

ABERDEEN CITY COUNCIL

COMMITTEE: **Enterprise, Planning and Infrastructure**

DATE: **29 August 2013**

DIRECTOR: **Gordon McIntosh**

TITLE OF REPORT: **Green Badge Parking Spaces**

REPORT NUMBER: **EPI/13/124**

1. PURPOSE OF REPORT

To update the Committee on the impact of Blue Badge reform upon the Close Proximity Parking Scheme.

2. RECOMMENDATION(S)

It is recommended that the committee:

1. notes the reform of the Blue Badge scheme and the introduction of the Disabled Persons Parking Spaces (Scotland) Act 2009
2. instructs officers to continue to standardise all Disabled Persons Parking Spaces within the City by signing and lining these in accordance with the Act and enforcing the spaces in accordance with the Act, whereby they may be used by any Blue Badge holder.
3. instructs officers to discontinue the issue of any new or renewal of Green Badges with immediate effect.
4. instructs officers to convert the existing Green Badge parking bays to Blue Badge bays and introduce a 3 hour max stay, with no return within 1 hour, to allow turnover at these prime city centre bays and prevents all day commuter parking.
5. acknowledges that due to the amount of disabled parking spaces within the city, it will take a number of months to complete the re-lining to the new standards, and that Green Badge holders be entitled to continue using these Badges until such time as the Green Badge parking bays have been converted to Blue Badge spaces.

3. FINANCIAL IMPLICATIONS

There would be a reduction in income from the issue of Green Badges, approximately £3000 annually, which would be offset by the corresponding reduction in staff time spent processing such applications, savings on materials to produce the Green Badges and postage costs.

There would be a requirement to lay new road markings and erect new signing at an initial capital cost of approximately £2300.

In addition, the Traffic Regulation Order (TRO) covering these parking spaces would have to be revoked and a new TRO promoted for parking bays to the new standards. However, this could be done at minimal cost by including this in a TRO with other new disabled parking spaces, which is put forward at each Committee under the regular Various Small Scale Traffic Management and Development Associated Proposals (New Works) report.

4. OTHER IMPLICATIONS

None

5. BACKGROUND / MAIN ISSUES

5.1 Background

5.1.1 The Social Work Committee on 3 February 1999 agreed to the provision of on-street disabled parking spaces to enable people with severe disabilities to access specially reserved kerbside spaces in the city centre. These spaces were longer than the standard bays at the time, in order to allow wheelchair access to the rear of the vehicle. It was a common occurrence that other vehicles would park against the rear of a disabled parking bay, and the standard bays at the time didn't allow enough room to connect a ramp for wheelchair access to the rear of the vehicle. Any other vehicle parked too close to the edge of the disabled parking bay therefore hindered wheelchair access. The kerbs along the entire frontage of these bays were also lowered to aid wheelchair access.

5.1.2 These bays also differed from Blue Badge spaces in that there was a maximum waiting time of 3 hours, whereas in Scotland, there is no time limit for parking while displaying a valid Blue Badge. In England & Wales, there is a 3 hour time limit for all Blue Badge parking.

5.1.3 Green Badges could be obtained by those in receipt of the higher rate of the mobility component of the Disability Living Allowance (DLA) or those who were wheelchair users. Those not claiming the higher rate of DLA could be assessed by an Occupational Therapist to confirm eligibility.

5.1.4 The current charge for a Green Badge is £30 per year and the Green Badge must be renewed annually. In comparison, local authorities are

allowed to charge a maximum of £20 for a Blue Badge, which is renewable every 3 years.

5.1.5 The EP&I Committee of 13 September 2011 instructed officers, in light of Blue Badge reform, to review the possible impact on the City Council's Green badge scheme and to report back to a future Committee.

5.2 Green Badge spaces

5.2.1 There are a total of 29 Green Badge spaces in the City and the locations are shown in Appendix A.

5.2.2 Officers propose to convert the above from Green Badge to Blue Badge bays and introduce a 3 hour max stay to ensure turnover of these prime city centre bays and stop all day commuter parking.

5.3 Numbers of issued badges

5.3.1 A total of 103 Green Badges have been issued in the past 12 months. A small number of these Green Badge holders will not also hold a Blue Badge and some Green Badge holders do reside outwith the city within Aberdeenshire.

5.3.2 There are 8057 current Blue Badge holders who have badges issued via Aberdeen City Council.

5.4 Impact of Blue Badge reform

5.4.1 Since 1 January 2012, there has been an on line application service hosted by Northgate for the issue of Blue Badges. While councils still process applications, all new Blue Badges are printed by a specialist printer and are issued by Northgate, who provide one central service for issue of Blue Badges throughout Britain. Councils notify Northgate when it has been decided that an applicant qualifies for a Blue Badge and Northgate issue the Badge.

5.4.2 The Blue Badges have been updated to include new anti-forgery measures and are therefore being printed by a specialist printer.

5.4.3 Blue Badge reform pledged to tackle the abuse of Blue Badges and disabled parking provision, and the issue of Blue Badges from one central location for the whole of Britain is instrumental in helping to detect applications made by individuals to multiple local authorities in an attempt to obtain additional Blue Badges.

5.4.4 Blue Badge reform in Scotland also included changes in the way that applicants are assessed. The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment (No. 2) Regulations 2011 introduces assessment of a person's ability to walk by an "independent mobility assessor" defined as someone who holds "a professional qualification, the obtaining of which involved person A being trained in the assessment of a person's ability to walk" and "having the expertise

necessary to assess on behalf of the local authority the ability to walk of person B”.

5.4.5 These Regulations also state that an independent mobility assessor should never have “been employed or engaged as a provider of medical services to person B where “medical services” includes all forms of medical treatment and investigations to establish whether treatment is needed but does not include an assessment conducted to establish whether person B is eligible for services provided by a local authority (including the provision of a disabled person’s badge)”.

5.4.6 In practice, this means that the assessment of a person’s eligibility for a Blue Badge has been removed from their GP and is now assessed by an Occupational Therapist employed by Aberdeen City Council as an independent mobility assessor.

5.4.7 If applicants do not meet the automatic qualifying criteria for a Blue Badge, then they must be assessed as having “a permanent and substantial disability which means they are unable to walk or virtually unable to walk” or “have a temporary, but substantial disability, which means they are unable to walk or virtually unable to walk which is likely to last for a period of at least 12 months, but less than 3 years.”

5.5 Impact of Disabled Persons Parking Spaces (Scotland) Act 2009

5.5.1 Under this Act, “a local authority must promote the proper use of parking places in its area that are designated or provided for use only by disabled persons' vehicles.”

5.5.2 Prior to this Act, all on-street disabled parking spaces were classed as advisory. In order to promote the proper use of these bays and discourage indiscriminate parking, the Act confers upon local authorities the duty to make a disabled street parking order covering the bay, which is to say that a Traffic Regulation Order is required as one of the measures to make these bays enforceable.

5.5.3 The other relevant measures required in order to make bays enforceable are that the bays must be signed and lined to new standards, which impacts the operation of both Blue and Green Badge spaces within the City.

5.5.4 A contract is underway at present to re-line Blue Badge spaces to the new standards, which is being followed by the erection of new signs. Under the Act, bays cannot be reserved for the exclusive use of an individual, even if that person originally requested the provision of the bay. The Act specifies that bays may be used by all Blue Badge holders. This is a significant change to how the scheme was operated in the City, where spaces were reserved for an individual and this was noted on the road sign and within the bay markings.

5.5.5 The new standards contained in the Act include longer parking bays to allow for wheelchair access and, if the bay is not located next to a

footway, hatch markings to enable room for wheelchairs to be situated next to the vehicle.

- 5.5.6 The Act does not contain any recommendations that lowered kerbs be provided adjacent to all bays, but the Blue Badge reform consultation recognised the impact on budgets, should lowered kerbs have to be provided. It was noted within the Blue Badge reform documentation that provision of lowered kerbs at every space may lead to less spaces being provided overall, due to budget constraints, and therefore these are not required as a standard provision.
- 5.5.7 The original qualifying criteria for a Green Badge included receipt of the higher rate of the mobility component of the Disability Living Allowance (DLA), which is one of the automatic qualifying criteria for a Blue Badge. The new Blue Badge requirements also includes an independent mobility assessment, which is done by an Occupational Therapist, for those who do not meet the automatic qualifying criteria. Again, this is similar to the qualifying criteria for obtaining a Green Badge.
- 5.5.8 The original intentions of the Close Proximity Parking Scheme (Green Badge Scheme) were to allow enhanced parking provision for those with more serious disabilities, but would now seem to be somewhat overtaken by the new legislation.
- 5.5.9 The original Social Work Committee Report of 1999 and the subsequent Policy and Strategy Committee Report of 18 February 2004 recognised that the Green Badge scheme operated a “two-tier” system of disabled parking provision.
- 5.5.10 The intentions of the new Act are to promote equality and social inclusion by means of protecting disabled parking bays for the use of those who require them. This includes the provision that any parking bay be for the use of all Blue Badge holders, and not reserved for exclusive use.
- 5.5.11 The Green Badge scheme had also been heavily criticised by Transport Scotland, and it had been noted that signs and road markings are supposed to be the same nationally, so that drivers understand the directions they are being given. As the Green Badge scheme is unique to Aberdeen, drivers from outwith the city may not understand the directions given by the signs and road markings for these bays.
- 5.5.12 The lack of understanding by drivers from outwith the city could lead to an increase in Penalty Charge Notices (PCN) being issued, together with subsequent appeals against these.

5.6 Consultation with Disability Advisory Group (DAG)

- 5.6.1 At the Disability Advisory Group meeting on 3 April 2013 there was a discussion on the Close Proximity Parking scheme and the impact upon it of the recent Disabled Persons Parking Spaces (Scotland) Act 2009 and the Equalities Act 2010. At this meeting officers presented to members the proposed main content of this current report for their comments and observations.
- 5.6.2 It was agreed at this meeting that a questionnaire would be sent to members of DAG as part of a consultation on the future of the Green Badge Scheme and officers would report the findings to the 12 June 2013 meeting.
- 5.6.3 The response to the consultation was less than anticipated and there were only a total of 7 responses received; 2 from Green Badge holders and 5 from Blue Badge holders. The results of which were presented to the group on 12 June. A summary is enclosed in Appendix B along with the questionnaire sent out.
- 5.6.4 The DAG members present at its meeting on 12/6/2013 whilst raising a number of questions did not raise any objection to the proposed change.

5.7 Consultation with Legal & Democratic Services

- 5.7.1 Officers within Legal and Democratic Services have been consulted on this report and it's their opinion that if we were to continue with the Green Badge scheme that we would effectively be contravening the Disabled Persons Parking Places (Scotland) Act 2009. Additionally, it is their view that the Green Badge scheme is not compatible with the Equality Act 2010 for the reasons outlined in the conclusions below. Aberdeen City Council must ensure that we are working within the parameters of current legislation and they are satisfied that the proposals outlined within this report ensure that we are complying with the current legislation.

5.8 Conclusion

- 5.8.1 In respect of the impact of Blue Badge reform and the Disabled Persons Parking Places (Scotland) Act 2009, it is considered that these pieces of legislation have overtaken the original aims of the Green Badge scheme within the city.
- 5.8.2 All standard parking bays must now be a minimum of 6.6m long, which is longer than the Green Badge spaces. This is in recognition of wheelchair user requirements.
- 5.8.3 The 2009 Act also promotes equality by making bays available for all Blue Badge holders and not allowing them to be reserved for exclusive use. In addition, the Act seeks to formalise the Blue Badge spaces into fully enforceable spaces, instead of the advisory status of the previous style of bays.

5.8.4 The Green Badge scheme, previously acknowledged as a “two-tier” scheme, could therefore be seen as unequal, particularly as neither Blue Badge reform nor the 2009 Act differentiates between types of disability. Indeed the Blue Badge reform, as outlined above, concentrates on the award of Blue Badges to those unable or virtually unable to walk.

5.8.5 The Equality Act 2010 states that “A service-provider (A) must not, in providing the service, discriminate against a person (B)—
(a) as to the terms on which A provides the service to B”.

It is possible that it could be interpreted that in reserving some disabled parking bays for Green Badge users and denying use of these by Blue Badge holders on the grounds that they are not as severely disabled as Green Badge holders, that the Council is discriminating against Blue Badge holders in terms of the service provision of disabled parking bays.

6. IMPACT

Within the Community Plan, protecting and enhancing the built and natural environment is identified as a strategic priority, and underpinning the Community Plan is an aim to deliver Local & Regional Transport Strategy commitments by, among other means, using enforcement.

7. BACKGROUND PAPERS

Social Work Committee meeting on 3 February 1999, Policy and Strategy Committee meeting on 18 February 2004 and the Enterprise, Planning and Infrastructure Committee report no EPI/11/205.

8. REPORT AUTHOR DETAILS

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Consultees comments

Enterprise, Planning and Infrastructure Committee

Convener: Councillor Barney Crockett - e-mail sent 18/7/13

Vice Convener: Councillor Ramsay Milne - e-mail sent 18/7/13

E P & I Members

Councillor Yvonne Allan	e-mail sent 18/7/13
Councillor Marie Boulton	e-mail sent 18/7/13
Councillor John Corall	e-mail sent 18/7/13
Councillor Bill Cormie	e-mail sent 18/7/13
Councillor Steve Delaney	e-mail sent 18/7/13
Councillor Andrew Finlayson	e-mail sent 18/7/13
Councillor Ross Grant	e-mail sent 18/7/13
Councillor Muriel Jaffrey	e-mail sent 18/7/13
Councillor Neil MacGregor	e-mail sent 18/7/13
Councillor Callum McCaig	e-mail sent 18/7/13
Councillor Jean Morrison MBE	e-mail sent 18/7/13
Councillor Ross Thomson	e-mail sent 18/7/13
Councillor Ian Yuill	e-mail sent 18/7/13

Other Local Members

Councillor Fraser Forsyth	e-mail sent 18/7/13
Councillor Jennifer Laing	e-mail sent 18/7/13
Councillor Andrew May	e-mail sent 18/7/13
Councillor Nathan Morrison	e-mail sent 18/7/13
Councillor Graham Dickson	e-mail sent 18/7/13
Councillor Alan Donnelly	e-mail sent 18/7/13
Councillor James Kiddie	e-mail sent 18/7/13

Council Officers

Barry Jenkins, Head of Finance, – *Has been consulted and made some minor comments – none relate to finance.*

Jane MacEachran, Head of Legal and Democratic Services. – has been consulted.

Ciaran Monaghan, Head of Service, Office of Chief Executive - has been consulted

Gordon McIntosh, Director of Enterprise, Planning and Infrastructure - has been consulted

Hugh Murdoch, Head of Asset Management & Operations – has been consulted

Margaret Bochel, Head of Planning & Sustainable Development – has been consulted – *Has been consulted and is in agreement with the recommendations within the report.*

Mike Cheyne, General Manager Operations - has been consulted

Neil Carnegie, Service Manager -Community Safety - has been consulted

Dave Young, Account Manager, Service, Design and Development - has been consulted

Laura Watson, Service Co-ordinator

Mark Masson, Committee Clerk



ABERDEEN CITY PARKING for DISABLED PEOPLE

1

Green Badge Bays

(restricted to 8 hours duration)

- 1 John Street
- 2 Rose Street
- 3 Thistle Street
- 4 Union Row
- 5 Langstone Place
- 6 Crown Street
- 7 Spa Street
- 8 Union Terrace
- 9 Little Belmont Street
- 10 Beck Wyrnd (6 Spaces)
- 11 Schoolhill
- 12 St Andrew Street
- 13 Craigie Street
- 14 George Street
- 15 Spring Garden
- 16 Queen Street
- 17 Justice Street
- 18 St Catherine's Wyrnd (2 Spaces)
- 19 Rainbow Wyrnd
- 20 South Silver Street (2 Spaces)
- 21 Huntly Street
- 22 Cornection Wyrnd
- 23 Justice Hill Lane

1

Blue Badge Bays

- 1 Lower Denburn (2 Spaces)
- 2 Summer Street (1 Space)
- 3 Guild St Fall Stn(12 Spaces. Charges Apply)
- 4 Trinity Centre (78spaces - Charges Apply)
- 5 Denburn Muilt (8 Spaces)
- 6 Little Belmont Street (3 Spaces)
- 7 Herriot St Muilt (12 Spaces - Charges Apply)
- 8 Loch St Muilt (24Spaces. - Charges Apply)
- 9 Galtonwayla Car Park (7 Spaces)
- 10 Shikrow Muilt (8 Spaces Charges Apply)
- 11 East North Street (1 Space)
- 12 Union Square (68 Spaces Charges Apply)
- 13 Donald's Way (2 Spaces)
- 14 Spa Street (2 Spaces)
- 15 Queen Street (3 Spaces)
- 16 Lodge Walk (2 Spaces)
- 17 Union Terrace (3 Spaces)
- 18 Collega St Muilt (11 Spaces Charges Apply)
- 19 Esplanade (8 Spaces)
- 20 Golden Square Car Park (2 Spaces)
- 21 Beech Leisura Centre (3 Spaces)
- 22 Loch Street (2 Spaces)
- 23 St Andrew Street (3 Spaces)
- 24 Schoolhill (1 Space)

Shopmobility

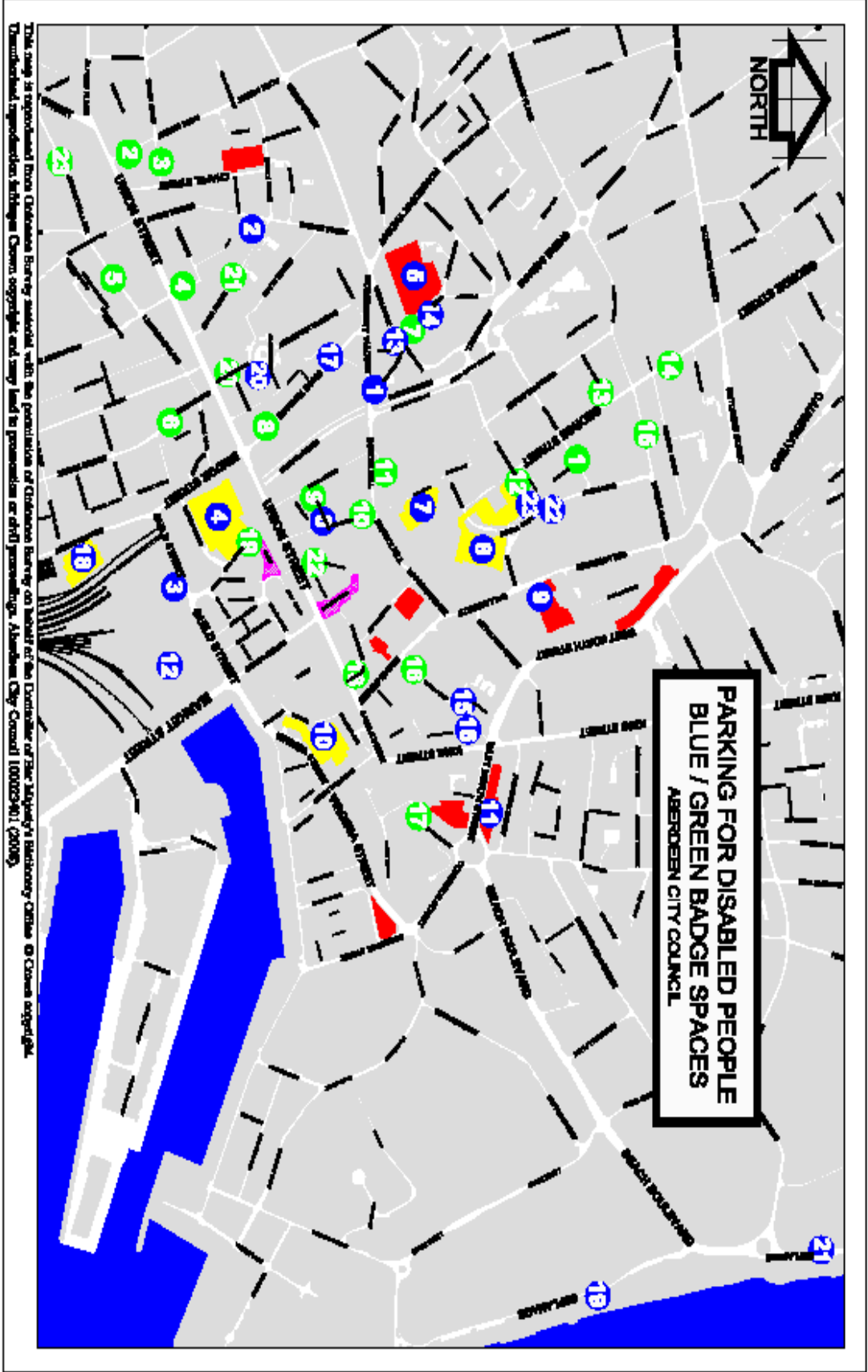
This is a volunteer based service lending powered wheelchairs or scooters for travel within the City Centre. It is open to anyone living in, or visiting, Aberdeen. Booking is highly recommended - phone (01224) 630008 for details.

PARKING NOT PERMITTED IN:

any pedestrian zones (unless in a designated space), on corner protection, within designated Tard marks or motorcycle bays nor in a street whilst loading bays are in operation.

It should be noted that Blue Badge holders can park their car within any existing "on-street" Pay and Display Zone or any Aberdeen City Council car park for the duration of their visit FREE of charges and without limit of time.

These options are NOT available to Green Badge holders unless their vehicle is displaying a valid blue badge.



Green Badge Parking Spaces Questionnaire

At the most recent meeting of the Disability Advisory Group (DAG) on 3 April 2013, there was a discussion on the Close Proximity Parking Scheme, otherwise known as the Green Badge Scheme, and the impact upon it of recent legislation such as the Disabled Persons Parking Spaces (Scotland) Act 2009 and the Equality Act 2010. At the meeting, it was agreed that a questionnaire would be sent to members of DAG as part of consultation on the future of the Green Badge Scheme.

It is proposed that there will be a discussion on this at the next meeting of DAG on 12 June 2013, and following analysis of the questionnaire responses a report will be submitted to the Enterprise, Planning and Infrastructure Committee in August 2012 regarding the future of the Green Badge scheme.

Attached to this questionnaire is the original information sent to DAG earlier this year. This contains a draft committee report, proposing that the Green Badge Parking Scheme be discontinued, due to the impact of the new legislation. Please read the information contained in this before answering the questions below.

It is entirely because of this new legislation that the Council has drafted these proposals and is consulting on them. The Council has also obtained legal opinion on the future of the scheme, and that opinion states that the Council would be in breach of the Disabled Persons Parking Spaces (Scotland) Act 2009 and the Equality Act 2010 should it continue with the Green Badge Parking Scheme.

Please also note that the draft report proposes that Green Badge spaces be converted to Blue Badge spaces, so that if the proposals were passed at Committee, these spaces would still be available for disabled parking, although they would be available to all Blue Badge holders.

If you need more space for your reply please continue on a separate sheet.

1) Green Badge

Do you currently hold a Green Badge?

If so, how long have you held the Green Badge?

2) Green Badge parking spaces

Do you have a preferred location where you usually park in a Green Badge space, and if so, where is that location?

If you do not have a preferred location, do you usually park in the first available Green Badge space?

If a Green Badge space is unavailable, do you usually park in a Blue Badge space?

How often do you find a Green Badge space is available to you when required? Please provide an approximate percentage e.g. 50% of the occasions when parking is required, 75 % of the time etc.

3) Blue Badge parking spaces

If you use Blue Badge parking spaces, do you find that these cause you any problems when parking or travelling to your destination?

If Blue Badge spaces do cause you any problems, please describe the nature of the problem i.e. difficulty in entering/exiting the vehicle, distance from destination etc

4) Parking outwith a Green Badge or Blue Badge space

Do you ever park outwith a Green or Blue Badge space e.g. on double yellow lines, in a pay & display parking bay etc?

If so, how often do you park there? Please provide an approximate percentage e.g. 50% of the occasions when parking is required, 75 % of the time etc.

5) Disabled Persons Parking Spaces (Scotland) Act 2009

Are you aware of the new legislation regarding disabled persons parking bays?

If so, do you have any comments on how the Council should treat Green Badge spaces in relation to this new legislation?

6) Equality Act 2010

Are you aware of the new Equality Act 2010 legislation?

If so, are you aware that a service provider, such as the Council, may not discriminate against a person in the terms on which it provides the service?

Do you have any comments about how the Council should treat Green Badge Spaces in relation to this new legislation, where Blue Badge holders may challenge the decision to retain Green Badge spaces if they feel it discriminates against them in relation to the provision of disabled parking?

If you have any other comments, please include them with your response. Please return any comments to Roddy MacTaggart, email rmactaggart@aberdeencity.gov.uk by Friday 31 May 2013.

APPENDIX B

Responses to Green Badge Consultation (DAG)

There were a total of 7 responses received; 2 from Green Badge holders and 5 from Blue Badge holders. The responses are summarised below:

Reason for using Green Badge spaces
1 person uses Green Badge spaces as they are closer to the preferred destination.
1 person uses Green Badge spaces to ensure Blue Badge spaces are freed up for Blue Badge holders
Parking in Pay & Display bays or on Waiting Restrictions
Both Green Badge holders responded that they rarely use parking other than Green Badge spaces
2 Blue Badge holders responded that they frequently use parking other than Blue Badge spaces
3 Blue Badge holders did not respond to this question or stated it was not applicable
Disabled Persons Parking Spaces (Scotland) Act 2009 – effect on Green Badge scheme
1 Green Badge holder thinks the scheme should be retained due to the effort involved in setting it up.
1 Green Badge holder thinks the scheme should be retained until a 3 year period has passed after existing Blue Badge spaces are lined in compliance with the Act.
3 Blue Badge holders think the Green Badge spaces should be converted to Blue Badge spaces in compliance with the new Act. 1 respondent also stated that bays should be rigorously enforced to ensure their legitimate use and availability for Blue Badge holders.
2 Blue Badge holders did not respond to this question or stated it was not applicable
Equality Act 2010 – effect on Green Badge scheme
1 Green Badge holder does not think there will be a serious challenge to the scheme under this Act.
1 Green Badge holder does not think there is discrimination under the Act, as the use of Green Badge spaces frees up Blue Badge spaces
1 Blue Badge holder felt the Green Badge spaces should be discontinued and converted to Blue Badge spaces in compliance and also stated that bays should be rigorously enforced to ensure their legitimate use and availability for Blue Badge holders.
1 Blue Badge holder was unsure how the Equality Act should affect the Green Badge scheme
3 Blue Badge holders did not respond to the question