

Annex G Fulford & Heslington Ward

G1

Location: Connaught Square

Nature of problem and advertised proposal.

A resident requested restrictions due to parked vehicles restricting visibility of oncoming vehicles and pedestrians using the tactile pedestrian crossing point.

Plan of advertised proposed restrictions:



Representations received:

We received two representations in objection and one in support.

Representations in objection:

- Received from Royal Masonic Benevolent Institution Care Company:
We strongly object to the proposals to restrict parking around Connaught Court Care Home.
This road has always been used for car parking for the last fifty years and due to planning difficulties that we have had since 2018 we are unlikely to be able create any more car parking on the site.

We own land and property along the drive and totally object that we will not be able to park outside our own property.

The care home has 94 bedrooms and the loss of parking will hamper visitors of the residents, district nurses and other care professionals.

Putting yellow lines outside the new residential properties outside our ownership is fine but not adjacent to houses and land that we own.

- Received from Womble Bond Dickinson (UK) LLP

Dear Director of Place

City of York Council Notice of Proposals

The York Parking, Stopping and Waiting (Amendment) No 14/59
Traffic Order 2023

We are acting on behalf of our client the Royal Masonic Benevolent Institution and are writing in relation to the above notice for The York Parking, Stopping and Waiting (Amendment) No 14/59 Traffic Order 2023 (the Proposed Order) which they have received. This objection letter is in addition to and supplements their initial objection which they lodged by email on 14th November 2023. The objection is specifically concerned with the introduction of 'No Waiting at any time' restrictions at Connaught Court and Connaught Gardens, which is the location of our client's care homes which are located on a private road.

Legal Background:

We consider that it is prudent to set out the legal framework in order to address the Proposed Order and why it should not proceed to the making stage under the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996.

The City of York Council is the traffic authority, by virtue of Section 121A of the Road Traffic Regulation Act 1984 (RTRA1984), and have powers and are able under Section 1 of the RTRA1984 to make traffic regulation orders (TROs). The circumstances where they may make an order is where it appears that it is expedient to make it –

(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, or

(b) for preventing damage to the road or to any building on or near the road, or

- (c) for facilitating the passage on the road or any other road of any class of traffic (including pedestrians), or
- (d) for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property, or
- (e) (without prejudice to the generality of paragraph (d) above) for preserving the character of the road in a case where it is specially suitable for use by persons on horseback or on foot, or
- (f) for preserving or improving the amenities of the area through which the road runs; or
- (g) for any of the purposes specified in paragraphs (a) to (c) of subsection (1) of section 87 of the Environment Act 1995 (air quality)

We understand from the Statement of Reasons that the Proposed Order is being made to further the 'policy of minimising obstruction and congestion and improving road safety and local amenities whilst at the same time balancing residential and commercial considerations'. We are not aware of what policy this is referring to and would be grateful if this could be provided to us. The Statement of Reasons further cites that the location is being adversely affected by indiscriminate/obstructive parking and we would submit that this reason is not made out. We understand from our client that this case is not made out and any parking that takes place does not block driveways or the movement of other vehicles or pedestrians. Further, there is a duty under Section 122(1) of the RTRA1984 that a Traffic Authority must consider, when deciding whether to make a TRO, when exercising their functions (including when deciding whether or not to make a TRO) to secure the expeditious, convenient and safe movement of vehicular traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway to as far as practicable having regard to the following matters under Section 122(2):

- (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 strategic highways company or] the local authority to be relevant.

This duty is required as has been set out in case law, to be performed in substance and a balancing exercise conducted in order to arrive at the appropriate decision and we would be grateful to receive evidence of this.

There is also a network management duty under Section 16 of the Traffic Management Act 2004 to manage the local road network to achieve as far as possible the expeditious movement of traffic on the road network and facilitating the expeditious movement of traffic on road networks for which another authority is traffic authority whilst having regard to their obligations, objectives and policies as far as possible.

Where the expeditious and convenient movement of traffic has an adverse impact on the level of onstreet parking available, the weight needs to be considered by the TA and be aware that their decision making process is open to statutory review. Further the balance of one factor may not have priority over the other. Therefore, the weight given to the loss of on-street parking available needs to be balanced against the expeditious movement of traffic.

We would challenge the lack of on-street parking provision available and do not consider that the existing provision provides an obstruction to the free flow of traffic on the road. The current on-street

parking provision provides available parking for the visitors and care professionals of the care home which is an integral resource to the community.

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Planning Background

The planning background of our client is relevant in making this objection. The client operates care homes from Connaught Court and relies on the on-street parking provision for carers and visitors of the care homes. By imposing a 'no waiting at any time' restriction this will unnecessarily remove the much needed on-street parking to accommodate the properties, including the care home, situated along the road. This would severely hinder the ordinary day to day running of the care home, which is not able to accommodate on-site parking due to the site constraints within the development.

Your duty under Section 122 to have regard to the provision of suitable and adequate parking facilities on the highway and 'securing and maintaining reasonable access to premises' has not been adequately discharged here. The effect of the Proposed Order would mean that staff and visitors to the care home would not have access to sufficient parking and thus leaving vulnerable people in the care home without access to the family support and care they need. We would be grateful to receive the details of what assessment has been carried out in relation to parking in the area and how this warrants the introduction of the waiting restrictions proposed.

Private Road

Connaught Court is a private road, which is registered under title number NYK419369, with the registered owner being Connaught Court LLP. A sign at the entrance of the road clearly states this. The road is not an adopted highway and therefore the surface of the road remains vested in the landowner.

It is acknowledged that Traffic Authority is able to make TROs along 'roads', and that term is broader than just including highway. Roads are defined as 'any length of highway or of any other road to which the public has access and includes bridges over which a road passes'. Whilst there is case law that has

determined that the definition may include a private road where the owners tolerated access, this is not considered to be the case here as the notice at the entrance to the road from St Oswald's Road expressly prohibits public access.

It follows that the road is not a 'road' for the purposes of the Road Traffic Regulation Act 1984, and it is not therefore lawful for the Traffic Authority to make the Proposed Order.

Conclusion

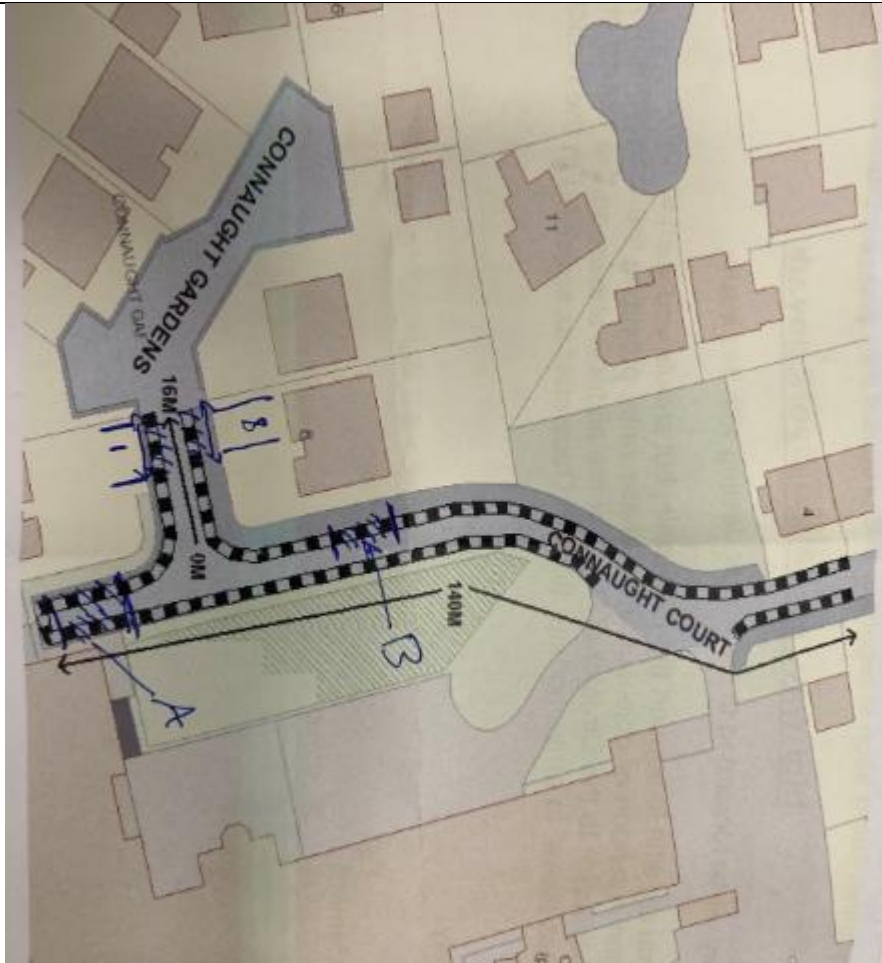
For the reasons set out above, we do not consider that the Proposed Order should not be progressed in relation to Connaught Court [and Connaught Gardens]. We would respectfully ask that the contents of this objection letter is considered and the Proposed Order is not progressed to notice of making stage.

Representation received in support:

- With regards to the proposed parking restrictions to Connaught Court and Gardens. We support the overall approach to the restrictions, however we would welcome some minor changes to allow for some parking and prevent issues with visitors to two of the houses (Number 1 & 8). These are:

Houses 1&8 have driveways that lead directly to the road, could there be no yellow lining across these driveways to ensure that visitors don't have issues parking outside these houses. These are marked on the attached plan as number 1&8. This would shorten the yellow lines from the junction from 16m to c10m, whilst still keeping the junction itself safe

Could there be a provision for parking 2-3 cars in a safe place just to allow for some visitor parking. Suggested on the attached plans are the safe places of either A no through road where cars could park and B an alternative place where Connaught Court straightens.



Officer analysis and recommendation

The Order was proposed due to the following circumstances:

- a) For avoiding danger to persons or other traffic using the road or any road or for preventing the likelihood of any such danger arising,
- b) For preventing damage to the road or to any building on or near the road,
- c) For facilitating the passage on the road or any road of any class of traffic (including pedestrians).

Footpath parking (including on the tactile crossing) in this location is restricting the passage of pedestrians using the footpath, visibility for those pedestrians when using the pedestrian tactile crossing point and vehicles proceeding in opposite directions when travelling through the bends of the carriageway.

Options

- 1. Implement as advertised-** Not recommended
- 2. No further action-** Not recommended
- 3. Implement a lesser restriction-** Recommended in order to provide some parking amenity as well as address objections raised and request for some visitor parking to remain(as per plan below)

