

Forward Plan reference number: N/A

Report title: Temporary Traffic Regulation Order – Colchester Town Centre Covid-19 Traffic Management Measures	
Report to: Councillor Kevin Bentley, Cabinet Member for Infrastructure and Deputy Leader	
Report author: Andrew Cook, Director, Highways and Transportation	
Date: 15 July 2020	For: Decision
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County Divisions affected: Colchester Abbey	

1. Purpose of Report

- 1.1 Following the Covid-19 pandemic, Essex County Council has responded to government’s request to reallocate road space to people walking and cycling. In Colchester town centre these have been introduced as an emergency notice given the then imminent lifting of movement restrictions. This report asks the Cabinet Member to agree to make a temporary traffic regulation order for the continuation of the scheme for up to 18 months.

2. Recommendations

- 2.1 Agree to make a temporary traffic regulation order under section 14(1) of the Road Traffic Regulation Act 1984 for the restrictions identified in Appendix D for up to 18 months.
- 2.2 Instruct officers produce and consult on a scheme that may be progressed to a permanent scheme subject to a full statutory consultation before the end of the 18 month period.

3. Summary of issue

- 3.1 On 23 May 2020 central government issued additional statutory guidance to local highway authorities entitled “Traffic Management Act 2004: network management in response to COVID-19” requesting authorities to reallocate road space to people walking and cycling, both to encourage active travel and to enable social distancing during the restart of the economy and to acknowledge the fact that public transport will have less capacity. Social distancing in the context of the guidance was identified as primarily referring to the need for people to stay 2 metres apart where possible when outdoors.
- 3.2 Officers of Essex County Council (ECC) and Colchester Borough Council (CCC) liaising with both County and Borough elected members agreed a draft

scheme to be implemented by Essex Highways in order to facilitate social distancing and create a safer town centre environment for pedestrians and cyclists as the “lock down” was relaxed.

- 3.3 The initial scheme was delivered under an immediate notice under section 14(2) of the RTRA 1984 on the grounds of road safety (Appendix A). The government’s guidance recommended “measures should be taken as swiftly as possible, and in any event within weeks, given the urgent need to change travel habits before the restart takes full effect”. A section 14(2) notice may be placed immediately with the restrictions coming into instant effect and may last for a period of 21 days with an option to issue a second notice for 21 days.
- 3.3 Officers and members undertook site meeting and minor alterations and improvements were made to the scheme. A second Public Notice (Appendix B) under section 14(2) was issued dated 30th June 2020 for a further 21 days and incorporating changes from the first Public Notice.
- 3.4 Immediate notices under section 14(2) of the RTRA 1984 do not require a statutory consultation to be undertaken. However, the guidance recommended that “Authorities should seek input from stakeholders”. In order to ensure as full a consultation as possible during the Covid-19 restrictions, ECC created a separate e mail address notified on the public notices and in communications to receive any comments businesses/individuals wished to make. In addition, the Borough Council undertook liaison with business and a communication was issued to frontages and stake holders including disability groups.
- 3.5 There have been 214 comments or questions received to the introduction of the measures and these have been grouped according to topic on the table attached Appendix C.
Of these 110 comments related to access arrangement resulting from the closure of the High Street to through traffic. There have been seven comments “objecting” to the scheme and seven comments praising the scheme. Four comments were concerned in particular with disabled access. Each comment has received a response.
- 3.6 Many of the comments on access were based on a misunderstanding of the original scheme and access to Ryegate Street, Castle Bailey and Museum Street, which can still continue to be accessed via East Hill, Queen St, Culver St East and St Nicolas St. Exit is via East Hill, as it was before the measures.
- 3.7 The restriction on Colchester High Street is a prohibition of through traffic by the creation of a Bus Gate. Normally the categories of ‘exempt vehicles’ who are permitted to use bus gates is restricted to taxis, private hire vehicles and emergency vehicles. However, in order to facilitate the needs of businesses the exemption list to the High Street order has been increased to enable a detailed list of users to continue to use the High Street. This currently stands at access for buses, cyclists, blue badge holders, good vehicles loading and unloading and permit holders these currently include private hire and Deliveroo drivers as well as a private security firm, rapid public health responders, doctors attending medical visits on the High Street and businesses delivering stock to their

premises and collection by car. The range of exemptions to the prohibition make it impossible to enforce by camera as it will be impossible to prove from a photograph whether or not a vehicle was or was not exempt.

- 3.8 The provision for disabled drivers with a blue badge has been unaffected by the restriction as they are permitted through the “gate” in order to use the existing disabled parking spaces within the High Street.
- 3.9 In 2013 the introduction of a restriction on Colchester High Street that displaced disabled drivers with blue badges from parking resulted in a legal challenge being made to the validity of the scheme and the scheme was abandoned.
- 3.10 The introduction of a temporary order will enable officers to monitor and make any minor amendments to the scheme, as traffic levels respond to the “new” normal. It will also enable time for the impact of Covid-19 on shopping habits to be assessed.
- 3.11 Data will be gathered in order to inform decisions on the future of the scheme and whether to progress the scheme to a permanent traffic regulation order, which will require a full public consultation before the temporary traffic regulation order 18 month time frame is completed.
- 3.12 The temporary traffic management measures installed for the emergency section 14(2) notices are required to comply with Chapter 8 of the Traffic Signs Manual. If the temporary order process is approved these temporary features will be replaced by semi permeable features which will improve the look and feel of the scheme. Any permanent scheme will seek to encompass environmental as well as traffic management features.

4. Options

- 4.1 **Option 1:** Following consideration of the comments made approve the request to advertise and make a Temporary Traffic Regulation Order Under section 14(1) of the RTRA 1984 for up to 18 months.
- 4.2 **Option 2:** Do nothing and remove all measures installed on 20 July 2020 as the section 14(2) immediate notice terminates.
- 4.3 Officers recommend Option 1. The scheme has received over 200 comments from members of the public. These are listed in Appendix C with officer responses. The scheme has been extensively scrutinised by officers/engineers and safety auditors and minor changes to signs and layout have been made during the section 14(2) notice period.

5. Next Steps

- 5.1 Seal and advertise the making of the Temporary Orders under section 14(1) of the Road Traffic Regulation Act 1984.

6. Issues for consideration

- 6.1 Traffic levels are continuing to rise since the relaxation in “lock-down” and to be effective measures needed to be in place to facilitate the governments expected shift towards sustainable transport including cycling and walking before traffic levels reach their pre Covid-19 levels.
- 6.2 The Essex Speed Management Strategy published in 2010 does not permit the introduction of 20 mph speed limits on roads classified as PR1 in the County Route Network and the Essex Traffic Management Strategy published in 2005 gives priority to motorised vehicles on the identified PR1 and PR2 networks. These documents have been identified as requiring a detailed review in order to ensure that they are compatible with the emerging central government sustainable transport agenda. High Street and St John’s Street are both classed as PR2 in the county route network the remaining roads under consideration are classed as local roads.
- 6.3 High Street, Colchester has been closed to through traffic to facilitate social distancing and the restart of the local economy. However, the proposal is to allow access for buses, cyclists, blue badge holders, good vehicles loading and unloading and a selection of permit holders these currently include Uber and Deliveroo drivers as well as a private security firm, rapid public health responders and doctors attending medical visits on the High Street and businesses undertaking delivery and collection by car. These exemptions to the prohibition make it impossible to enforce by camera. Previous cases considered by the Traffic Penalty Tribunal have demonstrated that multiple exemptions challenge the ability to enforce a “Bus gate” and challenges to penalty Charge Notices have been upheld. Unless a valid permit scheme is introduced and managed it is unlikely that the restriction could be enforced by the Police by the issue of a fixed penalty notice should their resources permit any enforcement action.
- 6.4 The High Street closure is supported by additional traffic management measures on adjoining roads as detailed in Appendix B. George Street, East Stockwell Street and West Stockwell Street have all had a prohibition of entry placed on them from the High Street, in order to prevent access from the High Street. St John’s Street is subject to a one way order east to west. In addition a number of 20 mph speed limits as identified in Appendix D have been introduced on local roads to assist with social distancing and improve pedestrian safety.

6.5 Financial implications

- 6.5.1 These works are to be fully funded using the Emergency Active Travel Fund grant that is to be received in 2020/21 financial year. The grant is to support the delivery of adjustments to roads, footways and cycleways so as to enable residents to comply with social distancing measures as appropriate.

6.2 Legal implications

6.2.1 The scheme complies with the guidance and advice issued by central government in response to the Covid-19 pandemic. It also complies with the Highway authorities responsibilities under section 122 of the Road Traffic Regulation Act 1984 detailed below. Specifically section 2(d) in that the measures are designed to enable social distancing and encourage walking and cycling.

6.2.2 Section 122 RTRA 1984 lists various factors which authorities must consider, when using their TRO powers:

1. It shall be the duty of every local authority.... 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...

2. The matters referred to in subsection (1) above ... are-

- (a) the desirability of securing and maintaining reasonable access to premises;
- (b) the effect on the amenities of any locality affected....
- (c) the importance of facilitating the passage of public service vehicles...
- (d) any other matters appearing to the local authority to be relevant.

6.2.3 The measures are designed to improve traffic movement in the post lock down period and will improve the amenity of the locality.

6.2.4 The exemptions mean that access to premises is maintained. The Cabinet Member should note the exemptions mean that the bus gate cannot be enforced by cameras.

7. Equality and Diversity implications

- 7.1** The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.3 The equality impact assessment indicates that the proposals in this report **will not** have a disproportionately adverse impact on any people with a particular characteristic.

8. List of appendices

Appendix A	Section 14(2) Public Notice dated 9 June 2020
Appendix B	Section 14(2) Public Notice dated 30 June 2020
Appendix C	Table of comments received with responses
Appendix D	Section 14(1) Public Notice dated 21 June 2020
Appendix E	Equality Impact Assessment

9. List of Background papers

<https://www.gov.uk/government/publications/reallocating-road-space-in-response-to-covid-19-statutory-guidance-for-local-authorities/traffic-management-act-2004-network-management-in-response-to-covid-19>

<https://www.gov.uk/government/publications/making-traffic-regulation-orders-during-coronavirus-covid-19/traffic-regulation-orders-guidance-on-the-traffic-orders-procedure-coronavirus>

Essex Traffic Management Strategy

https://www.essexhighways.org/Uploads/Files/strategy_traffic_management_strategy_march_05.pdf

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<p>I approve the above recommendations set out above for the reasons set out in the report.</p>	<p>Date</p>
<p>Councillor Kevin Bentley, Deputy Leader and Cabinet Member for Infrastructure</p>	<p>20/07/2020</p>

In consultation with:

Role	Date
Director Highways and Transportation Andrew Cook	20/07/2020
Essex Traffic Manager / Head of Network and Safety Liz Burr	20/07/2020
Head of Design Services Vicky Presland	
S151 Officer Nicole Wood - Executive Director for Finance and Technology	20/07/2020
Director, Legal and Assurance (Monitoring Officer) Paul Turner	17/07/2020