

Assessment of Kent County Council Experimental Traffic Regulation Order KH219 Lenham.

Summary

On 15 March 2009 Kent County Council introduced an experimental scheme of traffic regulation for Byway Open to All Traffic (BOAT) KH219 Lenham. This assessment considers whether the Experimental Traffic Regulation Order has proved effective in achieving its objectives.

Background

BOAT KH219 in the Parish of Lenham is one of a series of BOATs running for approximately 14Km from Hollingbourne in the west to Westwell in the east. The BOAT forms part of the North Downs Way National Trail. The North Downs Way is one of a family of 15 national trails developed by the Countryside Commission. Dedicated to the public in 1978 it attracts an estimated 250,000 visitors annually.

The BOAT runs at the base of the Downs in a broad unimproved grassland strip beneath the Lenham Cross war memorial. The area is much valued by the local community and visitors alike as a place of quiet recreation and amenity.

The BOAT was considered by the Byways Working Group in 2008 in response to concerns expressed over a number of years by the local community about antisocial behaviour, nuisance use, criminal activity and damage to the surface of the highway as a result of vehicular use. This activity had led to a general decline in the amenity of the area and difficulties in using the route during wet periods.

The experimental scheme was introduced using the provisions of section 9 of the Road Traffic Regulation Act 1984 for the purpose of preserving and improving the amenities of the area through which the road runs as set out in section 1(f) of the same Act.

The principal issues the scheme aimed to address were:

- Fly tipping,
- Damage to adjacent areas of grassland and flora, including pyramid orchids, as a result of trespass by motor vehicular users.
- Damage and nuisance use in the area around the war memorial as a result of trespass by motor vehicular users.
- Nuisance to non-vehicular users stemming from inconsiderate use and unlawful motor vehicular activity.
- Damage to the highway surface that was deteriorating at an increasing rate and becoming difficult for non-vehicular users particularly through the winter months.

Police intervention at the site had been limited because of the sporadic nature of incidents, other priorities demanding resource and the physical difficulties in policing sites of this nature.

The Experimental Traffic Regulation Order prohibited vehicular traffic subject to a number of exemptions:

- emergency services vehicles,
- utility company vehicles,
- vehicles using the BOAT at the direction of the police,
- those using the route to access their land or with the permission of the landowner,
- horse drawn vehicles, and
- motor vehicular users who had been issued with a permit.

Permits were available to any motor vehicular user that applied subject to them providing details of their vehicles and agreeing to abide by seven terms and conditions:

1. Public vehicular access is strictly limited to the route of Byway Open to All Traffic (BOAT) KH219.
2. Access to the route is controlled by vehicle barriers. The barriers are secured by a combination lock. The combination is provided to permit holders and those exempted in the Experimental Traffic Regulation Order.
3. To prevent damage to the barrier motorcyclists are asked to open and close it rather than attempt to hurdle the centre section.
4. Use of the BOAT should be avoided during wet weather.
5. The combination must not be provided, by permit holders, to other individuals or groups. Other individuals may apply for a permit in their own right.
6. The combination will be changed from time to time. Permit holders will be notified of the change of combination.
7. If permit holders vehicles are seen off the route of the BOAT their permit will be withdrawn and the combination changed. Additionally Kent Police will be notified.

Permit holder co-operation was requested to prevent degradation of the area by irresponsible vehicular use and antisocial behaviour. Users were asked to report the details of vehicles seen being driven irresponsibly off the route of the BOAT

In assessing the scheme a number of factors have been considered.

- The impact of the scheme in addressing the issues of nuisance and illegal/anti social behaviour, specifically:
fly tipping
- nuisance/ damaging vehicular use and trespass.
- The impact of the scheme on the amenity of the area.
- The resource requirements of running a permit scheme.

- The impact of the scheme on the use and enjoyment of the public highway.
- The impact on the convenient and safe movement of vehicular and other traffic

No representations either in support of or objecting to the introduction of the ETRO were received during the statutory six month period in which they may be made.

Impact on criminal, antisocial behaviour and nuisance

The incidence of criminal, antisocial and nuisance behaviour is difficult to assess. Police records for the area demonstrate only a low level of nuisance and antisocial behaviour that is simply not in accordance with the representations received from the local community prior to the introduction of the scheme.

The feedback that I have received is that the incidence of vehicular trespass onto land adjacent to the BOAT has decreased, indeed I am not aware of any reports of vehicular trespass during the operation of the experimental TRO.

Fly tipping has decreased significantly during the operation of the TRO, the only recorded incidence occurring when the barriers had been left open.

There has been some criminal and antisocial behaviour associated with the introduction and operation of the ETRO. A number of locks have been stolen. This has also been the case at Bredhurst BOAT KH94 which is also subject to a TRO with permit access. It is not clear if the locks are being taken by someone with the combination or by force. There have also been some instances where the TRO signs have been removed, although whether in protest at the restrictions or for the scrap value of the metal is unclear. A number of motorcycle permit holders have “bunny hopped” the vehicle barrier rather than operating the combination lock and opening it. This has proved frustrating to some residents and resulted in a letter being sent to all permit holders to reminding them of the requirement to open the barriers when using the route.

Alternative locking mechanisms continue to be explored although it is recognised that given the locations of the barriers locks will always be vulnerable to deliberate acts of vandalism and theft.

The impact of the scheme on the amenity of the area.

Amenity – (1) pleasant or useful feature or facility (2) Pleasantness (of place etc)

Measuring the impact of the scheme on the amenity of the area is to an extent a subjective exercise as it is based in the perceptions of users of the area; indeed achieving a statistically valid qualitative measure would prove problematic given the relatively small number of people affected. I do however

perceive that the scheme has been successful on the basis of the feedback received to the ETRO.

Views expressed by the local community, while indicating a level of dissatisfaction with signage, removal of locks and misuse of the barriers consistently indicated that in general terms the amenity of the area had improved. The ETRO would seem to have prevented much of the damaging and antisocial use.

The picture painted consistently in those comments that have been received is of improvement in the amenity of the area and specifically:

- The absence of fly tipping and litter – where litter is found it can now be easily removed as it has inevitably been carried into the area.
- A reduction in nuisance vehicular use.
- A reduction in damaging use including a greater adherence to the defined route of the BOAT by motor vehicular users and therefore by definition less use of the softer margin areas. There has been a reduction also in the use of the upper tier of the BOAT where the route splits into two. However advisory signs requesting that users keep to the lower tier were deliberately damaged.

The only negative impact on amenity appears to be a marked increase in the amount of dog faeces on the surface of the path, although this is being addressed by notices on site and a request has been made for the provision of a bin.

One of the most significant benefits that I believe has resulted from the introduction of the ETRO has been the general acceptance of the measure by vehicular users. The majority of vehicular users are there rightfully and use the route responsibly. The introduction of the permit scheme is I believe viewed by most vehicular users as a proportionate and workable response by the Highway Authority to local concerns that stops short of an outright ban. It has been cited by a number of vehicular users as good practice and a system that they would like to see introduced by other authorities that are currently pursuing outright prohibitions on a number of BOATs.

The original report to the Portfolio Holder and Byways Working Group indicated that it may be appropriate to introduce a seasonal prohibition of vehicles to prevent damage to the highway surface when the underlying soils were saturated should the ETRO not prove successful. It also indicated that the BOAT would be repaired in a sensitive manner. Repairs to the route were undertaken during the autumn of 2009 and involved the stripping of top soil and the filling of ruts. It was initially intended to replace the top soil following this operation; in fact the County Council were committed to this course of action. However a number of people expressed the opinion that the work undertaken provided a much improved surface for all users and clearly defined the alignment of the BOAT both assisting vehicular users in route finding and removing any excuse there may have been for inadvertent trespass. We agreed with this view and therefore did not replace the top soil.

While the provision of a surface has brought benefits I believe that it has, initially at least, had a detrimental impact on visual amenity. That said I believe that the rather stark nature of the surfaced route will soften over time to produce a track that is largely vegetated and more in keeping with its surroundings. It should also be balanced against the fact that some areas were badly scarred with deep ruts and this deterioration of the surface would have continued and become more unsightly.

The resource requirements of running the scheme.

Physical measures

The ETRO is enforced by means of heavy duty horse barriers at either end of BOAT and at the junction of the BOAT with restricted byway KH433. Owners/occupiers, emergency services and permit holders are provided with the combination to the barrier locks. The barriers may be bypassed by means of radar key operated pedestrian gates by those with mobility impairment. The pedestrian gates are a standard production line, the heavy duty horse barriers are also a standard production item.

The cost of the provision of the gates and barriers was £3500 inclusive of installation. At the Hubbards Hill junction it was also necessary to strengthen existing barriers within the highway verge to prevent motorcycle and quadricycle access.

The barriers have not been subject to any deliberate attempts to damage them and have not required repair. A number of motorcycle users have bunny hopped the barriers and at Hubbards Hill there is evidence of the surface of the BOAT being deliberately damaged to so as to change its profile and enable the barrier to be jumped.

Two types of heavy duty combination locks have been tried during the trial. While the locks appear to be resilient to deliberate acts of vandalism they have been vulnerable to theft. It is intended that the locks will be welded via a chain to the barriers to make theft a little more difficult and improve the chances of detection. The cost of locks to date is estimated at : £250.

Permit scheme

Application for a permit may be made using the form on the KCC website or by requesting an application form from the KCC Contact Centre or Countryside Access Service. Applicants are required to provide details of their vehicle and agree to a number of terms and conditions (outlined above).

The terms and conditions are designed to promote responsible use of the BOAT and also to assist in its policing.

Through the introduction of the permit scheme the impact on responsible motor vehicular users has been minimised. Vehicular users have the ability to

apply for and receive permits for visitors to Kent, perhaps when being guided around the BOATs of Kent.

It has proved possible to respond to permit applications consistently within 5 days – usually significantly less. Initially the administration of this element of the scheme had to be accommodated at the expense of other work. Following that initial peak in work there has been no significant work load or impact in administering the scheme.

355 permits have been issued to vehicular users to date. Those already registered for permits for Bredhurst Woods BOAT KH94 were automatically contacted and provided with a permit for KH219 at Lenham.

The combination of the locks has not been changed during the operation of the ETRO. It is however anticipated that the combination will be changed once the locks have been changed to a design capable of being welded to the barrier. It is anticipated the combination will be changed no more than annually. Where possible permit holders will be informed of the combination change by e-mail to reduce costs.

The administrative cost of changing the combination is in the region of £100.

It would be wrong in considering the resource implications of making permanent the ETRO to not take full account of the sustainability of the scheme in the face of what will undoubtedly be challenging budget rounds in the next four years at least.

I believe that the basic administrative requirements of the scheme: issuing permits and keeping a record of the permit holders is sustainable. A similar scheme is already in operation at Bredhurst and will have to be sustained. No significant additional resource would be required to maintain this function for Lenham KH219.

I do not believe that it will be possible to continue to replace locks regularly and although it may prove possible to make the existing arrangements more resilient to theft and damage the barriers may well be without locks for significant periods in the future. I believe that the presence of the barriers along with mandatory signage will have a deterrent effect to many users who do not hold permits. It will however mean that the barriers are less effective and there would have to be an acceptance of this by the local community.

The impact of the scheme on the use and enjoyment of the public highway.

The ETRO was conceived in an attempt to both meet local concerns, and pressure to exclude nuisance vehicles. A key principle behind its design was that lawful vehicular use should continue in line with the County Council's duty to assert and protect the rights of users to the use and enjoyment of the highway.

I believe that this has been achieved.

The barriers used represent the least restrictive option that both enforces the ETRO and accommodates users.

No representations have been received from walkers or equestrians to suggest that their use of the route is affected by the existence of the barriers. Mobility vehicle users are able to bypass the barrier by means of a radar key operated gate. No reports have been received from disabled users indicating that they are unable to operate the barriers.

The impact on the convenient and safe movement of vehicular and other traffic

The scheme in effect has very little impact upon the convenient and safe movement of vehicular and other traffic.

A number of exemptions were provided for vehicular users when the experimental scheme of traffic management was introduced that in effect continue to permit access for all those that require it for land management purposes and for the management / maintenance of facilities. Vehicular users can apply for permits and gain access in that way for recreational purposes. Convenient alternative routes are available for commercial vehicular traffic.

It could be argued that other traffic, pedestrians, equestrians and cyclists are unaffected by the order as they fall outside of the ambit of the prohibition. The barrier used to enforce the scheme does cause a little inconvenience; however I do not believe that this is significant and is more than outweighed by the general improvement to amenity.

Conclusion

I believe that the scheme has succeeded in achieving its prime objective of improving the amenity of the area by reducing anti social, nuisance and unlawful behaviour. It has not eradicated such issues, no scheme would, but it has achieved a reduction in the most damaging behaviour. I recommend that the ETRO is made permanent.