



# **RUPP 12, Crowthorne (Devil's Highway)**

## **Traffic Regulation Order (TRO) Review**

### ***Public Consultation Report***

*September 2003*

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## 1 Background

- 1.1 This document follows on from the Traffic Regulation Order Review Report that was written to inform the public consultation concerning the future of the TRO along the public right of way known as the Devil's Highway. Both documents should be read in conjunction in order to understand the background and issues involved.
- 1.2 The Devil's Highway is a public right of way designated as a Road Used As A Public Path (RUPP). It is marked as RUPP 12, Crowthorne on the Bracknell Forest Definitive Map.
- 1.3 In September 1997 a Traffic Regulation Order (TRO) was made on the western section of the Devil's Highway. This ran from near the Bracknell Road in a westwardly direction to the Foresters Way underpass (see Appendices A and B).
- 1.4 The TRO was made on this section of RUPP 12 under the following grounds from Section 1 of the Road Traffic Regulation Act 1984:

**Ground (c)** *For facilitating the passage on the road or any other road of any class of traffic (including pedestrians)*

**Ground (d)** *For preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic which is unsuitable having regard to the existing character of the road or adjoining property.*

**Ground (e)** *Without prejudice to the generality of paragraph (d) above for preserving the character of the road in a case where it is especially suitable for persons on horseback or on foot.*

**Ground (f)** *For preserving the amenities of the area through which the road runs.*

## 2 Traffic Regulation Order Review

- 2.1 The original TRO made through the Planning & Highways Committee in 1997 contained a condition that it would be reviewed after a period of five years. In late 2002, therefore, this process was begun and a consultation followed.
- 2.2 In early 2003, a TRO Review Report was produced by the Council, which provided background information on the RUPP and the TRO and summarised the issues involved at the time. This report was made available, free of charge, upon request to the Council and at Bracknell and Crowthorne public libraries.
- 2.3 The public consultation on the existence of the TRO on RUPP12 began in March 2003 and ran until the end of July 2003. During this time posters (see Appendix C) were placed at regular intervals along the right of way. These made the status of the way clear, informed people of the existence of the Review Report and invited members of the public to contact the Council, through a variety of modes, so as to make their comments and views known. The responses to this consultation are dealt with in Section 3.
- 2.4 Since the implementation of the TRO in 1997 and during the review period, a series of new issues have arisen which affect the Devil's Highway and the TRO on it.
- 2.4.1 Countryside and Rights of Way Act 2000 (CROW), Sections 66 and 103(2) - amendments made to Section 22 of the Road Traffic Regulation Act 1984 under this legislation allow traffic regulation for countryside areas, including Sites of Special Scientific Interest (SSSI), for the purpose of

*"conserving or enhancing the natural beauty of the area, or of affording better opportunities for the public to enjoy the amenities of the area, or recreation or the study of nature in the area."* (Road Traffic Regulation Act 1984 22[2])

As the northern boundary of the 'Broadmoor to Bagshot Woods and Heaths SSSI' borders RUPP 12, the TRO is further substantiated by the Road Traffic Regulation Act 1984 under the CROW Act 2000.

- 2.4.2 CROW Act 2000, Sections 47 and 48 - under this legislation (likely to come into force in late 2003) rights of way currently classed as RUPPs will become Restricted Byways:

*"47. - (2) Every way which, immediately before the commencement of this section, is shown in any definitive map and statement as a road used as a public path shall be treated instead as shown as a restricted byway; and the expression "road used as a public path" shall not be used in any definitive map and statement to describe any way."*

*"48. - (1) Subject to subsections (2) and (3), the public shall have restricted byway rights over any way which, immediately before the commencement of section 47, is shown in a definitive map and statement as a road used as a public path."*

*"48. - (4) "restricted byway rights" means-*  
*(a) a right of way on foot,*  
*(b) a right of way on horseback or leading a horse, and*

*(c) a right of way for vehicles other than mechanically propelled vehicles; and "restricted byway" means a highway over which the public have restricted byway rights, with or without a right to drive animals of any description along the highway, but no other rights of way."*

It is likely, therefore, that RUPP 12 Crowthorne will be automatically re-designated as a restricted byway, allowing pedestrians, horse-riders and non-mechanically propelled vehicles to use it.

Should this review lead to a decision to remove the TRO or to amend it to allow motorcycle access, the new status of restricted byway would once again make motorised vehicle use illegal. This would necessitate the need to reclassify the way to a Byway Open to All Traffic. This process allows for a public objection period – and would probably lead to the decision being referred to the Planning Inspectorate.

2.4.3 Long-standing illegal use of motorbikes along the Devil's Highway and throughout the wider Swinley Forest and Crowthorne Woods areas prompted the establishment of a multi-agency working group to examine options to divert this activity away from these areas. The working group comprises Thames Valley Police Officers, and representatives from the Auto Cycle Union, Crown Estate, Forestry Commission, English Nature, Bracknell Forest Borough Council and other local conservation and youth bodies. The need for this group was due to the designation of the wider Swinley Forest / Crowthorne Woods area as a Site of Special Scientific Interest (SSSI) and a proposed Special Protection Area (pSPA) for the conservation of internationally rare ground nesting birds.

A one-off event organised by this working group took place at the Butter Hill site (shown on Appendix B map) in January 2003. Access for this event was from the Bracknell Road via Bridleway 14 (by special permission of the landowner – Forestry Commission).

Following this event, the Butter Hill Working Group focussed their attention on the long-term solution. The Crown Estate agreed, in principle, to set aside the Butter Hill site for off-road motorbike use through a proposed management agreement with the Auto Cycle Union. However, the issue of access is currently restricting the project, with no legal access options currently available.

### 3 Public Consultation

#### 3.1 Responses

3.1.1 During the consultation period of March to July 2003, 46 responses were received regarding the Devil's Highway TRO. 33 of these were from members of the public who use the way or live adjacent or close to the way. A further 13 responses were from official bodies or organisations.

3.1.2 The TRO Review document provided three options for the TRO:

- Retain current TRO
- Remove current TRO
- Amend TRO to allow motorcycles to use the way

The responses received were categorised using these options:

	<b>Retain Current TRO</b>	<b>Remove TRO</b>	<b>Amend TRO</b>	<b>No decision</b>	<b>Total</b>
<b>Total number of responses</b> <i>(Public &amp; official bodies)</i>	37	0	8	1	46
<b>%</b>	80.4%	0%	17.4%	2.2%	100%

Table 1: responses for and against the Devil's Highway TRO

3.1.3 As shown in the table above, overall opinions largely favoured retaining the TRO in its current form (i.e. prohibiting all motorised vehicles) with 37 respondents (80.4%) supporting this option. A further 8 respondents (17.4%) favoured amending the TRO to allow motorcycles to use the way, whilst one respondent declined to offer a decision on the TRO.

#### 3.2 Comments from the general public

3.2.1 The comments received from members of the public have been categorised as follows:

<b>Issue</b>	<b>Number of Comments</b>
<b><i>In favour of TRO</i></b>	
Generally, against current use of motorbikes along way	19
Dangerous / abusive behaviour of motorcycle users	17
Vehicular access causes damage to surface of way / environment and / or wildlife / vegetation	14
As a means of preventing excessive fly-tipping	13
Vehicles conflict with other users	9
Prevents abandoned vehicles	6
Noise from vehicles	5
Air pollution from vehicles	2
<b><i>For amending TRO to allow motorcycle access</i></b>	
Allow motorcycles to access Butter Hill	3

Table 2: TRO comments from the general public

### 3.3 Comments from organisations / official bodies

The following are summaries of the comments received from official bodies and organisations regarding the TRO.

#### 3.3.1 *In favour of current TRO:*

- *Babtie* (Archaeological consultants)  
Recommend retaining TRO in its current form. Babtie also recommend that BFBC seeks to have entire length of Devil's Highway in question legally protected as a Scheduled Ancient Monument. If motorcycle access was permitted, Babtie recommend that the way should be surfaced with at least 100mm blacktop and at least 65mm base (at a cost of £93,750 - £125,000).
- *Berks on Bikes Mountain Bike Club*  
BOBMBBC's view is that the current illegal situation of motorcycle activity is highly damaging to the surface of the way. They indicated that there had been a marked increase in the erosion and deterioration of the surface over the last year. They favour stricter law-enforcement by the police and authorities concerning illegal users.
- *Crowthorne Parish Council*  
Recommend retaining the TRO in its current form.
- *English Heritage*  
English Heritage have no objections to the TRO remaining in force as it restricts damaging use of the right of way and prevents inappropriate usage and damage in other areas of the forest which contain scheduled monuments.
- *Heathland Conservation Society*  
In favour of retaining the TRO. However, HCS does support the principle of the Butter Hill facility and suggests that a 3m wide fenced corridor is created parallel to the length of the Devil's Highway to allow motorcycles to access the Butter Hill site, whilst avoiding conflicts with other users and damage to the archaeologically important surface.

#### 3.3.2 *In favour of amending TRO to allow motorcycle use:*

- *Auto-Cycle Union*  
The ACU support the proposal to amend the TRO to allow motorcycles to use the Devil's Highway, with a view to this being used as access for a future off-road motorcycling facility at Butter Hill.
- *Crown Estate*  
The Crown Estate favours amending the TRO to allow motorcycles to use the way, with a view to the creation of an Auto-Cycle Union-licensed and -managed facility at Butter Hill.
- *Crowthorne Police Station (Thames Valley Police)*  
Support for the TRO, but amended to allow motorcycle access. However, acknowledged that the TRO has had positive effects in terms of reducing fly-tipping and dumping of vehicles.

- *English Nature*  
Favours amending the TRO to allow motorcycle access along the Devil's Highway. This would be with a view to establishing a permanent motorcycle area at Butter Hill and thereby attempting to reduce the illegal use of motorbikes in other areas.
- *Forest Enterprise*  
In favour of amending TRO to allow motorcycle access. Accepts that the TRO has been successful in reducing fly-tipping, abandoned cars and antisocial behaviour in area. However, wishes to see motorcycle use in formalised Butter Hill area with the wider area policed to reduce the nuisance and damage caused by illegal use.

### 3.3.3 *Other comments:*

- *SE Berkshire Ramblers Association*  
The Ramblers Association discuss both the idea of amending the TRO to allow motorcycles to use the way in a regulated fashion and alternatively, leaving the current TRO in force with a view to the RUPP being reclassified as a restricted byway in the near future.
- *Safety Advisor, Bracknell Forest Borough Council*  
The Council Safety Advisor carried out a risk assessment and report on the feasibility of allowing motorcycle access along the Devil's Highway to the Butter Hill area. It was concluded that stretches of the way would be unsuitable for this, with the narrow width likely to lead to user conflicts and hazards. Widening of areas of the way and possibly protection of the current surface and the archaeology beneath it would be required, along with a code of practice for users and registration scheme for motorcycles.
- *Wildlife Ranger, Bracknell Forest Borough Council*  
Following examination of the Devil's Highway and Butter Hill area, John Wenman, Wildlife Ranger for BFBC concluded that the TRO should be amended to allow motorcycles to use the way and access the Butter Hill site for a limited period of 18 months to assess the success of Butter Hill as a diversion site, and to allow for monitoring of the environmental impacts.



## **4 Future Options and Impacts**

### **4.1 *The current TRO remains in force***

- 4.1.1 Since the original implementation of the TRO in 1997, significant successes have been achieved in reducing abandoned cars and fly-tipping in the area. The Council's vehicle enforcement officer reported that no vehicles were abandoned there between July 1997 and August 1999 in contrast to the 12 vehicles collected between March and July 1997. Fly-tipping problems also diminished slightly, although a significant amount still occurred at the newly created Forestry Commission car park at the western end of the RUPP. Conflicts concerning vehicles and other users have disappeared, although conflicts with motorcycles still exist.
- 4.1.2 Retaining the current TRO reinforces the council's duty, under Section 122 of the Road Traffic Regulation Act 1984 to secure the expeditious, convenient and safe movement of all traffic, including walkers, cyclists and horse-riders. This would conform to the original reasons for establishing the TRO.
- 4.1.3 Retaining the current TRO would help protect the surrounding wildlife areas of international importance, designated as Wildlife Heritage Sites, SSSI, International Bird Area (IBA) and Proposed Special Protection Area (pSPA) for birds. This would conform to additional reasons for making a TRO, set out under the CROW Act 2000.
- 4.1.4 The current TRO also reduces the risk of damage to the right of way and its archaeology as a Roman Road, as well as important Scheduled Ancient Monuments in the surrounding areas.
- 4.1.5 The likely future reclassification of RUPP 12 to a restricted byway means that no practical changes for motor vehicle use would need to take place if the current TRO is retained.
- 4.1.6 However, some of the advantages of the TRO mentioned above are diminishing as the way is used regardless of its status, illegally by motorcyclists; the prevention of such actions is extremely difficult.
- 4.1.7 Retaining the current TRO excludes the possibility of access to Butter Hill, a future possible site for organised off-road motorcycling. However, it is possible that an alternative access route could be created parallel to the Devil's Highway. This would necessitate the purchase of land from the Forestry Commission and would still involved motorcycles crossing RUPP 12 to access the Butter Hill site.

### **4.2 *The TRO is removed***

- 4.2.1 Completely lifting the TRO from the RUPP would allow access to all types of motor vehicle. This would have the benefit of allowing legal access to the Butter Hill site.
- 4.2.2 There have been no calls to lift the TRO completely and it seems likely that doing so would re-introduce the previous problems of abandoned cars, fly-tipping, anti-social behaviour, environmental damage and user conflicts along the way, to the detriment of the countryside and its users.

### **4.3 *The TRO is amended to allow motorcycles to use the way***

- 4.3.1 This would allow access along the Devil's Highway (a public highway) by legally taxed and insured motorcyclists to a possible future motorcycle site at Butter Hill. However, it would be illegal for unlicensed, untaxed or uninsured bikes to use the way.
- 4.3.2 The specific details of allowing access along the Devil's Highway would need to be considered carefully in order to avoid damage to the surface of the way, the underlying archaeology and the surrounding countryside and conflicts between users, issues raised regularly during the consultation (see Table 2). This would require speed limits and possibly the separation of motorcycles from other users. Strict enforcement of such rules would be required with possible monitoring from the police and the Auto-Cycle Union.
- 4.3.3 Issues of preventing illegal access into the wider forest area would need to be tackled, with the recently felled Forestry Commission land to the north currently representing prime nesting habitat for the protected ground nesting birds in the SSSI, for example.
- 4.3.4 Access from other directions to any future motorcycle site at Butter Hill would need to be controlled to prevent environmental damage and user conflict in the wider Swinley Forest and Bramshill Forest areas.
- 4.3.5 Issues have been raised by the targeted group of young motorcycle users and others as to whether Butter Hill is in fact a suitable site for a motorcycling facility in terms of its size and technical difficulty.

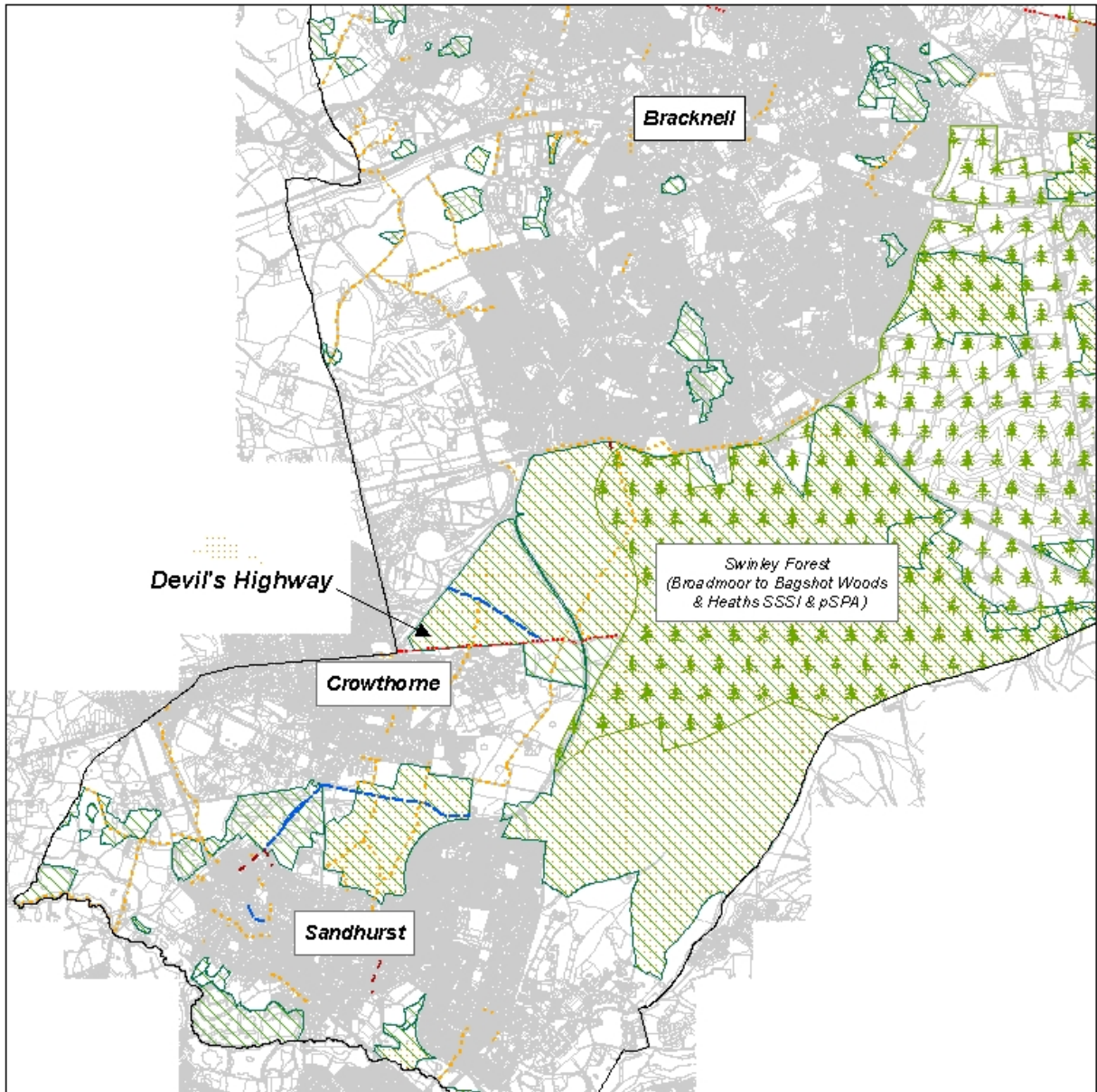
## 5 Conclusions

- 5.1 Cllr Iain McCracken, Portfolio Holder for Leisure Services has considered the Review report and the Public Consultation Report and has come to the following conclusion:-

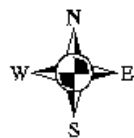
**That no action should be taken to remove or amend the existing Traffic Regulation Order on the Devil's Highway.**

- 5.2 In undertaking this review, several other related issues have arisen. Comments on these issues are as follows:-
- 5.2.1. It should be noted that the existing status of the Devil's Highway as a Road Used as a Public Path (RUPP) will change to a Restricted Byway under the new legislation being introduced as part of the Countryside and Rights of Way Act 2000. The implication of this is that the public will have a right of way on foot, on horseback or leading a horse and a right for vehicles other than mechanically propelled vehicles. The Traffic Regulation Order prohibits motorised vehicles and so is likely to become redundant at some time in the future, although no action needs to be taken on this matter at this moment in time.
- 5.2.2 The archaeological importance of the Devils Highway be noted and an approach be made to English Heritage to request that it be scheduled as an Ancient Monument.
- 5.2.3 Discussions continue with landowners and other organisations about the feasibility of providing facilities for motorcyclists at Butter Hill. The possibility of allowing controlled access to the site by means of a permit system or by granting other private rights be explored.
- 5.2.4 This report should be submitted to the Local Countryside Access Forum to allow public debate on these issues.

## Appendix A: RUPP 12, Crowthorne (Devil's Highway) Location Map



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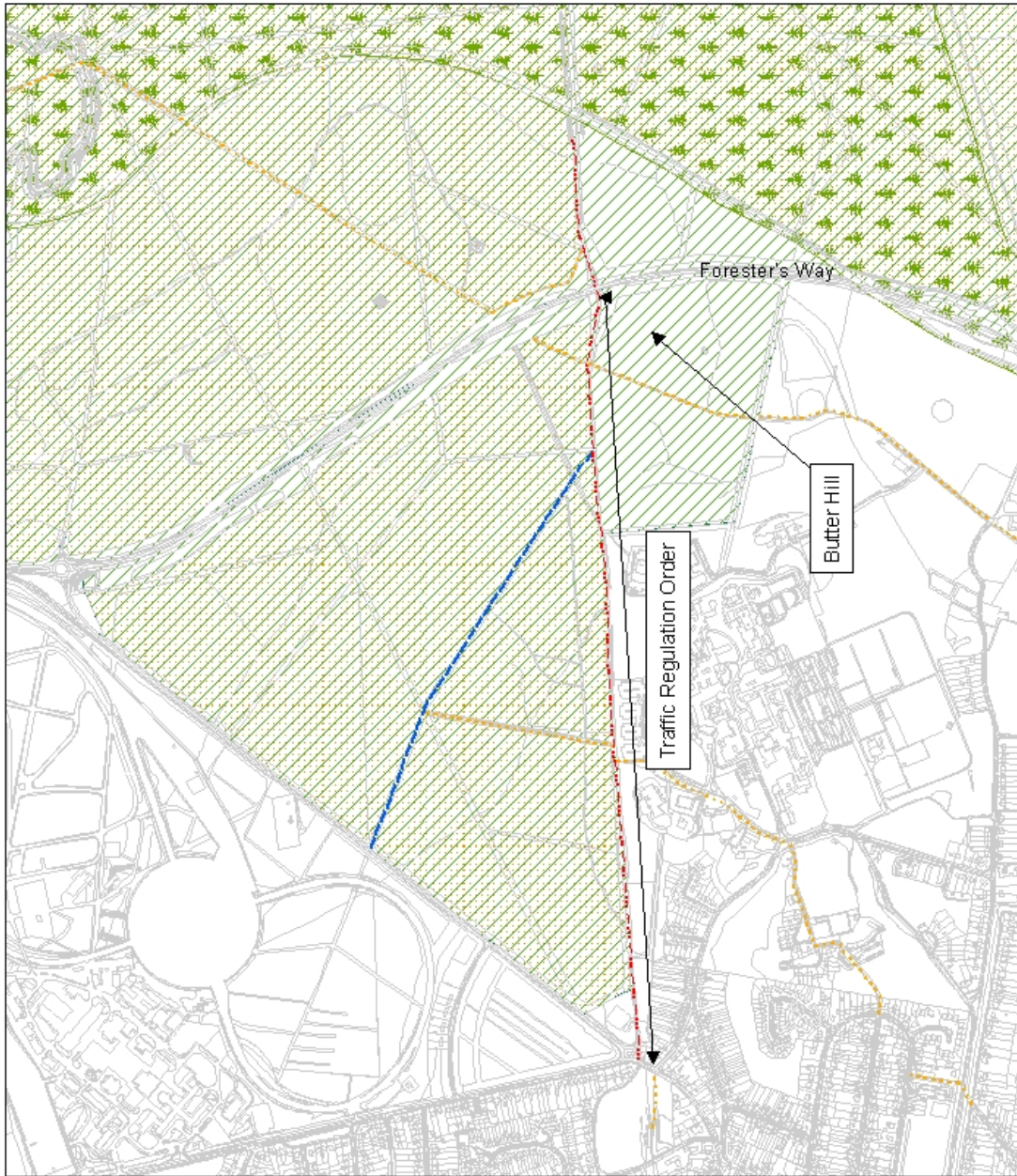
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### Legend

- Bridleway
- Byway
- Footpath
- Road Used as Public Path (RUPP)
- Crown Estate land
- ▨ Wildlife Heritage Site
- Borough Boundary
- SSSI



# Appendix B: RUPP 12, Crowthorne (Devil's Highway)



**Legend**

- Road Used as Public Path (RUPP)
- Bridleway
- · - Byway
- Footpath
- Crown Estate
- Wildlife Heritage Site
- SSSI



1:12,000

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# DEVIL'S HIGHWAY TRAFFIC REGULATION ORDER REVIEW

This public right of way "Crowthorne 12", known as the Devil's Highway, is designated as a Road Used As A Public Path (RUPP).

*In September 1997 a Traffic Regulation Order (TRO) preventing motor vehicle access was made on the section that runs from the A3095 underpass, eastwards to the Forestry Commission car park accessed from the Bracknell Road (B3348).*

When the TRO came into force, it was agreed to review its effectiveness after five years and Bracknell Forest Borough Council is now carrying this out.

## We are seeking your views on this matter.

*A report on the TRO is available at Crowthorne and Bracknell libraries; if you have any comments to make regarding the use of the Devil's Highway or the suitability or effectiveness of the Traffic Regulation Order currently in place, please contact BFBC Leisure Services by 31<sup>st</sup> July 2003.*

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After consultation with the public, landowners and others, a report with recommendations will be produced by Leisure Services. At the conclusion of the consultation process, it is expected that a decision will be made in approximately October 2003.