

Cabinet Member Decision Note

Consideration of objections – Mill Lane Prohibition of Driving

To: Cabinet Member for Transport and the Environment & Cabinet Member for Strategic Planning

Date: 24th January 2020

Author: Head of Highways & Transport
Wards: Old Town, Wroughton & Wichelstowe
Parishes Affected: Central Swindon South & Wroughton

1. Purpose and Reasons

- 1.1 To advise the Cabinet Member for Transport and the Environment & the Cabinet Member for Strategic Planning of the objections received in response to the Public Notice advertising the Traffic Regulation Order (TRO) for the Prohibition of Driving in Mill Lane.
- 1.2 The Cabinet Member for Transport and the Environment & Cabinet Member for Strategic Planning are asked to consider the objections to the advertised traffic regulation order and authorise the Head of Highways & Transport to implement the proposed Order and notify the objectors.
- 1.3 A key strategic decision to close Mill Lane to vehicular traffic was taken by the Planning Committee in the outline planning consent for Wichelstowe in 2005, reinforced by the addition of a planning condition in 2014. The closure location is sited close to the boundary between two Wards with the main impact on residents immediately either side of the closure and Ward boundary only. The decision will therefore not have an impact that is considered significant across two Wards and as a result is not a key decision as defined in Article 13 (b) (i), Part 2 of the Constitution.

2. Recommended Action to be Authorised by a Cabinet Member Under Delegated Powers

Recommended that:

- 2.1 The objections received in respect of the advertised Public Notice to introduce a prohibition of driving restriction on a section of Mill Lane dated 10th May 2019 be noted.
- 2.2 The Head of Highways & Transport be authorised to implement the advertised traffic regulation order for the prohibition of driving on Mill Lane on a permanent basis as advertised.
- 2.3 The Head of Highways & Transport notify the objectors of the Cabinet Member's decision on this matter.

Further information on the subject of this report can be obtained from Suzanne Coles, Direct Dial Telephone Number 07748158497, scoles@swindon.gov.uk.

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3. Detail

Background

- 3.1 The requirement to close Mill Lane to vehicular traffic was first endorsed in the outline planning consent for Wichelstowe in 2005, with the road considered unsuitable for the projected increase in vehicular trips generated by the new development.
- 3.2 The updated Wichelstowe Outline Consent granted in 2014 further reinforced this requirement by imposing Condition 48; requiring the developer to submit details of the timetable for closing the road within 2 years of that consent. The Wichelstowe Team, representing SBC as the developer, consulted with residents and Members in 2016 and agreed a closure date of August 2019. The discussion suggested a 5 year period but residents on Mill Lane requested an earlier closure and settled on 3 years. A copy of the discussions and consultation is covered in the Condition 48 – Condition Discharge Statement (Appendix E).
- 3.3 Following the consultation, the condition was discharged requiring the closure to be implemented by 31st August 2019 coinciding with the commencement of housebuilding in the Middle Wichel area.
- 3.4 The reasons for making this order are to provide a safe and convenient route for the movement of pedestrians and cyclists and to prevent the use of the road by vehicular traffic of a kind that is unsuitable having regard to the existing character of the road.
- 3.5 A location plan showing the proposed extent of the prohibition of driving restriction on Mill Lane is shown in Appendix A.
- 3.6 The traffic regulation order for the prohibition of driving on Mill Lane was advertised on the 10th May 2019 in accordance with the Local Authorities Traffic Orders (Procedure) (England and Wales) Regulations 1996.
- 3.7 In accordance with these regulations a public notice was advertised in the local press and copies of the public notice were posted at the location where driving is to be prohibited on Mill Lane.
- 3.8 In addition information was provided on the Council website and affected residents were informed. A copy of the Public Notice is included as Appendix B.

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Representations

- 3.9 114 representations were received in response to the advertised prohibition of driving traffic order for Mill Lane. 26 responses were in favour of the proposals. 88 of the representations expressed objections to the proposal. In Appendix C the objections have been summarised and categorised in a number of common themes. Following careful consideration Officer comments have been provided in response to each theme.
- 3.10 A letter was also received from Awdry, Bailey and Douglas Solicitors dated the 30th May 2019 acting, and providing a response to the consultation, on behalf of Mr Peter Fiore and Mr Richard James of Mill Lane, a copy of this letter is attached in Appendix D.
- 3.11 The majority of responses to the consultation were submitted by residents of Old Town, including Mill Lane and the immediately surrounding streets. A number of responses were also submitted by residents from further afield, including Wroughton, West Swindon and beyond the Borough boundary.
- 3.12 The predominant grounds for objection cited included the impact the closure of Mill Lane would have on other routes on the road network and the likely contribution to current congestion hotspots and uncertainty that closing the road was necessary at this time based on current usage levels and the extent of development of Wichelstowe. A small number of objections cited the personal and commercial impact felt by the severance of Mill Lane as a link between Old Town and Wichelstowe communities and facilities.
- 3.13 Most of the residents of Mill Lane south-west of the proposed closure, with whom consultation had been undertaken over the timescale for the closure of Mill Lane, objected to the proposal. Solicitors acting on behalf of two of the residents of Mill Lane responded to the consultation with suggestions of an alternative arrangement that could maintain access for these residents and their visitors to and from Old Town through the introduction of retractable bollards at either end of the closure.
- 3.14 The introduction of traffic regulation orders is governed by the Traffic Regulation Act (TRA) 1984. The TRA states in s.122 that *"it shall be the duty of every local authority...so as to exercise the functions conferred on them...to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)..."* and in doing so give regard, so far as is practicable, to *"the desirability of securing a maintaining reasonable access to premises"* and *"the effect on amenities of any locality affected"*.
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- 3.15 The proposed Prohibition of Driving Order does not prevent any residents of Mill Lane from reasonable access to their premises. It is estimated that the closure of Mill Lane would result in an increased journey time of between 1 and 5 minutes at peak times, on a week day for traffic travelling from Mill Lane south-west of the proposed closure point to Victoria Road, Old Town via Blackhorse Way, Croft Road.
 - 3.16 Completion of the first new dwellings in Wichelstowe is expected in Spring 2020 whereupon additional 'new' traffic movements will be occurring on the surrounding network.
 - 3.17 In weighing up these matters reference is given to the reason for making this order, which was 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" as specified in the TRO Statement of Reasons.
 - 3.18 Based on this and in accordance with the terms of the Wichelstowe planning consent granted in 2005, it is Officers' recommendation that the Council proceed with the closure as planned and reject the alternative proposal of a closure using retractable bollards that still permit use by certain local residents. This is on the grounds that the closure does not prevent access to premises and does not excessively extend journey times to and from Old Town via an alternative route. Therefore the intended outcomes of the proposed TRO outweigh the grounds for objection.
- 4. Alternative Options**
- 4.1 There is an option to do nothing and not progress the advertised traffic order for the prohibition of driving on Mill Lane.
 - 4.2 The above option has been considered but rejected on the grounds that the prohibition of driving on Mill Lane is a fundamental part of the original planning strategy for the area. The closure of the road has also been supported in the past by residents of Mill Lane as a means of improving the perceived road safety of the road by removing its use by through traffic.
 - 4.3 There is an option to submit a variation to the condition discharge consent to the local planning authority to extend the timescale for closure.
 - 4.4 The above option has been considered but rejected on the grounds that residents are keen for the road to be closed due to road safety concerns regarding its use
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to date. Delaying implementation of the intended closure would also mean this strategic element of the original planning consent would not be delivered prior to the completion of further residential parcels. Construction on the first of these recently commenced (Autumn 2019), so the closure would not be in place before new residents move in and start establishing patterns in their routes to and from their properties.

- 4.5 There is an option that the proposal be implemented with engineering means – retractable bollards - that facilitate the passage of Mill Lane residents (south-west of the closure point) to and from Old Town.
- 4.6 Additional information has been received from the Solicitors acting on behalf of the residents following the consultation period providing more detail on how they might expect to operate retractable bollards on the highway. A copy of the correspondence between both parties is provided in Appendix F.
- 4.7 It is indicated that they would establish a freehold management company, of which residents would be the shareholders that would be responsible for the day-to-day management of the retractable bollard scheme. A separate contractual agreement – s.278 Agreement - between the Council and the management company could provide the management company with the necessary permissions to operate a retractable bollard scheme on the public highway.
- 4.8 The implications, costs and benefits to and for the Council in agreeing to this proposal and the consequences and considerations for the Council as the relevant highway authority are set out in Appendix G.
- 4.9 The implications and costs of this option have been carefully investigated and having considered the findings set out in Appendix G officers are not able to recommend that this option is pursued further by the Council based upon the risks it would present to it as the Local Highway Authority.

5. Consultation

- 5.1 The following Opposition Spokespersons / Ward Members have been consulted on the recommendations of the report and their responses are also summarised below:

Councillor Nadine Watts - Considering all the points that officers raise in appendix G, I agree with their recommendation not to proceed with this alternative proposal regarding a rising bollard. In particular, due to the legal complexity, installation & maintenance costs and time involved. Although I am

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sympathetic towards the residents' request, their access is not being cut off entirely. I understand that officers also checked with other authorities.

I note that there were a lot of people who responded to the consultation who were in favour of keeping Mill Lane open. However, residents that lived nearer raised safety concerns. The proposal to close Mill Lane was in the original planning consent for Wichelstowe back in 2005. Although, I am not sure that the time has come to close Mill Lane, I will defer to officers' knowledge on this matter and as long as there are no restrictions on Redpost Drive and Peglars Way.

Councillor Jane Milner-Barry – I support the decision by SBC to close Mill Lane to vehicular traffic as this was a planning condition for the Wichelstowe development and the road which is in places steep, winding, narrow and wet would not be able safely to cope with the increase in traffic which will result from the building out of Middle Wichel. I support the officers' recommendation not to proceed with a rising bollard scheme.

Councillor Nick Burns-Howell – I understand that a number of options have been considered to keep Mill Lane fully or partially open, however this has not been possible due to ongoing safety concerns, especially as the volume of traffic is set to increase. I'm glad to see that this route will be kept open for pedestrian and bicycle access. I feel that the Borough needs to quickly consider implementing parking restrictions on Mill Lane, especially as the new development is progressed.

Councillor Brian Ford – As you know from past dealings I successfully fought to keep this route open many years ago however time moves on. I cannot object to this closure as long as the present route that goes to Wootton Bassett Road is kept open to ALL traffic.

Councillor Cathy Martyn – On the basis that this prohibition to vehicles is required to keep people safe, I support the proposal. I am pleased that a route on Mill Lane will remain open & maintained for pedestrians & cyclists which will enable sustainable travel to continue. There are few routes in & out of Swindon from the south, so I agree with Cllr Ford that the route out of Redposts Drive onto Wootton Bassett Road should remain open without restriction.

Councillor Andy Spry – no comment received.

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Councillor Stan Pajak – I fully support the closure. Mill Lane has always been a route used by both walkers and cyclists since my childhood.

It has now become a busy route and obviously would become increasingly so with further development which explains why the closure was set as Council policy. I support the closure.

Councillor Steve Allsopp – I fully support the closure order for the reasons set out in the report.

6. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 6.1 The costs associated with the traffic regulation order are to be met from the Wichelstowe developer.

Legal and Human Rights Implications

- 6.2 Legal and Human Rights legislation have been considered in the preparation of this report and it is considered to be compatible with convention rights. In accordance with the principle of proportionality, any interference with the convention rights of individuals is justified by the overall benefit to the community.

Climate Change Impact

- 6.3 The proposals would not bring a change in service delivery and Officers believe that there is no expected effect on the Council's carbon footprint.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 6.4 The proposals comply with the original design principles for Wichelstowe. They are also required in order to maintain safe and efficient access on the roads.

Diversity Impact Assessment

- 6.5 A Diversity Impact Assessment has been completed in relation to these proposals and is available from the report author. It identified that some residents may be more severely affected by the closure than the wider community but no proportional changes have been identified to mitigate this impact.

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Risk Management

- 6.6 There is a risk in the Council's reputation in not being able to deliver the Prohibition of Driving on Mill Lane as set out in the original planning consent for Wichelstowe for a sustainable transport network.

7. Consultees

- 7.1 The Corporate Director of Finance and Assets (Section 151 Officer) and the Chief Legal Officer (Monitoring Officer) are consulted in respect of all reports.

8. Background Papers

- 8.1 None

9. Appendices

- 9.1 Appendix A – Location Plan of the proposed TRO on Mill Lane
- 9.2 Appendix B – Copy of the Public Notice dated 10 May 2019
- 9.3 Appendix C – A summary of the objections
- 9.4 Appendix D – A copy of the letter received from Awdry, Bailey and Douglas Solicitors dated the 30 May 2019.
- 9.5 Appendix E - Condition 48 – Condition Discharge Statement
- 9.6 Appendix F – Copy of correspondence between Officers and Solicitors acting on behalf of two residents of Mill Lane.
- 9.7 Appendix G – Consideration of the alternative option proposed by residents.

10. Declarations of Interest

- 10.1 Cabinet Members are reminded to consider whether they have any known interests in any of the matters referred to in this Decision Note. If such an interest exists this should be declared to the Monitoring Officer (or Committee and Member Services Manager), and they should take no part in the consideration of the Decision Note and should refer the Decision Note to the Leader of the Council instead for consideration.

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11. Sign-off

11.1 The Cabinet Members are requested to respond with 5 days of the date of this report (by 31st January 2020).

11.2 The Cabinet Member is requested to indicate one of the following responses to the Recommendations set out in Section 2 of this report:

Note and support the proposed action to be taken under delegated authority –

Yes / ~~No~~

Note and request the proposed action be reconsidered – ~~Yes~~ / No

Reasons for Reconsideration:

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.....

Request Report be Referred to Cabinet - ~~Yes~~ / No

NB To protect against identity theft, Cabinet Member's signatures will be redacted on public versions of the signed Briefing Note.

Date *24/01/2020*

Signature *[Redacted]* Cabinet Member

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- 11.3 The Cabinet Member is requested to indicate one of the following responses to the Recommendations set out in Section 2 of this report:

Note and support the proposed action to be taken under delegated authority –

Yes / No

Note and request the proposed action be reconsidered – Yes / No

Reasons for Reconsideration:

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Request Report be Referred to Cabinet - Yes No

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Date 

Signed ...  Cabinet Member

- 11.4 Decisions of Cabinet Members will be published in the Members' Bulletin. The Decision must not be implemented until such time that a five-day "Call-in" period has expired. This date will be specified in the Members Bulletin. If a Decision is "called-in" it will be referred to the Scrutiny Committee for consideration. It must only be implemented if the Scrutiny Committee has raised no objection. If an objection is forthcoming the matter will be referred back to the Decision-Maker.

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