



## **Report to Cherwell District Council**

**By Christopher Millns BSc (Hons) MSc CEng  
FICE FIHT**

**An Inspector appointed by Cherwell District  
Council**

The Planning Inspectorate  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ 0117 372 8000

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### **ROAD TRAFFIC REGULATION ACT 1984**

**THE CHERWELL DISTRICT COUNCIL  
(BANBURY TOWN CENTRE) (BRIDGE STREET, MARKET PLACE,  
CORNHILL AND PARSONS STREET) (PEDESTRIAN STREETS  
AND TRAFFIC REGULATION) ORDER 200\***

Date of Inquiry: 2, 3 and 4 December 2008

Reference: E2308

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## CASE DETAILS

- The Order would be made under Sections 1(1), 2(1) and (2), 3(2), 4(2), 32, 35, 45 and 46 and Part IV of Schedule 9 to the Road Traffic Regulation Act 1984 and is known as:

THE CHERWELL DISTRICT COUNCIL (BANBURY TOWN CENTRE) (BRIDGE STREET, MARKET PLACE, CORNHILL AND PARSONS STREET) (PEDESTRIAN STREETS AND TRAFFIC REGULATION) ORDER 200\*

- Cherwell District Council (hereafter referred to as "the Council") published the proposal to make the Order on 26 June 2008.
- If made the Order would authorise the Council to regulate traffic in Bridge Street, Market Place, Cornhill and Parsons Street in Banbury.

**Summary of Recommendation: I recommend that the Order be made subject to modification.**

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### 1.0 PREAMBLE

- 1.1 I was appointed in accordance with Part III of Schedule 9 of the Road Traffic Regulation Act 1984 to hold a public local inquiry for the purpose of hearing objections and representations relating to the above draft Order.
- 1.2 The inquiry sat for three days on 2, 3 and 4 December 2008 at the Cherwell District Offices, Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA. I carried out an unaccompanied site inspection on the day before the inquiry opened. I also visited the site on the evening of 3 December and again on the afternoon of Thursday 4 December whilst the market was in operation.
- 1.3 The general effect of the Order, if made, would be to extend the existing pedestrian priority arrangements in Banbury Town Centre. The affected streets would be Market Place, Parsons Street, Cornhill, and part of Bridge Street.
- 1.4 The main alterations would be as follows<sup>1</sup>:
  1. Restriction of all vehicular traffic (10am to 4.30pm and 8pm to 1am daily) and no waiting at any time on the following streets:
    - Market Place - from Nos. 11/12 to its junction with Parsons Street;
    - Parsons Street - for its entire length;
    - Cornhill - for its entire length.
  2. Restriction of all vehicular traffic (10am to 4.30pm - Thursdays and Saturdays only) on the following streets:
    - Bridge Street - from the roundabout east of the Town Hall to its junction with Market Place;
    - Market Place - from Bridge Street to Nos. 11/12.

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<sup>1</sup> The definitive proposals are detailed in the draft Order at Inquiry Document 4. A plan showing the proposals is also available at Inquiry Document 12

3. Disabled Drivers' Parking Bays (limited to one hour waiting – no return within one hour) in a lay-by adjacent to the Town Hall.
  4. Loading Bay (limited to one hour – no return within one hour) on south side of Market Place.
  5. Prohibition of waiting and loading at any time on the following streets:  
Market Place - east of Nos. 11/12 except for loading bay area;  
Bridge Street – except for Disabled Drivers' Parking Bays.
  6. One way westbound in Market Place – from Nos. 11/11A to Parsons Street.
  7. The draft Order provides for certain qualified exemptions to (1) and (2) above. These include access and egress from residential parking spaces and provision for egress from business parking spaces.
  8. Outside the restricted periods access would be limited to vehicles displaying exemption certificates, access to or egress from private off-street parking areas, delivery and collection of goods, essential servicing vehicles, 'Blue Badge' holders and vehicles which have entered Bridge Street/Market Place which cannot exit via the Market Place car park.
- 1.5 There were 18 objections to the Order outstanding at the commencement of the inquiry. Five objectors appeared at the inquiry and gave evidence. One supporter gave evidence. The main grounds of objection were:
- Inadequate publicity and consultation on the scheme
  - Impact on access to businesses
  - Impact on access to residential properties
  - Effect on parking for Blue Badge holders
- 1.6 The Council confirmed at the inquiry that it had complied with all the required statutory formalities. There were no challenges at the inquiry in this respect. The Council also recognised that the draft Order would, if made, restrict vehicular access to premises for more than eight hours in a period of 24 hours. The Secretary of State's consent would therefore be required before the Order could be made<sup>2</sup>.
- 1.7 During the inquiry, the Council proposed a number of modifications to the draft Order to address the concerns of objectors. These are given in Section 8 of the report.
- 1.8 This report contains a brief description of the site, the gist of the cases presented and my conclusions and recommendations. Lists of inquiry appearances and documents are attached as appendices to this report.

## **2.0 DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

- 2.1 Banbury is located to the west of and adjacent to the M40 and is roughly equidistant between Coventry to the north and Oxford to the south. It is a market town with a large shopping area and twice weekly market.
- 2.2 There is an existing pedestrianised area encompassing part of the High Street,

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<sup>2</sup> As required by the Road Traffic Regulation Act 1984 Schedule 9 Part II Article 13 (1) (a)

part of Broad Street and Butchers Row. The Market Place and Parsons Street lie adjacent to and north of the High Street. Entry to the Market Place is via Bridge Street at the point where the High Street pedestrianisation scheme commences at its eastern end. There is a 52 space public car park in the Market Place. The outdoor market takes place here on Thursdays and Saturdays. The new Castle Quay indoor shopping centre is located immediately to the north of the Market Place.

- 2.3 Parsons Street runs from the eastern end of the Market Place and is one-way westbound to its junction with North Bar. It has narrow footways and a carriageway width of approximately six metres. The street contains a mix of shops, restaurants and public houses. Church Lane is a narrow pedestrianised street which links Parsons Street with the High Street. It also provides access to Church Walk and White Lion Walk. London Yard lies to the west of Church Lane and is a short cul-de-sac served from Parsons Street.

### **3.0 THE CASE FOR CHERWELL DISTRICT COUNCIL**

The material points were:

#### **Policy Context**

- 3.1 The Non-adopted Cherwell Local Plan 2011 approved in February 2001 (Policy TR4 para. 6.65) states that the District Council will investigate the potential for extending pedestrianisation in the town centre to Parsons Street and Market Place. The Oxfordshire Local Transport Plan 2006-2011 (Chapter 7 page 155) also refers to plans to pedestrianise the Market Place area in Banbury. The Cherwell Community Plan 2006-2011 includes a 'Key Action to 2011' to "Extend pedestrian priority into Market Place and Parsons Street".

#### **Background to the Proposals**

- 3.2 High Street, Broad Street and Butchers Row were pedestrianised in 1991 following a public inquiry in 1990 and subsequent confirmation of the relevant Traffic Regulation Order. Parsons Street had been included in the consultation on this scheme. However, it was not included in the final proposals as there was insufficient support from the stakeholders there.
- 3.3 The above Order allowed for 'Blue Badge' holders to park at all times within the pedestrianised area. However, the number of vehicles involved became untenable, negating the purpose and benefits of the scheme. Enforcement had also become a significant problem.
- 3.4 In 2001 the Council resolved to amend the Order by removing the concession to allow vehicles displaying a 'Blue Badge' to enter the pedestrianised area. A dispensation was also introduced to allow a butcher's vehicle to access and leave a private commercial parking space so that the premises could comply with food hygiene regulations. These amendments were considered at a public inquiry in 2001 and came into effect in 2002. The hours of operation of the scheme were also considered at the inquiry and subsequently amended in line with the inspector's recommendation to the present 10am to 4.30pm restriction.
- 3.5 The early success of the above pedestrianisation scheme resulted in certain traders seeking an extension of the scheme to Parsons Street. This was supported by the Banbury and District Chamber of Commerce. In 2001 the Council appointed consultants to draw up conceptual proposals and these were

- considered in 2002. However, they were not pursued at that time due to a lack of financial resources.
- 3.6 In October 2006, the Council resolved to move forward again on the development of the scheme. A budget of £2.137m was included in the capital programme and this is still available.
- 3.7 Consultations took place on the timing of the daytime core period for Parsons Street. It was decided to replicate the existing 10am to 4.30pm on High Street, Broad Street and Butchers Row for the following reasons:
- a) To avoid public confusion;
  - b) To have one town centre operating uniformly;
  - c) To treat all those affected equitably;
  - d) To recognise the outcome of the two previous public inquiries.
- 3.8 Representations were also received that, given the significant proportion of bars and restaurants, there should be an evening core period in Parsons Street. A recent survey found that 54% of the units in Parsons Street were retail whilst 37% of the units had a commercial leisure use. This has created a street which has a significant footfall in the evening as customers visit the public houses and restaurants. This has extended the period where there is potential pedestrian and vehicle conflict.
- 3.9 A detailed public consultation document was produced and published in August 2007. This included two options concerning the proposed pedestrianisation period in Parsons Street. Option A promoted the same daytime core period as the existing scheme (10am to 4.30pm) whilst Option B included, additionally, an evening core period (8pm to 1am). The consultation was targeted at key stakeholders as well as the residents and businesses that would be directly affected by the proposals. In total 243 copies of the consultation document were sent out. A meeting to discuss the scheme was also held with stakeholders.
- 3.10 The responses to the consultation were summarised and reported to the Council's Executive on 3 December 2007. In general, the responses were very positive. There was also a majority view in favour of implementing Option B which included both the daytime and evening core periods.
- 3.11 The proposals put forward by the consultants included full pedestrianisation of the Market Place as well as Parsons Street. However, the Market Place acts as a 52 space public car park on 5 days of the week with a traditional outdoor market on the other two days. The Council decided that the public parking in Market Place was too valuable to be lost and that the draft Order should therefore retain access to this parking area on non-market days. The proposals were also amended to provide a route for traffic to pass through the car park in order that vehicles would be able to exit from the Market Place on non-market days.
- 3.12 As the route through the car park would not be available on market days, it was decided to extend the draft Order to pedestrianise Market Place and part of Bridge Street between 10am and 4.30pm on market days (Thursday and Saturday).

### **The Draft Order Procedure**

- 3.13 The draft Order was initially published on 12 June 2008 but was superseded by an amended draft Order published on 26 June 2008. The detailed proposals and plan of the scheme were hand delivered to all the occupiers on the frontage of the streets affected. The proposals were also advertised in the Banbury Guardian and the documentation relating to the scheme made available for public inspection at Council offices.
- 3.14 The responses to the draft Order were reported to the Council's Executive on 4 August 2008. The Executive resolved to proceed with the Draft Order as advertised and, as required by the Road Traffic Regulation Act 1984, this public inquiry was arranged to consider the objections and representations which had been received.

### **Agency Agreement**

- 3.15 Oxfordshire County Council are the Traffic Authority for the streets which are the subject of the draft Order. Cherwell District Council was given the authority to promote the Order by way of an agency agreement with the County Council dated 12 June 2008.

### **Scheme Objectives**

- 3.16 In recent years there has been an increase in the number of vehicles accessing the area. This increase represents a danger to the safety of pedestrians and detracts from the historic setting of the streets. The scheme is aimed at reducing these conflicts in Parsons Street and the Market Place thereby creating a safer environment.
- 3.17 The environmental improvement of Parsons Street would transform the character of the street. This is expected to generate greater footfall and create a more vital and viable area in this part of the town centre. In the wider context of the Town Centre Strategy, the improvements would be used to attract investment to the area.
- 3.18 A flow of pedestrian traffic along Parsons Street is extremely important for both the occupiers of premises in the street itself but also for traders in Church Lane, Church Walk and White Lion Walk which all depend on pedestrian circulation around the town. The Council has received consistent feedback on these issues from the Chamber of Commerce, the Town Council and the general public. It is considered that pedestrianisation is urgently required.

### **Existing and Proposed Arrangements**

- 3.19 Parsons Street is a key street as it links attractions in the town centre such as the Market Place, Banbury Cross and the St. Mary's Church area. The street is however constrained with narrow pavements which tend to restrict pedestrian movements. This is particularly the case for those with mobility issues, wheelchair users and parents with children in prams and buggies. Despite this, the street remains busy with relatively high vehicle movements and pedestrian activity.
- 3.20 There are 'no waiting at any time' restrictions in Market Place and Parsons Street. These allow vehicles to stop, load and unload where it suits the driver. Similarly, 'Blue Badge' holders stop at locations convenient for them for up to three hours. Surveys carried out on Wednesday 7 May 2008 and Friday 16



May 2008 indicated 312<sup>3</sup> and 477 parked vehicles respectively between the hours of 9am and 5pm. In the peak periods, between 36 and 40 vehicles were parked on street each hour.

- 3.21 The surveys revealed that the majority of vehicles parked on street (70-74%) displayed a 'Blue Badge'. It is proposed therefore to increase the number of dedicated parking spaces for 'Blue Badge' holders in the area by 15 spaces with provision in the North Bar car park and Market Place car park together with the new bays on Bridge Street.
- 3.22 The current entrance to and exit from the Market Place car park would be reversed as part of the scheme. A new layout for the car park would also be introduced. This would provide for cars and small delivery vehicles up to 7.5 tonnes which have entered Bridge Street and Market Place to use a route through the car park to leave the area. This would be necessary as these vehicles would be prevented from exiting via Parsons Street due to the proposed restrictions.
- 3.23 Any vehicles within Bridge Street and Market Place at the start of the restrictions which could not exit via the Market Place car park would be able to leave the area via Parsons Street. This provision in the draft Order relates solely to the situation when the Market Place car park is being used for the market. A modification is proposed (see paras. 8.4 and 8.6 below) to allow for other situations when the route through the car park might not be available e.g. for vehicles larger than 7.5 tonnes, and when the market is being set up or taken down.
- 3.24 The loading ban on Market Place and Bridge Street would control the current random parking of vehicles in this area. It would also ensure an adequate turning space into and out of the Market Place car park for small delivery vehicles as referred to above.
- 3.25 The proposed one-way order on Market Place is necessary to enable the free flow of traffic entering the car park. Vehicles exiting from Butchers Row would therefore need to exit via Parsons Street via the one-way section of Market Place.
- 3.26 Residents in the restricted streets with off-street parking spaces would have unlimited access to these spaces<sup>4</sup>. Exemption certificates would be issued to be displayed on the resident's vehicle. The draft Order proposes that this be limited to one certificate per off-street parking space. However, the Council propose a modification in this respect (see para. 8.7 below) which would allow two certificates per space. Business vehicles would only be allowed to egress from any of their off-street parking spaces during the proposed hours of restriction. Again, this would be controlled by the issue of exemption certificates. A modification is also proposed to the draft Order in respect of these certificates to also allow two certificates per space rather than the one

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<sup>3</sup> Inspector's note: Detailed survey information is given in Inquiry Document 12. The number of vehicles parked on the survey day was 312 in total for the different vehicle types. Across the surveyed streets the total recorded was 350. No explanation could be given by the Council for this difference.

<sup>4</sup> In response to a query from the inspector the Council indicated that there were 38 residential properties in the affected streets of which 23 were located in Parsons Street. It was not known how many of these had off-street parking spaces.

proposed in the draft Order (see para. 8.9 below).

- 3.27 Emergency vehicles, vehicles requiring access for road works and bullion vehicles would be exempt from the restrictions. Also any vehicle already in the pedestrianised areas (including Butchers Row) would be able to exit during the proposed hours of restriction.

#### **Enforcement**

- 3.28 Enforcement of the traffic restrictions would initially be reliant on the Thames Valley Police. However, the County Council expect that in due course, enforcement would be through CCTV and Automatic Number Plate recognition. Within the car parks, enforcement would continue to be the responsibility of the Council. The Police would also be responsible for enforcement of the on-street parking and loading restrictions. When decriminalised parking enforcement is introduced, the Council would take on this responsibility.
- 3.29 Entry to Bridge Street/Market Place would be controlled by a rising bollard on market days. Provision would be made to allow exempt vehicles to enter the area including those destined for Parsons Street.

### **4.0 THE CASE FOR THE SUPPORTERS**

The material points were:

#### **Banbury and District Chamber of Commerce**

- 4.1 The Chamber has 130 members from sole traders up to large companies. It fully canvassed its members on the original pedestrianisation scheme and on this revised proposal. The survey results show that the vast majority of the members are fully supportive of the proposed scheme.
- 4.2 The main reasons for members' support are as follows:
- a) Shoppers need to be encouraged to experience Banbury fully in relaxed conditions;
  - b) There are constant danger issues at the moment with cars and lorries driving on pavements;
  - c) Cafés and restaurants would be able to have on-street facilities;
  - d) Evening customers would be encouraged to take in the artistic ambience of the new format;
  - e) Shoppers would be more likely to exercise their option to walk up Parsons Street and down Horse Fair as well as cutting down Church Lane;
  - f) More retailers would consider opening outlets;
  - g) The experience of the High Street pedestrianisation has been positive;
  - h) Drivers would not be able to use the street as a 'rat run'.
- 4.3 The Chamber considers that the scheme would be very positive for Banbury and would encourage people to come to the town.

#### **Written Comments**

- 4.4 Banbury Town Council has no objection to the scheme. It suggests a bollard at the entrance to the Market Place to prevent vehicular access on Market days.

- 4.5 The Thames Valley Police has no objection to the proposed Order
- 4.6 There was one letter of support for the scheme from a restaurant business in Parsons Street.

## **5.0 THE CASE FOR THE OBJECTORS**

The material points were:

### **Mr George Mills**

- 5.1 The consultation exercise was not satisfactory. There was a great deal of publicity on the previous pedestrianisation scheme. This time it has been low key almost minimal particularly in relation to the proposed evening restriction.
- 5.2 The proposed Order would severely limit Mr Mills's ability to assist his daughter and her family who live in London Yard which is accessed from Parsons Street. His daughter has run a dancing school there for over 20 years. Mr Mills collects his granddaughter from school each day at 3.30pm, arriving at her home in London Yard between 3.45pm and 4pm. In order to save journeys other bulky items such as washing are taken at the same time. The proposed Order would prevent this as well as other visits to give assistance when, for example, children are ill. The proposed evening restriction would also effectively prevent Mr Mills from visiting his daughter in the evenings since she normally works until 9pm which is after the proposed start of the evening restriction.
- 5.3 Much of the congestion problem is caused by people with disabled persons parking permits parking in inappropriate locations in Parsons Street without consideration for other users. Nevertheless, as a frequent visitor to Parsons Street, there is seldom any delay. The proposals would cause more problems by concentrating deliveries in a shorter period. If the proposed vehicle number plate recognition system was brought in, the existing order (see para. 5.17 below) could be enforced and there would be no need for pedestrianisation.
- 5.4 There is no justification for the pedestrianisation at night. By 6pm most shops are closed and shuttered. There are already adequate opportunities to wander in the existing pedestrianised areas in the town. Further pedestrianisation would be detrimental to the mix of shops in the town centre. There is a need for those selling larger and heavier items and these are being forced out of pedestrianised areas. The Council claims that it needs to be consistent with the existing scheme but this does not have a night time restriction. Butchers Row has a substantially higher proportion of commercial uses in the evening but a similar restriction is not proposed.
- 5.5 It is not a comfortable experience to walk along Parsons Street at night. Even driving one feels threatened and this would be made worse if the scheme went ahead. The public would feel that cars should not be there even if they have permits. This already happens during the Michaelmas Fair.
- 5.6 The proposals would not encourage pedestrians to walk up Parsons Street rather than cut down Church Lane. The reason there is less pedestrian traffic at the Horse Fair end of Parsons Street is that the majority of parking is at the opposite end of town. Bus stops are also not conveniently located for Parsons Street.
- 5.7 Only four of the members of the Chamber of Commerce are located in Parsons

Street and none of these are involved in the leisure industry. It is difficult to see therefore why they are interested.

### **Mr Stewart MacDonnell**

- 5.8 Mr MacDonnell lives in London Yard where his family run the dancing school referred to in Mr Mills's objection above. As well as being a business premise which they own it is also the family home. There are four off-street parking spaces associated with the property. In principle, Mr MacDonnell is in favour of a pedestrianisation scheme for Parsons Street. However, the current proposal would be detrimental to his business.
- 5.9 The objections to the scheme have not been satisfactorily answered. The Council called only one witness, the Chamber of Commerce, from outside the Council to support the scheme. Of the Chamber's 130 members only four would be directly affected and four indirectly affected by the proposals. This represents only 3% of the 243 consultees that the Council communicated with. There has not been a two-way dialogue with those directly affected.
- 5.10 No consideration has been given to people using the dancing school. The business operates between 3.45pm and 9.30pm Monday to Friday, 8am to 8pm on Saturdays and 10am to 4pm on Sundays. A petition has been signed by approximately 100 parents and other adults who are frequent visitors to the dancing school, often with young children<sup>5</sup>. The proposed closure would be extremely inconvenient and potentially dangerous for them and their children. Parsons Street is not safe to walk in particularly on a Friday and Saturday night. Parcel deliveries which are allowed access to Parsons Street at any time would be treated more favourably than children being taken to the dancing school.
- 5.11 There is no mention of the scheme or the inquiry on the Council's website, nor was anything seen in local publications including the Council's latest edition of 'Link'.
- 5.12 In addition to the safety concerns, the dancing school's customers would be faced with a long walk from the available car parks as well as the extra cost for parking. The multi-storey car park to the north of Parsons Street closes at 7pm and the Market Place car park cannot be used on market days or is full. In any event, young mothers with children would not make that journey, nor could they afford the additional cost. A short survey of our customers indicates that 30% would not do it.
- 5.13 The family home would be cut off from the outside world and would only be accessible, realistically, for 3½ hours each day. Under human rights law, everyone has a right to enjoy their private life without government interference. This right would be infringed by the proposals. These laws also protect individuals from discrimination. This would occur if the proposed scheme goes ahead as it would not allow friends and customers access to the family home and business.
- 5.14 Most businesses in the High Street are multi-nationals and carry enough power to ensure deliveries at specific times. The independent small traders in Parsons Street cannot do this. The traders on the south side of Parsons Street

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<sup>5</sup> The petition is available as part of Inquiry Document 29.

would be worst affected as they have no access to the rear of their premises.

- 5.15 Tables and chairs in the street could also make it more difficult to gain access to premises.
- 5.16 The proposed night time restriction would encourage the 'café culture' which has been criticised recently by the Vice Chairman of the Police Federation who said that the police could not cope with the "booze filled violence" in the early hours and that Britain's market towns are turning into the "wild west".

**Mr Alan Wolstencroft**

- 5.17 Mr Wolstencroft is the owner of Fashion Fabrics which is located in Parsons Street. In principle, he is in favour of the pedestrianisation scheme but feels that the existing traffic order, which restricts vehicles to 'access only'<sup>6</sup>, is being constantly abused. Effective enforcement would eliminate a great number of the current problems including 'rat running', abuse of the 'Blue Badge' scheme and irresponsible parking.
- 5.18 In discussions on the scheme, the Council officers indicated that they would consider a 'drop off' point for deliveries in Parsons Street but nothing has been forthcoming. Whilst discussions have been held with some stakeholders, all residents and other occupiers have not been treated equally. There has been no effective dialogue with independent retailers and business owners in the area. The documentation available prior to the inquiry did not contain all the information the Council has subsequently relied upon in responding to objectors' concerns. If there had been more direct consultation many of the issues could have been resolved prior to the inquiry.
- 5.19 The proposals would effectively double the pedestrianised area of the town whilst applying the same 'core period' restriction. Delivery drivers would not be able to meet the demands of the expanded area outside the restricted period. The reason there is not a problem with deliveries in High Street/Broad Street is that Parsons Street and Church Lane are used to service the area. The proposed Order would therefore have an adverse effect on the whole area. A petition signed by 11 delivery drivers supports this view<sup>7</sup>.
- 5.20 If the traffic order for Parsons Street is approved, it would be beneficial to amend the High Street/Broad Street Order to reflect changes to the definition of registered carriers who are exempt. The new definition could potentially resolve the majority of the delivery problems for his business. The provision of two exemption certificates per business parking space would also help.
- 5.21 On Thursdays and Saturdays market traders currently gain access to the Market Place from approximately 2.30pm to start loading their vehicles. If they are prevented from gaining access until 4.30pm this would cause congestion and blockages in the Market Place as they would all try to load and leave at a similar time. This could block access to Parsons Street at the end of the pedestrian period.

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<sup>6</sup> The Council confirmed that an 'access only' order exists affecting the streets which are the subject of the draft Order. It was introduced in 1980 and is signed on Bridge Street on the exit from the roundabout adjacent to the Town Hall.

<sup>7</sup> The petition is available as part of Inquiry Document 27.

5.22 The Council has indicated that three parties would have an enforcement role if the Order is approved. This is of concern in terms of ensuring enforcement is managed effectively.

**Miss H Brenda Smith**

5.23 The proposed restriction in the evening is not appropriate. It would prevent customers visiting the restaurants at night from being able to park outside. There is also considerable potential to convert space above retail outlets for living accommodation. The proposed evening restriction would discourage this as it would prevent access by vehicles between 8pm and 1am. The proposed daytime restriction is too long as few people go to the shops before 10am or after 4.30pm.

**Mr Oliver Cole**

5.24 Mr Cole is the Operations Director for Lawrence Anthony who operate hairdressing salons in Parsons Street and Church Lane. In principle, Lawrence Anthony is in favour of pedestrianisation, its objection being to the proposed evening restriction. This would have a serious impact on the use of the business premises for both trading and the movement of goods.

5.25 After the closure of the salons in the evening they have to be cleaned ready for the next day. This would not be possible as the evening restriction would prevent the cleaners from accessing the premises with their vehicle. It is also unfair to restrict business traders more than the residents who would have access at all times.

5.26 It is vital that the premises should not suffer loss of services or other disruption during implementation of the scheme.

## **6.0 OTHER WRITTEN OBJECTIONS AND REPRESENTATIONS**

6.1 Many of the issues raised in the written objections and representations were considered at the inquiry and reported above. The relevant matters not fully covered are summarised below.

- The proposals originate from the Non-statutory Local Plan and action plan reports. Such a significant scheme should be embedded in local plan policy following formal consultation;
- The proposals promote an outcome which is contrary to Government advice and the Council's economic duties and policies. No evidence that there would be long term benefits for the town's economy has been presented. It would be folly to promote such a scheme in the current economic climate;
- The scheme is based on a regulatory approach which is outdated and replaced elsewhere in the UK and Europe. The significant capital cost should be invested in a scheme based on more modern concepts;
- Customers who are disabled would not have convenient and direct access to the businesses in the affected streets. Many would find it impossible to walk to the shops from the car parks. The parking facility on the south west side of Market Place should be retained;
- The one hour limit proposed for the disabled drivers' parking bay is not sufficient;
- There would be a reduction in business due to loss of passing trade;

- The key difference between the High Street scheme and that proposed for Parsons Street is the ease of access to properties;
- The businesses in Parsons Street are of a different nature to those in the High Street with more of a social/recreational mix. It is unrealistic to expect a Mediterranean style of café culture to develop by restricting vehicles;
- The Council has not presented any evidence on the regular monitoring of traffic volumes in Parsons Street. It is not a high volume through route;
- Drivers take more care if moving through an area where there are pedestrians;
- Vehicle speeds and hence the risk to pedestrians would increase outside the restricted hours;
- Some businesses rely on bulk deliveries from major suppliers using large vehicles as part of a multiple 'drop off' schedule. These are difficult to re-schedule;
- It would result in longer hours for staff and increased business costs which in these difficult economic times could result in closure;
- Staff are required to visit customers by vehicle during normal opening hours as part of the sales and after sales service;
- The loading area proposed in Market Place is limited. There would be health and safety issues carrying deliveries to and from the van;
- Flowers are fragile items and having to carry them down the street to a loading bay would cause major problems, particularly at busy times;
- Fresh meat products and carcasses cannot be dropped off in Horse Fair and wheeled through pedestrianised areas to Church Lane;
- A large percentage of sales involve perishable goods which are delivered to off-site locations. Carrying them any distance to a vehicle could stop these sales leading to closure of the business;
- Items sold are too heavy or bulky to carry to alternative parking areas;
- Allowing business to egress the area during the restricted periods and not allowing them to return would cause major problems;
- The quality and flexibility of the service offered distinguishes the independent retailer from that of the national multiples. This would be lost. Diversity and choice in the town centre would as a result be reduced;
- The construction phase of 28 to 32 weeks would require Parsons Street to be closed off entirely, deterring customers and affecting businesses leading to long term decline. The scheme does not appear to include resources for site liaison, interim promotion, communications on phasing or innovatory solutions to overcome the long term impacts on existing businesses;
- The proposals should be abandoned or if this is not to be the case, then the restriction should only be applied at night. If a daytime restriction is deemed necessary this should only be for one hour a day to prevent long stay parking;
- The evening restriction should not apply from 1 October to 31 March when pedestrian use would be minimal and vehicular access welcome.

## **7.0 CHERWELL DISTRICT COUNCIL RESPONSE TO OBJECTIONS**

### **Humans Rights Act 1998**

- 7.1 It has been argued that the scheme would treat businesses unfairly in comparison to residents in that the latter would have greater access to their premises. However, the Human Rights Act 1998 does not support this argument. A distinction can be drawn between private residential parking, as part of home and family life, and private non-residential parking. Also, rights to respect home and family life are not absolute rights. Authorities can, in certain circumstances, act in a way which impacts on these rights for the benefit of the general public provided such action is proportionate.

### **Policy**

- 7.2 The Council does not accept that the scheme is contrary to Government advice or the Council's economic duties and powers. On the contrary, it is designed to meet the Government's key objective for town centres i.e. "to promote their vitality and viability"<sup>8</sup>. The scheme also responds positively to the objectives of the Council's Economic Development Strategy 2007-2011 (page 11) in that the project would deliver "---environmental improvements -- [which would] enable [Banbury] town centre to remain competitive and attractive in a dynamic retail/tourism market".
- 7.3 Concern has been expressed by objectors that the current economic climate is the wrong time for such a scheme. However, the Council's objective is to increase the vitality and viability of this area of the town centre. It could be argued therefore that this is the best time to be investing in the environmental quality of the town centre to boost its commercial well-being.

### **Consultation Procedure**

- 7.4 The Council has carried out the required statutory consultation on the proposed Order. Comments and representations received during this consultation, together with Council Officers' responses, were presented to and considered by the Council's Executive on 4 August 2008 when it decided to proceed with the proposals.
- 7.5 Objectors have criticised the Council for not widely publicising this inquiry. The Council has given notice of the inquiry in accordance with the regulations. This was accepted by Objectors at the inquiry. The Council cannot be criticised if the general public and local media are either uninterested in or indifferent to the scheme.
- 7.6 The vast majority of the 130 members of the Banbury Chamber of Commerce believe that this scheme would benefit Banbury as a whole. No other body representing businesses in the town, for example the Federation of Small Businesses, has come forward to oppose the scheme.

### **Commercial Vehicles**

- 7.7 Objectors raised concerns about whether commercial vehicles up to 7.5t would be able to turn in the Market Place car park to enable them to exit the area without using Parsons Street. The inquiry heard expert evidence from the Council that this would be possible. The objectors did not present any expert

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<sup>8</sup> Planning Policy Statement 6: *Planning for Town Centres*



evidence to contradict this point. It is accepted that vehicles greater than 7.5 tonnes would not be able to exit via the car park. An exemption is already included in the draft Order for any vehicle which has lawfully entered Bridge Street and Market Place to leave via Parsons Street if it cannot exit via the car park due to its use as a market. As already noted in paragraph 3.22 above, a modification is proposed to allow any such vehicle to leave via Parsons Street if it cannot exit via the car park for any reason.

- 7.8 In response to a query from the inspector, there is a 1.5 tonne weight restriction on the Market Place car park. Whilst this only applies to the parking areas, the Council would consider amending this restriction in view of the proposed use of the car park as a turning area for small delivery vehicles which could weigh up to 7.5 tonnes.

### **Scheme Design**

- 7.9 Objectors raised concerns about tables and chairs outside bars and restaurants in Parsons Street that could potentially block traffic. Any such seating would require planning permission and a street licence. These would both involve, amongst other matters, consideration of highway issues. Access would have to be maintained at all times for emergency vehicles and those vehicles exempt from the proposed Order.

### **Enforcement**

- 7.10 Objectors felt that there had not been sufficient enforcement of the current traffic orders covering Parsons Street and were concerned that the proposed Order would also not be properly enforced. Moving traffic offences are the responsibility of the Police to enforce. Thames Valley Police has been consulted on the proposed Order and has not raised any objection. When the Order on the adjoining High Street came into force, the Police carried out a "purge" during the first few weeks to get the message across to drivers. Since then the scheme has been relatively self-policing. Options are also being considered by the County Council to enforce the scheme, including use of CCTV with number plate recognition.

### **Car Parking**

- 7.11 Objectors are concerned that there would be insufficient car parking in the area for parents of children attending the dance school in London Yard. It is the Council's contention that there is sufficient car parking in North Bar and Market Place to serve this purpose. Counts of vehicles in the main car parks are undertaken twice yearly by the Council on Thursdays, Fridays and Saturdays. These show that there are generally some spaces available.
- 7.12 Amendments to the draft Order are proposed which would allow children attending the dance school to be dropped off and collected outside the restricted periods in Parsons Street (see para. 7.5 below). Within the restricted periods, the reduction of pedestrian/vehicle conflict would create a much safer and more pleasant environment in which the pedestrian has priority.

### **Crime and Disorder**

- 7.13 Objectors suggested that the proposed evening core time would lead to an increase in crime and disorder. However, they did not present any evidence to this effect. Any new or existing licensed premises in Parsons Street would be required to promote the licensing objectives, as set out in the Licensing Act

2003, which include the prevention of crime and disorder and public nuisance<sup>9</sup>.

### **Disabled Drivers' Parking**

7.14 Objectors agreed with the Council's view that there is currently a problem caused by 'Blue Badge' parking in Parsons Street. The Council propose an additional 15 parking spaces for these users in North Bar and Market Place to replace the disabled driver parking lost in Parsons Street. The proposed one hour limit for 'Blue Badge' holders in the new parking bay outside the Town Hall is consistent with the limit in the Market Place car park and other car parks in the area.

7.15 A 'Shopmobility' scheme is available in the town centre at Castle Quay where people can access mobility scooters.

### **Deliveries**

7.16 In setting the times of the proposed pedestrian periods, the Council is seeking to strike a balance between allowing access for servicing and providing a safer and more attractive environment for shoppers and other pedestrians. Deliveries can take place outside the pedestrian core periods. To allow deliveries within the pedestrian periods would defeat the purpose of the Order.

7.17 A loading bay in Market Place is proposed as part of the scheme. Where the weight of goods to be carried is excessive, it is suggested that a trolley is used in line with Health and Safety at Work regulations. Alternatively, heavy or bulky items can be collected outside the pedestrian periods. It is not part of the objectives of the scheme to ensure that firms delivering out of the town centre have a better trading environment.

7.18 The experience in other pedestrianised areas of the town is that delivery firms have been flexible to meet the requirements of their customers.

7.19 A loading bay for Parsons Street was considered but was not practically possible. It would also not be consistent with the objectives of pedestrianisation.

7.20 Parcel carrying services, registered as such with the Secretary of State, would still be able to make deliveries of 'postal packets'<sup>10</sup> at all times as they would be exempt from the restrictions.

7.21 The businesses operating in the Market Place to the east of numbers 11/12 would still be able to access their premises at all times on non-market days with servicing by use of the proposed loading bay.

7.22 The existing Order for the High Street pedestrianisation scheme includes an exemption to allow the butchers in Church Lane vehicular access to the rear of

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<sup>9</sup> The Council gave a breakdown of the recorded crime figures for Parsons Street for the last six months. There had been 34 recorded crimes in total. These involved two ABH (Actual Bodily Harm), two assaults, six burglaries, eight thefts, one public order offence, one mugging and 14 various other crimes.

<sup>10</sup> 'Postal packet' is defined in the Postal Services Act 2000. The relevant extract is available at Inquiry Document 23.

their unit for hygiene purposes.

### **Market Traders**

7.23 Objectors expressed concern that market traders packing-up their stalls on Thursday and Saturday afternoons would be able to bring their vehicles in to the Market Place during the proposed daytime core period. The Council submitted that the market traders are contractually obliged to keep their stalls open until at least 4.30pm on market days so this would not conflict with the proposed daytime core period<sup>11</sup>.

### **Evening Restriction**

7.24 The Council is aware of the different mix of uses in Parsons Street compared with the High Street. For this reason a daytime and evening restriction has been proposed. The purpose is not to establish a 'Mediterranean style café culture' but to create a safer and more attractive environment in a key area of the town centre.

7.25 The purpose of the evening pedestrian period is to support the commercial leisure units in the area which trade in the evening and night time. A safe and vibrant evening economy is considered to be important for the 'health' of town centres. Bustling, vibrant and active areas within the town centre add to the 'natural surveillance' on streets. The design for this area of the town centre is aimed at creating an area where restaurant, bars and cafés can thrive.

7.26 It would not be appropriate to remove the evening restriction between 1 October and 31 March as the commercial units in the area operate throughout the year with relatively high numbers of pedestrians in the area.

### **Implementation of the Scheme**

7.27 Some objectors had concerns about the future implementation of the pedestrianisation scheme and whether the construction works would disrupt their businesses. Although this issue is not part of the inquiry, objectors can be reassured that the Council would consult each and every affected business during the planning of these works to ensure as little disruption as possible.

### **Amendments to Scheme**

7.28 The Council has put forward some amendments to the draft Order which are set out in Section 8 of this report. These would allow vehicles from licensed postal delivery businesses into the prohibited area at all times and allow vehicles to access or egress premises in London Yard outside the pedestrian periods. Two, rather than one, exemption certificates would be issued for residential purposes per off-road parking space including use by nominated visitors' vehicles.

7.29 An amendment is also proposed which would allow businesses to access and egress their off-street parking spaces during the evening restriction. Again, it is proposed there be two certificates per off-street parking space for business

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<sup>11</sup> The Council subsequently confirmed that the market operator is contractually obliged to keep the market open until 3.45pm. The Council has now contacted the market operator with a view to re-negotiating the market closing time until 4.30pm.

uses. The requirement that the vehicle driver should be the same as that specified on the certificate would be removed for both residential and business uses. No other compelling variation to the draft Order has been received either through the statutory consultation process or during the inquiry.

### **Overall Benefit**

- 7.30 The Council has responded to the demands of the public in proposing this scheme and has balanced the needs of those who would benefit and those who would be affected to provide a fair compromise. It is acknowledged by the Council that this scheme would create some challenges for businesses operating in the area. The Council considers that these would be outweighed by the regeneration and improvement of an area of the town centre such that people would want to shop, visit and spend their leisure time there.
- 7.31 The objectors acknowledged that some improvement or regeneration is needed in Parsons Street. The Council would ask therefore that the draft Order, with the proposed amendments, be approved without any further modifications.

## **8.0 MODIFICATIONS PROPOSED BY THE COUNCIL TO THE DRAFT ORDER**

- 8.1 The Council confirmed that it wished to make the following amendments to the draft Order in response to issues raised by objectors:
- 8.2 Amend sub-paragraph (c) of the definition of an "exempt vehicle" in Article 3 as follows:
- "vehicle in the service of or employed by a Licensed Postal Operator while in use for the purpose of loading, unloading, delivering or collecting postal packets at premises or posting boxes in the restricted roads;"
- 8.3 Add the following definition to Article 3:
- "Licensed Postal Operator" means a postal operator licensed by the Postal Services Commission to deliver mail.<sup>12</sup>
- 8.4 Delete the words "because of its use as a market" from the end of Article 9(e).
- 8.5 Add the words "or premises in London Yard" to the end of Article 11(d)
- 8.6 Delete the words "because of its use as a market" from the end of Article 11(g)
- 8.7 Amend paragraph 2 of Schedule 4 as follows -
- "A person who occupies private residential off-street premises with access to a private residential off-street parking area who is desirous that a vehicle should be permitted to be driven in Bridge Street, Market Place, Cornhill and/or Parsons Street, Banbury in order to gain access to or egress from that private residential off-street parking area, may apply to the Council for a certificate of exemption, which will exempt such vehicles from the provisions of Articles 8 and 10 of the Order to the extent specified by the Council, that is being a

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<sup>12</sup> A list of licensed postal operators can be found on the Postal Services Commission's website at [www.psc.gov.uk/licensed-postal-operators](http://www.psc.gov.uk/licensed-postal-operators). The current list is available at Inquiry Document 31.

vehicle belonging to or ordinarily kept by a residential occupier or a nominated visitor of any premises along the lengths of Bridge Street, Market Place, Cornhill and/or Parsons Street, Banbury. The maximum number of certificates of exemption that may be issued for any such property will be two certificates per private off-street parking area used by the resident”.

8.8 Delete paragraph 7(a) of Schedule 4.

8.9 Amend paragraph 2 of Schedule 5 as follows:

“A person who occupies private off-street premises with access to a private off-street parking area who is desirous that a vehicle should be permitted to be driven in Bridge Street, Market Place, Cornhill and/or Parsons Street, Banbury in order to effect egress from that private off-street parking area, may apply to the Council for a certificate of exemption, which will exempt such vehicle from the provisions of Articles 8 and 10 of the Order to the extent specified by the Council, that is being a vehicle belonging to or ordinarily kept by a person employed at or used in connection with the business at any premises along the lengths of Bridge Street, Market Place, Cornhill and/or Parsons Street, Banbury. The maximum number of certificates of exemption that may be issued for any such property will be two certificates per private off-street parking area used by the business”.

8.10 Delete paragraph 9(a) of Schedule 5.

8.11 The Council would accept a further amendment to allow business vehicles to access and egress the prohibited area during the evening core period only.

8.12 It is recognised by the Council that, if the draft Order is made, modifications at paragraphs 8.2, 8.3, 8.7, 8.8, 8.9 and 8.10 above would also need to be introduced to the existing Order for High Street, Broad Street and Butchers Row to ensure a consistency of approach.

## **9.0 CONCLUSIONS**

9.1 Bearing in mind the submissions and representations I have reported, I have reached the following conclusions, references being given in square brackets to earlier paragraphs of this report where appropriate.

### **Human Rights Act 1998**

9.2 It is claimed that the proposals would infringe the right to enjoy a private life and that the scheme is discriminatory in this respect in that it would not allow friends and customers access to the family home and business [5.13]. The proposals are also claimed to be unfair in that they would restrict traders more than the residents who would have access at all times [5.25]. The Council argue that rights to respect home and family life are not absolute rights and that authorities can act for the public benefit provided such action is proportionate. The Council also believe that a distinction can be drawn between the impact on private residential parking and private non-residential parking [7.1].

9.3 It is for the courts to interpret the law not me. In reaching my conclusions on this matter, I have considered the evidence presented to the inquiry in terms of the public benefits of the proposals against the likely adverse effects on residential and business interests. These have been weighed in the balance in arriving at my recommendations. As I understand it, this approach is consistent with the provisions of the Human Rights Act with respect to such interests.

9.4 With respect to the differing impacts of the proposals on businesses and residents, I note that Article 8 of the European Convention on Human Rights bestows the right to respect for private and family life. Given this emphasis, it seems to me that a distinction can be drawn between the impact on residential parking and that of businesses.

### **Policy Considerations**

9.5 The proposals are supported by Policy TR4 in the Cherwell Local Plan 2011. I have however attached little weight to this in reaching my conclusions as this Plan has not been adopted by the Council. The Local Transport Plan 2006-2011 refers to plans for pedestrianisation of the Market Place area but does not make any reference to Parsons Street. Again, therefore, I have given little weight to this document. The Cherwell Community Plan 2006-2011 does have a 'key action to 2011' to extend pedestrian priority into the Market Place and Parsons Street. However, no evidence was submitted to the inquiry on the statutory basis for this plan or the extent of public consultation on which it is based. I am unable therefore to give it any great weight [3.1].

9.6 One of the objectors argues that such a scheme should be embedded in Local Plan policy following formal consultation [6.1]. I agree that no convincing evidence was submitted to the inquiry to show that these proposals meet this test. However, in my view this should not preclude such proposals being developed and consulted upon in their own right particularly as it would in this case involve the extension of an existing pedestrianised area.

9.7 It is claimed by objectors that the scheme conflicts with Government advice and the Council's own economic duties and policies [6.1]. However, no compelling evidence was submitted to this effect or to substantiate the claim that the approach being adopted by the Council is outdated. In response, the

Council argue that the scheme is designed to promote the vitality and viability of Banbury town centre and as such is consistent with a key Government objective in Planning Policy Statement 6: *Planning for Town Centres*. The Council also point to the environmental improvements arising from the project which would enable the town centre to remain competitive and attractive. This is the Council claim, consistent with the objectives of its Economic Development Strategy [7.2].

- 9.8 It is clear to me from all that I heard and read at the inquiry, together with my own observations on site, that Parsons Street is in need of improvement. Indeed, there was a general consensus on this amongst those objectors who appeared at the inquiry.
- 9.9 I also accept the Council's view that Parsons Street is a key street within the town linking important attractions including the Market Place, Banbury Cross and the St Mary's Church area [3.19]. As I saw on my site visits, it has attractive, varied and no doubt historic buildings in its own right. Again, from my own observations, I am persuaded that the street's attractiveness for pedestrians and shoppers is diminished by the narrow pavements and conflict with vehicular traffic both parked and moving.
- 9.10 It seems likely to me therefore that the removal of a significant proportion of the traffic in Parsons Street, coupled with an environmental improvement, would make the area more attractive for pedestrians and shoppers. Similar considerations apply to the Market Place although the scheme would place fewer restrictions on traffic in this area due to the Council's desire to maintain the Market Place car park [3.11]. In policy terms therefore, I can find no reason why the scheme is inconsistent with either Government objectives or the Council's own policy framework.
- 9.11 I note the point made in written objections that the current economic climate is the wrong time for such a scheme [6.1]. However, no convincing argument was put forward to support this claim. In any event, I do not consider this is a matter for me to judge.

### **Consultation Procedure**

- 9.12 Objectors criticised the consultation undertaken by the Council on the draft Order, one describing it as low key and minimal, particularly in relation to the proposed evening restriction [5.1]. In response, the Council said that it had followed all the requirements of the statutory process and this was not challenged by any of the objectors either at the inquiry or in the written submissions [1.6].
- 9.13 The Council pointed out that a detailed consultation document was produced in August 2007 which included options for daytime and evening restrictions [3.9]. Some of the objectors said that they had not seen this document although the Council indicated that it had been sent to key stakeholders and those residents and businesses that would be directly affected. I note in this respect that a number of businesses located on Parsons Street did respond to this consultation as their comments are summarised in a report to the Council's Executive on 3 December 2007 [3.10].
- 9.14 I also note that further consultation on the draft Order was undertaken in June 2008. The Council confirmed that information regarding the proposals, including a plan, was hand delivered to all residents and businesses on the affected streets [3.13]. This gave rise to the 18 objections which are

considered in this report.

- 9.15 I appreciate that some objectors feel quite strongly that there should have been greater publicity given to the scheme and that, in particular, an effective two-way dialogue between the Council and individual businesses could have resolved some of the concerns at an earlier stage. I sympathise with this view given the time spent during the inquiry addressing issues raised by objectors and the resulting Council amendments to its proposals. Nevertheless, I am satisfied that the Council has met the requirements laid down in the regulations with respect to the necessary publicity for the scheme and opportunity for objections<sup>13</sup>.
- 9.16 Some objectors consider that the Chamber of Commerce's support for the scheme is of limited value given that it only has four members with premises in the affected streets with a further four who would be indirectly affected [5.7 & 5.9]. In reaching my conclusions I have taken into account all the views expressed whether they are from individuals or organisations. The weight I have accorded to them has been determined by the merits of the issues raised.

### **Enforcement of Existing Orders**

- 9.17 Objectors argue that much of the existing congestion problem is caused by 'Blue Badge' holders parking in inappropriate locations without consideration for other users [5.3]. Indeed I witnessed this situation myself on the afternoon of Thursday 4 December when the market was in operation. A vehicle displaying a 'Blue Badge' had parked on the corner of the Market Place near to the junction with Butchers Row. As a result, a large vehicle associated with the market was unable to negotiate the corner and following vehicles were delayed for some time. Given the nature of the streets, it seems to me likely that this was not an unusual occurrence.
- 9.18 It became evident during the course of the inquiry that the Bridge Street/ Market Place/ Cornhill route to the west of the Town Hall is subject to an 'access only' traffic order introduced in 1980 [5.17]. There is also a traffic sign to this effect. The objectors said that this order is constantly being abused. They suggested that, if the proposed vehicle number plate recognition system was brought in, the existing order could be enforced. Effective enforcement they argued would eliminate a great number of the current problems including 'rat running', abuse of the 'Blue Badge' scheme and irresponsible parking. There would then, they maintained, be no need for pedestrianisation [5.3 & 5.17].
- 9.19 It is difficult to assess the strength of the above argument as no traffic flow information was available at the inquiry. Numbers of parked vehicles had been recorded and these showed significant numbers of vehicles parked on street in both Market Place and Parsons Street [3.19]. A high proportion of these were displaying 'Blue Badges' [3.20]. Again, this was confirmed by my own observations on site, although this was limited to the two occasions I visited the area during the daytime.
- 9.20 I doubt whether increased enforcement would have any significant effect on

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<sup>13</sup> The procedures to be followed are set down in the Local Authorities Traffic Orders (Procedure) (England and Wales) Regulations 1996



the total numbers of vehicles parked on-street. It is likely that the majority will be parked in accordance with the regulations either displaying a 'Blue Badge', loading/unloading or parking legitimately outside the waiting restriction time period<sup>14</sup>. Prevention of irresponsible parking or removal of such vehicles is problematical. It would require a high level of enforcement or delays whilst vehicles are removed. More rigorous enforcement of the 'access only' order, would also I suspect be difficult even with the assistance of the vehicle number plate recognition system. These types of order are notoriously difficult to enforce as motorists can often give a reason why they need access to a particular street.

- 9.21 I am not therefore persuaded by the argument that enforcement of the existing orders would be sufficient to resolve the current problems of conflict between pedestrians and vehicles particularly in Parsons Street.

### **Access to Businesses**

- 9.22 I consider first the issues relating to the proposed daytime restriction between 10am and 4.30pm. Vehicular access to businesses would clearly be affected by the proposals. This would include servicing of the premises as well as collection by and deliveries to customers. There could also be some loss in passing trade depending on the type of business. To a greater or lesser extent, this was accepted by all parties who attended the inquiry.
- 9.23 The objectors contend that there would be difficulties in arranging deliveries outside the restricted period due to a number of factors. These include major suppliers using multiple 'drop off' scheduling which would be difficult to rearrange [6.1]. There would also be the potential problems caused by concentrating deliveries in a shorter time period [5.3]. It is claimed that these problems would be compounded as some of the suppliers need to deliver to premises in the existing pedestrianised area on the same day and within the same limited time period. Objectors also pointed out that some suppliers use Parsons Street to service the existing pedestrianised area and that this facility would be lost [5.19].
- 9.24 In response, the Council said that the experience in other pedestrianised areas of the town is that delivery firms have been flexible to meet the requirements of their customers [7.18]. I accept that to a large degree this is likely to be the case in the streets affected by these proposals. Nevertheless, it is clear that some businesses would find it more difficult to adapt to the new arrangements, particularly those who also provide a delivery and after sales service from their own premises [6.1]. However, it seems to me that the proposed daytime restriction on traffic together with the planned improvements to the street scene would result in a major uplift in the attractiveness of the area. This is likely to be of significant benefit to most businesses in the affected streets.
- 9.25 It seems sensible to me that the hours of the daytime restriction should be the same as those in the existing scheme. This would not only avoid confusion but would treat all businesses in the pedestrianised central area equitably. I consider these arguments to be more persuasive than the proposition that there should be differing hours to try and accommodate

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<sup>14</sup> Waiting is currently restricted in Parsons Street between 8am and 6pm Monday to Saturday

- multiple servicing arrangements in the central area.
- 9.26 Some of the amendments put forward by the Council would assist businesses in servicing their premises. In particular the clarification of what constitutes a 'Licensed Postal Operator' [7.20]. This was welcomed by objectors at the inquiry as these delivery companies would be exempt from the restrictions provided they were carrying 'postal packets'. It remained unclear as to what constitutes a 'postal packet' and this no doubt will be the subject of further research by the parties.
- 9.27 The amendment to provide for two rather than one exemption certificates per private off-street parking space would also assist businesses particularly in the hours outside the restricted times. The proposed deletion of the requirement that the vehicle operator would need to be the same as that on the certificate would also give greater flexibility [7.29].
- 9.28 The loading bay proposed in the Market Place would help those businesses in that area to service their premises on non-market days although I agree that it would not be as straightforward or convenient as the present arrangements. I can understand the disappointment of businesses in Parsons Street that a similar provision was not made for their area [5.18]. I appreciate that the options for this are very limited. However, I think this is a matter on which the Council should undertake further investigations.
- 9.29 The objection from the butcher in Church Lane included concerns regarding fresh meat products which would have to be wheeled in through the pedestrianised areas from Horse Fair [6.1]. It was not possible to clarify these concerns at the inquiry as the objector was not present. However, the Council explained that the existing Order for the High Street granted an exemption to the same butcher to access his premises for food hygiene reasons. It was confirmed by the Council that this provision would continue to operate [7.22].
- 9.30 The objection relating to the dancing school in London Yard raises a number of issues. This is a business as well as the family home. In terms of the implications for the business, the main issue is the effect the restriction would have on parents dropping off young children particularly in the evening [5.10]. I consider the effects of the night time restriction separately at paragraphs 9.37 to 9.44 below.
- 9.31 During weekdays, the dancing school operates between 3.45pm and 9.30pm and therefore the impact of the proposed daytime restriction would be for the short period between 3.45pm and 4.30pm. At the weekend, there would be a greater impact as the school is open both days including the time during the day when Parsons Street would be restricted to traffic [5.10]. It would then be necessary for parents/adults to escort young children from either the nearest available parking area or dropping off point. However, for the majority of the year this would be during daylight hours.
- 9.32 The above journeys would certainly be less convenient than the present arrangement and more costly if car parks have to be used. There would also no doubt be occasions when the car parks would be full. However, I consider that any difficulties for the dancing school as a result of the day time restriction would not be insurmountable. I also accept the point made by the Council that the restriction of traffic and associated environmental improvements would make Parsons Street a pleasanter and safer street in

which to walk [7.12].

- 9.33 Outside the restricted periods, the provisions in the existing draft Order would also, if implemented, prevent the use of Parsons Street for dropping off and collection of children attending the dancing school. The proposed Council amendment to the Order would resolve this problem as it would allow use of Parsons Street at these times if vehicular access or egress was being sought to premises in London Yard [7.28].
- 9.34 I conclude in relation to the proposed day time restriction that there would be inconvenience for some businesses and potentially real problems for a few. On balance, I consider that these disadvantages would be outweighed by the benefits to business and the public in general as a result of the improved environment for shoppers and other pedestrians in the affected streets.

#### **Access to Residential properties**

- 9.35 There were two objections concerning access to the same residential property. These again relate to the dancing school in London Yard which, as already noted above, is also the home of Mr MacDonnell's family. It was established during the inquiry that Mr MacDonnell has four parking spaces in London Yard which are used for both business and residential purposes [5.8]. Under the provisions of the existing draft Order, Mr MacDonnell would be given four exemption certificates for access to and egress from his home at all times. The proposed Council amendment would increase this to eight exemption certificates [7.28]. A further proposed amendment would allow one or more of these exemptions to be used by nominated visitors' vehicles [7.28]. This should also largely remove the difficulty associated with Mr Mills's objection [5.2].
- 9.36 Notwithstanding all of the above provisions, the proposed Order would place significant constraints on vehicular access to the home of Mr MacDonnell and his family. These would affect visits from relatives and friends as well as some deliveries. For the reasons set out above I am however persuaded that the changes proposed by the Council to the draft Order are sufficient to tilt the balance in favour of the proposals insofar as they affect access to residential property in the proposed daytime restriction period. The proposed night time restriction is discussed separately below.

#### **Proposed Night Time Restriction**

- 9.37 The draft Order would, if made, prohibit traffic from using part of the Market Place, Cornhill and Parsons Street between 8pm and 1am. This is arguably the most controversial aspect of the proposals based on the views of those objectors who attended the inquiry and gave evidence.
- 9.38 I also have concerns about this element of the scheme. As pointed out by Mr MacDonnell it would, together with the proposed daytime restriction, constrain access to his home and business for a substantial proportion of the day notwithstanding the exemptions already discussed above [5.13]. I consider this issue to be of no less importance because it has been raised only in relation to Mr MacDonnell's property.
- 9.39 It is difficult to assess how many other residential properties would be similarly affected. The Council informed the inquiry that there were 38 such properties in the affected streets [3.26]. A number of these on the north side of Parsons Street would have access to their properties from Bolton Road and

some on the south side and on Church Lane would appear to have access from Butchers Row. These properties would be largely unaffected by the proposals. The Council was unable to indicate how many of the remaining properties had private off-street parking spaces which would need access from Parsons Street.

- 9.40 Some of the residential properties referred to above will not have any off-street parking spaces. In these cases, the residents would not be allowed into the affected streets at all during the restricted period. Outside the restricted period they would also not be allowed in unless they were loading/unloading their vehicle or in other very limited circumstances. Currently, waiting in Parsons Street is prohibited between the hours of 8am to 6pm Monday to Saturday. This allows residents and others for that matter, to park outside these hours on-street i.e. overnight and on Sundays.
- 9.41 I am concerned that the Council might not have considered the implications for any residents in the situation described above. It may not be a great issue in that there could be very few, if any, residents who would be in this position. I consider it would be prudent however for the Council to undertake further investigations to determine the extent of the potential problem and if necessary provision could be made in the Order for limited further exemptions where appropriate.
- 9.42 The impact the night time restriction would have on parents with children attending the long established dancing school is also a major concern. I sympathise with the points made by both Mr Mills and Mr MacDonnell in this respect [5.5 & 5.10].
- 9.43 In my view the proposed night time restriction should not be pursued by the Council at this time. I am aware that the majority view in the 2007 consultation was in favour of it and that it is supported by the Chamber of Commerce and one of the restaurants in Parsons Street [3.10, 4.1 & 4.6]. I have also taken into account the Council's objective of promoting a safe and vibrant evening economy in Parsons Street [7.25]. However, it seems to me that a staged approach should be considered towards meeting this objective for the reasons set out below.
- (i) The impact of the night time restriction on access to residential property and children attending the dancing school requires further consideration.
  - (ii) The draft Order contains other prohibitions on traffic entering Parsons Street outside the restricted periods [1.4]. Even without the night time restriction, these would be likely to reduce substantially the number of vehicles in the evening and hence any conflict with pedestrians at that time. Together with the proposed environmental improvements, it may in practice be found that the Council's objective for Parsons Street can be met without introducing a night time restriction of the kind put forward.
  - (iii) There would be equity issues if Parsons Street alone had a night time restriction. The current proposal would allow vehicles servicing the existing pedestrianised area and disabled persons' vehicles in that area in the evening to egress via Parsons Street. At the same time, such vehicles wishing to access premises in Parsons Street would be prohibited. This could be a recipe for confusion and claims of unfair

treatment. The impact of such a proposal should in my view be considered across the central area as a whole.

9.44 For the above reasons I conclude that it would not be appropriate for the Council to proceed with the proposed night time restriction for Parsons Street at this time. I suggest that the position on this aspect of the draft Order be reconsidered by the Council following the further investigations referred to above with respect to residential parking, access to the dancing school and equity issues across the central area. For the reasons given in paragraph 9.43 (ii) above, it would also be prudent, following the introduction of the other proposals in the draft Order, for the Council to review whether such a night time restriction of the type proposed is necessary at all in the future.

### **Access for the disabled**

9.45 Currently, a significant number of disabled drivers park on street in the Market Place and in Parsons Street for up to a maximum of three hours. Based on the evidence submitted by the Council and my own more limited observations on site I recognise that the numbers involved cause congestion problems at times [3.20].

9.46 The proposed restrictions would substantially reduce on-street parking facilities for disabled drivers. However, 'Blue Badge' holders would still be able to park in Parsons Street and on Market Place west of Nos.11/12 outside the restricted period. There would also be additional on-street bays for these users in a lay-by in Bridge Street and provision in the Market Place and North Bar car parks [7.14]. I recognise that the one hour limit in these bays is not regarded as sufficient by some objectors and I have sympathy for this view [6.1]. However, the Council argue that it is consistent with the current limit in car parks in the area [7.14]. It would also have the advantage of ensuring a greater turnover of spaces in the proposed bays which would be desirable given the proposed reduction in on-street parking for disabled drivers.

9.47 I acknowledge that customers who are disabled would not have the same degree of convenient and direct access to the businesses in the affected streets. Whilst the 'Shopmobility' scheme available in Castle Quay might be the answer for some it is clearly not suitable for all [7.15]. Regrettably, I do not think it would be practical for the existing parking facility for disabled drivers on the south west side of the Market Place to be retained as suggested by objectors [6.1]. This is because it would be located beyond the proposed turning facility for those vehicles entering Bridge Street/Market Place which would be unable to proceed down Parsons Street due to the proposed restriction.

9.48 In conclusion on this issue, I accept that there is simply not sufficient space in these streets to accommodate the demand for parking by 'Blue Badge' holders, meet the requirements of essential servicing vehicles and at the same time create an attractive and safe environment for shoppers and other pedestrians. In my opinion, the proposals would provide an appropriate balance in seeking to meet these conflicting needs including provision for disabled drivers.

### **Other Matters**

#### Market Place Car Park

9.49 With respect to concerns raised about vehicles being unable to use the Market

Place turning facility, the Council has proposed amendments which should satisfactorily address this issue [8.4 & 8.6]. I note also that the Council will consider amending the existing 1.5 tonne weight restriction on the Market Place car park so as to avoid any ambiguity with the design of the turning facility which provides for vehicles up to 7.5 tonnes [7.8].

- 9.50 Concern was expressed by objectors regarding traders' vehicles which currently enter the Market Place before 4.30pm on market days to load up their vehicles. It seems that they are allowed to do this in accordance with the market licence arrangements after 3.45pm. The Council has accepted that this would need to be reviewed [5.21 & 7.23]. However, the Council should carefully consider the implications of any changes to avoid the situation whereby all the traders are loading their vehicles at a similar time. This could result in the obstruction of the route through to Parsons Street at the time when the proposed traffic restriction is ending. It is also important that the design of the new layout for the market area/car park provides for stalls to be set up and taken down with minimal interruption to the free flow of traffic on the adjacent public highway.

#### Enforcement

- 9.51 Effective enforcement of the proposed restrictions would be essential for a successful scheme. I understand therefore the concern expressed by an objector with respect to three parties being involved in enforcement [5.22]. The design of the paving scheme would therefore be very important in deterring unauthorised vehicles.
- 9.52 Introduction of CCTV and a licence plate recognition system could be considered if there was a significant abuse. However, I suspect that the number and variety of exempt vehicles would make this difficult in practice. The proposed introduction of the rising bollard at the entrance to Bridge Street/ Market Place on market days would need careful thought to avoid delays to exempted vehicles not all of which would have exemption certificates.
- 9.53 Overall, I recognise that the nature of the proposed restrictions is such that they should be more effective than is the case with the current 'access only' order [5.22].

#### Scheme Design

- 9.54 The design of the scheme in terms of hard paving and landscaping is not a matter which directly affects the Order before me. However, as noted above, it could play an important part in securing effective enforcement of the Order and hence the success of the overall scheme. Objectors are understandably concerned that accesses to premises are not obstructed in any way. The Council gave assurances with respect to this issue in terms of the necessary permissions which would be needed [5.15 & 7.9]. It would be highly desirable in my view for the Council to carry out further consultation on the design of the scheme, particularly with frontagers, in order that any such issues can be addressed at an early stage.

#### Disruption during construction

- 9.55 Objectors were concerned about disruption and loss of business during scheme implementation [5.26 & 6.1]. The Council reassured objectors at the inquiry that it would consult each and every business affected during the

planning of these works to ensure as little disruption as possible [7.27]. This is now therefore a matter of public record.

### **Modifications**

9.56 I endorse the Council's proposed modifications to the Order as follows:

Amendment and addition to Article 3 relating to exemption for Licensed Postal Operators (paras. 8.2 and 8.3).

Deletion in Articles 9(e) and 11(g) which would give greater flexibility in the event the Market Place turning facility could not be used (paras. 8.4 and 8.6)

Addition to Article 11(d) to allow vehicular access to or egress from premises in London Yard outside the restricted period (para.8.5).

Deletion of paragraph 7(a) of Schedule 4 and 9(a) of Schedule 5 which would have required the driver of an exempt vehicle to be the same as the vehicle operator specified on the certificate (paras. 8.8 and 8.10).

9.57 I also endorse the Council's proposed modifications to paragraph 2 of Schedule 4 to allow exemption certificates for nominated visitors (para. 8.7). However, the wording proposed by the Council in the final sentence of this same amendment is ambiguous as it refers to the maximum number of certificates per private "off-street parking area". I propose that this final sentence should be amended to refer to "off-street parking space" as follows:

"The maximum number of certificates of exemption that may be issued for any such property will be two certificates per private off-street parking space used by the resident".

9.58 I propose a similar amendment to clarify the Council's proposed modification to paragraph 2 of Schedule 5 with respect to the maximum number of exemption certificates for business parking (para. 8.9). This should be amended as follows:

"The maximum number of certificates of exemption that may be issued for any such property will be two certificates per private off-street parking space used by the business".

9.59 For the reasons given in paragraphs 9.37 to 9.44 above, I recommend that appropriate modifications be made to the draft Order to delete the proposed 8pm to 1am restriction to traffic in part of Market Place, Cornhill and Parsons Street. It is a matter for the Council to consider whether this would be a material change to the Order requiring it to be re-advertised. As it would represent a reduction in the traffic restrictions proposed then this may not be necessary. My recommendations below assume this to be the case.

9.60 If the Council decide to proceed on the basis of my recommendations it would not be necessary to seek the consent of the Secretary of State as the proposed Order would no longer restrict vehicular access to premises for more than eight hours in a 24 hour period [1.6].

### **Summary of Conclusions**

9.61 Subject to the proposed modifications, the scheme would, in my judgement, significantly improve the attractiveness of the Market Place and Parsons Street area of the town. It would become a safer and more pleasant area for shoppers and other pedestrians. Whilst there would be inconvenience and real problems for some businesses and residents, these disadvantages would

in my opinion be outweighed by the overall benefits of the scheme. I see no reason why the modified Order should not be made and conclude accordingly.

9.62 I have had regard to all other matters raised, whether at the inquiry or in written submissions, but they do not alter the conclusions I have reached.

### **10.0 RECOMMENDATIONS**

10.1 I draw the attention of the Council to the suggestions I have made at paragraphs 9.28, 9.41, 9.44, 9.50 and 9.54.

10.2 I recommend that The Cherwell District Council (Banbury Town Centre) (Bridge Street, Market Place, Cornhill and Parsons Street) (Pedestrian Streets and Traffic Regulation) Order 200\* be modified as proposed in paragraphs 9.56 to 9.59 above.

10.3 I recommend that the Order, so modified, be made.

*Christopher Millns*

INSPECTOR





**APPENDIX B****DOCUMENTS**

DOCUMENT NUMBER	DESCRIPTION
1	Agency Agreement with Oxfordshire County Council
2	Notice of Proposals published 26 June 2008
3	Letter hand delivered to potentially affected premises, with plan showing extent of delivery
4	Proposed Order
5	Map showing the location and effect of the proposed Order
6	Statement of Reasons
7	Orders to be partially revoked
8	Objections/Representations received by the Council
9	Minutes of a meeting of the Council's Executive held on 4 August 2008, together with the officers' report
10	Notice of Public Inquiry, published on 23 October 2008
11	Proof of Evidence of Anthony Brummell MSc CEng MICE MCIWEM MIHT
12	Proof of Evidence of David Hanger BEng CEng MICE
13	Proof of Evidence of David Marriott MRICS
14	Proof of Evidence of Simon Smith FCCA
15	Letter from H A D Gibbs 219 Chatsworth Drive Banbury 17 November 2008
16	Letter from Miss K M Smith 46 Bloxham Road Banbury 19 November 2008
17	Representations from Buzzards 16 Parsons Street Banbury received 24 November 2008
18	Letter from Mr G Mills 120 Oxford Road Banbury 27 November 2008
19	Inspector's note regarding Inquiry Procedure

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20	Cherwell District Council (Various Roads, Banbury) (Traffic Regulation) Order 1980
21	Local Authorities Traffic Orders (Procedure) (England and Wales) Regulations 1996
22	Inspector's list of questions for CDC Witnesses
23	UK Parliament Acts- Interpretation - "postal packet"
24	UK Parliament Acts - "universal service provider"
25	Non Statutory Cherwell Local Plan Policy TR 24, para 6.65
26	Statement from Mr Mills
27	Statement from Mr Wolstencroft
28	Cherwell District Council Parking certificates of exemption Nos. 1, 2, 3 4
29	Statement from Mr MacDonnell
30	Cherwell District Council response to the written statement of Mr Buzzard
31	Postcomm list of Licensed Postal Operators
32	Market Place layout draft proposals map
33	Cherwell District Council Closing submissions