could be applied to the generally held local perception of such a threat. However I am satisfied from the consistent evidence of the Supporters, who have first hand experiences of complaints, that there is a persistent problem [4.6, 5.1-5.5, 5.7, 5.11, 5.13, 5.16-5.20, 5.28, 5.29, 6.7]. The fact that the Council has no hard figures upon which to make judgements is, in my view, not a reason to dismiss consideration of the TRO. There is clear evidence of the succession of complaint that has been made locally for a considerable period [5.4].
- 8.12 At the Inquiry it was quite clear that whilst members of the TRF were wholly courteous, considerate and cautious in their conduct on the Byway, there were others (the substantial majority of motorcyclists) who were not [5.10, 5.16, 5.18, 5.25]. This is a material point and coupled with it is the evidence that throughout the length of BOAT 42 there are constrained pinch points which are anything but commodious to the interaction of motorcycles and other users [5.2, 5.16, 5.18, 5.20, 5.26, 6.11, 6.3,]. There are also other lengths where the surface quality of the Byway is, by its own nature, precarious at best and potentially dangerous should a conflict of user occur over these lengths [3.6].
- 8.13 Against that is the evidence of reasonably sparse use of BOAT 42, except during the summer months or when motorcycle gatherings take place [6.2, 6.8, 6.9, 6.12]. The low usage of the BOAT is though countered by the undisputed evidence that surges in use by groups of motorcyclists are not uncommon [5.7, 5.18, 5.24, 6.20].
- 8.14 I therefore conclude that:
- Due to the conflict with motorcyclists the byway has the potential to be a place of danger for walkers, cyclists and horse riders,
 - The probability of that danger occurring is relatively low when

considered on an annual basis, as opposed to weekends in summer that, in accordance with the evidence, is when potentially dangerous conflict would be most probable.

- The physical characteristics of the Byway in terms of surface, cross-section and gradient establish dangerous "hot spots" should user/motorcycle conflict occur at those places, which overall are not unappreciable in number or length.

8.15 In overall safety terms I conclude that use of the Byway by motorcyclists would constitute a danger to other users despite the very responsible attitude of TRF members, although this danger is in my view only of moderate probability and therefore a relatively minor public threat. However it could only be prohibited by the application of a permanent TRO. Seasonal licences would not solve the problem as the Byway is used by locals and visitors throughout the whole year [5.4, 5.22].

8.16 For the future, should usage of the BOAT increase the potential for danger would increase, at least proportionately to the increased use and therefore I conclude that the prevention of danger arising is an issue about which the County Council should be concerned.

8.17 At the Inquiry there was extensive debate about the surface quality and state of repair of Halnaker Lane and how this was or was not the cause of motorcyclists. From the evidence adduced and observation a number of matters are clear:

- Much of the surface of BOAT 42 is in good order [6.3].
- There are areas of poor drainage, significant surface damage by vehicles and therefore difficult passage for non-vehicular traffic [3.6, 6.3, 6.5].
- Much of the damage in terms of surface rupture is caused by 4 wheeled vehicles, certainly not, in my view, by motorcycles. Given that there are currently effective locked barriers protecting the BOAT it appears that most of the surface damage is caused by "exempted" (legal) vehicles [3.6, 4.4, 5.20, 6.5].
- Whilst there is evidence of current and earlier motorcycle use of BOAT 42 very little damage to the surface of the BOAT could be ascribed to motorcycles. Along the steeper sections the sharp V notches in the surface of the chalk and flints are, to my mind, more a consequence of natural weathering, water collection and aggressive run off damage than excessive motorcycle wheel aggravation, although there is some minor deterioration attributed to motorcycles. Over these sections I accept that passage on foot and certainly on horseback is now clearly difficult, but I conclude that this is not predominantly due to motorcycle action. These defects could be substantially remedied by cyclic maintenance for the benefit of all [4.4, 5.15, 6.5].

8.18 In overall terms I conclude that very little surface damage is due to

motorcycle use.

- 8.19 In terms of potential damage to buildings adjacent to or on the BOAT there are virtually none nearby and consequently the issue does not arise in any practical measure. Coombe House and properties at the northern end of the BOAT are close to it but they are substantial buildings with substantial boundaries and therefore not susceptible to damage from use of the BOAT by motorcycles. I give no weight to the potential for such damage in my assessment of the case [4.2].
- 8.20 In terms of the preservation of the character of the Byway for enjoyment by walkers, riders and cyclists I fully accept that, at least as far as its length is coexistent with the South Downs Way, the character of it would be adversely affected by its continuance as a motorcycle route. It is quite evident that this part of rural Hampshire is extremely tranquil and peaceful, a value which would be cherished by the many on foot, bicycle or horseback. I can therefore understand the rejection by those seeking solitude and peace of the acceptability of motorcycle use of the Byway [5.2, 5.3, 5.13, 5.14, 5.21, 5.23, 5.29].
- 8.21 I note the TRF assertion that TROs should only be concerned with traffic (as in motor traffic) [2.2, 4.8, 6.6]. However I also note the Council's opinion that the relevant section of the Road Traffic Regulation Act 1984 makes clear reference to pedestrians also. As this is predominantly a legal matter I draw attention to it. Being a matter of law it would not be for me to determine but the gist of the argument seems to me to boil down to whether or not a TRO can have regard to the pedestrian use or environmental effects, one way or the other, in promoting the case for the TRO. Whether or not that is the case is a matter for law but I am clear that allowing motorcycle use of BOAT 42 is bound to be detrimental in terms of the environmental enjoyment of the Byway by pedestrians, cyclists and horse riders. The degree to which motorcyclists adversely affect the environment is, of course, dependent upon numbers and intensity of use of BOAT 42. There is also the matter of the perception in the mind of other users that the local environment may, at any time, be disturbed by motorcycle use. It is therefore difficult to assess the adverse impact on the individual of such a perception, but I accept that it could be appreciable, particularly at weekends when motorcycle use is greatest and in my view it is a material consideration [5.1, 5.22, 5.23, 5.25].
- 8.22 In my opinion it is therefore a justifiable parameter in the assessment by the Council of the overall case for the management of the BOAT.
- 8.23 I accept the Council's view that nearby surfaced highways would offer a reasonably convenient alternative route between any two points should the TRO be implemented, but this was not in dispute at the Inquiry and whilst I gave little weight to it, the Council's argument would favour the justification for the TRO [4.9].
- 8.24 Set against these advantages of confirmation of the Order is one substantial disadvantage and I can well understand the Council's view that there are strong arguments either way on the issue of whether or not to proceed with the TRO [4.6]. The advantages of not proceeding with the

TRO are all about the preservation of the right of motorcyclists to ride Byways, in particular BOAT 42. It was clear from the evidence that the blanket ban on motor vehicle use of Byways by some County Councils elsewhere but particularly in Southern England is placing greater demands on those that remain open. In this regard I have sympathy with the concerns of the TRF and individuals who argue for a preservation of rights for responsible riders and a comprehensive review of the network by County Authorities rather than a piecemeal approach concentrating on issues on a case by case basis [4.7,7.1]. This is a matter of procedure for the Hampshire County Council to consider.

- 8.25 I am though convinced by the evidence presented at the Inquiry that the proposed TRO on BOAT 42 would, if implemented, remove much enjoyment from those motorcyclists who wish to use it. The crucial question, to my mind, is whether the withdrawal of such a right could be justified by the advantage to others in terms of the removal of danger or perceived danger, damage to the highway, and to a significant degree, the disturbance of exceptional environmental peace and tranquillity.
- 8.26 This is a matter of balance, which I have considered very carefully in the knowledge that there are appreciable numbers of individuals in favour of both sides of the argument. The relative advantages are finely balanced. I have reached the conclusion, based on the findings that I have outlined above, that there is sufficient evidence to persuade me that, on balance, the County Council should make the TRO. In coming to this view I am mindful of the considerable evidence of irresponsible use of the BOAT and the denial of legitimate enjoyment to others that such behaviour would continue to cause unless the TRO is implemented effectively. In that regard I note that the County Council would work with the police on enforcement and have contingency plans in respect of barriers and signs [4.3]. Arrangements could be made for horse drawn carriage drivers to have access keys to permit passage to BOAT 42.
- 8.27 Finally whilst I note the real concerns of motorcyclists over the gradual chipping away of their rights to ride the BOATs, and the strong arguments in favour of a comprehensive review in Hampshire, I am satisfied that, in this case, the making of the BOAT 42 TRO should not await any such review.

9 RECOMMENDATION

- 9.1 I recommend that the Hampshire County Council proceeds with its intention to make a Traffic Regulation Order at East Meon BOAT No. 42 East Meon, the effect of which would be to prohibit use of BOAT 42 by all motor vehicles.

W S C WADRUP

W S C Wadrup

INSPECTOR

ANNEX B: DOCUMENTS AND INQUIRY DOCUMENTS**INQUIRY DOCUMENTS**

ID1	Map of BOAT NO 42
ID2	Dossier of Hampshire County Council
ID3	List of statutory consultees
ID4	Code of Conduct, Trail Riders Fellowship
ID5	Horse and rutting photographs

OBJECTIONS

O1 Evidence of Mr Dave Tilbury of the Trail Riders Fellowship

Note: the other three objectors who appeared at the Inquiry gave oral evidence.

WRITTEN OBJECTIONS

WO1	Mr Paul McKinney
WO2	Mr Mark Mason (2 emails)
WO2/A	
WO3	Mr Steve Sharp
WO4	Mr Steve Copley
WO5	Mr Geoff Keys
WO6	Mr Richard Browne
WO7	Mr Steven Blyth
WO8	Mr Richard Manners
WO9	Mr Patrick Bullen
WO10	Mr John McComb
WO11	Mr Richard Hobbs
WO12	Mr Patrick Wills
WO13,13A	Mr Faisal Nasir
WO14	Mr Peter High
WO15	Mr Steve + Mrs Jean Carter
WO16	Mr Peter Wildsmith
WO17	Mr Nigel Beaverstock
WO18	Mr Simon Colvin
WO19	Mr Ronald Lumley
WO20	Mr Arthur Rudd
WO21	Mr Martin Diamond
WO22	Mr Nick Taylor
WO23	Mr Derek Arnold

WO24	Mr Dave Baxendale
WO25	Mr Patrick Wallace
WO26	Mr Alan Searle
WO27s	Mr Daniel Oickle
WO28	Mr Richard Colquhoun
WO29	Mr Lee Mather (Exhibit 28 of ID2)
WO30	Mr Patrick Wallace (Exhibit 29 of ID2)

SUPPORTERS

- S1 Evidence of East Meon Parish Council
- S2 Evidence of the Ramblers Association
- S4 Evidence of Mrs A Geaves
- S5 Evidence of Mr C Geaves
- S7 Evidence of Mr A Gattiker
- S9 Evidence of Dr B King of the British Horse Society

[Note supporters 3,6 and 8 gave oral evidence only]

WRITTEN SUPPORT

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| S10 | Mr CK Martin |
| S11 | Mrs Lucinda Waring |
| S12 | Mrs AP Cushion |
| S13 | Mr R Banham Exhibit 7 of ID2 |
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