

HARRISON GRANT RING

SOLICITORS

Temple Chambers, 3-7 Temple Ave, London, EC4Y 0HP
0208 050 8601

www.hgrlaw.co.uk

Miles Punter,
Director of Environment and Housing,
Vale of Glamorgan Council,
Alps Depot,
Wenvoe,
CF5 6AA

By email only: [REDACTED]

Cc: Clerk@StNicholasBonvilston-cc.Wales
[REDACTED]

Our ref: PER00003

Your ref: IF 967

19 July 2023

Dear Mr. Punter,

Objection to the Vale of Glamorgan Council (Various Roads 20mph & 30mph Speed Restriction) Revocation and Exceptions Order 2023, St Nicholas Area (A48) (Schedule 2, Drawings T/23/82/WS and T/23/120/MS) ("the Proposed TRO").

1. We are instructed by Councillor Ian Perry on behalf of the St Nicholas with Bonvilston Community Council ("**our client**").
2. We write on behalf of our client to raise strong objections to the Vale of Glamorgan Council ("**the Council**"), as the traffic authority, in relation to the Proposed TRO, specifically in relation to the proposed St Nicholas Area (A48) exception.

The Legal and Policy Framework

3. The Restricted Roads (20 mph Speed Limit) (Wales) Order 2022 ("**the 20mph Order**"), made by Welsh Ministers on 13 July 2022 reduces the general speed limit for restricted roads¹, to 20mph from 30mph as set by section 81(1) of the Road Traffic Regulation Act 1984 ("**the RTR Act**").

¹ A 'restricted road' being defined as a road in England and Wales with "a system of street lighting furnished by means of lamps placed not more than 200 yards apart" (s82(1) of the Act).

4. The 20mph Order will come into force on 17 September 2023. From this date, all restricted roads will have a speed limit of 20mph.
5. Under s84(1) of the Act, the Council, as the relevant traffic authority, may by Order under the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 ("**the TRO Regulations**"), set a different speed limit.
6. The Welsh Government has issued guidance, 'Setting exceptions to the 20mph default speed limit for restricted roads' (8 November 2022) ("**the Guidance**"), for local authorities to make 'evidence-based decisions on setting exceptions to the default speed limit of 20mph'.
7. Our client's overarching position is that - in using the Guidance as a methodology - and taking local factors and circumstances into account (as the Guidance intends, see para 1.1.3), as well as ensuring local, national and international policy, which the 20mph Order is predicated on, is not undermined (para 1.2.2 and 1.2.3 of the Guidance) – the St. Nicholas Area (A48) exception contained in the Proposed TRO is not rational, consistent, or justifiable.

Relevant exception test (Paragraph 2 of the Guidance)

8. There can be no doubt that the St. Nicholas Area (A48) is a "restricted road", otherwise the TRO would not be necessary.
9. Paragraph 2 of the Guidance lays down the principles to consider when making an exception to the default 20mph limit for restricted roads.
10. It states that, in line with the Welsh Government's aspiration to meet Article 11 of the Stockholm Declaration of 2020:

'a 20mph speed limit should be set where pedestrians and/or cyclists and motor vehicles mix in a frequent manner, except where strong evidence exists that higher speeds are safe.' (para 2.1.2 of the Guidance).
11. The Proposed TRO professes that the St. Nicholas Area (A48), an existing 30 mph road, does not meet this test and therefore the speed limit should be retained as an exception to the 20mph default speed limit for restricted roads.
12. However, for the Council to arrive at this conclusion it must satisfy itself with regards to the following questions set out at paragraph 2.1.3 of the Guidance:
 - a. *"Are there significant numbers (or potential numbers, if speeds were lower) of pedestrians and cyclists travelling along or across the road?"*

If the answer to this question is no, then an exception for a 30mph speed limit may be appropriate;

- b. *If the answer to A is 'yes', are the pedestrians and cyclists mixing with motor traffic?*

If the answer to B is 'no' then a 30mph speed limit exception may be appropriate. If the answer to B is 'yes' then a 20mph speed limit will be appropriate unless the robust and evidenced application of local factors indicates otherwise."

13. The Council relies, however, within the Statement of Reasons set out in the Proposed TRO, on a justification based not on the methodology as required by the Guidance, but that the exception is:

'necessary to maintain the existing speed limits of 30mph on selected strategic roads within the County'; and that

'these roads are strategic routes with higher volumes of daily traffic compared to urban residential streets and as such do not meet the criteria or the nature of a road with a speed limit of 20 mph; and

'the existing 30 mph speed limit is an appropriate speed limit in order to maintain a reasonable traffic flow on higher traffic volume strategic routes.'

14. There is no discernible exception criteria for "higher volumes of daily traffic". Indeed, our client wishes to draw the Council's attention to the A48 Western Avenue in Cardiff between Cardiff Road and the River Taff which is 4-lanes and carries a higher volume of traffic than the A48 at St Nicholas and will be subject to the 20mph default speed limit.

15. We now go through the appropriate tests, as set out in para 12 above.

A. Are there significant numbers (or potential numbers, if speeds were lower) of pedestrians and cyclists travelling along or across the road?

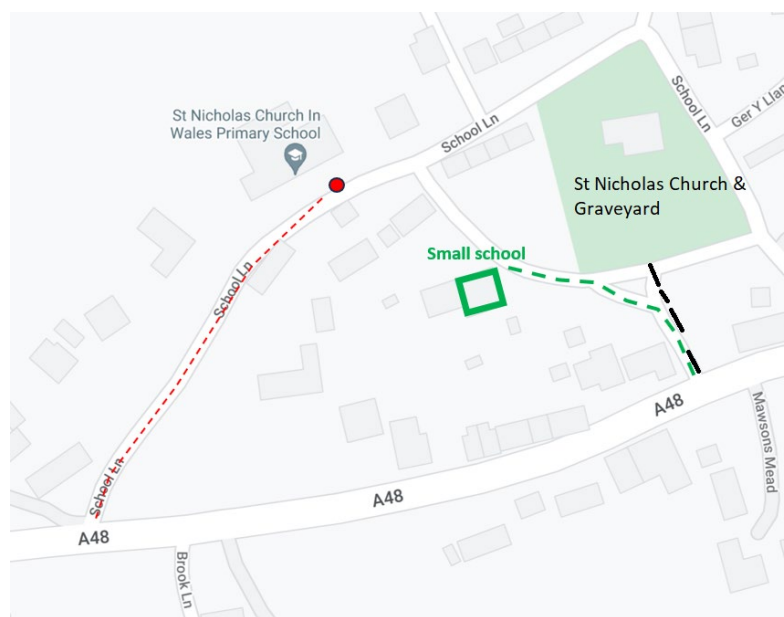
16. Paragraph 2.2.8 identifies 'place' criteria which have been developed to assist highways authorities in answering this first question and determine, 'in a consistent way across Wales', which sections of roads may have significant demands for people walking and cycling.

17. The 'place' criteria include of relevance here:

- a. Within a 100m walk of any educational setting (e.g. primary, secondary,

- further education and higher education;
 - b. Within 100m walk of any community centre; and
 - c. Where the number of residential and / or retail premises fronting a road exceeds 20 properties per km.

18. In a response from the Council to the elected ward member for St Nicholas and Llancafarn of 13 June, the Council discounted the proximity of the St. Nicholas Church in Wales Primary School based on a GIS system measurement of 135m. However, this assessment failed to take account of the school building used to teach first year pupils at the school, which is just 79m from the A48 (measured by trundle wheel) and therefore comfortably within the 100m criterion. An annotated map of this building is reproduced below, with the relevant building labelled as 'small school'.



19. Paragraph 2.2.16 offers further support and states that there may be sections of the road where there are significant demands, for walking and cycling, even where the place criteria are not met but where a 20mph speed limit would be appropriate, such as regularly used accesses to schools are along the road, even where this may be more than 100m from the main entrance. The main access to the school is off the A48 up School Lane (identified in red on the map above).

20. In relation to the second 'place' criterion, the Guidance is not clear on what it means by a community centre. However, Planning Policy Wales (2021) ("**PPW**") stresses that community facilities contribute to a sense of place which is important to the health, well-being and amenity and can include schools, cultural facilities, health services, libraries, allotments and places of worship (paragraph 4.4.1 PPW).

21. In this regard, we note the following community centres bordering or in close proximity to the A48:

- a. St Nicholas Church and graveyard - The church and access to the churchyard from the A48 is shown in black on the map. From the road to the church gate is clearly less than 100m. The church is in use for services, weddings and funeral and the graveyard is open daily. It is grade 2 listed (as is a tomb within the churchyard) and serves as a starting and resting point for popular walks – Valeways Millennium Heritage Trail, A Ridge and Valley Walk, & Haunted Field Walk.
- b. Station House Health and Wellbeing – This facility is located on the A48 and provides a range of health services and is open daily.



- c. The Presbyterian Church of Wales chapel at Trehill – The chapel is located less than 100m off the A48 and has services every Sunday at 11am.



d. The Church Hall/Tinkins Hall – this former church hall is located directly on the A48. It is currently under private ownership, however, an application for change of use into residential use was rejected, and the resulting appeal withdrawn (ref. CAS-02068-D9F3K6). Therefore, in considering *potential* numbers of walkers and cyclists if the speed was lowered to 20mph as is required under the Guidance, regard must be had to the *possibility* that the church hall will return to some kind of community use.

22. St. Nicholas also has more than 20 residential dwellings per km fronting the A48, and therefore satisfies a further criterion of 'place'.

23. Paragraph 2.2.9 of the Guidance states that sections of the road which meet '*any of these Place criteria should be considered to positively answer principal question A*'.

24. Taking the above criteria into account, the answer to the first question posed by the Guidance (*Are there significant numbers (or potential numbers, if speeds were lower) of pedestrians and cyclists travelling along or across the road?*) must unequivocally be yes.

25. The Guidance further states that where there is a deviation from the Guidance, highway authorities should have a 'clear and reasoned case' (paragraph 2.2.11). The Proposed TRO, with its justification for the exception contained largely in the Statement of Reasons, cannot be said to set out a 'clear and reasoned case', because it is not supported by evidence as to why high-traffic volumes should exempt this area.

B. If the answer to A is 'yes', are the pedestrians and cyclists mixing with motor traffic?

26. The answer to this question is also 'yes' given the proximity of the school, community centres and residential dwellings along the route.

27. The width of the footways alongside the route, at just 1.2m, mean fast moving traffic and pedestrians mix in close proximity.

28. There are also several entrances with poor or deficient sightlines along the A48 which mean that pedestrians and cyclists are discouraged from using the route due to safety concerns from fast moving traffic.

29. Further, the noise of the traffic travelling along the A48 also prevents many potential pedestrians and cyclists from using the road in this way. Traffic travelling at 30mph generates twice the ambient noise of traffic travelling at 20mph².

30. A question posed to the Mayor of London in a recent London Assembly meeting asked, "*What analysis has been made of possible improvements to air quality as a result of*

² <https://www.20splenty.org/airandnoise/pollution>

reducing speed limits to 20 mph in London?”The answer was:

“Lowering traffic speeds reduces the dominance of motor vehicles and makes our streets safer, more inviting, less polluted and more attractive for walking, cycling and public transport trips.”

“An evaluation of 20mph zones in London, carried out by Imperial College, showed slowing traffic had no net negative impact on exhaust emissions. However, in 20mph zones vehicles moved more smoothly, with fewer accelerations and decelerations, than in 30mph zones. This smoother driving style reduces particulate emissions from tyre and brake wear - which still represents a significant cause of air pollution from zero-emission vehicles.”³

31. The answer to question B is therefore also, yes.

32. Even if the Council could legitimately consider that the answer to B is no, where there is significant demand / potential demand for walking and cycling as identified in A, exceptions may *only be appropriate* if protected facilities are provided for pedestrians and cyclists which meet Active Travel Act Guidance 2021 (“**ATAG**”) (paragraph 2.2.18 of the Guidance).

33. Such protected facilities include:

- a. Footways in accordance with s9.6.2 of ATAG which stipulates that basic footway widths should be 2.0m. The footways on the A48 are just 1.2m;
- b. Cycle provision along the route is ‘suitable for most people’ based on Table 11.1 of the ATAG, which will usually require physical protection from motor traffic. There is no physical protection for cyclists on the A48 from motor traffic.

34. There is therefore clearly an absence of appropriate protected facilities under the ATAG.

Robust and evidenced application of local factors

35. As the answer to both question A and question B is yes, the Guidance stipulates that ‘a *20mph speed limit will be appropriate unless the robust and evidenced application of local factors indicates otherwise.*’ (paragraph 2.1.3 of the Guidance)

36. The justification set out by the Council and reproduced at paragraph 13 of this objection does not follow the Guidance, and further abjectly fails to provide any robust or evidenced application of local factors to indicate why this is the case.

³ <https://www.london.gov.uk/who-we-are/what-london-assembly-does/questions-mayor/find-an-answer/20mph-speed-limit-and-air-pollution>

37. Further, it fails to follow the examples of how to apply relevant local factors as set out in paragraphs 2.2.12 – 2.2.16 of the Guidance.

38. Any proper scrutiny of local factors as set out in the Guidance would, in our client's view, solidify the argument for the St. Nicholas (A48) section to be retained in the 20mph Order, such as:

- a. Regularly used accesses to schools along the road, even if some are more than 100 metres from their main entrances;
- b. Regularly used access to community centres located on or less than 100 metres from the road;
- c. Relevant demands and potential demands for walking and cycling;
- d. There is a designated active travel route on the carriageway;
- e. Where the number and/or type of collisions occurring along the road means road users and the local community could gain significant road safety and other benefits from a speed limit of 20mph.

39. Dealing with these local factors in turn:

- a. the distances between the school accesses have been dealt with in paragraphs 18-19, but even if one were to entertain the Council's generous distance measure, the Guidance still encourages a consideration of this as a local factor;
- b. The St Nicholas Church and graveyard, the Station House Health and Wellbeing Centre, the Presbyterian Church of Wales chapel at Trehill and the Church Hall are all located either on or less than 100m from the road. Each of these sites are regularly accessed by pedestrians;
- c. Both the schools and the community centres, as well as the residential properties located on either side of the A48 create relevant demands and potential demands for walking and cycling;
- d. An Active Travel Route is proposed on a stretch of carriageway encompassing St. Nicholas (A48). The Welsh Government has funded a consultation for an Active Travel Route connecting Culverhouse Cross to the Five Mile Lane through St Nicholas. It is currently in the route design phase and further funding is being sought from the Welsh Government. The A48 is already a popular route with club cyclists.
- e. The highways authority has not provided or considered data relating to the number and/or type of collisions occurring on the road and, by email response to the elected member for St Nicholas and Llancarfan dated 21 June, it erroneously concludes that collision history is not relevant: "*The exceptions guidance does not directly consider local factors such as... collision history*".

40. It has been acknowledged by officers, at a scrutiny committee meeting on 18 July 2023, that the Statement of Reasons is "inaccurate". This reinforces the inadequate nature of

the justification put forward by the Council. It also undermines the adequacy of the consultation.

Policy support

41. The 20mph Order supports Llwybr Newydd: The Wales Transport Strategy 2021 which prioritises walking and cycling above other modes of travel; Future Wales, which aims for people to live in places where travel has a low environmental impact; and aspires to meet the aims of Article 11 of the Stockholm Declaration in relation to reducing speeds except where strong evidence exists that higher speeds are safe.
42. Other potentially relevant policy considerations include the Welsh Noise and Soundscape Action Plan (2018-2023) ("**the Action Plan**"), which includes the St. Nicholas area. We know that speed and noise are evidentially connected – see paragraph 29 above.
43. The Action Plan strongly encourages public bodies to give due consideration to the Action Plan to the extent that it aligns with and supports the requirements of cross-cutting legislation such as the Wellbeing of Future Generations Act 2016 ("**WFG Act**") (page 5 of the Action Plan).
44. The Action Plan also sets out that tackling noise and improving soundscapes contribute to achieving all 7 of the well-being goals specified in the WFG Act.
45. PPW further contains support for the 20mph default speed limit, and stresses that 'well-designed, people orientated streets are fundamental to creating sustainable places and increasing walking, cycling and use of public transport.' (4.1.19 PPW).
46. Locally, the Council's Well-being Objectives in relation to a 'more resilient and greener', 'more active and healthier' and a 'more equitable and connected' Vale all support the outcomes that the 20mph Order delivers.
47. Such a departure from the 20mph Order by way of an exception in relation to the St. Nicholas A48 area, which plainly fails the criteria of the Guidance, serves to also undermine the policy support on which the 20mph Order itself is predicated.

Conclusion

48. On any proper scrutiny of the Proposed TRO within the framework which an exception to the new default speed limit can be made, an exception in relation to the St Nicholas (A48) area is not appropriate or justified.
49. The Guidance is clear. The two pivotal tests to make an exception, which are supplemented by additional criteria in PPW, are not satisfied. St. Nicholas (A48) clearly comes under the place criteria on the basis of the proximity of the school, and access to the school, other demands and potential demands, as well as the number of residential

dwellings within the required proximity.

50. A 'robust and evidenced application of local factors' further fails to offer any support to the proposed exception.

51. Additionally, the Guidance requires that where there is a deviation from the 20mph default, highway authorities should have a 'clear and reasoned case' (paragraph 2.2.11). The Proposed TRO, with its justification for the exception based only on traffic volumes but without any elaboration or evidence cannot be considered a 'clear and reasoned case'.

52. Finally, policy support for the 20mph Order itself is such that exceptions to the default should be robustly justified or risk undermining the many policy reasons for its introduction as well as setting an inconsistent precedent.

53. Based on the above, if the Proposed TRO in respect of the St. Nicholas (A48) Area was made, the Council would fail in its duty to make 'evidence-based decisions on setting exceptions to the default speed limit of 20mph' and should therefore be refused.

Please confirm receipt and that this letter will be taken into consideration in relation to the consultation.

Yours sincerely,

Harrison Grant Ring

HARRISON GRANT RING