



TITLE OF CONSULTATION: SUSPENSION OF OVERNIGHT MOTORHOME AND CAMPERVAN PARKING IN CLEVELAND WAY CAR PARK

**OFFICER REQUESTING: AMY THOMAS
ECONOMIC DEVELOPMENT SERVICE MANAGER**

1.0 PURPOSE

1.1 To review the current overnight parking provision for motorhomes and campervans in the Cleveland Way car park in Helmsley and agree a suspension to this provision.

2.0 RECOMMENDATION(S)

2.1 It is recommended that the following is approved:

- i. Overnight parking for motorhomes, campervans and any other vehicles used for overnight sleeping is suspended until a full review of alternative options can take place.
- ii. A full review of alternative options to manage overnight parking is put on hold until the transition to North Yorkshire Council (NYC) is completed and options can be considered in line with other facilities already in existence across the county.

3.0 REASON FOR RECOMMENDATION(S)

3.1 The level of liability associated with unregulated use the Cleveland Way car park by motorhomes staying overnight leaves RDC at significant risk.

3.2 The number and range of complaints being received continues to increase representing reputational risk to RDC if no action is taken regarding overnight parking.

3.3 A number of potential options exist to better manage any overnight parking provision but these need to be fully investigated, including engagement with Elected Members and local stakeholders, before being implemented if considered appropriate.

Background

3.4 Over the last couple of years (2021/22 and the current year), use of the overnight parking provision at the Cleveland Way car park in Helmsley appears to have escalated, and with this so have the complaints being received. The number of complaints being received varies at each given time but to date this year it is estimated we have received a significant number of complaints (an increase of greater than 100%). Helmsley Town Council and residents most vocal with complaints.

3.5 The layout of the site means that the car park is split into three individual sections; the

front section is designated for cars only, the central area contains coach bays and both standard and larger sized parking bays, and the rear section is made up of standard sized car parking bays but this is where overnight motorhome parking is permitted.

- 3.6 Currently, and as per the Planning Permission we have in place, the overnight parking is only permitted in the rear section of the car park as this area is away from nearby residential properties.
- 3.7 The site does not offer any specific facilities such as elsan points which are usually made available at campsites. In addition RDC does not charge for use of this facility overnight and therefore no income is generated through making this site available. The site was originally intended as a stop off point for visitors travelling through the area but through it rapidly increasing popularity, increasingly appears to have become almost a destination 'site' in its own right.

Current Issues

- 3.8 Signage indicating where overnight parking is permitted, the maximum number of vehicles staying overnight and the rules of use (eg: no BBQ's, no loud music, parking at least 3m apart etc) are clear. This is enhanced by red lines across the entrance to the central section, thus directing motorhomes to the rear section of the car park.
- 3.9 During summer 2021 a small number of complaints were received around motorhome parking and the following measures were put into place to try and ease the situation in discussion with HTC with a view to review the situation in 2022:
- Automatic locking doors installed on the public toilets so they could be open earlier and later.
 - Signs and lines as outlined in 3.8 were introduced
 - Additional security staff were employed on busy weekends / bank holidays from 8.00am – 8.00pm to patrol the car park, assist visitors with parking, redirecting motorhomes attempting to park in the coach bays etc at a cost of approx. £1,100 for a three day weekend. To date expenditure on this element has been c.£5,600 with further additional support scheduled for later in the summer.
 - Enforcement team visits were timed to include the start and end of the working day.
- 3.10 Complaints have continued into early summer 2022 and have escalated in number and nature, despite the above measures all still being in place. The nature of the complaints cover the following issues associated with the overnight parking of motorhomes:
- Too many vehicles on site and overcrowding taking place;
 - Vehicles parking too close together;
 - Vehicles parking outside of the designated motorhome parking area and parking in the central section;
 - BBQ's and open fires on site – both in the car park and the surrounding picnic areas;
 - Tables and chairs being set out in the car park outside of vehicles;
 - Use of the wooded area around the site as a source of fuel for fires;
 - Tent camping in the green space surrounding the car park has been reported;
 - Use of Council Tax payments by residents to allow provision of this site for free for visitors;
 - Emptying of waste from vehicles into the wooded area and down public drains;
 - Caravans being parked in spaces and left;
 - Human excrement has been found in the surrounding wooded area; and
 - Concerns have been raised by several local businesses including an adjacent livery business with livestock in the neighbouring fields, and a local campsite who have to meet rules and regulations for the continued operation of their site. By offering free provision the site is taking business away from local camp / caravan sites limiting the potential growth of these businesses.

- 3.11 Whilst most of the communication received from motorhome owners is positive and appreciative of the site being made available to them, we do receive complaints regarding the availability of spaces large enough to accommodate large motorhomes. In several instances owners have parked in the coach only area and received a Penalty Charge Notice (PCN) for this.
- 3.12 Officers have dealt with the high number of complaints and issues, taking a significant amount of staff resource from across a number of teams within the authority.
- 3.13 The situation is continually being reviewed by Officers and the following further measures are in progress for the next couple of months to try and address some of the issues being raised including the following which are in addition to the suspension of overnight parking being requested within this paper:
- 24/7 opening of the public toilets in this location
 - Larger spaces for motorhomes parking during the day have been added to reduce the number of complaints from motorhome owners who park in the coach bays and receive PCN's
 - A programme of woodland and grounds maintenance is planned to remove lower limbs from the trees and cut back ground vegetation to provide a clearer line of sight between the different areas of the car park.
- 3.14 Given access to the car park is unrestricted, enforcement activities cannot take place outside of the working day, the site appears to be increasing in popularity, and complaints can peak on unexpected days and times, the current offer of overnight parking for motorhomes is unmanageable.
- 3.15 Beyond the operational challenges of the car park, the level of liability and risk associated with the inability to manage numbers and after hours usage of the car park is significant. A Corporate Health and Safety review of the site highlighted fire safety issues from vehicles being parked too close together should a fire break out in a vehicle and due reports and evidence of BBQ's and open fires. The conclusion of the review was that RDC has a duty to control this risk for the safety of both users and the environs, including the nearby residential properties. If steps are not take to restrict this usage and / or identify a more appropriate way to manage the site and an incident occurs, this leaves RDC in a vulnerable position.

Proposed Solution

- 3.16 Given the issues and risks outlined above the following solution is being proposed following consultation and agreement with local Elected Members for Helmsley, the Police and Fire services, RDC's Corporate Health and Safety Advisor and the RDC Senior Management Team.
- 3.17 Double barrier gates will be installed across the roadway preventing access to the central and rear sections of the car park. These barriers will be fabricated metal and will be fastened in the middle with a paddock. Each side of the gate will be padlocked back into place against a post on each side of the road when open so they themselves don't represent a hazard.
- 3.18 Clear signage will be installed both on the new barriers and at various locations around the car park stating that no overnight parking is permitted and the gates will be locked between 6.00pm and 6.00am (exact times tbc). It is proposed that the barriers will be opened each morning by the Street Scene team and closed each evening but this arrangement will be confirmed.
- 3.19 It is proposed that once the barriers are installed, for the first two weeks they are not locked but additional evening enforcement patrols take place. SBC Enforcement team have confirmed that this is possible to facilitate and that a PCN can be issued with a

contravention code that covers parking in a car park when closed even if it can still be accessed as long as there is signage in place.

- 3.20 The Street Scene team have been consulted and this arrangement will mean they can still access the central section of the car park and the mini recycling centre during the day. Whilst this proposal will restrict vehicular access to the recycling facilities by the public in the evenings, pedestrian access will still be available.
- 3.21 To prevent the issue of overnight parking being displaced to the front section of the car park, a height barrier will be installed which will allow free access to cars 24/7 as currently occurs, but will prevent access to taller vehicles such as motorhomes.
- 3.22 Installation of a height restrictive barrier has been checked with the North York Moors National Park Authority (NYMNP) Planning Department, and it has been confirmed that this can be implemented under our Permitted Development Rights so there is no need for Planning Permission, although any work taking place must be sensitive to the Scheduled Ancient Monument in the centre of the car park. For any work taking place close to this it is advisable contact will be made with the Archaeologist at the NYMNP in advance.
- 3.23 Lead-in time for the manufacture of both the gates and height barrier is still to be confirmed, with installation to take place by the Street Scene team. It is suggested that once confirmed and orders placed, external communication both locally and within the motorhome and caravan sector takes place utilising press, social media and the RDC website giving sufficient notice of this change.
- 5.24 Local Elected Members have been engaged with this discussion and have expressed support for the suspension of overnight parking. Members have also expressed the view that additional facilities for the benefit of overnight users should not be installed. Furthermore the location and proposed type of gates have been discussed and agreed.

Future Options

- 3.25 As a suspension of overnight parking is being requested, investigation of alternative delivery mechanisms will then be required. There are a number of potential options and the process of investigation will need to involve engagement with local Elected Members and local stakeholders.
- 3.26 With the conclusion of the Local Government Reorganisation process due to be completed in 8 months' time, delaying the review of these options until NYC is established is preferable so options and delivery mechanisms of councils currently operating such facilities can be taken into account.
- 3.27 It should be clearly noted that any suspension of overnight parking for motorhomes does not mean motorhomes and other similar vehicles cannot park in the car park during the day. Some larger spaces to accommodate such vehicles have already been implemented.
- 3.28 Given the level of local dissatisfaction being communicated to us and the significant risks and liabilities attached to not taking any action in this situation, it is recommended to suspend the provision of overnight motorhome parking within two weeks of a decision being made. It is proposed that the broad timeline for implementing this closure is as follows:
- Urgency Decision Taken - Wk Beg 18 July 2022
 - Gates, height barrier and signage commissioned – Wk Beg 18 July 2022
 - Communications issued locally and within motorhome / caravan – Wk beg 18 July 2022 to 29 July 2022
 - Temporary advisory signage to be installed – Wk beg 25 July

- Overnight parking formally suspended - From Saturday 30 July 2022
- Enforcement support to implement this decision starts – 30 July 2022
- Gate, barrier and permanent signage installation – no date yet
- Gate locked / unlocked – within two weeks of gates etc being installed

4.0 SIGNIFICANT RISKS

- 4.1 The most significant risk to RDC is that of liability should there be an emergency on site should no preventative action have been taken. The most significant liability is that of fire if too many vehicles are parked on the site overnight, or users not adhering to the rules of no fires/BBQ's and the limit of 15 vehicles.
- 4.2 The anti-social behaviour of some site users most notably around having BBQ's / fires on site and leaving human excrement in the woodland around the car park represents a health and safety hazard and a public health hazard. This behaviour by a minority of users cannot be left unchecked as it puts the majority of car parks users who adhere to the rules at serious risk of harm.
- 4.3 There is potential for reputational damage to RDC and poor public perception from motorhome users if the decision is made to withdraw overnight parking, however, there is also significant reputational risk to RDC from within the local community if no action is taken to resolve the issues being reported and that are causing much concern locally.

5.0 IMPLICATIONS

5.1 The following implications have been identified:

a) Financial

Costs will be incurred in relation to the fabrication and installation of gate barriers, the height barrier, and signage. Exact costs are currently being sought but any costs incurred can be covered through the car parking capital budget held by Economic Development for improvements to the car parks.

It is likely that costs will also be incurred for the communication of this message if adverts or articles need to be purchased in motorhome / caravan publications.

b) Legal

The Occupier's Liability Act 1957 provides that occupiers have a 'common duty of care' towards visitors to land for which they own or are in control of. Section 2(2) of the 1957 Act provides: "The common duty of care is a duty to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purpose for which he/she is invited or permitted to be there".

It is essential for occupiers to assess the risks and dangers on their land and have a strategy in place to deal with them. It is a positive duty, not only to avoid negligent or careless acts, but, a duty to positively avoid negligent or careless omissions.

Case law has indicated that relevant factors for an occupier/owner of land to consider are:

- How obvious the danger or risk is;
- The Magnitude of the risk;
- The likelihood of the risk happening;

- The age and capacity of the visitor's. The Occupier must be prepared for children to be less careful than adults;
- The purpose of the visit;
- The consequences of the danger happening;
- Self-accountability – to what degree can or should the visitor be aware of obvious dangers. and, take care to avoid ordinary risks;
- The effectiveness of risk assessment processes.

Whilst the Council gives consent for members of the public to use the Car Park for overnight stays of campervans and motorhomes, the consent is limited to use associated with normal activities, i.e. overnight parking only.

It is evident from the considerable number of complaints that the Car Park is being used by some owners of motorhomes or campervans for activities outside of the implied consent given by the Council, for example, having BBQs, lighting fires, putting out picnic tables and depositing human excrement in the nearby woods. It is obvious that the risk of harm to an individual using the Car Park is high, therefore the Council is under a duty to act to minimise any risk associated with the improper usage of the Car Park.

The activities detailed above, expose the Council to significant risks in terms of both a breach of their duty of care to visitors, and, their public liability obligations to users of the Car Park. Under the Occupier's Liability Act 1957, the Council cannot exclude death or personal injury to users of the Car Park. The fact that an individual may be undertaking activities of which consent is not given by the Council, will not per se, provide the Council with a defence. The individual will become a non-visitor at that time, but will be covered to a certain extent by the Occupier's Liability Act 1984. Further, the Council could potentially be liable for a breach of their duty of care to other users of the Car Park injured, or, suffering loss as a consequence of banned activities being undertaken in the Car Park and its vicinity.

Case law further provides precedent that the Occupier's Liability threshold may be met by implementing a reactive system of management of a premises. With regard to the Car Park in question, it is appropriate that as the Council is now aware of dangerous activities taking place on their premises, steps are taken to stop the activities until the matter can be more fully reviewed and further options considered. The only current option for health & safety reasons is to cease permitting overnight parking for campervans and motorhomes in the Car Park, therefore preventing danger occurring associated with inappropriate use of the Car Park.

c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)

Whilst delivery of the actions outlined above will require Officer time from across a number of teams, it is anticipated that this will reduce the amount of time spent on complaints and resolving issues in the longer term.

Given the contentious nature of the issue, significant Communications support will be required to communicate the messages surrounding the reasons for of implementation of any closure.

6.0 MONITORING OFFICER ADVICE

The Council owes a duty of care to visitors and non-visitors to the Car Park as a consequence of obligations associated with being an owner/occupier of premises under the Occupier's Liability Acts 1957 and 1984.

The Council is aware of dangerous and hazardous activities taking place in the Car Park by users of campervans and motorhomes. Such activities resulting in death or personal injury to visitors or non-visitors to the Car Park would be deemed to be a breach of the Council's duty of care under the legislation detailed above, and, for which they would be liable under the Tort of negligence.

To protect all individuals who use the Car Park, and, the Council from being sued for the breach of its duty of care should death, personal injury or damage to property under occur, it is necessary to invoke urgency powers to stop overnight parking of campervans and motorhomes.

7.0 CONSULTATION RECORD

According to the Constitution, under urgency powers, decisions usually taken by the Council and its committees are taken by the CEO following consultation with the appropriate elected members.

The appropriate elected members are:

- The Group Leaders¹
- Relevant Ward member(s), if any, for matters of particular relevance to that ward²

Name of Consultee	Cllr D Keal
Approved	
Date consultation completed	14/07/2022

Name of Consultee	Cllr S Arnold
Approved with comments as follows; Thank you I will do as you request, although I do not agree with all the accusations put forward but I do agree it is the only answer.	
Date consultation completed	14/07/22

	Cllr J Frank
I think the decision has been made to close the motor home parking. It's a shame in my opinion I think it was a good Idea and a good thing to do. I accept there are problems but I would have thought they could be mitigated to a great extent. There are things that could be tried, as we discussed. I think closing it altogether will cause more problems elsewhere it would be better to trial some other things ie better signage and perhaps a resident could be employed to patrol and police the site. I don't think it's beyond the wit of man to make the site safe and secure for everyone concerned. Closing it will in my opinion cause a backlash of wild parking around the town and elsewhere in the area.	
Date consultation completed	18/07/22

1. "Relevant Ward Member(s), if any" refers to ward specific matters and does not mean that all Members will be consulted on everything

Name of Consultee	Cllr M Potter
Approved with comments as follows; Further to our conversation, I will agree with the urgency notice in respect of cessation of Overnight Parking of Motorhomes and Campervans in Cleveland Way Car Park, Helmsley, on the understanding that improved ways of managing this facility will be investigated. It is most unfortunate that reasonable, well-behaved users will be inconvenienced, along with the miscreants, with the danger of just moving the problem to less suitable locations. However, as there is clearly a problem with the current arrangements and policing the site outside office hours, then so be it.	
Date consultation completed	18/07/22

Name of Consultee	Cllr K Duncan
Happy there has been discussion and consultation with him today.	
Date consultation completed	19/07/22

Name of Consultee	Cllr L Burr
Sorry, I will not comment on this one	
Date consultation completed	19/07/22

Name Of Consultee	Cllr J Windress
No response	
Date consultation completed	18/07/22

8.0 DECISION

Decision of the CEO based on consultation	To be completed after consultation Rationale is that 'the suspension of this service has been approved on the basis of urgency given the level of complaints received and the council's responsibility to ensure that the service remain safe and respond to community and Town Council concerns. The suspension will allow for a full review to take place, taking into account the views of all stakeholders.
Date 22.07.2022	