

**Case Name:** *Bouchti v London Borough of Enfield* [2022] EWHC 2809 (Admin) (09 November 2022)

**Full case:** [Click Here](#)

**Commentary:** This was an unsuccessful challenge to the London Borough of Enfield's decision to create a permanent "low traffic neighbourhood". On 2 March 2022, the council made a series of permanent traffic orders under section 6 of the Road Traffic Regulation Act 1984. The effect of these orders was to create a "low traffic neighbourhood" in respect of Fox Lane and the surrounding roads by restricting the flow of traffic through those roads. The orders made permanent the arrangements which had been put in place by a series of experimental traffic orders made in September 2020.

The claimant lives near the area subject to the orders and challenged them on the basis that there were procedural failings flowing from:

- a) the council's failure to comply with the requirements of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996;
- b) deficiencies in the consultation that the Council conducted; and
- c) a failure by the council to have regard to its statutory duties to conduct a proper balancing exercise to assess the effect of the proposed orders on "the expeditious, convenient and safe movement of vehicular and other traffic".

The claimant also claimed that the involvement of two of the council's members and two of its officers in the Better Streets for Enfield campaign group meant that the decision was approached with a closed mind. Finally, she alleged that there has been irrationality in the decision linked with a breach of the council's duty to obtain the necessary information to make the decision properly.

The Council accepted there were some errors in the decision-making process, but it did not accept all of the errors asserted by the claimant and denied that any failings that did occur caused substantial prejudice to the claimant. The council argued that:

- a) it was not required to disclose further information to the claimant for the purposes of consultation;
- b) it had proper regard to the relevant statutory duties and carried out an appropriate balancing exercise;
- c) the decision to make the experimental orders permanent was approached with an open mind; and

d) there was no basis for the assertion of irrationality.

Dismissing the claim on all grounds, the court agreed with the council that, although the council failed to comply with certain procedural requirements, these failures did not cause substantial prejudice to the claimant's interests. The court was also satisfied that the council did consider its statutory duties and carry out the required balancing exercise even if it expressed its conclusions on these matters in short terms. The court added that an elected member's or an officer's personal predisposition in favour of an approach in general terms does not mean that they cannot approach their tasks in relation to that proposal in a proper and professional way.

On the irrational question of whether the Council's decision was made on the basis of data which was too limited to justify the decision, the court considered that the relevant legal test was not whether a reasonable authority could have decided to obtain more information before taking the decision to make the experimental orders permanent but whether a reasonable council could have been satisfied that it had sufficient information on which to take the decision properly. The court held that there will almost always be more information which could be obtained or further investigations which could be undertaken before a public body makes a particular decision, but the task of balancing the advantages and disadvantages of continuing to seek further information was a matter of judgement for the decision-maker rather than one of precise mathematical analysis.

*Case summary prepared by Safiyah Islam*