

OFFICER DELEGATED DECISION REPORT 17 JANUARY 2022

Report title: Disabled Persons' Parking Places – 2021-22 Batch 1

Wards: Bishop's, Brixton Hill, Clapham Town, Knight's Hill, Larkhall, St Leonard's, Streatham Hill, Streatham South, Streatham Wells, Thornton, Thurlow Park, Ferndale, Gipsy Hill, Herne Hill, Oval, Tulse Hill, Vassal

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

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

Contact for enquiries: Stefan Cuff, Project Engineer, Traffic Engineering,
scuff1@lambeth.gov.uk, 020 7926 3493

REPORT SUMMARY

This report seeks approval to carry out statutory consultation on the designation of new disabled persons' parking places and the revocation of redundant disabled persons' parking places, as listed in Appendices A and C to this report respectively. 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 will 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 £10,000 cost. This would also be financed from the Parking Reserve.

RECOMMENDATIONS

1. To have regard to the Equality Impact Assessment attached at Appendix I.
2. To grant scheme approval for the measures described in this report and illustrated in Appendix A and Appendix C at a cost of £16,000.
3. To authorise officers to carry out statutory consultation under Regulation 6 of the Local Authorities Traffic Orders (Procedure) (England & Wales) Regulations 1996 referred to below at

paragraph 4 of this report.

4. That subject to the above approval at recommendation 2 and due regard to the outcome of the consultation referred above, to agree to the implementation of these measures under 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 revocation of those disabled persons' parking places listed in Appendix C to this report as having had no objection to their removal
5. That where material objections are received during the statutory consultation process referred to at 3, that any such objections received will be considered by way of a separate written report to the Assistant Director for Parking, Street Management and Commercial before a decision is reached on whether or not to proceed.
6. 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, DPPPs have been received. Requests are typically from new residents or from existing residents whose circumstances have changed.
- 1.2 Applications for new DPPPs 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 DPPPs 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 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 5 DPPPs are unsuitable for the following reasons;
 - on 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 can't 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 28 new DPPP's listed in Appendix A. The proposed positioning of the DPPPs (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 at paragraphs 4.3 and 4.4 below, officers consider that this proposal will advance/not impede the Council's duty under section 122 of the Road Traffic Regulation Act 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. In developing these proposals due regard has also been given to the considerations detailed at Section 45(3) of the said Act.
- 2.6 The proposal to remove 36 DPPPs has been supported by the responses to informal consultation conducted for the purpose which involved our sending letters in August 2021 to neighbouring

addresses to clarify the need for the DPPP to be retained. This consultation resulted in validated objections to the removal of 6 DPPPs listed in Appendix D. Using the outcome from this exercise, officers propose to undertake a statutory consultation to remove 30 existing DPPPs listed in Appendix C and illustrated in Appendix F.

Radbourne Road

- 2.7 We also consulted on the removal of 29 DPPPs in Radbourne Road carried out in September 2021. This consultation resulted in 9 validated objections including a response from the director of The E Hayes Dashwood Foundation (Appendix H). The E Hayes Dashwood Foundation is a charitable housing organisation which provides housing for infirm or disabled ex-armed forces personnel and their families. The E Hayes Dashwood Foundation has 150 properties in Radbourne Road and Telferscot Road. Therefore, due to the parking requirements of The E Hayes Dashwood Foundation's residents it is recommended to not proceed with the removal of any DPPPs in Radbourne Road.

Ferndale Road

- 2.8 The outcome on the informal consultation on proposal to remove 13 Disabled Bays on Ferndale Road resulted in 3 objections, therefore we are to proceed with the removal of 10 Disabled Bays on this section of Ferndale Road. It was requested by Councillors to consider for the obsolete spaces to be replaced with double yellow lines to create passing places instead of reinstating parking bays. Due to the narrow nature of Ferndale Road and the road not having any natural passing place it is considered appropriate to alleviate the congestion caused by intensive parking which often leads to conflict and cars having to reverse for up to approximately 100m when met a car oncoming from the opposite direction. Therefore it is recommended to introduce 4 passing places, roughly 60m metres apart in line guidelines for passing places. It will still result in a net gained of 3 parking spaces.
- 2.9 During ongoing engagement with local stakeholders from the Transport Strategy team regarding the Ferndale Low Traffic Neighbourhood, the issue with conflict from oncoming vehicles not being able to pass one another has been highlighted. This has led to further investigation of the local conditions, which shows that the western section of Ferndale Road has approximately 380m with no natural passing opportunities. Transport Strategy endorses Parking's proposal to introduce passing places and is committed to exploring further options arising from the operation of the Low Traffic Neighbourhood.
- 2.10 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.
- 2.11 At locations where a material objection is received, a further report will be prepared and submitted to the Assistant Director for Parking, Street Management and Commercial for consideration of those representations and for a decision to be made as to whether to proceed.

2.12 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 cost of the statutory consultation recommended by this report is £10,000. This will be financed from funding allocated from the Parking Reserve Account. Subject to the outcome of the Statutory Consultation, there is also an additional £10,000 cost for implementation if the scheme progresses to that stage in its current form, which would again be funded from the Parking Reserve Account.

Project task	2021/22 (£)
Legal costs (writing and advertising traffic orders, etc)	6,000
Implementation cost	10,000
TOTAL	16,000

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 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 must carefully consider 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) where this is required by the Cabinet Member or Director concerned. It is suggested that this proposed decision is published on Officer Decisions 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 informal consultation was carried out in August 2021 whereby letters was sent out to each property within a 20 metre radius of the DPPP to gauge if the bay is in use by a blue badge holder. A return form was attached to each letter to file the blue badge holder's details and validate the objection.

5.2 This consultation resulted in 7 validated objections to the removal of DPPP's listed in Appendix D. Therefore, it is recommended to proceed with the 30 DPPP's removals listed in Appendix C.

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 November 2021 inviting representations or comments to the proposals.

5.4 Whilst the Council has a discretion to hold a Public Inquiry in respect to the proposals detailed in this report, given the informal consultation exercise conducted during the development of these proposals (the product of which is detailed in Appendix D), it is not considered that undertaking such an Inquiry would provide any further information which would assist the authority in reaching a decision.

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 The Equalities Impact Assessment is attached as Appendix I.

7.2 The Project Manager has screened the likely effect of this scheme on people who have one or more of the protected characteristics (race, sex, disability, age, sexual orientation, religion or belief, pregnancy or maternity, marriage or civil partnership and gender reassignment). The screening looked at how the scheme might:

- 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

- 7.3 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.
- 7.4 Non disabled badge holders could be negatively impacted as they would not have access to that specific kerbside space where the disabled bay would be situated, although in many cases, the motorist or passenger would not have the same mobility issues as a disabled badge holder.
- 7.5 For disabled bays which are to be removed as they are no longer required, the primary impact would be on the wider motoring public in freeing up kerbside space for all motorists, although potentially unknown/not local disabled badge holders who may occasionally or sporadically utilise the bay may also be impacted.
- 7.6 The changes would not specifically impact on any other protected group, although it is accepted that a person falling within a protected group may have their own personal circumstances ie, pregnancy and maternity, mobility issues etc which may result in them being impacted.
- 7.7 Equalities data is collected through the consultation process and the effects will be monitored and mitigating actions will be developed as required.

8. COMMUNITY SAFETY:

- 8.1 None as a result of this report.

9. ORGANISATIONAL IMPLICATIONS

Environmental

- 9.1 None.

Health

- 9.2 None.

Staffing and accommodation

- 9.3 The programme will be delivered by existing staff funded from Parking Reserves. No further staffing resources required to administer or enforce these proposals.

Responsible Procurement

- 9.4 Project Management and design will be undertaken in-house using existing staff; statutory consultation and TMOs, dependent of availability of resources will either be in-house or via consultants.
- 9.5 The implementation stage of the proposal will be carried out by the council's term contractor - Ringway via the London Highways Alliance Contract (LoHAC2).

10. TIMETABLE FOR IMPLEMENTATION:

Milestone	Date
Statutory Consultation	Jan 2022
ODDR - Decision to proceed installing and revocations or cancel	Feb 2022
Make traffic order/ Implementation	Mar 2022

AUDIT TRAIL				
Consultation				
Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Councillors Mahamed Hashi and Danny Adilypour (job share)	Cabinet Member for Sustainable Transport, Environment and Clean Air	17.12.21	17.12.21	
Neil Fenton, Assistant Director	Parking, StreetWorks and Commercial	20.10.21	11/11/21	
Hamant Bharadia Assistant Director	Finance & Investment Division	20.10.21	01.11.21	
Jean-Marc Moccarme Senior Prosecutions Lawyer	Legal and Governance	20.10.21	21.10.21	
Marianne Richie Democratic Services Officer	Legal and Governance	20.10.21	21.10.21	

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	Road Traffic Regulation Act (RTRA) 1984 Traffic Sign Regulations and General Directions (TSRGD) 2016
Appendices	Appendix A – List of proposed disabled persons' parking places Appendix B – List of rejected applications for disabled persons' parking places Appendix C – List of proposed disabled persons' parking place removals Appendix D – Informal consultation results confirming disabled persons' parking place removals. 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 Appendix H - Radbourne Road Objection

	Appendix I - Disabled Parking Equalities Impact Assessment
--	--

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 Stefan Cuff
 Parking Design Engineer, Environment & Streetscene

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