

CABINET
11 OCTOBER 2022

CONSIDERATION OF OBJECTIONS TO TRAFFIC ORDERS ON CONISCLIFFE ROAD

Responsible Cabinet Member – Councillor Andy Kier, Local Services Portfolio

Responsible Director – Dave Winstanley, Group Director of Services

SUMMARY REPORT

Purpose of the Report

1. To advise Members of three objections received to a proposal for waiting restrictions on Coniscliffe Road and to seek a decision on whether to proceed with the proposal.

Summary

2. Pavement cafés have been in place on Coniscliffe Road since the Summer of 2020. They were initially implemented as a response to the reopening of hospitality businesses after the first COVID-19 lockdown.
3. Government enacted the Business and Planning Act 2020 on 22 July 2020 to enable local authorities to make provision for outdoor dining due to the restrictions on indoor eating and drinking.
4. Coniscliffe Road was one of the areas identified where outdoor dining could be accommodated and that would be of benefit to the local hospitality businesses. The road was subsequently closed to enable tables and chairs to be placed on the carriageway.
5. An experimental order was put in place to facilitate the closure and associated changes to waiting and loading restrictions. The order was reviewed 12 months later, and the outcome of the review was that the pavement cafés were well supported, but changes were put in place to enable the road to be partially reopened.
6. The northern side of the carriageway was closed to traffic and pavement café areas were set out, initially with water filled barriers and latterly with concrete planters. This side of the road was previously used as a bus lane and consequently had very little traffic. The southern side of the carriageway has been reopened to traffic, one-way in a westerly direction. A plan is attached showing the restrictions that are currently in place **Appendix 1**.
7. Cyclists entering the town are required to divert along Northumberland Street but will use the one-way system travelling away from the town.

8. Bus services use an alternative route along Victoria Road and Feethams.
9. Experimental orders can last up to 18 months, at which time a decision has to be made as to whether to make the changes permanent or not. The current arrangement has generally worked well for businesses, and we therefore propose to make the current restrictions permanent. We gave notice of this proposal on 22 August 2022.
10. We have received three letters of objection. Two from one business on Coniscliffe Road, Dr. Inks, one from the owner and the other from the general manager. The other from Cushman and Wakefield on behalf of the Court and Tribunal Service.
11. The nub of the objections from Dr. Inks is that Dr. Inks considers that it is at a commercial disadvantage because they do not have access to a pavement café and that this has affected takings. They would like a full road closure so that they can have tables and chairs outside their establishment.
12. The objection from Cushman and Wakefield relates to access for maintenance and public behaviour.
13. Dr. Inks did have outdoor seating when the full road closure was in place prior to March 2022. In order to have an outdoor café under the current arrangement, with a live westbound traffic lane, they would need to have access to toilets on the north side of the road. The café licence policy does not permit pavement cafés where customer have to cross roads to access toilets. Food/drinks can be served to tables by suitably trained staff.
14. Dr. Inks did have an informal arrangement with businesses on the north side of the road whereby their customers could use these businesses toilets, but this arrangement is not now in place, and they do not currently have access to a pavement café. They do have a beer garden/yard to the rear of their property.
15. The matters raised by Dr. Inks are not on traffic and are considered more relevant to the pavement café policy. The points raised are however noted.
16. The matters raised by Cushman and Wakefield are a combination of access issues and public behaviour issues. The access issue can be dealt with by amending the position of the planters. The other issues are considered more relevant to the pavement café policy. The points raised are however noted.
17. The road was originally closed after the initial COVID-19 lockdown when traffic levels were very low and just prior to town centre shops being permitted to open. At the time, the priority was to enable hospitality businesses to reopen whilst maintaining the 2m social distancing between groups or individuals. This necessitated the full closure of the road due to the additional space required for social distancing.
18. COVID-19 restrictions have now been removed. Coniscliffe Road acts as an egress point for Grange Road customers/service vehicles and provides access to a number of residential properties and it is therefore important that the road remains open to traffic.

19. It is felt that the current layout provides a balance between providing outdoor seating/hospitality areas and also fulfils the Highway Authorities duty under Section 122 of the Road Traffic Regulation Act 1984 to secure the expeditious, convenient and safe movement of vehicular and other traffic.
20. The one-way system for traffic secures and maintains reasonable access to premises by all modes of travel and provides access to suitable loading facilities for businesses.

Recommendation

21. It is recommended that Members consider the objections, set them aside and authorise officers to make the changes permanent, as shown on the plan Appendix 1.

Reasons

22. The recommendation supports the provision of pavement cafés in accordance with the Town Centre Strategy and the Council’s pavement café policy.
23. It will maintain traffic flow in accordance with our duty under the Road Traffic Regulation Act 1984.

Dave Winstanley
Group Director of Services

Background Papers

No Background papers were used in the preparation of this report

Andy Casey: Extension 6701

S17 Crime and Disorder	The outdoor eating and drinking areas will be subject to a drinks licence and pavement café licence which can be withdrawn if there is misuse or disorder issues.
Health and Wellbeing	There are no direct implications
Carbon Impact and Climate Change	There are no significant impact implications in this report
Diversity	There are no direct implications
Wards Affected	Park East, Park West
Groups Affected	All
Budget and Policy Framework	This decision does not represent a change to the budget and policy framework
Key Decision	This is not a key decision.
Urgent Decision	This is not an urgent decision.
Council Plan	No significant implications.
Efficiency	No significant implications.
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers

MAIN REPORT

Information and Analysis

24. In March 2021 the Government set out a road map for supporting the reopening of outdoor hospitality to enable hospitality businesses to reopen whilst reducing the risk of COVID-19 transmission.
25. On 22 July 2020 Government enacted the Business and Planning Act 2020. These temporary provisions enabled Local Authorities to provide pavement licences to facilitate pavement cafés on the highway. Initially the provisions of the Act were due to cease in September 2021 but were extended to 30 September 2022.
26. An experimental traffic order was implemented, in accordance with the provisions above, to facilitate outdoor dining for the hospitality businesses on Coniscliffe Road. The Order is made pursuant to sections 9 and 10 of the Road Traffic Regulation Act 1984. In compliance with section 1 of the Act it is considered expedient to make the Order for the following reasons:
 - (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; and
 - (b) for preserving or improving the amenities of the area through which the road runs.
 - (c) Full regard is also given to the Council's duty under Section 122 of the Road Traffic Regulation Act 1984 to secure the expeditious, convenient and safe movement of vehicular and other traffic.
27. Coniscliffe Road was originally closed after the initial COVID-19 lockdown when traffic levels were very low and just prior to town centre shops being permitted to open. At the time the priority was to enable hospitality businesses to reopen whilst maintaining the 2m social distancing between groups or individuals. This necessitated the full closure of the road due to the additional space required for social distancing.
28. COVID-19 restrictions have of course now been removed and the town centre has returned to normal.
29. The experimental order was reviewed on 28 March 2022. The review considered that there was a good level of uptake from the hospitality businesses fronting onto the road closure to provide al fresco dining and that the arrangements should continue with some amendments to the traffic arrangements.
30. Prior to the introduction of the pavement cafes, the northern carriageway of Coniscliffe Road was designated as a bus lane (which allows taxis and cycles) to access the town centre and serve the existing bus stop on Houndgate. Since the start of the pandemic and introduction of social distancing measures in the town, the bus lane and bus stop on Houndgate has not been operational. Bus services have been rerouted along Victoria Road and Feethams.

31. The southern carriageway of Coniscliffe Road permitted all traffic movements heading west out of town and also provided loading space to serve local businesses and a taxi rank between the hours of 8.00pm-6.00am, though the taxi rank was only sporadically used by the trade.
32. Experimental orders can last up to 18 months, at which time a decision has to be made as to whether to make the changes permanent or not. The current arrangement has generally worked well for businesses, and we therefore propose to make the current restrictions permanent. We gave notice of this proposal on 22 August 2022.
33. We have received three letters of objection. Two from one business on Coniscliffe Road, Dr. Inks, one from the owner and the other from the general manager. The third is from Cushman and Wakefield representing the Court and Tribunal Service. The objections and officer responses are provided in the table below:-

	Objection	Officer Comment
Owner of Dr. Inks	We occupy Dr.inks, 3 Coniscliffe Road, Darlington and have been heavily financially impacted by the inability to use outdoor seating on the opposite side of the road as we have no toilets to use, compared to our competitors who have enjoyed outdoor seating all Summer, with increased revenue. Our takings are down by 31%. We are at a significant commercial disadvantage.	The commercial aspect of the comments are noted and relate to business matters, rather than on traffic grounds. We have worked with the business and other businesses to try enable them to have a café licence but other businesses have withdrawn their offer of use of toilets and Dr. Inks cannot now meet the requirements of our pavement café licence.
General Manager of Dr. Inks	I believe we are at a unfair disadvantage been on the opposite side of the road. As you may be aware when Coniscliffe Road received the concrete barriers we we're given our seating and fencing after I submitted a form and layout plan, a few weeks later I received a letter stating we were in breach of our licence by operating a pavement café while a live carriage way was operating. Myself and the owner John Taylor have had meetings and sent letters/emails back and forth to licencing and highway in the past few month. I strongly recommend a closure of Coniscliffe Road like it was before especially if the road is due to be	We have tried to work with Dr. Inks to enable them to retain a pavement café but the fact that customers would have to cross a live traffic lane to access toilets means that they would breach the pavement licence policy. Coniscliffe Road is a public highway and as such its primary role is for the pass

	<p>pedestrianised next year, to John he can see that our takings are effected but to myself and staff we are constantly having to explain to customers why we don't have seating, we are having to refund drinks when the customer realises they can't take their cocktail and sit across the road in another bars area and it's hard to watch the other bars thrive as customers sit and enjoy drinks in the nice weather while our plot sits empty giving off "unpopular vibes" or that we don't want the custom so we chose not to put seating out. The bars on that side have increased their opening hours because the street seating is so popular.</p> <p>We have put in TENs over the past few weeks by having the bar in our area which worked really well however getting permission to use the toilet from the bars on that side became very difficult because they didn't want to be dragged into the conflict over the street seating and unfortunately Jubilee and the last bank holiday we managed to get permission which I was thankful for however, having to pretty much beg to a competing bars isn't a good look and its slightly degrading for myself and the business.</p>	<p>and repass of members of the public. We have a duty under the Traffic Management Act 2004 to maintain traffic flow. The westbound lane on Coniscliffe lane provides an egress point for Grange Road customers and deliveries as well as residents in Coniscliffe Road. We would not recommend a full closure at this time.</p>
<p>Cushman and Wakefield</p>	<p>These blocks make it impossible for HMCTS to contract cherry pickers or hiabs to clean the gutters in an area plagued by trees. As HMCTS have not been able to clean the gutters as needed since the restrictions were imposed , this has led to significant rain damage in the past 12 months which have been expensive to repair.</p> <p>Narrowing the main public road also makes maintaining the roof and carrying out repairs difficult. Unfortunately, access is further curtailed at the rear of the court, which is a private road, so the erection of scaffolding to carry out the</p>	<p>It is proposed to alter the position of the eastern most planter to be in line with the boundary of number 14 and the County Court. This will allow sufficient room for access to maintain the property.</p> <p>As above.</p>

	<p>gutter cleans and roof repairs is not possible.</p> <p>As members of the public attending Court gather at the seating area before and after hearings, there is a level of danger for any members of HMCTS staff (especially judges) who are recognised walking past. This is a major concern for HMCTS and would like to avoid any future altercations.</p> <p>The noise level outside the Court has increased since the seating was installed, causing distraction from the work being undertaken in the Court.</p> <p>There has been an increase in anti-social behaviour and members of HMCTS staff have experienced a few instances of sick at the staff door, which then must be cleaned.</p>	<p>This comment is noted, however it is not on traffic grounds. The Council has a policy on café licences and has powers relating to licencing of premises which can deal with issues of this nature.</p> <p>As above.</p> <p>As above.</p>
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34. Dr. Inks did have outdoor seating when the full road closure was in place prior to March 2022. In order to have an outdoor café under the current arrangement, with a live westbound traffic lane, they would need to have access to toilets on the north side of the road. The café licence policy does not permit pavement cafes where customer have to cross roads to access toilets. Food/drinks can be served to tables by suitably trained staff.
35. Dr. Inks did have an informal arrangement with businesses on the north side of the road whereby their customers could use these businesses toilets but that relationship has broken down and they do not currently have access to a pavement café. They do have a beer garden/yard to the rear of their property.
36. The matters raised by Dr. Inks are commercial matters rather than on traffic grounds. They are more relevant to the pavement café policy. The points raised are however noted.
37. The matters raised by Cushman and Wakefield are a combination of access issues and public behaviour issues. The access issue can be dealt with by amending the position of the planters. The other issues are considered more relevant to the pavement café policy. The points raised are however noted.
38. The road was originally closed after the initial COVID-19 lockdown when traffic levels were very low and just prior to town centre shops being permitted to open. At the time the priority was to enable hospitality businesses to reopen whilst maintaining the 2m social distancing between groups or individuals. This necessitated the full closure of the road due to the additional space required for social distancing.
39. It is felt that the current layout provides a balance between providing outdoor seating/hospitality areas and also fulfils the Highway Authority's duty under the Road Traffic Regulation Act 1984 to

secure the expeditious, convenient and safe movement of vehicular and other traffic.

40. The one-way system for traffic secures and maintains reasonable access to premises by all modes of travel and provides access to suitable loading facilities for businesses.
41. Subject to Cabinet approval, the restrictions will be introduced in accordance with the Council's powers as set out in Part 1 of the Road Traffic Regulations Act 1984.

Financial Implications

42. The proposal will be funded from the town centre management budget.

Legal Implications

43. The traffic orders have been statutorily advertised for the required period.

Consultation

44. Businesses and residents have been consulted and three objections were initially received.

Outcome of Consultation

45. One of the objections, from a resident has been withdrawn. Two objections from Dr. Inks and one from Cushman and Wakefield remain and are the subject of this report.