

Barnsley Metropolitan Borough Council

This matter is not a Key Decision within the Council's definition and has not been included in the relevant Forward Plan

Report of the Executive Director, Place

JACKSON STREET AND CO-OPERATIVE STREET, CUDWORTH – PROPOSED WAITING RESTRICTIONS

Objection Report

1. Purpose of Report

- 1.1 The purpose of this report is to consider the objections which have been received in respect of previously published proposals to implement a Traffic Regulation Order (TRO) to introduce new restrictions on the junctions of Jackson Street and Co-operative Street with Barnsley Road.
- 1.2 To seek approval to overrule the objections and implement the restrictions as originally advertised.

2. Recommendation

It is recommended that:

- 2.1 **The objections received are overruled for the reasons set out in this report and the objectors are informed accordingly.**
- 2.2 **The Head of Highways and Engineering and The Executive Director of Core Services and Solicitor to the Council be authorised to make and implement the Traffic Regulation Order (TRO) as originally published.**

3. Introduction/Background

- 3.1 In December 2018 approval was given to publish traffic restrictions on parts of Jackson Street, Co-operative Street and Barnsley Road, Cudworth. See officer delegated report attached at Appendix 1 and associated plan attached at Appendix 2.
- 3.2 The proposals were published in January 2019 and 2 objections were received. Since then, 1 objection has been withdrawn.
- 3.3 The remaining objector opposes the proposed TRO as they argue it will prevent them from parking directly outside their property.

4. Consideration of Objections

As a result of advertising the proposals there is 1 outstanding objection to consider. The main concerns raised are listed below along with the Head of Highways & Engineering's comments in response in **bold**.

- (Location of objector: Barnsley Road) The restrictions will prevent customers, especially disabled customers, from parking directly outside their business.

Response: No individual has a legal right to park on the public highway outside their property and it cannot be considered as a facility. There is no onus on the Council to provide parking space where none existed previously. The only way an individual can guarantee parking space for their vehicle(s) is to accommodate them within the curtilage of their property. There is provision under the blue badge scheme allowing disabled persons to park on waiting restrictions for up to 3 hours and should not park within 15 metres of a junction or endanger other road users by doing so. There is also provision under the waiting restrictions for passengers and their luggage to be picked up / dropped off as long as the vehicle moves off once the operation is completed. The proposals are to protect the junction from inconsiderate parking which obstructs visibility for vehicles exiting Jackson Street and Co-operative Street.

5. Proposal and Justification

It is proposed to implement the TRO as originally advertised as shown on the Plan at Appendix 2, comprising:-

- Introducing 'No Waiting At Any Time' restrictions on the junctions of Jackson Street and Co-operative Street with Barnsley Road. This will ensure the area is kept free from parked vehicles, to protect sightlines for drivers exiting Jackson Street and Co-operative Street and maintain the free flow of traffic along Barnsley Road. Loading and unloading are permitted at any time;

6. Consideration of Alternative Proposals

- 6.1** Option 1 – Overrule the objections and proceed with the proposals as shown in Appendix 2. **This is the preferred option.**
- 6.2** Option 2 – Decline to introduce the proposals. This option is not recommended for the following reasons:
- It will not prevent indiscriminate parking from occurring, which will continue to obstruct sightlines, affect road safety at the junctions and may affect the free flow of traffic along Barnsley Road.

7. Impact on Local People

- 7.1** The proposals may affect a number of residents on Barnsley Road who do not have off-street parking and 3 businesses whose customers may have to park a short distance away, rather than directly outside the premises. Parking space is available further along all 3 roads where the highway remains unrestricted. Loading and unloading is still permitted at any time.

8. Financial Implications

- 8.1** The financial implications remain the same as previously reported (identified in Appendix 1).

9. Legal Implications

- 9.1** The Road Traffic Regulation Act 1984 provides the appropriate powers for the Council to make the proposed TRO.
- 9.2** In determining the extents of the proposed restrictions, the Council has had due regard to the duty imposed on it to exercise the functions conferred on it by the Road Traffic Regulation Act 1984 so as to secure the expeditious convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway (section 122 Road Traffic Regulation Act 1984) and is satisfied the traffic restrictions proposed will achieve those objectives.

10. Consultations

- 10.1** No additional consultations are required, these having already been carried out at the publication stage.

11. Risk Management Issues

Risk	Mitigation/Outcome	Assessment
1. Challenge to the proposals because they infringe the Human Rights Act	It is not considered the proposals have any interference with convention rights. Any potential interference has to be balanced with the duty of the Council to provide a safe highway for people to use. The Executive Director of Core Services and Solicitor to the Council has developed a sequential test to consider the effects of the Human Rights Act which are followed.	Low
2. Legal challenge to the decision to make the TRO.	The procedure to be followed in the making of TRO's is prescribed by legislation which provides an opportunity to object to proposals which must be reported for consideration by Cabinet and there is an opportunity to challenge an order once it is made by way of application to the High Court on the grounds that the order is not within the statutory powers or that the prescribed procedures have not been correctly followed. Given that the procedures are set down and the Council follows the prescribed procedures the risk is minimal.	Low

12. Compatibility with European Convention on Human Rights

- 12.** It is not considered the proposals have any potential interference with convention rights.

13. List of Appendices

- Appendix 1 – Officer Delegated report dated 20th December, 2018
- Appendix 2 – Plan showing proposals for the report dated 20th December, 2018.

14. Background Papers

14.1 Highway Design file

Officer Contact: Liz Campbell **Telephone No:** 772091 **Date:** 12th March, 2019