



OFFICER DECISION RECORD

This form should be used to record Executive decisions taken by Officers

Decision Ref. No:			
Service Area:	Chief Executive	Date:	11/6/20
Contact Name:	Richard Pearson	Tel No:	07747 694117
E-mail:			
Subject:	Experimental Traffic Regulation Order (ETRO) – Poole Quay and Poole High Street		
Decision taken: To approve the making of Experimental Traffic Order(s) for Poole Quay and Poole High Street as set out in the documents appended to this Decision Record.			
Reasons for the decision: The reasons for the decision are set out fully in the Statement of Reasons appended to this Decision Record at Appendix A. The decision is being made by the Chief Executive pursuant to the urgency powers contained within the Constitution in Part 3 Paragraph 14. The power is being exercised in light of the Covid-19 emergency position. There is an urgent need to provide adequate space for pedestrians within the Town Centre of Poole area and in particular enable social distancing to be possible for pedestrians in the Poole Quay and High Street area of Poole for the safety of pedestrians, the support of cyclists and the support of businesses in the area during their re-opening following recent closure. The Chief Executive also recognises that there is a degree of risk associated with this decision and delegates authority to the Director of G&I power to revise, amend or remove these measures if serious and material matters arise. It is therefore necessary to protect the Council's interests and ensure it is able to meet its relevant duties that the Chief Executive exercises the urgency powers available to him to approve the ETRO(s) as at Appendix I including moving vehicle restrictions and prohibitions on parking and loading in the area and revisions to create disabled bays and a loading area outside the zone.			
Background: See appended documents and reasons above.			

Consultations undertaken and planned:

The implementation of any ETRO requires the Council to publish a notice in a newspaper, erect notices on site. In this case a letter drop will also be undertaken to reach individuals who may be self isolating or staying in for other reasons relating to Covid. In addition, the notice will be circulated to a wide consultation list including statutory consultees and many other organisations and individuals as attached in Appendix B and C from the commencement of the mandatory notice period lasting 7 days. In addition, the Council intends to issue a press release and invite public comment in regard to these proposals via an informal consultation, see Appendices E (Plan), G (questionnaire) and H (Information).

It should also be noted that an ETRO allows for formal objections to be made for a period of up to 18 months and also that during this period the measures may be revised or removed should it be considered appropriate to do so in the light of comments or objections received.

Finance and Resourcing Implications:

The first stage of the emergency active-travel fund was announced on 27th May comprising a Phase 1 grant allocation to BCP Council of £280,000. The fund is fairly closely defined to be used for full and light segregation cycle facilities and point road closures and measures to embed walking and cycling as part of new long-term commuting habits and reap the associated health, air quality and congestion benefits. As this proposal falls within the scope of the grant it is proposed to use part of this grant allocation to fund this scheme.

The current cost estimate for this scheme is £11,500 and it is proposed that the costs are fully charged to the aforementioned phase 1 grant of £280k.

Name: Adam Richens

Date: 12 June 2020

Signature (of Chief Finance Officer): _____

**Legal Implications:**

Section 9 of the Road Traffic Regulation Act 1984 gives the Council, as Traffic Authority, the power to make an Experimental Traffic Order. This is an experimental schemes of traffic control lasting for not longer, in total, than 18 months. These orders may cover the same ground as ordinary traffic regulation orders.

In the exercise of this power, as with the exercise of other functions under the Act, the Council has the duty (under s.122 of the Act), so far as is practicable, 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. In performing this duty they are to have regard to:

- the desirability of securing and maintaining reasonable access to premises;
- the effect on the amenities of any locality affected and 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;
- 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
- any other matter appearing to the local authority to be relevant.

The procedure for making the Order is set out in the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996. The Regulations provide for a seven day notice period prior to making of the Order, and for limited statutory consultation (as set out in Regulation 6) prior to the making of the Order by way of Regulation 6. These Regulations have been amended by recent temporary Regulations dealing with the impact of the Covid 19 implications, and provide for the provision of inspection of the relevant documents via a website rather than for physical inspection within the Council offices.

Consultation to satisfy the provisions of Regulation 6 has been undertaken as set out in this Decision Record above, and the purpose of an experimental order is to enable a detailed consultation exercise to take place throughout the period the Order is in effect prior to consideration by the Council as to whether to make it permanent. There are also powers to formally object to the making of a permanent order during the initial period of the experimental order.

The risks of making such an order, and of failing to do so, are set out in the body of the Decision Record and the appended documents. The reasons for the decision are set out in this Record and appended documents.

The decision-making process is set out in the Constitution, and this enables the Chief Executive to make a formal decision if the urgency provisions are satisfied, and the rationale for using the urgency provisions is set out in the reasons for the decision above. There is a risk of challenge on public law grounds by way of Judicial Review if it is argued that the decision does not meet this criteria but this is considered a low risk in light of the clear need and requirement for the restrictions imposed by the proposed Order in order to comply with the Government Guidance and legal requirements in respect of social distancing and enabling pedestrians and cyclists to be able to move around in a socially distant and safe way in areas such as this in which shops and other businesses will be opening imminently to the public.

Name: Anne Brown

Date: 12 June 2020

Signature (of Monitoring Officer):

Anne Brown

Risk Assessment:

In more normal times the Council would have undertaken an informal consultation prior to proceeding with a measure of this impact. In that context officers from the legal, consultation and traffic teams advised that there should be an informal consultation prior to implementing this scheme. This approach provides the public, residents and businesses time to consider the proposals and to voice their support and/or concerns. It gives the Council and Members the opportunity to revise the proposals to mitigate serious concerns that could otherwise result in successful legal challenge(s) to the Order. It gives businesses, including the bus companies time to re-schedule their services, inform their customers and revise their deliveries. It gives Members an opportunity to reflect on their decision to proceed or not. As such, this approach increases the chances of the scheme being implemented successfully. It also reduces the risk of the Council damaging its reputation, having to make 'on the hoof' changes to the proposals, or suspending the proposals in the context of any compelling operational or political pressures that might emerge.

It should also be noted that informal consultation has been undertaken for similar schemes in the past and this could raise a legitimate expectation from residents and businesses that we would consult in the same way in future.

In addition it should be noted that this proposal has been developed rapidly and therefore there is increased risk of a design issue or unforeseen issue emerging.

Notwithstanding those concerns and risks, the Covid crisis represents an immediate and serious risk to public health and the Council has been instructed to bring forward measures at pace through a grant that has rapid delivery as a pre-condition and for this explicit type of measure.

In addition, the fact that the ETRO is a formal legal process that incorporates a form of consultation and the proposal additionally includes an informal consultation and other measures, such as a letter drop, that collectively provide a significant opportunity for individuals to object or comment on the proposals and to do so in advance of their implementation and afterwards.

Furthermore, an ETRO can be removed or amended with relative ease and therefore if a materially serious issue arises, the Council can reverse this decision or amend the measures.

Impact Assessments:

An EQIA has been developed and is attached in Appendix D. The loss of disabled bays in the roads that will be closed to traffic is mitigated against by the provision of additional disabled bays immediately outside the closed area. The removal of motor vehicles creates an area in which people can move around more easily and safely.

As well as addressing an immediate public health risk from Covid, this measure is likely to promote sustainable travel and reduce carbon immissions and is in line with the Council's Transport and wider policies in that regard and also supports the declared Climate Emergency and consequential objectives.

The measure may also assist in increasing footfall in this area and therefore could contribute to regenerating the area.

Information for publication / not for publication

For publication

Background Papers

Appendix F – CIMT agreement to proceed.

Any declaration of interest by the Officer responsible for the decision

Nature of Interest

Yes/No*

Note: No Officer having an personal financial interest in any matter should take a decision on that matter. Other interests of a non-disqualifying matter should be recorded here.

Any conflict of interest declared by a Cabinet Member who is consulted by the Officer taking the decision

Name of Cabinet Member

Nature of interest

Details of any dispensation granted by the Monitoring Officer

No*

Decision taken by: (print name and designation): Graham Farrant, Chief Executive

Signature:



Date of Decision: 16/06/20

Date Decision Effective:

Date of Publication of record of decision: (to be inserted by Democratic Services)