

Divisions: Benson & Cholsey
-----------------------------

## **CABINET MEMBER FOR ENVIRONMENT– 8 OCTOBER 2015**

### **PROPOSED TRAFFIC REGULATION ORDER – ILGES LANE, CHOLSEY**

**Report by Deputy Director for Environment & Economy (Commercial)**

#### **Introduction**

This report considers responses to a consultation for a proposed Traffic Regulation Order for Ilges Lane, Cholsey.

#### **Background**

1. Ilges Lane is currently a Byway Open to All Traffic (BOAT), and starts at Ilges Lane outside the Veterinary Surgery, and exits on the A329 Reading Road. The BOAT is overgrown and has the appearance of looking unused. The BOAT carries legal public rights of way for walkers, cyclists, equestrians, carriage drivers and motor vehicles, and private agricultural access rights. The existing surface is made up of hard core only in the locations of the wheel tracks.
2. There is an aspiration from Cholsey Parish Council to link new developments on the A329 with amenities in Cholsey Village by improving the surface of Ilges Lane, and making it usable for walkers, pushchairs and wheelchairs as well as cyclists, in all conditions.
3. The effect of improving the surface to the lane's full width, and by virtue of its BOAT status, will mean that motor vehicles may be more likely to use it as a 'rat run' to and from the village. An added complication is that Ilges has a curve which limits visibility, and hence there may be conflict between motorised vehicles and vulnerable users. It was therefore proposed to prohibit motor vehicles from using Ilges Lane and making a safer environment for vulnerable users.
4. By necessity, Ilges Lane would need to be gated, in order to ensure appropriate enforcement is applied; however the gates will be accessible for all lawful users, i.e. disabled users, horse riders, cyclists and horse & carriages.
5. The location of the proposed Route / TRO is shown at Annex 1.

#### **Consultation**

6. In July 2015 a formal consultation took place on the proposal. As part of the consultation the County Council wrote to Stakeholders, interested bodies,

## CMDE6

and public notices were displayed on site, with documentation placed on deposit. Seven responses were received. See Annex 2 below (copies of all the responses are available in the Members' Resource Room).

7. Of the seven responses there were five objections, from the Trail Riders Fellowship and the Green Lanes Association, which objected to the Traffic Regulation Order along the same lines i.e. Oxfordshire has a limited number of Byways open to all Traffic which should be protected; and that the TRO was an inappropriately excessive way to manage the anticipated and unproven access and safety conflicts at this juncture
8. The two responses in support were from Thames Valley Police and the National Farmers Union.
9. On reflection and due to the degree of objection to this proposal, and after internal discussion with OCC's Countryside Access Team, the pragmatic approach at this time is proposed to manage any safety issues as a result of the new surface by engineering means, and then to monitor its use. If, after improvement works have been implemented, and monitoring shows there is a significant safety issue to be addressed then implementation of a Seasonal Traffic Regulation Order or a permanent Order may be re considered.

### **Financial and Staff Implications (including Revenue)**

10. The budget for the proposed work is £49.7k provided from s106 developer monies. Design, implementation and monitoring of the scheme will enable the provision of a year round usable route without legally prohibiting one class of lawful user.

### **RECOMMENDATION**

11. **The Cabinet Member for Environment is RECOMMENDED to approve the approach to implement the scheme and to monitor any issues arising and to reconsider a TRO should the need arise.**

MARK KEMP

Deputy Director for Environment & Economy (Commercial)

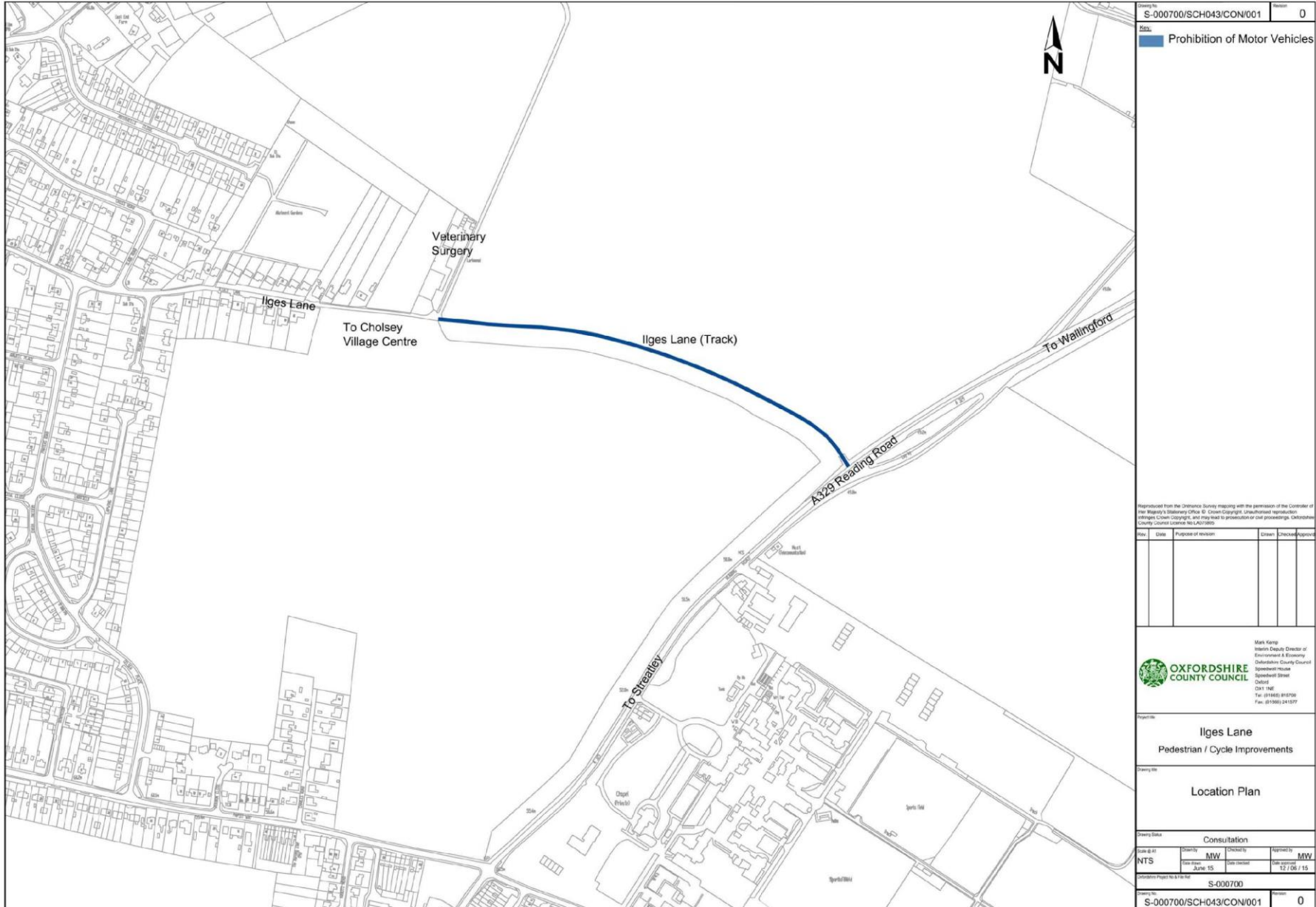
Background papers:            Consultation documentation  
   Consultation Responses

Contact Officers:               Paul Durham 01865 815074  
September 2015

CMDE6

**Annex 1**

# CMDE6



Document No.	S-000700/SCH043/CON/001	Revision	0						
Topic	Prohibition of Motor Vehicles								
<p>Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright, and may lead to prosecution or civil proceedings. Oxfordshire County Council Licence No LA01/0819</p>									
Rev.	Date	Purpose of revision	Drawn / Checked/Approved						
<p>Mark King          Senior Deputy Director of          Environment &amp; Economy          Oxfordshire County Council          Agneswell House          Agneswell Street          Oxford          OX1 1HE          Tel: (01865) 818700          Fax: (01865) 241377</p>									
<p><b>Ilges Lane</b>          Pedestrian / Cycle Improvements</p>									
<p><b>Location Plan</b></p>									
<p>Delivery Date: Consultation</p> <table border="1"> <tr> <td>Start of NTS</td> <td>Start of MW</td> <td>End of MW</td> </tr> <tr> <td>June 15</td> <td>12 / 06 / 15</td> <td></td> </tr> </table>				Start of NTS	Start of MW	End of MW	June 15	12 / 06 / 15	
Start of NTS	Start of MW	End of MW							
June 15	12 / 06 / 15								
<p>Consultation Project No &amp; File Ref: S-000700</p>									
Document No.	S-000700/SCH043/CON/001	Revision	0						

**Oxfordshire Representative for the Green Lane Association**

Dear Sir,

I write in objection to the proposed prohibition of traffic from Ilges Lane.

I am not familiar with the new developments to the east of Reading Road, presumably the former Fairmile Hospital; I can understand the desire of Cholsey Parish Council to provide improved links. However it seems unlikely that new residents will wish to cross the A329 to walk into the Cholsey.

Your letter of 25 June 2015 states that Ilges Lane is currently a BOAT (Byway Open to All Traffic). Your letter also states that by improving the surface of Ilges Lane... will mean that motor vehicles will be able to legally use it as well. This is already the case, whether the surface is changed or not.

I understand that developers are required to provide funds for local infrastructure, 5106 Payments. It cannot be sensible to spend these funds, or indeed any others, on improving the surface of a lane that is already open to all and then closing it to some.

Oxfordshire has a limited number of Byways Open to All and proportionally many less than surrounding counties. Spending significant amounts on one to improve its surface and then to limit its use does not make sense. Oxfordshire County Council should be encouraging the use of spending to benefit as many as possible and to improve facilities, not to limit them.

**Rights of Way Officer, Oxford Trail Riders Fellowship**

I would like to register my objection to the proposal to impose a Traffic Regulation Order permanently banning all motorised traffic from this byway.

As a former resident of Cholsey i am very familiar with this lane.

It would seem that Cholsey PC are acting upon an event that has yet to happen,ie increased population and closing this byway to MPV's is surely a negative action.

Why do Cholsey PC not try and be more positive on this issue instead of attempting to ban certain user groups. For instance the issue of the bend and visibility i am sure could be overcome.

This byway does not form part of a circular route for none MPV users so pedestrian usage will remain light for the foreseeable future even with a new development close to the eastern end of the byway.

There cannot be a TRO without an objective that would ease passage for those not caught by the order and "s.122 of the Highways Act" makes clear that those caught must be the least that would meet the objective.

Yours Sincerely

**TRF RoW Co-ordination - contractor, Area South**

Prohibition of MPV on Ilges Lane.

It would appear that this is the first we have heard of this prohibition Order. Until such time as we have better information and I have spoken to local users I object to the proposal which would appear to be a misuse of the Power to make TROs. I could understand an Order predicated on width or weight but a total ban on MPV seems excessive and ignores s.122 of the RTA '84. The prime duty (s.130 HA80) must prevail without prejudice to any one user group.

In cases such as you present here other HAs might impose a prohibition on vehicles with 3 or more wheels, or a width/speed restriction. Further, what is the logic behind not including equestrian vehicles in the prohibition?

**GLASS Rights of Way Officer**

Please accept this email as the official Green Lane Association response to object to your proposal to TRO MPV rights on this lane.

With so few recreational MPV routes in Oxfordshire, post NERC, this proposal is totally unacceptable. I see no legal reasons in your letter for a TRO so feel it falls somewhat short.

However we as a user group are flexible and would be open to negotiation on opening up another route to supplement the loss of this one. Currently there are many anomalies in the county meaning you fall way short of the law. I refer you to this recent release:

<https://www.gov.uk/public-rights-of-way-local-authority-responsibilities>

Perhaps a meeting to discuss a mutual way forward, along with my local Oxfordshire Rep would be a good starting point.

The alternative would be an expensive Public

Inquiry. Many thanks

*row@g/ass-uk.org*



## CMDE6

### Technical Director and National Road Conservation Officer - Trail Riders Fellowship

I am writing with regard to the matter of proposals to impose a Traffic Regulation Order (TRO) on Ilges Lane. I am the Technical Director for the Trail Riders Fellowship LTD (TRF). The TRF is a not for profit organisation, formed over 40 years ago, which operates to conserve green roads for the benefit of all users. The TRF's standing in this area was considered by Mr Justice Ousely handing down judgement in Trail Riders Fellowship v Peak District National Park Authority 2012, who said at paragraph 1:

"The Trail Riders Fellowship, the Claimant, is a reputable national body which seeks to preserve the rights of motorcyclists and others to use vehicular green lanes. It recognises the controversy to which the use of such lanes by mechanically-propelled vehicles gives rise."

The TRF was not notified of the proposed TRO in this instance. Responses to our enquiries have indicated that this consultation is being conducted for the purposes of regulation 6 of the The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996. Item 7 (C) requires that, in all cases, the Authority *shall consult*:

"Such other organisations (if any) representing persons likely to be affected by any provision in the order as the order making authority thinks it appropriate to consult"

The TRF note that the County Councils' own policy, as set out in the Rights of Way Management Plan 2015

- 2025, includes an action statement to work with "Oxfordshire Countryside Access Forum and Key

Partners" to meet the aims of the plan. "Key Partners" are described in table 8 of the plan and include

"user groups". The TRF considers that the policy operates in conjunction with the 1996 regulations to place a statutory requirement on the County Council to consult user groups representing those that would be affected by the proposed order. In addition to the TRF, those user groups include the Land Access and Recreation Association (LARA) and the Green Lane Association (GLASS). Oxford Countryside Access Forum should also be consulted, together with any non-statutory liaison groups that have been convened by the Council to improve access.

The statement of reasons (SoR) indicates that "improvements" to Ilges Lane are the basis for the proposal to impose the TRO for "safety reasons". The SoR does not give any further information as to what these improvements might consist of and the TRF has not been provided with any further information to facilitate a sufficiently informed response in respect of how those "improvements" might justify the proposed TRO.

## CMDE6

The TRF can only speculate that the "improvements" might be to make the road surface smoother and more commodious to pedal cycle traffic. If this is the case it is possible, though not inevitable, that the road may be subject to an increased volume of faster pedal cycle traffic. This could result in increased risk to all other users as a result. The source of that risk would be the pedal cyclists as opposed to those that the order seeks to restrict. The continued presence of motor vehicles on the road would serve to deter pedal cyclists from travelling at excessive speeds which would threaten the safety of all other users.

When considering the impact of "improvements" on safety, the network context of the road should be examined. Ilges Lane terminates on the A329 which is a busy A road with a very narrow footway that isn't available on both sides of the carriageway. Indeed, it is necessary to cross the busy A329 to access the footway for through journeys. This situation is not conducive to increasing non-motorised traffic on Ilges Lane.

The current condition of Ilges Lane allows it to be accessed and utilised as a through road by all standard motorcycles and cars. It is no more of a driving challenge than the fields which host car-boot sales or a typical potholed gravel surfaced car park. "Improvements" will not introduce the ability to access the road with a standard car/motorcycle as that facility already exists.

The TRF notes that the proposed order does not prohibit horse drawn vehicles. This would mean that barriers could not be used to enforce a TRO if they restricted the passage of horse drawn vehicles.

The road is an increasingly rare and precious part of our heritage. It is in good condition and a valuable example of a traditional green road. That TRF considers that this heritage should be conserved as opposed to being wrecked by unsympathetic 'improvements". What is now a pleasant stroll and ride is threatened with becoming an over sanitised and semi urban utility road. The present condition of the road provides a recreational link as well as a utility one. The use of clumsy improvements threatens the recreation element whilst delivering little, if any, added utility.

The TRF respectfully suggests that the Council pursue further engagement and consultation with user groups and its Local Access Forum, with a view to thoroughly exploring alternatives to the order as proposed.

You can visit our website at: [WWW.trf.org.Uk](http://WWW.trf.org.Uk)

## **NFU Mutual- Wantage Office**

Following our meeting on the 4th August, please find my response with regard to the proposal to 'pave/ part pave' Ilges Lane, Cholsey.

Currently the lane is un surfaced i.e. a track which in the main is used by Agricultural Tractors, walkers and cyclists. There is no doubt some vehicular traffic but this is at a very low level.

If this track is surfaced with chippings, tarmac or the like with no other measures in place it will become a vehicular rat run which will endanger pedestrian, cyclists and agricultural traffic. This therefore poses an unacceptable risk from the insurance and health and Safety Position.

If the track is to be 'paved' then I would fully support appropriate gating at each end to ensure that only authorised users were able to use the route in a safe and sustainable manner. (Authorised users, pedestrians, cyclists, horses and Agricultural traffic).

The police have clearly stated that they will not enforce the use that is not enforceable i.e. an open lane, as it is a waste of stretched resource.

So fully support gating at both ends Ilges lane if it is to be surfaced and totally oppose any change to the surface if it is not supported by appropriate gating at each end.

In this time of austerity a 'wait and see' approach is not acceptable as the development of housing will be long gone and the monies spent {106}? Council financial resource will very limited in future years which only can add to doing it properly at the onset.

We did discuss further possible development on land adjoining Ilges lane and suggested that access provision through that site should be built in to the planning process so that it can be designed specifically for the potential users?

Please let me know if I can be of any

further assistance. Many thanks,

Kind regards,

**Thames Valley Police**

Over the years by-ways/bridleways, etc have been a real headache/burden in terms of enforcement activity.

I would only support a formal restriction that has positive engineering to restrict access from the motor vehicle including the two wheeled variety. Gates sound good and if there do vehicles need legitimate access a key is provided to those few users.

I assume you are up grading to encourage greater pedestrian usage. I appreciate there might be difficulties restricting the motor cycle whilst at the same time allowing the horse rider, but this needs addressing without the burden falling on us.