

**Public
Key Decision - Yes**

HUNTINGDONSHIRE DISTRICT COUNCIL

Title: Civil Parking Enforcement

Meeting/Date: Cabinet – 11th February 2021

Executive Portfolio: Executive Councillor for Operations and Environment

Report by: Head of Operations

Wards affected: All

Executive Summary:

The report proposes amending the Council's Off-Street Parking Strategy 2018-2023 to allow the progression Civil Parking Enforcement (CPE) of on-street parking offences in Huntingdonshire. It sets out the legal requirements and framework, a broad project timeline and resources required along with the future financial implications and risks.

On-street parking offences are currently a criminal offence with enforcement falling to the Police. CPE transfers the powers and responsibility for on-street (yellow line) enforcement to the Highways Authority (Cambridgeshire County Council) in accordance with the Traffic Management Act 2004. Huntingdonshire District may only take on the powers if an agency agreement is in place with the Highways Authority to do so, this normally encompasses the responsibility for all sign and yellow line maintenance to the enforcing authority.

Following two previous independent assessments the implementation of CPE in 2013 & 2017 the Council concluded, whilst CPE could be implemented, it was not financially viable to do so. At the time of adopting the Off-Street Parking Strategy the Council therefore opted not to progress CPE.

The Council's vision is to support a safe and healthy environment, deliver economic growth, provide value for money services and create opportunities for the people of Huntingdonshire.

Persistent and acute inconsiderate on-street parking continues to be a key issue of concern for our residents and towns. Given the other significant priorities of the Police on-street enforcement is unable to be a major priority which results in dangerous parking that prevents equality of access to our pavements and impacts the look and feel of our market towns at a time when the Council is undertaking considerable efforts to create an environment within which Huntingdonshire and its people can thrive.

The “Civil Parking Enforcement Feasibility Study” highlighted:

- Huntingdonshire suffers from a high level of non-compliance with its on-street parking restrictions (Huntingdon 46.5%, Ramsey 53%, St Ives 58%, St Neots 66.7%)
- Many of the signs & lines surveyed within Huntingdonshire are not of the correct standard (220 restrictions reviewed; 480 issues found. 184 had at least one query)
- CPE represents a solution to non-compliance with on-street parking restrictions failing pro-active Police enforcement.

Whilst the report identifies the financial impact of CPE, members are asked to consider whether this financial impact is off set by the benefits of consistently enforced on-street traffic regulations and associated positive impact this will have on our district and its towns.

RECOMMENDED

That the Cabinet:

- (a) Update the Off-Street Parking Strategy 2018-2023 to enable the progression Civil Parking Enforcement of On-Street Parking in Huntingdonshire*
- (b) Approve the two year project ‘Civil Parking Enforcement’ in Huntingdonshire to be started from 1st April 2021 utilising the budget provision already made for the project with associated revenue implications.*
- (c) Authorise Officers to seek an agency agreement with the Highways Authority, Cambridgeshire County Council, in line with recommendations (a) and (b) above and their commitment to support the required application to the Department for Transport.*

1. PURPOSE OF THE REPORT

- 1.1 The report enables the Council to amend the recommendations of the Huntingdonshire District Council's (HDC) Off-Street Parking Strategy 2018-2023 which in 2018 decided not to progress the civil enforcement of on-street parking offences in Huntingdonshire.
- 1.2 It sets out the legal requirements and framework, indicative project timeline and resources required along with the future financial implications and risks.

2. BACKGROUND

Civil Parking Enforcement (CPE)

- 2.1 On-street parking offences in Huntingdonshire are a criminal offence with enforcement falling to the Police. CPE is a process overseen and instigated by the County Council as the Highways Authority with an application submitted to the Department for Transport (DfT). If this is successful, the result is Civil Parking Enforcement (CPE) where the County Council assumes enforcement responsibility in accordance with the Traffic Management Act 2004.
- 2.2 HDC has no statutory requirement to take on the responsibility for on-street enforcement either now or under CPE. Any District may only take on enforcement powers if an agency agreement is in place with the Highways Authority to do so, this invariably passes the responsibility for all sign and yellow line maintenance to the enforcing authority.
- 2.3 CPE only becomes a statutory function of the District Council once adopted with an agency agreement in place between the Highway Authority (Cambridge County Council, CCC) and District Council. The powers are then conferred by the Traffic Management Act 2004 (TMA) and associated statutory guidance. These powers **cannot be** delegated to a Town or Parish Council, this is set out in the TMA..
- 2.4 10 of 327 authority areas in England do not operate Civil Parking Enforcement: Cherwell, East Cambridgeshire , Fenland , Halton, Huntingdonshire, Isles of Scilly, North Warwickshire, South Cambridgeshire, South Oxfordshire, Wealden.

Independent Assessments of De-Criminalised Parking

- 2.5 Independent assessments of CPE were commissioned by the Council in both 2013 & 2017. Both concluded that whilst CPE can be rolled out, it was not financially viable to do so without on-going revenue funding to support the service – on-street enforcement cannot lawfully make income and aims to achieve compliance with no contraventions and no penalties issued (Appendix A).

- 2.6 The Off-Street Parking Strategy adopted in October 2018 (Appendix B), recommended not to progress CPE based on the revenue implications of the decision taking account the wider context at that time.
- 2.7 The “Civil Parking Enforcement Feasibility Study” undertaken in 2017 highlighted:
- Huntingdonshire suffers from a high level of non-compliance with its on-street parking restrictions (Huntingdon 46.5%, Ramsey 53%, St Ives 58%, St Neots 66.7%)
 - Many of the signs & lines surveyed within Huntingdonshire are not of the correct standard (220 restrictions reviewed; 480 issues found. 184 had at least one query)
 - CPE represents a solution to non-compliance with on-street parking restrictions failing pro-active Police enforcement.
 - The project overall is not operationally viable without funding from alternative sources, CPE on its own does not provide a robust business case.

Off Street Parking Strategy

- 2.8 The Council, through a Strategic Review of Car Parking Task and Finish Group established a Vision and Strategy for the management of the Council’s Off Street Car parks in 2017/18. Whilst on-street parking enforcement was outside the remit of the Task and Finish group the group elected to review the case for CPE including a presentation to Scrutiny which covered the implications.
- 2.9 Appendix 3 of the Off-Street Parking Strategy concluded:

At present, Huntingdonshire District Council has no requirement and does not wish to:

- *fund or contribute towards the implementation or setup costs*
- *fund or contribute towards ongoing costs (e.g. operational)*
- *take on the responsibility for any enforcement action*

In summary:

- *Localised on-street parking issues are present, however the issues are contained and not spread district-wide*
- *Targeted Police enforcement action is considered an appropriate solution*
- *On-street parking enforcement and its associated costs are the responsibility of the Police*

3. ANALYSIS

State of Parking Contravention

- 3.1 Independent research and very recent experience of making changes to our towns in support of safe Re-Opening of our Towns showed that St Neots and St Ives in particular have significant issues that arise from inconsiderate parking which may only be dealt with through consistent and effective enforcement. On street compliance with yellow line restrictions is identified as less than 50% in all our towns except Huntingdon, where the high street is pedestrianised and gated.
- 3.2 Our community has successfully campaigned for yellow line restrictions to address parking issues that have impacted their neighbourhood, for very localised safety concerns and to prevent commuter parking blight. However, given the clear lack of availability of police enforcement these restrictions once implemented by CCC are not always effective.
- 3.3 The government has recently consulted on a national approach to kerb parking due to the problems of accessibility and safety that this causes, this closed on 22nd November. However, until this is in place there is currently no restriction other than yellow line controls/a specific kerb parking ban that can address this. Without enforcement the effectiveness of any additional controls would be non-effective. Currently any change to legislation would have little or no impact without CPE.

Alternatives to CPE

- 3.4 Whilst the Police have worked in partnership with us when they have the resources available to address hot spot issues in our towns, consistent enforcement is currently not viable. The Police suggested the option of delegating their powers to officers of HDC using the powers of Policing and Crime Act 2017. Unfortunately, it was confirmed by HDC investigation that it is only possible for the Police to delegate to directly engaged staff or volunteers. This was therefore not viable due to the additional Police resources required to set up and manage such an operation.
- 3.5 Another option considered with the Police was for HDC to fund additional PCSOs to focus on on-street enforcement. This was not viable due to the current priorities of policing meaning any PCSO resource could not be realistically focussed on solely on-street enforcement as they would need to be managed in line with existing PCSO deployment.
- 3.6 The final alternative is to maintain the current status quo with the level of parking contravention being addressed by targeted Police enforcement and consideration of additional physical barriers such as bollards and gates to restrict access to vehicles. Pedestrianisation in Huntingdon is effective when the gate is secured, otherwise there are persistent contraventions as there is no effective enforcement. Such an approach would incur additional costs such as gate locking services and capital funding of physical design features that prevent inconsiderate parking. These are not always feasible in our towns due to the already narrow high streets in certain locations. Given the priorities for Policing and the increasing need to prioritise resources on major crime and emergencies,

it is unlikely resources will be available for consistent and effective on-street enforcement.

4. COMMENTS OF OVERVIEW & SCRUTINY

- 4.1 The comments of the relevant Overview and Scrutiny Panel will be included in this section prior to its consideration by the Cabinet.

5. RISKS

- 5.1 District Councils are not eligible under the TMA to apply for CPE powers, only County, unitary or metropolitan councils may apply to the Secretary of State to designate their administrative area as a civil enforcement/special enforcement area (CEA/SEA). The application for Huntingdonshire to become a CEA/SEA must therefore be made by CCC and a risk remains that the Secretary of State may not approve such an application solely for Huntingdonshire.

- 5.2 Whilst the District Council may then take on enforcement through an Agency Agreement HDC will not have the power to implement Traffic regulation Orders. HDC may be involved in the preparing of additional TROs but the making of TROs remains with CCC. Whilst HDC will be funding all costs of survey and preparation, there is a dependency upon the CCC to 'make' any required TRO changes in the event that any are established to be flawed or not in place.

- 5.3 Failure to progress CPE may result in persistent parking issues in our towns impacting safety, accessibility, and environment. This will impact our aspirations for recovery post COVID19 and Town Master planning.

- 5.4 CPE is not viable as a stand-alone entity in the HDC financial business case, it will require an estimated annual revenue subsidy on £70,000 to £80,000 from the off-street car parking account, which then increases depending upon the degree of compliance and level of enforcement resources engaged which must provide an effective and continued enforcement presence. Government guidance is specific on this point:

Previous guidance said that local authority parking enforcement should be self-financing as soon as practicable. This is still a sensible aim, but compliant applications for civil parking enforcement will be granted without the scheme being self-financing.

But authorities will need to bear in mind that if their scheme is not self-financing, then they need to be certain that they can afford to pay for it from within existing funding. The Secretary of State will not expect either national or local taxpayers to meet any deficit.

(i.e. Council Tax increases may not be made to fund CPE, any losses must be made good from the off street car parking receipts)

- 5.5 Project timescales will be impacted by the detailed analysis of signs, lines and TROs as these must be fully compliant and up to date in order

for a CPE application made to the DfT, be approved and for enforcement to be effective and not subject to successful challenge for any errors in these elements. Should the current level of discrepancy be significant, the project timescales to correct any failings both physical works and through new TROs may impact delivery timescales.

- 5.6 The introduction of a pavement parking restriction nationwide will likely increase the enforcement requirement (cost) and the number of contraventions processed. This is estimated to add an additional revenue burden of up to £25,000 on the Parking Service in a worst case.
- 5.7 The on-going maintenance of signs and lines will pass to HDC though the Agency Agreement. Whilst this will have little impact in the short term (2-3 years) anecdotally a regime of inspection and planned works will require additional funding of potentially £20,000 per year for works and £30,000 for an inspection regime district wide in the medium to long term.
- 5.8 The provision of all on-street parking arrangements including resident permits will fall to HDC. There is a risk for a significant demand for new schemes which may not under law operate at a surplus and anecdotally can take up to 10 years to become cost neutral depending upon the permit price charged. This is due to the high initial cost of design, public consultation, order making and installation which can exceed £25,000 for a typical scheme. There is a right to petition the Council under the TMA introduced in 2014 to request or challenge such schemes. The Council will need to adopt a policy on progression of such schemes to control capacity and cost implications. HDC would need to entirely fund any CCC costs of any TROs. The establishment of CPE does not establish a budget to progress such schemes.
- 5.9 Parking enforcement, as with any enforcement activity, can give rise to negative public perception and reaction, this will be mitigated with clear and publicised enforcement priorities.
- 5.10 The project risk in terms of organisation, associated policy production and IT upgrade is minimal and controllable due to the significant number of well-developed schemes nationally and the dedicated project resources included within the costed implementation.

6. TIMETABLE FOR IMPLEMENTATION

- 6.1 If approved, a project initiation process will be undertaken in March including the appointment of dedicated project support, appointed to start as soon as practicably possible. A project contingency of 6 months is included given the degree of uncertainty around the status of all signs, lines and TROs. These must be demonstrably sound for the DfT to approve the application for de-criminalisation. This contingency is included within the indicative 24 month project timetable. A definitive timetable will be drawn up subject to the decisions taken in this report. A model project plan is presented in Appendix C

- 6.2 CPE may only be implemented on either a 1st April or 1st October, following application to the DfT. Depending upon the decision taken in response to this report and the scale of works required to signs and lines, an additional contingency of 6 months on top of the 24 month programme set out may be required. Once the project initiation is completed a detailed project plan will be available with updates to Councillors proposed on a six month basis.
- 6.3 It is important to highlight that a considerable amount of work is done which is unseen to ensure that the signs and lines within the district are surveyed and brought up to an enforceable standard. Given that initial research indicated that in a sample of 220 restrictions, almost all had something that needed resolution, there may be a need for an extensive remediation programme of installing signs and re-painting lines to meet Civil Enforcement standards, **this could extend the project timescale and costs.**
- 6.4 All Traffic Regulation Orders (TRO) that establish parking restrictions must be mapped, digitised, and checked as being valid and lawful. A contravention is successfully enforced through a valid observation, a valid sign and line as well as a valid TRO. If any element is not verifiable then an appeal against a ticket issues is likely to be upheld. TROs follow a statutory process including a requirement for public consultation which can take between 12 and 18 months to put in place, complex or contentious TROs can take longer. If any are required **this could extend the project timescale and costs.**
- 6.5 Once CPE is live, the independent report advising the Council suggested that a period of 18-24 months of settling down is normal for the community to become familiar with the new on-street enforcement regime with a consistent level of overall compliance achieved. After this a review should be undertaken to ensure that the most efficient model of operation is in place.

7. LINK TO THE CORPORATE PLAN

- 7.1 The introduction of CPE in Huntingdonshire will support the Council's Vision:

To support a safe and healthy environment, deliver economic growth, provide value for money services and create opportunities for the people of Huntingdonshire.

- 7.2 CPE supports the delivery of Place objectives.

We want to make Huntingdonshire a better place to work, invest specifically:

- Create, protect and enhance our safe and clean built and green environment.*and,*

- Support development of infrastructure (transport) to enable growth.

8. CONSULTATION

8.1 This paper has been informed by consultation with the County Councils Highways team with responsibility for On-street parking and who operate the On-street parking enforcement within Cambridge. They will support a CPE application subject to all costs being met by HDC.

8.2 The Department for Transport (DfT) Guidance recommends, as a minimum, local authorities should consult the following groups:

- other traffic authorities (including Highways England) who may be affected
- the emergency services
- the Driver and Vehicle Licensing Agency (DVLA)

It is recommended that consultation also includes:

- Wider stakeholders with an interest in parking, including businesses, motoring groups and representative organisations; and those who will be affected, including residents, motorists and the general public.
- Authorities should include socially excluded groups.

This consultation will form part of the implementation project and evidence for the DfT application by the Highways Authority on our behalf.

9. LEGAL IMPLICATIONS

9.1 The Council's off-street car parks are operated under the Road Traffic Regulation Act 1984. This Act determines the basis for the issue of and progression of penalty charge notices in our Off-Street Car parks and the legal basis upon which restriction in car park use are enforceable. The Highways Authority retains all responsibility for On-Street controls and enforcement including charged on-street parking, limited waiting bays, yellow line restrictions and resident permit parking (on-street).

9.2 Upon the implementation of CPE the Council must operate its off-street car parks under the Traffic Management Act 2004 as this is the basis upon which restrictions on-street are controlled and enforceable by the local authority. This requires the Council to publish an annual report which includes all income and expenditure in respect of on-street parking spaces and all parking enforcement functions. All on-street parking may not, under the TMA set out to generate a surplus. In the event a surplus is generated, its use is ring fenced to offset costs of provision of on-street enforcement and then highway improvements.

9.3 The TMA introduces a process defined by statute for the issue and progression of penalty charge notices which is different to the Council's

current processes. The necessary changes to systems and processes are factored in to the budget provision made for the project.

9.4 The process of application for CPE is set out in law.

10. RESOURCE IMPLICATIONS

10.1 The Highways Authority, Cambridgeshire County Council has previously confirmed it will support our application for CPE and enter into a suitable Agency Agreement to enable this. However, they have also confirmed that this support is on the basis that all costs of implementation and operation are borne by HDC.

10.2 The Police are strongly supportive of CPE but whilst this releases the Police from addressing on-street parking contraventions they have confirmed that they have previously confirmed they are unable to contribute to the costs of implementation or operation.

10.3 Fenland District Council's Cabinet agreed on the 21st October to fund a feasibility study into CPE. They agreed that they would pursue this on the basis of preparing a submission to the Cambridgeshire and Peterborough Combined Authority in conjunction with each of the four market towns to utilise funding under the Growing Fenland programme (equivalent to our own Town Masterplanning) to fund the feasibility and also capital implementation. This is on the premise that parking blight is impacting the economy of their towns. HDC may also consider this approach but it would require £217,000 to be diverted from the Towns Programme to implement CPE – if it was supported by the CPCA. It is understood that of the remaining £3m assigned to HDC towns £1.5m is to be spent on capital improvements to Huntingdon, St Ives and Ramsey by the end of March 2021 and that a number of existing commitments to progress Masterplanning in Huntingdonshire's Towns will draw on the remainder. At present Fenland car parks remain free to use.

10.4 The Council's existing Off-Street parking enforcement system can be re-configured to operate the new requirements of managing on and off street enforcement under the Traffic Management Act. This has new processes and a different appeal mechanism which is written into the law. The system is a hosted IT system and as such the major works are fully configurable by the supplier. If approved there will be the need to set up an IT project within the programme of activity to ensure that the secure connectivity to the DVLA, Traffic Penalty Tribunal and Finance systems (An indicative set up is shown in Appendix F)

10.5 Civil Parking Enforcement parking will involve the creation of a new service, which responds to and processes enquiries, challenges and formal representations to Penalty Charge Notices (PCNs). The Council's website will need a content update with public access to annual reports on performance as set out in the TMA, enforcement policies and procedures.

- 10.6 Processing PCNs and management of correspondence/enquiries is governed and monitored by the back office IT system. Legal guidance specifies that only trained notice processors may process, monitor and provide information regarding cases. The budgetary provision and model set out in Appendix D and E establishes this team. Informal and formal challenges need to be submitted in writing and a digital model will be implemented to ensure efficient and effective notice processing and customer management.
- 10.7 It is recommended that all customer interaction and enquiries will be passed directly to the notice processing team within Parking and not Customer Services. It is anticipated that after the initial implementation period there will be no significant impact on the volumes of the Customer Service Centre as these calls will be routed directly to the Parking team.
- 10.8 There will be a requirement to model temporary call handling support for the 'go-live' if this proposal is approved. It is recommended that this temporary resource be located within Parking to ensure quick decision making and full project knowledge, it can then be scaled back to the permanent core staffing. Any 'go live' would include the issue of warning notices, penalty notice processing work will increase after the general enquiries and go-live enquires reduce.
- 10.9 Cost Modelling of CPE and its introduction was undertaken in the independent study in 2017. These figures were amended in 2019 following discussion with the consultant who undertook the original works.
- 10.10 Budgetary provision was made within the MTFS process within 2019/20 (see Appendix D for financial model and Appendix E for the budget proposal):

Start-up

- Capital investment (initial) required of £217,000
- Revenue investment (Y1 & Y2) required of £135,000 (per annum)

Operational years (following 2-year start-up period)

- Income Year 1 of £105k increasing from Year 2 onwards to £130,000 (this is not guaranteed)
- Expenditure Year 1 of £163k increasing annually
- Annual deficit ranging from £35,000 to £60,000p/a (assuming income achieved)

The capital costs of the project are funded by borrowing, the cost of borrowing will create an additional growth pressure against the parking service.

- 10.11 The Council should make a minimum capital provision on a five year basis to ensure that all TRO's, signs & lines are refreshed to a high standard. A comparable district would expect to have an annual

provision of £15,000. These are estimates as the level of actual investment required will be informed by the detailed survey of signs and lines which will need to be maintained in Huntingdonshire. These costs of operation would need to be funded from the net surplus on the parking account which is currently supporting other Council services.

10.12 Any new schemes relating to yellow line restrictions or resident schemes would be subject to approval by the Council. There is a capital cost to establish any such schemes – between £15,000 to £20,000 depending upon complexity and the level of consultation required. Each one would be decided on the basis of policy and capacity. Such schemes can only progress if there is a clear mandate to do so from all those impacted and an approved budget. The implementation of CPE does not establish a budget for this.

11. REASONS FOR THE RECOMMENDED DECISIONS

11.1 The Council must amend Appendix 3 of the Off Street Parking Strategy to allow the progression of a CPE project.

11.2 Whilst on-street parking enforcement is not a statutory service or responsibility of the District Council, the alternatives for enforcement of on-street parking restrictions are ineffective leading to persistent inconsiderate and dangerous parking across the district which is the source of frustration for our community and businesses.

11.3 In taking on CPE, HDC will have a wider ability to influence the transportation strategies within the District utilising enforcement and regulation as a tool to support other strategies such as environmental sustainability and alternative transport options within the district.

11.4 In having the ability to introduce and enforce alternative models of on-street parking restrictions the Council will be better able to support the delivery of vibrant towns and villages where people want to live in a well-cared for public realm.

12. LIST OF APPENDICES INCLUDED

Appendix A - Independent Assessment of CPE

Appendix B - Off-Street Parking Strategy 2018-2023

Appendix C – HDC Draft Civil Parking Enforcement Implementation Timeline

Appendix D – CPE Updated Financial Model

Appendix E – CPE MTFB Budget Proposal

Appendix F – Outline IT and Customer Model for Parking under CPE

13. BACKGROUND PAPERS

Cabinet 18th October 2018 - Off Street Parking Strategy

<http://applications.huntingdonshire.gov.uk/moderngov/ieListDocuments.aspx?CId=256&MId=7393>

Overview and Scrutiny (Economy and Growth) 16th January 2018 – Civil
Parking Enforcement Presentation
<http://applications.huntingdonshire.gov.uk/moderngov/ieListDocuments.aspx?CId=10212&MId=7285>

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