

MUNICIPAL YEAR 2016/2017 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

PORTFOLIO DECISION OF:
Cabinet Member for Environment

REPORT OF:
Director – Regeneration &
Environment

Agenda –

KD Num: 4296

Subject:

Disabled Persons' Parking Bays - Revised
Criteria & Introduction of Exclusive Bays

Wards: All

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1. EXECUTIVE SUMMARY

- 1.1 This report sets out proposals to update the criteria used to assess applications for disabled persons' parking bays and recommends introducing a new type of permit bay for the exclusive use of specific individuals with restricted mobility.

2. RECOMMENDATIONS

2.1 That approval be given to:

- a) Update the eligibility criteria for disabled persons' parking bays, as set out in paragraph 4.5;
- b) Provide disabled persons' parking bays in the special circumstance set out in paragraph 4.9 of the report, subject to the relevant non-disability criteria also being met;
- c) Introduce a charge of £110 in cases where an independent mobility assessment is required;
- d) Introduce all future disabled persons' parking bays as 'exclusive' bays for specific permit holders;
- e) Introduce a charge of £200 to cover the Council's costs in converting, if requested, an existing disabled persons' parking bay into an 'exclusive' bay.

3. BACKGROUND

- 3.1 The Council currently provides on-street disabled persons parking bays on request where residents meet a number of strict criteria. These criteria were agreed by the Director of Environmental Services in October 1999 and have remained largely unchanged since. The Council also provides parking bays for blue-badge holders in town centres and in off-street car parks. These are not within the scope of this report, which deals specifically for requests for disabled persons parking bays outside individuals' homes.

4. PROPOSALS AND CONSULTATION RESPONSE

- 4.1 A number of changes were proposed to update the criteria and improve the service. Consultation on these proposals took place in 2015, taking the form of an online questionnaire.
- 4.2 Only five responses were received despite efforts to promote the consultation, which included:
- Sending notice of the consultation to the following organisations, who were encouraged to forward on the consultation link to other groups and individuals with an interest:
 - Overs 50s Forum
 - Enfield Disability Action
 - Age UK
 - Highlighting the consultation on the Council's website
 - Advertising the consultation in the Enfield Voluntary Action newsletter, which is emailed to around 2,000 voluntary organisations across the borough.

Proposal 1 - Revised Eligibility Criteria

- 4.3 The current eligibility criteria comprise disability and non-disability components:

a) Disability criteria:

The applicant must hold a current disabled parking permit (Blue Badge) **and** be in receipt or eligible to receive either: -

- Disability Living Allowance with the higher rate mobility component,
or

- Attendance Allowance at the higher rate together with confirmation of the applicant's disability by their GP.

b) Non-disability criteria:

- The applicant must not have access to off-street parking
 - The bay must not be sited where it would adversely affect road safety.
 - The applicant must have a vehicle registered at their address (driven either by the applicant or a carer residing with the applicant).
- 4.4 The last criterion was introduced to prevent bays being provided for the convenience of visitors or carers, bearing in mind that a disabled bay will prevent other residents using the space at all times.

New Eligibility Criteria

- 4.5 The 1999 criteria have proved generally effective and are similar to those used by many other authorities. However, a number of minor changes to the criteria are proposed to reflect changes to the benefits system:

Proposed New Eligibility Criteria

Disability Criteria:

The applicant must hold a current disabled parking permit (Blue Badge) **and** be in receipt or eligible to receive either: -

- Personal Independence Payment with an award of more than 8 points for the 'moving around' component, or
- Disability Living Allowance with the higher rate mobility component, or
- Attendance Allowance at the higher rate together if over 65 years of age, or
- Armed Forces Independence Payment.

Non-Disability Criteria:

- the applicant must not have access to alternative off-street parking; and
- the bay must not adversely affect road safety; and
- the applicant or nominated driver must have both a vehicle registered at the address and hold a full UK licence registered to the address.

Summary of consultation responses:

- Three responses agreed with the proposal

- One response disagreed with the proposal. However, the respondent's overriding concern related to misuse of disabled bays generally rather than the criteria specifically.
- The fifth response did not comment on this proposal

Officer Comments

- 4.6 No substantive issues were raised as part of the consultation and it is therefore recommended that the eligibility criteria set out in paragraph 4.6 above be adopted.

Proposal 2 – Special Eligibility Criteria

- 4.7 Someone meeting the above criteria would 'automatically' be entitled to a disabled bay. However, there could be other situations where a disabled bay is justified even though one or more of the 'automatic' disability criteria are not met. This is currently addressed on an ad-hoc basis, with referrals made to an independent assessor on occasion.
- 4.8 It is proposed to formalise the current arrangement and acknowledge that a disabled persons parking bay could be provided if there is a clear mobility based justification, evidenced by a detailed medical assessment.
- 4.9 It is therefore proposed to provide a disabled persons parking bay where:

Special Circumstances

- a) The blue badge has been issued following a detailed medical assessment that confirms the applicant has severely restricted mobility (a blue-badge issued following a paper-based assessment would not be sufficient); or
- b) An independent assessment carried out by the Council's nominated assessor confirms that a disabled bay is required. The cost of this assessment would need to be met by the applicant.

- 4.10 The cost of the independent assessment is estimated to be £110 and this will be passed onto the applicant. Subsequently, the charge will be reviewed and adjusted when the Council sets its annual fees and charges.

Summary of consultation responses:

- Three responses agreed with the proposal

- One response disagreed with the proposal. However, the respondent's overriding concern related to misuse of disabled bays generally rather than the proposal specifically.
- The fifth response acknowledged the benefit of the proposal but queried the Council's ability to charge for the assessment.

Officer Comments

- 4.11 Section 93 of the Local Government Act allows local authorities to charge for providing a service if certain conditions are met. The conditions include a requirement that the service should be discretionary, that there is no express power to charge for the service in other legislation, and that the charge does not exceed the cost of provision. These conditions are met in this instance and the proposed £110 charge will simply cover the Council's costs in carrying out an assessment of the applicant's mobility.
- 4.12 It is therefore recommended that disabled persons parking bays be provided if the circumstances set out in paragraph 4.10 apply, subject to the applicant paying the necessary fee and it being safe to do so.

Proposal 3 - Exclusive Bays

- 4.13 Applicants currently have to demonstrate that they meet strict eligibility criteria and the Council then provides a bay that **anyone** with a Blue Badge can park in. This has caused problems for a number of applicants who find they are unable to utilise the bay intended for them.
- 4.14 Several boroughs have addressed this by introducing 'exclusive' bays, where only a specific permit holder is able to use the bay. The proposal was therefore:

Exclusive Bays

To offer 'exclusive' disabled bays (for a charge) in addition to the bays that can be used by anyone displaying a Blue Badge.

- 4.15 It was originally envisaged that exclusive bays would be an additional option offered to residents for a charge:

Charge for Exclusive Bays

Introduce a charge of £450 for exclusive bays

4.16 There is currently no charge for the assessment and provision of disabled bays, even though it could cost the Council in the region of £450 per bay. This comprises:

- £100 for the processing and assessment of the application
- £100 for the traffic management costs (assuming a number of bays are progressed at the same time)
- £250 for the road markings, post and sign

Summary of consultation responses:

4.17 In relation to the idea of introducing exclusive bays, the consultation responses were:

- Two responses agreed with the proposal
- One response was unsure about the proposal
- One response disagreed with the proposal on the basis that a further type of bay could cause potential confusion. In addition, there was concern about the idea of a two tier system where those that could afford it could obtain a better service. It was also suggested that the Council's proposals should have been clearer about the enforcement arrangements for disabled bays.

4.18 In relation to charging for exclusive bays, the consultation responses were:

- Two responses agreed with the proposal
- Three responses disagreed with the proposal
- Although not directly related to the question, one of the responses suggests that better maintenance of bays was required and that requiring vehicle registration documents was onerous.
- A further response challenged the legality of charging for exclusive disabled bays.

Officer Comments

4.19 The exclusive bays would be clearly signed to minimise the risk of confusion. Exclusive bays, like existing general use disabled bays, would be supported by a traffic order so that they can be enforced by civil enforcement officers. Some confusion arises at present as the past practice has been to install 'advisory bays' in some cases, which are not enforceable. It is proposed that such advisory bays are no longer provided, unless there are exceptional circumstances.

4.20 The revised Traffic Signs Regulations and General Directions, published in May 2016, have introduced a number of changes since the public consultation that reduce the costs set out in paragraph 4.16. In particular:

- A permit bay can be identified for the use of a disabled person by way of carriageway markings;
 - It is no longer a requirement to erect a post and sign to enable enforcement of disabled persons' bay.
- 4.21 For new bays, the option not to install a post and sign would typically reduce the cost of a bay to £300, comprising:
- £100 for the processing and assessment of the application
 - £100 for the traffic management order costs (assuming a number of bays are progressed at the same time)
 - £100 for the road markings
- 4.22 To convert an existing general use bay to an exclusive bay is estimated to cost £200, comprising:
- £50 for the processing of the request
 - £100 for the traffic management order costs (assuming a number of bays are progressed at the same time)
 - £50 to add a permit number to the existing road markings
- 4.23 Local Authorities cannot introduce parking charges with the intention of raising revenue for other traffic purposes. However, the Council has the power under s.45 of the Road Traffic Regulation Act to designate parking places on the highway (ss (1)), "for use by only such persons...as specified in the order., as may be authorised for use by a permit...with or without charge" (ss (2)). The Council may "make such charge in connection with the issue of the permit...of such amount....as the authority may prescribe" (s.45 ss(2(b))). A charge to enable the Council to recover its costs is an appropriate use of the Council's powers.
- 4.24 The recent changes to the regulations have significantly reduced the cost of providing a disabled persons parking bay. In the light of comments made during the consultation about operating a two-tier system, it is recommended that the Council stops providing general use bays and in the future only offers exclusive use bays. It is also proposed that new bays continue to be provided free of charge, with the costs covered in part from any surplus in the Parking Places Revenue Account (PPRA).
- 4.26 However, it is recommended that a charge of £200 is made to cover the Council's additional costs where a resident already has a bay and requests its conversion to an 'exclusive' use bay.
- 4.27 Future charges will be reviewed as part of the Council's annual fees and charges report.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 A number of alternative options have been considered:
- 5.2 **No change** - the current arrangements could be kept in place, with just minor changes to update the existing eligibility criteria. This is not recommended as it fails to address the growing problem where bays intended for specific individuals are occupied by others with a blue badge.
- 5.3 **Charge for new exclusive bays** – the original proposal was to continue to offer general use bays free of charge but to charge for exclusive use bays. However, the cost of providing both types of bay is the same and such a two-tier system may be perceived as unfair.

6. REASONS FOR RECOMMENDATIONS

- 6.1 The proposals will bring the existing eligibility criteria up to date; provide greater flexibility in cases where the criteria are not met but there is a genuine need for a disabled bay; and offer residents an additional type of bay guaranteed for their exclusive use.

7. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS

7.1 Financial Implications

- 7.1.1 This report sets out proposals to update the criteria used to assess applications for disabled persons' parking bays and recommends introducing a new type of bay that could be offered for the exclusive use of the applicant.
- 7.1.2 A charge to the applicant of £110 is proposed in cases where an independent mobility assessment is required.
- 7.1.3 It is noted that there is currently no charge for the assessment and provision of disabled bays, even though it costs the Council in the region of £300 (a reduction from the current £450 if a post and sign is not provided).
- 7.1.4 A charge of £200 is proposed in cases where existing bays are converted to exclusive bays. This and other charges relating to the provision of disabled persons parking bays will be reviewed and adjusted when the Council sets its annual fees and charges.
- 7.1.5 The proposed charges ensure that the recommendations set out in the report will have no impact on the Council budgets.

7.2 Legal Implications

- 7.2.1 As set out in paragraph 4.22, by virtue of s.45 of the Road Traffic Regulation Act the Council as the traffic authority has the power to designate parking places on the highway for which it has responsibility and may make charges for vehicles left in parking spaces so designated. Section 45(2) states that the Council may make spaces available "for use by only such persons...as specified in the order... as may be authorised for use by a permit...with or without charge" (ss (2)). The Council may "make such charge in connection with the issue of the permit...of such amount....as the authority may prescribe" (s.45 ss(2(b))).
- 7.2.2 Case law confirms that it is lawful for the Council to set charges for the provision of on-street car parking places that cover the cost of running the scheme which reflect the Council's parking policy. The Council is however prevented from introducing charges with the purpose of raising revenue for use on other traffic purposes.
- 7.2.3 The report sets out the cost of administering and laying out 'exclusive' bays and confirms that the proposed charges are set so that the Council covers its costs only. This is an appropriate use of the Council's powers.
- 7.2.4 Consideration has been given to the Equality Duty and the equality impact statement is attached to the report. The provision of disabled persons' parking bays is consistent with the Council's public sector equality duty pursuant to the Equality Act 2010.
- 7.2.5 Section 93 of the Local Government Act 2003 allows for Councils to charge for discretionary services subject to certain conditions. The proposed charge for independent mobility assessments meets the requirements of the act.

7.3 Property Implications

- 7.3.1 The report raises no property implications

8 KEY RISKS

- **Financial:** low risk as additional costs covered by charges.
- **Reputational:** low risk as proposals are generally positive.
- **Regulatory:** low risk of challenge as the recommendations are within the Council's powers.

9 IMPACT ON COUNCIL PRIORITIES

Fairness for All

- 9.1 The proposed changes to the eligibility criteria will ensure that applications for disabled persons' parking bays are considered in a fair and consistent manner. The provision of exclusive bays will ensure that bays are provided for specifically for those the most restricted mobility.

Growth and Sustainability

- 9.2 The proposed changes will have no impact.

Strong Communities

- 9.3 The provision of disabled persons' parking bays enables residents with restricted mobility to continue to live independent lives and actively participate in community life.

10 EQUALITY IMPACT IMPLICATIONS

- 10.1 An equality impact assessment has been undertaken which identified the following positive and negative impacts:

Positive impacts:

- The new criteria expand eligibility to those that may not be entitled to the relevant benefits but who nevertheless have severely restricted mobility.
- The 'exclusive' bays ensure that parking space will be reserved for the intended resident rather than anyone with a blue badge.

Negative impacts:

- The cost of converting existing bays to 'exclusive' bays (£200) may be a barrier for some. However, the charge is introduced simply to enable the Council to recover its costs.
- Where applicable, the assessment charge (£110) will need to be met by the applicant to enable the Council to cover its costs. However, the charge will only apply in cases where an independent assessment is requested by the applicant.

11 PERFORMANCE MANAGEMENT IMPLICATIONS

11.1 The proposals will support the following outcomes in the Council Business Plan:

- Outcome 1.12: People are supported to live independent lives

12. PUBLIC HEALTH IMPLICATIONS

12.1 The proposals will help people with restricted mobility to continue to remain active, directly benefiting both residents' physical and mental health.

Background Papers

No background papers were used in the preparation of this report

Enfield Council Predictive Equality Impact Assessment/Analysis

NB if there is likely to be an impact on different groups of staff as a result of this proposal, please also complete a restructuring predictive EQIA form

Department:	Regeneration & Environment		Service:	Traffic & Transportation	
Title of decision:	Disabled Persons' Parking Bays - Revised Criteria & Introduction of Exclusive Bays		Date completed:	30 08 2016	
Author:	David Taylor		Contact details:	020 8379 3576 or david.b.taylor@enfield.gov.uk	

1 Type of change being proposed: (please tick)							
Service delivery change/ new service/cut in service	<input checked="" type="checkbox"/>	Policy change or new policy	<input type="checkbox"/>	Grants and commissioning	<input type="checkbox"/>	Budget change	<input type="checkbox"/>

<p>2 Describe the change, why it is needed, what is the objective of the change and what is the possible impact of the change:</p> <p>The existing criteria used to assess applications for disabled persons parking bays were introduced in 1999 and need to be updated to reflect changes to the benefits system. In addition, greater flexibility is proposed to enable bays to be provided for residents with severely restricted mobility even if the 'automatic criteria' are not met.</p> <p>At present disabled persons' parking bays can be used by anyone with a valid blue badge. This can lead to situations where a bay provided for a resident that meets the relevant criteria can be used by another resident that may not. To address this problem, a new type of bay is proposed that can only be used by a specified permit holder.</p>

3 Do you carry out equalities monitoring of your service? If No please state why?

Information is collected related to ethnicity, gender, age & disability

4. Equalities Impact

Indicate Yes, No or Not Known for each group

[illegible]

If Yes answered to questions 3-6 above – please describe the impact of the change (including any positive impact on equalities) and what the service will be doing to reduce the negative impact it will have.

Positive impacts:

- The new criteria expand eligibility to those that may not be entitled to the relevant benefits but who nevertheless have severely restricted mobility.
- The 'exclusive' bays ensure that parking space will be reserved for the intended resident rather than anyone with a blue badge.

Negative impacts:

- The cost of converting existing bays to 'exclusive' bays (£200) may be a barrier for some. However, the charge is introduced simply to enable the council to recover its costs.
- Where applicable, the assessment charge (£110) will need to be met by the applicant to enable the Council to cover its costs. However, the charge will only apply in cases where an independent assessment is requested by the applicant.

*If you have ticked yes to discrimination, please state how this is justifiable under legislation.

5. Tackling Socio-economic inequality

Indicate Yes, No or Not Known for each group

Communities living in deprived wards/areas

People not in employment, education or training

People with low academic qualifications

People living in social housing

Lone parents

People on low incomes

People in poor health

Any other socio-economic factor
Please state:

Will the proposal specifically impact on communities disadvantaged through the following socio-economic factors?	N	N	N	N	N	N	N	N
Does the service or policy contribute to eliminating discrimination, promote equality of opportunity, and foster good relations between different groups in the community?	N	N	N	N	N	N	N	N
Could this proposal affect access to your service by different groups in the community?	N	N	N	N	N	Y	N	N

If Yes answered above – please describe the impact (including any positive impact on social economic inequality) and any mitigation if applicable.

The cost of converting an existing bay to an 'exclusive' bays (£200) may be a barrier for some. However, the charge is introduced simply to enable the council to recover its costs.

6. Review

How and when will you monitor and review the effects of this proposal?

- The effectiveness of the new criteria will be monitored on an on-going basis.
- Customer feedback survey to establish effectiveness of 'exclusive' bays
- The take up of 'exclusive' bays will be assessed on an on-going basis, taking into account relevant protected characteristics and location (as a proxy for income).

Enfield Council Predictive Equality Impact Assessment/Analysis

NB if there is likely to be an impact on different groups of staff as a result of this proposal, please also complete a restructuring predictive EQIA form

Action plan template for proposed changes to service, policy or budget

Title of decision: **Amendments to criteria for disabled persons' parking bays**

Team: **Traffic & Transportation** Department: **Regeneration & Environment**

Service manager: **David Taylor**

Identified Issue	Action Required	Lead Officer	Timescale/ By When	Costs	Review Date/ Comments
Effectiveness of new criteria	On-going monitoring of customer feedback/complaints	Business Support Hub	On-going	Nil	
Effectiveness of exclusive bays	Customer feedback survey	David Taylor	6 months post implementation	Minimal	
Possible take up of exclusive bays only by certain sections of the community	Monitoring report	David Taylor	12 months following introduction of exclusive bays	Minimal	

Please insert additional rows if needed

Date to be Reviewed: 30 August 2017

APPROVAL BY THE RELEVANT ASSISTANT DIRECTOR - NAME..... SIGNATURE.....

This form should be emailed to joanne.stacey@enfield.gov.uk and be appended to any decision report that follows.