

RECORD OF DECISION TAKEN UNDER CABINET MEMBER DELEGATED POWERS  
AT COUNTY HALL, NEWPORT, ISLE OF WIGHT ON MONDAY, 13 AUGUST 2018

**THE CALL IN PERIOD FOR THIS DECISION EXPIRES AT 5.00PM ON TUESDAY, 21 AUGUST 2018. THE DECISION CANNOT BE IMPLEMENTED UNTIL AFTER THAT DATE.**

Present: Councillor Ian Ward – Cabinet Member for Infrastructure and Transport

Jon Baker – Democratic Services Officer

<b>Item</b>	<a href="#">The Isle of Wight Council (Various Streets, Ryde) (Traffic Regulation) Order No 3. 2017 – Hope Road, Ryde</a>
<b>Decision reference</b>	09/18
<b>Notice of Decision Published</b>	27 July 2018
<b>Decision taken</b>	Option 2 - THAT the proposed restrictions that are subject to this report in relation to the Isle of Wight Council (Various Streets, Ryde) (Traffic Regulation) Order No 3 2017 be approved
<b>Reason for decision</b>	To support the condition of the residential development planning application P/00760/16 and allow the council to deliver new housing which is one of the strategic objectives of the Corporate Plan.
<b>Additional reasons</b>	To support the following corporate priorities: <ul style="list-style-type: none"> <li>Supporting growth in the economy, making the island a better place and keeping it safe</li> </ul>
<b>Options considered and rejected</b>	Option 1 - Not to approve the proposed restrictions that are subject to this report in relation to the Isle of Wight Council (Various Streets, Ryde) (Traffic Regulation) Order No 3 2017.  Option 3 - To approve the proposed restrictions that are subject to this report in relation to the Isle of Wight Council (Various Streets, Ryde) (Traffic Regulation) Order No 3 2017, with amendment.
<b>Representations Received</b>	Representations were received from Cllr Michael Lilley, local ward member for Ryde East and Mr Mark Gaskin a local resident. Responses were provided by the Cabinet Member, Cllr Ian Ward.  These are contained in the Appendix below.
<b>Declarations of interest</b>	None declared
<b>Additional advice received</b>	None received
<b>Call In Of Decision</b>	The decision was called in by members of the Scrutiny Committee, the outcome of which can be viewed <a href="#">HERE</a> :

# APPENDIX

## REPRESENTATION'S RECEIVED ON 30 JULY 2018 FROM CLLR MICHAEL LILLEY, LOCAL WARD MEMBER FOR RYDE EAST AND RESPONSES PROVIDED BY CLLR IAN WARD – CABINET MEMBER FOR INFRASTRUCTURE AND TRANSPORT

1. There is no need to introduce these double yellow lines because as there have been no recorded incidences either Slight, Serious or Fatal recorded in the last 10 years in Hope Road and therefore the provision of these double yellow lines does not “avoid danger to people or traffic using the road or prevent danger arising”.

### **Response**

*“This was considered in appendix 2 of the report”*

2. Furthermore, the current condition of the road is poor and therefore the installation of double yellow lines will not prevent damage to the road or to any building on or near the road.

### **Response**

*“The report noted the comment but it is not of direct relevance to the decision being taken.”*

3. The installation of double yellow lines will not improve the passage on the road of any class of transport nor will it prevent the use of the road by vehicular traffic where the use is unsuitable.

### **Response**

*“This was addressed in the report”*

4. The installation of double yellow lines will not preserve or improve the amenities of the area through which the road runs nor will it conserve or enhance the natural beauty of the area affording better opportunities for the public to enjoy local amenities.

### **Response**

*“This was addressed in appendix 2 of the report”*

## **FURTHER REPRESENTATION'S RECEIVED ON 3 AUGUST 2018 FROM CLLR MICHAEL LILLEY, LOCAL WARD MEMBER FOR RYDE EAST AND RESPONSES PROVIDED**

**From:** Lilley, Michael

**Sent:** 03 August 2018 09:22

**To:** Baker, Jonathan

**Cc:** Murphy, Bill; Ward, Ian

**Subject:** Fwd: Yellow Lines on Hope Road - Objection to Proposed Decision

Dear Jon,

I wish to formally object to the recently published report in regard Hope Road and a Traffic Regulation Order and proposed delegated decision recommendation.

I wish from the onset of my letter of objection state that I am in no way criticising officers and members in any way but targeting in what I regard as issues that I wish addressed before any decision is made.

I do have an overall concern about the human rights and courtesies needed in regard to the residents of the 48 households who have taken considerable time out of their busy lives in making an effort to make their voices heard.

My email letter of objection is laid out in two parts. Part 1 is my concerns in regard process and timing, and Part 2 is my concerns in regard the TRO report.

Part 1

There has been considerable delay in getting a report completed. The TRO consultation started in November 2017 and completed at end of December 2017. The report has taken over 7 months to complete. I am under the assumption that the report should have been completed in 21 days. It is evident through emails that on the 14th June the report was still not finalised and then at the beginning of school and summer holidays it was hurriedly published on Friday 27th July 2018 electronically and residents have 7 days to respond to a report which dismisses their well reflected objections. Many of the residents are older adults and do not have electronic devices and therefore will only learn of the decision after it is made. I do believe all of the objectors should have had the courtesy of a written reply. I am sure it was not the intention but I do feel there are similarities with the Beach-Huts report (also a delegated decision) and an appearance (which I am sure is not at all the case) of trying to get a decision through whilst people are away on holiday and the issue is under the radar.

The aim of my objection in regard process is that the report is given proper time for the Cabinet Member and if necessary Cabinet to undertake a reflective due diligence before coming to a final decision.

I believe that the human rights of the residents (I believe nearly all if not all the residents) of Hope Road deserve a more robust consideration than is referred in the report as published. I also do believe (until I am given a detail response to my objection and previous objection) that the report does not provide sufficient relevant argument in reference to how a TRO can be justly applied in accordance with the Road Traffic Act 1984 and other regulations. The report does not clearly define what elements of the regulations that supports the options and recommendations held with in it.

The provision of a TRO requires significant consultation with all interested stakeholders such as Police, Public Transport, Emergency Services, User Groups, Local residents, other owners of relevant properties

affected such as Sovereign Housing Association and elected officials prior to the formal second stage advertisement of the order to the public. I can see no evidence that this has been done. I attach below an email pathway where as the elected Ward member I have continually asked for consultation as the local elected Ward member for a meeting and be given sight of the report but only finally received a copy of the report when published on line with only a week to make representations. I have never received a reply from Cllr Ian Ward, the Transport Cabinet Member, dated the 6th June 2018 where I clearly outline my concerns and issues. There is no reference in detail of whether proper consultation has been carried out. I point to Mr Murphy's response (attached below) dated 14th June that there is an indication the report was delayed in completion due to staff vacancy and sickness. I hazard a guess that it has finally been hurried due to timeframe issues. I have empathy for the welfare of officers but this should not impinge on proper process and procedures as outlined in the regulations.

Although Mr Murphy and Cllr Ian Ward were well aware of my concerns prior to the writing of the report as the elected Ward represented, there is no reference in the report to my concerns and objections.

There has been considerable delay in producing the report and I question whether the process has met any specific time restraints for completion although I was made aware of delays due to staff leaving and on sick leave and I do have empathy in this regard. I do believe the publication on a Friday 27th July of the TRO could be interpreted by many as a blatant attempt to sneak through a decision although 48 households along with the elected member objected. I really question the transparency in this matter.

The report clearly focus on the need for double yellow lines due to the planning permission being grant for 80 new dwellings at site know as Westridge Farm. This planning permission was granted on a number of conditions including double yellow lines on Hope Road. It was made very clear at the time by the Head of Place that a TRO was entirely a separate process from planning and that the two processes are entirely independent of each other and should not influence either. The fact the report clearly states in its options and recommendations that the planning permission will fall and 80 affordable housing dwellings will not go ahead if a TRO is not granted. This totally questions the validity, transparency, and independence of the process.

## **Response**

*"Your comments about the length of time to prepare the report are noted. This has been caused by staffing issues within the relevant team of which I understand you have been previously advised. There is no set period after completion of consultation that a report has to be completed within. The council's process is that objectors will be written to after the decision is taken."*

### Part 2

A Traffic Order has to relate purely to the Road Traffic Act and relating legislation. The fact there is a planning application for affordable housing is not a relevant consideration. The report should focus on the health and safety issues of residents and others that use the highways. In fact the report is emotive in that it is weighted in reference to the issue that if a TRO is not granted then a condition of the planning permission would not be met and the Island community will loose 80 affordable homes. I made it clear in my correspondence of 6th June 2018 (which I received no reply to) that the report should totally focus on relevant traffic legislation and that it had to be proved robustly that there were traffic safety data that proved independently of any planning application that there was a need for double yellow lines. The report makes no such robust case. In fact there has been no accidents recorded on Hope Road and access to Marlborough Road.

The report specifically states:

“It is recognised that restrictions on road users (which the TRO in regard to Hope Road will cause restrictions) 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 of Human Rights”

I wish to argue that the way the report is emphasised totally on the future and the planning permission for housing and not the need of road safety now and therefore impinges the human rights of the residents of Hope Road and neighbouring area. There are 48 well thought out objections that focus on the Road Traffic Act and TRO regulations whereas the report purely focuses on the housing and that if a TRO is not granted future houses will not be built. The report gives inference that the 48 objections are just trying to block a granted planning permission which is not the case. A TRO is totally Independent of planning. The human rights of future residents of Westridge housing development are given priority over the human rights of existing tenants. The TRO regulations only provide wording that could be interpreted that a future housing development is a viable reason for a TRO to be issued and as the report only focuses on the need for the TRO to meet a Planning Permission condition and does not provide any other evidence for need especially in regard current residents, I contend there is no viable case in the report for a TRO.

I also argue that Option 1 (not enforcing a TRO) is misinterpretation as not approving the TRO would not prevent the delivery of the housing in this location. I have clearly stated in previous emails, the developer could access the site from Bullen Road or lower down Marlborough Road where the owners of the land purposely bought a house for such a purpose. I surmise that the developers in fact do have a contingency plan if the TRO is refused.

In fact, in regard to Hope Road, the real prevention issue is that the proposed housing development’s access as per the approved design by planning committee subject to conditions enters the site on land which is the right of way on the lane (an unadopted Road) leading to Westridge Farm. This land is not owned by the developer or previous land owner. The owners of all the houses on the lane/unadopted Road component of Hope Road have historic rights of way and all have issued letters to the developers with copies to IW Council Planning Department that clearly states they are exercising their rights to refuse the developer access the site from this road. It is an unresolved civil matter that could go on for many years.

I put forward the contention that the TRO based on the health and safety of local residents now and in the future due to the building of 80 houses is not relevant at this time until the Civil Matter is resolved. In fact, if IW Council is keen to see affordable housing on this site in the near future they should be working with the developer on an alternative access route as suggested above. There is no mention in the report in regard this rights of way issue although when you look at the site plan which was approved the agreed access is via the unadopted Road. I believe no decision regarding the TRO should be made until either the right of way issue is resolved or the developer has permission for an alternative access. In the latter case, if an alternative access is found other than Hope Road, the TRO would have no case although I make the case that the report only focuses on future not current needs as it only emphasizes the fact that without a TRO the housing development will not go ahead which is incorrect as outlined below.

The TRO report without detail refers to the TRO positive recommendation supports the growth in the economy, making the Island a better place and keeping it safe. There is no substantive evidence in this claim and is irrelevant. Objectors arguments in detailed 48 letters focus on the TRO regulations and provide substantive argument that there is no case for a TRO for double yellow lines on Hope Road. I urge the Cabinet Member for Transport to examine all the objectors letters and seek a second specialist

opinion in regard the validity of the report. I do wish to raise my concerns as an elected member that the paucity of the report and process could put the Council at risk of Judicial Review. As stated above there should also be substantive consultation of other stakeholders which the current report lacks.

If the Cabinet Member for Transport is minded to ignore representation and objection to the decision, I hereby give notice that as the local Ward member I will raise the issue with Scrutiny members and seek through proper process that the decision be called in.

Lastly, I wish to clearly state that I am a strong advocate for the need for affordable and social housing for Isle of Wight residents. I was one of a group of 4 members who recently produced a report on the urgent need for affordable housing for Island Families. I, therefore, strongly contest that the report over emphasising and inferring that not issuing a TRO will damage the Council's targets in delivering affordable housing. We should not confuse procedures or try and override proper due diligent process. The TRO report should only focus on the evidence in regard the health and safety of local residents and other road users and should only be issued on clear evidence that their safety is at risk without the double yellow lines. No evidence has been provided in the report in this regard and therefore the human rights of the residents of Hope Road and surrounding area I believe are being impinged. There is no evidence that local residents and I are against affordable housing and any implication in this regard is unjust. Local residents want their objections properly given due diligence which I believe is not the case in this matter. Planning Permission and Traffic Regulations of two different issues and should not be given priority over each other. They should be stand alone decisions.

## **Response**

*"The content of this is noted and the report clearly identifies the legal requirement for the decision to be made under the auspices of the Road Traffic Act and related legislation . The report focus as required by legislation is to take account of duly made representations and these are listed in the report and have been duly considered. In relation to specific comments that you make relating to alternative access options for the developer these are not relevant to the determination of this Order."*

Thank you for your due diligence in this matter.

Yours respectfully

Michael Lilley

Cllr Michael Lilley - Ryde East Ward

Tel: 07769551578

**REPRESENTATION'S RECEIVED ON 3 AUGUST 2018 FROM MR MARK GASKIN A LOCAL RYDE RESIDENT AND RESPONSES PROVIDED BY CLLR IAN WARD – CABINET MEMBER FOR INFRASTRUCTURE AND TRANSPORT**

WITHOUT PREJUDICE

Dear Councillor Ian Ward

I write to you as the IWC Cabinet Member for Infrastructure and Transport who has sole delegated power of decision on the Traffic Regulations Order (TRO) application by Developers Captiva Homes Ltd for the introduction of Double Yellow Lines (DYLs) in x2 places in Hope Road, Ryde. The TRO application was published for comment IWCP 24th Nov 2017.

48 Objections were subsequently submitted by residents in response to the application.

Last Friday 27 July 2018 the following report by Bill Murphy with x3 appendices was published on IW Council's website:

Delegated Decision Report, Reference: 09/18

'The Isle of Wight Council (Various Streets, Ryde) (Traffic Regulation) Order No.3 2017 – Hope Road, Ryde'

<https://www.iow.gov.uk/azservices/documents/2780-Intended-Notice-of-Decision-270718-HR.pdf>

As Bill Murphy acknowledges the TRO Application is in response to the pre-development condition placed on the controversial planning permission granted May 2018 for 80 dwellings on land part of Westridge Farm. I intend to later comment separately on the conduct of this particular planning application/process as I believe there was evident wrong doing on the part individuals involved.

But for now I wish to draw to your attention to the above report by Bill Murphy which is far from robust and which contains inaccuracies and assumptions that simply do not withstand examination.

I also wish to draw to your attention the Highway Authority Comments in Appendix 2 to the report, i.e. the authority's response to the objections and issues raised by the public and local residents. The responses by the Highway Authority, presumably Bill Murphy, cannot be allowed to go unchallenged as again they are far from robust and contain falsehood and obfuscation that does not acknowledge the salient issues.

No doubt the purpose of the report is to guide your decision on the TRO DYLs application by Capitva Homes Limited. I feel it is essential your decision is fully informed and within the parameters of consideration and purpose of the Road Traffic Regulations Act 1984.

## EXECUTIVE SUMMARY:

This section contains falsehood and error:

“The proposals depict this requirement and the proposed restrictions to the west are actually across two driveways to minimise the loss of available on-street parking.

Incorrect.

Placement of DYL in the west location partly across x2 driveways does NOT minimise the impact of reduced parking. Because of existing lack of on-street parking the road in front of these two driveways already has to be utilised for on-street parking. Owner of driveway and residents are willing to testify in writing should you require confirmation of this fact.

The DYLs west will create a loss of x2 on-street parking places

The DYLs east will create a loss of x4 on-street parking places

Total loss of x6 on-street parking in Hope Road where existing parking is already insufficient for needs of residents, let alone local businesses.

Adjoining Circular Road already has substantial coverage of DYLs and on-street parking is not sufficient for the properties and residents of that road, There exists like pressures of insufficient on-street parking in nearby roads adjoining the A3054 Marlborough Road, which Hope Road does. Vehicles have to resort to parking on the busy A3054 Marlborough Road which is an arterial route connecting Ryde (& Ferries) with The Bay. Junctions on this road are already at recommended capacity, and traffic includes much heavy goods traffic.

“The outcome of the recommendation would be to agree to confirm the TRO which would allow the developer, subject to the discharge of any other pre-commencement conditions, to implement a planning consent which will deliver housing including the level of affordable homes required by the councils adopted local plan..“

Incorrect.

The outcome of this TRO DYLs application will not deliver the development and IWC is aware of this fact.

IWC is aware and has acknowledged that the developers can ONLY implement the planning permission and develop the site once they have first obtained agreement from the owners of Rights of Way that exists in Deed relating to the unmade and un-adopted part of Hope Road, which is the sole point of ingress and egress to the site. Every property fronting the unmade part of Hope Road, i.e. opposite the development site, has Right of Way over the unmade part of Hope



Road across its entire width from in front of their property extending to where the unmade road meets the adopted part of the Hope Road. The developers do not own the unmade part of Hope Road.

Owners of the above properties have given formal Notice to the developers that they do not wish their Rights of Way which exist in deed to be altered, amended or interfered with in any manner or form whatsoever, and that they will defend their property's rights through the courts if required to do so. These are established and documented Rights that the courts will defend, and it is not permissible for the developers to interfere with or amend in any way whatsoever these Rights without the prior permission and agreement the owners of the Rights of Way.

The IWC is aware of the above facts as it has received copy of the formal Notices from the property owners to the developers.

Both David Stewart as Leader of IWC and also Wendy Perera as Head of Place are in receipt of these Notices from the owners of the Rights of Way.

Appendix 3 of this delegated report is a map of Hope Road. It illustrates how the required layout of the development if it were to happen would affect the existing unmade part of Hope Road and Rights of Way.

So unless the TRO applicant decides to break the law or alternatively obtains agreement from all of the property owners fronting the unmade part of Hope Road, which IWC has received Notice from the property owners they do not wish to do, the development cannot happen.

It should be noted that Road Traffic Regulation Act 1984 Section 1 b). to g). are not relevant to this TRO DYLS application (acknowledged by Highways Authority).

And in consideration of Section 1 a). of the Act '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' there have been no accidents either slight, major or fatal in at least 10 years in Hope, and given the above fact that development cannot proceed and be taken to implementation because of the Rights of Way there is no likelihood of danger arising as nothing in the existing road layout or use will change.

Error:

"...between the junctions of Hope Road with Carter Road and Marlborough Road."

I assume Carter Road should read Circular Road.

## BACKGROUND:

“Regulation 13 of the 1996 Regulations confirms that before making an order, the Traffic Authority shall consider all objections duly made to the TROs.”

Councillor Ward I would ask you read my attached document ‘Response to Highways Auth Comment on Objections.docx’.

There is reason to address each all bar one of the Highways Authorities comments on the objections received to the TRO DYLS application.

The comments by Highways Authority cannot be allowed to go unchallenged as they do not withstand examination and are at times misleading or not truthful.

## STRATEGIC CONTEXT:

Consideration of TRO applications are governed by the Road Traffic Regulation Act 1984, and associated Acts listed in the reports ‘BACKGROUND’ section.

“Assuming the report recommendation is approved it will allow the council to deliver new housing which is one of the strategic objectives of the Corporate Plan.

As such the decision would help support the following corporate priorities:

- Supporting growth in the economy, making the island a better place and keeping it safe”

I and others fail to see how the above corporate priorities listed in the report can be even remotely be construed to fall within the realm of consideration of the Road Traffic Regulation Act 1984. Even under section 122 (2) e). of the Act ‘Any other matters appearing to the Local Authority to be relevant’ it is difficult to see how growth in the islands economy has any relevance as required under the Act to issues of local road safety. Also as an aside it is not proven that housing building on the IW has supported growth in IW economy, in fact the reverse could well be stated given the current poor state of IW economy and the increased costs to IWC services etc of an increased population, especially one predominately elderly and with high employment and low wage. Also if the DYL were implemented, and there is no reason by which they should under the Act

## CONSULTATION:

“The restrictions proposed by these orders should be reasonable and should not go further than necessary to deal with the highway matters 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 or not making the orders.”

As there have been no past accidents either slight, major or fatal, and change to existing road use and layout cannot happen as detailed already, then the consideration has to be that “to providing suitable parking”. As this TRO DYLS application creates a loss of x6 on-street parking there is no justification for passing it.

I would like to highlight that I believe there are also concerns under the European Convention on Human Rights with regards to the peaceful enjoyment of property, and as there is no justification in agreeing to the DYLS one can only assume IWC if they were to do so would be directly in conflict with the European Convention on Human Rights.

“The full analysis of the consultation responses received is attached as Appendix 2 of this report.”

The comments by Highways Authority is far from a full analysis of the consultation responses. In this regard I would ask you Councillor Ward to read my attached document ‘Hope Rd\_Response to Highways Auth Comment re Objections.docx’

#### LEGAL IMPLICATIONS:

There are many should the wrong decision be made in respect of this TRO DYLS application.

“6. This report properly identifies that the relevant legislation applicable to the decision as to whether to make a Traffic Regulation Order is contained in section 1 of the Road Traffic Regulation Act 1984, accompanied by the procedure for doing so which is contained in the Local Authorities' Traffic Orders (Procedure)(England and Wales) Regulations 1996 (SI 1996/2489).”

The relevant legislation applicable to decide this TRO application is the Road Traffic Regulation Act 1984. It is demonstrated that there is no reason under the Act to agree to this TRO DYLS application.

“11. In order to determine whether or not to proceed with making the proposed TRO the Council will need to have regard to any objections that have been submitted relating to the TRO.”

Again Councillor Ward I would ask you read my attached document in this regard.

#### EQUALITY AND DIVERSITY:

“13. The implications of all proposed TROs on diversity are taken into consideration when preparing the draft TRO. This particular TRO introduces very limited areas of parking restrictions in order to provide a safe route for vehicular users.”

This is incorrect. There is already an existing route vehicular users which is proven to be safe as no accidents either slight, major or fatal have occurred in Hope Road in last 10 years.

The introduction of the DYL (and there is no justification to do so) would cause the loss of x6 on-street parking places which will have a dramatic effect on the street and neighbouring locality.

#### RISK MANAGEMENT:

“15. This proposed TRO relates to a valid planning permission that has been issued for a new residential development on adjoining land. A condition on the planning permission notice requires the completion of a TRO on part of Hope Road that is subject to this report. Should Option 1 be taken not to approve the order it would prevent the implementation of the development.”

I would argue that the planning was not valid, but that is a separate issue from this TRO application and information will be forwarded to IWC in this regard in due course.

The planning permission that the IWC knows cannot be taken to implementation, and IWC has received formal notice to this effect from the Hope Road property owners of Right of Way, does not form part of the TRO consideration and is not relevant under the Road Traffic Regulation Act 1984.

This report is incorrect in stating “Should Option 1 be taken not to approve the order it would prevent the implementation of the development”.

Councillor Ward I thank you for taking time to read this lengthy email and the attached document.

I ask that you will take the appropriate action and make the right decision under law and to the benefit of existing local residents and businesses affected by this unnecessary TRO DYLs application.

Kind regards

Mark Gaskin

#### **Response to Highway Authority Comment on Representations Received**

##### **(Appendix 2 of Delegated Decision Report)**

The following relates to Delegated Decision Report with x3 appendices published Friday 27 July 2018 by Bill Murphy Highways Authority on IW Council's website:

Delegated Decision Report, Reference: 09/18

'The Isle of Wight Council (Various Streets, Ryde) (Traffic Regulation) Order No.3 2017 – Hope Road, Ryde'

**REPRESENTATION:**

Relating to Road Traffic Regulations Act 1984, Section 1 a). '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.'

**HA COMMENT:**

Highway Authority (HA) comment acknowledges the exemplified requirements of another County Council i.e. Kent, for there to have been crash history of incidents in the prior 3 yrs, if not then a TRO application will not be considered by them. The comment informs that IWC does not have such a requirement, but fails to detail what its specified requirements if any are.

Given that there are no recorded accidents in Hope Road either slight, serious or fatal in last 10 years, acknowledged by HA 'Noted', and in light of other County Council's approach to these matters, to any reasonable observer it has to be acknowledged that there is no past or present evidence of need to avoid danger to persons or other traffic using the road to necessitate the introduction of the DYLS.

It would be totally unreasonable to any resident, business or observer of the Isle of Wight for the IWC to cite incidents that occurred more than 10 yrs ago as a justification for introducing DYL and in doing so restrict existing on road parking arrangements.

This leaves the issue of 'preventing the likelihood of any such danger arising' under Section 1 a) of the Road Traffic Regulations Act 1984.

The rest of this Representation about Section a). of the Act centres around whether the Land part of Westridge Farm planning permission can actually be taken to implementation, i.e. whether the developers are actually able to develop the site, or have the likelihood to do so and thus create a danger to road users and pedestrians which would have to be addressed by DYLS.

So are the developers able to or is there the likelihood that the developers can take the development to implementation?

The answer has to be 'No'.

The various paragraphs of this part of the representation lead to one very critically important fact which is only responded to by HA with comment as 'Noted'.

The IWC is aware and has acknowledged that the developers can ONLY implement the planning permission and develop the site once they have first obtained agreement from the owners of Rights of Way that exists in Deed relating to the unmade and un-adopted part of Hope Road, which is the sole point of ingress and egress to the site. Every property fronting the unmade part of Hope Road, i.e. opposite the development site, has Right of Way over the unmade part of Hope Road across its entire width from in front of their property extending to where the unmade road meets the adopted part of the Hope Road. The developers do not own the unmade part of Hope Road.

Owners of the above properties have given formal Notice to the developers that they do not wish their Rights of Way which exist in deed to be altered, amended or interfered with in any manner or form whatsoever, and that they will defend their property's rights through the courts if required to do so. These are established and documented Rights that the courts will defend, and it is not permissible for the developers to interfere with or amend in any way whatsoever these Rights without the prior permission and agreement the owners of the Rights of Way.

The IWC is aware of the above facts as it has received copy of the formal Notices from the property owners to the developers.

Both David Stewart as Leader of IWC and also Wendy Perera as Head of Place are in receipt of these Notices from the owners of the Rights of Way.

So unless the TRO applicant decides to break the law or alternatively obtains agreement from all of the property owners fronting the unmade part of Hope Road, which IWC has received Notice from the property owners they do not wish to do, the development cannot happen.

There is therefore no reason to agree to the TRO DYL application on the basis of 'preventing the LIKELIHOOD of any such danger arising' under the Road Traffic Regulations Act as no such likelihood exists.

In response to this Representation the HA also states "the Council as Local Planning Authority has taken a legitimate decision based upon its adopted local planning policies and national planning guidance to approve the development referred to." I will come back to this statement later in my email.

## **REPRESENTATIONS:**

Those relating to Road Traffic Regulations Act 1984, Section 1 b-g).

Highway Authority (HA) comment correctly acknowledges that the reasons b). to g). stated in the ACT are not able to be used in justification of agreeing to the TRO DYLS application.

**REPRESENTATION:**

“There will be a strain on local residents trying to find somewhere to park over the years the DYL have increased.’

**HA COMMENT:**

‘The DYL lines to the west are actually over two driveways therefore there is no loss to the available on-street parking. The DYL to the east are on the approach to the entrance of the new development therefore for safety reasons would be required.’

The statement that there is ‘no loss of the available on-street parking’ is a falsehood. This comment is also contradicted by subsequent HA Comment on a following representation ‘This proposal is designed for formalise passing places as it cannot be assumed that natural passing places will not be used for parking’

Because of already existing pressure on local street parking residents and visitors alike regularly make use of this road space. Local residents and even owner of driveway in question are willing to give written testimony to this fact.

The statement ‘therefore for safety reasons would be required’ is also incorrect as IWC are aware that the development is unable to proceed to implementation. Please refer above response to first Representation relating to Road Traffic Regulations Act 1984, Section 1 a).

**REPRESENTATION:**

‘Local businesses in Marlborough Road and their customers will have nowhere to park.’

**HA COMMENT:**

This comment by HA is incorrect. Please see my response to HA Comment for previous representation.

**REPRESENTATION:**

‘The traffic in Hope Road was defined as light by Island Roads, this has no change.’

**HA COMMENT:**

‘This is not material to the decision. The TRO is required as a condition of a legally valid planning permission.’

The fact that a condition has been placed on a planning application, a development which it is known is unable to proceed to implementation, is not material to the TRO application either under the Road Traffic Regulations Act 1984.

**REPRESENTATION:**

'There are natural passing places already and no need for these restriction.'

**HA COMMENT:**

'This proposal is designed for formalise passing places as it cannot be assumed that natural passing places will not be used for parking.'

I would draw attention to the fact that no accidents either slight, serious or fatal have occurred in the road in the last 10 yrs.

Even to the casual observer this would indicate 'if it ain't broke don't fix it'. The IWC does not have a justification for agreeing this TRO DYLS application on the basis of 'formalising passing places' as it is known that the development cannot proceed to implementation. Please refer above response to first Representation relating to Road Traffic Regulations Act 1984, Section 1 a).

**REPRESENTATION:**

'This proposal will not enhance the local amenities.'

**HA COMMENT:**

'The proposals are designed to ensure the safe and expedient movement of traffic.'

The existing road layout does that already and with an unblemished record of no accidents either slight, serious or fatal have occurred in the road in the last 10 yrs.

**REPRESENTATION:**

'This proposal is only being made in order to comply with a planning condition made the Authority'

**HA COMMENT:**

'This is not considered to be a legitimate objection'

Technically HA Comment might be correct but the Representation does correctly identify the heart of the reason for the TRO DYLS application.

**REPRESENTATION:**

'These restrictions will have a negative impact on the surrounding roads.'



**HA COMMENT:**

There is no evidence presented to support this comment.'

Plenty of evidence of existing pressure on parking in the road and other local roads has been presented to IWC in objections to the planning application.

The DYLS if introduced will result in the permanent loss of:

x4 on-street parking places with the DYL to the east

x2 possibly x3 on-street parking places with the DYLS to the west

When residents of Hope Road and Circular Road are already having to park either on the busy A3054 Marlborough Road or other adjoining roads such as Arundle Rd, Somerset Rd, Marlborough Close, Amherst Rd or High Park Rd, what does Bill Murphy expect from those that already utilise the x6 on-street parking places that would be lost? That they sale their vehicles and utilise the already dwindling and sparse public transport provision to get to and from work, school or retail?

Of course there will be a negative impact on local streets and residents!

The report stating that 'There is no evidence presented to support this comment' is I feel is evidence in itself of Bill Murphy's difficulty over the past six months in creating the report to be able to identify sound and robust reason under the Road Traffic Regulations Act 1984 as to why the TRO DYLS application should be agreed.

**REPRESENTATION:**

'The restriction will make the road and surrounding roads even more conjested and therefore more dangerous especially to pedestrians and children walking to the local school'

**HA COMMENT:**

'It is unclear how such restriction will increase congestion as it will not lead to the generation of additional traffic movements.'

The loss of x6 on-street parking places in Hope Road will increase traffic movement by the necessity of vehicles having to search for parking elsewhere in an already pressured local need for parking environment, including need to park on busy A3054 Marlborough Road.

What is clear that it would seem that the report has not fully considered the impact agreeing the DYLS would have on the location, businesses and residents.

**REPRESENTATION:**

'The development of 80 homes will increase traffic down roads that are not suitable for extra use'

**HA COMMENT:**

'This is not a legitimate objection to the proposed order as planning permission has been legally granted.'

Please refer below to response to HA Comment on last Representation listed in Appendix 2.

**REPRESENTATION:**

'The majority of the residents in Hope Road and surrounding roads are elderly and to remove parking is not fair on them especially if they have to carry items from their car to their home'

**HA COMMENT:**

'The proposed restrictions have been placed to minimise the impact of reduced parking with the lines to the west being across private driveways.

The lines to the east are on the approach to the new estate and parking in his location would not be recommended. Whilst the surrounding area is urban in nature the properties are typical of many areas of Ryde. There are no specific properties that provide specialist accommodation for the elderly in the area affected by the proposals.'

"The proposed restrictions have been placed to minimise the impact of reduced parking with the lines to the west being across private driveways." HA.

Placement of DYL in the west location partly across x2 driveways does NOT minimise the impact of reduced parking. As stated earlier in my response to HA Comments, because of existing heavy pressure on parking with existing lack of on-street parking the road in front of these two driveways already has to be utilised for on road parking. Owner of driveway is willing to testify in writing should you require confirmation of this fact. Adjoining Circular Road already has substantial coverage of DYLS and on-street parking is not sufficient for the properties and residents of that road. There exists like pressures of limited on-street parking in nearby roads adjoining the A3054 Marlborough Road.

"The lines to the east are on the approach to the new estate and parking in his location would not be recommended." HA.

The proposed DYLS in the east would remove x4 existing on-street parking places. X4 vehicles have parked here for years with no incident whatsoever, as HA are fully aware. HA acknowledge there has been no accidents either slight, serious or fatal in Hope Road in the last 10 years, and I dare say longer for this specific section of road.

"There are no specific properties that provide specialist accommodation for the elderly in the area affected by the proposals." HA.

Incorrect. There are properties that have elderly residents and have been adapted for the elderly

and/or disabled.

**REPRESENTATION:**

'The road surface is thin and has many areas that require attention.

If these lines are to be installed, then consideration to the road surface should be considered first'

**HA COMMENT:**

'Noted. However, this comment is not of direct relevance to the decision to be taken.'

As acknowledged by HA the application for DYLS has only come about because of the planning application on land part of Westridge Farm. Island Roads were a consultee during the application and it was their recommendation that the DYLS should be required if the development were to proceed.

Island Roads are also the same company that conducted core samples of both Hope Road and Circular Road and found that the two roads were in places less than 40 mm deep before soil, and in all other core samples less than 100 mm deep before soil.

These two roads are the only means of accessing the development site.

I understanding the above core sample data/information confirming the existing poor structure of the two roads was not given to IW Council Planning Committee Councillors in the decision making process prior to their making their decision on the application. Island Roads were present in Planning Committee meetings.

I feel the above highlights that Island Road fell short in their role as Consultee in informing the IW Planning decision makers, i.e. the IW Council Planning Committee Members. Councillors were not informed of crucial information directly relevant to the decision they had to make, and yet other recommendation/information, i.e. DYLS was presented to Councillors and discussed.

I therefore feel, given the above, Island Road's conduct as consultee has to be questioned.

Mark Gaskin

**Response**

*"The contents of the comments made by Mr Gaskin have been considered in taking the decision. It should be noted that the requirement of the regulations is to take into account duly made representations. The report has fully considered all duly made representations made within the consultation period.*

*The representation makes detailed comments upon the deliverability of the planning permission. It refers to a statement within the report being incorrect but that is not correct as once pre-commencement conditions have been discharged the permission can be*

*commenced. The fact that there may still be a requirement to obtain third party consents to enable discharge is not material to this decision.*

*The fact that the developer may need to obtain third party consents is not a reason for refusing to confirm a TRO. Should any such consents not be obtained the planning permission would lapse.”*