

Report to the Cabinet Member for Highways and Transport
Report submitted by: Interim Executive Director for Environment
Date: 11 November 2014

Part I

Electoral Divisions affected:
All

Provision of Residential Disabled Parking Bays in Lancashire
(Appendices 'A', 'B', 'C', 'D' and 'E' refer)

Contact for further information:
Ray Bennett, (01282) 475581, Environment Directorate
ray.bennett@lancashire.gov.uk

Executive Summary

This report sets out the reasons why the existing Residential Disabled Parking Bay policy requires amending, outlines the proposed recommendations for a revised policy, clarifies the rationale behind the changes, and seeks approval to adopt the revised policy as set out at Appendix 'C'.

Appendix 'A' sets out the Application Criteria.
Appendix 'B' sets out the Pro-forma Documents.
Appendix 'C' sets out the proposed Policy Document.
Appendix 'D' refers to the Equality Analysis.
Appendix 'E' sets out the Current Policy Document.

This is deemed to be a Key Decision and the provisions of Standing Order No 25 have been complied with.

Recommendation

The Cabinet Member for Highways and Transport is requested to give approval to introduce the proposed Residential Disabled Parking Bay Policy as set out at Appendix 'C'.

Background and Advice

The current system by which disabled residents of Lancashire can apply for a disabled parking bay on the highway outside (or near) their homes was originally introduced in 1996 and subsequently amended by the Cabinet Member for Sustainable Development in November 2005. The criterion currently used is set out at Appendix 'E' and was set during a period when district councils delivered highway services, inclusive of residential parking bays, on behalf of the county council.

Since the adoption of this policy there have been a number of organisational and legislative changes that now make it impossible to follow the existing approved policy. In addition there are a number of circumstances which are not addressed by the current policy.

The proposed revisions to the Residential Disabled Parking Bay policy (referred to herewith as "the policy") aim to resolve a number of areas which the current system either does not cater for or has become unworkable due to organisational or legislative changes.

Issue 1 – Welfare reform and changes to the Department of Work and Pensions (DWP) payment structure

Disability Living Allowance (DLA) was a benefit provided to individuals by the DWP in two components. The first element was a care component and the second was a mobility component. In order to qualify for the full benefit individuals were assessed by the DWP to see if they found it hard to walk a set distance. In the past those people whose assessments showed they had difficulty moving were granted the higher rate of DLA. Consequently the existing Residential Disabled Parking Bay policy utilised the provision of the higher rate of DLA as an indicator that an applicant did have severe mobility issues.

In April 2013 the DLA was replaced by the Personal Independence Payment (PIP). This has resulted in applicants being in receipt of either PIP or DLA as the transition between the two allowances occurs, a process which is expected to last until 2018. It should be noted that mobility assessments are still undertaken on behalf of DWP by health professionals before PIP is granted. Consequently the provision of PIP remains a good indication that an individual has a significant mobility issue.

Currently the policy states:

- The applicant must be in receipt of the higher rate of the mobility component of the Disability Living Allowance, War Disablement Pensioners Mobility Supplement or the Invalid Vehicle Scheme;

Action: - The new policy reflects the change from DLA to PIP and also makes allowance for any future welfare reforms.

Issue 2 - Organisational Changes within the County Council

The current policy states that:

- The applicant must be a current Blue Badge Holder and must also be a driver of the vehicle for which an on-street Disabled Parking Bay is requested, or qualify under the following exemption:
 - A disabled passenger who meets the above criteria, where the able-bodied driver, is their parent, guardian or other close relative or full-time carer and resides with them, subject to written support from Social Services and:
 - Where the road characteristics mean there would be no safe area to assist the disabled passenger from the vehicle, or
 - Where on a regular basis the disabled passenger may not be left alone in a safe area for any length of time whilst the vehicle is parked elsewhere.

The current policy states that Social Services will provide written confirmation if an applicant had mobility issues that are severe enough to merit consideration for special help by providing a disabled parking bay for a passenger. However, Social Services no longer exists in the way it used to within the Council and has not provided mobility assessments for some time. It is not possible therefore to provide written confirmation.

Consequently a system needs to be put in place to gauge an individual's mobility issues in a sympathetic, consistent but reliable way and to ensure the county council meets the requirements of those most in need.

It is proposed that the county council seeks medical advice from the applicant's GP. In order to avoid GPs simply endorsing all applications a pro-forma has been designed which asks for clear and specific information that will enable officers to make an informed judgement. In addition it can be ascertained if the applicant is known to the county council's personal social care (PSC) team and if mobility aids have been introduced into the applicant's home. It is intended for this to complement the information provided by the GP and also highlight an individual to the PSC team that they may be unaware of who may need help with home modifications. It should be noted that the pro-forma has been developed in consultation with officers from the PSC team. The pro-forma is attached at Appendix 'B'.

It is therefore proposed to assess this exemption by:

- a) Seeking written confirmation from the applicant's GP as to why a disabled passenger cannot be helped from a vehicle and left alone for a short period time or cannot walk a short distance aided by the driver with additional information from PSC or an equivalent service unit.
- b) Supplying a pro-forma (Appendix 'B') to ensure consistency in responses.

Issue 3 – Provision for Disabled Children

It is recognised that it is unreasonable to expect a disabled child to be left unaccompanied, even for a short period of time, whilst the vehicle driver moves to park elsewhere. However there is currently no means of providing disabled parking bays for parents who have children with mobility issues. It is therefore proposed to consider an exemption for disabled children aged 16 or younger who meet all criteria bar being the driver, where the able-bodied driver is their parent, guardian or other close relative or full-time carer and resides with them.

It is proposed to simply assess the application through the normal confirmation of mobility issues with the usual documents (blue badge, allowance entitlement etc.).

Issue 4 - Provision for residents whose disability occurred after the age of 65

Currently there is no scope for providing disabled parking bays for residents whose mobility issues occurred after the age of 65. This is because the higher rate of mobility payment of DLA or enhanced mobility component of the PIP is not payable under these circumstances and as a consequence the County Council cannot verify proof of mobility impairment. Due to this fact the County Council's current policy could be considered discriminatory on age grounds.

There is no easy means of assessing if an applicant has the same mobility issues as someone who has been assessed by the DWP and subsequently receives higher rate of DLA or PIP. As a result the only check that can be made is via a suitable qualified professional. Again this will be the applicant's GP.

It is proposed to consider this group as an exemption should the individual applicant meet all the basic criteria bar receiving the enhanced mobility component of PIP. Assessing the application by:

- a) Seeking written confirmation from the applicant's GP as to why the applicant cannot walk any reasonable distance.
- b) Supplying a pro-forma (Appendix B) to ensure consistency in responses.

Issue 5 - Introducing Traffic Regulation Orders with long term delays to the customer and significant cost implication to the County Council

The current policy for residential disabled parking bay applications stipulates for the introduction of a Traffic Regulation Order (TRO) for each bay to enable enforcement. The need for TROs introduces significant delays to the process of providing the bay for any successful applicant. These delays can be anywhere between six and twelve months following approval. Introducing TROs carries a considerable cost implication to the County Council with typical costs associated being in the region of £1,000 to £1,500 per TRO, not inclusive of staff time. On average the County Council introduces in excess of 100 disabled parking bay TROs per annum. It is possible to group a number of bays together and advertise them within a single TRO. Currently some traffic teams do this whilst others introduce individual orders. Grouping bays would reduce costs but as a consequence it adds a further delay to implementing the bays on the ground.

The greatest demand for residential disabled parking bays occurs in those areas where little or no off-street parking is available, resulting in significant competition for on-street parking spaces. In such areas neighbour reaction to the "removal" of space in favour of a disabled driver is often negative. In many cases residents object to the provision of a 6.6 metre bay, which is usually wider than a terraced property frontage, as required in the regulations to provide a TRO. This in turn, leads to objections against a TRO and consequently many bays are not provided or the provision is significantly delayed. It should be noted that the proposed Department for Transport 2015 amendments to the Traffic Signs and General Directions (TSRGD) do not aim to change how disabled bay TROs are introduced.

It is unlikely that residential disabled parking bays will receive significant enforcement as part of the County Council's general enforcement policy. However disabled bay markings are for the most part self-enforcing.

Many of the existing residential disabled parking bays are either not being enforced or are not legally enforceable as they have not been marked out in accordance with the Traffic Signs Regulations and General Directions 2002 at 6.6 metres in length.

Currently 23 of the 27 County Councils within England provide residential disabled parking bays as a service. Of these 23, only 8 (inclusive of the County Council) undertake official TROs as standard.

The new policy proposes the provision of advisory bays only. However the County Council should continue to seek the introduction of 6.6m wide bay markings. This will provide the most suitable facility for the applicant and retain the ability to introduce TROs and subsequent enforcement to any problem areas. Nevertheless, if necessary, the 6.6m bay marking may be reduced in length, provided this meets the applicant's needs, in order to appease objections. This will only be undertaken on the basis that the applicant is made aware that the reduced size bay cannot have a TRO and subsequent enforcement introduced retrospectively.

The process by which an advisory bay meets the necessary triggers to receive the legal backing of a TRO is proposed within this report. It is recommended that a TRO is considered if:

- The bay is being introduced in an area already covered with other TROs, particularly relevant in town centre residential areas with other parking provisions in place, or
- An advisory bay has received a number of complaints of abuse by the users and it is necessary to provide a level of enforcement to the bay.

The introduction of advisory markings will have a number of advantages:

- Successful applicants will get the bay markings introduced quicker than can currently be delivered as the process to introduce TROs will not need to be followed.
- Cost implications to the County Council will be significantly reduced as TROs will not be necessary as standard.
- There will be no need to revoke a TRO when the bay is no longer required.
- Reasonable objections to 6.6m wide bays can be mitigated by reducing the bay markings to cover the applicant's property frontage only.
- There will be no need to introduce the associated parking plate and pole. This again keeps costs down and adheres to the County Councils policy of reducing street clutter.

However it must be noted that the County Council, as Highway Authority, is required to place only those road markings which are permitted by Department for Transport in order to ensure they can be legally enforced. Therefore a bay without a TRO or where the length is outside of the prescribed dimensions can be deemed advisory only.

Issue 6 - Maximum Disabled Parking Space Provision

Currently there is no set limit as to the number of disabled parking bays which may be provided along a given section of road. As demand for on-street parking provision increases so does the potential conflict between able bodied residents and those who are eligible for the provision of a residential disabled parking bay. Consequently there may be a need to regulate the level of disabled parking provision in any given area.

Currently on-street disabled parking bays are provided within the vicinity of the disabled driver's home but not necessarily along their frontage. It can be necessary to group bays together when there is more than one in a street. The length of group bays is assessed by an Engineer in order to ensure the maximum use of on street parking availability whilst meeting the applicant's needs. The Policy does not seek to alter this element.

However currently there is no limit to how much roadside space should be given over to disabled parking bays. The County Council's parking standards for off-road parking suggest a level of 10% provision for the use of blue badge holders. However this is a minimum and no maximum level is suggested. It may be considered that a 10% maximum would be too onerous especially on short lengths of terraced streets. It is therefore proposed that where appropriate the County Council has the discretion to limit the available disabled parking space provision on any given street dependant on circumstance.

The proposed policy provides the option of limiting the number of disabled parking spaces that may be allocated along any given street.

Issue 7 - Vague Policy in Dealing with Exceptions

The current policy does not provide any guidance or consideration as to how exemptions will be examined. This has led to the County Council being challenged for breach of policy and for not following procedure in the correct manner.

Consequently all appeals and exemption applications will be examined by a delegated, nominated officer. It should be noted that any appeal will not be considered on the basis of the level of the applicant's disability as this has already been assessed by appropriate professionals. Appeals will only be considered against the County Council's Residential Disabled Parking Bay Policy.

The proposed Policy sets out how future exemptions will be considered, how appeals can be taken forward and the process by which these will be determined.

Consultations

The proposed Policy has been subject to an equality analysis attached at Appendix 'D', and as part of this process the following groups have been consulted: Age UK Lancashire, Age Concern Central Lancashire, Disability First, One Voice, Disability Equality (NW) Ltd and Pukar Centre. The following comments were received:-

- On the whole it is felt the provision around parking bays was very good and took into consideration the disabled individual needs as well as the carer/family member;
- Concern was raised that individuals who had dementia may not be assessed as disabled? (It was explained that the exemption criteria would take into consideration this possible scenario);
- They strongly welcomed the proposals to reduce the time taken to introduce parking bays for successful applicants as this was seen to be of major importance to their clients. In addition, the consideration of disabled passengers is most welcome as this presented particular problems for the elderly;
- They welcomed the proposals to provide additional flexibility for those people whose mobility issues occurred after the age of 65 which, was felt, would ensure more equality and objectivity for their client base;
- On the whole they upheld/approved the proposals on behalf of their clients in the East of Lancashire;
- Would like the policy to state when it is likely to be reviewed.

The proposed Policy has been formalised as a result of all the feedback received.

Implications:

This item has the following implications, as indicated:

Risk management

The risk management implications are set out in the report.

Financial

The existing policy requires significant funding to implement due to the current requirements to introduce TROs for every approved bay. Should the new Policy not be approved the County Council will need to continue funding TROs for this service. The costs associated with providing TROs for disabled parking bays are in the region of £1,500 per TRO per year. Although the number of bay requests can differ from year to year the number of TROs undertaken per annum is generally in excess of 100.

Equality and Diversity

The existing Residential Disabled Parking Bay Policy impacts adversely on people over the age of 65, parents with disabled children and residents who care for significantly disabled individuals who need constant care. This is because none of these groups are eligible to seek a parking bay under the current policy. The revised policy aims to remove these restrictions so that, where appropriate, these categories of driver/carer can also apply. It may be arguable that the County Council's existing residential disabled parking bay policy is discriminatory on age grounds. This would continue to be an issue if the revised policy is not approved.

List of Background Papers

Paper	Date	Contact/Directorate/Tel
Report to the Cabinet Member for Sustainable Development: Changes to the Criteria for Provision of Disabled Parking Bays in Lancashire.	7 th November 2005	Stuart Benson/Office of the Chief Executive/01772 534022

Reason for inclusion in Part II, if appropriate

N/A.