FIRST DIVISION, INNER HOUSE, COURT OF SESSION

[2025] CSIH 31
XA15/25

Lord President
Lady Wise
Lord Clark

OPINION OF THE COURT

delivered by LORD PENTLAND, the LORD PRESIDENT

in the appeal under paragraph 35 of Schedule 9
to the Road Traffic Regulation Act 1984

by

NORMAN ESSLEMONT

Appellant

against

ABERDEEN CITY COUNCIL

Respondent

Appellant: Burnet KC, Sutherland, sol adv; Burness Paull LLP
Respondent: Byrne KC; Morton Fraser MacRoberts LLP

9 December 2025

Introduction

[1] The appellant has been a retailer in Aberdeen City Centre for about 60 years. He is a partner in a retail business, Esslemonts, which has premises on Thistle Street. He was formerly managing director of Esslemont and Macintosh, a well-known department store on Union Street.

[2] The appellant challenges the respondent's decision of 17 January 2025 to make a traffic regulation order: the Aberdeen City Council (City Centre, Aberdeen) (Traffic Management) Order 2025 ("the TRO"). In broad outline, the effect of the TRO is to prohibit private vehicles from using certain defined sections of public roads in Aberdeen city centre. The TRO continued indefinitely the effect of an experimental order made two years previously. The appellant contends that it was not within the respondent's powers to make the TRO and that certain procedural requirements for making it were not complied with.

Background

[3] The respondent issued the Aberdeen City Centre Masterplan in 2015. One of the key aims of the Masterplan was to improve transport infrastructure in Aberdeen. This included the introduction of bus priority measures within the city and on its approaches. The Masterplan envisaged that some streets in the city centre would be reserved for bus, cycle and taxi use only. This was to be achieved, in part, by the installation of bus gates at key intersections of the city centre to ensure that buses were not adversely affected by traffic congestion.

[4] In February 2021, the respondent submitted a bid to the Scottish Government's Bus Partnership Fund. On 18 June 2021, the Scottish Ministers offered the respondent a grant of £12,030,000 to assist in the implementation of the bus priority measures in Aberdeen city centre, which included £10,000,000 for improvement works in the vicinity of South College Street. The grant was to be payable over the financial years 2021/2022 and 2022/ 2023.

[5] Subsequently, the respondent used the powers conferred on it by sections 9, 10 and 14 of the Road Traffic Regulation Act 1984 ("the RTRA") to make the Aberdeen City Council (City Centre, Aberdeen) (Traffic Management) (Experimental) Order 2023 on 24 July

2023 ("the ETRO"). An ETRO allows a local authority to introduce new traffic measures while simultaneously receiving feedback from the public and interested stakeholders on their effect. The ETRO came into force on 1 August 2023. Under section 9(3) of the RTRA, the ETRO had a testing period of 18 months. The respondent used the grant funding from the Scottish Government to carry out various street works to implement the bus prioritisation measures. These included the creation of bus priority and local access only restrictions on Union Street, Market Street, Guild Street and Bridge Street.

[6] The operation of the ETRO was strongly opposed by several stakeholders in the Aberdeen business community between 2023 and 2024. Those sections of the business community considered that the ETRO had led to a reduction in footfall and sales for businesses in the city centre.

[7] With the end of the testing period approaching, the respondent had to consider whether to make the ETRO permanent. Its officers submitted a report on the operation of the ETRO to the Net Zero, Environment and Transport Committee for consideration at its meeting on 11 June 2024. The report recorded that over 500 objections had been received to the ETRO. Notwithstanding those objections, the respondent's officers recommended, following a review of all the relevant factors, that the committee should vote to make the ETRO permanent. The committee voted on the proposal and, by a majority of 6 to 3, it resolved to make the ETRO permanent, subject to two changes. The minority insisted, as they were entitled to do, that the vote be referred to a full sitting of the Council for determination.

[8] On 11 October 2024 the meeting of the full Council took place. Before the meeting, the respondent's officers produced a second report: it maintained the recommendation to make the ETRO permanent. Officers were concerned that, if the ETRO was not made

permanent, there would be: (i) a detrimental impact on the improvements which had been experienced in bus journey times; and (ii) a risk that the grant might have to be repaid. The second report also responded to the "Common Sense Compromise". That referred to a compromise proposal put forward by local media, a consortium of businesses in the city centre and business representatives, including the appellant. Key amongst their suggestions was for the bus gates, which had been installed as part of the ETRO, to be removed. The respondent's officers considered that the "Common Sense Compromise", if implemented, would fundamentally undermine the purpose of the ETRO being made permanent.

[9] By a majority of 21 to 15, the recommendations of the respondent's officers in the second report were accepted by the full sitting of the Council: the ETRO was to be made permanent, subject to a modification removing the prohibition on right turns from Union Terrace to Rosemount Viaduct.

[10] That modification was, however, to prove problematic. In October 2024, the respondent's officers notified the Urgent Business Committee that the modification was incompetent. The committee met on 18 December 2024 to consider the officers' concerns. It allowed Adrian Watson, Chief Executive Officer of Aberdeen Inspired, who was also appearing on behalf of the Aberdeen & Grampian Chamber of Commerce, the Federation of Small Businesses and Our Union Street, to make representations against the ETRO being made permanent. Mr Watson requested that the council reconsider its position on making the ETRO permanent. Notwithstanding his submission, the committee, by a majority of 4 to 3, voted to remove the modification proposed in October while still making the ETRO permanent.

[11] The respondent formally made the TRO on 17 January 2025 and it came into effect on 31 January 2025.

[12] In January 2025, the appellant instructed his solicitors to write to the respondent contending that it could not convert the ETRO into a TRO unless it had obtained the consent of the Scottish Ministers. He also submitted that the respondent's decision to convert the ETRO into a TRO was outwith its powers. The respondent did not agree. This led to the appellant bringing this appeal.

The statutory framework

[13] Insofar as it applies to Scotland, section 1 of the RTRA permits the traffic authority for a road to make a TRO where it appears to the authority making the TRO that it is expedient to make it to achieve one or more of the purposes prescribed in sub-paragraphs (a) to (g). These purposes include facilitating the passage on the road or any other road of any class of traffic (including pedestrians) and preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property.

[14] Section 9 permits a traffic authority to make an order "for the purposes of carrying out an experimental scheme of traffic control".

[15] In terms of section 122 the local authority has a duty to exercise its functions as traffic authority to "secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off … the road". In doing so, the authority should, so far as practicable, have regard to the matters set out in subsection (2)(a) to (d); these include "(a) the desirability of securing and maintaining reasonable access to premises".

[16] Paragraph 13(1) of Schedule 9 to the RTRA provides *inter alia* as follows:

"Where in the case of any order proposed to be made by a local authority … under or by virtue of … [section] 1 … it is proposed to include in the order any provision—

> (a) so prohibiting or restricting the use of a road as to prevent, for more than 8 hours in any period of 24 hours, access for vehicles of any class to any premises situated on or adjacent to that road or any other premises accessible for vehicles of that class from, and only from, that road…

then (except in a case to which sub-paragraph (2) … applies …) the order shall not be made without the consent of the [Scottish Ministers]."

[17] Sub-paragraph (2) provides *inter alia* as follows:

"This sub-paragraph applies where—

> …
> (b) …
> (i) no owner, lessee or occupier of premises such as are mentioned in sub-paragraph (1)(a) above has submitted to the authority any objection to the inclusion of that provision in the order…"

[18] Paragraph 34 of Schedule 9 provides *inter alia* as follows:

"(1) This Part of this Schedule applies—

> (a) to any order made under or by virtue of any of the following provisions of this Act, namely, [section] 1…
>
> …

(2) In this Part of this Schedule—

> …
> (b) "the relevant requirements", in relation to any such order as is mentioned in sub-paragraph (1)(a) above, means any requirement of … any provision of this Act with respect to such an order…"

[19] Paragraph 35 of Schedule 9 provides *inter alia* as follows:

"If any person desires to question the validity of, or of any provision contained in, an order to which this Part of this Schedule applies, on the grounds—

> (a) that it is not within the relevant powers, or
> (b) that any of the relevant requirements has not been complied with in relation to the order,

he may, within 6 weeks from the date on which the order is made, make an application for the purpose to the … Court of Session."

[20] Paragraph 36 of Schedule 9 provides *inter alia* as follows:

> "(1) On any application under this Part of this Schedule the court—
> …
> (b) if satisfied that the order, or any provision of the order, is not within the relevant powers, or that the interests of the applicant have been substantially prejudiced by failure to comply with any of the relevant requirements, may quash the order or any provision of the order."

[21] The Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 prescribe the procedure to be followed in Scotland for making the main types of traffic and parking orders under the RTRA. The Regulations applied to the ETRO and the TRO.

[22] Regulations 4, 5, 6 and 7 govern the procedure to be followed before an order is made; they contain rules governing consultation, publication of proposals, giving notice of proposals and the making of objections to proposals.

[23] Regulation 8(1)(c) provides that before making any order to which the Regulations apply, the authority must hold a hearing where *inter alia*:

> "…the order is one which requires the consent of the [Scottish Ministers] under paragraph 13 of Schedule 9 to the [RTRA], and [they have] notified the authority that [they] will not be willing to consider giving [their] consent to the making of the order until a hearing has been held by the authority in connection with it."

[24] Regulation 8(2) provides that hearings are to be conducted by an independent reporter appointed by the Scottish Ministers.

[25] In terms of regulation 17(1)(b), the authority is obliged *inter alia* to notify in writing each person who has objected to the order in accordance with regulation 7 and has not withdrawn his objection, of the authority's reasons for making the order in spite of the objection.

[26] Regulation 20B(5) provides that any objection to the making of an experimental order is to be treated as if it was an objection to the order being made permanent where the effect

of the permanent order is to reproduce and continue in force indefinitely the provisions of a relevant experimental order.

The appellant's submissions

[27] These may be summarised as follows. The appellant has been substantially prejudiced by the respondent's procedural breach. The requirement to show substantial prejudice for the purposes of paragraph 36(1)(b) of Schedule 9 to the RTRA should not be construed too rigidly (*Walton* v *Scottish Ministers* [2012] UKSC 44; 2013 SC (UKSC) 67, 111 and 154). An applicant's interest may be established through his participation as a member of a campaign group (*Bruce* v *Moray Council* [2023] CSIH 11; 2023 SC 197, [29]).

[28] The respondent failed to comply with paragraph 13(1)(a) of Schedule 9. It required to seek the Scottish Ministers' consent before making the TRO, given that it prohibits, restricts and prevents access for more than 8 hours in a period of 24 hours to Union Street, Bridge Street, Guild Street and Market Street. Having failed to comply with that condition, the TRO ought to be quashed.

[29] The perceived risk of having to repay grant funding to the Scottish Ministers was an irrelevant consideration in making the TRO (*R (on the application of East Bergholt Parish Council)* v *Babergh DC* [2019] EWCA Civ 2200, 82 and 87). Separately, the making of the TRO to avoid such a risk was an improper purpose. The grant funding did not relate to any of the statutory purposes for making a TRO.

[30] The respondent did not act fairly in balancing the relevant considerations and attached undue weight to the benefits of making the TRO. Separately, the ETRO had not been experimental. The correspondence between the local public transport operators and the Chief Officer of Strategic Place Planning for the respondent demonstrated that he sought to

influence a particular outcome. The respondent had attached no (or insufficient) weight to the evidence and representations on economic impact stemming from the decline in footfall.

[31] Regulation 17 of the 1999 Regulations required the respondent to give reasons for its decision. Those reasons required to be adequate and intelligible. Notwithstanding that requirement, the respondent failed to explain: (i) the basis for the making of the TRO on 11 October 2024; and (ii) the basis upon which it had decided that it was expedient to include the modification for the TRO on 11 October 2024 and then subsequently remove it in December 2024.

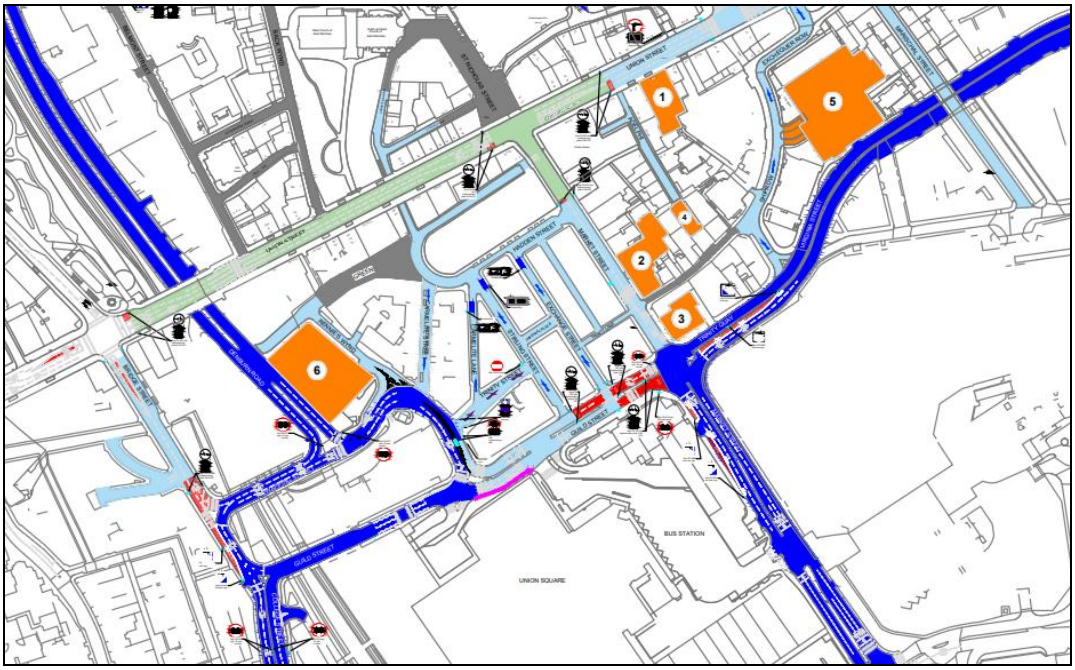
The respondent's submissions

[32] The following is a summary. The appellant failed to identify any substantial prejudice that he had suffered because consent had not been obtained from the Scottish Ministers. Substantial prejudice to the interests of the appellant was an essential prerequisite to the quashing of the TRO if any relevant requirements had been infringed (*Tomkins* v *City of London Corporation* [2020] EWHC 3357 (Admin), 66).

[33] The TRO restricted access to parts of Union Street, Bridge Street, Guild Street and Market Street for certain and specific times during the day. The appellant purported to represent the interests of several objectors on these roads. Paragraph 13(1)(a) of Schedule 9 requires an objector to be "on or adjacent" to the road subject to TRO and not located beyond the road affected by TRO. The use of the words "on or adjacent" emphasised the need for properties to be directly at the road subject to the restriction. In any event, it remained possible to access the premises of these objectors, notwithstanding the restrictions

of the TRO. The respondent provided the following table and plan illustrating and explaining how access remained viable:

1	Annie Mo's	39 Union Street	Kerbside can be accessed travelling west along Union Street with vehicles progressing through the bus gate if permitted or turning at Adelphi and heading eastbound along Union Street, if not.
2	Douglas Hotel	43-45 Market Street	Kerbside can be accessed by vehicles accessing the area through the Merchant Quarter, Hadden Street onto Market Street, and exiting south, down Market Street, while the same applies to that route vice versa.
3	Gamola Golf	53 Market Street	As above.
4	Core Citi Lets	19 Adelphi	Access travelling west along Union Street with vehicles turning in Adelphi and exiting towards the east.
5	NCP	6 Shiprow	Access from Shiprow with exit onto Virginia Street.
6	Q Park	Wapping Street	Access from Wapping Street onto Rennie's Wynd with exit onto Carmelite Street (B983)."



Excerpt of the TRO Plan. Objectors shown in orange and numbered. Traffic restrictions shown in red.

As all the premises upon which the appellant relied were unaffected by the TRO, the respondent did not require the consent of the Scottish Ministers.

[34] The TRO was made for a legitimate statutory purpose. Section 1 of the RTRA provided a traffic authority with a discretion to make an order where they considered it to be expedient for one of the purposes described in section 1(a) to (g). The purpose of making the TRO was to enhance bus reliability, travel time and to create an improved environment for pedestrians and cyclists. It was expedient for the respondent to have regard to the financial implications of making a TRO to promote amenity. What was a relevant consideration was a matter for the respondent, subject to the choice of consideration not being excluded by statute or being intrinsically irrational.

[35] The balancing of the various considerations over whether to make the TRO was a matter for the respondent, operating in the political field, and amenable to challenge on the basis of *Wednesbury* unreasonableness alone (*St Modwen Developments Ltd* v *Secretary of State for Communities and Local Government* [2017] EWCA Civ 1643, 6). Section 1 of the RTRA did not mandate the factors to be considered by the respondent (*R (Hurst)* v *London Northern District Coroner* [2007] UKHL 13; [2007] 2 AC 189, 57 – 58). The respondent had regard to the economic implications of the TRO and considered that it would promote business and the economy. What weight it gave to that consideration was a matter for the respondent, not the court. The TRO was issued further to a decision of a full sitting of the Council.

[36] The purpose of the ETRO was clearly explained. It was to trial the effect of bus priority routes. The respondent had regard to the objections made to the ETRO. The respondent explained its reasons for rejecting those objections. Likewise, the respondent had given cogent reasons in its email to objectors on 17 January 2025 to explain the basis for: (i) making the TRO; and (ii) the removal of the prohibition on right turns from Union

Terrace onto Rosemount Viaduct from the TRO. The respondent had complied with its duty under regulation 17(1)(b) of the 1999 Regulations.

Analysis and decision

[37] Under his first ground of challenge the appellant complains that the respondent failed to comply with a "relevant requirement" in relation to the Aberdeen City Council (City Centre, Aberdeen) (Traffic Management) Order 2025 because it did not seek the consent of the Scottish Ministers to the making of the order. The court is empowered to quash the TRO only if satisfied that the appellant has been substantially prejudiced by the failure (paragraph 36(1) of Schedule 9 to the Road Traffic Regulation Act 1984). The respondent contends that the appellant has not been substantially prejudiced because he has no legitimate interest in any property affected by the TRO; he is not an owner, lessee or occupier of any property on or adjacent to any of the roads whose use is restricted by the TRO. Moreover, he did not object to the making of the TRO.

[38] In our opinion, this argument takes too narrow and legalistic a view of the requirement to show that the appellant is substantially prejudiced by the alleged procedural failure. The reality is that the appellant has played a central role in organising and leading opposition to the making of the TRO on behalf of significant sections of the business community in Aberdeen. He was actively engaged in attempting to persuade the respondent to adopt the "Common Sense Compromise". Acting on behalf of a significant number of local traders, he instructed solicitors to make representations to the respondent in opposition to the TRO. He used his profile as a person of standing in the business community to launch and promote a successful crowdfunding campaign; this attracted support from many local businesses. The appellant has a strong local connection and claims

that the TRO has adversely affected footfall and sales in the city centre where he has retail premises.

[39] In a not dissimilar manner to the appellant in *Bruce* v *Moray Council* [2023] CSIH 11; 2023 SC 197 he has demonstrated a genuine concern about what he contends is an illegality in the making of the TRO: *Bruce* [29]; and *Walton* v *Scottish Ministers* [2012] UKSC 44; 2013 SC (UKSC) 67, 86 – 89. Had the respondent sought the consent of the Scottish Ministers to the making of the TRO they might well have ordered a hearing before a reporter in which the appellant would have had the opportunity to participate in his capacity as a leading member of the local business community and the coordinator of the crowdfunding campaign. Given the nature and extent of the appellant's involvement in leading the campaign of opposition to the making of the TRO, we consider that he can properly claim to have been substantially prejudiced by the alleged procedural failure to obtain the consent of the Scottish Ministers to the making of the TRO. It cannot be said that his interest is trivial or minimal. On the contrary, it is substantial and undoubtedly genuine. For similar reasons we consider that the appellant is entitled to complain that there has been inadequate notification of the reasons for making the TRO.

[40] The requirement to obtain ministerial consent does not arise where no owner, lessee or occupier of premises such as are mentioned in sub-paragraph (1)(a) of paragraph 13 of Schedule 9 to the RTRA has submitted any objection to the inclusion of a provision of the type referred to in sub-paragraph (1). The type of provision referred to there is one:

> "so permitting or restricting the use of a road as to prevent, for more than 8 hours in any period of 24 hours, access for vehicles of any class to any premises situated on or adjacent to that road".

[41] The owners, lessees and occupiers of premises who are said to have submitted relevant objections for the purposes of sub-paragraphs (1) and (2) of paragraph 13 are

agreed to be those listed in the table set out in paragraph [33] above. Ultimately, the appellant did not dispute that each of those businesses could obtain access to their premises by the means described in the table.

[42] Paragraph 13(1)(a) is best understood by identifying that it contains several different elements, each of which requires to be satisfied before the provision is engaged. First, it covers provisions included in an order which prohibit or restrict the use of a road. Secondly, it applies to prohibitions or restrictions on the use of a road which prevent for more than 8 hours in any period of 24 hours access for vehicles. Thirdly, it makes clear that it refers to prohibitions or restrictions preventing access to any premises situated on or adjacent to the road or any other premises accessible to vehicles only from the road.

[43] There is no dispute that the TRO prohibits or restricts vehicular access to the roads specified therein for the requisite period. The respondent does not accept that any of the premises listed in the table set out in paragraph [33] above are on or adjacent to a part of a road which is affected by a restriction, but the argument can be tested on the hypothesis that at least some of them are so situated. The pivotal question then resolves itself into whether it can be said that access is prevented to any of the premises, the operative word in the provision being "prevent". The appellant argued that any reduction in access was sufficient to amount to access being prevented within the meaning of the sub-paragraph. We do not agree that this is a tenable construction of the word "prevent" in the context of the statutory provision. The word should be given its ordinary meaning, which is to stop something from happening or someone from doing something. The *Oxford English Dictionary* (2nd ed. 1989) defines prevent as meaning: "to stop, keep, or hinder a person or other agent from doing something". The normal meaning of the word does not extend to reducing the ability of a person to do something. The appellant's construction would mean that any reduction in

access, however minor, would require the authority to obtain ministerial consent before making an order. This would be unrealistic and would impose excessive and disproportionate burdens on central government. It seems highly unlikely that the legislature intended that every TRO having any degree of impact on access to premises on or adjacent to an affected road would require ministerial consent before it could be made. We consider that the appellant has failed to show that access to any of the premises identified as relevant for the purposes of the appeal has been prevented. It follows that there has been no failure on the part of the respondent to comply with a relevant requirement. The first ground of appeal must, therefore, fail.

[44] The second ground of appeal concerns the appellant's contention that it was unlawful for the respondent to take account of the possibility that grant funding awarded by Transport Scotland for improvement works to South College Street might have to be repaid. It was argued that this was an irrelevant consideration and that the respondent pursued an improper purpose by resolving to make the TRO to avoid this perceived risk. To take account of this possibility was said to be inconsistent with the overarching statutory duty to secure the expeditious, convenient and safe movement of vehicular traffic.

[45] In our opinion, there is no merit in this ground of appeal. The respondent's reasons for making the TRO were set out in a statement of reasons. This explained that bus priority measures in the form of bus gates/lanes were being established in the city centre to enhance bus reliability and travel time. The removal of through traffic would establish an improved environment for pedestrians and cyclists. The key reasons for making the TRO were obviously to improve amenity and improve the city centre environment. The appellant's argument that in making the TRO the respondent was pursuing an improper purpose is fatally undermined when the true reasons for making the TRO are understood.

[46] In any event, the respondent had a wide discretion under the statutory scheme to do what it considered to be expedient in the public interest. Section 1(1) of the RTRA provides that the authority may make an order where it appears to it that making the order is expedient for a wide range of purposes concerned with improving and preserving amenity and promoting suitable use of the road by what the authority considers to be suitable and appropriate types of traffic. The use of the term "expedient" emphasises the width of the authority's discretionary powers. The word implies no more than that the authority's action should be appropriate in all the circumstances (*R (HSE)* v *Wolverhampton City Council* [2012] UKSC 34; [2012] 1 WLR 2264, 24 – 26). It is for the authority to consider for itself what it regards as expedient in this context and its decision on the point will only be capable of being interfered with where it can be demonstrated to be irrational (*R (Hurst)* v *London Northern District Coroner* [2007] UKHL 13; [2007] 2 AC 189, 57, citing *CREEDNZ Inc* v *Governor General* [1981] 1 NZLR 172, 183).

[47] As part of its decision on 11 October 2024 to make the TRO the respondent agreed that in accepting grant funding for the South College Street project, there was an expectation from the Scottish Ministers that bus priority measures would be installed within the city centre and, should this not be the case, the conditions of the grant award letter explicitly provided for Transport Scotland to recover funding from the respondent. The respondent noted that should the bus prioritisation measures implemented following the South College Street improvements change, there was a risk that Transport Scotland would seek to recover funding they had provided for the project. The Chief Officer of Finance advised that a contingent liability would have to be recorded in the respondent's financial performance reports and that if the matter was not resolved by 31 March 2025 provision would have to be

made in the draft annual accounts for the repayment of grant funding. This would not be in accordance with the respondent's approved risk appetite statement.

[48] Given the width of the respondent's discretionary power to make an order if it appeared to it expedient so to do, there can be no doubt that it was at least reasonable for the respondent to have regard to the possibility that the grant funding might have to be repaid if the TRO was not made. Where a public authority has to consider whether to exercise a discretionary power to achieve a public objective, it is entitled and usually required to take into account the cost to the public of so doing, at least to the extent of considering whether the cost is proportionate to the aim sought to be achieved. The weight to be attached to cost considerations is a matter on which the authority should reach its own judgement. There is nothing at all surprising or in any sense improper about the respondent taking account of the financial implications for the public purse when considering whether to make the TRO. The respondent was entitled to have regard to the possibility that the grant funding might have to be repaid if the TRO was not made. This was quintessentially a matter for it to address in the exercise of its broad discretionary powers. It follows that the second ground of appeal must fail.

[49] Grounds 3 and 4 were only faintly argued at the summar roll hearing. They can be disposed of briefly. At its meeting on 11 June 2024 the respondent's Net Zero, Environment and Transport Committee gave detailed consideration to and rejected the "Common Sense Compromise" put forward by opponents of the bus priority measures. They considered the points made about decline in footfall. They had regard to the changing nature of city centres. They accepted officers' advice that, subject to two modifications, the Aberdeen City Council (City Centre, Aberdeen) (Traffic Management) (Experimental) Order 2023 should be made permanent. The respondent concluded that the TRO would promote business and the

local economy. It would support delivery of the Aberdeen City Centre Masterplan, contribute to regeneration of the city and maintain sufficient access for business and industry. These were all conclusions that the respondent was entitled to reach based on the wide range of evidence before it. The weight it chose to give to the various considerations was entirely a matter for the respondent.

[50] There is no substance in the point taken by the appellant to the effect that the Chief Officer of Strategic Place Planning actively sought to weight the June 2024 consultation report in favour of the benefits of making the ETRO permanent in order to influence a particular outcome. The point is immaterial. The challenged decision was taken by a committee of the respondent. There is no suggestion that the committee had regard to inaccurate information from bus operators. The appellant did not seek to argue that the statistical data provided by the bus operators was inaccurate to the extent that the respondent was misled into making an erroneous decision.

[51] As to the point that the ETRO was not truly experimental, this too must be rejected. The respondent explained the purpose of the ETRO when it came into force. In summary, its purpose was to trial in practice the effect of the bus priority routes. The report prepared for the June 2024 committee meeting explained that an experimental order was a method of introducing traffic management measures and simultaneously carrying out consultation on them. The respondent had regard to the objections arising from the experiment. As it was entitled to do, it elected not to accept the points made by the objectors.

[52] Ground 5 challenges the adequacy of reasons given by the respondent. The email sent to objectors explained that the decision to make the TRO was principally made at the meeting of the respondent on 11 October 2024. It stated that, after consideration of the objections via reports of 11 June and 2 October 2024 (to which hyperlinks were provided),

the respondent had resolved to make the TRO. The June report set out in detail the various objections and gave consideration to them. Any objector, on reading the email and the linked documents, would have appreciated that the objections had been rejected for the reasons given in the report.

[53] Separately, the respondent issued a statement of reasons to the public explaining why the TRO had been made and its effect. In particular, the statement of reasons explained that the prohibition of the right turn from Union Terrace to Rosemount Viaduct (except for buses, pedal cycles, taxis and authorised vehicles) was to discourage through traffic from routing via Union Street. Having regard to the totality of information made available to the objectors, the reasons for the respondent's decision to make the TRO were adequately explained.

[54] The appellant argued that the respondent had failed to explain the basis on which it decided that it was expedient to include the modification in the TRO in October 2024 but subsequently to decide in December that it was not necessary or expedient to do so. The email sent to objectors explained that the respondent's Urgent Business Committee on 18 December 2024 instructed that a modification be made to the decision taken on 11 October 2024, "to procedurally meet the [respondent's] decision" to consider the removal of the prohibition on right turns from Union Terrace onto Rosemount Viaduct. The email continued as follows:

> "Accordingly, the proposal to remove the 'no right turns' prohibition at Union Terrace/Rosemount Viaduct from the permanent order will be subject to a statutory public consultation process in the first quarter of 2025, where any objections received against its removal will be reported to a relevant Council committee for consideration."

[55] We consider that this explanation would have been perfectly intelligible to any informed reader.

[56] For the reasons we have given, there is no merit in any of the grounds of appeal. The appeal is accordingly refused.