
Item Called-in following an Executive Decision: Newbury Town Centre Pedestrianisation Trial

Committee considering report:	Scrutiny Commission
Date of Committee:	18 January 2024
Portfolio Member:	Councillor Denise Gaines
Report Author:	Gordon Oliver
Forward Plan Ref:	EX4416

1 Purpose of the Report

- 1.1 This report presents the call-in request submitted on 19 December 2023 for the Scrutiny Commission to review the Executive's decision (EX4416) of 14 December 2023 concerning the Newbury Town Centre Pedestrianisation Trial.
- 1.2 The call-in has been submitted in accordance with Sections 5.3 and 6.4 of the Council's Constitution.

2 Recommendation(s)

- 2.1 In accordance with the call-in request dated 19 December 2023, it is recommended that Members of the Scrutiny Commission review the Executive's decision (EX4416) of 14 December 2023 concerning the Newbury Town Centre Pedestrianisation Trial.
- 2.2 Having reviewed the Executive decision, the Scrutiny Commission should either:
 - (a) Confirm the Executive decision; or
 - (b) State its views on the matter and refer the decision back to the Executive.

3 Supporting Information

Executive Decision

- 3.1 The Newbury Town Centre Pedestrianisation Trial report was presented for consideration by the Executive on 14 December 2023. The report recommended that the Executive approves:
 - (a) the making of an Experimental Traffic Regulation Order to extend the hours of pedestrianisation in Newbury Town Centre, subject to any required Secretary of State approval;

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- (b) in principle the making of a Traffic Regulation Order to extend the hours of pedestrianisation in Newbury Town Centre subject to formal consultation, should the SoS not give consent to the use of an ETRO.

3.2 Following debate with the opposition, the Executive resolved to approve the above recommendations.

Call-in of the Decision

3.3 In accordance with the Council's Constitution five Elected Members (Councillors Dominic Boeck, Ross Mackinnon, Richard Somner, Joanne Stewart and Howard Woollaston) called in the Executive Decision (EX4416) on the basis that they believe that the decision may breach the Public Sector Equality Duty described in the Equality Act 2010 s.149(1), that:

"A public authority must, in the exercise of its functions, have due regard to the need to... advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it",

and s.149(3), that

"Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it"

The Equality Impact Assessment at Appendix A to the Executive paper recognises, at question 2, that residents with a disability may be affected by the decision, due to "Restricted access for parking in Newbury Town Centre pedestrianised area between the hours of 5pm and 11pm.", but crucially goes on to concede that "There has been no survey undertaken to understand how many could be affected." The rationale being that the experiment will reveal the extent of the impact on disabled residents.

At Question 3, "Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?", the answer given is "No", despite the explanation stating "The proposed trial would restrict access in the evenings to those with disabilities who currently are able to be dropped off or park within the pedestrianised area. There is no evidence that this is a common occurrence, and the trial will offer the opportunity to assess the impact and consider appropriate mitigation on an individual basis.

This is a flawed analysis. "There is no evidence that this is a common occurrence" means that the extent of the impact on disabled residents is unknown, but it is entirely possible that the restriction of access in the evenings to those with disabilities, who currently are able to be dropped off or park within the

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pedestrianised area, could have a significant impact on those residents' enjoyment of the town centre.

Question 3 should have been answered "Yes" – the decision **could** contribute to inequality. The lack of consultation with those residents before the experiment is implemented means the impact is uncertain, but a contribution to inequality cannot be ruled out. The EIA is therefore flawed.

3.4 The Members of the Council who submitted the call-in request proposed that the following alternative course of action should be followed:

The decision is not implemented until:

- the Equality Impact Assessment is reperformed and corrected, and
- residents with disabilities are properly consulted so that the Council can establish the extent to which the proposed decision may contribute to inequality.

3.5 The Members of the Council who submitted the call-in request confirmed that they did not consider the decision to be contrary to the Council's policy framework or budget.

Role of the Scrutiny Commission

3.6 The role of the Scrutiny Commission includes both developing and reviewing policy and holding the Executive to account. A scrutiny commission may not however, discharge any functions other than those conferred on it, and whilst it is perfectly proper for the Scrutiny Commission to offer advice and recommendation to an Executive decision maker, in law, responsibility for an Executive decision is that of the Executive.

3.7 The Commission will produce a report with its views to the next meeting of the Executive (i.e., the meeting following the call-in request) unless there are exceptional circumstances why this cannot be achieved. In these circumstances the Chairman of the Commission and the Leader of the Council will agree a revised timetable.

3.8 The report will either confirm the original decision or state its views on the matter and shall give reasons for its recommendations.

3.9 If the Commission upholds the Executive decision, that decision shall take immediate effect.

3.10 It should be noted that any matter which has been the subject of a call-in request may not be the subject of a further call-in request.

4 Appendices

Appendix A – Newbury Town Centre Pedestrianisation Extension Trial Report (Executive, 14 December 2023).

Background Papers:

None

Wards affected: Newbury Central

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