

REPORT TITLE: Objection report – Traffic Regulation No 2 Order 2024

Meeting:	Cabinet Committee – Local issues
Date:	15th April 2025
Cabinet Member (if applicable)	Councillor Munir Ahmed
Key Decision Eligible for Call In	Yes
Purpose of Report: To approve the making of the Kirklees Council (Traffic Regulation) (No 2) Order 2024 , as advertised (with motorcycle permits), and for it to be implemented on site as soon as possible.	
Recommendations To approve the making of the Kirklees Council (Traffic Regulation) (No 2) Order 2024 , as advertised (with motorcycle permits), and for it to be implemented on site as soon as possible.	
Reasons for Recommendations To avoid the risk of further significant damage to the routes, as approx. £300k has been spent, over 3 years, on repair work, to counteract the damage caused by 4 wheeled vehicles. The permit scheme to be implemented allows for safer use of the routes by some motorised vehicles (landowners/business owners and motorcyclists with a permit), ensuring that some users still have a legitimate opportunity to use the routes, whilst limiting others who are causing substantial damage to the environment. For the reasons set out in the report the objections that remain are outweighed by the above advantages	
Resource Implications: If the objections are not over ruled and implemented as advertised, the Service will continue to expend large sums of Council revenue keeping these routes in a fit and proper state for legitimate users, neither will we be able to improve safety or protect the rural environment. If those objections relating to the introductions of permits for some legitimate use are upheld, it will limit the opportunity to manage users, as, because access has to be maintained for horse rider access, motorcycle access will remain available – the implementation of permits will allow enforcement of unregistered users, and the ability to remove permits if standards of behaviour are not maintained.	
Date signed off by <u>Executive Director:</u> <u>David Shepherd</u>	11/03/2025
Is it also signed off by the Service Director for Finance: <u>Kevin Mulvaney</u>	12/03/2025
Is it also signed off by the Service Director for Legal and Commissioning (Monitoring Officer): <u>Sam Lawton</u>	31/03/2025

Electoral wards affected: Holme Valley South

Ward councillors consulted: Cllr Jane Rylah, Cllr Moses Crook, Cllr Damian Brook

Public or private: Public

Has General Data Protection Regulation been considered: Yes

1. Executive Summary

- 1.1 The routes affected by this TRO proposal (Appendix 1 – TRO plans) are a mix of rural highways, Byways Open to All Traffic (BOAT's) and Bridleways, and they are subject to increased vehicular use by pleasure drivers, and 4 x 4 vehicles. This is considered to be a nuisance and causing danger to other legitimate by way users. This use has also caused direct damage to the routes, and subsequent secondary damage to the surrounding landscape such as blocked streams, damaged walls, etc.
- 1.2 The police have been asked on numerous occasions to deal with this issue using existing legislation, however the problem has persisted.
- 1.3 The Council has also been asked on numerous occasions to deal with this issue and considers that the most appropriate way forward is to create a prohibition of driving (except for emergency vehicles and permit holders) for the above roads. It is believed that it is appropriate to take action in this way as this will allow for:
 - Avoiding danger to persons or traffic;
 - Preventing damage to the road or to buildings nearby;
 - Facilitating the passage of traffic;
 - Preserving the character of a road especially suitable for walking or horse riding.
- 1.4 The proposals were formally advertised from 18 September 2025 to 16 October 2024 and during that time 14 objections were received.

This report seeks to give a summary of the objections received to the proposed Traffic Regulation Order (TRO) – 'TRO No 2 of 2024' – Various Roads in Holmfirth. The extent of the prohibition of driving can be found on the plans in Appendix 1.

2. Information required to take a decision

- 2.1 There are 14 formal objections in total to the proposed TRO.
- 2.2 The objections are summarised in Appendix 2 and the objection for each can be found in full, in Appendix 3.

2.3 The objections from three broad categories:

- 2.3.1 Lack of information about the permit scheme.

Response

When initial consultation was undertaken, representation was received from organisations supporting motorcycle riders, asking for the opportunity to legitimately use these routes.

Following discussions, the decision was taken to include a permit scheme to allow usage by motorcyclists, whilst holding them to account for their behaviour by means of a Code of Conduct and a permit that can be withdrawn, should they not follow that code.

The revised proposals was not subject to further consultation prior to the TRO being advertised and it is this aspect of the TRO that is raising concern. Some objectors feel their response would have been different, when initially consulted on.

The need for further consultation was not felt necessary, as the TRO was to be publicly advertised, and those previously consulted would be informed of their opportunity to further comment, should they wish to.

So, whilst supporting the principal of the prohibition of driving on several routes the objectors feel without seeing the permit scheme details there will still be an opportunity for 2 and 4 wheeled vehicles to be able to gain a permit to use these routes.

It is not intended to permit use of these routes by 4 wheeled vehicles with the exception of business / landowners, who have a right of access, maintenance and emergency vehicles.

The permit scheme seeks to limit the use to 2 wheeled vehicles and then to only those that sign up to the code of conduct, of which a draft version is in Appendix 4.

The permit scheme will monitor the number of legal motorcycle users on these routes and strengthen the case for governing bodies to act against any illegal users. The permit scheme also requires permit holders to sign up to a code of conduct which encourages and expects safe motorcycle use of the routes, strengthening capacity to manage anti-social driving which goes against the code of conduct associated with the permit.

If implemented as advertised, and the permit scheme applied, damage to the route will be monitored and further action taken should this be found to be necessary.

2.3.2 Objection to the prohibition of driving for all vehicles on these routes.

Response

A number of objections have come from motorbike riders who believe they should be allowed to ride these routes. Their understanding is that the prohibition of driving will ban them from doing so.

It is proposed that the prohibition of driving will have exemptions for motorbike riders if they are successful in their permit application and are willing to sign up to and abide by a code of conduct as shown in Appendix 4.

The permit scheme seeks to monitor the number of legal motorcycle users on these routes and strengthen the case for governing bodies to act against any illegal users. So rather than preventing access for these objectors, in the right circumstances, they can still enjoy their pursuits on these routes.

2.3.3 Concern that an important section of route has been missed off the prohibition of driving.

Response

Appendix 1 shows the extent of all the prohibition of driving routes proposed under this traffic regulation order. However, two objectors believe that an additional section should have been included.

One objector stated “the TRO as drafted does not cover the western end of Scaly Gate or the southern end of Scar End Lane, the sections of these roads where recreational motorists (mainly motorcyclists) access unenclosed moorland I think you should include these sections of the roads in the TRO, i.e. the 85 metres of Scar End Lane between its junction with Scar Hole Lane and the proposed barrier location, and the section of Scaly Gate between the proposed eastern barrier location and its junction with Hirst Lane, Intake Lane and Scar End Lane.”

- 2.4 The extents of the proposed prohibition of driving mirror the temporary traffic regulation order that was introduced previously here to limit any further damage a number of years ago. The Council deem these restrictions effective and so have matched the previous extents of the temporary traffic regulation order to the permanent traffic regulation order.

The start and finish points were aligned to access rights and turnaround points and have worked well during the temporary traffic regulation order has been in effect. If the traffic regulation order is approved officers will monitor the prohibited area and other routes to make sure the restrictions remain effective.

- 2.5 Officers are required to be mindful of Regulation 9 of the 1996 Regulations when objections are received to any order. If that order has the effect of restricting loading and unloading and those parameters set out in within Regulation 9 (3) are met, in full, then a Public Enquiry will be required to determine those objections. With this in mind, it has been established that none of the objections received relate to loading and unloading and as such under Paragraph 9(3), the objections are not relevant and there is no mandatory requirement for a public enquiry

Regulation 9 then gives the Council the discretion to hold a Public Enquiry to determine any and all other objections. Given that the hearing and determination of objections in Kirklees, is done in a public forum, that being Cabinet Committee Local Issues, where the objectors can make representation, Officers are confident that the objections are sufficiently aired, and that no purpose would be served by holding a public inquiry

3. Implications for the Council

3.1 Council Plan

An assessment of the request for permanent restrictions here has been made using the Council’s usual TRO processes which ensures it has been considered in a fair and balanced way.

3.2 Financial Implications

There is the requirement to install 6 concrete barriers at 6 locations via our internal Highways team. Pre-existing gates and locking mechanisms are already installed at 4 other locations. This is therefore considered as a low-cost option to resolve the issue.

Without implementation of restrictions, the £300k investment already made into repairing these routes will be wasted, and additional budget will be required to continually repair damage and sustain these routes, so they are safe for all legitimate users.

3.3 Legal Implications

The Council has a duty under Section 41 of the Highways Act 1980 to maintain highways. The continued use of these routes the subject of the restrictions in the proposed TRO by the types of vehicles now proposed to be restricted would cause damage and the resulting lack of maintenance to these routes could result in notices being issued to the Council, under Section 56, Highways Act 1980 and, ultimately, ruled upon by the Crown Court and financial recompense resulting.

Under Sec 122 of the Road Traffic Regulation Act 1984 the Council has to have regard to

- 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;
- 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

all of which, where relevant, are considered in the report above and below.

Notwithstanding the nature of the objections Officers are satisfied that the TRO has been consulted on and advertised as legally required by the Road Traffic Regulation Act 1984 and the Local Authorities Traffic Orders (Procedure)(England and Wales) Regulations 1996 (1996 Regulations)

As there are unresolved objections remaining under Regulation 9(1) of the 1996 Regulations, the Council must consider whether to hold a public inquiry before approving and making the order objected to. The objections remaining do not give rise to an *obligation* to hold a public inquiry (Reg 9(3) of the 1996 Regulations) but it is still for the Council to exercise its discretion in this respect. This is considered in the report.

3.4 Climate Change & Air Quality

As this scheme aims to significantly reduce the volume of vehicles using the affected area, reduce congestion, and support pedestrians using the area, this will have a positive effect on Climate Change and Air Quality, and is in line with our current Strategy.

3.5 Other (eg Risk, Integrated Impact Assessment or Human Resources)

N/A

4. Consultation Engagement

- The three local ward councillors were consulted on the proposals ahead of the formal TRO process. No concerns were raised relating to the introduction of the TRO from any ward councillors.
- Local residents, and users were consulted initially, and changes were made to the initial scheme as a result, ahead of the proposals being advertised.
- Statutory bodies and local land and business owners were also consulted in line with the Kirklees Council TRO process ahead of the formal public advertisement and no comments were received.
- The public advertisement of the TRO has allowed for objections or support to be received from the wider public.

5. Options considered

- 1) That the objections should be considered outweighed, and the TRO be made and implemented as advertised.
- 2) That the proposals should be re-consulted on, then re-advertised, having allowed people to fully understand the permit scheme details.
- 3) That the objections should be considered to outweigh the advantages, and that the TRO should not be made.

6.2 Reasons for recommended option

The option recommended by Officers is **5(1)** as detailed above. The reasons for this recommendation are as below:

- (i) While some of the objections are related to the permit scheme, the issue appears to be a lack of information for the objectors. The proposed permit scheme will limit access for 2 wheeled vehicles and is designed to prevent any further damage caused by non-essential use of the routes by 4 wheeled vehicles. Putting a formal Traffic Regulation Order in place will mean that only essential vehicular traffic and non-essential users utilising a lesser damaging 2 wheeled vehicle in accordance with a defined code of conduct can utilise the routes.
- (ii) The proposed TRO allows for recreational users to access these routes without the risk of significant, irreversible damage.
- (iii) The proposed TRO permit scheme and code of conduct gives Kirklees Council a level of control over the recreational 2 wheeled motorised users of the route and enables enforcement should this be necessary.
- (iv) No objections have been received stating objections to loading and unloading here but given that the road closures may have an effect on this ability for all drivers, a discretionary Public Enquiry has been considered. Taking this information into account a decision has been taken to follow the Council's best practice whereby the objections will be considered and a decision taken by a constitutional committee with access to the meeting by the public.

Councillor Munir (Portfolio Holder – Environment and Highways) fully supports officer recommendation

7 Next steps and timelines

If the recommended option is taken and the objections are considered as not outweighing the advantages, a timeline will be developed to complete works to set up the permit scheme in line with the installation of vehicle barriers and closing/locking of pre-existing vehicle barriers on these routes.

If the objections are considered to outweigh the advantages, no further action will be taken at this time, and the roads will remain open for all users. The likely result of this is continued complaints from vulnerable users, continued damage to the routes and surrounding environment and continued revenue costs incurred to ensure these routes are maintained in a safe and proper manner.

8 Contact officer: Will Acornley

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9. Background Papers and History of Decisions

N/a

10 Appendices

1. Appendix 1 – TRO plans
2. Appendix 2 – Summarised objections
3. Appendix 3 - Objections in full & redacted
4. Appendix 4 - Code of Conduct

11 Service Director responsible: Katherine Armitage