



Hampshire  
County Council

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*Date* 5 March 2013

*E-mail*

Dear Mr Hinds

**Your Constituent – Maureen Comber  
Cradle Lane**

Thank you for your email of 18 December 2012 addressed to Andrew Smith in which you are asked if I could look into Mrs Comber's complaint about traffic regulation orders which had been applied to Cradle Lane. I apologise for the delay but wanted to ensure that I had the full picture in front of me before replying in detail.

Cradle Lane is recorded on the Definitive Map and Statement as a byway open to all traffic. This means that motorised vehicles have a public right to use Cradle Lane. Hampshire County Council, as the traffic authority, has the power to "regulate" the use of Cradle Lane through the use of orders made under the Road Traffic Regulation Act 1984.

Dealing specifically with Cradle Lane, it is correct that Hampshire County Council has made various orders under the Road Traffic Regulation Act regulating its use. These orders have either been "temporary" or "permanent" in nature.

Currently, I can advise that there is one traffic regulation order in place on Cradle Lane. This order is dated 26 March 2012 and prohibits, with certain exceptions, motorised vehicles having 3 or more wheels from using Cradle Lane. A copy of this order is attached.

This particular order is a "permanent" order, in that it has continuing effect and no end date.

*Head of Legal Services*  
**Kevin Gardner LLB Solicitor**  
*Chief Executive*  
**Andrew Smith OBE MA DPA MBA**





Prior to the implementation of the current permanent traffic regulation order on Cradle Lane there have been a number of temporary orders. This type of order is, by its very nature, intended to be temporary in nature and duration. Section 14 of the Road Traffic Regulation Act 1984 set out the circumstances when a temporary traffic regulation order is appropriate. In summary, these circumstances include:-

1. Works are being or are proposed to be executed on or near the road;
2. The likelihood of danger to the public or of serious damage to the road;
3. Litter clearing and cleaning duties under the Environmental Protection Act 1990.

Significant damage to Cradle Lane has been caused in the past by inappropriate use of the lane by motorised vehicles. This has caused significant damage to the route and, given the narrowness of the route and the fragile clay subgrade, it appeared that the use of the route by, in particular, four-wheel drive vehicles was unsustainable. However, it was also evident that work had to be undertaken on Cradle Lane in order to effect repairs to the damaged caused.

It is against this backdrop that Hampshire County Council imposed a series of temporary traffic regulation orders to allow conditions to settle so that works could be undertaken and, further, so that these works would have the opportunity to bed in properly before Cradle Lane was opened again for public use.

As Cradle Lane is a byway open to all traffic, the Road Traffic Regulation Act 1984 requires that a temporary order restricting the use of the lane shall not continue in force for a period of more than 6 months. The County Council's order making process recognises this requirement and, indeed, encourages the practise whereby roads are only closed for a short a period as possible.

In particular, the Hampshire (Kingsley BOAT 29 and Headley BOAT 36) (Temporary Road Closure) Order 2010 for Cradle Lane stated that:-

"The order shall be in operation from 16 August 2010 for a period of 6 months or until completion of the works whichever is the sooner"

Further, the temporary order made on Cradle Lane in 2008 stated that the order was to be in operation from 2 December 2008 until 10 May 2009, a period of just over 5 months.

There are no formal requirements to consult on the making of a temporary traffic regulation order. However, if an individual is aggrieved by the process, it is open to that individual to commence judicial review proceedings to challenge the actions of the order making authority. We note that no such challenge has been received, either from Mrs Comber or any other party.

*Head of Legal Services*

**Kevin Gardner LLB Solicitor**

*Chief Executive*

**Andrew Smith OBE MA DPA MBA**





The Road Traffic Regulation Act 1984 also allows an authority to apply to the Secretary of State to "extend" the life of a temporary order and the Secretary of State may, having considered the application, direct that the order be extended. The wording of the legislation is such that it would appear that the Secretary of State is able to extend an order on more than one occasion. Invariably, when extending an order, the Secretary of State requires that this fact be advertised in the local press to ensure that details of the extended closure are advertised fully to those living in the locality.

Again, the exercise of this discretion is challengeable by way of judicial review and, again, Mrs Comber has not availed herself at this opportunity.

I can provide for completeness details of the following orders:-

1. The Hampshire (Kingsley BOAT 29 and Headley BOAT 36) (Temporary Road Closure) Order 2008

This order was signed on 1 December 2008 and was in operation between 2 December 2008 until 10 May 2009. The order was made under s14 of the Road Traffic Regulation Act and was a temporary closure prohibiting any vehicles from using a section of Cradle Lane.

This order was extended by the Secretary of State on 22 April 2009 until 10 November 2009 or until completion of the works, whichever is the earlier. The Secretary of State asked that notice of the extension be published in the local press. This was duly undertaken.

A second extension was granted by the Secretary of State on 3 November 2009 which provided for a further extension of this order until 10 August 2010 or until completion of the works, whichever is the earlier. Again, there was a requirement to advertise the extension.

2. (Kingsley BOAT 29 and Headley BOAT 36) (Temporary Road Closure) Order 2010

This order was signed on 13 August 2010 and came into operation on 16 August 2010 for a period of 6 months or until completion of the works, whichever is the sooner. It prohibited all traffic on a very short stretch of Cradle Lane.

3. (Kingsley BOAT 29 and Headley BOAT 36) (Temporary Road Closure) Order 2011

This order was signed on 15 February 2011 and came into operation on 16 February 2011 for a period of 6 months. Again the order prohibited all traffic on the same short section of Cradle Lane as the 2010 order. On this occasion, the order provided that after the first 3 months, the restriction on all traffic passing over the short stretch of Cradle Lane will

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lifted for horse riders (unless otherwise advertised), but will remain place for other prohibited uses.

3. (Kingsley BOAT 29 and Headley BOAT 36) (Temporary Road Closure) Order 2010

This order was signed on 15 August 2011 and was operational from 16 August 2011 for a period of 6 months. The effect of the order was to temporarily prohibit motorised vehicles over the same stretch of Cradle Lane. However, this order only applied at such times and to such extent as maybe indicated by traffic signs

This order was extended by the Secretary of State on 11 January 2012 until 31 May 2012 or until completion of the works, whichever was the earlier again, there was the direction that the extension be published in the local press.

This 2011 order is a little different from the earlier orders in that it only came into effect at such times as indicated by traffic signs. It might, loosely speaking, be described as a "seasonal" order – if the weather conditions were poor then the lane would be closed. If the conditions were favourable then the lane would open.

I trust this assists you in your dealings with Mrs Comber.

I would again wish for you to be aware that we have been in correspondence in Mrs Comber for numerous years, not only about Cradle Lane, but also about other rights of way/access issues in the area. This correspondence is placing a significant burden on officers of the Council and Mrs Comber is aware of her various rights of appeal or challenge to the County Council's actions. Whilst we have no intention or desire to restrict Mrs Comber's democratic rights to contact you and ask that you investigate matters on her behalf, we are concerned that she may be using this as a means to bypass the correct processes to challenge or complain about the County Council's actions and continue making excessive demands on officer time.

The County Council has invested heavily in time and work over the years in dealing with various issues that Mrs Comber has raised. This amount of work is frequently disproportionate and distracts officers from dealing with other equally pressing issues.

If you require any further information, please do not hesitate to contact me.

Yours sincerely

**Ian Austin**  
Team Leader (Environment and Information)  
For Head of Legal Services

cc Emma Noyce, Countryside  
Chief Executive's Office

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Kevin Gardner LLB Solicitor

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