

TELFORD & WREKIN COUNCIL

CABINET 31 MAY 2018

APPLYING FOR CIVIL PARKING ENFORCEMENT POWERS

REPORT OF ASSISTANT DIRECTOR: CUSTOMER & NEIGHBOURHOOD SERVICES

LEAD CABINET MEMBER – CLLR R A OVERTON

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

- 1.1 Local Authorities have the ability to take on powers currently held by West Mercia Police to undertake enforcement of on street car parking under the Traffic Management Act 2004. This is known as Civil Parking Enforcement (CPE).
- 1.2 CPE is the enforcement of on street parking restrictions such as double and single yellow lines, limited waiting bays, disabled bays, pavement parking and school keep clear markings etc.
- 1.3 These powers will assist in addressing illegal parking problems in many of our borough towns and high streets as well as addressing issues outside of our schools thereby helping to improve safety within our borough whilst seeking redress with the minority who continue to park illegally. The Council currently receives a number of complaints from local residents and parish councils but is unable to take any action at present as the powers currently reside with the Police, where illegal parking remains a 'criminal' offence.
- 1.4 To obtain CPE powers and see them transfer from the police, Local Authorities must apply to the Department for Transport (DfT). This requires a business case to be submitted that sets out the financial and strategic case for implementing CPE across the Borough. There is also a requirement for the Council to implement a Parking Strategy, consult on the implementation of CPE and review all Traffic Regulation Orders (TRO's).
- 1.5 Over the past 12 months the Council has been investigating the business case for CPE and to date has engaged with a number of stakeholders including the Finance and Enterprise and Community Scrutiny Committee's. This process has also included engagement with Parish & Town Council's and West Mercia Police in particular.
- 1.6 Following the Council leader's negotiations with the West Mercia Police and Crime Commissioner (WMPCC) agreement has been reached which will see the PCC

provide transitional funding to support the business case to enable the Council to apply to the Dft for CPE Powers before December 2018. The Police have confirmed that they are no longer able to prioritise parking enforcement compared to other demands and are very keen for the council to adopt these powers.

- 1.7 The Dft have confirmed that due to their workload linked to Brexit they are not able to consider any applications for CPE powers until June 2019 at the earliest but are happy to receive our application.
- 1.8 CPE must be self-financing and cannot place a financial burden on the Council in undertaking these powers. The initial business case has shown the need for a level of subsidy for implementation for which the WMPCC has agreed to contribute £200,000 over the first three years of implementation.
- 1.9 If in the future any CPE generated additional income over and above the operating costs then this has to by law be reinvested back into highways and transport. For Telford & Wrekin any additional income generated by CPE will be reinvested ensuring car parking remains free in our local centres and in improving residential car parking in many of our communities, and supporting sustainable transport such as cycling, walking, electric vehicle charging and public transport.
- 1.10 CPE does not mean the introduction of parking charges within Council owned car parks, which are currently free and will remain so with many car parks supporting our main Borough Towns and High Streets. This key policy will be formalised within the emerging Parking Strategy required as part of the submission to adopt CPE Powers.
- 1.11 Discussions are proposed to be held with Town and Parish Councils during the Summer of this year to explore their appetite for investing into a scheme that could involve a Neighbourhood Warden working in their area who not only has CPE powers but also other enforcement powers to tackle other local concerns such as fly tipping, dog fouling etc... A further report on the operational plans for implementing CPE will be provided towards the end of the year following the engagement with Town and Parish Councils. A separate report will also need to be developed that seeks approval for the penalty charges that would apply to those who continue to park illegally along with an overview of the appeals process that would also need to be developed.
- 1.12 This report seeks the necessary delegations and approvals to commence with the business case and other necessary processes and for the implementation of CPE.

2. RECOMMENDATIONS

- 2.1 That Cabinet approves the decision to commence with the business case process to apply to the Dft to adopt CPE Powers by December 2018.
- 2.2 That delegated authority be given to the Assistant Director: Customer & Neighbourhood Services in consultation with the Deputy Leader and Cabinet Member for Housing and Enforcement to approve the final business case prior to submission, to undertake the necessary consultation process, and develop and approve the Parking Strategy required as part of the submission process.
- 2.3 To continue to engage with the Scrutiny Committee for Finance and Enterprise and Community to help inform the final business case for applying for CPE powers.
- 2.4 That delegated authority be given to the Assistant Director: Customer & Neighbourhood Services in consultation with the Deputy Leader and Cabinet Member for Housing and Enforcement to take such steps and implement such policies and procedures as necessary for the implementation of CPE once approved by the Dft, likely to be after June 2019.
- 2.5 A further report to be presented to Cabinet on the proposed operating model for implementing CPE towards the end of this calendar year.

SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Co-Operative Council priority objective(s)?	
	Yes/No	These powers will assist in addressing illegal parking problems in many of our borough towns and high streets as well as addressing issues outside of schools thereby helping to improve safety and our communities.
	Will the proposals impact on specific groups of people?	
	Yes/No	Borough wide impact.
TARGET COMPLETION/ DELIVERY DATE	Consultation – September – November 2018 Business Case Submission – December 2018 Implementation – June 2019 onwards (subject to Parliamentary time)	
FINANCIAL/ VALUE FOR MONEY IMPACT	Yes/No	The business case being developed on CPE for the DfT must demonstrate that no financial burden is placed upon the Council in taking on CPE powers. Initial workings indicate that the total cost of CPE will be £191k in year 1 including initial set up and equipment costs. The financial model estimates that 3,733 Parking Charge Notices (PCN's) will be issued per year, which equates to just over 10 tickets being issued per day right across the borough in addressing illegal parking on yellow lines, outside schools, council

		<p>car parks etc. Compared to other area this equals a very low number of tickets being issued and reflects our prevention and education first model with a fine being the last resort. The model also assumes PCN's ranging from £25 to £105 depending on the severity of the parking offence and the speed within which the fine is paid. Based on these assumptions a total of £97K is estimated from the 3,733 fines in year one. From year 2 operational costs reduce to £156K with a potential to rise to £172K by year 6. Income is expected to be around £102K per annum from fines. This model leaves a shortfall in Year 2 of £54K rising to a possible £70K per annum by year 6. However funding from the Police Crime Commissioner of £200k in total will be received in the first 3 years to offset the initial costs of implementation and operation costs..</p> <p>There are currently 5 Town and Parish Councils that contribute £120k in total per annum to the Police and Crime Commissioner which goes towards the car parking enforcement work undertaken by the PCSO's. The Council plans to work in partnership with all Town and Parish Councils to hopefully secure funding to bridge any budget shortfall that may be realised in future years of the business model.</p> <p>Further work will be required to firm up the financial costings as the business case is developed throughout this year.</p> <p>Should a surplus be generated from CPE it must be reinvested back into the highways and transport infrastructure</p> <p>The costs of consultation linked to CPE powers will be met from existing budgets. MLB 23.04.18</p>
LEGAL ISSUES	Yes/No	<p>As the Police are less and less able to prioritise parking enforcement within the Borough the Council, due to a lack of other appropriate powers, may not be able to ensure effective management of traffic issues which could lead to a detrimental impact on the highway network efficiency and possible consequential safety issues.</p> <p>Acquiring Civil Parking Enforcement (CPE) powers will also allow the Council to better and more directly tackle wider transport and environmental issues such as traffic congestion, road safety in accordance with</p>

	<p>Council priorities and policies, and to safeguard the interests of residents, blue badge holders, transport operators and local businesses.</p> <p>Implementation of CPE powers will decriminalise the enforcement of parking contraventions from the current system to one of a civil law regime.</p> <p>The review of existing Traffic Regulation Orders (TRO) is essential to ensure that the schedules within those orders precisely reflect the physical signs and lining on the highway. This is critical to ensure future enforcement is watertight and free from challenge. A senior council officer will have to give an undertaking confirming that all TROs, traffic signs and road markings in the proposed Civil Enforcement Area (CEA) have been reviewed and are now lawful, consistent and in good order before the designation order is made.</p> <p>Prior to the declaring of a CEA the Council will have had to have gone through all the required processes, ie notice, consultation and approval/setting of penalty charges prior to the order commencement date. Penalty charges must be proportionate to the scale of the traffic management issues facing the authority and ensure consistency with neighbouring authorities schemes.</p> <p>Once the designation order is in place then the PCN regime can be enforced in respect of existing TRO's. However this itself will require a detailed and comprehensive enforcement policy/operational guidance for the issue, processing, cancelling (incl. exemptions, waivers and dispensations) and challenges, representations and appeal of PCN's.</p> <p>Individuals not happy with the decision given following rejection of representations at the formal challenge stage have a right to appeal to the independent adjudicator. This appeal body is funded by contributions from those local authorities who operate CPE, the funding being paid from the PCN's issued by the local authority.</p> <p>The legislation and guidance also set out specific requirements to be met in respect of both Civil Enforcement Officers (eg. Uniform, training and professionalism) and a requirement to use approved 'enforcement equipment.</p>
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<p>OTHER IMPACTS, RISKS & OPPORTUNITIES</p>	<p>Yes/ No</p>	<p>Risks Revenue from fines may not cover the operating costs of CPE. This will be mitigated through the funding provided by WMPCC for the first 3 years of the scheme and ideally with the ongoing support of Town and Parish Councils.</p> <p>Our residents may perceive this is a revenue-raising exercise however that is certainly not the case and our efforts will be on prevention and education rather than adopting a fine culture to chase an income target as has been seen in other areas across the country. The council is exploring the benefits of increasing the resources of the current in house enforcement team however this is subject to the outcome of an options appraisal and test of value for money as to whether this is the best model. It is thought that an in house team would be better placed to adopt the values and culture of the Council. A public consultation exercise will be undertaken during preparation of the application to ensure the public understands the scheme is to address poor illegal parking. Any income raised over and above the operating costs of CPE will be reinvested into improving highways and transport in the Borough.</p> <p>Opportunities Capability to enforce waiting restrictions and respond positively to community and school concerns over illegal and unsafe parking across our borough.</p>
<p>IMPACT ON SPECIFIC WARDS</p>	<p>Yes/No</p>	<p>Borough wide impact</p>

PART B) – ADDITIONAL INFORMATION

3. INFORMATION

3.1 The enforcement of parking restrictions in the borough has been identified as an area of concern for town and parish councils in the borough, following the withdrawal of the police’s traffic wardens in 2009. At present the only organisation with powers to enforce on-street parking offences are the police, primarily through local policing teams. West Mercia police have locally acknowledged that parking enforcement is unlikely to be a long term priority, and that in many instances it is not possible to allocate the level of policing resource that parking enforcement requires. Since 2016 the Council has implemented an Integrated Community Management (ICM) model

working in conjunction with Town and Parish Council's and the Police across the Borough tackling issues such as anti-social behaviour and on street parking enforcement.

3.2 In order to take on CPE powers, the Local Authority must submit a business case to the DfT which considers the strategic, policy and financial case in respect of CPE. The application must cover five key areas: -

- A parking strategy for on-street and off-street parking.
- A review of parking management identifying enforcement arrangements relating to CPE.
- A financial assessment detailing the costs of a scheme and expected income.
- A full review of all traffic regulation orders (TROs) in the borough.
- That the authority has consulted as required and taken account of consultees' views in finalising the application.

3.3 In taking on CPE powers a local authority can issue Penalty Charge Notices (PCNs) to motorists who have contravened parking restrictions (for example parking on double yellow lines or on the footway). Income raised through enforcement must first be used to cover the cost of enforcement and adjudication of any disputed PCNs. Any surplus revenue has to be reinvested into highways and transport for example:

- Maintaining free car parking in our local centre's
- Helping to improving residential car parking
- Investing in sustainable transport including cycling, walking, electric vehicle charging and public transport.

3.4 The consideration for adopting CPE powers has been subject to a review by the Council's Finance and Enterprise and Community Scrutiny Committee at the request of the leader of the Council in 2017. This included engagement with Parish and Town Council's and West Mercia Police. Following the Leaders discussions with the West Mercia Police and Crime Commissioner (WMPCC) it has been agreed to seek approval to submit the business case to the DfT by December 2018. The initial business case has shown the need for a level of subsidy for implementation for which the WMPCC has agreed to contribute £200,000 of transitional funding over the first three years of implementation.

3.5 Initial discussions with the DfT have taken place with regards to the process and timescales for adopting CPE. At the moment the DfT have indicated the timescales for taking the powers through Parliament will be delayed as a result of the amount of bills currently passing through Parliament in relation to Brexit. The Council however still plans, subject to approval, to submit the business case by December 2018 and will work with the DfT to progress the necessary approval processes and seek implementation during mid 2019.

- 3.6 During the application process the Council will need to develop and adopt an approved Parking Strategy for the Borough. This Parking Strategy will consider the future needs and policies in respect of on and off street car parking across the Borough and will set out how CPE will assist in the implementation and delivery of the strategy as well as confirming the councils commitment to maintain free car parking in council owned car parks.
- 3.7 CPE also requires a statutory consultation. This consultation is not required to focus on whether the Council should or shouldn't adopt CPE it largely aimed at focussing on improving the public's understanding of what CPE, how it will operate, and to understand the public's key priorities and issues with regards to illegal parking. As part of this process there is a number of statutory consultees that must be consulted such as the emergency services, freight association and surrounding local authorities.
- 3.8 The Council must also review all Traffic Regulation orders (TRO's) as part of this process to ensure that they are legally compliant. Much of this work was undertaken in 2011, so this process will be a review of the work undertaken previously and a consolidation of any new orders since this last review.
- 3.9 Based on the above the current indicative timetable is as follows:
- Ongoing discussions with DfT – March to December, 2018
 - Undertake TRO review – June to October 2018
 - Develop Parking Strategy – July 2018
 - Consultation (On line and face to face) - September to October 2018
 - Finalise business case & financial case - November 2018
 - Submit application – December 2018
 - Go Live (subject to discussions with DfT and Brexit impact) – post June 2019

4. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

4.1 Community Impact

Implementing CPE would lead to greater enforcement of on-street waiting restrictions than at present. The benefits of enforcing waiting restrictions includes safer road conditions for motorists, pedestrians and cyclists and less pollution resulting from fewer instances of illegal and obstructive parking. This should lead to fewer complaints from the public about inappropriate parking.

4.2 Equalities Impact

Implementing CPE would lead to greater enforcement of on-street waiting restrictions than at present ensuring safe and suitable access for all road users. An Equalities Impact Assessment will be completed following the outcome of the consultation process and prior to applying for the powers and will be made available on the councils website.

5. **PREVIOUS MINUTES**

n/a

6. **BACKGROUND PAPERS**

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