

Agenda Item No: 7
Report To: Joint Transportation Board



Date: Tuesday 8th March 2011

Report Title: Implementation of Kent County Council's Revised Guidance on the Application Procedure for Disabled Persons' Parking Bays and the Charging Regime to be Adopted

Report Author: Ray Wilkinson, Engineering Services Manager

Summary: Kent County Council has recently completed a review of the Disabled Persons' Parking Bay application procedure which included consultation with representatives of the District Councils. This review was brought about as a result of concerns over the compliance of the existing policy with the Disability Discrimination Act which has subsequently been replaced by the Equality Act. As a result of this review a revised procedure has been produced for adoption by the District Authorities. The issue of whether to charge for the introduction of bays has however been left open for decision at District Level, although a recommended maximum limit of £250 has been set. Members are therefore asked to consider and recommend on the adoption of the revised procedure and on whether a charge should be introduced.

Key Decision: YES

Affected Wards: All

Recommendations: **The Executive be asked to:-**

- **Approve the introduction of the new revised application guidelines provided by Kent County Council**
- **Approve the provision of Disabled Persons' Parking Bays at no cost to the applicant**

Financial Implications: The Council currently absorbs the costs of processing approximately 44 applications and implementing 20 bays per year

Risk Assessment NO

Equalities Impact Assessment YES/NO (To be updated at the meeting)

Background Papers: Independent Legal Advice – Charging (*for members only not for public viewing*)

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Report Title: Implementation of Kent County Council's Revised Guidance on the Application Procedure for Disabled Persons' Parking Bays and the Charging Regime to be Adopted

Purpose of the Report

1. Kent County Council has recently completed a review of the Disabled Persons' Parking Bay application procedure which included consultation with representatives of the District Councils. This review was brought about as a result of concerns over the compliance of the existing policy with the Disability Discrimination Act which has subsequently been replaced by the Equality Act. As a result of this review a revised procedure has been produced for adoption by the District Authorities. The issue of whether to charge for the introduction of bays has however been left open for decision at District Level, although a recommended maximum limit of £250 has been set. Members are therefore asked to consider and recommend on the adoption of the revised procedure and on whether a charge should be introduced.

Issues to be Decided

2. There are 2 issues to be decided:
 - Whether Ashford Borough Council should adopt the new Disabled Persons' Parking Bay application procedure as recommended by Kent County Council;
 - Whether a charge is to be levied for the introduction of Disabled Persons' Parking Bays, and if so at what rate.

Background Information

3. An overhaul of the application procedure for providing disabled persons' parking bays has been necessary following legal advice concerning disability discrimination. These issues have been addressed by the new application procedures proposed by KCC (Appendix A), however, following independent legal advice regarding charging, the decision on whether to charge and the amount to charge is to be made at district level.
4. Prior to receipt of Counsel's Opinion, Ashford Borough Council charged applicants a £30 contribution towards administration costs in line with KCC's policy of 2001. This was considered a small amount compared to the actual costs involved and most applicants were happy to pay this. However, this charge has appeared to contribute to the belief of many successful applicants that they have exclusive rights to park in a bay for which they have paid towards, despite the fact that it is clearly stated otherwise.
5. Although the grounds for providing a bay have changed from providing parking spaces so that disabled drivers can maintain their independence to alleviating traffic congestion, the proposed new procedure, with the exception of charging, in practice varies little from the current procedure. The new procedure advocates a more pragmatic approach to the implementation of bays, formally recognising the introduction of informal (interim) bays in order to minimise applicant's waiting time while also minimising advertising costs

associated with formalising the bays by incorporating a number of bays in a single traffic order.

6. There has been a rise in the number of requests for disabled persons parking bays received over the last couple of years. It is assumed that this rise is the result of a combination of the ageing population, the escalating on-street parking pressures experienced in many residential areas and an increase in public awareness of the opportunity to apply for a bay. The number of requests for disabled persons' parking bays increased from 24 in 2009 to 44 in 2010.

Kent County Council Recommendation

7. Following advice from the Kent Leaders and Chief Executives Group, KCC have recommended that, although a charge may be made to the customer to pay for any necessary signs, lines and traffic regulation orders, this charge should be capped at a maximum of £250 per application.

Costs Involved

8. The cost of providing a disabled persons parking bay can be broken down into 4 main themes: drafting and advertising of the traffic regulation order, provision and installation of the signpost and sign plate, installation of the road markings and administration costs.
9. These costs can vary considerably depending on the number of bays being processed concurrently. For example, should a single bay be implemented the cost would be approximately £2000. However if a sufficient number of bays can be implemented together to form a full day's work for both the lining and civil engineering contractors (somewhere in the region of 6 to 8 bays contingent upon travelling distance between the various sites) the cost per bay can be considerably reduced. Similarly making a single traffic order per annum covering all bays implemented that year allows for economies of scale. In this way the total implementation costs per bay may be reduced to as little as £500 per bay.

Conclusion

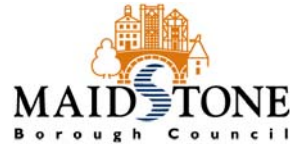
10. Although the previous non-refundable administration charge of £30 may have had some benefit in discouraging speculative applications, the optional proposed implementation charge is unlikely to do so because it is only payable after the application has been approved.
11. Should an implementation charge be introduced it may inadvertently discourage genuine applicants from submitting an application. Many applicants, particularly those who are retired or unable to work, may not have the necessary disposable income or savings to meet the charge. Although the charge could be implemented at a lower level to minimise this potential effect, this would create a situation whereby successful applicants are liable to feel that their contribution gives them exclusive rights to the bay without making any significant contribution to the actual cost of implementation.
12. It is therefore our recommendation that the Executive be asked to adopt the new procedure without charge to the applicant.

Portfolio Holder's Views

13. I support the recommendations in this report. In respect of the second recommendation, it is important that implementation charges are not levied, particularly in view of the fact that the installation of a disabled parking bay as a result of an individual application does not grant exclusive use to the applicant.

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APPLICATION FOR A DISABLED PERSONS PARKING BAY

Kent County Council, as traffic authority, has the power to designate part of the highway as an on-street parking place and to control the type of vehicle and the terms and conditions of its use under the Road Traffic Regulation Act 1984, Section 32 and 35. (RTRA 1984) There are however, strict legal criteria that must be met in order to qualify for a disabled persons parking bay to be marked on the public highway.

Therefore, Maidstone Borough Council, acting on behalf of Kent County Council can provide parking bays on streets for disabled people. Under the legislation (RTRA 1984) these bays can only be provided for the purpose of relieving or preventing congestion and will only be considered for disabled people who have substantial difficulties in walking and parking in the vicinity of their property. It must be noted that these bays are provided under highway law and consideration is given to traffic management and highway conditions.

Each case will be decided on its own merits by a highway engineer who must be satisfied that establishing a parking place is necessary for the purpose of relieving or preventing congestion of traffic and that the parking place is suitable for its intended use.

Examples of the questions that will need to be addressed in order for the Engineer to be satisfied that a bay is being provided to relieve or prevent congestion are:

- a) Will the transfer of a disabled person from a building to a vehicle or vice versa cause or contribute to congestion? If so will the provision of a disabled persons parking bay overcome this?
- b) Are there suitable off-street facilities available (e.g. garage, driveway)
- c) Is there an existing problem with the amount of on-street car parking nearby which regularly prevents convenient parking when required?
- d) Is the applicant readily able to walk to and from places where adequate car parking is available?
- e) Is the vehicle used to transport the disabled person normally kept at their home address and is it registered at this address? If the main driver of the vehicle does not reside at the property the bay will in most cases be refused.

NOTES FOR GUIDANCE

Please read these notes as you complete this application form, they will give you important information about the process. In order for your application to be successful you must fulfil all necessary criteria:

The application must be made in the name of one registered disabled person.

Before a bay is granted, the following checks are made to confirm it is justified:

1. All applicants must hold a current and valid blue badge (photocopy showing number and issuing authority must be attached to each application)
(Blue Badge Applications are dealt with by Kent County Council on 01622 605020)
2. All applicants must also be in receipt of or have proof of entitlement to :-
If Under 65yrs of age - entitlement to the higher rate mobility component of the Disability Living Allowance (photocopies of these should be attached to the application form).
If 65 years or over – entitlement to the Higher Rate of Attendance Allowance if applicant was 65 years or over when entitlement was first claimed (photocopies of these should be attached to the application form).
Other entitlement may be allowable e.g. War Pension (photocopies of these should be attached to the application form).

(Disability Living Allowance enquires should be directed to Department of Works and Pensions on 0845 7123456)
If you cannot provide evidence of entitlement to any disability benefits you may be asked to provide a letter from a Medical Practitioner stating details of your disability and lack of mobility, and your suitability for the provision of a Disabled Parking bay.
- 3 Bays will not be provided in locations, which may compromise public safety i.e. on a bend or brow of a hill, close to a junction, within a turning head of a cul-de-sac where the road is too narrow or where parking is already prohibited (e.g) on yellow lines, zigzag lines etc.
4. The applicant must not have any space available for parking their vehicle in an Off Street Parking facility.
5. There are parking problems within the road (you regularly have difficulty finding available space on street close to your property).
6. The bay is not required at a location, which may compromise public safety i.e. on a bend or the brow of a hill, close to a junction, within the turning head of a cul-de sac.
7. The provision of a disabled persons parking bay must relieve congestion on the public highway

Process after receipt of application.

1. If your application is successful an interim disabled persons parking bay may be implemented. This will mean that the bay is marked on the highway, however it will not be enforceable until a Traffic Regulation Order (TRO) is formulated, this is the legal document which allows the Highway Authority to regulate its use.
2. If a Traffic Regulation Order is processed for the Disabled Bay this can take between 9-12 months on average from when its agreed in principal to the time of implementation. It is a lengthy process because we have to adhere to the statutory procedures laid down by the Department of Transport.
3. Neighbours who may be immediately affected by the provision of a disabled bay will be informally consulted.
4. If objections are received at this stage, the proposals may be reported to an authorised Council Committee which will make a decision and either overrule or uphold any objections. If the objections are upheld your application will proceed no further.
5. If there have been no informal objections or if the Committee decide to overrule the objections that may have been received, it will be necessary to make a Traffic Regulation Order (TRO) which is a legal process involving advertising in a local newspaper and a formal consultation to any affected parties. The TRO allows the disabled bay to be enforced and will help to prevent misuse of bays. If formal objections are received at this stage it will be necessary to report to an authorised Council Committee for a further decision. You will be notified at every stage of these proceedings.
6. If the Committee uphold the objections then the interim bay will be removed. If the objections are overruled then the Traffic Regulation Order will be formally made. In considering objections it may be necessary for the committee to hold a site meeting to consider any problems.
7. Once a Traffic Regulation Order is in place, the use of the bay will be restricted to Blue badge holders only. Civil Enforcement Officers may then issue penalty charge notices to vehicles not displaying a valid Blue badge whilst parked in the bay.
- 8. It should be noted that the applicant will not have exclusive rights to the parking bay. Anyone holding a valid Blue badge may park in the bay.**
9. When a bay is established on the highway it will be assessed periodically using the necessary criteria to ensure that the bay is still justified. If the bay is no longer required for the original use or the criteria are no longer being met it may be necessary to remove the bay. (It is the applicant's duty to notify the council immediately of any changes in their circumstances which could affect the continued provision of the bay)

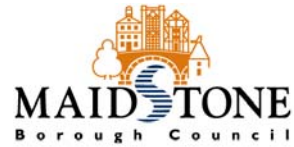
Please ensure that you have completed all of the form before sending it. Errors and/or omissions may result in delays in processing your application. Therefore you must ensure you are able to meet all the criteria before making your application.

There are no charges– all bay installation and enforcement costs will be met by the council./A Charge of £250 is set by MBC for the installation of the bay

If you do meet all the criteria, please return the completed application form, together with the attachments, to: Maidstone Borough Council, Parking Services, Maidstone House, Maidstone, Kent, ME15 6JQ.

If you have any questions relating to the above information or If you require this information in any other format please contact then please do not hesitate to contact Maidstone Borough Council, Parking Services on 01622 602377.

SAMPLE



CONFIDENTIAL

APPLICATION NUMBER:

APPLICATION FOR DISABLED PERSONS PARKING BAY

Please read the attached notes and conditions before completing this form.
Complete parts 1 to 3.

TO BE COMPLETED IN BLOCK CAPITALS

PART 1 – PARTICULARS OF APPLICANT

Title (Mr/Mrs etc.)	
Surname	
Forenames in full	
Date of Birth	
Address	
Post Code	
Telephone Number	
Blue Badge Number (Enclose photocopy of current Blue Badge)	
Blue Badge Expiry Date	

Blue Badge Issuing Authority	
PART 1 – PARTICULARS OF APPLICANT (Con't)	
Is the Blue Badge issued to you?	Yes / No
If NO , who is it registered to and what is their relationship to you?	
Are you in receipt of, or have proof of entitlement to, Disability Living Allowance (either Higher Rate Mobility Component of Attendance Allowance, or Higher Rate of Attendance Allowance or the War Pensioner's Mobility Supplement.)? (If YES, enclose copy of letter with your name and address showing proof of entitlement or benefit received)	Yes / No
<p>If you are not in receipt of the necessary benefits, it may be necessary for the Parking Services Office to contact your GP for information regarding your level of mobility. Please provide details:</p> <p>GP Name:</p> <p>GPAddress:</p> <p>NB The applicant is responsible for any fees or charges levied by their GP in respect of this application.</p>	

PART 2 – PARTICULARS OF VEHICLE

<p>Are you a driver of the vehicle? (Enclose copy of your Vehicle Registration / Hire Agreement document and Insurance Documents)</p>	<p>Yes / No</p>
<p>If no, please provide details of the main driver of the vehicle</p> <p>Please enclose proof of residence e.g. Utility bill</p>	<p>Name:</p> <p>Address:</p> <p>Relationship to applicant:</p>
<p>Do you have facilities for off-street parking? i.e. Do you own, rent or have use of a garage, hard standing etc. (shared or individual)</p>	<p>Yes / No</p>
<p>Where is the vehicle usually kept?</p>	
<p>Do you experience frequent problems parking within walking distance of your property?</p>	<p>Yes / No</p>
<p>Please state below, why you feel a disabled bay should be provided (continue on a separate sheet, if necessary)</p>	

PART 3 – DECLARATION BY APPLICANT	
Your application can not be determined unless you have agreed to and ticked ALL of the following statements:	Please tick ✓
a) I declare that all the information I have given in this application is correct	
b) I have enclosed copies of all required documents: <ul style="list-style-type: none"> ● Blue Badge (both sides, including number and photograph) ● Proof of receipt of, or entitlement to, required benefits ● Vehicle Registration / Motability Operations Hire Agreement document 	
c) I acknowledge that any Disabled Blue Badge Holder can use the bay	
d) I agree to have a small sign restricting the use of the bay to Disabled Badge Holders, fixed to my boundary wall or fence	
e) I understand that it might be necessary for the Council to contact my GP for further information and I hereby give my permission	
f) I understand that the provision of the bay will be regularly reviewed and I agree to provide copies of the any documentation required by the Council for this purpose	
g) I agree to notify the Council immediately if any of my details stated in PARTS 1 and 2 of this application form change and accept that the bay will be removed if I no longer meet the required criteria (for example; loss of entitlement to benefits)	
h) I agree to my information being used as explained below: The information provided will be processed by Maidstone Borough Council in connection with the Disabled Persons Parking Bay Scheme. Your information may be disclosed to partners acting on the Council's behalf in the administration of the scheme and your address disclosed as part of the local consultation process	
<p><i>Please sign and date the form below agreeing to all the statements a) to h) in PART 3 above and also to the accuracy of the information supplied by you in PARTS 1 and 2</i></p> <p>Signed: <input type="text"/> Date: <input type="text"/></p>	



ENGINEERS GUIDELINES

QUESTIONS TO ASK – STEP ONE

ALL APPLICANTS

1. Is the applicant a Driver or a Non-Driver?
2. Is the applicant registered disabled?
The answer to this question must be yes for further investigation to take place
3. Does the applicant hold a current and legal Blue Badge?
The answer to this question must be yes for further investigation to take place
4. Is the applicant in receipt of an applicable allowance?
The answer to this question must be yes for further investigation to take place
5. Is the applicant the registered keeper of the vehicle?
6. Does the applicant have suitable facilities for off-street parking?
Please remember some applicants may have off street parking that is not suitable i.e. ground level higher than acceptable, too narrow to alight a wheelchair.
7. Does the applicant experience frequent problems parking within walking distance of their property?
8. Is the vehicle registered at the same address as the disabled applicant and does the main driver reside at this address?
The answer to these questions must be yes for further investigation to take place unless the applicant is a child and the vehicle is registered at the address of the non-resident parent. The Engineer must be satisfied that the vehicle is in regular use at the childs address and the resident parent must agree to the proposed disabled bay.



ENGINEERS GUIDELINES

QUESTIONS TO ASK – STEP TWO

NON-DRIVER

Please ensure Step One has been completed.

1. If the vehicle 'double parks' to load and unload a disabled passenger, will there be a minimum carriageway width remaining of 3700mm?
The answer to this question must be yes for further investigation to take place
2. If the vehicle needs to 'double park' is it likely to cause traffic congestion?
If the answer to this question is 'yes the vehicle will cause traffic congestion' the disabled application can be investigated further.
3. If the vehicle is only likely to cause a minor disruption when it 'double parks' it is likely that the bay will have to be refused due to there being no congestion problem.



ENGINEERS GUIDELINES

QUESTIONS TO ASK – STEP THREE

DRIVER

Please ensure Step One has been completed.

1. Is the carriageway wider than 5400mm?
The answer to this question must be yes for further investigation to take place
2. Will the provision of this bay extend the total % of disabled bays in the particular location to more than 5%?
If the answer to this question is yes the disabled bay should be refused.

To calculate 5% of the road space:

- measure the length of the available road space (both sides)
- divide the total length by 6m (the average length in metres of a parking space). This will give you the number of spaces (approx) in the road.
- Divide the number of spaces in the road by 100 and multiply by 5. This will give you 5% of the total amount of space to park in this road and this is the number of disabled bays allowable in this road. **This amount should not be exceeded.**