



Delegated decision report

DECISION UNDER DELEGATED POWERS

DECISION CANNOT BE TAKEN BEFORE 31 OCTOBER 2019

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| TITLE | REPORT IN RELATION TO THE ISLE OF WIGHT COUNCIL (VARIOUS STREETS, FRESHWATER) (TRAFFIC REGULATION) ORDER NO. 1. 2017 |
| REPORT OF | CABINET MEMBER FOR INFRASTRUCTURE AND TRANSPORT |

EXECUTIVE SUMMARY

1. This report provides details of officer's recommendations to introduce a Traffic Regulation Order (TRO) in relation the introduction of parking restrictions in the vicinity of Gate Lane and Afton Road, Freshwater as part of 'The Isle of Wight Council (Various Streets, Freshwater) (Traffic Regulation) Order No 1. 2017'.
2. The proposals if implemented are to introduce parking restrictions to address the safety and network management issues identified by officers in this area.
3. The original proposals advertised in the local press attracted a considerable number of objections (96 in total). As a result, further consultation took place with local stakeholders following the end of the statutory consultation period and following these discussions the proposals were amended to address the concerns raised. The new proposals are less restrictive than the original advertised draft Traffic Regulation Order and therefore did not need to be re-advertised.
4. A decision is required on the implementation of the amended proposals, not the original proposals which attracted the objections.

BACKGROUND

5. The Traffic Regulation Order originally advertised proposed:
 - To revoke the provisions of 'The Isle of Wight Council (Various Streets, Freshwater) (Traffic Regulation) Order No 1 2016'.
 - To re-enact the provisions contained therein subject to the following amendments:
 - a. To revoke 'No Waiting 10am-6pm 1 May-30 Sept' in the following length of road:

Afton Road, on both sides, from its junction with Gate Lane to a point 95 metres north-east thereof.

Gate Lane, on the south and south-west side, from its junction with Afton Road to a point 5 metres north-west of The Square.

Gate Lane, on the north and north-east side, from its junction with Gate Lane to a point 19 metres north-west of its junction with The Square.

Gate Lane, on the north-east side, from its junction with Guyers Road to its junction with Bedbury Lane.

Gate Lane, on the south-west side, from a point 35 metres south-east of its junction with Victoria Road to its junction with Bedbury Lane.

Bedbury Lane, on the south-west side, from its junction with Gate Lane to a point 103 metres north-west thereof.

Bedbury Lane, on the north-east side, from its junction with Victoria Road to a point 40 metres north-west thereof.

The Square, (western junction) on the east side from its junction with Gate Lane to a point 10.5 metres north-east thereof.

The Square, (western junction) on the west side, from its junction with Gate Lane to a point 9 metres north-east thereof.

The Square, (eastern junction) on both side from its junction with Gate Lane to a point 10 metres north-east thereof.

Victoria Road, on the east side, from its junction with Gate Lane to a point 33 metres north thereof.

- b.** To revoke 'No Waiting At Any Time 1 June-30 Sept' in the following lengths of road:

Freshwater Footpath 59, on both sides, from its junction with Gate Lane to the end of the highway.

- c.** To introduce 'No Waiting At Any Time' in the following lengths of road:

Afton Road, on both sides, from its junction with Gate Lane to a point 95 metres north-east thereof.

Gate Lane, on the south and south-west side, from its junction with Afton Road to a point 5 metres north-west of The Square.

Gate Lane, on the north and north-east side, from its junction with Gate Lane to a point 19 metres north-west of its junction with The Square.

Gate Lane, on the north-east side, from its junction with Guyers Road to its junction with Bedbury Lane.

Gate Lane, on the south-west side, from a point 35 metres south-east of its junction with Victoria Road to its junction with Bedbury Lane.

Bedbury Lane, on the south-west side, from its junction with Gate Lane to a point 103 metres north-west thereof.

Bedbury Lane, on the north-east side, from its junction with Victoria Road to a point 40 metres north-west thereof.

The Square, (western junction) on the east side from its junction with Gate Lane to a point 10.5 metres north-east thereof.

The Square, (western junction) on the west side, from its junction with Gate Lane to a point 9 metres north-east thereof.

The Square, (eastern junction) on both side from its junction with Gate Lane to a point 10 metres north-east thereof.

Victoria Road, on the east side, from its junction with Gate Lane to a point 33 metres north thereof.

Freshwater Footpath 59, on both sides, from its junction with Gate Lane to the end of the highway.

Afton Road, on both sides from a point 93 metres north-east to a point 176 metres north east thereof.

6. The TRO detailed in paragraph 5 was proposed for facilitating the passage on the road or any other road of any class of traffic (including pedestrians) and for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising.
7. In particular, the TRO looked to address the road safety and network management issues at the Afton Road end of Gate Lane where current measures do not allow enforcement to be carried out against the drivers of parked vehicles causing an obstruction to other users of the highway.
8. The restrictions proposed by these orders should be reasonable and should not go further than necessary to deal with the highway problems identified. The local authority is required to undertake a balancing exercise between the need to provide suitable parking facilities against the harm that may occur in highway safety terms of not making the orders.
9. The plans showing the extent of the parking restrictions advertised within the draft TRO are included at Appendix 1.

STRATEGIC CONTEXT

10. In line with the council's Corporate Plan, the proposed parking restrictions links in with the corporate priority to keep the island and its residents safe.
11. The scheme in its entirety has been considered against Department for Transport (DfT) guidelines.

CONSULTATION

12. The proposed parking restrictions within **The Isle of Wight Council (Various Streets, Freshwater) (Traffic Regulation) Order No. 1. 2017** were advertised during December 2017 and after consultation with the police, local council, and local councillors.
13. A public notice outlining the draft proposals, and inviting public comment, was published in the Isle of Wight County Press on 15th December 2017 and notices were displayed on-street for a period of 28 days. The closing date for representations was 12th January 2018.
14. The local authority must consider any objection that has not been withdrawn taking into account relevant representations when making the decision.
15. Ninety-six (96) letters of representation were received regarding the proposals and many of those responding to the consultation raised the same issues.
16. Following the large number of objections received through the statutory consultation process, a meeting was arranged between officers and interested parties. As a result of these discussions officers determined that the road safety and network management issues could be addressed through less restrictive proposals. These amended proposals are detailed in Appendix 2.
17. The formal representation received as part of the statutory consultation process is shown in summary below along with comments from the highway authority. The highway authority comments follow on from the written feedback received and the subsequent discussions with stakeholders at the local meeting with officers, after which officers determined amendments to the proposals could be made:

| Representation | Highway Authority Comment |
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| There is no justification for the restrictions. | The parking restrictions were proposed following concerns raised locally in relation to vehicles causing an obstruction when legitimately parked in the non-restricted areas. Officers determined there was a need to increase restrictions to aid traffic flow and increase safety. However, following the consultation process it has been determined that these issues can be addressed without implementing all of the restrictions contained in the original proposals. |
| There is no issue with the current restrictions. | Please see above response. |
| Vehicles will just move to the surrounding streets. | The amendments to the original proposals should reduce migration to surrounding streets. All areas of the highway are regularly reviewed and should additional parking problems arise these will be addressed accordingly. |
| Local businesses and residents will suffer as a result of these restrictions including the local church. | These points are noted and it is has been determined that the road safety and network management issues can be addressed without the introducing all of the restrictions originally proposed. The new proposals will allow more on-street parking to remain available. |

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| Many school parties visit this side of the island and will have nowhere to park. | Coaches are permitted to drop off and pick up under the terms of the Traffic Regulations. A coach parking area has been designated in Afton Road for longer stays. |
| Parking facilities need to be increased. | The amended proposals allow us much on-street parking as possible whilst dealing with the identified road safety and network management issues. |
| Speeds will increase if on-street parking is removed, the current parking slows speeds. | This point is noted. However, restrictions are required to address current network management and road safety issues. Enforcement of speed limits is a function of the police. |
| Staggered parking bays in Gate Lane, would be a good resolution. | The amended proposals will result in fewer restricted areas than originally proposed and in effect provides intermittent parking areas as suggested. |
| The ambience of the areas will be affected if yellow lines are painted throughout. | This point is noted. However, the road markings are required to address the road safety and network management issues. |
| Tourism and visitors to the area will be affected if they have nowhere to park. | These points are noted and it has been determined that the road safety and network management issues can be addressed without implementing all of the restrictions contained in the original proposals. |
| Although there is some need for parking restrictions, the parking around the businesses should not be altered. | This is noted and the reduced restrictions will allow more parking in areas where businesses are located. |
| The restrictions are broadly welcomed but further consideration should be given to the businesses. | See response above. |
| Parking chaos at the Freshwater Bay end needs addressing especially near Afton Road as many people cross the road here. | The existing single yellow line restrictions at the junction with Afton Road have been changed to Double Yellow Lines to improve safety and visibility at the junction. |
| The restrictions are over draconian. | This is noted and the proposed restrictions have been reduced. |
| Reduce the car park fees. | Parking fees do not affect the need for Traffic Regulation Orders to address network management and safety issues. |
| The area is a AONB and double yellow lines would not look beautiful. | This point is noted but is not a valid reason to not introduce safety measures to the highway. |

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| <p>The single line restriction should be considered for revocation to help the local community and businesses.</p> | <p>Additional parking restrictions are deemed to be required in the area. However, the restrictions around the businesses have been amended following this and other feedback.</p> |
| <p>The community is mainly elderly and parking is essential especially for the disabled.</p> | <p>This is noted but parking restrictions are only introduced where they are deemed absolutely necessary to deal with safety and network management issues. The amended proposals mean less on-street parking will be lost.</p> |
| <p>Not enough consideration or consultation has been given to these proposals.</p> | <p>Consultation took place as required by legislation. However, following the representation received additional consultation took place, and as a result the proposals have been amended.</p> |
| <p>The consultation has not been carried out in accordance with The Local Authorities Traffic Order (Procedure) (England) Regulations 2012.</p> | <p>This is refuted. The consultation has been undertaken in accordance with all necessary legislation. Notice was published in the local paper on 15th December 2017 and copies were displayed on site fixed to street lights.</p> |
| <p>There are no provisions for coaches in the area or Dimbola Lodge.</p> | <p>The Road Traffic Act permits coaches (and other vehicles) to pick up and drop off on Single and Double yellow line areas. A coach parking area has been designated in Afton Road for longer stays.</p> |
| <p>The description of Footpath 59 does not have a junction with Gate Lane.</p> | <p>Footpath F59 is shown to have a junction with the A3055 Gate Lane at the Albion Hotel on the Public Rights of Way Definitive Map.</p> |
| <p>Coach operators have received abuse from parking around the Dimbola Lodge area from local residents and the restrictions will prevent this but there's nowhere for coaches to park and will have a negative impact on these types of businesses.</p> | <p>The Road Traffic Act permits coaches (and other vehicles) to pick up and drop off on Single and Double yellow line areas. A coach parking area has been designated in Afton Road for longer stays.</p> |
| <p>Public transport is infrequent in this area which is why people need on street parking available especially around the local businesses.</p> | <p>The amended proposals mean less on-street parking places will be lost in comparison to the original draft TRO.</p> |
| <p>Bollards should be installed to prevent parking in areas that are not safe.</p> | <p>Bollards are not suitable or permissible to address the traffic safety and network management issues identified.</p> |
| <p>There is an issue with enforcement with the current single line restriction but these proposals will not resolve this.</p> | <p>Part of the scheme will entail the provision of the required plates and posts needed to enforce the single yellow line restriction.</p> |
| <p>A coach park is required or reinstate the one in Afton Road.</p> | <p>A coach parking area has been designated in Afton Road for longer stays</p> |

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| The speed limit should be reduced. | Current traffic monitoring suggests that the 30mph limit is appropriate. However, speed limits are reviewed periodically and any indication that the speed limit needs to be changed will be dealt with under a separate order. |
| Consultation has not been carried out in accordance with the Authorities Article 15. Decision Making of the Council's Constitution. | Decision Making is dealt with under Article 16 of the Council's Constitution. This comment was received as part of the consultation process before any decision had been made. The decision to implement the TRO set out within this record follows the consultation procedures set down in legislation and accords with the requirements of Article 16 of the Constitution. Notice was published in the local paper on 15 th December 2017 and copies were displayed on site fixed to street lights. |
| It was not reasonable to consult over the Christmas period. | There is no requirement to delay consultation processes for festive holidays and representation received after the formal consultation end date has been considered and included within this report. |
| There have not been any accidents in the last 3 years. | Two slight injury accidents were recorded between November 2015 and the date on which this feedback was received. |

FINANCIAL / BUDGET IMPLICATIONS

18. The costs associated with the introduction of the proposed order have been identified and are to be covered as part of the council's local transport plan budget.
19. The costs involved, are expected to be in the region of £3,500 for implementation plus additional ongoing maintenance costs. All signs and/or carriageway markings will be provided in accordance with the Traffic Signs Regulations and General Directions 2016.

LEGAL IMPLICATIONS

20. It is recognised that restrictions on road users may represent an interference with an individual's human rights under Article 8 (Right to respect for private and family life) and Article 1 of the first protocol (Peaceful enjoyment of property) of the European Convention on Human Rights. Any such interference is considered necessary and proportionate due to positive enhancement of such road safety for other users of the area.
21. The statutory authority for adopting a traffic regulation order (TRO) imposing parking restrictions is section 1 of the Road Traffic Regulation Act 1984.
22. An Order should be adopted in accordance with the Local Authorities' Traffic Regulation Orders (Procedure) (England and Wales) Regulations 1996 ('the 1996 Regulations').
23. The statutory authority for signs and road markings are by virtue of the Traffic Signs Regulations and General Directions 2016.
24. Consideration will need to be given to the factors set out in Section 122 of the Road Traffic Regulation Act 1984 in proposing these traffic orders. Section 122 requires the

local authority to secure the expeditious, convenient and safe movement of traffic (including pedestrians) and the provision of adequate parking facilities. In carrying out this exercise the council must have regard to the:

- a) desirability of securing and maintaining reasonable access to premises;
- b) the effect on the amenities of any locality effected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the road(s) run;
- c) any strategy prepared under section 80 of the Environment Act 1995 (the national air quality strategy);
- d) the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles;
- e) any other matters appearing to the local authority to be relevant.

25. The 1996 Regulations also set out the procedure to be adopted following publication of the proposed TROs and the approach the council should adopt in considering the orders.

26. Regulation 13 of the 1996 Regulations confirms that before making an order, the traffic authority shall consider all objections duly made to the TROs that have not been withdrawn.

27. The council is under a duty pursuant to Section 16 of the Traffic Management Act 2004 to manage their road network with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, the following objectives:

- i. securing the expeditious movement of traffic on the authority's road network; and
- ii. facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.

EQUALITY AND DIVERSITY

28. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

29. Under the Equality Act 2010 we are required to have due regard to our equality duties when making decisions, reviewing services, undertaking projects, developing and reviewing policies. This must be done at the formative stage of your proposal, not retrospectively as justification for the recommendation.

30. Due regard to the council's responsibilities under the Equality Act 2010 has been given as part of this process. An Equality Impact Assessment has been completed which is annexed to this report at Appendix 3.

OPTIONS

31. Options considered as part of this report:

Option 1: Not to approve the proposed restrictions advertised in relation to The Isle of Wight Council (Various Streets, Freshwater) (Traffic Regulation) Order No 1. 2017,

Option 2: To approve the proposed restrictions advertised in relation to The Isle of Wight Council (Various Streets, Freshwater) (Traffic Regulation) Order No 1. 2017,

Option 3: To approve the proposed restrictions advertised in relation to The Isle of Wight Council (Various Streets, Freshwater) (Traffic Regulation) Order No 1. 2017, with amendment. The amendments to the proposed restrictions being the implementation of parking restrictions over a reduced area as set out in Appendix 2.

RISK MANAGEMENT

32. The parking restrictions recommended within this report will address the safety issues caused by vehicles parking on these roads. The restrictions originally proposed were more extensive than those now being recommended but they are considered to be proportionate to the level of risk posed.

EVALUATION

33. Following the feedback received during the consultation, officers determined that the road safety and network management issues could be addressed by introducing restrictions over a smaller area than proposed in the draft TRO.

34. Reducing the restrictions being implemented will address the concerns raised by consultees whilst still resolving the road safety and network management issues in the area.

35. As the parking restrictions being recommended in this report are less extensive than those originally proposed in the draft TRO and the restrictions are within the boundaries of the original proposals there is no requirement to go through another formal consultation process regarding the revised plans.

36. The delay in bringing forward this report is due to the prioritisation of other required TROs. However, officers confirm there is still a need for parking restrictions in the area and the order can be implemented despite the time that has elapsed since the order was advertised.

37. Option 1 was rejected as the review of the current parking arrangements confirmed that changes are required to improve road safety and traffic flow in this area. The issues caused by vehicles parking along these roads were identified by a number of parties. The problems are exacerbated during the summer due to the increased number of visitors to the Freshwater Bay area. Inappropriate parking is considered to be causing a danger and having a negative impact on traffic flows.

38. Due to the significant number of objections received raising valid concerns in respect of the original proposal Option 2 was also rejected. It was recognised that the safety and traffic flow issues could be addressed with more limited restrictions than originally proposed so a new set of proposals was discussed with local parties and

there was general consensus that the scaled down option was both necessary and proportionate.

39. The amended proposals have been broadly accepted with stakeholders and it is recommended that Option 3, to implement the proposed parking restrictions with amendment as set out in Appendix 2, is approved to address the issues identified in this report.

RECOMMENDATION

40. Option 3: To approve the proposed restrictions that are subject to this report in relation to The Isle of Wight Council (Various Streets, Freshwater) (Traffic Regulation) Order No 1. 2017, with amendment.

APPENDICES ATTACHED

41. [Appendix 1](#) – Advertised TRO Plans
[Appendix 2](#) – Amended (and recommended) TRO Plans
[Appendix 3](#) – Equality Impact Assessment

First Contact Point: Vijay Manro, Interim Network Manager – Highway PFI Contract Management Team ☎ 01983 821000 Ext: 6607 Email vijay.manro@iow.gov.uk

Second Contact Point: David Evans, Strategic Manager – Highways & Transportation ☎ 01983 821000 Ext: 6679 Email david.evans@iow.gov.uk

COLIN ROWLAND
Director of Neighbourhoods

CLLR IAN WARD
Cabinet Member for Infrastructure & Transport

Decision

Signed

Date
