
Report To:	Inverclyde Council	Date:	12 January 2023
Report By:	Shared Head of Roads & Environmental Services	Report No:	ERC/RT/GMcF/22.646
Contact Officer:	Gail MacFarlane	Contact No:	01475 714800
Subject:	West Blackhall Street Proposed Roads Orders – Maintained Objections		

1.0 PURPOSE AND SUMMARY

1.1 For Decision For Information/Noting

1.2 Local Authorities are empowered to make Orders under the Road Traffic Regulation Act 1984 as amended and, under the Council's Scheme of Delegation, the Head of Roads & Environmental Services is responsible for the making, implementation and review of Roads Orders and Traffic Regulation Orders (TRO).

1.3 The purpose of this report is to inform the Committee of the outcome of the consultation procedure undertaken for the two TROs, Weight Restriction Order (WRO), Speed Limit Order (SLO) and Redetermination Order (RO) as named below in respect of which two objections have been received and maintained. One objection is in respect of the WRO. The other objection is in respect of the RO and one TRO (The Inverclyde Council, West Blackhall Street and Adjoining Roads, Greenock (One Way, One Way Cycle Track, Prohibition of Entry, Left Turn Only Restriction and Prohibition of Right and Left Turns) Traffic Regulation Order 2022. The report also seeks to inform Committee of the requirement for the maintained objection to the RO to be heard by an independent Reporter. As a Reporter will be appointed to hear the objection into the RO because of the requirements of Regulation 13 of the Stopping Up of Roads and Private Accesses and the Redetermination of Public Rights of Passage (Procedure) (Scotland) Regulations 1986 and because of the rules of natural justice, it is recommended that a Reporter also hear the other objections which are in respect of the WRO and one of the TROs.

- The Inverclyde Council, West Blackhall Street and Adjoining Roads, Greenock (One Way, One Way Cycle Track, Prohibition of Entry, Left Turn Only Restriction and Prohibition of Right and Left Turns) Traffic Regulation Order 2022
- The Inverclyde Council, West Blackhall Street and Adjoining Roads, Greenock (26 Tonnes Weight Restriction) Order 2022
- The Inverclyde Council (Various Roads) (Inner Greenock) (Controlled Parking Zone) (Variation No. 7) Order 2022
- The Inverclyde Council, West Blackhall Street and Adjoining Roads, Greenock (20mph Speed Limit) Order 2022
- The Inverclyde Council, West Blackhall Street, Greenock (Redetermination of Means of Exercise of Public Right of Passage) Order 2022

2.0 RECOMMENDATIONS

2.1 It is recommended that Committee:

- a. Notes the requirement for an independent Reporter to consider the maintained objection to the RO. The cost associated with this is approximately £5,000 which would come from the SPT Greenock Town Centre Improvements Budget.
- b. Notes the requirement to hold a public hearing to consider the maintained objections to one of the TROs and to the WRO.
- c. Decides either to hear these objections before a special meeting of this Committee or through an independent Reporter. As there is a legal requirement for an independent Reporter to hear the objection to the RO, it is recommended that the Reporter should also hear the objections to the TRO and the WRO.
- d. Remits it to the Head of Roads & Environmental Services and the Head of Legal and Democratic Services to make the necessary arrangements for the public hearing(s).

Gail MacFarlane
Shared Head of Roads & Environmental Services

3.0 BACKGROUND

- 3.1 The proposed Orders were issued for public consultation on 04 August 2022 with responses invited by 01 September 2022. At the end of this consultation period, two objections to three Orders were received.
- 3.2 Officers entered into correspondence with the two objectors. The objectors did not respond to confirm if they wished to withdraw or maintain their objections, therefore we require to consider their objections as maintained.
- 3.3 As a matter of law, any maintained objection to an RO has to be referred to Scottish Ministers for their determination. Scottish Ministers will normally appoint a Reporter to hear the objection and report to them. The decision on the RO is taken by Scottish Ministers.
- 3.4 The Council is directly involved in the West Blackhall Street project in its capacity as the Roads Authority with power to make the necessary Orders. Given that the Council is both Roads Authority and directly involved in the project in other ways, the rules of natural justice strongly indicate that the Council should not hear the objections into the TRO and the WRO itself. One aspect of the rules of natural justice is that “No one shall be the judge in their own case”. If a decision-maker has a financial or other interest in the outcome of the case, the decision-maker cannot be, or be seen to be, impartial. This rule would apply in the present case because (i) the project was progressed through the Greenock Town Centre Forum which includes elected members and Council officers (ii) the Project Board includes Council officers and is chaired by the Head of Service – Roads & Environmental Services (iii) since 2019 the designers have been commissioned directly by the Council and (iv) of the total project cost of £4.5m, the Council is contributing £1.9m. These are all considerations which point towards the Council having a significant interest in the outcome of the hearing into the objections.
- 3.5 In consequence, it is recommended that the Council should agree to the objections into the TRO and the WRO also being heard by a Reporter. So far as the TRO and the WRO are concerned, the Reporter would report directly to the Council with recommendations and it will be for the Council to make a decision, informed by the Reporter’s report.

4.0 IMPLICATIONS

- 4.1 The table below shows whether risks and implications apply if the recommendations are agreed:

SUBJECT	YES	NO	N/A
Financial	x		
Legal/Risk	x		
Human Resources		x	
Strategic (LOIP/Corporate Plan)		x	
Equalities & Fairer Scotland Duty			x
Children & Young People’s Rights & Wellbeing			x
Environmental & Sustainability			x
Data Protection			x

4.2 Finance

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
83257	SPT Greenock Town Centre Improvements	2022/23 & 2023/24	£5k	N/A	Independent Reporter

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

4.3 Legal/Risk

The decision/recommendations of the public hearings would be reported to a future meeting of the Environmental & Regeneration Committee.

4.4 Human Resources

None.

4.5 Strategic

None.

5.0 CONSULTATION

5.1 This report is a result of a public consultation on the Road Orders associated with the West Blackhall Street public realm improvements. It notes the outcome of the consultation undertaken between 04 August and 01 September 2022.

6.0 BACKGROUND PAPERS

6.1 There are no background papers associated with this report.