



Pinsent Masons

BY EMAIL TO [TROCelticParkandEmiratesArena@glasgow.gov.uk](mailto:TROCelticParkandEmiratesArena@glasgow.gov.uk)

Programme Officer Team  
Celtic Park and Emirates Arena Traffic  
Regulation Order  
Glasgow City Council

Our Ref [REDACTED]

DDI [REDACTED]

E [REDACTED]

7 April 2020

Dear Sir/Madam

**CELTIC PLC  
THE GLASGOW CITY COUNCIL (CELTIC PARK AND EMIRATES ARENA) (EVENT DAY  
EMERGENCY ROUTES AND PARKING ZONE) ORDER 20\_\_ (the "TRO")  
SUBMISSION ON NOTIFICATION REQUIREMENTS**

At the pre-hearing meeting on 10 March 2020 it was agreed that Celtic plc ("Celtic") would provide further detail of the issues raised on their behalf in relation to Glasgow City Council's (the "Council") compliance with the procedural requirements for making the TRO. Celtic's submission in relation to the procedural requirements is summarised in this letter.

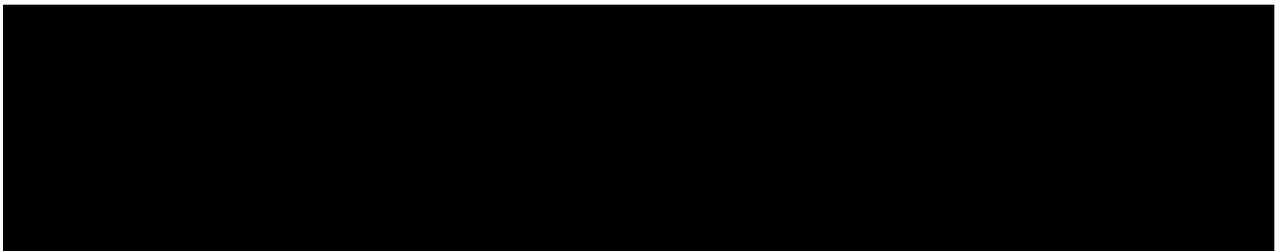
This submission relates to a preliminary issue that Celtic consider can, and ought to be, addressed at this stage. However, this submission is made without prejudice to further review of, and submission on, the competence of the TRO and its terms, and on its compliance with relevant statutory provisions. Submission on those matters might be necessary once further information has been provided, process undertaken, and the Council's evidence in support of the TRO better understood.

1. Procedural Requirements – The Local Authorities' Traffic Orders Procedure (Scotland) Regulations 1999 (the "Regulations").

1.1 Introduction

Celtic, do not consider the Council to have demonstrated compliance with the notification procedure required in terms of the Regulations.

In terms of paragraphs 4, 5 and 6 of the Regulations (as supplemented by the various Schedules) certain compulsory measures require to be adopted by the Council to consult on a draft order and, thereafter, to publicise and notify the proposed order. The notice requires both to be publicised and to be sent to parties consulted by the Council in terms of paragraph 4 of the Regulations. Celtic were consulted by the Council prior to publication and notification of the proposals.





The order to be publicised and notified is the order the Council proposes to make (Regulation 2). The Council is not entitled, subsequently, to propose to make a different order not notified or publicised.

The notification requirements, in respect of the proposed order, must be undertaken before making that order. It follows, therefore, that an Order cannot competently or properly be made unless and until these requirements are met.

## 1.2 Pre Hearing Meeting

One of the points raised at the pre hearing meeting was that the order proposed to be made by the Council (the "Draft Order") available to consultees and interested members of the public, did not contain the information necessary to provide the Draft Order with content or notice of the Council's proposals. The Schedules appended to the Draft Order which ought to specify the restrictions proposed by the Draft Order were not populated with details of affected streets. Further, as was also indicated at the pre- hearing meeting there are, in Celtic's submission, additional failings in the notification process and, in particular, the Map relied on by the Council in that process.

The Council has subsequently stated (email from [REDACTED] on behalf of the Council dated 18 March) that the Draft Order made available for public inspection did, in fact, contain the necessary information. Celtic must accept the Council's statement in that regard. However, they make the point also that engagement with the Council's TRO process and with the information relevant to the proposed TRO is more typically secured through access to online materials rather than by visiting a public office as necessary to view the Draft Order. The Notice of Proposals itself refers readers to the Council's website. The material made available online was inaccurate.

The Council has also suggested that criticism of the Relevant Map (as hereinafter defined) does not impact on the competency of the notification process because paragraph 1(3) of Schedule 5 provides that where a discrepancy arises as between the Map and the Order, then the Order should prevail. Celtic does not accept that provision addresses the point in issue for the reasons set out below.

The submissions on the remaining points of challenge are detailed below.

## 1.3 The Relevant Map

The Council is obliged to prepare a map of the proposals in terms of paragraph 15 of the Regulations:-

*"The relevant map*

*15. The authority shall prepare and keep in connection with the order a map in accordance with the requirements set out in Schedule 5."*

Schedule 5 paragraph 1 (a) provides that:

*"The map shall clearly indicate by distinctive colours, symbols or markings –*

*(a) each road to which the order relates....."*

The Council is obliged, after consultation and before making an order, to undertake publication and notification of the proposed order (paragraphs 5 and 6 of the Regulations). The publication and notification requires a Notice of Proposals.



The requirements of the Notice of Proposals are specified in Part 1 of Schedule 1 to the Regulations. The Notice of Proposals requires that the Map (the "Relevant Map") be made available for inspection along with the Draft Order.

**"PART I**

**PARTICULARS TO BE INCLUDED IN THE NOTICE OF PROPOSALS**

- 1. *The name of the authority.*
- 2. *The title of the order.*
- 3. *A statement of the general nature and effect of the order.*

.....

**7. Each address at which a copy of the order, as drafted, a copy of the relevant map, and a copy of the authority's statement of reasons for proposing to make the order can be inspected, and the times when inspection can take place at each such address....."**

Schedule 3 to the Regulations further mandates the Council to make the Relevant Map available for inspection as part of the publication and notification process.

*"Schedule 3*

**REQUIREMENTS AS TO THE AVAILABILITY OF DOCUMENTS FOR INSPECTION**

*1. There shall be available for inspection at the authority's offices during normal office hours, and (if the authority think fit) at such other places within the authority's area and during such times respectively at those places as the authority may determine, the following documents:-*

*(a) a copy of the order as drafted or made, as the case may be;*

***(b) a copy of the relevant map;....."*** [Our emphasis]

The Relevant Map is, accordingly, an integral part of the notification and publication of the Draft Order. That notification and publication is intended to provide the information required to inform response and objection to the Draft Order (see paragraph 7 of the Regulations) and the content of the Relevant Map, as noted above, mandated by the Regulations. The objection period commences with publication or notification (as referred to above).

The Council has not complied with this requirement.

Drawing No. EDPC/CP/001 (dated May 2018) is the only map available in respect of this Order and in relation to the notification of this order.

The other maps available in relation to the order (numbered 1-6) are extracts from that larger map and form part of the larger map. We refer to drawing EDPC/CP/001 (dated May 2018) as the "Map".

The Map does not "*clearly indicate by distinctive colours, symbols or markings....each road to which the order relates.....*". That is clear from a review of the Map alongside the list of controls proposed in the various Schedules of the Draft Order. The list of roads and control measures specified in the Schedules to the Draft Order does not accord with the symbols and markings on the Map which, in Celtic's submission, suggests significantly more modest effect than the terms of the Order as expressed in the Schedules. A review of the list of streets and





areas of restriction specified in the Schedules is more extensive than the roads and restrictions shown on the "Map" (i.e. the "relevant map").

We have identified some examples simply for illustration. The points made are repeated across the area of the proposed TRO. We would invite the Reporters to compare the Map with the Order and the Schedules. In relation to the streets listed below, we have appended extracts from the various plans referred to in the hope that will assist.

- **Claythorn Street.** The Notice of Proposals lists Claythorn Street (which is located in extract Plan 1). Claythorn Street is included in Schedules 1 (no waiting at any time) and 5 (disabled vehicle parking places) to the Draft Order. However, there are no annotations at all in respect of Claythorn Street on extract Plan 1. Further, Claythorn Street is outside the broken blue line indicating the proposed Event Day Parking Zone.
- **Mountainblue Street.** This street is located in extract Plan 2. In the terms of the Draft Order Mountainblue Street is included in Schedules 1, 3 (no waiting during relevant events, except permit holders) and 5. Plan 2 does not show the restrictions purported to be introduced by Schedules 1 and 3.
- **Quarrybrae Street.** This street is located in extract Plan 3 of the Map. Schedules 1, 3 and 5 contain various measures and restrictions affecting the length of this street. However, that is not indicated on the Map (Plan 3).
- **French Street.** This street is located in extract Plan 4 of the Map. Schedules 1, 2 (no waiting and no loading or unloading at any time), 3 and 5 contain various measures and restrictions effecting, in some cases, the length of this street. French Street is also outside the broken blue line indicating the proposed Event Day Parking Zone. The Map (Plan 4) does not indicate the restrictions in relation to this street.
- **Potter Grove.** This street is included in Plan 6 (shown in extract Plans 5 & 6). Potter Grove is included in Schedules 1, 3 and 5. That is not indicated on the Map.

While we appreciate that the Council will have the opportunity to respond following upon the receipt of this submission we refer to the Council's comment that Paragraph 1(3) of Schedule 5 to the Regulations provides an answer to the criticism of the Relevant Map. That paragraph states that:-

*"1 .....(3) Where the relevant map is neither specifically referred to in the text of the order nor made a part of the order, the map shall be for purposes of illustration only and the matter indicated on it shall not prevail over the actual text of the order in the event of any discrepancy between the map and the text...."*

That provision is not relevant to the point in issue. The issue under consideration is the adequacy of notification and whether the Regulations have been complied with in that regard.

The question of whether or not the Relevant Map prevails if there is a subsequent discrepancy between the Relevant Map and the Order once the Order is in place is not the point. This is not an issue as to the interpretation of the Draft Order post making, but whether its terms have been adequately publicised and notified. The relevance of the Relevant Map in the notification requirements cannot be dismissed. Further, the post implementation interpretation of the substantive order will be presumed to follow a competent notification process. The notification process requires that a map showing specified information is provided.

There are specific notification requirements in relation to the Relevant Map which are intended to inform consideration and response to the order. Those requirements are not optional; they are, as referred to above, compulsory. This notification process did not comply with those requirements.



It is, in our submission, unnecessary to say more to challenge the competency and adequacy of the notification procedure. However it is, nevertheless, worth noting that the absence of the required information has an adverse impact on the sufficiency and quality of the notification process. A review of the Relevant Map, which should be a more accessible document than the lengthy text of the Schedules, goes nowhere near communicating the proposed effect of the Order. Further, it is also worth noting that the information lacking in the Relevant Map does not relate to minor discrepancies but to a significant disconnect between the terms of the Schedule and the terms of the Relevant Map. That will, in our view, be obvious to the Reporters on a comparison of both.

It is worth noting also that the Relevant Map should also be available for inspection in relation to the Notice of a Public Hearing (paragraph 6 of Part II of Schedule 1 to the Regulations). Again, the available Map did not meet the requirements.

#### 1.4 No Statement of General Effect

The Notice of Proposals requires to provide a "*statement of the general nature and effect of the order*" (paragraph 3 of Part I of Schedule 1 to the Regulations). In our submission the Notice of Proposals fails to do so.

This is a complex order comprising multiple control measures which apply in different combinations to different streets. The TRO proposes different types of control and a number of different measures within those categories of control.

It is not possible to ascertain even the general effect of the Draft Order in relation to the streets affected from the terms of the Notice of Proposals. The effect of the Draft Order cannot be ascertained from the Notice of Proposals; it is simply a list of different possible measures and a long list of streets with no way of ascertaining what the general effect of the order will be. It begs the question whether the general effect is to apply all measures to all streets or some measures to some streets. That difficulty aggravates the failure of the Map to indicate the effect of the proposed Order.

#### 1.5 No Specification of Duration

The general effect of the Draft Order cannot be ascertained without clear indication of the periods during which it will have effect. There is no specification either in the Notice of Proposals or in the Draft Order of the period over which the Order will be effective or how that can be ascertained.

### 2. Effect of Notification Failures

The notification of the Draft Order is a pre-requisite to its making. We submit that, in light of the above issues, that the Council is required to undertake again the notification and publication obligations (as required in accordance with paragraphs 5 and 6 of the Regulations and associated Schedules) and must do so before proceeding further with the Order. Similarly, the notification of the Hearing process ought to be accompanied by appropriate information which, for the reasons specified in this submission, has not been provided.

Further, and separately, not only is the notification of updated information as required by the Regulations necessary to comply with them, it is also appropriate to allow confidence in the procedure adopted. Celtic expect that the Council will not wish to proceed with the traffic regulation order unless and until the public and consultees can be clear on the terms of the proposed order and confident that the correct information has been made available to those with an interest. As matters stand the information is unclear, the material placed on the website has been incorrect and the terms of the proposed order confusing.

The Council is, accordingly, invited to amend the materials relied upon in support and notification of the Draft Order in order to comply with the terms of the Regulations and,



thereafter, the follow the publication and notification provisions of the Regulations in reliance of the corrected information.

Until those steps are taken the making of the proposed Order and the Hearing should not be progressed.

Yours faithfully,

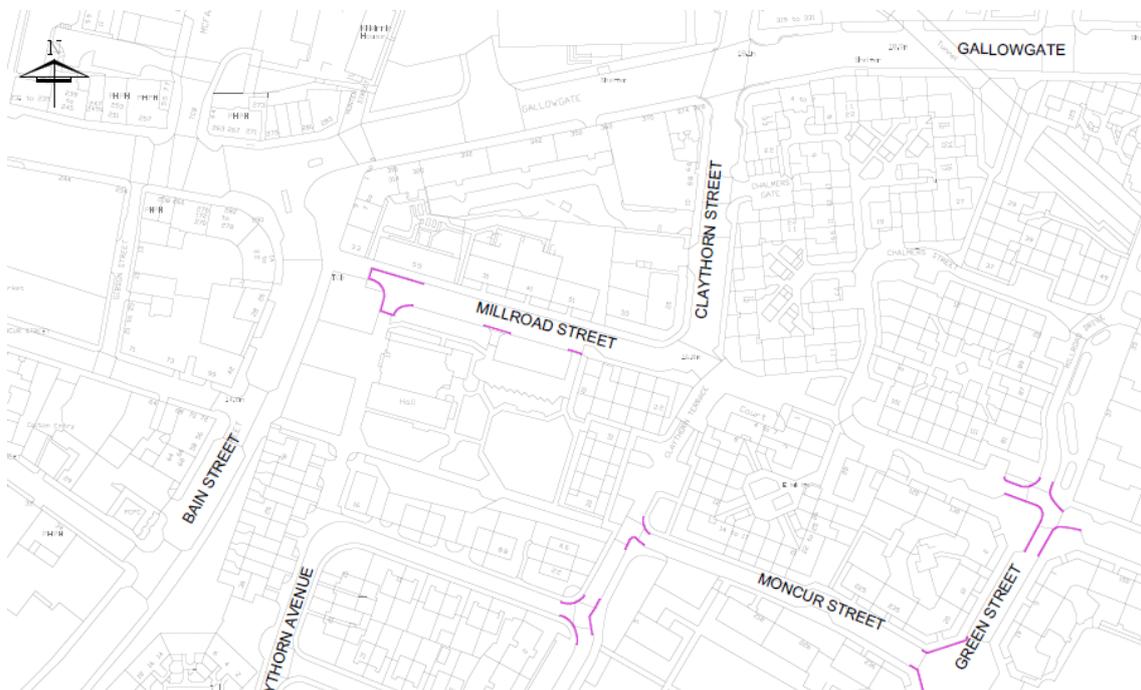
for Pinsent Masons LLP



## Appendix

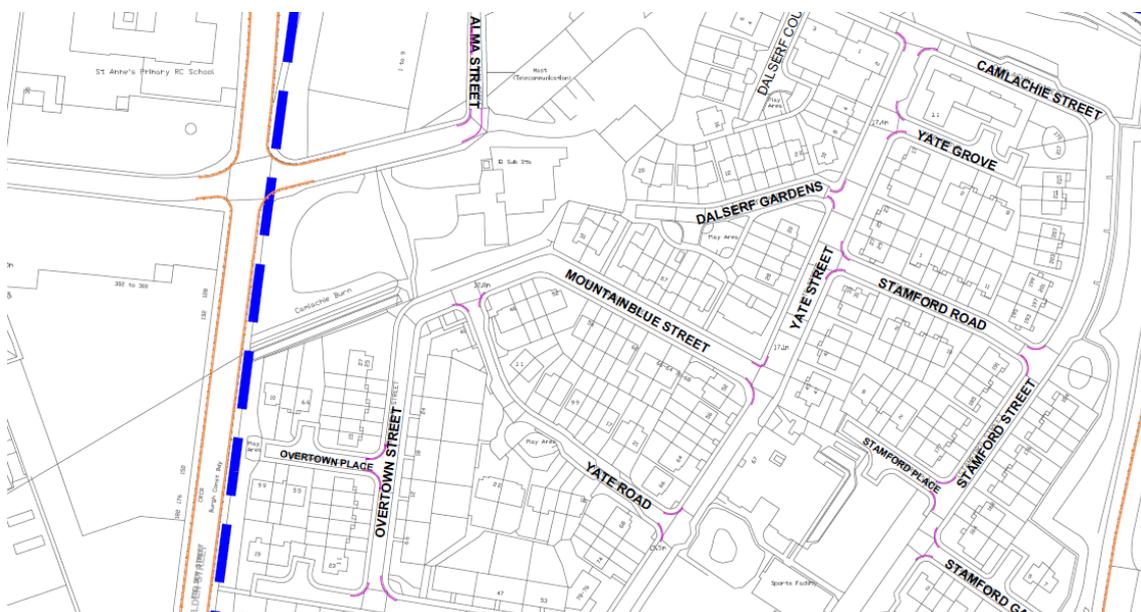
### 1. Claythorn Street

This street is located in extract Plan 1



### 2. Mountainblue Street

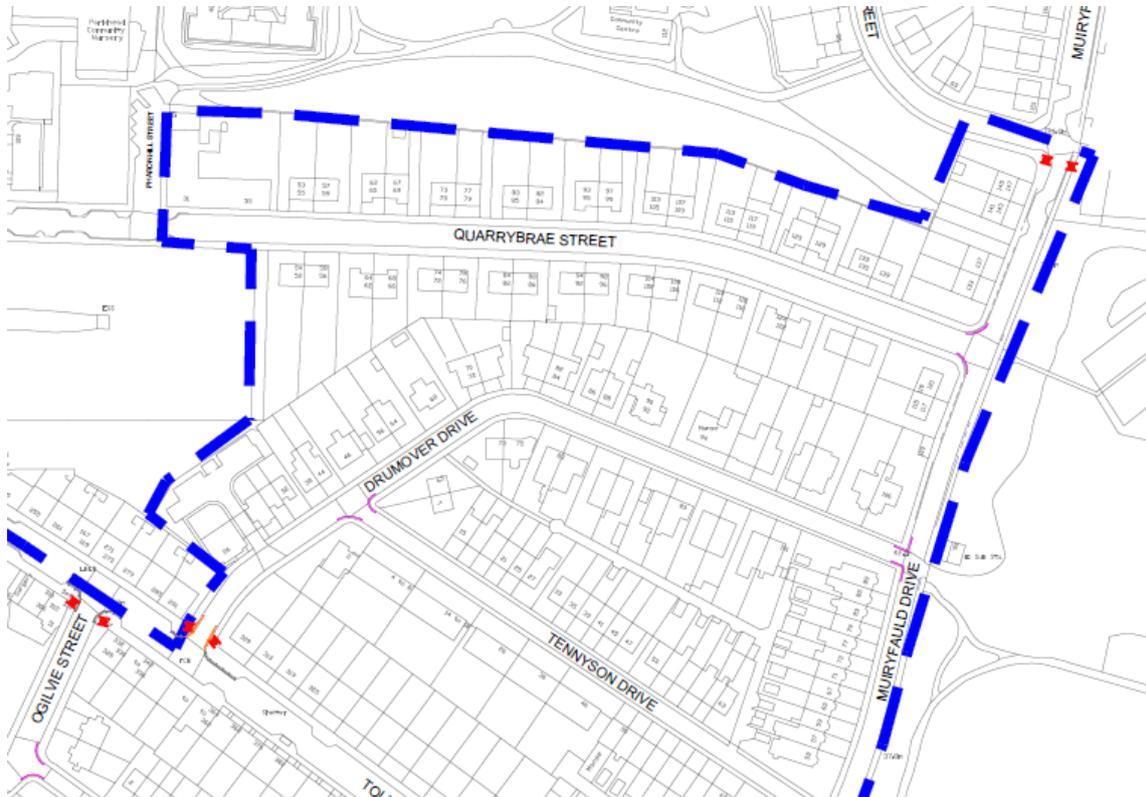
This street is located in extract Plan 2





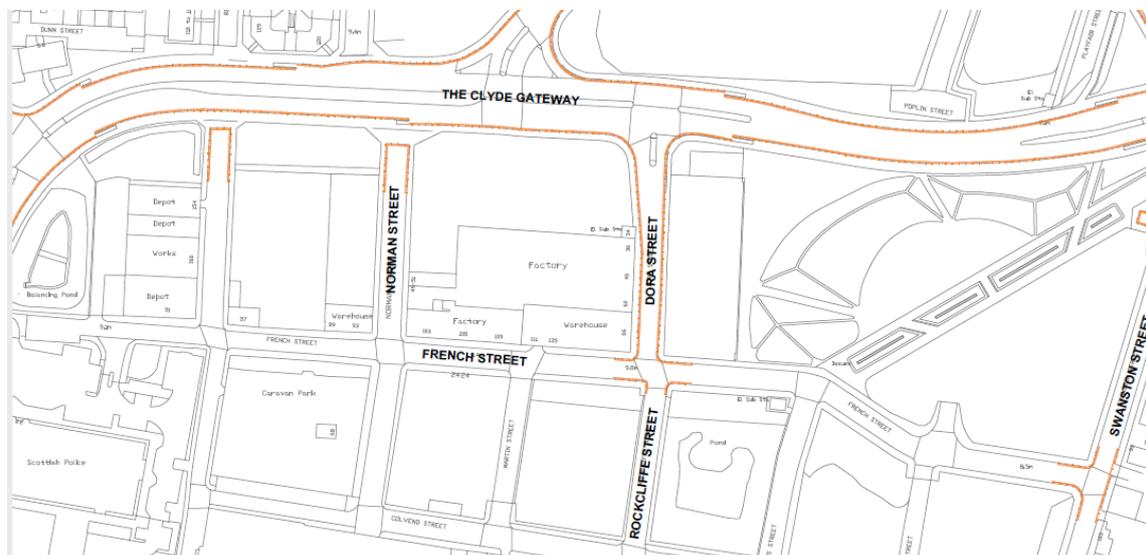
### 3. Quarrybrae Street

This street is located in extract Plan 3



### 4. French Street

This street is located in extract Plan 4





## 5. Potter Grove

This street is included in Plan 6 (shown in extract Plans 5 & 6)

