

OFFICER DELEGATED DECISION 11 OCTOBER 2021

Report title: Traffic Order for Alterations to Parking Bays on Somerleyton Road in support of Brixton House Theatre development.

Wards: Coldharbour

Portfolio: Cabinet Member 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 development of a new residential-led, mixed use development on the existing strip of land that sits on the west side of Somerleyton Road and is bounded to the north by Coldharbour Lane (planning permission reference 15/05282/RG3). The new building adjacent to Coldharbour Lane will house the new Brixton House Theatre. As part of the development, permanent changes are proposed to the existing parking bays on the west side of Somerleyton Road, close to the junction with Coldharbour Lane. These changes will comprise the replacement of 15.5 metres of existing shared use Residents' (Permit Holder) and Pay-By-Phone parking bay with a bay intended for the drop-off and pick-up of Disabled badge holders accessing the theatre (of length sufficient to accommodate two cars). Permission is sought for an instruction to enter into a process of drafting, consulting upon and ultimately making a Traffic Order for this proposed permanent change to the existing parking bays.

FINANCE SUMMARY

The developer (Lambeth Sustainable Growth and Opportunity) will meet all costs arising from this proposal. There are no further financial implications for Lambeth Council arising from this report.

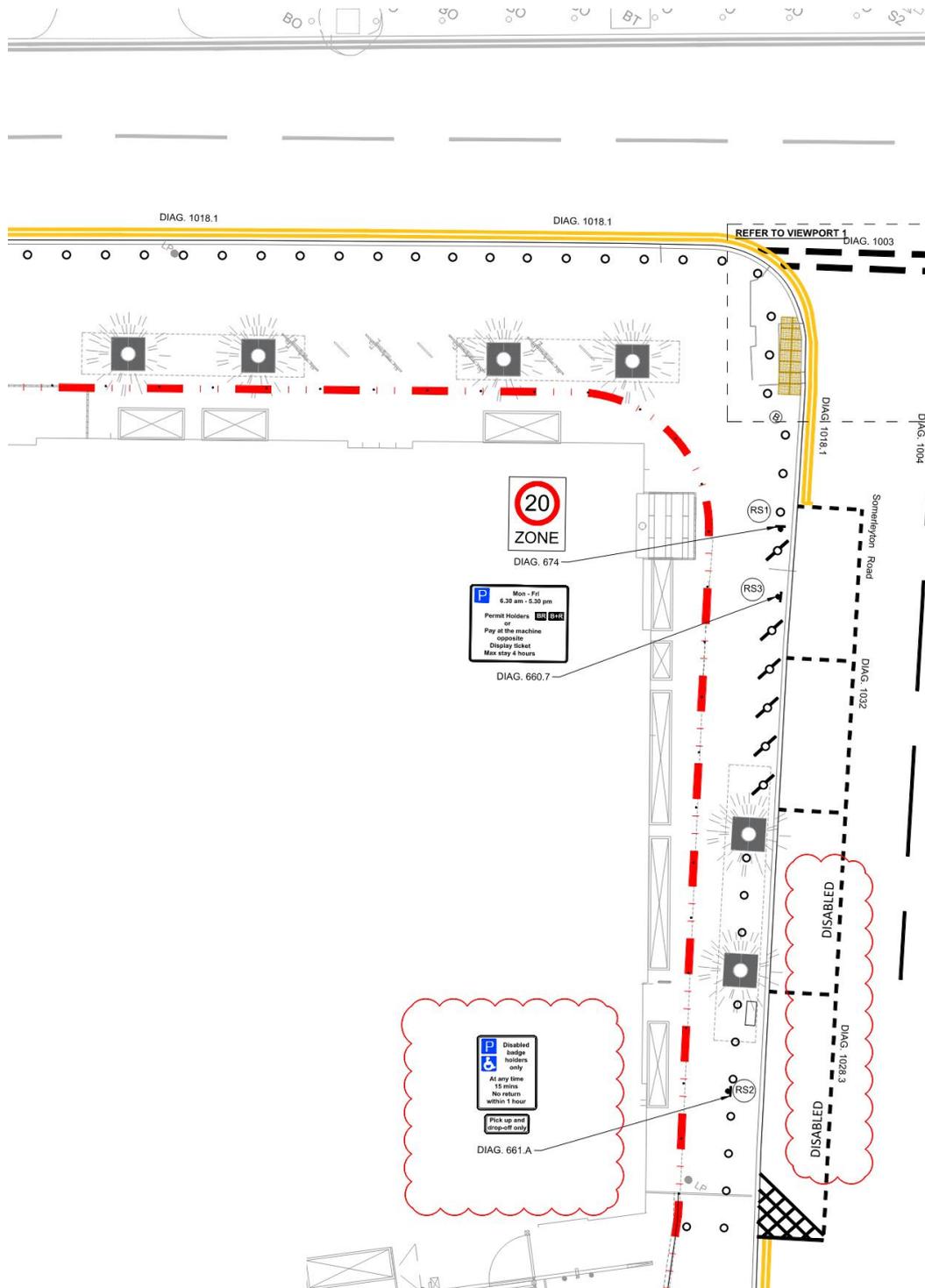
RECOMMENDATIONS

1. To issue scheme approval for proposed alterations to parking bays as presented on Conisbee drawing 170451-CON-X-00-DR-C-8008 revision C2, "S278 Road Signs and Markings" (Appendix A).
2. That, subject to the above recommendation, the scheme be implemented under 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, subject to no material objections resulting from the statutory consultation

process, but that any such objections that are received are considered by the Director of Infrastructure and Capital Delivery by way of a written report before a decision is reached.

1. CONTEXT

- 1.1 Planning permission has been granted for the development of a new residential-led, mixed use development on the existing strip of land that sits on the west side of Somerleyton Road and is bounded to the north by Coldharbour Lane (planning permission reference 15/05282/RG3: Land Bound By Somerleyton Road, Coldharbour Lane and Railway Line London SW9). The new building adjacent to Coldharbour Lane will house the new Brixton House Theatre.
- 1.2 As part of this development, it is proposed to permanently remove a portion of the existing shared use Residents' (Permit Holder) and Pay-By-Phone parking bay located on the west side of Somerleyton Road and replace this with a bay designated as a short stay "Disabled badge holder only" bay and intended to be used for the drop-off and pick-up of Disabled badge holders accessing the theatre. The length of this new bay is sufficient to accommodate minimum two cars.
- 1.3 The remaining stretch of the existing shared-use Residents' (Permit Holder) and Pay-By-Phone parking bay on this portion of the west side of Somerleyton Road will be retained and is sufficient to accommodate two cars.
- 1.4 In order to lawfully remove the existing on-street parking as described in paragraph 1.2 above, it will be necessary for a permanent Traffic Order to be made to this effect.
- 1.5 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.
- 1.6 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 when 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 a public notice in the South London Press and the London Gazette, as well as on-street. Copies 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.



Extract from Conisbee drawing 170451-CON-X-00-DR-C-8008 indicating proposed parking bays arrangement

2. PROPOSAL AND REASONS

- 2.1 To enable the implementation of the development proposals granted planning permission under planning application reference 15/05282/RG3, a stretch of existing shared-use Residents' (Permit Holder) and Pay-By-Phone parking bay is to be replaced with a new short stay "Disabled badge holder only" bay on the west side of Somerleyton Road. This new bay will extend from a point 20.5 metres south of the junction with Coldharbour Lane, for a length of 15.5 metres in a southerly direction.
- 2.2 The above proposed alterations will reduce the capacity of Residents' parking space by two cars . However, there are further existing shared-use parking bays on the east side of Somerleyton Road

and it is anticipated that most parking will simply be displaced to these bays. The value of adding short stay Disabled badge holder parking space to provide equality of access to the theatre is deemed to outweigh the negative impacts of reducing the shared-use parking bay capacity.

- 2.3 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.
- 2.4 Officers are satisfied that it is necessary to adjust the existing parking bay as described above in order to enable the development to be carried out in accordance with the Planning Permission.
- 2.5 In its role as Local Highway Authority, the Council is satisfied that the proposed alterations to parking bays will have no net detrimental impact on the operation and performance of the Highway and its various functions.

3. FINANCE

Budget

- 3.1 The developer (Lambeth Sustainable Growth and Opportunity) has undertaken to meet all costs arising from these proposals.

Expenditure

- 3.2 The estimated maximum cost of delivering this report's recommendations is £10,000.

Table 1 – Forecast Expenditure (Revenue)	Spend (£)
1. Drafting and publishing the notice of intent and draft the Order	3,500
2. Consultation with statutory consultees	1,500
3. Making the Order and changing Council records	1,500
4. Lambeth staff costs	3,500
TOTAL FORECAST EXPENDITURE	10,000

The above costs relate to the traffic order process only, which is the scope of this ODDR. The cost of civils works required to implement the parking bay changes discussed in this report have been separately accounted for by the Main Contractor as part of the wider construction works costs (and these will have been subject to their own approvals process within the council).

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 2.3.

Income

3.3 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 The primary consultation for this proposal was carried out in 2015/16 as a consequence of planning application 15/05282/RG3.
- 5.2 Consultation on the proposed Traffic Order 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 weeks 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 An Equalities Impact Assessment (“the EQIA”) has been prepared for the development. Refer to Ottaway Strategic Management; LB Lambeth Equality Impact Assessment Somerleyton Road; September 2019 (Appendix B).
- 7.2 The EQIA concludes that the development overall will have no net negative impact in relation to the following protected characteristics:
- Race
 - Gender
 - Trans-Gender
 - Marriage / Civil Partnership
 - Sexual Orientation
 - Religion / Belief

It concludes that there may be negative impacts in relation to the following protected characteristics:

- Disability
- Age
- Pregnancy / maternity
- Language
- Socio-Economic
- Health

- 7.3 Mitigation priorities have been put forward: refer to section 8 of the EQIA. The developer is expected to apply these, thereby minimising negative impacts in relation to all of the protected characteristics identified in section 149 “Public Sector Equality Duty” of the Equality Act 2010.
- 7.4 The proposed parking bay changes can be carried out without compromising or affecting the proposed mitigation strategies outlined in the EQIA.
- 7.5 The proposed parking bay changes will have a net positive impact on disabled theatre-goers, as they provide comparatively easy and exclusive access to the theatre for Disabled badge holders.

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
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ODDR issued for comment	03/09/2021
Officer Decision, TMO 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	17/12/2022
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:
Councillor Danny Adilypour	Cabinet Member for Sustainable Transport, Environment and Clean Air (job-share)	21.09.2021	28.09.2021	-
Bayo Dosunmu, Strategic Director; Resident Services	Resident Services	21.09.2021	29.09.2021	-
Sandra Roebuck, Director of Infrastructure and Capital Delivery	Resident Services (Infrastructure and Capital Delivery)	21.09.2021	21.09.2021	Section 3
Michael Munnely, Assistant Director, Infrastructure, Environment, Public Realm and Climate Change Delivery	Infrastructure, Environment, Public Realm and Climate Change Delivery	03.09.2021	-	-
Derek Roopnarine, Finance	Finance and Property	03.09.2021	16.09.2021	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
Nazyer Choudhury, Democratic Services Officer	Legal and Governance	03.09.2021	09.08.2021	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	Planning Permission reference 15/05282/RG3 (as amended by variation of conditions reference 19/00671/VOC and non-material amendment 18/04207/NMC). Draft Revised Lambeth Local Plan, Proposed Submission Version 2020
Appendices	Appendix A: 170451-CON-X-00-DR-C-8008, revision C2, "S278 Road Signs and Markings" Appendix B: Ottaway Strategic Management; LB Lambeth Equality Impact Assessment Somerleyton Road; September 2019

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