



## Highways Committee

**Date** Friday 13 March 2015  
**Time** 9.30 am  
**Venue** Committee Room 2, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 9 February 2015 (Pages 1 - 6)
4. Declarations of interest, if any
5. Wolsingham Byway 157 (Hexham Lane) - Proposed Traffic Regulation Order to prohibit motor and horse-drawn vehicles - Report of Corporate Director, Regeneration and Economic Development (Pages 7 - 26)
6. Consett Academy, Consett - Proposed Waiting Restrictions - Report of Corporate Director, Neighbourhood Services (Pages 27 - 34)
7. Such other business, as in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

**Colette Longbottom**  
Head of Legal and Democratic Services

County Hall  
Durham  
5 March 2015

To: **The Members of the Highways Committee**

Councillor G Bleasdale (Chairman)  
Councillor C Kay (Vice-Chairman)

Councillors J Allen, B Armstrong, D Bell, H Bennett, I Geldard,  
O Gunn, D Hall, D Hicks, K Hopper, O Milburn, S Morrison,  
R Ormerod, J Robinson, J Rowlandson, P Stradling, R Todd,  
J Turnbull, M Wilkes and R Young

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**DURHAM COUNTY COUNCIL**

At a Meeting of **Highways Committee** held in Committee Room 2, County Hall, Durham on **Monday 9 February 2015 at 9.30 a.m.**

**Present:**

**Councillor G Bleasdale in the Chair**

**Members of the Committee:**

Councillors C Kay (Vice-Chairman), B Armstrong, H Bennett, O Gunn, K Hopper, O Milburn, S Morrison, R Ormerod, P Stradling, R Todd and J Turnbull

**Apologies:**

Apologies for absence were received from Councillors J Allen, D Bell, I Geldard, D Hall, D Hicks, J Robinson, J Rowlandson, M Wilkes and R Young

**Also Present:**

Councillor W Stelling.

**1 Apologies for Absence**

Apologies for absence were received from Councillors J Allen, D Bell, I Geldard, D Hall, D Hicks, J Robinson, J Rowlandson and M Wilkes.

**2 Substitute Members**

There were no substitute members.

**3 Minutes**

The minutes of the meeting held on 21 November 2014 were agreed as a correct record and signed by the Chairman.

**4 Declarations of interest**

There were no declarations of interest in relation to the item of business on the agenda.

**5 Bus Shelter – Opposite 50 Manor Road, Medomsley**

The Committee considered a report of the Corporate Director, Regeneration and Economic Development regarding a proposal to erect a bus shelter opposite 50 Manor Road, Medomsley (for copy see file of Minutes).

The Committee received a presentation which highlighted the following:

- location plan

- current bus stop layout
- proposed shelter style
- area of consultation
- photograph of location

(for presentation see file of Minutes).

The Strategic Traffic Manager informed the Committee that the eight properties directly affected by the proposals had been consulted. This included seven houses opposite the bus stop and the adjacent, Bishop Ian Ramsey CE Primary School. The report explained that both local members (Councillor A Shield and W Stelling) had been consulted and informed of the issue but their views had not been expressed in the report, however, both Councillors had differing views regarding the proposal.

In terms of the objections received to the proposal, the Strategic Traffic Manager informed the Committee that:

- he recognised the fact that increases in anti-social behaviour could and did take place in other parts of the County, in and around bus shelters. However, other shelters in the immediate area did not attract anti-social behaviour;
- it was considered that vandalism would not be an issue in the area concerned;
- the proposed shelter would not contain a seat to deter congregations of youths and there was no reason why people living in the area, wishing to use the bus service, should be deprived of a facility;
- There were no issues with the design of the bus shelter and similar styles of shelters were used within other conservation areas;
- the erection of any bus shelter at a well-established bus stop would not impact on people's privacy, given that passengers already waited in that location for a bus;
- the proposed shelter would not cause any sort of impediment for anyone wishing to cross the road.

The Committee then heard from Councillor Stelling, one of the local members for the Leadgate and Medomsley Electoral Division. Councillor Stelling expressed his disappointment that the report contained no location plan or indeed a plan of the consultation area. He then referred to a scheme whereby himself and Councillor Shield, as local members, replaced some older stone bus shelters with new Perspex shelters to combat anti-social behaviour. Where there had been the appetite from residents for a shelter, both Members had agreed that they would fund the shelter out of their respective Neighbourhood Budgets.

Councillor Stelling explained to the Committee that the consultation had become confused and out of sync. Word had spread and residents of Hunters Close and Handley Cross and had lobbied the Council with support for a shelter, however, the fact of the matter remained that the majority of residents, directly in the initial consultation area and the

school did not wish for a shelter to be placed in the location concerned. Councillor Stelling also explained that in 16 years of being a Councillor he had not received any requests for a bus shelter in Medomsley. He had made representations to Go North East some two years ago to see if the service would change the end destination of the route to the Metrocentre which may have increased usage of the bus service, however, they were not favourable towards the request.

Councillor Stelling commented that locations for a suitable alternative site for a bus stop and shelter had been considered, however, the only potential area was deemed unsuitable following safety concerns expressed by the Police.

In summing up, Councillor Stelling felt that the consultation had spiralled out of control, and would happily have paid for a shelter, providing it was cost effective. Given that footfall was very low and would not increase, unless the bus operator would change the end destination. Councillor Stelling felt that the proposal should be refused.

The Committee's attention was drawn to a written submission by the other local Member for the area, Councillor A Shield who could not be present at the meeting (for copy see file of Minutes).

The Committee then heard further representations from an objector. As a resident and parent, the objector had provided a detailed report with a number of photos depicting congestion of the area (for copy see file of Minutes). In the representations made to the Committee the objector highlighted the following issues of major concern, not only for the properties directly affected, as well as the local school:

- the school crossing patrol was not always on site and there were many out of hours activities at the school;
- there was a need to consider the location of the bus stop in terms of safety, given that the school was continuing to grow;
- felt there was an accident waiting to happen;
- the bus shelter would obscure vision for people crossing the road;
- those people who had lobbied for a bus shelter lived 250 metres away;
- the proximity of the bus stop to the local primary school caused difficulties with sight lines;
- there was no analysis of alternative site options to support the claim that no safe, suitable alternative sites were available;
- level of support gained from residents outside the consultation area was outweighed by the number of submitted objections.

The Committee then heard from a supporter of the proposal. He had used the bus service for 17 years and was accompanied by a lady who used the bus stop to commute to Newcastle. The bus rarely followed the timetable which was inconsistent due to the fact that the service was continually delayed in city centre traffic. The supporter summarised his main points as follows:

- the bus stop was in an exposed position and people were exposed to the elements during adverse weather;

- there was no evidence of any anti-social behaviour in the specific area as confirmed by a Police Community Support Officer (PCSO) at a recent Police and Communities Together (PACT) meeting.
- the design of the bus shelter was not an issue and there were three other shelters in the area of similar design;
- the supporters were representing the views of 69 people, who had signed a petition;
- irrespective of whether people lived immediately outside the proposed shelter, all residents deserved the facility when they were using the bus service and there was no reason why people should be penalised;
- the bus shelter would be located on the opposite side of the road to residential properties and there was no evidence of a devaluation of property;
- Issues of privacy were not of concern given that the bus stop had been in the location for decades;
- was of the understanding that the school had withdrawn their objection.

The Strategic Traffic Manager clarified to the Committee that the school's objection to the consultation centred on vandalism. Contact had been made with the school last week, who had confirmed that they wished to maintain their objection.

Councillor Morrison expressed concern that the properties directly affected were the only residents consulted and felt that the consultation area should have been extended in any case, given that residents living in the wider area would use the same bus stop.

In response to a question from Councillor Stradling regarding alternatives and given the points raised by objectors regarding alternative sites, the Committee were advised that other areas had been examined and there was no alternative site.

Councillor Ormerod informed the Committee that he was in favour of promoting public transport and that its use should be encouraged wherever possible. Provision of a bus shelter, at the already established bus stop was a positive step and would encourage usage.

Councillor Kay felt that a need had been identified which had not been considered previously. Provision of a bus shelter would potentially increase use of public transport.

Councillor Gunn sought clarification that the objection by the school concerned appearance and the potential for vandalism/anti-social behaviour and there had been no issues raised regarding road safety issues. The Strategic Traffic Manager confirmed that this had been the case.

Councillor Todd felt that on balance, there had been no compelling reason as to why a bus shelter should not be cited at the location concerned and moved the recommendation which Councillor Bennett seconded.

Councillor Turnbull accepted the essence of the scheme but expressed concern over the low usage of the bus stop. Councillor Turnbull explained that in his Electoral Division, a scheme to pay for six new bus shelters, together with dropped kerbs had been undertaken. Over time, the bus operator then withdrew services due to lack of footfall. The bus shelters had to be demolished which ultimately resulted in a waste of public money.

**Resolved**

That the Committee endorse the proposal having considered the objections and recommended that the proposal to install a bus shelter opposite 50 Manor Road, Medomsley.

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## Highways Committee

13 March 2015



### **Wolsingham Byway 157 (Hexham Lane) Proposed Traffic Regulation Order to prohibit motor and horse-drawn vehicles**

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#### **Report of Ian Thompson, Corporate Director of Regeneration and Economic Development**

#### **Councillor Neil Foster, Portfolio Holder Regeneration and Economic Development**

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#### **1.0 Purpose**

- 1.1 To obtain endorsement to make a permanent Traffic Regulation Order (TRO) to prohibit motor and horse drawn vehicles being driven along Byway 157 (Hexham Lane).

#### **2.0 Background**

- 2.1 Wolsingham Byway 157 (Hexham Lane) is a byway open to all traffic which is a category of highway over which the public have a right of way for all kinds of traffic including pedestrians, cyclists, equestrians, motor vehicles and horse drawn vehicles, but which is used mainly for the purpose for which footpaths and bridleways are used. A legal definition can be found in the Appendix A
- 2.2 The byway is 4km (2½ miles) long, starting from just north of Wolsingham at the end of Thistlewood Lane and heading northwards and uphill to Salters Gate. It is largely unsurfaced, at two separate places has a gradient of 1:6 and passes across remote country of rough pasture and some moorland within the North Pennines Area of Outstanding Natural Beauty. The byway's location is shown on the plan at Appendix B.
- 2.3 The byway has been fully available to motor vehicles since 2005 having been registered as a byway following a Public Inquiry. It was previously recorded as part bridleway and part footpath.
- 2.4 Since 2010 the Access and Rights of Way Team has been aware of the byway's deteriorating condition following reports from users, due to usage by motor vehicles. In June 2012 contact was made with off road motor vehicular user groups and notices erected on site encouraging responsible use of the route to help reduce damage to the surface. However, over the next winter the condition worsened such that its condition required a permanent solution to address the continued deterioration. It was rutted in places and there were numerous areas of standing water and mud making passage extremely difficult for all users.

- 2.5 During summer 2013, drainage work was undertaken to improve the surface of the byway in the area of Ninety Acre Allotment and 2 collapsed culverts were replaced at either ends of the route. The section of byway directly north of Thistlewood Lane is also very rough, being a surface of compacted bricks and stones that have suffered from wash out and surface deterioration.
- 2.6 Temporary closure orders to all users, except pedestrians, have been in place since summer 2013 in order to allow the ground to recover and to keep its condition under review. There has been a significant improvement particularly to the south of Ninety Acre Allotment. However, the area with a culvert at the watercourse crossing here still remains wet together with localised areas towards Salters Gate.
- 2.7 The unsurfaced condition of the byway makes it highly vulnerable to damage and unsustainable for motor vehicular use and hence the proposals for a Traffic Regulation Order (TRO).

### **3.0 Legal Framework for making a Traffic Regulation Order**

- 3.1 The reasons for making a TRO are set out in section 1(1) of the Road Traffic Regulation Act 1984 (the 1984 Act). Section 122 of the 1984 Act also imposes other duties on the Council when exercising functions under the 1984 Act. See Appendix A.
- 3.2 The starting point in the decision making process is to consider the purposes for making an order as set out in Section 1(1). Satisfied that one or more of these purposes are relevant it is then incumbent on the decision maker to consider the duty imposed by section 122. Section 122(1) is a duty imposed on the highway authority, which requires, so far as practicable the securing of expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians). However, in coming to a view the highway authority is also required to take into consideration the factors in section 122(2). The duty in section 122(1) can in some instances be at odds with the provisions of section 122(2). When there are tensions between the competing priorities within these two sections the decision maker must weigh up all the factors which are relevant but it is not clear which provision carries the greater weight. Recent case law suggests that because the duty in section 122(1) is qualified by the wording 'having regard so far as practicable to the matters set out in section 122(2)' means that the absolute nature of the duty in section 122(1) has been qualified by the duty in section 122(2).

### **4.0 Proposals and grounds for the making of the TRO**

- 4.1 The proposal is to make a permanent Traffic Regulation Order (TRO) to prohibit motor and horse drawn vehicles being driven along the byway. It is considered the TRO is required to protect and preserve the route for pedestrians, cyclists and equestrians
- 4.2 **Section 1(1) of the 1984 Act**
- 4.3 The traffic regulation order is to be made under the provisions of the Road Traffic Regulations Act 1984. The following is the Statement of Reasons (section 1(1) of

the 1984 Act) accompanying the Notice of intention to make the TRO which was advertised on 19 November 2014 with the officers' reasoning included in italics:

**Section 1(a) for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising**

*Hexham Lane is a largely unsurfaced remote byway with a gradient of 1:6 at two separate locations. Its surface is very vulnerable to damage and liable to becoming rutted and uneven. It is very slippery in places, particularly for wheeled vehicles. It is considered that continued motor vehicle use of the route will add to its deterioration including unevenness, poor drainage and a generally more difficult and dangerous environment for all users. It is not known whether any horse drawn vehicles have made use of Hexham Lane but it is considered that the whole byway environment is likely to be dangerous for such users.*

**Section 1(b) for preventing damage to the road or to any building on or near the road**

*The route has been subject to significant damage in the past. Repairs to the Ninety Acre Allotment section of the byway carried out over summer 2013 dealt with creating a more formal drainage system which has made significant improvement to the surface, and much of it has re-vegetated. The ground is however largely unsurfaced and some of the drainage issues have persisted. The route is not formally constructed as a road and is largely a route across rough pasture. It is not designed, nor is it able to withstand significant motor vehicle usage. The route would be subject to significant future damage if use is not managed.*

**Section 1(c) for facilitating the passage on the road or any other road of any class of traffic (including pedestrians)**

*As described the deterioration of the surface of Hexham Lane which is considered to be inevitable should motor vehicles continue to use it will make passage along the road more difficult for all users. The permanent prohibition proposed will give the route a much greater chance to sustain its current condition so facilitating passage along it.*

**Section 1(d) for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property**

*The environment of the byway is remote, climbing from just above Wolsingham to Salters Gate which lies at a height of 345 metres above sea level. The route passes directly across agricultural land, with a legal width for the majority of its length of 18m and a varying physical width of up to 10m being rough pasture or moorland and is not separated from the agricultural land uses. The physical character of the route is more likely to change should motor vehicular use continue as the ground would become unsuitable for users.*

**Section 1(e) (without prejudice to the generality of paragraph (d) above) for preserving the character of the road in a case where it is specially suitable for use by persons on horseback or on foot**

*It would be considered that this byway is a route which is specially suitable for use by persons on horseback or on foot. The route is unsurfaced and has not been specifically constructed for use by vehicular traffic. Continued usage of the byway by motor vehicles and associated damage to the surface would change the character of the road, making it less suitable for pedestrians and equestrians..*

**Section 1(f) for preserving or improving the amenities of the area through which the road runs**

*The amenity of the area around the byway, in terms of the public, is its pleasant, remote and rural location within the North Pennines Area of Outstanding Natural Beauty. Although the byway is an amenity for all public users the degradation of its surface has an overall negative impact. The route becomes more difficult to use, those public paths connecting to it become less attractive to users and the landscape through which the byway runs becomes degraded and less pleasant.*

**4.4 Section 122 of the 1984 Act**

- 4.5 Further to being satisfied that one or more of the above is relevant it is then necessary to consider the duty imposed by section 122. Section 122(1) makes a requirement, that so far as practicable having regard to the matters specified in subsection (2) below, to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians). It is to be noted this would also include cyclists and equestrians. However it is also important to consider the provisions of section 122(2) as follows

**(a) *The desirability of securing and maintaining reasonable access to premises***

The proposed prohibition only covers recreational vehicles, and will not prohibit access to adjoining land by the owners, tenants and their lawful invitees because they will be exempt because they will be covered by a permit scheme. This permit scheme will enable effective enforcement of unauthorised usage. Although it would be preferable for all motor vehicles to be prohibited from using the byway this particular duty specifically requires the authority to consider the needs of those adjacent landowners to access their land. In the circumstances a complete prohibition is not possible.

**(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;***

It is not considered that the proposal will have any impact on heavy commercial vehicles as the route is not appropriate for such use. As described earlier the amenity of the area around the byway is pleasant, remote and rural. Although the byway is an amenity for all public users the degradation of its surface has an overall

negative impact. The route becomes more difficult to use, those public paths connecting to it become less easy or attractive to use

(bb) ***the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy)***

The limited numbers of motor vehicles using the route would have a minimal effect on air quality.

(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***

There are no anticipated effects on public service vehicles (eg buses, taxis and coaches). As this is an unsealed route it is not used by such vehicles and drivers of such vehicles are unlikely to desire to use the route. In reality it is not a route that a reasonable person would drive such a motor vehicle over.

(d) ***Any other matters appearing to the local authority to be relevant***

Officers have given consideration to how the Traffic Regulation Order would be implemented and its effects on different user groups. The prohibition of horse drawn vehicles is a pragmatic decision which has been taken having considered the type and numbers of users of the route. No objection has been received from any group or individual wishing to use the Byway with horse drawn vehicles. This would support the view taken by officers that such vehicles are not used on this route because of its topography and condition. Officers have taken the view that the dimensions required to permit a gated access for a horse drawn vehicle would also allow access for 4 wheeled motorised vehicles. Given that, in the officers' view, horse drawn vehicles would not use the route, it is therefore considered reasonable and fair to prohibit horse drawn vehicle users thus enabling a physical width restriction to be applied.

Officers have considered appropriate guidance for the management of byways. In particular DEFRA's 'Making the Best of Byways' has been consulted and the advice therein considered together with LARA's\* 'Traffic Management Hierarchy. Good Practice in Traffic Management on Unsealed Public Roads'. \* LARA is the Motoring Organisation's Land Access and Recreation Association which seeks to protect the interests of responsible motor vehicle users in the countryside.

## **5.0 Alternative Options**

- 5.1 It is possible for a permanent TRO to include provisions that are less restrictive eg to only restrict use by 4 wheel drive vehicles, to make the prohibition seasonal or to specify certain vehicle weights, number of wheels, width of vehicles or a one way system. These options could allow for certain motor vehicle users to drive along the byway in certain circumstances and have been given careful consideration to establish if it is fair and reasonable to prohibit use by any one group of users.
- 5.2 One of the main issues for the byway is its surface and durability. Large stretches of it are unsurfaced with a soft top soil overlying impervious materials which are very susceptible to changes in moisture. This is most evident in the area around Ninety Acre Allotment. With the impervious nature of the underlying material, the

top soil is vulnerable to becoming saturated due to poor drainage. The load bearing capacity of such soils is low and any significant vehicular load will cause damage and deterioration. Rutting will be caused when proceeding through wet surfaces using high engine revolutions. The impact of such damage can vary with many differing factors such as the number of axles, number of wheels, weight, tyres and amount of usage which are all options to look at. However, on balance it is considered that although different motor vehicles will impact the byway surface to varying degrees they will all affect the route's surface in a negative way to such a degree that it will be unreasonably muddy and uneven for users of the byway. It is accepted that there is some uncertainty as to how much damage may be caused but it is a reasonable assumption that there will be damage to the highway to such an extent that it places an unacceptable risk for the Council, as the custodian of the highway.

- 5.3 It is considered that a less restrictive option would be at odds with the reason given at paragraph 4.3 in particular (a) and (b) 'for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising' and 'for preventing damage to the road or to any building on or near the road'.

## **6.0 Objections**

- 6.1 There were 203 representations made to the proposed TRO as summarised at Appendix C. The following are the main reasons given by objectors, in order of popularity:

- 1 Other types of management are more appropriate eg restricting weight of vehicles, seasonal prohibition, width restriction, number of wheels of vehicles. Motor bikes do not cause the damage of 4WDs.
- 2 Hexham Lane is a valued part of the local byway network
- 3 Test the improvements carried out to the byway before prohibiting motor vehicles
- 4 Loss of a limited legal historic resource
- 5 Motor cyclists have a lighter impact or no greater impact than horses. Being discriminated against
- 6 The Council has a duty to maintain the byway
- 7 Negative impact on local economy and tourism
- 8 The condition of the route is safe
- 9 Use volunteers for maintenance
- 10 More engagement with users/user groups
- 11 Discriminates against disabled 4WD users

Each of the reasons is considered below.

## 6.2 **Objection Reason 1**

Other types of management are more appropriate eg seasonal prohibition, restricting weight of vehicles, width restriction, number of wheels of vehicles. Motor bikes do not cause the damage of 4WDs.

### *Response*

*It is accepted that there are examples of prohibitions in other parts of England and Wales which include vehicles weights, seasonality, widths etc. Although this could be an attractive more conciliatory option it is not considered to achieve the objective of protecting or preserving the route for users. It would not allow the County Council to meet the objectives as set out in the Statement of Reasons and is considered that any of these suggested options would result in a significant risk that the byway surface will become substantially damaged, given that it is mainly top soil and there are some significant gradients on this route.*

*Officers have taken what is believed to be a fair and reasonable assessment of the different management options available but consider none of the following would fully protect the route.*

*A seasonal closure has been considered and discounted on the basis that the route deteriorates significantly during wet conditions with any level of use by vehicular traffic. Restricting use to summer months only could result in concentration in demand during those times when significant wet periods can occur and have been experienced in recent years.*

*In considering what, if any effect, a vehicle weight restriction could have, the surface and subsurface materials are the most relevant issues to consider. These are predominantly top soil overlying impervious materials in parts which can be susceptible to changes in moisture. The top soils become fluid with ingress of water and the impervious sub soil retains water at its interface where poor drainage can be a factor. Loading such materials with regular vehicular use will inevitably lead to rutting. The load bearing capacity of such soils is low and therefore any significant vehicular load would cause damage and deterioration. Spreading loads with increased number of axles, wheels or tracks can reduce impacts but it is not considered that damage can be avoided.*

*It is not accepted that motorcycles or motorised trails bikes should be exempt from restriction. It is claimed that they would not cause any damage to such a surface. Such vehicles, although lighter than other motorised vehicles can create significant rutting when attempting to proceed through wet surfaces using high engine revolutions. Consideration has been afforded to the effect and impacts of permitting powered two wheel vehicles to continue to use the route. However, it is the officers' view that a complete prohibition of all motorised vehicles including powered two wheel vehicles is necessary to give the confidence and certainty of the byway's surface being preserved and protected.*

## 6.3 **Objection Reason 2**

Hexham Lane is a valued part of the byway network

*It is accepted that the route is an important link in the local network of byways and unclassified roads. However, when considering the grounds for making a TRO (section 1(1) of the 1984 Act) and the issues to take into account in section 122 of the same Act this issue can only be given limited weight. The value of the byway is not contested.*

**6.4 Objection Reason 3**

Test the improvements carried out to the byway before prohibiting motor vehicles

*The byway surface is clearly susceptible to damage by vehicular traffic. This situation will not change as a result of continued reinstatement and drainage improvements. Loading the byway surface with vehicular traffic would result in further deterioration. This option would carry too significant a risk to the byway surface (as for the response to Reason 1).*

**6.5 Objection Reason 4**

Loss of a limited legal historic resource

*The resource is not lost but rather preserved and secured for use by pedestrians, cyclists and equestrians. It is accepted that Hexham Lane is of historic significance however it is not unique considering the antiquity of the highways network, therefore this point is of limited significance. The prohibition of driving does not remove its status as a byway, it places restrictions on the type of usage.*

**6.6 Objection Reason 5**

Motor cyclists have a lighter impact or no greater impact than horses and are being discriminated against

*This point is not one with an objective evidence base. It is accepted that the weight of a horse and rider may be similar or heavier than a ridden motorcycle or trails bike. Damage to a surface can be caused by different factors which do not only relate to weight. There are numerous variables that differ between each user such as loadings (linear/point), turning, speed, the ground contact area and the total number of users. The continuous contact area of a wheel compared to a horse hoof is significantly different. Motorcycles will create a continuous linear trail along the line of a route along which water can be retained and channelled to cause damage. Although horses can damage soft surfaces their more concentrated 'hoofmarks' mean that water damage is less likely to spread.*

**6.7 Objection Reason 6**

The Council has a duty to maintain the byway

*As described earlier the Council has carried out maintenance works to the byway. The Council's duty to maintain highways does not prevent it from making decisions on how to discharge its functions such as using TRO legislation to manage its assets.*

**6.8 Objection Reason 7**

Negative impact on local economy and tourism

*This assertion is not quantifiable. It is considered that walking and cycling are more significant contributors to the local economy and indeed the Visit County Durham*



website's (the official visitor website) Outdoors page focusses on walking and cycling.

**6.9 Objection Reason 8**

The condition of the route is safe

*The view of 'safe' is subjective and the definition of 'safe' depends on the level of risk to all users. Whilst vehicle users may consider the route to be safe, pedestrians, cyclist and equestrians may require an unrutted firm surface before considering it to be safe. Notwithstanding this point, this is a subjective statement and whether the byway is safe or not is not a pre-requisite for making a TRO. As described earlier at 4.1, section 1(1) of the 1984 Act states a number of reasons for making a TRO, one of which is to prevent the likelihood of danger arising to users. It is considered the condition of the route is likely to deteriorate such as to present a danger to some users and should be managed accordingly.*

**6.10 Objection Reason 9**

Use volunteers for maintenance

*The Council is active in the area of countryside volunteering, managing the Durham Voluntary Countryside Ranger Service which has existed since 1968 and the Parish Paths Partnership, which is a Public Rights of Way specific grant/volunteer project, since 1992. Both these projects are well managed but it is accepted that they may not suit all possible volunteers or projects. It is also relevant that to bring Hexham Lane up to a standard that is properly sustainable for vehicular use would require the import of large quantities of stone which is not within the realms of a volunteer task.*

**6.11 Objection Reason 10**

More engagement with users/user groups

*In the summer 2012-2013 the main motorised vehicular user groups were contacted in an attempt to encourage voluntary restraint to not use the byway when ground conditions were poor. Representatives of the groups accepted the need for voluntary restraint and acknowledged that the condition of the surface had deteriorated. Motorised vehicular use of the route continued, highlighting the problem that the recognised user groups do not represent many of those who use the route in motorised vehicles. Identifying and engaging with these individual users is very difficult.*

**6.12 Objection Reason 11**

Discriminates against disabled users

*The proposals would prohibit all motor vehicle and horse drawn vehicular users. They do not specifically target or disproportionately affect disabled motorised vehicle users.*

**7.0 Local Member consultation**

7.1 Local members Weardale Councillors John Shuttleworth and Anita Savory have been consulted but have not made any comment.

## **8.0 Recommendation**

- 8.1 It is considered that all alternatives to making a permanent TRO to prohibit motor and horse drawn vehicles have been properly assessed and on balance would not be considered to achieve the purposes for making the TRO as set out in section 1(1) of the Road Traffic Regulation Act 1984. Nor is the Council obliged to make an Order which is less restrictive.
- 8.2 In determining the reasons for making the proposed prohibition it is considered that the criteria set out for the making of the proposed TRO have been properly assessed. It is therefore RECOMMENDED that the Committee endorses the Director of Regeneration and Economic Development's proposal to proceed with a permanent prohibition of motor vehicles and horse drawn vehicles.

## **Background Papers**

Relevant documentation held in members' library

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<b>Contact:</b>	<b>Audrey Christie</b>	<b>Tel: 03000 265332</b>
	<b>John McGargill</b>	<b>Tel: 03000 263578</b>

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## **Appendix 1: Implications**

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**Finance** – Costs of the implementation of the scheme will be funded through the Council's Rights of Way revenue budget.

**Staffing** – The proposal and its implementation will be managed by the Access and Rights of Way Team

**Risk** – There are minimal risks associated with this proposal

**Equality and Diversity / Public Sector Equality Duty** - It is considered that there are no Equality and Diversity issues to be addressed.

**Accommodation** – No impact

**Crime and Disorder** – It is not considered that the TRO would have any notable impact on crime and disorder although it would create an offence to drive along the byway with a motor vehicle or horse drawn vehicle. The introduction of a permit scheme to identify exempt drivers will enable more effective enforcement. The Police are the enforcement agency for driving offences and they have not objected to the proposals.

**Human Rights** – Although the right to drive a motor vehicle or horse drawn vehicle along the byway will be prohibited this is a proposal that can be introduced by the Highway Authority using primary UK legislation. It is considered that the proposal would not be a breach of human rights.

**Consultation** – in accordance with SI:2489

**Procurement** – Work to be carried out by Highways Operations

**Disability Issues** – The proposals will prohibit the drivers of all motor vehicles and horse drawn vehicles from proceeding along the byway and does not specifically target or disproportionately affect disabled drivers.

**Legal Implications** – The proposals have been considered in accordance with the legislation described in the report.

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## Legislation referred to in the report

### **Section 66 of the Wildlife and Countryside Act 1981**

The term byway is defined in section 66 of the Wildlife and Countryside Act 1981 as a highway over which the public have a right of way for vehicular and all other kinds of traffic but which is used mainly for the purpose for which footpaths and bridleways are used.

### **Section 1 of the Road Traffic Regulation Act 1984**

Section 1 of the Road Traffic Regulation Act 1984 (the 1984 Act) makes provision for traffic regulation orders outside Greater London where it is appropriate for one or more of the purposes set out in that section.

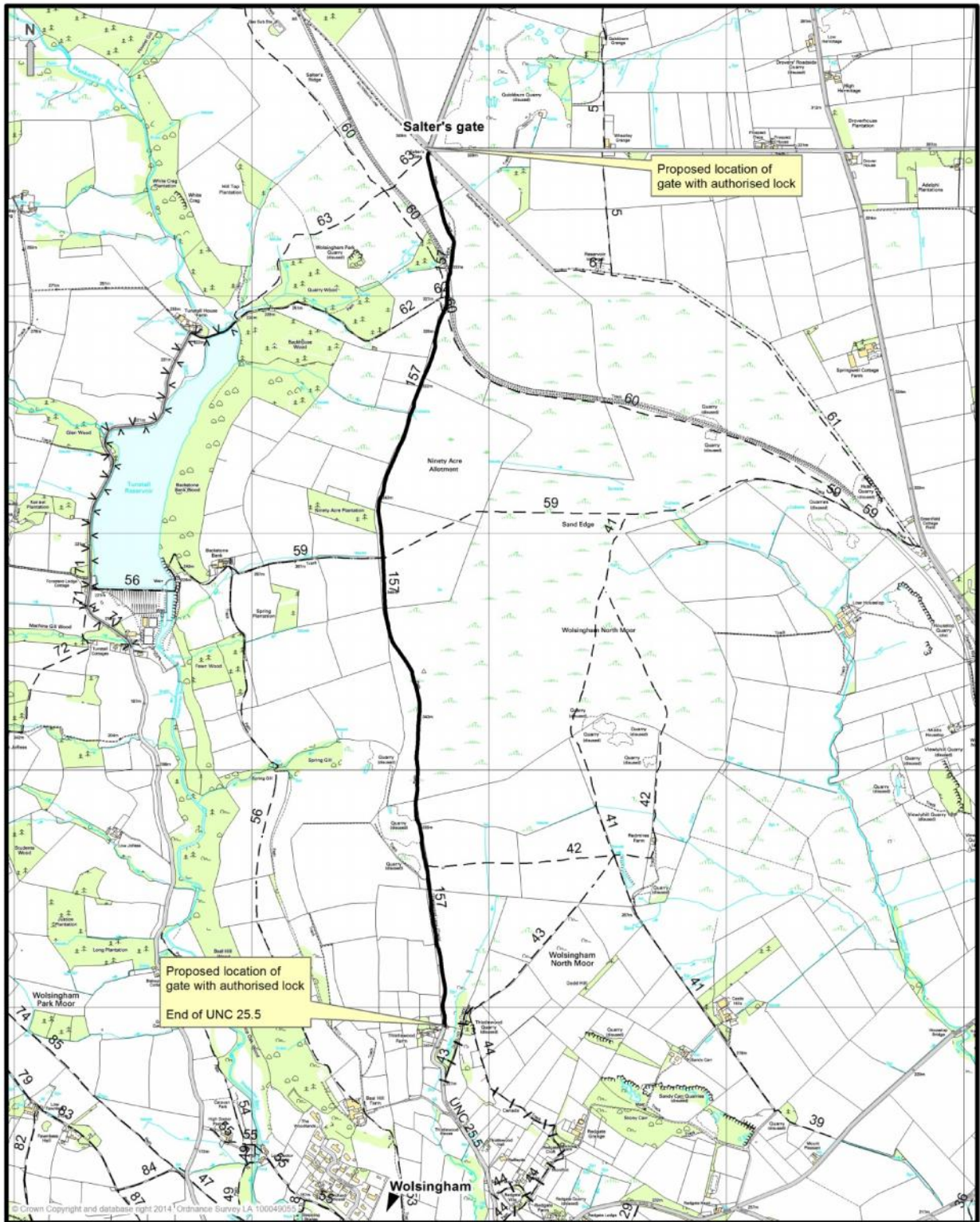
- (1) The traffic authority for a road outside Greater London may make an order under this section (referred to in this Act as a 'traffic regulation order') in respect of the road where it appears to the authority making the order that it is expedient to make it –
  - a for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising, or
  - b for preventing damage to the road or to any building on or near the road, or
  - c for facilitating the passage on the road or any other road of any class of traffic (including pedestrians), or
  - d for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property, or
  - e (without prejudice to the generality of paragraph (d) above) for preserving the character of the road in a case where it is specially suitable for use by persons on horseback or on foot, or
  - f for preserving or improving the amenities of the area through which the road runs; or
  - g for any of the purposes specified in paragraphs (a) to (c) of subsection (1) of section 87 of the Environment Act 1995 (air quality).


### **Section 122 of the Road Traffic Regulation Act 1984**

In exercising its functions under the 1984 Act, Section 122 of this Act imposes other duties on authorities. It reads:

- (1) It shall be the duty of every local authority upon whom functions are conferred by or under this Act, so to exercise the functions conferred on them by this Act as (so far as practicable having regard to the matters specified in subsection (2) 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, or, in Scotland, the road.
- (2) The matters referred to in subsection (1) above as being specified in this subsection 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 road runs;
  - bb the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy)
  - 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

Plan showing the location of Wolsingham Byway 157



 <p>IAN THOMPSON CORPORATE DIRECTOR REGENERATION AND ECONOMIC DEVELOPMENT DURHAM COUNTY COUNCIL COUNTY HALL DURHAM DH1 5UQ</p>	<p><b>Wolsingham Byway No. 157</b> <b>Proposed Traffic Regulation Order</b> <b>Prohibition of Motor Vehicles and Horse Drawn Vehicles</b></p>	<p>Byway subject to the proposed Traffic Regulation Order</p> <hr style="border: 1px solid black; width: 100px; margin: 0 auto;"/> <p>Scale: 1:15,000</p> <p>Postcode: DL13 4JP (North) DL13 3HG (South)</p>	<p>Public Rights of Way / Highways not affected by the proposal</p> <p>--- Footpath  --- --- --- --- ---  Bridleway V V V V Byway A A A A Adopted Highway</p>
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**The County Council of Durham (Byway No. 157 (Hexham Lane) Wolsingham)  
(Prohibition of Motor Vehicles (except permit holders) & Horse Drawn  
Vehicles) Order 2014**

## Responses to the consultation

Key to the reasons for objecting

Objection Reason (as detailed in paragraph 6 of the report)	Summary of objection reason	Number of representations
1	Other types of management are more appropriate e.g. restricting weight of vehicles, seasonal prohibition, width restriction, number of wheels restriction. Motor bikes do not cause the damage of 4WDs	107
2	Valued part of local byway network	85
3	Test improvements carried out before prohibiting motor vehicles	45
4	Loss of a limited legal historic resource	57
5	Motor cyclists have a lighter impact or no greater impact than horses. Motor cyclists being discriminated against	29
6	The Council has a duty to maintain the byway	49
7	Negative impact on local economy and tourism	27
8	The condition of the route is safe	16
9	Use volunteers for maintenance	17
10	More engagement with users/user groups	26
11	Discriminates against disabled vehicle users	13

## Summary of objectors and their reasons

Objector/s	Organisation (where on behalf of)	Response reason/s	Objector/s	Organisation (where on behalf of)	Response reason/s
1		1,3	43		6
2		8	44		2
3		2	45		1
4		10	46		1,3
5		2,7,9	47		1,4
6		1,3	48		4,6
7		4,7	49		4,5
8		7	50		2,4
9		2	51		4
10	Cheviot Bogbashers	1,2,3,4,5,	52		8
11		4	53		1,4,5
12		1,2,3	54		1,5
13		2,6,9,10,	55		4,6,11,9,10
14		6,7	56		6
15		2	57		2,6,7
16		1,2,5,7	58		4,6
17		1,2,7	59		1,2,3
18		1,3	60		1,5
19		6	61		6
20	GLASS	6	62		1,2,4,7
21		2	63		1,2
22		2,3	64		2,6
23		1	65		1,2,5
24		2,4,6,9,11	66		2,6,7
25		6	67		1,2,5
26		1,2,5,7	68		2,6,9
27		4	69		2,5,7,11
28		1,2,4,6	70		1,3
29		2,7,9	71		1,5
30		8	72		2,3
31		1	73		1,2,3,4,5,10
32		1,2,5,6	74		1,2,3,11
33		6,8	75		4
34		6,9	76		1,4
35		6,8	77		1,3
36		1,2	78		1,2,3,5,6
37		4,6,7	79		7
38		6,11	80		1,4
39		5,11	81		2,4,9,10,11
40		8	82		6,10
41		2	83		1,2,3,5
42		2	84		1,2,7

<b>Objector/s</b>	<b>Organisation (where on behalf of)</b>	<b>Response reason/s</b>	<b>Objector/s</b>	<b>Organisation (where on behalf of)</b>	<b>Response reason/s</b>
85		1	130		1,2,3,5
86	TRF	1,2,10	131		1
87		1,2	132		2,7
88		1,3,6,7,9	133		11
89		1,2,4,5	134		1,4
90		1,2,4,5	135		1,3
91		1,2,5,7	136		4,6
92		1,2,4	137		1,6,7,9,10
93		1,2	138		4,6,10
94		1,2,3,4,7,9	139		1,2,3
95		2,6,7,10,11	140		4,6,9,10
96		1,3,4	141		1,2,
97		1,2,10	142		2
98		8	143		1,3
99		2	144		2,3
100	LARA	1,3,10	145		6,8
101		1,3	146		1,3
102		2	147		1,2
103		11	148		1,4
104		1,7,10,11	149		6
105		4,5,10	150		1,2,3,4
106		7	151		4
107		1,2,3,10	152		1,2,3,5
108		4,6	153		2,6,7
109		1,4	154		4,6,8
110		1,3,6	155		7
111		1,4	156		1,3
112		2,3	157		1
113		1,4	158		1,2,3
114		6	159		1,3
115		4	160		1,3
116		4	161		1,2
117		1,10	162		1,2
118		6,4,8	163		1
119		2,7,11	164		4,6
120		1,2,6	165		4
121		6	166		1,10
122		1,3	167		1,4
123		1,6,9,11	168		1,3
124		2,3,5	169		1,3
125		1,5	170		1,4
126		4,6,9,10	171		1,3
127		1,3,6	172		1,2
128		1,2,3	173		8
129		1,2,7	174		8

175		6
176		1,2,5
177		1,2,5,8,10
178		2
179		4
180		8
181		1,2,4,5,
182		8
183		1
184		1,3
185		1,2
186		6
187		1,
188		4
189		2,10
190		1,2,4,5,7
191		1,2,10
192		1,2
193		1,8
194		1,2,4,9,10
195		1,2,3,5,6
196		4
197		1,2
198		2
199		1,4,9,10
200		4,7
201	GLASS	1,4,8,9,10
202		4,10
203		1,2,3,5,6

GLASS = Green Lane Association

LARA = Land Access and Recreation Association

TRF = Trail Riders Fellowship

## Highways Committee

13 March 2015

### Consett Academy, Consett Waiting Restrictions




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## Report of Terry Collins, Corporate Director, Neighbourhood Services

### Councillor Brian Stephens, Cabinet Portfolio Holder for Neighbourhoods and Local Partnerships

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#### Purpose of the Report

- 1 To advise the Committee on representations received to the proposed waiting restrictions around the vicinity of Consett Academy, Consett.

#### Background

- 2 In 2015 Consett Academy, which comprises the schools formally known as Consett Community Sports College and Moorside Community College, will move into a new purpose built campus for 1,700 pupils on a site which lies to the north of Consett Town Centre.
- 3 The site was formally used for a mix of leisure and business related purposes. These included the Belle Vue Leisure Centre, Consett Football Club and Consett and District Rugby Club and their related playing fields. The site also incorporated the site of the former Derwentside District Council Offices.
- 4 Vehicular access to the Academy is to be taken from Ashdale Road. It is also intended to utilise the existing vehicular access arrangement from Medomsley Road, which formally served the Council offices, to serve the proposed leisure centre car park. Pedestrian accesses to the Academy (pupil and visitor) will be provided from an extended paved boulevard off Ashdale Road with a footpath link to both facilities to the northern side of the Academy from Villa Real Road.
- 5 As part of the Planning Approval for the Academy campus a condition was imposed *'That a scheme of traffic management comprising waiting restrictions, and a pedestrian link footpath to the school shall be submitted to and agreed in writing by the Local Planning Authority before development commences. The approved works shall be implemented prior to occupation of the Academy and thereafter maintained in accordance with the agreed scheme'*.

#### Proposals

- 6 The proposed scheme includes the introduction of various waiting restrictions around the vicinity of the Academy, as per Appendix 2, to help deter school

gate parking problems which otherwise would lead to congestion and access problems for all road users.

- 7 The proposal will include the construction of a link footpath on the A691 Villa Real Road to link the Academy to the existing bus stop and footpath infrastructure.

## Consultation

- 8 An informal consultation encompassing all affected properties in the immediate vicinity of the Academy and the statutory consultees was undertaken between the 14<sup>th</sup> April 2014 and 4<sup>th</sup> July 2014. See Appendix 3.
- 9 Of the 134 informal consultation letters sent to properties directly affected by the proposals, a total of 37 responses were received. Of the 37 responses, 18 were in favour of the proposals whilst 19 were against. The remaining consultees who did not respond are deemed to have no preference. A further letter was sent to those who made representation clarifying a number of issues and, as it stands based on the proposal put forward, 34 are in favour of the proposals and 3 remain with representations against the proposal.
- 10 The statutory Traffic Regulation Order consultation took place between the 18<sup>th</sup> December 2014 and 12<sup>th</sup> January 2015. No formal objections were received during this period, however the 3 representations received during the non- statutory consultation have not been withdrawn and are considered below.

## Representation and Responses

- 11 Representation 1

The proposal will force parking onto Medomsley Road affecting residential parking. (1 respondent stated this reason)

*Response: School gate parking is a problematic issue which we are faced with outside of the majority of schools within the County and, indeed, nationally. Unfortunately, this is not an easy issue to resolve. It will be inevitable that some vehicle displacement may occur during the Academy peak times.*

*The restrictions have been designed in order to control and regulate the parking around the new Academy. Undoubtedly, there will be a higher influx of traffic within this area and, as such, parking restrictions will be necessary.*

- 12 Representation 2

Motorists park on the Keep Clear marking now so why waste money and change them to double yellow lines when they don't get enforced.  
(1 respondent stated this reason)

*Response: The areas of no waiting proposed around the vicinity of Bramwell and Walton Terrace are to replace the current Keep Clear markings. The existing Keep Clear markings are advisory and have no legal backing. However, they do give the Police greater support when dealing with motorists*

*who may have parked in an obstructive manner. By changing the advisory Keep Clear markings to double yellow lines gives greater powers of enforcement. The enforcement of will be undertaken by contractors employed on behalf of Durham County Council.*

**13 Representation 3**

This will force people to park in nearby estates i.e. Oakdale, Ashdale and Elmdale causing utter chaos to residents. (1 respondent stated this reason)

*Response: School gate parking is a problematic issue which we are faced with outside of the majority of schools within the County. Unfortunately, this is not an easy issue to resolve. It will be inevitable that some vehicle displacement may occur during the Academy peak times.*

*The restrictions have been designed in order to control and regulate the parking around the most sensitive areas where children will gain access to, and egress from, the Academy. The extent of the restrictions has been determined to balance the needs of residents and other road users whilst focusing on road safety for pedestrians.*

**Statutory Representations**

**14** The Statutory Notice for the implementation of the waiting restrictions was advertised on site and in the local press between the 18<sup>th</sup> December 2014 and 12<sup>th</sup> January 2015.

**15** Durham Constabulary, the North East Ambulance Service and Pat Glass MP responded to the consultation giving their support to the proposals.

**Local Member Consultation**

**16** Local Councillors Owen Temple and Alex Watson have been consulted and have not commented on the scheme.

**Recommendations and reasons**

**17** It is recommended that the Committee having considered all the representations on this proposal agree to the Corporate Director proceeding with the implementation of the waiting restrictions, as per the plan in Appendix 2.

**Background papers**

**18** Correspondence on Office File.

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**Contact: Brian Buckley Tel: 03000 268097**

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## **Appendix 1: Implications**

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**Finance** – The ‘Building Schools for the Future’ project is funding the highway / traffic management works

**Staffing** – None

**Risk** – If the scheme was not to proceed there is a risk that road safety would be compromised

**Equality and Diversity / Public Sector Equality Duty** – None

**Accommodation** – None

**Crime and Disorder** – None

**Human Rights** – None

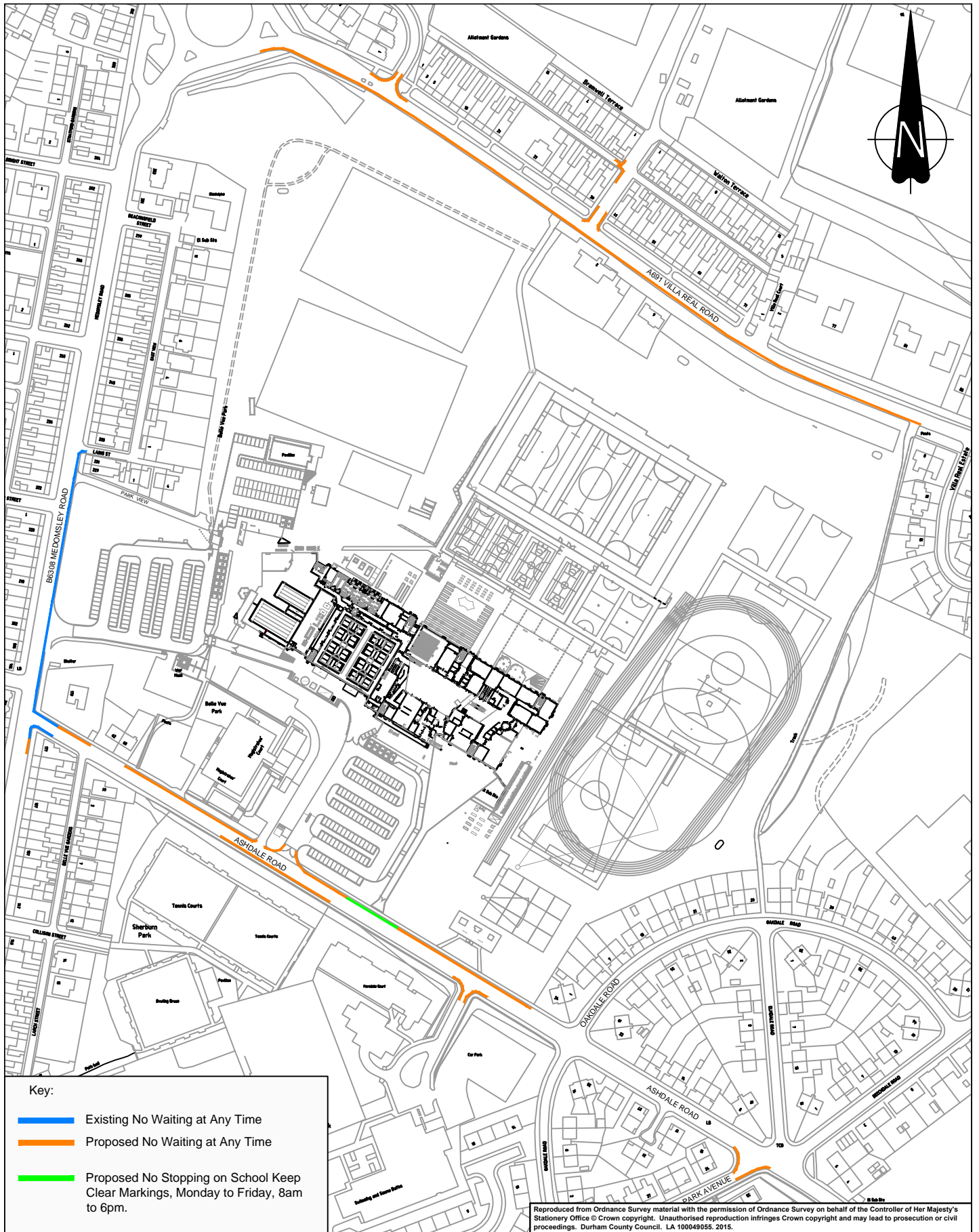
**Consultation** – As described in the report

**Procurement** – Works to be delivered by Highway Services

**Disability Issues** – None

**Legal Implications** – The measures are being introduced in accordance with the current legislation





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Rev/ Amdt	Approved By			Description Of Amendments
	Name	Date	Sign	
0/-	S.Jones	16 Feb 15	<i>S. Jones</i>	

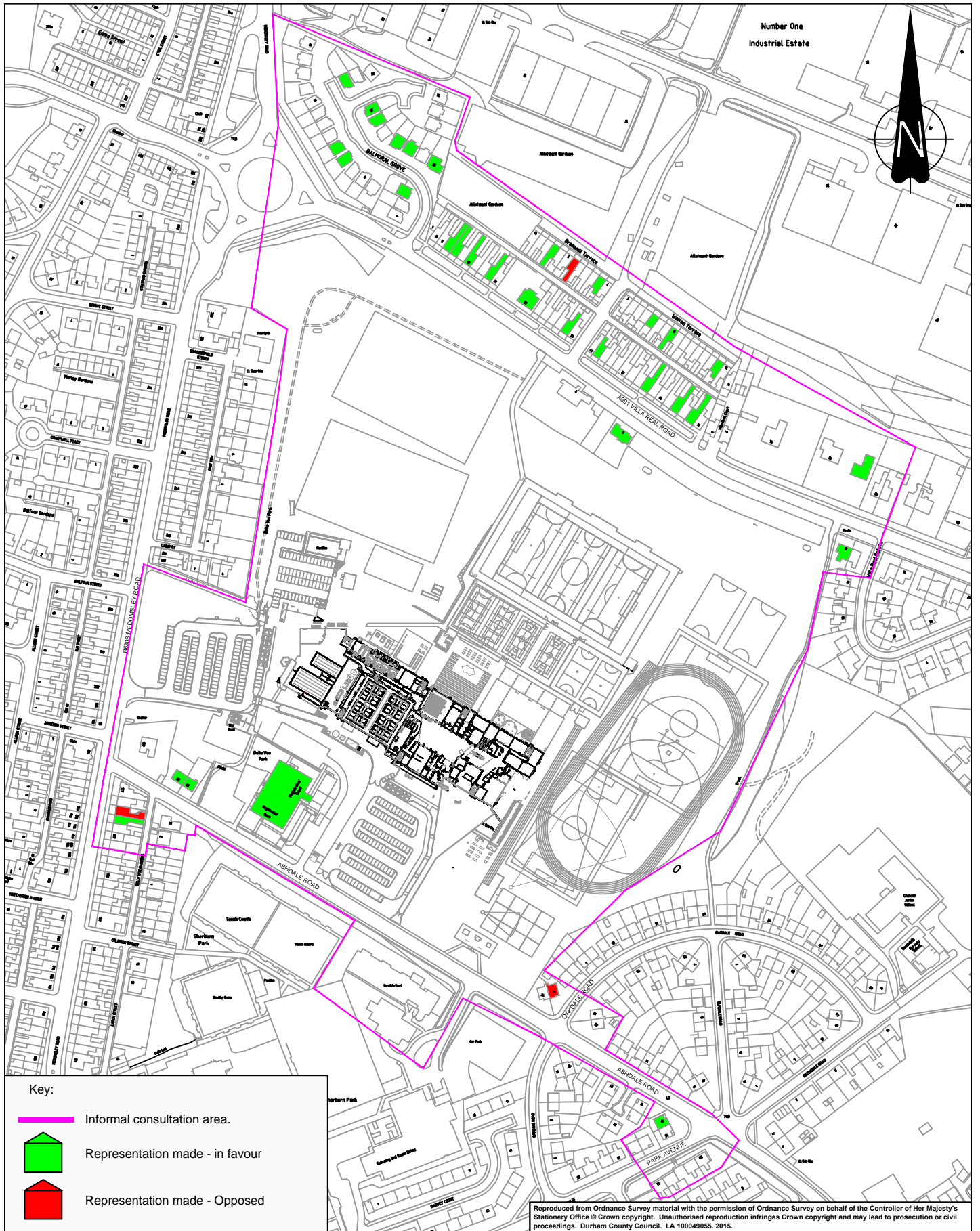
Approved By			Description Of Amendments
Name	Date	Sign	
S.Jones	16 Feb 15	<i>S. Jones</i>	

**Durham**  
County Council

Terry Collins  
Corporate Director  
Neighbourhood Services  
County Hall  
Durham  
DH1 5UQ

Project Consett Academy	
Drawing Appendix 2 - Proposed Waiting Restrictions	
A4 Portrait Scale NTS	Project/Drawing No.  Page 31 Rev.

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Number One Industrial Estate



**Key:**

- Informal consultation area.
- Representation made - in favour
- Representation made - Opposed

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**Durham**  
County Council

Terry Collins  
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Neighbourhood Services  
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Project Consett Academy	
Drawing Appendix 3 - Consultation Area	
A4 Portrait Scale NTS	Project/Drawing No.
Page 33 <small>REV.</small>	

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