

Transport and Environment Committee

10.00am, Tuesday, 28 October 2014

Charlotte Square Public Realm Improvements Public Hearing of Objections to Traffic Regulation and Redetermination Orders

Item number	7.5
Report number	
Executive/routine	Executive
Wards	11 – City Centre

Executive summary

Two Traffic Regulation Orders (TROs) and a Redetermination Order (RSO) were advertised by the City of Edinburgh Council on 18 May 2012, in support of the approved Charlotte Square public realm improvements. Objections received to the TROs and RSO were referred to a public hearing and to Scottish Ministers respectively, in January 2014. This report informs the Committee of the Reporter's recommendations in relation to the TROs and of the Scottish Ministers' decision in relation to the RSO and seeks approval to comply with the Reporter's recommendations in relation to the TROs.

Links

Coalition pledges	P31 and P40
Council outcomes	CO7 and CO19
Single Outcome Agreement	SO1 , SO2 and SO4

Charlotte Square – Public Realm Public Hearing of Objections to Traffic Regulation and Redetermination Orders

Recommendations

- 1.1 It is recommended that the Committee:
 - 1.1.1 accepts the Reporter's recommendations, as summarised in this report, and gives approval to make the Traffic Regulation Order (subject to the changes previously approved by Committee on 19 March 2013);
 - 1.1.2 notes the related, wider-area issues raised by the Reporter, as detailed in the main body of the report;
 - 1.1.3 notes the Scottish Ministers' decision to confirm the Redetermination Order without modification;
 - 1.1.4 notes that discussions have recommenced with representatives of Fordell Estates Limited, on an implementation plan and agreement;
 - 1.1.5 notes that the proposed terms of this agreement would be reported to Committee for its approval in due course; and
 - 1.1.6 notes that proposals for a 20mph speed limit on Charlotte Square and the wider residential area, will form part of a future report to Committee on proposals to roll out 20mph speed limits citywide.

Background

- 2.1 The Development Management Sub-Committee of the Planning Committee granted approval, on 7 March 2012, for the introduction of public realm improvements on all sides of Charlotte Square.
- 2.2 The City of Edinburgh Council then promoted the necessary draft Traffic Regulation Orders (TROs) and a Redetermination Order made under the Roads (Scotland) Act 1984 (RSO) in support of the public realm improvements. The latter Order (RSO) promotes the redetermination of the existing roads and footways in favour of increased pedestrian and cyclist space on the north, south and west sides of the Square. The draft Orders prompted a number of objections, which were reported to the Transport and Environment Committee on 19 March 2013. The Committee referred the objections to the TROs and to the RSO to a public hearing and to Scottish Ministers respectively.

- 2.3 Mr Robert Loughridge, LLB, LARTPI, was appointed by the City of Edinburgh Council - from the list of independent reporters maintained by The Scottish Government's Directorate for Planning and Environmental Appeals - to conduct a public hearing of the objections to the TROs and to submit his recommendations to the Council.
- 2.4 To assist them in reaching a decision on the RSO, the Scottish Ministers also instructed the Reporter to consider the RSO objections at the same time and report his findings directly to them.
- 2.5 This report informs the Committee of the Reporter's recommendations in relation to the TROs, and of the Scottish Ministers' decision in relation to determining the RSO, and seeks approval to comply with the Reporter's recommendations in relation to the TROs.

Main report

- 3.1 The Reporter reviewed all relevant documents, including a full set of objections, and held a two-day hearing of the objections on 14 and 15 January 2014. The hearing was conducted as an informal discussion and sessions were structured around four broad topics, which the Reporter required clarification on.
- 3.2 The four broad topics were:
 - 3.2.1 to consider the existing traffic patterns and volumes in and around Charlotte Square;
 - 3.2.2 to consider the impact of the proposals upon the existing vehicular, cycle and pedestrian traffic on Charlotte Square and its immediate environs;
 - 3.2.3 to consider how displaced vehicular traffic might disperse through adjoining streets and how widely dispersal might be expected; and
 - 3.2.4 to compare the benefits said to accrue from the scheme, if it were implemented, against the perceived disadvantages elsewhere in the immediate locale or more generally.
- 3.3 Objectors who wished to be heard were required to submit a brief Written Statement summarising their objection and indicating which of the four sessions they wished to attend. These statements are available as Background Papers to this report.
- 3.4 Objectors were given the option of being represented by another person, if they chose. Three of the objectors who attended the hearing spoke on behalf of a number of the other objectors.
- 3.5 An assurance was also given that the Reporter would consider all of the original objections, whether an objector chose to be heard or not.

- 3.6 The City of Edinburgh Council submitted a Written Statement summarising its case and addressing the four topics identified by the Reporter. This statement is available as a Background Paper to this report. The Council was represented at the hearing by officials from the Council's Legal, Transport and Planning functions, supported by a representative of CMS Cameron McKenna LLP.
- 3.7 The hearing was held at the George Hotel, George Street, Edinburgh. A site visit of the Charlotte Square site and surrounding road network was carried out during the evening peak traffic period on the first day, 14 January 2014.
- 3.8 The Report on the objections to the TROs was submitted to the Council by the Reporter on 9 July 2014. The Scottish Ministers' decision on determination of the RSO was received on 7 September 2014.

The Reporter's and Scottish Ministers' Main Conclusions

- 3.9 The Reporter found that the Charlotte Square public realm improvements, for which this Order is a necessary part, are not materially in dispute. The principal argument advanced by the objectors is that the traffic management proposals will encourage general through traffic to use alternative routes thereby increasing traffic volumes, noise and pollution on those routes.
- 3.10 The reporter concluded that there is considerable spare traffic capacity in Charlotte Square and that the traffic modelling undertaken by the Council is sufficiently robust to be confident that the combined changes can be safely implemented without causing directly any significant new traffic problem to occur elsewhere or materially aggravating an existing one.
- 3.11 The Reporter accepted the evidence tendered by the Council that any likely change in traffic movements will be modest and well within the capacity of the changed roadway in Charlotte Square.
- 3.12 The Reporter further noted that the impact of the proposals on the other streets of concern to the objectors will be minimal in terms of air quality, as there is likely to be, if any change at all, a modest reduction in volumes of traffic there.
- 3.13 He was also satisfied on the evidence that the Council has discharged its duty regarding the national air quality strategy.
- 3.14 The Reporter also concluded that there was no reason in particular to consider delaying a decision on the Order, pending a re-assessment of the traffic movements in the area after the tram system has become fully operational.
- 3.15 Furthermore, the Reporter was confident that the Council keeps such matters under constant review in discharge of its statutory duties in that regard.
- 3.16 The Reporter noted that the reduction in on-street parking provision proposed in Charlotte Square, can be accommodated within the wider scheme operational in this part of the city. He particularly noted that no business interest lodged any objection to the proposed parking changes. Therefore, the Reporter found that the impact of the proposed order, if implemented, will be minimal in relation to any parking issue in this part of Edinburgh.

- 3.17 The Reporter noted the Council's intention to review existing signage provision in surrounding areas and that this should lead to more traffic using Charlotte Square as a means of getting from Queensferry Street to Queen Street. He therefore considered that, if there is any quantifiable impact on the Moray Feu, it will be to provide some relief to the existing situation there.
- 3.18 A number of traffic management enhancements were confirmed to Committee on 26 August 2014. This included improvements to road traffic accessibility around the West End and the delivery of an enhanced signage package in the Charlotte Square area.
- 3.19 At the same meeting, Committee also agreed to amend existing Hope Street traffic arrangements (currently operating westbound for local buses only) and open up access for all westbound traffic. This offers improved cycle, taxi and private vehicle access, whilst not leading to additional traffic through largely residential streets. Together with the already confirmed signage package, this will further encourage through traffic to use Charlotte Square in preference to the Moray Feu area.

The Reporter's Recommendations and Scottish Ministers' Decision

- 3.20 The Reporter recommended making the TRO in the interests of preserving or improving the amenity of Charlotte Square and its immediate environ (subject to the deletion of the weight restriction as already determined by the Council's Transport and Environment Committee on 19 March 2013).
- 3.21 In drawing a clear parallel between the TROs and the RSO, the Reporter also recommended that the RSO be confirmed without modification.
- 3.22 Scottish Minister's have considered the Reporter's recommendations and agree with his conclusion and the reasons given for it.
- 3.23 Scottish Minister's have therefore decided to confirm the Redetermination Order without modification.

Proposed Way Forward

- 3.24 The TRO and RSO are being promoted in support of the Charlotte Square public realm improvements, which are intended to be jointly funded by the Council and Fordell Estates Limited. Should Committee approve the making of the TROs, the Council will engage with Fordell Estates Limited to develop a plan for the implementation of the improvements. It will also be necessary for the Council to enter into a formal agreement with Fordell Estates Limited covering issues such as; funding, timescale and arrangements for design, procurement, construction and future management and maintenance.
- 3.25 The proposed terms of this agreement would be reported to Committee for its approval in due course.

20mph Speed Limits

- 3.26 As reported to the Transport, Infrastructure and Environment Committee on 18 June 2012, it is considered that a 20mph speed limit on the south, west and north sides of Charlotte Square, together with Glenfinlas Street and Hope Street, would augment the public realm improvements by assisting pedestrian and cycle movements around the Square.
- 3.27 This matter was continued at the Transport and Environment Committee on 19 March 2013, with a further report to be brought to Committee at a later date.
- 3.28 Consultation on rolling out a city wide 20mph speed limit is currently underway and the findings of this will reported to a future Committee. The proposals currently being consulted on include implementing 20mph speed limits on all four sides of Charlotte Square, together with Glenfinlas Street and Hope Street.

Measures of success

- 4.1 Resolution of objections through the public hearing process.
- 4.2 Enhancements to Charlotte Square which will result in a more attractive environment and better links between George Street and the West End. The proposals will also improve facilities for cyclists and pedestrians.

Financial impact

- 5.1 It is intended that the Council will enter into a formal agreement with Fordell Estates Limited, which will govern the funding arrangements for the public realm improvements. The proposed terms of the agreement will be reported to Committee in due course.

Risk, policy, compliance and governance impact

- 6.1 There are not expected to be any health and safety, governance, compliance or regulatory implications arising from the proposals set out in the report.
- 6.2 Any person has the right to appeal to the Court of Session on the validity of, or any of the provisions contained in, specified Traffic Regulation Orders. Appeals submitted to the Court of Session, by means provided in the Roads Traffic Regulation Act 1984, must be received within six weeks from the date on which the Order is made. Possible grounds of challenge are:-
- 6.2.1 the Order is not within the relevant powers; and
- 6.2.2 that any of the relevant requirements has not been complied with in relation to the Order.

- 6.3 There is no right of appeal to the Court of Session in regard to the Scottish Ministers' RSO determination. However, the decision of the Scottish Ministers can be open to challenge by means of judicial review. Possible grounds of challenge are:-
- 6.3.1 the Scottish Ministers decision was wholly unreasonable; and
 - 6.3.2 that in making their determination Scottish Ministers acted outwith their statutory powers.

Equalities impact

- 7.1 An Equalities and Rights Impact Assessment (ERIA) has been prepared for the proposals and will be updated as the scheme progresses. Any arising ERIA issues will be addressed as part of the detailed design process.
- 7.2 In general, overall access arrangements to and from the Square would be improved. Egress from the Square at the junction with North Charlotte Street, currently restricted to buses, cycles and taxis only, would under these proposals be opened up to all traffic. Furthermore, on 26 August 2014, Committee agreed to amend existing Hope Street traffic arrangements permitting access for all westbound traffic. These two access amendments offer improved cycle, taxi and private vehicle access to the Square, whilst not leading to additional traffic through largely residential streets.
- 7.3 The ERIA notes that the egress amendments at the North Charlotte Street junction are likely to increase traffic on the north and west sides of the Square. The introduction of a pedestrian signalised crossing at Hope Street was confirmed to Committee on 26 August 2014. Further crossing points, delivering safe pedestrian and cycle access to the public realm improvements, will be assessed during the detailed design process with particular attention being paid to the north and west sides of the Square.
- 7.4 The ERIA also notes that the proposals, in conjunction with the Hope Street access improvements, will likely lead to a modest reduction in traffic volumes on surrounding primarily residential streets.
- 7.5 It is considered that a 20mph speed limit on all four sides of Charlotte Square would augment the public realm improvements by assisting pedestrian and cycle movements around the Square. Consultation on 20mph speed limits is currently underway and the findings of this will be reported to a future Committee.
- 7.6 Detailed arrangements of the shared use (cycle and pedestrian) Public Realm space will be influenced by the Council's emerging street design guidance and ultimately determined during the detailed design process.

- 7.7 The ERIA notes that the proposed public realm improvements provide, amongst other things, a reduction in carriageway width, significant space increases in favour of cyclists and pedestrians, the introduction of one-way traffic movement, and although there is an overall reduction in parking space provision, disabled parking provision will be retained at existing levels.

Sustainability impact

- 8.1 The proposals in this report should reduce carbon emissions in the West End of the city, as the traffic modelling indicates that the proposals for Charlotte Square would reduce overall traffic flows in the area. Improved facilities for cyclists and pedestrians should also contribute to this.

Consultation and engagement

- 9.1 Two Traffic Regulation Orders (TROs) and a Redetermination Order (RSO) were advertised in the Scotsman Newspaper on 18 May 2012. The three week statutory objection period for the TROs was initially extended to four weeks, to match the RSO statutory requirement. Both periods were then extended by a further two weeks, to 29 June 2012, to allow objectors additional time to prepare and lodge their objections.
- 9.2 Notices were maintained on-street throughout the extended objection period and letters were also sent to organisations representing persons likely to be affected by the proposals (statutory consultees); that is 34 organisations in the case of the TROs and 19 organisations in respect of the RSO.
- 9.3 All objectors were given the opportunity to be heard by an independent Reporter on 14 and 15 January 2014 and the RSO objections were also referred to Scottish Ministers.
- 9.4 A copy of the Reporters report on the TRO has been sent to all objectors. Objectors will also be notified of the Committee's decision.
- 9.5 Local Members have been consulted on the contents of this report and no comments or issues have been raised.

Background reading/external references

The following background material is available:

- Objectors' Written Statements
- The Council's Written Statement

John Bury

Acting Director of Services for Communities

Contact: Jamie Robertson, Senior Professional Officer, Projects Development

E-mail: jamie.robertson@edinburgh.gov.uk | Tel: 0131 469 3654

Links

Coalition pledges	P31 - Maintain our City's reputation as the cultural capital of the world by continuing to support and invest in our cultural infrastructure. P40 - Work with Edinburgh World Heritage Trust and other stakeholders to conserve the city's built heritage.
Council outcomes	CO7 - Edinburgh draws new investment in development and regeneration. CO19 - Attractive Places and Well Maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm.
Single Outcome Agreement	SO1 - Edinburgh's economy delivers increased investment, jobs and opportunities for all. SO2 - Edinburgh's citizens experience improved health and wellbeing, with reduced inequalities in health. SO4 - Edinburgh's communities are safer and have improved physical and social fabric.
Appendices	Appendix 1: Reporter's report on the public hearing of objections to the Traffic Regulation Orders Appendix 2: Scottish Ministers' decision regarding confirmation of the Redetermination Order.



Report to the City of Edinburgh Council

ROAD TRAFFIC REGULATION ACT 1984

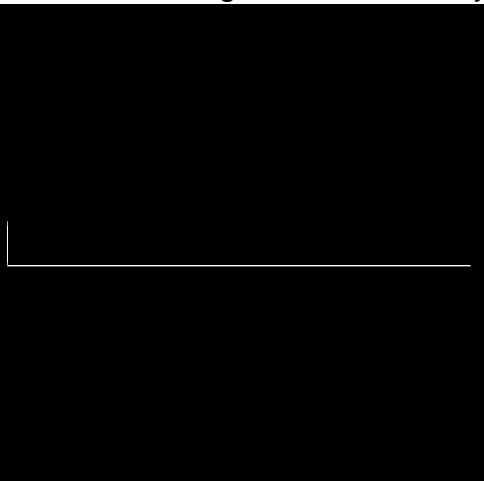
Report by R F Loughridge, a Reporter appointed by the City of Edinburgh Council

- Case reference: RSN/13272/KG
- Site Address: Charlotte Square, Edinburgh
- The City of Edinburgh Council (Traffic Regulation; Restrictions on Waiting, Loading and Unloading and Parking Places) and (Disabled Parking Places) and (Queen Street Edinburgh) (Prohibition of Entry and Turning) and (Central Edinburgh) (Prohibition of Entry and Turning, One-Way Roads and Bus Lanes) and (Edinburgh Tram) (Prohibition of Entry, Motor Vehicles and Turning, One-Way Roads, Bus Tram Priority Lane; Weight Limit) Variation Order 201-
- Dates of Hearing: 14 and 15 January 2014

Date of this report and recommendation: 9 July 2014

Summary of Report of Hearing into a Traffic Regulation Order

The City of Edinburgh Council (Traffic Regulation; Restrictions on Waiting, Loading and Unloading and Parking Places) and (Disabled Parking Places) and (Queen Street Area, Edinburgh) (Prohibition of Entry and Turning) and (Central Edinburgh) (Prohibition of Entry and Turning, One-Way Roads and Bus Lanes) and (Edinburgh Tram) (Prohibition of Entry, Motor Vehicles and Turning, One-Way Roads, Bus Tram Priority Lanes and Weight Limit) Variation Order 201-

• Case reference	RSN/13272/KG
• Case type	Traffic Regulation Order
• Reporter	R F Loughridge
• Promoter	City of Edinburgh Council
• Respondents	New Town and Broughton Community Council, 
• Method of consideration and date	Hearing on 14 and 15 January 2014
• Date of report	9 July 2014
• Reporter's recommendation	The Order should be made (subject to the deletion of the weight restriction as already determined by the Council's Transport and Environment Committee on 19 March 2013)

Reasons for Public Hearing:

Where a local roads authority promotes a traffic regulation order and objections are intimated to that and not withdrawn, the authority is empowered to hold a public hearing of these objections. Where an order contains a provision relating to loading and unloading to which there is an objection, a public hearing must be held before a decision is made on the matter. The New Town and Broughton Community Council maintained an objection on a number of aspects including to the loading and unloading provisions.

The Site:

The site is the peripheral edge of the carriageway on three sides (north, west and south) enclosing the central green space within Charlotte Square, Edinburgh. The Square as a whole is enclosed by a series of formal Georgian terraces of the highest quality, representing one of Robert Adam's major works of the 18th century. All the buildings are listed as Category A. The Square is located within the New Town Conservation Area.

Originally created as a wholly circular green space, the garden was enlarged and remodelled in 1873, when the original design of a chamfered square was adopted. Various changes have been incorporated over time in that part of the Square affected by this Order.

Railings enclose the garden area. The public does not have access to the enclosed area.

The existing carriageway is of generous proportions, and end-on parking is regulated on the three sides affected by this traffic regulation order. There is a related order, which, if implemented, will increase the space on the inner edge of the Square given over to pedestrians and cyclists and correspondingly reduce that available for motor vehicles.

Description:

The Traffic Regulation Order is associated with a development for which planning permission was granted on 7 March 2012 for improvements to the public realm in Charlotte Square. These improvements comprise a new landscaping scheme for the area currently occupied as carriageway and footway between the inner garden railings and the outer property railings of the Square on the three sides mentioned above. The greatest impact of the proposed works will be on that part of the carriageway currently largely devoted to the regulated on-street parking of vehicles. The levels will be re-engineered and integrated with the existing inner footpavements to provide a shared area for pedestrians and cyclists significantly wider than the existing footpavements, with a correspondingly reduced area for vehicular movement in conjunction with the introduction of a one-way clockwise route for motor vehicles. The fourth (east) side of the Square will remain largely unaltered and will continue to carry two-way traffic as at present, albeit with modified junction arrangements.

The Applicant's Case:

It is expedient to implement the Order so as to facilitate the public realm improvements within Charlotte Square, to increase the attractiveness of the area to pedestrians and cyclists and to adjust the road space available to motor traffic, reducing the amount of on-street parking available and introducing a one-way traffic pattern. Nothing in the proposals will adversely impact on other streets in the locale.

The Respondents' Case:

The proposals will result in an increase in traffic using Randolph Crescent, Great Stuart Street, Ainslie Place and St Colme Street (the Moray Feu) as a means of travel between Queensferry Street and Queen Street. Such additional traffic will intensify the damage already being experienced to the fabric of the properties, which are all listed buildings of distinction. The levels of existing traffic movement there are already unacceptably high in what is a primarily residential area; and the existing levels of pollution there are such that nothing should be done which might intensify the existing levels of pollutants. Further, until such time as traffic patterns have adjusted to the implementation of the tram network, no further change should be made in the current arrangements, regardless of the benefits which might be derived from the scheme.

Reporter's Reasoning:

The public benefits of the land use changes, for which this Order is a necessary part, are not materially in dispute, although views differ as to the extent to which the increase in pedestrian usage is likely to be achieved. I accept the evidence tendered by the roads witnesses that any likely change in traffic movements will be modest and well within the capacity of the changed roadway in Charlotte Square. In particular, the impact of the proposals on the other streets of concern to the objectors will be minimal in terms of air quality, as there is likely to be, if any change at all, a modest reduction in volumes of traffic there. The reduction in on-street parking involved can be accommodated within the wider scheme operational in this part of the City. Taken together, any adverse impact of the proposed traffic measures do not outweigh the benefits of the public realm improvements in the planning permission granted for such improvements in 2012.

Reporter's Conclusion

That the Order should be made, (subject to the deletion of the weight restriction as already determined by the Council's Transport and Environment Committee on 19 March 2013).

R F Loughridge

The Scottish Government
Directorate for Planning and Environmental Appeals
4 The Courtyard
Callendar Business Park
Callendar Road
Falkirk FK1 1XR

9 July 2014

The Lord Provost and Councillors
The City of Edinburgh Council

I have the honour to report that I held a public hearing on 14 and 15 January 2014 into outstanding objections to The City of Edinburgh Council (Traffic Regulation; Restrictions on Waiting, Loading and Unloading and Parking Places) and (Disabled Parking Places) and (Queen Street Area, Edinburgh) (Prohibition of Entry and Turning) and (Central Edinburgh) (Prohibition of Entry and Turning, One-Way Roads and Bus Lanes) and (Edinburgh Tram) (Prohibition of Entry, Motor Vehicles and Turning, One-Way Roads, Bus Tram Priority Lanes and Weight Limit) Variation Order 201-.

The hearing took place on the dates given above in the George Hotel, 19-21 George Street, Edinburgh. I made an accompanied inspection of the locale (including the streets in the Moray Feu referred to by the several objectors) at the end of the first day of the hearing.

R F Loughridge
Reporter

Introduction

- 1.** The Road Traffic Regulation Act 1984 (as amended) empowers a local roads authority (such as the City of Edinburgh Council in this case) to vary existing traffic regulation orders in respect of any road for which it is the roads authority if the authority considers it expedient to do so for any of a variety of reasons as set out in section 1(1) of the Act. These reasons include, in paragraph (f) of subsection (1), “preserving or improving the amenity of the area through which the road runs”.
- 2.** Section 122 of the Act imposes a duty on the authority in exercising its functions to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the road, so far as practicable having regard to certain matters specified in subsection (2). These matters include reasonable access to premises, the effect on amenity of the area through which the road passes, and the national air quality strategy (in terms of the Environment Act 1995).
- 3.** The procedure for making a traffic regulation order is set out in the Local Authorities’ Traffic Orders (Procedure) (Scotland) Regulations 1999. Under Regulation 8 the authority may hold a hearing if objections are lodged and maintained to the Order. A hearing is obligatory when an objection relates to a provision in an Order relating to loading and unloading. In this case, the New Town and Broughton Community Council maintains such an objection. Accordingly, a hearing took place into all the outstanding objections to the Order in conjunction with objections to the related Redetermination Order, which had been submitted to Scottish Ministers for confirmation.
- 4.** The two Orders (the traffic regulation order with which this report is concerned and the Redetermination Order submitted to Scottish Ministers for confirmation) are promoted by the authority in consequence of a decision to grant planning permission for the improvement of the public realm within Charlotte Square. Thus it is clear that the authority is pursuing exclusively land use objectives and the traffic regulation order is ostensibly for a purpose associated with the preservation or improvement of the amenity of the area through which the road runs.
- 5.** Planning permission had been granted pursuant to an application (11/03716/FUL) by Fordell Estates Limited for a scheme relating to the north, south and west sides of the Square, involving the rationalisation of the existing carriageway and footpavements so as to reduce the space available for motor vehicles and to increase the space available for pedestrians and cyclists. The proposals included a measure of reengineering of levels to achieve that objective, and the installation of new hard surfaces, lighting columns, signage and street furniture. Vehicular access to the Square would be altered so as to provide for one way circulation in a clockwise direction with traffic entering the Square, for these purposes, at the junction with South Charlotte Street (from either a southbound or a northbound direction) or from Hope Street and leaving the Square at the junction with North Charlotte Street (in either a southbound or a northbound direction). The configuration of the carriageway of the Square is altered so that at the corners there is in each case a right angle, the whole of the benefit of the chamfered corners being given

over to shared pedestrian and cycle usage.

6. There was a substantial number of objections and representations from those listed in the Appendix to this Report. Broadly the objections related to the impact of the combined proposals on the wider locale and were largely couched in general terms. It had also originally been envisaged that a weight restriction order should be introduced on certain of the affected streets; but the Council abandoned that aspect of the proposals and accordingly the objection from Lothian Buses was withdrawn. However Lothian Buses maintain the view that no decision should be taken in relation to the Charlotte Square Public Realm orders which would constrain or be inconsistent with the outcome of the Council's deliberations on its City Centre Vision.

7. The Council proposed that a combined hearing into the objections to both Orders be convened. No party indicated any objection to that proposal and so it was agreed that a combined hearing would take place in Edinburgh on 14 and 15 January 2014.

8. This report is concerned only with the traffic regulation order, which is for the Council to progress. A separate Report is being made to Scottish Ministers in relation to the related redetermination order.

9. After the hearing was complete, I received a number of late submissions from certain objectors. I sought the views of parties as to whether these should be received or rejected, and I carefully considered the views I received. I decided in the circumstances of this case that, while it would have been preferable for the material I received late to have been submitted to and considered at the hearing, no prejudice would be suffered by any party if I were to take it into account. In broad measure, the late material amplified submissions which had already been made, and raised no new material of significance to my decision. I also had regard to the fact that the late submissions came from objectors who were not professionally represented. Accordingly, I have had regard to these submissions insofar as material to my decision in arriving at my recommendations.

The case for the applicant (The City of Edinburgh Council)

10. The Order is one of two Orders consequential upon the Council's decision to grant planning permission for the improvements of the public realm within Charlotte Square. As such, the Orders are based on land use objectives. The grant of planning permission should be taken as endorsing the acceptability of the overall proposals in land use terms. The proposals do not involve the removal of any original feature of the design of Charlotte Square.

11. The Council is pursuing a broad strategy of rebalancing the available public space to give greater priority to pedestrians and correspondingly less to vehicles within the city centre. The strategy is both dynamic and flexible. In this case the Council is responding to a private initiative; but it had identified Charlotte Square as a high priority area for some years already. In progressing proposals to increase the space available to pedestrians and cyclists, the scope for vehicular movement within and around the Square (excluding so much of the carriageway as is currently given over to on-street parking) will not materially diminish, though it will be reconfigured. The amenity improvements proposed

will however represent a significant gain. The proposals represent a calculated change in the balance of different road users, accommodating as adequately as can be foreseen all of today's evolving aspirations for and needs within a modern city.

12. In this regard, the Council has been pursuing other such schemes, generally with success – for example in St Andrew Square, the High Street or the Grassmarket – all roads which had limited pedestrian space and were dominated by vehicle movements, but where that balance has been readjusted to allow other things to happen within the city's outdoor street space. In common with many other European cities, the space for people is increased while that for vehicles is allowed to diminish, to increase the comfort and enjoyment of pedestrians and visitors. This can bring economic benefits.

13. The Council, after a period of public consultation, approved its public realm strategy in 2009, building on principles set out in the Edinburgh City Local Plan, the Local Transport Strategy, the Edinburgh Standards for Streets and a number of other initiatives relating to open space and street design. The strategy is reviewed annually at Council level. In particular the strategy looks to raise awareness of the significance of the public realm.

14. In essence the Council has formed the view that, while the architecture and townscape in this part of the City is of European significance, it is badly served by its traffic uses and volumes. However, the available funds to address the issues are limited in extent and so, when a private sector organisation is willing to contribute the costs involved, it proves something of a windfall opportunity, enabling particular elements of the strategy to be progressed. That however is not to be regarded as diminishing the importance of the overall strategy in assessing or planning the way forward when such funding opportunities arise. It should also be recognised that the priority list is reviewed annually and was originally established through an extensive exercise of public consultation.

15. The reduction in parking will be substantial if the proposals are implemented. There will be a net loss of around 50 to 60 spaces. There is however no objection to the loss of such spaces from any person representing a business or commercial use. Such objections as have been received to the parking issues which arise for consideration are general in nature and derive from a wider concern about vehicle parking in the City. The Council however operates a hierarchy of pricing (a pay and display system), such that, outside George Street itself, demand falls away dramatically; and accordingly the loss of spaces can be accommodated without problem, subject to continuing that measure of control by price.

16. From the traffic management perspective, the Square works well below its current capacity and should continue to do so. In general terms, the capacity of a single lane roadway with controlled junctions is of the order of 1000 to 1200 vehicles per hour. At the critical junctions, Charlotte Square's capacity as altered would be substantially greater than such figures. The reduction in road space which is a part of this proposal may result, in the fullness of time and allowing for foreseeable traffic growth, in the carriageway being at capacity at certain times, but such a result is not the prediction of those advising the Council based on the standard approaches made by the Council to traffic management in this part of Edinburgh. The Council's current expectation is that the net effect of the totality of changes introduced, including the related traffic regulation order, would be a modest

increase in vehicular traffic using Charlotte Square which it will be well able to accommodate in its proposed configuration. It is the intention to encourage traffic to use the Square in preference to the streets through the Moray Feu, principally by making changes to the existing signage arrangements. Constraining the carriageway in the way proposed, and allowing for the parking and offloading of vehicles, will result in acceptable flows of traffic in accordance with the duty to secure the expeditious, convenient and safe movement of vehicular and other traffic after all such measures are in place. There is a significant proportion of traffic turning left into Randolph Crescent from Queensferry Street; and it is expected that much of such traffic will continue to do so regardless of what steps are taken. Changes in signage, however, should lead to a proportion being diverted to the Charlotte Square route.

17. Vehicular traffic flows in the area are influenced by a variety of factors, and the roads authority keeps matters under constant review. Nothing in the matters raised by the objectors suggests that the traffic modelling which the Council has undertaken is in any way unreliable as a basis for assessing the likely impact which the proposal might have on the other affected streets of the locale.

18. Current signage in force discourages heavy goods vehicles from using Charlotte Square when approaching the City along the A90 (Queensferry Road) and may in consequence have the effect of directing it through the streets of the Moray Feu. It is intended that the signage will be the subject of an early review by the Council, so that it should prove possible to adjust the current signs in such a way as to redirect such traffic through the Square rather than through the Moray Feu.

19. Such figures as are available show substantial variation in traffic movement according to the day of the week, and the latest data may be skewed because of the influence of shopping patterns in December. However, they are consistent with the conclusion that the traffic through the streets of the Moray Feu will not be substantially changed as a result of the redetermination order and the traffic regulation order.

20. Advice from the police is that there is difficulty in controlling the movements of heavy goods vehicles within the Moray Feu streets.

21. As far as the risk of increasing air pollution is concerned, it is the Council's belief that the net effect of the proposals for Charlotte Square on the air quality in streets in the Moray Feu will be completely insignificant. The propositions being advanced on behalf of the objectors have already been considered at some length by the Council. While they may raise wider issues worthy of further study, the foreseeable repercussions of the current proposals if implemented in full will have no measurable impact on the streets identified by the objectors.

The case for the Respondents

22. The objectors comprise a substantial number of individuals and two Community Councils who (or whose electors) are resident in the wider locale, which, they apprehend, will be affected by the City of Edinburgh Council's proposals. Broadly, there has been a long-standing concern about the changes in vehicular movement in the area, brought about by, among other things, the introduction of the tram system. The closure of Shandwick Place to general traffic involved a substantial increase in the vehicles being

driven through the Moray Feu. Charlotte Square was intended as a mitigation measure intended to address some of the consequences of that closure. Now the proposed changes would have the effect of reducing the capacity of Charlotte Square to accept the traffic increases necessary to return the Moray Feu streets to more acceptable levels of traffic. In reality, traffic displaced from Charlotte Square for whatever reason, has no alternative route to take other than the streets through the Moray Feu. Any flaw in the analysis of what might happen in Charlotte Square will therefore be visited upon those streets. The Square has in its existing state much more capacity to accept more traffic (to the relief of the Moray Feu), and in the view of the objectors it would be preferable to re-open Hope Street to general A90 traffic.

23. It is accepted that there is some public benefit from the proposals; but there are other ways in which to achieve similar benefits to those identified as the result of this scheme.

24. The loss of parking is high in terms of number of spaces. The Council has produced no figures to support the contention that the loss of spaces can be accommodated without problem. No statistically informed prediction has been made; and the conclusions reached are at best questionable. Use of the Square for parking purposes when the charges are not applicable demonstrates that there is an underlying demand of considerable proportions, which is suppressed by the pricing controls.

25. The current traffic patterns in the City are dynamic; and there will be further changes in patterns once the tram system becomes fully operational. This is the wrong time to be introducing changes; and no action should be taken on this proposal until such time as the effects of the introduction of the trams can be properly assessed. While objectors accept that the Council has afforded this project serious professional consideration, local people remain unconvinced that the underlying statistics are sufficiently robust to warrant the conclusions which have been drawn from them. The community councils are of the view that there is widespread public support for doing nothing about Charlotte Square until such times as the tram system is operational.

26. The data which the Council has produced do not properly allow for the impact of the scheme on the streets in the Moray Feu, which remains 96% residential. The Council has failed to have regard to the impact of the level of vehicle movement on the substantial number of properties which have several levels of habitable accommodation below the level of the carriageway in these streets, and the adverse implications of the level of air pollution on those who live there. In this regard, the Council has a duty to have regard to the national air quality strategy. Any proper discharge of that duty requires the Council to be satisfied that the net result of these proposals is no deterioration in the air quality of the streets in the Moray Feu because of the current levels of pollution being experienced there. Any reasonable conclusion, based on the Council's projections, is that there is a substantial risk that air quality will further deteriorate there if the relevant measures are implemented.

27. The precautionary principle suggests no displacement of traffic should be sanctioned which risks an increase in pollutants. The available data at best raise questions for investigation; and it may be that the position is not provable. However, the

data suggest there is the potential for an adverse health risk, none of which accords with the certainty articulated by the Council.

28. The Council has failed to recognise the damage to the fabric of the properties in the Moray Feu streets being sustained as a result of the increases in traffic movement of recent times. Priority should be directed to addressing such problems, which are of much greater moment than any problem being experienced within Charlotte Square at present.

29. In any event, the level of change which has already been introduced to facilitate the construction of the tram network is so great in scale that no step should be taken to make matters any worse. The proposed changes would be one such step.

Findings in Fact

30. I adopt paragraphs 1 to 5 above insofar as detailing factual matters.

31. The traffic patterns in the locale are, as might be expected in any urban area, far less one undergoing dramatic change of the kind involved in the introduction of a tramway network, particularly dynamic. The data produced by the promoters require therefore to be read with great care. Recent figures produced appear, however, to correspond with what was seen on the site inspection, namely that the road network in the relevant locale functions adequately and broadly efficiently, at least for core traffic.

32. Regardless of the precise implications of the data, Charlotte Square has considerable capacity to absorb additional traffic movements.

33. This will remain the case if the reduction in carriageway width were implemented as proposed. Such capacity is not, however, infinite.

34. There are no reliable data from which robust predictions can be drawn as to the impact of the proposals on the streets in the Moray Feu. However, if Charlotte Square were to become a more effective alternative through route for the A8 and A90 traffic, it can be reasonably foreseen that some traffic would be diverted from the streets in the Moray Feu. It cannot be said that the traffic regulation order would, if implemented, undermine that potential.

35. The existing road signage directing traffic is of less effect than might be expected because of the overwhelming presence of street clutter. There is in general terms insufficient advance warning to allow motorists to make the required manoeuvres and to choose the recommended route. There appears, in addition, to be an inadequate level of observance and/or enforcement of such Orders as are in place, based on what I saw on the site inspection.

36. Planning permission was granted for a scheme of environmental improvement in March 2012, which provides for among other things the changes in the carriageway envisaged in the Order and envisages the introduction of one-way traffic movement and the reduction in car parking provision which is a part of this Order.

37. The proposed scheme will increase the pedestrian space with widened footways on the garden side while at the same time increasing the provision for cyclists improving the

links for the national cycle route through the city centre.

38. There will be loss of about 60 spaces currently used by vehicle parking if the present scheme proceeds. Demand for use of the spaces is so great that it is regulated by a hierarchy of pricing controls which results in the current pattern of usage.

39. Current cycle usage is extremely modest, and is unlikely to increase significantly. The volume of cyclists would not of itself justify the changes proposed.

40. There appears to be no evidence that the current arrangements are inadequate for current levels of pedestrian activity.

41. The measurable effect on pollutants measurable in the streets of the Moray Feu would be of negligible proportions if the scheme were implemented.

Conclusions and recommendations

42. The Orders taken together have drawn a substantial body of objection from residents in the nearby area who apprehend there will be adverse consequences of the overall measures proposed. The evidence is such that, while I have no doubt that these apprehensions are very genuinely felt, and are based upon a careful consideration of relevant matters, they are not directly attributable to the changes involved in implementation of this Order. Rather they are a genuine and understandable response to the evolving traffic management proposals, including the introduction of the tramway system, and the impact on the environment in the Moray Feu.

43. The principal argument advanced by the objectors is that the traffic management proposals will encourage general through traffic to use alternative routes increasing traffic volumes, noise and pollution on those through routes. The principal, if not the only, alternative through route is that through the Moray Feu (Randolph Crescent, Great Stuart Street, Ainslie Place and St Colme Street). The traffic situation in these streets is already far from what one would expect in primarily residential streets, and is a matter requiring attention. Related to this is the contention that the reduction in carriageway width will reduce the scope for Charlotte Square to provide the required degree of relief to the Moray Feu streets by presenting itself as a more attractive alternative than that through the Moray Feu. I do not accept these contentions. In general, I conclude that there is considerable spare capacity in Charlotte Square and I am confident that the traffic modeling undertaken by the Council is sufficiently robust to be confident that the combined changes can be safely implemented without causing directly any significant new traffic problem to occur elsewhere or materially aggravating an existing one.

44. I do not consider, in particular, that there is any overriding reason to delay a decision on the implementation of the proposals in this Order pending a reassessment of the traffic movements in the area after the tramway system has become fully operational. However popular such a decision might be with the residents represented at the hearing, in my view it is not something merited by the evidence before me. Timing of any traffic management or road proposal is always a matter for careful consideration, but in this locale there is, in my view, never likely to be a time when there will be no stimulus for some kind of prospective or additional change. Nothing that was said in the course of the hearing has persuaded me that this is a particularly inauspicious or disadvantageous time

for the changes proposed in this Order; and I am in any event confident that the City of Edinburgh Council keeps such matters under constant review in discharge of its statutory duties in that regard.

45. The issue of air pollution was one on which there was considerable argument at the hearing. It is clear that there is an issue of substantial concern to local residents which needs consideration. I accept that the residents have real concerns, and such concerns are based on an assessment of the currently available data. At the hearing I was told that all that was put before me in relation to air pollution had been, at least substantially, previously considered by the Council. The Council had taken its own professional advice on the subject. It appears that this is an area in which the relevant professionals may reasonably differ in their interpretations and conclusions. Fundamentally, however, it is not necessary for the purposes of this report, or for the Order to which it relates, to form a conclusive view on such differences as exist. The statute simply requires that, in progressing traffic regulation orders of this kind, roads authorities should have regard to the national air quality strategy. I am satisfied on the evidence that the Council has discharged that duty.

46. Moreover, questions of the effect on air pollution only arise for consideration in relation to the present proposals if it is accepted that the net effect of the Council's proposals for Charlotte Square would be to lead to a reduction in traffic levels there and a corresponding increase within the Moray Feu.

47. I do not accept that the evidence demonstrates that such an increase is a likely outcome. It appears more than likely to me that the proposals, especially if there is a meaningful review of the existing signage arrangements on the approaches to Randolph Crescent and Charlotte Square, will lead to more rather than less traffic using Charlotte Square as a means of getting from Queensferry Street to Queen Street, and if there is any quantifiable impact on the Moray Feu, it will be to provide some relief to the existing situation there.

48. There is scope, clearly, for adjustment to traffic signals and advance information which if undertaken could increase the proportion of traffic which could be encouraged to use the new configuration. I accept that it is part of the Council's intention to review the existing provision. I also recognize, however, that the regulations on such matters have to take precedence, and there are correspondingly limitations on what might otherwise be achievable.

49. The Statement of Reasons published as part of the statutory documents in support of the proposal to make the traffic regulation order says little beyond an allusion to a development proposal considered and approved by the Council's Planning Committee on 7 March 2012. It also (wrongly) states that the result will be a gain of around one acre (sic) of public realm around Charlotte Square, creating dedicated space for pedestrians and cyclists without reducing the permeability of the area for vehicles. It is, however, clear from this Statement that, however inadequately justified the Order may be by the Statement itself, the proposal has been promoted in pursuit of land use objectives rather than any recognised deficiency or inadequacy in the existing arrangements for pedestrians, cyclists and motor vehicles.

50. It may be true that Charlotte Square in its existing layout and use is not an important pedestrian destination, but I am satisfied that there will be no substantial reduction in usability by pedestrians or in vehicle permeability if the proposed one way system and changed parking arrangements are implemented. It is clear to me that the Council has aspirations to increase pedestrian usage and attractiveness, particularly by tourists and others interested in the outstanding architecture which characterises the Square. There is nothing unreasonable in this aspiration, for it is of considerable merit in my view; and I am satisfied in relation to other schemes that the Council has successfully achieved its objective where it has in other places changed the balance of usable road space to increase that available to pedestrians and reduce that available to vehicles. Nothing that was said at the hearing suggested that where these other schemes had been implemented the result was inadequate provision for motor vehicles.

51. It may be that if the existing price controls on parking were reduced there would be greater take-up of the spaces available. It is worthy of note that insofar as there was discussion at the hearing of the changes in parking envisaged, it related more generally to the provision of on-street parking facilities in the wider locale. Given the level of controls currently imposed, I conclude, based on all that was said on the subject, that the demand is such that there should be no material change caused by implementation of the present proposals in the continued management of parking within this part of the city centre. It is particularly to be noted that no business interest lodged any objection on this aspect of the matter, nor was the community council who did object to the parking changes motivated by representations it had received from any business or commercial interest in the area. I conclude, therefore, that the impact of the proposed order, if implemented, will be minimal in relation to any parking issue in this part of Edinburgh.

52. I conclude, therefore, that it is expedient to make the Order in the interests of preserving or improving the amenity of Charlotte Square and its immediate environs. I recommend that the Order be made as proposed (subject to the deletion of the weight restriction as already determined by the Council's Transport and Environment Committee on 19 March 2013).

Road Policy Team
Trunk Road and Bus Operations

Buchanan House, 58 Port Dundas Road, Glasgow G4 0HF
Direct Line: 0141 272 7314,
david.thomson@transportscotland.gsi.gov.uk



Mr Ewan Kennedy
Policy and Planning Manager
Services for Communities
Transport, C2
Waverley Court
4 East Market Street
Edinburgh
EH8 8BG

Your ref:

Our ref:

Date:

19 August 2014

Mr Kennedy

**THE CITY OF EDINBURGH COUNCIL (CHARLOTTE SQUARE EDINBURGH)
(REDETERMINATION OF MEANS OF EXERCISE OF PUBLIC RIGHT OF PASSAGE)
ORDER 201_ RSO/12/02**

**ROADS (SCOTLAND) ACT 1984
SI 1986 No. 252**

The City of Edinburgh Council ('the Council') remitted the above Order ('the Order') to the Scottish Ministers ('Ministers') under regulation 13 of The Stopping Up of Roads and Private Accesses and the Redetermination of Public Rights of Passage (Procedure) (Scotland) Regulations 1986 (SI 1986/252) for determination by Ministers in terms of regulation 16 of SI 1986/252.

A number of objections had been made to the Order and not withdrawn and accordingly the Council were required to remit the Order to Ministers for their determination.

In the exercise of their discretion, Ministers decided to hold an inquiry before making their determination. By minute of appointment dated 19 December 2013, Ministers appointed Robert Loughridge ('the Reporter') to conduct a hearing into the Order and to report to Ministers with a recommendation.

A hearing took place in Edinburgh on 14 and 15 January 2014. The Reporter reported to Ministers on 14 July 2014.

The Reporter recommended that the Order be confirmed without modification.

I attach a copy of the report.

Ministers have considered the report. Ministers agree with the Reporter's conclusion and with his recommendation and the reasons given for it.

Ministers have therefore decided to confirm the Order without modification.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Roy Brannen', with a stylized flourish at the end.

Roy Brannen
Director, Trunk Road and Bus Operations

Report to the Scottish Ministers

ROADS (SCOTLAND) ACT 1984

Report by R F Loughridge, a Reporter appointed by the Scottish Ministers

- Case reference: IQC-30-61
- Site Address: Charlotte Square, Edinburgh
- The City of Edinburgh Council (Charlotte Square, Edinburgh)
(Redetermination of Means of Exercise of Public Right of Passage) Order
201_RSO/12/02
- Dates of Hearing: 14 and 15 January 2014

Date of this report and recommendation: 14 July 2014

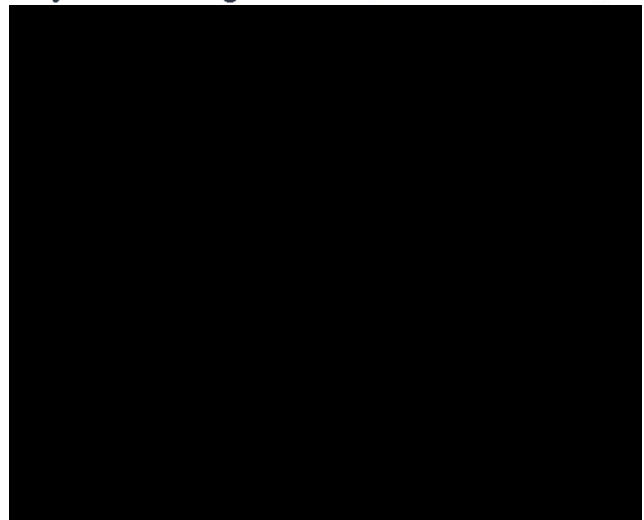
The City of Edinburgh Council
(Charlotte Square, Edinburgh)
(Redetermination of Means of Exercise
of Public Right of Passage) Order 201_RSO/12/02

Directorate for Planning and Environmental Appeals

Summary of Report of Hearing into a Redetermination Order

The City of Edinburgh Council (Charlotte Square, Edinburgh) (Redetermination of Means of Exercise of Public Right of Passage) Order 201_RSO/12/02

- Case reference IQC-30-61
- Case type Redetermination Order
- Reporter R F Loughridge
- Applicant City of Edinburgh Council
- Respondents



- Date of application 25 June 2013
- Date case received by DPEA 20 December 2013
- Method of consideration and date Hearing on 14 and 15 January 2014
- Date of report 14 July 2014
- Reporter's recommendation The Order should be confirmed without modification

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The City of Edinburgh Council
 (Charlotte Square, Edinburgh)
 (Redetermination of Means of Exercise
 of Public Right of Passage) Order 201_RSO/12/02

Reasons for Ministers' Determination:

Where a local roads authority advertises that it proposes to make an Order and objections are intimated to that and not withdrawn, the matter is to be remitted to Scottish Ministers to determine and Ministers may confirm the Order with or without modification or proceed otherwise. An inquiry is discretionary before Ministers may arrive at their decision.

The Site:

The site is the peripheral edge of the carriageway on three sides (north, west and south) enclosing the central green space within Charlotte Square, Edinburgh. The Square as a whole is enclosed, by formal Georgian terraces of the highest quality, one of Robert Adam's major works of the 18th century. All the buildings are listed as Category A. The Square is located within the New Town Conservation Area.

Originally created as a wholly circular green space, the garden was enlarged and remodelled in 1873 when the original design of a chamfered square was adopted. Over time, there have been a number of different configurations of the carriageway area.

Railings enclose the garden area. The public does not have access to the enclosed area.

The existing carriageway is of generous proportions, and end-on parking is regulated on the three sides affected by this redetermination order. There is a related traffic regulation order, which will alter the existing vehicular traffic patterns.

Description:

The Redetermination Order is a necessary prerequisite of implementation of a development for which planning permission was granted on 7 March 2012. That development provides for a new landscaping scheme for the area currently occupied as carriageway and footway between the inner garden railings and the outer property railings of the Square on the three sides mentioned above. The greatest impact will be on that part of the carriageway currently largely devoted to the regulated on-street parking of vehicles. The levels will be re-engineered and integrated with the existing inner footpavements to provide a shared area for pedestrians and cyclists significantly wider than the existing footpavements, with a correspondingly reduced area for vehicular movement. The associated traffic regulation order will provide for a one way clockwise route. The fourth (east) side of the Square will remain largely unaltered and will continue to carry two way traffic as at present, albeit with modified junction arrangements.

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The reduction in carriageway width, which will be the effect of implementation of this Order, will result, in conjunction with the related traffic regulation order, in each of the three sides of the Square carrying traffic in a single direction. Each corner will be configured differently from the present chamfered pattern becoming much more a right angle than at present. All of the space removed from the carriageway will be reassigned to shared pedestrian and cyclist usage.

The Applicant's Case:

This Order is one of two required to implement a development for which planning permission has been granted. It is thus promoted in pursuit of land use objectives directed at improving the quality of the public realm within Charlotte Square, particularly so as to improve its attractiveness to tourists and others interested in the outstanding architectural quality of the buildings on the Square. It is also intended to achieve a better balance between the needs of pedestrians and cyclists on the one hand and motor vehicle users on the other, a balance more in accord with the requirements of a modern European city. The public realm improvements are part of a long established strategy adopted by the Council after extensive public consultation.

No original feature of the Square will be affected.

On-street car parking will be reduced (a net loss of 50-60 spaces). Such on-street car parking as exists is regulated, effectively by price, and the reduced number of spaces will be able safely to accommodate the demand, in conjunction with other on-street provision elsewhere. There is no business or commercial objection to the proposed reduction.

The changes in road space and the associated changes promoted by means of a traffic regulation order will satisfactorily accommodate the need for vehicles to access the buildings in the Square, and remain an important part of the road network connecting the A8 and A90 routes with Queen Street able to accommodate the foreseeable traffic demands in that regard. The net effect of the changes is unlikely to increase the traffic volumes currently using the already heavily trafficked route from Queensferry Street through Randolph Crescent, Great Stuart Street, Ainslie Place and St Colme Street (the Moray Feu route), which is the principal alternative route for such traffic seeking destinations on Queen Street and beyond in the east of the City.

The Respondents' Case:

The route through Charlotte Square is necessary to provide relief to the residential streets of the Moray Feu where traffic and air pollution are at unacceptable levels. The proposed measures will reduce the attractiveness of the Charlotte Square route as an alternative to the Moray Feu, and worse, may result in an increase in traffic volumes

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there as a result of displacement of traffic. Matters should at least be deferred until the tram network becomes fully operational and an assessment of its effect can be undertaken. In the meantime the precautionary principle should be applied so as to do nothing that potentially might aggravate the traffic or air pollution issues within the Moray Feu.

Charlotte Square does not represent a pedestrian desire line and current levels of pedestrian and cyclist usage are very low. There is thus no present need for action in relation to increasing the space for pedestrians and cyclists within the Square, and that assessment should not be disturbed by the opportunity presented by the redevelopment of some of the buildings of the Square and the associated willingness of the developer to inject funds into a public realm improvement.

Reporter's Reasoning:

There is general merit in the proposals to improve the public realm of Charlotte Square. In any event, the acceptability or otherwise of such proposals was settled on the grant of planning permission for the necessary works, and accordingly the merits of the public realm proposals should not be reopened. The existing generous proportions of the carriageway can be reduced and the modest spaces available for pedestrians and cyclists can be increased without hampering the accessibility to premises, and without adversely impacting on the overall parking capacity of this city centre location, while maintaining the route's suitability for use by through traffic. It is unlikely that significant volumes of traffic will be displaced to the streets in the Moray Feu, although the generally dynamic traffic patterns of the City area, influenced in part by the recent introduction of a tramway system, mean that there are multiple influences on traffic movements in the locale. Changes in the road signage will be required and are under consideration.

Reporter's Conclusion

That the Order should be confirmed without modification.

R F Loughridge

**REPORTER
 ROBERT LOUGHRIDGE**

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 DX 557005 Falkirk
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The Scottish Government
Directorate for Planning and Environmental Appeals
4 The Courtyard
Callendar Business Park
Callendar Road
Falkirk FK1 1XR

14 July 2014

The Scottish Ministers
Edinburgh

Ministers,

I have the honour to report that, in accordance with my minute of appointment dated 19 December 2013, I held a hearing on 14 and 15 January 2014 in relation to The City of Edinburgh Council (Charlotte Square, Edinburgh) (Redetermination of Means of Exercise of Public Right of Passage) Order 201_RSO/12/02.

The hearing took place on the dates given above in the George Hotel, Edinburgh. I made an accompanied inspection of the locale (including the streets in the Moray Feu referred to by the several objectors) at the end of the first day of the hearing.

RF Loughridge

**REPORTER
ROBERT LOUGHRIDGE**

4 The Courtyard, Callendar Business Park, Falkirk, FK1 1XR
DX 557005 Falkirk
www.scotland.gov.uk/Topics/Planning/Appeals



OFFICIAL-SENSITIVE

Introduction

Section 1 of the Roads (Scotland) Act 1984 imposes a duty upon local roads authorities (such as the City of Edinburgh Council in this case) to manage and maintain the roads in their respective areas in a list (the list of public roads) prepared and kept by each authority. A local roads authority also has other powers to determine the means by which the public right of passage over any road on the list or over any part of it may be exercised. Section 152(2) of the Act makes it clear that the last-mentioned power includes the power to redetermine by order such means of exercise.

1. The procedure governing the Order is contained in the Stopping Up of Roads and Private Accesses and the Redetermination of Public Rights of Passage (Procedure) (Scotland) Regulations 1986. Among other things, these Regulations provide for a period of public advertisement when an authority proposes to make such an Order.
2. On 18 May 2012, the City of Edinburgh Council in accordance with that procedure advertised the intention to make the City of Edinburgh Council (Charlotte Square, Edinburgh) (Redetermination of Means of Exercise of Public Right of Passage) Order 201- in terms of powers contained in sections 1 and 152(2) of the Roads (Scotland) Act 1984, together with a related traffic regulation order in terms of powers contained in the Road Traffic Regulation Act 1984, as amended.
3. Both Orders contained measures consequential upon the Council's decision to grant planning permission for a development of what is described as the public realm within Charlotte Square. The public realm is defined as that space, currently comprising carriageway and footpavements, between the railings situated at the inner edge of the private garden area located in the centre of the Square on the one hand and the railings bounding the individual properties on the other.
4. The planning permission had been granted pursuant to an application (11/03716/FUL) by Fordell Estates Limited for a scheme relating to the north, south and west sides of the Square, involving the rationalisation of the existing carriageway and footpavements so as to reduce the space available for motor vehicles and to increase the space available for pedestrians and cyclists. The proposals included a measure of reengineering of levels to achieve that objective, and the installation of new hard surfaces, lighting columns, signage and street furniture.
5. The minimum period of objection provided for by the Regulations was extended to 29 June 2012 to allow objectors additional time to prepare and submit the objections, and notices were maintained on the affected streets during that time. The advertisement attracted a substantial number of objections and representations broadly related to the impact of the combined proposals on the wider locale and largely couched in general terms. The Council had also originally proposed to introduce a weight restriction order on certain of the affected streets; but the Council abandoned that aspect of the proposals and accordingly the objection from Lothian Buses was withdrawn. In relation to remaining



matters, the Council proposed that a combined hearing into the objections to both Orders be convened. No party indicated any objection to that proposal and so it was agreed that a combined hearing would take place in Edinburgh on 14 and 15 January 2014.

6. This report is concerned with the redetermination order, which is the only matter before Ministers.

7. Regulation 7 provides that where a roads authority (such as the City of Edinburgh Council) proposes to make an Order under section 152(2) of the Roads (Scotland) Act 1984 to redetermine the means by which the public right of passage may be exercised over a road the authority is to publish an advertisement substantially in the form set out in a schedule to the Regulations. That form makes it explicit that the time for the advertisement is the stage at which the authority proposed to make the Order in question. The Council fulfilled that regulation. Regulation 13 provides that where the roads authority is, as here, the local roads authority, and an objection is made and not subsequently withdrawn, the authority should forward the proposed order and certain other documents to Ministers. Thereafter, Ministers are to determine the matter and "may confirm the order with or without modification or refuse to confirm it". All these steps having been taken, the matter is accordingly now before Ministers.

8. After the hearing was complete, I received a number of late submissions from certain objectors. I sought the views of parties as to whether these should be received or rejected, and I carefully considered the views I received. I decided in the circumstances of this case that, while it would have been preferable for the material I received late to have been submitted to and considered at the hearing, no prejudice would be suffered by any party if I were to take it into account. In broad measure, the late material amplified submissions which had already been made, and raised no new material of significance to my decision. I also had regard to the fact that the late submissions came from objectors who were not professionally represented. Accordingly, I have had regard to these submissions insofar as material to my decision in arriving at my recommendations.

9. It was also drawn to my attention that strictly the plan accompanying the Order did not comply with the detailed requirements of the Regulations. The Council accepted that that was so. However, the Council also submitted, and I agree, that no-one was misled by any technical failure to observe the Regulation in question strictly. The Council also submitted, and I agree, that stricter compliance with the Regulations would have resulted in a certain loss of clarity as to the detail of the proposal, which would have had the potential to cause confusion. The departure from the strict terms of the Regulation was intended to ensure, and had the effect of ensuring, that all who consulted it were not left in any material doubt as to the Council's intentions.

The case for the applicant (The City of Edinburgh Council)

10. The Order which Ministers are invited to confirm is one of two Orders consequential upon the Council's decision to grant planning permission for the improvements of the public realm within Charlotte Square. As such, the Orders are based on land use objectives. The grant of planning permission should be taken as endorsing the acceptability of the overall proposals in land use terms. The proposals do not involve the removal of any original feature of the design of Charlotte Square.

11. The Council is pursuing a broad strategy of rebalancing the available public space to give greater priority to pedestrians and correspondingly less to vehicles within the city centre. The strategy is both dynamic and flexible. In this case it is responding to a private initiative; but it had already identified Charlotte Square as a high priority area for some years. It should also be recognised that the priority list is reviewed annually and was originally established through an extensive exercise of public consultation. In progressing proposals to increase the space available to pedestrians and cyclists, the scope for vehicular movement within and around the Square (excluding so much of the carriageway given over to vehicle parking) will not materially diminish, though it will be reconfigured. The amenity improvements proposed will however represent a significant gain. The proposals represent a calculated change in the balance of different road users, accommodating as adequately as can be foreseen all of today's evolving aspirations and needs within a modern city.

12. In this regard, the Council has been pursuing other such schemes, generally with success – for example in St Andrew Square, the High Street or the Grassmarket – all roads which had limited pedestrian space and were dominated by vehicle movements, but where that balance has been readjusted to allow other things to happen in the City's outdoor space. In common with many other European cities, the space for people is being increased while that for vehicles is allowed to diminish, to increase the comfort and enjoyment of pedestrians and visitors. This can bring economic benefits.

13. The Council approved its public realm strategy in 2009, building on principles set out in the Edinburgh City Local Plan, the Local Transport Strategy, the Edinburgh Standards for Streets and a number of other initiatives relating to open space and street design. The strategy is reviewed annually at Council level. In particular the strategy looks to raise awareness of the significance of the public realm.

14. In essence the Council has formed the view that, while the architecture and townscape in this part of the City is of European significance, it is badly served by its traffic uses and the volumes. However, the available funds to address the issues are limited in extent and so, when a private sector organisation is willing to contribute the costs involved, it proves something of a windfall opportunity. That however is not to be regarded as diminishing the importance of the overall strategy in assessing or planning the way forward when such funding opportunities arise.



15. The reduction in parking will be substantial if the proposals are implemented. There will be a net loss of around 50 to 60 spaces. There is however no objection to the loss of such spaces from any person representing a business or commercial use. Such objections as have been received to the parking issues which arise for consideration are general in nature and derive from a wider concern about vehicle parking in the City. The Council however operates a hierarchy of pricing (a pay and display system), such that, outside George Street itself, demand falls away dramatically; and accordingly the loss of spaces can be accommodated without problem, subject to continuing that measure of control by price.

16. From the traffic management perspective, the Square works well within its current capacity. The reduction in road space which is inherent in this proposal may result, in the fullness of time and allowing for foreseeable traffic growth, in the carriageway being at capacity at certain times, but such a result is not the prediction of those advising the Council based on the standard approaches made by the Council to traffic management in this part of Edinburgh. The Council's current expectation is the net effect of the totality of changes introduced, including the related traffic regulation order, would be a modest increase in vehicular traffic using Charlotte Square which it will be well able to accommodate in its proposed configuration.

17. Vehicular traffic flows in the area are influenced by a variety of factors, and the roads authority keeps matters under constant review. Nothing in the matters raised by the objectors suggests that the traffic modelling which the Council has undertaken is in any way unreliable as a basis for assessing the likely impact which the proposal might have on the other affected streets of the locale.

18. Current signage in force discourages heavy goods vehicles from using Charlotte Square when approaching the City along the A90 (Queensferry Road) and may have the effect of directing it through the streets of the Moray Feu. It is intended that the signage will be the subject of an early review by the Council, so that it should prove possible to adjust the current signs in such a way as to redirect a proportion of such traffic through the Square rather than through the Moray Feu.

19. Such figures as are available show substantial variation in traffic movement according to the day of the week, and the latest data may be skewed because of the influence of shopping patterns in December. However, the overall figures generally are a satisfactory basis on which to conclude that the traffic through the streets of the Moray Feu will not be substantially changed as a result of the redetermination Order and the traffic regulation order associated with it.

20. Advice from the police is that there is difficulty in controlling the movements of heavy goods vehicles within the Moray Feu streets. The proportion of such vehicles is however relatively small.



The case for the Respondents

- 21.** The objectors comprise a substantial number of individuals and two Community Councils who (or whose electors) are resident in the wider locale, which, they apprehend, will be affected by the City of Edinburgh Council's proposals. Broadly, there has been a long-standing concern about the changes in vehicular movement in the area, brought about by, among other things, the introduction of the tram system. The closure of Shandwick Place to general traffic involved a substantial increase in vehicles being driven through the Moray Feu. Charlotte Square was envisaged as a mitigation measure intended to address some of the consequences of that closure. Now the proposed reduction in carriageway width would reduce the capacity of Charlotte Square to accept the traffic, thus perpetuating the unacceptable situation in the Moray Feu streets. In reality, traffic displaced from Charlotte Square, for whatever reason, has no alternative route to take other than the streets through the Moray Feu. Any flaw in the analysis of what might happen in Charlotte Square will therefore be visited upon those streets.
- 22.** It is accepted that there is some public benefit from the proposals; but there are other ways in which to achieve similar benefits to those identified as the result of this scheme.
- 23.** The loss of parking is high in terms of number of spaces. The Council has produced no figures to support the contention that the loss of spaces can be accommodated without problem. No statistically informed prediction has been made; and the conclusions reached are at best questionable. Use of the Square for parking purposes when the charges are not applicable demonstrates that there is an underlying demand of considerable proportions, which is managed by the pricing controls.
- 24.** The current traffic patterns in the City are dynamic; and there will be further changes in patterns once the tram system becomes fully operational. This is the wrong time to be introducing changes of the kind proposed in this Order; and no action should be taken on this proposal until such time as the effects of the introduction of the trams can be properly assessed. While objectors accept that the Council has afforded this project serious professional consideration, local people remain unconvinced that the underlying statistics are sufficiently robust to warrant the conclusions which have been drawn from them. The community councils are of the view that there is widespread public support for doing nothing about Charlotte Square until such times as the tram system is operational.
- 25.** The data which the Council has produced do not properly allow for the impact of the scheme on the streets in the Moray Feu, which remains 96% residential. The Council has failed to have regard to the impact of the level of vehicle movement on the substantial number of properties which have several levels of habitable accommodation below the level of the carriageway in these streets, and the adverse implications of the level of air pollution on those who live there.
- 26.** The Council has failed to recognise the damage to the properties in the Moray Feu streets being sustained as a result of the increases in traffic movement of recent times.



Priority should be directed to addressing such problems, which are of much greater moment than any problem being experienced within Charlotte Square at present.

27. In any event, the level of change that has already been introduced to facilitate the construction of the tram network is so great in scale that no step should be taken to make matters any worse. The proposed changes would be one such step.

28. Furthermore, many of the changes the Council seeks to introduce could be achieved without the redetermination order. The street lighting, the pavements and the cobbled area could be improved without taking any of the carriageway.

29. The Council is embarking upon piecemeal pedestrianisation. Moreover it is being undertaken in such a way that the purported benefits for pedestrians will be illusory. Pedestrian usage of the Square is primarily directed at other than accessing the private central gardens. Increasing the space in the proximity of the gardens is irrelevant to usage as a pedestrian route between the various parts of the city. Moreover, making the resultant space shared by pedestrians and cyclists is a severe disadvantage to pedestrian usage. It is the view of the New Town and Broughton Community Council that Charlotte Square is not a pedestrian desire line.

30. The public realm does not increase in size, contrary to what is stated in the Statement of Reasons in support of the Order. It will remain entirely unchanged in terms of its area.

Findings in Fact

31. I adopt paragraphs 1 to 5 above insofar as detailing factual matters.

32. The traffic patterns in the locale are, as might be expected in any urban area far less one undergoing dramatic change of the kind involved in the introduction of a tramway network, particularly dynamic. The data produced by the promoters require therefore to be read with great care. Recent figures appear to corroborate what was seen on the site inspection, namely that the road network in the relevant locale functions adequately and broadly efficiently, at least for core traffic.

33. Regardless of the precise implications of the data, Charlotte Square has capacity to absorb additional traffic movements, even in the reduced configuration proposed.

34. There are no reliable data from which robust predictions can be drawn as to the impact of the proposals on the streets in the Moray Feu. However, if Charlotte Square were to become a more effective alternative through route for the A8 and A90 traffic, it can be reasonably foreseen that some traffic would be diverted from the streets in the Moray Feu. It cannot be said that the redetermination order would, if implemented, undermine that potential.



35. Planning permission was granted for a scheme of environmental improvement in March 2012 which provides for among other things the changes in the carriageway envisaged in the Order.

36. The proposed scheme will increase the pedestrian space with widened footways on the garden side while at the same time increasing the provision for cyclists improving the links for the national cycle route through the city centre.

37. There will be loss of no more than 60 spaces currently used by vehicle parking if the present scheme proceeds. Demand for use of the spaces is so great that it is regulated by a hierarchy of pricing controls, which results in the current pattern of usage.

38. Current cycle usage is extremely modest, and is unlikely to increase significantly. The volume of cyclists would not of itself justify the changes proposed.

39. There will be no net change in the area of public space as a result of these proposals.

40. There appears to be no evidence that the current arrangements are inadequate for current levels of pedestrian activity.

Conclusions and recommendations

41. The Order before Ministers is concerned with a limited aspect of the Council's proposals, but a key one. The reduction in carriageway capacity for motor vehicles and the corresponding increase in space given over to pedestrians and cyclists is at the heart of the underlying objective being advanced by the Council. The Orders taken together have drawn a substantial body of objection from residents in the nearby area who apprehend there will be adverse consequences of the wider scheme, for which the Order now before Ministers for confirmation is a necessary preliminary. The evidence is such that, while I have no doubt that these apprehensions are very genuinely felt, and are based upon a careful consideration of relevant matters, they are not directly attributable to the changes in the carriageway for which this Order is necessary. Rather they are a genuine and understandable response to the evolving traffic management proposals and the introduction of the tramway system, which, it is clear, has already affected the streets in the Moray Feu.

42. The principal argument advanced by the objectors is that the reduction in carriageway width and associated traffic management proposals will encourage general through traffic, especially that using the A8 and the A90 routes, to use alternative routes increasing traffic, noise and pollution on those alternative routes. The principal, if not the only, alternative through route to that through Charlotte Square is that through the Moray Feu. The traffic situation in these streets is already far from what one would expect in primarily residential streets, and it is clearly a matter requiring attention. Related to this is the contention that the reduction in carriageway width will reduce the scope for Charlotte



Square to provide the required degree of relief to the Moray Feu streets by presenting itself as a more attractive alternative than that through the Moray Feu.

43. I do not accept these contentions. In general, I conclude that there is considerable spare capacity currently in Charlotte Square and I am confident that the traffic modeling undertaken by the Council is sufficiently robust to be confident that the combined changes can be safely implemented without causing directly any significant new traffic problem to occur elsewhere or materially aggravating any existing one.

44. I do not consider, in particular, that there is any overriding reason to delay a decision on the implementation of the proposals in this Order pending a reassessment of the traffic movements in the area after the tramway system has become fully operational. However popular such a decision might be with the residents represented at the hearing, in my view it is not something merited by the evidence before me. Timing of any traffic management or road proposal is always a matter for careful consideration, but in this locale there is, in my view, never likely to be a time when there will be no stimulus for some kind of prospective or additional change or another. Nothing that was said in the course of the hearing has persuaded me that this is a particularly inauspicious or disadvantageous time for the changes proposed in this Order; and I am in any event confident that the City of Edinburgh Council keeps such matters under constant review in discharge of its statutory duties in that regard.

45. The Statement of Reasons published as part of the statutory documents in support of the Council's proposal to make the redetermination order says little beyond an allusion to a development proposal considered and approved by the Council's Planning Committee on 7 March 2012. It also (wrongly) states that the result will be a gain of around one acre (sic) of public realm around Charlotte Square, creating dedicated space for pedestrians and cyclists without reducing the permeability of the area for vehicles. It is, however, clear from this Statement that, however inadequately justified the Order may be by the Statement itself, the proposal has been promoted in pursuit of land use objectives rather than any recognised deficiency or inadequacy in the existing arrangements for pedestrians, cyclists and motor vehicles. Indeed there was no evidence of any kind of such a deficiency or inadequacy. In such circumstances, the test is whether there is any material diminution of unacceptable proportions to the means of passage for which the carriageway was provided. In my assessment there is nothing in the evidence before me which would point to any such diminution.

46. It may be true that Charlotte Square in its existing layout and use is not an important pedestrian destination, but I am satisfied that there will be no substantial reduction in usability by pedestrians or in vehicle permeability if the proposal to alter the means by which the public right of passage may be exercised proceeded. It is clear to me that the Council has aspirations to increase pedestrian usage and attractiveness, particularly by tourists and others interested in the outstanding architecture which characterises the Square. There is nothing unreasonable in this aspiration, for it is of considerable merit in my view; and I am satisfied in relation to other schemes that the Council has successfully achieved its objective where it has in other places changed the



balance of usable road space to increase that available to pedestrians and reduce that available to vehicles. Nothing that was said at the hearing suggested that where these other schemes had been implemented the result was inadequate provision for motor vehicles, or resulted directly in significant problems elsewhere.

47. It may be that if the existing price controls on parking were different there would be greater take-up of the spaces available. How on-street parking in the city centre is to be managed, however, is not for Ministers to determine at this stage. Given the level of controls currently imposed, the demand is such that it should continue to be accommodated in the event of implementation of the present proposals as part of the continued management of parking within this part of the city centre. It is particularly to be noted that no business interest lodged any objection on this aspect of the matter, nor was the community council who did object to the parking changes motivated by representations it had received from any business or commercial interest in the area. I conclude, therefore, that the impact of the redetermination order, if implemented, will be minimal in relation to any parking issue in this part of Edinburgh.

48. I therefore conclude that the Council's proposals in relation to the carriageway width and the redetermination of how the means of the public right of passage may be exercised have considerable merit. I recommend that the Order be confirmed without modification.



Appendix

Parties appearing at the hearing:

For the City of Edinburgh Council:

Ann Faulds, BA, LLB, LARTPI, MIHT, solicitor, now of CMS Cameron McKenna LLP, instructed by the City of Edinburgh Council, assisted by –

Alasdair Sim, B Eng (Hons) MIHT, Interface Manager with the City of Edinburgh Council

Will Garrett, MA (Hons) MSc MRTPI IHBC Dip UD, Development Planning Group Leader, City of Edinburgh Council

Alan Bowen, BSc (Hons) C.Eng

The Respondents:

