

**FALKIRK COUNCIL**

**Subject: RESIDENTIAL ON-STREET PARKING PLACES FOR PEOPLE WITH A DISABILITY**  
**Meeting: COMMUNITY HEALTH & SAFETY COMMITTEE**  
**Date: 19 August 2008**  
**Author: DIRECTOR OF DEVELOPMENT SERVICES**

**1. INTRODUCTION**

- 1.1 This report reviews the current policy and seeks approval to amend the criteria for the provision of on street parking bays for people with a disability.

**2. BACKGROUND**

- 2.1 People with a disability can apply to the Council for a blue badge under the Blue Badge Scheme. The scheme is a national arrangement of parking concessions for people with severe walking difficulties who travel either as drivers or passengers of a motor vehicle. The scheme also applies to registered blind people and people with very severe upper limb disabilities who regularly drive a vehicle but cannot turn a steering wheel by hand.
- 2.2 Falkirk Council currently provides on-street parking spaces in residential areas, enforceable by virtue of a Traffic Regulation Order, for people with a disability who are in receipt of a Blue Badge, meet the Council's criteria and, due to parking congestion, have difficulty parking near their homes.
- 2.3 There are approximately 7500 Blue Badge holders in the Falkirk Council Area. Falkirk Council receive 150 or so disabled parking bay applications each year, at least half of which meet current criteria and require the promotion of a Traffic Regulation Order.
- 2.4 In order to provide disabled parking spaces on the road, Falkirk Council, as Roads Authority, employs powers conferred on it under Sections 32(1) and 35(1) of the Road Traffic Regulation Act 1984. The Roads (Scotland) Act 1984 defines a road as any thoroughfare over which there is public right of passage. Occasionally, applications for disabled bays are received for locations that do not meet the above definition. Under these circumstances the Roads Authority cannot provide disabled spaces and will direct the applicant to either Housing Services within the Council, a housing agency or a sheltered housing operator - whoever manages the proposed location and can provide and enforce a disabled bay using whatever powers they have over the location.
- 2.5 The Disability Discrimination Act 2005 does not require Local Authorities to specifically provide residential parking bays for people with a disability. The act places a general duty on public authorities to actively look at ways of ensuring disabled people are treated equally and one of Falkirk Council's main goals is to reduce disadvantage and inequality in all its forms. On-street disabled persons' parking places helps to address these concerns.

- 2.6 From a sample of other Scottish Councils, it appears that most provide disabled bay markings. Approximately, half of these Councils make their bays enforceable by the promotion of a Traffic Regulation Order while the remainder use advisory markings only.
- 2.7 Falkirk Council's current policy governing the provision of on-street parking spaces for disabled people was ratified by Central Regional Council and dates back to 1991. The criteria currently used to determine applications are:
- The applicant must be resident at the address where the marking is to be provided.
  - The vehicle must normally be kept at this address.
  - The applicant must be in receipt of the Mobility Component of Disability Living Allowance (DLA) at the higher rate or be eligible for it except on the grounds of age.
  - There must be a persistent difficulty in parking at the location.
  - Applications must be subject to road safety criteria, in terms of ensuring any disabled persons' parking bay does not, for instance, restrict visibility at a junction or be placed in such a manner as to cause congestion or obstruction.
  - The Policy and Resource Committee meeting of September 2005 added a further criterion to be assessed during the application process. This additional step required all applicants to be assessed by a physiotherapist.
- 2.8 In addition, Members, at the September 2005 Committee meeting, also tasked officers with reviewing the current policy and reporting the findings back. During the initial review of the policy in 2006, Jackie Baillie MSP consulted throughout Scotland on disabled parking places with a view to introducing a Bill to the Scottish Parliament. It was felt prudent to delay the review of the Council's policy until the Bill was introduced to Parliament and report to members at that time.
- 2.9 The Bill has taken longer to be introduced to Parliament than anticipated. On 2 June 2008, Jackie Baillie MSP introduced a Members Bill to the Scottish Parliament entitled 'The Disabled Persons' Parking (Scotland) Bill'. The aim of the Bill is to make disabled persons' parking places legally enforceable, preventing the misuse of such parking places by those not entitled to use them. In its current form, the Bill would make all disabled persons' parking places legally enforceable. All disabled bays maintained by Development Services, both on street and off, are covered by a Traffic Regulation Order and are therefore already legally enforceable. The Bill would also place a duty on local authorities, who have made Traffic Regulation Orders in respect of disabled parking places, to keep the provision of those parking bays under continual review. In addition, it also makes reference to the local authority enforcement of disabled spaces in private car parks such as retail parks and supermarket car parks.
- 2.10 The Bill is currently at the first of three stages with no formal timescale available for completing all the stages. The first stage is due to be completed by November 2008 and, if the Bill follows similar timescales for other Bills, completion could be Spring 2009.

- 2.11 It is recognised that, following completion of the Bill's progress through the Scottish Parliament, significant changes may be required by the Council in the way it manages disabled persons' parking spaces. However, there are two specific issues which can usefully be addressed now. These are:
- The requirement to assess the level of disability of all applicants by a physiotherapist.
  - The way that the level of disability is assessed for children.
- 2.12 Currently, all applicants for a disabled bay must be assessed by a physiotherapist to determine their levels of disability as part of the application procedure. The current assessment is intended to determine whether the applicant would be eligible for the Mobility Component of DLA at the higher rate. However, in order to obtain a blue badge, some applicants have already demonstrated that they are in receipt of the Mobility Component of DLA at the higher rate. These applicants for Disabled Persons' Bays therefore need not be referred to the physiotherapist since they can show that they already receive the Mobility Component of DLA at the higher rate. It is therefore proposed that only those applicants who hold a Blue Badge but are not in receipt of DLA at the higher rate because of their age (over 65) be assessed by a physiotherapist.
- 2.13 There are problems assessing children by mainstream physiotherapists. Consequently, it is proposed that only child applicants who hold a Blue Badge but are not in receipt of DLA at the higher rate because of their age (under 3) be assessed by a paediatric therapist.

### **3 CONCLUSIONS**

- 3.1 In light of Falkirk Council's goals and the success that this policy has had in enhancing the circumstances of disabled people it is concluded that Falkirk Council continue to provide help for disabled people in the form of enforceable residential disabled parking bays.
- 3.2 The Disabled Persons' Parking (Scotland) Bill, in its current form, will have implications for the Council in the provision and/or enforcement of disabled persons' parking spaces, both on-street and off-street. The Bill may change the way the Council is required to manage disabled persons parking and a further report will come to this Committee following the passage of the Bill through Parliament.
- 3.3 In the meantime, recognising that future changes may be required as a consequence of the Bill, it is concluded that Falkirk Council continues to provide disabled persons' parking bays to holders of a Blue Badge subject to the criteria generally as paragraph 2.7 with changes to the physiotherapist assessment requirement as follows:
- Applicants not eligible for DLA at the higher rate on grounds of age to be assessed by a physiotherapist or paediatric therapist, as applicable, depending on their age.

#### 4. RECOMMENDATIONS

Members are asked to;

- 4.1 agree the continued provision of enforceable residential parking bays;
- 4.2 agree the continued use of the criteria set out in paragraph 2.7, as amended by 4.3 and 4.4, be used in the assessment of this provision;
- 4.3 agree and recommend to Policy and Resources Policy Committee, that only those applicants over the age of 65, not in receipt of the Mobility Component of DLA at the higher level, will be assessed by a physiotherapist. The assessment determines whether the applicant has a disability which is comparable with that required to qualify for the Mobility Component of DLA at the higher level;
- 4.4 agree and recommend to Policy and Resources Policy Committee, that applications relating to disabled children under the age of 3 will require assessment by a paediatric therapist. The assessment determines whether the applicant has a disability which is comparable with that required to qualify for the Mobility Component of DLA at the higher level;
- 4.5 note that a future report will come to members following the passage of The Disabled Persons' Parking (Scotland) Bill through the Scottish Parliament.

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Director of Development Services

Date: 12<sup>th</sup> August, 2008

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