

Roads Directorate

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Your ref:
RSO1805/RM

Our ref:
A28031421

Date:
24 July 2020

Issued via email: Andrew.Easson@edinburgh.gov.uk

Dear Mr Easson,

THE CITY OF EDINBURGH COUNCIL (ROSEBURN TO HAYMARKET AREA EDINBURGH) (REDETERMINATION OF MEANS OF EXERCISE OF PUBLIC RIGHT OF PASSAGE) ORDER 201_

1. I refer to the letter dated 3 August 2018 from your Council seeking confirmation from the Scottish Ministers of the above Redetermination Order and to subsequent correspondence received.
2. Following careful consideration of all of the evidence available, including the objections to the Order received by the Council; the Council's responses to those objections and the Report to Scottish Ministers from the Planning and Environmental Appeals Division (DPEA); the Scottish Ministers have decided to **confirm the Order with modification**.

Background

3. The City of Edinburgh Council is undertaking various public realm and active travel improvements in the city as part of the City Centre West to East Cycle Link and Street Improvements Project (CCWEL). The above Order has been promoted by the council as local roads authority under the Roads (Scotland) Act 1984. It relates to the public right of passage of Roseburn Terrace, West Coates, Haymarket Terrace and adjoining roads, Edinburgh.
4. The Order was advertised during a period ending on 18 May 2018. The Council took account of objections made during this period, totaling 36 objections, as have the Scottish Ministers in reaching this determination. As required by The Stopping Up of Roads and Private Accesses and the Redetermination of Public Rights of Passage (Procedure) (Scotland) Regulations 1986 the Council remitted the matter to Scottish Ministers on 3 August 2018.
5. Given the number and nature of the objections received and not withdrawn, Scottish Ministers referred the case to DPEA on the 26 October 2018. The Reporter held two public hearing sessions on 4 and 5 November 2019 and also invited further written submissions which

he duly considered. The Reporter's Report was received by Scottish Ministers on 5 March 2020.

Consideration by the Scottish Ministers

6. The Scottish Ministers have considered the terms of the Order, made by the Council, the objections made, the responses to the objections by the Council and the performance of the Council in relation to the procedural requirements for making an Order under the Stopping Up of Roads and Private Means of Accesses and the Redetermination of Public Rights of Passage (Procedure) (Scotland) Regulations 1986 ("the 1986 Regulations").

7. Ministers have considered the form and content of the Order to satisfy themselves that it was on the face of it within the powers of the Council to make and that it complied with the relevant statutory procedures. Ministers carefully considered the parties' cases both for and against the Order. They took the view that the central issue in this matter is that the redetermination is necessary to transform the nature and operation of the streets to deliver improved facilities for both pedestrians and cyclists.

8. The Scottish Ministers have also carefully considered the DPEA's Reporter's Report by Mike Croft dated 4 March 2020 which recommended that the Redetermination Order be confirmed with modification.

Modifications

9. The City of Edinburgh Council has acknowledged some of the objectors concerns about user safety, either in general terms or at specific locations. The concerns include those about the width of the proposed cycle track and its separation from the carriageway, and about pedestrian safety in relation to the cycle track, at floating bus stops and at pedestrian crossings. The Council therefore put forward a slightly altered design for the exit at the northern end of Roseburn Gardens which the Scottish Ministers have considered and are content with

10. The modifications to the Order are:

(a) In Schedule 2, under the headings "Roseburn Gardens" and "East Side", the text "E4" shall be deleted and substituted with "B4".

(b) In Schedule 4, under the headings "Roseburn Gardens" and "West Side", the text in paragraph 1 shall be deleted and substituted with the following wording: "All that part of the footway on the west side of Roseburn Gardens from a point 2 metres or thereby south of the intersection of the west kerbline of Roseburn Gardens and the south kerbline of Corstorphine Road southwards, for a distance of:

(i) 4.5 metres or thereby and which has a width that varies from 0 metres or thereby to 1 metre or thereby and then

(ii) 4 metres or thereby and which has a width that varies from 1 metre or thereby to 2 metres or thereby and then to 0 metres or thereby. (marked D4 on the attached plan)"

(c) In Schedule 4, under the headings "Roseburn Gardens" and "East Side", insert a new paragraph 2 as follows: "All that part of the footway on the east side of Roseburn Gardens from a point 7 metres or thereby south of the intersection of the east kerbline of Roseburn Gardens and the south kerbline of Corstorphine Road southwards, for a distance of 1.5 metres or thereby

and which has a width that varies from 1 metre or thereby to 0 metres or thereby. (marked E4 on the attached plan)”

Conclusion

11. Given all of the above evidence, the Scottish Ministers have concluded that THE CITY OF EDINBURGH COUNCIL (ROSEBURN TO HAYMARKET AREA EDINBURGH) (REDETERMINATION OF MEANS OF EXERCISE OF PUBLIC RIGHT OF PASSAGE) ORDER 201_ should be confirmed with modification.

12. A copy of this decision letter will also be sent to all objectors to the Order.

13. It is now the responsibility of The City of Edinburgh Council to publish notice of the confirmation of this Order in the manner prescribed by regulation 7 of the 1986 Regulations.

Yours faithfully,

Donald Morrison
Head of Asset Management and Procurement