



<b>Decision Makers:</b>	Cabinet Member for Housing Services  Cabinet Member for Environment and City Management  Cabinet Member for Finance, Property and Regeneration
<b>Date:</b>	13 March 2019
<b>Classification:</b>	General Release
<b>Title:</b>	Traffic Management Orders on Housing Estate Land
<b>Wards Affected:</b>	All
<b>Key Decision:</b>	Yes
<b>Financial Summary:</b>	<p>Current permit income on council owned estates generates £350k per annum for the Housing Revenue Account (HRA), with enforcement at zero net cost/income. The new proposal will see a reduction in income to the HRA of £75k per annum as some income will fall to the general fund (under PPRA). All GF income will be reinvested in parking activities through the PPRA.</p> <p>The implementation of the proposals in this report will require capital expenditure in 2019/20 estimated at £2.037m (£1.957m unbudgeted), subject to further analysis and site inspections. The cost of this will be shared between both the HRA (58%) and general fund (42%) capital budgets (in line with gross revenue), to be funded from the central capital contingencies.</p>
<b>Report of:</b>	Executive Director for Growth, Planning and Housing  Executive Director for City Management and Communities

## **1. Executive Summary**

- 1.1 To control unauthorised parking within Council Housing Estates, Traffic Management Orders can be made by the Council as Traffic Authority based on statutory powers within the Road Traffic Regulation Act 1984 (RTRA 1984) which allows for the issue of Penalty Charge Notices (PCNs) for non-compliant parking.
- 1.2 Housing estate car parks have never been included in the Council's traffic management arrangements and have always been effectively treated as private land. Until May 2016, parking was controlled by a contractor (Wing Parking) through the issuing of non-statutory 'parking notices' with charges attached, which the Driver and Vehicle Licensing Agency (DVLA) supported by providing registered keeper details to help secure payment.
- 1.3 In May 2016, the DVLA stopped providing these details, meaning that non-statutory parking notices ceased to be an effective method of parking enforcement, as charges could no longer be recovered successfully.
- 1.4 Since 2016, informal Warning Notices have been issued for non-compliant parking. However, this method is unsustainable. To address this, it is proposed that the Council commences the statutory process to implement Traffic Management Orders to control parking on all Council owned housing estate land.

## **2. Recommendations**

- 2.1 That the Cabinet Members for Housing Services and Environment and City Management ("the Cabinet Members") jointly agree to proceed to statutory consultation on the proposed implementation of Traffic Management Orders to control parking on Council owned housing estate land.
- 2.2 That, subject to the consideration of any representations received during the statutory consultation, the Cabinet Members jointly agree to proceed to implement Traffic Management Orders on Council owned estate land, and that the parking enforcement regime operates in accordance with the Memorandum of Understanding to be signed by the Executive Directors for Growth, Planning and Housing and City Management and Communities (See draft at Appendix B).
- 2.3 That, subject to statutory consultation, the Cabinet Member for Environment and City Management agrees to set the charges for the Parking Permits that will apply on Council owned housing estate land, in consultation with the Cabinet Member for Housing.
- 2.4 That the Cabinet Member for Finance, Property and Regeneration approves the use of the Central Contingency within the HRA and general fund capital budgets at an estimated value of £2m for the capital work (signage and road markings) necessary for the delivery of this project.

### **3. Reasons for Decision**

To ensure that unauthorised parking can be effectively controlled on housing estate land so that;

- Vehicles are prevented from obstructing access for emergency services or service vehicles, and those that do are dealt with swiftly and effectively;
- Those residents, visitors and tradespersons who are legitimately permitted to park on estate land are not deprived of places to park by unauthorised vehicles.

### **4. Background, including Policy Context**

- 4.1 There are approximately 82 separately identifiable sites on housing land where vehicles can park, incorporating around 2,400 parking spaces. Their primary use is for tenants and leaseholders of the Council to park their vehicles, although they are rented for a separate charge and are not connected either physically or legally to the dwellings themselves. As a result, they can be rented by third parties who are not tenants or leaseholders of the Council.
- 4.2 The rental charges levied currently vary according to the type and location of the space and the tenure of the applicant (see Appendix C). Charges are set annually by the Cabinet Member for Housing.
- 4.3 Allocation of spaces is set according to the priority status of the applicant (see Appendix D) and thereafter by date of application. In many locations, waiting lists operate as a result.
- 4.4 The income generated by the renting of spaces is paid into the Housing Revenue Account (HRA), but although it is separately accounted for as an income stream, is only notionally available to cover administration and maintenance costs for these locations and is not separately ring-fenced for expenditure. Table 1 on Appendix E shows the income generated over the past three years.
- 4.5 In the majority of locations, spaces are rented by users by way of a weekly licence agreement which gives exclusive use of the space and which is terminable on either party giving a week's notice. Authority to park in a specific location is proven by way of a physical permit which is currently issued by CityWest Homes (CWH) and placed on display on the vehicle's dashboard.
- 4.6 The means to take action against unauthorised parking either where vehicles have parked in a prohibited location or without a valid permit for the location, varies according to the type of land.
- 4.7 On private land, wheelclamping was historically the main method of enforcement, but this was banned in October 2012 following the introduction of the Protection of Freedoms Act 2012 (PoFA) due to public pressure against the charges and

practices operations of some rogue service providers. As a consequence, landowners switched to non-statutory 'parking notices' and were also given the power to request vehicle registered keeper details from the DVLA to pursue these.

- 4.8 On public highways and in public local authority car parks, Traffic Management Orders are normally made by a Traffic Authority and are based on statutory powers which allow the issue of Penalty Charge Notices (PCNs) for unauthorised parking. Authorities have the power to request vehicle registered keeper details of vehicles issued with a PCN from the DVLA.
- 4.9 Housing estate car parks have never been included in the Council's traffic management arrangements and have always been effectively treated as private land. When clamping was banned by the PoFA 2012, a number of London authorities, including Westminster, simply switched from clamping to issuing non-statutory parking notices, and registered keeper details continued to be provided by the DVLA without challenge.
- 4.10 The issuing of non-statutory parking notices was contracted to a third party. Charges recovered from unauthorised parking were used to offset the cost of the contracted service, and so incurred no net charge to the HRA. The value of charges recovered and the corresponding cost of service was on average around £95k annually.
- 4.11 In 2014, the Parliamentary Under Secretary of State for Transport wrote to all authorities (see Appendix F) regarding Local Authority car parks, stating that these should be regulated in the same way as public highways (i.e; through Traffic Management Orders). Unfortunately, this letter did not fully clarify the legal position and Westminster Council's legal team, along with many neighbouring boroughs, London Councils and the British Parking Association wrote requesting further clarification. Shortly afterwards, responsibility for this matter transferred to the DCLG and Westminster representatives and peers met with the DCLG and DVLA to discuss the issue in person.

In the absence of any further clarification being provided, Westminster, along with many London Boroughs, continued to issue non-statutory parking notices through its contractor, Wing Parking, while exploring the use of Traffic Management Orders. The DVLA continued to provide vehicle registered keeper details until May 2016, when it began refusing to provide these details. Wing Parking continued to issue non-statutory parking notices, but from this point onwards, unpaid charges could no longer be recovered and the service became less and less viable.

- 4.12 In September 2016, the contract for the issue of non-statutory parking charge notices delivered by Wing Parking expired. At this point CWH, in conjunction with the Council, took the decision not to re-procure the service, but instead to implement an interim enforcement regime which relied on an escalation process of warning notices and potential legal action rather than notices and charges, which the DVLA continued to support through the provision of registered keeper details.

- 4.13 In January 2017, the Strategic Finance Manager for Growth Planning and Housing approved a budget of £350,000 from the HRA contingency fund to cover the costs of project management, the drafting and development of the Orders themselves, consultation, road markings and signage. This figure was based on estimates provided by peers in neighbouring authorities.
- 4.14 Traffic consultants Project Centre (NSL) were subsequently commissioned to provide concept designs for all estates, which they have done. The Traffic Management Orders for these designs are now being drafted by the Council's Traffic Order consultants, WSP, in preparation for statutory consultation.
- 4.15 In January 2018, legal advice was sought on the most appropriate way for Traffic Management Orders to be introduced to control parking on Council-owned housing land and the legality of the approach being suggested. This is covered in section 6 'Legal Implications' below.
- 4.16 The Council has since been working towards statutory consultation on the implementation of Traffic Management Orders on housing land, not only in response to these changes, but also as an action which would enable the transition of what is a 'non-core' housing management function from CWH to an existing Council resource.
- 4.17 In October 2018, the Council made the decision to bring CWH back in-house. As a result, WCC City Highways commissioned a Project Assurance Review to address ongoing operational issues and to develop a strategy and plan to enable implementation. This review was completed in December 2018.
- 4.18 An outline project plan was provided to the Chief Executive of the Council on 4 February 2019 (provided as Background Papers) and a project management resource has been appointed with effect from 11 February 2019. The establishment of project governance arrangements and the development of a more detailed project plan will be their first priority.

## **5. Proposals**

- 5.1 For implementation of the Traffic Management Orders and all associated activities, a pragmatic approach is proposed which limits disruption to estate residents by effectively preserving existing fees and charges, enforcement hours and disabled criteria. This can then be reviewed via an engagement programme post-implementation over the first year of operation. This means transition disadvantages no-one, enables proper and effective enforcement and allows time for constructive engagement.
- 5.2 A proposed timetable for implementation of the Traffic Management Orders and related works and activities including the commencement of enforcement is included in the Background Papers - Briefing Note.

### 5.3 Traffic Management Orders

- 5.3.1 Under this proposal, the Council will draft the Traffic Management Order provisions that will apply the necessary controls to each parking place and waiting restrictions under the powers granted by the Road Traffic Regulation Act 1984 (RTRA). The parking locations will be reviewed and either be considered to be 'on street' or 'off-street'. The designation will affect the destination of any permit income, as well as applicable contravention codes. Together, the Orders will set out where parking is available and the requirements that need to be met in order to park there. They will detail the hours of operation, the types of permit required, the relevant charges and any exemptions to the restrictions that may operate. They will be supported by maps which will display in a graphic format where bays and yellow lines are to be positioned.
- 5.3.2 The provisions of these Orders will be specific to housing estate land only and will be entirely distinct from Orders applicable to the Council's publicly maintainable highways. Permits to park in housing estate locations will have no validity on publicly maintainable highways in the same way that the proposal will not extend entitlement to holders of current Westminster Council resident permits to park on estates.
- 5.3.3 It is anticipated that two parent Orders will be made for the phase one estates (see Appendix G): one for 'on-street' parking areas and one for 'off-street' parking areas. Phase two and three estates will then be added by means of amending the Orders per phase.
- 5.3.4 Once drafted, the proposals will be published and subjected to a statutory consultation period of 21 days. The draft Traffic Management Orders and plans of their effects will be available for download and inspection during this consultation period and street notices will be installed at locations affected.
- 5.3.5 On completion of this consultation, and subject to the Cabinet Members being satisfied that any objections made in respect of the consultation have been properly considered, the Traffic Management Orders may then be approved by publication of a 'Notice of Making'. This will quote the dates upon which the Traffic Order comes into effect.
- 5.3.6 Priority areas have been identified for Traffic Management Order implementation and estates will be converted in three distinct phases (See Appendix G). Prioritisation has been based on risk, and by the consideration of factors such as where the area is not already protected by barriers or bollards; where there are no allocated spaces; where the area is experiencing high levels of unauthorised parking; or where access for emergency vehicles may be hindered. The first estate to undergo conversion will be Churchill Gardens. NB: The three 'Scottish Towers' blocks have now been moved to Phase Three as unrelated ground works are planned to this area which will prevent its completion within Phase One.

#### **5.4 Permit Fees and Charges**

The current set of estate permit charges is included as Appendix C. To minimise transitional disruption, it is proposed that respective estate permit charges remain as is for the implementation of the Traffic Management Orders and are then reviewed post-implementation as part of a wider emissions-based permit review. The Council is due to undertake an holistic review of its resident permit scheme in 2019/20 with a view to rebasing charges and application criteria on air quality considerations. It would be opportune to include estate permits in this review.

#### **5.5 Allocated Spaces**

Spaces are currently allocated to individuals in all estates with the exception of Churchill Gardens and Queens Park Court. Traffic Management Orders do not allow for space to be allocated to an individual resident or address and therefore excepting disabled bays any allocated parking will be lost with the implementation of the Traffic Management Orders. However, although unallocated, spaces will still be safe-guarded for estate residents and their visitors and Tradespersons only through the operation of permits. Permit holders can still be confident of finding a space as permits under the new regime will only be issued to disabled applicants or existing holders, or within the capacity of the estate. Oversubscription will be prevented as far as possible. In addition, in drafting the Orders, and in response to consultation feedback about the possible effects of losing access to a nearby allocated space, consideration is being given to establishing 'sub-zones' within estates. This will limit access to these spaces to existing permit holders for these specific areas.

#### **5.6 Disabled Bays**

To minimise transitional disruption to disabled badge holders, it is proposed that disabled bay provision transition remains as-is for an initial period. Disabled bay provision on estates is not consistent with that on the publicly maintainable highway: the latter operates under much stricter criteria for provision of a dedicated bay. As such, it is anticipated that many estate disabled badge holders would not qualify for a dedicated white disabled badge bay. Equally, the configuration of some disabled bays do not comply with the current dimensions requirements. To ease transition, a grace period of 12 months is proposed from when Traffic Management Orders first come into effect on housing land before criteria mirroring that on the publicly maintainable highway is applied, thus giving those residents affected time to consider possible alternative options. Physical relocation of some bays may also be required to comply with dimensions requirements but these will be provided as near to the current bay as possible. Disabled residents with allocated spaces specifically on the Churchill Gardens estate will be supported to apply for designated bays under the Council's criteria.

## 5.7 Signage and Road markings

Whilst the process of implementing Traffic Management Orders is ongoing, each estate will be methodically surveyed to assess the current state of its parking-related signs and lines and to detail the work that will be necessary to bring these up to specification to be consistent with current regulations (Traffic Signs Regulations and General Directions 2016). Until this survey work is completed, the amount of work necessary in this regard and its cost is estimated only.

## 5.8 Hours of Control

It is proposed that the parking restrictions on housing estate land under the Traffic Management Orders continues to apply at all times. This is in response to feedback provided by residents during the consultation process who felt that parking in residential car park areas needed all-round protection. This was a particular concern for residents working non-traditional hours who were concerned that without an allocated bay, they could not be guaranteed a space outside of standard day time hours if there was no control at these times. Enforcement of the restrictions will be as deemed appropriate for each estate, and expectations with residents will be managed through communications to clarify that this may not mean a full enforcement patrol-style service 24 hours a day.

## 5.9 Enforcement Provision and PCNs

5.9.1 An agreement with NSL, Parking Services' current People and Resources contract provider, is being sought for the provision of a Marshalling and enforcement resource. However, enforcement of non-compliant parking on any specific estate will only be possible when it is deemed that that estate's parking-related signage and lining are clear, compliant and in a good enough condition to allow it. Until the surveys are complete we will not be in a position to accurately timetable when this may be for any given estate within that particular phase.

5.9.2 Parking Services' systems are configured for 'on-street' contraventions, so this element requires no change: the same contravention codes would be used for publicly maintainable highway and estate land in this respect. However, Parking Services do not currently enforce any 'off-street' parking, so this necessitates the configuration of new 'off-street' contravention codes from London Council's latest v.6.7.6 list. It is proposed that 'off-street' enforcement be limited to just two contraventions, which would cover most non-compliant 'off-street' parking: 'parked without clearly displaying a valid permit where required' (code 85) and 'Not parked correctly within the markings of a bay or space' (code 86). Code 85 attracts a higher charge PCN (£130) and code 86 a lower charge (£80). Both are discounted by 50% if paid within 14 days of issue.

5.9.3 Once Traffic Management Orders are in effect, signs and lines are up to specification and the Marshals' handheld devices are configured with the new locations and off-street contravention codes, enforcement of non-compliant parking can begin via the issue of Penalty Charge Notices (PCNs). The timing of this will differ by phase of implementation. However, upon go-live an initial two-

week period of Warning Notice issue at every estate will precede enforcement by actual PCNs.

5.9.4 Both 'on-street' and 'off-street' PCNs will follow the statutory Traffic Management Act 2004 (TMA 2004) PCN process. Motorists will have the opportunity to challenge any PCN incurred and a vehicle's registered keeper will have the opportunity to lodge a formal representation, and if this is refused, an appeal against the issue of a PCN to an independent adjudicator at London Tribunals. Any PCN unpaid and still outstanding following the issue of a Charge Certificate will be subject to the standard PCN debt recovery process.

5.5 The implementation of Traffic Management Orders will have the following implications for residents and drivers wishing to park on housing estate land:

- i Licences to occupy a specific bay (as per the current model of operation) will be revoked and will no longer be granted. These will be replaced by the granting of permits to park in specific estate locations with terms and conditions of use. The terms will not change greatly from the existing licences and as stated above, the proposal is to maintain the current weekly charges payable. Although they will no longer hold a licence to occupy a specific bay, holders of licences in effect at the time of implementation will be guaranteed a replacement permit to park on their estate. The number of permits issued will not be greater than the current number of licences in operation and should therefore in reality have very little impact, as it is expected that most drivers will continue to park in their former space.
- ii This will necessitate an exercise by which all residents will be invited to sign new terms and conditions, and new permits will be issued. New permits are in the process of being designed but given the short timescales, it may be necessary to issue interim permits to enable permit holders to prove they have signed up to the new terms and conditions pending their provision.
- ii There will be five types of estate permit available: 'Resident', 'Visitor', 'Contractor', 'Disabled' and 'Multi-registration' (where the holder is a resident with number of carers delivering support and using different vehicles). Areas within estates will be designated for parking by specific types of permit and holders of one type of permit will not be able to park in an area that is not designated for their use.
- iii Any driver parking in breach of the requirements of the applicable Order and falling within the definition of an applicable contravention code may be issued a Penalty Charge Notice. Any appeal against this must be made in accordance with the TMA 2004 and through the existing statutory appeals procedure rather than by any other channel.
- iv All policies for permit allocation (with the exception of v below) will remain 'as-is' on implementation, with waiting lists in operation where there is greater demand than need, and priority allocated to positioning on waiting list as set out at Appendix D.

- v As Council policy does not permit the operation of waiting lists for disabled applicants, all disabled applicants will be provided with a permit. This may lead to oversubscription in some areas, as the alternative is to cancel the permit of an existing holder to make space.

5.61 Informal consultation with estate residents has taken place across the City. Further detail on this is provided under Section 8 'Consultation' below.

## **6. Financial Implications**

### Income

6.1 There are three sources of income available to fund revenue costs associated with this proposal:

- i Income from permits
- ii Income from enforcement (PCNs)
- iii Income from visitor permits (where this is charged for, in some locations only)

6.2 Current annual income from permits issued for parking in Council owned estate car parks is approximately £350k per annum. (See Table 1, Appendix E).

6.3 There are currently no charges levied for unauthorised parking, as enforcement is currently being taken through legal action. Under the previous enforcement regime, an annual figure of an average of £95k was generated in charges levied for unauthorised parking. This was recovered by the enforcement contractor and offset against the cost of providing the service by way of a self-financing 'zero value' contract. This figure is expected to be lower and potentially reducing under the proposed arrangements. Although PCN recovery rates are approximately 70%, some PCN charges are lower (£75 on average) compared to previous charges levied (£100) (see 5.9.2). In addition, the introduction of parking control with a financial penalty under statutory Traffic Orders is expected to result in a higher degree of compliance.

6.4 On some estates, non-resident visitors and third parties are charged for daily and weekly permits. This income is held in a designated fund and made available to residents groups to fund community projects.

6.5 The total estimated amount recoverable annually is £475k (see 'Estimate 20-21', Table 4, Appendix E).

6.6 The destination and use of all income recovered from 'on-street' and 'off-street' permit income and penalty charges is bound by s55 of the RTRA 1984, as follows:

- i Income from permits from areas designated as 'on street' (not 'off-street') must be paid into the Parking Places Reserve Account (PPRA) and can only be used for legislatively prescribed transport related activities.

- ii Income from 'on-street' and 'off-street' Penalty Charges must be paid into the Parking Places PPRA and can only be used for prescribed purposes.

For the purposes of ongoing funding of this proposal, this could include the cost of enforcement and ancillary activities such as administering appeals.

- 6.7 Income from 'off-street' permits does not have a prescribed destination.
- 6.8 Table 5, Appendix E shows an estimate of the impact of this split under the proposal. Any surplus generated will be held in the HRA, subject to the prescribed destinations for the income received. This is shown in Table 5, Appendix E.
- 6.9 This will mean an estimated reduction in the gross income available to the HRA of £75k p.a, as set out at Table 5, Appendix E, but as all income (whether PPRA or HRA) should be reinvested in parking related activities, there should be no net impact of this on operations.
- 6.10 The estimated gross income split is 58% in favour of the HRA and 42% in favour of the PPRA. See Table 5, Appendix E 'Total estimated income : 20-21'.

#### Expenditure

- 6.11 There are two costs associated with the proposal: Implementation (Capital) and ongoing activity (Revenue).
  - 6.11.1 High level estimates of the capital spend required have been provided for implementation at this stage in Table 2 of Appendix E. More detailed work is underway to refine these, including site surveys and quotations. This is required for the following implementation activities, including Order drafting, consultation, removal of bollards and barriers, road markings and signage. This will involve an estimated one-off **capital cost** in 2019/20 of £2.037m for which the current available budget is circa £0.080m, hence a shortfall of circa £1.957m. This is an estimate only, and is subject to further analysis and surveys.
  - 6.11.2 It is proposed that the shortfall in capital budget is met from central capital contingency budgets within the HRA and general fund. There will therefore be no overall increase to the capital budgets.
  - 6.11.3 It is proposed that the capital expenditure is allocated between both HRA and general fund budgets according to the gross income split as set out at 6.10 above (i.e; 58% from the HRA element and 42% from the PPRA). Indicatively, this represents a cost of £1.135m for the HRA and £0.822m for the GF to be incurred in 2019/20.
  - 6.11.4 High level estimates of the ongoing revenue spend are shown in Table 3. This covers ongoing management, including appeal administration, enforcement patrols, road marking and signage maintenance which will be an ongoing annual **revenue cost** estimated at £175k. This figure is expected to be lower in the year

19/20 (estimated at £85k) as the first two quarters will involve establishing the regime and will therefore not require fully resourcing.

- 6.12 The initial stages of the project, such as Order design have to date been funded by an agreed £350k from the Housing contingency fund. Accounting for all spend in project initiation to date, the balance of this budget currently stands at £209k. Beyond this budget, there is currently no specific capital budgetary provision to deliver this programme.

## **7. Legal Implications**

- 7.1 Legal advice has been sought This has been reviewed and considered by the Council's Parking team, its Traffic Management Order consultants WSP and traffic consultant Project Centre Ltd. All are satisfied that the advice provides sound legal basis for the proposals.
- 7.2 In summary, it was concluded that the Council has powers under the RTRA 1984 to make Traffic Management Orders to impose parking controls on their housing estates, by providing parking places that could only be used by residents of the estates who have purchased parking permits and also by introducing yellow line waiting and loading restrictions. The Council would need to categorise each road on each estate as to whether it should be deemed 'on-street' or 'off-street', with the appropriate Orders then made accordingly.
- 7.3 The Council, as the traffic authority, has power in section 6 of the RTRA 1984 to restrict parking on those roads within its estates which are highways or to which the public have access and to provide parking spaces on them. These powers do not entitle the Council to charge for parking. If the Council wishes to make charges for the use of parking places provided on such roads within its housing estates, it can do so in relation to those roads that are highways by utilising sections 45 and 46 of the 1984 Act and by using the powers derived from the TMA 2004 to enforce and recover those charges. The Council could control any off-street parking within its housing estates under the powers contained in section 32(1)(a) and 33(4) of the 1984 Act and make charges for the use of those car parks (including through the issue of permits) under an order under section 35. They could also appoint third parties to manage these car parks and collect charges under section 33(7).
- 7.4 While the advice agrees that the Council could rely on its' housing powers to manage its housing stock and to contract with its tenants for the use of parking places, it acknowledges that this aspect of the use of the PoFA 2012 provisions could be susceptible to challenge, as it has been by the DVLA's refusal to support this approach.
- 7.5 The Council's authority to operate and set parking charges is defined by statute. Under Section 46 of the 1984 Act, the Council has discretion as to the charges it sets (by means of traffic orders or Notices of Variation of charges under Section 46A). In accordance with Section 55 of the 1984 Act, the income the Council receives from on-street parking is placed into the 'Parking Places Reserve

Account', which can only be used by the Council for highway improvements and other traffic related measures.

7.6 Section 122 of the 1984 Act sets out the considerations which must be taken into account by the Council in exercising its statutory powers, including in relation to parking. In essence, section 122 states:

- (1) It shall be the duty of every local authority upon whom functions are conferred by or under this Act so to exercise the functions conferred on them by this Act as (so far as is practicable having regard to the matters specified in subsection (2) below) 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, or, in Scotland the road.*
- (2) The matters referred to in subsection (1) above as being specified in this subsection are—*
  - (a) The desirability of securing and maintaining reasonable access to premises;*
  - (b) The effect on the amenities of any locally affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run*
  - (bb) The strategy prepared under Section 80 of the Environment Act 1995 (national air quality strategy)*
  - (c) The importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and*
  - (d) Any other matters appearing to the local authority to be relevant.*

7.7 Section 122 does not allow the local authority to take account of extraneous financial matters in setting the charges for parking, such as the aim of generating revenue for other Council projects. The Council cannot therefore set or increase its charges with the motive of generating revenue per se, but the generation of revenue or surplus will not in and of itself be unlawful providing the primary motivation for or intention of the charge or increase is the achievement of objectives which are consistent with the duty contained in section 122.

## **8. Consultation**

8.1 Consultation is required at two levels, covering the Council as both a housing and parking authority.

- i Under s105 of the Housing Act 1985, the Council is required to inform its tenants of proposals in respect of a 'substantial' housing matter, and to enable them to make their views known within a specified period and to consider any representations made in respect of them.

- ii Before a Traffic Management Order can be made, the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 requires that the proposals are published in the local press and other locations so as to ensure any affected parties are aware. They are then given 21 days to make representations which must be considered before the Order can be made.
- 8.2 Letters, factsheets and a questionnaire for responses have been issued by CWH to all residents, permit holders and local residents associations and published on CWH's public website. Meetings have also been held with resident representatives of the affected areas and a total of seven drop-in sessions have been held across the City. The feedback received has been used to develop the contents of the proposed Traffic Management Orders as well as the information that will be made available to residents.
- 8.3 Statutory consultation in respect of the Traffic Management Orders themselves will be undertaken by the Council's Traffic Order consultants, WSP.

## **9. Resources Implications**

- 9.1 The future resources required to provide permits and enforcement under the proposals are currently being drafted, but the assumption made at this stage is that this can be covered by the income received from permits and PCNs as set out above.
- 9.2 The proposal is that whereas Parking will continue to maintain overall contract management responsibility, Housing will coordinate deployment of any resources on a day to day basis

## **10. Risk Management Implications**

- 10.1 The proposal is considered necessary to prevent widespread unauthorised parking in housing estate car parks, and in particular to ensure that an enforcement and a deterrent mechanism is in place to discourage parking in restricted areas such as on double yellow lines, which may in turn restrict access for emergency services vehicles such as fire appliances.
- 10.2 The introduction of Traffic Management Orders always presents the risk of a legal challenge. It is therefore essential that the statutory process is followed correctly and that any significant objection(s) to implementation is given due consideration prior to the Order(s) coming into effect. In particular, residents who are currently afforded allocated parking under the current arrangements may not welcome the idea of losing this with the implementation of Traffic Management Orders.
- 10.3 The proposed implementation plan means that for a period of time, inconsistencies will be apparent between estate parking and public highway, especially in terms of permit charging and administration. This can be minimised by effective communication and engagement with residents.

10.4 Risks have also been identified in terms of staff safety, as operating controls at all times will effectively mean that some enforcement activity will be required at night, when it is perceived that the risk of anti-social behaviour, abuse or assault is more prevalent, and when there is a reduced opportunity for support. These considerations will form part of the enforcement proposal, and are likely to result in a requirement for additional resourcing such as joint patrols, CCTV and mobile support, PPE and bodycams for example.

## **11. Equalities Implications**

11.1 The potential impact on specific groups has been taken into consideration in planning the design of the Traffic Management Orders and the disabled and permit policies. An Equalities Impact Assessment will be undertaken and steps put in place to mitigate against any perceived negative implications.

11.2 At this stage, following resident feedback from consultation, one group has been identified as having the potential to be adversely affected by the proposals, these being residents with mobility issues. Some residents have expressed concern at the loss of allocated bays, as the current location of their bay is close to their home and is easy to access. This can be addressed through the application of 'sub-zones' as referred to at 5.5 above, whereby sections of bays will be reserved for existing permit holders in those locations only. This will mean that while the specific bay may no longer be available, a space in close proximity will be. Alternatively, permit holders will be supported to apply for a designated white badge or the establishment of a blue badge bay.

## **12. Communications Implications**

A Communications Plan will be developed for the proposals. This will identify key stakeholders, key messages and a strategy and timeline for key communications activities such as mail-outs, website updates and face-to-face drop-in sessions if needed as part of the roll-out.

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact: Jon Lock (jlock@cwh.org.uk)**

**BACKGROUND PAPERS: Briefing note for Stuart Love dated 4 February 2019**

For completion by the **Cabinet Member for Housing Services**

**Declaration of Interest**

I have <no interest to declare / to declare an interest> in respect of this report

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

NAME: **Councillor Andrew Smith, Cabinet Member for Housing Services**

State nature of interest if any .....

.....  
*(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)*

For the reasons set out above, I agree the recommendations in the report entitled **Traffic Management Orders on Housing Estate Land** and reject any alternative options which are referred to but not recommended.

Signed .....

Councillor Andrew Smith, Cabinet Member for Housing Services

Date .....

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment: .....

.....  
.....  
.....  
.....  
.....

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, the City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant

considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

### Other Implications

#### 1. Business Plan Implications

The proposal may result in net loss of income to the HRA as shown at Table 5, Appendix E, but the measures proposed are considered necessary to protect the interests of residents, to maintain clear access for service and emergency services vehicles, and to prevent widespread disregard of fee payment due to a perceived lack of enforcement.

#### 2. Health and Wellbeing Impact Assessment including Health and Safety Implications

The provision of effective parking management controls will reduce unnecessary stress on the part of residents who are concerned about unauthorised parking in their neighbourhoods. The proposed permitting arrangements will also support the needs of disabled residents and those requiring care by protecting their ability and that of their carers to park from abuse by unauthorised parking. It will also alleviate correspondence of dissatisfied residents, confrontation and complaints and with regards to parking concerns which occupy operational staff, preventing them from undertaking other duties and placing them under undue stress.

As set out at 10.4 above, the enforcement proposal will consider the provision of additional resources to ensure staff safety, such as patrolling in pairs, mobile support, and PPE and body cameras.

#### 3. Crime and Disorder Implications

The provision of effective enforcement controls through the introduction of Traffic Orders will reduce unauthorised parking which is a source of concern for some local police teams. Operatives can be protected from abuse not only through criminal law, but also through tenancy and lease conditions if perpetrated by members of households of Council properties.

#### 4. Impact on the Environment

The proposed permitting arrangements include provision for electric vehicle charging points. CWH are currently working with the Council's parking team on identifying suitable locations for these. The alignment of housing permit charges to any proposed Council framework based on emissions and engine size will be considered.

#### 5. Staffing Implications

It is anticipated that the management of the proposed arrangements can be met within existing staffing resources. Delivery is likely to require an increased

establishment but this is factored in under Financial Implications above. Discussions are underway with Parking to clarify the operational staffing requirement.

**6. Human Rights Implications**

N/A

**7. Energy Measure Implications**

N/A

Note to report authors: If there are particularly significant implications in any of the above categories these should be moved to the main body of the report.