

Formal Objection to Planning Application

No. 20250721

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Gravesham Borough Council
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18 December 2025

Dear Sir,

OBJECTION TO: APPLICATION 20250721

Application Context

I **OBJECT** to the above application. The industrial development lies within Gravesham Borough Council's jurisdiction; however, the severe impacts from the imposition of a permanent TRO would also fall on roads and residents in Medway. This includes jeopardising allocated sites in Medway's Local Plan, which is reliant on adequate access. Reliance on a TRO to make narrow country lanes one-way is fundamentally unsound and insufficient to render this development acceptable in highway safety terms.

I fully support the objections made by the various local people, Parish Councils, Sustrans and KCC's Public Rights of Way team.

Description of Development

First, it appears that the section 73 application seeks to amend the description of development of permission 20190290 to include additional elements in the description of development. This is not permissible in law, as established by the case of *Finney*¹. Some clarification on this and Counsel's

¹ *Finney v Welsh Ministers* [2019] EWCA Civ 1868

opinion, to be shared, would be required to make sure this section 73 application falls within the confines of the law.

Statutory and Procedural Deficiencies of TRO

Under the Road Traffic Regulation Act 1984, local highway authorities may impose one-way restrictions via a TRO. There is a mandatory 21-day public consultation, police and parish council consultation, and public notice advertisement in local press and on-site postings. Notwithstanding a “no objection” from Kent County Council, that does not amount to a grant of TRO for which they must follow a statutory process. There is no evidence that the applicant or highway authority has carried out full statutory consultation or a full road safety assessment/audit to evidence any support.

It is unclear how Kent County Council in its statutory consultation response has reached the conclusion it has and it would be premature for KCC to advance a position on the acceptability of the planning aspects of the application, and corresponding conditions, without a full assessment of the impacts and statutory duties it must adhere to. For this reason KCC’s “no objection” must, as a matter of law, be afforded limited weight at this stage.

Section 122 imposes a duty on the authority to secure safety of road users, facilitate traffic (including emergency and agricultural traffic), and preserve the character of roads. The proposed TRO fails these duties: emergency vehicle access is compromised, industrial traffic increases hazards in a totally inappropriate rural setting, and no formal safety audit or impact assessment has been provided. Additionally, rural properties along these lanes require access and egress in both directions for daily life, deliveries, and emergency services. These lanes are historically rural routes connecting Medway and Gravesham, particularly Higham and Cliffe, and form part of the established character of the area. The routes are relied upon for daily living including school commutes and soon doctor surgery commutes as Highway Medical Practice is closing so some nearby residents will naturally need to access Cliffe Woods surgery.

The route also accommodates public bus services and school bus services linking Medway towns to Higham train station, the nearest station by distance. A permanent TRO would necessitate diversion of these services, lengthening journey times and distances, and also increasing unnecessary traffic to be diverted either onto the B2000 (which is already a busy road) or into Higham village which otherwise would not have been necessary. As far as I am aware, there has been no consultation with bus operators nor locals outside of Gravesham regarding the viability or desirability of such diversions, and this critical impact has not been considered within the application.

Highway Safety and Material Planning Considerations

Under national and local planning policy, transport impacts are a material planning consideration. The NPPF and Development Plan require that developments secure road safety for all users and avoid unacceptable cumulative impacts. Granting permission based on an untested (the temporary TRO is completely different in scale and impact) and unmade TRO is insufficient. The highways

authority offers only prospective comfort, “subject to TRO”, without any statutory assurance that a valid, enforceable TRO is in place at the time of decision.

Gravesham cannot lawfully rely on this as mitigation, even as a Grampian condition, since the planning authority lacks legal certainty that the TRO can or will be granted in the specific form required by the Section 73 application. Planning policy demands that conditions must be necessary, relevant, enforceable, precise, and reasonable (NPPF paragraph 57). A Grampian condition that waits on a future TRO, particularly one not yet consulted on, drafted, or capable of enforcement, falls short on the enforceability and precision tests.

Courts have held that conditions must be capable of being met in clear, objective terms, and that effectively reliance on yet-to-be-secured mitigation amounts to undeliverable approval. The Courts have confirmed that conditions cannot impose positive obligations that cannot be enforced at the time permission is granted. That principle directly applies here; planning permission must be justified on mitigation that exists, not proposed, or where such is proposed it is entirely in the control of the applicant and can be (*not might be*) secured prior to commencement of the use which will generate the harm to be mitigated.

Furthermore, guidance on Grampian conditions clarifies that whilst such conditions may delay commencement until a third-party action occurs, they must be enforceable and necessary. The courts have quashed permissions that depended on speculative enforcement powers or unenforceable obligations. Relying on a TRO that may never materialise and has to go through a statutory process, fails the statutory tests and renders the planning permission (if granted) unlawful; the mitigation is, as it stands, unenforceable, speculative and uncertain.

Further, it must be questioned as to whether a condition in this instance would be lawful in any event. The mitigation measures are wholly outside the red line and involve third-party land and interests, and different authorities; Medway Council as landowner for some parts and Kent County Council as highway authority. A condition cannot impose positive obligations requiring another authority to take action. Courts have consistently disallowed permissions where planning conditions depend on uncertain third-party actions or speculative mitigation.

As a result of these points, the planning proposal must be deemed inappropriate on (amongst others) highways and legal grounds.

Duty to Consult and Cross-Boundary Impacts

Gravesham Council has a statutory duty to consult Medway Council and to consider the impacts of its decisions on neighbouring authorities on matters such as this where it is clear it will do so. This duty extends to assessing effects on residents outside the red line of the application site and on strategic allocations within Medway’s Local Plan, which rely on adequate access and have not been allocated with any assumption of one way traffic routing as proposed by this application. Failure to

engage with Medway and to evaluate these cross-boundary consequences would constitute a significant procedural flaw and undermine sound planning principles.

The scheme's reliance on an insubstantial TRO amount to a material flaw. The application inadequately addresses procedural and safety matters and must be refused or delayed until statutory compliance and full highway safety justification are provided.

Climate change and sustainability

The proposed TRO would force longer car journeys (and importantly, waste collection, services, emergency vehicles journeys), and disrupt public bus routes, increasing emissions and undermining sustainable transport objectives. The LPA must pay particular regard to Sustrans objection on this sustainable transport impact and the national cycle designation. The proposed TRO conflicts with NPPF requirements to promote sustainable travel and reduce carbon emissions, and with statutory climate obligations. These impacts weigh heavily against granting permission and conflict with Development Plan and statutory objectives.

Furthermore, in the ES Statement of Conformity, there is no account for the *downstream effects* of the new TRO which is now established as required by law². The TRO (necessitated by the proposed amended development) causes rerouting, congestion, or longer journeys on rural roads, these impacts can adversely affect the likely significant environmental effects, including air quality and climate change. These have not been accounted for in the Statement of Conformity and therefore the local planning authority, as the competent authority for EIA purposes, does not have sufficient information to reach a reasoned conclusion on the environmental effects of the amendments.

Conclusions

Similar attempts to impose one-way restrictions on rural routes have been overturned where authorities failed to provide robust evidence, conduct proper consultation, or consider wider impacts on established access and public transport. This duty is heightened in rural settings where reliance on those routes is critical and essential infrastructure for otherwise remote users. Courts have emphasised that TROs affecting rural connectivity require clear and compelling justification, stakeholder engagement, and compliance with statutory duties. Where these elements were absent, orders were quashed, reinforcing that speculative or poorly evidenced TROs cannot lawfully underpin planning mitigation on which the local planning authority can place reliance.

Amending a temporary construction traffic only TRO to a permanent all road users TRO is not a minor amendment. The difference is stark and can be summarised as:

1. Extensive and indefinite: Alters the established character and function of rural roads permanently;

² R (Finch) v Surrey County Council [2024] UKSC 20.

2. Disproportionate impact: Affects all users (residents, agricultural traffic, emergency services, and public transport) way beyond the development site and in different administrative boroughs;
3. Mitigation must be directly related to the development and reasonable in scale. A permanent TRO outside the red line, impacting wider communities, is considered strategic infrastructure change, not site-specific mitigation. This is the type of development which should have been progressed through the plan-led system especially where the mitigation is as extensive and adverse as is suggested whereby the applicant is not taking on any of the mitigation themselves but relying on the strategic road infrastructure to be amended to suit their desire goal; that is not how speculative (nor section 73 applications) should be progressed within the planning system. Such measures must go through plan-led full consultation and worked out together with Medway Council as its neighbour and with Kent County Council. The knock-on effects of such road diversions have not been fully explored; and
4. Courts have held that conditions or obligations cannot impose speculative or unenforceable measures on third-party land or unrelated users.

Requested Outcomes

Refusal of the planning application on highway grounds.

Yours faithfully,

