



# Cabinet report

Date **8 SEPTEMBER 2022**

Title **THE ISLE OF WIGHT COUNCIL (HORSEBRIDGE HILL, NEWPORT) (TRAFFIC REGULATION) ORDER NO 1 2021**

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

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## EXECUTIVE SUMMARY

1. Proposed Traffic Regulation Order (TRO) - The Isle of Wight Council (Horsebridge Hill, Newport) (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 (TRO Map) – No Waiting at Any Time at the Horsebridge Hill / Hogan Road junction in Newport.
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.
4. There would be no net loss of parking spaces as in this case, the restrictions would be implemented after the agreed compensatory parking spaces are made available by the developer on the development site.

## RECOMMENDATION

5. Cabinet approves the proposed restriction that is subject to this report in relation to The Isle of Wight Council (Horsebridge Hill, Newport) (Traffic Regulation) Order No1 2021 as proposed.
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6. The road safety and highway engineers in Island Roads strongly advised the approval on grounds of safety. The loss of parking spaces in the immediate vicinity of Horsebridge Hill/ Hogan Road junction will be offset by additional spaces made available in the new development.

## BACKGROUND

7. The proposal is based on The Planning Inspectorate's Appeal Decision APP/P2114/W/18/3193602 dated 6 February 2019 (see Appendix 2) in relation to Planning Application P/00463/17 dated 10 April 2017.

8. The Planning Application was for building 10 dwellings at land to the rear of Noke Common and Hogan Road, which would require amendments to the traffic management at the junction, in order to increase the visibility and accommodate the safe movement of the increased traffic, see Appendix 3 (Masterplan).
9. The Planning Application was initially refused by the Isle of Wight Council (IOWC) and the grounds for refusal included concerns about reduction in the number of parking spaces available for the local residents.
10. An Appeal was submitted and considered by the Planning Inspectorate.
11. The Planning Inspectorate Appeal Decision, Para 12 (see Appendix 2), and the Planning Committee Report Para 6 (see Background Paper) make it clear that the Highways Authority concerns that led to the original refusal of the Application were reviewed and addressed.
12. The Appeal was allowed by the Planning Inspectorate, subject to special conditions - as outlined in the Schedule of Conditions within the Inspectorate's decision, including conditions that are related to the TRO subject to this report, in summary:
  - a) No development shall commence until a TRO to improve the visibility has been secured i.e. a decision on the extend of the restriction and implementation of the order has been made by the Local Authority;
  - b) The TRO implementation shall not begin until the access road and the additional parking spaces that will compensate for the loss of parking in Horsbridge Hill, as well as the access to those spaces which have been made available for public use;
  - c) All details of the future management and maintenance shall be agreed with the Local Planning Authority in writing before the access road and public parking spaces are brought into use;
  - d) The dwellings shall not be occupied until the TRO has been implemented;
  - e) The parking restriction shall be maintained and nothing that may cause an obstruction to visibility shall be installed, erected, planted or permitted to remain.
13. These special conditions ensure that no net loss of parking spaces for the local residents of Horsbridge Hill will occur at any point.

#### CORPORATE PRIORITIES AND STRATEGIC CONTEXT

14. 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

15. The proposal forms part of a planning permission dated 6 February 2019 for a new development under Planning Application P/00463/17 and the new traffic regulations

are designed to mitigate the impact of increased traffic once the development has been populated.

16. The new development would help with meeting the housing demand on the island and therefore it would support the Council in meeting the affordable housing supply.

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

17. The proposal, if implemented, is unlikely to have a measurable positive or negative effect on carbon emissions. There may be some minor reduction in local air pollution and carbon emissions owing to fewer cars idling in the area, but it would most likely be a very small impact.

#### Economic Recovery and Reducing Poverty

18. 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

19. 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

20. 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

21. Following the legal TRO making process and its requirement for a Formal Consultation, a public Notice, outlining the proposals and inviting public comments, was published in the Isle of Wight County Press on 18 June 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 17 July 2021.
22. The Authority received 25 valid representations, two of which were in support of the proposal; the rest of the representations objected to the proposal, see Appendix 4 (Representations).
23. All objections shared same ground –loss of on-street parking spaces in Horsbridge Hill, Newport.

### FINANCIAL / BUDGET IMPLICATIONS

24. 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.

## LEGAL IMPLICATIONS

25. 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).
26. Orders are progressed in accordance with the Local Authority’s Traffic Regulation Order (Procedure) (England and Wales) Regulations 1996.
27. The Statutory Authority for signs and road markings are by virtue of the Traffic Signs Regulations and General Directions 2016.
28. 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.
29. 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.

30. 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.
31. 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.
32. 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.
33. The court has the power to suspend an order or any of its provisions until the final determination of the proceedings.
34. 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.
35. 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

36. 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.

37. 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.
38. 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

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

## RISK MANAGEMENT

42. A risk has been identified to the future of the development if this proposal is rejected.
43. 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.
44. 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.
45. 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.
46. The TRO 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.
47. A risk has been identified for a loss of on-street parking space for the public if the proposed restriction is implemented.
48. The IWC, as a Local Highway Authority, has a duty to ensure the expeditious and safe movement of people, services, and goods on the island's highway. In some cases priority needs to be given to the road safety and movement of traffic over preservation of parking spaces.

49. There would be no net loss of parking spaces as in this case, the restrictions would be implemented after the agreed compensatory parking spaces are made available by the developer on the development site.
50. The Authority will monitor the impact of the changes and review the restriction if necessary.

## EVALUATION

51. 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.
52. Option 1: To approve as proposed - The road safety and highway engineers in Island Roads strongly advised the approval on grounds of safety. The loss of parking spaces in the immediate vicinity of Horsebridge Hill/Hogan Road junction will be offset by additional spaces made available in the new development.
53. Option 2: Not to approve – Cabinet may be minded to refuse this application due to the loss of parking spaces in Horsebridge Hill. 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

55. Appendix 1 – TRO Map  
Appendix 2 – Planning Inspectorate Decision  
Appendix 3 – Masterplan  
Appendix 4 – Representations  
Appendix 5 – EIA

## BACKGROUND PAPERS

56. [Planning Committee Report](#)  
[P/00463/17 | Outline for 10 dwellings | Land To Rear Of 17 Noke Common And Adjacent 10 Hogan Road Newport Isle Of Wight PO30 \(iow.gov.uk\)](#)

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