



Department
for Transport

Consultation paper:
A protocol for local authorities
delivering waiting and loading
restrictions required for development
September 2016

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Foreword: Andrew Jones MP



New development is important for economic growth and local regeneration. The Government wants to ensure that securing the highway consents in England required to facilitate such developments is an effective and open process. Local authorities are responsible for making the traffic regulations (Traffic Regulation Orders) to manage their road network efficiently and safely and to permit changes to the highway.

I would welcome your views on the draft protocol set out in this consultation document which is aimed at achieving that. My intention is to promote effective working practices between developers and local authorities to make or revise waiting and loading restrictions on the highway required for new development. I appreciate that major highway works required for development will take longer and I would welcome your views on the need for undertaking further work to develop the protocol for these purposes.

I would urge all local authorities in England to adopt this protocol, when finalised. It will be a major step forward in promoting partnership working, providing clear lines of communication and challenging timelines, to help expedite the development process enabling new developments to be completed and operating at the earliest opportunity.

How to respond

The consultation period began on 13th September 2016 and will run until Friday 28th October 2016. Please email your response to PROTOCOL.CONSULTATION@dft.gsi.gov.uk and ensure that your response reaches us before the closing date.

If you would like further copies of this consultation document, it can be found at www.dft.gov.uk or you can contact us if you need alternative formats (Braille, audio CD, etc.).

Please send consultation responses to:

Sally Kendall
Department for Transport
Great Minister House
33 Horseferry Road
London SW1P 4DR

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

1. Introduction

- 1.1 The Government is pursuing an ambitious programme of reforms to speed up and simplify the planning application process. An effective planning system plays an important role in supporting growth – promoting and enabling the homes, jobs and services that communities need, and minimising uncertainty and delay for those proposing or affected by development. But having secured planning permission, those proposing development can sometimes be held up by delays in securing the Traffic Regulation Orders (TROs) necessary to allow changes to the highway needed to facilitate the new development.
- 1.2 Where a development requires the provision or amendment of an existing TRO this will be carried out by the local authority with all associated costs normally recharged to the developer. Traffic Orders, also known as Traffic Regulation Orders and Traffic Management Orders, are the legal instruments (under the Road Traffic Regulation Act 1984) by which traffic authorities implement most traffic controls on their roads. They are designed to regulate, restrict or prohibit the use of a road or any part of the width of a road by vehicular traffic or pedestrians. A TRO may take effect at all times or during specific periods, and certain classes of traffic may be exempted.
- 1.3 TROs and planning permissions are governed by separate legal processes. However, TROs should be considered as an essential part of the end-to-end development delivery and there may be potential for the planning and TRO processes to be run in parallel. We are working closely with the Department of Communities and Local Government to ensure guidance on this issue is effectively integrated with the guidance on the planning process.

2. Current procedure for making a TRO

- 2.1 The procedure to be adopted by a local authority for making TROs is set out in the 'Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (SI 1996/2489) as amended'; and the 'Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 (SI 1999/614), as amended'. The proposals in this consultation are intended only to apply to TROs made by English authorities.
- 2.2 The procedure for making a permanent TRO is as follows (there are different procedures for experimental and temporary TROs):
- Preliminary Requirements – the authority should consult with any body specified in Regulation 6 (depending on the order, other authorities and/or emergency services) and it must publish a notice in a local newspaper. It shall ensure that adequate publicity is provided to those likely to be affected. This may include display of notices in the relevant area and distributing the same to local properties and road users (though there is no requirement to do this specifically so long as the other publicity is adequate). The relevant documents must be held on deposit from the date that the notice of proposal is first published and must remain on deposit until six weeks after the proposed Order has been made (or a decision has been made by the authority not to proceed with the proposal).
 - Public Objections and Inquiries – anyone may object in writing to an order by the date specified on the notices or if later within 21 days of the notice being given and publicity being adequate. A Public Inquiry may also be held but is only required in certain circumstances as set out in Regulation 9. If the authority decides to hold a Public Inquiry it must give notice of the fact and the Inquiry must begin within 42 days of that notice being made. The appointed Inspector will decide how the Inquiry is to proceed.
 - Making a TRO – TROs cannot be made before the statutory period for representations has ended or after a period of two years from the making of the initial notice. Within 14 days of making the TRO the authority must place a notice in the local press announcing their decision, ensuring that adequate publicity is given to the making of the TRO and write to those who objected to the proposal outlining the reasons for their decision to proceed. Any traffic signs required as a consequence of the TRO must be in place before it comes into force.
- 2.3 This consultation is not a regulatory review and the Department is not seeking comment on the Procedure Regulations at this time.

3. Proposed protocol for TROs

- 3.1 In many cases, local authorities manage the TRO process that enables development to take place in a timely manner. But there are competing demands placed on local authorities - they have a duty to manage their highways to ensure the safe and expeditious movement of traffic. With the current resource constraints in the public sector and skill shortages, there is a clear need for appropriate systems and processes to help improve the management of the TRO process.
- 3.2 The lack of regulatory timescales, transparency and the right to challenge the processing of TROs can also lead to frustration for developers. Ministers have expressed their concern when learning that significant delay in the TRO process has led to investment being delayed in the development process.
- 3.3 The Department for Transport has developed a draft protocol for local authorities working with developers to deliver TROs in a timely manner. The protocol is intended to be adopted where developments require minor changes to the kerbside operation of the highway (usually waiting and loading restrictions). Local authorities could consider applying this protocol where appropriate, to the making or amending of other developer-led traffic regulations.
- 3.4 Developments requiring highway works (for example, changes to a junction lay-out) would require longer implementation times than those proposed within this protocol, but there may be scope for adapting the principles of this protocol after further discussions with interested parties.
- 3.5 The consideration as to when the protocol should be implemented will be an important element for the local authority to consider in ensuring the process is well managed. Where the land-use for the site is established, for example, and any planning applications that are required relate only to minor alterations to the building, the protocol may be adopted before planning approval for minor matters. In some cases a change of use may be allowed under permitted development rights and will not require a full planning application, but may still require TROs.
- 3.6 The protocol is very much a partnership approach – it relies upon both parties developing effective relationships for exchanging information that is both accurate and timely. The intention is to make the process open and challenging for both parties – but the timelines defined are currently being delivered by many local authorities.
- 3.7 Communication by both parties is essential throughout the process - to report progress and resolve any issues that may be raised. On the occasions where the timescales defined may not reasonably be met, both parties should discuss and agree a revised timescale for completion. For example, the protocol does not allow for the submission of relevant objections and the need for these to be resolved. However, revisions would normally only take place where delay is unavoidable – for example, the unexpected absence of key personnel/Council meetings postponed etc.

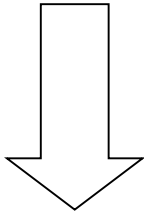
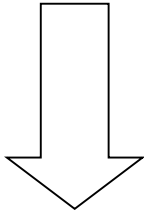
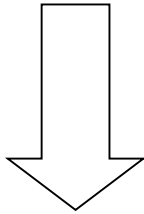
- 3.8 It is intended that the stages will apply to both unitary and two-tier authorities. The integration of services and process/clearances may be simpler for unitary authorities but the systems that should be developed for the protocol should be sufficient to manage the timescales.

Protocol for Developers/Applicants

- 3.9 For an application to amend/make a TRO, the developer should provide the following:
- The appropriate fee;
 - A covering note/letter which outlines the background to the request and need for the change.
 - Details of the planning application if relevant - including the planning application reference number for live applications and the relevant planning officer contact details. It should also explain the reasons if no planning application is required;
 - A plan showing the existing road markings;
 - A plan showing the proposed road markings;
 - Relevant supporting data (e.g. kerb-side utilisation surveys, parking occupancy surveys).
- 3.10 This information should be provided in the format required by the relevant local authority. Any errors/missing information will result in the timescales being adjusted to reflect the changes.

Protocol for Local Authorities/Highway Authorities

- 3.11 Once the developer information has been agreed as complete, the protocol will require the local authority to deliver the following steps to the timescales indicated below:

Application made	
 Within 6 weeks	<ul style="list-style-type: none"> • Once TO application has been submitted to the local authority, a decision on whether the proposals are acceptable within 3 weeks; • If the local authority supportive, draft orders to be produced and advertised within a further 3 weeks.
Proposed Order Advertised	
 Within 5 weeks	<ul style="list-style-type: none"> • Following 21 day statutory consultation period, process to be finalised and decision on Order to be made within 2 weeks (IF NO RELEVANT OBJECTIONS RECEIVED).
Decision / Implementation	
 Within 4 weeks	<ul style="list-style-type: none"> • local authority issue 'Notice of making'; • Works programmed and completed on site; • TRO becomes operative/enforceable.
Process Complete - Total 15 weeks	

3.12 In most cases, once the TRO has been 'made', the physical works required to support the TRO, such as the installation of signs, should be programmed and completed. This effectively allows up to 4 weeks for the works to be completed on site once the TRO proposals have been formally approved.

4. Guidance

- 4.1 The Department will develop new guidance on the TRO process for new development to support the adoption of the protocol. The guidance will focus on good practice that both the development industry and local authority practitioners already engage in to ensure that the process works well. It will highlight:
- process issues and legal constraints
 - the integration of local authority planning and engineering functions (both at unitary and two-tier planning authorities)
 - good practice in making the TRO process transparent and available
 - case studies - highlighting good practice across the stages
 - reporting mechanisms for delivering feedback on the protocol.
- 4.2 New guidance in relation to the TRO process will sit alongside current statutory and operational guidance on traffic management and parking, including statutory guidance issued under the Traffic Management Act 2004, on using petition schemes to provide a right to review parking policies issued by the Department for Communities and Local Government in March 2015.

The link is:-

www.gov.uk/government/publications/right-to-challenge-parking-policies .

5. Monitoring and Reporting

- 5.1 This consultation is also seeking your views on how local authorities should monitor the protocol and report on delivery.
- 5.2 The Government will consider how the effectiveness of the protocol in expediting the TRO process and delivering development that will benefit the local community should be monitored. It expects this process to make a tangible difference to the speed with which developments can be completed – and will work with local government partners to encourage local authorities to take up the protocol and create partnerships focussed on delivery. The guidance will set out more information on this matter.

What will happen next?

A summary of responses, including the next steps, will be published within three months of the consultation closing on Friday 28th October 2016. Paper copies will be available on request.

If you have questions about this consultation please contact:

Sally Kendall

Department for Transport

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0207 944 2085

Email: PROTOCOL.CONULTATION@dft.gsi.gov.uk

Annex A: Full list of consultation questions

Your details

Please indicate whether you are responding as a;

- i) representative of the development industry (please indicate your type of business, and your role in the process)
- ii) district council
- iii) borough/unitary/County Council
- iv) other interested party

Question 1

Do you consider that a protocol for working with developers for introducing or amending waiting and loading restrictions will be helpful?

Yes/No

Comment

Question 2

Would you consider adopting this protocol for delivering waiting and loading restrictions for new developments?

Yes/No

If "no", why not?

Question 3

Do you consider the indicative timescales for the different stages to be achievable in the majority of cases?

Yes/No

Comment

Question 4

Would you monitor and report on the stages identified for the protocol? How would you provide this information?

Yes/No

Comment

Question 5

Do you consider that the protocol could be adapted to cover other TROs and developments which include highway works (other than the kerbside operations described in this document)?

Yes/No

Comment

Question 6

Do you have any good examples of good practice in terms of processes, communication, joint working between local authority departments, or between local authorities and developers?

Comment

Question 7

Can you please provide any information related to anticipated costs or benefits to your organisation that would arise as part of introducing the proposed process?

Comment

Question 8

Do you have any other comments on this draft protocol?

Comment

Annex B: Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

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