



REPORT TO: COUNCIL

DATE: 16 MAY 2013

REPORT OF THE: HEAD OF ENVIRONMENT, STREETSCENE, FACILITIES, IT
PHIL LONG

TITLE OF REPORT: THE INTRODUCTION OF COUNTY WIDE CIVIL PARKING
ENFORCEMENT (CPE)

WARDS AFFECTED: ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 As directed at Council 6 September 2013 Commissioning Board have considered the NYCC Joint Underwriting Agreement and Scarborough Borough Council Service Level Agreement regarding implementation of Civil Parking Enforcement (CPE) in Ryedale and the proposal from North Yorkshire County Council regarding the introduction of a centralised back office and joint enforcement car parking operation managed by Scarborough Borough Council for on and off street car parks.
- 1.2 Council approved in principle the introduction of CPE across Ryedale, this report seeks final approval for this from members.

2.0 RECOMMENDATIONS

- 2.1 It is recommended to Council that Council:
- (i) Endorse the introduction by NYCC of CPE across Ryedale on the basis that any additional costs incurred as a result by RDC will be reimbursed by NYCC for a three year trial period after which reimbursement of costs will be reviewed as agreed in the Joint Underwriting Agreement;
 - (ii) Approve the introduction of a centralised back office and joint enforcement car parking operation managed by Scarborough Borough Council on a three year trial basis, with a mechanism for RDC retaining local influence over off-street enforcement and retention of all surplus off-street income, minus the costs of operation as agreed in the SBC Service Level Agreement; and
 - (iii) Approve the nomination of a Councillor Representative to the Parking & Traffic Regulation Adjudication System.
 - (iv) Authorise the Council Solicitor to make the required order consolidating the individual Ryedale District Council Car Parking Orders into one Order under the provisions of the Road Traffic Regulation Act 1984.

3.0 REASON FOR RECOMMENDATIONS

- 3.1 North Yorkshire County Council (NYCC) resolved on 18 October 2011 to introduce Civil Parking Enforcement (CPE) across the County (including Ryedale) during 2012 and 2013. The application was submitted to the Department for Transport at the end of October 2012. The DfT has confirmed that following their lawyers assessment they have approved the application. The projected implementation date remains the end May 2013 assuming agreement with all Districts.
- 3.2 Should one District Council decide not to support the application then the implementation date throughout the county is very likely to be delayed. The County Council has been told by the DfT that they would not support a proposal from NYCC for a District where CPE is introduced on-street under the Traffic Management Act 2004 and the District Council continue to enforce off-street under the Road Traffic Regulation Act 1984. Indeed the CPE Operational Guidance to local authorities states that *'the Secretary of State recommends that a CPE application is delayed if a district or borough is not prepared to include its off-street car parking within a Civil Enforcement Area'*.
- 3.3 The introduction of CPE will have a range of implications for the provision and management of off-street parking by the District Council and other providers, increasing the current levels of on street enforcement which should reduce traffic violations, congestion and potentially encourage greater use of off street car parks.
- 3.4 Under the proposed operational model RDC will retain; the function of parking authority responsible for off-street car parks, off-street income, cash collection, permit administration, car park maintenance and influence over enforcement levels.

4.0 SIGNIFICANT RISKS

- 4.1 Due to other statutory obligations and pressures it is increasingly difficult for North Yorkshire Police to commit sufficient resources to enforce on-street parking. Should CPE not be introduced in Ryedale, NYCC have concerns that there could be potential risk in the future that the Police stop enforcing on-street altogether though this is unquantifiable.
- 4.2 Once CPE powers are granted the changes to the law are not easily undone. Members should be aware that if, following the three year (plus two) trial, off street enforcement be taken back in house, RDC will have to continue to enforce under the 2004 Act, incurring reduced excess/penalty charge income. In addition cost of off street enforcement could increase for RDC due to retraining of staff, more time consuming operation and potential new software etc.
- 4.3 There will be increased cost associated with the introduction of CPE. The parking penalties that apply under CPE are set nationally and are currently less than RDC excess charges fixed under the old legislation. In addition initial analysis indicates that the proposed charges of the new arrangement - relating to the management of off street only - are more costly than RDC's current operation.
- 4.4 In mitigation, during the three year trial period (plus two year extension if required) NYCC guarantee (as per the Agreement) to underwrite any additional costs/loss of income caused by the joint arrangement/introduction of CPE, the worst case scenario during this period is cost neutral for RDC, however risk obviously exists at the end of the three (plus two year) trial period if the RDC is still incurring additional cost and the subsidy is discontinued. Annex A provides further detail on the risks.

5.0 POLICY CONTEXT AND CONSULTATION

5.1 **Council Aim 2:** To create the right conditions for economic success in Ryedale:

- To have economic structure and supporting infrastructure in place;
- Opportunity for people; increasing wage and skill levels.

Council Aim 3: To have a high quality, clean and sustainable environment.

- Reducing CO₂ emissions from Council operations.
- Adaptation to Climate Change.
- Improve the quality of our local environment.

Transform Ryedale District Council

- Building our capacity to deliver through collaboration and working in Partnership.

5.2 Public and stakeholder consultation has already been undertaken by NYCC to comply with Department for Transport (DfT) requirements for CPE. This identified views on the priorities for parking enforcement across the County and those locations where improved parking management would be beneficial. This intelligence has been used to inform the testing of operational models.

5.3 The twelve week public consultation ran from the 13 June to the 5 September 2011. The questionnaire was sent to every County Councillor, District Councillor, Parish Council and approximately 75 key stakeholders representing different interests. A press release was circulated to local papers throughout the county advising them of the consultation. The questionnaire was available in libraries and on the County Council website and sent to approximately 2,000 households across the county through the County Council's citizen's panel questionnaire.

REPORT

6.0 REPORT DETAILS

6.1 In 2007/8 NYCC started consideration of a countywide CPE project, CPE having been operational in Harrogate Borough since 2002 and in Scarborough Borough since 2007. There is a commitment in the Local Transport Plan 3 to introduce CPE in the remaining five Districts within North Yorkshire, namely Craven, Hambleton, Richmondshire, Ryedale and Selby.

6.2 On 18 October 2011 the North Yorkshire Parking Strategy (NYPS) was adopted. The document set out the strategy for aspects of parking which fall under the control of North Yorkshire County Council. It seeks to align with the District Councils, National Park and North Yorkshire Police parking objectives. Integral to the success of the strategy is the implementation of CPE.

6.3 A report regarding CPE implementation and implications for RDC was taken to Full Council 6 September 2012. It was resolved that Council:

- (i) Approve delegated authority be given to the Head of Environment in consultation with the Chairman of Commissioning Board to extend the deadline for revision of the RDC Car Parking Strategy if required;
- (ii) Approve the inclusion of RDC managed off-street car parks in the Civil Parking Enforcement designation order;
- (iii) Endorse in principle the introduction by NYCC of CPE across Ryedale on the basis that any additional costs incurred as a result by RDC will be reimbursed by NYCC for a three year trial period after which reimbursement of costs will be reviewed;
- (iv) Approve in principle the introduction of a centralised back office and joint

enforcement car parking operation managed by Scarborough Borough Council on a three year trial basis, with a mechanism for RDC retaining local influence over off-street enforcement and retention of all surplus off-street income, minus the costs of operation; and

- (v) The service level agreement with Scarborough and details of the guarantee from the County Council will be referred to the Commissioning Board for their consideration.”

6.4 Introducing countywide CPE means that the powers to enforce existing criminal parking offences would be transferred from the police to the County Council who would be able to issue PCN's for contraventions of on-street parking and waiting restrictions. The purpose of CPE is to increase compliance with parking regulations and, therefore, reduce illegal, dangerous and inconsiderate parking and the negative impacts this has on the highway regarding congestion and poorer air quality. There are higher and lower level on-street contraventions however, under CPE the police retain sole responsibility for the parking offences listed below:

- dangerous parking
- obstruction
- failure to comply with police 'no parking' signs placed in emergencies
- any vehicle where security or other traffic policing issues are involved

NYCC – CPE Proposal

6.5 The proposal put forward by NYCC is that the current Harrogate and Scarborough CPE operations are extended in the short to medium term, with a review built in after a period of three years to consider whether there are any benefits in moving to a countywide operational model in the longer term. On the basis of a joint on and off street enforcement operation:

- Scarborough would manage Ryedale, Hambleton and Richmondshire.
- Harrogate would manage Craven and Selby.

6.6 This proposal represents a natural geographic split and maximises the experience and expertise built up in the existing Harrogate and Scarborough operations. Also potential financial savings could be achieved through closer working relationships between the existing Harrogate and Scarborough operations e.g. joint procurement

6.7 Recommendations of NYCC officers are that the County Council should set up the operation with one on-street Civil Enforcement Officer (CEO) per current non-CPE district (five on street CEOs in total). This would be reviewed once the operation has been established.

Implications of CPE for Ryedale

6.8 Under the proposed NYCC operational model, management of off street enforcement and back office function regarding penalty charge notices will be transferred to Scarborough Borough Council. These changes are enshrined in the two documents attached as Annex 1 and 2.

The SBC Service Level Agreement: Covers the transfer, operational details, liabilities, responsibilities, costs, performance review, dispute resolution, apportionment of cost, termination, etc of the new service arrangement

The NYCC Underwriting Agreement: Outlines the financial provision regarding method of recompense owed to RDC regarding the additional cost of implementing CPE, dispute resolution etc.

Key points in summary:

- The current level of RDC off-street enforcement will be maintained, with the scope for RDC to alter as required.
- Under the proposed arrangement 1.3 staff equivalents would be transferred to Scarborough Borough Council under TUPE to ensure full protection of staff; however SBC terms and conditions are similar to RDC's.
- Staff have been fully consulted and have visited Scarborough to see the operation. Formal consultation will be dependant on member's decision to proceed.
- As Members are aware, additional cost will be incurred by RDC due to lost excess charge income (under CPE penalty charge rates are lower) and SBC management costs (which are higher than RDC's current operation), The Underwriting Agreement covers how RDC will be reimbursed by NYCC for a three year trial period. Following officers negotiation, NYCC have agreed that this would be extended (if required) to five years following the third year review.
- There still remains some financial risk for RDC if it is still incurring additional cost after 5 years and NYCC decide to discontinue the subsidy.
- Ryedale District Council will retain the function of parking authority responsible for RDC owned off-street car parks, all surplus off-street income - minus the costs of operation - and retain influence over the enforcement on off-street car parks. RDC will continue to manage in house:
 - Permit administration.
 - Cash collection and counting.
 - Machine leasing and maintenance.
 - Car park maintenance.
- Within the Underwriting Agreement NYCC suggest that improved on-street enforcement is likely to encourage greater use of off-street car parks, potentially increasing off-street income. NYCC feel this may help to offset the likely reduction in income/increased cost paid to Districts. RDC officers feel this would be almost impossible to quantify given all the variables of demand, as such a caveat has been mutually agreed regarding the 'Burden of Proof' being on NYCC to demonstrate that increased demand is primarily caused by CPE.

Parking and Traffic Regulation Outside London (PATROL) Adjudication Joint Committee

6.9 As the District Council is still the enforcement authority under Civil Parking Enforcement there is requirement to become a member of the Parking and Traffic Regulation outside London (PATROL) Adjudication Joint Committee.

- The PATROL Adjudication Joint Committee has been established to enable all Councils with Civil Parking Enforcement powers to exercise their functions under Section 81 of the Traffic Management Act 2004 and Regulation 17 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.
- The functions exercised by the PATROL Adjudication Joint Committee, on behalf of its constituent Councils, are:- appointing independent adjudicators to the Traffic Penalty Tribunal; providing these adjudicators with administrative staff and accommodation; and providing hearing venues. The Traffic Penalty Tribunal will deal with appeals that have been rejected by Scarborough Borough Council, where the driver still wants to appeal to an independent adjudicator.
- Expenses for the Joint Committee are shared between member authorities in proportion to the number of Penalty Charge Notices (PCN) issued. These fees have already been built into the business case costs prepared by Scarborough Borough Councils and there will be no additional cost to the District Council.
- Membership requires the District Councils to sign up to a Memorandum of Participation. There is also a requirement to nominate a Councillor representative

to sit on the Joint Committee. The Councillor representative would have the opportunity to attend an annual meeting but would not be compelled to do so. The Councillor representative needs to be confirmed by the time of commencement (30 May 2013).

7.0 IMPLICATIONS

7.1 The following implications have been identified:

a) Financial

- The implementation of CPE assumes coordination between on and off street parking enforcement operations.
- The proposed model of operation means that rather than delivering the enforcement of off-street car parks 'in house', RDC will be buying in a CPE service from Scarborough Borough Council.
- If there is an un-rectified breach in the agreement (i.e. failure to deliver the functions to a satisfactory standard) then the agreement can be terminated within 3 months.
- Stricter enforcement of on street parking could enhance usage of off street parking and/or impact on resident parking.
- The development of CPE could facilitate future consideration of resident parking schemes as appropriate. Income generated would go to NYCC.
- The County Council will fund the set-up costs associated with the requirement to consolidate existing off-street parking places orders into one order to enable the new enforcement method (CPE) under the Traffic Management Act 2004 requirement to amend off-street car park signing to reflect the new enforcement method

b) Legal

- The Secretary of State expects local authorities considering CPE to consult fully with stakeholders.
- NYCC have stated that the DfT will expect a joint collaborative bid between partner authorities. CPE operational guidance states that "*the Secretary of State recommends that a CPE application is delayed if a District or Borough is not prepared to include its off-street car parking within a Civil Enforcement Area, though it is legally possible to have different enforcement operators.*"
- The Department for Transport does not encourage a CPE business case based solely on income from PCNs, the primary purpose being to deter illegal parking and not to generate revenue. Should CPE increase compliance it is reasonable to expect that over time the number of PCNs issued will decrease, as demonstrated in both Harrogate and Scarborough Boroughs. It is therefore anticipated that the level of enforcement in the CPE operation throughout the county will continue to be balanced against income from on-street parking charges and PCNs.
- First call on any income collected through on-street fines or on-street parking charges is the funding of the associated enforcement operation and adjudication systems. Any surplus income has to be used in accordance with the uses detailed in Section 55 of the RTRA which allows any remaining surplus to be used to contribute towards the cost of provision and maintenance of off-street parking however, if it is considered by the authority that further off-street parking accommodation is unnecessary or undesirable, the use of any surplus is restricted to road improvements and maintenance, provision of public transport services or environmental improvements.
- There are implications regarding the difference in the levels of fine between the 1984 Road Traffic Regulation Act and the 2004 Traffic Management Act.

- Local authorities are responsible for managing, directly or indirectly, all on-street and some off-street parking. The relevant powers are contained in the Road Traffic Regulation Act 1984 (RTRA).
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder):
- Stricter enforcement of on street parking could require revaluation of current levels of provision for disabled parking.
 - Improved customer experience i.e. one enforcement authority.
 - Following consultation, TUPE implications will be considered regarding staff, however these are thought unlikely to cause an issue due to similar Terms and Conditions.

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Background Papers:

SLA with SBC
Underwriting Agreement NYCC
The introduction of CPE report - Full Council 6 September 2012
SLA Schedules