

Cabinet – 3 February 2010

Traffic Regulation Order - Lower Bridge Street, Walsall

Service: Legal & Constitutional Services

Wards: None.

Key decision: No.

Forward plan: No.

1. Summary of report

1.1 To request the Cabinet to reconsider a decision of the Development Control Committee and to recommend to Council to amend the Constitution.

2. Recommendations

2.1 The Cabinet is recommended

2.1.1 Approve the amended delegation to officers as set out in paragraph 10.5.

2.1.2 To recommend to Council to amend the constitution as set in paragraph 10.5.

2.1.3 To consider the decision of the Development Control Committee of 7th January 2010.

3. Financial Recommendations

3.1 There are no financial implications arising from the contents of this report.

4. Policy Implications

4.1 None

5.0 LEGAL IMPLICATIONS

5.1 These are contained in the body of the report.

6.0 EQUALITY IMPLICATIONS

6.1 There are no equality implications arising directly from this report.

7.0 ENVIRONMENTAL IMPACT

7.1 There are no environmental implications arising directly from this report.

8.0 WARD(S) AFFECTED

8.1 None.

9.0 CONSULTEES

9.1 The Leader, Chair of Development Control Committee, Head of Paid Service, Chief Finance Officer, Head of Engineering and Head of Planning and Development Control were consulted in relation to this matter.

10.0 BACKGROUND

10.1 Constitutional Issues

10.2 Following the commencement of the Local Government Act 2000 all Council functions were broadly classified into three categories;

Decisions reserved for the Council
Locally determined decisions
Executive decisions

The classification of decisions was made under the Act and many subsequent statutory instruments either specifying particular decisions or classes of decisions and the responsible decision making forum.

10.3 The general position under the 2000 Act is that unless specified otherwise all decisions are executive decisions. Many of the decisions to be taken in respect of planning and highways matters are specified for the Council, which can delegate those matters to its committees and or officers. The Council has delegated its decision making responsibility on development control and highways matters to the Development Control Committee (the Committee).

10.4 In relation to the consideration of traffic regulation orders (TRO's), the delegation to officers states that where certain classes of objections are received to advertised orders then the matter must be considered by the Committee. This is erroneous as the 2000 Act specifies such decisions to be executive decisions and thus only the executive or officers acting behalf of the executive can make those determinations. The Committee inadvertently made a decision it was not entitled to and therefore the matter has to be considered again and determined by an appropriate decision making body.

- 10.5 The decision was taken due to the constitution, paragraph 25.29, containing an error stating that;

“where objections do not fall within 30(a) to (f) the matter will be referred to the **development control committee** for determination”

Whereas the words in bold should have stated Cabinet. Following discussions with the Leader and Portfolio holder for Transport, Cabinet is recommended to approve a correction to the delegation and to recommend to Council that the constitution be amended accordingly to replace the words in bold above with the “**relevant executive director in consultation with the portfolio holder.**”

- 10.6 A review of all TRO’s made by the authority since 2003 has been undertaken and no others were determined under the erroneous element of the delegation.

11. Decision making

- 11.1 In making decisions of this nature the Cabinet is under a legal obligation to ensure that it follows the rules of natural justice, complies with its own decision making rules and that those members that participate in the decision making process have complied with the code of conduct for elected members.

- 11.2 In making its decisions as well as complying with its legal duties the Cabinet should ensure that justice is seen to be done. Considering each of the matters set out above;

- 11.3 Elected members code of conduct. The relevant extracts of the code of conduct for elected members in relation to interests is set out at the beginning of this booklet containing the agenda and the reports. It is a matter for each member to consider each report before them and satisfy themselves as to whether they have an interest in the report and the type of interest they have. Once they have determined the nature of any interest the member is under an obligation, if one exists, to declare that interest and take the appropriate action, e.g. if it is personal and prejudicial interest to declare, not take part in the debate, not vote and to leave the room in which the debate is taking part. Whilst officers can advise members as to what their view is based on the facts rehearsed to them, officers have no legal basis on which to insist a particular course of action is followed by a member. The ultimate decision is one for the member.

- 11.4 Natural justice. The rules of natural justice require that;

All relevant matters are considered

Non relevant matters are not considered

Taking the above into account that the decision is reasonable in all the circumstances

There is absence of bias in the decision makers

- 11.5 A report that was presented to the Committee in November 2009 fell short of the standard required by the rules of natural justice in that not all relevant matters were contained in the report and that the decision was made by members who may be biased.

- 11.6 A proposed redrafted report overcoming the deficiencies in the November report was regrettably not presented to members at the reconsideration of the matter at the January 2010 meeting. That report took into account the comments made by complainants, and officers offered their professional judgement as to whether those comments were relevant. Further, objectors to the proposed TRO had been informed that the revised report would be presented to the Committee, as a result of which some objectors to the advertised TRO decided not to attend the Committee meeting.
- 11.7 The other aspect of the original decision making process complained of was that in relation to those members that took part in the decision making. I have already commented on the aspect of the member's code of conduct above and do not intend to rehearse that. In addition to those requirements, it is an additional requirement that those who consider matters must not be biased. This is a high standard set by the law and in recent years the law has been clarified. Not only must the decision makers be free of any actual bias they must also be free of any perceived bias. This follows the legal doctrine that "a man cannot be a judge in his own matter".
- 11.8 Translating that doctrine to the current circumstances. The licensing and safety committee on 22 October 2008 and 15 April 2009 approved the advertising of the TRO to swap the taxi rank and parking bays on Bridge Street. This was done after considering the evidence that was available at that time. A number of complaints have been received that those members who took part in those decisions would have been biased as they would be unlikely to uphold objections to a decision they had made. Whether that is fact or not, there is real risk that such a perception could exist. Therefore I would advise that if any member of the cabinet was party to the decisions made by the licensing and safety committee that they should not take part in the consideration of this matter.

As a result of the aforesaid I would recommend that Cabinet reconsider the matter.

Author

Bhupinder Gill
Assistant Director of
Legal & Constitutional Services
& Monitoring Officer

☎ 654824

✉ gillb@walsall.gov.uk



Walsall Council

Equality Impact Assessment (EqIA)

| | |
|------------|----------------------------------|
| EqIA title | Taxi Rank in Lower Bridge Street |
|------------|----------------------------------|

| | |
|-------------|--------------------------------|
| Directorate | Neighbourhoods |
| Service | Engineering and Transportation |

| | |
|--------------|------------------------|
| Lead Officer | Glyn Oliver |
| Phone | 01922 652503 |
| Textphone | |
| Email | oliverg@walsall.gov.uk |

| | For EqIA type | Date |
|----------------------------------------------|---------------|------------------------------------------------------------|
| EqIA started | Initial/Full | |
| Initial screening started | Initial/Full | |
| Initial screening completed | Initial/Full | 17 December 2009 |
| Full assessment started | Full only | 17 December 2009 |
| Full assessment completed | Full only | 22 December 2009 |
| EqIA completed | Initial /Full | 22 December 2009 |
| EqIA review | Initial/Full | As and when this particular parking provision is reviewed. |
| Signed off For all initial and full EqIAs | Name | Date |
| Service Manager | Glyn Oliver | |
| Equality Champion | Sue Griffiths | |
| Equality & Diversity Team | | |

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street

Summary

Why was the EqlA done?

A report is being taken to Cabinet for consideration of swapping the locations of the taxi rank and the Blue Badge parking bays in Lower Bridge Street Walsall.

What were the key findings of the EqlA?

That there could be a negative impact on certain sectors of the disabled community. Following further discussions and consultation a series of improvements have been proposed to mitigate the effects of swapping the parking locations over and making it easier for those using the relocated blue badge bays on the right to enter and exit their vehicles.

What are the major actions to be carried out following the EqlA?

Ensure that the potential impacts are reported to Cabinet so that members are able to make their decision with the full knowledge of possible affects. Should Cabinet agree to the relocation then the proposed mitigation measures need to be completed.

Summary of good practice learnt from this EqlA

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street

Stage 1 Initial screening

The Activity

The activity may be a policy, project, strategy, plan or any service the Council provides.

Is this a new activity or a review of an existing activity?

This activity is a review of the locations of existing taxi rank and Blue Badge parking bays

Main purpose

As the Highway Authority we have a duty to provide specific parking provisions across the borough. This includes the provision of taxi ranks and reserved, accessible parking for the disabled community.

Overall objective

Whilst balancing the conflicting needs of different groups, maximise the accessibility of the borough's facilities, and in this particular case the town centre.

Main activities and outcomes

Declaration of relevant Traffic Regulation Order making the changes as and when determined by Cabinet.

Main beneficiaries

Taxi drivers and their customers and/or holders of blue badges.

Is the activity of high significance to your service and why?

Yes. This has a potential impact on our service users.

Who is responsible for implementing the activity?

Head of Service Engineering and Transportation / Cabinet / Portfolio Holder

Is the activity delivered as a partnership, and who has overall control?

No – within the legal control of Walsall Council

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street

Summarise the main sources of information already available about the activity.
If you have no information write 'none'

| | Age | Disability | Gender | Race | Religion / belief | Sexual orientation | Comm. cohesion | Other |
|-------------------------------|------|--------------------------------------------------------------------|--------|------|-------------------|--------------------|----------------|-------|
| Census | none | none | none | none | none | none | none | none |
| Demographics | none | none | none | none | none | none | none | none |
| National statistics | none | none | none | none | none | none | none | none |
| Local statistics | none | none | none | none | none | none | none | none |
| Audits | none | none | none | none | none | none | none | none |
| Other EqlAs | none | none | none | none | none | none | none | none |
| Monitoring reports | none | none | none | none | none | none | none | none |
| Contract monitoring | none | none | none | none | none | none | none | none |
| Workforce monitoring | none | none | none | none | none | none | none | none |
| User monitoring | none | External monitoring undertaken by the Disability Forum in Dec 2008 | none | none | none | none | none | none |
| Research | none | none | none | none | none | none | none | none |
| Workforce consultation | none | none | none | none | none | none | none | none |
| User consultation | none | none | none | none | none | none | none | none |
| Complaints | none | none | none | none | none | none | none | none |
| Comments | none | Objections and correspondence made in relation to the proposals | none | none | none | none | none | none |

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street

Using the information identified, does the activity have the potential to cause negative, neutral or unknown impact or discriminate against groups of people? This table must be completed for each group.

| | Potential impact Negative / Neutral / Unknown | Reasons / Evidence |
|---------------------------|-----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| Age | Neutral | |
| Disability | Negative | There is the potential to make access to the town centre more difficult for certain sectors of the disabled community. |
| Gender | Neutral | |
| Race | Neutral | |
| Religion / belief | Neutral | |
| Sexual orientation | Neutral | |
| Community cohesion | Neutral | |
| Other (specify) | Neutral | |
| | | |
| | | |

Using the information identified, does the activity have the potential to cause positive impact to different people in the community? This table must be completed for each group.

| | Positive impact Yes / No / ? | Is impact legal? Yes / No / ? | Reason / Evidence |
|---------------------------|---------------------------------|----------------------------------|------------------------------------------------------------------------------------------------------------------------|
| Age | No | No | |
| Disability | yes | yes | The proposals also have the potential to improve access to the town centre for some sectors of the disabled community. |
| Gender | No | No | |
| Race | No | No | |
| Religion / belief | No | No | |
| Sexual orientation | No | No | |
| Community cohesion | No | No | |
| Other (specify) | No | No | |

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street Outcome Summary

Summarise the impact identified and take the appropriate action:

| Impact | Impact Yes / No | Action |
|-------------------------|----------------------------|------------------------------------------|
| Negative | Yes | Full EqIA |
| Discriminatory | Yes | Full EqIA |
| Neutral | Yes | Complete just the EqIA initial screening |
| Legal positive | Yes | Complete just the EqIA initial screening |
| Illegal positive | No | Full EqIA |
| Unknown | N/A | Full EqIA |

This is the end of the Stage 1 Initial screening

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street Stage 2. Scoping and defining

Who will be involved in the full assessment?

Glyn Oliver, John Roseblade, Equality and Diversity Team

Are the aims of the activity consistent with Council Equality Strategies?

| Strategies | Consistent Yes / No | Inconsistencies |
|-------------------------------|------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Equality & Diversity Strategy | Yes | |
| Age | yes | |
| Disability | Yes/no | On implementation of the proposals access to Walsall Town Centre could be made more difficult for disabled people using private vehicles. There are however associated benefits, for example to those who use taxis. |
| Gender | yes | |
| Race | yes | |
| Religion / belief | yes | |
| Sexual orientation | yes | |
| Community cohesion | yes | |
| Other (specify) | yes | |

Identify any targets and performance indicators relating to the activity

| | National | Status (Red/amber/ green) | Local | Status (Red/amber/ green) |
|--------------------|----------|------------------------------|-------|------------------------------|
| Age | none | | | |
| Disability | none | | | |
| Gender | none | | | |
| Race | none | | | |
| Religion / belief | none | | | |
| Sexual orientation | none | | | |
| Community cohesion | none | | | |
| Other (specify) | none | | | |

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street

Are there any data protection issues linked with the activity?

| | Issue Yes / No | Detail |
|---------------------------|---------------------------|---------------|
| Age | No | |
| Disability | No | |
| Gender | No | |
| Race | No | |
| Religion / belief | No | |
| Sexual orientation | No | |
| Community cohesion | No | |
| Other (specify) | No | |
| | | |
| | | |

Additional information

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Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street

Stage 3 Information Gathering

Summarise the new information that is required to make a judgement.

| | Information required | Collected how? | Timescale | | By Whom | Resources |
|--------------------|----------------------|----------------|-----------|----------|---------|-----------|
| | | | Start | Complete | | |
| Age | See below | | | | | |
| Disability | | | | | | |
| Gender | | | | | | |
| Race | | | | | | |
| Religion / belief | | | | | | |
| Sexual orientation | | | | | | |
| Community cohesion | | | | | | |
| Other (specify) | | | | | | |
| | | | | | | |
| | | | | | | |

Identify any information that would be useful but you are not able to collect

Comparison between number of people using blue badge spaces to access the Town Centre and the number of disabled people using taxis. Available information is reported.

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street

Additional information

A survey of taxi users was commissioned by the Walsall Disability Forum in December 2008. These resulted in the following observations.

Taxi Rank in Bridge Street:

2/12/08 = 0

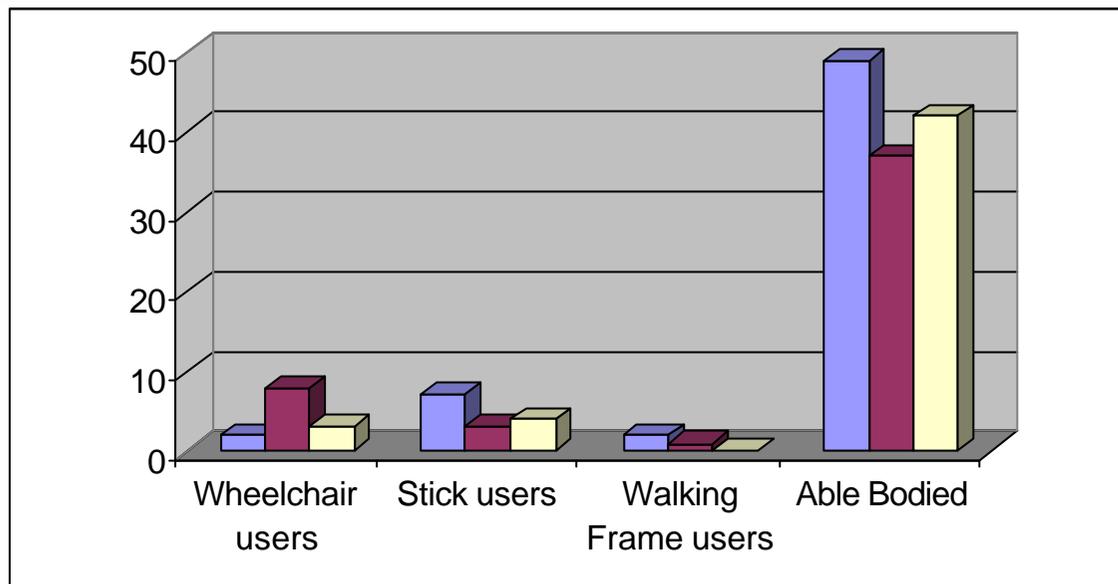
5/12/08 = 10 users all able bodied

6/12/08 = 19 all able bodied

From Corner Adjacent to Tesco

| | Wheelchair users | Stick users | Walking Frame users | Able Bodied |
|---------|------------------|-------------|---------------------|-------------|
| 2/12/08 | 2 | 7 | 2 | 49 |
| 5/12/08 | 8 | 3 | 1 | 37 |
| 6/12/08 | 3 | 4 | 0 | 42 |

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street



There has been many qualitative responses from members of the disabled community and the taxi forums. Each sector recognises that it would be an advantage for the taxis to park on the left hand side of the road as disabled access aids are mostly on the near side of the vehicles. It is also recognised that relocation of the blue badge bays to the right hand side of the road could cause problems for people exiting their vehicles into the road and the issues associated with a longer walk, across a road to access the town centre.

It has been suggested that the information above demonstrates that there is little use of taxis from the rank by the disabled community. Whilst no figures exist for the numbers of people using the blue badge parking facilities, logic suggests this will be greater than the number of disabled people using taxis.

From the licensing section we know that there are 67 old style taxis and 57 other makes. There are however around 45,000 blue badges issued.

In light of the issues surrounding this decision the Disability Forum and Access all Areas have held a consultation of their members and the Taxi Drivers Association (who did not respond). 98% of respondents have expressed a preference for an option where a 1/3 of disabled parking spaces are swapped with the same amount of taxi spaces. Many of the respondents had similarly opposed a straight swap of all the blue badge spaces with the taxi rank. The Taxi Owners Association were opposed to the suggestion of the option of a 1/3 swap.

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street Stage 4 Making a Judgement

What are the main findings from the information and consultation?

There are positive and negative impacts associated with each option calling for a balanced decision by Cabinet. The attached report which contains a discussion of the associated impacts. Cabinet are being asked to make a balanced decision, please refer to the discussion in the Additional comments box below.

Using the all the information, does the activity cause negative, neutral or unknown impact against groups of people?
Can the impact be justified?

| | Impact Negative / Neutral / Unknown | Evidence / Justification |
|---------------------------|----------------------------------------------------|-------------------------------------------------------------------|
| Age | Neutral | |
| Disability | Negative / Neutral | Please refer to the discussion of impacts in the report attached. |
| Gender | Neutral | |
| Race | Neutral | |
| Religion / belief | Neutral | |
| Sexual orientation | Neutral | |
| Community cohesion | Neutral | |
| Other (specify) | Neutral | |
| | | |
| | | |

Additional Information

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street

Using all the information identified, does the activity cause positive impact to groups of people?
Can the impact be justified?

| | Positive impact Yes / No / ? | Is impact legal? Yes / No / ? | Evidence / Justification |
|---------------------------|-----------------------------------------|------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Age | Yes | Yes | There are positive impacts associated with each option, for example should the taxi rank be relocated closer to town this could bring a benefit to anyone using them including the old or infirm. |
| Disability | Yes | Yes | |
| Gender | Yes | Yes | |
| Race | Yes | Yes | |
| Religion / belief | Yes | Yes | |
| Sexual orientation | Yes | Yes | |
| Community cohesion | Yes | Yes | |
| Other (specify) | Yes | Yes | |
| | | | |
| | | | |

Are there any unmet needs or improvements that **can** be addressed?

| | Unmet needs/improvements | Action required |
|---------------------------|---------------------------------|------------------------|
| Age | See below | |
| Disability | | |
| Gender | | |
| Race | | |
| Religion / belief | | |
| Sexual orientation | | |
| Community cohesion | | |
| Other (specify) | | |
| | | |
| | | |

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street

Are there any unmet needs or improvements that **cannot** be addressed but justified?

| | Unmet needs/improvements | Justification |
|--------------------|--------------------------|---------------|
| Age | See below | |
| Disability | | |
| Gender | | |
| Race | | |
| Religion / belief | | |
| Sexual orientation | | |
| Community cohesion | | |
| Other (specify) | | |
| | | |
| | | |

Additional information

The needs of some of the disabled community are potentially compromised by the relocation of the blue badge parking bays. It does not necessarily mean that access would be restricted but it may make the journey between the shops and cars slightly more onerous. Because of the specific mobility challenges that some face it could deter them from using the town centre shops.

Additionally the proposals offered in the report have benefits to certain sectors of the disabled community which need to be balanced by Cabinet in reaching its decision.

There are associated proposals being put forward to ease the use of the relocated parking bays, for example the introduction of dropped kerbs, extending the white lined area to allow access and egress on the off side of vehicles without having to move into on coming traffic. It is understood that the Walsall Disability Forum have been consulted on these mitigation measures. The measures could involve the widening of the proposed disabled bays by remarking of the carriageway markings and construction of dropped kerbs.

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street

Stage 5 Action Planning

Complete the EqlA action plan for feeding into your team and service plans.
Include how you intend to monitor the activity the future.

| Issue | Action Required | Milestones | Timescale for action | | By Whom | Resources | Status R/A/G |
|--------------------------------|------------------------------------------------------------------------------------------------|----------------------------------|----------------------|----------|---------|-----------|-----------------|
| | | | Start | Complete | | | |
| Decision to be made by Cabinet | Ensure impacts and mitigation measures are reported to members | Report submitted Cabinet date | | | | | |
| | On confirmation of decision issue TRO and implement work ensuring mitigation measures included | TRO Work complete | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
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| | | | | | | | |

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street

How do you intend to monitor the activity in the future?

Consultation Feedback

Where and when have you fed back your findings and consulted on your planned actions?

| To | What | By whom | Date |
|---------|----------------------------------------------------------|-------------|-----------------------|
| Cabinet | Report containing the impacts of the decision to Cabinet | Glyn Oliver | 3 February 2010 |

Additional information

Location Options for Taxi Rank and Blue Badge Holders in Lower Bridge Street

Stage 6 Publication and Review

Ensure you have completed the details and summary pages of this form.

Detail any additional places your EqIA will be published

The Equality and Diversity Team will publish the detail and summary pages on the Council web pages at:

www.walsall.gov.uk/equality_impact_assessments