

Meeting:	Executive
Meeting date:	14 November 2024
Report of:	James Gilchrist - Director of Environment, Transport and Planning
Portfolio of:	Cllr. C Douglas – Leader of the Council

Decision Report: York Christmas Market 2024 and Blue Badge Access

Subject of Report

1. In October 2023 the Council’s Executive made the decision that the Hostile Vehicle Mitigation measures (security bollards) will continue to operate.
2. Executive also made the decision that Blue Badge vehicular access should be permitted through the Hostile Vehicle Mitigation measures during pedestrianised hours to access Blake Street, St. Helen’s Square and Lendal as well as Goodramgate (between Deangate and King’s Square), Church Street, Kings’ Square and Colliergate.
3. A principle which underpinned the above decision was that Blue Badge vehicular access may need to be removed for certain events, but the Council would work with Make it York (the organisers of the Christmas Market) to make the Christmas Market more accessible.
4. There will be significant impact on disabled people by removing Blue Badge holders’ vehicular access during the Christmas Market period of 14 November to 22 December 2024.
5. The Council remains committed to a Christmas Market which facilitates Blue Badge holders’ vehicular access and will work with

Make it York to make this happen for 2025. However, the planning for a Christmas Market starts over a year in advance.

6. This urgent report has been requested by Executive to review plans for 2024 and understand if Blue Badge holders' vehicular access can be facilitated in some way this year. The report therefore sets out the current plans and the options of how Blue Badge vehicular access might be permitted this year and the way this changes the risks and the mitigations.

Benefits and Challenges

7. This decision is challenging as it requires the Executive to balance the security advice from the Counter Terrorism Police, public safety, and the rights of all users of the pedestrianised streets (footstreets) (including users with protected characteristics under the Equality Act 2010) against the rights of Blue Badge holders requiring vehicular access to the footstreets during the Christmas Market period (a protected group under the Equality Act 2010) at the busiest time of the year in terms of footfall.
8. This report does not seek to put those interests and those of other groups in conflict but rather to help the Executive establish the policy context for how that balance is struck.
9. This report invites the Executive to consider the requirements for public space, which are exacerbated in York by the constraints of narrow footpaths and pedestrianised streets. The fundamental issue is one of balancing the human rights and equalities impacts with the security advice.

Policy Basis for Decision

10. The 10-year plan sets a vision that everyone can benefit from and take pride in the city with the Council Plan setting a priority that the council will set the conditions for a healthier, fairer, more affordable, more sustainable, and more accessible place where everyone can feel valued.
11. This vision sets a clear policy that an accessible place is a priority for the Executive. The Executive has set out Four Core

Commitments in the Council Plan which are those outcomes they believe will most support the delivery of their vision. One of which is:

“Equalities and Human Rights - Equality of opportunity - We will create opportunities for all, providing equal opportunity and balancing the human rights of everyone to ensure residents and visitors alike can benefit from the city and its strengths. We will stand up to hate and work hard to champion our communities”.

12. Previous reports have identified the impact on Blue Badge holders of restricting vehicular access and parking of their vehicles in the city centre. Reports advised decision makers of the need to weigh up the negative impact in terms of equalities and human rights for a group with a protected characteristic in the context of a wider human right of the general public to health and safety and protection of life, reflected in the Counter Terrorism Policing advice.
13. In deciding, the Executive are asked to weigh up and consider the different considerations including the impact of any decision on Equalities and Human Rights issues to arrive at a balanced decision.
14. Under the Equality Act 2010, 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. This is referred to as the Public Sector Equality Duty. The protected characteristics in the Equality Act 2010 are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty is to have “*due regard*”, it is not to achieve a specific outcome.
15. The Human Rights Act 1998 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) contained in Schedule 1 of the Human Rights Act 1998 have been considered and taken into

account. These rights can lawfully be interfered with where the interference is proportionate, necessary, and has a legitimate aim. For example, where 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.

16. The Executive are asked to consider both the right to life and the protection from discrimination. Neither of these duties take precedence and the Executive will need to make a decision proportionately, having regard to all impacts, to reach a balanced decision including the Council's responsibilities under the Public Sector Equalities Duty.

Financial Strategy Implications

17. The Council agreed to allocate a budget of £200k to fund additional costs of introducing Blue Badge holders' vehicular access within the new Hostile Vehicle Measures. Any small changes to the arrangements suggested in this report will increase costs to the Council but will be able to be contained within this budget.
18. The option of cancelling the Christmas Market at this late stage however, will have very significant financial implications to both the Council and its wholly owned company Make it York. This could be in excess of £1m across the organisations and therefore would require a separate report identifying how this could be funded and is therefore not a recommended option.

Recommendation and Reasons

19. **Recommendations:** The Executive is asked to:
 - i. Note and approve the existing arrangements for traders of Shambles Market (year round market) to pass through the Hostile Vehicle Measures during the extended pedestrianised hours of the Christmas Market after 5pm, so that they are not held in the city unnecessarily until the 7pm lifting of the vehicle restrictions. This affects between 20 and 40 Shambles Market traders vehicles per day.

- ii. Consider the advice of Counter Terrorism Policing and the Safety Advisory Group that all vehicular access should not be permitted during the Christmas Market. Recognising that the risk is not just because of increased pedestrian traffic, but because of the specific increased terrorist risk at Christmas markets.
- iii. Consider the increased overall footfall during the Christmas Market period noting that the pattern of peak footfall is not significantly dissimilar between the Christmas Market period and the summer holidays, see Annex B.
- iv. Consider the positive impact of permitting Blue Badge holders' vehicular access to the pedestrianised area for disabled people during the Christmas Market period, noting that on average currently around 18 Blue Badge holders drive into the pedestrianised area between 10:30am to 5pm i.e. an average of 2.7 per hour.
- v. Consider the impacts of increased risk of collisions/accidents between pedestrians and vehicles linked to additional vehicles within the pedestrianised streets, (including the potential negative impacts on some groups with protected characteristics under the Equality Act 2010)
- vi. Decide to pursue and approve one of the following options and instruct the Head of Transport to implement:
 - a. Option A – Note and approve the existing proposed arrangements for the Christmas Market in 2024, based on previous decisions which include the temporary removal of Blue Badge vehicular access during the Christmas Market period, which have been agreed with both Counter Terrorism Policing and the Safety Advisory Group although does not accord with the advice of Counter Terrorism Policing as detailed in Annex C. Also note the commitment to work with Make it York on plans for 2025 to develop a Christmas Market offer that will permit Blue Badge vehicular access.
 - b. Option B – Permit Blue Badge holders' vehicular access during the Christmas Market period on the routes that have been available since January 2024, including the extended

hours i.e. 10:30am to 7:00pm. This would be contrary to the advice of Counter Terrorism Policing and the Safety Advisory Group. Some Blue Badge Holders already feel that the number of pedestrians is an issue with blue badge vehicular access during the rest of the year. This would be heightened at Christmas given the additional significant additional footfall with peak footfall well above the summer peak footfall. The Blake Street to Lendal Loop is also the main walking route to the station and likely to be significantly busier.

- c. Option C – Cancel the Christmas Market to reduce the risk and permit Blue Badge vehicular access. This has significant financial risk for the Council which would be liable for the costs and lost income.
- d. Option D – Permit Blue Badge vehicular access to the Goodramgate Loop excluding Church Street, after 5pm during the Christmas Market period, as happens for the Shambles Market traders. The restrictions are lifted at 7pm when the Christmas Market closes. There would be no Blue Badge vehicular access to the Blake Street, St. Helen's Square and Lendal route. This would provide equity for Blue Badge holders, with the arrangements in place for the Shambles Market traders, but access would not be available in core footstreet hours 10:30am to 5pm. This would be contrary to the advice of Counter Terrorism Policing and the Safety Advisory Group. The figures show that whilst total footfall is significantly higher overall during the Christmas Market period than an August week, the peak hourly footfall after 5pm during the Christmas Market period is similar to peak hourly footfall during August. Parked Blue Badge holders' vehicles combined with the increased footfall may cause an issue for market traders and pedestrians to pass safely and add to a sense of overcrowding.
- e. Option E – Permit Blue Badge vehicular access to the Goodramgate Loop as detailed in Option D but limit this to Monday to Thursday during the Christmas Market period. This would be contrary to the advice of Counter Terrorism Policing and the Safety Advisory Group. Blue Badge vehicular access through the year so far has averaged 21 people

Monday to Friday but 13 at weekends. Footfall through the Christmas Market is highest at weekends, closely followed by Fridays. The core footstreet hours are busier than the extended hours.

- f. Option F – Permit Blue Badge holders' vehicular access to the Goodramgate loop as detailed in Option D but the hours of Blue Badge holders' vehicular access would be when pedestrianised hours start at 10:30 until 12:00. This would be contrary to the advice of Counter Terrorism Policing and the Safety Advisory Group. The peak footfall in these hours during the 2023 Christmas Market was 150% of the summer holiday peak at any time. Some Blue Badge Holders already feel that the number of pedestrians is an issue with blue badge vehicular access during the rest of the year.

Reason(s): Should Executive be minded to permit some form of Blue Badge vehicular access during the Christmas Market period, they are required to consider whether the option is reasonable and proportionate having fully considered all relevant matters. Executive therefore need to weigh up the equalities and human rights benefits to Blue Badge holders and balance that with the wider public interest, including the right to life, the duty to protect life, and the potential negative impact that increased pedestrians and vehicular traffic in the pedestrianised area could have on some groups with protected characteristics under the Equality Act 2010.

Background

20. In October 2023 Executive decided that Blue Badge vehicular access should be permitted through the Hostile Vehicle Mitigation measures during pedestrianised hours to access Blake Street, St. Helen's Square and Lendal. As well as Goodramgate (between Deangate and King's Square), Church Street, King's Square and Colliergate.
21. Over the last 10 months, on average 18 Blue Badge holders per day pass through the Hostile Vehicle Mitigation Measures. Numbers are higher during the week and lower at weekends. This data is published on the open data platform at:

<https://data.yorkopendata.org/dataset/blue-badge-city-centre-access-points-usage/resource/b9e81ea6-c9fa-420c-bfd0-f99babafec12>

22. The Christmas Market is organised by Make it York. They prepare the safety plans and risk assessments and are responsible for the event. A Temporary Traffic Regulation Order extends pedestrianised (footstreet) hours until 7pm during the Christmas Market period and the Hostile Vehicle Mitigation measures operate to this extended time.
23. Counter Terrorism Policing North East have advised the Council and briefed both this and previous Executives about the increased risk of hostile vehicle attacks at Christmas Markets. Last year the European Home Affairs Commission Ylva Johansson said the polarisation in society caused by the Israel-Hamas war was increasing the risk of violence and that “there is a huge risk of terrorist attacks in the European Union” over the Christmas holiday season.
24. In response to this risk the Council has for several years worked with Make it York to secure temporary hostile vehicle measures from the National Barrier Asset to safeguard York’s Christmas Market from a hostile vehicle attack, a type of attack seen, for example, in Berlin. This year, the construction of permanent Hostile Vehicle Mitigation measures has been completed and will remove the need for temporary measures.
25. Hostile Vehicle Mitigation is one of a series of actions taken by partners to reduce the risk and impact of an attack on the Christmas Markets.
26. The number of people visiting the city significantly increases during the Christmas Market. Annex B shows the Christmas Market is significantly busier compared to a summer holiday week, but the pattern of peak footfall per hour in summer is similar to evening footfall during the Christmas Market period. Annex A also provides the breakdown by hours of the day.
27. Before Blue Badge holders’ vehicular access was reviewed by this administration, a number of principles were consulted upon. This is covered in more detail within the consultation section of this report.

Notably Principle 2 - City centre events stated that “Some events, as prior to the November 2021 decision, may require Blue Badge access to be suspended at times (for example during the Christmas Markets)”.

28. In the run-up to the Christmas Market in 2023, the issue that Shambles Market traders were not allowed to leave the pedestrianised area until the later time of 7pm was raised. The intention was that access would not be permitted through the Hostile Vehicle Mitigation measures during the extended Christmas Market hours.
29. The Executive Member for Transport met with Shambles Market traders in the summer of 2023 and agreed that access would be permitted during the later hours of the Christmas Market (5pm to 7pm) to allow Shambles Market traders to pack up and remove items from the market.
30. Make it York know the Shambles Market traders, as they manage the Shambles Market, and therefore are work with the Council to ensure Shambles Market traders have a pass based on their prior knowledge.
31. Records show that about 20 to 40 Shambles Market traders use this system per day to access the market.

Christmas 2024

32. The Hostile Vehicle Mitigations are largely complete, with the last site due to finish in time for the Christmas Market this year, meaning there are no temporary Hostile Vehicle Mitigation measures.
33. There will be no vehicular access for the Christmas Market traders to the pedestrianised area during the extended footstreet hours. There will be some limited access for Shambles Market Traders as detailed in paragraphs 28 to 31.
34. As per the principles consulted upon it is planned that there will be no Blue Badge vehicular access permitted during the Christmas Market.

35. Due to the limited size of the bin store at Silver Street it cannot last a full day without being emptied. A refuse truck needs to access the bin store at Silver Street to empty it during the day.
36. The city centre cleansing team have been trained to be reversing assistants to aid the movement of the vehicle during the busier Christmas Market times.
37. Given how high footfall is on Saturdays and Sundays- a way of reducing the movement of the refuse vehicles has been discussed with Counter Terrorism Policing and a refuse vehicle is parked before the busy period on a Saturday and Sunday, with several additional security measures in place.
38. This means the Hostile Vehicle Mitigation measures are planned to operate as per the Counter Terrorism Policing's advice that access should be limited to emergency services e.g. blue lights or emergency utility repairs. The only exception currently planned is the Shambles Market traders as detailed in paragraphs 28 to 31.
39. Significant work has been undertaken by Make it York and the Council working with organisations like the St. Sampson Centre to make this year's Christmas Market more accessible.
40. Each Christmas Market is planned a year in advance so officers have requested Make it York to explore how the 2025 Christmas Market may be able to be organised and be designed to permit Blue Badge vehicular access. This was also discussed at Economy, Place, Access and Transport Scrutiny in October 2024.
41. Notwithstanding the above Executive have asked to review the arrangements above and consider alternative arrangements to permit Blue Badge vehicular access.

Consultation

Previous Consultation

42. To inform the decision in October 2023 to review the removal of Blue Badge Holders' vehicular access the Executive requested an initial

consultation on the principles of permitting Blue Badge vehicular access within the Hostile Vehicle Mitigation measures.

43. The 2023 October Executive report detailed the consultation responses. In summary, the total number of responses was 3,126 with approximately 500 paper copies received.

44. The principles and levels of support were as follows:

- **Principle 1 - Return to previous access** – This principle aims, subject to full consultation, to revert to the Blue Badge accessibility measures that were in place before the emergency COVID measures and the Council’s decision of November 2021 to make them permanent.
83% Agree, 12% Disagree, 5% Don’t know
Total responses = 2867
- **Principle 2 - City centre events** – Some events, as prior to the November 2021 decision, may require Blue Badge access to be suspended at times (for example during the Christmas Markets).
61% Agree, 32% Disagree, 7% Don’t know,
Total responses = 2870
- **Principle 3 - Recognising Security Risks** – In light of any security risk intelligence, the Police will have the power to lock down all access to the City Centre under an Anti-Terrorism Traffic Regulation Order, a counter-terrorism measure under the Civil Contingencies Act 2004.
88% Agree, 7% Disagree, 5% Don’t know
Total responses = 2866
- **Principle 4 - Finding solutions** – the Council Executive agrees to restore Blue Badge access through the new hostile vehicle barriers, then the council will work with Blue Badge holders on the detailed ways to achieve this
90% Agree, 5% Disagree, 4% Don’t know
Total responses = 2858
- **Principle 5 - Longer term improvements** – The Council is committed to considering and implementing longer-term

improvements to accessibility in the city, taking into consideration the needs and opinions of the community on an ongoing basis, including in the development of its Transport Strategy

89% Agree, 4% Disagree, 7% Don't know

Total responses = 2861

45. There were 1223 detailed comments many of which contain personal data, but 188 provided a personal experience because of the restrictions, 125 provide suggestions on how things can be improved. (access and general ideas), 93 commented on the consultation (81 negative).
46. Due to the way the comments were provided using freetext we could identify the following groups:
 - Unknown = 754 (unable to identify)
 - Disabled = 319
 - Elderly = 12
 - Business = 7
 - Family = 2
47. Comments for disagreeing with Principle 1 came from businesses, people who felt the streets would become unsafe and those who either thought the whole of the city centre would be opening up and not enough information to be able to make a decision
48. Although the majority agreed with principle 2 (and the requirement for restrictions for some city centre events) there were more comments against this principle than there were for it.
49. Most responses were in favour of principle 3, however there was concern that the Anti Terror Traffic Regulation Order could be used to close the city centre whenever the Council decided it wanted to.
50. A small number of comments were around deliberately delaying tactics to give the Council time to find excuses to change its mind on the commitment to reverse the ban.
51. This shows strong support for the principles but only 61% supported the principle "Some events, as prior to the November 2021 decision, may require Blue Badge access to be suspended at times (for

example during the Christmas Markets).” and 32% did not support this principle.

52. Officers recognised the lower levels of support for Principle 2: City centre events, that some events, as prior to the November 2021 decision, may require Blue Badge holders’ access to be suspended at times (for example during the Christmas Markets).

Consultation with Safety Advisory Group and Counter Terrorism Policing

53. Safety Advisory Groups provide a forum for discussing and advising on public safety at an event. They aim to help organisers with the planning and management of an event and to encourage cooperation and coordination between all relevant agencies. They are non-statutory bodies and so do not have legal powers or responsibilities, and are not empowered to approve or prohibit events from taking place. Event organisers and others involved in the running of an event, retain the principal legal duties for ensuring public safety.
54. However, other statutory agencies could use their powers, such as the Police using their road closure powers.
55. The Safety Advisory Group have considered the proposals for the Christmas Market.
56. They were specifically asked about some vehicular access for Blue Badge holders at limited times during this year’s Christmas Market.
57. Police Counter Terrorism Security advice was that they would not be in favour of allowing vehicle access into the city centre as it has the potential for hostiles to enter and indicated they will be pushing hard for the exclusion of Blue Badge holders at the time of any major events that are held in the 'sterile' zone.
58. It was also a concern that if vehicles were allowed access at quieter times, the temporary movable non-security barriers that define the limit of the Blue Badge vehicular access area, would need to be security-rated, meaning temporary Hostile Vehicle Mitigation measures may be needed.

59. In the preparation of this report the advice has been checked again and update is attached at Annex C.
60. The Counter Terrorism Advice has not changed; their advice generally has been that their preference is that Hostile Vehicle Mitigation measures create a sterile area at all times and that advice is a matter of public record.
61. The threat level indicates the likelihood of a terrorist attack in the UK. The level is set by the Joint Terrorism Analysis Centre and the Security Service (MI5).
62. There are 5 levels of threat:
 - low - an attack is highly unlikely
 - moderate - an attack is possible but not likely
 - substantial - an attack is likely
 - severe - an attack is highly likely
 - critical - an attack is highly likely in the near future
63. The threat to the UK (England, Wales, Scotland and Northern Ireland) from terrorism is substantial - an attack is likely.

Options Analysis and Evidential Basis

64. Option A – Note the approve the existing proposed arrangements for the Christmas Market in 2024, based on previous decisions which include the removal of Blue Badge vehicular access during the Christmas Market period, which have been agreed with both Counter Terrorism Policing and the Safety Advisory Group although does not accord with the advice of Counter Terrorism Policing as detailed in Annex C as it permits Shambles Market Traders access. Also note the commitment to work with Make it York on plans for 2025 to develop a Christmas Market offer that will permit Blue Badge vehicular access.
65. Option B – Permit Blue Badge vehicular access during the Christmas Market period on the routes that have been available for Blue Badge holders since January 2024 including the extended hours i.e. 10:30am to 7:00pm. This would be contrary to the advice of Counter Terrorism Policing and the Safety Advisory Group. Some Blue Badge holders already feel that the number of pedestrians is

an issue with Blue Badge vehicular access during the rest of the year. This would be heightened at Christmas given the additional significant additional footfall. The Blake Street to Lendal Loop is also the main walking route to the station and likely to be significantly busier.

66. Option C – Cancel the Christmas Market to reduce the risk and permit Blue Badge vehicular access. This has significant financial risk for the Council as the Council would be liable for the costs and lost income.
67. Option D – Permit Blue Badge vehicular access to the Goodramgate Loop excluding Church Street, after 5pm during the Christmas Market period, as happens for the Shambles Market traders. There would be no Blue Badge vehicular access to the Blake Street, St. Helen's Square and Lendal Route. This would provide equity for Blue Badge holders with the arrangements in place for the Shambles Market traders, but access would not be available in core footstreet hours 10:30am to 5pm. This would be contrary to the advice of Counter Terrorism Policing and the Safety Advisory Group. The figures show that whilst total footfall is significantly higher overall during the Christmas Market period than an August week, the peak hourly footfall after 5pm during the Christmas Market period is similar to peak hourly footfall during August. Parked Blue Badge holders' vehicles combined with the increased footfall may cause an issue for market traders and pedestrians to pass safely and add to a sense of overcrowding.
68. Option E – Permit Blue Badge vehicular access to the Goodramgate loop as detailed in Option D but limit this to Monday to Thursday during the Christmas Market period. This would be contrary to the advice of Counter Terrorism Policing and the Safety Advisory Group. Blue Badge vehicular access through the year so far has averaged 21 people Monday to Friday but 13 at weekends. Footfall through the Christmas Market is highest at weekends, closely followed by Fridays. The core footstreet hours are busier than the extended hours.
69. Option F – Permit Blue Badge holders' vehicular access to the Goodramgate loop as detailed in Option D but the hours of Blue Badge holders' vehicular access would be when pedestrianised

hours start at 10:30 until 12:00. This would be contrary to the advice of Counter Terrorism Policing and the Safety Advisory Group. . The peak footfall in these hours during the 2023 Christmas Market was 150% of the summer holiday peak at any time. Some Blue Badge Holders already feel that the number of pedestrians is an issue with blue badge vehicular access during the rest of the year.

70. It should be noted that there are wider options for future years, but these are options are limited by the time frames for the 2024 Christmas Market.
71. Should Executive be minded to approve an option other than Option A, then Executive need to recognise that they are changing the way traffic moves through an event at very short notice. Therefore, Make it York who have planned this event over the last year have limited ability to respond. As such the Executive in making such a decision are, in effect, accepting a level of risk. This is expanded upon in the risk section at the end of the report.
72. It is therefore for the Executive to determine if they wish to review the above arrangements and instruct a change regarding Blue Badge vehicular access during the Christmas Market period.
73. Should members choose Option B, D, E or F, the existing traffic regulation order does not need to be consulted upon to permit Blue Badge access. The current Traffic Regulation Order states:

“A Vehicle proceeding upon the direction or with the permission of a police constable in uniform or a traffic warden or proceeding with the permission of the Council's Head of Transport or a person authorised to grant such permission on behalf of the Council's Head of Transport.”
74. Should the Executive choose Option B, D, E or F, they would need to instruct the Head of Transport or appropriate officer to authorise those that staff the barriers to grant permission to access and egress the pedestrian area without a change to the Traffic Regulation Order.

Organisational Impact and Implications

75. When Executive have made previous decisions on Blue Badge vehicular access, they have weighed up the security advice with the impact on Blue Badge holders. It was, and remains, a difficult decision.
76. All previous decisions reports have made the decision makers aware that the impact on disabled people would be so extreme that they would have difficulty in accessing the pedestrianised street and that some disabled people would not be able to access the pedestrianised streets at all. This is the current situation for the Christmas Market compounded by the longer hours of the Christmas Market.
77. When considering the options, the Executive are required by law to consider if the options are reasonable and proportionate, having fully considered the Equalities Impacts.
78. The Executive therefore need to weigh up all the relevant considerations including the following key issues:
- consider the advice from Counter Terrorism Policing and the right to life and duty to protect life,
 - consider the equalities and human rights benefits to Blue Badge holders of vehicular access during the Christmas Market period,
 - consider the increased number of pedestrians and the general road safety issues,
 - consider the equalities and human rights benefits by heeding the Counter Terrorism Policing advice,
 - consider the currently proposed mitigation of Blue Badge holders' vehicular access being restricted during the busiest events and the introducing an Anti-Terrorism Traffic Regulation Order for the events and circumstances of highest risk.
- ***Financial***

As part of the 2024/25 budget, £200k was added to fund the costs of providing access to Blue Badge holders to the city centre. The main costs of this relates to the cost of security

staff at the main access and egress points. The cost of the security is approximately £13k per month so should this be extended through the Christmas Market period this would add £20k to current costs. This would need to be managed within the Transport budget.

The costs of cancelling the Christmas Market (not recommended) would be significant, particularly to Make it York, as stallholders would need to be repaid. There will also be a reduction in parking revenue compared to budget over the period.

- ***Human Resources.***
Some of the options may have additional staffing requirements for MIY and the Council or its contractors.
- ***Legal***

Traffic Regulation Orders

The Council, as Highway Authority and Local Traffic Authority is responsible for making Traffic Regulation Orders (TRO). The Council has a statutory duty to secure the expeditious, convenient and safe movement of vehicular and other traffic (having regard to the effect on amenities).

Any amendment to an existing Traffic Regulation Order will need to be effected in accordance with the relevant statutory procedures 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.

Public Sector Equality Duty

The Council must comply with the Public Sector Equality Duty as set out in Section 149 of the Equality Act 2010. This means in relation to making a decision, the decision-maker must firstly understand their obligations under the PSED. This is a duty to have **due regard** to the need to:

1. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equalities Act 2010.
2. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
3. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Technical guidance provided by the Equality and Human Rights Commission assists public bodies in discharging the duty in practice and this is expressly brought to Members' attention.

<https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>)

Secondly the decision maker must have sufficient relevant information and demonstrably take this information fully into account throughout the decision-making process.

The concept of due regard requires that there has been proper and conscientious focus on what the duty requires at 1-3 above. If that is done, a court cannot interfere with the decision simply because it would have given greater weight to the equality implications of than the decision maker did. However, the decision maker must be clear precisely what the equality implications are when they put them in the balance. A public body can lawfully conclude that other considerations outweigh the equality ones. This could include security concerns or available resources provided that the weight given to those countervailing factors is not irrational.

Thirdly, the courts have established that the potential impact of a decision on people with different protected characteristics is a mandatory relevant consideration. The manner of assessing that impact is discretionary. Often an Equality Impact Assessment is an appropriate tool but is not the only

available tool. It is the quality of the assessment whether that is presented in an EIA or some other evaluative report which is important.

Contract with Make it York

The Council has a contract with Make it York to provide market and events services. Members will need to be mindful that if any option other than option A is approved this could have implications in relation to that contract.

- ***Procurement***

Any changes to existing contracts may require formal variation which must be completed in consultation with procurement and legal.

- ***Environment and Climate***

The climate impacts are negligible from the options. The report and options define how the city centre environment is managed.

- ***Affordability***

There is not expected to be additional impacts from this report on low-income groups.

- ***Equalities and Human Rights,***

As per the previous sections of this report, the Council recognises, and needs to take into account its PSED under Section 149 of the EA 2010 (to 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 in the exercise of a public authority's functions).

A full Equalities Impact Assessment was completed for the October 2023 decision as Annex G and is relevant <https://democracy.york.gov.uk/mgAi.aspx?ID=65945#mgDocuments>

although it did not specifically consider options to permit Blue Badge vehicular access after 5pm during the Christmas Market period or other popular events, as presented in this report (Options B, D E and F).

Specific equality considerations for the options considered in this report to enable vehicular access for Blue Badge holders during the footstreet hours for the Christmas market period can be summarised as follows:

- Age
 - Positive impact for older people who are more likely to hold a blue badge and to use the streets listed in the report for access and to park in the city centre. This positive impact will be limited to the times when vehicular access for blue badge holders is authorised (after 5pm for options D and E and on specific days for option E).
 - Some older people who are blue badge holders may find driving and parking in the footstreets before 7pm during the Christmas Market period difficult due to the higher number of pedestrians using the streets.
 - Allowing blue badge vehicular access during the Christmas Market's extended footstreet hours would have a negative impact for some older people and some younger people as some people benefit from a reduction in the number of vehicles accessing the footstreet area, as it creates a safer, mainly car free, environment (this benefit is reduced on the Goodramgate, Church Street, Colliergate corridor after 5pm as this is the route that market traders are allowed to use for vehicular access between 5pm and 7pm). This is especially important for some of these groups when the streets are busier due to the additional footfall for the Christmas market.
- Disability

- Having the ability to drive and park in the streets listed in the report will decrease the distance disabled people have to travel on foot or using a wheelchair or mobility scooter, making shops and services in the footstreet area more accessible. This positive impact will be limited to the times when vehicular access for blue badge holders is authorised (after 5pm for options D and E and on specific days for option E).
 - Many respondents to the consultations and workshops have stated that the removal of blue badge parking and vehicular access has precluded them entirely from accessing the city centre during footstreets hours. This means that they haven't be able to access the services available in the footstreets. Many of the shops and services identified in the consultation are not open after 5pm, reducing the positive impact of allowing vehicular access after 5pm (under Options D and E)
 - Some people who are blue badge holders may find driving and parking in the footstreets before 7pm during the Christmas Market period difficult due to the higher number of pedestrians using the streets.
 - Allowing Blue Badge access during the Christmas Market's extended footstreet hours would have a negative impact for some disabled people as some benefit from a reduction in the number of vehicles accessing the footstreet area, as it creates a safer, mainly car free, environment. This is especially important for some disabled people when the streets are busier due to the additional footfall for the Christmas Market (this benefit is reduced on the Goodramgate, Church Street, Colliergate loop after 5pm as this is the route that market traders are allowed to use for vehicular access between 5pm and 7pm). This is particularly the case for those living with sight loss or visual impairments and those who do not rely on blue badge vehicular access.
- Pregnancy and maternity – impacts are similar to those described above when considering people who may experience pregnancy related mobility impairments, especially in later stages of pregnancy, as they may be eligible for a blue badge; and people with young children who

tend to benefit from significant reductions in motorised traffic during pedestrianised hours.

- Religion and/or belief - The key considerations (both positive and negative) are as those described above for older people and people living with a disability and apply to access to the St Sampson's Centre (Church Street), The Holy Trinity Church (Goodramgate), St Helen's Church (Stonegate), and St Martin le Grand (Coney Street).
- Carer - The impact on carers, considering carers who may care for an adult or child living with a disability or impairment and eligible for a Blue Badge, reflects the impacts (both positive and negative) on those living with disabilities, as described above.
- Specific human rights considerations for the options considered in the report to enable vehicular access for Blue Badge holders during the footstreet hours for the Christmas Market period can be summarised as follows:
 - Article 2, Article 8 and Article 14 are specifically considered. In making a decision, the council must carefully consider the balance to be struck between individual rights and the wider public interest and whilst it is acknowledged that there could be interference with a Convention right, the decision must be reasonably justified as a proportionate means of achieving a legitimate aim.
 - If a decision is made to enable vehicular access for blue badge holders during the extended footstreet hours for the period of the Christmas Market, the risk profile changes and the decision needs to balance the right to life of the people working in and visiting York's pedestrianised area during the Christmas Market (Article 2) and the right to private life and to enjoy this right without discrimination (Articles 8 and 14).

- ***Data Protection and Privacy***

Data protection impact assessments ("**DPIAs**") are an essential part of our accountability obligations and is a legal requirement for any type of processing under UK GDPR. Failure to carry out a DPIA when required may leave the council open to enforcement action, including monetary penalties or fines. DPIAs helps us to assess and demonstrate how we comply with all of our data protection obligations. It does not have to eradicate all risks but should help to minimise

and determine whether the level of risk is acceptable in the circumstances, considering the benefits of what the council wants to achieve. As there is no personal data, special categories of personal data or criminal offence data being processed to inform the Consideration of changes to the City Centre Traffic Regulation order (Footstreets), there is no requirement to complete a DPIA. This is evidenced by completion of DPIA screening questions. However, there will need to be consideration and completion of DPIAs where required, within delivery of the plan.

- ***Communications***

A supporting campaign is recommended, that clearly sets out the council's key messaging generally and shares it with affected groups. We will also be prepared to respond to any enquiries with reactive communications.

- ***Economy***

With one in five of all households including people with disabilities, the Purple Pound – that is to say, the money that those households spend – represents a significant proportion of the UK economy. Disability charity Purple (<https://wearepurple.org.uk/the-purple-pound-infographic/>) have estimated the total value of the Purple Pound to be close to £300bn per annum for the UK, and using their methodology suggests that its value to York is £820m per annum. Around 10% of consumer spend in York happens in the city centre, so for the area under consideration in this report, the value of the Purple Pound is approximately £80m per annum, with around £16m of that coming from households which include a Blue Badge holder.

Risks and Mitigations

79. There are a range of risks which may arise from any decision, they may be financial, reputational, or legal risks depending on the specific circumstances.
80. The security advice is that the installation of Hostile Vehicle Mitigation measures are a significant improvement in the security of the city centre.

81. The security advice from Counter Terrorism Policing is that their preference is for only blue light vehicles to be permitted into the secure zone. Should Executive permit Blue Badge vehicular access through the Hostile Vehicle Mitigation measures during the Christmas Market period it adds a level of risk.
82. The assessment of risk is the likelihood of the risk manifesting itself combined with the consequence if the risk does manifest itself.
83. The most likely risk relates to a road traffic accident; whilst any immediate liability for such an accident would fall on the individual party who caused the accident, if it was found that the procedures put in place by the Council and/or Make It York (MIY) in respect of vehicular access were defective, the Council may be found to be contributorily negligent. This would lead to both financial loss for the Council and reputational damage.
84. Alongside this risk is the possibility of a terrorist incident, arising from a terrorist actor taking advantage of the enhanced access to conduct an attack further into the Christmas Market event. Whilst the likelihood of such an event may appear low, the catastrophic nature of such events means that serious consideration must be given to this eventuality and any consequences. Depending on the event in question, were any serious failings to be identified as a result of such an incident, the Council may be subject to a public inquiry process, criminal charges, and reputational damage as well as the wider impact on the wider economy. Criminal liability may arise through either corporate manslaughter charges in relation to the Council, and/or through manslaughter by gross negligence charges in relation to individuals.
85. In addition to the above, there is a risk that MIY will either decline to continue with the Christmas Market event, or that the named Event Organiser from MIY will decline to fulfil that role. This would present a number of both operational issues and risks, , the Council would not be in a position to fulfil that role (nor, if necessary, the role of event safety officer which requires specific crowd safety qualifications), and therefore could give rise to potentially significant financial claims against the Council for compensation and loss of earnings from traders and a dispute with Make it York.

86. Risk is something that officers and indeed police and counter terrorism experts can only advise on, the judgement call is for the Executive as decision maker to determine whether its appetite for risk lies against the impacts of such restrictions and whether the mitigations are proportionate.

Wards Impacted

87. Disabled people live in all wards, but the impact is only on Guildhall Ward

Contact details

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Date:	07/11/2024

Background papers

All relevant background papers must be listed.

Technical guidance provided by the Equality and Human Rights Commission assists public bodies in discharging the duty in practice and this is expressly brought to Members' attention.

<https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

Executive - February 2018 - City Transport Access Measures
<https://democracy.york.gov.uk/documents/g10196/Public%20reports%20pack%20Thursday%2008-Feb-2018%2017.30%20Executive.pdf?T=10>

Executive - September 2018 – City Centre Access and Priority 1 Proposals

<https://democracy.york.gov.uk/documents/g10472/Public%20reports%20pack%20Thursday%2027-Sep-2018%2017.30%20Executive.pdf?T=10>

Executive - August 2019 - My City Centre Project

<https://democracy.york.gov.uk/documents/g11108/Public%20reports%20pack%20Thursday%2029-Aug-2019%2017.30%20Executive.pdf?T=10>

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

<https://democracy.york.gov.uk/documents/g11108/Public%20reports%20pack%20Thursday%2029-Aug-2019%2017.30%20Executive.pdf?T=10>

Executive - February 2020 - City Centre Access – Phase 1 Proposals (Update)

<https://democracy.york.gov.uk/documents/g11116/Public%20reports%20pack%20Thursday%2013-Feb-2020%2017.30%20Executive.pdf?T=10>

Executive – June 2020 - City of York Council Recovery and Renewal Strategy

<https://democracy.york.gov.uk/documents/g12293/Public%20reports%20pack%20Thursday%2025-Jun-2020%2017.30%20Executive.pdf?T=10>

Executive - November 2020 - City of York Council Recovery and Renewal Strategy - November Update

<https://democracy.york.gov.uk/documents/g12407/Public%20reports%20pack%20Thursday%2026-Nov-2020%2017.30%20Executive.pdf?T=10>

Executive - November 2020 - The Future of the Extended City Centre Footstreets

<https://democracy.york.gov.uk/documents/g12407/Public%20reports%20pack%20Thursday%2026-Nov-2020%2017.30%20Executive.pdf?T=10>

Executive Member for Transport – June 2022 - Footstreets Traffic Regulation Order Proposals

<https://democracy.york.gov.uk/documents/g12726/Public%20reports%20pack%20Tuesday%2022-Jun-2021%2010.00%20Decision%20Session%20-%20Executive%20Member%20for%20Transport.pdf?T=10>

Executive - November 2021 - My City Centre Strategic Vision - Adoption of Vision and Next Steps

<https://democracy.york.gov.uk/documents/g12797/Public%20reports%20pack%20Thursday%2018-Nov-2021%2017.30%20Executive.pdf?T=10>

Executive - November 2021 - Strategic Reviews of City Centre Access and Council Car Parking

<https://democracy.york.gov.uk/documents/g12797/Public%20reports%20pack%20Thursday%2018-Nov-2021%2017.30%20Executive.pdf?T=10>

Executive - November 2021 - Consideration of Changes to the City Centre Traffic Regulation Order.

<https://democracy.york.gov.uk/documents/g12797/Public%20reports%20pack%20Thursday%2018-Nov-2021%2017.30%20Executive.pdf?T=10>

Executive - July 2022 - City Centre Access Action Plan Update

<https://democracy.york.gov.uk/documents/g13288/Public%20reports%20pack%20Thursday%2028-Jul-2022%2017.30%20Executive.pdf?T=10>

Executive - November 2022 - Pavement Café Licence Update

<https://democracy.york.gov.uk/documents/g13292/Public%20reports%20pack%20Tuesday%2022-Nov-2022%2017.30%20Executive.pdf?T=10>

Executive – October 2023 – Consideration of changes to the City Centre Traffic Regulation Order (Footstreets)

<https://democracy.york.gov.uk/documents/g13931/Public%20reports%20pack%20Thursday%2012-Oct-2023%2017.30%20Executive.pdf?T=10>

Annexes

Annex A – Equalities Impact Assessment from October 2023

Annex B – Footfall figures

Annex C – Updated Counter Terrorism Security Advice