

Deputations

Transport and Environment Committee

10.00am, Thursday, 15th June, 2023

Dean of Guild Court Room - City Chambers

Deputations

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CITY OF EDINBURGH COUNCIL
TRANSPORT AND ENVIRONMENT COMMITTEE

Item No 3

15 June 2023

DEPUTATION REQUEST

Subject	Deputation
<p>3.1 In relation to item 6.1 – Business Bulletin - Kirkliston and Queensferry Traffic and Active Travel Study Update</p>	<p>Spokes (verbal deputation and written submission)</p>
<p>3.2 In relation to item 6.1 – Business Bulletin - Update in response to motion by Councillor Meagher on accidents in the ‘Joppa Triangle’ including Traffic Regulation Order for Brunstane Road Closure and Coillesdene Area Traffic Management</p>	<p>Brightons and Rosefield Residents' Association (verbal deputation and written submission)</p> <p>Joppa Residents' Association (verbal deputation and written submission)</p>
<p>3.3 In relation to Item 7.3 - Response to motion - West Edinburgh Parking Dispensation</p>	<p>Residents of Learmonth Terrace (verbal deputation and written submission)</p>
<p>3.4 In relation to Item 7.4 - George Street and First New Town – Operational Plan and Project Update</p>	<p>Capital Cars and Edinburgh City Private Hire (verbal deputation and written submission)</p> <p>George Street Association (verbal deputation and written submission)</p> <p>Essential Edinburgh (verbal deputation and written submission)</p> <p>Uber (late - written submission)</p> <p>Scottish Private Hire Association (late - written submission)</p> <p>GMB Scotland (late – verbal</p>

CITY OF EDINBURGH COUNCIL
TRANSPORT AND ENVIRONMENT COMMITTEE

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DEPUTATION REQUEST

	deputation)
3.5 In relation to Item 7.5 – Medium Term Improvements at Portobello High - Street / Inchview Terrace / Sir Harry Lauder Road Junction	Spokes Party (written submission) Portobello Community Council (written submission)
3.6 In relation to item 9.1 – Motion by Councillor Lang - Travelling Safely Schemes	South West Edinburgh in Motion (written submission)
3.7 In relation to item 9.3 - Motion by Councillor Munro - Experimental Traffic Regulation Orders	South West Edinburgh in Motion (written submission) Blackford Safe Routes (verbal deputation)

**DEPUTATION ON BEHALF OF BRIGHTONS AND ROSEFIELD
RESIDENTS' ASSOCIATION ON ITEM 6.1 BUSINESS BULLETIN
TRANSPORT AND ENVIRONMENT COMMITTEE MEETING 15 JUNE 2023**

I am making this deputation on behalf of Brightons and Rosefield Residents' Association, which covers Brighton Place and the surrounding streets. The Association carried out a survey of residents on this scheme, to which 92% objected and 8% supported. The last Council survey showed that almost 70% oppose this closure.

Whilst I understand that the TRO will finally be decided by the Licensing sub-committee I thought it would be useful to update the committee that actually took the decision to close Brunstane Road to through traffic, against the wishes of the vast majority of residents.

We have been told that the council's consultation was "not a referendum", however there is an issue here of a lack of fairness to the vast majority of people who have raised legitimate concerns about this closure. As you know, many residents, especially those in the Brightons and Coillesdene areas, have suffered negative consequences from this road closure.

I ask you now: is the Council just going to set aside people's concerns at the next stage of the process as previously or will you actually address them?

We were told at the start of the process that Brighton Place would not be affected as it was "too far away" from Brunstane Road, even though the residents of Brunstane Road lobbied to get their road closed during the resurfacing of Brighton Place as they claimed that they had an upsurge in traffic volumes as a result of the temporary closure of Brighton Place.

We asked for contingency planning to be done up front but we have had to wait until problems have occurred for any mitigation measures to be suggested.

A reminder of the problems we have experienced, all backed up by the council's own traffic monitoring data, which you can see in the attached table:

- An overall increase in traffic of 30% on this busy, supposedly safe route to school, resulting in queuing traffic and worse air quality.
- In some instances more than 70% of vehicles were exceeding the speed limit.
- There has been an increase in rat-running around East Brighton Crescent and Lee Crescent, putting residents and children attending the nursery in this street at increased risk of accidents.
- An increase in road rage incidents at the single-lane rail bridge between Brighton and Southfield Place, probably born out of frustration at having to do a big detour to get into Portobello.

The traffic was monitored in Southfield Place close to the single-lane bridge where vehicles are generally slowing down so the real speeds will be considerably higher.

Finally, after three years of asking, we were accorded a site visit in January of this year with officers to show them the problems we are experiencing and discuss possible mitigation measures.

This meeting happened six months ago and to date not one of the measures discussed has been implemented. We have been told socket foundations will be installed in the footways on Brighton Place to allow for periodic deployment of Mobile Vehicle Activated Speed Signs probably by the end of June, which is fast approaching. We were also told that there would be new 20 mph roundels installed as well as a "20 mph zone"

sign at the junction of Southfield Place and Baileyfield Road, which is a 30 mph limit, to remind drivers to slow down.

Fortunately, we have not experienced any horrific accidents as a result of the road closure like the Coillesdene area has but fear that it may only be a matter of time before one does occur, especially as not one of the mitigation measures promised has been put in place.

I wonder why the Council is not doing further traffic monitoring before launching the TRO and making this situation permanent. Surely it would be best to base the final decision on up-to-date monitoring data.

No-one, apart from Brunstane Road residents, has benefitted from this road closure and now it seems that inordinate amounts of money are to be spent trying to mitigate its negative impacts at a time of tight council budgets, for example, the introduction of sinusoidal speed humps to Coillesdene Avenue and the adjoining local streets.

I wonder whether a cost-benefit analysis was ever done on the plan to close Brunstane Road to satisfy a small number of people. The Council should be upfront and transparent about all the additional unforeseen costs that have arisen from this road closure and a judgement made as to whether it has been worth it.

This road closure has just moved a problem elsewhere and made it much worse. It has:

- not reduced traffic
- not brought about a modal shift
- pushed more traffic onto other routes
- forced drivers to take long diversions, increasing carbon emissions.

It is not too late to reverse this road closure and we ask that you now please set this in motion.

Brighton Place Traffic Counts				
Total combined traffic				
		Start	7 Day	% Increase
Total	Saturday	9th October 2021	32816	
	Wednesday	9th March 2022	42519	29.57
	Thursday	9th June 2022	40161	22.38
	Thursday	13th October 2022	37602	14.58
Mountcastle road works				
Mountcastle/Duddingston Road junction closed plus half term				
Taking into consideration the roadworks it's fair to say that there has been a 30% increase in traffic				
Percentage of traffic exceeding speed limit (20 mph)				
		Start	Combined 7 day Ave.	Maximum percentage
	Saturday	9th October 2021	43.2	49.7
	Wednesday	9th March 2022	58.6	72.5
	Thursday	9th June 2022	63.8	76.0
	Thursday	13th October 2022	58.4	66.0
Measurements were taken Southfield Place just south of the constricted (one lane) railway bridge. Much traffic has to slow to allow for oncoming traffic and therefore average speeds will be affected by this slow traffic.				
The average speed calculated does not reflect the speed of freely moving traffic.				

1 / 4 JOPPA STATION PLACE EDINBURGH EH15 2QU

16.5.2023

Dear Sir / Madam

PROPOSED ETRO FOR BRUNSTANE ROAD

I understand that there is meeting soon to consider making the changes to Brunstane Road permanent and feel that I must bring to your attention a recent potentially fatal incident I endured.

My wife Joyce Flockhart took ill which resulted in our being at the Edinburgh Royal Infirmary(ERI) four nights running. After the third visit she was thought to have contracted Respiratory Syncytical Virus (RSV) which is linked to Covid 19 but for which there is no vaccine as yet.

The consultant at the ERI advised us to come back to the A & E if my wife's condition deteriorated. By the next night it had and we sent for an ambulance. I waited anxiously looking out from my bedroom window as my wife lay agonising in bed and was horrified to see an ambulance with its blue light flashing on the other side of the bridge which meant a five –to ten minute delay in getting to us.

My wife was admitted to the ERI where further tests revealed she now had suffered **A SLIGHT HEART ATTACK.**

It made me shudder to think what would have happened if my wife's heart attack had been fatal. How would the selfish residents south of the bridge have coped with death on their consciences?

I am not going to go over old ground on how the Brunstane Road scenario could be solved simply with a bit of imagination.

I am an author who has written and published four thrillers. The Brunstane Road Saga has all the ingredients for at least a good short story.

- 1. Democracy has been ignored despite eighty per cent of the local residents opposing the proposed changes.**
- 2. The inference amongst local residents that there could be 'Council nepotism' involved as many of them think local councillors have been looking after their own interests.**
- 3. A council decision which has created a private road for the few and kicked the can down the road into the Coillesdenes where already there has been serious roads accidents with one crash resulting in a car being written off.**
- 4. The only thing missing to complete the story is a body. If nothing changes one will turn up - whether it be as a result of the emergency services failing to arrive on time, a child being knocked down or a car smash due to someone taking a wrong turning due to the lack of signage.**

I attended a meeting of the JOPPA ASSOCIATION on Sunday for the first time as I was so incensed with my recent bad experience. The gentleman sitting next to me, who I had never met before, summed up the situation perfectly when he said:

'SOMEONE IS GOING TO DIE. DO WE HAVE TO WAIT UNTIL THAT HAPPENS BEFORE AN AMICABLE ARRANGEMENT REGARDING BRUNSTANE ROAD IS REACHED?'

ONLY YOUR COMMITTEE CAN ANSWER THAT QUESTION

I look forward to your response.

Yours sincerely

Bill Flockhart

Rachel

In advance of the Transport Committee meeting on Thursday morning (15 June), I am writing to request that I be allowed to make a 5 minute deputation please. My application is made in my capacity as the Chairperson of the Joppa Residents' Association. My deputation is made in terms of Councillor Meaghen's motion about road safety in the Coillesdene area and the impact on that topic of the ETRO which is currently in place.

Unlike my previous virtual deputation, I would like to make this deputation in person.

As part of my deputation, I attach two photographs of a recent crash in Coillesdene Avenue and a copy of a letter from a local resident (Mr Flockhart) expressing his concerns on this issue. I would appreciate if these could be made available to the Committee members so I can refer to them.

Thanks for your help. I look forward to hearing from you.

Regards

Russell Eadie
Chairperson, Joppa Residents

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Spokes Deputation on Kirkliston and Queensferry Traffic and Active Travel Study Update - Business Bulletin for 15th June 2023 TEC.

Plans for High Street and Newhalls Road

Conclusions

- 1. Since the previous report to Committee on 2 February 2023 funding for this project has been refused by Sustrans because of excessive parking provision.**
- 2. Spokes continues to have serious safety concerns about the Queensferry Town Centre Project, which were set out in our written deputation to the February 2023 T&E Committee. Although some improvements have been made, many of these are unresolved and remain as objections.**
- 3. Many aspects of the design continue to not be compliant with the CEC policies on Active Travel and the Transport Hierarchy. We also consider that some aspects will also make compliance with the Highway Code.**
- 3. This project continues to have flawed consultation process, by-passing the CEC Consultation Hub and with little genuine wider stakeholder involvement.**
- 4. For these reasons Spokes considers that this project should be “called in” for a comprehensive independent review.**
- 5. We believe this design induces even more motor traffic and creates less opportunity to actively travel by making it less safe than it is now by prioritising motor vehicles and compromising people's safety and enjoyment.**
- 6. There is already significant parking in South Queensferry and the design takes no account of this with far too much parking at the expense of active travel modes and safe and healthy spaces.**

Rationale

1. We welcome the small amount of physical protection for cyclists at pinch point at Seal Craig
2. We welcome increase in cycle parking
3. There is a significant safety issue along Newhalls Road (the easternmost part of the scheme) where cyclists travelling eastbound will have to run the gauntlet of parked cars on both sides of the road with the potential for doors opening into their path. The echelon parking in bays 37-50 increase the risk of vehicles backing out into the path of a cyclist and cyclists would have the choice of either negotiating the speed cushions or having to move very close to parked cars at spaces 4, 5, 18 and 19 to avoid them, further raising the risk of collision with opening doors.
4. The majority of parking spaces are unregulated meaning that vehicles could be left in them for days or months on end and will have no benefit the economy of Queensferry in terms of turnover of visitors and the number of spaces is still relatively limited. We suggest the existence of the spaces encourage increased traffic flows along the High Street and Newhalls Road on the very rare chance that one of the spaces might be found empty. With the limited delivery times, delivery drivers will continue to park on pedestrian and cyclist spaces. The proposals actually increase the number of parking spaces on the north side of Newhalls Road as the section close to the pinch-point currently has double yellow lines on both sides of the road. Removal of the spaces on the south side of

Written deputation by Simon Christie and Ewan Jeffrey on behalf of Spokes 130/06/2023

Newhalls Road and moving the EV and disabled spaces eastwards on the north side of the road would have allowed space for the cycle path to be widened to provide a two-way cycle path which would be safer.

5. The decision to provide parking for the full length of the shops opposite the parking area below is a very retrograde step. Half the parking layby on the south side of the road was taken out of use and turned into a pedestrian area as part of Spaces for People and this appeared to work very well on busier days given the narrowness of the pavement. Contraflow cyclists will again find that they are travelling along the demarcated cycle lane within close proximity of vehicles and could be at risk of colliding with opening doors. It seems unnecessary to have parking on both sides of the road here, constraining the space available for both pedestrians and cyclists.

6. The existing two disabled spaces opposite Black Castle are badly positioned and often used by drivers without a disabled badge to stop briefly. Retaining these will mean a continued hazard for pedestrians and cyclists as there is poor visibility of vehicles backing out of these spaces for vehicles and cyclists travelling eastwards. It would be far safer to move these disabled spaces into the parking area to the east and free up this space for pedestrian circulation, re-connecting the pavements to the east and west.

7. The design makes it impossible for cyclists to comply with the highway code in regard to passing parked vehicles with enough clearance at numerous parts of the design and is inherently unsafe

8. The design makes it impossible for drivers to pass cyclists safely coming towards them and various parts on the contraflow lane and this also make it impossible to comply with the highway code.

9. The design does nothing to prevent pedestrian and cyclist spaces to continue to be abused by drivers. (see attached photo with all available pedestrian spaces being abused – this is a typical example but motor vehicles are in pedestrian and cyclist on multiple occasions ever hour across the length of the high street and is endemic). Where motor vehicles are permitted and no physical protection in place, this will continue to be a problem and therefore design does nothing to solve this issue in unprotected areas



Update on removal of chicanes and guardrails.

We welcome the work on the removal of guardrails and chicanes in the South Queensferry and Kirkliston area as well as other work along National Cycle route in and out of Edinburgh. However, on this point in the bulletin. “In order to improve access, an inaccessible gate has been removed from the National Cycle Network Route 1 at Dalmeny, with an accessible chicane installed.” We

Written deputation by Simon Christie and Ewan Jeffrey on behalf of Spokes 130/06/2023



disagree that this is fully accessible. Although it is wider than before, it is still impossible for some adapted bikes, cargo bikes or bikes with trailers to get through. There are still three chicanes at Dalmeny on national cycle route 1. It is a busy walking route with walkers, dog walkers and cyclists.

In conclusion

We would suggest the removal of the three chicanes at Dalmeny on National Cycle Route 1 to be replaced with bollards, as has been done with other areas along the route National Cycle route 1.

Deputation to TEC 15th June 2023 – Item 7.4 George St and First New Town

Morning Committee,

My Deputation this morning regarding the proposed operational plans for George Street and the First New Town areas is relatively straight forward.

The plans outlined before you today take absolutely no account of the Licensed PHC Taxi sector and indeed not only do the plans deny any access at any time to the George Street area, they further add insult to injury by allowing Licensed Taxi access, with stances being made available, and in fact states that Licensed Taxis are, and I quote, “ This recognises how critical taxis are to supporting operations in the GNT area, especially the evening/night-time economy and the key role they play in public safety.”

So, in essence this takes absolutely no account of the same critical service that the Licensed PHC Taxi sector provides to the general public of Edinburgh, and indeed the same critical impact that our services provide to the evening/Night Time economy also.

As an industry the Licensed PHC Taxi sector has more vehicles and drivers available to the public of Edinburgh than the Taxi sector does, we transport as a sector many millions of fare paying, happy customers per year. And we also transport many elderly and infirm passengers, not to mention the many contract holders who rely on our services to transport staff around, also the many tourists who will no longer be able to be transported to their Hotel of choice, or return to the Airport during the day. All these customers who are requiring our services in George Street will no longer be able to access our transport services.

We, as an industry have invested millions of pounds in upgrading our systems, our vehicles, and indeed since Covid we have increased our numbers to almost that of Pre-Covid Levels to once again be at the forefront of passenger Transport in our city, yet once again we are ignored and treated like a second class public transport provider.

This council licenses our operations, our drivers, and our vehicles, yet gives us none of the respect and consideration as afforded to Licensed Taxis, we are

also a major part of the Public Transport Infrastructure in this City, and once again it would appear that we are given none of the considerations.

We operate within a fully Licensable Activity sector, yet we are constantly being restricted as to the operation of that Licensable Activity.

We are further dismayed that in the Officers Report, and indeed the Atkins Report, there is no indication or reasoning as to why the Licensed PHC Taxi sector is to be excluded in this way, and that the Committee is being asked to approve this decision without the relevant data being provided, as to our exclusion.

My first question of this Committee would be, are we indeed Public Transport, or are we not? If not, as it would appear from this Report, then please tell me what we are?

To further enhance our disagreement to this proposal, I would ask why is there no consideration given to a Licensed PHC Taxi Pick up and Drop Off Area within the plans. I would also ask the Officers to further explain the allowable activity of the Dial-a-Ride proposal which is not even, at this stage, a licensable activity?

I would like to finalise by bringing this Committee's attention to the final part of the Atkins Report, and reiterated within this Report the following statement, " Discussions with taxi and licensed PHCs operators will continued with final draft taxi rank locations and capacity concluded late summer 2023."

To this point we have had NO DIRECT discussions regarding these proposals with anyone, and once again we are probably having to look at Legal recourse to eventually have a conversation about this and other potential plans, all at yet another horrendous expense to everyone involved, including the Council Tax paying public of Edinburgh.

To summarise, we formally object to the proposals in this Report, and ask that the Licensed PHC Taxi Sector is given the same access considerations as per our Licensed Taxi colleagues.

Finally, if the Committee decides today to follow the recommendations in this Report, we once again would formally ask for the detailed and specific reasoning behind the different treatment of the Licensed PHC Taxi sector, and

our Licensable activity, than that afforded to the Licensed Taxi Trade in this Report, preferably in writing.

Thank you for your time today.

Ms Daisy Narayanan
Head of Place Making and Mobility
City of Edinburgh Council
Waverley Court
East Market Street
Edinburgh
EH8 8BG

13th June 2023

Dear Daisy,

**George Street and First New Town – Operational Plan and Project Update
Transport and Environment Committee – 15th June 2023**

Essential Edinburgh, as the Business Improvement District that covers Edinburgh city centre, has been closely involved in this project since its inception. Thanks to yourself and your colleagues for involving us throughout the last few years. This is a crucial and hugely important piece of work, and will affect all the businesses on the street, hence the need to discuss all aspects of the operational plan closely before final decisions are made.

I have read over the Council paper and discussed it both internally and with some of our levy payers with premises on the street.

As you know, our position has been consistent from day one. We are supportive of the principles of the re-design of George Street, but the street must work operationally for its residents, visitors and businesses once completed.

The key points I would like brought to the attention of the members of the Transport and Environment Committee are as follows:

- 1 Pedestrian and Cycle Zones Timing. We welcome the proposed periods of operation of these zones and believe they are workable for the businesses. It is worth noting however that working/social patterns are changing. Office workers now do not work 9 to 5 and are far more flexible and the street is quieter at different periods from pre pandemic. It may, for example, be more appropriate to bring the period back from 7pm to 5 30 for example. The street also changes radically at different times of the year so a flexible approach to timings may be appropriate.
- 2 Coach access. We welcome the decision to allow coaches to service hotels on the street under the exemptions rule.
- 3 Taxis. We have significant concerns, shared by members, in regard to taxis not being able to use the street during the restricted hours. The George Hotel is reliant on taxis to enable guests to arrive at their door. Expecting guests to walk with baggage from St Andrew Square or

Hanover Street is unrealistic and is business critical for the hotel. This experience will not entice visitors to return. Also, visitors to the street with mobility issues using taxis, will again face walks to their end destination – this will be problematic across the whole of George Street.

We would urge a rethink of the current plans and a look at alternative suggestions to allow taxis to be always incorporated. It is accepted this would divert from the principles of the project, but it is an issue that needs serious discussion before formal and final plans are decided.

In terms of The Intercontinental George specifically, we also note there is a landscaped area outside the hotel, again making direct access difficult.

- 4 Bollards/Control measures. I fully understand the difficulty in putting in place measures to stop vehicles entering the street during restricted hours, but I fear that physical bollards will be incredibly difficult to operate effectively. With the number of exemptions needed, as well as the vagaries of human communication, I can foresee problems. Rose Street and Castle Street are great examples of this where physical bollards are not effective. Again, CEC must budget for staff to operate/manage these bollards during the restricted times.

I would urge CEC to look at the number plate recognition option as soon as the legislation is available, as this must be preferable. Bollards may well be a good deterrent for HVM at certain times of the year including August and December, but not across the whole year.

- 5 Phasing and indicative dates. Businesses need to know indicative dates and how the work will be phased so they can plan effectively. Accepting this is difficult a few years out from construction, it would be helpful to know, within reason, when each block may be closed and for how long. I would urge during discussions with potential contractors this is seen of paramount importance. Everything must be done to minimise the time the street is closed. The recent example of Rose Street, and its long delays, were an example of time delays being business critical to operators on the street.

Essential Edinburgh, as the business organisation representing the vast majority of the businesses on the street are very keen to be involved in the communication and engagement between the Council, contractors and the business community.

- 6 Landscaped areas. We are fully supportive of placing the landscaped areas on the street. However, these will need constant cleaning and maintenance, and we would urge CEC to budget accordingly for this to happen. Likewise, the hoped for additional footfall will need increased street cleaning requirements.

- 7 Event Spaces. Again, we have always maintained that the event/plaza spaces on the street will not be effective event spaces. They are too small for events and would necessitate the cycle lane being closed. CEC must also realise that George Street will not be able to be used for larger events such as Christmas and Summer festival activity. As a key 'hard standing' space for events is being taken away, alternative city centre locations will need to be found to support the business community with footfall driving events at important trading times.
- 8 Compensation/Business rates. In previous correspondence Essential Edinburgh has asked about potential business compensation/rates relief for businesses affected during the build period. We would anticipate that these will be significant, as there are a number of high turnover businesses on the street.

They may be allowed to operate during construction, but they will face real difficulties in attracting customers to a major building site. This was the case recently on Rose Street where, in general, the businesses were of a smaller scale but adversely affected.

Essential Edinburgh and our membership are supportive of the principles of this project and the long term benefits it will bring. However, we have consistently said it must work for all the users of the street. Businesses that we represent have expressed concerns on certain elements of the operational plan, and these have been highlighted above.

I firmly believe it would be beneficial to agree some of the outstanding issues of the operational plan before Councillors formally sign it off. These obviously include the taxi issue, permit exemptions and the ongoing management of the street. This would potentially negate challenges through the TRO process, which I am sure everyone is keen to avoid.

We note that further consultation will be undertaken in Stage 4 and we would welcome this but it must inform the thinking on the outstanding issues, not be a token process after decisions have been approved.

Regards,



Roddy Smith
Chief Executive

Cc Cllr Finlay McFarlane
Cllr Claire Miller
Cllr Joanna Mowat

George Street Association

Submission to Transport and Environment Committee – 15 June 2023

George Street and First New Town – Operational Plan and Project Update.

1. The George Street Association (GSA) much appreciates the opportunity to provide this written submission, ahead of our deputation appearing before the Committee when it meets on Thursday 15 June.
2. **GSA is open to all organisations operating in George Street and neighbouring streets.** This is a very diverse group covering: retail, hospitality, commerce, charities, churches and statutory bodies. That diversity is a part of the strength and resilience of George Street, but it also adds to the complexity of planning a project such as this to achieve optimal outcomes that will meet very diverse needs.
3. GSA also works positively with Essential Edinburgh on this and other matters, and we share many of the views expressed in their submission to the Committee.
4. George Street is a dynamic street, both as existing traders adapt to a changing business environment and as different uses are found for existing premises. Factoring in future changes adds a further layer of complexity to this project.
5. **The transformation of George Street should be designed to produce a street that is:**
 - a. more accessible to a wider range of users, local and visitors to Edinburgh, including those with specific mobility and access needs.*
 - b. more user-friendly and safer on a 24/7 basis, recognising the variations in daily, weekly and seasonal patterns of use.*
 - c. more attractive and enhances the World Heritage status of the street.*

We would respectfully suggest that the proposals before the Committee should be examined and judged against how well they will deliver the above objectives.
6. GSA has a mutual interest with the City Council and others involved in this ambitious project to deliver these high-quality changes needed for the future success of this iconic street, while addressing the challenges of creating a net zero city centre.
7. **GSA members have three main areas of interest and concern**
 - a. **Establishing a realistic timetable for completion of the planning stages before construction can begin and how the construction will be phased and realistically how long it will last.** [The history of this project has many examples of missed deadlines and we are concerned that the delivery timetable outlined in the report is still overly optimistic]
 - b. **How will these plans affect us:**
 - during the construction phase; mitigating the impact and avoiding delays
 - when the Operational Plan restrictions come into effect
 - c. **The financial aspects – cost control in a period of high inflation and managing the risk that an ever-widening funding gap leads to delays or forces adverse changes to the plans.**

- 8. The Operational Plan is still work in progress and we feel it would be premature for the Committee to sign it off at this stage.** There has been good engagement with stakeholders and the latest version of the Operational Plan recognises the diversity of needs more realistically than did earlier versions. Nevertheless, **there are still many tricky aspects to resolve**, including for example, access for taxis, disabled access, and the access needed for specific users. Many of the proposed restrictions have the potential to have an adverse impact on business viability. To mitigate these will require imaginative robust solutions, underpinned by a considerable amount of goodwill and flexibility. **Given the number of contentious issues to be resolved before it will be possible to finalise the Operational Plan, we do not want this final stage rushed otherwise it is likely to result in objections to the TRRO's which will only protract the time before construction can begin.**
- 9. It is inevitable is that there will be considerable disruption during the construction phase and this will undoubtedly have an adverse financial impact on GSA members. Many are only beginning to recover from the business disruption caused by the coronavirus restrictions. For this reason, we would implore the Council to begin discussions now with GSA and Essential Edinburgh about creating an adequate and realistic financial support package for affected organisations during the construction phase. There is an urgency to begin doing this, both to give reassurance to those affected by these plans and so the cost of this support is factored into the overall budget for delivery of this project.**
- 10. We note that overall costs have risen to £36m due to inflation and could easily rise further.** This is not surprising and with the prospect that inflationary pressures will continue over the next couple of years, **we are concerned that there will be an ever-widening funding gap and this could lead to delays or force adverse changes to the plans.**
- 11. In presenting our views, we would wish to acknowledge the helpful way that Council officials and some Members have engaged with GSA and kept us informed about the many twists and turns this complex project has entailed.**
- 12. GSA is also strongly committed to responding in a similarly respectful manner because there are significant challenges which have still to be resolved in the next key stages before construction can begin.**

Dr William Duncan

June 2023

On behalf of George Street Association

The Scottish Private Hire Association makes the following deputation to express its concerns regarding the proposed operational plans for George Street and the First New Town areas.

The plans overlook the licenced private hire car sector by denying access to private hire services while allowing licensed taxis to operate within the areas. This exclusion disregards the critical services that private hire car operators provide to the public, including transportation for elderly and infirm passengers, tourists, and contract holders. Despite being a significant part of the City of Edinburgh's transport infrastructure, our sector receives inadequate consideration compared to the public hire side of the trade.

On this point, the SPHA has been petitioning the Scottish Parliament to urge the Scottish Government to formally recognise private hire cars, and taxis I may add, as modes of public transport and to enshrine such recognition into law. Members of the Citizen Participation and Public Petitions Committee at the Scottish Parliament, indeed, vocally noted that they were sympathetic to the fact that our trade is regularly overlooked and excluded in consultations on decisions being made that directly affects our industry.

Private hire cars operate within a licensable activity sector, as defined by the terms of the Civic Government (Scotland) Act, yet our operations face several unfair restrictions. Such restrictions limit our ability to perform the activities we are licenced to carry out. The lack of justification for the exclusion of private hire cars in these operational plans is therefore concerning. Indeed, it appears that the recommendations in the Officer's Report lack data and are not evidence-led, nor include any findings from direct consultation with the private hire sector's stakeholders.

If the terms of this report are implemented then we request a written statement of reasons for the decisions being made, in particular in regards to any decisions made as to why private hire cars and taxis are receiving different levels of access despite both sectors operating in very similar licensable activities.

To conclude, the SPHA objects to the proposed plans. We request the proposals be amended so that equitable access for licenced private hire cars, as is being proposed to be granted to taxis, is factored into the report.

Uber Ltd
Aldgate Tower
2 Lemn Street
London
E1 8FA
United Kingdom

Wednesday 14 June 2023

Uber's reply to George Street and First New Town Operational Plan

Dear Cllr Arthur

About Uber

Uber operates in almost 60 towns and cities across the UK, connecting over 90,000 licensed PHV drivers with five million customers – supporting the shift towards more shared and sustainable transport. Uber is becoming a travel super app in the UK following the launch of international and domestic train tickets, along with intercity coaches, international flights and nationwide car rental, building on the existing options of PHCs, e-bikes, e-scooters and Uber Boat by Thames Clipper.

To date, Uber is the only major PHC operator in the UK to treat drivers as 'workers', despite a Supreme Court ruling providing clarity on how workers should apply in the sector. This means drivers on the Uber app receive holiday pay, access to a pension plan, and are guaranteed at least the National Living Wage (with actual earnings often significantly higher), whilst maintaining the total flexibility over if, when and for how long they work – something which drivers consistently tell us they value.

George Street and First New Town Operational Plan

I am writing to express concerns regarding the proposals detailed in section 7.4 of the Transport and Environment Committee meeting taking place at 10am on the 15th June. Whilst we support the proposals presented for the redevelopment of George Street and the council's wider emission reduction and net zero ambitions, we were disappointed to see amended plans proposing to allow access to a redeveloped George Street for Taxis but not Private Hire Cars (PHCs). We would welcome the opportunity to consult with committee members to gain a clearer understanding of these plans and to discuss potential amendments to avoid PHCs being unfairly impacted.

Restricting access to George Street for PHCs while allowing access for HCs we believe is both

anti-competitive and discriminatory. Both PHCs and Taxis provide essential transport and play a key role in Edinburgh's transport system.

By limiting access to the most direct route between points, restricting PHCs access to George Street will result in longer, less efficient journeys for passengers, increase congestion and emissions and reduce air quality. When PHC drivers are forced to take circuitous routes, this leads to a poor transport experience, a reduction in choice and confusion for passengers. It also increases the risk of conflict, reduces safety and security and will ultimately negatively impact city centre footfall and business.

If a rider books a PHC via an app from the George Street area they will now have to travel a significant distance to start their journey. This is contrary to the objectives of the Convenor who has highlighted the need to improve women's safety in the night time economy. It is unclear how restricting access to George Street for PHCs would achieve this objective. Further it will also disproportionately impact and curtail the choice of passengers with additional access and mobility needs.

Uber prides itself on leading the industry in both rider and driver safety, and this is a fundamental reason passengers choose our service. We continue to innovate in this space and integrate sector leading features into the app including 'Verify Your Ride' and the emergency assistance button.

We note that, as a trade, we regularly hold meetings with the Council. We most recently met on 28 April and no mention of these proposals were presented to the group. We would therefore ask members for this proposed change to be paused to allow for a consultation to take place with trade members.

I look forward to hearing from you.

Kind regards.

Matthew Freckelton
Head of Cities, UK

Uber



City of Edinburgh Council

Transport & Environment Committee, 15 Jun 2023

Item 7.5 – Medium Term Improvements at Portobello High Street/Inchview Terrace/Sir Harry Lauder Road Junction

Dear Councillors,

Portobello Community Council normally seeks to learn the view of the community and reflect those to the local authority. However, past fatal incidents at this junction have hand forced a more direct form of engagement with Council officers and councillors. As a member of the community council, I have taken part in a series of stakeholder meetings, sharing local knowledge of the junction as a pedestrian, cyclist, and motorist while also reflecting on discussions by the community council and within the community.

The community council would like to **support the recommendation to take forward Option 3**, and press for this to be realised as **quickly as possible** – echoing our deputation of Oct 2021.

Speedy implementation of Option 3 will:

- Allow for HGV diversions to be removed, returning these vehicles to the more appropriate Sir Harry Lauder Road and away from Northfield Broadway and Brighton Place
- Provide a safe and segregated crossing from Portobello High Street to Inchview Terrace, across Sir Harry Lauder Road, for pedestrians and cyclists in a single phase. This will be both safer and more efficient to use
- Allow for future proofing the implementation, for longer-term work as part of the dangerous junction review, which ideally will realise a fully segregated Dutch-style junction

The community council welcomes further opportunity to work with Council officers on the fine detail of the design, while also consulting with our community on wider plans as part of the 20 Minute Neighbourhood project.

Yours,

Lee Kindness

Portobello Community Council

secretary@portobellocc.org

12 Jun 20213

Spokes Party deputation for TEC meeting 15 June 2023

Agenda Item 7.5: Medium Term Improvements at Portobello High Street/Inchview Terrace/Sir Harry Lauder Road Junction.

Spokes Party is a local group of Spokes - the Lothian Cycle Campaign. We campaign to make walking, wheeling and cycling safe, easy and fun for everyone in and around Edinburgh East.

Summary of our position

Spokes Party supports the recommendation made in the paper to take forward Option 3 as a **medium-term measure** and we urge all members of the Committee to support it. This must be taken in the context of:

- vital safety improvements for cyclists
- essential improvements for those walking, wheeling and cycling in the area
- the Council's traffic reduction targets and climate change ambitions
- prioritising bus use over private car use as part of the 20 minute neighbourhood plans (and elsewhere in the area) to mitigate resultant delays to bus passengers
- **future proofing the design** for a long-term best practice solution that implements the sustainable travel hierarchy in and around Portobello and neighbouring residential communities.

Background

Spokes Party has been campaigning for an urgent redesign of the junction following the deaths of Stuart Elliott (March 2019) and Heather Stronach (November 2020). Both Stuart and Heather were killed by HGV drivers as they cycled through the junction. Their deaths have been devastating for their families, friends, and colleagues, as well as for the local community. Nobody should face the risk of death in Edinburgh just for using a cycle to get around.

We worked hard to get the interim safety measures in place to temporarily ban HGV drivers from turning left into Sir Harry Lauder Road from Portobello High Street along with vital traffic calming measures on the diverted route through Northfield. These measures were always intended to be temporary. It is now vital that significant design improvements are made urgently which improve the safety and comfort of people cycling along with improving the crossing experience for people walking and wheeling.

The junction in its current state is a hostile environment for everyone who walks, wheels and cycles despite the clear need for people to move between the various communities that surround the crossing without having to rely on a car.

Why we support Option 3

We oppose option 1 which includes unprotected cycle lanes which would be unacceptable for the volumes of traffic expected.

We oppose option 2 because, although cyclists are protected, the two stage crossings only offer a marginal improvement over the existing layout for pedestrians.

We support option 3 because it offers significant improvements for both cyclists and pedestrians.

Finally, we recommend that option 3 designs are future proofed for active travel and bus priority infrastructure connections. Adaptability is a core principle in Cycling by Design. This means the kerb lines must be positioned correctly in this phase of work to allow future phases and connections on all arms of the junction. Completing the junction will be vital if the Council is to meet its climate change and traffic reduction targets and essential for the people who live, work and study in the area who should not be dependent on private car use to get around.

End.

Deputation by South West Edinburgh in Motion (SWEM) to the Transport & Environment Committee, Thursday 15 June 2023

Agenda items: Motions 9.1 and 9.3 - ETROS

Thank you Convener and Committee Members for reading this written deputation.

Here, we present a case in support of Motions 9.1 and 9.3, *specifically for the exclusion of Lanark, Longstone and Inglis Green Roads from the current ETRO process.*

South West Edinburgh in Motion is a community group set up in November 2020 to push for proper community consultation, following CEC voting to implement the Spaces for People scheme in Lanark and Longstone Roads. This was despite strong public concern evidenced by a petition of 1,300 signatures, and 300 email objections (compared with 19 supportive and 10 neutral), objections from Currie and Juniper Green & Baberton Mains Community Councils, and serious concerns over accessibility and safety for disabled people by Edinburgh Access Panel.

We do not oppose active travel measures, with many of our supporters and their families being regular cyclists. However, for reasons set out below, we believe the Lanark, Longstone and Inglis Green Roads scheme is seriously flawed and therefore should not proceed in the ETRO process.

In fact, in Oct. 2020, Cllr Scott Arthur said in response to an email from a resident about the Lanark and Longstone/Inglis Green Road scheme:

“Only a relatively small part of the scheme falls within my Ward, but some of it does have merit – particularly the speed limit reduction. I also, however, have real concerns about other aspects – particularly those which place cyclists before pedestrians. The Council, therefore, should not proceed with the scheme without fully explaining its aims and consulting with local residents. We have seen that elsewhere in the city that where consultation does not happen around these schemes people are left feeling alienated. The consultation need not last long and would be unlikely to deliver an outcome that pleases everyone, but I believe Councillors should listen to residents rather than dictate to them.”

We do not propose “ripping out” the scheme, but instead we have community support (1,650 signatures) for [an alternative road layout](#) designed with the needs in mind of local residents and businesses, as well as visitors and customers, to achieve equality and evidenced safety.

In reaching a decision on Motions 9.1 and 9.3, we urge councillors to take into account the following evidence:

1. The Legal Position. We obtained a written legal opinion from a QC in 2021. The full text is provided in Appendix 1. The text leaves no doubt that, even in January 2021, the justification for the then TTRO was “certainly legally questionable”. Two years later we believe there is even greater cause to question the legality of the current layout.

2. Consistent community opposition. All CEC engagements and consultations have evidenced majority community opposition, as have our own surveys:

- June 2020, *CEC Commonplace*
 - Of 3,600 comments, only 32 related to our area. Only some responses selected the pre-prompted option for cycle lanes. Others highlighted issues with hedges, cyclist behaviour, landslips and closed bridges in the Water of Leith blocking cycling routes.
- September 2020, *CEC Stakeholder Notification Lanark Road and Longstone*
 - Stakeholder notification receives 300 emails against, 19 supportive and 10 neutral for the scheme. Of the responses from organisations, seven were against, four were supportive, and three were neutral.
 - Edinburgh Access Panel raised concerns that were dismissed.
- November 2020, *SWEM change.org petition*
 - Over 1,300 signatures opposing the scheme going in
- December 2020, *SWEM independent research*
 - 1,010 responses: 80% opposition (75% opposition from cyclists).
- March 2021, *CEC Edinburgh-wide consultation and market research*
 - For each of Lanark Road, Inglis Green Road and Longstone Road
 - for residents: 14-32% support, 68-86% want removed
 - for businesses: 70%-86% want the schemes removed
- September 2021, *CEC Additional Lanark Road engagement*
 - 574 responses received.
 - For Cranley nursery question, answered by 99% of responders:
 - 228 from directly impacted homes who were one of the 590 leafleted. 75% wanted cycleways removed.
 - 219 were submitted from the wider EH13 and EH14 area (who may use cycle lanes to commute) 59% wanted them removed.
 - For Dovecot Park question:
 - respondents were unable to submit the survey unless they supported removing or relocating parking, invalidating this question.
- September 2021, *SWEM change.org petition*
 - 1,651 signatures supporting a community-led vision for bollard free, safer, inclusive scheme with kerbside parking
- June 2022, *CEC non-statutory ETRO engagement*
 - Minimal advertising, no engagement with residents and no social media coverage until 2 days before deadline
 - 80 people commented on Lanark Road making 193 comments
 - Only 19 supportive comments (10% of comments, up to 24% respondents)

- 16 people commented on Longstone
- November 2022, CEC statutory ETRO consultation
 - Only 350 comments from across Edinburgh for 20 miles of schemes, perhaps due to poor visibility and understanding of process

At no point in 3 years has there been anything approaching public support for the schemes.

3. Cyclist and Pedestrian Safety. In [previous deputations](#) we have provided evidence of collisions resulting directly from the measures. Collisions include a cyclist with a pre-school child in a cycle lane (Lanark Road), and a cyclist being doored by a car (Longstone Road). Several collisions with traffic islands and parked vehicles are also noted. Key issues for cyclists are that: **a.** On Lanark Road, the fast downhill lane is too close to driveways and junctions for safety; and cyclists who are residents cannot make safe right turns out of the lanes because of the bollards and bases. Pedestrians also find visibility for crossing worse because of the relocation of parked cars towards the centre of the road. **b.** On Longstone Road the lane is intermittent, so leaving and rejoining the traffic flow is necessary and risky; the carriageway opposite to the lane is made even narrower for cars to pass cyclists; there is increased risk of dooring by the very narrow lanes; and at the Sainsbury's junction the cycle lane injects cycles into the blind-spot of cars turning left into the supermarket.

4. Speeding. We support the reduction in the speed limit on Lanark Road to 30mph and on Longstone Road to 20mph, but not the accompanying decommissioning of the safety cameras. Speed data for Lanark Road in August 2022 (Appendix 2) shows 70%–80% of vehicles are breaking the 30mph posted limit, and 24%–39% are exceeding Police Scotland's "enforceable" 35mph speed. Several drivers were logged travelling more than 65mph in the one-week measurement period. Residents were told that the cycleway scheme would impose a structural limit on vehicle speeds, however this was clearly optimistic; instead, without working safety cameras, extreme speeds are now common.

5. The ETRO process. Notification of the ETRO process in our area was discriminatory and could be open to legal challenge. Residents have complained to CEC about the on-street notifications which, as well as being inaccurate, were posted at heights and printed in text making them inaccessible to many people.

6. Access for people with disabilities. Edinburgh Access Panel [are on record](#) objecting to the lack of kerbside parking that accompanies layouts of the kind in Lanark and Longstone Roads. SWEM's community engagement is well documented in our [previous deputations](#), which provided [hundreds of comments from residents](#) and carers affected by the new road layout. We note in particular the difficulties with visibility the relocation of parking toward the centre of the road causes for users of wheelchairs and scooters. One resident and mobility scooter user has told us that she no longer has the confidence to cross Lanark Road safely.

7. Impact on cycling levels. CEC data for Lanark and Longstone Roads show no increase in cycling, and a real-terms decline when seasonality is taken into account. But cycling did increase on the parallel WoL path, the surface of which has recently been upgraded for cycling.

In summary, there is currently no legal basis for the restrictions that have been implemented, but we do not propose “ripping out” the scheme. Instead, we urge councillors to suspend the ETRO and engage with SWEM and the local community to implement a safer, fairer and more inclusive road design than could have been possible pre-pandemic.

Thank you for your time reading this deputation. We are happy to take any questions via southwestedinburghinmotion@gmail.com

Prof. Derryck Reid, on behalf of South West Edinburgh in Motion

Appendix 1: Legal Opinion

TEMPORARY TRAFFIC RESTRICTION ORDERS (TTRO)
CITY OF EDINBURGH COUNCIL: PROPOSALS FOR CYCLE SEGREGATION
LANARK ROAD AND LONGSTONE/INGLIS GREEN ROAD, EDINBURGH

OPINION

1. We are asked to consider, as a matter of some urgency, the lawfulness of a proposed TTRO for Lanark and other specified roads (“Lanark road” in this Opinion) on behalf of XXXXXXXXXXXXXXXXXXXXXXXXXXXX, and, at one remove, South West Edinburgh in Motion (“SWEM”). We understand the purpose is to provide grounds for a robust letter before action and that, at present, proceedings are not contemplated. (Any proceedings would be way of Judicial Review, and are subject to a three month time limit.)
2. We understand that the proposed TTRO is to be made under the Road Traffic Regulation Act 1984 (“the 1984 Act”), in particular section 14. Procedural requirements are as specified in the Road Traffic (Temporary Restrictions) Procedure Regulations 1992, and are very limited.
3. Indeed, SWEM appreciates this and considers that the current proposals should have been made as “ordinary” TROs, and so subject to materially different procedures which would allow for proper consultation and scrutiny. It considers that Covid is being used as a cover for schemes, and so bypassing such procedures.

4. On a technical basis there is nothing in either of the two Coronavirus (Scotland) Acts 2020 which affects the principle as to whether TTRO can be made, or for how long it should last in respect of Lanark Road.
5. Further there is nothing in the point suggested that the delegation to officers provided for in May 2020 is unlawful or, more importantly, could found a challenge in this case, as it is clear that the decision in respect of Lanark Road was in fact taken by Councillors at full Council on 19th November 2020, affirming the Transport and Environment Committee's decision on 12th November 2020.
6. That does mean, however, that members only had the information and advice before them contained in the reports to justify the Lanark Road TTRO (or gleaned from discussion before Committee). If there was more material to justify it, see discussion below, it will be a matter of contention as to how relevant it was if the decision maker was not aware of it.
7. However, and notwithstanding these points, we consider that there is substance in SWEM's concerns. We consider first the legal framework for TTROs, then consider the evidence and finally deal with outstanding points raised in our Instructions.
8. Section 14(1) of the 1984 Act permits a TTRO for three purposes, the second of which is relevant in current circumstances – "(b) because of the likelihood of danger to the public or serious damage to the road".
9. The English Court of Appeal has considered this provision in the case of *R v London Borough of Greenwich ex p W (A minor) and Others* [1997] Env LR 190 (copy attached). That case involved a claim that removing or reducing danger to the public from air pollution could come within section 14(1)(b) of the 1984 Act. The Court held to the contrary, i.e. that the phrase "likelihood of danger to the public or serious damage to the road" referred only to injury or damage directly caused by motor vehicles to persons in vehicles, pedestrians or the road itself. Public health was not included as a relevant danger.

10. In our view, in general terms that would exclude Covid as a *direct* justification for a TTRO – it is after all a public health issue. Whilst Scottish Courts are not bound by English ones, the decision is likely to command considerable respect and, we consider, is likely to be followed. The 1984 Act is a UK wide Act but it is dealing with roads, not public health.
11. This restriction is not recognised (at least expressly so) in the four page guidance from Transport Scotland (Coronavirus (COVID 19): Guidance on Temporary Traffic Regulation Orders and Notices), nor (at all) in the Edinburgh City Council reports we have seen.
12. That does not mean all TTROs are necessarily unlawful, as the Covid crisis may have increased, for example, cycle traffic on a particular section of road which so giving rise to an increased danger indirectly arising from Covid. But, in our view, it demonstrates the consideration needs to be given to the justification for any particular proposal and that all proposals cannot be treated as the same in principle. Moreover, the mere public health aspects of the current crisis cannot of themselves justify a TTRO.
13. Two further provisions of the 1984 Act require attention.
 - (a) First, section 14(3) requires an authority considering a TTRO to have regard to the existence of alternative routes suitable for the traffic which will be affected by the order.
 - (b) Second, section 122 (which applies to the exercise of all functions under the 1984 Act) similarly requires an authority so far as practicable to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities having regard to a number of factors, including the desirability of securing and maintaining reasonable access to premises and any other matters which appears to be relevant.

14. The latter provision has been the subject of considerable litigation in England, with the Court of Appeal's decision in *Trail Riders Fellowship v Hampshire County Council* [2019] EWCA Civ 1275 (copy attached) providing the most recent useful guidance. Two matters are of importance – first section 122 requires a balancing exercise to be performed and, secondly, whilst there has to be actual evidence that the exercise has in substance been conducted there does not need to be express reference to the section or the test.
15. Turning next to the evidence, we are conscious that in providing this Opinion we are not certain we have seen all the relevant information. We have considered the reports and minutes of the Policy and Sustainability Committee of 14th May 2020, the report to the Transport and Environment Committee of 12th November (but not its Minutes as they not seem to have been agreed yet) and the report and minutes of full Council on 19th November 2020. We have also listened in part at least to the webcast of the last two meetings.
16. However, we note that there was reference to the details being changed in respect of the Lanark road proposal in response to representations and we have not trawled through the Q&As given the time available.
17. This should be read as a caveat to the points we make below. (For example we note the Report to the Policy and Sustainability Committee of 20th August 2020. Whilst the body of the report appears to reinforce the points we make below, it has a scoring sheet attached and it would appear likely one may have been filled out for Lanark Road? We also note the 7th recommendation of full Council on 19th November 2020 – which refers to officers carefully considering the proportionality of schemes. There may be evidence of this.)
18. As to the Policy and Sustainability May Committee Report (Agenda Item 6.8), we note the consideration in section 3 appears to refer primarily to public health issues, see e.g. end of paragraph 3.6. But in particular the premise of paragraph 3.12 appears to be that TTROs can be used for public health reasons, contrary to the *Greenwich* case above.

19. Further, there is no mention of, directly or indirectly, the provisions of section 14(3) or section 122 of the Act (although perhaps there is some hint of this in paragraphs 4.21 and 4.27). This is reinforced by the discussion in paragraphs 4.3-4.6. Arguably in 4.4 consideration is given to both the direct and indirect consequences of Covid, as discussed above, but no distinction is drawn between them and no specific consideration to the extent of additional risk, if any, caused by changed travel patterns due to Covid (about which there is no clear evidence in terms of vehicular use).
20. In particular, and relevant to Lanark Road, we do not consider that provision of alternative routes justifies a TTRO as suggested in the last sentence of paragraph 4.5. In our view, consistent with the *Greenwich* case, the danger that is to be averted must be on the road proposed to be the subject of the TTRO and not a wholly separate route. Finally, there does not appear to be any reference to Lanark Road in the May report.
21. As to the November Transport and Environment Committee report (and later full Council), we note the sole justification for the Lanark Road order is four lines at 4.7.2. That justification is to provide a safe alternative route to the canal towpath and Water of Leith shared use path. We repeat our view that is certainly legally questionable. There is no suggestion of greater use of Lanark Road by cyclists or pedestrians as a result of the current crisis or that it cannot cope or that the risk of accident has increased. Appendix 2B reiterates that purpose.
22. There is no express consideration of factors relevant to section 14(3) or section 122 of the 1984 Act.
23. In our view these are matters that could be stated with some force in a letter before action.
24. Lastly, we note that the provisions are indicated to be temporary, but the extent of works proposed suggest a significant investment given it will affect over 2 miles of

- the Lanark Road and we would welcome some detailed guidance as to the extent to which the works are properly described as temporary. Planters and wand orcas can presumably be easily removed, new bus stops probably not.
25. We note four further matters.
26. First, there is no specific impact assessment for the Lanark Road. The removal of parking places is likely to have an equalities impact and an Equality Impact Assessment is likely to have been required pursuant to section 149 of the Equality Act 2010, perhaps akin to the Glasgow example provided to us.
27. However, all we have seen is a generalised assessment, referred to at paragraph 7.3 of the November report. It does not deal with the specifics of the Lanark Road proposals, which, due to their scale, are likely to be different to elsewhere. (We have not seen the updated version – alluded to in the report as being imminent - but presumably it would be in the same generic style.)
28. We consider that this could give rise to a further ground of challenge. (There is extensive case law on this section in England. The fundamental requirement is to have due regard to the need to eliminate discrimination by reason of, inter alia, disability. We see no need to consider the case law in full at this stage given there is apparently no assessment of the Lanark Road proposals.)
29. Secondly, we note that scheme is extensive by comparison with others, but in our view it is uncertain whether an Environmental Impact Assessment would need to have been considered pursuant to the Town and Country Planning (EIA) (Scotland) Regulations 2017 (or any other regulations). However, it is arguably an urban development project and if it covers over 0.5ha (which seems likely) then it is arguable that it should have been assessed. (See further discussion in cases such as *R (Crematoria Managements Ltd) v Welwyn Hatfield BC* [2018] EWHC 382 (Admin). The proposed Lanark Road TTRO goes well beyond the introduction of a congestion charging scheme – which was not considered to be an urban development project in a further English case.)

30. Thirdly, we note concerns about bias/pre-meditation. However, we also note that relevant declarations as to membership of Spokes were apparently made (as appears from the Minutes and webcasts in respect of both November meetings), and given it is a non-pecuniary interest and of a generalised nature we consider that it is unlikely that members would be required to withdraw or that, viewed objectively, those affected would have been considered to have pre-determined the result.
31. As to Sustrans, it is a national organisation and we do not at present see anything in terms of its links with the Council to provide a ground of challenge. We also note the apparent conflict between the first of its minimum principles and the current process but consider that is more of an issue between the Council and Sustrans, and is unlikely to be of direct assistance in a challenge relating to Lanark Road.
32. We also note the underlying aims in the council's City Mobility Plan and the reference to main arterial roads. However, we consider the Council have done enough to justify the TTRO on the basis of the Covid crisis, even if it reflects an underlying aspiration in respect of arterial roads. The real issue is whether that crisis provides appropriate justification in this case.
33. Fourthly, we note the issue of proportionality is raised. In our experience that is unlikely to give rise to a free standing ground of challenge in circumstances such as these. I.e. just because the TTRO is so extensive does not mean it is suspect in that regard. However, we consider this would be a consideration as to the extent to which one would expect to see proper consideration of section 14(3) and section 122 and is likely better considered as part of that complaint.
34. We note the option of a possible complaint to the Scottish Public Service Ombudsman if the Council refuse to bend.
35. If we can help further we would be glad to be of assistance.

James Findlay QC

Jon Kiddie

Terra Firma Chambers, Edinburgh

4th January 2021

