

Agenda Item 50.

TITLE	Officer Response to Call-In re Off Street Car Park Charges
FOR CONSIDERATION BY	O&S Management Committee on 25 October 2022
WARD	None Specific
DIRECTOR	Steve Moore, Place and Growth

Reference No: Executive Decision 2022/09/29 - Item 39.

Subject: Off-Street Car Park Charges

Reason for Call-In

The five non-Executive Members allege that the decision has contravened the following sections of the Constitution:

- Section 1.4.4 b) key decisions by Executive;
- Section 1.4.2 b) due consultation
- Section 1.4.2 d) a presumption in favour of openness;
- Section 1.4.2 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;
- Rule 5.4.8 Member Notification of the Forward Programme;

Responses to alleged contravention of the Constitution

1.4.4 b) Key decisions by Executive

There are car parks in Wokingham, Woodley, Twyford, Wargrave, Earley so it is a Key Decision.

Response: It is acknowledged that this is a key decision and for that reason this is why it went to Executive for approval. This is also evidenced within the first section of the Off Street Car Park Charges report which states 'yes' under the question of 'key decision'. A two tier approach to car parking charges within Wokingham Town and to car parks outside of Wokingham Town, was also applied to the charging following feedback received.

1.4.2 b) due consultation

The report suggests additional income of £500k in a full year through these exorbitant increases and removal of free parking. This is extremely substantial and should trigger a consultation with residents, affected businesses and organisations. There is a precedent which occurred the last time evening and Sunday charges were proposed in 2016. A full resident consultation was

carried out for a month and incorporated into the officer's report for a meeting of the Executive on 31st March 2016.

Response: Fees and charges can be made by a variation order and linked to the Council's fees and charges review process. However, changes to restrictions and hours of operation are required to follow the TRO process.

The Off-Street Parking Traffic Regulation Order (TRO) process provides for the advertising of these changes to hours of operation and any other provisions of the parking order. The Executive approval allows officers to start this process. It will provide a period of 21 days public consultation to review and make comment or objections for consideration of these revised parking restrictions and variation of the charges that apply.

d) a presumption of openness

There has been no warning about these proposals prior to the agenda being published for this meeting (see additional comments about the Forward Programme below).

Response: There is no precedent set when consultation should take place prior to approval of these changes as it is a requirement to consult as part of the Traffic Regulation Order process and is therefore an open and transparent process. Objections to the proposals may require amendments to the proposals which could be approved by an IEMD approval process.

It should be noted that some people did respond to the item being on the agenda, and what they said was taken into account where possible, which is why the recommendation was changed. If more points come out during the TRO consultation, they too can be responded to if necessary.

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.

Only one option was presented and no details of any other options considered has been presented in the report. There is no business case providing any details of what impact these changes will have on residents, affected businesses and organisations. What was the assumption on the "resistance" of residents to continue to use the car parks following such dramatic increases. What is the estimate of footfall reduction causing a reduction in patronage of local shops and restaurants.

Response: Other options were considered which included some much higher charges, and also a do-nothing scenario, leaving a £600k to £800k funding gap in the off-street parking budget and a reduction in services. The Executive opted for an option close to the lower end of the funding gap and revised the proposals to take account of feedback received.

No assumptions or estimates have been made in footfall changes, with surrounding local authorities also planning to/have increase off street car parking charges

therefore what has been proposed would still retain some of the lowest charges for parking.

5.4.8 The Forward Programme

A Forward Programme of Executive Business, covering a period of at least four months, will be published at least 28 clear days before a Key Decision is made. The Forward Programme will be agreed by the Leader, or in his absence by the Deputy Lead each month and a copy will be provided to all Members and published on the Council's website. The Forward Programme will meet the requirements of the 28 day "notice" as set out in the Local Authorities (Executive Arrangements) (Meetings and Access to information) (England) Regulations 2012.

This rule is quite specific that a copy of the monthly updated Forward Program should be PROVIDED TO ALL MEMBERS and published on the Council's website.

I have written confirmation from 25 Councillors that they received a copy of the Forward Programme on the 28th July 2022. They then received NO copies of the Forward program between the 29th July and the 23rd September.

This agenda item, was first introduced in the Forward Programme published on the Council's website on the September update published on the 25th August.

Unfortunately, as explained above the September update was not copied to at least 25 councillors. The first time they saw it was on the 23rd September. This means the “28 clear days before a Key Decision is made” part of the rule has been breached and therefore the Decision made on the 29th September cannot be valid.

Response: Under section 6.3.29 (Call-In), the Constitution sets out the six reasons for non-Executive members calling-in a decision. These are the principles of decision making as set out in chapter 4.1 of the Constitution. Section 6.3.29 does not explicitly refer to the Executive Forward Plan.

With regards to section 5.4.8 (Executive Forward Plan), the key notification requirement is to meet the requirements of the 28 day “notice” as set out in the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012. For the Executive meeting of 29 September 2022, this requirement was met as notification was provided on 25 August 2022 and was transparently available to residents and members on the Council website from that date.

The substantive intention of section 5.4.8 is, by publishing the Forward Plan, residents of the borough will be able to find out the expected timing of key decision, who will take them, and also the consultation mechanisms available to them.

The signatories to the call-in highlight that the constitution also refers to a copy of the Forward Plan being provided to all Members. This is not a legal requirement. However, it has been the local practice that when the Forward Plan is published, an automated notification email goes to members. It has been asserted that not all members received notification in this case, contrary to the constitution. As soon as officers were alerted to this concern, steps were immediately taken with the software provider to address the issue. Officers are satisfied that the automated notification system works correctly and that this was an isolated incident which will not reoccur.