

**MINUTES OF A MEETING OF THE
OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE
HELD ON 8 FEBRUARY 2022 FROM 7.00 PM TO 9.00 PM**

Committee Members Present

Councillors: Alison Swaddle (Vice-Chairman), Sam Akhtar, Rachel Burgess, Jim Frewin, Guy Grandison, Norman Jorgensen, Sarah Kerr, Rebecca Margetts, Jackie Rance and Rachelle Shepherd-DuBey

Other Councillors Present

Councillors: Chris Bowring, Peter Dennis, John Halsall, Clive Jones and Maria Gee

Officers Present

Neil Carr, Democratic and Electoral Services Specialist
Andy Glencross, Assistant Director, Highways and Transport
Martin Heath, Traffic Management, Parking and Road Safety Team Manager

26. APOLOGIES

Apologies for absence were submitted from Paul Fishwick and Pauline Helliard-Symons.

Chris Bowring and Peter Dennis attended the meeting as substitutes.

27. DECLARATION OF INTEREST

There were no declarations of interest.

28. PUBLIC QUESTION TIME

There were no public questions.

29. MEMBER QUESTION TIME

There were no Member questions.

30. CALL-IN OF EXECUTIVE MEMBER DECISION

The Committee considered two reports relating to the Call-In of an Individual Executive Member Decision (IEMD) relating to the proposed Wokingham Borough-wide Off Street Car Parks Order 2021. The first report, set out at Agenda pages 5 to 22, gave details of the Executive Member decision and the subsequent Call-In. The second report, set out at Agenda pages 23 to 26, set out the Officer response to the Call-In.

The first report stated that an IEMD meeting was held on 16 December 2021 to consider the proposed Wokingham Borough-wide Off Street Car Parks Order 2021. The IEMD report stated that the Council needed to make changes to its existing Off-Street Borough Car Parks Order in line with the Borough-wide parking management improvement plan. The main purpose of these changes was stated as:

- Enabling the Council to enforce against increasing instances of anti-social behaviour in existing car parks;
- Providing a separate Order for existing and new Park and Ride car parks;
- Responding to resident requests for clarity on charging;
- Limiting the maximum stay permitted at California Crossroads car Park;

- Incorporating provisions enabling the Council to designate electric vehicle charging parking bays in any Off-Street Car Parks.

Following consideration of the report, the decision was taken to:

- Instruct officers to proceed with the making of relevant Off-street Car Parks Traffic Regulation Orders;
- Instruct officers to write to all objectors and to advise them of this decision.

The report confirmed that Section 1.4.2 of the Council's Constitution stated that all decisions of the Council will be made in accordance with the following principles:

- a) proportionality (i.e. the action must be proportionate to the desired outcome);
- b) due consultation and the taking of professional advice from Officers;
- c) human rights will be respected and considered at an early stage in the decision making process;
- d) a presumption in favour of openness;
- e) clarity of aims and desired outcomes; and
- f) when decisions are taken by the Executive, details of the options which were taken into account and the reasons for the decision will be recorded.

In line with the Council's Constitution, the Individual Executive Member Decision was called-in, on 23 December 2021, by Councillors Boyt, Bray, Conway, Doran and Jones.

The Call-In was submitted on the basis that:

"The decision has contravened Section 1.4.2 a), d) and e) of the Council's Constitution, insofar as it cannot be determined from the information provided, whether the action is proportionate to the desired outcome and 1.4.2 e) there is no clarity of aims and desired outcomes."

The second report – the Officer response – stated that the decision to approve the Wokingham Borough-Wide Off-Street Car Parks Order 2021 and the preceding formal public consultations had been undertaken in accordance with the Council's Constitution and the statutory requirements for a Traffic Regulation Order. This was the same approach that the Council followed for all other Traffic Regulation Order changes and was an open and transparent process which allowed the comments and objections of residents to be considered by the Council.

The report stated that the IEMD report made clear that there were a number of reasons for bringing forward the Wokingham Borough-Wide Off-Street Car Parks Order 2021, but that it was primarily about updating some out of date information in the previous order and separating the town centre car parks from the new Park and Ride sites. Alongside this Officers took the opportunity to introduce some additional measures which would improve

the Council's ability to address anti-social behaviour within car parks following experiences during the Covid-19 pandemic.

In relation to the specific questions raised as part of the Call-In, the report provided the following responses:

Question 1 - What are the recommendations made by Thames Valley Police? Are they proportionate to the problem? What happens where ASB is committed but (as is likely to be the case) the perpetrator does not register his/her vehicle?

Answer - Following a series of ASB episodes affecting our Carnival M/S car park, park and ride sites and other Council operated car parks during the COVID lockdown period, Thames Valley Police made recommendations to the Community Safety Team and Parking Services that time periods in which car parks operate should be considered as deterrents to antisocial behaviour. The police also recommended the introduction of CCTV to provide evidential support to any enforcement action that may become possible by police. Such measures exist in other local authority areas and police advised that they are a successful deterrent as stated at the meeting.

Question 2 - This implies that everyone using the car parks in the evening and on a Sunday will have to register their vehicle and check in and out. What evidence is there that perpetrators of anti-social behaviour will comply with this requirement? If they do not, how does this requirement assist with identifying them?

Answer - The Wokingham Borough-Wide Off-Street Car Parks Order 2021 will provide the Council with the flexibility to introduce the requirement to check in and out in the evenings and on a Sunday in the future, as the need to address any issue arises.

Question 3 - How will this requirement impact on residents who use the car park and forget to check in? Will enforcement officers be active 24/7? What is included in the policy that would avoid innocent residents being fined simply for failing to display a ticket during times when there is no charge for using the car park? How are residents being informed of the change, which will require them to have a ticket at all times, when previously there was no requirement and people used to using the car park would not even look at the ticket machines overnight or on a Sunday?

Answer - The Wokingham Borough-Wide Off-Street Car Parks Order 2021 makes no changes to the requirement for car park users to check in and anyone who forgets to check in will be liable to penalty just as they are now. Enforcement officers will be active for those periods when enforcement is necessary to ensure that car park terms and conditions are being met. Residents will be informed of the requirement check in or obtain a ticket on signs within the car parks just as they are now. In the event that we are making changes to our car park terms and conditions we will of course ensure that these are appropriately communicated through the local press and our various social media channels.

Question 4 - The supporting CCTV will help to deter ASB, but can it be used to prosecute offenders?

Answer - Yes our CCTV can be used to assist in the prosecution of offenders.

Question 5 - Members have been told variously that the CCTV cameras were installed due to theft of catalytic converters, to reduce emissions caused by queuing cars, and now to deter ASB. Section 1.4.2 d) states there should be a presumption of 'openness'. This is not apparent here.

Answer - The CCTV cameras within our car park and out on the Borough highway network have primarily been introduced to reduce congestion, shorten journey times and enable residents to make effective choices on where to park. However, the same cameras are also capable of providing evidence of ASB and other crimes within our car parks and will assist us to address these issues.

Shirley Boyt addressed the Committee and explained the reasons which had led to the Call-In. Councillor Boyt stated that one of the most important roles of a Councillor was being able to explain to residents the reasons for decisions made by the Council. In the case of the TRO the initial consultation had been poorly executed in terms of deploying the notices. There was confusion amongst residents about the purpose of the order, leading many residents to conclude that the purpose was to introduce charges in the evenings and on Sundays. As there were several car parks in her ward Councillor Boyt was keen to see clarity on the matter of charging.

Ahead of the IEMD meeting, Councillor Boyt wrote to the Executive Member to this effect. She hope that the Q&A in the IEMD meeting would address any doubts about the reasoning behind the introduction of charging periods when previously there had been none. Councillor Boyt was surprised about how few questions were asked about the impact of the proposed changes on the average resident. During the meeting the Officer's verbal explanation was not wholly consistent with the written report. This left Councillor Boyt with more questions than answers. These questions formed the basis of the Call-In. Before initiating the Call-In, Councillor Boyt did seek clarification on a number of points, but did not receive a response.

Councillor Boyt stated that the responses to the Call-In questions in the second report raised further questions which were listed in a note circulated to the Committee, as follows:

The response to question 1 suggests you are confident that these measures will act as a deterrent which is good, but:

- If ASB does occur, are you saying that the perpetrators will be issued with a penalty charge notice simply because they did not check in and were therefore in contravention of the Parking Order?
- Does this mean the actual ASB will not be addressed?

It is also stated that the police recommended the introduction of CCTV to provide evidential support to any enforcement action that may become possible by the police.

- What sort of ASB might be dealt with by the police using CCTV footage?
- Are these new measures proportionate to the problem?
- What alternative measures were explored and disregarded?

The response to question 2, if my understanding is correct, states that the requirement to check in will be implemented should the need arise.

- Does this mean that some borough car parks will require check-in at all times? And others will not?
- Wouldn't this be confusing for our residents?

I am still concerned that innocent residents may be the subject of a penalty charge notice for failing to check in even when there is no charge. In the response to question 3 you state that the order 'makes no changes to the requirement for car park users to check in and anyone who fails to check in will be liable to the penalty just as they are now'. This is not correct! Currently residents are not required to check in and out in the evenings and on a Sunday. This is a material change which will impact on residents - yet it was not raised at all in the decision-making process and raises another question:

- Will blue badge holders also have to check-in?
- If yes, why was no EqIA carried out?
- If no, are they likely to be caught by CCTV monitoring and fined for not checking in?

Response 3 also states that Enforcement Officers will be active for those periods when enforcement is necessary.

- Does this mean they will be working longer hours?
- If so, what are the cost implications for this?

Councillor Boyt stated that it was vital to demonstrate to residents that decisions in this Council were taken on the basis of strong evidence and with consideration of the impact the decision will have on residents. In the light of these unanswered questions, Councillor Boyt requested that the Committee refer the decision back to the Executive Member and ask that when it was retaken, the accompanying report include:

- a point-by-point explanation of the different components of the Off-Street TRO as laid out on page 24 of the agenda of the meeting. Not just saying what the components were, but what their purpose was and how they will achieve it. This was to address the principle of observing openness and transparency in decision-making.
- a detailed explanation of the Council's intentions in regard to fining people whose only offence was not displaying a ticket when they parked at a time when the car park was free. The officer response suggested the Council had every intention of using this new capability to fine people for this, which would be outrageous; it implied the Council was looking at using this change as a way of raising money, using innocent residents as a cash cow.
- Include the actual recommendations from Thames Valley Police and how they would work.
- Where ASB was concerned, lay out the other options that had been considered for tackling ASB in car parks, and explain why the overnight charging system will cure it and why the other ideas had been rejected – or if they haven't, say what else was being done.
- an Equalities Impact Assessment.
- a breakdown of the cost implications of the Order.

Maria Gee addressed the Committee as a witness and made the following comments. The IEMD report stated that the Council needed to make changes to its existing Off-street Borough Car Parks Order. The first purpose of the changes was stated as enabling the Council to enforce against incidents of anti-social behaviour (ASB) in existing car parks. Councillor Gee was speaking to the Committee about the impact on the Carnival Pool car park which, as Members were aware, had suffered from a lot of ASB. Councillor Gee had

looked at the car park terms and conditions. They were measures that the Council could enforce. A penalty charge notice could be issued for contravening any of the terms and conditions. The terms and conditions all referred to “parked”, so parked without displaying a ticket, parked outside the bay, parked in a restricted area, etc. The problem was that ASB, for example illegal car meets, was usually caused by moving vehicles. Some disturbance was caused by stationary vehicles with loud music or shouting late at night. None of the terms and conditions of the car parks referred to moving vehicles or noise, which were the basis of ASB calls from residents relating to this car park. The conditions at the Carnival Pool car park referred to car parking and displaying tickets.

The current way of dealing with ASB was for the police to issue S59 notices which allowed them to give a warning and then seize any vehicles which were acting in a manner likely to distress other people. However, there was nothing in the car park terms and conditions other than references to parking violations. It was likely that the future method of dealing with ASB would still be S59 notices as the Council could only deal with parking violations. The CCTV in place would not change its use to civil parking enforcement. Officers confirmed that CCTV was not an approved advice for issuing parking penalty charge notices (PPCNs). Its future use was going to be the same as its current use, dealing with crimes, issuing S59 notices, theft, etc.

Councillor Gee referred to the “checking in” process – entering a car park and leaving the vehicle without leaving a record of the vehicle. In many car parks, including Carnival Pool, drivers had to check in, but only during charging hours. It was not enforceable outside charging hours. Making users check in with car registrations was useful when looking at violation of car park conditions. PCNs were only useful when vehicles were parked, unless the terms and conditions were changed. If a car was checked in there was no violation of parking conditions even if ASB occurred. If a vehicle was not checked in, parking charge notices could be issued by the Civil Parking Enforcement officers, but the CCTV still could not be used. PCNs were only useful when users were parked because they were parking charge notices. Also, it could be risky for the enforcement officers when there were large car meets. And, how would they establish how long car users had been there given the grace period.

The report stated that the new Off-street Car Parks Order would enable the Council to take action against ASB, but it was not clear how the Council would be able to take action. Extending the operating hours would not enable further action to be taken. ASB occurred outside the current charging hours. If every user was required to check in, irrespective of charging periods, then the burden would fall on people not engaging in ASB.

Finally, residents would be informed of the requirement to check in or obtain a ticket on signs within the car parks, just as they are now. The problem was that the signs were on the payment machines and residents may not realise that they had to register outside of charging hours, as councillor Boyt made clear. It was also proposed that the Council communicate via the local press and social media. That would not help out of Borough visitors to the car parks. Without changes to signage there may be a lot of violations from people not engaged in ASB.

Members of the Committee asked the following questions of Councillors Boyt and Gee:

Do you agree that the TRO in itself cannot achieve any of these aims? Councillor Boyt commented that the TRO appeared to be designed to meet the aims, but it was not clear that it would.

You appear to be calling in this item for reasons that are nothing to do with the TRO. Can you explain that? The TRO does not include measures to tackle ASB. Councillor Boyt stated that she did not agree. The reasons for the Call-In were clearly stated. During the IEMD meeting all the discussion was related to stopping ASB in the car parks.

The IEMD report stated that the purpose of the changes was to allow the Council to introduce parking controls which would enable it to enforce against incidents of ASB in existing car parks. What have Thames valley Police said about measures to tackle ASB? Councillor Gee stated that Thames Valley Police had asked for barriers to be introduced as one of the first measures. This date back 18 months.

Were there any reports about ASB in car parks during the hours when vehicles currently had to register? Councillor Gee stated that the reports she had seen related to car meets taking place in the evenings, normally from 9pm, or 10pm at weekends, sometimes going on until 1am.

When incidents occur how is CCTV accessed? Is someone watching the CCTV 24/7? Councillor Gee confirmed that the CCTV was not monitored. When incidents were reported, officers looked at the relevant footage and could then share it with the police. The onus was on residents to report incidents to the Council.

Other than ASB, were there other ongoing issues in the car parks? Councillor Gee stated that she had heard anecdotal evidence relating to vandalism and drug use/drug dealing.

Are you questioning whether residents were given enough information about this IEMD – I understand that it was advertised in the local newspapers and that Members were aware of it. Only one Member responded to the consultation. Councillor Boyt commented that there was fault at the beginning of the consultation process. Then the decision was made on the basis of the Officer's verbal report, the written report and the questions raised during the meeting. The discussion was about ASB in the car parks and how to address it. The implication appeared to be that everyone would have to check in. This appeared to be a big change and raised a number of issues.

Pauline Jorgensen addressed the Committee, setting out a response to the Call-In request. Councillor Jorgensen stated that the key point was to look at the scope of the IEMD. It was quite wide-reaching and sorted out a number of anomalies in the current structure and processes. It did not just talk about ASB. It added car parks that were missing from the structure and took car parks out where they were no longer valid. We also took the opportunity to change the opening hours and operational hours of the car parks. The operational hours in the documents did not match the operational hours in place in practice. I do not see how these points were disproportionate.

The discussion at the IEMD meeting was reasonably lengthy. It was good to see a member of the public in attendance. There were no Councillors in attendance. There was an opportunity to ask questions but this did not happen. I can only assume that this Call-In is retrospectively political rather than seeking more information. There was ample opportunity to get more information as part of the IEMD process. Also, there were no objections to from any Councillor. Councillor Kerr did raise a question on behalf of a resident. The decision followed a statutory process. There was ample consultation. A number of residents commented on the TRO.

Thames Valley Police were unlikely to act on ASB, so one of the benefits of the extended opening hours was to allow the Council to use its enforcement officers to back up the police. This provided an extra opportunity to deal with ASB. That was one of the points that drove this TRO. Staff will be able to patrol during the extended hours which are already the operational hours. We are not changing what is happening on the ground. We are recognising that car parks are open 24/7 anyway.

My recollection of the IEMD meeting was that the main issue was that many residents had misunderstood and believed that we were going to charge for 24/7 parking which we weren't. The ticketing for charging hours was not addressed in the IEMD. That is because it was not part of the IEMD. The IEMD did not make a decision about people taking a ticket outside the charging hours.

Andy Glencross addressed the meeting and stated that officers were happy with the answers submitted in response to the Call-In questions. From an officer point of view the primary purpose of the TRO had been to tidy up an existing, outdated TRO. 24/7 operation at the car parks was already a fact.

Members of the Committee put the following questions to Councillor Jorgensen and the officers in attendance:

As the car parks are open 24/7 now. Does this TRO change anything in respect of registration? Councillor Jorgensen stated that there was no requirement for tickets outside the hours of charging. Also, there were no changes for Blue Badge owners.

Are you saying that there are no changes to check in-check out outside the charging periods? Councillor Jorgensen stated that there was no requirement outside the charging hours. The TRO enabled its introduction, but there was no current requirement.

What were the changes in enforcement? Andy Glencross stated that this would be an issue for a different meeting – with Community Safety officers present. Councillor Jorgensen confirmed that ASB was important. The TRO provided additional mechanisms to address ASB.

In relation to charging, can you confirm that the TRO makes it easier to introduce changes to charging? Councillor Jorgensen stated that it was possible to make changes at any time through the Executive process. The IEMD did not change anything in this regard.

Members were not politically motivated in relation to the Call-In. They were trying to clarify on the situation. ASB was mentioned many times in the documents. What was the overall solution to the problem of ASB? What was the view of the police? Councillor Jorgensen stated that the police could comment on their views on ASB if approached. CCTV was not part of the IEMD. The TRO provided the opportunity for the Council to use its own enforcement officers.

Are enforcement officers going to tackle issues relating to drugs in car parks? There also appeared to be ongoing confusion about the registration process. Who had to register? Councillor Jorgensen stated that the TRO did not change the position re check-in and check-out. The big issue was car meets in our car parks. Provision of alternative facilities for car meets or measures to tackle drug dealing in car parks were not the subject of this meeting. Councillor Jorgensen was happy to discuss these matters outside the meeting.

There was still confusion about the effect of the TRO on check-in and check-out – can you clarify? Councillor Jorgensen confirmed that the TRO allowed the Council to use its enforcement officers outside normal charging hours in the car parks. If they are patrolling in the car parks, ASB was less likely to occur. Andy Glencross confirmed that the TRO enabled the extension of check-in if necessary, for example in order to tackle ASB, but there were no current changes.

What was the impact of the Call-In on the implementation of the TRO? Councillor Jorgensen stated that implementation had been put on hold pending the Call-In meeting. The TRO was supported by the police and the Community Safety Partnership.

The Thames valley Police Area Commander was due to attend the Community and Corporate Overview and Scrutiny Committee in March. The Committee would be able to discuss the available options for addressing ASB in the Borough's car parks.

Was there an additional cost to the Council relating to the extra patrolling to be undertaken by the enforcement officers? Councillor Jorgensen stated that extra funding would be delivered by increased parking fines making the extra activity self-funding. Also, there was no Equality Impact Assessment as no decision had been taken which impacted on potentially affected groups, e.g. disabled drivers.

Pauline Jorgensen summed up the response to the Call-In stating that the IEMD had been proportionate with significant consultation on the proposals. The process provided opportunities to ask questions about the decision. The TRO covered much more than issues relating to ASB.

Shirley Boyt summed up the Call-In stating that it was only when watching the IEMD meeting that issues emerged. Councillor Boyt had written to Officers seeking clarification but did not receive a reply. The Call-In was not politically motivated. It arose out of genuine concern about the potential impact on residents. The report did state that a primary purpose was to enable greater control of ASB.

Having listened to the evidence, the Chairman proposed that the Committee vote on whether or not to confirm the Executive Member decision. If the Committee decided to refer the matter back, the debate would continue in order to agree specific recommendations.

On being put to the vote, the Committee agreed to confirm the IEMD relating to the Wokingham Borough-wide Off Street Car Parks Order 2021, taken at the meeting on 16 December 2021.

RESOLVED: That the Executive Member Decision relating to the Wokingham Borough-wide Off Street Car Parks Order 2021 be confirmed.