



**Cabinet**  
12 March 2018

**Report from the Strategic Director  
Regeneration and Environment**

**Essential User Permit Scheme; and Resident Parking  
Permit Surcharges**

|                                   |   |
|-----------------------------------|---|
| <b>Wards Affected:</b>            | All   |
| <b>Key or Non-Key Decision:</b>   | Key   |
| <b>Open or Part/Fully Exempt:</b> | Open  |
| <b>No. of Appendices:</b>         | None  |
| <b>Background Papers:</b>         | None  |
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**1.0 Purpose of the Report**

- 1.1 To seek approval to consult on an increase in the price of Essential User Permits(EUP); the introduction of a £50 levy on resident parking permits for diesel vehicles from 1st October 2018; and an increase in the additional cost of resident parking permits for a household's second and third vehicles.

**2.0 Recommendations:**

That Cabinet agrees:

- 2.1 To consult on the introduction of a £50 levy on the price charged for resident parking permits for diesel vehicles to be introduced from 1st October 2018, increasing to £75 in October 2019 and then £100 in October 2020;
- 2.2 To consult on an increase in the price of external Essential User permits:
- a. For all other external organisations, aligned to the price of business permits
  - b. For NHS staff, aligned to the lower priced school staff permits; and
- 2.3 To consult on an increase in the surcharges for second and third resident permits, to £50 p.a. for a second permit and £100 p.a. for a third permit.

- 2.4 Subject to the outcome of the formal consultation, to delegate authority to the Strategic Director Regeneration & Environment, in consultation with the Lead Member for Environment, to introduce the changes identified in recommendation 2.2 above and amend the current Traffic Management Order to implement the proposed changes, and reporting back to Cabinet for consideration and a final decision if substantial objections are received.

### 3.0 Detail

#### 3.1 Diesel Levy:

Road traffic is often the greatest contributor to poor air quality where people live and work. Diesel vehicles are the most significant source of nitrogen oxide (NOx) emissions, which contributes to the high levels of pollution on London's streets. The reason for these high levels is partly due to underperformance of some diesel vehicles and significant discrepancies between official emission measurements and real-world vehicle performance<sup>1</sup>. London does not meet legal NOx limits and the Mayor of London is committed to taking urgent action as codified in the Mayor's Transport Strategy 2017.

- 3.2 Traffic and transport is the largest contributor to air pollution in Brent, accounting for at least 52% of emissions in the borough. Diesel vehicles in particular contribute particulates such as PM10 and PM2.5, which are known to be significant contributors to ill health. Evidence shows that fine and ultra-fine particulate matter present in air pollution increases the risk of cardiovascular morbidity and mortality. Conventional vehicles are responsible for more than 40% of air pollutants in the UK, impacting on cardiovascular and respiratory diseases. High levels of emissions from diesel vehicles in UK urban areas are estimated to contribute to more than 20,000 additional deaths per year. To manage air quality Central Government has set national air quality objectives, which have been put in place to protect peoples' health.
- 3.4 Even with higher levels of walking, cycling and public transport use, cars and other motor vehicles remain a feature of London's streets. This means that there is a need for strong policies that will encourage these vehicles to be as clean and energy efficient as possible.
- 3.5 Policy 5 (page 44) of the Mayor's Transport Strategy 2017 (MTS 2017), supports supplementary levies to help lower NOx emissions. The communities suffering from poor air quality are often the most vulnerable in society and protecting the health of Londoners is one of the Mayor of London's top priorities. Recent high level media coverage has focused on the fact that London is not meeting its emissions targets, which it is legally obliged to do under the *Ambient Air Quality Directive (2008/50/EC)*.
- 3.6 In the previous Cabinet report of 27th June 2016, '*On-Street Parking Service Offer and Charges in Controlled Parking Zones*', a proposal was considered to

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<sup>1</sup> <https://www.gov.uk/government/publications/vehicle-emissions-testing-programme-conclusions>

introduce a levy for resident parking permits for diesel vehicles set at £25. Residents were consulted in 2016 and expressed concerns that, until recently, advice at a national level had sought to persuade motorists to switch to diesel vehicles to reduce their carbon emissions. Nearly 47% of respondents opposed this proposal; with 39% in favour. A number of respondents requested that implementation should be delayed to a later date. In light of these concerns Cabinet agreed to delay the introduction of the proposed £25 levy for diesel vehicles until October 2018 giving more time for Diesel owners to adjust.

- 3.7 It is now proposed that the £25 levy be raised to £50, increasing to £75 in 2019 and then £100 in 2020. It is now considered that a levy of £25 may not be sufficient to produce any lasting behavioural change in vehicle owners' behaviour, with the cost simply being absorbed by the motorist. An increase to at least £50 will incentivise behavioural change and facilitate a tangible shift. Other London boroughs have also introduced levies on diesel vehicles in an attempt to lower NOx emissions. Further detail is provided in Table 1 below. It is felt that a minimum £50 surcharge would send a strong price signal that diesel vehicles are not an environmentally friendly mode of transport.

Table 1 Local Authority Benchmarking

| Borough          | Price    | Details  |
|------------------|----------|--|
| Merton           | £150     | <i>Currently £90; rising to £115 in 2018/19; and then £150 in 2019/20.</i>           |
| Hackney          | £50-£100 | <i>Ranges from £50-100 depending on the permit price.</i>                            |
| Islington        | £96      |  |
| Camden           | £10.61   |  |
| Brent (proposed) | £50      | <i>Recommended in this report; then to increase to £75 in 2019 and £100 in 2020.</i> |
| Hounslow         | £50      |  |
| RBKC             | £41      | <i>For diesel fuelled vehicles not meeting Euro 6 standards.</i>                     |
| Westminster      | N/A      | <i>Vehicles will be subject to a 50% surcharge on pay to park.</i>                   |
| Lambeth          | N/A      |  |

- 3.8 It has been argued that Euro 6 diesels should not be included in the levy, as there is a belief that these vehicles have lower NOx emissions. However, an official Department for Transport report of April 2016 states:

*‘On average our measured road test NOx emissions from Euro 6 vehicles were 500 mg/km - over six times higher than the 80 mg/km official legislative NEDC laboratory test limit.’<sup>2</sup>*

- 3.9 It is therefore recommended that a £50 levy on resident parking permits for all diesel vehicles be introduced to incentivise a reduction in diesel vehicle ownership in favour of public transport or lower emitting vehicles, increasing to £75 in 2019 and £100 in 2020. This should help Brent meet its targets for NOx reduction set out in its Air Quality Action Plan 2017 - 2022.

3.10 Second and Third Resident Parking Permits

It is proposed to increase the surcharge on second and third resident parking permits from £40 and £80 to £50 for a second permit and £100 for a third.

- 3.11 The objective would be to reduce the number of households parking second and third vehicles on-street in CPZs. Increasing the second and third vehicle surcharges will reduce demand for the corresponding permits.
- 3.12 Brent currently imposes a £40 surcharge for second vehicles and an £80 surcharge for third vehicles. Modelling has focused on moving closer towards the level of charges made in LB Camden. It is proposed to increase the second car surcharge to £50 and third car surcharge to £100. It is anticipated that the reduction in the number of second and third vehicle parking permits sold would largely cancel out any additional revenue provided by the price increase.

## 4.0 Essential User Permits

- 4.1 The Essential User Permit (EUP) scheme enables employees of the council, or staff who work for other public and third sector organisations, to park a vehicle on-street in any Controlled Parking Zone (CPZ) within Brent. The permit should only be used whilst staff are engaged in official duties. The current terms and conditions of the scheme explicitly include the provision of residential or community care, health care, social housing management and highway works. The scheme is unique to Brent; other London authorities approach the question of parking for public service staff in a wide variety of ways.

- 4.2 The current uptake of Essential User Permits is:

|                                  |       |
|----------------------------------|-------|
| Council staff                    | 349   |
| Council contractors/commissioned | 220   |
| External organisations           | 619   |
| -----                            |       |
| Total                            | 1,188 |

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<sup>2</sup> <https://www.gov.uk/government/publications/vehicle-emissions-testing-programme-conclusions>

- 4.3 The council does not offer any other “all zones” CPZ permits. The potential commercial value of such a parking permit would be high in comparison to current permits available to residents and businesses:
- The current cost of a single CPZ business permit for use in only one Zone is £376. Businesses are restricted to a maximum of three such permits, regardless of size.
  - The cost of a School Permit is £282 (the cost is lower than a Business permit as school staff are only on-site for 75% of the year).
- 4.4 It is clear that purchasing an EUP for £144, covering all CPZs, could be an attractive option for eligible external organisations. This low price is likely to perpetuate a high level of demand for such permits in relation to others, putting a greater demand on parking in the borough and encouraging the use of an EUP instead of the other permits available. Demand for Business Permits in particular may have been suppressed due to the availability of much cheaper and more flexible Essential User Permits. (The price is scheduled to rise to £150 on 3<sup>rd</sup> April 2018).
- 4.5 Although hard evidence of misuse is difficult to come by, there is a potential risk that EUPs might be misused. Potentially, they could be used for commuter parking or parking for other purposes which fall outside of those permitted within the terms and conditions; or they could be issued to applicants who do not strictly fulfil the eligibility criteria. These potential risks need to be reduced, as they could contribute to additional parking pressures within the borough. In respect of internal Council staff, a number of steps have been introduced over the last year to reduce the risk of any EUP abuse. Tighter controls have been implemented when approving internal staff applications, with a requirement for a Head of Service approval. Finally, the Council will be changing the scheme this year so that eligible staff will be required to book daily parking sessions online instead of being issued with a paper permit. The council can apply these controls for its own staff to manage the risk of potential abuse. However, with external organisations it is not possible to exert direct control of permit applications, or to insist that they introduce an online booking system in place of displaying permits.
- 4.6 For external organisations the most effective tool at the councils’ disposal is therefore incentivising a reduction in demand for permits by charging an appropriate price. This is the approach taken in setting the price of business permits. It is proposed that the EUP price charged to external organisations should be matched to that of a Business Permit, to help reduce excessive demand and over-use of EUPs. The price of the EUP would be set at £376 p.a. (2017/18), increasing in line with Business Permit prices in future years (the charge is expected to increase to £440 from 3<sup>rd</sup> April 2018). In light of the financial challenges facing the National Health Service, it is proposed that for NHS staff the EUP is instead benchmarked with the Schools Permit price of £282 p.a. (2017/18), increasing in future years in line with School Permit prices (the charge is expected to increase to £330 from 3<sup>rd</sup> April 2018). Each subsequent April from 2019, permit prices will be subject to an annual

inflationary uplift based on RPI. The key objective of this proposal is to reduce the quantity of EUP's in use within the borough, reducing the pressure on parking, whilst still allowing public services to carry out their duties.

- 4.7 It is recognised that any price increase for parking permits is unlikely to be received positively by customers. However, it is worth highlighting that alternative permits are also offered to those delivering healthcare as an alternative to the EUP. The Health Emergency Badge (HEB) is for people involved in the delivery of primary healthcare, attending medical emergencies in patients' homes. Any general practice, health trust or clinic may apply for these badges if they employ staff whose work involves visiting patients in their homes to provide emergency health care. These include doctors, nurses, midwives and health visitors. In addition, doctors' parking permits are also available at a cost of £150 for 12 months, and this allows registered practitioners to park in a designated doctor's parking bay. In recognition of the challenges facing the Service, the proposed charge for NHS Essential Use Permits will be less than for other organisations and businesses.

## **5.0 Financial Implications**

- 5.1 Implementing a diesel levy charge of at least £50 for Controlled Parking Zone (CPZ) permit holders will provide revenue, however, the level of income is unknown as the council does not currently hold data on the number of vehicles in CPZs which are diesel powered. The level of income raised is expected to reduce over time as residents replace their vehicles; thereby supporting the council in delivering its parking and air quality aims.
- 5.2 The Essential User Permit price is recommended to be increased from £144 to £376 and for NHS staff the price will increase to £276 as outlined in paragraph 4.6. This significant price increase is set as a deterrent and therefore a compensatory reduction in the number of annual permits sold is expected.
- 5.3 Increasing the surcharge for second car permit holders from £40 to £50 and the third car permit surcharge from £80 to £100 will result in increased revenue. However, any income arising from permit sales will be used to support the Borough's transportation and traffic management initiatives.

## **6.0 Legal Implications**

- 6.1 Whilst it is reasonable for a Council to take due regard of the estimated costs and income arising from the management of parking, the Road Traffic Regulation Act 1984 ("RTRA 1984") does not allow for local authorities to set or increase parking charges for the purposes of raising revenue.
- 6.2 Section 45 of the RTRA 1984 enables the council to designate parking places on the highway, to charge for parking in these places and to make a charge for parking permits for their use. The council may differentiate in its permit charges between vehicles of different classes. Furthermore, in setting charges the Council must have regard to the Mayor of London's Transport Strategy (sections 142 and 144(1) (a) Greater London Authority Act 1999). Section 122

of the RTRA 1984 imposes a general duty on local authorities when exercising functions under the RTRA 1984, which are set out in paragraph 6.4 below. Exercising the function to charge for any other purposes, e.g. to raise revenue, or having regard to other legally irrelevant matters is unlawful.

- 6.3 Section 55 of the RTRA 1984 makes provision for the monies raised under section 45 of the RTRA 1984, in that it provides for the creation of a ring-fenced account (the SPA – Special Parking Account) into which monies raised through the operation of parking places must be placed, and for the application of any surplus funds. Any surplus generated is appropriated into the Council's General Fund at the year end and can be spent on matters defined in section 55(4) of the RTRA 1984 (mainly transport and highways matters, which are listed in the RTRA 1984).

- 6.4 Section 122 of the RTRA 1984 imposes a general duty on local authorities when exercising functions under the RTRA. It provides, insofar as is material, as follows:

*"(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 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...*

*(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 locality 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;*
- (d) any other matters appearing to the local authority to be relevant"*

Although the Mayor of London's Transport Strategy has now superseded earlier Traffic Management and Parking Guidance (TMPG) for London, the boroughs continue to rely on the TMPG document as an authoritative interpretation of the legal framework. It advises:

*"(2.23) The level of parking charges must be set for traffic management reasons, such as to ration available space and ensure that there is a rapid turnover of parking spaces, rather than to maximise revenue. This is because section 122 of the Road Traffic Regulation Act 1984 does not include the maximisation of revenue from parking charges as one of the relevant*

*considerations to be taken into account in securing the safe, expeditious and convenient movement of traffic”.*

- 6.5 This interpretation of the RTRA 1984, in the context of on-street charges, is widely accepted. Case law supports the view that the Act’s purpose is not revenue-raising and this is set out in the judgements in the cases of *R (on the application of Cran) v LB Camden [1995]* and *R (on the application of Attfield) v London Borough of Barnet [2013]*.

The British Parking Association’s Parking Practice Notes “1 - Charging for Parking” (Revised August 2011) emphasises this point by quoting the Camden judgement, saying that the RTRA 1984:

*“...is not a fiscal measure. It contains no provision which suggests that parliament intended to authorise a council to raise income by using its powers to designate parking places on the highway and to charge for their use”.*

- 6.6 In the *Attfield v Barnet* case, the Court ruled that the RTRA 1984 did not authorise a local authority to use its powers to charge for parking in order to: raise surplus revenue for other transport purposes funded by the Council’s general fund; to defray other road transport expenditure; and reduce the need to raise income from other sources, such as fines, charges and council tax.
- 6.7 Should the revision to the Diesel Levy, Essential Service Permits and amendments to the residents’ permits be approved for implementation, this would require the amendment of the existing Traffic Management Order (TMO) under the RTRA 1984.

## **7.0 Equality Implications**

### Diesel Levy

- 7.1 With due regard to our duty under *section 149, Part 11 and section 20, part 2 Equality Act 2010*, a Diesel levy would affect all those with protected characteristics equally and without prejudice. In addition, there is no evidence that ownership of diesel vehicles is disproportionately associated with any of the protected characteristics groups in comparison with vehicle owners generally. It is considered, therefore, that this levy would not fall within the provisions of the *EA 2010*.

### Essential User Permits

- 7.2 With due regard to our duty under *section 149, Part 11 and section 20, part 2, of the Equality Act 2010* it is not considered that an increase in the price of an EUP for businesses and public bodies such as the NHS would fall within the scope of these provisions.
- 7.2 An equality impact assessment will be carried out during the consultation process, if approved by Cabinet, to properly determine what impact these

changes will have on those with protected characteristics under the Equality Act 2010. This will focus on the potential for any impact of a price increase on the operational use of vehicles by external organisations to meet service users' needs.

### Second and Third Residents Permits Surcharge

- 7.3 The proposal to increase the surcharge to £50 for a second permit and £100 for a third permit is aimed to better control demand for kerbside parking space within CPZs, and to encourage take up of more sustainable modes of transport to improve air quality and reduce carbon emissions.
- 7.4 The proposals will affect households in Brent who live in a CPZ and own two or three vehicles which park on-street. Controlled Parking Zones cover 49% of Brent's residential addresses, in particular the south-east of Brent and around Wembley. Many larger households with two or more vehicles live in the outer parts of the borough not covered by CPZs.
- 7.5 There could be a perceived risk of a disproportionate impact on residents from particular ethnic backgrounds who may be more likely to live in larger households i.e. where an extended family lives in the same household, including adult children living with their parents. However the proposals do not remove or restrict the number of parking permits residents are able to purchase, and are therefore unlikely to have a significant impact on different equality groups.

### **8.0 Consultation with Ward Members and Stakeholders**

- 8.1 Statutory consultation on the aforementioned changes will be required. This will be scheduled to take place during summer 2018.

### **9.0 Human Resources/Property Implications (if appropriate)**

- 9.1 None.

#### **Report sign off:**

**AMAR DAVE**

Strategic Director of Regeneration and Environment