

APPEALS REPORT



Date Written	25 th January 2012
Report Author	Engineering&Highways Manager
Service Area	Engineering, Highways & Transport
Committee Date	5 th April 2012

To: Chairman, Ladies and Gentlemen

Bogey Road, Merthyr Tydfil – Objection to Proposed Permanent Traffic Regulation Order

PURPOSE OF THE REPORT: To advise Councillors of an objection received to the recently advertised 7.5 tonne (except for access) Traffic Regulation Order (TRO) along the Bogey Road and to recommend the proposed 7.5 Tonne (except for access) Weight Limit be implemented.

1.0 INTRODUCTION AND BACKGROUND

- (a) Councillors will recall my report to Cabinet on the 12th October 2011 concerning the proposed introduction of a 7.5 tonne (except for access) TRO along the Bogey Road. It was resolved to accept the recommendations within the report and item number 394 refers.
- (b) The report referred to the Planning Inspector's Appeal Decision Report associated with the Ffos-y-Fran Land Reclamation Scheme, copies of which were placed in the Councillors Library. Condition 37(7) requires *"before any coal from the development hereby permitted is transported by road from the Cwmbargoed Disposal Point, there shall be in force a Traffic regulation Order in respect of that length of this road determined appropriate by the Merthyr Tydfil County Borough Council; and if at any time that Order ceases to have effect all transportation by road of such coal shall cease until a replacement order comes into force or unless the Local Planning Authority gives written consent to any variation."* The reason for Condition 37 being *"to define the means of coal transportation from the land reclamation site via the disposal point, and in the interests of the achievement of sustainable transport and for the protection of highway safety and residential amenity."*

- (c) In accordance with Statutory Traffic Order procedures Public Notice was given of the Council's intention to make the Order which included a Notice of Intention advertised in the Merthyr Express on the 3rd November 2011 informing that objections to the Order together with the grounds on which they are made must be made in writing and returned by the 24th November 2011. Public Notices were displayed on site at the affected roads and maintained throughout the objection period. In accordance with the same above procedures a copy of the Notice of Intention was also sent to a list of the Consultees. The extent of the proposed prohibition is indicated on the attached plan at Appendix A for Councillors information and the associated Schedule detailing the extent of the prohibition along the Bogey Road is as follows:-

Schedule

That length of the Bogey Road, Merthyr Tydfil which extends from a point 960 metres west of its junction with the Gelli-Gaer Common Road (grid reference SO 08473 06313) to a point 1090 metres east of the roundabout at the junction of the A4060(T) (grid reference SO 07284 05977).

- (d) An objection has been received from South Wales Police by e mail dated 18th November 2011 in response to the copy of the Notice of Intention sent to them. The objection is as follows from Sector Inspector Claire Hallett.

“Can I add my concerns regarding both the original proposals and the additional clauses suggested which will be impossible for my Officers to enforce? We have stretched resources as it is and this will not be a priority for us. Can I strongly request that these proposals are reconsidered?”

In relation to the same objection an e mail was also received from Andrew Carter representing South Wales Police on 1st December 2011 as follows.

“Further to the proposed 7.5 Tonne Weight Restriction (Except for Access) Order for Bogey Road. This morning I have again discussed this matter with Inspector Hallett and we both agree that the police objection to the implementation of such an order still stands. Our decision is based on the fact that the area concerned is isolated and we feel that any such order would be unenforceable.

I have noted the objections from South Wales Fire and Rescue in relation to a width restriction, but I would like to know what measures they used to address the 6.6 Width Restriction Order that was in place for many years prior to the realignment of the road to bypass the weak bridge and its physical features at the top end of Bogey Road. This order was self regulating and an order of this type is still our preferred option.”

South Wales Police are the only organisation who objected during the appeal period, not against the proposal of a TRO to prohibit non-exempt vehicles over 7.5 tonnes, but on the methodology of its application i.e. they would recommend a width restriction TRO with physical measures, not a weight limit.

- (e) However, primarily the Fire Service have previously expressed their view on a width restriction, as referenced in the original report, that such a width TRO with an associated an engineered physical restriction system, would in their opinion delay a response to an Emergency situation , which could lead to significant risks.

In addition other TRO exempt vehicles may also be affected by such measures and again their comments are available to reference in the original report.

Therefore, if such an order was to be proposed, which included physical restrictions, there could be feasibly a significant negative risk associated with such an order, and it would almost certainly generate further objections during consultation.

The objection from South Wales Police, must therefore be considered with respect to the Police's stretched resource availability to enforce such an order, and it would not as stated be a priority for them.

However, if there are breaches of such an order, other sources such as the public, highway users, the Authority's officers etc for example, can report these occurrences to the Police, and act as witnesses if they are prepared to do so.

- (f) Therefore the weight limit TRO proposal appears to be of lower risk to implement rather than a physically restricted width limit TRO.

It is important to clarify to the decision makers , that if the amenity weight limit TRO is made, it would enforceable for a legal reason, but it is likely to be unenforceable for the practical reason surrounding Police resources.

2.0 EQUALITY IMPACT ASSESSMENT

- 2.1. An Equality Impact Assessment has been undertaken and no negative effects have been identified at this stage.

3.0 FINANCIAL IMPLICATION(S)

3.1. Enforcement is a matter for the Police but if the order is made in the knowledge of this objection there could be a small liability on the council. The major liability would lie with the driver breaking the regulation.

4.0 RECOMMENDATION(S)

4.1. I recommend that:-

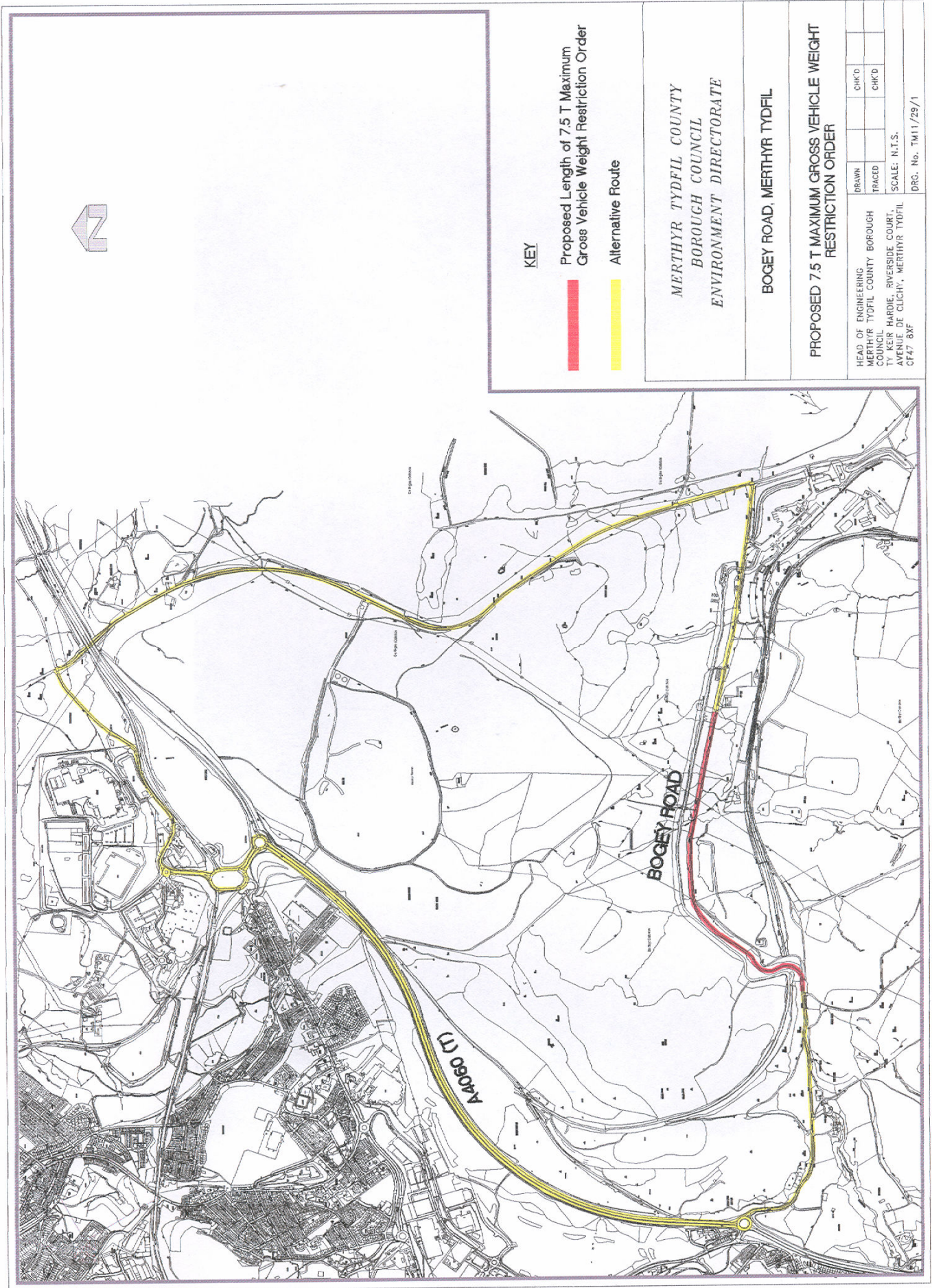
The proposed 7.5 Tonne (except for access) Weight Limit be implemented and that contents of the objection from the Police and their comments regarding enforcement levels, together with the limited possibility of this generating a minimal liability to this Council be noted and accepted.

GARY THOMAS
DIRECTOR OF CUSTOMER SERVICES

BACKGROUND PAPERS		
<i>Title of Document(s)</i>	<i>Document(s) Date</i>	<i>Document Location</i>
File reference TM107 Ffos-Y-Fran TRO	Ongoing	Unit 20 Merthyr Industrial Park, Pentrebach, Merthyr Tydfil. CF48 4DR.
Report to Cabinet - 7.5 tonne (except for access) TRO along the Bogey Road.	12 th October 2011	

Consultation has been undertaken with Executive Board in respect of each proposal(s) and recommendation(s) set out in this report.

APPENDIX A



KEY

Proposed Length of 7.5 T Maximum
Gross Vehicle Weight Restriction Order

Alternative Route

MERTHYR TYDFIL COUNTY
BOROUGH COUNCIL
ENVIRONMENT DIRECTORATE

BOGEY ROAD, MERTHYR TYDFIL

**PROPOSED 7.5 T MAXIMUM GROSS VEHICLE WEIGHT
RESTRICTION ORDER**

HEAD OF ENGINEERING
MERTHYR TYDFIL COUNTY BOROUGH
COUNCIL
TY KEIR HARDIE, RIVERSIDE COURT,
AVENUE DE CLICHY, MERTHYR TYDFIL
CF47 8XF

DRAWN	CHK'D
TRACED	CHK'D
SCALE: N.T.S.	
DRG. No. TM11/29/1	