

Executive Board – 22nd November 2022

Subject:	Residents Parking Permit Charges and the associated Traffic Regulation Order
Corporate Director(s)/Director(s):	Frank Jordan– Corporate Director, Resident Services Sajeeda Rose – Corporate Director for Growth and City Development Andrew Errington – Director of Community Protection Paul Seddon – Director of Planning and Regeneration
Portfolio Holder(s):	Cllr Neghat Khan– Portfolio Holder for Neighbourhoods, Safety and Inclusion Cllr Audra Wynter- Portfolio Holder for Highways, Transport and Parks
Report author and contact details:	Mark Jenkins - Head of Traffic, Traffic & Safety Email: Mark.Jenkins@nottinghamcity.gov.uk James Douglas – Head of Operations, Community Protection Email: James.Douglas@nottinghamcity.gov.uk
Other colleagues who have provided input:	Tamazin Wilson - Senior Solicitor, Legal Services Scott Harrison - Technical Lead, Traffic Management Susan Turner - Senior Commercial Business Partner, Finance & Resources
Subject to call-in:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Key Decision:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Criteria for Key Decision:	
(a)	<input type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision
and/or	
(b)	Significant impact on communities living or working in two or more wards in the City <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Type of expenditure:	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital If Capital, provide the date considered by Capital Board Date:
Total value of the decision:	£412,000 per year
Wards affected:	All Wards
Date of consultation with Portfolio Holder(s):	13 th Sept 2022 (Community Protection) and 17 th Oct 2022 (Traffic Management)
Relevant Council Plan Key Outcome:	
Clean and Connected Communities	<input type="checkbox"/>
Keeping Nottingham Working	<input type="checkbox"/>
Carbon Neutral by 2028	<input type="checkbox"/>
Safer Nottingham	<input checked="" type="checkbox"/>
Child-Friendly Nottingham	<input type="checkbox"/>
Healthy and Inclusive	<input type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input type="checkbox"/>
Financial Stability	<input checked="" type="checkbox"/>
Serving People Well	<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):	
<p>The approved 2022/26 Medium-term Financial Plan included a proposal to introduce a Residents Parking Permit Charging Scheme subject to the outcome of a formal consultation. Under this proposal residents would receive a first permit free of charge (residential or visitor permit), and then be charged £35 for a second permit, and £50 for a third permit.</p>	

There are currently over 45,000 free residential and visitor permits in circulation and the cost of administering these schemes to the Council is in excess of £500,000 per year. This proposal would generate an estimated income of £412,500 in a full year as a contribution to the costs of administering these schemes by the Council.

A consultation exercise in accordance with The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 ("the 1996 Regulations") has been undertaken on the proposed charges and required changes to the legal articles of the Traffic Regulation Orders (TROs) related to these schemes.

This consultation was undertaken with Councillors, other formal bodies such as Nottinghamshire Police and every eligible property in the city as well as publicly advertising the amendments on street notices. A Notice was also published in the Metro newspaper to allow all highway users to comment. Future TROs would be subject to a specific consultation process and would include details of the charges in place, if the decision to proceed with this TRO is made.

The public consultation was launched on 29th July and remained open until 16th of September 2022.

The comments and feedback received have been examined, recorded and general themes of objection identified so that a decision on whether to approve in principle the "making" of the Traffic Regulation Order legally supporting the proposed charges, can be made. After consideration of the consultation responses and the subsequently amended Equality Impact Assessment ("EIA") it is recommended that the TRO will be subject to amendment to consider inclusion of dispensations to the permit charges. It is recommended that the decision on the consideration of these dispensations and the making of the TRO (including amendments) be delegated to the Corporate Director for Growth and City Development in consultation with the Portfolio Holder for Highways, Transport and Parks.

This paper provides a summary of the results of that consultation and recommends that the "Making" of the proposed Traffic Regulation Order allowing a charge for the second and third permit to be introduced is approved in principle, with the decision on the approval delegated as outlined above.

Does this report contain any information that is exempt from publication?

No

Recommendation(s):

That Executive Board:

- 1 Notes the results of the formal consultation that has been undertaken;
- 2 Having considered the responses to the consultation and the Council's duties under the Equalities Act 2010, the Traffic Management Act 2004 and section 122 of the Road Traffic Regulation Act 1984 approves in principle the making of the Nottingham City Council (City Wide, Nottingham) (Proposed Resident Permit Charges & Amendments to Articles) Traffic Regulation Order 2022 in the form indicated in Appendix 7 to this Report (Hereinafter referred to as "the proposed Traffic Regulation Order") subject to further work first being undertaken to consider whether modifications to the proposed Traffic Regulation Order should be made to include dispensations to the charges for the second and third resident parking permits following further consideration of the consultation responses and the amended Equality

Impact assessment (“EIA”) at Appendix 5;

- 3** Delegates authority to the Corporate Director, City Growth and Development in consultation with the Portfolio Holder for Highways, Transport and Parks to approve the making of the proposed Traffic Regulation Order as modified following the completion of the further work outlined in recommendation (2) above.

1. Reasons for recommendations

- 1.1 There are around 800 streets in the city subject to Resident Permit Parking Restrictions. These have been introduced by Traffic Regulation Orders (“TROs”) over a number of years for varying reasons pursuant to the Road Traffic Regulation Act 1984, and in all cases will have been proposed in relation to excessive numbers of vehicles not associated with residents. The proposed Traffic Regulation Order as consulted upon needs to be “Made” and in place to authorise the Council’s proposed introduction of resident and resident visitor permit charges, by way of amending existing TRO’s that include provisions for Resident Permit Parking.
- 1.2 As part of that consultation letters to 32,776 eligible properties have been distributed with approximately 2500 notices installed on streets with permit parking bays. These resulted in 1087 objections on various grounds. Further details on the analysis of the consultation are detailed within the Background (including outcomes of consultation section of this report.
- 1.3 There are currently over 45,000 free residential and visitor permits in circulation. The current residential parking permit scheme costs the Council annually in excess of £500,000 to administer. This proposal, if the proposed Traffic Regulation Order is made, would generate an estimated £412,500 as a contribution to these charges.
- 1.4 Due to the financial position of the Council, and the proposals made within the Medium-Term Financial plan, if the proposed Traffic Regulation Order is made, the income received from the charges is required to support this function. To ensure adequate management of traffic throughout the Council’s permit parking areas, restrictions have been deemed necessary and should not be removed without additional investigation into the highway network impacts this action would cause. (Further funding and the successful completion of additional TRO’s would be required to enable the removal/amendment of any current TRO provisions).
- 1.5 As noted in the summary of issues section of this Report, the operation, management and maintenance of permit parking areas is needed to adequately manage the demand for parking, helping to ensure that non-resident parking does not take place to the detriment of residents, residing in these areas.
- 1.6 In many resident parking areas, parking capacity issues exist and charging for additional permits may encourage reduced vehicle use.
- 1.7 After consideration of the consultation responses and the subsequently amended Equality Impact Assessment (“EIA”) it is recommended that the proposed Traffic Regulation Order will be subject to amendment to consider inclusion of dispensations to the permit charges. It is recommended that the decision on the consideration of these dispensations and the making of the proposed Traffic Regulation Order (including those amendments) be

delegated to the Corporate Director for Growth and City Development in consultation with the Portfolio Holder for Highways, Transport and Parks.

- 1.8 If the proposed Traffic Regulation Order is approved in principle, and subsequently made, the first permit issued will remain free to all households within a permitting scheme.
- 1.9 If the proposed Traffic Regulation Order is approved in principle and subsequently made the new residential permits will be paperless and sent virtually which will help reduce our carbon footprint. There will be no change to visitors permits which are printed, laminated, and sent out in the post.

2. **Background (including outcomes of consultation)**

- 2.1 At present properties eligible for resident parking permits within any parking scheme across the city are offered a maximum allocation of three free permits per household. There are approximately 45,000 permits in circulation.
- 2.2 The introduction of charges for residential parking permits first requires authorisation in the form of a TRO. The proposed Traffic Regulation Order consulted upon proposes to amend existing TROs that include resident permit parking restrictions. The associated legal documentation was drafted by Traffic Management Officers and also updates Parking Traffic Regulation Order content to ensure clarity and consistency whilst fully reflecting present legislation. The proposed Traffic Regulation Order will help to ensure the various associated traffic restrictions can be retained in accordance with the original reasoning as related to Section 1 of the Road Traffic Regulation Act 1984, whilst having also having regard to the Council's duty under Section 122 of the same Act (to ensure 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), and the network management duty under Section 16 of the Traffic Management Act 2004 (securing the expeditious movement of traffic on the authority's road network).
- 2.3 The consultation process for the proposed Traffic Regulation Order has been completed in line with established processes and in accordance with the 1996 Regulations. (See "Consultation Process" below)
- 2.4 The current estimate is that a total of £412,500 would be generated through this proposal. If introduced the actual level of income will be monitored which may lead to base budget income targets being reviewed. Appendix 1 details the fee options.
- 2.5 There may be a slight delay in take up of the 2nd and 3rd permits in the event that a charge is introduced as residents decide if they are needed. Please see section 5 for further financial comments.

Consultation Process

- 2.6 As part of the consultation process and in accordance with the 1996 Regulations the Council sought the views of.
 - Nottingham City Councillors
 - Nottinghamshire Police (and a total of 77 other formal bodies and internal colleagues) in accordance with the statutory regulations ("the formal consultees").

- Public (Eligible residential properties who current have parking permits)
- Highway users

- 2.7 Following internal authorisation to proceed with the consultation and publicity process in relation to the proposed Traffic Regulation Order, the first phase was to distribute the consultation letters to all Nottingham City Councillors which was sent on the 6th of July 2022.
- 2.8 Phase 2 contacted formal consultees such as the Police the following week on the 11th of July 2022.
- 2.9 Public consultation period began on 29th of July 2022, the comments and feedback received have been analysed and grouped in a report ahead of the decision-making process.
- 2.10 Appendix 2 details the letter sent to citizens outlining the proposal, two correspondence addresses were provided. All objections were to be sent directly to Traffic Management.
- 2.11 Advertisement of proposals were published in Metro Newspaper (17 August 2022) and via approximately 2500 on street notices. All consultation phases were concluded by the 16 September 2022.
- 2.12 Feedback requested from residents regarding existing permit parking areas including suggestions where permit parking areas were no longer required to be sent to Community Protection.

Consultation Responses

- 2.13 The following information has been provided by Traffic Management following the closure of the public consultation; in total they received 1085 objections from members of the public, 1 Ward Councillor and 1 Formal consultee which have been categorised into 5 general themes:

- Cost - 531 mention the permit cost and/or the impact on finances during a cost of living crisis.
- Principle – 366 objected in principle to charges being applied
- Equality – 319 mention an equality issue. These include Disabilities, the Elderly, Healthcare needs, Social Isolation, Low Income Households, Smaller properties with no off-street parking.
- Requirement/Enforcement – 241 responses include a reference to the need for restrictions or the fact that they do not believe enforcement is adequate. (Mainly related to schools and the drop off/pick up periods).
- Renewal Timing – 4 Objections relate to the timing/proposed renewal process.

(Note some objections included more than 1 area of objection and include the objections of a Ward Councillor (Cost & Equality) and a Formal consultee (Equality))

- 2.14 A total of 66 Residents contacted Traffic Management with general comments/questions and 9 Residents sent correspondence in support of the

proposals, many of whom felt the stepped levels of charge would encourage reduced vehicle use to the benefits of the local and wider community.

- 2.15 The objections also include several petitions as follows: 624 signatures (Meadows Area), 178 signatories (Noel Street Area of Hyson Green), 75 signatories (Birkin Area of Hyson Green), 43 signatories (Salford Gardens Area of St Ann's), 12 signatories (Morley Avenue Mapperley), 10 signatories (Penn Avenue Area of Lenton).
- 2.16 Appendix 3 is a copy of the redacted record of objections for information
- 2.17 The correspondence received by Community Protection has been recorded centrally separate to the data obtained by Traffic Management for consideration.
- 2.18 Appendix 4 maps the responses and comments from the public consultation received by Community Protection.
- 2.19 In summary, analysis of the feedback received by Community Protection found that there were few indifferent or positive comments about the proposal however no alternatives were provided by consultees. Only permit holders or potential permit holders were consulted as opposed to wider city residents who also subsidise the cost of the permits.
- 2.20 The most common concerns were as follows:
- Unnecessary/Ineffective or Removal of Scheme – There have been 428 responses received by Community Protection related to the parking schemes/restrictions either being unnecessary due to various factors which are represented within the other common reoccurring themes or comments related to the effectiveness of existing schemes. This is largely due to there being no noticeable differences to on street parking resulting in residents directly requesting a scheme to be removed. Further details of the areas where these requests applied to are provided in Appendix 4.
 - Cost of Living/Tax/Financial Position of the City Council - 110 responses related to the cost of living and Nottingham City's council tax rates. Comments largely concerned the fiscal impact this could have on families in the current financial climate whilst associating the proposal to the increase in council tax. There has also been commentary on the economic position of the city council.
 - Social Impacts – Residents voiced their apprehensions to 'pay' to see family and friends and the impacts of likely isolation and loneliness particularly following Covid Lockdowns. There were 65 comments which raised concerns of how the parking permits impact family events, visiting elderly family who require support due to the maximum number of permits allotted per household.
 - Regular Carers/Disability Concerns - The service has received 47 comments with concerns on the likely impacts this proposal may have to people with disabilities or who have regular medical carers.
 - Ineffective Enforcement – There were 43 comments which stated enforcement activity on existing restrictions wasn't adequate or inconsistent.

- Other Comments Received - Separate of the common themes there have been a smaller number of comparable requests or comments. These include but aren't limited to:
 - I. The removal of the Parking Levy in areas within the city to avoid unwanted parking on residential streets (whilst residents referred to a 'parking levy' it is believed this is referring to the workplace parking levy)
 - II. Consideration made for two free permits and the charge being applied to the third permit requested
 - III. Existing schemes to match or be altered to reflect schemes in place on streets locally

Conclusion

2.21 All responses received have been carefully considered following the closure of the consultation -

- The concerns related to medical carers and those with disabilities has raised several questions on potential dispensations from the proposed charges. Should the decision to approve the making of the Order in principle be approved, these issues will be considered by the Corporate Director for Growth and City Development in consultation with the Portfolio Holder for Highways, Transport and Parks
- Feedback from the proposed Traffic Regulation Order consultation has also enabled the City Council to update the Equality Impact Assessment (EIA) further. The updated EIA demonstrates how this feedback has been processed and how the perceived negative impacts will be mitigated or minimised. Further details are available in Appendix 5 which addresses all other equality-based concerns raised which related to the Elderly, Healthcare needs, Social Isolation and Low-Income Households.
- The level of charges are considered appropriate to offset the financial impact to the wider tax payer. The figures were chosen after extensive research into possible amounts was conducted. The amounts proposed are considered reasonable, fair and in some cases inexpensive in comparison to other local authority's administration fees. Further details within Appendix 8
- Other local authorities charge for the 1st permit in addition to any 2nd and 3rd permits, under this proposal the initial permit will remain free and the proposed charges only apply to additional permits. Further details within Appendix 8
- Regarding comments which mentioned unnecessary/ineffective or the removal of Scheme – the highest volume of individual addresses on a single street requesting the removal of a parking scheme was Noel Street with 91 individual addresses. This resulted in the highest percentage rate for a single street at 46%. The initial plans related to this question was to review and consult further on the removal of schemes should the proposal be approved, however there have been no streets where the clear majority of properties have requested the removal of their residents parking scheme.

- The majority of the benchmarked local authorities offer a maximum of two permits per household, this proposal offers no change to the existing 3 permits per household which at present looking at the consultation responses received doesn't impact social interactions with family or friends.
- Whilst comments mention a lack of enforcement activity, officers are allocated to areas on an intelligence lead basis following information about parking contraventions in particular areas. Residents experiencing issues with parking can report directly to the council's website for officers to investigate. The below table shows the number of parking charge notices issued within resident parking scheme areas for the previous 4 years.

Year	PCNs Issued
2018/19	12,997
2019/20	16,555
2020/21	13,390 (Covid impacted)
2021/22	18,213

- The proposal to charge for permits has been made as part of the City Councils' Medium-Term Financial Plan for 2022/23 to 2025/26 alongside several other proposals, this was agreed in principle at Full Council in March 2022.
- A 12-month cycle to renew parking permits has been decided upon to support the reduction of the subsidy as the annual cost for operating, maintaining, and supporting the existing residents parking restrictions is in excess of £500,000.
- The suggestion of two free permits and the charge being applied to the third permit wouldn't support the reduction of the current subsidy or reduce the financial impacts associated with residents parking schemes. However as stated in the report, considerations on exemptions are being explored for particular groups should the decision be approved.
- The Workplace Parking Levy is an established charge on employers across Nottingham City, generating income of approximately £8m per annum and has helped unlock £600m of inward investment. As with all causes of commuter parking, the Council has a statutory duty to ensure the highway is unobstructed and safe for all users.
- It is important that all parking restrictions/provisions are fit for purpose and meet the needs of the local community and as such are subject to ongoing review. Any changes to extents or operational times of restrictions would be subject to further TRO's and associated consultation.

2.22 Following careful consideration of the feedback from the consultation and with due regard to the Council's duties under the Equalities Act 2010, the Traffic Management Act 2004 and section 122 of the Road Traffic Regulation Act 1984, the approval in principle to progress the making of the proposed Traffic Regulation Order is being sought to –

- Reduce the current subsidy which is funded by the council taxpayers across the city.
- The current residential parking permit scheme costs the Council annually in excess of £500,000 to administer. This proposal would generate an estimated £412,500 as a contribution to these charges.

Next Steps

2.23 If authorisation to approve the making of the proposed Traffic Regulation Order in principle is received, the proposed Traffic Regulation Order will be potentially subject to amendment to include consideration of dispensations to the permit charges. Approval from the Corporate Director for Growth and City Development in consultation with the Portfolio Holder for Highways, Transport and Parks will then be sought for the making of the Order. If the proposed Traffic Regulation Order (as amended) is made, all objectors need to be notified of this decision, the proposed Traffic Regulation Order needs to be legally confirmed (sealed) by Legal Services and advertised as “Made” in the local press. (further details within section in 6 below).

2.24 A comprehensive parking permit rollout plan has been prepared in the possibility of an approved outcome. The proposed Traffic Regulation Order will be potentially subject to amendment to include consideration of dispensations to the permit charges. Approval from the Corporate Director for Growth and City Development in consultation with the Portfolio Holder for Highways, Transport and Parks will then be sought for the making of the Order. If the proposed Traffic Regulation Order (as amended) is made. A timeline has mapped out the remaining tasks and details the interdependencies which would see the proposal realised in a timely manner.

- Due to producing all the new permits at once, additional staff will need to be temporarily employed to cope with the influx of applications.
- There will be approximately 16,000 citizens who will be entitled to one free permit under the new proposal. Temporary posts will be achieved by employing agency/temporary staff and these short-term resourcing costs will be met within the current Medium-Term Financial Plan as a one-off cost.
- All application forms (stationary/ink/holograms) and web pages will need to be changed for enforcement purposes. These changes will incur costs in the initial stages of the proposal and will be met from the existing budget.
- Clear communication will be given to citizens in terms of relinquishing their old permits and applying/purchasing new ones, with specific timescales.
- Sections of the city have been separated into areas based on the size of the schemes already in place and the most efficient way to continue with enforcement to prevent complaints.

- A 4-area phased approach has been planned which will allow for a timely distribution well as be less resource intensive year on year as permits are renewed.
- Area 1 will be the north of the city covering areas such as Bulwell, Basford and Bestwood. Area 2 will cover Broxtowe and Wollaton, the west of the city. Area 3 will focus on the south in areas such as Meadows, Clifton and St Anns. Area 4 will cover the remaining central portions of the city including the Arboretum, Forest Fields and Lenton.
- The service will begin permit roll out in area 1 which is the smallest of the residential parking scheme areas by design. Using this method will allow the service to learn from initial faults which can be implemented into the larger areas and streamline the process as the service moves from area to area.
- Appendix 6 contains a comprehensive breakdown of the areas described and the schemes which will be cover during each phase. The 3 of the largest residential parking scheme areas have been separated amongst the 4 areas to avoid delays in delivery roll out.
- Each area will have 3 weeks to apply for the permits whilst enforcement activity has ceased. This also minimises the impacts of ceasing enforcement activity across the city and would also circumvent the effects to income which is generated through the issuance of parking charge notices.
- Once enforcement activity has recommenced that areas phase has been completed and the next area will begin applying for permits, this pattern will continue until all 4 areas have been completed.

Proposed Timeline Overview

Item	Date
Finalise Taranto system	Q3/Q4 21/22
Resident communication plan on the new system	Q4 21/22
Area 1 cease enforcement Area 1 recommence	Q4 21/22
Area 2 cease enforcement Area 2 recommence	Q4 21/22
Area 3 cease enforcement Area 3 recommence	Q1 23/24
Area 4 cease enforcement Area 4 recommence	Q1 23/24

Post implementation review including financial monitoring	Q1 2023
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3. **Other options considered in making recommendations**

- 3.1 One option is not to progress the proposed Traffic Regulation Order which allows for a charge for resident and resident visitor parking permits (not affecting charges for students and business permits), and retain the current arrangement which means the scheme would continue to be fully funded by the council taxpayers across the city.
- 3.2 A second option is to charge for all residents and visitors permits which are issued, removing the first free permit resulting in further contribution to the cost of permits. This would first require a further amended TRO to be prepared and consultation on that further amended TRO in accordance with the 1996 Regulations with the public and statutory consultees. This is not being recommended given that this has not formed the basis of consultation.
- 3.3 The recommended option is to make a decision to approve in principle the making of the proposed Traffic Regulation Order, with the power to make the proposed Traffic Regulation Order delegated as outlined in the recommendations. If approval in principle is given, and once the proposed Traffic Regulation Order (as modified) is made, introducing the ability to charge for additional resident and resident visitor parking permits beyond the first permit which remains free of charge, the pricing of which would be £35 for the second permit and £50 for the third permits issued. Permits would be limited to 3 per household.

4. **Consideration of Risk**

- 4.1 In the event that the proposed Traffic Regulation Order is made after it has first been modified to include dispensations around Blue Badge holders the uptake of the proposed dispensation around Blue Badge holders could also have an impact on this predicted income, however, it is currently unknown as to what level this will be taken up and will also need to be analysed going forward.
- 4.2 There may be a slight delay in take up of the 2nd and 3rd permits in the event that a charge is introduced as residents decide if they are needed.
- 4.3 The current estimate is that a total of £412,500 would be generated through this proposal. If introduced the actual level of income will be monitored which may lead to base budget income targets being reviewed.
- 4.4 In the event that the proposed Traffic Regulation Order is made the service will begin permit roll out in area 1 which is the smallest of the residential parking scheme areas by design. Using this method will allow the service to learn from initial faults which can be implemented into the larger areas and streamline the process as the service moves from area to area.

5. Finance colleague comments (including implications and value for money/VAT)

5.1 This decision recommends:

- Having considered the responses to the consultation and the Council's duties under the Equalities Act 2010, the Traffic Management Act 2004 and section 122 of the Road Traffic Regulation Act 1984 approves in principle in the making of the Nottingham City Council (City Wide, Nottingham) (Proposed Resident Permit Charges & Amendments to Articles) Traffic Regulation Order 2022 in the form indicated in Appendix 7 to this Report (Hereinafter referred to as "the proposed Traffic Regulation Order") subject to further work first being undertaken to consider whether modifications to the proposed Traffic Regulation Order should be made to include dispensations to the charges for the second and third resident parking permits following further consideration of the consultation responses and the amended Equality Impact assessment ("EIA") at Appendix 5
- Delegate authority to the Corporate Director, City Growth and Development in consultation with the Portfolio Holder for Highways, Transport and Parks to approve the making of the proposed Traffic Regulation Order as modified following the completion of the further work outlined in recommendation (2) above.

5.2 There are currently circa 45,000 free residential/visit permits in circulation. The income for these chargeable second and third permits has been identified as cost recovery of providing the permits only. Therefore, ensuring that the income recognition is in-line with International Financial Reporting Standards (IFRS) 15, this will be directly related to the issuance of the permits. The income will therefore be fully recognised for the permit at the point that the permit is issued, and payment received.

5.3 The timeline for implementation of the scheme, is now expected to be in a progressive 4 stage/area roll-out process as identified in the report over 3 months from circa March 2023 into the next financial year. This could lead to a slower roll-out of these new permits and implications to the expected first (part year 2022-23) income of £0.207m being challenging dependant on uptake. This risk will need to be reviewed carefully by the Service in the initial months once the scheme commences. Both this, the following year 23/24 and ongoing expected income of £0.413m is dependent on appetite for uptake and will again need to be carefully monitored.

5.4 There is a risk for the embedded Medium Term Financial Plan income target for 23/24 of £0.413m as this is estimated on additional permits of 15,000 (second at 50% and third at 20% uptake) and this could fall significantly lower than predicted or be very slow in uptake. This is especially so when coupled with the current cost of living crisis and inflationary pressures. The uptake of the proposed dispensation around Blue Badge holders could also have an impact on this predicted income, however, it is currently unknown as to what level this will be taken up and will also need to be analysed going forward.

Susan Turner, Senior Commercial Business Partner, Finance 14th November 2022.

6. Legal colleague comments

- 6.1 A decision relating to the making of a Traffic Regulation Order (“TRO”) under the Road Traffic Regulation Act 1984 (“the 1984 Act”) is an executive function which falls within the remit of Executive Board. Nottingham City Councils ‘Delegations to Officers’ sub-delegate powers relating to the making of TROs to the Corporate Director, Growth and City Development. However, this does not prevent such a decision, in this case where the formal consultation and publicity process was commenced by an officer decision, being taken by Executive Board. In this case the decision is a key decision and has therefore been referred to Executive Board.
- 6.2 Nottingham City Council, in its capacity as a traffic authority (“the Council”), can place various restrictions on traffic using a Traffic Regulation Order made under the 1984 Act. Under section 1(1) of the 1984 Act the Council may make a TRO in respect of a road or roads within their administrative area for which they are the traffic authority for reasons including facilitating the passage on the road of any class of traffic and preserving or improving the amenities of the area through which the road runs. Pursuant to section 39 of the 1984 Act restrictions regulating the use of a road can include parking restrictions for specific roads and, as identified in the body of the report, the Council has made a number of residential parking permit areas on roads for which they are the traffic authority by TRO (“the existing TROs”).
- 6.3 Section 45 of the 1984 Act authorises a charge to be made for resident parking permits where the TRO in question includes such a power. As identified in the body of the report, if made, the proposed Traffic Regulation Order would amend the existing TROs to authorise the Council to charge for such permits and Appendix A to the proposed Traffic Regulation Order sets out the proposed charges. The proposed Traffic Regulation Order also updates the Council’s general TRO contents in respect of on-street parking to ensure clarity and consistency and to reflect current relevant legislation and other consequential amendments.
- 6.4 While the 1984 Act does not specify the amount which a Council can charge for a residential parking permit, case law confirms that the 1984 Act is not a fiscal measure and, for example, does not authorise a local authority to use its powers to charge local residents for parking in order to raise surplus revenue for other transport purposes. The report sets out the costs of the resident parking permit provision and, if the proposed Traffic Regulation Order is made, how that money would be spent.
- 6.5 As identified in the report, before the Council can decide whether or not to make a TRO it must follow the process outlined in the Local Authorities’ Traffic Orders (Procedure) (England and Wales) Regulations 1996 (“the 1996 Regulations”) which includes requirements for a public consultation and public advertisement process. In relation to the proposed Traffic Regulation Order, the Council is required to consult with relevant bodies specified in Regulation 6 of the 1996 Regulations, publish a notice in a local newspaper in compliance with Regulation 7, and is required to ensure that adequate publicity is provided to those likely to be affected by the proposed Traffic Regulation Order (pursuant to Regulation 7. This may include display of notices in the relevant area and distribution of the same to local properties and road users. The relevant documents must be held on deposit from the date that the notice of proposal is first published and must remain on deposit until 6 weeks after the proposed Traffic Regulation Order has been made (or a decision made by the Council not to proceed with the proposal). General

administrative principles also require that consultations must allow adequate time for consideration and response, they must be procedurally fair and it is imperative that the results of the consultation are taken into account by the Council in a meaningful way before finalising any proposals.

- 6.6 The report confirms that consultation and publicity in relation to the proposed TRO was authorised by an officer decision and summarises the consultation and publicity which the Council has undertaken in relation to the proposed Traffic Regulation Order.
- 6.7 The 1996 Regulations confirm that the decision whether or not to make the proposed Traffic Regulation Order can be taken by the Council.

Action Required before a decision whether or not to make the Proposed Traffic Regulation Order is taken:

- 6.8 Before deciding whether or not to make the proposed Traffic Regulation Order the Council must be satisfied that the Council's duties under section 122 of the RTRA and the Network Management Duty under the Traffic Management Act 2004 have been complied with, consider all objections duly made under Regulation 8 of the 1996 Regulations which are not withdrawn, and comply with their equality duties under the Equality Act 2010 ("the 2010 Act").
- 6.9 The details of the consultation and publication responses have been summarised in the report and an Equality Impact Assessment ("EIA") has been completed, which was updated following the conclusion of the consultation and is appended to the report.

Duty under Section 122 of the 1984 Act:

- 6.10 When considering the making of a TRO the Council has a statutory duty to consider the matters detailed at Section 122 of the 1984 Act, which provides as follows: -

(1) 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.*

(2) 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 local authority to be relevant

6.11 In addition, under the Traffic Management Act 2004 it is the duty of the Council to manage their road network with a view to securing the expeditious movement of traffic on the Council's road network. The report summarises how the Council has considered these requirements at paragraph 3.2.

Equalities Duties under the 2010 Act:

6.12 In coming to any decision the Council must also comply with their duties under the 2010 Act, in particular the public sector equality duty ("PSED") under section 149.

6.13 Section 149 of the 2010 Act requires the Council, when exercising its functions, to have 'due regard' to the need to:

1. Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the 2010 Act.
2. Advance equality of opportunity between people who share a relevant protected characteristic and those who don't share it, which involves having due regard to the needs to:
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
 - Take steps to meet the needs of persons who share a protected characteristic where those needs are different from the needs of persons who do not share that characteristic; and
 - Encourage those 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;
3. Foster good relations between people who share a relevant protected characteristic and those who do not (which involves having due regard, in particular, to the need to tackle prejudice and promote understanding even if it means treating some groups more favourable than others).

6.14 The Council's duty is to consider the need to achieve the overall goals of the legislation. The duty must be performed "with vigour and an open mind" before and at the time that a decision is made. However, the weight to be given to different factors arising is a matter for the Council.

6.15 The 2010 Act lists a number of characteristics which are protected. The most relevant for the purposes of traffic management are likely to be disability. 'Disability' is given a wide meaning here, and would include a person who has a mental or physical impairment on that person's ability to carry out normal day to day activities. In the context of disability the duty is to have 'due regard' to the need to take steps to take into account disabled person's disabilities

and to make reasonable adjustments where a provision or practice puts a disabled person at a substantive disadvantage.

- 6.16 Paragraph 3.21 of the report provides a summary of the EIA. A careful consideration of the EIA is one of the key ways in which the Council can show that they have carried out their duty to have “due regard” to the relevant matters. The Council must therefore carefully consider the EIA. In considering the EIA and all other material contained in and appended to this report, the Council must bear in mind all of the parts of the PSED set out above. Where it is apparent from the analysis of the information that the proposed Traffic Regulation Order would have an adverse impact on those with protected characteristics, then any adjustments that would avoid or reduce that effect (mitigating steps) should be identified and careful consideration then given to whether and if so how they can be implemented.

Power to make modifications to a proposed TRO following consultation and publicity

- 6.17 The report summarises the consideration of the consultation responses and recommends that, in consideration of issues arising from the EIA, that approval in principle is given to the making of the proposed Traffic Regulation Order, and that the decision to make the proposed Traffic Regulation Order is delegated as outlined in the recommendations of the report, subject to potential modifications to include possible dispensation for the charges following further consideration of the consultation responses and the EIA as amended.
- 6.18 The 1996 Regulations provide for potential modifications to be made to a proposed TRO before it is made, with further consultation only required where a substantial change is proposed.
- 6.19 If the proposed Traffic Regulation Order is made there are further publicity requirements which the Council must comply with pursuant to the 1996 Regulations. In addition, where objections to the making of the proposed TRO have been received and not subsequently withdrawn and where that objection has not been wholly acceded to, the Council is required to notify the persons objecting and include in that notification the reasons for the decision.
- 6.20 If a TRO is made, the validity of that TRO, and compliance with the duties under the 2010 Act may be challenged.

Tamazin Wilson, Senior Solicitor, Legal Services 11th November 2022

7. Other relevant comments

7.1 NONE

8. Crime and Disorder Implications (If Applicable)

8.1 NONE

9. Social value considerations (If Applicable)

9.1 NONE

10. Regard to the NHS Constitution (If Applicable)

10.1 NONE

11. Equality Impact Assessment (EIA)

11.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because:
(Please explain why an EIA is not necessary)

Yes

Attached as Appendix 5 including

12. Data Protection Impact Assessment (DPIA)

12.1 Has the data protection impact of the proposals in this report been assessed?

No

A DPIA is not required because:
(Please explain why a DPIA is not necessary)

Yes

13. Carbon Impact Assessment (CIA)

13.1 Has the carbon impact of the proposals in this report been assessed?

No

A CIA is not required because:
(Please explain why a DPIA is not necessary)

Yes

14. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

14.1 Hard copies of individual consultation survey responses

15. Published documents referred to in this report

15.1 NONE