

# DRAFT FOR PRE-SCRUTINY

**Executive**

**18<sup>th</sup> November 2021**

Report of the Corporate Director of Place  
Portfolio of the Executive Member for Transport

**Decision: Consideration of changes to the City Centre Traffic regulation order.**

## **Summary**

1. This report considers the future operation of the footstreets (which are those streets that are pedestrianised streets during certain hours in the city centre).
2. In 2018 the Council received advice from the Counter Terrorism Unit that it needed to consider new measures to reduce the risk of a vehicle as weapon attack in the footstreets. As there were no suitable vehicle mitigation measures and York has very tight streets where there are large crowds of people regularly going about their daily business. Any attack carried out by a vehicle is therefore likely to result in multiple fatalities and many significant injuries.
3. In response to the counter terrorism advice the Council in partnership with Make it York have progressed temporary hostile vehicle mitigation measures for significant events in the footstreets.
4. In 2018 Executive authorised plans for less obtrusive permanent hostile vehicle mitigation measures with different phases planned.
5. Prior to the pandemic blue badge holders had a specific exemption within the Traffic Regulation Orders (TRO) for the city centre to access and park on the following footstreets during the pedestrianised hours:
  - Blake Street
  - Castlegate

- Church Street
- Colliergate
- Goodramgate between Deangate and Church Street
- King's Square
- Lendal
- St Andrewgate between its junction with King's Square and a point 50 metres north east
- St Helen's Square

6. The first phase of hostile vehicle mitigation measures approved by Executive did not include those streets listed in paragraph 5 which blue badge holders retained an exemption to access, but they were identified as a future phases of hostile vehicle mitigation measures.
7. The Police have a power to request, and the Council an obligation to implement any anti terrorism traffic regulation order which may inhibit any vehicle access to an area.
8. In response to the COVID pandemic the exemption allowing access and parking for Blue Badge holders was removed through a Temporary Traffic Regulation Order (TTRO) to facilitate a vehicle free environment for the safe increase of space for social distancing in line with Government safer public space guidance
9. Prior to the pandemic the core footstreet hours were from 10.30am to 5pm. The TTRO extended the pedestrianised hours until 8pm each day. This change and the vehicle free environment facilitated many new pavement cafés permitted under the Government's temporary legislation which removed the requirement for planning permission. This temporary legislation has since been extended until September 2022.
10. These decisions were formalised by the Executive as part of the COVID one year Transport and Place Strategy.
11. Whilst a significant number of businesses, residents and visitors benefited from this initiative, it was always acknowledged that this would have the greatest impact on those Blue Badge holders who use vehicles to access the footstreets.
12. As a result a significant engagement programme has been undertaken to understand the benefits and impacts especially for the disabled community.

13. In response to this engagement, a number of mitigation measures have been implemented, with mitigations that were less successful removed.
14. In November 2020 Executive delegated to the Executive Member for Transport the decision to start the formal process to consider whether blue badge exemptions should be removed to allow counter terrorism measures to be brought forward in a single stage and reduce vehicle and pedestrian conflict. Castlegate was included as making the temporary measures permanent is in accordance with the Castle Gateway masterplan.
15. Executive also approved at this meeting feasibility work on counter terrorism measures to protect the additional vehicle free footstreets created if the blue badge exemption was removed.
16. The decision to undertake the statutory consultation to permanently remove the Blue Badge access exemption and a series of mitigations was taken in June 2021. The consultation process commenced in July 2021, to consider future permanent arrangements as follows:
  - i) The removal of the exemption on vehicles displaying a Blue Badge from accessing Blake Street, Castlegate, Church Street, Colliergate, Goodramgate between Deangate and Church Street, King's Square, Lendal, St Andrewgate between its junction with King's Square and a point 50 metres north east and St Helen's Square during the pedestrian hours.
  - ii) to introduce dedicated Blue Badge parking bays on Carmelite Street, Deangate, Duncombe Place, Dundas Street, St Andrewgate and St Saviourgate. To introduce a shared Blue Badge Parking/loading bay on Duncombe Place and a 'No Loading' at any time restriction on Aldwark.
17. The main points arising from the statutory consultation are:
  - that the removal of the exemption will provide a safer environment for all whilst reducing the risk of a terrorist attack on the city centre
  - if the exemption is removed this will have an impact on the accessibility of the footstreets for some residents/visitor with mobility issues. This is likely to result in some of those impacted actually being unable to access the footstreets.

18. In order to enable Executive to have due regard to these impacts additional information has also been provided on the results of the wider engagement and consultations with blue badge holders and other stakeholders.
19. The Customer and Corporate Services Scrutiny Management Committee have considered this item in partnership with the Health Adult Social Care Policy Scrutiny Committee and the Economy and Place Scrutiny Committee to review the impacts and benefits of the proposals. Officers presented the impacts identified and members heard personal testimony of the lived experience of these impacts.
20. Therefore Executive will be asked to consider recommendations which have been carefully considered under the Council's duties under the Equalities Act.

## **Recommendations**

21. The Executive is asked to:

### **Hostile Vehicle Mitigation and Future Blue Badge Access to Footstreets**

- a. Consider the responses to the statutory consultation on the removal of blue badge exemptions permitting access to footstreets during pedestrianised hours.

*Reason: to recognise the statutory consultation process as part of decision making*

- b. Consider the impact of the proposals on Blue Badge holders and the disabled community, as identified through the statutory consultation and the wider engagement work the council has undertaken. Some of this community have made clear that removal of the exemption will remove their ability to access the footstreets which is set out and duly considered within the Equalities Impact Assessment at Annex AA.

*Reason: to recognise the Council's duties under the Equalities Act and Human Rights Act and to ensure that the Council strikes the a proportionate balance between the rights of individuals and the interests of the community and to have due regard to the impacts*

*that the proposals will have on some members of a community with a protected characteristic.*

- c. Having considered points a and b Executive is asked to consider officers recommendation to remove the exemption on vehicles displaying a Blue Badge from accessing Blake Street, Church Street, Colliergate, Goodramgate between Deangate and Church Street, King's Square, Lendal, St Andrewgate between its junction with King's Square and a point 50 metres north east and St Helen's Square during the pedestrian hours.

- d. To review and bring back a report on all remaining vehicle access exemptions such as bullion vehicles and explore how they can be removed or discouraged to protect the integrity of the counter terrorism measures.

*Reason: To protect more of the footstreets from the risk of a terrorist attack recognising the responsibilities of the Council in relation to the European Convention of Human Rights Article 2, The Right to Life, this article places a positive duty on the state to protect life whilst considering the Council's Equalities Duty*

- e. Having considered points a and b Executive is asked to consider officers recommendation to not proceed with a permanent change to remove blue badge access to Castlegate at this stage.

*Reason: The case for change at Castlegate is presented in the Castle Gateway Masterplan. Any proposals for this location need to be considered once a delivery and phasing plan for the Castle Gateway project is approved*

- f. Implement the additional Blue Badge parking that formed part of the statutory consultation, with the exception of the two bays on St Andrewgate nearest to its junction with Bartle Garth

*Reason: Recognising the consultation comments relating to St Andrewgate. Those on St Andrewgate nearest to its junction with Bartle Garth are not proposed to be implemented as they cause an obstruction to vehicles and cycles as well as hindering access in/out of a private drive.*

- g. Should the Active Travel Fund bid to Improve Disabled Access Routes into and around the city centre, including improved paving

and dropped kerbs be unsuccessful, to delegate to the Executive Member for Transport the reprioritisation of existing transport funding of £250,000 to ensure this key element of the action plan in the Strategic Review of City Centre Access is delivered.

*Reason to. Recognising the impact of removing the exemption on vehicles displaying a blue badge from accessing the pedestrian area will have on the disabled community. Implementing these measures will improve access to the city centre.*

### **Permanent Footstreet Hours**

- h. To commence a statutory consultation on a permanent change to footstreet hours to be 10:30 am to 7:00pm.

*Reason: To give effect to the My City Centre Vision which has an aspiration for long term footstreet hours that run until 7pm, which was supported in the My City Centre consultation*

### **COVID Response Recommendations**

- i. Blue Badge access and parking will continue to be suspended on Castlegate until the end of September 2022. At that point blue exemptions to allow access will return and existing pavement café licenses granted to parklets on the street will not be renewed.
- j. Approve a further temporary extension of footstreet hours to 8pm in the evening through to the end of the calendar year

*Reason: To extend the existing footstreet hours in line with Christmas Markets*

- k. Approve a further temporary extension of footstreet pedestrian hours to 7pm in the evening from January 2022 through to the end of September 2022 in line with the government's legislation for pavement café licenses. To rescind and reissue amended pavement café licenses with a 7pm not 8pm finish.

*Reason: To extend the existing footstreet hours in line with government extension for pavement cafe will allow the temporary pavement café licences that have been awarded to continue. Amending the time to match the proposed permanent change to footstreet hours avoids confusion.*

## **Background**

22. York's current permanent footstreet areas were introduced in the 1980s. The footstreets are pedestrianised from 10.30am to 5pm.
23. Prior to COVID the hours have been extended on a temporary basis for the Christmas festive period running later - 6pm Sunday to Wednesday and 8pm Thursday to Saturday accommodating the large numbers of people visiting the footstreets at these times.
24. Annex A is a map showing the footstreets. Those in turquoise had an exemption which allowed blue badge holders to access those footstreets and to park in pedestrianised hours. Those in dark blue could not be accessed by blue badge holders during the pedestrianised hours.

### **February 2018 Executive Report**

25. At Executive in February 2018 the Council received advice from the Counter Terrorism Unit that it needed to consider new measures to reduce the risk of a vehicle as weapon attack in the footstreets. This advice has been reiterated in the response to the statutory consultation see Annex O which confirms that the Counter Terrorism Security Advisor covering York is advising York to implement Hostile Vehicle Mitigations Measures advocating the only access within them should be for emergency response vehicles only.
26. At this meeting Executive approved a project with a budget transferred to the Counter Terrorism project to address the risk that the Counter Terrorism Unit identified.
27. The decisions also show that the potential impact on blue badge holders of vehicle restrictions was identified at this early stage and instructed officers to engage with stakeholders on this issue.

### **April 2018 Executive Report**

28. The Castle Gateway Masterplan was considered by Executive in April 2018 and approved the principle of Castlegate becoming a fully pedestrianised footstreet.

### **September 2018 Executive Report**

29. In September 2018 Executive received an update on the work to date on hostile vehicle mitigation measures. The report approved a phased approach to implementation based upon an assessment of the risk for

different streets. This assessment report was undertaken by specialist security consultants and is repeated with this report at Annex B.

30. At this meeting Executive approved a first phase of footstreets to be protected as shown in a plan at Annex C of this report.
31. The report included a letter from the police confirming the risk, but also the positive duty placed on the Council by the European Convention of Human Rights and the relevance of Article 2, The Right to Life, which places a positive duty on the state (i.e. public bodies) to protect life, see Annex D of this report.
32. In response to the counter terrorism advice the Council in partnership with Make it York have progressed temporary hostile vehicle mitigation measures for significant events in the footstreets, these were put in place for the Christmas Markets in 2018, 2019 and are currently in place for 2021 (Christmas markets were cancelled in 2020 due to COVID).

#### **August 2019 Executive Report**

33. In August 2019 the Executive approved the permanent changes to the Traffic Regulation Order to deliver the Phase 1 proposals in the city centre.
34. The report detailed the findings from the various disabled group workshops, this is included with this report in Annex E.
35. The report also included Blue Badge Parking surveys before the Phase 1 TRO was implemented either permanently or experimentally, these are contained with Annex F.
36. An independent review of Blue Badge Parking Access was also commissioned from Parking Perspectives a consultancy specialising in parking and is included here at Annex G (needs relabelling).
37. A community impact assessment was prepared for the decision.

#### **February 2020 Executive Report**

38. In February 2020 Executive approved the funding of the capital costs of the scheme and noted the revenue requirements going forward for the phase 1 scheme. They also approved the final locations and authorised the procurement. In March 2020 all Council procurements were paused in response to the COVID pandemic as the Council began to make emergency decisions.



### **June 2020 Executive Report**

39. In response to COVID and in line with the Government's Safer Public Places guidance issued in May 2020, a COVID 19 Transport and Place Strategy was adopted by Executive (Annex H), which formalised a number of emergency officer decisions to change the way the city was managed in response to COVID.
40. One of the COVID changes to the way the city was managed was to remove the blue badge access to footstreets and the areas around College Green and Deangate. This was to create space on footstreets for social distancing and queuing. To help mitigate the removal of the exemption on vehicles displaying a Blue Badge, Blue Badge parking bays were introduced at the outskirts of the pedestrian area on a temporary basis.
41. A number of other mitigation measures were implemented such as a free taxi shuttle from blue badge car parking (including a wheel chair accessible vehicle) to transport blue badge holders to the edge of the footstreets. Subsequently based on engagement with disabled groups College Green and Deangate Blue badge parking was reinstated and the shuttle service removed
42. As non essential retail reopened the space created by removing vehicles was also then utilised to support the economic recovery of the city centre and particularly those hospitality venues where social distancing created a challenge to operate. The Government released new emergency legislation which streamlined the process of applying for a pavement café license and removed the requirement for planning permission. The new pavement café legislation was originally set to expire at the end of September 2021, but the Government has subsequently extended it by a year until end of September 2022.
43. The TTRO as part of the response also extended the pedestrianised hours to 8pm as part of the one year strategy primarily for pavement café licenses to support the economic recovery and the city has seen 129 such licenses awarded across the whole city.

### **November 2020 Executive Report**

44. Executive extended the temporary arrangements implemented in response to COVID to mirror the Governments emergency Café licence regulations and social distancing advice.

45. Executive received a further independent review of York's disabled access offer, prepared by Disabled Motoring UK, a charity and advocacy group for disabled people, this can be found at Annex I of this report. The recommendations of this report except for the charging of blue badge parking are within the action plan of the Strategic Review of City Centre Access which is being considered by Executive at the same time as this report.
46. In November 2020 Executive delegated to the Executive Member for Transport the decision to start the formal process to consider whether blue badge exemptions should be removed to allow counter terrorism measures to be brought forward in a single stage and reduce vehicle and pedestrian conflict. Castlegate was included as making the temporary measures permanent is in accordance the Castle Gateway masterplan.
47. It also commissioned a strategic review of city centre access in order to improve access to the city centre and ensure any permanent change to the footstreets would be accompanied by appropriate proposals which is being considered at the same Executive Meeting
48. Executive also commissioned feasibility work to look at the Hostile Vehicle Mitigations measures to protect a larger number of our busy streets and having a less invasive impact on historic public squares. This would protect a larger area than phase 1 as detailed in Annex C by protecting those streets as detailed in Annex J in a single phase.
49. The report detailed the impacts on blue badge holders with the publication of a public open brief detailing the impacts which was agreed by York Disability Rights Forum as an accurate reflection of the impacts on disabled people.
50. The report detailed the benefits of vehicle free footstreets creating a café culture, boosting the early evening economy and removing vehicle pedestrian conflict from the busy footstreets. The report detailed that changes had received a positive response from businesses and residents.
51. The approach to creating new spaces for businesses to trade, whilst maintaining social distancing has been crucial to ensuring that York's city centre food and drink sector remains as profitable as possible in light of the various Covid-19 restrictions imposed by Government to limit infection rates. By providing a safe and welcoming environment for residents and visitors to enjoy York's nationally-renowned hospitality

offer, in addition to the Council's direct economic response, we have supported city centre businesses to survive the pandemic and ensure that the local economy and in turn local service delivery is protected. Businesses are now able to enjoy the benefits of an increase in city centre footfall and visitor spend above pre-pandemic levels according to data provided by Centre for Cities' High Streets Recovery Tracker.

52. The introduction of the Temporary TRO has been well received by the local business community, due to the difficulties posed by the pandemic, particularly in creating new space for businesses to trade, whilst maintaining social distancing. The move was supported by the Retail Forum, York BID and other organisations in the city, and a total of 129 pavement licences have been awarded, of which 113 licences are located within the footstreets area (including Castlegate) and in Fossgate.

#### **June 2021 Executive Member for Transport Decision Session**

53. Before moving to statutory consultation further engagement was undertaken to explore the mitigations to accompany the proposal to permanently remove blue badge exemptions to access footstreets during pedestrianised hours.
54. The report detailed the results of the ongoing open conversation approach, both online and offline, including direct conversations with individuals and advocacy groups and an open invite virtual workshop to engage blue badge holders.
55. This allowed detailed discussions to take place with those who wished to engage in depth, and captured general views through an online survey, which was distributed to nearby residents, city centre businesses, and paper based questionnaires distributed across the city as requested.
56. The report recognised that removing the blue badge exemption would increase public safety in areas of high footfall as the report referenced the Counter Terrorism project.
57. An Equalities Impact Assessment was part of the report. The responses to the consultation were annexed showing all responses as well as responses from Blue Badge holders only. They are included here as Annex K and Annex L.
58. Based on this the Executive Member approved

- the request to advertise the proposal to amend the Traffic Regulation Order, to remove the exemptions on vehicles with a Blue Disabled User Badge from permitted access to the footstreets during the pedestrian hours, as set out in the report.

*Reason: To increase public safety in areas of high footfall and reduce the level of conflict between vehicles and pedestrians, particularly in busy periods.*

- the advertisement of new Blue Badge parking areas on the outskirts of the pedestrian area and approve further investigation into some additional areas with the exception of two spaces on St Andrew's Place.

*Reason: To provide an improved level of Blue Badge parking and increase the availability of Blue Badge parking amenity.*

## **Statutory TRO Advertisement Responses**

59. The statutory consultation for the amendment of the TRO was advertised on 9<sup>th</sup> July 2021, with an original end date of 6<sup>th</sup> August 2021, which was extended until 13<sup>th</sup> August 2021. The statutory consultation for the proposed amendments to the TRO was advertised to amend The York Parking, Stopping and Waiting Traffic Order 2014 and The York Traffic Management Order 2014.
60. The York Parking, Stopping and Waiting Traffic Order 2014 was proposed to be amended to introduce:
- Dedicated Blue Badge parking bays on Carmelite Street, Deangate, Duncombe Place, Dundas Street, St Andrewgate and St Saviourgate;
  - shared Blue Badge Parking/loading bay on Duncombe Place and;
  - 'No Loading' at any time restriction on Aldwark.
61. The response to the consultation for the dedicated Blue Badge parking bays (Annex M) focuses on the fact that the bays are not a substitute for parking in the footstreets and that some locations are too far away from the area that the respondents would like to access, but written objections to specific locations were only received for Deangate, Duncombe Place and St Andrewgate.
62. The bays on created Carmelite Street, Dundas Street and St Saviourgate were introduced when the exemption was temporarily removed. Blue

Badge parking bays have been monitored since May 2021 by Parking Services once per day and a monthly average of occupancy created see Annex AB.

63. The written representation for Deangate was in relation to the Minster's plans for the new Refectory at 2 Deangate, which has been subject of extensive pre-application consultation through the Minster Neighbourhood Plan and planning application. In discussions with York Minster on this matter, it was stated that the Council still wished to consult on the proposals recognising both the importance of the Minster as a destination and the impact the change would have on Blue Badge holders. If the bays are implemented then York Minster and the Council would work together to preserve blue badge parking in the locality.
64. York Minster raised concerns from a counter terrorism perspective about the proposed bays on Deangate and Duncombe Place, as any vehicle can display a Blue Badge and they are not licenced in the way that the taxis which currently also use Duncombe Place are. The removal of the proposed bays on Deangate and Duncombe Place, would reduce the number of Blue badge bays offered as part of the mitigation. York Minster are already in discussions with City of York Council and the Counter Terrorism Unit about counter terrorism measure requirements around the east end of York Minster and this work will continue.
65. The proposed bays on St Andrewgate received the greatest rate of response, with residents having concerns about the location on the bay nearest Bartle Garth, due to the location of private garages opposite and concerns about access in/out of those garages. This vehicle movements in a forward and reverse gear have been tracked in and out of the private garages.
66. The consultation response also raised concerns about vehicles parking near to the junction of Bartle Garth, due to them potentially restricting the visibility of vehicles exiting Bartle Garth from vehicles (including cycles) approaching from the north east on St Andrewgate. One respondent also questioned the position of the bay near to Bartle Garth as it may restrict delivery vehicles accessing Boyes, the original tracking of the location showed a 7.5t box van accessing through the area to Bartle Garth. We did also receive a response stating that the area is often used for loading/unloading heavy shopping goods for the nearby apartment block and the introduction of these bays would make that difficult.

67. The shared Blue Badge Parking bay and loading bay on Duncombe Place received one representation raising concerns about how the removal of a shared bay would be at the detriment of food delivery drivers who access the pedestrian area during the hours of operation. The current situation observed by officers is that this is currently occurring on the street, as the bays are being used primarily by food delivery drivers waiting to receive orders, restricting the use of the bay by Blue Badge holders.
68. We only received one comment on the proposed loading ban on Aldwark which was in favour of the proposal due to the location been subject to inconsiderate parking, which is forcing vehicles to mount the footpath on the opposite side of the road when passing the parked vehicles.
69. The York Traffic Management Order 2014 was proposed to be amended to revoke the exemption on vehicles displaying a Blue Badge from accessing Blake Street, Castlegate, Church Street, Colliergate, Goodramgate between Deangate and Church Street, King's Square, Lendal, St Andrewgate between its junction with King's Square and a point 50 metres north east and St Helen's Square during the pedestrian hours (10.30am and 5.00pm)
70. This proposal received 206 representations on this section of the proposal. We received 5 response in favour (Annex N) of the removal of the exemption, including a response from the Counter Terrorism Security Advisor (Annex O), who works for the North East Counter Terrorism Police and oversees counter terrorism protected security in the York District. They advised that Hostile Vehicle Mitigation (HVM) is an effective and proven security measure for protecting crowded places such as the centre of York. To have an effective scheme in place, it would be necessary to exclude all vehicles from access to the sterile area during the period of operation, which unfortunately would include vehicles displaying a Blue Badge.
71. The remaining four responses in favour of removing the exemption for Blue Badge access in to the pedestrian area noted the availability of Blue Badge parking in Council car parks and nearby streets, with one respondent stating that he has always been able to find sufficient Blue Badge spaces in Council car parks and at York Park and Ride facilities. One respondent suggested that the pedestrian area was a less pleasant area for pedestrians and effectively was an on street car park, when the exemption was in operation.

72. A representation from a resident with balance and sight problems welcomed the restrictions, as it allows all pedestrians a safer space and wider access along the streets previously congested with cars. This respondent also stated that many footpaths within the pedestrian area are narrow and uneven, requiring some pedestrians to walk on the carriageway.
73. One elderly resident stated that until the temporary restrictions were put in place, they felt unwelcome in the city centre, because it was impossible to walk around without being disturbed by cars which should not be there. The respondent does point out that the existing access restrictions were never rigorously enforced, so some of the vehicle movements may not have been eligible to access those streets but still did. This is something that was noted at the beginning of the temporary restrictions with a number of resident/businesses contacting the Council to complain that their access to certain streets had been removed, which was not the case and those residents/businesses had been accessing the streets illegally.
74. Other comments received stated that a reinstatement of the exemption would increase pollution and reduce prosperity of the city.
75. We received 201 response from residents and groups against the proposal, of which 125 (Annex P) stated that if the temporary restrictions were to be made permanent, they would not continue to shop in York, with many currently unable to do so, due to the removal of the exemption on Blue Badge access. These comments were not all from Blue Badge holders, with some responders disappointed that the Council would propose restrictions that would remove access to the city centre and have vowed not to shop in the centre should the proposal be approved.
76. 74 (Annex Q) of the response against the removal of the exemption provided general comments on why they would not support the proposals. These were centred around discrimination against Blue Badge holders and that this proposal was preventing them from living their life as they had been able to, with some referencing that this proposal increasing obstacles that they face in their daily life, rather than reducing any obstacles.
77. 40 of the response received were a standard letter (Annex R), with the majority of the text provided by York Disability Rights Forum, all of these responses did include additional information about how the proposal would affect each respondent's ability to access the pedestrian area if

made permanent, these are contained in either Annex P or Annex Q, depending on what their individual comments stated.

78. The York Disability Rights Forum submitted a joint formal objection (Annex S) to the proposal, with York Accessibility Action, The York M.E. Community, York Access Hub, York Equal Access Campaign, York Labour Group of Councillors and a number of residents, who added additional comments. The formal objection states that the temporary restrictions and the proposal have/will discriminate, disproportionately against disabled people. It notes that the approval of the permanent removal of the exemption would not minimise disadvantages suffered by disabled people but it would actually increase them, which in their view would be in contradiction to the Equality Act. The objection states that they feel the Council has tried to use the temporary measures introduced because of the pandemic as a Trojan horse to bring in the permanent measures by stealth.
79. The objection also states that as a Human Rights City, York should be welcoming and accessible to all residents and visitors regardless of their identity or background. It also quotes the recommendations that York Human Rights City Network (YHRCN) made to the City of York Council:
- i) CYC should immediately freeze plans to make the current situation permanent through the Footstreet Scheme, pending an inclusive assessment – see (iv).
  - ii) CYC should explicitly acknowledge that some city-centre Blue Badge parking will need to be reinstated to meet the needs of their disabled residents who cannot use alternatives.
  - iii) CYC should explicitly acknowledge the free labour Disabled People's Organisations (DPOs) have invested in gathering rich data around this topic, completing the relevant surveys, and attending multiple hours of consultation Zoom meetings where they have already shared their data and recommendations.
  - iv) CYC should set up a working group, including DPOs as equal partners, to collectively assess the Footstreet Scheme and consider how to balance the rights of York's disabled citizens with other considerations. YHRCN extends an offer to facilitate this working group to mitigate the tensions now surrounding this issue.
  - v) We recommend that CYC take a human rights approach and use PANEL principles (Participation, Accountability, Non-Discrimination and Equality) to guide decision making now and in the future. This ensures that human rights are put at the centre of policy and practice.



80. The York Civic Trust also provided a response (Annex T) to the consultation, which referenced their proposal submitted in April 2021, which stated that the footstreet network should remain in place and recommended the introduction of the green disability badge to provide access “for those who are most disabled”, which would allow them to automatically pass enforced access points, with parking provided where it does not disrupt pedestrian movements. The York Disability Forum also referenced The Civic Trust’s proposal. There is no indication of how the permit scheme would operate to allow automatic access, which would obviously have to maintain the counter terrorism objective.
81. The representations received were generally against the removal of the exemption on the grounds that it would remove their ability to access the city centre to be able to shop, access their bank, opticians, dentist, doctors and the Post Office. Some representations stated that the proposal would preclude residents with a Blue Badge from utilising all of the facilities within the pedestrian area.
82. A number of respondents provided an insight in to how the proposals would restrict their ability to access the pedestrian area, due to their need to have a vehicle close by due to a number of impairments and health conditions. Respondents noted that this had a devastating impact on their daily life, quality of living and social life. They stated that the temporary restriction/proposal has not only amended their ability to continue their daily life but, as stated in a number of responses, this has also had an effect on their mental health. With some of the Blue Badge response raising concerns about how they felt the Council were prioritising visitors/tourist to the city over residents with a Blue Badge.
83. There was an acknowledgment from some of the representations that there was a requirement to make the pedestrian area safer whilst still allowing an access route into the pedestrian area for holders of a Blue Badge. The representations provided 24 recommendations to retain and access exemption on Goodramgate, 17 recommendations for access to be retained on Blake Street and 10 recommendations for Castlegate.

### **Pre Decision Scrutiny**

84. At meetings of Customer and Corporate Services Scrutiny Management Committee on the 25<sup>th</sup> of October 2021 in partnership with the Health Adult Social Care Policy Scrutiny Committee in the afternoon and Economy and Place Scrutiny Committee in the evening the impacts and

benefits of the proposal as advertised in the traffic regulation Order were considered.

85. Officers detailed how they had developed insight and understanding through extensive and layered engagement since Spring 2019 including;
  - Six phases of engagement with over 170 attendees at twelve workshops covering access to the city centre and impact of counter-terrorism and COVID changes to the footstreets,
  - 620 responses from disabled residents - including 540 from Blue Badge Holders – to four surveys available on and offline (before the Autumn engagement)
  - Four citywide mailouts to every Blue Badge Holder in York and freepost return surveys distributed to every house through Our City
86. The approach to engagement has had extensive media coverage and social media activity, tagging Disabled People's Organisations to enable sharing.
87. Briefings and attendance at groups including York Disability Rights Forum, My Sight York, Advocacy Forum, Age friendly York Citizens Group, York Human Rights and Equalities Board.
88. Accessible engagement has been a focus by initial workshops being co-facilitated with York Disability Rights Forum, ensuring British Sign Language translators, Easy Read versions and information distributed through partners
89. The council published a Community Open Brief which identified the impact and was signed off by York Disability Rights Forum to ensure transparency and published minutes of every workshop since COVID began. This has been updated and is contained with Annex Z.
90. The scrutiny was invaluable to officers as it confirmed that officers had already captured, through the engagements undertaken all the impacts or benefits and no new information came to light. Officers actively acknowledged two key points at the meeting
  - That a group of Blue Badge Holders feel no mitigation is possible and maintain the council's actions are discriminatory. They feel a blue badge is a mitigation in itself. For some a car is independence, not a transport preference; a safe haven, a place

to store medicines and equipment. Some Blue Badge Holders cannot walk 150m unaided and mobility aids are not appropriate for some people, including one respondent who reports that using one would contradict medical advice. Recognise that not all blue badge holders would require the exemption if mitigations were implemented.

- Mitigations need to be more than just replacement blue badge parking as close as possible. It should include better parking spaces with space behind and to the side, accessible features on street furniture and regular street furniture, dropped kerbs in the right place, even and wider pavements, better communication on how to access the city centre and the improved information of the alternatives to parking.

91. The benefits of the proposals as advertised were also considered in that it sets the framework of how the city centre will continue to develop, recognising the need for certainty as this will allow residents and businesses to plan, such as allowing businesses to assess where it is best for them to be based. It will determine where Hostile Vehicle Mitigation measures will be placed, recognising that the future operation may be able to flex around changes to risk and people in the city centre. Temporary measures required for events are unsightly and dominant and incur revenue costs, but more permanent measures can be more carefully and respectfully designed.
92. The importance of the quality of the public realm and place was recognised. The quality of place impacts on residents and visitors to the city. As our historic environment attracts the visitors that underpin the economy. King's Square and St Helen's Square are historic parts of our heritage and attract significant numbers of people and offer amenity space to sit, relax and rest, and have events throughout the year.
93. The Federation of Small Businesses and York Improvement District talked about the importance of the changes made to the way the city centre was managed in terms of the economic recovery.
94. The scrutiny committees requested additional information before it met on the 8<sup>th</sup> of November to consider any recommendations to Executive.
  - i. Officer response to the report prepared by the York Human Right City Network
  - ii. Analysis of the consultation on city centre access which closed on Oct 25th
  - iii. Any accident data involving vehicles within the footstreets

- iv. Any data on blue badge parking levels/use of spaces pre and post covid.
- v. Any data on the likely number of Blue Badge Holders / Disabled People for whom a loss of Blue Badge access will render the footstreets inaccessible
- vi. Confirmation of the current footstreet speed limits

95. A draft of this report was provided to the Customer and Corporate Services Scrutiny Management Committee in advance of their meeting on the 8<sup>th</sup> of November addressing the requests for additional information to enable the committee to consider making recommendations to Executive.

- i. As part of the Scrutiny report the recommendations by the York Human Right City Network was attached. This report is contained within Annex U. An officer response to this is contained within Annex V
- ii. The analysis of the consultation on city centre access which closed on 25<sup>th</sup> October 2021 has been published as part of the report into the Strategic Review of City Centre Access being considered on the same agenda as this report and a draft report provided to Scrutiny.
- iii. Any accident data involving vehicles within the footstreets. The data available has been published at Annex W of this report, but this is only the accidents reported to the police and does not include incidents which were not reported, near misses and does not reflect perceptions of pedestrian safety.
- iv. Data on blue badge parking levels/use of spaces post COVID are contained within an annexes to this report Annex AB which is for both car park usage and on street. Directly comparable blue badge data is not available for the pre COVID period. However, Annex F does contain some data on blue badge parking pre COVID
- v. Data on the likely number of Blue Badge Holders / Disabled People for whom a loss of Blue Badge access will render the footstreets inaccessible is not available, the number of disabled people who have a blue badge is small. However, para 70 of this report confirms that 125 respondents to the statutory consultation said they would shop elsewhere.
- vi. The current speed limit through the footstreets is 30mph although there is an advisory speed limit (which cannot be enforced) of 10mph.

96. A draft of this report was provided to the Customer and Corporate Services Scrutiny Management Committee in advance of their meeting on the 8<sup>th</sup> of November addressing the requests for additional information to enable the committee to consider making recommendations to Executive.

97. NOTE EDITOR Will need paragraphs reporting on 8<sup>th</sup> of November Scrutiny Meeting and any recommendations from that meeting.

## **OPTIONS**

98. Executive need to consider several issues:

### **COVID Response – Temporary Pedestrianised Footstreet Hours**

99. The Government have extended the streamlined pavement café license legislation prepared to support economic recovery from COVID to the end of September 2022. Within the footstreets these have been facilitated partly by the removal of the blue badge exemption making them possible on those streets, but also by the increase in the pedestrianised footstreet hours to 8pm.

100. However, the response to the My City Centre consultation favours a 7pm finish to pedestrianised footstreets.

101. Executive therefore need to determine the time the pedestrianised element of the footstreet will operate until September 2022 when the existing Pavement Café Licenses expire to continue to respond to the COVID pandemic and support economic recovery.

102. The option is therefore whether the existing pavement café licenses that expire should continue to be facilitated with a temporary pedestrianised footstreet time of 8pm as previously, reduced to 7pm in line with the public consultation from My City Centre, or return footstreets to a 5pm finish time.

### **Permanent Pedestrianised Footstreet Hours**

103. Should members have determined a change to the permanent pedestrianised footstreet hours as part of the My City Centre and Strategic Review of City Centre Access.

104. Any permanent change to footstreet hours will require a statutory TRO consultation and a firm proposal advertised to be responded to. This will need approval to commence with a future report on the outcome of the consultation.

### **Extent of Counter Terrorism Measures**

105. The temporary removal of the blue badge exemption was to create the space for social distancing and then for the pavement café licenses.

This has created

3 on Blake Street

3 on St Helen's Square

7 on Lendal

3 on Colliergate

8 on Church Street

9 on Goodramgate

5 on King's Square

9 on Castlegate

39 others on existing vehicle free footstreets and 12 on Fossgate.

106. When Executive initiated the process to permanently remove the blue badge exemption from footstreets and explore mitigations it was to enable a larger area to be protected from terrorism with a vehicle as weapon threat and deliver the pedestrianised element of the Castle Gateway Masterplan. The report detailed the wider economic, safer and place making benefits of this approach.

107. The Phase 1 hostile vehicle mitigation scheme approved in 2018 did not protect the Blake Street, Lendal and St Helen's Square loop. One of the key reasons for the decision of a phased approach was that the blue badge parking outside a strategically important post office needed a resolution. Therefore recognising the risk, these footstreets were identified as a future phase. However, the relocation of the Post Office to Coney Street, a location that does not have blue badge parking in pedestrianised hours allows this phase to be considered now. Removing the blue badge exemption would enable the protection of this area with counter terrorism measures.

108. The phase 1 scheme did not protect Goodramgate, Church Street, King Square and Colliergate, which were identified to be a future phase, but these are some of our busiest streets. The temporary arrangements in response to COVID have shown how economic activity can thrive in this area with a car free environment. Removing the blue badge exemption would enable the protection of this area.
109. Castlegate was not assessed as a priority street for hostile vehicle mitigation measures. The temporary measures have however enabled 9 pavement café licenses and it is identified as becoming a pedestrianised street in the Castle Gateway Masterplan which was approved in April 2018.
110. Ultimately Executive need to determine the extent of the hostile vehicle mitigations to be delivered.

### **Mitigations / Improved Access to the Footstreets**

111. The statutory consultation proposed new blue badge parking around the footstreets. Should Executive remove the blue badge exemption in order to increase the quantity of footstreets protected from a vehicle as a weapon threat; then these new blue badge spaces will be mitigation for some, but they will not be for others which is recognised.
112. At the same meeting as this report Executive will be considering the Strategic Review of City Centre Access and the Strategic Review of Council Car Parking both include action plans to improve access to the city centre especially for the disabled community.
113. Elements of the action plans for the Strategic Review of City Centre Access and Council Car Parking that will improve access to the city centre, especially for disabled people are subject to external funding bids as part of the recommendations in this report is one that funding is prioritised for this if the funding bid fails.

### **ANALYSIS OF ISSUES**

#### **COVID Response – Temporary Footstreet Pedestrianised Hours**

114. The Government created temporary legislation for pavement café licences by removing the requirement for planning permission. In response to the pandemic as part of the One Year Transport and Place Strategy the hours were extended until 8pm each day. This helped facilitate space for longer into the early evening to provide outdoor

seating and support the economic recovery of the city centre. The temporary legislation expires at the end of September 2022. York has seen over 100 licenses issued as result of these changes

115. Officers would recommend that the 8pm extension remains for the rest of the calendar year to support the Christmas Markets.
116. From the new year Executive could determine that the temporary footstreet pedestrianised hours should return to 5pm. However, that is not recommended as it would impact on many of the 100 businesses who have been awarded a pavement café license to operate in the early evening until the end of September 2022 and will have planned and invested on that basis.
117. Therefore Executive could consider the period from January 2022 to end of September 2022 that the pedestrianised hours should continue to end at 8pm as the current temporary arrangements and café licenses have been awarded on this basis. Alternatively the temporary end time for pedestrianised hours could be adjusted to 7pm which would be in line with the long term vision for pedestrian hours as detailed in My City Centre Vision. It should be noted this would require a revision to all the pavement café licenses.
118. **Officer recommendation is** This would allow businesses to continue to operate outdoor seating and café licenses, and ensure that should any further social distancing measures be reintroduced that the city can scale up its response in line with previous periods or lockdown and restrictions. Without this permission if, for example, restrictions were placed on indoor venues then outdoor seating would only be able to continue in most of the footstreets until 5pm, meaning businesses may be unable to open and operate.
119. As the need for COVID response wanes and certainty over the future becomes clearer the case for 8pm becomes weaker. Therefore officers would recommend that should Executive be minded to make a Permanent change to Pedestrianised Footstreet hours then it should be to 7pm.

### **Permanent Pedestrianised Footstreet Hours**

120. The Strategic Review of City Centre Access details a desire for a permanent extended time for pedestrianised footstreets of 7pm.



121. Should members have approved any change to the footstreet pedestrianised hours it would require a statutory TRO consultation and Executive need to approve this.
122. The Equality Impact Assessment for this has been commenced and is attached at Annex AC and will be developed through the statutory consultation process for further consideration at the substantive decision on any permanent change.

### **Extent of Counter Terrorism Measures**

123. Protecting the contiguous footstreet area in a single phase expands the area of protection and protects more of those streets identified as a priority in Annex B.
124. Executive are advised that the Police have a power to request, and the Council an obligation to implement any anti terrorism traffic regulation order which may inhibit any vehicle access to an area.
125. One of the reasons for the recent statutory consultation to remove the blue badge exemption from certain streets and explore alternative blue badge parking and other mitigations was to enable a larger area to be protected from terrorism with a vehicle as weapon threat.
126. Removing the exemption that allows blue badge holders to access the footstreets needs to be considered in the context of the Equalities Act as the impact is upon those who have a protected characteristic which are protected under the Equalities Act.
127. The negative impacts of removing the blue badge exemption are real and for some cannot be mitigated.
128. However, officers believe the positive duty placed on the Council by the European Convention of Human Rights and the relevance of Article 2, The Right to Life, is expressly relevant as this article places a positive duty on the state (i.e. public bodies) to protect life which is in essence at the heart of the counter terrorism measures.
129. This case does not apply to Castlegate as it was not identified as a priority street in Annex B for counter terrorism measures. Whilst the case for Castlegate being pedestrianised could be made on other

grounds and still meet the Public Sector Equalities Duty, however, it feels premature given the decisions yet to be made about the Castle Gateway delivery programme. Therefore it is proposed that Castlegate returns to its pre-COVID response at the end of September 2022 when the existing pavement café licenses end.

130. Alternatives have been considered to removing the blue badge exemption, such as allowing blue badge holders within the protected area, but this would be directly against the advice of the Counter Terrorism Security Advisor from Counter Terrorism Policing North East to the statutory consultation on removing the blue badge exemption to the footstreets who said:

*“When considering a vehicle access scheme involving the use of security hardware which mitigates or prevents a vehicle gaining access to the designated protected area, it is necessary to create a sterile zone free from all vehicles at times when the area is a crowded place. Entry to such areas must be restricted to emergency response vehicles which can be done during the planning phase of any such scheme.”*

131. For that reason officers are also recommending a review and further report on how any remaining exemptions can also be removed or discouraged.

132. A scheme has been proposed which seeks to identify only those blue badge holders who warrant an exemption to have access. However, the legal framework to start differentiating between classes of blue badge holders and the perceived impact would be fraught with challenge and in itself discriminatory and officers would advise that the council should not develop such proposals.

133. The proposals for the blue badge exemptions could be delayed to consider alternative options, however this would add further delay to the implementation of counter terrorism measures and extend the period the council is not acting to fulfil the positive duty to protect life. Having undertaken extensive consultation and engagement there is little benefit in further delay as the impacts are understood and alternative solutions and mitigation have been explored and refined.

134. If the recommendations in this report are not agreed causing delay, then officers would be required to continue to implement the Executive’s previous decisions to construct phase 1 counter terrorism measures given the advice, risk and duty the council has. It would not negate the

need to consider the phase 2 counter terrorism measure for the remaining footstreets.

135. If the recommendations in this report are approved implementation would proceed as a single phase, this would save £1.6 million compared to a multiphase approach and can be delivered for similar cost as phase 1 whilst protecting the whole of the contiguous footstreets see Annex X. The final budget required for Counter Terrorism will be confirmed in a future report.
136. The removal of the exemption on vehicles displaying a Blue Badge from driving on certain streets within the pedestrian area has reduced the number of vehicles in the pedestrian area during the hours of operation, this can be seen from the below table showing the number of vehicles accessing the streets in 2018 compared to 2021. There are a number of other factors which will also have driven this change e.g. COVID and the use of marshals and bollards discouraging drivers without an exemption or waivers from access the area, counter terrorism measures would achieve the same objective. A Table is included in Annex Y

### **Mitigations / Improved Access to the Footstreets**

137. Additional Blue Badge parking was advertised as part of the Traffic Regulation Order. Whilst all of the proposed parking mitigations could be implemented, it would not recognise the consultation comments relating to St Andrewgate.
138. The original vehicle tracking undertake to design the bays on St Andrewgate was to ensure a 7.5t vehicle could pass through the area for waste collections and servicing of some shops on Goodramgate, the consultation raised concerns about vehicle access from garages in the vicinity of the bays on St Andrewgate. To consider the impact on the access to the private garages along that section of St Andrewgate, further vehicle tracking was undertaken to see the impact Blue Badge parking bays would have on their access. This tracking shows that for vehicles parked in the proposed marked bays on St Andrewgate would obstruct vehicles from accessing/exiting the garage on the opposite side of the road (30 St Andrewgate).
139. Therefore officers are recommending implementing all of the proposed parking mitigations, with the exception of the two bays on St Andrewgate nearest to its junction with Bartle Garth. This will allow for an increase in dedicated parking for holders of a Blue Badge in the

vicinity of the pedestrian area, without obstructing access in/out of a private drive.

140. The consultation raised concerns by the Minster about the bays on Deangate and Duncombe Place and developing proposals for this area. The officers and Minster representatives have met and agreed to recommend implementation as advertised but they will continue to work together on proposals to develop longer term plans and accommodate blue badge parking with minor amendments as required without impacting on the principle of provision.
141. Should Executive not be minded to remove the exemption the additional parking bays could be deemed unnecessary.
142. Officers' recommendation for the removal of the blue badge exemption is on the basis that Executive would also approve implementing all of the proposed parking mitigations recognising the impact of extending the extent of the counter terrorism measures, with the exception of the two bays on St Andrewgate nearest to its junction with Bartle Garth. This will allow for an increase in dedicated parking for holders of a Blue Badge in the vicinity of the pedestrian area.
143. Through the Strategic Review of City Centre Access and Council Car Parking, a number of the recommendations in the action plan are subject to funding bids. Should Executive have approved the action plans and if Executive are minded to approve the removal of the blue badge exemptions within the pedestrian area - then officers recommend that existing transport budgets should be allocated if the funding bid for £250,000 for Improved Routes into and around the city centre is unsuccessful, so that their improved paving and dropped kerbs can be delivered.

## **Conclusion**

144. Extending the period for the local COVID response temporary pedestrianised hours to match the temporary national legislation on street café licenses allows the City to continue to flex in response to COVID should there be new restrictions/lockdowns and allows businesses to operate as planned as per their pavement café license
145. Recognising the outcomes of the My City Centre consultation and strategy it is logical to amend the time that the temporary

pedestrianised hours end to reflect the proposal that will be advertised and consulted upon as a permanent change.

146. The reasons for considering removing the blue badge exemption that allows vehicles to access the footstreets is that it protects a larger area including many of the priority 2 streets as identified in Annex B, which were originally intended to be protected in a later phase. It also reduces the risk of vehicle and pedestrian conflict in footstreets which have the highest footfall, whilst also creating the environment for the My City Centre Vision to be implemented.
147. The Council have undertaken considerable engagement work with blue badge holders and disabled advocacy groups to:
- Fully understand the impact of not allowing blue badge holders to access and park on the footstreets they previously had a specific exemption to access. The scrutiny process has been useful in validating that.
  - To look at the alternatives to driving down footstreets to enable blue badge holders to access the footstreets.
148. In considering this decision, officers have considered the impact on blue badge holders and recognise the impact that some blue badge holders will be excluded from the footstreets by the recommendations. The open brief considered in November 2020 at Executive has been updated and is included at Annex AA But having considered that impact it has not been possible to find a way to deliver the safety benefits of the counter terrorism measures without causing the impact to parts of the disabled community. The benefits to wider public interest, including the right to life and the duty to protect life mean that officers, on balance (acting proportionately and having given significant weight to the impacts) recommend the area protected by Hostile Vehicle Mitigation Measures are extended and the blue badge exemption is removed except for Castlegate where the rationale is different and further consideration is to be given to the removal of access exemptions in this street.
149. The engagement work with blue badge holders has also looked at an extensive approach to improve access to the footstreets. The proposals to improve access have a three pronged approach
- Looking to re-provide parking as close as possible in dedicated disabled bays

- Removing other barriers to access through the recommendation from the Strategic Review of Access and the Strategic Review of Parking
- Consider Extra Services – see next report on Dial & Ride
- Officers recommendations in the City Centre Access Strategy is that engagement with disability groups will continue; working to identify and introduce further mitigations further down the line including exploring the feasibility of a shuttle bus

150. Like officers have, Executive are required by law to consider if the recommendations to improve access are reasonable and proportionate having fully considered the Equalities Impact Assessment at Annex AA in order to give due regard to the impact of the proposals.

## Council Plan

151. The Council Plan has 8 objectives listed below; the decisions under consideration in the report directly relate to most of the objectives and impact both positively and negatively in different ways depending on the perspective being considered.

- Well paid jobs and inclusive economy
- A greener and cleaner City of York Council
- Getting Around Sustainably
- Good Health and wellbeing
- Safe communities and culture for all
- Creating homes and world class infrastructure
- A better start for children and young people
- An open and effective council.

As the Council plan lays out they cannot be prioritised in an order as they all must be addressed and work in balance to give people the best quality of life.

## Implications

152. **Financial** The proposed changes to the Traffic Regulation Order can be managed within council resources. The associated action plans that are

referred to in this report but considered in the City Centre Review of Access and Review of Parking have identified the costs and proposed budgets to fund the mitigation actions. A number of those funding streams are subject to future government announcements and or funding/bids. The recommendations in this report is such that £250k required to fund improved access needs to be prioritised across transport capital budgets even if funding bids are unsuccessful or at reduced levels. Any proposed changes to the prioritisation of schemes within capital budgets will be reported through regular capital monitoring reports to Executive and updates to Executive Member for Transport Decision Session reports.

### **153. Legal and Equalities**

#### Traffic Regulation Order

The Council, as Highway Authority and Local Traffic Authority is responsible for making Traffic Regulation Orders (TRO). When making a TRO the authority must exercise its power in a way which secures the expeditious, convenient and safe movement of vehicular and other traffic and the provision of suitable and adequate parking facilities on and off the highway so far as practicable.

Where works involve a need to introduce or amend a Traffic Regulation Order, the relevant statutory procedures must be followed including the requirement for formal consultation and advertisement in the local press. Where objections are received, there is a duty on the Council to ensure that these objections are duly considered.

#### Equality Duty & Human Rights

In preparing and determining proposals set out in this report the Council is required to have regard to the Equality Act 2010 (which includes the Public Sector Equality Duty) and Human Rights Act 1998.

#### Equality Duty

Under the Equality Act, the Council must in the exercise of its functions have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

It is considered that the Council has complied with the PSED statutory criteria, having fully engaged with those with protected characteristics, (most specifically disabled people) in order to understand and have due regard to the impacts the proposals would have upon these groups.

## Human Rights

The Human Rights Act 1998 (“HRA”) states that it is unlawful for a public authority to act in a way which is incompatible with a right or freedom under the European Convention on Human Rights.

The provisions of Article 8 (right to respect for private and family life) and Article 14 (protection from discrimination) have been considered and taken into account. These rights can be interfered with where lawful, e.g. where the interference has a legitimate aim, it is necessary in the interests of other concerns including public safety and health or where it is necessary in the wider public interest, and it is proportionate. The reasons for the scheme and the public interest benefits of the scheme are outlined within this report. The report acknowledges that in order to achieve the public benefits from removing vehicles from parts of the City Centre, some negative impacts are inevitable. The HRA requires the Council to act proportionately, having regard to all impacts, in order to reach a balanced decision that justifies any interference with Convention rights.

## Conclusion

It is for the decision maker, acting proportionately, to balance all the competing needs, benefits and impacts in reaching its ultimate decision.

## **Risk Management**

**154.** Officers having worked through the recommendations with the council’s legal team. Officers recognise that removing the blue badge exemption will have some significant impacts for some individuals with protected characteristics. In making the recommendations officers have balanced the competing considerations (i.e. individual rights and wider public safety) in order to reach recommendations which are considered to be proportionate and which comply with statutory duties.

## **Contact Details**

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**Wards Affected:**

**All**

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**Background Papers:**

8 February 2018 Executive - City Transport Access Measures  
[\(Public Pack\)Agenda Document for Executive, 08/02/2018 17:30](#)  
[\(york.gov.uk\)](#)

26 April 2018 Executive – The Castle Gateway Masterplan  
[\(Public Pack\)Agenda Document for Executive, 26/04/2018 17:30](#)  
[\(york.gov.uk\)](#)

27 September 2018 Executive – City Centre Access Update and Priority 1  
Proposals  
[\(Public Pack\)Agenda Document for Executive, 27/09/2018 17:30](#)  
[\(york.gov.uk\)](#)

29 August 2019 Executive – City Centre Access Experimental Traffic Order  
Conclusion and Phase 1 Proposals

**(Public Pack)Agenda Document for Executive, 29/08/2019 17:30**  
**(york.gov.uk)**

13 February 2020 Executive – City Centre Access – Phase 1 Proposals  
(Update\_  
**(Public Pack)Agenda Document for Executive, 13/02/2020 17:30**  
**(york.gov.uk)**

25 June 2020 Executive - City of York Council Recovery and Renewal  
Strategy and the One Year Transport and Place Plan  
**(Public Pack)Agenda Document for Executive, 25/06/2020 17:30**  
**(york.gov.uk)**

26 November 2020 Executive – The future of the extended city centre  
footstreets  
**(Public Pack)Agenda Document for Executive, 26/11/2020 17:30**  
**(york.gov.uk)**

22 June 2021 Executive Member for Transport - Footstreets Traffic  
Regulation Order  
Proposals[https://democracy.york.gov.uk/documents/g12726/Public reports  
pack Tuesday 22-Jun-2021 10.00 Decision Session - Executive Member for  
Transport.pdf?T=10](https://democracy.york.gov.uk/documents/g12726/Public_reports_pack_Tuesday_22-Jun-2021_10.00_Decision_Session_-_Executive_Member_for_Transport.pdf?T=10)

## **Annexes**

- Annex A Footstreets map showing blue badge exemption locations
- Annex B Independent report on prioritised areas
- Annex C Phase 1 Proposal for Counter Terrorism Measures
- Annex D Letter from Police in relation to Counter Terrorism
- Annex E Themes raised in Community Engagement Mitigation Options Considered
- Annex F Blue Badge Parking 18-19 and Traffic movements at Access Points 2019
- Annex G City of York Footstreets Blue Badge Access – September 2018 Parking Perspectives Report
- Annex H Covid 19 Economic Recovery – Transport and Place Strategy
- Annex I Disabled Motoring Independent Review of York City Centre Disabled Access Offer

- Annex J Extent of Footstreets Protected in a single phase by Counter Terrorism Measures
- Annex K City Centre Blue Badge Parkin Survey Results
- Annex L City Centre Blue Badge Parking Survey Results – Blue Badge Holder Responses Only
- Annex M Statutory TRO Consultation - Blue Badge Parking Bay Comments
- Annex N Statutory TRO Consultation –Blue Badge Access Restriction Comments in Favour
- Annex O Statutory TRO Consultation – West Yorkshire Police Counter Terrorism Comments
- Annex Q Statutory TRO Consultation – Blue Badge Access Restriction Comments Against
- Annex R Statutory TRO Consultation - Objection-for-local-non-york-residents
- Annex S Statutory TRO Consultation - Formal combined Objection from several groups
- Annex T Statutory TRO Consultation - York Civic Trust Comments
- Annex U YHRCN Report to HREB on Blue Badge Concerns
- Annex V Officer Comments on the Human Rights Report on Blue Badge Exclusions in York
- Annex W Accident Data
- Annex X Comparison of phased approach with Single Scheme
- Annex Y Vehicle Counts showing reduction in vehicles as a result of temporary changes
- Annex Z Footstreets Accessibility open community brief updated 3 Nov 2021
- Annex AA Blue Badge Exemption Removal Equalities Impact Assessment
- Annex AB Blue Badge Parking Bay Usage Data
- Annex AC Permanent Change to Footstreet Hours Equalities Impact Assesment

## **List of Abbreviations Used in this Report**

- TRO Traffic Regulation Order
- TTRO Temporary Traffic Regulation Order

HVM	Hostile Vehicle Mitigation Measures
HREB	Human Rights Equalities Board
YHRCN	York Human Rights City Network