

## **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  
Cabinet, 26 January 2022**

### **TIVY DALE, and its junctions with THE PARK and TIVY DALE CLOSE, TIVY DALE DRIVE, MALTKILN ROW, DARTON ROAD and CHURCH STREET, Cawthorne, Barnsley**

#### **Proposed waiting restrictions**

#### **Objection Report**

#### **1. Purpose of Report**

- 1.1 The purpose of this report is to consider the 2 objections received to the proposal to introduce new no waiting at any time restrictions in the village.
- 1.2 To seek approval to reconsider the proposals in light of the objections and implement the restrictions as originally advertised.

#### **2. Recommendation**

**It is recommended that the Cabinet:**

- 2.1 **Agrees that the objections received be rejected for the reasons set out in the report and the objectors informed accordingly.**
- 2.2 **Approves the proposal to enact a Traffic Regulation Order (TRO) to introduce 'No Waiting at Any Time' restrictions on parts of both sides of Tivy Dale and its side road junctions with The Park and Tivy Dale Close; Tivy Dale Drive, Maltkiln Row, Darton Road and Church Street, as shown on Appendix Plan and Appendixes 1 to 1F and 2 of the report submitted.**
- 2.3 **Authorises the Head of Highways and Engineering and the Legal Service Director and Solicitor to the Council to make and implement the Traffic Regulation Order.**

#### **3. Introduction/Background**

- 3.1 A Cawthorne village is in close proximity to Cannon Hall Country Park, Cannon Hall Museum, Parks and Gardens and Cannon Hall Garden Centre and Thyme Bistro facilities.
- 3.2 The increased popularity of the Cannon Hall Country Park area has resulted in Cawthorne village being swamped by members of the public parking indiscriminately and carelessly along Tivy Dale, through the village centre and on to Church Street.

- 3.3 Currently, parking takes place on both sides of Tivy Dale, The Park, Tivy Dale Drive, Tivy Dale Close, Darton Road, Maltkiln Row, and parts of Church Street and in their junction mouths. This narrows the carriageway and makes access difficult for larger vehicles such as emergency services vehicles, public service vehicles and refuse vehicles etc. Access to local bus stops is also obstructed.
- 3.4 Visibility is severely restricted for motorists manoeuvring through these roads and junctions as well as for other footway and road users.
- 3.5 It is proposed prohibit vehicles waiting at any time on parts of both sides of Tivy Dale, The Park, Tivy Dale Drive, Tivy Dale Close, Darton Road, Maltkiln Row, and parts of Church Street to ensure the free flow of traffic and maintain visibility at the junctions.
- 3.6 Due to the nature of historic tree lines, shrub planting and the angle and approach of some private driveways, the new restrictions will be further enhanced with non-regulatory 'H' bar white lining outside property entrances to protect access and egress. This will improve safety of pedestrians and other footway users by preventing accesses being blocked or encroachment on to dropped curb areas.
- 3.7 As well as the impact on access issues for residents, public safety is being put at risk due to the severely narrowed carriageway, making access for larger vehicles difficult. Half-on/half-off parking also creates significant risks to pedestrians, especially a parent with a pushchair or wheelchair/mobility scooter users.
- 3.8 This scheme was advertised publicly between the 6<sup>th</sup> July and the 13<sup>th</sup> August 2021, and 2 objections were received and recorded.

#### 4. **Consideration of Objections**

The 2 objections below were recorded during the public consultation period.

Each objection is summarised below along with the location of the respondent.

(The Head of Highways & Engineering's comments in response follow the objections).

##### **1. (Location of objector: Resident & Business – Hall View).**

- Operates a Dog Walking business and is concerned that no waiting restrictions will prevent the collection and drop-off of client's dogs to addresses.

##### **2. (Location of objector: Resident – Tivy Dale Drive).**

- Concerned over resident parking in general, but especially in front of own house.
- Believes junction parking will just be displaced to minor roads.

- Suggests a Resident Parking Scheme would be the overall best solution to the parking issues.

## 5. **Head of Highways and Engineering Response**

*“This scheme has been developed to address inconsiderate and obstructive parking and provide clear visibility on Tivy Dale and its side road junctions with The Park and Tivy Dale Close; Tivy Dale Drive, Maltkiln Row, Darton Road and Church Street.*

*The original complaint and observations have also shown that the above roads suffer from inconsiderate and obstructive parking from cars parked on side road junctions.*

*The resident and business owner operating the Dog Walking business in the village will still be able to pick-up and drop-off the dogs to individual addresses as the no waiting (Double Yellow Line) restriction has an exemption which allows for immediate loading/unloading of goods and services and the picking-up and setting-down of passengers.*

*The resident is concerned that the proposed restrictions will prevent them parking outside their homes; the scheme will only directly affect residents living on the road/junctions without off-street parking provision. These numbers are very limited, and on-street parking is still available very close by.*

*No individual has a legal right to park on the public highway outside their property, nor should they have the expectation to do so. Essentially, the purpose of the ‘public highway’ is to facilitate the passage of traffic and should not be relied on as a parking area.”*

## 6. **Proposal and Justification**

It is proposed to implement the TRO as advertised and as shown on the plan at Appendix Plan and 1 to 1F and 2 of the report submitted.

## 7. **Consideration of Alternative Proposals**

- 7.1 Option 1 – Overrule the objections and proceed with the restrictions as advertised and in Appendixes; **This is the preferred option.**
- 7.2 Option 2 – Revise the restrictions to reduce the lengths of restrictions. This option is not recommended for the following reasons:
- Large vehicle manoeuvres will still be obstructed.
  - It will not improve safety at the junctions.
  - It will still allow the obstruction of resident’s accesses.
  - It will not fully prevent visibility issues at the junctions.
  - It will not fully ensure the free flow of traffic.
  - It will not fully prevent inconsiderate and obstructive on-street parking.

**7.3** Option 3 – Decline to introduce the restrictions. This option is not recommended for the following reasons:

- Large vehicle manoeuvres will be obstructed.
- It will not improve safety at the junctions.
- It will still allow the obstruction of resident's accesses.
- It will not prevent visibility issues at the junctions.
- It will not ensure the free flow of traffic.
- It will not prevent obstructive on-street parking.

## **8. Impact on Local People**

**8.1** The restrictions will address the concerns of the SYPTE who raised issues regarding traffic congestion and uncontrolled parking along Tivy Dale and at its side road junctions, and through the village to Church Street.

**8.2** The restrictions will deter and will help prevent the public using the village of Cawthorne as a car park for visiting the nearby Cannon Hall Park area.

**8.3** The restrictions will improve and maintain the free flow of traffic in the village by preventing inconsiderate and obstructive parking.

**8.4** The restrictions will improve and maintain access to all main and side roads by larger vehicles requiring access for both emergency service, commercial and public service reasons.

**8.3** There will be some very minor loss of on-street parking space, but the majority of residents have off-street private parking available.

## **9. Financial Implications**

**9.1** The financial implications remain the same as previously reported.

## **10. Legal Implications**

**10.1** The Road Traffic Regulation Act 1984 provides the appropriate powers for the Council to make the proposed TRO and the Council is satisfied it is expedient to make the Order for avoiding danger to persons or other traffic using the roads and for preventing the likelihood of any such danger arising, and for facilitating the passage of traffic on the roads.

**10.2** 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.

## **11. Consultations**

**11.1** No additional consultations are required; these having already been carried out, pre-report stage.

## 12. Risk Management Issues

<b>Risk</b>	<b>Mitigation/Outcome</b>	<b>Assessment</b>
<b>1. Challenge to the proposals because they infringe the Human Rights Act</b>	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 Legal Service Director and Solicitor to the Council has developed a sequential test to consider the effects of the Human Rights Act which are followed.	Low
<b>2. Legal challenge to the decision to make the TRO.</b>	The procedure to be followed in the making of TROs 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

## 13. Compatibility with European Convention on Human Rights

13.1 It is not considered the proposals have any potential interference with convention rights.

## 14. List of Appendices

- Appendix PLAN – Drawing schedule of Appendices.
- Appendixes 1 to 1F' – Plans of the proposed restrictions.
- Appendix 2 – Plan of proposed restrictions – Church Street.
- Appendix 3 - TDPR - Traffic Regulation Order and Delegated Powers Report dated 8<sup>th</sup> October 2021.

## 15. Background Papers

15.1 Traffic Team file – 4175.

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**Date:** November 2021