

Subject:	New Road Traffic Regulation Order		
Date of Meeting:	5 July 2011		
Report of:	Strategic Director Place		
Contact Officer:	Name:	Jim Mayor	Tel: 294164
	Email:	jim.mayor@brighton-hove.gov.uk	
Key Decision:	No		
Ward(s) affected:	St Peters & North Laine		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 20 New Road was recently converted into a restaurant, 'The Courtyard', by the leaseholder. The leaseholder made requests for the disabled bay immediately outside The Courtyard to be removed, on the basis that the bay was putting his business under severe pressure. The council turned down initial requests for a range of reasons. However, in light of the leaseholder's claim that a refusal to remove the bay would cause his business to fail, and a deputation to Cabinet on 11 November 2010, a decision was made to advertise a Traffic Order for removal of the bay. This process would enable any objections to be made, which in turn would enable the council to make a transparent, fair and democratic decision as to whether the bay should be removed.
- 1.2 The following report sets out the history of the case, summarises the arguments for and against removing the bay, and reaches a conclusion that the fairest decision is to turn down this request and retain the disabled parking bay in its current location.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member for Transport and Public Realm upholds the objections to the proposed Traffic Order, and maintains the disabled parking bay outside 20 New Road

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Historic requests for removal of the bay and reasons for refusal

- 3.1 Various requests have been made by and on behalf of the freeholder and lessee of 20 New Road to relocate one of the disabled (Blue Badge) parking bays in New Road so that the space can be used for outdoor tables and chairs. The requests have been turned down.

- 3.2 The first request regarding potential removal of the bay came from the freeholder / freeholder's agent in May 2009, prior to 20 New Road being let to the current leaseholder. The agent asked if it would be possible to remove the disabled bay and license the area for outdoor tables / chairs if the lease for the building was taken on by a restaurant. The council replied that this would not be possible for a number of reasons. These are set out in appendix 1. The reasons can be summarised as falling into the following categories (in no order of importance):
- 3.2.1 **Difficulties with finding an alternative location for the bay:** There are no practical locations within New Road that could accommodate a relocated bay. Because New Road does not have the same amount of restrictive signing and lining "clutter" that is evident in a standard street, it can appear that some areas have no designated use. However, the current layout of New Road is carefully designed to accommodate all needs of the street and its users. This includes provision of informal loading areas which are suggested by lack of street furniture, rather than explicit markings.
- 3.2.2 **The need to balance needs:** It is important that New Road operates as successfully as possible for all users. The disabled bays in New Road help make New Road accessible for people with mobility impairments. Removing a bay would impact on this group.
- 3.2.3 **Precedent:** Similar requests from other businesses in New Road had previously been turned down. Most recently the Treatment Rooms (21 New Road) had also asked for a disabled parking bay to be removed due to the detrimental impact of vehicles parking in front of the business. Even if the council supported the request to remove the disabled bay outside 20 New Road and could find an alternative location (which is not possible for the reasons set out in 3.3), in the spirit of fairness that location would have to be offered to accommodate the Treatment Rooms' request before it could be used for a relocated bay from outside 20 New Road.
- 3.2.4 **Principle:** It is not possible or practical to let businesses dictate aspects of street design when they take a lease in a street. Such an approach would be unsustainable – businesses come and go. Nor is the Council under any legal obligation to grant a business a licensed area on the street.
- 3.2.5 **Cost and Impact:** Relocating or removing the bay would involve digging up all the granite in the existing (and if practical new) location, as the disabled bay is marked out using granite slabs not ordinary line markings. This is not impossible but would be very expensive, and would likely impact negatively on the quality of what has become one of the city's most prestigious streets.
- 3.3 The current leaseholder ultimately took on the lease of 20 New Road and requested to have the bay removed in May 2010. The request was turned down for the same reasons previously provided to the Freeholder / Freeholder's Agent (as set out in appendix 1). A follow up request, in which the leaseholder claimed that if the bay were not removed his business would likely fail, was also turned down. This led to the leaseholder approaching Cabinet in November 2010 to request that the decision was revisited.

The Compromise

- 3.4 The council was sympathetic to the leaseholder's situation, but also aware of its obligations to ensure that New Road worked for all users. Given the nature of the leaseholder's claims as to the implications of not agreeing his request, the Council decided that there would be an opportunity to treat the case as an exception in respects of concerns around principle. The Treatment Rooms indicated that their problem with blue badge bays had been resolved by the placing of a 3 hour limit, and that they were now happy for the bay outside 21 New Road to be retained. This overcame the issue of precedent. The leaseholder agreed to meet the costs of a Traffic Order and any subsequent works that would enable the bay to be removed and potentially relocated, overcoming the issue of cost if not impact. The remaining cause for refusal was the need to accommodate all the street's users, which included people with mobility difficulties who used the disabled parking bays. It would not be ethical or democratic for the Council to waive this issue. It was agreed that the best way forward would be to advertise the Traffic Order and consider the leaseholder's request against any resulting objections. This would enable any final Council decision to be democratic and transparent.

The Traffic Order

- 3.5 Having considered various options (set out in appendix 2), the Traffic Order was advertised to convert New Road's 4 existing individual disabled parking bays into a single 15 metre disabled parking area. In theory this reduced disabled parking in New Road by 1 place, as a 15 metre parking strip should be adequate for three vehicles. The strip would run from southernmost edge of the existing bays to a point just short of the southern threshold of 20 New Road. (The Council's Road Safety team advised that leaving a single parking bay between a new area of seating outside the Courtyard and the existing seating outside Pinocchio's would be unsafe).

Response to the Traffic Order

- 3.6 During the consultation process, the Council received no communications in support of, and 14 objections to the proposed removal of a bay. One response supported the proposal "only if" alternative provision for two bays could be found elsewhere in New Road. The objections are reproduced in their original form in appendix 3. The provisional supporting representation is attached as appendix 4, the response to that representation is attached as appendix 5.

Conclusion & Recommendation

- 3.7 The responses to the Traffic Order reveal a substantial amount of opposition to the request to convert the bay outside 20 New Road.
- 3.8 The Council has sought to make this decision in an open and democratic way. It is on this basis that the recommendation is made to uphold the objections to the Traffic Order, and maintain the bay in its current location.

4. CONSULTATION

- 4.1 The Council has carried out standard consultation for a case of this nature.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 All costs for advertising the Traffic regulation order, changes to signs and lines will be paid for by the leaseholder. The only Council contribution will be in Officer time and this will be funded from with the current available budget.

Finance Officer Consulted: Alasdair Ridley Date: 10/06/11

Legal Implications:

- 5.2 The Council's powers and duties under the Road Traffic Regulation Act 1984 must be exercised to secure the expeditious, convenient and safe movement of all types of traffic and the provision of suitable and adequate parking facilities on and off the highway.
- 5.3 Under section 122 of the 1984 Act, the Council has the duty to exercise the functions conferred on them having regard so far as is practicable to the following:
- (a) the desirability of securing and maintaining reasonable access to premises;
 - (b) the effect on the amenities of any locality affected including the importance of controlling the use of the roads by heavy commercial vehicles;
 - (c) national air quality strategy;
 - (d) facilitating the passage of public service vehicles and the safety/convenience of persons wishing to use; and
 - (e) any other matters appearing relevant to the local authority.
- 5.4 Before making Traffic Orders, the Council must consider all duly made, unwithdrawn objections. In limited circumstances it must hold public inquiries and may do so otherwise. It is usually possible for proposed orders to be modified, providing any amendments do not increase the effects of the advertised proposals. The Council also has powers to make orders in part and defer decisions on the remainder.

Lawyer Consulted: Carl Hearsum Date: 10/06/11

Equalities Implications:

- 5.5 The decision reflects the need to consider needs of all users in the public realm. Highway policies (such as the policy on Blue Badge Parking Spaces) are subject to an Equalities Impact Assessment. Due to their volume, it is not usual practice to undertake an Equalities Impact Assessment for each individual Traffic Order. In the case of the New Road Traffic Order, the request to remove the disabled parking bay originated from a third party, and not from the council. Having considered the underlying reasons for having the disabled bays in the first place, and considered the objections to the proposed removal of a disabled parking space, officers are recommending that the request should be refused. On this basis, it is not considered to be best use of time to undertake an Equalities Impact Assessment to assess the impact of something that is unlikely to happen. However, if the Cabinet Member for Transport and Public Realm decides not to

follow the officer recommendation, an EIA would be undertaken prior to the bays being altered.

Sustainability Implications:

- 5.6 There is no sustainability implication for the decision.

Crime & Disorder Implications:

- 5.7 There is no sustainability implication for the decision.

Risk and Opportunity Management Implications:

- 5.8 The leaseholder has indicated that his business may fail if the bay cannot be moved. The council has considered options to support the leaseholder, but cannot place business needs above those of existing disabled users.

Corporate / Citywide Implications:

- 5.9 There is no corporate / citywide implication for the decision.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Alternative options are set out in Appendix 2

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The public consultation process for the Traffic Order indicates that supporting the leaseholder's request to convert the disabled parking bay outside the Courtyard would have a significant impact on the ability of less mobile people to use the street.
- 7.2 New Road's success is due to its ability to balance and accommodate the needs of various uses and users within a finite space. Although sympathetic to the leaseholder's case, the Council cannot support removal of disabled parking provision due to the resulting impacts that the consultation process has identified.

SUPPORTING DOCUMENTATION

Appendices:

1. Reasons given to Freeholder / Freeholder's Agent in May 2009 for not relocating / removing the Disabled Parking Bay
2. Alternative Options and Arguments for and against the TRO approach
3. Objections to the Traffic Order
4. Planning for People with Disabilities provisional support
5. Response to Planning for People with Disabilities objection & alternative suggestions
6. Federation of Disabled People Objection

Documents in Members' Rooms

None

Background Documents

None