

Agenda Item No. 4(c)

DERBYSHIRE COUNTY COUNCIL

**MEETING OF CABINET MEMBER – HIGHWAYS, TRANSPORT AND
INFRASTRUCTURE**

17 January 2017

Report of the Strategic Director – Economy, Transport and Communities

**THE DERBYSHIRE COUNTY COUNCIL (CHESTERFIELD TOWN CENTRE)
(RESTRICTED ZONE) ORDER 2015**

(1) **Purpose of Report** To inform the Cabinet Member of the outcome of a Public Inquiry recently held following the advertisement of the Derbyshire County Council (Chesterfield Town Centre) (Restricted Zone) Order 2015 (the 2015 Order) to introduce a Restricted Zone in Chesterfield Town Centre and to seek approval to proceed with the Traffic Regulation Order (TRO) as advertised. The proposals are shown on the attached drawing.

(2) **Information and Analysis**

Background

The Authority advertised the 2015 Order between 16 April and 8 May 2015 to provide a Restricted Zone on Glumangate and Soresby Street, south of Knifessmith Gate, New Square and Market Street. This area is currently subject to a 'Prohibition of Driving Order' made in 1987. The order included moving traffic offences which are enforceable only by the Police. However, Police resources are now limited and they are no longer able to enforce this type of restriction. As a result, unauthorised parking in the area has increased and is causing a danger to pedestrians and vulnerable road users, as well as compromising emergency and legitimate vehicular access.

Following the public advertisement, an objection was received. As the 2015 Order included a prohibition on loading and unloading vehicles between 10am and 4pm, and an objection had been made which had not been withdrawn, the Authority was required to hold a Public Inquiry; on 1 December 2015 the Cabinet Member noted the intention to proceed with an inquiry (Minute No. 155/15 refers).

Mrs Sue Arnott of the Planning Inspectorate was appointed as Inspector ("the Inspector") and a Public Inquiry was held on 20 September 2016 at the Derbyshire Creative Arts Studio, Springbank Road, Chesterfield. Members of the public, shop proprietors and local ward members attended in support of

the Authority's proposal; the objector did not attend and only submitted written evidence in support of his objection.

The Inspector's report to the Council (Appendix 1) sets out the evidence presented to her, the legal submissions made and her conclusions and recommendation in relation to the 2015 Order. The references to paragraph numbers in this report are references to paragraphs in the Inspector's report unless otherwise stated.

At Paragraph 70 of her report, the Inspector confirms that *"there is no doubt that DCC has the statutory power to make the proposed order"*. In the next paragraph she states that *"as the Traffic Authority, it has an express duty to take appropriate action to 'secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)'. Given the difficulties arising from the parking problems in the area north of the Market Hall as described at the inquiry, the proposal to implement a 'Restricted Zone' is entirely in line with that duty."*

The Inspector also confirms at Paragraph 72 that *"the relevant procedures required by the Regulations have been complied with so that there would be no apparent reason to suppose that the Order, if made, would not be 'legitimate' (as suggested by the objector)"*.

At Paragraph 77, the Inspector observes that *"the appearance of vans and cars lining the road on the edge of the popular market area severely detracts from the street-scene in this prominent part of the Chesterfield Town Centre Conservation Area"* and at Paragraph 80 she states that *"The effect on tourism through the tarnishing of the street-scene has not been quantified but should not be underestimated, or the general effect on amenity locally"*.

In Paragraph 78, the Inspector acknowledges that the parking issues *"trigger the need for action by the Traffic Authority on several of the grounds specified in sub-section 122(2) [of the Road Traffic Regulation Act 1984]"*.

The Inspector provides her overall conclusion from paragraphs 86 to 88: *"The objector submits that the 2015 Order will be detrimental to business in the town although no evidence has been submitted to support this assertion. It seems to me that the removal of vehicles from the Restricted Zone around the Market Hall is likely to do the opposite; it would improve the general amenity and encourage shoppers to browse and to buy from the market stalls and surrounding shops safely and unimpeded."*

Further, I am satisfied that the provision of car parking spaces for the disabled people will remain largely unaffected, that adequate alternative parking space exists both for traders and for members of the public, and that the

arrangements that would be provided for loading and unloading are appropriate to the circumstances here.

Having examined all the evidence before me I have no hesitation in concluding that it would be in the public interest to make the 2015 Order as proposed."

It is therefore recommended that the Restricted Zone be implemented as originally proposed.

Local Member Comment

Councillor Sharon Blank fully supports the proposals to introduce a Restricted Zone on Soresby Street, Glumangate, New Square and Market Street.

(3) **Financial Considerations** The cost of implementing the Restricted Zone is estimated at £8,000 and forms part of the approved Local Transport Plan 2016-17 Capital Programme of Work.

(4) **Legal Considerations** Section 122 of the Road Traffic Regulation Act 1984 states that it shall be the duty of every Local Authority exercising the functions in that Act (so far as practicable having regard to the matters listed below) to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway.

The matters referred to above are:

- 1) the desirability of securing and maintaining reasonable access to premises;
- 2) the effect on the amenities of any locality affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run; 2ii) the national air quality strategy prepared under Section 80 of the Environment Act 1995;
- 3) the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and
- 4) any other matters appearing to the Local Authority to be relevant.

Section 2 of the 1984 Act states what a TRO may provide for and this includes prohibition of waiting. Notice of proposals must be given in accordance with Regulation 7 of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 and at least a minimum of 21 clear days for the receipt of written objections must be allowed. Objections can then be considered by the Local Authority.

Regulation 13 of the Local Authorities' Traffic (Procedure) (England and Wales) Regulations 1996 provides that before making an Order, the Order making authority shall consider:

- a) all objections duly made under Regulation 8 and not withdrawn; and
- b) if a Public Inquiry was held, the Inspector's report and any recommendations.

Having determined all objections and considered the Inspector's report, the Council may determine to introduce the new restrictions. The Order will need to be formally made, advertised and the requisite signs erected. No Order can be made until after the last date for objections. No Order can be made more than two years after the date of publication of the notice of proposals. No part of a TRO can come into force before the date when it is intended to publish a notice of making.

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, environmental, health, property, social value and transport considerations.

(5) **Key Decision** No.

(6) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

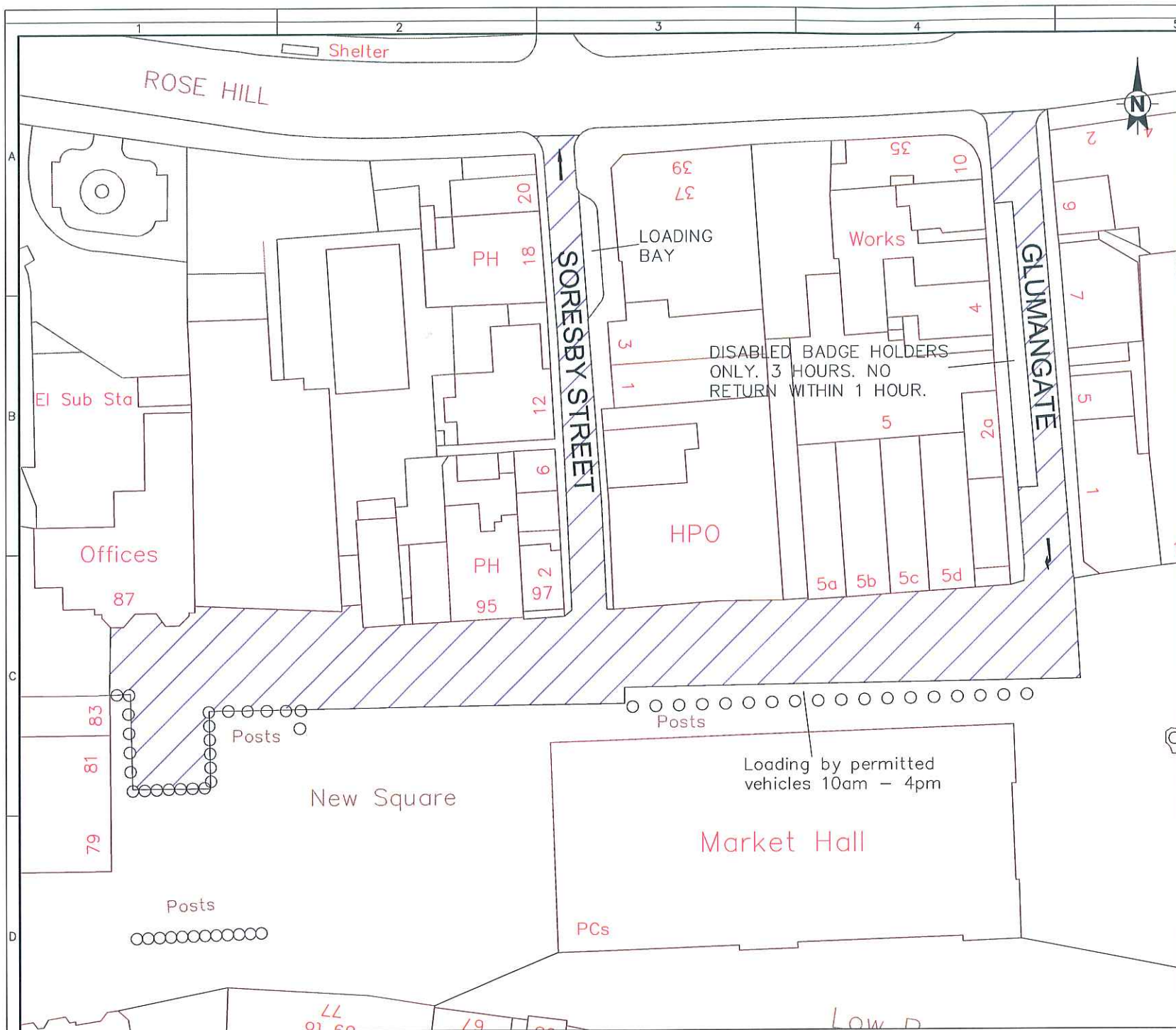
(7) **Background Papers** Held on file within the Economy, Transport and Communities Department. Officer contact details – Bridget Gould, extension 38579

(8) **OFFICER'S RECOMMENDATIONS** That the Cabinet Member:

8.1 Considers the Inspector's report and recommendations of 19 October 2016 in relation to The Derbyshire County Council (Chesterfield Town Centre) (Restricted Zone) Order 2015.

8.2 Approves the making of the Order for the reasons set out in the Inspector's report.

Mike Ashworth
Strategic Director – Economy, Transport and Communities



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Restricted Zone
(At any time).
No Loading
(10am – 4pm)
except in
signed bays.

AMENDMENT DETAILS

DRAWN BY **P Braisby**
DATE **24/10/14**

SCALE

NTS

ORIGINAL DRAWING SIZE 210 x 298 (A4)

DERBYSHIRE
COUNTY COUNCIL

MIKE ASHWORTH

STRATEGIC DIRECTOR
ECONOMY, TRANSPORT AND ENVIRONMENT

PROJECT TITLE

**Plan for Chesterfield
Town Centre
Restricted Zone**

DRAWING TITLE

DRAWING No.



Report to Derbyshire County Council

by Sue Arnott FIPROW

an Inspector appointed by Derbyshire County Council

Date: 19 October 2016

ROAD TRAFFIC REGULATION ACT 1984

THE DERBYSHIRE COUNTY COUNCIL (CHESTERFIELD TOWN CENTRE) (RESTRICTED ZONE) ORDER 2015

Date of Inquiry: 20 September 2016

Ref: DPI/U1050/16/6

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CASE DETAILS

The Derbyshire County Council (Chesterfield Town Centre) (Restricted Zone) Order 2015

- This Order is proposed under Section 1(1) of the Road Traffic Regulation Act 1984.
- It proposes to introduce a Restricted Zone in parts of Soresby Street, Glumangate, High Street and New Square.
- This would provide for no waiting at any time and no loading between 10am and 4pm except in signed bays to the north of the Market Hall and in Soresby Street.
- Designated parking places would be retained for disabled badge holders with waiting limited to 3 hours and no return within 1 hour.
- All existing restrictions would be revoked but only insofar as they relate to parking, loading and waiting on the above lengths of road.
- There was one objection to the proposed Order during the statutory consultation period which was still outstanding at the commencement of the inquiry.

Summary of Recommendation: That the Order be made.

PREAMBLE

1. I have been appointed by the Order Making Authority, Derbyshire County Council (DCC), to hold an inquiry for the purpose of hearing and evaluating evidence submitted by the Council, and other supporters and objectors to the proposed Road Traffic Regulation Order (TRO).
2. Accordingly, I held a public local inquiry under Regulation 9(3)(a) of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (the Regulations). The event took place at the Donut Centre in Springfield Road, Chesterfield on 20 September 2016. At the inquiry the Council's representative confirmed that all statutory requirements had been complied with. This was not challenged and, from my own examination of the procedures followed by DCC, it appears that the relevant regulations have been satisfied.
3. The sole objector to this Order did not attend. In his written submissions, he claimed to represent "a significant number of others". However none of these people were named and, if any attended the inquiry, none made themselves known as objectors or asked to present evidence to the inquiry.
4. I made unaccompanied visits to the streets in question and the surrounding area of Chesterfield town centre in the afternoon of the previous day (19 September 2016). Following the close of the inquiry, I carried out a further inspection of the relevant roads in the market area in the afternoon, again unaccompanied.
5. This Report sets out a brief description of the relevant highways and their surroundings, the gist of the cases for DCC, other supporters and the objector, my conclusions and my recommendation. Lists of those appearing at the inquiry¹ and all relevant documents are appended.

¹ In addition to those listed in the appearances, 2 other officers of DCC and 2 members of the public attended.

REQUEST FOR ADJOURNMENT

6. By email sent to the DCC Solicitor in the evening before the inquiry, the objector, Mr Ladd, stated that he was unavailable on the date scheduled for the inquiry but if his presence was required then he asked for an adjournment to a mutually agreeable date.
7. Having received this request at the start of the inquiry and considered the matter in the light of submissions from DCC and all other factors, I explained that it was my view that the objector had been given ample time and opportunity to engage in the statutory process. However Mr Ladd had chosen not to do so until the very last minute, yet DCC had made extraordinary efforts to contact him² so as to ensure he had a copy of the relevant documents and to notify him of the inquiry details. In these circumstances I considered an adjournment was not warranted and would not best serve the interests of the inquiry. Consequently I rejected the request for adjournment.
8. Nevertheless, the substance of Mr Ladd's written objection was fully addressed during the course of the inquiry.

DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

9. The highways in question comprise parts of Soresby Street, Glumangate, High Street and New Square within the Chesterfield Town Centre Conservation Area. Only the southern sections of Glumangate and Soresby Street to the south of Knifesmithgate and Rose Hill are affected, only the western end of High Street to the north of the Market Hall (also known as Market Street) and the northern part of New Square.
10. Three of these highways form a one-way traffic system into the market area from the north, with (authorised) traffic proceeding southwards along Glumangate, westwards past the Market Hall then northwards along Soresby Street. The cul-de-sac which extends westwards from the junction of High Street and Soresby Street along the northern edge of New Square includes a turning area at its western end.
11. Soresby Street and Glumangate form important pedestrian routes between the market area and the car parks to the north of the town centre.
12. Currently signs at the turning into Glumangate from Knifesmithgate indicate that there is no access for motor vehicles except for permitted access and for parking by disabled 'blue badge' holders.
13. There is a designated parking bay for approximately 6 cars provided for blue badge holders on the west side of Glumangate.
14. Opposite the lower end of Glumangate, signs indicate the pedestrian zone that operates around the Market Hall and extends into New Square. These signs again indicate no access for motor vehicles except for loading and blue badge holders between 4pm and 10am and no waiting at any time. Outside the Market Hall a sign indicates the "LOADING AREA" where there is no waiting "EXCEPT BY PERMITTED VEHICLES AT ANY TIME".

² I understand that his communications were by email only and that no home address had been given.

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15. Whilst the road widens at the top end of Soresby Street (to the south of Rose Hill), this is not at present designated as a loading bay.
 16. Several retail and commercial properties along the streets concerned have private access to parking at the rear of the buildings.
 17. Other than Glumangate (with a resin bonded aggregate finish), the other three highways are surfaced with stone setts and all four have stone flagged pavements. Both Soresby Street and Glumangate have double yellow lines on both sides of the road (except in the parking bay). The majority of New Square and the area to the south and east of the Market Hall is pedestrianised and surfaced mostly with stone setts.
 18. The southern edge of the highway on the north side of New Square abuts land owned by Chesterfield Borough Council (CBC). There is a narrow strip here between the road and the nearest line of market stalls where cars attempt to park whenever the space is not occupied by traders.
 19. Chesterfield Market Hall forms a focal point for the outdoor market stalls which surround it to the east and west. Although traders can be present on most days of the week, general market days are Mondays, Fridays and Saturdays; there is a flea market on Thursdays and car boot sales are held on Sundays. Farmers and Artisan markets are held monthly on Thursdays and Sundays respectively. The Market Hall is open daily except Sundays. Market trading is managed by CBC.

THE CASE FOR THE ORDER MAKING AUTHORITY

The material points were³:

20. Under Section 122 of the 1984 Act, DCC has a duty as the Traffic Authority *"to exercise the functions conferred on them by this Act as (so far as practicable having regard to the matters specified in sub-section (2) below) to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)"⁴.*
21. The matters specified in sub-section 122(2) are:
 - (a) the desirability of securing and maintaining reasonable access to premises;
 - (b) the effect on the amenities of any locality affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;
 - (c) the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and
 - (d) any other matters appearing to the local authority to be relevant.

³ The evidence supporting DCC's statement of case is set out in documents 2 - 12.

⁴ *"...and the provision of suitable and adequate parking facilities on and off the highway."*

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22. Section 1 provides a means of carrying out those functions through the making of traffic regulation orders (TROs) where it appears to the relevant authority that it is expedient in certain situations.
23. The 2015 TRO has been proposed to:
- (a) avoid danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising;
 - (c) facilitate the passage on the road or any other road of any class of traffic (including pedestrians);
 - (d) prevent 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 or adjoining property, and
 - (f) preserve or improving the amenities of the area through which the road runs.”⁵
24. A TRO may include a variety of provisions as set out in Section 2, including :
- “(a) requiring vehicular traffic, or vehicular traffic of any class specified in the order, to proceed in a specified direction or prohibiting its so proceeding;
 - (b) specifying the part of the carriageway to be used by such traffic proceeding in a specified direction;
 - (c) prohibiting or restricting the waiting of vehicles or the loading and unloading of vehicles;
 - (d) prohibiting the use of roads by through traffic”.
25. DCC set out clearly the statutory framework which applies here since one of the points of objection is that the introduction of the proposed order by the Authority would be ‘ultra vires’.
26. In 1987 a TRO was proposed by CBC and made in 1989 following a public inquiry. In effect, this prohibits driving along the highways at issue here (except upon the direction or with the permission of a police constable in uniform). Article 17 sets out various exemptions which include access to premises, local authority vehicles and the emergency services. Articles 18 and 24 set out no waiting restrictions on the roads concerned subject to exceptions (in Article 19) for disabled parking, dropping off and picking up passengers, deliveries, emergency services and loading and unloading (Articles 23 and 25).
27. There is a loading bay outside the Market Hall and there are disabled parking spaces on Glumangate.
28. The current situation is therefore that there is no vehicular access (subject to the specified exceptions) along part of Rose Hill and the road to the north of

⁵ Sub-paragraphs (1)(1)(b), (e) and (g) do not apply here

the Market Hall or those parts of Soresby Street, Glumangate and New Square between. Vehicles which do drive along these roads or which park there, unless they fall within one of the exceptions, are doing so illegally. This is an activity which has increased over the last 10 – 15 years or so.

29. Since the offences created by the 1987 Order are moving traffic offences, enforcement falls to a uniformed Police Officer. Whilst civil parking enforcement is now a local authority responsibility, DCC's Civil Parking Enforcement Officers (CEOs) cannot take action under the current TRO nor can action be taken by Police Community Support Officers.
30. However the Police no longer have sufficient resources to devote to effective enforcement of the TRO, as confirmed by email from Police Inspector Steve Ball to DCC on 6 June 2011. The County Council has therefore been required to consider other options in order to ensure compliance with its duty under Section 122 of the 1984 Act.
31. As effective enforcement has declined, the extent of unauthorised parking in the area by cars and market traders' vans has steadily increased. This has been to the detriment of pedestrian safety, legitimate vehicular access and the local environment.
32. DCC has received numerous representations from members of the public, shop and business owners, the emergency services, Chesterfield Borough Council Officers and Local County and Borough Council Elected Members about vehicles being parked in contravention of the 1987 TRO.
33. A similar proposal some 5 years ago sought to extend the pedestrian zone which operates over most of the Market Square, New Square and Low Pavement. At that time concerns from taxi drivers over access to collect passengers from the loading area near the Market Hall, and the consequential cost of a public inquiry, resulted in the order being shelved.
34. However DCC has continued to receive complaints about unlawful parking.
35. The evidence given to the inquiry by Mr Tranter and by Mr Bond confirmed that these problems have continued to grow to the point where disabled people struggle to access community facilities off New Square and have had to step into the road to get into or out of their transport; delivery lorries are having to block traffic whilst they unload as they cannot access the existing loading bay; an ambulance struggled to gain access to a person who had collapsed; people with a legitimate right of access have difficulty in exercising it, and pedestrians are endangered as they cannot easily get out of the road. Further, the accumulated illegal parking also detracts from the amenity of the town centre and may act as a deterrent to passing trade.
36. DCC has concluded that a 'Restricted Zone' would be the best solution to address these problems. This would prohibit loading and unloading between 10am and 4 pm (in line with the Pedestrian Zone) and would limit parking to dedicated areas. There would be a second loading bay on Soresby Street and the parking bays for disabled badge holders on Glumangate would be retained. People who access private parking from the relevant streets would still be able to drive over the area.

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37. Crucially, a Restricted Zone would be enforced by DCC's CEOs who already patrol the pedestrian zone to the south which would mean enforcement would take place regularly.
 38. A consultation was carried out between 16 April and 8 May 2015 in accordance with the statutory requirements. This prompted several letters and emails offering support for the proposal including from Chesterfield Borough Council, the Police and local businesses. Some businesses sought clarification of the proposals and how their business would be affected but only one objection was received.
 39. Responding to the objector's concerns, DCC clarified the intention and scope of the Order since it appeared that he may have been confused as to both, and the fact that New Square is covered by the 1987 TRO at present.
 40. DCC challenges the view of the objector that the current system of parking appears to work adequately. Evidence presented to the inquiry and mentioned above illustrates the widespread concern over the parking that is taking place in defiance of the 1987 TRO. Further, such parking is regularly preventing access for a number of legitimate vehicles despite the objector's claim that access by the Market Hall is unrestricted.
 41. In response to the objector's statement that market traders are happy to continue loading and unloading during the day, DCC highlights the need to take a balanced view, taking into account the needs of all road users including delivery drivers, the emergency services and pedestrians.
 42. Although the objector contends that the cost of parking is prohibitive and that car parks are too far away from the market, there are ample options for parking nearby within the town, some of which offer discount for all-day parking by market traders. DCC submits a £2 parking fee is not prohibitive.
 43. The objector is concerned that a 'Restricted Zone' would be detrimental to business, especially on the busiest day (Thursday), and that the limitation on loading between 10am and 4pm will constrain traders who sometimes start earlier and may need to leave earlier. At the inquiry Mr Bond explained that market regulations require stall holders to be on site between those hours although special dispensation is sometimes granted depending on the circumstances.
 44. Some of the objections described by Mr Ladd in relation to previous attempts to introduce restrictions are not clear but DCC is confident that it has a great deal of support for the 2015 Order.
 45. In summary, DCC submits that if the TRO is made as proposed the area to the north of the Market Hall and on New Square will be free of cars, thus allowing traffic accessing premises to flow freely without blocking the road for emergency services or for vehicles making legitimate deliveries. Pedestrians of all mobility levels and ages will be safer as they will not have to squeeze between parked cars to reach pavements and the amenity of the whole area will be improved.
 46. It there asks that the Derbyshire County Council (Chesterfield Town Centre)(Restricted Zone) Order 2015 is made as proposed.
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THE CASE FOR THE OTHER SUPPORTERS

The material points were:

47. In addition to a recent email of support from market trader Mr J Marples [document 16], the following cases were presented orally at the Inquiry.

Mrs B Wallace

(on behalf of the Nenna Kind Cancer Support Centre in New Square)

48. Mrs Wallace had volunteered at the Support Centre for 6 years and had seen problems arising from illegal parking in the area increase significantly over the last 4 or 5 years. Parking by blue badge holders was also inconsiderate at times. Although Mrs Wallace fully accepted that disabled people may need to park nearer to the shops than others, some appeared to pay little regard to how or where they park. There are plenty of parking bays set aside for blue badge holders in Glumangate or nearby, yet some choose to park in the market area or in the turning space in New Square.
49. She recalled incidents where, due to illegally parked cars and vans blocking the highway here, an ambulance was unable to get to a serious incident in New Square and the paramedics had had to walk to the patient. A blind gentleman had walked into the bollards outside the Charity's premises because of cars being parked so as to obstruct passage.
50. Mrs Wallace had seen large vehicles have great difficulty in turning out of Glumangate into High Street and then into Soresby Street because of illegally parked cars around these areas. She also knew that the driver delivering to the Subway shop adjacent to the Charity's premises was unable to arrive during the prescribed hours (4pm to 10 am) so had to park on Rose Hill and push his trolley laden with consumable goods down to the store.
51. In her opinion, businesses in the market area do need a designated loading area but most of all this needs enforcing. Police officers are now rarely seen in the town centre and as a consequence people have flouted the parking restrictions, leading to the present problems.
52. On behalf of the Charity, Mrs Wallace offered support for the proposed restricted zone.

Cllr Mrs S Niblode

53. In addition to being a member of Chesterfield Town Council, Mrs Niblode also sits on the Market Consultative Committee. She had been a visitor to Chesterfield Town Centre since the 1960s at the age of 5 and was acutely aware of the difficulties caused by vehicles parking illegally in the market area. She has seen cars double parked in the turning area in New Square and sometimes triple-parked. Frequently disabled people, people in wheel chairs and those with buggies find the pavements obstructed and have no alternative but to use the road, putting themselves in danger.
54. In contrast, the street known as Low Pavement (on the south side of the market area) was kept clear of traffic with no parked cars obstructing the pedestrianized zone. Only the emergency services and security vehicles have

access. This stark contrast highlights the inequality here: one side is totally clear and a joy to walk and the other is a 'free-for-all'. The conflicts which arise on the north side provoke aggressive behaviour amongst some and many heated arguments. The illegal parking compromises access for the emergency services, and when cars and vans are parked in front of the market stalls, stall holders complain that their goods are obscured and sales affected whilst shoppers complain that they cannot see the stalls.

55. Chesterfield is known for its markets. In Cllr Niblode's view, the restrictions proposed in the Order are essential to ensure this iconic feature is not marred and so that businesses continue to thrive.

Mr S Davidson

56. Mr Davidson runs a specialist cheese shop, trading from premises on the north side of the Market Hall. He endorsed the submissions of both Mrs Wallace and Cllr Niblode.
57. Whilst problems were particularly bad on Thursdays (the main market day), issues can arise every day of the week. It is not only market traders who park their vans all day in the square; he is aware that some shop keepers do so as well as members of the public who could park in one of the many other car parks around the town centre. However the market traders' vans tend to form a wall across the top of the Market Hall, seriously affecting his trade because people cannot see his premises. He has tried putting out traffic cones so that people can legitimately load vehicles but many continue to ignore the restrictions.
58. Mr Davidson has had his shop since 1980. Since the present traffic restrictions have ceased to be enforced, he has noticed a substantial increase in people selfishly seeking out free parking spaces without thought for others when there are plenty of car parks around the town.
59. In his view, the pedestrianised area should be extended to include the whole of the market area. The present situation is unacceptable. He has seen people with push-chairs unable to get through because of parked vehicles. People have sometimes parked in the road, obstructing the free movement of both pedestrians and other vehicles, and on one occasion he recalled a Fire Engine had been unable to get through because of parked traffic.
60. Mr Davidson therefore supports the proposed Order.

Cllr Mr H Borrell

61. Mr Borrell is also a member of Chesterfield Town Council. His main concern centred on the issue of safety and the potential for accidents where pedestrians are forced to walk between illegally parked cars. He has witnessed several near misses where pedestrians have nearly been knocked over.
62. In his view, the area should be pedestrianized with vehicular access permitted only where necessary. In recent years the situation has become a 'free-for-all'. Mr Borrell had recently been introducing a party of visitors from Germany to Chesterfield and the leader of the group had commented on the

detrimental effect of the parked vehicles on the aesthetics of the market area. In her view it would not happen in Germany, suggesting that lockable temporary barriers might be used. She was shocked that the situation had been allowed to continue for several years and hoped that the problem gets resolved because the vehicles were spoiling the beauty of the town.

63. Cllr Borrell was therefore concerned about the effect the illegal parking is having on visitors to Chesterfield and fully supports the Order that is proposed.

THE CASE FOR THE OBJECTOR

The material points were:

64. Mr Ladd's reasons for objection were initially set out in an email dated 8 May 2015 and supplemented by comments sent by email on 19 September 2016.
65. He contends that New Square is not currently subject to a TRO⁶ and that the current system of parking here appears to work well with access unrestricted (although loading is sometimes inhibited by Blue Badge holders). There is ebb and flow of vehicles on any market, particularly for loading and unloading but photographs have been taken *before* 10am to deliberately show congestion. Market stall traders prefer to load and unload during the day and to keep their vans close to their stalls as car parks are some distance away and the charges are generally prohibitive. A lengthy walk after a long day trading can be arduous.
66. In Mr Ladd's view, a Restricted Zone will have a detrimental effect on all concerned. The markets bring a great deal of business to the town in general and businesses in the locality in particular. If traders lose their flexibility over the times they are able to load and leave, some may be forced to lose their livelihoods. For example, Thursday markets often start earlier than 10am and finish before 4pm; traders with family commitments may not be in a position to stay until 4pm because of collecting children from school. The proposed Order would have a significant impact on these individuals and their businesses.
67. Other attempts have been made in the past to restrict parking but these have not succeeded and have been resisted for good reasons.
68. If the 2015 Order were to be made, DCC would be acting 'ultra vires'⁷ and Mr Ladd questions whether the Order would be legitimate.

INSPECTOR'S CONCLUSIONS

69. Bearing in mind the submissions reported above, I have reached the following conclusions, reference being given in square brackets [xx] to earlier paragraphs where appropriate.

⁶ DCC points out that in fact it is covered by the Tenth Schedule of the 1987 Order and is therefore subject to the prohibition of driving provisions of this TRO.

⁷ Mr Ladd refers to the case in the House of Lords of *Peter Wheeler and Others v Leicester City Council* 1985. However I have been unable to extract any relevant principles from this case.

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70. Firstly, there is no doubt that DCC has the statutory power to make the proposed order [20-24]. This has been questioned by the objector but no substantive argument has been put forward to explain the reasoning.
71. Indeed, as DCC has pointed out [20], as the Traffic Authority, it has an express duty to take appropriate action to "*secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)*". Given the difficulties arising from the parking problems in the area north of the Market Hall as described at the inquiry, the proposal to implement a 'Restricted Zone' is entirely in line with that duty.
72. Secondly, from the documentation supplied to me it appears that all the relevant procedures required by the Regulations have been complied with so that there would be no apparent reason to suppose that the Order, if made, would not be 'legitimate' (as suggested by the objector).
73. Mr Ladd expressed his view that the current system for parking works well [64]. However balanced against this sole expression of support for the status quo are a great many letters and emails sent to DCC from individuals and local businesses in response to the public consultation⁸, welcoming the proposed 2015 Order. In addition, there is strong support from Chesterfield Borough Council and the Police.
74. This support for the proposed Restricted Zone arises because the Order aims to address problems which are occurring on a regular basis. At the inquiry, in addition to the two professional officers (Mr Tranter of DCC and Mr Bond of CBC), I heard from four local people [47-62], all giving first-hand accounts of having witnessed incidents arising from inconsiderate and illegal parking by cars and vans in the vicinity of the Market Hall.
75. Photographic evidence illustrates the extent of the problem⁹. Although this is exacerbated on market days because of the additional traffic from traders, it occurs at other times too, with many private cars contributing to what Councillors Mrs Niblood and Mr Borrell described as a 'free-for-all'.
76. The result of vehicles parking in contravention of the current (1987) TRO in the relevant sections of High Street and New Square is that both people and other legitimate traffic are endangered and their passage along the road (and in some places along the pavement) is obstructed. The flow of traffic seeking access to private parking to the rear of premises in the streets concerned is, at times, interrupted because of blockages caused by inconsiderate (illegal) parking and deliveries necessarily being unloaded in the middle of the road. In addition, similar hold-ups delay the passage of Council refuse vehicles and have prevented the emergency services getting to a patient as quickly as would otherwise have been possible.
77. Further, the appearance of vans and cars lining the road on the edge of the popular market area severely detracts from the street-scene in this prominent part of the Chesterfield Town Centre Conservation Area.

⁸ Appended as documents 7 and 10

⁹ I have noted Mr Ladd's comment that these were taken to give an impression that the problem is worse than it really is. However, I saw for myself the extent of the illegal parking outside the Market Hall and in New Square.

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78. Referring back to the duties placed upon DCC under Section 122 of the 1984 Act [21], the parking issues identified above are unquestionably such as to trigger the need for action by the Traffic Authority on several of the grounds specified in sub-section 122(2). It would therefore be expedient for DCC to take action to address these problems.
 79. The 1987 TRO should (and once did) ensure that the streets to the north of the Market Hall were not used by the general public other than by those with authority to park in the disabled parking bay in Glumangate and those permitted to load and unload at the appropriate times and place.
 80. However the evidence presented to the inquiry shows clearly that this existing prohibition of driving can no longer be enforced effectively by the Police due to a lack of resources. With no regular enforcement of these restrictions, *some* members of the public and *some* traders have come to enjoy free parking in the market area at the expense of the safety of other people whilst creating difficulties for other vehicles entitled to lawful access to these streets. The effect on tourism through the tarnishing of the street-scene has not been quantified but should not be underestimated, or the general effect on amenity locally.
 81. Referring to the legislative basis for the 2015 TRO, as explained by DCC [23], it has proposed to address these problems by proposing a Restricted Zone. This seeks to avoid danger to persons or other traffic using the relevant roads and to prevent the likelihood of any such danger arising; to facilitate the passage of traffic (including pedestrians) along these roads and to prevent the use by vehicular traffic of a kind or in a manner which is unsuitable, and to preserve or improving the amenities of the area. These aims are entirely in line with the criteria set out in sub-section (1)(1) of the 1984 Act.
 82. The proposed Order will revoke the 1987 TRO insofar as it relates to parking, loading and waiting along the roads in question here. In place of these restrictions the new Order will provide for the disabled parking bays on Glumangate to be retained with a three hour limit; it will include a loading area on High Street (to the north of the Market Hall) which will be available to permitted vehicles at all times and to everyone before 10am and after 4pm; it will introduce a new loading bay on Soresby Street and will prohibit waiting at any time and loading outside of the signed bays between 10am and 4pm.
 83. Understandably, there have been concerns expressed by businesses which rely on vehicular access to their premises in the area along these roads, but all have been assured that their present rights and current arrangements can continue to be exercised within the new regime.
 84. There is ample car parking available elsewhere in the town centre with reasonable charges. Special rates are available at some for market traders, thus recognising the important role such people are to the town's economy. Most car parks lie within a 5-10 minute walk from the shops and market stalls. Other than blue badge holders who have access to a designated parking bay, there is no necessity for ordinary members of the public to park near to the Market Hall or in New Square.
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85. It seems some people do so in defiance of the 1987 TRO because offences go unchallenged. Thus the most important aspect of the 2015 Order is that it can be enforced by DCC's CEOs. These Officers already patrol the pedestrianised area around the Market Hall on a daily basis and, at the inquiry, Mr Tranter confirmed that effective enforcement by DCC was unlikely to be constrained by resource issues for the foreseeable future.
86. The objector submits that the 2015 Order will be detrimental to business in the town [65] although no evidence has been submitted to support this assertion. It seems to me that the removal of vehicles from the Restricted Zone around the Market Hall is likely to do the opposite; it would improve the general amenity and encourage shoppers to browse and to buy from market stalls and surrounding shops safely and unimpeded.
87. Further, I am satisfied that the provision of car parking spaces for disabled people will remain largely unaffected, that adequate alternative parking space exists both for traders and for members of the public, and that the arrangements that would be provided for loading and unloading are appropriate to the circumstances here.
88. Having examined all the evidence before me I have no hesitation in concluding that it would be in the public interest to make the 2015 Order as proposed.

RECOMMENDATION

89. I recommend that The Derbyshire County Council (Chesterfield Town Centre)(Restricted Zone) Order 2015 be made as proposed and the Restricted Zone introduced.

Sue Arnott

INSPECTOR

APPENDIX A: APPEARANCES**For Derbyshire County Council:**

Ms J Gale Solicitor, Derbyshire County Council

Who called

Mr S Tranter Principal Engineer – Traffic & Safety, Derbyshire County Council

Mr A Bond Town Centre Operations Manager, Chesterfield Borough Council

Also in support:

Mrs B Wallace Representing the Nenna Kind Cancer Support Centre; 3rd Floor, Dents Chambers, New Square, Chesterfield, S40 1AH

Cllr Mrs S Niblade Local Councillor, Chesterfield Borough Council; 338 Ashgate Road, Chesterfield, S40 4BW

Mr S Davidson Local trader; 10 The Market Hall, Chesterfield, S40 1AR

Cllr Mr H Borrell Local Councillor, Chesterfield Borough Council; 1 West Lea, Brampton, Chesterfield, S40 3SL

No objectors appeared.

APPENDIX B: DOCUMENTS SUBMITTED IN ADVANCE OF THE INQUIRY

- 1 DCC's Statement of reasons for making the Order
- 2 Witness statement of Mr S Tranter (with summary statement)
- 3 Witness statement of Mr A Bond (with summary statement)
- 4 Chesterfield Borough Council (Various Streets, Town Centre) Traffic Regulation Order 1987
- 5 Correspondence relating to parking issues in the market area September 2009 to March 2015
- 6 Newspaper advertisement; Derbyshire Times 16 April 2015
- 7 Correspondence relating to the 2015 Order
- 8 Objection to Order from Mr C Ladd dated 7 and 8 May 2015 and email response from DCC dated 29 July 2015
- 9 Committee Report dated 1 December 2015 and Minute No 155/15
- 10 Other correspondence relating to parking issues in market area sent since advertisement of the 2015 Order
- 11 Photographs of the market area taken in 2011 and 2015
- 12 Maps showing Chesterfield town centre and car park details
- 13 Letter to Director of Legal Services, DCC from W T Parker dated 18 August 2016 together with reply dated 5 September 2016
- 14 Copy of email sent 16 September 2016 to Julia Gale at DCC by Mr C Ladd and email response sent same day

APPENDIX C: DOCUMENTS SUBMITTED AT THE INQUIRY

- 15 Opening submissions of Derbyshire County Council
- 16 Copy of email sent on 8 September 2016 to Mr Bond from Mr J Marples expressing support for the Order
- 17 Copy of email sent 19 September 2016 to Derbyshire County Council by Mr C Ladd objecting to the Order
- 18 Closing submissions of Derbyshire County Council
- 19 The attendance list