


Agenda Item No:	7	
Committee:	Cabinet	
Date:	22 March 2021	
Report Title:	Economic Growth & Assets – On and Off-Street Parking Enforcement Implementation Paper	

1. Purpose / Summary

To inform members that the phase one CPE feasibility works approved by Cabinet on 21st October 2020 for the introduction of Civil Parking Enforcement for On and Off-Street parking places within Fenland has been completed. To provide an overview of the feasibility works conducted, and to seek approval to proceed to phase two, the implementation stage.

2. Key issues

- CPE Feasibility Works Scope - Introduction of On and Off-street Parking Enforcement
- On and Off-Street Enforcement and Administration Options
- Project Risks and Funding - Financials
- Legal Implications
- Liaison with Key Partners - Consultation
- Project Delivery Timeline
- Parking Strategy

3. Recommendations

It is recommended that Cabinet:

- a) Note the results of the phase one feasibility works
- b) Note the various modelling options being considered for the implementation of enforcement and administrative services associated with CPE
- c) Note the project set up costs, funding proposal and future financial basis of Civil Parking Enforcement implementation outlined in this report.

and;

1. That the proposals for the implementation of Civil Parking Enforcement as outlined in this report are approved.

2. That the Council approves the indicative CPE project timeline as detailed in Appendix A.
3. In partnership with Cambridgeshire County Council, authorise a signing and lining survey, review and the digital mapping of all existing Traffic Regulation Orders in support the CPE application working collaboratively with CCC.
4. In collaboration with Cambridgeshire County Council develop parking enforcement 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.
5. Authorise FDC to prepare a CEA/SEA application for a designation order for the introduction of Civil Parking Enforcement for submission by the County Council to the DfT on behalf of FDC.
6. Authorise Officers to seek an agency agreement with the Highways Authority, Cambridgeshire County Council, in line with the recommendations above in support of the required application to the DfT.
7. That authority be delegated to the Corporate Director for Finance to resolve any outstanding issues in consultation with the project team, Police and the Highway Authority highways and traffic teams to implement the scheme in accordance with the proposed project timeline.
8. Approve the appointment of a specialist CPE consultant to undertake the Civil Parking Enforcement implementation phase and guide the project team through the complex CPE process. It is estimated the cost of this appointment to be in the region of £30,000 which would be funded by the CPCA funding grant.

Wards Affected	All
Forward Plan Reference (if applicable)	
Portfolio Holder(s)	Cllr Chris Boden, Cllr Jan French
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Background Paper(s)	Cabinet Paper 22-10-2020
Reference Documents	Traffic Management Act 2004 and Road Traffic Regulation Act 1984.

1. CPE Feasibility Works Scope- Introduction of On and Off-Street Parking Enforcement

The CPE feasibility works were commissioned by Fenland District Council (FDC), to investigate the feasibility of introducing Civil Parking Enforcement (CPE) to enable effective management and enforcement of on and off-street parking areas to prevent inconsiderate parking. This would require the creation of a Civil Enforcement Area (CEA) across the whole of the District Council's administrative area requiring collaborative working between FDC and both Cambridgeshire Police and the Highway Authority (CCC). The application to the Department for Transport for a CEA must be made by the Highway Authority for each area. In this instance it would be Cambridgeshire County Council that apply for a Designation Order to decriminalise parking enforcement across the whole of Fenland.

The implementation of a CEA within Fenland would mean that parking offences become civil contraventions, using the powers of the Traffic Management Act 2004. Within the CEA, the responsibility for the enforcement of virtually all parking contraventions would pass from the Police to the Highway Authority (CCC) and/or their agents (FDC) under an agency agreement. By employing Civil Enforcement Officers rather than relying on the Police to enforce, the Council would have the ability to decide how many enforcement officers to employ, and in what ways they are to be deployed. This would address issues such as traffic capacity (through inhibiting obstructive parking) and traffic restraint (through reducing overstaying at time-limited spaces and parking on other restrictions imposed to limit on-street parking capacity). It would also enable the Council to enforce parking restrictions in support of other policies and development proposals in Towns, and elsewhere in the District.

The income from the parking tickets issued, (Penalty Charge Notices) would be retained by FDC (as agents for the Highway Authority) to be used to fund the scheme, with on and off street PCN surpluses being ring-fenced under Section 55 of the Road Traffic Regulation Act 1984 for certain highway related matters. The intention is that Fenland District Council would act as agent to Cambridgeshire County Council (CCC) and would be responsible for all these matters directly.

As FDC have no intention of introducing paid parking in off street parking areas to assist with the funding of CPE, the feasibility works also looked at the resulting financial viability and operational models for the enforcement and administration of the service.

If a decision is made to adopt CPE powers, the support of Cambridgeshire Police would be paramount to the success of the application to the Department for Transport for the powers. Police traffic enforcement has reduced in recent years associated with both having limited resources at their disposal and prioritisation of crime and serious incidents, however it is understood that the Police wish to see more enforcement on street.

The last time data was made available by the Police for the number of fixed penalty notices issued in Fenland was in 2017 and 445 fixed penalty notices (FPN's) were issued across three of the market towns for parking offences. Typically the introduction of CPE would see up to 4 times as many PCNs as FPNs issued, however as the 2017 figures were based on ad-hoc policing, the figures may well be much greater and therefore the figures used in the feasibility modelling were considered to be low risk.

2. On and Off-Street Enforcement and Administration Options

As the County Council are the Highway Authority FDC would need to act as the agent to County for the delivery of the on-street enforcement and notice processing. This could be achieved through an Agency Agreement between FDC and County setting out the practicalities of the delegated authority to FDC. FDC would then be able to enforce both on and off-street parking areas. This would need to be done in a coordinated and comprehensive manner which for the first time, would provide one joined up parking policy for the control of public car parking in Fenland. Should any or all of the services be externalised, FDC would assume full responsibility for all contractual issues.

The feasibility works assumed none of the costs specific to the introduction of CPE to include implementation or ongoing enforcement costs would be incurred by the County Council. However, following the initial set up the maintenance of the signs and lines required for CPE would be an ongoing commitment for the Highway Authority and would need to form part of the agency agreement.

Of the 326 Local Authorities in England, 316 have so far already adopted civil enforcement powers with some of the 10 remaining now looking at introducing CPE. Four of the remaining LA's are in Cambridgeshire and three in Oxfordshire.

The feasibility works outlined several models for delivery of the enforcement and administrative services necessary for the implementation of CPE. These included:

1. the provision of an all in-house service requiring the establishment of a parking team to run both enforcement and administrative operations,
2. the externalisation of all services using an established contractor,
3. a hybrid model using inhouse enforcement with externalised administration.

In addition, models 2 and 3 would explore the use of neighbouring authority resources to deliver elements of the service in a partnered approach. There is already an external contractor / client function working in both Cambridge City and Peterborough City and Huntingdon DC are also proposing to implement CPE in July/August 2023. It would therefore be prudent for this format to be examined further.

The feasibility works also looked at the national Penalty Charge levels introduced in the 2008 Traffic Management Act as made available by Government, and concluded that the £50/£70 PCN level should be adopted to produce a viable and workable solution.

3. Project Risks and Funding – Financials

There are few disadvantages of introducing CPE; the main issue is that there is no opportunity to reverse the process once an Order is made. This implies that once civil enforcement has commenced, the Council would need to make the system work and would need to cover any operational deficits.

Whilst the initial capital set up costs are high; it is anticipated that the successful outcome of a £400,000 FDC funding grant made to the CPCA for CPE would cover all associated costs that both FDC and CCC would ordinarily be afforded. Usually the implementation of such a scheme would require many years to recover the set-up costs alone. With funding made available to cover the set-up costs both FDC and CCC could obtain the civil enforcement powers to enforce parking as a means of helping to achieve their overall transportation objectives.

Detailed financial models were looked at to test a range of possible outcomes for the project for the delivery of all enforcement and administration services. The potential externalisation of both the enforcement and administration operations proved to offer the most financial viability.

The opinion of the specialist consultants that undertook the feasibility works is that civil parking enforcement in Fenland is operationally desirable and providing the capital set up costs can be funded then the annual operational costs could be considered acceptable. Ultimately much depends on driver reactions to enforcement and close management of the enforcement provision, however it is not envisaged that the scheme will be self-financing. FDC would therefore need to cover estimated annual operational deficits of £45,000-£75,000 (dependent on the enforcement model implemented), however it is no longer a DfT requirement for compliant applications to be self-financing.

Whilst it is accepted that a large amount of enforcement would be required at the outset, less enforcement provision is envisaged as the scheme embeds and driver behaviours start to change. Therefore, once the scheme is fully embedded, should the resulting financial model not be deemed appropriate following the initial introductory years, the scale of the enforcement resource could be adjusted until a better balance is found.

To date only the CPE feasibility works have been completed as outlined in the previous CPE Cabinet report. The implementation phase of the project is by far the most costly element of the scheme. Therefore, providing CPCA funding is secured by FDC in advance of commencing the implementation works, there is very little financial risk. Whilst there is a risk that the DfT may not approve a CCC CEA/SEA application on behalf of FDC solely for Fenland DC, it is considered unlikely and low risk. The 2-year estimated project implementation timeline currently sits well within the intended June/July 2023 commencement date.

Failure to progress or introduce CPE is likely to result in continued persistent parking issues in our towns and villages where traffic regulation and parking places orders are in place, impacting on safety, accessibility, and the environment. This could also impact on the Councils planning aspirations and transport objectives.

Whilst it is envisaged that FDC would by agreement carry out the enforcement of both on and off street parking areas within Fenland, it is anticipated that the County Council will continue to be responsible for the on-going maintenance and upkeep of on street signs and lines. This requirement would be associated with existing and future traffic regulation orders following the CPE signs and lines review and associated remedial works. If CCC considered responsibility for signs and lines should form part of the FDC agreement, additional year on year annual funding would be required.

4. Legal Implications

The Traffic Management Act permits Highway Authorities to apply to the Secretary of State to become Civil Enforcement Areas/Special Enforcement Areas (CEA/SEAs, usually referred to as a CEA). Once a CEA application is approved, the power to enforce on-street parking restrictions would pass from the Police to the Highway Authority or its agent (FDC). The revenue collected from Penalty Charge Notices (PCNs) for contravention of parking restrictions goes to the Council rather than to the Government. It is unlikely that PCN income will generate a surplus, however surplus income from on and off-street parking penalty charges is ring-fenced as defined in Section 55 of the Road Traffic Regulation Act 1984 and may only be used for certain designated highways matters.

Some of the Councils off-street car parks have existing parking places orders in place which are in accordance with the Road Traffic Regulation Act 1984. Only one of the Councils existing car parks under this act currently has provision for the Council to legally enforce the conditions of use and issue fixed penalty notices.

Upon introducing CPE, the Council must operate its off-street car parks under the Traffic Management Act 2004 which is the basis upon which restrictions for both on-street and off-street spaces would be controlled and enforced by the Council. The Council should therefore ensure that all car parks without existing parking places orders have new orders placed upon them to enable them to be transferred across in advance of the commencement of CPE.

The Traffic Management Act introduces a process defined by statute for the issue and processing of penalty charge notices which is different to the existing fixed penalty notice system the Council's currently uses. The process of application for CPE is set out in law.

Following the implementation of CPE, off-street parking places will receive a higher level of demand and this effect has been noted in every area where it has been introduced. CPE will increase the demand for these places, so parking controls covering the maximum length of stay will need to be introduced especially in car parks nearest to amenities to provide turnover of spaces. Consideration will also need to be given to current and future parking provisions.

5. Liaison with Key Partners – Consultation

As the introduction of CPE is about the transfer of certain responsibilities from the Police to the Council, it is important that good relationships are maintained between the two organisations throughout the project. Whilst the Police would be formally consulted as an element of the application preparation process to agree the nature and timing of the project, the Police have already in principle confirmed their support for CPE to be introduced within Fenland.

A major milestone to be achieved within the project is the submission of a formal CEA/SEA application by the Highway Authority (CCC) to the DfT on behalf of FDC. It would therefore be essential for FDC and CCC to work collaboratively on the implementation phase and for a CPE project team to be established. Communications to date between both organisations has been very encouraging and the County Council have also expressed their support for the introduction of CPE providing all set up costs are afforded by FDC.

The DfT recommends that local authorities consult with the Police, neighbouring local authorities and other interested parties which would include but not be limited to, Highways England, Emergency Services, and the Driver and Vehicle Licensing Agency (DVLA). Consultation would form part of the implementation phase and needs to be evidenced as part of the application process.

Consultation with the public and interested groups is not a statutory requirement, and the Council will need to determine the style and how to consult with or inform the public, and the form such consultation should take.

There is a set structure for the CEA /SEA application which identifies a number of issues which would need to be addressed. The task of writing the application is the culmination of planning for the project implementation, and once submitted and approved, it marks the threshold between initial planning and the actual implementation. It is envisaged that FDC will write the application on behalf of CCC for CCC to submit to the DfT.

To submit an application which will be successful, the Council must confirm that policies in relation to parking have been reviewed or written. Authorities are encouraged by DfT to consult widely on these, particularly with the Police, and to publish the agreed outcome of such a review.

6. Project Delivery Timeline

For FDC to acquire the powers, the County Council, as highway authority, will have to formally apply to the DfT for a Designation Order which decriminalises parking enforcement across the whole of Fenland. From the date set in this Order, the Police will be unable to enforce the majority of parking related offences, and FDC must be ready to undertake the responsibilities. This application process is estimated to take around 8 to 12 months to complete alongside other aspects of preparation for CPE which will take up to 24 months.

Part of this process must include a review of all the signs and lines associated with the existing traffic regulation orders to ensure they are up to an enforceable standard and to correct any inaccuracies. It is likely that this process will take 18-24 months of the overall project programme to complete during which time they will be surveyed and digitally mapped. This time frame would also include any on-site remedial works following the surveys and query lists.

The introduction of civil parking enforcement will therefore require an estimated timetable of 24 months, from the date of a decision being made to proceed and with suitable capital funding for the project. An indicative project plan has been provided in Appendix A, however a definitive timetable will be drawn up subject to the recommendations of this report being agreed by members.

Given the complexities and specialist knowledge requirement associated with the implementation of CPE, further professional advice would be required to guide the Councils professional officers through the CPE application process collaboratively working with key partners. In addition, further work would be required to refine the Councils enforcement and administrative service requirements.

Officers therefore propose that following a decision by the Council to introduce CPE, a specialist CPE consultant is appointed to undertake the implementation phase.

7. Parking Strategy

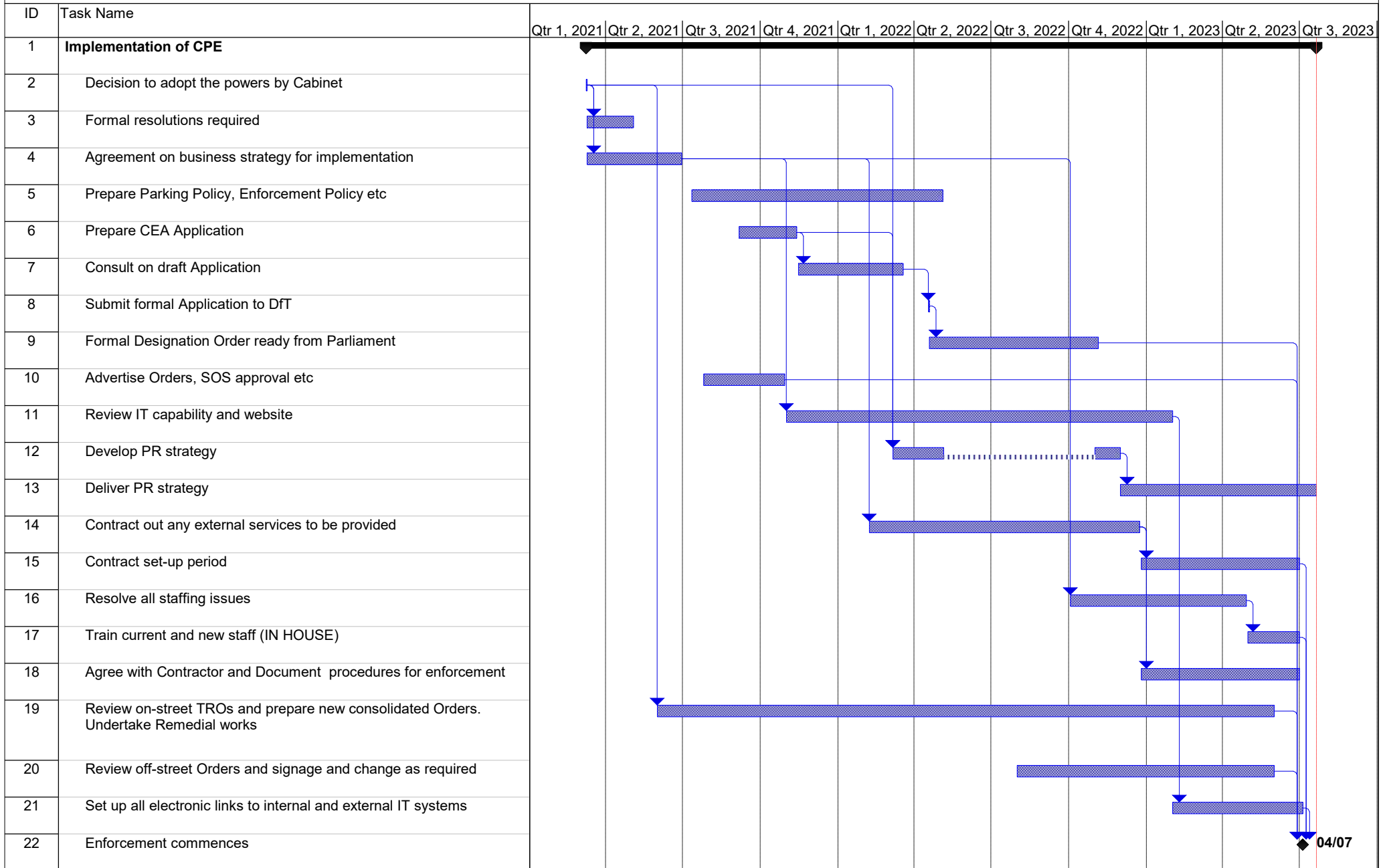
FDC does not currently have an off-street parking enforcement strategy which will need to be developed and adopted in advance of the introduction of CPE. The DfT will also require the County Council to review and suitably amend its parking policies and strategy in advance and support of the CEA/SEA application.

8. Recommendations

1. That the proposals for the implementation of Civil Parking Enforcement as outlined in this report are approved.
2. That the Council notes and approves the indicative CPE project timeline as detailed in Appendix A.
3. In partnership with Cambridgeshire County Council, authorise a signing and lining survey, review and the digital mapping of all existing Traffic Regulation Orders in support the CPE application to the DfT.
4. In collaboration with Cambridgeshire County Council develop parking enforcement 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.

5. Authorise FDC to prepare a CEA/SEA application for a designation order for the introduction of Civil Parking Enforcement for submission by the County Council to the DfT on behalf of FDC.
6. Authorise Officers to seek an agency agreement with the Highways Authority, Cambridgeshire County Council, in line with the recommendations above in support of the required application to the DfT.
7. That authority be delegated to the Corporate Director for Finance to resolve any outstanding issues in consultation with the project team, Police and the Highway Authority Highways and Traffic Teams to implement the scheme in accordance with the proposed project timeline.
8. Approve the appointment of a specialist CPE consultant to undertake the Civil Parking Enforcement implementation phase and guide the project team through the complex CPE process. It is estimated that the cost of this appointment to be in the region of £30,000.

APP A - IMPLEMENTATION OF CIVIL PARKING ENFORCEMENT



04/07