



# Cabinet report

Date **14 JULY 2022**

Title **THE ISLE OF WIGHT COUNCIL (SEAVIEW LANE, NETTLESTONE), (TRAFFIC REGULATION) ORDER NO 1 2021**

Report of **CABINET MEMBER FOR INFRASTRUCTURE, HIGHWAYS PFI AND TRANSPORT**

---

## EXECUTIVE SUMMARY

1. Proposed Traffic Regulation Order (TRO) - The Isle of Wight Council (Seaview Lane, Nettlestone) (Traffic Regulation) Order No1 2021.
2. This report provides the details of recommendation for introducing new parking restriction as detailed in the map in Appendix 1 – No Waiting at Any Time at the Seaview Lane / Rowantree Drive junction in Nettlestone.
3. The proposal is aiming to ensure safety for all road users, whilst securing the movement of the traffic – by increasing visibility at the junction and regulating parking at one side of the road.

## RECOMMENDATION

- |   |
|---|
| 4. Cabinet approves the proposed restriction that is subject to this report in relation to The Isle of Wight Council (Seaview Lane, Nettlestone) (Traffic Regulation) Order No1 2021 as proposed. |
|---|

## BACKGROUND

5. The proposal is based on The Planning Application P/00496/18 for developing the land between Nettlestone Hill and Seaview Lane in Seaview, Isle of Wight.
6. The Planning Application was for demolition of existing workshops and outline for residential development, to include a block of sheltered housing units, formation of a new vehicular access, open space and a car park for the nearby school.
7. A Conditional Permission was given on 24 August 2020 to build 17 dwellings, including 6 sheltered flats (see Appendix 2 – Development masterplan), subject to a Section 106 Agreement.
8. The Planning Committee review the application, evaluating the impact and considering the following matters:

- a) Principle
  - b) Impact on the character of the area
  - c) Impact on neighbouring properties
  - d) Impact on listed buildings
  - e) Trees and Ecology
  - f) Highway considerations
  - g) Other matters
9. The Planning Committee considered all 358 letters of objections and 19 letters of support to the application, as well as eight representations from various associations and organisations, and concluded that:
- a) The proposed development would provide needed housing on a site which is available, suitable and viable, within a sustainable location in accordance with Island Plan Core Strategy and its policies SP1 (Spital Strategy), SP2 (Housing), DM3 (Balanced Mix of Housing) and DM4 (Locally Affordable Housing).
  - b) The proposed development would change the character of the site, but it would not have an unacceptable impact on the character of the area as a whole in accordance with policy DM2 (Design Quality for New Development).
  - c) The proposed development would not result in an unacceptable impact on neighbouring properties, the setting of nearby listed buildings, highway safety, ecology or trees.
10. The Planning Committee also concluded that the potential highways safety implications will need to be mitigated by introduction of parking restrictions, and accepted that the application would therefore comply with policies SP7 (Travel) and DM2 (Design Quality for New Development) if a Grampian condition to the permission is imposed, requiring a Traffic Regulation Order introducing double yellow lines on this part of the network.
11. A Planning permission was granted, subject to special conditions, including Condition No 19 which is relevant to this report:
12. “No development shall commence until a Traffic Regulation Order relating to parking restrictions and bus stop cages within Seaview Lane from its junction with The Green through to Holgate Lane to secure junction and pedestrian visibility splays and to allow private and service vehicles to enter and exit the site with ease. All subsequent works associated with the TRO shall be implemented in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby approved.”  
Reason: In the interests of highway safety and to comply with policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.

## CORPORATE PRIORITIES AND STRATEGIC CONTEXT

13. The proposed new regulations are in line with the IoWC’s [Corporate Plan 2021 – 2025](#) and more specifically with its vision and clear aim to work together openly and with our communities to support and sustain our economy, environment and people.

#### Provision of affordable housing for Island Residents

14. The proposal forms part of a planning permission dated 24 August 2020 for a new development under Planning Application P/00496/18 and the new traffic regulations are designed to mitigate the impact of increased traffic once the development has been populated.
15. The new development would consist of 17 dwellings, 6 of which (35% of all dwellings) will be sheltered flats; this will help with meeting the housing demand on the island and will support the Council in meeting the affordable housing supply.

#### Responding to climate change and enhancing the biosphere

16. The proposal, if implemented, is unlikely to have a measurable positive or negative effect on carbon emissions.

#### Economic Recovery and Reducing Poverty

17. It is not anticipated that the new regulations would have a direct impact on reducing the number of residents living in poverty.

#### Impact on Young People and Future Generations

18. The recommendation, if approved, would have a positive impact on young people and future generations living on the island, as the safety of all road users plays a big role in citizens' wellbeing on a daily basis – as pedestrians, drivers, cyclists and public transport users.

#### Corporate Aims

19. The key priorities within the plan, that this report is supporting are: 'Listen to people' – a 28-day island wide consultation was conducted; 'Encourage Sustainable transport and Active travel' – the recommended option would encourage walking, cycling and use of public transport.

#### CONSULTATION

20. Following the legal TRO making process and its requirement for a Formal Consultation, a public Notice (see Appendix 3 – Notice of Intention), outlining the proposals and inviting public comments, was published in the Isle of Wight County Press on 1 October 2021. Notices and plans were also displayed on-street for a period of 28 days, which is a week longer than the legally required 21 days. The closing date for representations was 28 October 2021.
21. The number of representations received by the Authority during the consultation period was 30, see Appendix 4 – Formal Consultation Representations.
22. All objections share same grounds – potential loss of on-street parking space.

23. This TRO proposal, if implemented, will increase the visibility at the new and old junctions, and will regulate the parking to one side of the road. Parking on one side of the road do not necessarily reduce the number of available on-street parking space, as it is more space saving compared with parking in alternating manner on both sides of the road. Parking on both sides of the road ordinarily require more space for passing the parked vehicles.
24. In addition, the loss of on-street parking space can be mitigated by the 20 parking bays which will be constructed within the development prior to the development being occupied. These parking bays were imposed to the developer in order to ease the nearest school users, and they can be designated or enforced. However, the developer has advised that they are willing to work with the Authority on this matter, so the bays can be made available for use by the public.

#### FINANCIAL / BUDGET IMPLICATIONS

25. The total estimated cost of making of the TRO, implementing the restriction and maintaining the respective Double Yellow Line (DYL) will be covered by the Developer.
26. The recommended option would have a positive financial impact by reducing the potential liability issues for the IOWC as a Highway Authority, should collision occur in the locations in need of safety improvement, as identified in the proposal.

#### LEGAL IMPLICATIONS

27. The Statutory Authority for making new TROs is contained within the Section 1 (1) in the Road Traffic Regulation Act 1984:
  - (1) The traffic authority for a road outside Greater London may make an order under this section (referred to in this Act as a “traffic regulation order”) in respect of the road where it appears to the authority making the order that it is expedient to make it
    - (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, or
    - (b) for preventing damage to the road or to any building on or near the road, or
    - (c) for facilitating the passage on the road or any other road of any class of traffic (including pedestrians), or
    - (d) for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property, or
    - (e) (without prejudice to the generality of paragraph (d) above) for preserving the character of the road in a case where it is specially suitable for use by persons on horseback or on foot, or
    - (f) for preserving or improving the amenities of the area through which the road runs, or

- (g) for any of the purposes specified in paragraphs (a) to (c) of subsection (1) of section 87 of the Environment Act 1995 (air quality).
28. Orders are progressed in accordance with the Local Authority's Traffic Regulation Order (Procedure) (England and Wales) Regulations 1996.
29. The Statutory Authority for signs and road markings are by virtue of the Traffic Signs Regulations and General Directions 2016.
30. The council is under a duty pursuant to Section 16 of the Traffic Management Act 2004 to manage their road network, whilst having regard to their other obligations, policies and objectives at the same time, with a view to facilitate 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.
31. Consideration will need to be given to the duty under Section 122 of the Road Traffic Regulation Act 1984 when deciding whether to make, or to refuse to make a traffic regulation order.
32. 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.
33. 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.
34. The validity of any traffic regulation order made by the council can be challenged by application to the High Court to challenge the validity of a TRO, or any of its provisions, within six weeks following the date the order on the grounds identified in paragraphs 35-36 of Schedule 9 to the Road Traffic Regulation Act 1984.
35. The court has the power to suspend an order or any of its provisions until the final determination of the proceedings.

36. A person aggrieved by a decision of the council to refuse to make a traffic regulation order can seek a judicial review of the exercise of those functions. That challenge can be brought on the grounds of illegality, irrationality, and/or procedural impropriety.
37. A public body which is charged with the power to make a decision in the course of a statutory process must exercise this discretion in accordance with public law principles, that being that it must have regard to all material facts and make a decision that is reasonable having regard to the relevant provisions of Section 122 above and not immaterial consideration. In exercising this judgement it should apply appropriate weight to the decisions made in the relevant planning process. This weighting process is a matter for the highway authority; albeit, subject to review by the courts if it is alleged that it has acted perversely.

### EQUALITY AND DIVERSITY

38. 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.
39. Under the Equality Act 2010 the Council is required to have due regard to its equality duties when making decisions, reviewing services, undertaking projects, developing and reviewing policies.
40. Due regard to the Council's responsibilities under the Equality Act 2010 has been given at the formative stage of this proposal. An Equality Impact Assessment (EIA) form has been completed in Appendix 5.

### OPTIONS

41. Option 1: To approve the proposed restrictions that are subject to this report in relation to THE ISLE OF WIGHT COUNCIL (SEAVIEW LANE, NETTLESTONE) (TRAFFIC REGULATION) ORDER NO 1 2021 as proposed.
42. Option 2: Not to approve the restrictions that are subject to this report in relation to THE ISLE OF WIGHT COUNCIL (SEAVIEW LANE, NETTLESTONE) (TRAFFIC REGULATION) ORDER NO 1 2021 and to abandon the proposal.
43. Option 3: To approve the proposed restrictions that are subject to this report in relation to THE ISLE OF WIGHT COUNCIL (SEAVIEW LANE, NETTLESTONE) (TRAFFIC REGULATION) ORDER NO 1 2021 with amendment – reducing the length of the proposed restriction.

## RISK MANAGEMENT

44. A risk has been identified to the future of the development if this proposal is rejected.
45. At the same time, as stated in Para 34 above, Section 122 in the Road Traffic Regulation Act 1984 requires the local authority to secure the expeditious, convenient and safe movement of traffic (including pedestrians) and the provision of adequate parking facilities.
46. Therefore, a thorough consideration is needed on what material factors might weigh in the balance of approval or refusal of this proposal, in form of justification for the decision made.
47. A risk has been identified to pedestrians, cyclists and efficient movement of vehicles, if the development is constructed, due to the increased traffic in and out of the development.
48. The proposal, if implemented, will ensure safety for all road users, once the development is constructed, whilst securing the movement of the traffic – by increasing visibility at the junction and regulating parking at one side of the road.
49. A risk has been identified for a potential loss of on-street parking space for the public, if the proposal is implemented.
50. The potential loss of on-street parking space can be mitigated by the 20 additional parking bays which will be constructed within the development, by changing the respective planning condition.
51. The Authority will monitor the impact of the changes and review the restriction if necessary.

## EVALUATION

52. Section 122 of the Road Traffic Regulation Act 1984 requires the local authority to secure the expeditious, convenient and safe movement of traffic (including pedestrians) and the provision of adequate parking facilities. In some cases a balance needs to be made between the requirement for a TRO for the reasons provided above and the need to take account of the impacts to any loss of residential on-street parking, especially in areas of parking stress, when set against the benefits of the proposed TRO and to ensure endeavours are taken to minimise the net loss of parking where possible.
53. Option 2: Not to approve – Cabinet may be minded to refuse this application due to the loss of parking spaces and a current lack of guarantees that this will be offset by additional spaces made available in the development. The road safety and highway engineers in Island Roads strongly advised against this option on grounds of safety if the development were to be implemented as once a safety risk on the highway has been identified, the Local Highway Authority has an obligation to address it.
54. Option 3: To approve with amendment, reducing the length of the proposed restriction – As per Option 2 the road safety and highway engineers in Island Roads strongly advised against this option on grounds of safety if the development were to be implemented.

## APPENDICES ATTACHED

Appendix 1 – Map of the proposed parking restriction

Appendix 2 – Development Masterplan

Appendix 3 – Notice of Intention

Appendix 4 – Formal Consultation Representations

Appendix 5 – Equality Impact Assessment

Contact Point: Scott Headey, Deputy Strategic Highways and Transportation Manager,  
☎ 821000 e-mail [scott.headey@iow.gov.uk](mailto:scott.headey@iow.gov.uk)

COLIN ROWLAND  
*Director of Neighbourhoods*

CLLR PHIL JORDAN  
*Cabinet Member for Infrastructure, Highways PFI  
and Transport*