


Cabinet 25 th January 2023	 TOWER HAMLETS
Report of: Ann Sutcliffe, Corporate Director, Place	Classification: Unrestricted
Estates Parking – roll out of Traffic Management Orders and permit allocation policy	

Lead Member	Councillor Kabir Ahmed, Cabinet Member for Inclusive Development and Housebuilding
Originating Officer(s)	Michael Darby, Head of Parking, Mobility & Market Services Nicola Klinger, Programme Lead – Housing Management Review
Wards affected	All wards
Key Decision?	Yes
Reason for Key Decision	Decision to be significant on its effects on communities living or working in an area comprising two or more wards.
Forward Plan Notice Published	6 December 2022
Strategic Plan Priority / Outcome	Homes for the future A council that works for you and listens to you

Executive Summary

- 1.1 In September 2018, the council Cabinet agreed that a ward-by-ward consultation should take place with residents on the proposal to introduce Traffic Management Orders (TMOs) within the borough. Since then, new schemes have been introduced in Wapping, parts of Shadwell, Royal Mint and Berner Estate and consultations have been completed in Spitalfields and Banglatown and Stepney East.
- 1.2 The results of the consultations carried out to date have indicated that whilst there is support for parking enforcement there is disquiet amongst residents about the loss of individual parking bays.
- 1.3 This report sets out proposals for consultation on introducing individual numbered bays within the delivery of the Traffic Management Orders programme on LBTH estate land. It also proposes an amended permit allocations policy for parking on estate land.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Agree the following revisions to the implementation of Traffic Management Orders on LBTH estates, subject to resident consultation:
 - That individually numbered bays will be introduced on all off street car parking places under Section 32 and 35 of the Road Traffic Regulations Act 1984 (RTRA).
 - That estate roads that meet the definition of a highway under Section 45 of the Road Traffic Amendment Act will comply with the requirement that generic resident bays are provided.
2. Authorise the Divisional Director of Public Realm to undertake consultation under the provisions of the Road Traffic Regulations Act 1984 and Section 105 of the Housing Act 1985 as set out in sections 3.18 – 3.26.
3. Approve the Non-Residential Assets Policy set out in Appendix 1 which has been amended to add a fourth and fifth tier to the qualifying criteria for access to parking spaces as summarised in 3.49.

1 REASONS FOR THE DECISIONS

- 1.4 In September 2018, the council Cabinet agreed that a ward-by-ward consultation should take place with residents on the proposal to introduce Traffic Management Orders (TMOs) within the borough. Since then, new schemes have been introduced in Wapping, parts of Shadwell, Royal Mint and Berner Estate and consultations have been completed in Spitalfields and Banglatown and Stepney East.
- 1.5 The results of consultations carried out in wards to date have demonstrated that though support exists for parking enforcement via the use of Traffic Management Orders, there is considerable disquiet about the loss of individually designated bays with many residents making representations to the Council, as well as petitions received.
- 1.6 In response to this, the council have reviewed its position of implementing a generic courtyard system and considered the re-introduction of individually numbered bays on all estates. This has included seeking further Counsel advice on this matter.
- 1.7 Following this review, the council has developed a proposal to re-introduce individually numbered bays on all estates which are categorised as an off-street car parking place. In the few areas where estate land is classed as an on-street road or highway, generic permits, which are unnumbered, will remain.
- 1.8 A change to the proposals to re-introduce individually numbered bays on estate land categorised as an off-street car parking place, will allow

consultation on implementation of Traffic Management Orders to commence without delay, ensuring that estates can be enforced effectively.

- 1.9 Additionally, the Non-Residential Assets Policy agreed in Cabinet in September 2018 has been reviewed (as set out in Appendix 1). The proposed amendments seek agreement to widen the criteria of who can qualify for a parking permit where there is capacity after residents who live in estates have been allocated permit, introducing two additional tiers for priority of allocations. An examination of other Councils who allow out of borough parking has shown that there is an opportunity to maximise income from this source rather than leave spaces empty.

2 ALTERNATIVE OPTIONS

- 2.1 Regarding parking enforcement on estate land, the first alternative option is to retain the use of Traffic Management Orders without individually numbered bays (using the generic courtyard approach), as delivered on completed sites up until now. However, the scheme has already been delayed by resident representations and petitions about this matter due to desire to retain individually number bays.
- 2.2 The second alternative options if for estates to become part of the wider Controlled Parking Zones (CPZ) operated by the Council. This would allow anyone with a LBTH permit to park on estate land. High demand for parking “on street” (on highways) would spill into estate car parks and increase dissatisfaction amongst residents accustomed to parking near their homes.
- 2.3 The third alternative option is for there to be no controls at all. The lack of any control would have consequences in terms of attracting a high level of irresponsible parking from residents living outside the estates as well as those who do not live in the borough and mean that the council would not have any mechanisms through which to address this. Crucially, it would also impact upon the council’s ability to ensure emergency access to LBTH estates.
- 2.4 Specific to estate land designated as “on street”, alternative to providing generic bays it would be possible to provide individually designated bays, however this would not be compliant with Section 64 of the Road Traffic Regulation Act, which includes the provisions of the Traffic Sign Regulations General Directive (TSRGD) and therefore would place the council at a high risk of challenge.
- 2.5 In relation to the proposed amendments to the Non-Residential Assets Policy, the alternative option is to reject the amendments. This however means that spaces could remain empty in areas where there is additional capacity, limiting opportunities for income maximisation and support of businesses.

3 DETAILS OF THE REPORT

3.1 Background

- 3.2 All councils received a ministerial letter in September 2014 stating that in the view of the Department of Transport (DfT) the use of contract law to control parking on off-highway council land was unlawful and that the use of Traffic Management Orders (TMO) under the instruments of the Road Traffic Regulations Act 1984 (RTRA) was the appropriate mechanism for enforcing illegal parking on Housing Revenue Account (HRA) land. Traffic Management Orders are the mechanism through which on-street (e.g., non-estate land) is enforced and the appeals processed by the council is administered.
- 3.3 Following the Ministerial letter sent in September 2014, the DVLA was given an instruction to withdraw access to vehicle keeper details to councils seeking to identify offenders who have received a Parking Charge Notice (PCN) under contract law. The consequence of this has been a considerable rise in inconsiderate parking on LBTH estates still operating Contract Law and a growing awareness amongst residents or “visiting drivers” (many who have no connection with the area) that they are able to park without sanction on LBTH estates. Although, Parking Charge Notices can still be issued, vehicle and address details are not available making enforcement difficult to follow through.
- 3.4 Despite efforts made by councils it became clear that the Government would not renege on this position and at this point LBTH along with other boroughs such as Islington and Westminster began to consider the use of TMOs as the means of re-establishing parking control on HRA land.
- 3.5 In September 2018, the council Cabinet agreed that a ward-by-ward consultation should take place with residents on the proposal to introduce Traffic Management Orders within the borough. Since then, new schemes have been introduced in Wapping, parts of Shadwell, Royal Mint and Berner Estate and consultations have been completed in Spitalfields and Banglatown and Stepney East.
- 3.6 The results of consultations carried out in wards to date have demonstrated that though support exists for parking enforcement via the use of Traffic Management Orders, there is considerable disquiet about the loss of individually designated bays with many residents making representations to the Council as well as petitions received.
- 3.7 Currently the 5,200 parking spaces on LBTH estate land are managed under two methods of enforcement which has implications for efficiency when maintaining effective control on LBTH estates.
- 3.8 Where TMOs are implemented, Tower Hamlets Homes (THH) on behalf of the council can issue Penalty Charge Notices and towaway offenders’ vehicles. This method of enforcement will exist on about one fifth (about 1,200 spaces) of council estates once implementation of schemes at Weavers and

Spitalfields and Banglatown are completed. Currently, these are delivered as generic provision in courtyards where the number of permits never exceeds spaces available.

- 3.9 On remaining LBTH estates or Housing Revenue Account (HRA) land (approximately 4,000 parking spaces) for which no consultation on a TMO has taken place to date, Parking Charge Notices are issued by the contractor NSL who also operate the appeals process. Those wishing to challenge an appeal further can escalate their case to POPLA (Parking on Private Land Appeals). This is the Independent Appeals Service for PCNs issued on private land that was instigated by the Protection of Freedoms Act 2012. However, as the DVLA no longer provide vehicle details for contract law offences on HRA land, PCNs issued on this land are unenforceable meaning that on most LBTH council estates the level of illegal parking has risen. Towaway or clamping is not permitted on this land which compounds difficulties in effective enforcement.
- 3.10 The prompt consultation on TMOs and subsequent implementation of these will mean that residents have the option of having their estates effectively enforced.
- 3.11 **Individually designated bays**
- 3.12 The current TMO schemes are based on the use of “generic courtyard permits” that does not allow the use of individually designated bays unless the applicant has a disability or illness and meets the council’s qualifying criteria for the allocation of a Personalised Disabled Bay.
- 3.13 However, unlike many other local authorities who operate a similar scheme, LBTH has allocated individually designated bays for residents since the inception of parking enforcement in the borough. The change to the use of generic courtyards (where the number of permits allocated do not exceed spaces available) has been controversial and often unpopular amongst residents. This has had consequences in terms of achieving timescales for completing consultations because of the high level of representations and petitions received from residents about this aspect of the scheme.
- 3.14 Further advice has now been obtained as to whether individually designated bays can be provided within the delivery of a Traffic Management Order which is reflected in the proposals to reintroduce individually designated bays on off-street car parks.
- 3.15 **Distinction between off-street car parks and estate roads**
- 3.15.1 Parking enforcement on housing land is governed by the following:
- Section 32 and 35 of the Road Traffic Management Act (RTMA) which sets out processes for parking management on off-street car parks.

- Section 45 of the Road Traffic Management Act which sets out procedures for parking management on highways. It is possible that an estate road could be a “highway”.
- 3.15.2 As a part of the process site surveys, of all council estates have been carried out to ascertain if they are designated as off-street car parks or estate roads on “on street areas”.
- 3.15.3 Results of the survey show that over 95% of estates fall into the category of an off street car park place with the remainder categorised as estate roads “on street areas”.

3.16 Estate Roads on “on street areas”

- 3.16.1 Section 45 of the Road Traffic Regulations Act (RTRA) allows orders to designate parking places on highways and introduce payment or permits systems for such designated spaces.
- 3.16.2 A small number of LBTH council estate roads such as Shadwell Gardens, Malmesbury Road and parts of Rosebank Gardens are therefore designated as a highway and must comply with this section of the RTRA. This section of the RTRA is far more prohibitive of individual bays.
- 3.16.3 This is because Traffic Signs on roads or highways must comply with Section 64 of the Road Traffic Regulation Act which outlines the provisions of the Traffic Sign Regulations General Directive (TSRGD).
- 3.16.4 To comply with legislation, it is proposed that where an estate road is defined as a “on-street” the allocation of permits will continue to be generic. This will mirror existing processes used by LBTH to allocate permits and enforce parking on streets/highways around the on-street estate road.

3.17 Off street car parking places

- 3.17.1 Section 32 and 35 of the Road Traffic Regulations Act provides the power for local authorities to provide off-street parking places.
- 3.17.2 It is considered that as Section 64 (the Traffic Signs Regulations General Directive) of the RTRA does not apply to off-street category of land and section 32 and 35 does not disallow the use of individually numbered bays in off street parking areas, there is an option to retain individually numbered bays on land designated as off-street.
- 3.17.3 The use of individually designated bays:
- Gives certainty as to where a resident will be able to park and can assist in the prevention of congestion which can be caused by residents searching for available spaces in off street car park places.
 - Enables those who do not meet the criteria for a Personalised Disabled Bay but hold a Blue Badge to be parked closer to their home.
- 3.17.4 It is therefore recommended that on all estates designated as “off street” car parking places individually numbered bays are re-introduced.

3.18 Proposals for operation of TMO scheme

3.19 On Street Estate Parking areas

- 3.19.1 It is estimated that approximately 220 will be designated as “on street”. This includes areas which are currently designated at on street; in areas that are yet to be consulted on an implementation of a TMO, it is expected that only 75 spaces will be designated as on-street and that this will be in the Bow West area.
- 3.19.2 In these areas where individually designated bays are not possible, generic permits will be allocated. As stated previously, the number of permits allocated will not exceed those available.

3.19.3 Table 1: On-Street Estate Areas & Parking Bays

On-Street Estate Name	Ward	Currently under TMO?	Number of Parking Bays
Shadwell Gardens	Shadwell	TMOs are already in place in these areas	56
Agatha Close	St Katherine's & Wapping		12
Wine Close	St Katherine's & Wapping		20
Royal Mint	Whitechapel		60
Rosebank Gardens	Bow West	No TMO to date	43
Malmesbury Road	Bow West	No TMO to date	32
TOTAL			223

3.20 Off Street Parking areas

- 3.20.1 Following a stock survey exercise, it has been estimated that over 5,000 of 5,200 spaces available will be designated as off-street parking areas.
- 3.20.2 In addition, it has been identified that 240 new bays could be created in off-street areas across the borough.
- 3.20.3 This means that in all of these areas individually numbered bays could be provided to residents. It is therefore anticipated that all residents on an estate will therefore be able to be allocated with a numbered bay should they request this.
- 3.20.4 In this arrangement, enforcement officers would need to check that the car parked in each individual bay corresponds to that bay number.
- 3.20.5 Where an unauthorised car has parked in an individuals' numbered bay, that individual will need to make alternative parking arrangements (e.g., not on that estate and in line with any parking laws/restrictions on alternative land)

until that car is moved. Those individuals will not be permitted to park in any other space on the estate land (as sometimes occurs under the contract law arrangements) as under the TMO scheme they will only have permission to park in their allocated individual bay. It will not currently be possible to provide a responsive service to remove vehicles which are illegally parked in a persons' individually allocated bay due to limited towaway truck and driver capacity. This service could be provided if additional towaway trucks and drivers were employed, however this would come at an additional cost of £200K to enable a responsive service. This would likely require a significant uprise in the costs of permits to cover the costs of delivering this service.

3.20.6 This may be a cause of disputes between residents and issues for residents if they are not able to park in their individual bay due to others parking there.

3.20.7 This will be highlighted during the resident consultation to ensure that residents are clear of this limitation with retaining individually numbered bays.

3.21 **Permit processing – IT system**

3.21.1 The Taranto permit processing system has been adopted by THH to allow for electronic permits to be developed. This will generate efficiencies by reducing the amount of officer time required to process permit applications and issue paper permits to residents.

3.21.2 By introducing individually numbered bays, the original module developed by Taranto will have to be altered to accommodate the new approach. Though initial discussions with Taranto have indicated that Taranto are likely to be able to deliver this it is likely that there will be cost implications, which could amount to up to £100K.

3.21.3 This cost would need to be off set against any savings generated by the new permit allocation process and any savings generated through LBTH and THH sharing services.

3.22 **Consultation**

3.23 It is proposed that consultation within the borough under the Road Traffic Regulations Act 1984 will take place as each TMO is proposed. This will also incorporate any requirement to consult under Section 105 of the 1985 Housing Act.

3.24 The actions and timescales for the consultation and subsequent timescales are set out in Table 1.

3.25 Table 1: TMO Consultation and Implementation Timescales

Stage	Actions	Timescale
Consultation - stage one	<ul style="list-style-type: none"> • Consultation letter on the proposal to implement a TMO to all wards 	4 – 6 weeks

	<ul style="list-style-type: none"> • Separate consultation letter on the new proposals to those wards with a completed processes • Consideration of representations to the council and council agreement 	
Consultation – stage two	<ul style="list-style-type: none"> • 21 day statutory “Notice of Proposal” published 	21 days
Consultation – stage three	<ul style="list-style-type: none"> • Consultation on statutory representations 	4 – 6 weeks
Decision	<ul style="list-style-type: none"> • Decision on TMO implementation 	To be scheduled
Implementation	<ul style="list-style-type: none"> • Local consultations on scheme layouts and design • Boroughwide implementation of TMOs/Estate Improvements – this involves consultation, layout and design works, permit allocations and implementation works on over 200 estates 	18 – 24 months

- 3.26 During the consultation process, residents will be able to make representations to the council who are legally obliged to consider every objection that is sent. The Divisional Director of Public Realm will respond to acknowledge the representations and to inform the resident of the appropriate decision maker's determination of that objection.
- 3.27 Views received during the consultation will be broken down so as to recognise any local differences that may exist from estate to estate.
- 3.28 Assuming the council agrees a TMO scheme in a ward, prior to any works a local consultation will take place on the layout and design of each proposed Traffic Management Order zone allowing residents to comment on any changes that are proposed.
- 3.29 Following any amendments, the council will subsequently issue a final 21-day notice summarising the imminent proposal and consider any final comments from residents.
- 3.30 Subsequent to a decision on the final proposal, it is anticipated that implementation works will take between 18 to 24 months to complete.

3.31 **Implementation works**

- 3.32 The introduction of a TMO requires that HRA land complies with requirements set out in the Road Traffic Regulations Act 1984.
- 3.33 Some estates will require additional works to meet these standards. This might mean additional road surfacing works, painting of yellow lines and the putting up of notices that consult upon the statutory stage of the TMO consultation.
- 3.34 The costs for this will be included in the budget delegated to THH for the implement of TMOs; the proposal to implement individually numbered bays will not affect these costs.
- 3.35 On a small number of estates, a change in layout or reduction in the number of spaces available on an estate may be required due to fire safety reasons.
- 3.36 In such circumstances every effort will be made to find alternative spaces but where there is a reduction in spaces:
- Non-residents will lose their spaces first
 - Followed by households with more than 2 bays
 - Followed by households with more than 1 bay
- 3.37 It is estimated that this will occur on no more than 10 estates.
- 3.38 Where a majority of residents request a reduction in parking spaces in the hope of developing increased environmental provision, this can also be considered by the Council.
- 3.39 On some estates with a newly established TMO it has also been possible to re-assess the existing layout and increase parking capacity for residents.
- 3.40 Any such proposal will form the basis of local consultation.

3.41 **Allocation of spaces under TMOS**

- 3.41.1 As each TMO is implemented, existing licenses let under contract law will be ended and allocations will be based on the Non-Residential Assets Policy.
- 3.41.2 Visitor bays will be available for visitors of LBTH council housing residents.
- 3.41.3 Personalised Disabled bays will be maintained with a separate application process for this category. Those Blue Badge holders who do not meet the criteria for a Personalised Disabled Bay criteria will be placed as near to their homes as possible.
- 3.41.4 Existing contractor bays will be maintained where LBTH and THH contractors are carrying out current works on an estate though on some estates these will become visitor bays which contractors will be able to park in to create more capacity.

3.42 Abandoned vehicles

3.42.1 For a vehicle to be removed it must meet a set criteria. The use of a TMO is likely to enable faster identification and removal of an unauthorised vehicle through pursuing enquiries through the DVLA.

3.42.2 These changes require the creation of two license types which reflect the requirement for both individually designated bays and generic spaces

3.43 Draft implementation timetable

3.43.1 The timescales set out in Table 2 outline the projected date at which schemes will go live and include the projected time that actual implementation takes.

3.43.2 Table 2: Projected dates for implementing TMO schemes

Action	Completion Date
• Cabinet approval	Q4 22/23
• Call in period - 5 days	Q4 22/23
• Letter to all remaining Wards	Q4 22/23
• Spitalfields/Banglatown	Q4 22/23 - Q1 23/24
• Shadwell (Martineau, Pitsea and Watney Market)	Q1 23/24
• Stepney Green East/Whitechapel (North)	Q4 22/23 - Q1 23/24
• Weavers	Q1 23/24 – Q2 23/24
• Bow West	Q3/ 23/24 - Q1 24/25
• Bethnal Green	Q4 23/24 - Q2 24/25
• Bow East	Q4 23/24 - Q2 24/25
• St Peters	Q1 23/24 - Q3 24/25
• St Dunstons/Mile End	Q1 23/24 - Q4 24/25
• Stepney Green West	Q3 23/15 – Q4 24/25
• Limehouse, Poplar and Bromley South	Q2 24/25 – Q4 24/25

3.43.3 Implementing a TMO has the following dependencies:

- The scale of works required to ensure an estate meets the requirements of the TMO
- Prolonging of consultation dates caused by opposition to the scheme
- Achieving targets for the manual re-allocation of the remaining 4,400 permits

3.43.4 When a Traffic Management Order is delivered, all new applications for parking will be suspended to ensure that available spaces are in the first instance reserved for residents. Where an application is made from a disabled tenant or leaseholder who is a blue badge holder, wherever possible a parking space will continue to be let.

3.44 **Non-Residential Assets Policy Amendments**

3.45 The Non-Residential Assets Policy agreed by council Cabinet in September 2018 set out the following principles necessary for the administration of Traffic Management Orders:

- Removal of individually designated bays
- Introduction of Personalised Disabled Bays and Carers Permits
- Permit availability for households
- Allocations criteria for parking spaces
- Introduction of 12 month permits

3.46 Further to this, a decision was confirmed that withdrew the right of out of borough applicants to park on LBTH Council estates.

3.47 It is proposed that individually designated bays are re-introduced and rolled out on estates defined as off street parking places as set out above.

3.48 Additionally, it is also proposed that estate permits are allocated on a five-tier priority basis as set out in Table 3.

3.49 Table 3: Priority criteria for allocation of permits on estate land

Priority tier	Category	Criteria
One	Residents with Disabled Blue Badge/Medical evidence	Disabled Blue Badge/Medical evidence and resident on estate
Two	Residents living on estate with permit	Holding permit on estate and lives on estate (tenant, leaseholder, freeholder or sub-tenant of leaseholder or freeholder)
Three	Residents living on estate without permit	Lives on estate but does not currently hold a parking permit (tenant, leaseholder, freeholder or sub-tenant of leaseholder or freeholder)
Four	People living within estate ward	Residents of estate ward including those in car free developments
Five	People with a Tower Hamlets address (business, employment or residential) living outside ward	Out of ward or borough residents

3.50 The amendments include a reintroduction of a fifth-tier priority group for people who do not live on the estate or in the ward of the estate, including those who live out of borough. However, those applying for this permit type must have an address in Tower Hamlets to make the application (residential, employment or business).

- 3.51 This will offer an opportunity for where there is capacity on estates and vacancies after permits have been offered to those in the first three priority tiers to maximise income, avoid vacancies and give opportunities to accommodate local business. For example, in some areas such as Bow, under current proposals approximately 170 Out of Borough Permits would be withdrawn creating vacancies that may be compounded by the Town Hall move (as LBTH staff will be re-sited in the Town Hall and no longer need a parking space on estates).
- 3.52 It is proposed that permits allocated to those not living within the ward are charged at the same rate as those who currently hold Out of Borough permits on contract law sites (£7.61 per week). A subsequent review of all permit charges will then take place as part of the council's Fees and Charges annual review.

3.53 Review of Out of Borough allocations in LBTH

- 3.53.1 In 2018/19, the Council asked Tower Hamlet Homes to implement a decision to end "Out of Borough" permit allocations on estate land. This involved both making no new allocations of available spaces plus a managed process of phasing out existing license holders as and when each area-based TMO was implemented.
- 3.53.2 As part of a consultation on these proposals all 436 Out of Borough holders were written to in August 2018 and January 2019.
- 3.53.3 361 replies were received – the categories of those responding to a survey is set out in Table 4.
- 3.53.4 Table 4: Categories of those previously holding Out of Borough permits

Category	Response/Numbers
LBTH staff	126 many of whom will be re-sited in new Town Hall and no longer need space
Public Service Employees	59 employees from Police or NHS
Commuting for work or businesses	156 residents who own businesses or are employed in Tower Hamlets
Carers	20 rent bays for caring purposes

3.54 Policy review of other local authorities in London

- 3.54.1 As part of the review of the Non-Residential Assets Policy, a policy review of other local authorities in London was conducted.
- 3.54.2 It found that most of the inner London Boroughs benchmarked offered an Out of Borough option on their housing estates.

3.54.3 Table 5: Other local authorities' allocations policy and charges for estate land

Borough	Tenants/Leaseholders	Out of Borough	Borough Residents
<i>Tower Hamlets</i>	£2.42 per week	£7.61 per week (for those with existing permits Out of Borough permits)	£2.90 inc VAT per week
<i>Hammersmith</i>	£119 per annum £497 for 2 nd vehicle per annum	Not Offered	Not Offered
<i>Camden</i>	£2.72 to £12.75 per week	£16.17 to £48.34 per week	£16.17 to £48.34
<i>Kensington</i>	£5.79 to £7.46 Indoor £13 to £28	£18.63 to £72.19	£18.63 to £72.19 per week
<i>Islington</i>	£2.72 to £5.97 per week	£6.58 to £19.28 per week	£6.58 to £19.28
<i>Hackney</i>	£40.50 per annum	Not Offered	Not Offered
<i>Westminster</i>	£1.66 to £9.28 per week	£23.78 to £103.75 per week	£2.69 to £59.28 per week

4 EQUALITIES IMPLICATIONS

- 4.1 An Equalities Impact Assessment (EIA) was carried out and included in the September 2018 Cabinet report. It made recommendations with regards to the access of disabled tenants to parking spaces on LBTH estates.
- 4.2 This was further reviewed in September 2021 and is available on request
- 4.3 The Non-Residential Assets Policy has been designed to ensure a clear, fair and consistent process for residents when applying to park.
- 4.4 The implementation of the TMO scheme involves a comprehensive and statutory consultation with tenants, leaseholders, sub-tenants and freeholders.

5 OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
 - Best Value Implications,
 - Consultations,
 - Environmental (including air quality),
 - Risk Management,
 - Crime Reduction,
 - Safeguarding.
 - Data Protection / Privacy Impact Assessment.

5.2 Best Value

5.2.1 The delivery of the TMO and the subsequent management will need to be formalised in a contract with the relevant supplier(s). The appointment of these suppliers will be subject to procurement processes which will ensure the council receives the best value in delivering services which meet the council's requirements.

5.2.2 The implementation of a TMO will enable the council to enforce parking contraventions under Part 6 of the Traffic Management Act 2004 and recover the revenue which will fund this scheme

5.3 **Environmental**

5.3.1 The TMO scheme will mean that process of re-allocating permits on LBTH council estates ensures that parking is prioritised for residents and that those who have left an estate can no longer retain them. Where there is no demand, allocations on to estate car parks can reduce over capacity in on street-controlled parking zones.

5.3.2 The scheme offers flexibility in that those estates who may wish to limit the availability of parking may do so if this view is reflected in the consultation.

5.4 **Risk Management**

5.4.1 Other local authorities who have carried out similar consultations have experienced a small minority of estates that have chosen to opt out from any form of parking control and there is a risk that this may occur in Tower Hamlets leaving the council without any mechanism through which to ensure emergency vehicle access and tackle illegal parking.

5.4.2 To mitigate this risk, the council will enter into a process of continuous dialogue with those estates, to seek enhanced knowledge of the conditions on the estate and to manage this risk including ensuring that emergency access is available. However, opposition to schemes to date has largely centred around the removal of individually designated bays rather than the principle of enforcement.

5.4.3 Changes in parking enforcement may increase the risk of judicial challenge. However, the Government has clearly stated their view that Local Authorities should use TMOs as the means of control and these proposals are based on Counsel advice. Additionally, the plan to replace contract law and implement TMOs follows the direction set by the Ministerial letter received in September 2014 making the prospect of successful challenge less likely. The move to Traffic Management Orders also ended an existing judicial challenge about the use of Contract Law to enforce parking.

5.4.4 The proposed Non-Residential Assets Policy amendments may lead to complaints from some residents who live on the estate that they are unable to access a space. However, section 2 of the Policy (Appendix One) sets out the council's intention to ensure that residents who live in an area receive priority and that nominations for those living out of the area or borough only occur when it is evident that there is spare capacity.

5.5 **Crime reduction**

- 5.5.1 The lack of parking control allows easy access to those who drive on to LBTH estates to engage in criminal activity. The establishment of parking controls by using TMOs will allow the council to tackle and track such illegal parking and link up with council initiatives to tackle anti-social behaviour directly on LBTH estates.

6 COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 This report seeks the approval to introduce individual numbered bays within the delivery of the Traffic Management Orders programme on LBTH estate land. It also seeks approval to amend the permit allocations policy for parking on estate land
- 6.2 The implementation of “off-street” TMO’s on estate land (whether an individual or generic bays approach is taken) represents capital expenditure and would be funded through the approved capital scheme to introduce TMOs on estates that forms part of the current capital programme. The numbering of individual bays would form part of this capital scheme for which there is £2.258m of approved funding in 2022-23. There has been spend to date of £130k against this budget
- 6.3 The introduction of numbered bays will require an upgrade to the Taranto parking system to introduce a virtual permit system. The cost of this upgrade is estimated at £100k, with ongoing annual support and hosting charges of £35k. These revenue costs will need to be met from the HRA as they relate directly to estate parking. Currently no budget provision has been identified within the HRA to cover these costs and if they cannot be contained within the existing budget envelope will require growth as part of the MTFS budget setting process.
- 6.4 The amount of additional income generated by introducing additional tiers of permits where there is capacity on estate land is influenced by the amount of ‘free’ space after residents have applied for permits, which will vary from estate to estate and will not be known until permit applications are received and the charges levied on these additional permits. Currently it is not proposed to increase charges for permits in the new fourth and fifth tiers but this could be reviewed as part of the fees and charge setting process
- 6.5 Should demand for permits remain at the same level that they are now and assuming that all 436 Out of Borough permits are revoked, thereby leaving 436 empty spaces on estates, the annual loss of income to the Housing Revenue Account would amount to £172k. This income loss would be mitigated by offering people living outside the estate but in-borough an opportunity to apply for permits.

7 COMMENTS OF LEGAL SERVICES

- 7.1 This Report considers the use of Traffic Management Orders (TMO) in responding to parking on LBTH estate land. The report identifies that some estate land may be roads to which the public has access and, in these situations, the recommendation is that the “on-street parking” provisions of s45 Road Traffic Regulation Act 1984 be used to make any TMOs that may flow in the fullness of time. These TMOs made under s45 can then be signed in accordance with statutory requirements.
- 7.2 Other estate land has been identified as not being roads to which the public has access and in this case, the statutory basis for any order is to be found in the “off-street parking” provisions of s32 and 35 of the 1984 Act.
- 7.3 Quite properly the Report seeks authorisation to permit the Divisional Director of Public Realm to undertake consultation about the proposals which will permit residents to make representations about the proposals before any scheme is introduced. Any representations received will be considered and as indicated in paragraph 3.25, any decision on the implementation of a TMO will take place after the 3-stage consultation process has taken place. Should TMOs be made, the local consultation will continue on issues such as scheme layout and design. Any consultation should be clear and concise; informative; have a purpose; and be part of the process of engagement. Adequate timescales (including the statutory 21-day “Notice of Proposals” period) is provided for and will allow for residents, organisations and statutory bodies to feed in their views. Consultation will allow for scrutiny of the proposals and, in the fullness of time, for a decision to make to implement the TMOs.
- 7.4 The recommendation to approve the Non-Residential Assets Policy in Appendix 1 is an operational decision.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- Appendix 1 - LBTH Non-Residential Assets Policy

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE

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APPENDIX ONE

LBTH NON-RESIDENTIAL ASSETS POLICY

1. DEFINITION

- 1.1. This policy sets out the London Borough of Tower Hamlets (LBTH) (“the Council”) policy and procedure for letting of non-residential assets on estate or Housing Revenue Account (HRA) land.
- 1.2. Non-residential stock lets include garages, store-sheds (pram-sheds), parking spaces and other miscellaneous non-residential facilities managed by the Council and let through a licence agreement.

2. LBTH POLICY

- 2.1. The Council will seek to ensure that non-residential stock is allocated in a fair and timely manner, so as to maximise the use of facilities for the benefit of residents.
- 2.2. Permit charges associated with non-residential stock are set by the Council.
- 2.3. Priority for letting non-residential assets will always be given to residents of the estates in which the facilities are situated. This includes council tenants, leaseholders, or freeholders (liable for payment of service charges).
- 2.4. Where any member of a household already licences a parking facility, precedence will be given to applicants on the same banding level to whom a let has not already been made.
- 2.5. Garages and parking bays that form an integral part of an individual dwelling will be let as part of the tenancy.
- 2.6. Garages and parking bays that are separate from individual dwellings are will be let on weekly licence agreements.
- 2.7. All store-sheds will be let on weekly licence agreements.
- 2.8. Since 2020, a new system for car spaces has been introduced and therefore pre-paid annual permits will be issued to successful applicants.
- 2.9. Permits for car spaces or garages will be available to those who do not live in the borough, assuming they have a workplace or business within LBTH. This will be dependent on the capacity which is available due to unmet demand from residents located within an estate area.

- 2.10. On Council estates where there is a constant demand from residents for garages and parking spaces, the residents will generally be restricted to two permits per household.
- 2.11. Where there is no demand (i.e., a space is empty for more than 4 weeks), the Service Manager has the discretion to increase this threshold. This will be on the basis that any subsequent and substantial increase in estate-based demand will lead to those lettings being revoked.
- 2.12. Where there is proven demand from local residents (including those with a disability) who are requesting a facility to whom a let has not already been made, the managing agent may at its discretion take action to terminate licences and re-allocate facilities if it is the case they are not located in the near vicinity. This may involve removing a permit from a non-resident who does not live on the estate or a household/business who already rents several facilities.
- 2.13. Where it is discovered that a garage, store-shed or parking space has been illegally sub-let by the licence holder to another person or illegally obtained by providing false documentation, the licence will be terminated, and the licence holder will be permanently excluded from renting further estate facilities.
- 2.14. Where a leaseholder or freeholder sub-lets their property and is no longer resident on the estate, any existing facilities licence ends.
- 2.15. When a resident vacates the property, they may only retain any existing facilities licences if they move within the estate.
- 2.16. Any estate facility cannot be sub-let by a leaseholder to their sub tenant. The sub-tenant must apply for a space in their own right.
- 2.17. No alterations to non-residential stock are permitted and in such circumstances the Council will revoke the licence.
- 2.18. Where the parking facility is in a controlled access car park, the resident may be required to pay a refundable deposit for any security keys/fobs that are needed.
- 2.19. In the event of lost, stolen, or damaged keys, residents will be required to pay for a replacement key.
- 2.20. Requests to change a personal vehicle during the period of the permit will be subject to an administration fee.
- 2.21. Estates operating under Contract Law
 - 2.21.1 On estates that are controlled utilising contract law, a non-residential facility will not be let to any household where a tenant, leaseholder or freeholder

has an outstanding debt with the Council.

2.21.2 A Notice to Quit will be served on any facility let where a licensee has licence fee arrears of 4 or more weeks and action will be taken to repossess the facility.

2.21.3 No previous applicant with unpaid arrears or costs will be allowed to re-apply for non-residential stock.

2.21.4 The parking space can only be used for accommodating one registered motor vehicle that is in the ownership of the Licensee or their family.

2.22. Estates operating under Traffic Management Orders (TMOs)

2.22.1 The Council will move towards implementing an annual permit issuing process where payment for a car space is made in advance.

2.22.2 Only one permit per vehicle will be issued and will be renewable annually.

3 LETTING PRIORITIES

3.1. The letting of parking spaces will be based on the following priority bands:

1. Council tenants, leaseholders or freeholders that are residents/carers with Disabled Blue Badge or appropriate medical evidence
2. Council tenants, leaseholders or freeholders and their households along with and authorised tenants, who are living on the estate and hold permits
3. Council tenants, leaseholders or freeholders and their households along with and authorised tenants, who are living on the estate and are applying for a new permit
4. Other LBTH residents living within the ward including council tenants, leaseholders or freeholders residing in new build homes
5. Non-residents from LBTH living outside the ward the estate is in or residents living outside the borough with a connecting business, employment or residential address.

3.2. In order to secure a car space or a garage the resident must provide information below:

- **One document from the list below:**
 - First and second page of Vehicle Registration Document (V5C). This must be registered to the resident at their current address

- Completed New Keeper Supplement (V5C/2) dated within the last four weeks (making sure the date, name and address are filled in) – accompanied with an insurance document showing name, address, and vehicle details
- Motability Insurance Certificate
- Lease or Hire Agreement (must be signed) showing name, address and contractual start date and end date
- Signed company letter on headed paper dated in the last 28 days of the application confirming; your name and address, vehicle details, you are an employee, you are insured to drive the vehicle and you have the permission to drive the vehicle for business and personal use.

- **Proof of Residency - one from the list below:**

- UK Driving licence registered at your current address
- Signed tenancy agreement (dated with 4 weeks)
- DWP letter (only for Personalised Disabled Bays)
- EU Drivers Licence plus current financial years council tax bill
- Current financial years council tax bill

3.3. In the event of a lost, damaged, or stolen permit, a replacement permit will be issued for an administration charge.

3.4. In the interim period a 14-day temporary permit will be issued. The permit holder is responsible for submitting their new keeper supplement, sales receipt, or insurance document.

3.5. The estate parking permit may be revoked if major works are planned. A 14-day notice will be issued to revoke the parking permit. A refund will be processed in line with the terms and conditions of the permit. Permit holders will need to make alternate arrangements.

3.6. Once the Council introduces the new online application process, these changes can be made online by the resident.

3.7. The right to seek additional proofs from residents is reserved and a space will not be let when evidence suggests that there has been a contrivance to obtain a facility.

3.8. **Applications for residents with disabilities**

3.8.1 Council residents (tenants, leaseholders, freeholders or qualifying sub-tenants) with disabilities who are Blue Badge holders will be entitled to one permit that is free of charge.

3.8.2 Applications from all Council residents (tenants, leaseholders, freeholders or qualifying sub-tenants) who are Blue Badge holders and own, lease, or rent the vehicle (both tenants and non-council tenants, leaseholders or

freeholders) will receive a 100% discount for a car-permit and a 50% reduction for a garage.

- 3.8.3 Nominated drivers for residents with Blue Badges must live at the same address and provide their vehicle registration document classed as disabled.
- 3.8.4 Where there is a named resident or non-resident carer who is receiving a Carers Allowance, the allocated parking bay will be let at no charge to that person, assuming that the resident that they care for is a Blue Badge holder. Council residents with carers may apply for a carers permit. All cases will be assessed and are subject to an occupational therapy assessment.
- 3.8.5 Council residents (tenants, leaseholders, freeholders or qualifying sub-tenants) with disabilities may also apply for a Personalised Disabled Bay. An application will need to be made and an assessment by an approved Occupational Therapist will be carried out to determine if the applicant should be granted a bay.
- 3.8.6 A second permit or garage held by a Blue Badge holder will be subject to the standard charge.
- 3.8.7 Any application from a disabled customer is dependent on proof of address and provision of the Blue Badge.
- 3.8.8 Those applying as a nominated driver must provide evidence that the vehicle is registered disabled, and the Blue Badge holder must live with them.

3.9 Applications from residents living in car-free developments

- 3.9.1 Residents who move to a Car-Free home in Tower Hamlets will be permitted to apply for a parking bay on adjoining LBTH estates if sufficient capacity is available.

4. PROVISIONS SPECIFIC TO GARAGE LETTINGS

- 4.1 Unless designated suitable for storage, garages should only be used for the purpose of storing a private motor vehicle, bicycles or a motorcycle and a licence can be revoked if a unit is being used for another purpose.
- 4.2 The Council is not responsible for any loss or damage caused to any property brought into the garage. The Licensee is also responsible for any damage that they may cause to the garage.
- 4.3 Priority will be given to residents living within the estate. If there is capacity, businesses registered within the vicinity of the estate may be considered.

- 4.4 In the event of an incident where a garage suffers malicious damage, the Council is not obliged to undertake repairs should they prove too costly. Wherever possible, it may offer an alternative garage.
- 4.5 Hazardous and flammable materials such as petrol cannot be stored within a garage and any breach of health and safety regulations will mean the licence is revoked.
- 4.6 Though power points and lights are installed in some of the Council's garage stock, the Council is not obliged to provide this facility free of charge and it is not a condition of the Garage Licence. Additionally, the Licence states that the garage must be used solely for the storage of a car so there should be no situation where a power supply is required and then supplied at the Council's cost.
- 4.7 As and when such installations are found, the Council is within its rights to withdraw the power source if it is practical to do so and will revoke garage licence if evidence shows that the supply is still in use.
- 4.8 When a garage facility is vacated, the premises must be received empty of possessions and rubbish. Should this not be the case, the licence holder will continue to be charged for use and occupation of the facility and the cost of clearance of the garage. If an occupant fails to return garage keys and a lock change is necessary, the licence holder will be charged.
- 4.9 Garages will not generally be let if a licence holder is in debt to the Council (this includes rent and service charges).
- 4.10 Motability Scooters holders are able to rent a garage to store their vehicle. The Council cannot provide a power supply for the purpose of electrically charging the vehicle.

5. PROVISIONS SPECIFIC TO STORE-SHEDS

- 5.1. As there is no facility on GIS allocations portal for store-sheds, the Council will maintain a separate estate-based waiting list using a standard format across all housing. Allocations will be based on the letting priorities set out in section 2.
- 5.2. In order to apply for a store-shed proof of identity and address will be required, and applicants will be placed on a waiting list
- 5.3. Council residents (tenants, leaseholders, freeholders or qualifying sub-tenants) with children under 5 and/or with children who have disabilities, Council residents who are overcrowded will be treated as being in the first priority band. Within this band:

- Priority will be given to residents living on higher floors than those living on the ground floor.
 - Those who are living on the ground floor with garden space will not be considered a priority for storage space.
- 5.4. If there is availability and there is more than one application coming from the same band, the applicant who has been identified within the above categories will receive priority.
- 5.5. Should several applicants be in the same situation, the allocation will be determined by waiting time.
- 5.6. Store-sheds are intended for the use of residents within the block or estate and are not available for non- tenants or able to be “inherited” by sub-tenants of leaseholders who have let their premises.
- 5.7. Applications from sub-tenants will be treated in the second priority category set out in Section 2.

6. PROVISIONS SPECIFIC TO CAR SPACES

- 6.1. All vehicles parked on estate or Housing Revenue Account (HRA) land should be in a roadworthy condition, must meet vehicle length requirements and be fully road taxed and insured.
- 6.2. Even with a permit, SORN or abandoned vehicles are not permitted on car spaces or land and will be subject to Penalty Charge Notices and towing as well as losing their permit.
- 6.3. All vehicles will be issued with a valid one-year permit. Should a valid permit not been in place, a vehicle will be issued with a Fixed Penalty Notice.
- 6.4. If the licence holder uses the facility to carry out re-occurring or extensive maintenance work or repair work to a vehicle on a car space the licence will be revoked.
- 6.5. The Council will not fit locking posts to any new car spaces. Any damage to an existing locking post will mean that the facility is removed and when Traffic Management Orders (TMOs) are introduced no locking bars will be used.
- 6.6. The Council is not responsible for any damage to a Licensees car and the vehicle is parked entirely at the risk of the owner.
- 6.7. The Council will endeavour to remove or fine unauthorised vehicles that park in an allocated bay but can take no responsibility in the event that they are unsuccessful in achieving this.

- 6.8. A licence holder cannot hold two facilities (i.e., a garage and a car space) for the storage of the same registered vehicle.
- 6.9. The estate resident permit is non-transferable between household members.
- 6.10. The majority of permits will be let as individually designated or numbered bays as they are based in off street car park places. A specific license will be created for this purpose which will clearly set out the number of the facility and the requirement to park only in this bay.
- 6.11. Some permits on roads or highways based on estates will be generic bays and will be issued as a generic permit. In these areas no more permits will be allocated than those available.
- 6.12. Permits obtained fraudulently will be cancelled without notification and no refund will be payable

7. MOTOR CYCLES, BIKE SHEDS

- 7.1. Wherever possible, the Council will provide bicycle storage facilities. Where there is controlled access to a bicycle store, the resident will be required to pay an annual charge and a refundable deposit for any security keys/fobs that are issued.
- 7.2. Due to space constraints, if a bicycle is considered to have been abandoned, it will be removed and:
 - A sticker will be placed on the bike giving one month's notice prior to removal.
 - Bicycles not claimed will be donated for charity (the Mayors Fund)
- 7.3. Bicycles are stored at the owner's own risk and the Council and/or Tower Hamlets Homes will take no responsibility in the event that damage to a bike-shed leads to the loss, theft or damage.
- 7.4. The Council and/or Tower Hamlets Homes will have no responsibility for repairing or replacing individual locks.
- 7.5. Repairs to a bike shed will only be carried out if they are economically viable.
- 7.6. Spaces will be let on a "first come, first served" basis under the terms set out in the bike shelter licence agreement.
- 7.7. For reasons of fire safety, motorcycles should not be left near a block and may be moved if it is thought that they may pose a risk to residents.

- 7.8. Where possible, the Council will endeavour to create provision for the parking of motorcycles on LBTH estates.

8. CONTRACTOR SPACES

- 8.1. Where possible, the Council will provide assistance to contractor parking within estate parking arrangements to assist with asset management. Charges may be levied as a part of this arrangement.
- 8.2. During major works, a parking space may be needed by the contractor to erect scaffolding or carry out other works. Where possible, a permit holder may be transferred to an alternative space. Where no space is available, a 7-day termination notice will be served, and a refund when necessary.

9. PARKING SUSPENSIONS

- 9.1 Land is sometimes needed to carry out works either related to improving or repairing stock or for an external contractor (i.e., Railtrack).
- 9.2 Where this occurs parking spaces may be suspended for the period of the works meaning that residents are displaced.
- 9.3 Where it is possible, the Council will use every endeavour to find alternative accommodation, but this is often not possible.
- 9.4 Where this occurs, a resident must then seek alternative parking through the Council's parking website.
- 9.5 Where Contract Law is in place:
- 9.5.1 Those whose numbered bays are in the demise of the proposed suspension area will lose use of their bays for the period of works. If the spaces are re-instated, they will be entitled to return to this bay.
- 9.6 Where a TMO is in place
- 9.6.1 The priorities for those have been set as to will retain a permit in an area where there is a loss of spaces due to a suspension are as follows:
- Those with Personalised Disabled Bays (PDBs) and Blue Badges will have the highest priority (with PDBs the highest)
 - Residents living in the estate demise applying to retain a permit will be considered in no particular order

- If there are spaces remaining, these will be selected based upon the priority tiers set out in section 3.1.

10 VISITOR BAYS

- 10.1 On the majority of estates, there is provision for visitor parking. This allows visitors to the estate to park using permits purchased from Tower Hamlets Homes. Where there are no available spaces (or where residents have chosen for there to be no visitor spaces), residents can access on-street visitor permits through LBTH Parking Services.
- 10.2 Visitors to the estate will not be allowed to use spaces used by allocated permit holders and in these circumstances will be liable for a Penalty Charge Notice.

11 DEVELOPMENTS INVOLVING THE DEMOLITION OF NON-RESIDENTIAL ASSETS

- 11.1 As a part of its commitment to maximise the availability of affordable accommodation, the Council may require the return of non-residential assets to enable property development.
- 11.2 Under licence arrangements, the Council have the right to repossess these facilities and in these circumstances:
- If there is capacity to re-locate licence holders, the Council will use its best endeavours to re-site those tenants and leaseholders who are affected.
 - The Council will not guarantee that a replacement facility can be found and there is no requirement on the part of the Council to do so.
 - There is no obligation on the part of the Council to re-locate licence holders who are non-resident.
 - There is no obligation to re-situate those who are using garages for storage.
 - Where it may be necessary, the Council will end licences of non-residents in areas around infill sites to facilitate a supply of parking for tenants and leaseholders.
 - Traffic Management Orders will be used on all new Council built car free developments.