

# Environment, Development and Transport Committee

Item No 9

<b>Report title:</b>	<b>Hardings Way South, King's Lynn Traffic Regulation Order</b>
<b>Date of meeting:</b>	<b>6 July 2018</b>
<b>Responsible Chief Officer:</b>	<b>Tom McCabe - Executive Director, Community and Environmental Services</b>
<b>Strategic impact</b>	
<p>As the Highway Authority in Norfolk, it is the County Council's responsibility to manage and administer the highway network. This includes regulating the activities of developers in relation to the highway.</p>	

## Executive summary

On 3 September 2017, KLWNBC were successful in gaining grant of planning permission (Ref. No. 17/01008/F) to construct 3 new access roads and relocation of an existing bus gate at the southern end of Hardings Way. The three new accesses would facilitate development of the land on both the east and west sides of Hardings Way, as well as providing improvements as to how HGV's from a nearby operator could access the highway network.

As part of the Grant of Permission, the Local Planning Authority have stipulated 11 conditions that the developer (KLWNBC) will need to discharge to allow the development to come forward. Condition 11 states 'No works shall commence on the site until the Traffic Regulation Order (TRO) for the amendment to the bus only route has been secured by the Highway Authority'.

Norfolk County Council (NCC), in their capacity as Traffic Authority, are the only body empowered to promote new (or make amendments to existing) TROs relating to roads in Norfolk for which the County Council is the Highway Authority. As such, KLWNBC have requested that NCC promote amendments to the existing TRO to enable the permitted development to function and allow Condition 11 to be discharged.

The TRO, if agreed, would open up a 125m section of Harding's Lynn so that it can be used by all. Currently, it can only be used by buses, cycles and pedestrians (with other limited exemptions).

This report sets out the proposed changes, and the steps that have been taken by the County Council to advertise the proposal to make an amending TRO. It also sets out details of the objections that have been received (along with officer comments), the findings of the equality impact assessment and Stage 2 safety audit.

Irrespective of the origins of the proposal, the County Council's role is to consider the proposal from the perspective of the highway authority and that is the basis on which the Committee need to consider the proposal. In coming to a decision, the Committee are being asked to consider the proposal (as set out in this report), the objections raised during consultation (set

out at Appendix A) and the findings of the equality impact assessment (set out at Appendix B).

The Committee could decide to approve the proposal or refuse the proposal.

The associated planning application will not be able to proceed if the Order is not approved. The County Council, therefore, would need to ensure that refusal is on the basis of sound road traffic regulation reasons.

**Recommendation:**

- 1) Consider the findings of the equality impact assessment, attached at Appendix B to this report, and in doing so, note the Council's duty under the Equality Act 2010 to have due regard to the need to:**
  - **Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;**
  - **Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;**
  - **Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.**
- 2) Consider and agree the mitigating action proposed in the equality impact assessment;**
- 3) To consider the objections raised and the supporting information contained within this report and decide whether or not to approve the Norfolk County Council (King's Lynn, Various Roads) (Bus and Cycle Lane) Amendment Order 2018 ("the Order"). If approved, the order will be made as advertised.**

## **1. Proposal**

- 1.1. KLWNBC applied for, and were granted, a planning permission to provide three new accesses and relocate an existing bus gate to serve land at the southern end of Hardings Way. The permission was granted subject to conditions, including a condition that no works shall commence until a TRO for amendment to the bus only route has been secured by the Highway Authority.
- 1.2. At present, Hardings Way is subject to a TRO which (subject to very limited exemptions) prohibits vehicles except buses and cycles. It follows that the new accesses would be unable to fulfil their intended function of providing vehicular access to land they serve. The proposal is thus to amend the existing TRO so that the southernmost 125 metres of Hardings Way between Wisbech Road and the relocated bus gate is not subject to the current restriction and can be used by all traffic.
- 1.3. A plan (Appendix C) showing Hardings Way and the location of the relevant 125m stretch is attached, this also includes the TRO Plan, a copy of the Statement of Reasons, the TRO schedule and the Site Notice.
- 1.4. Amendments to TROs can only be made by NCC in its capacity as Traffic Authority. However, NCC's role is limited to the considerations relevant to its powers and duties as Traffic Authority.
- 1.5. The existing shared use footway/cycleway Order for the facility on the west side of Hardings Way will be largely unaffected by these proposed amendments. The exception is that traffic turning in to the access does present a potential conflict. This was identified in the Safety Audit, along with a recommended solution.

- 1.6. NCC has considered the request for the amendment to the existing Order, and under Sub-Section 1 (c), of Section 1 of the Road Traffic Act, 1984, believes the proposal to be viable. Sub-Section 1 (c) states 'for facilitating the passage on the road or any other road of any class of traffic (including pedestrians)'.

## **2. Evidence (Consultation)**

- 2.1. When progressing a proposed new, or amended, TRO, NCC adopt a two stage process whereby we utilise two differing consultation stages. Stage 1 is referred to as 'preliminary' and in the context of this proposal involved Statutory consultees only. This is used to identify major issues with any proposal that may lead to amendments, before a wider consultation, Stage 2, is undertaken. Stage 2, or 'formal advertisement', is a statutory consultation required by the Road Traffic Regulation Act 1984 when, in addition to statutory consultees, individuals such as residents who may be affected by the proposal or those who have an interest are made aware of the proposal so that they are able to comment. Stage 1 consultation ended on 2 November 2017 and Stage 2 closed on 12 June 2018.
- 2.2. During Stage 1, 37 objections to the proposed change were lodged. Of these, 35 were from non-statutory bodies who had been advised of the proposals locally. As NCC wanted to hear from all individuals, a reassurance was given that their views would be rolled forward into Stage 2 of the process, even though they were not formal consultees under Stage 1. The local member, Councillor Kemp, lodged an objection which is reproduced in Appendix A.
- 2.3. None of the objections received at Stage 1 (that are solely related to relocation of the bus gate and change to all traffic from bus/cycle only) were of a nature that would prevent the proposal proceeding to formal advertisement. However, given the volume of objections, NCC sought the views of KLWNBC on how to proceed. KLWNBC requested that NCC move forward to formal advertisement.
- 2.4. In the very rare occurrence that the local member objects to proceeding to the advertisement stage (Stage 2) of a proposed TRO, the requirement for the Order is given significant rigour. This is likely to take the form of further discussion with the local member to find out why they are opposed to promotion, and try to find an agreed position. In this case, as the requirement was associated to an approved planning application, the decision was taken to proceed to formal advertisement so that all parties would be able to be involved in the process. As Councillor Kemp had objected to formal advertisement of the proposed changes, delegated approval was sought and approved to proceed to formal advertisement.
- 2.5. The only other formal objection received from the statutory consultees at Stage 1, was from M J Rey on behalf of the Bicycle Users Group in King's Lynn. As the decision had been taken to proceed to formal advertisement (see 2.4 above), this objection was rolled forward into Stage 2 of the process. Norfolk Constabulary were the only consultee who stated that they were in support of the proposal.
- 2.6. The wider Stage 2 consultation commenced on 18 May 2018. The proposed amendments to the existing TROs were advertised in the Eastern Daily Press, Lynn News and Your Local News. At the request of the local member, the Lynn News and Your Local News outlets were utilised as they are believed to have a wider circulation locally and thus more likely to be seen by those that the proposal may affect. Site notices were also erected on Hardings Way at both the Wisbech Road and Boat Quay ends of the road.

- 2.7. By the end of the consultation period, which ended on 12 June 2018, 80 objections were received to the proposed amendments, with no responses in support of the proposal. The vast majority of the letters of objection were written and delivered prior to the date the proposed Order was advertised). However, officers have accepted and considered the objections as if made in response to the statutory consultation.
- 2.8. NCC process requires that officers engage with objectors to establish whether objections may be withdrawn. After the consultation, it was felt that a large number of objectors thought the TRO applied to the whole of Hardings Way, rather than the southernmost 125m only. NCC wrote to these objectors to clarify that point.
- 2.9. A summary table showing 21 different themes of objection received and their volumes is shown below.

<b>Theme</b>	<b>Number of times mentioned</b>
Concerned about pollution problems	27
Concerned about childrens' safety	25
Concerned for cyclists/pedestrians	14
Concerned about green space/wildlife	14
Safety issues if opened to all traffic	12
Concerned about disabled people	12
Traffic on Hardings Way will increase/Keep it free from traffic	11
Opening to general traffic will increase congestion on Wisbech Road	8
Lorries have caused damage to the houses/roads	8
Dislike lorries using Hardings Way	7
Dislike housing proposal	5
Long term picture for the whole length of Hardings Way	6
Referred back to NCC Officer's comments regarding re-opening Hardings Way	4
Promote alternatives; public transport, walking, cycling and car-sharing	3
Safe Route to School	3
Concerned about elderly people's safety	2
Buses leaving Hardings Way are causing problems (traffic wise)	2
Significant Archaeological Site	2
Existing order already allows for access	1
No plans for potential housing project	1
Amendment not legal	1

- 2.10. As can be seen from the above table, concerns relating to pollution issues and safety of children were the dominant themes (from over 30% of respondents). Objections relating to issues such as cyclist and pedestrian safety, disabled people, green space and wildlife, general safety and increase of traffic associated to amending the Order were also accounted for significant levels (almost 20%).
- 2.11. Attached in Appendix A is a spreadsheet which contains all the objections received and a substantive response to each to enable Members to consider all of the objections. Responses have been provided for objections where the objection is

considered material to the proposed TRO.

- 2.12. In addition, an equality impact assessment for the proposal has been completed, and is attached at Appendix B to enable the Committee to understand and take into account potential equality impacts. The assessment takes into account a range of information, including information gathered from two site visits, the results of the public consultation and local and national research.
- 2.13. The full scheme has also be subject to an independent Stage 2 safety audit, and a copy of this is attached at Appendix D which also includes drawings of the proposed highway layout as approved by the LPA.

### **3. Financial Implications**

- 3.1. There is no financial risk to NCC associated to the proposal. The costs associated with the promotion and consultation exercise associated to the securing of the TRO are being funded by the developer, KLWNBC.

### **4. Issues, risks and innovation**

#### **4.1. Legal Implications**

The Order has been processed in line with the relevant legislation and there are no specific legal implications associated to the proposal. As with all legal processes, Councillors should be aware of the potential for challenge in the High Court. However, NCC officers have considered all of the objections and provided a substantive response that is attached in Appendix A.

#### **4.2. Risks**

The risk associated with not being able to secure the proposed amendments to the existing TROs sit with KLWNBC. Should the amendments not be secured, the development authorised by the planning application will not be able to proceed. However, it is also the case that NCC should not frustrate the implementation of a planning permission unless there are sound road traffic regulation reasons.

#### **4.3 Environmental implications**

Environmental impacts associated to the proposed change are discussed in Appendix A and within the Equality Impact Assessment (Appendix B).

#### **4.4 Health and safety issues**

Health and safety issues associated to the proposed amendment are discussed in Appendix A and within the Equality Impact Assessment (Appendix B). Also attached in Appendix D, is a copy of the Stage 2 Safety Audit for the full scheme.

### **5.0 Background**

- 5.1 Paper copies of the original objections will be available prior to the committee meeting.

## Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, e.g. equality impact assessment, please get in touch with:

**Officer name :** Nick Tupper

**Tel No. :** 01603 224290

**Email address :** [nick.tupper@norfolk.gov.uk](mailto:nick.tupper@norfolk.gov.uk)



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