

Agenda Item 55.

TITLE	Introduction of Civil Parking Enforcement Powers
FOR CONSIDERATION BY	The Executive on 24 September 2015
WARD	None specific
DIRECTOR	Heather Thwaites, Director of Environment
LEAD MEMBER	John Kaiser, Executive Member for Planning and Highways

OUTCOME / BENEFITS TO THE COMMUNITY

Improved and more consistent management of on-street parking, resulting in a reduction in traffic disruption, improved road safety, reduced parking contraventions and generally improve environmental impacts related to road traffic. It is expected to increase utilisation of car parks and, possibly, sustainable transport. It will also improve the Council's ability to respond to parking issues and customer demands for new restrictions and regulation.

RECOMMENDATION

The Executive is asked to approve:

- 1) the preparation and submission of an application to the Department for Transport (DfT) for the introduction of Civil Parking Enforcement powers within the Borough;
- 2) the capital expenditure of £34,000 in the current year and £34,000 in year 2.

SUMMARY OF REPORT

Civil Parking Enforcement (CPE) gives powers to a Local Authority to enforce parking restrictions within their area of responsibility. Within Wokingham Borough parking restrictions are currently enforced by the Thames Valley Police, however this is considered as a low priority for them and they apply little resource to it. This is partly due to the fact that Wokingham is the only Borough in the Thames Valley police area that has not taken on these powers. This results in a large number of complaints to the Council about illegal parking and the abuse of parking restrictions as drivers feel they will not be caught.

The powers will give the authority the opportunity to manage parking better across the Borough. The authority can enforce flexibly and apply resources to those areas known to currently generate problems such as outside schools and railway stations.

Enforcement will be managed in co-operation with local members and parish and town councils with resources applied where required. The Council will retain control of when, where and how enforcement is carried out. This will allow it to respond to specific problem areas and to work closely with Town and Parish Councils to determine local need and moderate enforcement where it is deemed unnecessary or undesirable.

From agreement to proceed with the application to service delivery on the ground will take between 18 months and 2 years. There only two windows per year to submit

applications to DfT.

The anticipated cost of making the application to the DfT is estimated at £68k which is a combination of consultancy and project management costs.

Background

1. The current enforcement of on-street parking restrictions is the responsibility of the Thames Valley Police. Police policy presently awards the enforcement of on street parking restrictions a low priority with limited resources being deployed to fulfil this function. Consequently motorists and residents are often left frustrated when parking issues are not resolved and the Council is powerless to help in these cases. The Chief Constable of Thames Valley Police recently recommended that Wokingham consider civil parking enforcement, alongside all the other Berkshire Unitary Authorities, as a solution to the problems of illegal and unsafe parking. Wokingham is the only Berkshire Unitary Authority not to apply for CPE.
2. A local authority may take over the responsibility for enforcement of on-street parking restrictions (residents parking bays, disabled bays, single and double yellow lines, etc.) through a process called Civil Parking Enforcement. This will be based upon the “Objectives of civil enforcement” as published by the Secretary of State, supported by the DfT’s “Operational Guidance to Local Authorities: Parking Policy and Enforcement” – these are set out in Appendix A.
3. Para 12.4 of the guidance states that *“When an authority applies to the Secretary of State for the power to enforce parking under part 6 of the Traffic Management Act 2004 the Secretary of State expects them also to apply for the power to enforce bus lanes under the Transport Act 2000.”* This paragraph also includes *“The Secretary of State recommends that an authority new to civil enforcement familiarise itself with the concepts by enforcing parking before undertaking the enforcement of bus lanes...”* To this end it is proposed to include bus lane enforcement in our application but implementation of bus lane enforcement would not be undertaken without further executive approval.

Issues to be Considered

4. Three options exist for service delivery; “Externalised to an existing parking enforcement company”, “Externalised to another Local Authority” or “Provided by a new Council company”. The current cost profiling indicates that the first two options are the most cost effective, however, all of these can be managed to be revenue neutral, as contained in the Statutory Guidance objectives for CPE, dependent upon the level of enforcement introduced. A unitary authority is required to link their off and on street parking operational costs and income and, as such, the combined service (off street parking and on street enforcement) will continue to provide a net income to the Council. Levels of enforcement, income and operational costs will vary from authority to authority, depending on local circumstances.
5. At the current time over 94% of Local Authorities in England and Wales have introduced or are introducing CPE, including all of the other Berkshire unitary authorities. The Secretary of State does have powers to require authorities to introduce CPE and, although this is not anticipated in the short term, there is a possibility that these powers will be invoked at some time.
6. Were the Council to take on these powers they would have to be applied across the whole of the Borough. Although introducing CPE in specific areas is

allowable under the Traffic Management Act 2004, the Secretary of State has stated that “cherry picking” CPE areas within an Authority is not acceptable and must be introduced for an entire Authority or the application will be rejected. Due to confusion as to where CPE exists and where it does not, the Police and possibly some residents are also likely to object to this approach. It is also the case that, if the Council wanted to adopt a further area for CPE powers, the DfT application and associated processes would need to be repeated in full, at a similar capital cost. It will, however, exclude the M4 which is managed by Highways England and, if agreed with the Police, other roads such as the A329(M). The Council will retain control of when, where and how enforcement is carried out. This will allow it to respond to specific problem areas, work closely with Town and Parish Councils to determine local need and moderate enforcement where it is deemed unnecessary or undesirable. An On-Street Compliance Survey was undertaken in March 2015 covering the town centres of Wokingham, Twyford and Woodley. The surveys took place on a weekday and on a Saturday in all three areas. The level of non-compliance in Wokingham was 18.7% on a weekday and 17.8% on the Saturday; in Twyford 34.7% on a weekday and 38.7% on the Saturday; in Woodley 16.3% on a weekday and 12.6% on the Saturday. Over the 6 days of the surveys this amounts to approximately 1 in 4 vehicles parking illegally in and around these town centres. (The full survey results are available in the background papers).

7. Implementing CPE can typically take between eighteen months and two years from the decision to proceed with the application. There are only two windows per year to submit applications to DfT. For the application to be accepted by the DfT, the Council will need to make sure the current Traffic Regulation Orders (TRO's) are consolidated and updated to be CPE compliant and that the necessary remedial works and general maintenance are carried out to signing and lining to match the consolidated TRO. As these are required, even if CPE was not to be introduced, to provide a robust regime for enforcement by the Police, this work is already progressing. There is also a requirement to undertake a Consultation process and evidence will need to be provided with the application that the following were consulted and are in agreement in respect of introducing CPE Powers:
 - The Police
 - Neighbouring local authorities
 - Highways Agency
 - DVLA and Traffic Enforcement Centre (TEC)
 - Government Office
 - Traffic Penalty Tribunal (TPT)
8. The Secretary of State also recommends consultation with wider stakeholders and those who will be affected including residents, motorists, the general public and socially excluded groups. It should be noted that once the application for CPE is accepted, and laid before Parliament the enforcement of on-street parking restrictions becomes a statutory duty.
9. The Council will need to enter into an agreement with an independent adjudication service as part of the application process. A national service is provided by the Traffic Penalty Tribunal (TPT) (S.101 Joint Committee Agreement (Local Government Act 1972)). As there is no alternative to the

service provided by the TPT, the DfT will not approve the Designation Order unless the agreement is in place. By having a wholly independent adjudication service Members will not be required to involve themselves with any representations made by motorists as they will be referred to the TPT who are there to deal with such appeals on the merits of the specific circumstances.

10. The Council will also need to confirm their nomination of a Representative and substitute Representative (who must both be elected Members of the Council) to serve on the TPT Joint Committee; this is a requirement of the legislation for joint committees with meetings being held twice a year but attendance by the elected Members is considered to be “less than essential”.

Impact on Equality and Sustainability

11. The proposals do not unfairly impact on any group of individuals in particular as parking restrictions apply to all citizens. The current rights held for disabled badge holders still apply under CPE and, additionally, improved enforcement under CPE will reduce the abuse of disabled bays. CPE will help to improve the flow of traffic through the Borough. As traffic flows more easily vehicles are able to drive more efficiently which will have a positive impact on the environment and assist trade and business productivity.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£34k	YES	Capital
Next Financial Year (Year 2)	£34k	YES	Capital
Following Financial Year (Year 3)	N/A		

Other financial information relevant to the Recommendation/Decision

Where an authority makes a surplus on its on-street parking charges and on-street and off-street enforcement activities, it must use the surplus in accordance with the legislative restrictions in section 55 of the RTRA 1984 (as amended)(S.I. 2007/3483, regulation 25). In general terms any surplus can be used for maintenance of car parks, costs associated with providing public transport, highway improvements and projects and environmental improvements.

Capital costs are estimated at £68K, which is largely the cost of a specialist consultant.

Cross-Council Implications

When considering the introduction of CPE care was given to aligning our objectives with the 5 Key Priorities of the Council, in particular - Tackle traffic congestion in specific areas of the Borough and Invest in Regenerating towns and villages, support social and economic prosperity, whilst encouraging business growth. The Council's Local Transport Plan and the Parking Plan were also considered in framing this proposal as CPE can help deliver their objectives - Transport Plan commitment under "Policy SCDM9: Car Parking: *"The Council will work to suitably locate, price and enforce car parking to improve traffic management, promote more sustainable travel and enhance the viability of town centres."* CPE will give the authority greater control over parking at particular hot spots such as illegal and unsafe parking near schools and traffic sensitive roads.

List of Background Papers

DfT Operational Guidance to Local Authorities: Parking Policy and Enforcement Compliance Study
Local Transport Plan

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Date 15 September 2015	Version No. 1

Extract from “Operational Guidance to Local Authorities: Parking Policy and Enforcement” published by DfT

Policy objectives

3.1 CPE should contribute to the authority’s transport objectives. A good CPE regime is one that uses quality-based standards that the public understands, and which are enforced fairly, accurately and expeditiously.

3.2 Enforcement authorities should aim to increase compliance with parking restrictions through clear, well designed, legal and enforced parking controls. CPE provides a means by which an authority can effectively deliver wider transport strategies and objectives. Enforcement authorities should not view CPE in isolation or as a way of raising revenue.

3.3 Local authorities should ensure that parking in town centres and other shopping areas is convenient, safe and secure, including appropriate provision for motorcycles and deliveries. Parking policies including enforcement should be proportionate and should not undermine the vitality of town centres.

3.4 Enforcement authorities should design their parking policies with particular regard to:

- managing the traffic network to ensure expeditious movement of traffic, (including pedestrians and cyclists), as required under the TMA Network Management Duty;
- improving road safety;
- improving the local environment;
- improving the quality and accessibility of public transport;
- meeting the needs of disabled people, some of whom will be unable to use public transport systems and depend entirely on the use of a car; and
- managing and reconciling the competing demands for kerb space of:
 - residents;
 - shops;
 - businesses;
 - visitors, especially where there are many tourist attractions and hotels;
 - pedestrians;
 - delivery vehicles;
 - buses, taxis, private hire vehicles and coaches;
 - cars;
 - bicycles; and
 - motorcycles.

3.5 Authorities should appraise their parking policies, CPE regimes and associated regulatory framework (including penalty charge levels) when reviewing their Local Transport Plans (LTP). In London these are known as Local Implementation Plans (LIP). Authorities that do not have an LTP or LIP should appraise their parking policies when reviewing their local development framework or community strategy. They should take account of the information they collect as part of the parking enforcement process. It is also worth interviewing CEOs, who are in a unique position to identify changes to

parking patterns, as well as office staff who see the challenges and representations and the reasons behind them.

3.6 Chapter 4 gives advice on appraisal.

CPE financial objectives

3.7 CPE is a means of achieving transport policy objectives. For good governance, enforcement authorities need to forecast revenue and expenditure in advance. But raising revenue should not be an objective of CPE, nor should authorities set targets for revenue or the number of Penalty Charge Notices (PCNs) they issue.

3.8 The judgement in *R v LB Camden (ex parte Cran)* made clear that the Road Traffic Regulation Act 1984 is not a revenue raising Act.

3.9 Enforcement authorities should run their CPE operations (both on- and off-street) efficiently, effectively and economically. The purpose of penalty charges is to dissuade motorists from breaking parking restrictions. The objective of CPE should be for 100 per cent compliance, with no penalty charges. Parking charges and penalty charges should be proportionate, so authorities should not set them at unreasonable levels. The income from on-street charging and any penalty charge payments received (whether for on-street or off-street enforcement) must only be used in accordance with section 55 of the Road Traffic Regulation Act 1984 (as amended).

3.10 London authorities must keep an account of all income and expenditure in respect of designated (i.e. on-street) parking places and their functions as enforcement authorities, within paragraphs 2 and 3 of Schedule 7 to the TMA. English authorities outside London must keep an account of all income and expenditure in respect of designated (i.e. on-street) parking places which are not in a Civil Enforcement Area, designated (i.e. on-street) parking spaces which are in a Civil Enforcement Area and their functions as an enforcement authority. London authorities must send a copy of the account to the Mayor of London. All authorities must comply with Part 2 of the Local Government Transparency Code 2014 (<http://tinyurl.com/l4jpoef>) which sets out the minimum data that local authorities should be publishing, including on parking. If an authority makes a surplus on its on-street parking charges and on-street and off-street enforcement activities, it must use the surplus in accordance with the legislative restrictions in Section 55 of the RTRA 1984 (as amended).

3.11 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 CPE (see Chapters 12 to 15) will be granted without the scheme being self-financing. However, 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. Any application to the Secretary of State for a scheme that is not self-financing should be supported by a resolution of the full Council.

3.12 Applying for CPE powers in conjunction with neighbouring authorities may be one way of tackling a potential financial shortfall. But a robust agreement on cost sharing will be needed if the partnership is to last.

Full guidance at <https://www.gov.uk/government/publications/operational-guidance-to-local-authorities-parking-policy-and-enforcement>

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