

OFFICER DELEGATED DECISION REPORT 4 AUGUST 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: Cabinet Member for Sustainable Transport, Environment and Clean Air, Councillors Mahamed Hashi and Danny Adilypour (job share),

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REPORT SUMMARY

This report considers the responses to the statutory consultation carried out in June 2021 relating to the designation of new disabled persons' parking places and the revocation of existing disabled persons' parking places, as listed in Appendices A and B to this report. One objection was received in respect to the bays that will be installed and one was relating to a proposed removal.

FINANCIAL SUMMARY

The cost of implementing these proposals to install new and remove obsolete disabled bay is estimated to be £10,000. Provision for this expenditure has been made in the Council's Capital Budget, funded from Parking Reserve Account.

RECOMMENDATIONS

Following consideration of representations and objections received during statutory consultation, to make traffic management orders providing for:

- a) the installation 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 B to this report as having had no objection to their removal.
- c) To exercise discretion not to hold a public inquiry.

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 In April 2021 the Assistant Director for Parking, Street Management & Commercial approved the undertaking of statutory consultation on the provision of new Disabled Parking Places and for the removal of redundant existing Disabled Parking Places shown in Appendices A & B.
- 2.2 The proposals were advertised in a public notice on 28 May 2021 and as part of this advertisement, members of the public were invited to submit comments or objections to the proposals.
- 2.3 The Statutory Consultation sought to introduce 24 new DDPPs and to remove 18 existing DDPPs.
- 2.4 The Council received two representations to the proposals. These representations are presented in Appendix D along with officer comments.
- 2.5 Further to the matters set out in this report and having regard to the considerations listed in 4.2 to 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 Giving the extensive consultation undertaken it is considered that holding a public inquiry pursuant to Regulation 9 of the Local Authorities Traffic Orders (Procedure) (England and Wales) Regulations 1996 would not assist the Council in reaching a decision in this matter and for that reason it is recommended that the decision maker exercises his discretion not to hold such an inquiry.

3. FINANCE

- 2.1 The cost of implementing these proposals to install new and remove obsolete disabled bay is estimated to be £10,000.
- 2.2 Provision for this expenditure has been made in the Council's Capital Budget, funded from Parking Reserve Account.

4. LEGAL AND DEMOCRACY

- 4.1 With the following additions, the legal implications remain as stated in the April 2021 Scheme Approval Delegated Decision report.
- 4.2 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 permit for that purpose (including

a disabled persons 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.

- 4.3 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 process and outcome of statutory consultation undertaken to date is highlighted at paragraph 5 of this report and detailed in Appendix D. 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 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.
- 4.9 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.
- 4.10 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.
- 4.11 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 customers 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.
- 4.12 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.
- 4.13 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.
- 4.14 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.

4.15 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.

4.16 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 Statutory consultation was carried out between 28th May 2021 – 18th June 2021 whereby:

- Legal Notices of the Council's intentions were attached to lamp columns in the vicinity of the proposals;
- Legal Notices of the Council's intentions were published in the South London Press and the London Gazette;

5.2 An announcement was made on the Council's website that the consultation was open, with links to all the above documents

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 to a 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	3	2	6	Any measures not introduced will be monitored and potentially added to a future consultation.

	difficulties.				
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 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.

7.2 No key equalities issues were identified or raised during the consultation process.

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
ODDR - Decision to proceed installing and revocations or cancel	Aug 2021
Make traffic order/ Implementation	Sep 2021

AUDIT TRAIL				
Consultation				
Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Councillor Danny Adilypour	Cabinet Member for Sustainable Transport, Environment and Clean Air	18/08/21	6/09/21	
Neil Fenton, Assistant Director	Parking, StreetWorks and Commercial	30/07/21	30/07/21	
Andrew Ramsden Assistant Director	Corporate Resources, Finance	12/07/21	21/07/21	
Jean-Marc Moccarme	Legal and Governance	12/07/21	21/07/21	
Wayne Chandai	Legal and Governance	12/07/21	19/07/21	

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	23 April 2021 - Disabled Persons' Parking Places – Batch 2 2019-20 Disabled Parking Equalities Impact Assessment
Appendices	Appendix A – List of proposed disabled persons' parking places Appendix B – List of proposed disabled persons' parking place removals Appendix C – Statutory Consultation Amendments Appendix D – Disabled Parking Statutory Consultation Correspondence Appendix E – Plans for proposed disabled persons' parking places Appendix F – Plans for proposed disabled persons' parking places removals Appendix G - Blue Badge Eligibility Criteria

APPROVAL BY OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION

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

Signature _____ **Date** 30 July 2021

Post Robert Trevaskis, Project Engineer, Traffic Engineering

Email; rtrevaskis@lambeth.gov.uk, Phone: 020 7926 6792

I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council, and approve the above recommendations:

Signature _____ **Date** 30 July 2021

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

No	Ward	CPZ	House No.	Bay Location (road)
1	Vassall	K	17	Flat 305, Equiano House, 17 Lett Road, SW9 0AQ
2	Knights Hill	-	95	95 Crown Dale, Upper Norwood, London, SE19 3NY
3	Knights Hill	-	28	28 Ladas Road, West Norwood, London, SE27 0UW
4	Vassal	V	3	3 Bramah Road, London, SW9 6FN
5	Gypsy Hill	-	26b	26B Camden Hill Road, Upper Norwood, London SE19 1NR
6	Streatham Hill	M	100	100 Cricklade Avenue, Streatham Hill, London, SW2 3HQ
7	Clapham Common	L	24	Flat 3, 24 Cautley Avenue , London, SW4 9HU
8	St Leonards	-	64	Flat 1C, 64 Babington Road, London, SW16 6AH
9	Princes	-	2a	2A, Auckland Hill, London, SE27 9PH
10	St Leonards	-	36	36 Gleneldon Road, Streatham, London, SW16 2BD
11	Thornton	R	78	78 Pentney Road, Balham, London, SW12 0NY
12	Thornton	R	102	102 Midmoor Road, London, SW12 0ET
13	Streatham Hill	-	130	130 Downton Avenue, Streatham Hill, London, SW2 3TT
14	Knights Hill	-	114	114 Knollys Road, Streatham, London, SW16 2JU
15	Brixton Hill	F	26	26 Dunsfold House , Deepdene Gardens , London, London , SW2 3LW
16	Larkhall	B	29	Flat 2, 29 Andalus Road, London, SW9 9PQ
17	Thornton	L	55	55 Clarence Crescent, Clapham Park, London, SW4 8LJ
18	Tulse Hill	F	10	10 Claverdale Road, London, SW22DP
19	Gypsy Hill	-	9	9 Alexandra Walk, London, SE19 1AL
20	Knights Hill	-	66	66 Norwood High Street, West Norwood, London, SE27 9NW
21	Knights Hill	-	66	66 Ladas Road, London, SE27 0UW
22	Streatham South	-	76	76 Abercairn Road, London, SW16 5AD
23	Knights Hill	-	35	35 Thurlestone Rd, Norwood, London, SE27 0RN

No	Ward	CPZ	House No.	Bay Location (road)
1	St Leonards	-	33	33 Woodfield Avenue, London, SW16 1LE
2	Tulse Hill	H	1 & 7	1 & 7 Abbots Park Tulse Hill, London, SW2 3QB
3	Vassall	V	2	2 Welby Street, Camberwell, London, SE5 9QX
4	Tulse Hill	Q	6	6 Medora Rd Brixton, London, SW2 2LW
5	Gypsy Hill	-	15	15 Hubbard Rd, West Norwood, SE27 9PJ
6	Herne Hill	B	50 & 56	50 & 56 Effra Parade, Brixton, SW2 1PR
7	St Leonards	-	15, 35 & 36	15, 35 & 36 Ferrers Rd, Streatham, London, SW16 6HZ
8	Knights Hill	-	125	125 Tivoli Rd, West Norwood, London, SE27 0EE
9	Clapham Common	L	31	31 Englewood Rd, London, SW12 9PA
10	Streatham Hill	G	85	85 / 87 Telford Avenue, SW2 4XN
11	Streatham South	-	230	230 Ellison Road, Streatham, London, SW16 5DJ
12	Knights Hill	-	10	10 Portobello House, Lakeview Road, West Norwood, London, SE27 0QN
13	Thurlow Park	-	5	5 Lavengro Road, West Norwood, SE27 9EQ
14	Streatham Hill	M	168	168 Amesbury Avenue, Streatham Hill, London SW2 3AD
15	Stockwell	S	50	50 Larkhall Lane, SW4 6SP
16	Streatham Wells	-	62	62 Valleyfield Road, London, SW16 2HU
17	Streatham South	-	72	72 Strathbrook Rd, Streatham, London, SW16 3AZ

Disabled Parking Places Statutory Consultation amendments	Appendix C
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No	Road Name	Bay Location	Objections to removal	Recommended action
1	Turney Road	42 & 48	1	Bay to remain
2	Englewood Road	91	1	No longer required