

REPORT TO:	CABINET 7 June 2021
SUBJECT:	CALL-IN – REFERRAL TO CABINET: CRYSTAL PALACE & SOUTH NORWOOD LOW TRAFFIC NEIGHBOURHOOD
LEAD OFFICER:	Asmat Hussain, Interim Executive Director Resources
LEAD MEMBER:	Councillor Sean Fitzsimons, Chair of Scrutiny & Overview Committee
WARDS:	Crystal Palace & Upper Norwood and South Norwood
<p>COUNCIL PRIORITY 2020-2024</p> <p>The recommendations of the decision that is the subject of the call in address the Council's Corporate Plan priorities:</p> <ul style="list-style-type: none"> • Easy, accessible, safe and reliable, making it more convenient to travel between Croydon's local places • Less reliance on cars, more willingness to use public transport, walk and cycle and • Invest in safe cycle lanes between central Croydon and local centres <p>Climate Emergency</p> <p>The recommendations address priorities in the Climate Change report and the resulting declaration of a 'Climate Emergency', priorities including:</p> <ul style="list-style-type: none"> • Croydon Council become carbon neutral by 2030; • Work with the Mayor of London to meet the aim for London to be a zero-carbon city by 2050; • Work with communities across Croydon to ensure that all residents and businesses are empowered and encouraged to play their part in making the Croydon the most sustainable borough in London; • Role of all elected Members in leading this agenda. 	
KEY DECISION REFERENCE: 6520SC	
<p>1. DECISION:</p> <p>The Cabinet is asked to:-</p> <p>1.1 Receive the referral made by the Scrutiny & Overview Committee following its consideration of a call-in request made on the key decision on the Crystal Palace and South Norwood Low Traffic Neighbourhood, and</p> <p>1.2 Reconsider the Original Decision taken by the Cabinet Member Sustainable Croydon (see paragraph 2.2 for details), in light of the concerns raised by the Scrutiny & Overview Committee and other relevant information listed at paragraph 3.2 of this report and decide whether or not it wishes to amend the decision, before taking the final decision.</p>	

2. EXECUTIVE SUMMARY

- 2.1 A meeting of the Scrutiny & Overview Committee was held on 23 March to consider a call-in of the Crystal Palace & South Norwood Low Traffic Neighbourhood key decision (6520SC). A copy of the call-in report considered by the Scrutiny and Overview Committee and the draft minutes of the meeting are attached at Appendices 9 and 10.
- 2.2 The decision taken by the Cabinet Member for Sustainable Croydon, that was the subject of the call-in request (the original decision) was:-

“Having carefully read and considered the Part A report, and the requirements of the Council’s public sector equality duty in relation to the issues detailed in the body of the reports, the Cabinet Member for Sustainable Croydon

RESOLVED to:

1. *Subject to Spending Control Panel agreeing to the spending of ring fenced grant funding to implement an Experimental Low Traffic Neighbourhood at Crystal Palace and South Norwood ‘Experimental LTN’ by the making of an Experimental Traffic Regulation Order (Experimental TRO) to operate for up to 18 months, to:*
 - a. *prohibit access and egress by motor vehicles (other than certain exempt vehicles) at the following locations:*
 - i. *Sylvan Hill at the common boundary of Nos.11 and 13*
 - ii *Lancaster Road junction with Goat House Bridge*
 - iii. *Fox Hill junction with Braybrooke Gardens*
 - iv. *Stambourne Way junction with Auckland Road*
 - v. *Bus gate introduced at the common boundary of Nos. 86 and 84a (Auckland Road Surgery) Auckland Road*
 - b. *These restrictions to be enforced through Automatic Number Plate Recognition (ANPR) camera technology.*
 - c. *The restrictions shall not apply in respect of:*
 - i. *a vehicle being used for fire brigade, ambulance or police purposes;*
 - ii. *anything done with the permission of a police constable in uniform or a civil enforcement officer;*
 - iii. *a vehicle being used for the purposes of a statutory undertaker in an emergency, such as the loss of supplies of gas, electricity or water to premises in the area, which necessitates the bringing of vehicles into a section of road to which the order applies;*
 - iv. *buses;*
 - v. *licensed taxis*
 - vi. *Dial-a-Ride vehicles;*
 - vii. *vehicles to which a valid exemption permit has been provided.*
 - d. *Introduce two disabled persons Blue Badge parking bays outside Nos 84 and 86 Auckland Road.*
2. *Instruct officers to continue to seek to work with those in Bromley Council to mitigate effects predicted to arise from the Experimental LTN in certain*

residential access streets in Bromley and to address concerns about potential effects on air quality.

3. *Delegate to the Director of Public Realm the authority to vary the provisions of the Experimental TRO including the exemptions to the restrictions.*
 4. *In relation to Equality, agree:*
 - a. *that the equality implications of the recommended Experimental Traffic Regulation Order have been the subject of careful consideration in compliance with the Council's obligations under sections 1 and 149 of the Equality Act 2010;*
 - b. *nevertheless there should be further equality impact analysis including through focused engagement with the members of groups with protected characteristics potentially most affected by the proposed change in and around the area of the Experimental LTN during the operation and any change of the Experimental TRO;*
 5. *Ensure that a recommendation on the future for the Experimental LTN be brought to the Traffic Management Advisory Committee at the appropriate time if considered desirable prior to the expiry of the Experimental TRO and in any event as soon as is practicable after 12 months of the experimental order being in place."*
- 2.3 During its consideration of this item, the Scrutiny and Overview Committee heard from a number of external speakers, who attended the meeting to present their views on the LTN. These including the relevant Executive Member & Assistant Director from LB Bromley, a local Member from LB Bromley whose ward bordered the proposed experimental LTN and community groups both for and against the scheme.
- 2.4 The Committee also extensively questioned both the Cabinet Member for Sustainable Croydon and officers on the reasons for the decision to introduce an experimental LTN in Crystal Palace and South Norwood. The evidence provided by the external speakers, the responses received to the questions raised by the Committee were used to inform the final decision on the call-in.
- 2.5 In line with the procedure rules set out in the Council's Constitution for Scrutiny considering a call-in (Part 4E – Scrutiny & Overview Procedure Rules, Section 11), the Committee had three outcomes it could consider using for the call-in.
- These outcomes are:-
1. That no further action was necessary and the decision could be implemented as originally intended.
 2. To refer the decision back to the Cabinet for reconsideration, outlining the nature of the Committee's concerns
 3. To refer the decision to Council, if the Committee considered that the decision taken was outside of the Budget and Policy Framework.
- 2.6 Having reviewed the report provided with the agenda as well as the information gathered at the meeting, the Committee initially concluded that it would refer

the decision back to the decision maker (the Cabinet Member for Sustainable Croydon) for reconsideration. However, this was not an option available under the Council's Constitution. As such the Committee reconvened on 20 May 2021 to confirm its decision, which was to refer the decision to the Cabinet for reconsideration. The concerns of the Scrutiny Committee, on which this referral is made are outlined in the following section of the report.

3 CONCERNS OF THE SCRUTINY & OVERVIEW COMMITTEE

- 3.1 During its consideration of the call-in, Scrutiny & Overview Committee acknowledged that a benefit of using Experimental Traffic Orders is that they enable the Council to carry out iterative testing. This allowed the Council to gather data to establish the extent to which any such scheme positively contributed towards either reducing car usage or improving air quality in the borough. However, the Committee concluded that further consideration was needed to allow account to be taken of the following concerns:-
1. The Committee was concerned that the lack of clarification on the baseline data sources to be used for the experiment would make it difficult to quantifiably demonstrate the potential benefits arising from the experiment to the local community. As such that further work was needed to identify and refine the quantifiable data sources that would be used for the project. Additionally, in order to build public trust, confirmation of these data sources had to be made publicly available, prior to the start of the experiment in South Norwood & Crystal Palace.
 2. The Committee was concerned that it would be difficult for the public to have confidence in the benefits arising from the experiment without clearly defined success criteria. As such urgent work was needed to define a framework by which the success of the scheme would be assessed. This needed to be completed and made publicly available prior to the start of the experiment in South Norwood & Crystal Palace.
 3. The Committee was concerned about the potential impact the experiment may have upon the roads surrounding the LTN, particularly in regards to air quality. As such any monitoring installed as part of the experimental scheme needed to include the wider area. Additionally, given the potential negative impact on the air quality in the surrounding roads, mitigation needed to be identified as a matter of urgency, should there be a significant deterioration in air quality.
 4. The Committee was concerned that the level of engagement with Bromley Council to date had not resulted in an agreed way forward for the experiment, which was likely to result in a detrimental impact for those Bromley residents living closest to the scheme. As such further engagement with the London Borough of Bromley needed to be prioritised, to ensure that the appropriate mitigation was in place before the start of the experiment.
 5. Although reassurance was given about the level of consultation that would be undertaken throughout the experiment, it was agreed that the

engagement strategy for the Crystal Palace & South Norwood LTN project needed to be made publicly available as soon as possible.

6. In light of concerns raised about during the meeting about the level of signage used during the previous temporary scheme, there needed to be an ongoing review of the signage used during the life of the experimental scheme.
7. The Committee had a concern that it would be difficult to reduce congestion on residential roads while route-finding apps continue to include these roads as potential route options for motorists. As such the Committee would ask the Cabinet Member for Sustainable Croydon to give a commitment to working with other London boroughs to address the issue of route finding apps directing motorists through residential streets.
8. In light of the above concerns, it is requested that the Cabinet Member for Sustainable Croydon provides two updates to the Streets, Environment & Homes Sub-Committee. Firstly, before the start of the experiment to provide a response to the concerns of the Scrutiny & Overview Committee. Secondly, at the conclusion of the experiment to provide an update on the outcomes.

4 RECOMMENDATIONS TO CABINET

- 4.1 Cabinet is asked to reconsider the original decision taken by the Cabinet Member for Sustainable Croydon, taking account of the above concerns from the Scrutiny and Overview Committee. The Cabinet can decide to amend the original decision or not before taking the final decision.
- 4.2 To ensure that the Cabinet is able to take account of all the relevant considerations when making its decision, appended to this report are the following documents/webcasts:-

Webcast 1: [TMAC Meeting on 12 January 2021](#)

Appendix 1: Traffic Management Advisory Committee – 12 January 2021 – Presentation Slides

Appendix 2: Decision, 29 January 2021, Crystal Palace and South Norwood Low Traffic Neighbourhood

Webcast 2: [TMAC Meeting on 15 February 2021](#)

Appendix 3: Decision, 23 February 2021, Crystal Palace and South Norwood Low Traffic Neighbourhood

Appendix 4: Corporate Plan for Croydon 2018-2022

Appendix 5: Climate Change report

Appendix 6: Crystal Palace & South Norwood Low Traffic Neighbourhood Call-In Report, Scrutiny & Overview Committee – 23 March 2021.

Appendix 7: Scrutiny & Overview Committee – Additional Information provided in response to the call-in request.

Webcast 3: [Scrutiny & Overview Committee Meeting - 23 March 2021](#)

Appendix 8: Draft Minutes of Scrutiny & Overview Committee meeting – 23 March 2021

Item 11b: Response to the concerns of the Scrutiny and Overview Committee – Report dated 7 June. Includes considerations when deciding to implement an Experimental Traffic Order.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 For the financial and risk assessment considerations please see the accompanying report providing the response to the concerns of the Scrutiny & Overview Committee.

6 LEGAL CONSIDERATIONS

- 6.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance that the Scrutiny and Overview Committee at it's meeting considered this key decision and concluded that there were concerns about the decision and therefore referred the matter to Cabinet for reconsideration. It has set out the nature of the concerns. Cabinet should then reconsider the decision, amending the decision or not before making a final decision.
- 6.2 The decision shall be taken in accordance with the principles of natural justice in the decision-making process. The Cabinet are reminded that they must read all the papers that have been provided and that are relevant to the decision they are about to make. Failure to do so, (out of insufficient time or a belief that they are irrelevant,) would be a breach of their duty. It could also likely lead to a decision that is unlawful as it fails to take account of relevant considerations.
- 6.3 Cabinet shall have an open mind when considering this matter. Prior indications of a view on a matter do not amount to predetermination provided the decision maker has an open mind when considering the matter. This means that they take account of all information, including new information and reach their own conclusion, based on the evidence. It should be noted that Section 25(2) of the Localism Act 2011 states that a decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—
- (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and
 - (b) the matter was relevant to the decision.
- 6.4 The outcome of Cabinet's decision must be objectively rational by ensuring it is evidence based. Cabinet must be able to show, objectively, that it has taken the all relevant information and material into account and reached its own conclusion based on the evidence. An irrational or unreasonable decision is one that was not reasonably open to it, (as stated by Lord Green MR in the *Associated Provincial Picture Houses v Wednesbury Corporation [1948] 1 KB 223*.) The courts have offered the following interpretation of "irrationality":

- "Unreasonableness can include anything which can objectively be adjudged to be unreasonable. It is not confined to culpability or callous indifference. It can include, where carried to excess, sentimentality, romanticism, bigotry, wild prejudice, caprice, fatuousness or excessive lack of common sense". (In *Re W (An Infant)* [1971] AC 682, Lord Hailsham (at 699H).)
- "a decision which does not add up". (In *R v Parliamentary Commissioner for Administration, ex parte Balchin* [1998] 1 PLR 1.
- "a decision which no sensible authority acting with due appreciation of its responsibilities would have decided to adopt". (In *Secretary of State for Education and Science v Tameside Metropolitan Borough Council* [1977] AC 1014, Lord Diplock (at 1064 E-F).)

6.5 The Cabinet should provide reasons for their decision. A well-reasoned decision will fully inform those affected by the decision of the reasons for the outcome. Well-reasoned decisions help public bodies withstand legal challenge by explaining their thought processes. Reasons do not need to be excessively detailed, but do need to be adequate, (see *R (Savva) v Royal Borough of Kensington and Chelsea* [2010] EWCA Civ 1209) Adequate reasons are reasons that:

- Deal with all the substantial points that have been raised.
- Are sufficient for the parties to know whether the decision-maker has made an error of law.
- Set out and explain key aspects of the decision-maker's reasoning in coming to its conclusion.
- Include all aspects of reasoning that were material to the decision.
- Do not need to set out in detail all the evidence and arguments referred to by the decision-maker.
- Decision-makers should record the reasons for their decisions at the time they are made.

Approved by, Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Law and Governance & Deputy Monitoring Officer.

7 HUMAN RESOURCES IMPACT

7.1 For the human resource impact please see the accompanying report providing the response to the concerns of the Scrutiny & Overview Committee.

Approved by: Jennifer Sankar, Head of HR Place on behalf of Sue Moorman, Director of HR

8 EQUALITIES IMPACT

8.1 For the equalities impact please see the accompanying report providing the response to the concerns of the Scrutiny & Overview Committee.

9 ENVIRONMENTAL IMPACT

- 9.1 For the environmental impact please see the accompanying report providing the response to the concerns of the Scrutiny & Overview Committee.

10 CRIME AND DISORDER REDUCTION IMPACT

- 10.1 For the crime and disorder impact please see the accompanying report providing the response to the concerns of the Scrutiny & Overview Committee.

11 REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 The referral to Cabinet has been made by the Scrutiny & Overview Committee in line with the process set out in paragraph 11.9 in section 4E: Scrutiny & Overview Procedure Rules of the Council's Constitution. As set out in paragraph 11.9, the Cabinet need to reconsider the original decision in light of the concerns raised by the Committee.
- 11.2 The Cabinet can choose to either amend the decision in light of the concerns raised by the Scrutiny and Overview Committee or not. Having chosen whether or not to amend the decision, Cabinet needs to make the final decision.

12 OPTIONS CONSIDERED AND REJECTED

- 12.1 None

CONTACT OFFICER: Simon Trevaskis – Senior Democratic Services & Governance Officer - Scrutiny

APPENDICES:

Appendix 1: Traffic Management Advisory Committee, 12 January 2021, The Crystal Place and South Norwood Low Traffic Neighbourhood – Pages 29 to 370

Appendix 2: Minutes of the Traffic Management Advisory Committee – 12 January 2021

Appendix 3: Decision, 29 January 2021, Crystal Palace and South Norwood Low Traffic Neighbourhood

Appendix 4: Traffic Management Advisory Committee, 15 February 2021, Crystal Palace and South Norwood Low Traffic Addendum Report

Appendix 5: Minutes of the Traffic Management Advisory Committee – 15 February 2021

Appendix 6: Decision, 23 February 2021, Crystal Palace and South Norwood Low Traffic Neighbourhood

Appendix 7: Corporate Plan for Croydon 2018-2022

Appendix 8: Climate Change report

Appendix 9: Crystal Palace & South Norwood Low Traffic Neighbourhood Call-In Report, Scrutiny & Overview Committee – 23 March 2021

Appendix 10: Draft Minutes of Scrutiny & Overview Committee meeting – 23 March 2021

BACKGROUND DOCUMENTS: None