

Report for: Cabinet 10 September 2019

Title: Blue Badge and Disabled Bay – Operational Review

Report authorised by: Director of Environment and Neighbourhoods, Stephen McDonnell.

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Ward(s) affected: All

**Report for Key/
Non Key Decision:** Key Decision

1. Describe the issue under consideration

- 1.1. Parking provision, in particular the Disabled Blue Badge scheme, makes a considerable contribution to the independence and social inclusion of disabled residents. The National Scheme offers concessions, with conditions set by the Department for Transport (DfT). The DfT also review the scheme periodically to ensure that it continues to meet the needs of those with disabilities, particularly those with restricted mobility and those who experience difficulties in using public transport.
- 1.2. Disabled Bays in Haringey may be used by anyone with a Blue Badge. However, we are aware of a growing concern from disabled residents, who cannot access the bay which has been installed for them, because other Blue Badge holders are parking in it. This problem is particularly acute close to retail areas, transport links or places of interest. Therefore this paper sets out the case for Dedicated Disabled bays.
- 1.3. Eligibility criteria for Disabled Bays is set by the Council but is largely based on the Blue Badge Criteria. However, it has not been reviewed for some time and evidence gathered has suggested that elements of the Disabled Bay eligibility criteria should be extended to ensure that the Council can meet the needs of a greater number of disabled people.
- 1.4. At present there is no formal appeals process for rejected disabled bay applications. The Council seeks to address this with the introduction of a formal appeals process, which is set out in the report.
- 1.5. This report also informs Cabinet of changes to the Disabled Blue Badge Scheme.

2. Cabinet Member Introduction

- 2.1 I am pleased to advise Cabinet colleagues of a number of improvements to the current Disabled Blue Badge and Disabled Parking Bay provision. Those improvements will make a real difference to the lives of a number of our residents.
- 2.2 The introduction of dedicated disabled parking bays will be welcomed by many of our residents, ensuring that they can access their parking bays at all times. In addition, while

we will continue to require reasonable and objective evidence to support applications, we will extend the eligibility criteria for those parking bays to include a further assessment opportunity for those with restricted mobility, who for their own reasons are not in receipt of disability benefits.

3 Recommendations

3.1 It is recommended that Cabinet approves:

- i) Introduction of Dedicated Disabled Parking Bays pursuant to paragraphs 6.3-6.8 of this report.
- ii) The change in eligibility criteria for Disabled Parking Bays pursuant to paragraph 6.10 of this report.
- iii) Introduction of an appeals process for unsuccessful Disabled Parking Bay applications pursuant to paragraph 6.13 of this report.
- iv) Delegation to the Director of Environment and Neighbourhoods authority, in consultation with the relevant Cabinet Member, to publish a revised policy to give effect to recommendations 3.1 (i) to (iii) above.
- v) The establishment of a Dedicated Disabled Bay/Blue Badge capital scheme within the approved capital programme.
- vi) A Capital Budget Virement from the Borough Roads capital scheme contained within the approved capital programme for 2019/20, into Disabled Bay/Blue Badge capital scheme for the amount of £0.38m to meet the estimated costs associated with the recommendations in this report.

3.2 Cabinet is also asked to note changes to the eligibility criteria for Blue Badges as set by the Department for Transport (DfT), described in paragraphs 6.17 to 6.21 of this report.

4 Reasons for decision

4.1 Haringey has a statutory duty to install disabled parking bays. At present those bays may be used by any Disabled Blue Badge holder. These bays are introduced in town centres and other areas of general interest as well on streets where requested by residents who meet the established criteria. Residents are not charged for this service. There are increasing levels of complaints from residents in areas with high parking demand that they cannot access the disabled parking bay installed for their use due to other Blue Badge holders using it.

4.2 In addition, our current eligibility criteria for Disabled Bays, as is the case with many London Boroughs, is based on the **automatic entitlement** for the Disabled Blue Badge and involves, in the main, entitlement to disability benefits. Many of our residents with Blue Badges still need Disabled Parking Bays due to their disability but fall outside of this automatic entitlement. Should their application be rejected, there is currently no formal appeals process for their application to be reconsidered.

4.3 As per Recommendation (3.1iv) approval is therefore sought to introduce Dedicated Disabled Parking Bays, which will be provided for the sole use of the applicant, with proposed new eligibility criteria when considering applications and the introduction of an appeals process, where applications have been refused.

5 Alternative options considered

5.1 The service considered remaining as it is, but this was not deemed appropriate due to the lifeline, that disabled parking offers those with severe mobility issues. The Council has a statutory obligation to provide disabled parking bays and we need to ensure that

this is done in a manner that is meaningful and meets the requirements of disabled people.

6 Background information

6.1 Parking and access to parking can make a significant difference to those with disabilities, allowing them to park near the home, workplace or other areas of interest. The Blue Badge scheme was introduced in 1971 as the Orange Badge scheme, as a vital tool to help disabled people with their personal independence and inclusion. It is considered by many disabled people as their lifeline to independence and is highly valued and vital to them. The parking concessions allowed, have considerable financial value, hence the high threshold for eligibility, which unfortunately also attracts a high level of abuse and misuse.

Disabled Parking Bays – Existing arrangement

6.2 Currently a resident may apply for a Disabled Bay and if they meet the set criteria a Disabled Bay is installed close to their home. However, as per the terms of the Blue Badge scheme, anyone with a Blue Badge may park in any on-street Disabled Bay. This means that the bay may be taken up by another Blue Badge holder and not always available to the resident for whom it was installed. This problem is particularly acute in areas of high parking demand, such as retail areas.

Proposed Provision of Dedicated Disabled Bays

6.3 It is proposed that the Council move to Dedicated Disabled Bays, where for all new applications the Council shall, at the request of a resident, install outside or near to their home or workplace a dedicated bay for sole use of the applicant. It must be noted that if a non-permitted Blue Badge holder, parks in a Dedicated Disabled Bay, the vehicle may receive a Penalty Charge Notice. Those in receipt of a PCN may follow the statutory appeals process if they so wish. The Council will, however, continue to implement 'generic' disabled bays in town centres and other areas of interest that all Blue badge holders can use.

6.4 If a resident wishes to convert their existing bay into a Dedicated Disabled Bay, they will need to 'Opt in' and resubmit an application.

6.5 'Opt In' Approach - It would require significant additional resource to convert all existing disabled bays into dedicated bays, as we would need to identify the location of each bay and identify the intended user. As there are over 2,800 disabled bays across Haringey, this process would be costly and time consuming. Therefore we will prioritise those residents who 'opt in' and submit an application for a Dedicated Disabled bay.

6.6 This new Dedicated Disabled Bay arrangement will require additional dedicated project management resource to bring the new infrastructure into operation, in particular the need to know which bays are still in use and removing those that are no longer required by the holder.

6.7 The implementation times for Disabled Bays (Generic and Dedicated) can be lengthy due to the need to undertake statutory consultation, as part of the legal process of making a Traffic Management Order (TMO) - which makes the bays enforceable (see legal comments below). This involves advertising proposals in the press and on street notices, allowing 21 days for objections. The Council must consider any objections before proceeding to installation. The entire process will take a minimum of 3 months from receiving an application, to finalising the statutory process, and installing the bay

on the ground. There are many occasions, especially in times of high demand, where this can take up to 6 months.

6.8 We would also need to undertake the above statutory consultation to amend TMOs to convert each existing Disabled Bay to Dedicated. In order to make best use of funds available, we would 'batch' up to 100 bays into each consultation process. The bays would be processed on a first come first served basis.

Disabled Bay Eligibility – current arrangement

6.9 The current eligibility for a Disabled Parking Bay is based on the **automatic entitlement** for a Blue Badge – see 6.16 below.

Proposed Changes to Disabled Parking Bay Eligibility

6.10 The proposed criteria below have been developed having considered eligibility criteria from across all London boroughs.

The applicant can consider applying if:

1. They are the owner or nominated driver of the vehicle registered to the applicant's home address.
2. No parking is available within a reasonable distance of their home or workplace.
3. They are a Blue Badge holder.
4. They meet the Disabled Blue Badge Entitlement without further assessment criteria as set out in paragraph 6.16a.
5. They do not meet the criteria set out in 6.16a but are unable to walk more than 20 metres (as determined by a mobility or medical assessment).

6.11 Criterion 5 has been included to offer the opportunity of further assessment by an expert assessor to address the situation where residents with severe disabilities may not be in receipt of disability benefits as set out in 6.16a or those who choose not to apply for or may not be awarded the required component of the disability benefit. It is intended that these assessments be included in the current arrangement with the NHS, which is free to the Council and the applicant.

Appeals process for rejected Disabled Bays – current arrangement

6.12 There is currently no formal appeals process for rejected Disabled Bay applications.

Proposed Appeals process for rejected Disabled Bays

6.13 It is proposed to replicate the current appeals process that applies to unsuccessful applications for Disabled Blue Badges to rejected Dedicated Disabled Bay applications. This will allow the applicant to request a review of the unsuccessful application. The review must be instigated within 30 days following the date of the decision. The request for this review must be in writing and asks the applicant if possible, to provide additional evidence. This will then be referred to a different mobility assessor. If the appeal is unsuccessful the applicant can reapply and be considered again, once 3 months has elapsed, allowing for a change / deterioration in condition.

Disabled Blue Badges - Existing arrangement

6.14 Eligibility criteria for the Blue Badge Scheme is set by the DfT, with assessments undertaken by Local Authorities, based on guidance issued by the DfT. This ensures a consistent interpretation of the scheme. The Blue Badge allows holders to park for unlimited periods in disabled parking bays and for up to 3 hours on yellow lines. In Haringey, Blue Badge holders may also park free of charge for unlimited time in all CPZ permit, shared use and cashless (formerly known as pay & display) parking bays.

6.15 The Blue Badge scheme only applies on the public highway and does not extend to private land or Homes for Haringey land where other rules apply. Further information on parking on HfH land can be found at:

https://www.homesforharingey.org/sites/default/files/hfh_parking_leaflet_march_2017_web.pdf

6.16 Blue Badge Eligibility as set by DfT is based on:

a) Entitlement without further assessment (automatic entitlement)

- Receives the Higher Rate of the Mobility Component of the Disability Living Allowance; or
- Score 8 points or more under the “moving around” activity of the mobility component of Personal Independence Payment (PIP); or
- Receives the mobility component of PIP and has obtained 10 points specifically for Descriptor E under the “planning and following journeys” activity, on the grounds that they are unable to undertake any journey because it would cause them overwhelming psychological distress; or
- Is registered blind (severely sight impaired); or
- Receives a War Pensioner's Mobility Supplement (WPMS); or
- Has been both awarded a lump sum benefit at tariffs 1-8 of the Armed Forces Compensation Scheme and certified as having an enduring and substantial disability which causes inability to walk or very considerable difficulty in walking.

Or

b) Entitlement subject to further assessment

- A person who drives a vehicle regularly, has a severe disability in both arms and is unable to operate, or has considerable difficulty in operating, all or some types of parking meter; or
- A person who has been certified by an expert assessor as having an enduring and substantial disability which causes them, during the course of a journey, to:
 1. Be unable to walk;
 2. **Experience very considerable difficulty whilst walking, which may include very considerable psychological distress; or**
 3. **Be at risk of serious harm when walking; or pose, when walking, a risk of serious harm to any other person.**

Department for Transport (DfT) Changes to Blue Badges

- 6.17 Under Entitlement subject to further assessment, new DfT criteria (items 2 & 3 in **bold** text above) will apply from 30 August 2019, which take account of 'hidden disabilities' extending the concession to those with Dementia, Autism and ADHT. New applications are expected at this point to involve a desk-based assessment, supported when necessary by medical evidence or evidence from an expert assessor. Further information and guidance is still required at the point of drafting this report, especially in relation to central government funding that will be required to deal with the expected increase in applications.
- 6.18 Assessments of applicants under the category of 'Entitlement subject to further Assessment' are undertaken by NHS professionals, who are specifically trained to determine mobility levels. Assessors are independent of the applicant, ensuring an objective mobility assessment. This service was negotiated several years ago and as mentioned above, is currently provided free of charge to the Council and is also free to the applicant.
- 6.19 The requirement for a mobility assessment can add to the overall application processing times, giving rise to concerns about the lengthy lead in-time for applications. However this is a necessary requirement of the scheme as set out by the DfT.
- 6.20 At present applications can and will continue to be made through the GOV.UK website (commissioned by the DfT) and directly to the Council. The DfT had previously sought to achieve efficiencies by requiring Local Authorities to use a national IT system, but this arrangement was discontinued, allowing Local Authorities freedom to develop their own solutions. A small fee (£10) is payable for new applications and replacements. This charge may only be paid by cheque or postal order at present. Many customers deem the service offer to be fragmented, difficult to understand and time consuming.
- 6.21 However to address customer concerns the service intends to introduce a new Parking IT system early next year, which will address many of those issues by introducing a new well-developed Blue Badge case management system – the New IT system is reported in a separate Cabinet Report 'Extension of Civica Parking System (PMIS) and an award of contract for the provision of a replacement system'. This system will modernise delivery, allowing online payments, which in addition to improved information on our website will ensure that customers are well informed of entitlements and how to access concessions. The new IT system will also allow for reminders to be sent to advise when a Blue Badge is going to expire.

Resource Implications

- 6.22 There is currently no defined resource in Parking Operations to manage the Disabled Parking Bay process and this is a factor for why some residents have had to wait longer than we would have liked for their bay. The changes proposed to Disabled Parking Bay policy and practices, will have additional cost implications and add to budgetary pressures.
- 6.23 We currently spend £20k per annum on the physical cost to install a Disabled Bay on the ground (lining and signing). This cost comes from the £0.3m Parking capital budget. However, this capital budget is due to end in April 2021.
- 6.24 In addition to new applications, we are also likely to be met with demand from existing bay holder requests to convert to Dedicated Disabled Parking bays. There are currently 2,800 Disabled Bays on the ground in Haringey, and while we have no way of determining demand at this point, it is conceivable that the vast majority of residents would want and be eligible to have their bay converted. The cost of converting all

existing bays to dedicated bays will be in the region of £85 per bay or £0.24k. This takes account of the statutory consultation costs and changes to signage. There would be additional costs to convert existing disabled bays to other use, when they are no longer required by the holder.

6.25 While the DfT have advised, and we expect there to be an initial increase in Blue Badge applications with the criteria extending to 'hidden disabilities' and with our move to Dedicated Disabled Bays; we would anticipate the peak demand for applications to be over an initial six months, then taper off over a two-year period and subsequently level off back to current volumes.

6.26 In order to deliver these new arrangements and ensure timely responses, it is proposed that these changes in Blue Badge and Disabled Bay policy are delivered as a stand-alone project and managed as such.

6.27 We will seek to procure a dedicated project manager to manage the implementation of the new assets. This will involve all aspects of the scheme.

6.28 The operational practices and processes will need to be developed, as well as engaging with NHS medical services to understand the requirements and timelines for further medical/mobility assessments.

6.29 Should these new policies be approved by Cabinet in September; it is expected that we should be able to consider applications for Dedicated Disabled Bays and launch the service in January 2019. Thereafter, over the two-year period the service will better understand the volumes of applications and be able to determine the ongoing resource requirement and revenue costs, which will need to be baselined into the service.

6.30 The estimated cost to deliver this service from September 2019 to January 2022 will be:

Convert existing 2800 Disabled Bays to Dedicated:	£85x2800=£238,000 (signing)
Installing new Dedicated Disabled Bays :	£40k (lining and signing)
Dedicated project manager: months)	£101k (over 2 years and 3
Total:	£0.38m

6.31 A Capital Budget Virement from the Borough Roads capital scheme contained within the approved capital programme for 2019/20, into Disabled Bay/Blue Badge capital scheme for the amount of £0.38m is proposed to meet these estimated costs.

6.32 The operational and implementation Timeline is as follows:

30 August	– New (DfT) Blue Badge criteria comes into effect.
September	– Cabinet Decision and Call in.
October	– Recruit dedicated resource.
October/November	– Develop new operational practices.
November/December	– Liaise with NHS on new medical/mobility assessments.
December/January	– Launch new Dedicated Disabled Bay provisions.
February /March	– 1 st Phase of Dedicated Disabled Bay installed (subject to statutory consultation).
January 2022	– End of initial service delivery and start of ongoing business as usual activity.

7 Contribution to strategic outcomes

- 7.1 The Blue Badge and Disabled Bay Operational Review supports three Themes within the Borough Plan 2019-2023 – People, Place and Economy.
- 7.2 **People Theme:** Our vision is a Haringey where strong families, strong networks and strong communities nurture all residents to live well and achieve their potential. The availability of Blue Badges and access to parking will contribute to specific Outcomes within this Theme including:
- All children and adults are able to live healthy and fulfilling lives, with dignity, staying active and connected in their communities e.g. prioritised parking for local residents and their visitors, through the introduction of Dedicated Disabled bays for residents who need them.
- 7.3 **Place Theme:** A place with strong, resilient & connected communities where people can lead active and healthy lives in an environment that is safe, clean and green. The Blue Badge and Disabled Bay Operational Review will contribute to specific Outcomes within this Theme including:
- A cleaner, accessible and attractive place e.g. better managed parking leading to more attractive streetscape, with improved accessibility for pedestrians.
 - A proud resilient, connected and confident place e.g. improved Parking IT/Blue Badge Case Management offer, which will be more intuitive and easier for our residents and customers to access the services they require.
- 7.4 **Economy Theme:** A growing economy which provides opportunities for all our residents and supports our businesses to thrive. The Blue Badge and Disabled Bay Operational Review will contribute to specific Outcomes within this Theme including:
- A borough where all residents have access to training and skills development opportunities and more people are supported into work e.g. Issuing Blue Badges and Disabled Bays so that residents can access our businesses and town centres.

8 Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1 Finance Comments

This report seeks Cabinet approval to the establishment of a new Disabled Bay/Blue Badge scheme. The implementation of the new policy requires several changes to the Council's highways infrastructure. The overall estimated cost for making the changes to the Council's highways infrastructure and the project management resource required in order to make the new scheme operational is estimated at £0.38m. A Cabinet decision is required for the virement in accordance with financial regulation 5.32 (b).

The budget Virement required will be to transfer £0.38m from the existing capital budget of £4.1m within the borough roads scheme.

Once the whole scheme is operational, the running costs will need to be met from within existing revenue resources.

8.2 Procurement comments

Not applicable.

8.3 Legal comments

- 8.3.1 There is no specific statutory obligation on the Council to provide designated disabled parking bays. It has the discretion and the statutory power to do so however, through the making of Traffic Management Orders (TMOs) under the Road Traffic Regulation Act 1984 (RTRA). The making of traffic regulation orders, and the adoption of any policies related to such, is an executive function pursuant to the Local Authorities (Functions and Responsibilities) Regulations 2000 and the Council's Constitution.
- 8.3.2 The Council's powers to make Traffic Management Orders arise mainly under sections 6, 9, 45, 46, 122 and 124 and schedules 1 paragraph 8 and 9 and Part IV of Schedule 9 of the RTRA.
- 8.3.3 In making such TMOs to introduce dedicated Disabled Parking Bays, the Council must follow the statutory consultation procedures pursuant to the Road Traffic Regulation Act 1984 ("RTRA") (as amended) and the Local Authorities Traffic Orders (Procedure) (England and Wales) Regulations 1996 (as amended). 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 TMO, must be reported back to the decision maker before the TMO is made.
- 8.3.4 When determining what paying parking places are to be designated on the highway, section 45(3) requires the Council to consider both the interests of traffic and those of the owners and occupiers of adjoining properties. In particular, the Council must have regard to: (a) the need for maintaining the free movement of traffic, (b) the need for maintaining reasonable access to premises, and (c) the extent to which off-street parking is available in the neighbourhood or if the provision of such parking is likely to be encouraged by designating paying parking places on the highway.
- 8.3.5 By virtue of section 122 of the RTRA, the Council must exercise its powers under the RTRA 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) Facilitating the passage of public service vehicles and securing the safety and convenience of their passengers.
 - e) Any other matters appearing to the Council to be relevant

8.3.6 The Council has the discretion to introduce charges for it's the cost of making TMOs and for parking on its highways.

8.3.7 Adopting a clear policy for determining applications for disabled parking bays and putting in processes for applicants to appeal against the Council's decision will help to ensure that the scheme is applied in a consistent and transparent manner. Each application should however, be determined on its own merits.

8.3.8 There are no other legal issues arising out of this report.

9 Equality

9.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

9.2 The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

9.3 The proposals in this report improves transport facilities for disabled people. 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.

10 Use of Appendices

10.1 EQUALITY IMPACT ASSESSMENT Blue Badge and Disabled Bay – Operational Review August 2019

11 Local Government (Access to Information) Act 1985