

	<p><b>Environment Committee</b></p> <p><b>21 January 2019</b></p>
<p style="text-align: right;"><b>Title</b></p>	<p><b>Update Report - North Finchley Controlled Parking Zone (CPZ)</b></p>
<p style="text-align: right;"><b>Report of</b></p>	<p>Chairman of the Environment Committee</p>
<p style="text-align: right;"><b>Wards</b></p>	<p>All</p>
<p style="text-align: right;"><b>Status</b></p>	<p>Public</p>
<p style="text-align: right;"><b>Urgent</b></p>	<p>No</p>
<p style="text-align: right;"><b>Key</b></p>	<p>No</p>
<p style="text-align: right;"><b>Enclosures</b></p>	<p>Appendix A – Drawing of Option 2 Appendix B – Locations of proposed ‘at any time’ waiting restrictions</p>
<p style="text-align: right;"><b>Officer Contact Details</b></p>	<p>Phillip Hoare Head of Parking and Infrastructure <a href="mailto:phillip.hoare@barnet.gov.uk">phillip.hoare@barnet.gov.uk</a></p> <p>Jamie Cooke, Interim Assistant Director Transportation and Highways <a href="mailto:jamie.cooke@barnet.gov.uk">jamie.cooke@barnet.gov.uk</a></p>

## Summary

This report updates Committee on the actions to date to implement the Committee resolution on 13<sup>th</sup> September 2018 for the Members Item from Councillor Schneiderman concerning operational changes to the FN Controlled Parking Zone (CPZ) in North Finchley.

At the meeting on 13<sup>th</sup> September the committee resolved as follows:

“1. Councillor Alan Schneiderman – North Finchley CPZ Councillor Schneiderman introduced the item and requested that the Committee supported his Member’s Item. The chairman moved that the item be voted on as circulated. Following the vote the Committee,

RESOLVED to approve the implementation of an experimental mini zone covering Highwood Avenue, Limes Avenue and Frederick’s Place from 9:00am – 9:30pm Monday to Sunday. Following a review period of up to 1 year, a public consultation process will begin, (the area

of which will be delegated to the Chief Officer, in consultation with Local Ward Councillors to agree perimeter controls in the area).”

Following the meeting it has not been possible for the officer to agree with ward councillors regarding the area and appropriate perimeter controls.

The report provides more detailed information on the options open to members and details differences of the implications of the recommendation.

It sets out a recommendation which will progress the matter and offer the intended benefits to residents in the three streets, whilst not disadvantaging residents in the wider FN Zone. The recommendation is also compliant with the traffic management aims that all CPZ schemes are required to meet.

## **Officers Recommendations**

1. To approve the publication of Experimental Traffic Management Orders (TMOs) to change the hours of control within Highwood Avenue, Limes Avenue and Frederick’s Place to Monday to Sunday, 9:00am-9:30pm, as shown in Appendix A, and implement the scheme accordingly.
2. To approve the publication of Experimental TMOs to introduce at any time restrictions in the North Finchley area as outlined in Appendix B, and implement the restrictions accordingly.
3. That any objections to the Experimental Traffic Management Orders referred to in 1 and 2 above in the first six months will be considered by the Strategic Director for Environment in consultation with the Ward Councillors, and a decision made, by way of a Chief Officer Decision, on whether the measures should be made permanent or not, and if so, with or without modification.

### **1. WHY THIS REPORT IS NEEDED**

- 1.1. The Council had a long-standing objective to review the roads in the vicinity of Solar House on High Road in North Finchley as the development of this building into a Church is taking place. The development was noted to have potential to attract additional motor vehicle journeys and as part of the planning process a review of the local CPZ was agreed.
- 1.2. The pace of development saw the expected opening date for the Church offices brought forward and therefore the Council implemented changes to extend the CPZ hours to provide fuller coverage in the evenings and at weekends by use of an experimental TMO. The extent of this control was wider than the above mentioned three roads. The Church will open fully in the autumn of 2019.
- 1.3. Experimental TMOs provide for implementation of controls after making the required notice and may last for no more than 18 months. The comments and objections received during this time form part of the consultation on the TMO. At the end of the period, or earlier if determined, the TMO can either be made

permanent or ended, with due regard to the comment received during the period it is in place.

- 1.4. In this case the comment that was received around the change meant that the Council elected to consider the matter further and whilst doing so ended the experimental TMO and reverted to the previous controls.
- 1.5. The matter of extended controls was raised as a Member's Item by Councillor Schneiderman at the September 2018 Environment Committee, the details of which can be found at the Council's website here:  
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=695&MId=9477&Ver=4>
- 1.6. The Committee resolved as follows:  
  
*"to approve the implementation of an experimental mini zone covering Highwood Avenue, Limes Avenue and Frederick's Place from 9:00am – 9:30pm Monday to Sunday. Following a review period of up to 1 year, a public consultation process will begin, (the area of which will be delegated to the Chief Officer, in consultation with Local Ward Councillors to agree perimeter controls in the area)."*
- 1.7. The reading of this would indicate a creation a new experimental zone comprising the three streets listed during the hours detailed and implemented via an experimental TMO. As a new zone, only holders of the required permit could park there. Holders of existing FN permits who live in the streets within the zone would necessarily move from this permit to the new permit for the zone.
- 1.8. Council officers implementing the recommendation noted that the proposal would exclude people from the remaining FN zone to park within the new zone. This aligns with the expectations in the Member item where it was indicated there was a concern for local residents of people from the remaining FN zone coming to the area to park near the Church.
- 1.9. Council officers also noted that the reverse would also be true and that the permit holders of the three streets would no longer be able to park within the wider FN zone. This was mentioned during the committee discussions. As this may not have been clear to residents, local ward Members were advised of this implication.
- 1.10. Comments from residents indicated they wished to retain their ability to park within the existing zone and the new mini zone more convenient for shops and onward travel.
- 1.11. The suggested allowance was not part of the agreed resolution and Council officers reviewed the request. It was clear the request would represent a unique situation, where residents of the three streets held the ability to park in two zones, something no other permit holders have. The permit parking system typically works on the basis of reciprocity; where someone parking in a street

other than their own should reasonable expect people from that street to park be able to park in theirs.

- 1.12. CPZs, in line with all parking controls, are based on a legislative framework within section 122 of the Road Traffic Regulation Act 1984. Under these “It shall be the duty of [every] [strategic highways company and] local authority upon whom functions are conferred by or under this Act, so to exercise the functions conferred on them by this Act as (so far as practicable having regard to the matters specified in subsection (2) below) to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway [or in Scotland the road].”

The matters referred to in subsection (1) above as being specified in this subsection are—

- (a) the desirability of securing and maintaining reasonable access to premises;
  - (b) the effect on the amenities of any locality affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;
  - [(bb) the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy);]
  - (c) the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and
  - (d) any other matters appearing to [the strategic highways company or] the [...] the local authority [...] to be relevant.
- 1.13. In simple terms, the controls that are put in should meet a traffic management aim. This is fairly broad and includes air quality matters, tackling congestion as well as prioritising parking based on a hierarchy. Any proposals that do not have a clear traffic management basis are open to challenge. Further, they should be based on principals that are repeatable within similar contexts.
- 1.14. The proposals from some residents (option 3) to allow the three roads (mini zone) residents continued access to the entirety of the remaining FN zone, but those in the FN zone no access to the mini zone does not appear to have a clear traffic management purpose. The Borough has not granted similar arrangements elsewhere and it is not clear it would be desirable to do so. Effectively, to adopt this arrangement would provide an endorsement of in zone commuting, whereby people use the car to travel within their zone.

- 1.15. The intention of the CPZ is to assist prioritising residents parking near their home. Arrangements that facilitate such in zone commuting are generally seen as undesirable. It is hard to see that the Church would represent a greater attractor and generator of additional nearby parking when compared to the underground station, where surrounding roads have no such arrangement in place.
- 1.16. To help guide the consideration of the request, legal advice was sought on the initial view (option 3) from the ward councillors and some residents. This was based on three versions of controls at the location:
  - 1.16.1. Option 1) a small zone of three roads (mini zone). Under this arrangement the new zone will be restricted to those who live within the three roads and those that live within the wider FN Zone will not be eligible to park within the new zone. Conversely, those within the three streets will only be able to park within the new zone and will no longer be eligible to park within the wider FN Zone.
  - 1.16.2. Option 2) making no change to permit arrangements but extending the hours in the three roads. This option will allow both residents in the three roads (mini zone) and the wider FN zone to park within all streets within the FN zone. At the same time this option addresses the articulated concern of vehicles used for visiting the St Barnabas Church, which originate from outside of the CPZ creating parking pressure within the three roads.
  - 1.16.3. Option 3) a small zone mini zone of three roads with extended hours removing the ability for residents in the wider FN zone to park, but retaining the ability for the residents of the three roads to park in all of the wider FN zone.
- 1.17. The legal advice taking into account the regulations above" is that option 2) extending the hours was more aligned to the duty under the Act as it allowed the provision of suitable and adequate parking facilities.
- 1.18. The nature of the legislation is such that it is a matter of judgement for the highway authority which is the most appropriate course of action.
- 1.19. This information was provided to local Ward Members and a recommendation was made based on the legal advice and judgement of the highways officers. To date no consensus has been found and therefore the Chief Officer has not been able to exercise his delegated powers to implement a solution. It is now appropriate to return to Committee again with the issue in order that it can be discussed and a resolution agreed.
- 1.20. The officer recommendation is that the hours of control are changed to Monday to Sunday 9am to 9:30pm for the three roads as an experimental TMO. The recommendation also means that all the residents from the FN zone and the three street can park within both the FN zone and the three streets at all times. A review of this in operation will take place, including at least two surveys of

whether vehicles from other parts of FN are found parking in the three zones. The already planned wider review of the FN CPZ, as detailed in the September resolution, will also take place.

- 1.21. Officers would wish to note that whilst the desire for other controls are articulated by some residents, when initially implementing the change of hours in 2018 there was clear expression of contrary views by other local residents, especially with regards to visitors. The nature of the consultation provided for within the experimental TMO in comparison the more formal consultation processes used for a standard TMO may lead to frustration at not having been able to communicate views prior to implementation.
- 1.22. It is also highlighted to Committee members that the initial published experimental TMO included proposals for double yellow lines. With the exception of one location, outside White Rose Motors on High Road, no comment was received regarding these. As these represent areas that are proposed for road safety and traffic flow reasons, it is recommended that these are also included within the new published experimental TMO with the change outside White Rose Motors being removed. The 'at any time' waiting restrictions are outlined in Appendix B to this report.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1. The recommendation represents a proportionate solution to the problem identified which is fair and equitable for all residents in the FN zone. As an experimental order it will form consultation and can be altered if there is a need. Taking this option does not preclude other options being explored in the future. The risks of challenge associated with other options, as well as introducing new and potentially undesirable CPZ scheme types, mean that they are not recommended and may leave the Council open to challenge. The nature of proposed the change is likely to meet with less comment.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1. Other options were considered as follows.
- 3.2. **Option 1 (not recommended)** - a small zone of three roads where FN vehicles cannot park and the vehicles of the three roads also cannot park in the wider FN zone.
  - 3.3. It is considered that this would leave the three streets zone very small and the flexibility to park in neighbouring roads would be limited. ' Therefore this option is not recommended.
- 3.4. **Option 3 (not recommended)** – a small zone of three roads with extended hours removing the ability for FN vehicles to park but retaining the ability for the residents of the three roads to park elsewhere.

- 3.5. It is felt that this fails to meet a justifiable traffic management aim and one would be required under the legislation.
- 3.6. With the main grounds of request by residents for providing this flexibility is to allow in zone commuting. In accordance with the legislation, officers felt that the authority would need justification in parking/highway terms in accordance with the legislation and that 'if the parking issue can be resolved by a less restrictive option to secure the expeditious, convenient and safe movement of vehicular and other traffic and providing adequate parking facilities then that is what officers should be putting forward.
- 3.7. To grant residents of the three roads the ability to park anywhere in FN zone whilst restricting residents elsewhere in the FN zone to park in the three roads would need to show that the Church was such a considerable attractor to those within the FN zone with permits that this was justified in traffic management terms.
- 3.8. In accordance with the legislation it is felt that it would need to be shown that 'residents in the wider zone will cause a substantial amount of the excessive parking when attending the church. It is not felt that this is likely to be the case, with the nature of the new church seeing an expected congregation coming from a wider area than the FN CPZ.
- 3.9. It is difficult to see how the Church could be seen as being on a scale comparable to other attractors within the zone, such as the London Underground station or shopping areas. Roads adjacent to these areas do not have the special arrangements being proposed for the three roads.
- 3.10. If the argument was taken forward that the three roads do justify this arrangement then it seems probable that more areas within the FN zone as well as Borough wide may make similar requests.
- 3.11. A further option of taking no action also exists but is not recommended given the existing Committee resolution, the expectation arising from the development of the Church and the concerns of residents.
- 3.12. The potential to implement this as a standard TMO (rather than experimental) has not been investigated given the decision at committee. This option could have had benefits in allowing expression of views by all residents to be considered prior to an implementation however, it would have generated additional undesirable delay. Instead the experimental TMO will provide the opportunity for feedback on the proposal.

#### **4. POST DECISION IMPLEMENTATION**

- 4.1. An experimental TMO will be drafted and published at the earliest practical opportunity. Given other existing work demands, including the Colindale CPZ, this is likely to be in around three months' time.
- 4.2. Signs will then be updated with the extended hours and enforcement will take place in the usual fashion with warning notices issues for vehicles parked within the newly controlled hours/days for two weeks.
- 4.3. The experimental TMO will run for a period of no longer than 18 months and a review will be undertaken prior to that on whether to make it permanent, with the wider FN zone review taking place likely to supersede that review.
- 4.4. No changes will be made to permits of the permit allocation scheme as a result of this proposal and all residents of FN will retain the right to park in any marked FN bay.

## **5. IMPLICATIONS OF DECISION**

### **5.1. Corporate Priorities and Performance**

This proposal, if approved, will contribute to the Council's corporate plan by:

- 5.1.1. Promoting the principles of fairness to those who live within existing CPZs and enabling the management of demand for parking.
- 5.1.2. Implementing a scheme change which supports wider work to contribute towards tackling air quality and reducing congestion.
- 5.1.3. Whilst it is not anticipated that the proposals will have an obvious impact on any of the protected characteristics groups as identified in the Equalities Act 2010, the general purpose of the scheme is anticipated to resolve the current situation of traffic management anomalies which are confusing to residents and visitors to the boroughs. It is anticipated that once implemented, parking controls will be unambiguous and will reduce anxiety for motorists, and therefore contribute to the general wellbeing of citizens.

### **5.2. Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.2.1. Funding for the review work (new TMO, signage) is provided through S106 contributions and the ongoing revenue stream associated with parking will contribute to enforcement operations taking place later in the evening.

### **5.3. Social Value**

The Public Services (Social Value) Act 2013 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. There are no new procurements or commissions with new contractors arising from this decision.

#### 5.4. Legal and Constitutional References

The Council as the Highway and Traffic Authority has the necessary legal powers to introduce or amend Traffic Management Orders through the Road Traffic Regulation Act 1984.

CPZs, in line with all parking controls, are based on a legislative framework within section 122 of the Road Traffic Regulations Act 1984. Under this

“It shall be the duty of [every] [strategic highways company and] local authority upon whom functions are conferred by or under this Act, so to exercise the functions conferred on them by this Act as (so far as practicable having regard to the matters specified in subsection (2) below) to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway [or in Scotland the road].”

The matters referred to in subsection (1) above as being specified in this subsection are—

(a)

the desirability of securing and maintaining reasonable access to premises;

(b)

the effect on the amenities of any locality affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;

[(bb)

the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy);]

(c)

the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and

(d)

any other matters appearing to [the strategic highways company or] the [...] the local authority [...] to be relevant.

Also the authority has duties under the Traffic management Act 2004

Section16 - The network management duty

- (1) It is the duty of a local traffic authority [ or a strategic highways company (“the network management authority”)] 1 to manage their road network with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, the following objectives—

- (a) securing the expeditious movement of traffic on the authority's road network; and
  - (b) facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.
- (2) The action which the authority may take in performing that duty includes, in particular, any action which they consider will contribute to securing–
- (a) the more efficient use of their road network; or
  - (b) the avoidance, elimination or reduction of road congestion or other disruption to the movement of traffic on their road network or a road network for which another authority is the traffic authority; and may involve the exercise of any power to regulate or co-ordinate the uses made of any road (or part of a road) in the road network (whether or not the power was conferred on them in their capacity as a traffic authority).
- (3) In this Part “network management duty”, in relation to a [network management] 2 authority, means their duty under this section.

## 5.5. Risk Management

- 5.5.1. The level of risk of the scheme proposed is considered low based on the legal advice provided, with challenge to the experimental TMO managed through the built-in consultation process it represents.
- 5.5.2. The implementation is low risk as the TMO publishing, sign changes and enforcement are already well-established practices and within the scope of existing resource arrangements and contracts.

## 5.6. Equalities and Diversity

- 5.6.1. Barnet Council is committed to improving the quality of life and wider participation for all the religious/faith, cultural, social and community life of the borough. As outlined at paragraph 5.1.6, the implementation of a clear process for the review of parking control requests will ensure that resulting traffic schemes are unambiguous and therefore contribute to the general wellbeing of citizens.

- 5.6.2. Decision makers should have due regard to the public sector equality duty in making their decisions. The equalities duties are continuing duties they are not duties to secure a particular outcome. The equalities impact will be revisited once the consultation has taken place. Consideration of the duties should precede the decision. It is important that the decision maker has regard to the statutory grounds in the light of all available material such as consultation responses once consultation has taken place. The statutory grounds of the public sector equality duty are found at section 149 of the Equality Act 2010 and are as follows:

A public authority must, in the exercise of its functions, have due regard to

the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
  - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
  - (c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low. The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) Tackle prejudice, and
- (b) Promote understanding.

Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act. The relevant protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race,
- Religion or belief
- Sex
- Sexual orientation
- Marriage and Civil partnership

5.6.3. It is considered that whilst these proposals do not directly impact upon any persons of relevant protected characteristics to a greater degree than any persons who do not share these, the current situation in taking forward requests for parking controls will be improved as a result and therefore have benefit to all citizens. This view will be updated once the consultation has been completed. The provision of disabled bays will not be affected by

these proposals and so we consider that the experimental measures will not have a negative effect on those with disabilities.

#### **5.7. Corporate Parenting**

5.7.1. The decision will not have a direct or indirect impact on children in care.

#### **5.8. Consultation and Engagement**

5.8.1. The experimental TMO provides for feedback to be made which must be considered prior to making permanent of the TMO within the required 18 month period.

#### **5.9. Insight**

5.9.1. No specific insight has been undertaken in order to inform the decision. Data and Statistics contained within the report have been sought from a number of existing reports or data sources including known traffic management pressures, member requests and petitions.