

Subject:	Emergency Active Travel measures - Blue Badge holder parking and access for disabled people		
Date of Meeting:	24 November 2020		
Report of:	Executive Director Economy, Environment & Culture		
Contact Officer:	Name:	Mark Prior	Tel: 01273 292095
	Email:	Mark.Prior@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT**

- 1.1 On 29 September the Environment, Transport and Sustainability Committee heard a deputation about the impact of the Council's Covid-19 Urgent Response Transport Action Plan on Blue Badge parking and disabled access in the city. The deputation specifically cited the disproportionate effects the temporary transport changes are having on disabled people and questioned whether the Council is meeting its Public Sector Equality Duty.
- 1.2 A request was made for urgent reparation that would enhance outcomes for disabled people in both tranches of emergency active travel measures and reflect the Council's Public Sector Equality Duty.
- 1.3 At the Committee's request this report provides an overview of the action taken to address the issues raised in the deputation. It outlines the approach being taken to meeting the specific needs of Blue Badge holders and disabled people, as well as the interests of the community as a whole and other road users. Achieving this balance is a means of meeting the Council's wider duty of care to all transport users in relation to the pandemic and road safety, as well as the Public Sector Equality Duty.

2. RECOMMENDATION

That the Committee:

- 2.1 Note the action being taken to address the issues raised in the deputation on Blue Badge holder parking and access for disabled people.
- 2.2 Note that this action is not considered to breach the Council's obligations under the Public Sector Equality Duty.

3. CONTEXT / BACKGROUND INFORMATION

- 3.1 In May the government formally recognised the importance of active travel in helping limit the spread of Coronavirus by reducing people's reliance on private vehicles and avoiding overcrowding on public transport; a national Emergency

Active Travel Fund was announced and Local Authorities were instructed to meaningfully reallocate road space to pedestrians and cyclists. As part of this councils were given emergency powers to swiftly implement changes using online notices, rather than traditional forms of consultation.

- 3.2 Working under this government imperative the Council developed a Covid-19 Urgent Response Transport Action Plan (the 'Transport Action Plan'), with the aims of helping vulnerable people in the city and promoting health and wellbeing; making essential journeys safer; supporting the local economy; and ensuring the transition to a carbon neutral city by 2030. The Plan sets out the transport measures the Council will implement to promote and facilitate active travel and support the city's recovery from the Covid-19 pandemic.
- 3.3 In June the Council was awarded more than £660,000 from the Emergency Active Travel Fund to deliver a first tranche of changes from the Transport Action Plan within eight weeks. This included widening pavements, installing temporary cycle lanes and restricting vehicles in busy areas. Whilst the opportunity to consult on these measures was limited, most of the schemes have been introduced using the Experimental Traffic Regulation Order (ETRO) process, which allows for ongoing consultation whilst the schemes are in place and gives scope for alteration based on public feedback.
- 3.4 The latest version of the Transport Action Plan was agreed by the Environment, Transport and Sustainability Committee on 29 September, informed by an updated Equality Impact Assessment. A second tranche of transport changes under the Transport Action Plan are planned for delivery in the coming months, subject to further funding from the Emergency Active Travel Fund being announced.
- 3.5 Although many have shared their views on the positive impacts of the changes to-date, some concerns have been raised by disabled people and representative groups, particularly regarding the impact on disabled car users. Their experiences of distress and upset have been communicated strongly and there have been calls for the Council to restore and improve disabled access and parking where changes have been made, in recognition that disability is a protected characteristic under the Equality Act 2010 and the Council's Public Sector Equality Duty.

4. THE PUBLIC SECTOR EQUALITY DUTY

- 4.1 The Government has made it clear that the Public Sector Equality Duty (PSED) continues to apply as emergency active travel measures are planned and implemented in response to Covid-19. The needs of people with protected characteristics under the Equality Act, including those with disabilities, must be considered when making temporary or permanent changes to the transport network.
- 4.2 The duty means that the Council must have due regard to the need to eliminate unlawful discrimination, advance equal opportunity, and foster good relations between people with protected characteristics and those without. This is particularly important as the harms of Covid-19 are being felt more so by some than others.

- 4.3 In practice this means considering the impact of proposals on those with protected characteristics and, where possible, identifying ways to remove or minimise the disadvantages suffered by them. This can include taking steps to meet the different needs of people from protected groups and encouraging people from protected groups to participate in public life. In doing this, public authorities may treat some groups more favourably than others.
- 4.4 However, a fair and proportionate balance must be found between the needs of people with protected characteristics and the interests of the community as a whole. If an action can be justified as a proportionate means of achieving a legitimate aim, e.g. the health, safety and welfare of people, it is not considered unlawful. The emergency active travel changes implemented under the Transport Action Plan are considered necessary to help limit the spread of Coronavirus and are therefore, a proportionate means of achieving that aim.
- 4.5 To ensure the impact of these changes is considered, an Equality Impact Assessment was carried out on the Transport Action Plan and this informed the Committee's initial decision to take forward schemes in June. This was based on available data and public feedback received at the time, as well as key messages from engagement with stakeholders. Disability groups had been engaged with the Council's Local Cycling and Walking Infrastructure Plan and feedback from this was used. However, ongoing direct engagement with stakeholders and community groups, which is now a priority for implementation, and feedback from the public is helping to update the assessment as measures are planned and implemented, and this Equality Impact Assessment will continue to be updated and shared with members and affected groups in order to inform their decisions.

5. BLUE BADGE HOLDER PARKING AND DISABLED ACCESS

- 5.1 The deputation heard at September's committee raised a number of specific concerns about the negative impacts of the temporary transport changes on Blue Badge holder parking and access for disabled people. An update on the Council's response to these issues is outlined below.

A259 Cycle Lane (TRO-14& 14a)

- 5.2 In August a temporary on-road cycle lane was installed from the Palace Pier roundabout to Fourth Avenue in Hove, removing a westbound traffic lane on the A259. A small section has since been removed following feedback about significant delays caused on public transport by increased congestion along the route.
- 5.3 Although as much parking as possible was retained on the southern side, approximately 60% of permit/shared and pay & display parking spaces were removed to accommodate the temporary change. All parking on the north side of the road remains unchanged and the total number of Blue Badge parking bays have not changed, although they have been offset from the kerb to ensure the cycle lane can run uninterrupted.

- 5.4 In designing the changes to the A259 careful consideration was given to addressing pre-existing disabled parking bay issues, as well as ensuring the new bays meet recommended highway design standards. The new disabled bays are longer and wider than the previous bays, providing greater access for vehicles unloading from the rear, and include a 'buffer zone' for car doors opening on to live traffic or the cycle lane. Hazard road markings demarcate the bays, providing a clear, visual message for other road users and helping to calm traffic and cycle speeds as they pass the bays. More zebra crossing points increase awareness of people crossing the road to access the parking bays and dropped kerbs provide improved wheelchair access. Consideration was also given to the width of the temporary cycle lane, to increase accessibility for a range of cycles, including adapted cycles and cargo bikes.
- 5.5 Whilst the independent Road Safety Audit carried out on the design of the scheme highlighted no safety concerns about the offset disabled parking bays, the use of these parking spaces is being monitored and officers have committed to reviewing the bays with the concerns highlighted in mind. A second independent Road Safety Audit has been undertaken on the implemented scheme and will be complete once a response is issued by the Authority. This will inform the future monitoring and design of the scheme, including whether any alterations should be made.
- 5.6 Senior officers and project managers leading on the implementation of schemes are meeting regularly with community group representatives, including the pan-disability charity PossAbility People, Pedal People and the recently formed local action group Brighton Access for Disabled Groups (BADGE). These discussions are ensuring there is an enhanced focus on issues faced by disabled people and those with mobility issues, and that action is taken as promptly as possible to better meet the needs of those groups
- 5.7 Additionally, the Council is formally working in partnership with PossAbility People as part of its Third Sector Investment Programme, to look at the experiences of Blue Badge holders and any negative outcomes felt as a result of the temporary transport measures. This will further help to reduce the risk of disproportionate impacts and help to improve the inclusivity of these changes.

Madeira Drive closure (TRO-17 & 17a)

- 5.8 Madeira Drive was closed to motor vehicles between the Palace Pier roundabout and Dukes Mound in April to provide more outdoor space for people to exercise safely and socially distance during the most stringent period of lockdown. The closure was initially implemented under a Temporary Traffic Regulation Order (TTRO) on the grounds of public safety, as vehicles travelling in the area were doing so at increased speeds because of reduced traffic during lockdown. In June, the TTRO was replaced with an ETRO to allow for ongoing consultation and adaptations, and the closure point was moved to the bottom of Dukes Mound to restore access to Black Rock car park and some on-street disabled parking.
- 5.9 Whilst the road was closed essential access for businesses and emergency services was maintained and controlled from 8am to 8pm. Blue Badge holders were able to request access to the area use the accessible Changing Place toilet at the Colonnade. Other vehicle access was restricted to ensure that all those using the unregulated road space could do so safely.

- 5.10 In light of changing government restrictions on movement, and the concerns raised by disability groups and traders about the long-term effects of closing Madeira Drive, the Environment, Transport and Sustainability Committee agreed to re-open the road one-way in September. This change creates a single traffic lane for motorists, a segregated lane on the carriageway for cyclist and a clear pavement space for pedestrians. Crucially, it reinstates the same number of Blue Badge bays as pre-closure numbers (14 in total).
- 5.11 The reopening is taking place in two stages; the first stage was completed in mid-October following considerable engagement with businesses, disability groups and other key stakeholders on the design of the new layout. A TTRO was used to expedite this stage, and further improvements will follow under an ETRO as part of a second stage later in the year which will increase the number of Blue Badge parking bays compared with pre-closure numbers.

Old Town vehicle restrictions (TRO-11)

- 5.12 The Old Town (“The Lanes”) are a narrow series of roads and interlinking passageways that have high pedestrian footfall and very narrow footways. A 24-hour experimental traffic restriction was put in place in July to stop vehicles using the area except for access by residents, businesses, taxis, and Blue Badge holders. Some pavements were also widened by removing pay & display parking bays and relocating loading and Blue Badge spaces. The restrictions are supporting cyclists and pedestrians to physically distance and helping businesses to reopen by utilising the additional provision of outdoor space.
- 5.13 The extent of Blue Badge parking overall in the Old Town has increased as a result of the temporary changes. Under the ETRO 19m of parking space along Bartholomews has been reallocated to Blue Badge holders, significantly increasing provision in that area. Whilst the ETRO plan details 8 standard bays in this stretch, the bays have been marked wider to account for the space needed by disabled people using a car users.
- 5.14 Some disabled parking bays in the Old Town have been limited to 3 hours as this is an area where increased access to shopping and leisure services is required. The time limits provide more opportunities for different Blue Badge holders to park throughout the day. The bays and are not expected intended to be used by people for accessing the workplace. Employers are required to make reasonable adjustments for disabled workers, and they should not rely on publicly available disabled parking to meet their needs, as there is always the risk that these spaces will be in use.
- 5.15 However, in light of feedback from disability groups, the number of Blue Badge parking bays in the area will be increased and a mixture of timed and untimed bays will be installed. These changes will be implemented before the end of November and the ETRO amended accordingly.

St James’s Street, London Road, Church Road vehicle restrictions (TRO-16)

- 5.16 In June the pavements in busy shopping streets, with restricted footway widths and well-used bus stops, were widened to enable pedestrians to pass one another safely and in line with government guidance. This resulted in the removal of some pay & display parking, disabled parking bays and taxi ranks.
- 5.17 Whilst changes were made to Blue Badge bays in St James's Street the lengths of all day and time restricted bays are broadly similar to the original bays.
- 5.18 In response to direct feedback from disability groups a location on London Road has been identified for reinstating Blue Badge parking bays and increasing provision with an extra disabled bay. The ETRO has been amended, and changes were implemented by the end of October.

Sydney Street, Gardner Street vehicle restrictions (TRO-12 & 12a)

- 5.19 In July the existing weekend closures of Sydney Street and Gardner Street were extended to include weekdays. This has provided more space for people to walk and cycle in these high footfall areas and supported local businesses to reopen by utilising the outdoor space. Gates on the roads are used to enforce the closure, ensuring that no vehicles can enter outside the closure hours.
- 5.20 Whilst the road closures have provided additional space for outdoor furniture, businesses must still apply for a licence to use this. The Council's Highway Regulation team reviews each application and agrees specific conditions with applicants regarding their use of the space, including the exact square meterage they can occupy. As part of this process careful consideration is given to the impact of street furniture on pedestrians and cyclists using the shared space, including those with disabilities. The Highway Regulation team regularly inspects these areas to ensure businesses are not breaching their licence conditions and licences can be revoked at any time. Members of the public can also report issues and obstructions directly to the team via the Council's website and/or the switchboard. These reports are investigated within 10 working days.
- 5.21 As soon as the need for resident disabled access on Gardner Street was identified, action was taken to support this in the interim and the legal process for amending the ETRO was started and came into force on 21 August. The gate at Gardner Street is now also wider to facilitate access for Blue Badge holders but to discourage other vehicle users from accessing the area.

New Road vehicle restrictions (TRO-15)

- 5.22 In July an evening closure of New Road was introduced between 5pm and 11pm every day with the aim of supporting local businesses to reopen and utilise the outdoor space for additional seating. The change means that Blue Badge holders are not able to use the three timed Blue Badge parking bays on New Road during the closure period. The temporary closure was to be reviewed and linked to the possible re-opening of the theatre.

- 5.23 Blue Badge parking provision in the New Road area has been reviewed and due to the nature and layout of the roads it has not been possible to identify a suitable alternative for relocating the disabled parking bays. Officers are engaging with businesses on New Road regarding its ongoing closure to further understand their need for outdoor space, particularly heading into the winter months. Use of disabled parking nearby is being monitored and this will inform a decision about whether to lift the vehicle restrictions in the coming weeks

6. CONCLUSION

- 6.1 The temporary changes to the city's transport network have been designed to increase accessibility for all during the pandemic and respond to the government instruction to swiftly reallocate road space to cycling and walking. However, feedback from members of the disabled community and representative groups is suggesting the changes are having particularly negative effects on disabled car users. They have raised concerns about these unfair impacts and called for the Council to better address the needs of disabled people in line with the Public Sector Equality Duty.
- 6.2 The ETRO process is supporting ongoing consultation and enabling the Council to flexibly adapt the changes based on this direct feedback. As described, the process is already being used proactively to increase accessibility and respond to concerns raised by disability groups and the wider public.
- 6.3 An Equality Impact Assessment is ensuring that potentially disproportionate impacts on all groups with protected characteristics, including disabled people, are identified and mitigated where possible and proportionate to do so. As a priority, Blue Badge parking and disabled access is being retained or relocated nearby, footway obstructions are reduced as much as possible, and cycling facilities are designed with disabled users in mind.
- 6.4 The Council has a duty of care for all transport users and must balance their range of needs. There are more than 13,500 Blue Badge holders in the city although not all disabled people have Blue Badges or access to a car. More than one in 20 residents say their day-to-day activities are limited because of a long-term health problem or disability. It is therefore important that the active travel measures are informed by as many different disabled voices as possible. This is happening via the ETRO process, ongoing engagement and partnership work with disability groups, and will take place for future measures via a period of formal consultation ahead of implementation.

7. FINANCIAL & OTHER IMPLICATIONS

Financial Implications:

- 7.1 The actions and activities contained within this report are funded from the Emergency Active Travel Fund grant or from within existing budgets. Therefore, there are no financial implications or additional budgetary pressures for the council arising from this report.

Finance Officer Consulted: Jill Fisher

Date: 26/10/20

Legal Implications:

- 7.2 Under Section 149 of the Equality Act 2010 a public authority must in the exercise of its functions have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This is known as the Public Sector Equality Duty (PSED).
- 7.3 A fair and proportionate balance has to be found between the needs of people with protected characteristics and the interests of the community as a whole. Case law has held that achieving such a balance is not a breach of the PSED and that there is no prescriptive way to evidence due regard. The measures taken by the Council under the Transport Action Plan were those necessary to achieve the objective of helping to limit the spread of Coronavirus and were a proportionate means of achieving a legitimate aim.
- 7.4 The actions detailed in this report demonstrate that the Council is continuing to comply with the Public Sector Equality Duty when regulating traffic by way of the traffic regulation orders made in accordance with the Transport Action Plan.

Lawyer Consulted: Stephanie Stammers

Date: 27/10/20

Equalities Implications:

- 7.5 Statutory guidance issued in May reiterates that the Public Sector Equality Duty continues to apply as Councils make changes to their road networks in response to Covid-19, and the needs of disabled people and those with other protected characteristics must be considered. Accessibility requirements apply to temporary measures as they do to permanent ones.
- 7.6 The report details how the Council is considering and mitigating, where possible, any disproportionate impacts of the transport changes on people with protected characteristics and meeting its Public Sector Equality Duty, particularly in relation to disabled people.

Sustainability Implications:

- 7.7 The emergency active travel measures improve the transport network for all users by supporting sustainable modes of travel.

Public Health Implications:

- 7.8 The transport measures are supporting public health by enhancing opportunities for physical distancing, exercise and safe travel during the pandemic. Active travel provides both mental and physical health benefits and the transport measures therefore support the implementation of the Brighton & Hove Health and Wellbeing Strategy.

Corporate / Citywide Implications:

- 7.9 The Council is committed to ensuring the city is a fair and inclusive place for everyone, listening to and working with all communities to make it a great place for people to live and thrive. A key part of this is improving access to the city and Council services for people with physical, sensory and learning disabilities.
- 7.10 Whilst the transport changes have been designed and implemented with accessibility in mind, ongoing engagement with disabled groups is highlighting some disproportionately negative impacts and the Experimental TRO process is enabling the Council to address these flexibly.

SUPPORTING DOCUMENTATION

Appendices

None

Background Documents

1. Environment, Transport and Sustainability Committee, 29 September 2020 - Deputation: Blue Badge Parking/Disability Access
2. Covid-19 Urgent Response Transport Action Plan Equalities Impact Assessment (Sep update)

