



The Scottish Parliament  
Pàrlamaid na h-Alba

**PUBLIC PETITION NO.**

**PE01595**

### Name of petitioner

Alexander Taylor

### Petition title

Moratorium on shared space schemes

### Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to place a moratorium on all shared space schemes until safety and equality concerns have been addressed.

### Action taken to resolve issues of concern before submitting the petition

I have written to MSPs, MPs and Scottish ministers, including the Minister for Transport, who all tell me that this is a Local Government issue and that they cannot intervene.

The petition stems from my experience with East Dunbartonshire Council with whom I have tried to engage during the past 15 months over a proposed Shared Space Scheme in Kirkintilloch without success. As a member of the National Federation of the Blind I am able to get information on the many schemes throughout the country and I have informed all local Councillors on a regular basis of all the many accidents which have taken place where schemes have been introduced.

I have the support of East Dunbartonshire Visibly Impaired peoples Forum, The National Federation of the blind, The RNIB, The Access Panel, The Scottish Disabled Equality Forum, Visibility, Deaf Blind Scotland, Guide Dogs UK, All the local traders, Parents whose children attend local schools, together with 99% of the public, yet we are being ignored.

### Petition background information

"Shared space" schemes are designing many blind, deaf-blind, disabled, and other vulnerable people out of their Town Centres as due to uncontrolled Courtesy Crossings they can no longer access their High Street.

Questions about the impact of shared spaces and their impact on blind people and others have been raised in the both houses of the UK Parliament and I am aware of at least 70 reports from across the UK detailing the dangers that shared space schemes can present, including fatalities and injuries suffered by vulnerable pedestrians. A paper for the Institute of Civil Engineers (available online at <http://eprints.uwe.ac.uk/17937/8/tran1200047h.pdf>) has also questioned the evidence base for the introduction of these schemes.

## WHAT IS A SHARED SPACE SCHEME?

"Shared space" is a design approach which aims to reduce the impact of motor traffic in places used by pedestrians.

Robert Goodwill MP, in his previous role as Parliamentary Under Secretary at the Department for Transport, has defined a shared space as follows—

"This is a design approach which aims to reduce the impact of motor traffic in places used by pedestrians. Courtesy crossings can form part of a shared space scheme, but they are not a requirement and there will be places where provision of formal crossings is more appropriate.

There is no single definition of 'shared space' - it is a spectrum covering many types of design, which aims to reduce the impact of motor traffic in places used by pedestrians. The phrase 'shared space' is often used as shorthand to describe a 'level surface' - the situation where kerbs are removed and there is a single surface used by pedestrians and vehicles. However, this can be misleading as a level surface is not a requirement for a shared space scheme. Kerbs can still be retained, and the decision on whether to do so is for the local authority to make.

Because shared space is an umbrella term, rather than a definition of a particular road type, there are no specific rules (including any for who has priority) associated with it. Pedestrians should treat it as any other road, using the advice for pedestrians given in the Highway Code.

Nor is there any formal definition of a 'courtesy' crossing, but they are similar in principle to informal dropped kerb crossings, which can be used to provide a crossing place where a controlled crossing is not justified.

Pedestrians have no explicit right of way in law at uncontrolled crossings, and in the event of an incident at such a crossing, it would be for the courts to determine where liability lay.

Pedestrians do have a right of way at formal crossings, which include zebra, pelican and puffin crossings. Drivers must stop at a red light to allow pedestrians to cross where facilities are provided, or must give way at zebra crossings to anyone on the crossing.

Advice on crossing the road is given in Highway Code, both for formal controlled crossings and for situations in which no formal crossing place is provided. We last updated the Highway Code in September 2007 and we currently have no plans to amend it.

The design of traffic management schemes, including decisions on what type of crossing to provide, is the responsibility of local authorities."

The Scottish Government document "Designing Streets: A Policy Statement for Scotland" details a number of different crossings stating that signalised crossings are preferred by older people and people with visual and mobility impairments. This document also states that 'inclusive design should be a first principal in street design' and it refers the user to their legal requirements under the Disability Discrimination Act 2005, the PAN 78 Inclusive Design document and the Disability Discrimination Act: Good Practice Guide for Roads. The document also states that those who fail to observe the requirements of the Disability Discrimination Act 2005 will be at risk of a claim. It also mentions briefly shared space and refers users to the Department of Transport guidance note 1/11 "Shared Space" and states that the final outcome of that document should be taken into account when considering shared space. The guidance note had not been published when Designing Streets came out and as far as I can see has not been assessed for the Scottish situation.

The Mobility and Access Committee for Scotland (MACS) raised concerns about the use of crossings and shared space when the "Designing Streets: Policy Statement for Scotland" was out to consultation. In particular, in the response to Section G3.3.9 MACS reconfirmed that designers should consider the needs of disabled people especially for those who are visually impaired or less mobile. Further concerns were raised about shared space in Section G3.3.13 where MACS stated 'shared space aims to slow speed

visually / mobility impaired person can still be injured. Often drivers see a visually impaired person, slow down, wave them over the road, but because the person can't see the driver waving, they get impatient and drive off'. Other concerns were raised in sections G3.3.31 and G4.2.10, with the most significant concern raised in G4.2.11 which stated MACS requests that no new Shared Surface Areas are agreed by Planners until research commissioned by the DfT is completed analysed and commented on. The MACS consultation response is available online at [http://www.transportscotland.gov.uk/system/files/documents/consultations/Consultation\\_on\\_De](http://www.transportscotland.gov.uk/system/files/documents/consultations/Consultation_on_De)

To date we cannot find evidence that MACS has analysed the 'Shared Space document 1/11' even though the issue was on MACS work plans and concerns reported in their Annual Reports. The issue of shared space was also on the MACS work plan from 2013-2015 but no name assigned to it and did not feature in the annual reports.

We cannot find any document from MACS or any other document which has analysed the impact of shared space road design in Scotland. The Transport Scotland 'Roads for All Good Practice Guide Document' states Transport Scotland cannot support the use of zebra crossings because they are unsuitable for visually impaired pedestrians and in Section 4.4.2 explains the common misconception over blister paving, that people believe it is put there to indicate it is a safe place to cross a road. Although this document is for trunk roads the needs of blind and disabled people to cross and the legal requirement under disability legislation is the same and therefore we question how local authorities expect blind people to cross the road on courtesy crossings and without kerbs.

We would like to know how shared space road design / balanced streets can be used in Scotland when MACS has not from what we can see undertaken any assessment on this design and asked for no scheme to be introduced in 2009 until assessment had been done.

I would also ask how the Scottish Government can meet two of its key strategic objectives being 'Wealthier and Fairer' and 'Safer and Stronger' identified Transport Scotland in Annual Business Plan 2014-15 with the use of shared space / balanced streets approach. I would like to ask how Transport Scotland can meet four imperatives of the Scottish Government Business Strategy with the use of shared space / balanced street design especially the 'Being the Scotland we want to see' wanting 'Access to transport for all ages and needs'. Transport Scotland Corporate Delivery Commitments 2012-14 Number 44 was for its work to 'Ensure that equalities and cultural issues underpin all of transport Scotland's activities' with 44.5 being 'To recognise the Mobility and Access committee for Scotland (MACS) as a key resource providing guidance and advice on disability issues affecting the travelling public.' If MACS have not assessed it how can Transport for Scotland fund organisations to undertake this work for local authorities?

## **LEGAL POSITION**

As you may know, under the provisions of the Equality Act 2010 it is unlawful for a public authority to discriminate in the exercise of its public functions. This includes highways functions. Section 20(4) requires that where a physical feature puts a disabled person at a substantial disadvantage in comparison to a person who is not disabled, an Authority is required to take such steps as is reasonable to have to take to avoid the disadvantage. We consider that the arrangements currently in place for pedestrians to cross High Street's discriminates against blind and partially sighted people (and other disabled people) who are either unable to cross or face unreasonable difficulty in crossing. Council's appear to have given little, if any, thought to their obligations under the Equality Act in this matter, in particular their duty to make reasonable adjustments.

As public authorities, Councils are also subject to the Public Sector Equality Duty and are required to have "due regard" to equality outcomes in everything they do. In particular, Councils are required to ensure that they eliminates discrimination, advances equality of opportunity and foster good relations between, amongst others, disabled and non-disabled people. It is not at all clear that Councils have given any

consideration to their duty to promote disability equality in relation to arrangements made for accessing High Streets. Clearly, at the very least, plans should include an assessment on the impact of schemes on equality. It is quite clear that this has not taken place and Councils appear to be relying on an overall impact assessment in relation to the Local Transport Plan. This is clearly insufficient.

In any event the duty is on-going and yet it is clear that the access concerns raised by organisations representing blind and partially sighted people have not been given any further consideration or assessed for their impact on equality. We also note that many Councils' Equality Objectives include a commitment to promote equality through the provision of fair and accessible services, which will ensure that all their customers are able to access services and facilities and that there is a robust structure in place for Equality Impact Assessments. They have clearly failed to meet these and other objectives in relation to these schemes. Legal cases are ongoing in Northern Ireland on this issue and in England, with another two cases being reviewed.

Finally, we also consider that the Human Rights Act is of relevance to this matter in that the current crossing arrangements may be considered a breach of Article 8. We further consider that the current arrangements may breach the United Nations Conventions on the Rights of Persons with a Disability in particular Articles 5, 9 and 8. The problem of shared space road design being used in the UK has been reported to the United Nations by the Equality and Human Rights Commission in December 2014 and this includes Scotland too.

We support the principles that the scheme was designed to achieve in terms of reducing traffic flow and speed and providing an improved pedestrian experience. However, these schemes have been implemented in such a way as to make them hazardous to blind and partially sighted people thereby excluding them from the High Street. We have made considerable efforts to engage with Councils on this matter and to highlight the problems experienced by blind and partially sighted people, however Councils have failed to listen. In the circumstances, we would once again request that Councils now take steps to install controlled crossings to facilitate blind and partially sighted people's access to High Streets.

Concerns were raised during this year Accessible Summit by the Transport Scotland with the only survey showing 21% people concerned over the lack of definition of pavements and road and that shared space was an issue during the regional summits held across Scotland in 2015.

## **CONCLUSION**

Why are Councils not complying with the Equality Act 2010 and their Public Sector Equality Duty to protect disabled people by not installing controlled crossings? Why can't these new developments be inclusive and serve the needs of all, pedestrians and road users. Why is it claimed that these schemes give the pedestrian priority when the step onto the road, when Minister for Transport Mr Robert Goodwill stated in the House of Commons that the pedestrian does NOT have priority on Courtesy Crossings. Why has the Shared Space guidance 1/11 from the Department of Transport not been assessed by the Access and Mobility Committee Scotland (MACS). Why is Transport Scotland passing on all responsibility to local Councils on Shared Space when the DFT Shared Space Guidance has not been assessed by the MACS Committee. Further investigation on the policy or lack of it from this Committee should be sufficient to put a halt on Shared Space Design.

### **Unique web address**

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/PE01595>

### **Related information for petition**

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NO

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1

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