

Agenda Item 12

Executive Board

30 April 2008

MR



Civil Parking Enforcement – Progress Report

Summary

This report gives an update on the Council's current position with regard to the delivery of Civil Parking Enforcement and seeks member approval of the next steps.

Recommendation that

- 1) Executive Board notes the Council's current position regarding the potential delivery of on-street car parking enforcement.
- 2) Executive Board endorses the application of the higher charging band to Penalty Charge Notices (PCNs) issued for off-street parking contraventions under the provisions of the Traffic Management Act 2004 and notes these are consistent with those applied by Devon County Council for on-street parking.
- 3) Executive Board notes that the existing arrangement (where vehicles that have over-stayed their allowed ticket time in an off-street car park can purchase a £5 ticket within one hour of the expiry time of the parking ticket and the PCN is cancelled) will no longer apply from the commencement of Civil Parking Enforcement (CPE) on 5 May 2008.
- 4) Executive Board approve the new staffing structure for Car Park Enforcement.
- 5) The Council enters into a memorandum of participation or similar to join the Joint Committee Agreement to enable it to become part of the Traffic Penalty Tribunal (formerly the National Parking Advisory Scheme) which deals with adjudications on Fixed Penalty Notices and that the Portfolio Holder (Economy) or such other person as the Council may from time to time appoint be its representative on that committee.
- 6) That the Head of Streetscene be given delegated authority to carry out the Council's statutory functions under the Traffic Management Act 2004.
- 7) The Chief Executive or his nominated deputy be the Council's representative on the County Parking Board.

a) Reasons for Recommendation

The Executive Board are aware of the current progress towards the implementation of Civil Parking Enforcement duties, which is due to commence on the 5 May 2008.

b) Alternative Options

Not to enforce on-street parking violations.

c) Risk Considerations

That Devon County Council (DCC) does not fully financially recompense the Council for all costs incurred associated with on-street parking enforcement.

That the staffing levels estimated by DCC prove inadequate.

That a pro-active level of district wide on-street parking enforcement will not be achieved with the available resources available.

That the due commencement date of the 5 May 2008 is not achieved.

d) Policy and Budgetary Considerations

The Council has only agreed to accept responsibility for on-street parking enforcement on the proviso that it does not incur any additional costs. On this basis no additional budgetary provision has been made for the 2008/09 financial year.

The £30,000 costs budgeted for in the 2008/09 budget for a new car park penalty ticket and permit system will now be predominantly met by the County Council in order to implement the new arrangements.

e) Date for Review of Decision

None

Civil Parking Enforcement – An Update

1. Introduction

- 1.1 The Department for Transport has implemented new regulations which introduce Civil Parking Enforcement (CPE) as part of the Traffic Management Act 2004.
- 1.2 On the 5 November 2007 the Council was approached by Devon County Council (DCC) to establish whether East Devon DC would be prepared to deliver on-street parking enforcement. This enforcement, currently being carried out by the Police, was being relinquished by them with effect from March 2008. All Devon district councils have agreed in principle to this request.
- 1.3 The Chief Executive's report to the Executive Board on the 28 November 2007 made it very clear that the Council would only take on these additional duties if no additional costs were incurred and negotiations with DCC have been on this basis.
- 1.4 There may well be other operational advantages of having a larger on and off street parking team. A joined up approach for the whole District will hopefully allow a greater flexibility and operational coverage and at a later date other enforcement duties may also be considered.

2.0 Progress to date.

- 2.1 DCC has, subject to approval by the Secretary of State, agreed with the Districts to "go-live" with Civil Parking Enforcement on the 5 May 2008. DCC have applied to the Secretary of State for a Designation Order, under the Traffic Management Act 2004 (TMA), to make the County of Devon a "Civil Enforcement Area" combining the enforcement regimes for both "On- Street and Off Street Parking".
- 2.2 DCC commissioned a consultant (RTA Associates) to calculate the likely staffing and other financial aspects of delivering both off and on-street parking enforcement. The consultants' figures determined for the East Devon area that 6 Civil Enforcement Officers (CEOs) and 3 administrative support staff will be required, as additional

resources, to actively manage the enforcement regime. Some of the CEOs will transfer under "Transfer of Undertakings Protection of Employment" (TUPE) regulations from the Police Authority.

- 2.3 Street Scene and Finance have produced a new combined officer structure to consolidate all car parking operations into one corporate team. The structure is shown in appendix 1. The financial implications, resulting from the increase on those current staff resources required to manage the "On-Street Parking Enforcement", in this structure are to be met by DCC. This includes for the upgrade of one of the Administration Assistants to the Assistant Manager (Administration) post and to fund the upgrade cost for the Car Park Services Manager post, which has been upgraded due to increased responsibility and duties.
- 2.4 Any financial surplus or deficit on the "On-Street Civil Parking Enforcement" operation will either be paid back to DCC to be re-invested into parking initiatives or in the event of a deficit then DCC would be required to fully compensate the Council for any loss.
- 2.5 An IT system to capture all parking data and electronic hand held devices which the CEOs use to issue the penalty tickets has been identified and is currently being sourced. The system chosen is called SPUR and it is one of three market leaders. The parking system is highly recommended by a number of local authority clients (in fact DCC, West Devon, Teignbridge and South Hams already use the SPUR system). DCC will meet the cost of this system. SPUR have confirmed that they can provide, install and have the system operational by the 5 May 2008.

3.0 Actions Outstanding

- 3.1 There are now a significant number of actions that are to be completed prior to the 5 May 2008 "go-live" date.
- a) The contents and principles of the Devon County Council agency agreement for carrying out on street enforcement on County's behalf have been agreed under the delegation previously given to the Chief Executive. This includes agreement regarding the overall costs supplied by their consultant and provision for EDDC to reclaim costs due to taking on on-street civil parking enforcement. The agreement does not deal with every eventuality which could arise, and D.C.C. has given comfort by separate letter, on issues which have not been spelled out in full in the agreement. The agreement is a framework for much of the detailed day to day operation which is still under discussion. The final agency agreement is currently being prepared for signature.
- b) Resources required for the operation are currently being sourced. Vehicles and uniforms have been ordered. However, the vehicles will not be available for the 5 May 2008 and hired vehicles will be used in the interim. IT systems and associated equipment have been procured.
- c) Ensure all of the Councils procedures and stationery (incl. all Parking Places Orders) need to be compliant with the new TMA and this will consequently mean that all car park signage will need to be compliant. The new signage has been ordered. The Consolidation Order, bringing together the existing parking orders, notice of its making and the Public Notice advertising the levels for the Parking Control Notices (PCNs) are shortly being advertised. The TMA requires that penalty notices for both Off-Street Parking and On- Street Parking are the same penalty. This will mean that the Councils previous Penalties will remain the same at £70 for a higher level penalty and £50 for a lower level penalty. Virtually all penalties in off -street car parks are at the lower level of £50. These penalties are reduced to £35 and £25 respectively should payment be received within 14 days (currently in EDDC off-street car parks the reduction for early payment is made if payment is received in 7 days). The consultant strongly advises that EDDC ceases the current arrangement; where vehicles that have over-stayed their allowed ticket time in an off-street car park can purchase a £5

ticket within one hour of the expiry time of the parking ticket and the PCN is cancelled. Legal advice is that the new parking penalty arrangements are restricted by the new legislation to a set menu of penalty charges and therefore the £5 arrangement cannot continue after 5 May unless specific consent is obtained from the government to this arrangement, which would not necessarily be given.

- d) East Devon will need to join the National Parking Adjudication Service so that appeals against Parking Control Notices may be dealt with under the legislation. A memorandum of Participation will cover this and the Council will be a member as soon as the legal formalities can be concluded. It is expected the inaugural Joint Committee meeting will take place the first week in June. It is suggested that the Portfolio Holder (Economy) is the Council's representative on this authority.
- e) A consultant was commissioned to assist us with this task and to advise, develop, integrate and formalise East Devon's procedures to ensure that all procedures are compatible with the requirements of the new legislation.
- f) The new staffing structure has been finalised and accepted by DCC. This includes all job descriptions etc, and grades. All posts have undergone job evaluation. The TUPE regulations have been applied to staff transferring to the District from the Devon & Cornwall Police. These employees have had initial welcome meetings and have met with HR on several occasions to discuss with them the impact of the transfer on their terms and conditions. These discussions are currently being finalised.
- g) Recruitment for the vacant CEOs posts has commenced. Training has been arranged for existing staff between the 14 April and the 2 May 2008. The training is a week long course. Working rosters have been prepared and agreed. We are currently awaiting details of patrol schedules and details of any local dispensations from DCC.
- h) Office accommodation has been identified for the new service however interim arrangements may need to be made to run the service from the start date until the accommodation is made free.
- i) The consultant is producing a new appeals procedure policy which is compliant with the Traffic Management Act 2004. All appeals will be heard by independent body, the National Parking Adjudication Service (NPAS) and this will be for both On-Street and Off-Street Parking Enforcement. NPAS is to be renamed as the Traffic Penalty Tribunal.
- j) There will be a need to designate the District Nominated Officer who will represent the Council on the County Parking Board. It is anticipated that this will be Mark Williams or his nominated representative.
- k) There will be organised press releases, one now to offer clarification to the public as to how and when the District will operate the new parking enforcement regime and another one once all aspects have been finalised.

Legal Implications

Under the Traffic Management Act 2004 (TMA 2004), the County Council has applied for the whole of Devon to be a Civil Enforcement Area and a Special Enforcement Area. By the time Executive Board meets it is expected that the Order designating Devon will have been laid before Parliament. Under the legislation, EDDC is the enforcing authority for its own off-street car parks and Devon is the on-street authority. However, under an agency agreement, the County intends to delegate its on-street powers for civil parking enforcement (CPE) to East Devon, and members have already approved this arrangement.

Existing orders regulating our off-street car parks will be replaced by orders under the new

statutory arrangements. The introduction of Fixed Penalty Notices for a range of breaches of the parking legislation should provide a quicker and more effective means of regulating parking than prosecutions through the courts. The primary purpose of the TMA is to aim to increase compliance with parking regulations through clear, well designed, legal and enforced parking controls. CPE provides a means by which the authority can deliver transport strategies and objectives. Enforcement authorities should not view CPE in isolation or as a way of raising revenue.

Parking and penalty charges should be proportionate and authorities should not set them at unreasonable levels. When authorities receive penalty charge payments they must use them in accordance with Section 55 (as amended) of the Road Traffic Regulation Act 1984, which is to fund CPE with any surplus used for traffic management schemes.

Financial Implications

The financial implications are detailed in this report.

Consultation on Reports to the Executive

Nil.

Background Papers

Executive Board Report 28 November 2007

Agency Agreement for CPE with Devon County Council

Scrutiny Committee Report 5 March 2008

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Executive Board
30 April 2008