



## Order Decision

Inquiry opened on 21 October 2014

**by Mark Yates BA(Hons) MIPROW**

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date:

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### Order Ref: FPS/B4215/5/9

- This Order is made under Section 257 of the Town and Country Planning Act 1990 ("the 1990 Act") and is known as the City of Manchester (Library Walk Footpath, Manchester City Centre) (Public Path Stopping Up) (No.2) Order 2014.
- The Order was made by the Council of the City of Manchester ("the Council") on 8 May 2014 and proposes to stop up a footpath, as detailed in the Order Map and Schedule.
- There were 123 objections outstanding at the commencement of the inquiry.

**Summary of Decision: The Order is confirmed.**

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### Procedural Matters

1. I opened a public inquiry into the Order on 21 October 2014 at the Council Chamber in the Manchester Town Hall Extension. The inquiry continued in this venue and the Coroner's Court within Manchester Town Hall on 22-23 October and 6-7 and 24-25 November 2014. I made a visit to the locality of the site prior to the inquiry and observed Lloyd Street on the evening of 22 October 2014. I undertook a visit to the site and the surrounding area accompanied by the interested parties on 25 November 2014.
2. The above Order serves as a replacement for an earlier Order<sup>1</sup> to stop up Library Walk. The need for a second Order arises out of modifications to conditions attached to the planning permission<sup>2</sup> (see paragraph 10 below). It is the second Order that the Council wishes to be confirmed. This means that there is no merit in considering the original Order and it should not be confirmed.
3. A list of the parties who spoke at the inquiry is attached to this decision. Some objectors attended particular sessions and others were present during the whole or the majority of the inquiry. When referring to the "objectors" I do so in relation to issues of concern common to a number of objectors.

### Main Issues

#### *The statutory test*

4. If I am to confirm the Order, I must be satisfied that it is necessary to stop up the footpath to enable development to be carried out in accordance with the planning permission granted. In considering this test, consideration needs to be given to whether the relevant works in relation to the development are substantially complete.

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<sup>1</sup> The City of Manchester (Library Walk Footpath, Manchester City Centre) (Public Path Stopping Up) Order 2014 (Planning Inspectorate ref: FPS/B4215/5/8).

<sup>2</sup> Whilst the works commenced under the original permission, the Council confirms that the modified permission is the one under which they are now proceeding.

### ***Other material considerations***

5. The merits of the planning permission granted for the development is not an issue before me. However, the case of *K. Vasiliou v Secretary of State for Transport and Ladbroke City and County Land Company Limited [1990]* ("*Vasiliou*") makes it clear that the impact of a stopping up on particular parties is a material consideration. This is reflected in paragraph 7.15 of Department for Environment, Food and Rural Affairs Circular 1/09 ("the Circular"), which advises in respect of Orders made under Section 257 of the 1990 Act:

*"That planning permission has been granted does not mean that the public right of way will therefore automatically be diverted or stopped up. Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order".*

### **Background Matters**

6. The Order proposes to stop up the entire length of Library Walk. Although it is not currently recorded as a highway, the Council, which is both the landowner and highway authority, accepts that it has been dedicated as a public footpath. This path proceeds between Mount Street and St Peter's Square and passes the central library and town hall extension.
7. The Council confirms that all of the statutory requirements in relation to the making of the Order have been undertaken. Whether a greater amount of consultation than is required ought to have been undertaken is not something that is necessary for me to explore further. Nor is it my role to consider the consultation process undertaken in relation to the planning application.
8. Whilst matters in relation to the Council's decision-making process may be of interest to the other parties, I need to have regard to the main issues outlined in paragraphs 4-5 above when assessing the merits of the proposed stopping up. The Council is the local planning authority with the power to make such an Order. It is not my role to consider how the Council reached its decision to make the Order and alternative means are available should a person believe that a local authority has not properly made a decision in accordance with its scheme of delegation.
9. Library Walk has been closed to the public for a period of time<sup>3</sup> firstly in light of works to the adjacent buildings and latterly due to the construction of the glazed link building. However, the justification for the temporary closures is not material to my decision.

### **Reasons**

#### ***Whether it is necessary to stop up the footpath to enable development to be carried out***

10. A new permission was issued on 19 March 2014 which had the effect of varying the original planning permission granted on 18 December 2012. Planning

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<sup>3</sup> By means of an Order under the Road Traffic Regulation Act 1984

permission has been granted for: "*Erection of a glazed link between Central Library and the Town Hall Extension, including the alteration and extension of existing window openings to finished floor level to create 2 no. entrances and installation of associated lighting; erection of gates to the Mount Street end of Library Walk; raising of the level of Library Walk to enable level access into both buildings and replacement of pavement light quadrant with a paving solution and associated works*".

11. The planning permission granted is part of an overall scheme in relation to the refurbishment and improvement of the central library and town Hall extension. A number of the issues raised by the parties both in support and opposition to the development do not address whether it is necessary to stop up the right of way. It is not my role to reach a view regarding the viability of the development or address issues that should have been considered in relation to the planning application. I need to start from the position that the permission granted is in planning terms in the public interest. The issue to be determined is whether it is necessary to stop up the footpath to enable the development to be carried out in accordance with the planning permission.
12. The link building would be sited over a proportion of Library Walk and in that respect it is clearly necessary to stop up a section of the way to enable development to be carried out. However, an issue arises in relation to the stated intention that public access will be permitted between 06:00 and 22:00 hours throughout the year. This permitted access requirement is set out in condition 7 of the relevant planning permission. At other times, the doors into the link building and gates at the Mount Street end will be locked.
13. Whilst the provision of permissive access for pedestrians over a footpath proposed to be stopped up may be unusual, the condition in the planning permission requiring Library Walk to be closed during particular hours is inconsistent with the existence of a public right of way. In respect of my question regarding whether a more limited stopping up could be considered with a footpath retained through the development, Mr Sauvain, on behalf of the Council, pointed to the restriction of the planning condition which I have no power to vary. In terms of the objectors, they generally want the structure to be removed and there was little support for an alternative proposal.
14. The risk of crime was clearly a consideration that influenced the Council's proposed night-time closure of Library Walk. Although the objectors question whether this is necessary, again it is not a matter before me. I only have to have regard to the condition imposed by the planning permission when considering whether it is necessary to stop up the way. However, I do need to address the issue of crime when assessing the disadvantages of the Order to members of the public.
15. I accept that the stopping up is necessary to enable the permitted development to be undertaken. This arises out of the physical obstruction resulting from the building and its associated doors and the gates at the Mount Street end. The closure of the way during the specified hours being governed by the condition attached to the planning permission. I now turn to the extent to which the development is substantially complete.
16. In considering this issue I must have regard to the case of *Ashby and Another v Secretary of State for the Environment and Another [1980]* ("*Ashby*"). In doing so I note Ms Moore's comment regarding the error in

the quotation from *Ashby* set down in paragraph 5.2 of the Council's statement of case. Further guidance is found in paragraph 7.21 of the Circular, which states:

*"Where the development, in so far as it affects a right of way, is completed before the necessary order to divert or extinguish the right of way has been made or confirmed, the powers under sections 257 and 259 of the 1990 Act to make and confirm orders that [sic] are no longer available since the development, which the order is intended to enable, has already been carried out. If such a development has already been completed there is no basis for an order to be made. It is, of course, open to the local authority to consider what action, if any, it might take to secure the diversion or extinguishment of the right of way by the exercise of such other powers as may be available. In this respect development should be regarded as completed if the work remaining to be carried out is minimal".*

17. During the accompanied site visit, I noted that the construction of the link building is at an advanced stage. The structure is in place and there are only some ancillary works still to be completed, including the entrances to the two adjacent buildings. There are temporary doors in place and the proposed automatic doors into the link building are still to be installed. Works in relation to the gates at the Mount Street end have not yet commenced. One of the witnesses called by the Council, Mr Carty, confirmed at the inquiry that there will be no material change to the situation observed on the site visit before my decision is issued.
18. Some of the objectors have drawn attention to paragraph 7.11 of the Circular which states: *"The grant of planning permission does not entitle developers to obstruct a public right of way. It cannot be assumed that because planning permission has been granted that an order under section 247 or 257 of the 1990 Act, for the diversion or extinguishment of the right of way, will invariably be made or confirmed. Development, in so far as it affects a right of way, should not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect"*.
19. I concur with the objectors that the commencement of the development and continuation of works to an advanced stage is contrary to the guidance set out above. Nonetheless, the fact that works have commenced on the development must not influence my decision. Clearly there is a risk in such circumstances that the Order will not be confirmed. If this is the case, the Council will need to determine what action should be taken.
20. In terms of the development as a whole, I would agree with the objectors that it is substantially complete. However, paragraph 7.21 of the Circular specifically refers to the development *in so far as it affects a right of way*. Further, it is apparent from reading *Ashby* that an Order could be confirmed where a development was still being carried out which required the stopping up of a footpath.
21. I recognise that the link building now physically obstructs a proportion of Library Walk. However, works are still to be undertaken in relation to the installation of the permanent doors and erection of the gates at Mount Street in accordance with the planning permission. The doors and gates when installed and locked in accordance with condition 7 will have the effect of preventing

public access during the specified hours. Having regard to the *Ashby* judgment and the Circular, I do not find that the development is substantially complete in the context of the highway.

22. For these reasons I conclude that it is necessary to stop up Library Walk to enable development to be carried out, in accordance with the planning permission granted, which is not substantially complete in so far as it affects the right of way.

***The extent to which the stopping up would disadvantage members of the public generally or persons whose properties adjoin or are near to the footpath affected by the Order***

23. The Council's stated intention is for Library Walk to be open for the public to use between 06:00 and 22:00 hours throughout the year. This is supported by condition 7 of the planning permission and was endorsed by Mr Carty at the inquiry. Further, one purpose of the link building is to provide the public with a means of access to the library and town hall extension. This suggests that it is unlikely that Library Walk would be closed in its entirety.
24. Nonetheless, as highlighted by the objectors, once extinguished the public rights would be lost. If the Order is confirmed, the right of the public to use Library Walk would be on a permissive basis and the condition could be varied in the future, for instance by extending the period during which the path is closed. I proceed on the basis that, if stopped up, Library Walk would remain open for the public to use during permitted hours but consider that limited weight should be given to this arrangement in the circumstances.
25. Ms Harris, on behalf of the Manchester Disabled People's Access Group ("MDPAG"), raises concerns about the design of the link building in the context of use by people with certain disabilities. Nonetheless, the Order proposes to stop up Library Walk and it appears to me that issues relating to the inclusivity of the link building for the public are planning considerations. As outlined above, only limited weight should be given to the retention of permissive access. In considering any disadvantages to the public I need to have regard to the main alternative routes, which were put forward as being via Lloyd Street and Peter Street.
26. In respect of Lloyd Street, a kerbed footway is located adjacent to the town hall side which has served as a pedestrian highway. The remainder of Lloyd Street was stopped up in 1989 and comprises of a single surface available to the public on a permissive basis and includes seven parking bays used by designated disabled members of staff and a councillor. Bollards have been put in place to separate a section adjacent to the town hall extension from the middle section. The latter is subject to controlled vehicular use for the purpose of deliveries and access. However, during the course of the inquiry, the position changed regarding the status of Lloyd Street in that the Council approved on 7 November 2014 the dedication of a pedestrian highway over the sections stopped up in 1989. This dedication is subject to controlled rights of access for vehicles.
27. Ms Harris states that MDPAG do not consider Lloyd Street to be a safe and accessible route for disabled people. She says that this issue is being pursued with the Council by other means. In addition, given that the whole of Lloyd Street is now a pedestrian highway, there is clearly an opportunity for the Council to consider particular concerns raised by Ms Harris and other objectors

at the inquiry. Mr Carty acknowledges that certain matters could be considered. Nonetheless, I still need to have regard to the concerns raised when reaching my decision.

28. In my view, it is appropriate to consider the stopping up in the context of Library Walk being a highway for people to pass and re-pass rather than any use as public open space. Reference has been made to certain activities such as protests being compromised by the stopping up. However, the Order would not stop these activities from taking place in the general locality. Nor indeed did the Council say that they would be prevented from taking place. Further, another Council witness, Mr Swann, could not see any reason why use by dog walkers or tour guides would be restricted during the times that Library Walk is open. Whilst I agree with Ms Moore that there would be an impact on people wishing to smoke within Library Walk, this is only likely to relate to the link building.
29. Mr Lee<sup>4</sup> and Ms Gaffney<sup>5</sup> have provided details of a pedestrian route between St Peter's Square and Victoria Station which incorporates Library Walk. It is apparent that this route was devised for the inquiry. Overall, I do not consider that this potential pedestrian route adds anything further to the issues raised by the parties regarding the convenience and enjoyment associated with Library Walk.

#### *Distance*

30. The information provided by the Council indicates that the distance between points A-B, as shown on the Order Map in connection with Library Walk, is 80.4 metres. In comparison, the distances to start and finish at the same points via the alternative routes are 258 metres for Lloyd Street (A-C-D-B) and 172 metres for Peter Street (A-E-F-B). However, clearly such figures do not take into account where people are travelling to or from. This issue will determine the extent to which people may, or may not, be inconvenienced by the proposed stopping up of Library Walk. No user survey has been undertaken in relation to use of Library Walk. Such a survey may have provided some useful information but Mr Swann points to the impracticality of this being undertaken in light of the long-term temporary closure of Library Walk.
31. Mr Swann has provided measurements between certain establishments located to the west and the existing and proposed tram stops in St Peter's Square via Library Walk and the alternative routes. These figures reveal variations in the distance to be walked between the different venues but again they provide only a limited amount of information given the vast number of locations within the city centre. Most of the measurements indicate that there would presently be an increase in the distance to be walked. Although the details provided at the inquiry point to some of the distances being less than originally stated.
32. The works to relocate the tram platforms further to the north within St Peter's Square is scheduled to commence shortly and once completed will lead to them being located nearer to Lloyd Street. The figures provided reveal that there would be a reduction in the distances between various establishments and the proposed tram platforms via the most appropriate alternative route in comparison to the present platforms. However, there would in most cases be some additional distance to be travelled in comparison to Library Walk.

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<sup>4</sup> He also represents The Open Spaces Society

<sup>5</sup> She represents the Greater Manchester Pedestrians' Association

33. Ms Harris says the alternative routes are longer for many venues than the 50 metres identified in 2.4 of the publication "Inclusive Mobility"<sup>6</sup> for people using a stick and 150 metres for wheelchair users and visually impaired people. These figures are the recommended distance limit without a rest. However, the calculations provided by the Council reveal that this is not the case. These figures indicate that relatively small increases in distances would arise in relation to the identified venues. Further, Ms Harris accepted at the inquiry that disabled people will enter the area by various means. She conceded that the impact of the closure of Library Walk would depend upon what is the most convenient route in the circumstances. The Council confirms that disabled parking bays are to be provided in Mount Street and Peter Street.
34. Mr Jennings points to the issue of access for bus passengers with reference to the bus services which are scheduled to travel along Portland Street. Whilst some passengers may subsequently have to walk further, the extent to which this would be applicable cannot be determined given the number of potential destinations from Portland Street.
35. The Friends Meeting House ("FMH") is located in Mount Street opposite to the western end of Library Walk. Mr M. Schofield says that many Quakers are elderly and/or disabled and the closure will force them to walk further and cross busy main roads. However, I have not been provided with details regarding the number of people involved and where they may be travelling to or from. Presently, Library Walk does not provide the shortest route to the tram stops from the FMH. There would potentially be an increase in distance of 23 metres via the most appropriate alternative route following the relocation of the tram platforms. Clearly, as with all destinations, there will be an opportunity to use Library Walk during the permitted hours.
36. I am not satisfied it can be determined from the evidence that the stopping up would have any significant impact upon the issue of convenience by virtue of the distance to be travelled. This issue is complicated by the vast number of locations that people may be travelling to or from. The relocation of the tram platforms could make Lloyd Street a more convenient route in some cases. However, I note the point made by Ms Curtin and other objectors that people may prefer to use Library Walk because they consider it to be more enjoyable than the alternatives.

#### *Loss of enjoyment*

37. A number of the objectors have referred to the loss of the experience of Library Walk given the architectural value of the adjacent buildings and the space itself. It is clear that the setting within the two contrasting listed buildings is much valued. Ms Curtin, Ms Rutherford and Mr Turner-Bishop<sup>7</sup> spoke particularly passionately about the value of the sensory experience of walking through Library Walk. A conservation area leaflet published by the Council describes it as "*one of the most dramatic urban spaces in the city*". Reference is also made to two television productions choosing to film in this locality.
38. This issue is a subjective matter and Mr Swann says that some people will enjoy the experience of Library Walk and others will not. Further, reference is made by the Council to the buildings that can be viewed from the alternative routes. Nonetheless, the evidence of the objectors indicates that this matter

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<sup>6</sup> Published by the Department of Transport

<sup>7</sup> He spoke on behalf of The Twentieth Century Society

should be given some weight. However, the weight to be given to this issue will be limited by two factors. Firstly, it is the impact of the link building on Library Walk which is the main issue of concern rather than the restriction of access over it. This is distinct from the loss that would arise by stopping up this way. Secondly, people will still be able to access and look at the remainder of Library Walk during the permitted hours.

*Crime and anti-social behaviour*

39. Clearly the Council had the potential risk of crime in mind when it placed the condition in the planning consent regarding the closure of Library Walk during particular hours. However, regard should be given to the issue of crime in the context of members of the public having to use the alternative routes rather than Library Walk. This is distinct from the question of whether it is appropriate to close Library Walk at night. Whilst some suggestions were made regarding measures that could be undertaken, such as more patrols by uniformed officers, there is nothing to indicate that these will be implemented in the near future.
40. The objectors point to incidents of crime and anti-social behaviour in this area generally and the risk elsewhere in the city centre. A particular problem raised at the inquiry is people urinating in public places. No real concerns were expressed by the objectors regarding the safety of Library Walk. Ms Rutherford says the view of the Manchester Women's Design Group is that more accessibility, not less, makes a city a safer place for people. However, she acknowledges that her use at night may depend upon whether she was alone or with a group of people. The details provided at the inquiry revealed that a serious sexual assault occurred in Library Walk in the early hours of the morning on 31 October 2010.
41. Ms Gaffney raises particular concerns about the safety of Lloyd Street at night by reference to the quality of the street lighting and the recesses in the town hall extension where people could hide. The latter was demonstrated during the accompanied site visit. When I visited Lloyd Street in the early evening the office lights still illuminated the street. However, I accept that the situation is likely to be different later in the evening. Nonetheless, it is apparent that the lighting arrangement for Lloyd Street is far better than the lighting available in Library Walk. Further, Ms Gaffney accepts that parts of Library Walk are hidden from view. It is accepted that it is generally not possible to see from one end of Library Walk to the other.
42. A further issue arises out of the opening of a police contact centre situated on the ground floor of the town hall extension building in Lloyd Street. It is apparent that this is a contact point rather than a police station. The police also occupy the first floor of the building on the Mount Street wing and the information supplied indicates that they will be seen on occasions entering or leaving the building by the Lloyd Street entrance. I am not satisfied that the presence of police on the first floor of the building will have a significant impact on the risk or perceived risk of crime in this locality. However, the visibility of the police contact point and the presence of officers at times may assist with deterring criminal activity or anti-social behaviour in Lloyd Street.
43. Ms Rose<sup>8</sup> refers to issues in respect of Peter Street at night given its proximity to bars. She says that she and others have experienced harassment in Peter

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<sup>8</sup> She also represents The Friends of Library Walk

Street and it can be rather rambunctious at weekends. I found Peter Street to be far more open in nature than Library Walk or Lloyd Street. Nonetheless, I accept that problems can sometimes arise, given the location, particularly in the evening and early hours of the morning at weekends.

44. I do not find from the evidence provided and my observations of the site that any disadvantages are likely to arise out of the closure of Library Walk in terms of the risk of crime or anti-social behaviour. The available alternative route via Lloyd Street could potentially offer a safer route for the public at night.

#### *Width issues*

45. The alternative route via Mount Street and Peter Street would follow pavements which have been the subject of improvement works as part of the re-development of the area. This includes the reduction in the extent of the carriageway of Peter Street in each direction. However, it is apparent that a proportion of the land gained will be used to provide disabled parking bays. These were marked out during the accompanied site visit and would reduce the extent of the space currently available over a section of this alternative route. Mr Swann calculates that a width of 3 metres would be available at its narrowest point.
46. The provision of seating and tree planting also impacts upon the available width at points but I still found the pavements in the Mount Street and Peter Street area to be fairly wide. In respect of the functionality of the design of the benches provided, this issue is not material to my decision. It should be borne in mind that particular features, for instance the display board outside the town hall extension in Mount Street, would also impact upon a portion of people travelling via Library Walk. I understand that the planters temporarily present in the immediate locality are to be relocated. Ms Harris accepted in cross-examination that there is a protruding point in Library Walk which could potentially be an obstacle to partially sighted or blind people.
47. A planning application has been submitted for part of the town hall extension to be used as a restaurant/cafe with an outside seating area extending over a proportion of St Peter's Square. As the application is still to be determined it is not possible to be certain that it will be approved. If approved, the layout of the outside seating area could force people to deviate away from the direct route of travel. However, this has to be balanced against the area of the square available to the public. Overall, I do not find that it has been shown that this alternative route is less convenient by virtue of the widths of the relevant highways.

#### *Building regulations*

48. Ms Harris raises the issue of the application of building regulations to the link building and Lloyd Street. I consider the application of building regulations to the link building to be outside of the scope of the inquiry. I also expressed concerns regarding the relevance of building regulations to works undertaken in Lloyd Street. Nonetheless, I have considered the written submissions helpfully provided by Ms Harris and Mr Timperley<sup>9</sup>.
49. I give greater weight to Mr Timperley's submission than particular comments of the Council witnesses who spoke at the inquiry regarding the 'town hall complex'. He gave his professional opinion specifically on the issue of building

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<sup>9</sup> Building Control Business Manager for the Council

regulations which should carry some weight. Regard also needs to be given to the fact that the whole of Lloyd Street is now a highway. I consider the works undertaken in Lloyd Street to be consistent with highway works. There is some use for access purposes and disabled spaces have been provided for staff but the primary purpose is now as a highway. The issue is whether the public would be disadvantaged by the stopping up of Library Walk, for instance by having to use one of the alternative routes. It is not for me to address the provision of access to buildings located in Lloyd Street.

50. Having regard to the submissions provided by the parties, I consider the views of Mr Timperley to be more persuasive and that building regulations are not applicable to the works undertaken in Lloyd Street. Further, even if building regulations were to apply, this would be a matter for the building control section to consider. I nevertheless address below particular issues raised in relation to Lloyd Street.

#### *Vehicular use*

51. Ms Gaffney says the alternative routes have greater noise, traffic danger and kerbside pollution. All of which are absent from Library Walk. I accept that Library Walk offers a brief respite from the noise and bustle of the city centre. It is also away from the direct impact of traffic. However, no evidence has been provided regarding the level of air quality in comparison to the other routes in the area. All of the highways in the area are likely to be busier when events, such as the Christmas Market, are taking place.
52. In the extracts from 'Research by Inclusive Design for Getting Outdoors ("I'DGO")'<sup>10</sup> reference is made to the views expressed by many people regarding the use of shared spaces. It is stated that blind and partially sighted people have safety concerns about the lack of demarcation between footways and traffic areas due to the removal of kerbs and footways. This exposes blind and partially sighted people to greater risk and undermines their confidence, and so creates a barrier to their independent mobility. A written statement has also been submitted by a mobility instructor (Mr Dickinson). He does not agree with the mixing of pedestrians and vehicles but his evidence was not tested at the inquiry and he is unfamiliar with this site.
53. The objectors point to the number of vehicles observed on occasions during the course of the inquiry in Lloyd Street and the Council have provided figures from a traffic count undertaken on Thursday 30 October 2014. There is an opportunity in terms of the footway and the section segregated by bollards for pedestrians to not encounter traffic in Lloyd Street. Further, Mr Carty confirms that vehicular access over the middle section is controlled by staff in a 24 hour control room. The traffic count reveals that 65 vehicles<sup>11</sup> passed along Lloyd Street between the hours of 08:00 and 17:00 with the maximum in a given hour being 11 (09:00-10:00). A total of 4108 pedestrians were counted passing along Lloyd Street during the survey.
54. The issue of delivery vans causing an obstruction to disabled drivers wishing to exit their vehicles or obstructing the bays is not relevant to the use of Lloyd Street by pedestrians in comparison to Library Walk. It is a private matter that the Council may wish to address should it occur on a regular basis. Mr Swann did not consider it necessary to mark the disabled spaces in Lloyd Street in

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<sup>10</sup> I'DGO is stated to be built around a core group of international academics in three leading UK research centres

<sup>11</sup> Not including cycles

light of its status and the fact that the spaces are designated for particular people. Ms Harris also raises an issue regarding the lack of a clear dropping off point leading to vehicles manoeuvring at the barrier and forcing some vehicles to stop or reverse into the controlled crossing at Mount Street. However, such a manoeuvre is likely to impact upon people using other routes, such as via Library Walk, and not just Lloyd Street.

55. Some critical comments have been made regarding the layout and number of bollards within Lloyd Street. It is felt that they could be confusing and cause an orientation problem for visually impaired people. However, on the whole, the bollards serve a useful purpose. They generally prevent vehicles from proceeding on the town hall extension side of Lloyd Street and provide a second traffic free section. This traffic free section is wide enough to accommodate wheelchair users. The bollards are visually distinctive in daylight. Whilst some no longer have a florescent strip around the top, this is a highway maintenance issue that could, and indeed should be resolved. The lack of bollards outside of the accessible toilet needs to be balanced against the ease of access at this point.
56. I consider that there would be some disadvantage in stopping up a route which is free of vehicular traffic given that a portion of one of the alternative routes is subject to use by vehicles. However, I am not convinced that this issue would be significantly detrimental to the public given the extent and nature of the vehicular use. The constraints of Lloyd Street and the extent of the use by pedestrians should also serve to restrict the speed of vehicles. Further, there are areas of Lloyd Street that are designed to be free of vehicles. The issue that is most likely to occur is the obstruction of a section of the street by parked vehicles. Although the survey reveals that there is some use by cyclists, which could cause a conflict with pedestrians, I note that it was dedicated to the public on foot only and as such there would appear to presently be no lawful right for cyclists to ride along Lloyd Street.

### *Lighting*

57. To some extent, I have already addressed the issue of lighting. The Council could not confirm the level of lighting in Lloyd Street but it is stated to conform to the relevant British Standard. Although Ms Harris accepts that the British Standard is probably met, she does not believe that the lighting conforms to the lux standard in Inclusive Mobility, which requires at least 150 lux for passageways and walkways.
58. No evidence has been provided to verify the level of the lighting provision in Lloyd Street. The street lights are located on the town hall side of Lloyd Street and the amount of light diminishes to a certain extent over the remainder of the street. This is evident on the photographs supplied by Ms Harris. I accept that shadows and glare may be created by the lighting in Lloyd Street which could cause problems for some people. However, it is apparent that the lighting in Lloyd Street is far superior to the lighting available in Library Walk. Although I note the point that Library Walk is a traffic free route and there is some vehicular use of Lloyd Street, the level of use of the middle section by motor vehicles is limited and this is likely to be more so after 17:00 hours. Nor am I convinced that it can be determined that a driver would not see pedestrians on the middle section with the benefit of headlights.
59. Ms Harris expresses concerns regarding the use of uplighters in the locality as they can create glare and seriously disorientate or disturb some partially

sighted people. Ms Armstrong, on behalf of the Royal National Institute of Blind People ("RNIB"), says that uplighters may help people identify an obstacle such as a tree but they can cause dazzle to other people. In response, the Council points to measures in respect of the design and positioning of the uplighters in order to minimise glare. Whilst I recognise the concerns about the impact of uplighters on certain highway users, I am not satisfied that this issue can be particularly attributed to use of the alternative routes. Again, it is not my role to consider the presence of uplighters in the link building.

*Changes in level*

60. The Council says that the original design for Lloyd Street was a shared space with no pavements. At the request of its access advisors a pavement was installed to improve pedestrian access. The provision of this pavement does not appear to be an issue between the parties. However, some concerns have been raised in relation to the nature of the pavement. Ms Armstrong says that there is no apparent visual or tactile contrast so it appears to be a flat surface. It is also asserted that some visual contrast would assist blind<sup>12</sup> and partially sighted people in distinguishing the kerb edge. Further, without tactile indication, a long cane user may find it difficult to distinguish the kerb edge. Ms Rose says that she sometimes suffers with her mobility and finds the new kerb in Lloyd Street to be disorientating and hard to navigate.
61. Reference is made by the Council to the provision of black rubber inserts to the kerb edge. However, it is accepted that contrast remains an issue which requires a resolution. The Council confirms that the matter is to be further reviewed in conjunction with particular interested parties. In respect of the suggested introduction of double yellow lines on the carriageway alongside the kerb line, Ms Harris says that this marking is indicative of no parking and yellow will not provide a suitable colour contrast. Clearly, it is in the interests of the Council, as highway authority, to address this issue as soon as is reasonably possible.
62. Ms Harris states that the kerb edge of Lloyd Street has a height of 80-85mm. Ms Armstrong considers that the kerb alongside the majority of Lloyd Street is at an acceptable height. However, both she and Ms Harris believe that it is a trip hazard for people in the absence of colour contrast with the middle section. I address tripping incidents below but nothing has been provided to show that the kerb fails to meet a particular specification set down in any national guidance.
63. Ms Armstrong refers to a section of kerb at the crossing at the entrance to the town hall courtyard, which is stated to have a height of 25mm. She says that it is hard for a long cane user to detect and it is felt that the raising of the kerb in this locality would be beneficial. In response, the Council states that a 25mm kerb was considered necessary as the cobbles are protected by listed building consent and there is a steep gradient into the courtyard. The design team, in consultation with the access advisors, felt that this arrangement would be more beneficial to cane users than a flush kerb line.
64. Figures provided by the Council reveal that between January 2014 and October 2014 there were 28 recorded incidents of people who have stumbled or fallen

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<sup>12</sup> The information provided at the inquiry reveals that only around 4-5 % of people in the UK with serious loss of sight will be totally blind

in Lloyd Street. However, I find this information to be of limited value. It cannot be determined what caused these incidents or whether this figure is comparable or not with neighbouring highways. The traffic count indicates that Lloyd Street is heavily used by pedestrians and in that sense the number of incidents recorded during this period may not be significant. In the last 2 years one claim has been made in relation to someone falling within Lloyd Street<sup>13</sup> for which the Council has denied liability. This figure appears to be comparable to those for the neighbouring streets. Although only two claims were made in relation to Library Walk, prior to its closure in recent years.

65. More detailed information has been provided by the Council in relation to incidents in the locality for the period 4-22 November 2014. A proportion of these related to Cooper Street, which leads out of Lloyd Street towards its eastern end. One incident can be attributed to the kerb in Lloyd Street, which is stated to have occurred "*at the top end of Lloyd Street*". There is no evidence of any trips or stumbles in relation to the section of pavement at the courtyard entrance.
66. I am not satisfied that it can be determined from the above that the height of the kerb in Lloyd Street is a particular problem for the public. In reaching this conclusion, I have had regard to the range of disabilities highlighted at the inquiry. The provision of the kerb is likely to be of assistance to some groups of pedestrians and it provides an alternative to the other sections. However, the Council acknowledges that an issue arises in relation to the contrast of the kerb and this matter is to be pursued. In the circumstances, I do not find that this issue has any significant bearing on my decision.

#### *Tactile paving*

67. Ms Harris has particular concerns about the design and colour of tactile paving in Lloyd Street and the surrounding area. In support, reference is made to the judgment in the case of *Mohammed Mohsan Ali and London Borough of Newham [2012] ("Newham")*. In *Newham* it was held that the national guidance<sup>14</sup> should be followed unless there was good reason to depart from it.
68. Whilst Mount Street could clearly be used as part of the alternatives routes, it may also be used by a proportion of users of Library Walk. Therefore, I am not satisfied that the issues highlighted by Ms Harris in this locality should be considered in the weighing of the disadvantages arising out of the Order. This conclusion does not remove the requirement for the Council to undertake remedial works in this locality and Mr Swann confirms that contractors are to address the tactile paving on the Lloyd Street and Mount Street crossing which is out of alignment.
69. I concur with the Council that the vehicular use of Lloyd Street cannot be described as comprising of a high flow of traffic. Any additional use of tactile paving in Lloyd Street, such as outside the entrance to the accessible toilets, is a matter for the Council to determine. Where tactile paving has been constructed, an issue arises in relation to the colour used given the conservation area within which it is located. Paragraph 1.5.6.1 of the guidance on tactile paving states "***Where the blister surface is provided at crossing points in conservation areas or in the vicinity of a listed building, some***

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<sup>13</sup> One additional claim was made on 31 October 2014

<sup>14</sup> Namely the 'Guidance on the Use of Tactile Paving Surfaces' published by the former Department for Environment, Transport and the Regions

*relaxation of the colour requirements may be acceptable. In these limited circumstances only, the tactile surface may be provided in a colour which is in keeping with the surrounding material".*

70. Whilst there is a distinction between the tactile paving and the remainder of Lloyd Street, I consider the difference in contrast to be slight. Therefore, an issue may arise for people who have impaired sight in distinguishing between the two colour tones. The guidance also outlines that before a decision is taken in relation to this issue consultation should be undertaken with particular parties. Ms Harris says that such a consultation was not properly undertaken. Clearly, if this is the case, the matter could be pursued by an aggrieved party in the manner suggested by Ms Harris. Although the potential lack of consultation regarding the colour of tactile paving used in this locality is of concern, the level of vehicular traffic in Lloyd Street and the absence of evidence of incidents attributed to this issue means that I do not consider it to be a significant matter in terms of my decision.
71. A further issue arises in relation to the entrance to the town hall courtyard. There is a dip for a proportion of the pavement which coincides with the slope of the cobbled entrance. This dip is delineated by a section of corduroy tactile paving. Differing views were expressed by Mr Swann and Ms Harris regarding whether the tactile paving used in this location is appropriate. I also note the comments in the written submission of Mr Goulden on behalf of the Manchester Environmental Group of Blind and Partially-sighted People ("MEGOBAPP") in relation to the appropriate design for tactile paving in this locality.
72. I am not satisfied that the level of vehicular use of the entrance means that it should be treated as an uncontrolled crossing point. The guidance on tactile paving makes it clear that corduroy tactile paving should be used for the purpose of warning people about a hazard, such as steps. Whilst there may be different interpretations regarding whether corduroy or blister paving is more appropriate and the extent of the tactile paving, I am not convinced that it has been demonstrated that the current arrangement is wrong in light of the circumstances.

*The impact of the stopping up on properties near to Library Walk*

73. Mr M. Schofield says that during the temporary closure of Library Walk organisations who rent rooms within the FMH have found it more difficult to get to this venue. The information supplied by Mr Schofield indicates that the FMH is sometimes open later than the intended opening hours for Library Walk. However, I am not satisfied that evidence has been provided to show that the closure of Library Walk has had a particular adverse impact on the business or charitable elements of the FMH. Nor am I convinced that it can be determined that there would be any greater use of the footway on the side of Mount Street on which the FMH is located by virtue of the stopping up of Library Walk. Further, any publicity material or signage will still be visible from parts of Mount Street. No evidence has been provided to show that access to any other premises would be adversely affected by the stopping up of Library Walk.

**Conclusions**

74. The permitted development would obstruct a proportion of Library Walk and the route through the development would be closed to the public during the specified hours. I have concluded that, in order for the planning permission to be implemented, it is necessary for this footpath to be stopped up. I further

concluded that the works in so far as they affect the right of way are not substantially complete.

75. I have outlined that there are some disadvantages arising out of the stopping up of Library Walk for the public. However, the *Vasiliou* judgment makes it clear that any significant disadvantages have to be sufficiently serious for the Order to not be confirmed. Paragraph 7.15 of the Circular also advises that there must be good reason to not confirm an Order. Having regard to those matters detailed above and my conclusions regarding Library Walk and the alternative routes, I am not satisfied that it has been shown that any disadvantages to the public arising out of the proposed stopping up are sufficient to outweigh the benefits of confirming the Order. Further, there are no additional matters which indicate that the Order should not be confirmed.

### **Overall Conclusion**

76. Having regard to these and all other matters raised at the inquiry and in the written representations I conclude that the Order should be confirmed.

### **Formal Decision**

77. I confirm the Order.

*Mark Yates*

**Inspector**



- 10 Public Sector Equality Duty extract
- 11 Guidance on the Use of Tactile Paving Surfaces published by the Department for Environment, Transport and the Regions
- 12 Additional maps detailing pedestrian routes
- 13 Statement of Cllr Davies
- 14 Summary of responses to planning proposals
- 15 Submissions from Ms Harris in relation to building regulations
- 16 Statement of Ms Hardy
- 17 Pedestrian and vehicle count for Lloyd Street
- 18 Council report in relation to the dedication of highways
- 19 Summary of falls and claims in relation to particular highways
- 20 Statement of Mr Townend
- 21 Copy of the Newham judgment
- 22 Highway plans
- 23 Statement of Mr Timperley
- 24 Response to Mr Timperley's statement by Ms Harris
- 25 Details for tram platforms in St Peter's Square
- 26 Statement of Ms Armstrong on behalf of RNIB
- 27 Details of walking route devised by Mr Lee and Ms Gaffney
- 28 Tram times
- 29 Supporting statement from Ms Darley
- 30 Revised summary proof of evidence on behalf of MDPAG
- 31 Emails sent to the Planning Inspectorate in opposition to the Order
- 32 Planning application details in relation to proposed restaurant/café
- 33 Addendum to statement of case of Ms Curtin
- 34 Revised summary proof of evidence and summing up for Ms Rutherford
- 35 Statement of Ms Moore
- 36 Revised statement of case of Ms Rose
- 37 Copy of the Vasiliou judgment
- 38 Additional photographs tendered by Ms Harris
- 39 The Council's response to the statement made on behalf of the RNIB
- 40 Additional information regarding trips and falls
- 41 Statement on behalf of the Greater Manchester Pedestrians' Association
- 42 Statement of Dr Ernstbrunner for the local group of the Ramblers' Association
- 43 Extracts from I'DGO
- 44 References from 'Traffic Measures in Historic Towns' published in 1993
- 45 Comments of Mr Dickinson
- 46 Statement of Mr Goulden of MEGOBAPP
- 47 Extract from Inclusive Mobility
- 48 Email of 25 November 2014 to Mr Carty regarding the planters
- 49 Closing statement of Ms Rose
- 50 Closing submission notes of Ms Curtin
- 51 Summing up of Ms Harris on behalf of MDPAG
- 52 Closing statement on behalf of the Council