



Nottinghamshire
County Council

Report to Transport and Highways Portfolio

14 March 2012

Agenda Item:

REPORT OF SERVICE DIRECTOR HIGHWAYS

C3 ORSTON / ALVERTON / KILVINGTON PROPOSED EXPERIMENTAL 7.5T ENVIRONMENTAL WEIGHT LIMIT - REPORT OF CONSULTATION RESPONSES

Purpose of the Report

1. To consider the responses received to the consultation in respect of the proposed Experimental Environmental Weight Limit Traffic Regulation Order (TRO 3176) along the C3 through Orston, Alverton and Kilvington.

Delegated Authority

2. Scheme of Delegation TH.2. All powers relating to the planning, management and maintenance of highways and rights of way, and the development of integrated transport and road safety, which are not delegated to the Planning and Licensing Committee including:- (in consultation with the Cabinet Member for Personnel and Performance) the disposal of land acquired for (but no longer needed for) highway purposes.

Information and Advice

3. The C3 route connects the A52 in the south with Newark in the north. The general nature of the road is rural, and passes through a number of small villages including Orston, Alverton and Kilvington. The route represents a significant short-cut for vehicles between the A52 and the southern end of Newark and is therefore used extensively by goods vehicles accessing business and industrial premises at either end of the route. The rural nature of the route encourages high traffic speeds and the narrowness and alignment results in significant overrunning of verges and damage by larger vehicles. The current use of the route therefore creates both noise and visual intrusion for residents of the villages and results in damage to the road infrastructure by heavy vehicles.
4. A permanent Environmental Weight Limit Order was proposed previously to alleviate the problem by ensuring that goods vehicles requiring access to premises outside the immediate area of the C3 use more appropriate routes. A number of objections were received during the statutory advertising period for this permanent order relating to the likely effects of the Weight Limit on the surrounding road network and procedural anomalies during the consultation and advertising of the proposal.
5. A report was submitted to the Transport and Highways Portfolio on 7th February 2012 which reported objections received to the proposal to make a permanent order. It was resolved to develop proposals for an Experimental Weight Restriction Order. The proposal for the permanent Order was therefore withdrawn. An Experimental Order will allow for a period of robust monitoring to be undertaken to establish precisely if movements by heavy goods

vehicles are transferred onto adjacent unsuitable routes as has been suggested. Such action addresses directly the concerns raised in objections to the proposals to introduce a permanent order. Should HGV movements increase on adjacent routes as has been suggested the County Council will take any action deemed appropriate to address this issue.

Response to consultation

6. Consultation regarding the introduction of an experimental environmental weight restriction was carried out and a total of 60 letters were distributed to affected Parishes, businesses and other interested bodies between 21 February 2012 and 12 March 2012. During this period 2 responses stating objections were received which are summarised as follows:

7. **Objection:** As with the previous consultation to the permanent order concerns were expressed regarding the diversion of HGV traffic along adjacent less suitable routes. These routes include the southern end of Newark, which passes through densely populated residential areas, and adjacent rural areas where roads are less suitable for HGV traffic than the C3. Concerns have also been expressed regarding additional journey times for industrial traffic needing to access premises close to, but outside of the proposed restricted area and the resultant cost and operational implications to local businesses.

Response: Following earlier comments and feedback as part of the permanent Order process it was noted that there was a significant weight of opinion and concern regarding transfer of traffic and whilst it was considered that the levels of transfer, if occurring at all, would be relatively low, it was apparent that this is unquantifiable until the restriction is actually in effect. The adoption of an experimental Order will allow for extensive monitoring to be carried out on those routes where there is particular concern and also to canvas local opinion to ensure collection of robust traffic data and subjective feedback. Following the 6 month period for objections, analysis of this data will then enable a decision to be taken by Cabinet Member on the future of the scheme to best reflect its effects on local traffic and local residents.

8. **Objection:** Consider the introduction of a smaller restriction covering part of the route to the north of the 3 villages.

Response: The likelihood is this would be a lower cost and would simplify enforcement but would encourage vehicles to divert around the restriction along unsuitable roads through other villages. This would have the effect of HGV's continuing to use the southern section of the C3 and using adjacent routes to by pass the point of restriction. Whilst a single point of enforcement can be advantageous it is also susceptible to high levels of violation at times when enforcement action is not being taken, this has proved to be the case elsewhere on the highway network at similar 'point' restrictions.

9. **Objection:** Consider a wider restriction covering the whole area between the A52, the A46 and the A1.

Response: This would be significantly more expensive than other options and would make the identification of offenders difficult given the large proportion of HGVs which would require legitimate access to the area.

10. **Comment:** Representation has been received reiterating earlier concerns over the statutory process adopted for the earlier proposal for a permanent weight limit, and also over the

adoption of a proposal for an experimental order as a way of circumventing the statutory procedures required to implement a permanent Order.

Response: It has already been accepted that there were some procedural errors in the permanent Order making process, and these have led to a rethink of the best way forward, particularly in light of comments in paragraph 7 above. The adoption of an initially experimental proposal seems therefore to be the best solution, to provide more robust data on which to base a final decision. Far from attempting to circumvent statutory procedures, the procedures being adopted for moving an experimental Order forward ensure substantial period for feedback, regular collection of data and ultimately a sound and reasoned argument for making the experiment permanent.

11. Representation received from Thoroton Parish Meeting is included as Appendix A of this report. Much of its content relates to the order making process associated with the permanent order (TRO 3138) which NCC has stated was flawed and subsequently the proposed order has been withdrawn. It should be noted that the proposal for an experimental order is not incumbent or reliant upon any of the procedures associated with the development of the permanent order.
12. In addition to the comments received, a petition containing 20 signatures and supporting documents (Appendix B of this report) was presented to Full Council on 23rd February 2012 by Councillor Martin Suthers on behalf of Thoroton Parish Meeting. The petition seeks to suspend the introduction of the experimental order. The arguments raised are expanded within the representation received from Thoroton Parish Council which is included as Appendix A of this report.
13. Representations have also been received from a number of other organisations and these are grouped together in Appendix C of this report. These are not necessarily objections to the proposed experimental order but are included for completeness. Wherever possible suggestions for additional monitoring have been included as part of the proposals and information supplied where requested.
14. The Experimental Order represents the most cost-effective solution to prevent HGVs travelling through the area whilst allowing a reasonable level of enforcement and monitoring without impacting on adjacent areas and routes. An experimental order is usually monitored for a period of 6 months to assess its impact during which time representations will be invited from interested parties. The Experimental Order will be introduced for a period of 18 months. Following the 6 month representation period the Cabinet Member for Transport and Highways would make an evidence-based decision to make the experimental situation permanent or withdraw altogether or vary the scheme. To offer this flexibility it is good practice to process an order which offers an experimental period of up to 18 months, which is the maximum allowed under the Regulations. Cabinet Member may also wish at that time to consider complementary traffic orders adjacent to the restricted area to address any issues arising as a result of the C3 restriction.
15. The proposals are in accordance with Section 122 of the Road Traffic Regulations Act 1984. In this particular instance, the requirement to “secure the expeditious, convenient and safe movement of vehicular traffic and other traffic (including pedestrians) is satisfied by the provision of a weight restriction.

Other Options Considered

16. Other options considered were:-

- a. Not to proceed with the experimental order.
- b. To introduce a fresh proposal for a permanent traffic regulation order.

Reason for Recommendation

17. An Experimental Order is proposed to allow a period of time to assess its impact, and 6 months for representations. In this particular case it is also considered beneficial because the impact of the improved A46 is not yet known, it is due to open fully within the period of the experiment.

Statutory and Policy Implications

18. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

19. The scheme is funded from the Local Transport Plan budget for 2012/13. The cost of implementing the scheme will be in the region of £12,000.

RECOMMENDATIONS

It is recommended that:-

- a) The appropriate Experimental Traffic Regulation Order is made as described in this report, for a period of 18 months subject to review on expiry of the 6 month objection period.
- b) Traffic flows, and in particular HGV levels, are monitored on all affected roads and adjacent routes between the A1, the A52 and the A46 and reported regularly.
- c) If considered necessary by the Cabinet Member the experimental Traffic Regulation Order can be revoked or varied at any time during the 18 month experimental period.

Andy Warrington
Service Director (Highways).

For any enquiries about this report please contact:

Neil Hodgson, Team Manager-Major Projects and Improvements

Constitutional Comments (SHB 19/3/12)

20. Portfolio Holder has power to consider the consultation responses and to decide whether an experimental TRO is to be the preferred best option.

Financial Comments (IC 16/3/12)

21. The financial implications are as contained in paragraph 19 of this report.

Electoral Division and Members Affected

Bingham, Cllr Martin Suthers
Balderton, Cllr Keith Walker
Farndon & Muskham, Cllr Sue Saddington
Newark East, Cllr Stuart Wallace
Newark West, Cllr Keith Girling

Background papers

Previous Report (Decision Number: ER/2012/00023)

Weblink: <http://itsacr02a.nottsc.gov.uk/apps/ncc/declogs/ddr3.nsf>

Consultation Letter

Representations from Thoroton Parish Meeting 13th March 2012

C3 ORSTON / ALVERTON / KILVINGTON PROPOSED 7.5T ENVIRONMENTAL WEIGHT LIMIT

Thoroton Parish Meeting oppose the introduction of the Experimental Order as unreasonable and open to Legal Challenge, and has already submitted a Petition to Council asking for the Executive Decision to be rescinded.

The Legal Response on the 9th March 2012 from Susan Bearman Senior Solicitor, Corporate and Environmental Law, Nottinghamshire County Council to the original Legal Challenge to TRO 2012 (3138) of the 14th December 2011 brought by William Tomlinson, Chairman Thoroton Parish Meeting was to the effect that

- *TRO 2012 (3138) has been completely withdrawn.*
- *The Council does accept that the statutory procedure required for TRO 2012 was not followed correctly. The points you raised were accepted.*

Thoroton Parish Meeting has already submitted a Petition to the Council that the Executive Decision ER/2012/00023 to introduce an Experimental TRO must be withdrawn since the Report of Objections to TRO 2012 (3138) on which it was based, has no validity in law since the statutory procedure was not followed, and must be rescinded. Some 4,500 inhabitants of villages to the West of the River Smite have not been allowed their statutory right to make representations or objections.

This means also that the Experimental TRO cannot now be introduced where the intention is for a permanent HGV Weight Limit on Environmental grounds, to be introduced covering the same routes listed in the original TRO since this is challengeable in law as not a true experiment but merely being an attempt to circumvent the opposition to the original Order. Thoroton Parish have already on the 4th January 2012 suggested alternatives to the Council which are detailed in the attached Background Notes and touch briefly on grounds for objection to the original order.

William Tomlinson

Chairman Thoroton Parish Council

Hall Farm Cottage

Thoroton

Nottinghamshire NG13 9DS

Email parish@thekingsleycentre.co.uk

Background Papers Representations from Thoroton Parish Meeting 13th March 2012

C3 ORSTON / ALVERTON / KILVINGTON PROPOSED 7.5T ENVIRONMENTAL WEIGHT LIMIT

The Introduction of a TRO on environmental weight limit grounds requires the council to consider diversionary routes for all displaced traffic as part of its stated Policy and the effect of such traffic on the Environment.

Highways Department prepared only two documents relating to consideration of any diversion of HGV traffic. (Reports 2009 and 2010). Source : Freedom of Information Act request December 2011

The Highways Department having in the 2010 Report identified only three options , then chose Option 2

1. A Minimal single Road plug near Balderton Cost £4,600.
2. Restriction along the county road (C3)Balderton to Elton on the Hill Cost £12,075
3. Area wide restriction of Northern Vale of Belvoir A46, A1,A52 Cost £72,459

Normally, an extended period of Consultation including a Public Meeting attended by council staff , Councillors and the Local MP, would have confirmed the concerns of those villages to the West of the River Smite (as had been identified in the 2009 Report which identified 7 options). However, the Highways Department chose not to consult with these villages. Throughout this period, no information was provided to the ten villages and this failure extended then to failure to meeting Statutory Obligations which was excused as a clerical error.

Thoroton on the 14th December notified this matter to the Council in the form of a Legal challenge and Objected to the TRO . This challenge was not responded to and was then the subject of a Formal complaint against the Council .

Thoroton Parish at a Meeting with the Council on 4th January 2012, gave some reasons why it would have opposed the TRO even if all the Statutory procedures had been in place.

- Effect of Diversion of HGV traffic through Conservation villages which typically have roadside Listed Buildings, onto narrow, badly maintained roads, affecting walking, National cycling tracks and horse activity,
- The high level of investment made already over the last 10 years on the C3 as a County standard road which received priority Gritting in bad weather
- The C3 road being elevated, is never affected by Flooding whilst all other local roads are. Any downpour in Thoroton for instance floods half the road.
- Furthermore the Gypsum deposits which gives the road its elevated nature have been worked since the 1550's with a major Plaster works operating from 1860 to 1900 at Orston. Only where there is a break in the deposits has some recent housing developed.
- The low number of houses affected in the villages of Alverton and Kilvington and their lack of conservation status or Listed buildings as compared to the conservation villages to the West of the River Smite
- Visual blight of the countryside caused by the introduction of signing works at all crossroads such as at Greenhedge Lane near Oscar's Bridge Thoroton which dates to Neolithic times.
- Effect on ageing population of drivers in the villages who dependent on cars for access to all amenities, react badly when faced with oncoming HGV traffic
- Destruction of Grass Verges which surround all the villages and represent the only safe road space for horse riders, pedestrians, dog walkers, mothers with prams as cars, buses and Farm Vehicles are faced with oncoming HGV traffic on narrow roads .

Background Papers Representations from Thoroton Parish Meeting 13th March 2012

C3 ORSTON / ALVERTON / KILVINGTON PROPOSED 7.5T ENVIRONMENTAL WEIGHT LIMIT

Thoroton's position was that it was willing to accept either Option 1 or 3, disputed the high cost of Option 3 as overstated by £33,000 and suggested ways in which Local villages might co-operate to form Lorry Watch to satisfy the stated main drawback (other than cost) of option 3. Thoroton maintained its position that the Council acted unlawfully in its attempt to have a cutoff date for objections of the 15th December 2011 without providing the required documents.

The County Council then sought an Experimental Traffic Regulation Order in respect of the HGV Weight Limit on the Orston to Balderton C3 Route and surrounding routes, basing this proposal on Executive Decision ER/2012/00023. which is itself based on a Report of the Objections received by the 15th December 2011.

Thoroton Parish Meeting on the 10th February, agreed to continue its opposition to the council's actions which it believed were both unlawful and an infringement of Human Rights, and open to referral to the Local Government Ombudsman on the grounds of mal-administration where individual complaints to the Council had gone unanswered, and open to challenge at Judicial Review.

Thoroton Parish Meeting on 10/2/2012 determined to ask Councillor Suthers to present a petition from all the attenders of the Meeting which represented 25% of the households in the village)

- To rescind Decision ER/2012/00023. Councillor Jackson as Portfolio Holder has not been made aware that the report should not have considered Objections where the Statutory, County Council and Departmental Procedures have not been followed . Open to challenge in law and as mal-administration.
- To withdraw this Experimental TRO since this Executive Decision arises solely from the Departmental Report on Objections , which has no validity in law
- To further recognise that this Experimental TRO is again open to Legal challenge (para 30 in the Department of Transport Local Authority Circular 5/96 (Welsh Office Circular 50/96), as not a true experiment but merely being an attempt to circumvent the opposition to the suspended TRO 2012 (3138) since it seeks to make permanent exactly the same proposal about which legitimate objections were denied and seeks to present as an experiment monitoring of traffic in the wider area whereas this option has been available to the Department since 2009 but was rejected by the Department " due to the added possibility of a greater number of objections."

The Thoroton Parish Petition was presented to Council on 23rd February 2012 . The Council failed to follow its own rule calling for 14 days acknowledgement . Only on the 12th March was the Petition's whereabouts revealed as awaiting presentation to the Portfolio Holder as part of the process of Representation concerning the Experimental TRO.

PETITION TO NOTTINGHAMSHIRE COUNTY COUNCIL

This petition should be submitted to your local County Councillor to present to the next Full Council Meeting or passed to the appropriate Chief Officer.

Alternatively you can send it to the Chief Executive at:
 Nottinghamshire County Council
 County Hall
 West Bridgford
 Nottingham
 NG2 7QP

Name and address of lead petitioner:

WILLIAM TOMLINSON
 HALL FARM COTTAGE
 THOROTON NOTTS NG13 9DS

What is the issue you would like to petition about?

EXPERIMENTAL TRAFFIC REGULATION ORDER AS SCHEME PREVIOUSLY ADVERTISED AS TRO 2012 (3138), & DECISION NUMBER ER 2012/00023, & SUSPENSION OF TRO 2012(3138)

What do you think the Council should do?

SUSPEND INTRODUCTION OF EXPERIMENTAL ORDER UNTIL PERIOD OF 21 DAYS HAS ELAPSED DURING WHICH TIME, OBJECTIONS TO 2012(3138) MAY BE MADE BY ELECTORS UNFAIRLY EXCLUDED BY FAILURE OF NOTTS COUNTY TRO PROCEDURE

Names/Addresses of petitioners: (please continue on a separate sheet if required)

PRINT NAME	ADDRESS	SIGNATURE
JOHN O'KEEFE	ALLAT NG13 9DS	[Signature]
MICHAEL WATTS	[Redacted]	[Signature]
ROBERT F. KNIGHT	[Redacted]	[Signature]
CHRIS KING	[Redacted]	[Signature]
Patricia Green	[Redacted]	[Signature]
JEAN PURDY Jean Purdy	[Redacted]	Jean E Purdy

call at NG13 9DS

NAME	ADDRESS	SIGNATURE
MARGARET WHITEHEAD	[REDACTED]	MW Whitehead
EMMA SHEARON	[REDACTED]	EM Shearon
JONNY SHEPHERDSON	[REDACTED]	J J Sheardon
LIND SMITH	[REDACTED]	[REDACTED]
JANE SMITH	[REDACTED]	[REDACTED]
MARGARET CONSTANTINE	[REDACTED]	[REDACTED]
ROSIE CONSTANTINE	[REDACTED]	R. Constantine
Alex Rick	[REDACTED]	Alex Rick
Lestey Garton	[REDACTED]	L Garton
E.V GLOSSOP	[REDACTED]	E.V. Glossop
BARBARA CURE	[REDACTED]	Barbara
Jane Johnson	[REDACTED]	J Johnson
William Saw	[REDACTED]	William
[REDACTED]	[REDACTED]	[REDACTED]

THIS LIST REPRESENTS 15 OF THE 43 HOUSEHOLDS IN THE VILLAGE, BEING THOSE ATTENDING THOROTON PARISH MEETINGS ON 10th FEB 2012, AND REPRESENTS A 100% OPPOSITION OF THOSE ATTENDING TO THE COUNCILS UNLAWFUL ATTEMPT TO INTRODUCE AN EXPERIMENTAL TRO TO REPLACE TRO 2012/3138 WHICH THEY HAD BEEN PREVENTED BY FAILURES IN STATUTORY PROCEDURES BY THE COUNCIL THEY CONSIDER THEIR HUMAN RIGHTS HAVE BEEN UNLAWFULLY RESTRICTED

William Tomlinson . 10/2/2012
 WILLIAM TOMLINSON

The Petition to Nottinghamshire County Council arising from Thoroton Parish Meeting 10 February 2012: lead petitioner William Tomlinson, Hall Farm Cottage, Thoroton, Nottingham NG13 9DS.

In respect of SERVICE DIRECTOR, HIGHWAYS Report to Transport and Highways Portfolio Holder 7th February 2012 Agenda Item : 3.7, referring to "C3 ORSTON / ALVERTON / KILVINGTON PROPOSED 7.5T ENVIRONMENTAL WEIGHT LIMIT - REPORT OF OBJECTIONS" .

There is no basis in law for the Highways Department to make such a presentation given that the Highways Department has failed to follow the required legal process of consultation and advertisement and the period required in law for the Council to receive representations has yet to commence. *The Highways Department were made aware of this fact by William Tomlinson of Thoroton by letters on the 15th December 2011 and at a meeting at Trent Bridge House on the 4th January 2012.*

The petitioners now ask the County Council to:

1. Rescind and refer back to the Highways Department this report which presented to the Policy Holder for Highways recommendations as to the Removal of Heavy goods vehicles from the C3 Alverton, Kilvington and Orston road and linking routes on Environmental grounds, on the basis of an analysis of public objections made to the proposed TRO 2012 (3138).
2. Withdraw from continuing with the Highway Department's recommendation (contained in ER /2012/0023) that as a result of the objections received to TRO 2012 (3138), a new Experimental Order be introduced to replace the proposed TRO 2012 (3138) which would suspended, but where the roads and routes covered would remain the same. ER/2012/00023.
3. Return to re-advertise and consult on TRO 2012 (3138) providing the 21 statutory period in which representations may be made.

What grounds does Thoroton Parish Meeting have for petitioning the Council on this matter?

1. The way that local authorities must process TROs is laid down in law.

The Highways Department having failed to follow the required legal process of consultation and advertisement and having failed to obtain the views of all the interested parties cannot claim to have taken the needs of different users into consideration.

The correct public advertisement period has not been provided by the Council (due to failure to deposit documents for the full public advertisement period of 21 days for representations to be made, either at the stated locations of Bingham Library (where no documents were available) or at County Hall (where the Map for these documents referred to a different scheme at Tenman Lane). Signatures from both Bingham Library staff and Legal Department staff attest to this. The Council imposed a cut-off date of the 15th December 2011 for the receipt of representations.

What grounds does Thoroton Parish Meeting have for petitioning the Council on this matter? cont

This breaches Council, Departmental and statutory procedures for advertising the scheme during the 21 day period for representations to be made.

The Highways Department in the Report concede as follows. " It is acknowledged that a clerical error has meant that incorrect documents were delivered to Bingham Library and if the proposal proceeds as per the advertised order this will need to be addressed by re-advertising " (Page 3.Objection 3 Point 17).

The Highways Department report based on Objections received cannot be presented to the Policy holder since the above admission shows that the process is flawed. The residents of Thoroton and also Shelton, Aslockton, Whatton, Sibthorpe, Scarrington, Screveton, Hawksworth and Flintham villages, have been excluded from making such representations by the failure of the council in making documents available (starting from the date that the documents, map and statement of reasons for the Order are deposited in the places advertised). They have also been excluded from any form of consultation prior to the introduction of the proposed TRO. Since not all the possible representations have been received to this order, the Report from the Highways Department is incomplete and should be rescinded and returned to the Highways Department. The recommendations contained in the Report cannot be acted upon if the Report itself has not been prepared in accordance with the Traffic Regulation Order Procedures.

2. Breach of Human Rights in seeking an Experimental Order ER/2012/00023

The implementation of a TRO may interfere with Articles 1 and 8 rights for village residents affected by this Proposal, and the Council may interfere with such rights only in accordance with the law as contained in the Road Traffic Regulation Act 1984, and The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996.

The following convention rights of the Human Rights Act, 1998 needed to be considered when taking the decision:

Article 1 of the First Protocol Convention provides that every natural or legal person is entitled to the peaceful enjoyment of his possessions.

Article 2 of the Human Rights Convention is an unqualified right to life and to positive protection of that right by public authorities.

Article 8 of the Convention provides that "everyone has the right to respect for his private and family life and his home".

The decision-maker needed to consider whether the benefits of implementing the TRO outweigh any adverse effect on the human rights of nearby residents. Alterations to traffic regulations are necessary in a democratic society and statutory powers exist to make such provisions. The Council's failure to follow statutory process in its advertising of TRO 2012 (3138) represents therefore arising

from the Highways Department Report and ER/2012/00023, since it denies those residents the opportunity to make representations prior to the making of the Recommendation.

3. The Recommendation to introduce an Experimental TRO is itself open to legal challenge as continuing to deny residents of Thoroton the right to make representation.

The ER calls for the introduction of The Nottinghamshire County Council (Alverton, Aslockton, Balderton, Cotham, Elton on the Hill, Flawborough, Kilvington, Orston, Shelton, Staunton in the Vale and Thoroton, Nottinghamshire) (Weight Restriction) Traffic Regulation Order 2012 (3138) is suspended and:

- a) An experimental Order is implemented as per the scheme previously advertised for an initial period of 6 months during which time comments are invited in respect of the effect of the weight restriction. At the end of the experimental period consideration is given to outstanding objections as well as objections to the permanent Order proposals that have not been resolved during the monitoring period;
- b) Traffic flows, and in particular HGV levels, are monitored on all affected roads and adjacent routes between the A1, the A52 and the A46 the results of which will be included in subsequent reporting to the Cabinet Member to allow a full appraisal of the experiment to be undertaken;
- c) As part of the signing works for the experimental Order, 'unsuitable for HGVs' signs are erected at appropriate entry points into the adjacent area;
- d) If considered necessary by the Cabinet Member the experimental Traffic Regulation Order can be revoked at any time during the 18 month period.

Because the consideration of objections by the Cabinet Member also includes those objections to the permanent order that have not been resolved during the monitoring period, and this part of the TRO process is incomplete then the Experimental orders should not be used to circumvent normal procedures for making permanent traffic regulation orders

Where the intention is to introduce an Experimental TRO covering the same roads and area and where the intention long term is to make such an order permanent, as would have been the case if the original order 2012 (3138) had been lawfully implemented, then this Experimental Order may be challenged on the following grounds:

That having admitted in the Report to the policy Holder that the Council have denied the residents of Thoroton and other villages their right to make representation as the TRO procedure for 2012 (3138) lays down and knowing that "if the proposal proceeds as per the advertised order this will need to be addressed by re-advertising," the council cannot seek to quash such representations by suspending the process where such representations are a legal right, for the process of an Experimental Order where there is no right of objection prior to its introduction.

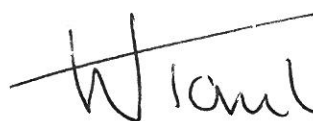
What grounds does Thoroton Parish Meeting have for petitioning the Council on this matter? cont

4. The Recommendation to introduce an Experimental TRO is itself open to Legal challenge since it is not a true experiment.

The Report of 2010 which preceded the introduction of the proposed TRO 2012 (3138) presented three options to the County 1) Small Plug TRO Cost £4760, 2) C3 and adjoining routes cost £12,750 3) Area wide scheme cost £80,000.

Thoroton Parish, at a Meeting with Highways Department on 4th January 2012 at Trent House, was advised that The Independent Consultants favoured Option 1, The Council chose Option 2 and rejected Option 1 (as recommended by the Consultants) and rejected Option 3 the Area wide scheme. The option for an area wide scheme was therefore already available and had been studied both in 2010 and an earlier report in 2009 since any TRO on Environmental Grounds requires the Highways Department to identify likely diversionary or alternative routes for the displaced traffic The Highways Department chose to reject the area wide scheme on the grounds of cost and the likely number of Objections which might be made.

The experimental Order which calls for monitoring of diversionary routes is therefore not a true experiment but a belated attempt to provide further consideration for an Option which had already been studied and rejected prior to public consultation. An earlier 2009 report by a Council Official provides evidence of even more detailed analysis of options and an awareness of the effect of an HGV restriction on Thoroton and the other Villages.

 as Lead Petitioner.

Signed William Tomlinson

Thoroton Parish Meeting

Hall Farm Cottage

Thoroton NG13 9DS

12/2/2012



V.A.T. Reg. No. 1167909 54

Pykett Bros.

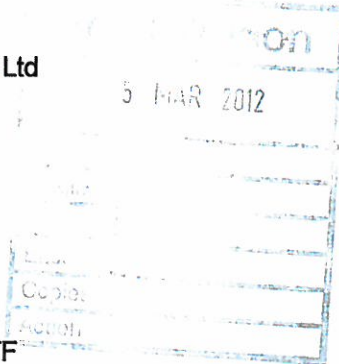
THE ELMS, HAWTON,
NEWARK, NOTTS NG24 3RL
Telephone: 01636 703520/676080
Fax: 01636 610860
Mobile: 07918 882300
Email: pykettbros@btconnect.com

General Haulage

Local and Distance

Flats, Curtainsides

Gary Bridges
URS Infrastructure & Environment UK Ltd
12 Regan Way
Chetwynd Business Park
Chilwell
Nottingham NG9 6RZ

1st March 2012

Your ref: 47059753/EWL6/TRO3176/TF

Dear Mr Bridges

C3 Orston / Alverton / Kilvington – Proposed Experimental Environmental Weight Limit

We are writing concerning the C3 proposed introduction of an environmental weight restriction.

We have written to Nottinghamshire County Council regarding the proposal and have let them know that it is our intention to continue to use these local roads in order to operate our haulage business, which has been based in Hawton village, south of Newark, for over 50 years. We are an operating centre with a licence for 20 vehicles and trailers. We run the business very responsibly, so as not to cause disruption to our local community. Access to and from our yard on the C100 and to and from the C3 is a necessity.

As well as ourselves, there are a number of established firms which will be affected by the proposed EWL; British Gypsum, Tarmac Topblock, Roseland Business Park, various other concrete companies and farming contractors to name a few. We shall all require Access to and from this area south of Newark and so in effect the restrictions will not achieve their purpose.

In addition, the scheme would increase HGV traffic on the alternative routes which can be much more densely populated. This has been the case following the introduction of the weight restriction along Valley Lane, Long Bennington. HGV vehicles are now forced to use the busy residential roads through Hawtonville and New Balderton.

In summary, we feel the proposed scheme would only cause mass disruption to the local businesses and due to our "Access" rights the objective of the scheme for local residents will not be achieved.

Yours sincerely

Mr T Pykett
Proprietor

This matter is being dealt with by:
Name Cllr Stuart Wallace
T 0115 9774166
E cllr.stuart.wallace@nottscc.gov.uk
W nottinghamshire.gov.uk



Scott Wilson
28 FEB 2012
Asst
Eng
Cooper
Action

Mr G Briggs
Principal Traffic Engineer
URS Infrastructure & Environment UK Limited
12 Regan Way
Chetwynd Business Park
Chilwell
Nottinghamshire
NG9 6RZ

25 February 2012

Dear Mr Briggs

C3 Orston/Alverton/Kilvington – Proposed Experimental Environmental Weight Limit

I refer to your letter dated 21 February 2012 in respect of the above experimental environmental weight limit.

As the County Councillor for Newark East I am concerned, and have expressed these concerns to you many times during the numerous "consultation periods", of the effect this Order has to significantly increase the volume of traffic using Boundary Road and Bowbridge Road, Newark, due to the displacement of Heavy Goods Vehicles ("HGV's") from the C3.

Over the past months we have already seen an increase in large HGV's using these roads to gain access to both the Staunton Landfill site and the A1.

As you know the Boundary Road/Bowbridge Road route to the C3 has on it one hospital, three Primary Schools, One Secondary School and shortly two Care Homes for the elderly. 80% of the two roads are in built-up urban areas. Last year the County Council was forced to rebuild the Traffic Island at Boundary Road, Albert Street, Hawton Road and Windsor Road, Newark due to damage caused to the road surface and the island itself by HGV's.

As far as I am able to determine there is no current traffic flows data, particularly HGV use, for these two roads. I therefore recommend that as a matter of urgency and certainly before the start of the experiment that you install measuring devices on Boundary Road and Bowbridge Road at a point past its junction with Hawton Lane, Balderton to capture the flow data both before and after the experimental. This will allow my colleagues and I to have an informed view on the risk and effect of the proposal before making any decision on whether or not to approve the Order.

The points made above are fully supported by my colleague Councillor Keith Girling, County Councillor for Newark West.

I would be obliged if you would keep me informed of your data flow measurements proposals.

Yours faithfully,

COUNCILLOR STUART WALLACE
Newark East

Gary Bridges

From: JENNIFER NOCTON [maxandjennynocton@btinternet.com]
Sent: 23 February 2012 16:58
To: Gary Bridges
Subject: /C3 Proposed Experiemntal Environmental Weight Limit
Categories: Junk

Dear Mr Bridges

Thank you for your letter of 21st February.

As a layman, there are a couple of questions I would be obliged if you could answer for me:

1. On the map which you sent there are some roads coloured yellow which is not coded on the notes - are these significant?
2. Is there a comprehensive map of this area showing roads with weight limits? I am aware that there is a weight limit on what is known as Lodge Lane in Screveton and one on the new Butt Lane overbridge from the old A46 into the village of East Bridgford. Therefore it would be useful to have a comprehensive map showing all weight limited roads.

I hope to hear from you shortly.

Yours sincerely
MAX NOCTON
Car Colston Parish Meeting
07971 593863

From: William Sclater <William.Sclater@trethowans.com>
Subject: RE: TRO2012(3138)- and proposed experimental weight restriction order-C3
Date: 13 March 2012 23:55:41 GMT
To: Gary Bridges <Gary.Bridges@Urs.com>

Gary

My client has also confirmed that when I refer to my client reserving their rights this includes in relation to for instance an application for judicial review. Caselaw such as St Helens Council and Waste Management UK Limited confirms that my client would be successful with a Judicial Review quashing any experimental/permanent weight restriction order.

Regards

William

William Sclater
Associate - Commercial Litigation Team
For and on behalf of Trethowans LLP
Tel: 023 8082 0463 Fax: 023 8082 0483 Email: william.sclater@trethowans.com

Trethowans LLP, The Director General's House, 15 Rockstone Place, Southampton
SO15 2EP
Switchboard: 023 8032 1000 www.trethowans.com

Trethowans LLP is a limited liability partnership registered in England and Wales, registered number OC342356 and is authorised and regulated by the Solicitors Regulation Authority, whose rules can be found at www.sra.org.uk
Registered office: London Road Office Park, London Road, Salisbury, Wiltshire, SP1 3HP. Registered VAT number: 188 0928 24. The word "partner" is used to refer to a member of Trethowans LLP. [List of members](#)

This email and its attachments are intended for the above named only and may be confidential. If they have come to you in error you must take no action based on them, nor must you copy or show them to anyone. Please reply to this email and highlight the error.

From: William Sclater
Sent: 12 March 2012 22:45
To: 'Gary Bridges'
Subject: FW: TRO2012(3138)- and proposed experimental weight restriction order-C3

Gary

Further to our earlier emails including my email earlier today, I will be sending through further comments by tomorrow (and when for instance I have my client's comments on various points being made by for instance the Thoroton Parish Council and having become aware of those comments earlier today and for the first time- I see that those comments are also supporting points made in my client's December 2011 submission including a lack of Nottinghamshire County Council consultation with villages who will be adversely affected by this proposed weight restriction TRO).

In the meantime I do also see for instance that:

(a) the fourth bullet point of the 9 March 2012 email of Nottinghamshire County Council (copy below) and final sentence of the second paragraph of the 22 February 2012 letter of Nottinghamshire County Council (copy attached) acknowledges that there was invalid/inadequate consultation in relation to the proposed weight restriction TRO and that such proposed TRO was defective generally (and as part of this that documents were not available for proper inspection and in breach of for instance Schedule 2 of the 1996 Regulations)

(b) Paragraph 22 (1) of the 1996 Regulations confirms that the consultation requirements for the making of permanent weight restriction orders also apply to the making of experimental weight restriction orders

(c) paragraph 30 in the Department of Transport Local Authority Circular 5/96 (Welsh Office Circular 50/96), says:

“Experimental orders should not be seen as a way of quickly making an order without going through the normal procedures for permanent orders of consultation, consideration of objections and, where required, the holding of a public inquiry before the order can be made.

Bearing all of this in mind and the very significant damage that a weight restriction order (whether experimental or not) will do to my client's business (and further details in relation to which are in my client's December 2011 submissions), and to the villages the traffic will divert to and this admitted lack of proper consultation/compliance with the 1996 Regulations, I trust that it will now be agreed by the Council that they are

proceeding no further with any weight restriction in relation to the C3 and whether permanent or on an experimental basis.
Further comments will also follow tomorrow.
My client continues to reserve all of their rights.

Regards

William

From: susan.bearman@nottscc.gov.uk
To: [Bill Tomlinson](#)
Sent: Friday, March 09, 2012 2:59 PM
Subject: Complaint TRO 2012(3138)

Dear Mr Tomlinson

Thank you for your emails of 22 February, 28 February and 6 March. I apologise again for the delay.

I can reply to your queries as follows:

- The letter of 22 February was from Heather Dickinson, the head of Legal Services. If you wish to pursue your complaint the matter will be referred for an investigation on behalf of the Chief Executive, independent of Legal Services.
- Councillor Suthers was copied in for information purposes following your meeting with him.
- TRO 2012 (3138) has been completely withdrawn.
- The Council does accept that the statutory procedure required for TRO 2012 was not followed correctly. The points you raised were accepted.

Don't hesitate to contact me if you require any further information before responding to Heather Dickinson's letter.

With Kind Regards
Sue Bearman
Senior Solicitor, Corporate and Environmental Law
Legal Services
Policy Planning and Corporate Services
Nottinghamshire County Council
Direct Line (0115) 977 3378
Direct Fax (0115) 977 2098

Fiona Newstead
Director
The Kingsley Centre Limited
Direct line: 01949 850874
Mobile: 07767 312937



NEWARK TOWN COUNCIL

Town Hall, Newark, Notts. NG24 1DU • Tel: 01636 680333 • Fax: 01636 680350
E.Mail: post@newark.gov.uk • Web Site: www.newark.gov.uk

CONFUSED with
GARY BRIGGS

8th March 2012

Dear Mr Briggs,

C3 ORSTON/ALVERTON/KILVINGTON – PROPOSED EXPERIMENTAL WEIGHT LIMIT

The above proposal was considered by the Town Council's Planning Committee at its meeting held on 7th March 2012, I have been asked to forward the following comments to you.

The Town Council is concerned that the introduction of this Order will have an adverse impact on Newark through the displacement of Heavy Goods Vehicles from the C3.

In particular Boundary Road/ Bowbridge Road provides a route to the C3. These roads are already very busy urban roads experiencing a significant number of HGV vehicles using them. As you will be aware these roads have a hospital, three primary schools and a Secondary school situated along them. The Town Council is very concerned that any increase in HGV traffic as a result of this restriction will have a significant adverse environmental impact on the people who live on these roads and potentially result in an increase in road traffic accidents.

The Town Council would strongly request that before the start of the experiment; traffic flow measuring devices are installed on Boundary Road and Bowbridge Road at a point past the junction with Hawton Lane, Balderton. This would then provide data on the impact of the experiment on traffic flows along this route and enable all interested parties to have an informed view of the risk of this proposal on Newark before the Order is made permanent.

Yours sincerely

Alan Mellor

Town Clerk

Town Clerk: Mr Alan Mellor JP, I.P.F.A.

