

Economy, Skills, Transport and Environment Scrutiny Board

20th July 2017

Parking and Traffic Enforcement Policy 2017

1. Summary Statement

- 1.1 The Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Sandwell) Order 2000 enables Sandwell Metropolitan Borough Council to enforce parking contraventions within the Borough in accordance with approved Policy.
- 1.2 The Parking and Traffic Enforcement Policy was last updated in July 2016. Appropriate policies and procedures have now been investigated and included in the 2017 Parking and Traffic Enforcement Policy concerning;
- The scope of Red Routes enforcement,
 - Parking across dropped crossings
 - The CCTV enforcement of West Bromwich Bus Lane
 - The provision of H Bar and disabled markings
- 1.3 A six week public consultation was approved by Cabinet in June and the will include the following stakeholders groups.
- The Police, Fire and Ambulance Services
 - Neighbouring local authorities
 - The DVLA and the Traffic Enforcement Centre
 - Businesses, Traders and Business organisations
 - Centro and Bus Operators
 - Cycling Groups and Disability groups and the general public
 - Motoring groups and representative organisations
- 1.4 This report seeks support from Scrutiny Board on the amendments to the Parking and Traffic Enforcement Policy that includes new provisions to meet technical requirements and a number of requests from members, MP's and the public. Any significant changes arising from representations as a result of public consultation would require a new cabinet approval and a new public consultation. This would significantly delay the implementation of the required changes.

2. Recommendation

- 2.1 That Scrutiny Board consider the changes to the Parking and Traffic Enforcement Policy 2017 outlined in the report.
- 2.2 That comments and observations made by the Board as part of the consultation process be referred to the Director – Regeneration and Planning for inclusion in a further report to the Cabinet Member for Highways and Environment.
- 2.3 That Scrutiny Board advise if there are any matters that would merit further research for inclusion and consideration in a future revision of the Policy.

Director – Regeneration and Planning

Contact officer

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3. Strategic Resource Implications

- 3.1 The cost of public consultation into the Parking and Traffic Enforcement Policy and Procedure 2017 is estimated to be £2,000 and will be funded from existing budgets.
- 3.2 The principal risks of not having an up to date parking and Traffic Enforcement Policy are mainly reputational through lack of full compliance with Statutory Guidance. This could also potentially extend to adverse decisions from the Adjudication Service when considering formal appeals to Penalty Charge Notices. Decisions against the Council can impact on effective enforcement and in the extreme could be referred to the Local Government Ombudsman. A reputational and financial risk may be associated with the enforcement of drop kerbs as follows.
- 3.3 Section 86 Traffic Management Act 2004 and the Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Sandwell) Order 2000 enables the Council to prohibit parking on dropped kerbs subject to the exceptions as detailed in the Traffic management Act 2004. Under the operational guidance provided by the Department of Transport it would seem that the Council does not need to have a specific traffic regulation order in force to enable fixed penalty notices to be issued. Under the paragraph 18 of the Local Authorities' Traffic Orders (Procedure) (England and Wales) (Amendment) (England) Regulations 2009 no signs need to be placed warning drivers of the prohibition.
- 3.5 The British Parking Association advises that Chief Adjudicator for England and Wales has argued in previous adjudications, where local authorities have carried out such enforcement, that it is necessary to use road signs to indicate that the contravention will be enforced. However the Traffic Signs Regulations and General Directions 2016 does not prescribe a sign for this purpose. Although Coventry, Herefordshire, Derby and Derbyshire Councils confirm that they are currently enforcing parking alongside drop kerbs without signs.
- 3.6 The potential reputational and financial risk is associated with a formal appeal and adjudication decision against the Council that could result in the repayment of any penalty charges collected when enforcing drop kerbs.

4. Legal and Statutory Implications

4.1 Under the part 2 of Schedule 8 of the Traffic Management Act 2004 and Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Sandwell) Order 2000 the Council is designated as a civil enforcement area to carry out enforcement activities relating to parking contraventions within the Borough. In addition the Council has a duty to ensure expeditious movement of traffic on the network, improve road safety and improve the quality and accessibility of public transport under the Road Traffic Act 1991 and Transport Act 2000 Traffic Management Act 2004.

4.2 Relevant Legislation and Statutory Guidance

- Road Traffic Regulation Act 1984
- Traffic Management Act 2004
- Civil Enforcement of Parking Contraventions (England) General Regulations 2007
- Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007
- The Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000
- Traffic Signs Regulations and General Directions 2016 ('TSRGD')
- Road Traffic Act 1991
- Transport Act 2000
- The Secretary of State's Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions issued in March 2015
- Operational Guidance to Local Authorities : Parking Policy and Enforcement
- Right to Challenge Parking policies ; Network Management Duty Guidance

4.5 The Operational Guidance to Local Authorities makes it clear that an essential and integral part of any system is an effective policy. This should set out the objectives of the system and the rules it will follow. Authorities are advised and should ensure that they produce (or adopt) and follow a policy. The policy should make sure that Enforcement Services deal properly with issues such as privacy, integrity and fairness. It should set minimum standards to help ensure public confidence in the scheme. The guidance also suggests that the public should be informed through the Authority's web-site, advertising and writing to schools and local businesses before enforcement commences.

5. Implications for Council's Scorecard Priorities

The benefits associated with an effective parking enforcement service assist in meeting the Council's scorecard priorities as follows.

- Contribute towards the safety of the children particularly around schools within the borough as well as the disabled.
- Mitigate unsafe, illegal and inconsiderate parking, reducing traffic congestion, whilst maintaining good access and improving safety which will have a positive effect on Sandwell as a good place for local communities and visitors.
- Provide effective enforcement around all our schools and improve the quality of life for communities, including the children, the disabled and the elderly.
- Support the Parking Policy as a key element of the Council's overall Transportation Strategy, for which environmental considerations are an integral element.
- Meeting regional and council priorities for sustainable travel, modal shift and carbon reduction.

6. Background Details

The approved changes will provide an effective 2017 Parking and Traffic Enforcement Policy.

Reference Documents

Proposed changes to sections 4.9, 4.10, 5.8, 5.10, 5.13 and 6.14 of the attached 2017 Parking and Traffic Enforcement Policy.