

OFFICER DELEGATED DECISION 11 OCTOBER 2021

Report title: Traffic Order for Permanent Removal of Parking Bays on Kennington Oval

Wards: Oval

Portfolio: Cabinet Members for Sustainable Transport, Environment and Clean Air – Councillors Dr. Mahamed Hashi and Danial Adilypour (job share)

Report Authorised by: Bayo Dosunmu: Strategic Director for Resident Services

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REPORT SUMMARY

Planning permission has been granted for the demolition of the existing Lock Laker Stand and other existing buildings at the Surrey County Cricket Club (Kia Oval) and the erection of a new spectator stand and linked four storey building (planning permission 18/01799/FUL as amended by non-material amendments (all granted) 19/04009/NMC, 20/00644/NMC and 21/00546/NMC). In order to enable the development granted under this planning application, it is necessary to widen a 20m length of footway adjacent to the entrance to the new building on the southwest side of Kennington Oval (road). The widening of the footway necessitates the removal of existing on-street (shared use residents' and pay-by-phone) parking bays. Under the terms of the S106 Agreement for the development, the developer has also paid a contribution for the provision of a Disabled parking bay adjacent to the cricket ground. It is proposed that this bay should be provided directly north of the footway widening scheme in place of a stretch of existing shared use-bay. Permission is sought for an instruction to enter into a process of drafting, consulting upon and ultimately making a Traffic Order for these proposed parking bay changes.

FINANCE SUMMARY

The developer will meet all costs arising from this proposal. There are no further financial implications for the Council arising from this report.

RECOMMENDATIONS

1. To issue scheme approval for footway widening and the corresponding removal of existing parking bays plus the introduction of a new Disabled (Blue Badge holder) parking bay as illustrated on TTP Consulting drawing 2017-3142-S278-100 (Appendix A); TTP Consulting drawing 2017-3142-S278-1000 (Appendix B) and Lambeth drawing DES-CPZ-E-1001-007 (Appendix C).
2. That, subject to the above recommendation, a traffic order process be undertaken in order to legally implement the scheme. This process will be undertaken in accordance with sections 6, 45, schedule 1 and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 and section 90A of

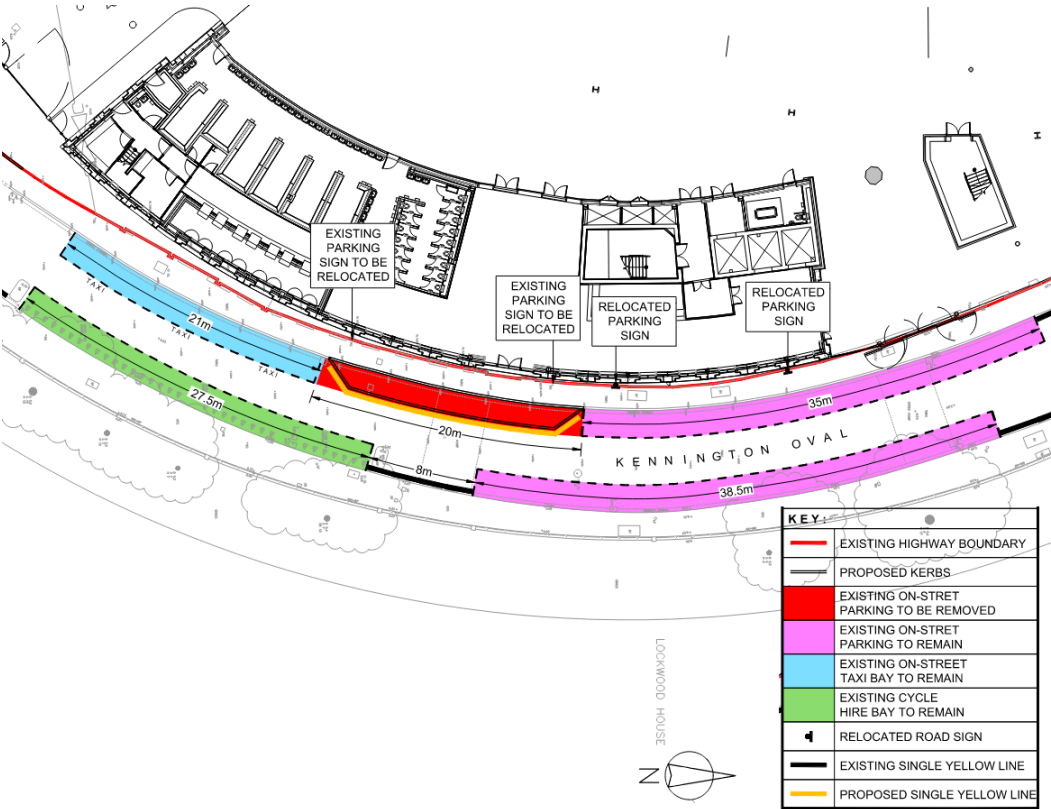
the Highways Act 1980. Completion of the traffic order process will be contingent on there being no material objections resulting from the statutory consultation process.

- 3. That, if objections are received as part of the statutory consultation process, any such objections are considered through the preparation and review of a revised Officer Delegated Decision Report (ODDR) before the traffic order process is further progressed.

1. CONTEXT

1.1 In June 2019, planning permission (the “Planning Permission”) was granted for the Demolition of the existing Lock Laker Stand and other existing buildings, including a ticket office, a security office, storage facilities and offices, and the erection of a three tier spectator stand (to increase the overall seating capacity by 2,303 seats); a linked four storey building to accommodate a ground floor covered concourse, reception/club shop, ticket office and hospitality and conferencing facilities; new mesh cladding at the northern end of the Bedser Stand street elevation to match the new three tier stand; and a minor re-alignment of the boundary railings adjacent to the Hobbs entrance gate (planning reference 18/01799/FUL as amended by 19/04009/NMC, 20/00644/NMC, 21/00546/NMC).

1.2 The applicant has entered into a Section 106 Agreement (“the Section 106 Agreement”) with the Council (Deed Pursuant to Section 106 of the Town and Country Planning Act 1990 and other powers in relation to the Oval Cricket Ground, Kennington Road, London, SE11 5SS; June 2019) which includes the requirement for Highway Works, with the definition: “works to be undertaken pursuant to the Section 278 Agreement to the public highway at Kennington Oval adjacent to the Site comprising the widening of the footway or raised table adjacent to the new reception entrance to the Site”. The proposed footway widening is shown on plan 4, schedule 1 of the Section 106 Agreement.

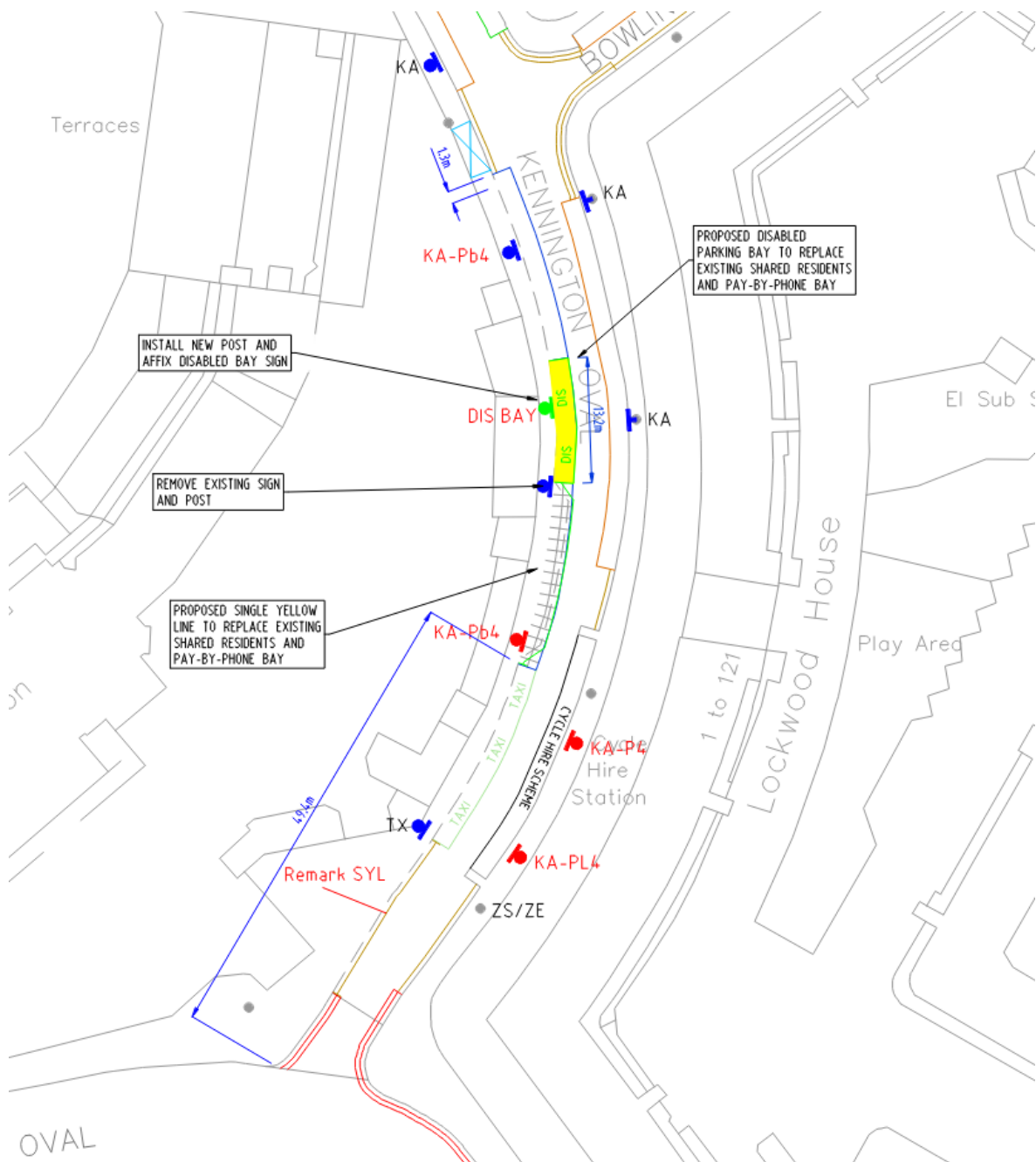


Extract from drawing 2017-3142-S278-1000 showing area of footway to be widened and resulting loss of parking bays

- 1.3 In order to enable the development granted by this planning application, and in accordance with the obligations outlined in the above Section 106 Agreement, it is necessary to widen a 20m length of footway adjacent to the entrance to the new building on the southwest side of Kennington Oval (road).
- 1.4 The widening of the footway necessitates the removal of existing on-street shared use Residents' and Pay-By-Phone parking bays. Refer to TTP Consulting drawing 2017-3142-S278-100; revision C; S278 Highway Works – General Arrangements (Appendix A); TTP Consulting drawing 2017-3142-S278-1000; S278 Highway Works – Proposed TRO Plan (Appendix B) and Lambeth drawing DES-CPZ-E-1001-007 revision A; Kennington 'K' CPZ – Development-Related Works Amendments (Appendix A).
- 1.5 The S106 Agreement for the development has also required the developer to make a "Disabled Person's Badge Parking Contribution", with a requirement that the council shall use this to "provide a space for the holder of a Disabled Person's Badge at a location on the public highway adjacent to the oval Cricket Ground as the Council may determine".
- 1.6 It is proposed that a Disabled (Blue Badge) parking bay should therefore be introduced just to the north of the widened section of footway, in lieu of a portion of the existing shared-use Residents' (Permit Holder) and Pay-By-Phone parking bay here. The length of this new Disabled bay will be sufficient for two cars.
- 1.7 In order to lawfully make the proposed changes to parking bays as described in 1.4-1.6 above, it will be necessary for a permanent Traffic Order to be made to this effect.
- 1.8 Traffic orders, or notices, are the official documents through which temporary or permanent restrictions or physical measures on the public highway can be introduced or removed.
- 1.9 A standard Traffic Order process must be undertaken in order to get to a point where an order can be made:
 - Notice is given by the Council of the intention to make Orders by way of a public notice being published in the South London Press and the London Gazette.
 - Objections or other representations must be made within 21 days of that the public notice appears in the above publications.
 - The Council undertakes a statutory consultation process. Consultees include the Police, the Fire Brigade, the Ambulance Service and organisations representing road users.
 - The Council may also attach notices to lamp columns or other street furniture in the roads concerned and may consult with local residents and businesses.
 - The Council considers any formal objections before making a decision as to whether to make the Orders. Objectors are notified in writing of the decision.
 - When the Orders are made, this is again communicated by way of public notice in the South London Press and the London Gazette, as well as on-street. A copy of the Orders are also made available for public inspection.
 - Once the Orders are made, if a person believes that the Council has acted outside of its powers or has not followed the correct legal procedure, they can apply to the High Court within six weeks of the date of the Orders and ask the court to quash the Orders.

2. PROPOSAL AND REASONS

- 2.1 The section of footway on the west side of Kennington Oval is to be widened in accordance with TTP Consulting drawing 2017-3142-S278-1000 (Appendix B). This will result in the loss of existing shared use Residents' and Pay-by-Phone parking bays extending from a point 49.4m from the junction with Kennington Oval / Harleyford Street on the west side of the Kennington Oval carriageway for a distance of 20m in an approximately northerly direction.
- 2.2 The remaining 33.2m long shared use Residents' and Pay-by-Phone parking bay directly north of the proposed footway widening (on the west side of Kennington Oval) is to be replaced with a Disabled (Blue Badge Holder) parking bay of 13.2m length and a reduced shared use Residents' and Pay-by-Phone parking bay of 20m length.



Extract from Lambeth drawing DES-CPZ-E-1001-007 revision A showing proposed parking bay changes, including new Disabled bay.

- 2.2 Officers are satisfied that it is necessary to remove the existing parking bays as indicated in Lambeth drawing DES-CPZ-E-1001-007 (Appendix C) in order to enable the development to be carried out in accordance with the Planning Permission. It is also deemed appropriate to replace a portion of the remaining shared-use bay with a Disabled bay in light of the obligations outlined in the Section 106 Agreement.
- 2.3 In its role as Local Highway Authority, the Council is comfortable with the applicant's detailed proposals for widening the footway as indicated in TTP Consulting drawings 2017-3142-S278-100 (Appendix A) and 2017-3142-S278-1000 (Appendix B) and with the impacts of the removal of parking bays that is necessitated by this widening, and the replacement of a portion of the remaining shared-use bay with a Disabled parking bay.
- 2.4 The usage of the existing shared-use bays on Kennington Lane is understood to be low, so no direct mitigation is proposed to compensate for the reduction in shared-use parking provision here.
- 2.5 The proposed alterations will reduce the magnitude of potential future parking revenues since there will be a net loss of Pay-By-Phone parking space. Legal advice has been sought and there is currently no known legal route by which compensation for these lost revenues can legitimately be sought from the developer, noting that planning permission has already been granted and S106 terms have already been agreed. The Draft Revised Lambeth Local Plan (Proposed Submission Version January 2020), which is due to be adopted, sets out an updated policy that includes consideration of the impacts of kerbside parking losses. Officers are currently exploring how this revised policy may be implemented in relation to the consideration of future planning applications in such a way as to mitigate potential future revenue losses.

3. FINANCE

Budget

- 3.1 The developer has undertaken to meet all costs arising from these proposals.

Expenditure

- 3.2 The estimated total cost of delivering this report's recommendations is £18,000.
- 3.3 The estimated cost of delivering this report's recommendations in relation to parking bay removal is £8,000.

Table 1 – Forecast Expenditure (Revenue) – Bay Removal	Spend (£)
1. Drafting and publishing the notice of intent and draft the Order	3,000
2. Consultation with statutory consultees	1,000
3. Making the Order and changing Council records	1,000
4. Lambeth staff costs	3,000
TOTAL FORECAST EXPENDITURE	8,000

The above excludes the cost of the civils works that will be required to deliver the footway widening and removal of existing lines and signs. These costs will be covered under a separate S278 Agreement between the developer and the council.

- 3.4 The estimated cost of delivering this report's recommendations in relation to the addition of a new Disabled parking bay is £10,000. Note this has already been paid by the developer by way of a S106 contribution.

Table 2 – Forecast Expenditure (Revenue) – New Disabled Bay	Spend (£)
1. Drafting and publishing the notice of intent and draft the Order	2,000
2. Consultation with statutory consultees	1,000
3. Making the Order and changing Council records	1,000
4. Lambeth staff costs	2,000
5. Associated civils works (lines and signs)	4,000
TOTAL FORECAST EXPENDITURE	10,000

- 3.5 The loss of a stretch of existing parking bay which may currently be used by Pay-By-Phone visitors will result in potential future parking revenue losses. Refer to paragraph 2.5.

Income

- 3.6 No net income will be generated by these proposals.

4. LEGAL AND DEMOCRACY

- 4.1 The Council's powers to implement the measures proposed in this report are principally set out in the Highways Act 1980 (HA80) and Road Traffic Regulation Act 1984 (RTRA) and will require the making of Traffic Management Orders (TMO).
- 4.2 In making such Orders, the Council must follow the statutory consultation procedures set out in the Local Authorities Traffic Orders (Procedure)(England and Wales) Regulations 1996 (the 1996 Regulations). The said Regulations, prescribe inter alia, specific publication, consultation and notification requirements that must be strictly observed. 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 By virtue of section 122 of the RTRA, the Council must exercise its powers under the RTRA 1984 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:-
- (a) The desirability of securing and maintaining reasonable access to premises.
 - (b) 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.
 - (c) The national air quality strategy.
 - (d) 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.
 - (e) Any other matters appearing to the Council to be relevant.

The Council must have proper regard to the matters set out in s 122(1) and (2) and specifically document its analysis of all relevant section 122 considerations when reaching any decision.

- 4.4 Sections 6, 45, 124 and Part IV of Schedule 9 of the RTRA, enable the Council to implement by Order (TMO) the changes in those roads to which this report refers. The exercise of this power requires the making of a Traffic Management Order. The requisite sign or signs for these purposes is specified in the Traffic Signs Regulations and General Directions 2016 (TSRGD). Section 6(3)(d) of the RTRA provides that the Council may make a TMO for facilitating the passage on the road or any other road of any class of traffic (including pedestrians).
- 4.5 Once the abovementioned Orders are 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.
- 4.6 The Council has, pursuant to Section 62 of the Highways Act 1980, a general power to improve any highway in its area. The Council has several powers in relation to tree planting and maintenance, such as Sections 64 and 96 of the Highways Act 1980 and Section 10 of the Open Spaces Act 1906. Section 75 of the Highways Act 1980 extends a power to vary the relative widths of the carriageway and of any footway.
- 4.7 The history and outcome of the non-statutory public consultation undertaken to date is detailed in Section 5 of this report. The following principles of consultation were ruled on by the High Court: 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 any discarded option(s). The proposals detailed in this report require the making of a TMO. The statutory procedure to be followed in this connection (detailed above) includes a 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 objections received must be properly considered by the decision maker in the light of administrative law principles, Human Rights law and the relevant statutory powers.
- 4.8 Section 149 of the Equality Act 2010 sets out the public sector equality duty 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.

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.

- 4.9 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.
- 4.10 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.
- 4.11 The Council’s constitution delegates to Directors and Assistant Directors (Delivery) the authority to consider objections received from statutory consultation as part of the TMO 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.
- 4.12 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 is yet to be undertaken. Prior to the making of the Order, the Council will undertake a consultation process as detailed in the Local Authorities Traffic Orders (Procedure)(England and Wales) Regulations 1996 (the 1996 Regulations) as described in Section 4 above.

6. RISK MANAGEMENT

- 6.1 The main risks associated with the proposals detailed in this report are summarised below.

Table 2 – Risk Register

Item	Risk	Likelihood	Impact	Score	Control Measures
1	Objections are submitted during the consultation process.	3	2	6	Consult with key parties prior to formal consultation process.
2	Objections are raised within 6 week of the making of the Order, leading to possible High Court challenge.	2	4	8	Ensure any parties with likely interest are fully consulted during formal consultation process period.

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 report prepared in support of planning application 18/01799/FUL for presentation at the Lambeth Planning Applications Committee Meeting on 13th November 2018 (case number 18/01799/FUL; application address Surrey County Cricket Club, SE11) which recommends that conditional planning permission be granted, states that regard has been given to the Public Sector Equality Duty (as outlined in Section 149 of the Equality Act 2010) and the relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation).
- 7.2 The proposed widening of the footway will offer improved accessibility to pedestrians. The removal of the shared use residents' and Pay by Phone parking bays is not expected to have a detrimental effect in terms of the quality of access offered to those with one or more protected characteristics.
- 7.3 The proposals outlined in this report include the provision of an additional Disabled (Blue Badge) parking bay, of sufficient length to accommodate two cars, thereby improving parking availability for Disabled road users close to the ground.
- 7.4 On the basis of the above, it is deemed that the proposals outlined in this report will have no net negative impact on those with one or more of the protected characteristics outlined above.

8. COMMUNITY SAFETY

- 8.1 The proposals detailed in this report will have no significant community safety impacts.

9. ORGANISATIONAL IMPLICATIONS

Environmental

- 9.1 None.

Health

- 9.2 None.

Corporate Parenting

- 9.3 None.

Staffing and accommodation

- 9.4 The proposals outlined in this report will be delivered as part of the current portfolio of work of Development Related Works staff within the Infrastructure and Capital Studio team and the Parking and Street Management Business Unit within the Parking and Enforcement team. There will be no net impact, therefore, on staffing and accommodation.

Responsible Procurement

- 9.5 None.

10. TIMETABLE FOR IMPLEMENTATION

10.1 The table below details the stages and deadlines for implementing the recommendations.

Table 3 – Timetable for Implementation

Activity	Proposed Date
ODDR issued for comment	06/08/2021
Officer Decision, TRO team instructed	08/10/2021
Start of Traffic Order process (drafting, consultation, preparing to make Order)	11/10/2021
Completion of Traffic Order process, target date for making Order	17/12/2021
Update Council records	07/01/2022

10.2 The above are target timescales only. In practice, it is noted that the Traffic Order process can take considerably longer than these proposed timescales, particularly if significant objections are received.

Audit Trail				
Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Councillors Mahamed Hashi and Danny Adilypour (job share)	Sustainable Transport, Environment and Clean Air	06.08.2021	16.08.2021	-
Bayo Dosunmu, Strategic Director	Resident Services	06.08.2021	29.09.2021	-
Sandra Roebuck, Director	Resident Services (Infrastructure and Capital Delivery)	06.08.2021	09.08.2021	Section 3
Michael Munnely, Assistant Director	Resident Services (Infrastructure and Capital Delivery)	06.08.2021	-	-
Bala Balaskanthan, Traffic Manager	Resident Services (Infrastructure and Capital Delivery)	06.08.2021	-	-
Hamant Bharadia, Finance	Finance and Property	04.08.2021	17.08.2021	Section 3
Rachel Lee Senior Associate Solicitor Sharpe Pritchard LLP (Lambeth's instructed external legal advisors)	Legal and Governance	08.09.2021	09.09.2021	Throughout
Marianna Ritchie, Democratic Services	Legal and Governance	04.08.2021	06.08.2021	Throughout

Report History	
Original discussion with Cabinet Member	None
Report deadline	N/A
Date final report sent	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	<p>Planning Permission 18/01799/FUL Non-material amendment (granted) 19/04009/NMC Non-material amendment (granted) 20/00644/NMC Non-material amendment (granted) 21/00546/NMC Deed Pursuant to Section 106 of the Town and Country Planning Act 1990 and other powers in relation to the Oval Cricket Ground, Kennington Road, London, SE11 5SS; June 2019 Lambeth Planning Committee 13.11.2018 Agenda reports pack: report prepared in support of planning application 18/01799/FUL (case number 18/01799/FUL; application address Surrey County Cricket Club, SE11)</p>

	Draft Revised Lambeth Local Plan, Proposed Submission Version 2020
Appendices	<p>Appendix A: TTP Consulting drawing 2017-3142-S278-100; revision C; S278 Highway Works – General Arrangements</p> <p>Appendix B: TTP Consulting drawing 2017-3142-S278-1000; S278 Highway Works – Proposed TRO Plan</p> <p>Appendix C: Lambeth drawing DES-CPZ-E-1001-007, revision A; Kennington 'K' CPZ – Development-Related Works Amendments</p>

APPROVAL BY CABINET MEMBER OR 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:** _____

Post: Rachel Sandbrook
Infrastructure and Development Coordination Lead

I approve the above recommendations:

Signature: _____ **Date:** _____

Post: Sandra Roebuck
Director of Infrastructure and Capital Delivery

Any declarations of interest (or exemptions granted): None

Any conflicts of interest: None

Any dispensations: None