

Cabinet Member for City Services

18<sup>th</sup> August 2021

**Name of Cabinet Member:**

Cabinet Member for City Services – Councillor P Hetherton

**Director Approving Submission of the report:**

Director of Transportation and Highways

**Ward(s) affected:**

St Michaels

**Title:**

Objection to Experimental Traffic Regulation Order – Whittle Arch

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**Is this a key decision?**

No

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**Executive Summary:**

In 2002, as part of the Phoenix Initiative Regeneration Project, the junction of Trinity Street and Fairfax Street was closed off to all traffic and pedestrianised. Following the closure, bus usage of the Pool Meadow Bus Station was significantly reduced making the bus station facility unsustainable in the long-term.

To address these concerns, in 2005, the City Council 'opened up' the Trinity Street/Fairfax Street junction (Whittle Arch) to buses and cycles to enable improved bus access to the bus station. Since 2005 there have been further changes which have resulted in the creation of the bus gate and additional vehicles being able to travel through the bus gate at certain times.

In 2018 further changes were made. The bus gate had been operating for several years and during this time alterations had been made to the road layout as part of the ongoing public realm works. In addition, issues had been raised by Adjudicators from the Traffic Penalty Tribunal (TPT) about the clarity of the signage, following the consideration of appeals.

The 2018 changes simplified the operation of the bus gate, allowing buses, cycles and taxis to travel through the bus gate at all times and also simplified the associated signage. To monitor the impact of these changes the traffic regulation order (TRO) was implemented as an Experimental TRO (ETRO). 2 objections were received and considered.

The recommended action to the 2018 ETRO was to further amend the operation of the bus gate; allowing private hire vehicles to also travel through the bus gate. Once again this was implemented using an ETRO to enable monitoring. The ETRO came into operation on 9<sup>th</sup> March 2020. 1 objection was received.

In accordance with the City Council's procedure for dealing with objections to TROs, they are reported to the Cabinet Member for City Services for a decision as to how to proceed.

The costs relating to making permanent or amending the ETRO is funded from the Highways Maintenance and Investment Capital Programme budget through the Local Transport Plan.

**Recommendations:**

Cabinet Member for City Services is recommended to:

1. Consider the objection to the City of Coventry (Whittle Arch) (Bus Gate) Experimental Order 2020 being made permanent;
2. Subject to recommendation 1, approve the current ETRO is made permanent.

**List of Appendices included:**

Appendix A – Location Plan  
Appendix B – Copy of objection

**Background Papers**

None

**Other useful documents:**

Cabinet Member for City Services report 20th January 2020- Objections to Experimental Traffic Regulation Order Whittle Arch.

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No

**Report title:** Objection to Experimental Traffic Regulation Order – Whittle Arch

**1. Context (or background)**

- 1.1 In 2002, as part of the Phoenix Initiative Regeneration Project, the junction of Trinity Street and Fairfax Street was closed off to all traffic and pedestrianised. Following the closure, bus usage of the Pool Meadow Bus Station was significantly reduced making the bus station facility unsustainable in the long-term.
- 1.2 To address these concerns, in 2005, the City Council 'opened up' the Trinity Street/Fairfax Street junction (Whittle Arch) to buses and cycles to enable improved bus access to the bus station. A Traffic Regulation Order (TRO) was subsequently introduced to prohibit left and right turning movements except for buses and cycles onto this section of Millennium Place, thus creating a bus only link between Trinity Street and Fairfax Street.
- 1.3 Following the introduction of the TRO, representations were received on behalf of the taxi and private hire trades within the City requesting that taxis and private hire vehicles also be allowed to use the link road. After careful consideration, in 2006 the City Council amended the TRO to include access by taxis and private hire vehicles between the hours of 10.30pm and 5.00am (a time when use of the link road by buses was minimal and no disruption to bus flows would be experienced).
- 1.4 The police were responsible for the enforcement of the restrictions at Whittle Arch. However, due to limited Police resources, enforcement of the restrictions was not effective. To address this issue the City Council commenced works to enable the introduction of civil enforcement; in June 2011 Civil Enforcement commenced.
- 1.5 On 25<sup>th</sup> November 2011 changes were made to the operation of the Whittle Arch bus gate, this was an extension of the times taxis and private hire vehicles could travel through the bus gate. The time period being extended to 6.00pm to 8.00am for these vehicle types.
- 1.8 In 2018, further changes were made. The bus gate had been operating for several years and during this time changes had been made to the road layout, as part of the ongoing public realm works. In addition, issues had also been raised by Adjudicators from the Traffic Penalty Tribunal (TPT) after hearing appeals, in regard to the clarity of the signage. The changes simplified the restriction allowing, in addition to buses and cycles, taxis to travel through the bus gate 24 hours a day, but no longer permitting private hire vehicles.
- 1.10 To monitor the impact of this change the traffic regulation order (TRO) was implemented as an ETRO. 2 objections were received, which were considered at a Cabinet Member for City Services meeting in January 2020, at which it was approved to make another change; to also let private hire vehicle travel through the bus gate. This change was also introduced as an ETRO, to enable monitoring, and came into operation on 9<sup>th</sup> March 2020.
- 1.11 Shortly after the implementation of the revised ETRO, measures were put in place in response to the Coronavirus pandemic, including 'lockdowns'. The changes to our daily lives dramatically affected traffic flows and therefore impacted on monitoring.
- 1.12 Prior to the new bus gate restrictions becoming operational, on the 3<sup>rd</sup> March 2020 an objection was received to the new ETRO. This is detailed in Appendix B.

**2. Options considered and recommended proposal**

- 2.1 The proposed changes to the operation of the Whittle Arch Bus Gate were made using an ETRO to enable monitoring to be undertaken and any objections to be considered, before deciding whether to make the changes permanent.
- 2.2 The options considered are to:
- i. Make the ETRO permanent.
  - ii. Not to make the ETRO permanent and on expiry return to the existing TRO (currently suspended); the bus gate operating at all times, with taxis and private hire vehicles permitted through from 6.00pm to 8.00am
  - iii. Not to make the ETRO permanent and on expiry implement an alternative ETRO with further operational changes.
- 2.3 The issues raised in the objection include:
- Only buses should be allowed to use the bus gate
  - There should be a cycle path under Whittle Arch
  - There are substantial concerns for pedestrian safety at this location
  - Need a full assessment of risks imposed by allowing more traffic through the gate and consider the needs of pedestrians with protected characteristics.
  - The council has repeatedly ignored its duty to make considerations in terms of this Act (Equality Act 2010). This breach is consistent, and quite deliberate in its manifestations. This repeated failure might also be considered to be a hate crime, especially in respect of vulnerable road users with physical and mental disabilities.
- 2.4 Unfortunately, shortly after the introduction of the ETRO allowing the bus gate to be used by private hire vehicles, as well as buses, cycles and taxis there were the substantial impacts on daily life and routines due to the coronavirus pandemic. This significantly changed (reduced) the traffic flows and in addition further changes were made such as the closure of Hales Street (west) to traffic for a period of time as part of the Covid related measures. Due to the reduction in traffic it was not possible to obtain traffic surveys at comparable levels to previous monitoring counts.
- 2.5 A review of the personal recorded injury collision history of both the current ETRO and the previous ETRO (which came into operation on 10<sup>th</sup> September 2018) show that no personal injury collisions have been recorded.
- 2.6 The police and the CPS in England and Wales have agreed the following definition for identifying and flagging hate crimes: "Any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice, based on a person's disability or perceived disability; race or perceived race; or religion or perceived religion; or sexual orientation or perceived sexual orientation or transgender identity or perceived transgender identity." The Council has not committed any criminal offences motivated by protected characteristics or otherwise.
- 2.7 Cyclists are not a group of people with a particular protected characteristic in terms of the Equality Act 2010. They have a range of protected characteristics as do the users of buses, taxis and private hire vehicles.
- 2.8 The change to allow taxis and private hire vehicles to use the bus gate, at all times, means that a part of the transport network can assist to facilitate passengers in terms of direct access from their home to places they want to visit. Many people due to youth, age, disability, infirmity and pregnancy will rely on taxis and private hire vehicles when buses do not supply the service they require.
- 2.9 In addition, the change to allow taxis and private hire vehicles to use the bus gate at all times, rather than only during the previous permitted time of 6pm to 8am, assists to simplify the signage for the bus gate, which addresses issues raised by Adjudicators from the Traffic Penalty Tribunal (TPT) in regard to the clarity of the signage.

- 2.10 Following the temporary changes that were introduced at various times in the City Centre since March 2020, such as the closure of High Street to traffic and the closures at Hales Street (west), further reviews are being undertaken of the management of traffic through the city centre, to try to reduce the levels of traffic. This may result in the operation of the Whittle Arch Bus Gate being reviewed again in the future.
- 2.11 Taking into consideration 2.4, 2.5, 2.8, 2.9 and 2.10 it is recommended that the current ETRO is made permanent and that further monitoring is undertaken. If any changes are proposed at this location a further ETRO or TRO, depending on the proposal, will be required and any objections referred to a future Cabinet Member for City Services meeting.

### **3. Results of consultation undertaken**

- 3.1 The ETRO came into operation on 9<sup>th</sup> March 2020. The ETRO was advertised in the Coventry Telegraph on 27<sup>th</sup> February 2020; notices were also placed on street in the vicinity of the proposals and letters were also sent to other various consultees. The closing date for objections was 10<sup>th</sup> September 2020. 1 objection was received. A response from West Midlands Fire Service was also received advising they had no objections to the proposal.

### **4. Timetable for implementing this decision**

- 4.1 Subject to approval, the ETRO would be made permanent on expiry of the current ETRO on 8<sup>th</sup> September 2021.

### **5 Comments from Director of Finance and Comments from the Director of Law and Governance**

#### **5.1 Financial implications**

The cost of making permanent the ETRO, if approved, will be funded from the Highways Maintenance and Investment Capital Programme budget through the Local Transport Plan.

#### **5.2 Legal implications**

The Road Traffic Regulation Act 1984 allows the Council to make a Traffic Order, including an experimental order, on various grounds e.g. improving safety, improving traffic flow and preserving or improving the amenities of an area provided it has given due consideration to the effect of such an order.

In accordance with Section 122 of the Road Traffic Regulation Act 1984, when considering whether it would be expedient to make a traffic order the Council is under a duty to have regard to and balance various potentially conflicting factors e.g. the convenient and safe movement of traffic (including pedestrians), adequate parking, improving or preserving local amenity, air quality and/or public transport provision.

An experimental order takes effect 7 days after public notice is given and can remain in force for up to 18 months. Objections may be made during the first 6 months of operation and any objections must be considered before any decision to make the order permanent.

The 1984 Act provides that once a Traffic Order has been made it may only be challenged further via the High Court on a point of law (i.e. that the Order does not comply with the Act for some reason).

### **6 Other implications**

#### **6.1 How will this contribute to the Council Plan**

The proposed changes will contribute to the City Council's aims of working for better pavements, streets and roads.

**6.2 How is risk being managed?**

None

**6.3 What is the impact on the organisation?**

None

**6.4 Equalities / EIA**

The introduction of the changes, which allows both taxis and private hire vehicles to use the bus gate, provides an additional means of direct access to the city centre for all passengers.

**6.5 Implications for (or impact on) Climate Change and the Environment**

None

**6.6 Implications for partner organisations?**

None

**Report author(s)**

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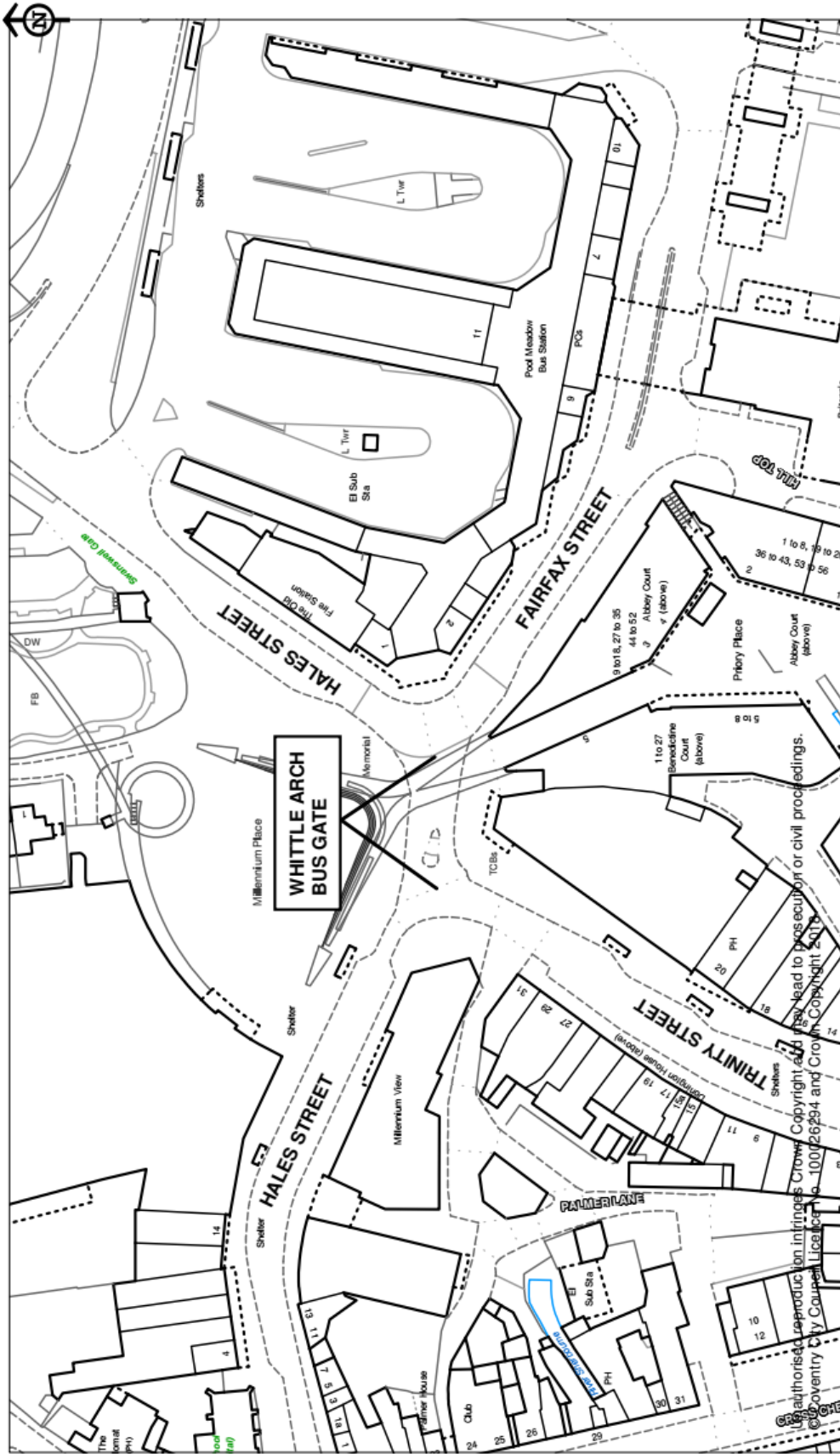
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Graham Clarke	Lead Accountant	Place	03.08.2021	03.08.2021
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Councillor P Hetheron	Cabinet Member for City Services		04.08.2021	06.08.2021

This report is published on the council's website: [moderngov.coventry.gov.uk](http://moderngov.coventry.gov.uk)

Appendix A – Location Plan

LOCATION PLAN - WHITTLE ARCH BUS GATE



## Appendix B – Copy of Objection

### Objection 1

**Subject:** Re: City of Coventry (Whittle Arch) (Bus Gate) Experimental Order 2020

Further to the recent cabinet member meeting on this matter, I would like to restate my OBJECTION to this order being made permanent at any point.

I have just returned from the eastern side of a city on a bus, which was delayed in passing through the arch by having to wait behind taxis, in addition to other buses.

There is a very clear traffic management issue with allowing any more than strictly ESSENTIAL traffic through this point. Clearly, the buses themselves are essential, since they need to stick to set routes, which should of course be as straight as possible.

Emergency service vehicles and necessary council maintenance vehicles should also be permitted. All other forms of motorised transport do not need to use this gate. The current regulations should be revoked, and it should return to being for BUSES ONLY.

There is sufficient width at this location to provide for a fully protected cycle path under the arch. The current arrangement of sharing with buses is patently unsafe.

Clearly, there are already substantial concerns for pedestrian safety at this location. The council needs to make a full assessment of the risks imposed by allowing more traffic through this bus gate, and this also needs to consider the needs of pedestrians with protected characteristics, as per the Equality Act 2010.

The council has **repeatedly ignored its duty** to make considerations in terms of this Act. This breach is consistent, and quite deliberate in its manifestations. This repeated failure might also be considered to be a hate crime, especially in respect of vulnerable road users with physical and mental disabilities.

**The council is perfectly well aware that it is a serial offender in this respect, and the responsibility lies with officers as much as with the council leadership.**