

OFFICER'S DECISIONS

Subject Experimental Traffic Orders (x13) - Implementation of experimental school streets

Decision by Dipti Patel, Director of Place Delivery

Non-key decision

Portfolio Cllr Mik Sabiers, Portfolio Holder for Environment and Highways
Cllr Julian Bell, Portfolio Holder for Regeneration and Transport

Authority

Cabinet decision: 16 June 2020 - Item 8

Report title: Active travel and social distancing measures in response to Covid-19 and to aid economic and social recovery from the Covid-19 pandemic

<https://ealing.cmis.uk.com/ealing/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/6514/Committee/3/Default.aspx>

Council constitution: Part 8 - Officer delegated powers

5.1 Delegations to the Director of Place Delivery, PART 4 – HIGHWAYS MANAGEMENT

https://www.ealing.gov.uk/downloads/download/924/council_constitution_part_8-officer_delegated_powers

Purpose

To allow the delivery of up to 13 experimental School Streets providing a low traffic area around schools, making it easier for pedestrians and cyclists to use the road space and enable social distancing. To record the decisions made to make the Experimental Traffic Orders:

The Ealing (Gifford School Street) (No. 1) Experimental Traffic Order 2020
The Ealing (Mayfield School Street) (No. 1) Experimental Traffic Order 2020
The Ealing (School Streets) (No. 1) Experimental Traffic Order 2020 (Oaklands)
The Ealing (Ark Priory School Street) (No. 1) Experimental Traffic Order 2020
The Ealing (Grange School Street) (No. 1) Experimental Traffic Order 2020
The Ealing (St Marks School Streets) (No. 1) Experimental Traffic Order 2020
The Ealing (St Johns School Streets) (No. 1) Experimental Traffic Order 2020
The Ealing (Vicars Green School Streets) (No. 1) Experimental Traffic Order 2020
The Ealing (Willow Tree School Street) (No. 1) Experimental Traffic Order 2020
The Ealing (Berrymede School Street) (No. 1) Experimental Traffic Order 2020
The Ealing (Derwentwater School Street) (No.1) Experimental Traffic Order 2020
The Ealing (North Ealing School Street) (No. 1) Experimental Traffic Order 2020
The Ealing (Holy Family School Street) (No. 1) Experimental Traffic Order 2020

Background

One consequence of the COVID-19 pandemic was a dramatic reduction in public transport capacity and journeys.

As of Spring 2020, there was very real concern within central Government, at Mayor of London/Transport for London (“TfL”) level and within the Council that the easing of “lockdown” restrictions would prompt a significant rise in private car journeys (at least initially) rather than journeys by more sustainable transport modes on the grounds that the public would be unable or unwilling to use public transport, walk or cycle.

On 9 May 2020, the Secretary of State for Transport published additional statutory guidance to network management authorities, under section 18 of the Traffic Management Act 2004, entitled Traffic Management Act 2004: network management in response to COVID-19. It applies to all highway authorities. The Council is a highway authority for its area, and the traffic authority for the roads affected by these decisions. The statutory guidance set out high-level principles to help local authorities manage their roads and what action they should take. This action includes measures to reallocate road space to people walking and cycling, to encourage active travel and to enable social distancing. The guidance stated that the measures should be taken as swiftly as possible. Neighbourhoods deploying these measures are known as Low Traffic Neighbourhoods (“LTNs”). The statutory guidance expressly stated that some of the measures would require experimental traffic orders (“ETOs”). These are traffic orders made for the purpose of introducing measures (such as

LTN measures) on an experimental basis. ETOs are made under section 9 of the Road Traffic Regulation Act 1984 (“the 1984 Act”).

On 15 May 2020, TfL published the London Streetspace Plan – Interim Guidance to Boroughs, expressly complementing and following on from the DfT’s statutory guidance and setting the London context for delivery. The TfL guidance stated as follows: “We therefore need to urgently reconsider use of street space to provide safe and appealing spaces to walk and cycle as an alternative to car use in the context of reduced capacity on the public transport network. Suppressing motorised transport while allowing essential journeys to take place is key to ensuring we manage our road and public transport networks to maximise our ability to keep people moving safely.” The TfL guidance went on to describe and advocate School Streets as a key tool in the “Streetspace for London” plan, adding that they should be included as part of all proposals for LTNs.

<http://content.tfl.gov.uk/appendix-8-supplementary-guidance-on-school-streets.pdf>

On 16 June 2020, the Council’s Cabinet considered a report entitled Active travel and social distancing measures in response to Covid-19 and to aid economic and social recovery from the Covid-19 pandemic. The officer report made a number of recommendations, including the approval of a current long list of potential pandemic transport measures (which included school measures), the delegation of authority to the Director of Place Delivery (Mrs Dipti Patel) to agree individual schemes following consultation with two Portfolio Holders and support for the exercise by Mrs Patel of her existing delegated functions to implement any necessary measures to progress agreed schemes including creating the necessary traffic orders. The report went on to discuss the pandemic context, funding, the key implications, possible measures (including School Streets), the need for traffic orders, potential schemes, the legal framework (including section 122 of the 1984 Act, the procedural regulations and the DfT guidance), the Climate Emergency Strategy, equalities and an Equality Analysis Assessment, consultation and the timetable for implementation.

On 16 June 2020, the Council’s Cabinet resolved to adopt the recommendations in the officer report. Part 8 section 5.1.5 (Highways Management) of the Council’s Constitution delegates to the Director of Place Delivery power to exercise the Council’s functions as highway authority and traffic authority including power to exercise the function to make traffic management orders.

The School Streets schemes secured TfL funding.

Ealing School Streets

School Streets is a scheme where the streets outside a school are closed to traffic only at school start and finish times (the exact times will vary by school). Closing the streets to school and through traffic helps to achieve a safer, more pleasant environment for everyone

using the streets, whilst maintaining access for residents, businesses, pedestrians and cyclists. School Streets can also help to reduce air pollution and improve road safety.

The streets around school entrances become a pedestrian and cycle-only zone before and after school. Signs at the entrances to the scheme will inform drivers of the restrictions. It will be enforced by a physical barrier that is in place for the duration of the agreed times. Volunteers from the school or community will ask drivers of unauthorised vehicles not to enter the area during the times of operation and will report non-registered vehicles to the police or parking enforcement officers. Access for emergency services vehicles will be permitted.

Schools with an existing level of engagement in promotion of active travel were selected because they have the most potential to participate and deliver a successful School Street, in a very short timeframe.

The schools have signed an MOU to demonstrate their commitment to delivery of the scheme and continued promotion of active travel.

A list of schools is included in the Appendix below.

Legal Implications

The 1984 Act and the Local Authorities' Traffic Orders (Procedure)(England and Wales) Regulations 1996, as amended, do not require public consultation prior to the making of an ETO. They do require that certain persons or bodies are consulted. These include the chief officer of police. The Council has consulted statutory consultees.

Human Rights

Articles 1 and Article 8 of the Protocol to the European Convention of Human Rights (which are enshrined in the 1998 Act) confirm as follows

Article 1 "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and the general principles of international law. The preceding provisions shall not, however, in any way impair the right of the state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest...."

Article 8 "Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country. For the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others'.

To the extent that Articles 1 and/or 8 applies it is considered that the decision to introduce experimental traffic orders to create School Streets is justified in the public interest given the anticipated positive outcomes outlined above.

Consultation

Full council passed a motion, on 2nd April 2019, that resolves: *To implement the Ealing Labour manifesto and pilot School Streets with a view to implementing School Streets or No-Idling Zones around every suitable primary school in the borough by 2022.*

Consultation was undertaken with all the individual schools, who agreed to manage the experimental school streets.

Local ward members were made aware of the schools in their wards that were invited to participate.

Following the Cabinet's resolutions, the Director of Place Delivery consulted the two Portfolio Holders (Cllr Julian Bell, Portfolio Holder for Regeneration and Transport, and Cllr Mik Sabiers, Portfolio Holder for Environment and Highways).

Date(s) of consultation with Portfolio Holders:

The Ealing (Gifford School Street) (No. 1) Experimental Traffic Order 2020	20/08/20
The Ealing (Mayfield School Street) (No. 1) Experimental Traffic Order 2020	20/08/20
The Ealing (School Streets) (No. 1) Experimental Traffic Order 2020 (Oaklands)	20/08/20
The Ealing (Ark Priory School Street) (No. 1) Experimental Traffic Order 2020	20/08/20
The Ealing (Grange School Street) (No. 1) Experimental Traffic Order 2020	20/08/20
The Ealing (St Marks School Streets) (No. 1) Experimental Traffic Order 2020	20/08/20
The Ealing (St Johns School Streets) (No. 1) Experimental Traffic Order 2020	20/08/20
The Ealing (Vicars Green School Streets) (No. 1) Experimental Traffic Order 2020	20/08/20
The Ealing (Willow Tree School Street) (No. 1) Experimental Traffic Order 2020	20/08/20
The Ealing (Berrymede School Street) (No. 1) Experimental Traffic Order 2020	20/08/20
The Ealing (Derwentwater School Street) (No.1) Experimental Traffic Order 2020	20/08/20
The Ealing (North Ealing School Street) (No. 1) Experimental Traffic Order 2020	20/08/20
The Ealing (Holy Family School Street) (No. 1) Experimental Traffic Order 2020	20/08/20

Equalities Analysis Assessment

The Cabinet Report which approved the *“Active travel and social distancing measures in response to Covid-19 and to aid economic and social recovery from the Covid-19 pandemic”* (COVID transport measures programme) in June 2020 states:

“Given that the measures contained within the COVID transport measure[s] programme align with the LIP programme, it is not felt necessary to undertake a separate Equalities Impact Appraisal for this programme.”

Therefore, the EQIA undertaken for the LIP (Local Implementation Programme (which is the statutory Transport Strategy for the Council) applies and it does not raise any significant negative impacts for schemes similar to this.

Having said this, the Council takes its duties towards protected groups very seriously, and consideration of any potential impacts are embedded in the Council's processes. In this instance, the qualified engineers who undertook the design, use National and Regional guidance and standards including the Manual for Streets (DfT), Traffic Signs Regulations and General Directives (DfT) and London Streetscape Guidance (TfL). Should any significant impact on any protected group become apparent, then a more detailed analysis would be initiated. However, no significant negative impacts were considered likely, mainly because all properties maintain access at all times.

In addition, given that the experimental School Streets are enforced by a wheeled barrier, managed by a steward. The steward's role is to move the barrier to allow permitted vehicles to access the street. All emergency vehicles and Blue Badge holders are exempt from the School Street restrictions. The barrier is placed across the road, at the closure point, and will not obstruct the footway. It is stored safely at the school and is moved to the closure point by the stewards.

Decision

To allow experimental School Streets to be implemented under an Experimental Traffic Order, for up to 18 months. The School Streets will be managed by stewards from the school community (parents, staff, Governors, residents).

The School Streets will be monitored through engagement with the schools and the local community.

No decision has been made on whether to make the experimental School Streets permanent, this would only happen following the conclusion of the ETO consultation period.

Reasons

The Director of Place Delivery had regard to the Secretary of State's statutory guidance, the TfL guidance, the officer report to Cabinet, the Cabinet resolutions, the consultation responses of the Portfolio Holders, the consultation responses of statutory consultees, other representations, human rights (including Article 8 and Article 1 of the First Protocol) and the Equality Analysis Assessment (along with the officer report advice that a subsequent EAA was not required*, as well as the officer report section dedicated to equalities, human rights and community cohesion). The Director of Place Delivery appreciated that the public sector equality duty applies to the making of ETOs as well as to permanent traffic orders. The Director of Place Delivery noted that the needs of those with protected characteristics,

including in particular the needs of disabled people, are an integral part of the design and assessment process when making ETOs, that none of the ETOs made changes to any disabled parking bays and that the design assessment did not identify any specific additional accessibility issues for disabled persons over and above the restrictions on vehicular access which affect vehicle traffic generally. The Director of Place Delivery had in mind the duty in section 122(1) of the 1984 Act, the factors in section 122(2) and then balanced the various considerations. The Director of Place Delivery considered permanent orders and temporary orders as possible alternatives to ETOs, but decided against these on the basis that permanent orders would be inconsistent with the statutory and TfL guidance supporting quick action given the urgency of the crisis and on the basis that ETOs would provide more flexibility than temporary orders in terms of future traffic management. The Director of Place Delivery also had regard to the 6 months objection period for ETOs and the proposed review of the ETOs during this period. The Director of Place Delivery concluded that the ETOs had the following benefits: support for the Council’s recovery programme, climate emergency action plan and air quality priorities; encourage active travel measures to enable residents to walk and cycle around the Borough, assist social distancing, relieve public transport capacity and reduce the need for private car journeys; active travel is affordable, delivers significant health benefits, improves well-being, mitigates congestion, improves air quality and can help with individual resilience.

Having regard to all the above, and having concluded that the making of the ETOs was consistent with the public sector equality duty, did not violate human rights and was appropriate having conducted the balancing exercise under section 122 of the 1984 Act, the Director of Place Delivery decided that the ETOs for the School Streets measures should be made.

Dates of decisions:

The Ealing (Gifford School Street) (No. 1) Experimental Traffic Order 2020	21/08/20
The Ealing (Mayfield School Street) (No. 1) Experimental Traffic Order 2020	21/08/20
The Ealing (School Streets) (No. 1) Experimental Traffic Order 2020 (Oaklands)	21/08/20
The Ealing (Ark Priory School Street) (No. 1) Experimental Traffic Order 2020	21/08/20
The Ealing (Grange School Street) (No. 1) Experimental Traffic Order 2020	21/08/20
The Ealing (St Marks School Streets) (No. 1) Experimental Traffic Order 2020	21/08/20
The Ealing (St Johns School Streets) (No. 1) Experimental Traffic Order 2020	21/08/20
The Ealing (Vicars Green School Streets) (No. 1) Experimental Traffic Order 2020	21/08/20
The Ealing (Willow Tree School Street) (No. 1) Experimental Traffic Order 2020	21/08/20
The Ealing (Berrymede School Street) (No. 1) Experimental Traffic Order 2020	21/08/20
The Ealing (Derwentwater School Street) (No.1) Experimental Traffic Order 2020	21/08/20
The Ealing (North Ealing School Street) (No. 1) Experimental Traffic Order 2020	21/08/20
The Ealing (Holy Family School Street) (No. 1) Experimental Traffic Order 2020	21/08/20

The Council published notices of making, publicised the making of the ETOs and made the deposited documents available for inspection. The emergency services, including London Ambulance Service, are content with the final scheme designs. The School Streets ETOs shall come into force on 2 November 2020.

*The Council has carried out a further Equality Analysis Assessment. It has not caused the Director of Place Delivery to alter her conclusions.

Signature

A handwritten signature in black ink, appearing to be a stylized name, possibly 'S. Jones', written over a horizontal line.

Date of publication of decision: 26 October 2020

NB Scanned copy of signed decision to be sent to cabinetreports@ealing.gov.uk

Please refer to the Decision Making Toolkit for further guidance

http://inside.ealing.gov.uk/downloads/download/100/decision_making_toolkit

School Streets

APPENDIX A

SCHOOL	Address	Area	Times
Ark Priory Primary Academy	Acton Lane	Acton	8.00 to 9.45am 2.15 to 4.15pm
Berrymede Infant and Junior School	Osborne Road	Acton	8:30 - 9:30am 2:30 - 3:30pm
Derwentwater Primary School	Shakespeare Road	Acton	8.30-9.15am 2.45pm-3.45pm
Gifford Primary School	Greenhill Gardens	Northolt	8.30 to 9.15am 2.45 to 3.45pm
Grange Primary School	Church Gardens	Ealing	8.30 to 9.30am 2.45 to 3.45pm
Holy Family Catholic Primary School	Vale Lane	West Acton	8:15 - 9:15am 3:00 - 4:00pm
Mayfield Primary School	High Lane	Hanwell	7.30am to 5.30pm (only affects resident garages)
North Ealing Primary School	Pitshanger Lane	Ealing	8.30-9.15am 2.45-3.15pm
Oaklands Primary School	Oaklands Road	Hanwell	8.15 to 9.15am 2.45 to 3.45pm
St John's Primary School	Green Man Lane	West Ealing	8.30 to 9.20am 2.45 to 3.30pm
St Mark's Primary School	Lower Boston Road	Hanwell	8.15am – 9.15 2.30pm – 3.30pm
Vicars Green Primary School	Lily Gardens	Perivale	8.30 to 9.30am 3.00 to 3.45pm
Willow Tree Primary School	Priors Farm Lane	Northolt	8.15 to 9.15am 2.45 to 3.45pm