

ENVIRONMENT SELECT COMMITTEE – 7 JUNE 2011

CHARGING REGIME FOR THE PROVISION OF ON-STREET DISABLED PARKING PLACES

Report of the: Community and Planning Services Director

Status: For decision and recommendation to Cabinet

- 1. Executive Summary:** This report requests that Members confirm whether a charge should be made for the provision of on-street disabled parking places, taking into account Kent County Council's legal advice.
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This report supports the Key Aim of safer communities and the effective and efficient use of resources.

Portfolio Holder Cllr. Avril Hunter

Head of Service Head of Environmental and Operational Services – Mr. Richard Wilson

Recommendation: It be RESOLVED that it be recommended to Cabinet that either;

- (a) the implementation of interim and enforceable on-street disabled parking places be at no cost to applicants and that they be funded from the on-street parking account, or
 - (b) that a charge be introduced for the introduction of disabled parking bays requiring a traffic regulation order but that the charge does not exceed the maximum level set by Kent County Council (currently £250), and
 - (c) that the level of charge be confirmed.
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Introduction

1. Following a lengthy review of the application procedures for providing disabled persons' parking bays, Kent County Council (KCC) has decided not to set a formal policy document on this matter.
2. However, representatives of the Kent District Engineers' Group have agreed that new procedures proposed by KCC should be adopted but that a decision on whether or not to charge for bays should be made by each individual District or Borough.
3. This report therefore seeks a decision on whether a charge should be made for providing disabled parking bays and, if so, the amount to be charged.

Background Information

4. 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 with the new application procedures proposed by KCC (Appendix A). However, following independent legal advice regarding charging, the decision on whether to charge and if so, the amount to charge is to be made at District level.
5. Historically, an agreement between KCC and District and Borough Councils in 2001 stated an administration charge of £30 could be charged for the consideration of disabled parking bay applications. It was thought that the levying of a fee would discourage unwarranted applications. However, the actual costs involved in administering the application and implementing the bay is far greater than £30. Sevenoaks District Council applied the charge until we received notification of KCC's legal advice with regard to disability discrimination. Following that advice, no charge has been made for administering applications.
6. As stated, Sevenoaks District Council previously charged applicants £30 to cover administration costs (whether or not the application was successful) to cover the costs associated with processing the application and site visits, etc. This was considered a small amount compared to the actual costs involved and most applicants were happy to pay this. However, because they had paid, many applicants then believed they had exclusive rights to the bay, despite the fact that it was clearly stated otherwise. Once provided, disabled parking bays are available for use by any Blue Badge holder.
7. Following confirmation from KCC that disabled parking bays could be provided on an 'advisory' basis without a Traffic Regulation Order (TRO), successful applications processed from January 2009 have been provided with an interim bay. These bays have the advantage of being provided much quicker and for less cost, but with the disadvantage that they cannot be legally enforced. However, it should be noted that, as yet, there have been no enforcement issues concerning the interim bays that are currently in place.
8. No charge has been made for interim bays due to the advice from KCC and because the full cost for making a TRO has not been incurred.

Kent County Council Recommendation

9. The legal advice received from KCC is that the £30 administration fee that was charged previously is no longer considered to be a legal option for an authority. However, there is a statutory power within Section 111 of the Local Government Act 1972 that will allow for charging of the actual provision of parking bays. This should be distinguished from pre-application administration which is not a statutory process.

10. KCC have recommended that although a charge may be made to the customer to pay for any necessary signs, lines and TRO, this should be capped at £250 per application.

Costs Involved

11. The provision of a permanent disabled bay with a valid Traffic Regulation Order is expensive, both in staff time and public consultations – the majority of that cost normally being the advertising costs of the TRO. Although the District Council presently has favourable terms for the placement of public advertisements, should these terms end, the cost of advertising a TRO is likely to be circa £1,000. However, it is likely that advertisements in respect to disabled bays would be tied in with those for other TRO proposals wherever possible.
12. The cost of marking a bay is currently £40 – £80 (depending on circumstances and weather) and the costs for providing/erecting a sign is approximately £120.
13. Additionally, there are the administration/engineer's costs in processing the application, undertaking consultation and preparing the TRO. Typically, these can be between £100 and £200.
14. The provision of an interim bay involves only the administration/engineer's costs required to process the application and the cost of marking the bay. No TRO is required and therefore no sign or street furniture is necessary.

Conclusions and Observations

15. Although a charge may deter unwarranted requests, the new application procedure clearly defines the criteria for providing a bay and therefore a charge should not be considered for this reason.
16. Many applicants, particularly those who are retired or unable to work, may not be financially able to meet a significant charge for a bay. Should a decision be made to charge, the applicant's likely ability to pay should be taken into account.
17. Should an applicant request that an interim bay be made permanent, a Traffic Regulation Order is required and an additional amount could then be justified. However, applicants will undoubtedly (but incorrectly) still expect to have exclusive rights to park in a bay to which they have contributed. Consideration of the applicant's ability to pay would still apply.

Recommendations

18. In respect to interim bays, and subject to the views of the Cabinet, it is recommended that no charge be made. The minimal costs associated with the lining work can usually be programmed with other works in the area so economies of scale can apply.

19. In respect to permanent bays, it is also recommended that no charge be made as this would seem to be against the ethos of providing a facility for those in need, especially as they have already had to prove that they are in receipt of allowances (e.g the higher rate of disability living allowance or the higher rate of attendance allowance) as part of the qualification process.
20. However, should it be decided that a charge be made, it should be within the recommended maximum of £250 suggested by Kent County Council. However, it should be borne in mind that should a charge be made, it would be more likely that applicants' expectations would need to be carefully managed, as experience shows an applicant would expect exclusive rights to park in the bay (even when advised this is not the case) thus increasing the potential for conflict with other blue badge holders.
21. Should it be decided not to charge and, at some stage in the future, there is found to be a significant increase in the number of requests for permanent bays, Members may then wish to reconsider whether the policy should be amended and a charge made. The matter could then be reported back to this Committee for further consideration.

Key Implications – Financial

22. The number of bays that would be provided as 'legally enforceable' and requiring a TRO are expected to be very low – possibly one or two applications per year. At present the costs associated with this are absorbed within the on-street parking account, as the works are programmed alongside other necessary tasks.
23. Although the introduction of a charge would recover the current costs involved, it would not cover the higher advertising costs (even at the highest 'capped' level) should the favourable arrangements in the local papers come to an end.

Community impact and outcomes

24. The introduction of charges at a higher level than those that previously applied for administration purposes are likely to disadvantage those members of the community who are already in receipt of allowances. This could act as a deterrent to applications and reduce mobility and social inclusion for vulnerable members of the community.

Legal, Human Rights, etc.

25. The District Council has a requirement to adhere to the terms of the Disabilities Discrimination Act and all other appropriate legislation, and must also be aware of the legal counsel received by Kent County Council.

Risk Assessment Statement

26. There are no risks associated with the setting of a charge or the level of that charge, provided this is made in relation to the provision of a bay and not in

relation to the administration of applications, taking into account legal advice obtained by Kent County Council.

Sources of Information: Appendix A – New application form and guidance notes

Contact Officer(s): Andy Bracey Ext.7323

**KRISTEN PATERSON
COMMUNITY AND PLANNING SERVICES DIRECTOR**
