



Call In Overview and Scrutiny Committee

Thursday 1 August 2013 at 7.00 pm

Boardrooms 3, 4 and 5 - Civic Centre, Engineers Way,
Wembley, HA9 0FJ

Membership:

Members

Councillors:

Ashraf (Chair)
Jones (Vice-Chair)
Daly
Kabir
Lorber
HB Patel
RS Patel
Krupa Sheth

first alternates

Councillors:

Hopkins
Mrs Bacchus
Adeyeye
Mitchell Murray
Matthews
BM Patel
Long
Harrison

second alternates

Councillors:

Brown
Hossain
Al-Ebadi
Chohan
Beck
Colwill
Aden
Oladapo

For further information contact: Toby Howes, Senior Democratic Services Officer
020 8937 1307, toby.howes@brent.gov.uk

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www.brent.gov.uk/committees

The press and public are welcome to attend this meeting

Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

| Item | Page |
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| 1 Declarations of personal and prejudicial interests | |
| Members are invited to declare at this stage of the meeting any relevant financial or other interest in the items on the agenda. | |
| 2 Matters arising | |
| 3 Deputations (if any) | |
| 4 Minutes of the last meeting held on 27 February 2013 | 1 - 10 |
| The minutes are attached. | |
| 5 Matters Arising | |
| 6 Call-in of Executive decisions from the meeting of the Executive held on 15 July 2013 | 11 - 32 |

Decisions made by the Executive on 15 July 2013 in respect of the following report below were called-in for consideration by the Call In Overview and Scrutiny Committee in accordance with Standing Order 20.

Outcomes from consultation for parking charge changes and permit changes

The decisions made by the Executive held on 15 July 2013 were:-

RESOLVED:-

- (i) that the petition and representations received in relation to the notices of proposals dated 9 May 2013 and summarised in section 4 and Appendix A of the report from the Strategic Director of Environment and Neighbourhood be noted;
- (ii) that approval be given to the retention of longstanding day-long visitor parking duration, from the four hours agreed by the Executive on 12 September 2012, as described in paragraph 4.3 of the report;
- (iii) that approval be given a new visitor parking price tariff as

described in paragraph 4.3.5 of the Directors;

- (iv) that approval be given to the extension of the validity of a Wembley Stadium Protective Parking Scheme residents' permit and Brentfield Road zone T from the two years agreed by the Executive on 12 September 2012 to three years, as described in section 4.4 and 4.7.2 of the report;
- (v) that approval be given to the extension of the maximum duration of virtual visitor passes in the Wembley Stadium Protective Parking Scheme from the four hours agreed by the Executive on 12 September 2012 to one calendar day, as described in section 4.5 of this report;
- (vi) that approval be given to the extension of the maximum duration of virtual visitor passes in the Brentfield Road zone T from the four hours agreed by the Executive on 12 September 2012 to 24 hours, as described in section 4.7.2 of the report;
- (vii) that approval be given to the tariff for virtual visitor passes in the Wembley Stadium Protective Parking Scheme and Brentfield Road zone T from the £1 agreed by the Executive on 12 September 2012 to 50p and to continue the longstanding limit of two visitor simultaneous parking passes per household, as described in section 4.5 and 4.7 of the report;
- (viii) that approval be given to the arrangements for exchanging unused scratch-cards and for easing enforcement in the period immediately after 31 October 2013, when they will become invalid as set out in section 5 of this report, including granting delegated authority to the Strategic Director of Environment and Neighbourhoods as regards the detailed arrangements for timing and implementation;
- (ix) that authority be delegated to the Strategic Director of Environment and Neighbourhood Services to establish and implement temporary mitigation measures for carers of people that would be eligible for the new cared-for persons' permit, until such time as that permit is formally launched as set out in paragraph 5.13 of the report;
- (x) that the remaining parking tariffs and pricing and product changes agreed by the Executive on 19 September 2012 be implemented where they are unaffected by the representations made and considered within the report.

The reasons for the call in are:-

This call-in relates to recommendations 2.1.3 (decision [iii] - new visitor parking price tariff) and 2.1.9 (decision [x] - implementation of remaining parking tariffs and prices and product changes) only.

The 50 per cent increase in the cost of the visitor parking permit is unreasonable. Given that the financial implications section of the report says the impact of the CPZ visitor parking changes is financially neutral the increased charge appears to penalise residents without bringing any benefit to the council.

There has been no proper consultation exercise on the visitor parking permit charge increase.

Members have not received proper assurances that the operation of the telephone system will improve, and in any case the promise of future improvements does nothing to assist residents who are finding it difficult to contact the council about their parking permits now. This is particularly true of older and more vulnerable residents who do not have the opportunity to use alternative channels.

An outline of the suggested alternative course of action for the Call In Overview and Scrutiny Committee to take is :

1. Continuation of the scratchcard scheme for those who cannot use online contact.
2. Retaining the cost of a residents' visitor parking session at £1.

The Executive report is attached. The Lead Member and Lead Officer are invited to the meeting to respond to Members' questions.

7 Date of next meeting

The next meeting of the Call In Overview and Scrutiny Committee is scheduled for Thursday, 5 September 2013 at 7.00 pm and will take place in the event of there being any call ins of decisions made by the Executive on 19 August 2013.

8 Any other urgent business

Notice of items raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64.



- Please remember to **SWITCH OFF** your mobile phone during the meeting.
- The meeting room is accessible by lift and seats will be provided for members of the public.



MINUTES OF THE CALL IN OVERVIEW AND SCRUTINY COMMITTEE Wednesday 27 February 2013 at 7.30 pm

PRESENT: Councillor Ashraf (Chair), Councillor Denselow (Vice-Chair) and Councillors Beck (alternate for Councillor Lorber), Daly, Kabir, HB Patel, RS Patel and Krupa Sheth

Also present: Councillors Butt (Leader/Lead Member for Corporate Strategy and Policy Co-ordination), Cheese, R Moher (Deputy Leader/Lead Member for Finance and Corporate Resources) and Powney (Lead Member for Environment and Neighbourhoods)

An apology for absence were received from: Councillor Lorber

1. **Declarations of personal and prejudicial interests**

Councillor Daly stated that she had received correspondence from Friends of Barham Park Library, PIVOT and Track Academy, all of whom had made bids in respect of the Barham Park building in relation to item 4, however she did not regard these as prejudicial interests and remained present to consider the call in.

All Members of the committee also acknowledged that they had received correspondence from the We Care Foundation who had also made a bid in relation to the Barham Park building.

2. **Minutes of the last meeting held on 17 May 2012**

RESOLVED:-

that the minutes of the last meeting held on 17 May 2012 be approved as an accurate record.

3. **Matters arising**

Call in of Executive decisions from the meeting of the Executive held on 23 April 2012 – Control of distribution of free literature on designated land

In reply to queries from Councillor H B Patel, Councillor Powney (Lead Member for Environment and Neighbourhoods) advised that fixed penalty notices had been issued and that some organisations had applied for licences since the recommendations of the report had been implemented. He added that he would ask Michael Read (Assistant Director – Environment and Protection, Environment and Neighbourhoods) to provide further details of these.

4. **Call-in of Executive decisions from the meeting of the Barham Park Trust Committee held on 13 February 2013**

Decisions made by the Barham Park Trust Committee on 13 February 2013 in respect of the following reports were called-in for consideration by the Call In

Overview and Scrutiny Committee in accordance with Standing Orders 6 (b) and 18.

Proposals for improving Barham Park building complex and park

The decisions made by the Barham Park Trust Committee on 13 February 2013 were:-

RESOLVED:

- (i) that the Association for Cultural Advancement through Visual Art (ACAVA) be appointed as the preferred bidder for lots 1, 3, 4, 5 and 6.
- (ii) that the Assistant Director Property and Asset Management in consultation with the Assistant Director Neighbourhood Services be delegated authority to enter into appropriate lease arrangements with the preferred bidder.
- (iii) that a tenancy or tenancies be granted to Brent Council of the land shown edged red on Appendix 2 to the report at market rent on terms to be agreed for use in accordance with the charitable purpose of the trust for a period or periods of up to 25 years. The intention is that this space will then be utilised by the Council for the Children's Centre and a sub-let to the Barham Park Veterans Club or such other future use as appropriate.
- (iv) that the finalisation of the terms of the tenancy or tenancies to be granted to the council be delegated to the Assistant Director of Property and Asset Management, in consultation with the Assistant Director for Neighbourhood Services, to act in the best interests of the Trust.
- (v) that a licence be granted to Brent Council to provide grounds maintenance from the depot at nil cost provided the service is for the sole benefit of Barham Park.
- (vi) that the lounge area (Lot 2) continues to be used for ad-hoc lettings in accordance with the recreational purposes of the Trust.
- (vii) that the letting rates for the ad-hoc lettings as set out in paragraph 3.27 of the report be approved.
- (viii) that officers enter into a Service Level Agreement between the Barham Park Trust and Brent Council to enable the day to day management of the Park and building (including lettings).
- (ix) that officers seek the requisite permissions from the Charity Commission to proceed with these lettings and officers advertise at the appropriate time the proposed disposal of public open space under Section 123 of the Local Government Act 1972 and the Charities Act 2011 and if there are objections to refer the objections to the Charity Commission.
- (x) that the vision for the park at Barham Park as detailed in paragraph 3.35 of the report, the core elements required to improve the open space as detailed in paragraph 3.36 to 3.44 of the report and the final concept design for the

- park attached at Appendix 4 to the report be approved.
- (xi) that the long standing arrangements whereby the Grounds Maintenance Service for the park is provided by Brent Council be noted.
 - (xii) that officers pursue options for a café on the site.
 - (xiii) that the works and services as set out in paragraph 3.30, 3.31 and 4.3 of the report at an estimated cost of £227,100 (including VAT) to enable the letting of Barham Park Building be approved.
 - (xiv) that the works and services as set out in paragraph 4.9 of the report at an estimated cost of £394,000 (including VAT) to improve park infrastructure for recreational purposes of the residents of Brent be approved.
 - (xv) that officers seek the necessary permissions from the Charity Commission to proceed with the capital expenditure.
 - (xvi) that officers be delegated the authority to procure and let contracts in accordance with the Council's relevant Contract Standing Orders and Financial Regulations for the building and park works and services as detailed in paragraphs 4.3 and 4.9 following receipt of the necessary Charity Commission approvals; and
 - (xvii) that officers be asked to publish and post the necessary public notices to comply with Section 123 2A the Local Government Act 1972 and the Charities Act 2011.

The reasons for the call in were:-

Defects in the decision making process:

- i. The committee was not presented with information that enabled it to compare the relative merits of the various bidders for space in the Barham Park buildings on a like-for-like basis. In particular the rental offer of the successful bidder was inclusive of service charges whereas it appears that the other bidders were evaluated on their rental offers excluding service charges. If this was not adjusted for during the evaluation, the effect was to make the successful bidder's financial offer appear more attractive relative to those of other bidders than it actually was
- ii. Based on the information provided in the report and the Frequently Asked Questions Regarding the Leasing of the Barham Park Buildings it is likely that the rental element of the successful bid (i.e. £43,000 minus services charges at £55 per sq metre) is less than the indicative rent (£35,739) and less than the rental income offered by other bidders and this was not drawn to the committee's attention. If this had been drawn to the committee's attention it may have influenced the decision made if members had

considered that they wished to generate the maximum rental income for the charity consistent with its purposes

- iii. The financial offer weighting criteria did not operate in the best interests of the council as the criteria did not consider the financial offers relative to each other and made no distinction between bids slightly under the asking price and substantially under the asking price.
- iv. The report sets out a 20 year vision for the park but does not address the need for a strategy that will secure the capital resources necessary to deliver the vision, especially taking into account that the agreed proposals will exhaust the charity's existing capital in a very short period.
- v. The committee did not consider alternative credible options for generating income such as alternative uses for the upper floors or casual hire of the old library space
- vi. The committee did not consider whether the evaluation criteria adopted were appropriate and what other options were available to meet the objectives of the charity.

A serious risk associated with implementing the decision that has not already been considered?

- i. The risk that the charity may run out of capital to deliver its objectives and look after its assets (in particular the buildings) in the light of the decision to spend all the charity's capital.
- ii. The risk that the revenue generated by the proposed lettings is lower than would have been the case if an alternative process been followed, therefore increasing the charity's reliance on the council's deficit funding.
- iii. Although the report refers to consultation carried out in September 2012 this exercise focussed on the vision for the park and not the buildings (see Appendix 4) and therefore did not fully comply with the Charity Commission's recommendations about consultation made in 2012; therefore there is a risk of challenge.

Suggested action for the Call In Overview and Scrutiny Committee to take:-

- i. To recommend that a new marketing exercise takes place based on criteria and weightings agreed by the Barham Park Trust Committee which better reflect the objectives of the trust. Failing this: to re-evaluate the bids on a like-for-like basis, obtaining necessary additional information from the bidders if required.

- ii. To recommend that the Barham Park Trust Committee retains a proportion of the charity's capital as contingency in order to reduce the risk to the charity's assets.
- iii. To recommend that the Executive should provide assurances to the Barham Park Trust Committee that Brent Council intends to continue to provide revenue support to the charity if necessary to cover annual deficits.

The Chair then invited Councillor Cheese, one of the councillors who had called in this item, to outline the reasons for call in. Councillor Cheese felt that the Barham Park Trust Committee (BPTC) had not been presented with sufficient information to make a decision, including information on other bidders. He stated that further explanation was required as to why the bidder that had scored highest in the bidding assessment had not been selected as the preferred bidder. Councillor Cheese felt that it had not been made clear enough to bidders that the rental fees they offered was a crucial factor in the bidding assessment. He also suggested that the evaluation criteria had not been demonstrated clearly in the results of the bidding assessment.

The Chair then circulated to the committee decision (i) of the Executive meeting of 12 March 2012 with regard to the Barham Park Improvements report that agreed that the Trustees of Barham Park approve a £30k budget to develop an option appraisal, project management plan and feasibility study for the future uses of the Barham Park buildings and options for improving the open space. He suggested that the BPTC report had not provided much in the way of detail in respect of this, apart from reference to it in paragraph 3.3 of the report. He also made reference of discussions between the council and the Charity Commission who had stated that consultation should take place with both current and potential benefactors of the Barham Park Trust and again he felt that this was not covered in the report. He also sought clarification with regard to £15k set aside for consultation on the building. The Chair then invited Councillor Powney to respond to first reason for call in and with regard to the Executive decision on 12 March 2012.

Councillor Powney began by advising that the council was the trustee of the Barham Park Trust and it had felt that it was appropriate to set up a specific committee, the BPTC, to look at issues relating to the Trust. The BPTC had met twice to date, in January and February 2013 and all Members were fully aware, as were Members of the Executive too, of the decisions made by the Executive on 12 March 2012. Councillor Powney disagreed with reason (i) of the call in, stating that officers had correctly carried out what was essentially a procurement exercise and the criteria for the bidding selection process had been weighted accordingly and in a consistent way. He felt that BPTC had all the information necessary to make an informed decision.

Members were then invited to discuss the call in. Clarification was sought as to whether the rent offered by the winning bidder, the Association for Cultural Advancement through Visual Art (ACAVA) was inclusive or exclusive of service charges. It was suggested that as the supplementary report correcting a few errors in the original report was only circulated a day before the meeting, the BPTC did not have sufficient time to consider the implications, particularly as the ACAVA rent

offer was significantly less once the service charge was removed. Furthermore, it was suggested that the report that went to the Executive on 12 March 2012, including the three background documents it referred to, should have been made available to the BPTC and clarification was sought as to whether they could still be viewed. A member felt that the report lacked clarity as a public document and that more information should have been made available. Another member commented that a realistic approach needed to be taken as to just how many documents be supplied to the BPTC, especially in view that a supplementary report was also provided. However, the issue was raised as to whether any lessons could be learnt in respect of future reports to the BPTC. Clarification was sought as to whether the winning bid represented 100% of the asking rent. It was enquired whether the zero score for rent could differentiate between how much less the bidders' offer was to the asking rent. Members also asked if the bidders were aware that Lot 2 could be let ad-hoc and attract a higher rental value. Further comments were sought in respect of why the highest scoring bid, Nikita Patel, the only one to have met the asking rent for Lot 2, had not been awarded as the preferred bidder and if any consideration could be given to approaching her to come up with a higher rental bid. One member commented that the one of the Trust's criteria for letting was that the building be used for community use, whilst the Nikita Patel bid was for a private nursery and so any decision was not necessarily based on the highest financial bid. It was asked whether consideration had been given to leave part of the building vacant because of its condition.

A member, in acknowledging that Lot 2 could attract higher rental values on an ad hoc basis, enquired whether there had been any consideration to renting out other Lots on this basis, particularly as the rent offered even from the winning bidder was less than the council's asking rent. Another member commented that renting out Lots to a sole bidder rather than several could present a risk should they be unable to fulfil their payment obligations and it was asked how far back each bidders' accounts had been assessed. Clarification was sought as to whether Parks Services still used Lot 7. In respect of paragraph 3.35, appendix 3, future vision for developing the site for public consultation, it was suggested that this only referred to the park and did not refer to the building. In addition, confirmation of the level of funding available for the vision of future development was sought and information on plans as to how this related to the building was sought as no details were available in the report with regard to options appraisals, feasibility studies and project management planning. Another member commented that it was clear in the consultation that the vision included both the open space and the building and that both were intricately linked and this was appropriate in view of the opportunity provided by the sale of the houses and the fact that the building was becoming increasingly empty. Assurances were sought that the necessary steps had been taken to ensure there was sufficient reserves for the Trust in view of the costs involved in the proposals and was the VAT element of these recoverable. Further clarity was sought in respect of the level of compliance with the Charity Commission's view, particularly if the council had chosen to simply retain the building without extending use, and would this be at variance with the Commission.

A member commented that as the building had already been empty for around two years, why would providing further time to re-consider proposals with more information made available be an issue. Another member felt that reconsidering proposals could present risks in view of the present economic circumstances and asked what costs would be involved if all lettings were made on an ad hoc basis.

Views were sought in respect of the document circulated by the We Care Foundation to the committee and what would transpire if the preferred bidder was unable to meet its rental obligations. One member questioned whether the use proposed by ACAVA, to support the development and practice of visual arts, could be considered to be of wider benefit to the community compared to other bidders' proposed uses. He stressed the importance that the recreational uses were of public and social benefit to all in the community and clarification was sought with regard to last bullet point under section 5.1 in the report. Another member felt that there was considerable local interest in the arts, citing an example of a local arts festival taking place in the area this year and she felt the proposed use would be welcomed locally, whilst other Lots remained open for other uses. Further details of the weighting criteria used in the application assessment form were also sought.

In reply to the issues raised, Councillor Powney advised that changes made in the supplementary report had been discussed by the BPTC at the meeting on 13 February 2013 and it was clear what these changes were. He acknowledged that there had been errors in the original report and that it could have been clearer, however these had been corrected and all relevant information was available to the BPTC. Furthermore, all BPTC members were also on the Executive that had made the decisions on 12 March 2012 and they were familiar with the site. He felt that providing the appendices referred to by a member of the committee was not necessary and there was already plentiful information on which to base a decision. Councillor Powney confirmed that all bidders had been subject to the same selection criteria. Turning to reason (ii) for the call in, Councillor Powney advised the number of Lots each bidder had bid for had varied, with ACAVA bidding for all but one of the Lots, Lot 2, whilst Nikita Patel had only bid for Lot 2. The BPTC had enquired whether it was possible to rent to both bidders at the meeting, however it had been explained that Lot 2 was suitable for ad hoc renting which attracted higher renting levels. However, the longer term renting arrangements offered by ACAVA for the remaining Lots also provided security and it was also easier to manage a single tenant for a large part of the building rather than multiple numbers. Nikita Patel's organisation was a start-up business which presented an element of risk, whilst by contrast ACAVA was bidding for most of the Lots available and had been assessed as having a good financial standing and its proposed use fitted well with the selection criteria requiring recreational use for the community. Councillor Powney advised that bidders had been made aware of indicative rent for all Lots and the committee heard that not all Lots were suitable for ad hoc renting. The selection of the preferred bidder was based not only on rent offered, but also the recreational and amenity value. It was confirmed that Parking Services was using part of the site as a depot, but this did not involve any of the Lots.

Turning to the consultation, Councillor Powney emphasised that the building was part of the proposals and that there was reference to this in the consultation document and discussion on this matter and he referred to paragraphs 4.3, 4.4 and 4.5 that made mention of building proposals. Meetings had taken place with stakeholders and both the building and park had been discussed together, and appendix 3 in the report referred to a part of the building. Members heard that £15,000 had been allocated for the building and £15,000 for the park to undertake a property option appraisal, project management plan and feasibility study and this had been summarised in the report. Councillor Powney commented that the Charity Commission would expect the Trust, as a charity, to use its capital, whilst there were also unavoidable costs involved such as building repairs. The proposals

were designed to maximise revenue and although there was an element of risk, such as inability of tenants to pay their rent, however Councillor Powney felt that this would not jeopardise the Trust's reserves and the preferred bidder had a reliable reputation. He felt that two years had been sufficient time to consider proposals for the reuse of the building and in view that it had been empty for two years, it was important to bring it back into use and any further delay could impact adversely on the Trust as it would be unable to benefit from revenue, whilst the community would also suffer. In respect of the We Care Foundation bid, Councillor Powney advised that school use was not in accordance with the recreational use stipulated by the Trust. He felt that ACAVA would engage positively and be an asset to the community and that the rent they would provide could contribute towards improvements to the site as a whole. The committee heard that most of the spending for the whole site would be for the park and this was accessible to all.

Mick Bowden (Deputy Director of Finance and Corporate Resources) confirmed that all bidders had been assessed without service charges. The reference to the £43k rental offer from ACAVA in the original report had included service charges, however this had been highlighted in the supplementary report. The bids received included a number of combinations of different Lots, however Lot 2 could attract a higher rental value on an ad hoc basis. Mick Bowden confirmed that the bidders' accounts from the last two years had been assessed. With regard to recovering VAT costs, he advised that whilst the council would be able to do this, after taking advice on the matter, it had been deemed not possible for Trust to do so.

Richard Barrett (Assistant Director – Property and Assets, Regeneration and Major Projects) advised that all bidders were subject to the same selection criteria and that a proforma template had been used. However, the Trust retained the flexibility to ultimately select the bid it deemed most suitable as it was not bound by the outcome of the evaluation process. This could include consideration of factors relating to a specific bid, such as the risks associated with a start-up business. Furthermore, the Trust could take into account issues such as the ability to attract higher rents from Lots that could be let on an ad hoc basis. Richard Barrett acknowledged that consideration could be given in future to the design of the selection criteria to include differentiation between the amount bids were below the requested rental value. The property had been widely advertised and the market had determined the best rent. ACAVA was the only bidder whose financial standing was regarded as strong and there was a risk that they may not bid again if the building underwent a re-bidding exercise. Furthermore, a re-bidding would be time consuming and increase risks, especially if the number of Lots that could be let on an ad hoc basis was increased. In addition, it would not be fair to re-open discussions with one bidder about the possibility of them increasing their rental offer.

Richard Barrett confirmed that Lot 2 was the only Lot that had been let on an ad hoc basis to date and it was proposed to continue with this arrangement because of the higher income that it has attracted to date. Although Lot 2 was well known to local organisations on its availability on an ad hoc basis, the remaining Lots would require generating a market to be let in this way and this would present a risk to the Trust. In view of this, it was far more desirable and logical to let the remaining Lots on a longer term basis and it also meant that the building would be fully utilised, as opposed to the risk of its condition deteriorating because of lack of use. The preferred bidder would be subject to the usual powers available to the Trust if they

were unable to pay their rent, with all efforts made to manage the process and this could include re-possession of the Lots in question. Richard Barrett confirmed that the Executive report of March 2012 had included an options appraisal for the building, including health and safety related matters and improvements that would be manageable cost wise to the Trust. He also confirmed that the background documents were available.

Fiona Ledden (Director of Legal and Procurement) advised that the Trust continued to liaise with Charity Commission in respect of the Barham Park site. She felt the consultation had been undertaken appropriately and that the Charity Commission would welcome the improvements to the governance arrangements of the Trust and that difficulties would have been encountered if the building had been left unused and fallen into disrepair. Fiona Ledden confirmed that the Trust could dispense with seeking the consent of the Charity Commission if Lots were let to another charity at less than best rent, providing they were being used for recreation of the public. She advised that there were significant legal implications to approaching a bidder after the bidding process had been closed and this would represent a dangerous precedent. Acting in the best interests of the Trust was of most importance and the level of income was a significant factor, as well as the interests of the community, providing they were not at variance of the Trust's.

The committee then decided against Councillor Beck's suggestion that the BPTC ensure that the value of the Lots are maximised and to re-evaluate the bids on a like-for-like basis, obtaining necessary additional information from the bidders if required. The committee also decided against the suggested action referred to by the Chair as set out in points ii. and iii. under *suggested action for the Call In Overview and Scrutiny Committee to take*.

RESOLVED:-

that upon considering the report from the Director of Environment and Neighbourhood Services, the decisions made by the Executive be noted.

5. Date of next meeting

It was noted that the next meeting of the Call In Overview and Scrutiny Committee was scheduled for Thursday, 28 March 2013 at 7.30 pm and would take place in the event of there being any call ins of decisions made by the Executive on 11 March 2013.

6. Any other urgent business

None.

The meeting closed at 9.50 pm

J ASHRAF
Chair

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Executive
15 July 2013

Report from the Strategic Director of Environment and Neighbourhood Services

Wards Affected: ALL

Statutory consultation on proposed changes to parking tariffs, charges and permits

1.0 SUMMARY

- 1.1 This report summarises the representations received from the statutory consultation process in relation to proposed changes for parking short stay on-street tariffs, permits, incentives for cashless parking and makes recommendations in relation to the issues arising.
- 1.2 In consideration of the consultation representations, this report recommends several changes in response to the issues and concerns that have been raised, including new arrangements to allow unused daily visitor scratch-cards to be exchanged for electronic visitor passes, and transitional enforcement arrangements in respect of scratch-cards that are mistakenly used after they cease to be valid on 31 October 2013.
- 1.3 The report makes no recommendation in respect of the earlier agreement to reduce on-street parking tariffs, move to a linear charging model and introduce a very low charge for parkers staying less than 15 minutes, in consequence of the absence of any adverse comments about this from the consultation process.
- 1.4 The report also outlines issues remaining that arise from the changes agreed by the Executive on 19th September 2012, such as the new unified business permit, suspensions and dispensations and seeks delegated powers in respect of a few remaining matters.

2.0 RECOMMENDATIONS

2.1 Members are asked to:

- 2.1.1 To consider the petition and representations received in relation to the notices of proposals dated 9th May 2013 and summarised in section 4 and Appendix A of this report.

- 2.1.2 To approve the retention of longstanding day-long visitor parking duration, from the four hours agreed by the Executive on 12 September 2012, as described in paragraph 4.3 of this report.
- 2.1.3 To approve a new visitor parking price tariff as described in paragraph 4.3.5.
- 2.1.4 To approve the extension of the validity of a Wembley Stadium Protective Parking Scheme residents' permit and Brentfield Road zone T from the two years agreed by the Executive on 12 September 2012 to three years, as described in section 4.4 and 4.7.2 of this report.
- 2.1.5 To approve the extension of the maximum duration of virtual visitor passes in the Wembley Stadium Protective Parking Scheme from the four hours agreed by the Executive on 12 September 2012 to one calendar day, as described in section 4.5 of this report.
- 2.1.6 To approve the extension of the maximum duration of virtual visitor passes in the Brentfield Road zone T from the four hours agreed by the Executive on 12 September 2012 to 24 hours, as described in section 4.7.2 of this report.
- 2.1.6 To approve tariff for virtual visitor passes in the Wembley Stadium Protective Parking Scheme and Brentfield Road zone T from the £1 agreed by the Executive on 12 September 2012 to 50p and to continue the longstanding limit of two visitor simultaneous parking passes per household, as described in section 4.5 and 4.7 of this report.
- 2.1.7 To approve the arrangements for exchanging unused scratch-cards and for easing enforcement in the period immediately after 31 October 2013, when they will become invalid as set out in section 5 of this report, including granting delegated authority to the Strategic Director of Environment and Neighbourhoods as regards the detailed arrangements for timing and implementation.
- 2.1.8 To delegate authority to the Strategic Director of Environment and Neighbourhood Service to establish and implement temporary mitigation measures for carers of people that would be eligible for the new cared-for persons' permit, until such time as that permit is formally launched as set out in paragraph 5.13.
- 2.1.9 To proceed to implement the remaining parking tariffs and pricing and product changes agreed by the Executive on 19th September 2012 where they are unaffected by the representations made and considered within this report.

3.0 STATUTORY CONSULTATION OUTCOME

- 3.1 On 19th September 2012, the Executive agreed a number of recommended changes to the range of parking permit products and prices available. Initial price changes agreed for permits in relation to the financial years 2012/13 and 2013/14 were implemented on 7th January 2013 and 2nd April 2013 following notices of variation made on 6th December 2012 and 7th March 2013 respectively.
- 3.2 At the same Executive meeting, other price and product changes were agreed. Formal statutory public consultations in respect of these matters have now been undertaken and this report examines the representations received and makes recommendations in response.

- 3.3 The statutory consultation process comprised the publication of notices in the Wembley Observer, Brent and Kilburn Times and the London Gazette, plus consultation with statutory consultees (principally the emergency services). The process followed accords with the requirements of the Road Traffic Regulation Act 1984 and Road Traffic Act 1991, as amended.
- 3.4 Representations were permitted by post and e-mail. The statutory consultation period was between 9th and 30th May 2013.
- 3.5 Recommendations relating to parking suspensions and dispensations that were also agreed at the September 2012 Executive meeting have not yet been the subject of a consultation period and business permits are currently the subject of an unexpired statutory consultation period. The outcome of these consultations will be the subject of a further report.

4.0 CONSULTATION RESPONSES RECEIVED

- 4.1 Five individual representations and a petition comprising in excess of 450 signatures was received. All the issues have been fully considered by Officers. One response was received from a statutory consultee indicating that they had no comment to make.
- 4.2 Details of comments submitted are set out in Appendix A together with the officer response. Those consultation contributions that have resulted in an adjusted recommendation are also discussed below.

CPZ visitor parking

- 4.3.1 Comments have been received arguing that the earlier agreed recommendation to move from all-day visitor parking, to a virtual pass with a four hour limit, should not proceed as it will cause additional inconvenience and cost, especially in CPZs with longer restricted hours. The proposal to move from annual visitor passes and daily scratch-cards to four hour virtual visitor passes was intended to tackle abuse of the annual visitor pass, tackle commuter parking through a less than all day scheme and bring pricing closer to that of neighbouring boroughs by reducing available time for the same price. It was further agreed that higher prices be imposed for customers that wish to pay by credit card or cash, to reflect that additional processing costs as opposed debit card payments.
- 4.3.2 Several customers have raised concerns about the inconvenience of moving away from a minimum daily period for visitor parking, especially for visitors that are staying for a few days. In contrast no comments have been made about problems arising from inappropriate use of visitor parking by commuters, even though officers have come across such cases.

4.3.3 It is useful to compare with neighbouring boroughs...

| Borough | All day rate (£'s) | Notes |
|----------------------|--------------------|---|
| Brent | 1.00 | No concessions |
| Harrow | 1.56 | Concessions apply |
| Barnet | 4.16 | £2.20 half day. Max 200 sessions p.a. |
| Ealing | 4.50 | 60p per hour option |
| Camden | 6.30 | 90p per hour option. 50% elderly concession |
| Hammersmith & Fulham | No all day rate | £1.80 per hour. 50% disabled concession |
| Kensington & Chelsea | No visitor parking | Pay and display used by visitors |

Brent has by far the cheapest visitor parking scheme, and that several boroughs continue to offer all day visitor parking. Some boroughs offer a variety of periods or concessions.

4.3.4 Since the original proposals were agreed in 2012, it now seems clear that technology will better prevent the sale (or subsequent transfer) of visitor parking to potential commuter parkers. Furthermore, information from visitor parking will help the Council to identify potential commuter use too. It is therefore no longer necessary to restrict parking length as a control against commuter parking. This would enable the all day option to be retained as requested. However, the price of visitor parking in the both scratch-card, CPZ visitor household permit have remained unchanged for several years.

4.3.5 It is therefore recommended that virtual visitor parking passes have day-long duration, and be priced lower than all neighbouring boroughs at £1.50 per calendar day effective from the first day that scratch-cards become invalid for use, namely 1 November 2013. It is further recommended that from April 2015, that prices are subject to annual April RPI inflation rises as set out in paragraph 4.7 of the previously agreed Parking Simplification and Pricing Executive report of September 2012.

4.3.6 A differential pricing scheme for visitor parking is not recommended in mitigation of older people who do not have a vehicle / internet / mobile phone access, and want to receive visitors.

4.3.7 The longstanding scratch-card scheme has no concessionary rates and the introduction of concessionary rates is not recommended, because:

- disabled drivers already have very advantageous / free parking through the national Blue Badge scheme;
- Brent's proposed core visitor parking tariffs are much lower in price than concessionary rates in neighbouring boroughs; and
- Concessionary rates require eligibility assessment, which introduces significant cost and delay to the application process.

Wembley Stadium Protective Parking Scheme (WSPPS) residents' permits

4.4.1 Comments have been received arguing that the Wembley Event permits had been originally issued at no cost to the respective applicants at that time and at no cost thereafter and therefore the proposal for replacement with fixed length permits each carrying a fee was unfair.

- 4.4.2 The purpose of the WSPPS is solely to protect local businesses, residents and their visitors, so that they can go about their business unaffected by the influx of stadium drivers on event days, and that this is done at minimum cost. Several years into the Wembley Event Protective Parking Scheme, the problems caused by the improper use of non-expired permits are becoming increasingly apparent. The Council has received reports of non-expiring event day permits that are continuing to be in circulation and use, despite the original users having moved away. Monitoring Officers have discovered cases of visitor permits and scratch-cards reserved for local people, being sold at highly inflated prices (£10 for a £1 scratch-card) on commercial websites to stadium users.
- 4.4.3 In response, the September 2012, the Executive agreed new permits of 2 years duration subject to a £15 fee to cover the costs of administration.
- 4.4.4 Following reconsideration, officers still consider that expiring permits are essential to ensure that the protection for local residents and businesses is not eroded by use of permits issued to vehicles or individuals that are no longer based within the local area. However, upon review, it is now considered that no discernible reduction in control of this problem, could be achieved through longer expiring permits. It is therefore recommended that new Wembley Event permits have a valid life of three years rather than two, and that the proposed £15 fee be applied unchanged to this longer period.

Wembley Stadium Protective Parking Scheme (WSPPS) visitor permits

- 4.5.1 It has also been argued that the proposed move away from annual visitor permits to sessional virtual visitor passes with a duration which is the same for routine CPZs and for the WSPPS, is a disproportionate response to the unique challenges arising from the National Stadium.
- 4.5.2 After consideration of the issues put forward, this argument is accepted. National Stadium events presents problems of intense, but occasional parking from users. It does not face the challenge of significant commuter parking on event days too. The key control for the WSPPS is controlling the availability of passes, whereas the challenge of commuter parking is a combination of parking pass length and eligibility. It is therefore recommended that the virtual visitor passes for WSPPS be extended to a full calendar days duration, and that the longstanding limit of two visitor simultaneous parking permits per household be retained.
- 4.5.3 It has also been argued that the introduction of a £1 fee for WSPPS visitor parking is inappropriate given the special intention of the original WSPPS scheme, to protect residents, businesses and their visitors on event days only. Following further detailed reconsideration, this argument is accepted. However, the significant advantages to residents from moving to a virtual system that is likely to largely defeat widespread and inappropriate use of paper-based WSPPS permits and passes, also carries a significant transactional and processing cost. It is therefore recommended that the all day WSPPS visitor permit be priced at 50 pence and not be subject to annual RPI inflationary increases. This is a third of the cost of similar all-day visitor passes in CPZs.

Short-stay parking linear pricing

- 4.6.1 In respect of the proposal to reduce the cost of short-stay on-street parking through a £2 per hour linear tariff and an initial short-stay even lower charge of 20p for 15 minutes, no comments were received from members of the public. Silence on this

proposal might reasonably be taken as broad agreement to a proposal to reduce tariffs.

- 4.6.2 However, two internal comments were received and these will be responded to by officers using delegated powers. Neither comment warrant any change to the Executive's earlier decision to change short-stay tariffs and arrangements.

Temple CPZ zone

- 4.7.1 The Brentfield Road T zone CPZ has parking controls at all times, i.e. 24/7, weekends and every Bank Holiday too, as a consequence of being a neighbour to the BAPS Shri Swaminarayan Mandir – the largest Hindu Temple outside India. The light touch permitting arrangements and pricing are similar to those in place for the WSPPS, and therefore the arguments about inconvenience and cost put forward in response to the consultation for Wembley Events largely apply to the Temple zone too.

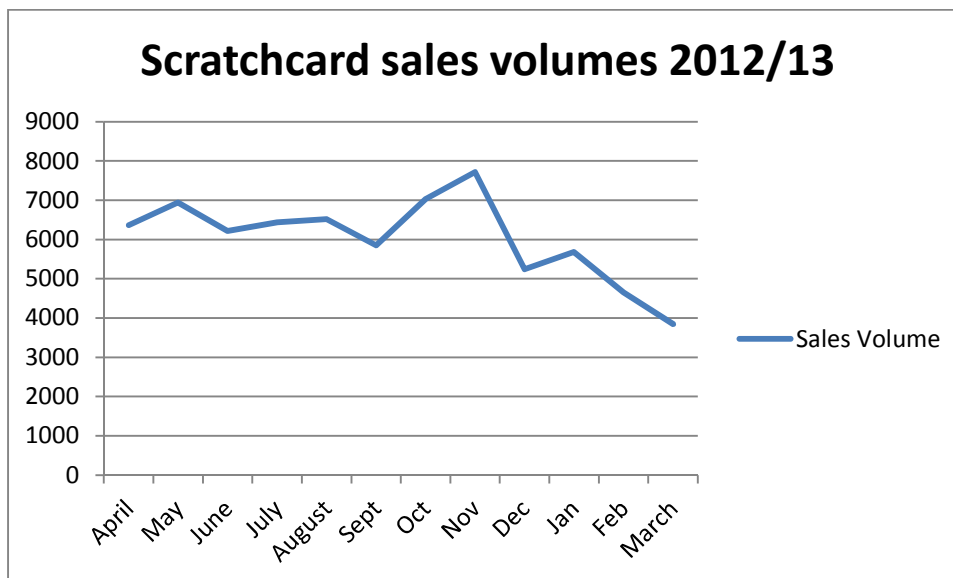
- 4.7.2 It is therefore recommended that Residents' Temple zone permits have a valid life of three years rather than two, and that the proposed £15 fee be applied unchanged to this longer period, and Temple visitor parking be by virtual passes priced at 50 pence and not be subject to annual RPI inflationary increases with a duration of 24 hours. The longstanding limit on a maximum number of visitors per household is retained.

- 4.7.3 It should be noted that the key difference in the recommendations between the Temple zone and WSPPS is the duration of visitors parking due to the difference in controlled hours. Thus WSPPS is recommended as being one calendar day, whereas the Temple zone is recommended as being 24 hours in duration.

5.0 VISITOR PERMITS – SCRATCH CARDS

- 5.1 On 19th September 2012, the Executive agreed that both the new virtual visitor passes and visitor scratch-cards should operate in parallel and that the sale of scratch-cards should cease soon after the online alternative was available and operating successfully. It was further agreed that customers would be able to use the remaining scratch-cards until 31 October 2013. Since November 2012, scratch-cards have been sold with an expiry date of 31st October 2013. 724,870 scratch-cards were sold in 2012/13.
- 5.2 Physical all-day visitor permits for controlled parking zones (scratch-cards) were sold at Parking Shops until the final Parking Shop closed on 24th May 2013. A Traffic Management Order for the cessation of these with effect from 31st October 2013 was made on 19th November 2012.

5.3 Based upon the 2012/13 sales profile, scratch-card sales peak during October and November as shown in the chart below:



5.4 It is not possible to determine how many unused scratch-cards are in circulation. However, we know between 18th February 2013 when the new permit system arrangements commenced and 9th April 2013, 5,770 scratch card books were sold to 2,901 customers. This equates to approximately 2 books purchased on average per customer. We also know that around 750,000 are sold each year.

5.5 There is a need for an exchange scheme for unused scratch-cards from the customer's perspective and an operational need to shorten the residual time that scratch cards are used in parallel with its virtual replacement. We also need to reduce the number of scratch cards in use to accelerate the move to the new lower cost enforcement model. It is therefore recommended to offer an exchange scheme for all unused scratch-cards.

5.6 Scratch-cards were sold on the basis of all day parking, so the exchange should be on a similar basis. If Members agree the above proposal that future virtual visitor permits should be of a days duration (rather than the 4 hours agreed at the September 2012 Executive) then it is proposed that the following exchange scheme be offered:

- One virtual visitor passes for every scratch card exchanged.

5.7 It is further proposed to incentivise customers to exchange unused scratch-cards promptly and before they cease to be valid. Therefore it is proposed that an additional incentive be offered for exchange before 31 October 2013, as follows:

- Eleven virtual visitor passes for every 10 scratch-cards exchanged.

This will have the effect of giving a 'free' days visitor parking for every book of scratch-cards exchanged before scratch-cards cease to be valid.

5.8 It will be important that the exchange scheme operates effectively and fairly, but also that it is successful in achieving the exchange of as many scratch-cards as possible. Therefore it is recommended that decisions about the start and end date of the exchange period and the smaller incentivised exchange offer, be delegated to the Strategic Director of Environment and Neighbourhoods to determine following consultation with the parking contractor.

- 5.10 It is however intended that the exchange commences before the scratch-card expiry date of 31st October 2013. Prioritisation of the mobilisation of the new contract from 4th July 2013, and prioritisation of implementation of the pay and display tariff reductions, mean that the exchange scheme is unlikely to start before late Summer 2013.
- 5.11 The exchange process will be publicised in:
- The Brent Magazine;
 - Permit reminder letters;
 - Emails to customers registered on the online permit system;
 - Posters at the new car pound, Brent Council libraries and Customer Service locations;
 - Brent Connects meetings.
- 5.12 If the exchange process is agreed, the precise arrangements for its administration and resourcing will be finalised by officers.
- 5.13 After 31st October 2013, any visitor parking using a scratch card, would be unauthorised and at risk of receiving a Penalty Charge Notice (PCN). Whilst the Council will have given very extensive notice of this possibility and offered advantageous exchange arrangements, a driver who had displayed a previously paid visitor permit and would feel aggrieved that they had still received a PCN. It is therefore intended to implement an interim enforcement arrangement to mitigate this. This might perhaps mean the affixing of an informal warning on the vehicle advising the driver that they will receive a PCN next time, or alternative arrangements intended to have a similar interim easing effect. For reasons similar to those described at 5.8 above, it is recommended that authority to establish interim enforcement arrangements be delegated to the Strategic Director of Environment and Neighbourhoods to determine and implement.
- 5.14 It is further proposed that the exchange scheme cease in the last full working week of 2013, this gives a last exchange date of 20 December 2012.
- 5.15 Several customers have contended that the changes to a virtual visitor parking scheme will disadvantage older people, because of the lower internet and smart phone use within that group. The key mitigation for this issue is the provision of a landline telephone service, the ability to call down visitor parking by landline or by the simplest mobile phone, and for older people to ill or frail to even use the telephone through the introduction of a new cared-for permit. Despite repeated attempts, officers have been unable to identify any potentially affected person who is unable to make use of the mitigations who would not be entitled to a cared-for permit.
- 5.16 However, it seems likely that for persons eligible for the cared-for permit, that there is the possibility that supplies of scratch-cards could be depleted before the statutory formalities of a cared-for permit have been completed and the permit formally launched. It is therefore recommended that authority to establish interim parking arrangement for carers in the interim period be delegated to the Strategic Director of Environment and Neighbourhoods to determine and temporarily implement.

6.0 FINANCIAL IMPLICATIONS

- 6.1 The financial implications arising from this report are very difficult to determine due to the wide number of uncertainties. We do not know the number of unused scratch-cards in circulation (para 5.4), we do not know the unit costs of administering an exchange scheme (para 5.8) and we do not yet know the practicalities of any interim enforcement mitigations (para 5.13).
- 6.2 Based on the assumptions in para 5.4 we might assume a maximum of 36,000 customers potentially have unused scratch-cards. Using an estimated unit cost of £2.50 per customer transaction from our previous contractor (who will not administer the exchange scheme), we have modelled an exchange cost of up to £137,000.
- 6.3 Table 1 below sets out how these costs have been determined. All figures rounded to nearest thousand.

| % customers returning scratch-cards | Est. volume of exchanges | Est. transaction cost (£2.50 unit price) | Est. postal costs | Est. stationery costs (£250 per 1000) | Total (£'000s) |
|-------------------------------------|--------------------------|--|-------------------|---------------------------------------|----------------|
| 100% | 36,00 | £91,000 | £37,000 | £9,000 | £137,000 |
| 80% | 29,000 | £73,000 | £29,000 | £8,000 | £110,000 |
| 60% | 22,000 | £55,000 | £22,000 | £6,000 | £83,000 |
| 40% | 15,000 | £36,000 | £15,000 | £4,000 | £55,000 |
| 20% | 7,000 | £18,000 | £7,000 | £2,000 | £27,000 |

- 6.4 It is anticipated that there may also be additional contract costs to the Council payable to the new Council Contractor (i.e. Serco) in terms of dual running of a virtual permit system and a physical permit system although the precise nature of these will need to be determined and quantified in negotiations with Serco soon after they assume responsibility for the parking contract on 4th July 2013.
- 6.5 Due to the high degree of uncertainty described at paragraph 6.1 above, together with the substantial difficulties in predicting driver behaviour as a result of these changes – both intended behaviour change, and unforeseen behaviour change – the September 2012 Executive report made a neutral financial assumptions about the impact of changes arising from CPZ visitor parking or WSPPS / Temple changes. As the recommendations in this report are likely to have a smaller revenue benefit than the original September 2012 recommendations, no adjustments are needed.

7.0 LEGAL IMPLICATIONS

- 7.1 The Council has a statutory duty to publicise proposed changes to its parking tariffs, charges and permits in accordance with the Road Traffic Regulation Act 1974 as amended and the Road Traffic Act 1991. This was conducted by publishing the relevant notices of the proposals on 9th May 2013 in the Wembley Observer, the Brent and Kilburn Times and the London Gazette. Additionally, the following organisations were sent details of the consultation.
- 7.2 The notice provided for a period of 21 days for representations to be made either in writing or by email.

- 7.3 The draft Traffic Management Orders (TMO's) relating to the proposals are and remain available for inspection at the Civic Centre.
- 7.4 In relation to any unused scratch-cards held by customers at 31st October 2013 and purchased for visitor parking, any decision to treat these as invalid or to provide a means of exchange should give due consideration and regard to the following:
- 7.4.1 It must not be irrational;
 - 7.4.2 It must not be unreasonable (i.e. a decision that no reasonable Council / Parking Authority would have made);
 - 7.4.3 It must not be procedurally improper (i.e. there is a duty to act fairly and in accordance with natural justice);
 - 7.4.4 It must not be in breach of a legitimate expectation on the purchaser's part when they purchased the scratch-card.
- 7.5 It would be more 'rational' and 'reasonable' to offer an exchange for each unused scratch-card book at the cessation date of 31st October 2013 than for the Council to treat these as invalid.
- 7.6 Any proposed window of opportunity for exchanging unused scratch-cards should not cease prior to 31st October 2013 in order to avoid breaching the legitimate expectations of those who purchased the scratch-card books.
- 7.7 Additional to the public law considerations, there may also be private law issues regarding the scratch-cards sale contract that should be considered.
- 7.8 Any proposed scratch-card exchange arrangements should offer at least an equivalent period of time to that purchased under the existing scheme and for which the exchange is sought.
- 7.9 It is unreasonable to expect a customer to incur postage costs to recover the price of an unused scratch card, particularly if there was no way for them to avoid the postage charge by attending in person.
- 7.10 The terms and conditions under which scratch cards were sold stated that 'No refund will be given for any unused and / or expired scratch card'. This refers to instances where a customer may decide that they do not need visitor parking anymore and would not be reasonable for the Council to rely on this clause in terms of unused scratch-cards after 31st October 2013.
- 7.11 Members must also consider the duty in relation to the Equality Act 2010, most specifically the public sector equality duty set out at Section 149. This requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimization and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic.
- 7.12 A 'protected characteristic' is defined in the Act as:
- age;
 - disability;
 - gender reassignment;

- pregnancy and maternity;
- race;(including ethnic or national origins, colour or nationality)
- religion or belief;
- sex;
- sexual orientation.

- 7.13 Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination.
- 7.14 Having due regard to the need to 'advance equality of opportunity' between those who share a protected characteristic and those who do not includes having due regard to the need to remove or minimize disadvantages suffered by them. Due regard must also be had to the need to take steps to meet the needs of such persons where those needs are different from persons who do not have that characteristic, and encourage those who have a protected characteristic to participate in public life.
- 7.15 The steps involved in meeting the needs of disabled persons include steps to take account of the persons' disabilities. Having due regard to 'fostering good relations' involves having due regard to the need to tackle prejudice and promote understanding.
- 7.16 Complying with the duty may involve treating some people better than others, as far as that is allowed by the discrimination law.
- 7.17 In addition to the Act, the Council is required to comply with any statutory Code of Practice issued by the Equality and Human Rights Commission but no such guidance has yet been published. However, the Equality and Human Rights Commission has published its own guidance on the new public sector equality duty and the advice set out to members in this report is consistent with this guidance.
- 7.18 The equality duty arises where the Council is deciding how to exercise its functions regarding parking matters. The council's duty under Section 149 of the Act is to have 'due regard' to the matters set out in relation to equalities when considering and making decisions on ways in which the service users pay for parking services. Accordingly due regard to the need to eliminate discrimination, advance equality, and foster good relations must form an integral part of the decision making process. Members must consider the effect that implementing a particular policy will have in relation to equality before making a decision.
- 7.19 There is no prescribed manner in which the equality duty must be exercised. However, the Council must have an adequate evidence base for its decision making. This can be achieved by means including engagement with the public and interest groups, and by gathering details and statistics on who uses the service and how the service is used. The potential equality impact of the proposed changes to the parking service has previously been assessed and reported to the Executive with changes made to the design requirements for the proposals where a potential adverse impact has been identified.
- 7.20 Where it is apparent from the analysis of the information that the policy would have an adverse effect on equality then adjustments should be made to avoid that effect.
- 7.21 Members should be aware that the duty is not to achieve the objectives or take the steps set out in s.149. Rather, the duty on public authorities is to bring these important objectives relating to discrimination into consideration when carrying out its public functions. "Due

regard” means the regard that is appropriate in all the particular circumstances in which the authority is carrying out its functions.

- 7.22 At the same time, Members must also pay regard to any countervailing factors, which it is proper and reasonable for them to consider. Budgetary pressures, economics and practical factors will often be important.
- 7.23 The weight of these countervailing factors in the decision making process is a matter for members in the first instance.

8.0 DIVERSITY IMPLICATIONS

- 8.1 The Parking Service has previously reported the potential impact of proposed plans on customers and residents who use or who may use its service and the measures that would be used to mitigate the changes. These included the provision of a telephone service and cash payments as measures to mitigate the negative impacts identified in relation to the original proposal following customer feedback obtained.
- 8.2 The potential for adverse impact was evaluated regarding the original proposal as follows:
- Difficulties using the new system for customers without access to a computer or the Internet or with limited or no experience of using the Internet. This may adversely affect older residents, disabled residents, residents from an ethnic minority and residents of a lower socio-economic status disproportionately more than others.
 - Difficulties using the new system for customers without a credit or debit card and therefore needing to pay by cash. This may adversely affect older residents, some residents from an ethnic minority and residents of a lower socio-economic status disproportionately more than others.
- 8.3 Detailed mitigation was duly considered for the adverse impacts identified and incorporated within the design for the new service including the option to apply for and pay for parking products using the telephone in addition to using the Internet, the provision for access to computers in Brent Council libraries and Customer Services and the option to pay for parking products using cash.
- 8.4 Officers advise that, with regard to the process of buying and obtaining parking permits the potential adverse impact on a small group of residents which is not completely mitigated by the steps detailed above is justified by the benefits of the project, and the tight financial constraints the Council is operating within.
- 8.5 An additional mitigation in respect of older people is discussed at paragraph 5.14, and a further temporary mitigation is recommended for adoption at paragraph 2.1.7.
- 8.5 Officers propose to arrange meetings with representatives from key stakeholder groups within the community regarding access to the proposed service arrangements prior to implementation in order to ensure that accessibility and understanding of the arrangements are effectively communicated.
- 8.6 Additionally, the Brent Magazine is also intended to be used to communicate the proposed changes and timescales and to supplement other publicity and communications.

9.0 STAFFING / ACCOMMODATION IMPLICATIONS

9.1 There are no staffing implications for Council staff.

9.2 There may be implications for staff employed by the Council's recently appointed Contractor (i.e. Serco) who commenced operations on 4th July 2013 who will need to design, implement and enforce the new processes necessary for the effective implementation of the changes.

10.0 Property Implications

10.1 There are no Council property implications arising from this report.

BACKGROUND PAPERS

Executive Report dated 23rd April 2012

Executive Report dated 19th September 2012

CONTACT OFFICERS

Michael Read - Operational Director
Environment & Protection
x5302

David Thrale
Head of Safer Streets
x5454

Sue Harper
Director of Environment and Neighbourhood Services

Appendix A – Representations received analysis

Petition summary

The petition was primarily from residents affected by proposed changes to Wembley Event Day permits arrangements. It has not been possible to determine whether all of the respondents are bona-fide residents and / or businesses within the Borough, whether they live within CPZ areas or even whether they own or have access to a vehicle. Nevertheless, it is appropriate to take all representations received into account, recognising that the proposals could have a wide ranging impact.

There are approximately 43,800 Wembley Event Day Permits currently in circulation. In that the petition has been signed by a number of residents at the same address and may have been signed by residents outside the CPZ areas, it is difficult to undertake a precise analysis of the volumes. However, it is estimated that taking into account the petitioners, representations have been received from approximately 1% of the Wembley Event Day permit population.

Of the representations received, the principal reasons for these may be summarised as shown below with the number of representations received for each reason being shown in brackets.

- Insufficient consultation (450+)
- Visitor permit costs and restrictions (450+)
- Proposals unclear (450+)
- Price increase is too high (3)
- Limited access to online systems (3)
- Proposed removal of payment by cheque (2)
- Negative impact on quality of life (1)
- Changes would breach original agreements (1)
- Penalisation of those without bank accounts (1)
- Pay and display charging methodology for cashless payment incentive (1)
- Essential User Permit payment methods (1)
- Visitor permit should remain 'All Day' at lower price (1)

It should be noted that more than one representation reason was received in some cases from respondents, hence the reason why the number of representation reasons does not reconcile with the actual number of representations received.

Specific consultation submissions

Consultation comment 1

“Having read in the 'QPARA News' the outlines of the proposed changes to residential parking in Queen's Park, I wish to request that the all-day visitor pass (in whatever form becomes standard phone, email, etc) continues to be available (at an adjusted price, say £2.50).”

Officer response

This is agreed, albeit at a lower cost than suggested. See section graph 4.3 of the main report.

Consultation comment 2

"In relation to pay and display issues, the hourly charge is to be advertised in Traffic Management Orders and on the machines themselves. I would be interested to hear the arrangements for displaying two tariffs, one for cash and one for other methods of payment and the reasons for charging for a cash payment."

Officer response

Cash payments for parking are generally more expensive than other means of payment such as debit and credit card, direct debit, and online payments. In particular, staffing resources required to empty machines and security arrangements for banking cash incur greater cost than other non-cash means. In 2012 the costs were calculated as being 49p per coin transaction and 20p per cashless transaction. The tariffs will be displayed on each machine and on the Council's website in accordance with statutory requirements.

It is not recommended that this should change.

Consultation comment 3

"In relation to the daily Essential User Permits that are to be purchased using a credit or debit card, it was understood that departments would have account access to the system otherwise Council officers may for example be expected to work for the Council carrying out statutory duties without timely reimbursement for expenditure incurred."

Officer response

The new virtual daily replacement for annual Essential User Permits, will use the same technology as for virtual visitor passes. Payment will be taken at the time of booking using a debit or credit card. Where authorised to do so by their employer, eligible drivers would associate their account to their employers means of making electronic payments. Within the Council this means, the services' Government Payment Card.

It is not recommended that this should change.

Consultation comment 4

"Overall the amendments disadvantage those without easy internet access (including those who may have access to the internet but do not have the experience or confidence to carry out transactions).

Recent National Statistics (Internet Access Quarterly Update, Q1 2013, published 15 May 2013) show that one in nine (11.5%) of residents in West and North West Outer London have never used the internet. For Brent this is equivalent to around 30,000 residents. Non-internet users are disproportionately concentrated among the old (over a third of people aged 65 and more have never used the internet) and among lower income groups.

It is not adequate to suggest that self-service computers at libraries or the Civic Centre overcome these issues. People who have never used the internet are unlikely to feel confident enough to learn how to use the internet and carry out a parking transaction in a single visit, especially under pressure of time if other users are waiting to use the terminals. The closure of libraries in Brent also means fewer people have easy access to a local library.

The experience of residents who have been unable to get through to apply for permits by phone demonstrates that carrying out transactions by telephone is not a fully acceptable alternative.”

Officer response

The provision of a telephone service for customers to make applications and renewals of their permits was intended to ensure accessibility of the service to customers without computers and Internet access or experience of using the Internet. A combination of high initial demand as customers need help to set up the new arrangements, and very temporary physical limitations on scope for increasing telephone capacity, have caused problems for some customers. These issues will shortly be addressed as the new parking contractor has considerably greater scope for provision of additional phone capacity to expand in line with customer demand. Additionally, new self-service facilities within the Civic Centre and the bigger Wembley library service will further facilitate customer access.

It is not recommended that this should change.

Consultation comment 5

“Amendment (a) unfairly penalises those without bank accounts (who are disproportionately represented among low-income groups and people of south Asian heritage) by imposing an unreasonable 50p surcharge. The flat-rate nature of the surcharge means that short-term parkers are especially affected.”

Officer response

Nowadays it is very difficult to own and run a car on a cash basis. There are virtually no high-street insurance brokers and almost all insurance is offered on a call centre or website model. The use of price differential to incentivise customers of paid-for public services is widespread across London by virtue of the Oyster card model, which does not seem to have significantly disadvantaged any particular ethnic group. It is also thought that for every potentially disadvantaged person of south Asian heritage, there will be many more people of the same heritage that will benefit through the removal of the longstanding 20p supplement for paying electronically.

It is not recommended that this should change.

Consultation comment 6

“The flat rate increase implemented by amendment (d) is excessive and the discount structure unfairly penalises those without access to or experience of the internet. This disproportionality affects older people and low income groups.”

Officer response

This amendment relates to the proposed base rate increase of permits by £50 with cumulative discounts for the following transactions – (i) on-line: £25; (ii) telephone: £5 (£25 for cared-for permits); **plus** (iii) debit card: £25; or (iv) credit card: £20. This is intended to account for avoidable costs incurred through telephone transactions or through higher vendor transaction fees for credit card payments.

Experience with other areas of service indicate that price differentials do not cause access difficulties for those without access to the internet, telephones or debit cards, as the financial incentive is sufficient to make it worth their while to either obtain internet access at home, visit a public access point where help is at hand, or find a relative, neighbour, friend

or carer to do so on their behalf. Furthermore, section 4.3 sets-out a mitigation that no pricing differential be applied in the case of visitor passes as a mitigation in respect of elderly people that receive visitors, but do not have a car, internet or mobile phone.

It is not recommended that this proposal should change.

Consultation comment 7

“The on-line visitor permits introduced in amendment (j) can only be applied for in advance if the householder knows the registration number of the visitor’s vehicle. Clearly this is something that the householder may not know, especially when buying a permit for a builder or other tradesperson. This is a flaw in the system that needs to be overcome.”

Officer response

The scratch card system requires the user to write the registration mark (VRM) of the vehicle on the scratch card. This will often not be known until the visitor arrives, and therefore the new virtual arrangement is almost identical in requiring the VRM to be recorded, but having sufficient flexibility if the VRM is not known until the visitor arrives. The online visitor permit can be purchased in advance by virtue of the householder requesting the visitor’s vehicle registration number in advance.

It is not recommended that this proposal should change.

Consultation comment 8

“Despite the decline in use of cheque they are still an important means of payment for many residents and importantly can be used by people who do not have credit cards and who are unable to or find it difficult to carry out electronic or telephone transactions. The cost of cheque processing will decline anyway over time because of the decline in use and there is no good reason to prevent residents who rely on this form of payment from using it (especially as the Council will continue to process cheques for other payments including penalty charges). I therefore object to amendment (n).”

Officer response

This representation relates to the proposed withdrawal of payment for parking services by cheque except for penalty charge notices, for which different statutory arrangements apply. Cheques are increasingly costly to process, as they require a great deal of manual processing and occasionally bounce. The additional administration costs incurred in cancelling permits in the event of a default in payment make this method of payment more costly and administratively complex to manage. Cheques are not legal tender and the cheque guarantee scheme that banks previously operated, has been completely withdrawn. The Council is realising a very substantial saving by moving to a model of electronic processing into which cheque processing does not fit.

It is not anticipated that this will cause any insurmountable access barrier to the discretionary services, as drivers will almost always have electronic means of payment for car insurance, and the Council has put in place an arrangement that continues to accept cash payments.

It is not recommended that this proposal should change.

Consultation comment 9

Wembley Event Day Permits

“The original issue of Wembley Event Day Permits was based on the fact that they would be given to all respective residents / traders at no cost to the respective applicants at that time and at no cost thereafter. (Note: only some time after (a set period after) the “original” issue of these permits was a small one off “charge” made to any such issue.)

This, “at no cost condition” was given, as clear understanding, and in writing to respective “Wembley Event Day area” residents /traders and stipulated formally within London Borough of Brent’s committee reports and Council “undertakings” at the time of scheme consideration before Committee and at Approval.

Any costs of such a scheme were also not to be funded by “residents / traders” of the respective Event day area” but by other parties (see various letters / agreements between “Wembley stadium and LBB etc.).

It is recognised that a change of vehicle registration incurred a “one off” small administration only cost.”

Officer response

See paragraph 4.4 of the main report.

Consultation comment 10

Wembley Event Day Visitor Permits.

“As above, the “original” application and issue of “visitor” permits was made on a “no cost to residents / traders” basis.

These “original” Visitor permits were given out to qualifying residents on the basis that they were able to be used throughout any declared Event day with no such restrictions as are being proposed.

The aforesaid visitor permit system was / is again covered by such agreement as stated above.

The intent and purpose of these types of “no cost” permits to qualifying residents / traders was to protect them and compensate them against the known knock-on affects of a new build Wembley Stadium, not only within Highway regulations but also within conditions laid down for the Planning approval of the Wembley Stadium itself. As such, any change to these aspects would breach such legal agreements and would need to be formally challenged.”

Officer response

See section 4.4 of the main report.

Consultation comment 11

“During the conception of this “Wembley Event Day Permit Scheme” I led my associations backed up with thousands signing detailed petitions to eventually enable LBB to arrive at the existing Event Day scheme. At that time much consultation with ourselves occurred; no such consultation, either public consultation across the areas affected or through the

Highway Committee has occurred with respect to changes now being proposed by this traffic order.”

Officer response

A notice of the proposed change was published in the Wembley and Kilburn Times, Wembley Observer and London Gazette as required by statute. The proposals were earlier publicly published and debated publicly as part of the September 2012 Executive decision making process. Further publicity and communication will be undertaken prior to the implementation of any agreed changes.

Consultation comment 12

“I am totally opposed to the changes and I feel that as a resident, I am being penalised for the events at the stadium. The times are hard and as a retired person I do not see why I should bear the costs of the events. If the council is short of funds then they should levy the charges to the stadium rather than the local residents and businesses.”

Officer response

There is already a fee in place for Wembley Event Day permit replacements required such as for a move of house or change of vehicle. The change is intended to further protect local residents and businesses that have seen the benefit of protected parking eroded through misuse of visitor permits and event permits by people that are not / no longer locally based.

Consultation comment 13

“The charges to be introduced for the visitors permit are far too expensive and totally unnecessary.”

Officer response

See section 4.3 and 4.4 of the main report.

Consultation comment 14

“I have noticed that in spite of the rates being paid I am getting a fewer services and every where possible the council wants to charge extra for any services provided. I appreciate that the central government subsidy is being reduced and rather than making savings and minimise wastage, the residents are expected to foot the shortfalls.”

Officer response

Through these changes, the Council has been able to change the way it administers and operates its parking services, through use of new technology, more efficient operations, higher productivity and lower infrastructure costs. Over the next five years this is expected to save at least £3.6 million. The fee for the Wembley Event scheme is related to the costs of a revised scheme involving a renewable permit to better protect parking for local people.

Consultation comment 15

*“I would be grateful if you could supply me with details of how the proposals in the above proposed Order will apply to those who (like me) live in the Wembley Event Day permit area and currently have permits for specific vehicles and visitor permits. It not clear to me from reading this proposed Order what exactly is being proposed, the reasons for this and how it will impact on me and others in a similar situation. I have looked on Brent’s website and have found a document entitled “ **Parking in Brent - Our recent and proposed changes**”*

to charges and applications explained” This document is undated but talks about proposals being considered by the Council in July 2013. As far as I can see, it does not relate to the above proposed Order but may relate to another proposed Order published at the same time namely London Borough of Brent - Amendments to Methods of Payment at On and Off Street Parking Places and Other Certain Operating Conditions: The Brent (Parking Places) (Amendment No. *) Order 201*: The Brent (Pay & Display Parking Places) (Amendment No. *) Order 201* (*Several Orders): The Brent (Off-Street Parking Places) (No. *) Order 201*. Is this the case?”

Officer response

The reference to the recent and proposed changes relates to the notices of proposal issued on 9th May 2013 for the various changes outlined in this report. The key change for Wembley Event residents is a proposed move to expiring permits for residents and a proposed move to daily permits for visitors.

Consultation comment 16

“In any event, please could you supply me with a copy of any documents explaining the proposals in the above proposed Order and the reasons for them? If there are any formal documents leading to the tabling of this proposed Order (for example papers to the Council or any of its Committees) and any formal decisions please would you send me details? I would also be grateful to know what consultation, if any, has taken place in relation to what will be introduced by the proposed Order.”

Officer response

The underlying documents - the Executive report dated September 2012 – have been in the public domain for almost a year, and are still accessible on the Council’s website. The Council published notice of the proposals in the Wembley and Kilburn Times, Wembley Observer and London Gazette in accordance with statutory requirements.

Consultation comment 17

“There will be a negative impact on a resident’s quality of life. Daily visitor passes of 4 hours would be grossly inadequate and impractical.”

Officer response

See sections 4.3 and 4.4 of the main report.

Consultation comment 18

“Why are Stadium area residents not allowed the freedom to enjoy the company of their family and friends which other areas enjoy? Stadium area residents are unique in the level of inconvenience which they experience and the existing permit system goes some way to address these difficulties; all of which would be negated by the proposed parking amendments.”

Officer response

This is the purpose of the scheme. It is envisaged that the changes will go a long way to tackling the increasing number of non-local drivers that have found ways of obtaining permits for which they are not entitled, or even for sale to stadium user parking for personal gain, through on street personal sales or even on commercial parking website. It is expected that following introduction of the changes that local people will regain use of local

parking spaces for themselves or their visitors, which are increasingly occupied by stadium users.

Consultation comment 19

“Long term, elderly residents are often without access to the proposed online payment method. For such residents the convenience of local payment points has already been removed, so many might prefer postal (and legal!) cheque payments, which you also plan to remove.”

Officer response

See the Officer response to Consultation comment 8 above.

Consultation comment 20

“The proposed amendments will see an extortionate rise in the cost to residents. The charge of £10 per vehicle long-term is to be replaced by £15 for one vehicle, £40 for two vehicles and £70 for three vehicles; all for a limited period of two years. For a permanent resident this 2 yearly cost is substantial.”

Officer response

The cost is £15 per vehicle. The escalating fees suggested by the consultee have not been proposed, and are possibly the result of confusing the separate Wembley Event zone arrangements with CPZ permit arrangements, where multi-vehicle households do pay higher rates for second and third vehicles.

As regards the proposed two year expiry period, see paragraph 4.4 of the main report. The new recommendation equates to a cost of £5 per vehicle per year or less than 20 pence per vehicle per event.

Consultation comment 21

“The amendments will place day-time parking controls additionally on non-event days, which causes further difficulty to the normal family and social life of residents as well as generating more hidden costs.”

Officer response

The amendments make no changes to controlled parking periods.

Consultation comment 22

“It is incredibly underhanded to restrict the publication of the proposals to a small notice in a paper that is not provided to all residents. Many of the residents do not buy these papers (such as the Kilburn Times) so were not aware of the proposed plans.”

Officer response

The Council published formal notice of the proposals on its website and in the London Gazette in accordance with statutory requirements. We also published details in the local newspapers in the interests of openness and to reach a wider audience. Notice of the proposals was also sent to statutory consultees, and Officers attended residents meetings to discuss proposals as requested.

Consultation comment 23

"We feel that it is disgusting to charge residents of this area to park on event days considering the high level of disruption endured during the extensive development of the Wembley Stadium site. Probably the greatest concern of the residents is the restriction to visitor permits. Many residents do not have access to the internet so would be unable to obtain a visitor permit at the lower cost. In addition to this, the duration of visits from family therefore becomes restricted which, although indirectly, discriminates against those who live in this area; many of whom have done so for many years."

Officer response

The fee is longstanding. It is expected that following introduction of the changes that local people will regain use of local parking spaces for themselves or their visitors, which are increasingly occupied by stadium users. Visitor parking may be called off using a text message or land line telephone call. The changes will firmly discriminate in favour of protecting local parking for local people.

Consultation comment 24

"It is very unclear as to whether the £15 fee covers each household regardless of the number of cars they may have or if the cost would apply per car."

Officer response

Per vehicle.

Consultation comment 25

"Before any of these proposals are implemented the terms and conditions (as well as clearer information about how the visitors permit system can work for all residents) must be made a great deal clearer."

Officer response

Terms and Conditions were reviewed and simplified earlier in 2013. The new terms and conditions are clearly shown on the Council's main parking page of the website <http://www.brent.gov.uk/services-for-residents/parking/>.

Consultation comment 26

"We, the residents, are 100% against these proposals and demand that you rethink the implications of what you are planning."

Officer response

The representations set out above have caused a rethink, and some changes in direction are set out in this report.