

OFFICER DELEGATED DECISION REPORT 23 APRIL 2021

Report title: Disabled Persons' Parking Places – Batch 2 2019-20

Wards: Clapham Common, Gipsy Hill, Herne Hill, Knights Hill, St. Leonards, Stockwell, Streatham Hill, Streatham South, Streatham Wells, Thurlow Park, Tulse Hill and Vassall

Report authorised by: Neil Fenton, Assistant Director of Parking, StreetWorks and Commercial

Portfolio: Claire Holland, Deputy Leader of the Council (Sustainable Transport, Environment and Clean Air)

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REPORT SUMMARY

This report seeks approval to carry out statutory consultation on the designation of new disabled persons' parking places and the revocation of existing disabled persons' parking places, as listed in Appendices A and C to this report. At those locations where no objection is received, the bays will be installed. No decision on installing a bay at a location where a valid objection is received will be made without a further report being made to the Assistant Director for Highways, Capital Programmes and Sustainability.

FINANCIAL SUMMARY

The forecast cost of the recommended statutory consultation is £10,000. This can be financed from funding allocated in the Parking Reserve. If the scheme progresses to implementation in the form currently proposed there will be an additional £5,000 cost. This would also be financed from the Parking Reserve.

RECOMMENDATIONS

1. To undertake statutory consultation on the following proposed traffic orders as provided within sections 6, 45, 46, 49 and 124 of and Part IV of Schedule 9 to the Road Traffic Regulation Act 1984 for:
 - a) the provision of disabled persons' parking places at the locations listed in Appendix A to this report
 - b) The deletion of those disabled persons' parking places listed in Appendix C to this report as having had no objection to their removal
2. That at locations where no material objections are received, traffic management orders be made or revoked as appropriate and the spaces installed or removed.
3. That at any location where a material objection is received, a further report be submitted to the Assistant Director for Parking, Street Management and Commercial.
4. That the Council does not hold a public inquiry prior to the publication of the statutory notice of proposals for the above.

1. CONTEXT

- 1.1 The increasing demand for parking in Lambeth can lead to particular difficulties for disabled people who need to park close to their homes or place of work. To address this difficulty the Council may provide a Disabled Persons' Parking Place (DPPP) on a public road where there is an established need for that facility. These bays may be designated in town centres and other locations and may be requested by residents who meet the established criteria for the same. Residents are not charged for this service. A number of requests for the provision of new, and for the removal of redundant, DPPP's have been received. Requests are typically from new residents or from existing residents whose circumstances have changed.
- 1.2 Applications for new DPPP's are checked by officers in the Accessible Transport team for compliance with the Council's Disabled Bay eligibility criteria (Appendix G). Lambeth recognises the benefits of providing disabled persons parking places and the quality of life benefits these bring. Accordingly, every approved application is reviewed and efforts are made to position the bay as close as possible to the applicant's address.
- 1.3 DPPP's are not dedicated to a single user or applicant. Therefore, every request for removal is reviewed and finalised through local consultation to determine the likelihood of it being used by any other blue badge holder. When a DPPP is removed, the space released would be subject to any pre-existing parking restrictions that apply to that particular road.

2. PROPOSAL AND REASONS

- 2.1 Each application for a DPPP has been assessed by the council's Accessible Transport team as being compliant with the council's Disabled Bay eligibility criteria (Appendix G) for an on-street DPPP to be considered by the Highways team.
- 2.2 Officers have concluded that applications for 6 DPPP's unsuitable for the follow reasons;
 - in Housing Estate,
 - on private land,
 - if they have a crossover,
 - on a main road with no safe space to site the bay (only if we cannot find a road close by)
- 2.3 Those applicants have been advised in writing of the reasons for refusal as listed in Appendix B.
- 2.4 Officers propose to undertake a statutory consultation to introduce 30 new DPPP's listed in Appendix A. The proposed positioning of the DPPP (see Appendix E) has been reviewed for road safety, parking and traffic management implications.
- 2.5 Further to the matters set out in this report and having regard to the considerations listed in 4.3 and 4.4 below, officers consider that this proposal will advance/not impede the Council's duty under section 122 of the RTRA 1986 to secure the expeditious, convenient and safe movement of vehicular and other traffic, including pedestrians, and the provision of suitable and adequate parking facilities on and off the highway.
- 2.6 Each proposal to remove a DPPP has been supported by informal consultation letters being delivered to neighbouring addresses to clarify the need for it to be retained. Using the outcome from this, officers propose to undertake a statutory consultation to remove 25 existing DPPP's listed in Appendix C and illustrated in Appendix F.

- 2.7 At locations where no material objections are received to the statutory consultation, traffic management orders can be made or revoked as appropriate and the spaces installed or removed. Where spaces are created or removed in a controlled parking zone (CPZ), traffic orders relating to that CPZ will also need to be amended. In all cases where a DPPP is removed, the resultant space will be made subject to the same permit restrictions as the adjacent (or nearest) parking bay.
- 2.8 At locations where a material objection is received, a further report needs to be made to the Assistant Director for Parking, Street Management & Commercial before deciding how to proceed.
- 2.9 The extent of the parking places will be marked and signed in accordance with the Traffic Signs Regulations and General Directions 2016. The bays will all be 6.6 metres long by 2 metres wide in accordance with the Regulations.

3. FINANCE

- 3.1 The estimated of the statutory consultation recommended by this report is £10,000. This can be financed from funding allocated from the Parking reserve. There is also an additional £5,000 cost for implementation if the scheme progresses to that stage in its current form, which would again be funded from the Parking reserve.

Project task	2021/22 (£)
Legal costs (writing and advertising traffic orders, etc)	10,000
Implementation cost	5,000
TOTAL	15,000

4. LEGAL AND DEMOCRACY

- 4.1 Sections 6, 45, 46, 49 and 124 of and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 (RTRA) provides the Council with the power to implement the changes proposed in this report. This legislation gives a local authority the power to make Traffic Orders to control parking by designating on-street parking places for vehicles displaying a blue-badge and imposing waiting and loading restrictions on other vehicles. The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (the 1996 Regulations) specifies the procedures that must be followed in making the Traffic Orders referred to in this report.
- 4.2 The procedure to be followed by the Council in making Traffic Orders under Section 6 is set out in Schedule 9, Part III of the Road Traffic Regulation Act 1984 and the 1996 Regulations. This sets out, inter alia, a requirement to advertise the proposed order and if the Council considers it is desirable, to also display notices describing the proposed Order in the streets concerned. It is incumbent on the Council to take account of any representations made during the consultation stage and any material objections received to the making of the Order must be reported back to the decision maker before the Order is made.
- 4.3 In determining what parking places are to be designated or varied under section 45, the Council is obliged to consider both the interests of traffic and those of the owners and occupiers of adjoining property, and in particular the Council shall have regard to:

- the need for maintaining the free movement of traffic;
- the need for maintaining reasonable access to the premises; and
- the extent to which off-street parking is available in the neighbourhood.

4.4 By virtue of section 122 of the RTRA, the Council must exercise its powers under that Act so as to secure the expeditious, convenient and safe movement of vehicular and other traffic including pedestrians, and the provision of suitable and adequate parking facilities on and off the highway. These powers must be exercised so far as practicable having regard to the following matters:-

- the desirability of securing and maintaining reasonable access to premises.
- the effect on the amenities of any locality affected including the regulation and restriction of heavy commercial traffic so as to preserve or improve amenity.
- the national air quality strategy.
- the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles.
- any other matters appearing to the Council to be relevant.

4.5 A recent High Court judgment confirms that the Council must have proper regard to the matters set out at s 122(1) and (2) and specifically document its analysis of all relevant section 122 considerations when reaching any decision.

4.6 Once the above-mentioned Order is in place, the council is required to make the necessary amendments to the road markings and signage as soon as practicable to adequately provide information as to the Order that is in place in the area. The requisite sign or signs for these purposes is specified in the Traffic Signs Regulations and General Directions 2016 (TSRGD).

4.7 The history and outcome of non-statutory stakeholder consultation undertaken to date is detailed at Section 5 of this report. The following principles of consultation were set out in a recent High Court case: First, a consultation had to be at a time when proposals were still at a formative stage. Second, the proposer had to give accurate and sufficient reasons for any proposal to permit of intelligent consideration and meaningful response. Third, adequate time had to be given for consideration and response and finally the product of consultation had to be considered with a receptive mind and conscientiously taken into account in finalising any statutory proposals. The process of consultation had to be effective and looked at as a whole it had to be fair. Fairness might require consultation not only upon the preferred option, but also upon discarded options. The proposals detailed in this report require the making of a TMO. The statutory procedure to be followed in this connection is detailed above and includes a statutory consultation stage. The Council is obliged to take account of any representations made at that stage and any material objections received will need to be reported back to the decision maker before an Order is made. All representations received must be properly considered in the light of administrative law principles, Human Rights law and the relevant statutory principles. The 1996 Regulations provides for the holding of a public inquiry in connection with a decision to approve, modify or abandon a TMO. The purpose of such an inquiry would be for the proposal to be examined and for the public to be given the opportunity to make their views known in a public forum. The Council is only obliged to hold a public inquiry if the proposal relates to the prohibition of loading and unloading of vehicles of any class in a road on any day of the week (i) at all times, (ii) before 0700, (iii) between 1000 and 1600 hours, or (iv) after 1900 hours and an

objection has been made to the proposed order; or the order relates to the prohibition or restriction of passage of public service vehicles. In all other cases, the decision maker may determine at his discretion whether or not to hold a public inquiry before making an order. A public inquiry should be held where it would provide further information which would assist in reaching a decision.

- 4.8 The Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000 require traffic regulation orders to include an exemption from waiting prohibitions in certain circumstances, and from charges and time-limits at places where vehicles may park or wait, in respect of vehicles displaying a disabled person's badge.
- 4.9 Section 149 of the Equality Act 2010 sets out the new public sector equality duty replacing the previous duties in relation to race, sex and disability and extending the duty to all the protected characteristics i.e. race, sex, disability, age, sexual orientation, religion or belief, pregnancy or maternity, marriage or civil partnership and gender reassignment. The public sector equality duty requires public authorities to have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation
 - Advance equality of opportunity and
 - Foster good relations between those who share a protected characteristic and those who do not.
- 4.10 Part of the duty to have "due regard" where there is disproportionate impact will be to take steps to mitigate the impact and the Council must demonstrate that this has been done, and/or justify the decision, on the basis that it is a proportionate means of achieving a legitimate aim. Accordingly, there is an expectation that a decision maker will explore other means which have less of a disproportionate impact.
- 4.11 The Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken – that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.
- 4.12 In addition to the above, Section 175A of the Highways Act 1980 extends a specific duty upon local authorities to have regard to the needs of disabled and blind in the execution of certain street works (namely the placing of lamp-posts, bollards, traffic signs, apparatus or other permanent obstructions) which may impede such persons.
- 4.13 Section 16 of the Traffic Management Act 2004 imposes a duty on the Council to manage its road network with a view to achieving, so far as may be reasonably practicable having regard to its other obligations, policies and objectives, to:
- Securing the expeditious movement of traffic on the authority's road network; and
 - Facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.
- 4.14 Subject to the requirement set out in section 18 to have regard to statutory guidance on network management, under section 17 of the Traffic Management Act the Council 2004 as a network manager must have in place arrangements as it considers appropriate for carrying out its network management duty which must include provision for establishing processes for ensuring, so far as is reasonably practical, that the Council identifies occurrences, including future

occurrences which are causing or may cause road congestion or disruption to the movement of traffic, and consider possible action that can be taken in response to those occurrences.

- 4.15 The council, as a public body, is under a duty to consider whether the exercise of its powers interacts with rights protected by the European Convention, set out in the Human Rights Act 1998. The Convention rights applicable are:
- Article 1, Part I - protects the right of everyone to the peaceful enjoyment of possessions. No one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. This does not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest etc.
 - Article 8 - protects the right of the individual to respect for their private and family life, their home and their correspondence. There should be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of amongst other matters, public safety, the economic well-being of the country, for the prevention of disorder or crime, for the protection of health, or for the protection of the rights and freedoms of others.
- 4.16 Any interference with a Convention right must be necessary and proportionate and in exercising the relevant powers, the council has to consider carefully the balance to be struck between individual rights and the wider public interest.
- 4.17 The Council's constitution delegates to:
- a) Heads of Service authority to initiate statutory consultation on a parking scheme, subject to the approval of a report.
 - b) Directors and Assistant Directors the authority to consider objections received from statutory consultation as part of the traffic order making process (subject to a formal report setting out the objections, with clear recommendations, being submitted for approval) and the power to make, amend or revoke traffic orders, following the consideration of such objections.
- 4.18 The Council's Constitution requires that issues of an important or sensitive nature will be published on the Council's website for five clear days prior to the decision being taken (Constitution, Part 2, Section 3) by the Cabinet Member or officer concerned. It is suggested that this proposed decision is published online in the interests of transparency. Any representations received during this period must be considered by the decision-maker before the decision is taken.

5. CONSULTATION AND CO-PRODUCTION

- 5.1 Consultation in respect of applications for new DPPP's has been limited to engagement with the applicant and notifying the relevant ward councillors by email. No Member has raised an objection to proceeding with any of the changes recommended in this report.
- 5.2 Informal consultation for the removal of DPPP's has not resulted in any claim that those listed for removal in Appendix C are still required. Summary of informal consultation results on the Disabled Parking Place removal requests received by Lambeth Highways are detailed in Appendix D.
- 5.3 Subject to approval of this report's recommendations, all proposed changes will be advertised using the Lambeth Weekender and The London Gazette. Street notices will also be erected in those locations where a DPPP is proposed. This statutory consultation will take place in April 2021 inviting representations or comments to the proposals.

6. RISK MANAGEMENT

6.1 The main risks that impede on the successful delivery of this programme are:

Table 1 – Risk Register

Item	Risk	Likelihood	Impact	Score	Control Measures
1	The risk of introducing some or all of the proposed disabled bays could lead very minor increase in parking pressure for other road users. The increased parking pressure may lead to unsafe parking practices.	2	1	2	A survey has been carried out at each location, and where necessary other restrictions can be introduced to ensure safety, traffic and pedestrian flow is not compromised.
2	The risk of not introducing some or all of the proposed disabled bays would leave Blue Badge holders experiencing parking difficulties.	3	2	6	Any measures not introduced will be monitored and potentially added to a future consultation.
3	The risk of removing some or all of the obsolete disabled bays could lead to complaints from non local Blue Badge holders who access the bay.	2	1	2	The two stage consultation process provide all road users opportunity to notify Council of need to retain the bay for a valid blue badge holder.
4	The risk of not removing some or all of the obsolete disabled bays could lead to continued minor parking stress, with reduced capacity for other the local community.	3	2	6	Any measures not introduced will be monitored and potentially added to a future consultation.

Key

Likelihood	Very Likely = 4	Likely = 3	Unlikely = 2	Very Unlikely = 1
Impact	Major = 8	Serious = 4	Significant = 2	Minor = 1

7. EQUALITIES IMPACT ASSESSMENT

7.1 No key equalities issues were identified, but it will be monitored through the consultation process any are identified mitigating action will be considered.

7.2 The proposals in this report improve transport facilities for disabled residents. It ensures that parking bays are prioritised for their use, allowing them to keep and use a vehicle, giving them the freedom required to travel and access work, and all other facilities that could not be accessed without this facility.

8. COMMUNITY SAFETY:

8.1 None as a result of this report.

9. ORGANISATIONAL IMPLICATIONS

9.1 Environmental Implications: none as a result of this report

9.2 Staffing and accommodation: none as a result of this report

9.3 Responsible Procurement: none as a result of this report

10. TIMETABLE FOR IMPLEMENTATION:

Milestone	Date
Statutory Consultation	April 2021
ODDR - Decision to proceed installing and revocations or cancel	May 2021
Make traffic order/ Implementation	June 2021

AUDIT TRAIL

Consultation

Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Councillor Claire Holland	Deputy Leader of the Council (Sustainable Transport, Environment and Clean Air)	23.03.21	30.03.21	
Neil Fenton, Assistant Director	Parking, StreetWorks and Commercial	11.03.21	14.04.21	
Andrew Ramsden Assistant Director	Corporate Resources, Finance	18.01.21	11.02.21	Section 3
Jean-Marc Moocarme	Legal and Governance	18.01.21	26.01.21	Section 4
Nazyer Choudhury	Legal and Governance	18.01.21	25.01.21	Section 4
Johnathan Pook	Parking Services			
Simon Phillip	Planning			

REPORT HISTORY

Original discussion with Cabinet Member	N/A
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	No
Date first appeared on forward plan	N/A
Key decision reasons	N/A
Background information	None
Appendices	<p>Appendix A – List of proposed disabled persons' parking places</p> <p>Appendix B – List of rejected applications for disabled persons' parking places</p> <p>Appendix C – List of proposed disabled persons' parking place removals</p> <p>Appendix D – Informal consultation results confirming disabled persons' parking place removals.</p> <p>Appendix E – Plans for proposed disabled persons' parking places</p> <p>Appendix F – Plans for proposed disabled persons' parking places removals</p> <p>Appendix G - Blue Badge Eligibility Criteria</p>

APPROVAL BY OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have consulted Finance, Legal and Democratic Services and taken account of their advice and comments in completing the report for approval:

Signature _____ **Date** _____

Post Robert Trevaskis, Project Engineer, Traffic Engineering

I approve the above recommendations:

Signature _____ **Date** _____

Post Neil Fenton, Assistant Director of Parking, StreetWorks and Commercial

Any declarations of interest (or exemptions granted): None

Any conflicts of interest: None

Any dispensations: None