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London's ULEZ: Where Next for Curbing Emissions?

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Abstract

If opposition to ULEZ really did tip the Uxbridge by-election result, we should be surprised. Most voters drive compliant vehicles and might benefit from cleaner air. But the adversely-affected minority had loud voices, and opposition was mobilised against the very principle of road pricing, with substantial input from home counties Conservatives outside Greater London. It didn't help that the scientific case for ULEZ is not straightforward, although it certainly exists. Especially when a lot of people are giving 'don't know' responses to pollsters, public opinion may be swayed by noisy dissent.

Keywords: ULEZ, road pricing, public opinion, science, London

THREE BY-ELECTIONS on 20 July 2023 brought one surprise result: the Conservatives clung on to Uxbridge, while losing Selby and Somerton & Frome to massive swings. Opposition to the expansion of the inner London Ultra Low Emissions Zone (ULEZ) to take in the whole of the Greater London Authority (GLA) area appears to have influenced the outcome. Certainly, that was the message that Conservative strategists heard: several announcements renege on green policies and supposedly favouring motorists followed quickly.

Soon afterwards, on 28 July, Mr Justice Swift brought down his judgment on the case brought by four London boroughs and Surrey County Council challenging the proposed ULEZ expansion.¹ There were three main grounds to the challenge and the judge rejected all of them. Some aspects of the decision were technical, such as whether the enlarged ULEZ was an 'expansion' or a new scheme, but there were substantive issues at stake about protecting the interests of those outside London (represented in court by Surrey) and about whether the consultation process had been properly conducted.

These complaints raise wider political, if not legal, issues. In the aftermath of Uxbridge, both Labour and Conservative politicians have been pontificating about the need for councils to 'carry people with them' in their proposals for traffic restrictions. It is often assumed that this will be difficult and require unaffordable side payments. The consultation documents support a different analysis. Most vehicles already comply with ULEZ standards, although there are widely differing estimates of exactly what the level of compliance is, and the court case partly arose from this issue.

For several reasons, it is questionable whether the opposition which emerged in the consultation process was representative of public views on ULEZ. While one of these reasons is familiar—those with the most to lose shout loudest—two others are less obvious. First, councils, MPs and activists outside London, in the home counties beyond the GLA area, played a significant role in mobilising opposition. Second, while some opposition arose from the direct costs that opponents might pay, much of the impetus came from opposition to the very principle of road pricing.

Writing in the *Financial Times*, Janan Ganesh announced that Uxbridge was 'the beginning of the end of Britain's net zero consensus'.²

¹*London Boroughs of Hillingdon, Bexley, Bromley and Harrow, and Surrey County Council v. The Mayor of London and Transport for London*, High Court, 28 July 2023.

²J. Ganesh, 'The beginning of the end of Britain's net zero consensus', *Financial Times*, 1 August 2023.

His central claim was that people endorse environmental policies in principle, but not when they have to pay for them. He offered a straightforward calculation by way of explanation: the UK accounts for about 1 per cent of the world's greenhouse gas emissions, which can have no discernible effect on global warming, so costly efforts to reduce emissions in the UK are not worth the collective national trouble. The logic and rationality of Ganesh's calculation seems impeccable, yet, when it comes to ULEZ, rational calculation points in the opposite direction. ULEZ is primarily a health-oriented measure against localised air pollution; combatting climate change is at best a secondary objective. The vast majority of voters will not have to pay ULEZ charges, but many will benefit from cleaner air. However, scientists have struggled to convey the health benefits of further reductions in pollution, given that London's air is already much cleaner than it used to be, and levels of some of the key pollutants in the outer area are well below danger levels. This meant that opponents of the scheme were able to highlight weaknesses in the scientific case for ULEZ.

The compliance rate

A simple explanation for ULEZ opposition would be that the scheme was widely misunderstood, with many people assuming incorrectly that they would have to pay the charge. Transport for London (TfL) provided respondents to its consultation with an online look-up to check whether their vehicles were compliant, but it could not be sure that they used it. The proportion of consultation respondents who said that their vehicle was non-compliant was higher than the household averages suggested by Driver and Vehicle Licensing Agency (DVLA) data: 54 per cent of outer London respondents said that their vehicle(s) did not meet the standards, whereas DVLA estimates of noncompliant registered vehicles ranged from 28 per cent in the most compliant borough to 38 per cent.³

³Transport for London, *Report to the Mayor: Our Proposals to Help Improve Air Quality, Tackle the Climate Emergency, and Reduce Congestion by Expanding the ULEZ London-Wide and Other Measures (Scheme Consultation)*, November 2022, pp. 46–7; High Court judgement, para 32.

Estimates of the proportion of vehicles that would have to pay the charge also took into account how heavily they were used. TfL used camera (automatic number plate recognition, ANPR) data to calculate that about 91 per cent of vehicles moving around in the ULEZ expansion area are already compliant, compared with more than 95 per cent of vehicles tracked on any given day in the existing ULEZ.⁴ In the court case, the councils complained that TfL gave insufficient explanation of how estimates of likely compliance were arrived at, making it difficult for them to challenge TfL's claims. The judge rejected this complaint, accepting that 'some parts of the material published for the purposes of the consultation require careful reading', but not that the material provided was insufficient or inadequately explained.

Counsel for the complainants made laboured theatre out of the difficulties of tracking through numerous documents and grappling with the technical language they used. Reporting on the court case also suggested that TfL's approach was difficult and obscure. Reporters' criticisms were fuelled by an earlier episode when the Office for Statistics Regulation (OSR) rebuked TfL for not publishing its supporting evidence at the time the 91 per cent claim was made—although the OSR did find that TfL's estimate was adequately supported by the data. Indeed, there was no challenge to the accuracy or relevance of TfL's information in the court case. This was lost on the BBC's Tim Donovan, who claimed that it would be 'more logical' to use data on the cars registered to outer London households than ANPR data on vehicle movements.⁵ Why exactly this would be more logical he did not venture to say. If you want to know how much people with noncompliant vehicles will be affected, it seems relevant to know how often they drive.

Opposition in the consultation

Of course the most likely reason for the high proportion of consultation respondents who said that their vehicle was noncompliant is that

⁴Transport for London, *Ultra Low Emission Zone (ULEZ) Key Fact Sheet*, 1 January 2023 to 31 March 2023.

⁵T. Donovan, 'What did we learn from ULEZ court action?', BBC online, 9 July 2023; <https://www.bbc.co.uk/news/uk-england-london-66131895>

owners of noncompliant vehicles were more likely to respond. They have reason to do so, since they will be directly affected. It is also no surprise that respondents drove more frequently than the average person. The consultation does not pick up what proportion drove vans rather than cars, but it is likely that van drivers were disproportionately represented, as their vehicles have lower compliance rates.

Biased responses are to be expected in a consultation of this kind. Those most affected by pollution may not take up the cudgels to defend their interests, as the benefits of the measure are distant, probabilistic and hard to put a monetary value on, whereas for noncompliant motorists they are certain and financial. Campaigning organisations try to counter this, but campaigns can work both ways. There was a high volume of organised responses to the consultation—nearly 12,000 out of 58,000 (20 per cent). They came from ULEZ supporters organised by Living Streets, London Cycling Campaign, Friends of the Earth and Wearepossible, but also from ULEZ opponents coordinated by Fair Fuel UK.

Fair Fuel largely mobilised responses from outside Greater London (80 per cent). More generally, some of the loudest voices raised against ULEZ expansion were from the home counties. Gareth Johnson, the Conservative MP for Dartford, was a leading voice in the parliamentary debate on ULEZ.⁶ His line was that the Mayor of London, Sadiq Khan, was expanding ULEZ to raise revenue. ULEZ charges would be paid by his constituents, outside the GLA area, which was ‘taxation without representation’. South Thanet MP, Craig Mackinlay, promoter of Fair Fuel through the All-Party Parliamentary Group that he chairs, took the same line at PMQs on 18 January 2023, luring Rishi Sunak into agreeing that the Mayor ‘is imposing that tax on a public who do not want it’.⁷

While MPs and local newspapers in the home counties took up the cases of individuals

who would be affected by the charge, these cases hardly seem sufficient to account for the intensity of their opposition. Something else is going on, which is the rejection of any form of road pricing as a tax on motorists. The claim that Sadiq Khan is using ULEZ expansion to support the GLA’s budget generalises to the fear that road pricing will turn out to be an attractive source of revenue for any government under financial pressure. This helps to explain the partisanship of the ULEZ response. The case before the High Court was brought by all the Conservative-controlled London boroughs, acting in concert, bar two: Croydon, and Kensington and Chelsea. The latter is in the inner ULEZ area, while Croydon loudly objected to Khan’s initiative, but did not join the court case, perhaps because it is broke.

The efforts of the Mayor and TfL to make clear that compliance is already high do not reassure these opponents, who see ULEZ as a Trojan horse for a wider programme. In a way, they are right. The TfL report does not hide the fact that a bigger scheme is in preparation. The impact report notes that only short- and medium-term impacts are relevant, as by 2030 a different road pricing scheme, superseding the congestion charge as well as the ULEZ, will need to be in force if London is to meet its net zero target. Some critics of ULEZ are already advocating bigger schemes. As David Smith pointed out in the *Times* on 26 July, the charge hits old cars, but not gas-guzzling new ones, as it is based on emissions of particulates and nitrous oxide, not CO₂. Much more extensive road pricing would be more effective in meeting CO₂ and congestion goals and, as Smith argued, also fairer in taking in new cars.⁸

Individual responses to TfL’s consultation came down heavily against ULEZ expansion, with 68 per cent saying that it should not be implemented.⁹ However, TfL also commissioned a survey of public opinion which gave rather different responses.¹⁰ Only 27 per cent of respondents said that ULEZ expansion should not be implemented, although another

⁶Expansion of the Ultra Low Emission Zone, *Hansard*, vol. 725, Tuesday, 20 December 2022.

⁷Engagements, *Hansard*, vol. 726, Wednesday, 18 January 2023. In another context, relating to the liability of embassies to pay the congestion charge, the government’s position is that road charges are charges, not taxes, and diplomats therefore have to pay them.

⁸D. Smith, ‘If taxes had to pass the Adam Smith test, everyone would be better off’, *Times*, 26 July 2023.

⁹TfL, *Report*, Table 19, p. 53.

¹⁰Some findings are included in the report, but full results can be viewed at Mayor of London/London Assembly, DataStore; <https://data.london.gov.uk/gla-opinion-research/press-releases/>

8 per cent favoured a delay. Highest opposition was in the south region (37 per cent, with 11 per cent favouring a delay). In the west, which includes the Uxbridge constituency, opposition was 29 per cent (8 per cent for delay). Clearly, opponents could only win Uxbridge for the Conservatives if they were exceptionally well-mobilised to make up a disproportionate share of the 46 per cent of voters who turned out for the by-election (this was the highest turnout of the night, but not much higher than in Selby (45 per cent) or Somerton and Frome (44 per cent)).

One striking feature of the survey is the share of ‘don’t know’ (DK) responses (22 per cent). There is a striking social pattern to the DK responses. Only 16 per cent of men, but 28 per cent of women were DKs; 18 per cent of ABC1s, but 28 per cent of C2DEs. Those of white ethnicity were less likely to respond DK than members of other ethnic groups. These differences could genuinely reflect differences in access to information, but they could also reflect different self-assessments of their right to have an opinion.¹¹ Given that women drive less than men, they may have declined to state a view, not seeing ULEZ as ‘their’ issue. Yet, of course the detrimental effects of pollution on health are their concern, at least as much as men’s.

The scientific case

Leaving aside the party-political motivations for their attacks, critics in Parliament found the anti-pollution justification for ULEZ unconvincing. In this they were aligned with a significant minority of consultation respondents: 35 per cent said they were ‘unconcerned’ or ‘very unconcerned’ about air quality where they live.¹² Gareth Johnson observed that the worst pollution in London is in central London, not outer London, while Gareth Bacon, the Conservative MP for Orpington, drew attention to the consultation document’s own description of the effects of the scheme on exposure to air pollution as

‘minor’ (regarding nitrogen dioxide) or ‘negligible’ (for small particulate matter (PM2.5)).

How strong is the scientific case for ULEZ? Johnson is at least partly right to claim that pollution is worst in the centre. Concentrations of NO₂, for example, are much higher in central and inner London than beyond, apart from Heathrow Airport, which is a large NO₂ hotspot. The distribution of large particulates (PM10) snakes out along the major roads, and a few highly polluted outer hotspots pop up: Hounslow, Croydon and parts of East London.¹³ The image is different for PM2.5, where almost all the GLA area has high levels, with only a few outer pockets of low pollution. In mobilising concern about PM2.5, scientists face the problem that knowledge has moved on and supposedly safe levels of atmospheric pollution are now found to be not safe at all. Small particulates are now understood to be particularly lethal, because they penetrate more deeply into the respiratory tract, and the World Health Organization (WHO) has revised its standards in response. PM2.5 across London is within statutory limits, but almost all Londoners live in areas which exceed the revised WHO guidelines.¹⁴

As Labour MPs sought to explain in the December 2022 parliamentary debate, cleaner air in outer London and the marginal effects of ULEZ do not invalidate the scientific case for restrictions. Even small reductions in pollution exposure can have significant health benefits. The relatively older population of outer London is likely to be more affected by pollution than young adults in the centre. The pollution maps also show that those who live near main roads are very much affected. As the government acknowledged in its 2018 clean air strategy, people with a low income are more affected by air pollution because, *inter alia*, they are more likely to live in areas with poor air quality, for example, in close proximity to main roads, and have less access to green spaces. Clean air zones and low traffic neighbourhoods do not help those living on main roads, whereas ULEZ reduces emissions from all traffic.

¹¹D. Laurison, ‘The willingness to state an opinion: inequality, don’t know responses and political participation’, *Sociological Forum*, vol. 30, no. 4, 2015, pp. 925–48.

¹²TfL, *Report*, p. 45.

¹³Maps can be viewed on the website of the London atmospheric emissions inventory; <https://data.london.gov.uk/dataset/london-atmospheric-emissions-inventory-laei-2019>

¹⁴TfL, *Report*, pp. 8–10.

Scientists researching air quality and health outcomes have expressed frustration with the unconcern demonstrated by home counties MPs and outer London local councillors. In March, Imperial College's Frank Kelly wrote a blog on ULEZ expansion with the subtitle 'why is it causing so much controversy?', which took politicians in the opposing councils to task for making statements about a 'false scare over air quality' and the ULEZ having 'negative or nil impacts', which Kelly saw as denying proven links between poor air quality and ill health.¹⁵ He noted that the central and inner London ULEZ has brought substantial improvements in air quality, whereas improvements in outer London have been much smaller. However, this claim does not really address the reasons for the complacency of those who live in leafy suburbs. Pollution images of the GLA area suggest that many of those living in outer London and beyond encounter (and contribute to) high pollution levels when they drive in inner London, but enjoy clean air when they go home.

Where to now with ULEZ and road pricing?

The High Court found that the Mayor can lawfully expand the ULEZ. It seems, writing at the beginning of August, that the expansion will go ahead. A much-improved scrappage scheme has been announced. This does not address the bigger reasons why expansion has been so strongly opposed—indeed, it magnifies the significance of Surrey's complaint to the court that those outside the GLA area are excluded from eligibility for scrappage subsidies. But it does much to address the concern that the scheme will cause hardship among those least able to bear it.

ULEZ is a phoney war, with minor costs and benefits compared with fully fledged road pricing. The expansion of ULEZ was presented by the GLA as a policy to combat climate change and congestion as well as local pollution, but TfL's report makes clear that the effect of ULEZ on CO₂ emissions is 'negligible'.¹⁶ Its effect on congestion is also likely to be modest,

with so many households already compliant. There will be much more at stake in the next phase of road pricing in London than in ULEZ. But is Janan Ganesh right that at that point many people will turn significantly less green? Arguments from self-interest are more nuanced than he allows. While there is no self-interest in reducing CO₂, people may support measures that benefit them by reducing congestion and providing funding for public transport, as the original congestion charge did. The lesson from ULEZ is not that these interests don't exist: it is that they can be difficult to mobilise.

The survey of public opinion commissioned by TfL showed high levels of 'don't know' responses. The challenge in converting the DKs into support for ULEZ, and for road pricing more generally, is that there is a reflexive process in public opinion. What people think of policy proposals depends in part on the reception they get. Widespread public support carries people with it: the wisdom of crowds persuades the waverers.¹⁷ People also approve of the principle of public consultation. As we have seen, responses can be very biased, but vocal opposition to a policy makes people uneasy. It may be possible to marginalise and stigmatise opponents, as the government does with climate change protesters. But, where opponents are backing the status quo and presenting themselves as pillars of the community, the public may be more inclined to acquiesce and take the path of least resistance, which means no policy change.

This is a challenge for reformers. It may seem 'undemocratic' to press ahead against vocal opposition, but the argument is not so compelling when public opinion feeds on itself to create a status quo bias. The evidence on low traffic neighbourhoods is that support for measures rises after they are implemented.¹⁸ People fear that they will have to make costly adjustments—fear driven in part by the siren voices of those for whom adjustment will

¹⁷D. Rothschild, and N. Malhotra, 'Are public opinion polls self-fulfilling prophecies?', *Research and Politics*, vol. 1, no. 2, 2014.

¹⁸N. Bosetti, K. Connelly, C. Harding and D. Rowe, *Street Shift: The Future of Low-Traffic Neighbourhoods*, London, Centre for London, 2022; <https://www.centreforlondon.org/wp-content/uploads/2022/06/CFL-StreetShift-LTNS-Final.pdf>

¹⁵F. Kelly, 'Expansion of London's Ultra Low Emission Zone (ULEZ): why is it causing so much controversy?', Imperial Medicine Blog, 6 March 2023.

¹⁶TfL, *Report*, p. 18.

indeed be costly. Public transport is much worse in outer than inner London and promises of improvement may not be believed. Outer Londoners have not experienced the expansion of bus services that astonished inner Londoners when the congestion charge was introduced. ULEZ is too small a scheme to bring about radical change, but those affected will find that the sky has not actually fallen

in, and some of the promised benefits might even materialise.

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