

Agenda Item No:	7	
Committee:	Cabinet	
Date:	21 October 2020	
Report Title:	Economic Growth & Assets – On and Off-Street Parking Enforcement Paper	

1. Purpose / Summary

To provide an update and consider the case for the implementation of parking enforcement and regulation for on and off-street parking areas within the Fenland District including town centre locations

2. Key issues

- On-Street Parking Areas – Parking Enforcement
- Off-Street Car Parks (FDC) – Enforcement and Regulation
- Private Car Parks – Enforcement Options
- General Requirements – Financials, Delivery Timeline and Strategy

3. Recommendations

Cabinet to note the progress made on parking enforcement options and to consider the paper which discusses the proposed introduction of parking enforcement for on/off street parking areas.

- 1) Cabinet are requested to consider this report and decide whether CPE powers should be adopted by the Council.
- 2) Approve the appointment of a specialist CPE consultant to undertake Civil Parking Enforcement (CPE) feasibility works for Fenland to support the development of a detailed business case. Such works will also include a review of all FDC car park parking places orders and occupancy information in support of a CPE application. The cost of this appointment is estimated to be approximately £10,000
- 3) Members are further requested to approve the preparation and submission of an application to the Cambridgeshire and Peterborough Combined Authority (CPCA) to obtain Capital funding for CPE feasibility and implementation works as part of a joint application made by each of the four market towns under the Growing Fenland programme.

- 4) Upon receipt of the detailed business case a further Cabinet report will be brought forward for consideration and a decision on whether to proceed with an application for a designation order for the introduction of Civil Parking Enforcement (CPE), this will include a full cost estimate for the capital and operational/revenue costs, together with the costs of professional fees and a proposed timetable for implementation. All applications for CPE must be made to the Department for Transport by the Highway Authority for each area, in this instance that would be Cambridgeshire County Council.
- 5) Pending the outcome of the application for funding and the CPE feasibility works, approve Cambridgeshire County Council to undertake a signing and lining review of all existing Traffic Regulation Orders in support of a CPE application to the DfT. This shall be accompanied by a programme of statutory consultation with the Police, neighbouring Authorities, and other interested parties.

Wards Affected	All
Forward Plan Reference (if applicable)	
Portfolio Holder(s)	Cllr Chris Boden, Cllr Jan French
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Background Paper(s)	
Reference Documents	Traffic Management Act 2004 and Road Traffic Regulation Act 1984.

1. On Street Parking Areas

On street parking enforcement within Fenland is currently undertaken by the Police with off street parking enforcement to public car parks being the responsibility of the District Council or landowner in the case of Privately owned land.

Limited Police resources are generally available for on street parking enforcement with the Police having an increasing need to prioritise resources to major crime and emergency incidents. Vehicle owners frequently park in a manner with total disregard to existing traffic regulation orders which prohibit parking or impose time restrictions.

Officers and Members have discussed at length both the existing and future parking enforcement and regulation arrangements for on and off-street parking areas. Fundamentally the options are limited to:

1. Increasing on street enforcement via Cambridgeshire Police under the current arrangement whereby all revenue from parking offences are paid to central government as parking contraventions are a criminal offence. With current resource levels this arrangement has proven ineffective.
2. to introduce Civil Parking Enforcement (CPE). This is where the Highway Authority (Cambridgeshire County Council) makes an application for a designation order for CPE to the Department for Transport. The implementation of CPE would enable effective management and enforcement of parking within the Fenland District for both on and off-street parking areas.

Civil Parking Enforcement is the process for enforcing parking offences as a civil contravention, using the powers under the Traffic Management Act 2004 rather than as a criminal enforcement matter implemented by the Police. The Traffic Management Act 2004 enables authorities with CPE to enforce a Special Enforcement Area (SEA), whereby the responsibility for the enforcement of virtually all parking offences passes from the Police to the Highway and Traffic Authority (the County Council). Once the CPE regime is established in a particular area it is a decision that cannot be reversed.

Enforcement can be undertaken by the District by agreement as an appointed Agent on behalf of the County Council and the majority of on street parking restrictions are then enforced by the District Council. The Special Enforcement Area for Fenland would be the whole of the District and would include enforcement of parking contraventions for all the market towns and rural villages, as examples this would include, 'zig zag markings outside of schools and single and double yellow lines. The Civil Enforcement Area must also include the off-street car parks currently enforced by the District Council.

Parking contraventions would no longer be a criminal offence but a civil matter subject to penalty charge notices (PCNs) being issued. Income is then received by the Highway and Transport Authority or appointed Enforcement Agent. Surplus income from on and off-street parking penalty charges is often used to fund enforcement operations but is ring-fenced as defined in Section 55 of the Road Traffic Regulation Act 1984 (i.e on and off-street parking provision, public passenger transport services, highway road improvements and environmental improvements.....etc).

Cambridgeshire Police would remain responsible for endorsable offences such as dangerous parking, obstruction and failure to follow police “no parking” signs in emergency situations.

Civil Parking Enforcement powers under the Traffic Management Act 2004 first became effective in England from March 2008. It brought significant and complex changes from Decriminalised Parking Enforcement (DPE) which has now been operational for 12 years outside of London. CPE powers for enforcing authorities continue to grow with more consistent and fairer processes being introduced by the DfT. Further enforcement powers are being considered by government to include infringement of yellow box junctions and use of traffic camera evidence for traffic light contraventions. If approved such powers would be adopted by enforcement authorities.

An application to the Department for Transport (DfT) would need to be accompanied by a detailed business case showing how both the set up and annual revenue costs are to be financed. This could include reference to any capital provided by the Cambridgeshire & Peterborough Combined Authority (CPCA) funding pending a successful funding bid outcome. Following implementation of CPE under the Traffic Management Act 2004, the Council would no longer be able to regulate its off-street car parks under the 1984 Road Traffic Act Regulations.

It is recommended that feasibility works be undertaken by a specialist CPE consultant. Officers have been in contact with a distinguished expert in this field, with over 22 years of experience in CPE and having successfully implemented CPE for 80 Local Authorities in the UK and completed feasibility works for a further 47 Councils.

Officers propose that the CPE specialist is asked to model the most cost-effective model balanced against effectiveness for the implementation of CPE enforcement within the Fenland area. The feasibility works would also look at the best way to administer appeals, traffic penalty tribunal adjudication, contract management and day to day operational issues. It is anticipated that this work will cost in the region of £6,500.

The scope of works for consideration by the consultant shall deliberately exclude any consideration of car parking charges.

Upon request the CPE specialist consultant could provide members with a CPE overview and step by step guide of the implementation process with a Q&A session similar to that given to Hunts DC. This could be facilitated at a cost of £695.

2. Off-Street Car Parks (FDC)

Many of the Councils parking facilities are subject to frequent mis-use to include vehicles being stored by persons within the motor trade, long term storage of vehicles without tax or mot, mis-use of disabled parking bay and anti-social vehicle activity in the evening. Maximising the potential of the Councils parking facilities for users and visitors alike is challenging without suitable enforcement and regulation being in place.

The Council has 19 public car park sites across the district with 1,688 available parking spaces offered free of charge. The majority of FDC car parks are unregulated with only eight having existing parking places orders in place meaning very little enforcement is possible unless the vehicles are proven to be abandoned. March Market Place is the only FDC parking facility whereby fixed penalty notices are issued for overstaying the permitted time period, or parking in manner that contravenes the March Market Place 2010 parking places order.

This facility has 29 parking bays and routine enforcement is undertaken as required by the Councils street scene officers. At present the enforcement regime in place for March Market Place is cost negative, on average costing FDC approximately £8,700 per annum / £116 per ticket with an annual income in the region of £2,600 associated with issuing 70-80 fixed penalty notices per year, but is a deterrent to support the active management of the market place.

A review of the Councils off street parking areas would be required to maximise the effectiveness of the introduction of an enforcement regime and suitable parking place orders implemented in all facilities. Designated short and long stay car parks or zones within car parks would need to be allocated which could prove challenging in some of the market towns.

Car park permits could be introduced for unlimited or restricted parking periods within designated long stay areas. Permits could be displayed within or allocated to vehicles by using a virtual permitting system and online registration. The introduction of a permitting system would not amount to the introduction of car parking charging but would help to manage the use of the car parks much more effectively and would actively address the issue of long-term overstayers, and abandoned vehicles.

3. Private Car Park Enforcement

The Traffic Management Act does not apply for enforcement of private areas which are covered by the Parking (Code of Practice) Act 2019. However, the process of obtaining driver/registered keeper details from the DVLA and issuing a PCN is very similar for private parking operators who are members of a relevant trade association. PCN fines issued on private land are usually set considerably higher than highway fines as the parking enforcement is normally there to generate income and offset enforcement costs for the landowner. For this reason, in most cases private enforcement companies offer enforcement and management services at no cost to the landowner.

Enforcing private parking areas differs from that of undertaking enforcement on the public highway. Essentially private enforcement is not regulated by the Government and relies heavily on the laws of contract and trespass. In order for a parking company to make a successful claim for an unpaid parking charge notice they may need to prove several things including that there is a contract between parties. A contract has several elements in law, namely offer, consideration and acceptance. In the case where a ticket has been purchased, this is reasonably straightforward to prove (i.e. the ticket is effectively the contract). Where the car park is free, this is harder to prove.

For this reason, CPE and private car park enforcement does not sit well together as the high tariffs associated with private parking PCN's do not align with the fundamentals of CPE which aims to dissuade motorists from breaking parking restrictions with the primary objective being to achieve 100 per cent compliance.

Council enforcement services can be used to enforce privately owned car parks that are regulated by a parking places order under the Road Traffic Regulation Act 1984 and this model is currently used by Hunts DC to enforce in private supermarket car parks. It is therefore recommended that enforcement options for private car parks be explored in greater detail following the appointment of a CPE specialist consultant.

4. General Requirements – Financial, Delivery Timeline and Parking Strategy

Officers have already undertaken a headline assessment regarding the introduction of CPE, having had discussions with the Leader and Deputy Leader and Portfolio Holder for Car Parks seeking to identify a suitable approach.

Given the complexities and the requirements associated with the introduction of CPE, further professional advice will be required in order to refine the proposed approach and this will enable a further Cabinet report to be presented for consideration and a decision on whether to proceed with an application for a designation order for the introduction of Civil Parking Enforcement (CPE)..

Officers propose all information relating to on and off-street parking enforcement is shared with the specialist CPE consultant. This should include any estimated Capital and Revenue costs for undertaking the feasibility and implementation works necessary to introduce on and off-street parking enforcement along with indicative operational costs and associated income/losses.

A detailed cost comparison should be undertaken for enforcement and back office management and operational support using both internal and external resources as part of the feasibility works and business case. To date officers have estimated that the likely Capital costs associated with implementing CPE would be in the region of £200,000 with an estimated annual Revenue cost of £93,350 per annum. It is considered that the Capital costs are likely to remain unchanged, however the actual Revenue costs will be very much dependent on the enforcement model implemented.

It is understood that applications for CPE may be submitted to the Department for Transport for consideration twice a year in either April or October. The time taken for the DfT to consider and reach a decision varies but ordinarily is around 6 months. However, due to Parliamentary time currently being allocated to the UK's EU exit and the disruption caused by the Covid-19 pandemic it is understood that applications currently being put forward for CPE in October are unlikely to be considered within the next 12 months.

Officers have been advised by industry professionals that to introduce civil parking enforcement in the current climate will require a timetable of up to 30 months, from commissioning to implementation. To manage this project, it is recommended that a Project Team be established, to include Officers from the various internal sections concerned along with a representative from the Police.

Officers recommend that an experienced specialist CPE consultant is appointed to guide and assist a Project Team through the complex CPE process to ensure a successful outcome. Such would be the importance of the project and the fact that such a decision could not be reversed, it is suggested that major policy direction for the project should come from a group of Members and senior officers within the Council, with responsibility for the implementation of civil parking enforcement.

5. CPCA Funding

The Growing Fenland project, known by the Cambridgeshire & Peterborough Combined Authority as the 'Market Town Masterplan' programme presents an opportunity to seek capital funding to commit towards the cost of developing the detailed business case and application process. In principle approval has been secured from each of the four Growing Fenland groups to commit up to £100,000 from its allocation of £1m funding towards the implementation of CPE across the District.

Whilst any allocation of funds of up to £400,000 from the CPCA will be subject to a formal application under the Market Town Masterplan programme, it is envisaged that such capital sums can be used to develop the detailed business case and implementation of CPE.

There are associated time pressures attached to the Market Town Masterplan funding and it is recommended that Officers are permitted to develop an application to the CPCA at the earliest opportunity and prior to the formal outcome of any detailed business case development for the implementation of CPE.

6. Recommendations/Way forward

Cabinet are requested to consider this report and to decide whether CPE powers should be adopted by the Council.

Officers request that approval is given to the appointment of a specialist CPE consultant (RTA Associates Ltd) to undertake Civil Parking Enforcement (CPE) feasibility works for Fenland to support the development of a detailed business case, such works will also include a review of all FDC car park parking places orders and occupancy information in support of a CPE application. The cost of appointment is estimated to be approximately £10,000

It is further requested to approve the preparation and submission of an application to the Cambridgeshire and Peterborough Combined Authority (CPCA) to obtain Capital funding for CPE feasibility and implementation works as part of a joint application made by each of the four market towns under the Growing Fenland programme.

Upon receipt of the detailed business case a further Cabinet report will be brought forward for consideration and a decision on whether to proceed with an application for a designation order for the introduction of Civil Parking Enforcement (CPE), this will include a full cost estimate for the capital and operational/revenue costs, together with the costs of professional fees and a proposed timetable for implementation. All applications for CPE must be made to the Department for Transport by the Highway Authority for each area and in this instance that is Cambridgeshire County Council.

Pending the outcome of the application for funding and the CPE feasibility works, request Cambridgeshire County Council to undertake a signing and lining review of all existing Traffic Regulation Orders in support of a CPE application to the DfT. This shall be accompanied by a programme of statutory consultation with the Police, neighbouring Authorities, and other interested parties.

In collaboration with Cambridgeshire County Council develop parking policies that are consistent with and contribute to the Councils overall transport policy and strategy objectives with particular regard to CPE and the provisions of the Traffic Management Act 2004.