

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT OF THE CORPORATE DIRECTOR – COMMUNITIES

18 DECEMBER 2018

REPORT TO CABINET

TRAFFIC REGULATION ORDER/ TRAFFIC CALMING AND PEDESTRIAN CROSSING PROCESS

1. Purpose of Report.

- 1.1 To propose changes to the determination of sustained objections made in respect of proposals to introduce Traffic Regulation Orders and Traffic Calming and Pedestrian Crossings.

2. Connection to Corporate Improvement Plan / Other Corporate Priority.

- 2.1 This report assists in the achievement of the following corporate priorities:-

Smarter use of resources – ensuring that all its resources (financial, physical, human and technological) are used as effectively and efficiently as possible and support the development of resources throughout the community that can help deliver the Council's priorities.

3. Background.

Traffic Regulation Orders

- 3.1 The process for the making of Traffic Regulation Orders (TROs) is prescribed by the Road Traffic Regulation Act 1984 and Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (the Regulations). The Chief Officer of Police must be consulted and that the Order Making Authority (OMA) must follow the consultation requirements prescribed by the Regulations.
- 3.2 Under the Regulations an OMA must, before making an Order, consult those persons/organisations specified in the Regulations. In addition to these specified consultees it is however for the OMA to decide on the extent of any additional consultation. Extensive informal engagement with potentially affected parties can resolve any issues prior to formal consultation on a proposal and may involve engagement with local member(s), community councils, police and individual residents.
- 3.3 Having undertaken pre-consultation engagement a scheme may, depending on the responses received, proceed to the formal notice stage during which objections may be submitted to the OMA. All responses are considered further by Traffic Management Officers and there is the potential to engage with an objector with the aim of seeking the withdrawal of an objection at that stage.

- 3.4 A notice setting out the proposed scheme must be placed in the local press and displayed on those streets affected by the proposals. Additionally notices are delivered to premises likely to be affected by the provisions of the proposed order.
- 3.5 A minimum period of 21 days must be allowed for the submission of representations/objections. During the 21 day notice period the Order must be placed on deposit for inspection by the public at all reasonable times. Any objections received must then be duly considered by the OMA.
- 3.6 In certain circumstances a Public Inquiry must be held where in respect of a proposed Order:
- (a) its effect is to prohibit the loading or unloading of vehicles or vehicles on any day of the week (i) at all times; (ii) before 07.00 hours; (iii) between 10.00 and 16:00 hours; or (iv) after 19.00 hours, and an objection has been made to the order (other than one which the order making authority is satisfied is frivolous or irrelevant) and not withdrawn; or
 - (b) its effect is to prohibit or restrict the passage of public service vehicles along a road and an objection has been made to the order by the operator of a local service the route of which includes that road.
- 3.7 Additionally, it is important to note that the Regulations provide that an OMA may hold a Public Inquiry before making any other Order to which the Regulations apply.
- 3.8 All objections that are duly made and not withdrawn must be considered by the OMA. If after consideration of the objections an authority decides to proceed with the scheme as advertised, the objectors must be informed of the reasons in writing and the appropriate notice is then published. It should be noted however that certain restrictions are placed on an OMA if a decision is made to modify a proposed Order following advertisement referred to at paragraph 3.5 above.
- 3.9 The validity of any Order may be questioned during the six weeks after it is made on the grounds either that it is not within the powers conferred by the legislation or that there has been a failure to follow the procedure set out in the legislation.

Introduction of Traffic Calming/Pedestrian Crossings.

- 3.10 Traffic proposals that are introduced in accordance with the Highways Act 1980, the Highways (Traffic Calming) Regulations 1999, the Highways (Road Humps) Regulations 1999 and under the provisions of section 23 of the Road Traffic Regulation Act 1984 are not subject to the Regulations. Any sustained objections to these matters however are currently determined in BCBC in the same manner as TROs. It should be noted that in respect of these provisions no Order is made.

4. Current situation / proposal

- 4.1 In BCBC sustained objections to TROS and Traffic Calming and Pedestrian Crossings are determined by the Appeal Panel process which involves:

- A panel of 3 local members being formed and scheduled to meet which due to calendar commitments can take several weeks to arrange as the panel needs to be supported by legal and democratic services officers.
 - Objectors are invited to attend to present their case.
 - Panels may request more information and then a panel reconvened.
- 4.2 This means that the introduction of new traffic proposals may be delayed for several months whilst the arrangements for setting up and supporting the process are resource intensive when compared to that adopted by other OMAs.
- 4.3 In view of the concern identified in paragraph 4.2 above, the County Surveyors Society (CSS) for Wales Traffic Services Group has been approached to provide information on the process adopted by other OMAs in Wales. Ten responses were received, and the information provided was considered together with relevant legislation/circulars. This information has been used to evaluate the different means by which local authorities approach the TRO/ Traffic Calming and Pedestrian Crossing process in comparison to the current practice of BCBC.
- 4.4 It was apparent that the process for consideration of objections differs between OMAs but two specific types appeared to be the most prevalent for those authorities who responded to the CSS Wales enquiry. Of the OMAs that were approached the findings were that of the 10 local authorities that responded two referred the decision via a report to their Planning Committee and eight responded that the decision was a delegated function either to a Cabinet Member or Senior Officer.
- 4.5 Both of the above require reports to be presented which evaluate any objections received. Following consideration by member(s)/ officers a decision is made and the objector notified.
- 4.6 A further difference was identified in that it is often the case that only written objections are considered with no personal attendance by the objector due to the potentially high level of objections that can be received. Other than the circumstances specified in paragraph 3.6 above, the legislation does not prescribe how the objections need to be determined, only that any sustained objections should be duly considered.
- 4.7 In considering an alternative process, whilst there is an established Planning Committee within Bridgend, this is scheduled on a 6 weekly basis and should a query be raised that requires additional information the decision could be delayed for a further 6 weeks.
- 4.8 In the case of a delegated function to a Cabinet Member(s) the determination could be made during a weekly briefing between the Corporate Director and/or Head of Service, and any queries raised resolved within a shorter timeframe.
- 4.9 It should be noted that within this process is the ability for the decision to be selected by the Overview and Scrutiny Committee for consideration of the decision/report is available as part of its function.

4.10 Accordingly, it is proposed that the process for determining objections to TROs/Traffic Calming and Pedestrian Crossings would be improved by amendment of the process from the Appeals Panel process to a delegated function of the Cabinet Member –Communities.

Amendment to Scheme of Delegations

4.11 It is proposed that new paragraphs 3.5 and 3.6 be added to Scheme A of the Scheme of Delegation of Functions as functions allocated to the Cabinet Member - Communities:

3.5	To determine whether or not proposed orders in pursuance of any provision contained in the enactments listed below (or any statutory modification, re-enactment or amendment thereof) in respect of which objections and/or representations have been received should be made as proposed; to refer (where necessary) any proposed order to a local public inquiry; to amend or modify any proposed order; or to uphold the objections and withdraw any proposed order: (i) Road Traffic Regulation Act 1984; (ii)Traffic Management Act 2004
3.6	To determine whether or not any proposed traffic provision to be implemented in pursuance the Highways Act 1980 / Road Traffic Regulation Act 1984 Section 23 (or any statutory modifications, re-enactment or amendment thereof) in respect of which objections and/or representations have been received should be implemented as proposed; to refer (where necessary) any proposed traffic provision to a local public inquiry; to amend or modify any proposed traffic provision; or to uphold the objections and withdraw any proposed traffic provision.

5. Effect upon Policy Framework & Procedure Rules

5.1 The Scheme of Delegation of Functions will be amended accordingly.

6. Equalities Impact Assessment

6.1 There are no equality implications arising from the report.

7. Well-being of Future Generations (Wales) Act 2015 Assessment

7.1 The well-being goals identified in the Act were considered in the preparation of this report. It is considered that there will be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of this report.

8. Financial Implications

8.1 There would be a saving of officer time in the determination of sustained objections to TROs and Traffic Calming/Pedestrian Crossings.

9. Recommendation.

It is recommended that Cabinet:

- 9.1 Approve the adoption of the process outlined at paragraph 4.10;
- 9.2 Approve the amendment to the Scheme of Delegation of Functions as outlined at paragraph 4.11;
- 9.3 Note that the decision made in respect of a sustained objection will be published by the Democratic Services Section and subject to Call-in;
- 9.4 Note that the Council's Constitution will be amended at Part 3 to remove the TRO functions from the responsibility of the Appeals Panel.

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Background Documents

None