

Case Name: *Tomkins, R (On the Application Of) v City of London Corporation* [2021] EWHC 2265 (Admin) (10 August 2021)

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Commentary: This was an unsuccessful claim for judicial review of the Defendant's (the City of London Corporation) decision not to revoke the City of London (Beech Street) (No. 1) Experimental Order 2020 ("the ETO").

This claim followed the statutory challenge made by the same Claimant, a local resident, to the validity of the ETO on a number of grounds in April 2020 (Town Library commentary here). The judgment handed down on 8 December 2020 in respect of that challenge allowed the claim on three grounds but did not quash the ETO, as it was not considered that the Claimant had been "substantially prejudiced". One of the grounds of challenge that failed was that the ETO was not a "genuine experiment" as required by section 9 of the Road Traffic Regulation Act 1984, because of the huge reduction in traffic due to the Covid 19 pandemic. The Claimant had unsuccessfully sought permission to appeal this point.

The Claimant's present JR application submitted that the City acted unlawfully in refusing to suspend or revoke the ETO at a meeting of its Streets and Walkways Sub-Committee on 18 February 2021 because no genuine experiment had been possible.

The Court upheld its finding in the earlier statutory challenge that "the ETO was a genuine experiment to assess the benefits and disadvantages of restricting vehicle access to Beech Street, in order to improve air quality, and the outcome of the experiment could inform the future development of Beech Street" (para 84).

Reproducing a large swathe of the officer's report to the Streets and Walkways Sub-Committee on 3 December 2019, the Court found that the decision not to revoke the ETO could not be characterised as irrational; despite the reduction in traffic due to the pandemic, it had still been possible for the Defendant to gather useful data in areas such as air quality, traffic data, compliance and adverse impacts of the ETO. The claim was therefore dismissed.

Case summary prepared by Tom Brooks