

Appeals & Complaints Committee

A meeting of Appeals & Complaints Committee was held on Wednesday, 15th December, 2010.

Present: Cllr Robert Gibson (Chairman), Cllr John Fletcher, Cllr Mohammed Javed, Cllr Andrew Sherris, Cllr Mrs Mary Womphrey.

Officers: R.Bradley, B.Buckley (item 7 only), M.Gillson, G.Spence (items 1-6 only) (DNS); Ms J.Butcher, N.Hart (LD).

Also in attendance: Mrs J.McGregor (item 4); The Complainant (item 7).

Apologies: Cllr Ian Dalgarno, Cllr Jean Kirby.

ACC 5/10 **Declarations of Interest**

There were no Declarations of Interest recorded.

ACC 6/10 **Procedure**

The Chairman explained the procedure for the conduct of the meeting to all parties present.

RESOLVED that the Committee procedure be noted.

ACC 7/10 **Schools No Stopping Order, Stockton Borough - Amendment to Schedule**

Consideration was given to one unresolved objection in respect of the proposed introduction of 'School-Keep Clear' zig zag markings to address parking problems in the vicinity of the school gates at Hardwick Green Primary School from 8.00am-5.00pm following an amendment to an existing Traffic Regulation Order.

It was explained that a letter of objection had been received from Mrs McGregor of Cleadon Walk who objected to the proposed introduction of the 'Keep Clear' markings on High Newham Road as she and her family had need to park there as there was no parking provision to the front of her property and she believed there was insufficient parking to the rear of her property for all of their four vehicles. Mrs McGregor believed that prohibition of parking in this area would also prevent her family from monitoring their vehicles on CCTV cameras they had installed on the outside of her property due to repetitive acts of vandalism in the area.

Members considered a report that provided information surrounding this matter. Officers were also in attendance and made representations supporting the proposed scheme.

Mrs McGregor was in attendance at the meeting to speak on behalf of her objection. She informed the Committee that the introduction of the restrictions would require her husband to move his vehicle from High Newham Road prior to each school day at the time the restrictions came into force. Her husband had just come out of hospital and the need to move the vehicle to the rear of their property would be an issue. She advised that access to the rear of the property

was also difficult as it involved manoeuvres in a tight space, with insufficient room to reverse due to the number of vehicles requiring use of the space provided. Upon a request for clarification from members, she observed that there were nine properties including her own that required access, culminating in a total of approximately 22 vehicles requiring parking space, with properties in Cleadon Close also using this area for parking. Officers advised that there was sufficient space to accommodate ten vehicles in this area, although when site visits had been conducted, only four vehicles had been observed to be parked there and only two vehicles had been observed as being parked on the area of High Newham Road where the marking would be laid. Officers were prepared to mark the spaces to the rear of Cleadon Walk if required. Mrs McGregor reiterated her concern regarding the number of vehicles attempting to park there indicating that the area was full every night, with some families having two vehicles.

Mrs McGregor advised that the proposed introduction of restrictions had not been included within the initial consultations held when Hardwick Green Primary School was being built and the original access to the main school entrance was planned for further down High Newham Road. Officers present advised that whilst they had not been involved in the initial consultations, school gates were generally considered high risk in terms of road safety and therefore parking in these areas was a matter of concern and had led to 44 out of 71 schools in the Borough having enforceable markings at their school gates. The proposal was also in accordance with Council policy (the Safer Routes to School initiative) and was consistent with the aim in the Council Plan to reduce road casualties. In response to members queries regarding clarification of her concern surrounding the effects of the proposal on her CCTV cameras, Mrs McGregor advised that if her family was required to park their vehicles to the rear of the property they would need to re-site their cameras to be able to monitor the vehicles in this location, but this would be difficult as visibility was restricted by No. 16 Cleadon Walk.

At this point the objector and officers from Development & Neighbourhood Services left the meeting room. The Committee considered all of the information contained within the report and presented to it at the meeting. It considered the objections raised and the inconvenience that would result to Mrs McGregor and her family should they be required to refrain from parking on High Newham Road for the period in question, however Members were mindful as to whether these concerns outweighed the safety concerns for parents and pupils attending the school. It was also noted that High Newham Road was adopted highway upon which the public had no rights to park and that very few vehicles were likely to be affected by being unable to park in this area during the period from 8.00am-5.00pm. There was adequate alternative parking during the restricted hours. Members were therefore of the opinion that concerns for parent and pupil safety in the vicinity of the school was paramount in this instance and took precedence over the objections raised.

In outlining their reasons to her, officers from Development & Neighbourhood Services agreed to advise Mrs McGregor further regarding her request to be able to park vehicles on the opposite side of High Newham Road.

RESOLVED that:-

1. The objection should not be upheld and the Head of Technical Services be advised that the Committee considers that that the objection does not outweigh the need for the order and the local Ward Councillors be advised accordingly.
2. Officers from Development & Neighbourhood Services agreed be requested to advise Mrs McGregor further regarding her request to be able to park vehicles on the opposite side of High Newham Road.

**ACC
8/10**

Middleton Avenue, Thornaby - Proposed Environmental Traffic Calming Scheme

Consideration was given to an outstanding objection received following the advertising of vertical deflection traffic calming features on Middleton Avenue in Thornaby.

It was explained that two letters of objection had been received from Mr & Mrs Miller of Middleton Avenue stating that they believed that there were only 33 residences on Middleton Avenue who were directly affected by the scheme, and that the level of support from these residents was not sufficient to progress the scheme. They also felt that it was not appropriate to consult residents in the Housing Association properties at the southern end of Middleton Avenue or side roads at the northern end, and they had indicated that if the scheme did progress, they did not want a speed hump within 50 metres of their property and if one was installed, they would hold the Council responsible should any accident occur.

Members considered a report that provided information surrounding this matter. Officers were also in attendance and made representations supporting the proposed scheme. The scheme was instigated by the Bassleton & Bader Residents Association following concerns expressed by residents in the area with regard to the speed of some drivers on Middleton Avenue. The Residents Association worked along side Stockton Council's Community Engineer to develop the scheme, briefly comprising five round top speed humps and a chicane. The matter was discussed at numerous of their meetings, which were advertised and open to all residents. A full consultation exercise with affected residents, comprising a letter drop including plan, questionnaire and pre-paid reply envelope, was then undertaken. The results of the consultation exercise indicated that approximately 78% of respondents supported the scheme. In all 288 homes were consulted, with responses received from 91, of which 71 supported the scheme, with 20 being opposed. When frontages with a Middleton Avenue address are considered in isolation, it was noted that 23 residents responded, 14 (61%) being in favour of the scheme and 9 (39%) against. The scheme was subsequently progressed through the relevant consultation procedure involving Ward Councillors, Town Council and police and was approved as a contender for future funding by the Head of Technical Services in consultation with the Cabinet Member for Regeneration of Transport. Although no funding was identified to implement the scheme in 2009/10 or 2010/11, at their Spring 2010 meeting the Eastern Area Transport Strategy (ATS) Stakeholders requested that the statutory consultations associated with the scheme be undertaken; with a view to possibly allocating funding at their Autumn meeting. As a result, a Notice of Works for the round top road humps was advertised in the Evening Gazette and on site on 7th

August 2010 with the objection period expiring on 28th August. Officers reported that there had been three accidents recorded in this location from between 2007-2009, one of which had been serious.

Members considered all of the representations made by Mr & Mrs Miller contained within the report, but were of the view that the consultation undertaken was adequate and that anyone affected by the scheme should be able to comment. Given this and the level of support indicated for the scheme, members were therefore mindful that the objection be not upheld as it did not outweigh the reasons for the order outlined by the officers report and comments.

RESOLVED that:-

1. The objection should not be upheld and the Head of Technical Services be advised that the Committee considers that that the objection does not outweigh the need for the order.
2. The local Ward Councillors, Thornaby Town Council, the Bassleton & Bader Residents Association and the objectors be informed of the Committee's decision.

**ACC
9/10** **Surbiton Road, Fairfield
Proposed Speed Cushion**

Consideration was given to three outstanding objections received from residents of Surbiton Road following the statutory advertising of a proposal to install one speed cushion to complete a speed reducing feature at the northern end of Surbiton Road, Fairfield, Stockton.

It was explained that Mr & Mrs Parker had objected on the grounds that Mr Parker had a 12 foot long van and the installation of a speed cushion would cause inconvenience when reversing the van off the driveway. It was noted that the position of the existing build out results in Mr Parker having to reverse off the drive onto the other side of the road to turn the wheel, otherwise the vehicle would hit the build out. The objection also commented that during periods of congestion, northbound motorbikes often used the cycle by-pass to travel through the feature and pass/overtake the queue of traffic. Reference was also made to cars also not giving way at the pinch point resulting in vehicles mounting the pavement, as well as the likely increase in noise expected if vehicles were forced to negotiate a speed cushion.

Mr Bennett also objected to the scheme as he believed that the scheme had not increased road safety in Surbiton Road, and that the number of accidents had increased with driving more difficult and dangerous. He believed that an additional speed cushion must be needed because the existing measures had not worked. It was also difficult to reverse off the driveway because of the existing feature when traffic was queuing, which would be made worse by a speed cushion.

Ms Brown's objection centred on the fact that the traffic survey undertaken was

conducted to the south of Culross Grove which was nowhere near the proposed speed cushion location. She also questioned whether the survey, which was only done for a small portion of time, could provide a full picture of what happens throughout the day. She also questioned why the scheme had been commissioned given there had been no recorded accidents between 2007-9 and suggested there would be a major accident as a direct result of the feature being installed. Reference was also made to consultation with residents on the proposed remedial measures and the fact that their views did not appear to have been considered, with a decision already having been made. It was also alleged that vehicles did not give way as directed and that drivers often used excessive speed and drove around the build out using the pavement to pass cars instead of giving way.

Members considered a report that provided information surrounding this matter. Officers were in attendance and made representations supporting the proposed scheme. In response to the objections received from Mr & Mrs Parker, the officer advised that the installation of a speed cushion had been recommended by an independent Road Safety Audit as the only practicable option to complete the existing feature. Vehicle tracking analysis had been undertaken which revealed that the installation of a speed cushion would not obstruct access to, or from Mr & Mrs Parker's property even in a 12 ft van. The analysis also suggested that the brick wall across the frontage of the property already inhibited vehicle reversing paths and the existing situation would not be further impeded by the build out and it would be possible to reverse off the driveway without the van physically crossing the speed cushion. It was also suggested that the speed cushion would deter northbound drivers from trying to negotiate the feature before an approaching southbound vehicle as they would need to slow significantly as a result of the speed cushion, and it would also reduce instances of vehicles mounting the footpath.

With regard to the objection received from Mr Bennett, the officer advised that since the majority of the traffic management scheme had been implemented, the average vehicle speed northbound had reduced by 6.7mph and by 1.1mph southbound. A reduction in vehicle speeds co-incidentally reduced the potential for injury accidents, or the severity of the accidents that occur. In the first eleven months since the completion of the scheme there had been no reported injury accidents. Traffic survey information indicated that Surbiton Road is acceptable for chicanes and pinch points. Generally, priority working is acceptable for traffic flows of 850 vehicles per hour in both directions. It was noted that traffic flows during the busiest hours on Surbiton Road were surveyed at less than 300 and therefore this was sufficient to ensure opposing vehicles would meet and slow down, as was the intended purpose of the features, but flows should not be high enough for significant traffic queues to occur. The scheme on Surbiton Road aimed to achieve lower vehicle speeds and reduce the number and severity of recorded injury accidents. There were also many examples across the Borough where residents must leave their driveway and join the carriageway where there is queuing traffic such as at junctions, particularly signalised junctions. The installation of a single speed cushion would complete the speed reducing feature and would not obstruct access to residents driveways.

With regard to the objection raised by Ms Brown, the officer advised that the pre-scheme and post-scheme automatic speed surveys were conducted at a point considered to be appropriate to record the higher vehicle speeds since it

was the only straight length (between Nos. 216 and 182) with wide grass verges and good forward visibility. An automatic vehicle survey logs vehicle speeds and volumes in both directions over a continuous 24 hour/7 day period. The post construction speed survey was conducted at the same location as the pre-construction survey, in order to enable a 'like for like' comparison from quantitative data sets. The feasibility study for the scheme was conducted in 2008. The accident data analysed was for the 5 years preceding the study (2002-2007). The scheme was approved in September 2008 by the Head of Technical Services and appropriate Cabinet Member. Funding was allocated to the scheme in the financial year 2009/10 and construction began in August 2009. The Road Casualty Review referred to accident statistics for the latest 3 full calendar year period, therefore 2007 to 2009. 1 serious and 2 slight accidents occurred at the first bend at the northern end of Surbiton Road, in the vicinity of Kirkwall Close in the years 2002-2007. It was considered necessary to install a speed reducing feature at this bend to reduce the risk of further accidents occurring or the severity of any that do occur. It was anticipated that installing a speed cushion would further reduce vehicle speeds, particularly southbound. The latest consultation exercise with 13 residents was unfortunately mis-represented when residents should have been informed/advised of the proposal, rather than consulted, as though the proposal to proceed to Statutory advertising stage was optional. Internal procedures had subsequently been modified to prioritise the Road Safety Audit process which, in future, would be presented to residents for information rather than form a consultative exercise. This was the first local safety scheme in the Borough to have been through the Stage 3 Road Safety Audit process.

Members considered all of the representations contained within the report and the reasons cited for each objection. Notwithstanding these, members were of the view that the need to complete the scheme with a speed cushion had been recommended by an independent Stage 3 Road Safety Audit as being the most feasible, practical and cost effective solution and could be justified following assessment of the results of the speed survey results undertaken which revealed that traffic speeds northbound had reduced significantly as a result of the existing build out.

RESOLVED that:-

1. The objection should not be upheld and the Head of Technical Services be advised that the Committee considers that that the objections do not outweigh the need for the order.
2. The local Ward Councillors and the objectors be informed of the Committee's decision.

**ACC
10/10**

Darlington Road, Elton Village - Complaint Regarding Highway Verge and Hedge

Consideration was given to a complaint received requesting that the Council take appropriate action to ensure that an existing obstruction caused by an overgrown hedge and a deposit of soil on the grass verge adjacent Kirkside, Elton Village be removed so that members of the public had un-restricted

access and that the verge was reinstated to its original state.

The chronological order of receipt of correspondence from the complainant was outlined for members, including a further letter dated 30th September 2010 which was tabled at the meeting. The complainant was present at the meeting and made representations regarding his objection as follows. He explained that his complaint was purely with regard to the obstruction caused by the deposited soil on the grass verge and the overgrowing branches, and that he had never complained about any rocks or bulbs on site. He referred to the action taken by the Council in May 2009 to instruct the adjacent property owner to cut back over hanging branches, action which was subsequently carried out, and reported that this action had been insufficient to allow the public access on the entire width of the verge. Reference was also made to the origins of the deposited soil which concurred with the information provided to members within the report provided by officers. The complainant explained to members that a resident of the village and her disabled son who used a wheel chair, had indicated their support for appropriate action to be taken to remove the existing obstruction caused by an overgrown hedge and a deposit of soil on the grass verge so that they could have un-restricted access to the nearby churchyard. He explained that the mother wished to walk on the grass verge without any obstruction whilst the son used the adjacent highway in his wheel chair. A copy of their correspondence in support of the objection was tabled at the meeting.

The complainant advised members that there remained questions within his correspondence dated 30th September that remained un-answered, including whether officers would be prepared to arrange a site meeting. The complainant however retracted his statement made at the meeting that the legal officer had not responded to his request for clarification regarding the appropriate part of law relied upon to indicate that a degree of obstruction of the highway was tolerated; as he had not submitted this request to her. The complainant did however dispute officers assertions in correspondence he had received that 'the right of passage over the highway could still be achieved over the full width, although parts of it are raised and may be difficult'. He believed that it was not possible to pass over the full width and that any attempt to do so could result in injury to the public.

Members considered a report that provided information surrounding this matter. Officers were in attendance and made representations supporting the action taken to date by the Council. An officer advised members that obstructions to the highway were subjected to a risk assessment carried out by trained Highway Inspectors and that since January 2010 a total of 361 letters had been issued requesting that action be taken to remove obstructions. The advice offered by officers in correspondence to the complainant was not intended as a legal opinion as to the duty placed on authorities by the Highways Act 1980, and the action taken by officers in May 2009 to instruct the adjacent property owner to cut back over hanging branches was a measure designed to improve the existing sight lines. The officer referred to the earlier reference to other residents who had supported this complaint and advised members that following the receipt of a request from a nearby resident for a footpath to be constructed outside the property at Kirkside, the request had been referred to the Traffic & Road Safety Manager for consideration, who had since met with the applicant and had offered to install dropped crossings to facilitate access across the road and to the nearby church. This request was on a list of schemes awaiting

approval for installation, although subsequent to this, the resident had since telephoned to advise that he still maintained his concerns and did not wish to see dropped crossings installed. The officer further maintained that he would be happy to arrange a site visit should all relevant parties be willing to attend. Highway Inspectors would also continue to monitor the situation with regard to the hedge and grass verge and take any appropriate action necessary.

The complainant responded to this representation and advised that the Northumbria Water sign located on the grass verge was barely visible due to the deposited soil. He also provided members and officers with details of other local authorities interpretation of the Highways Act which indicated that access of up to 2.3M in height and to the adjacent boundaries was required. The officer advised that this Council had always taken a common sense, risk assessed approach towards interpreting cases of overgrown vegetation causing an obstruction on the highway, and that the existence of a space of 2ft in width on the grass verge provided the public with reasonable access. The legal officer further advised that the law required that it was up to each authority to determine what constituted as reasonable use of the highway.

Members referred to the other residents who had supported the complainant in requesting that the Council take action to ensure full public access of the grass verge and questioned why the offer of dropped crossings had not been accepted. It was noted that vehicles often parked on the highway adjacent to the grass verge. The complainant advised that he believed that it was safer for the public to walk along the grass verge on their way to the church, rather than on the footpath on the opposite side of the road, as it required them to cross the road on two occasions. He also confirmed that he did not believe that it would be appropriate for any wheel chair or scooter user to use the verge due to its uneven ground, and that their access should be via the highway. In relation to members questions as to whether he considered it appropriate for the Council to maintain full access across every highway and Council verge, the complainant stated that he did not believe this should be the case, but that the Council should ensure safe access in relative safety. The officer advised members that he believed the current access of between 2-3ft provided reasonable enough access and that the Council could not reasonably be expected to provide fence to fence access across each highway as it would require the removal of many obstructions such as trees, signposts, utility equipment etc. The complainant concurred that application of the 'boundary to boundary' rule was not always a good idea. With regard to the likely presence of vehicles parked adjacent to the verge, the complainant stated that this occurred on most Sundays and whenever there was a wedding or funeral held at the church. Members questioned how anyone in a wheelchair or scooter could safely make their way along the highway when parked cars were present. The complainant advised that his neighbour did not attend church on those particular days.

At this point officers from Development & Neighbourhood Services and the complainant left the meeting room.

Members considered all of the representations contained within the report and presented to them at the meeting. They considered the duty under the Highways Act to protect and assert the rights of the public to use the highway and for all vegetation to be cut back to a reasonable level. They were however

of the view that it was not reasonable to expect to have level access across the full width of the highway verge and to expect that all grass verges could be made level for public access and that even the removal of the soil deposited some years ago would achieve access by the public on an even surface. They were mindful of the offer made by officers to provide a dropped crossing at two points to allow wheelchair access to the footpath on the opposite side of the road as they considered this a more safe and reasonable passage than use of the highway, the invitation made by officers to conduct a meeting on site with all interested parties present, as well as the action taken and still available to the Council to instruct parties to remove any obstruction to the highway.

RESOLVED that the action taken by officers in respect of this complaint be upheld on the grounds that the action taken was reasonable; and that the complainants request for a site visit be taken on board and officers be requested to invite all other relevant parties to attend.