

Cabinet report



Report of head of economic, leisure and property

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To: CABINET

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Report no. 72/11

To accept agency powers from South Oxfordshire District Council for the operation of Rye Farm and Hales Meadow car parks by the Vale of White Horse District Council

Recommendations

1. Cabinet recommends full council to accept agency and all other necessary powers from South Oxfordshire District Council to operate Rye Farm and Hales Meadow car parks and to authorise the head of legal and democratic services to complete the appropriate agreements.
2. In addition, if full council agrees to accept the agency powers, then cabinet:
 - (a) authorises the head of legal and democratic services to prepare and publish a draft car park order under the Road Traffic Regulation Act 1984 and carry out the necessary consultations in accordance with the requirements of the Act and the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 and to report back to cabinet on the responses received after the end of the consultation period
 - (b) agrees that the fees and charges for Rye Farm and Hales Meadow car parks are as set out in appendix 1 of the report of the head of economy, leisure and property to the cabinet on 10 February 2012.

Purpose of report

1. The purpose of this report is to secure cabinet's support for accepting agency and any other powers from South Oxfordshire District Council (South) to continue the provision of car parks at Rye Farm and Hales Meadow car parks under the Road Traffic Regulation Act 1984. This will allow the Vale of White Horse District Council to continue operating these car parks and make a formal recommendation to full council so that a new order can be prepared.

Strategic objectives

2. Providing the two car parks at Rye Farm and Hales Meadow helps to support the council's strategic objective of 'supporting a vibrant local economy' as many people who work in, or are visiting, Abingdon use these car parks to park their vehicles and then walk over the bridge into town.

Background

3. The freehold of the land known as Rye Farm and Hales Meadow car parks, including the lorry park, is owned by the Vale Council, although the car parks are situated within the district of South Oxfordshire to the south of Abingdon. A local authority is only able to provide car parks under the Road Traffic Regulation Act 1984 in its own area. Therefore, the Vale Council entered into an agreement dated 9 July 1996 under the Local Government Act 1972 that enabled it to act as an agent for South in respect of the car park functions relating to Rye Farm and Hales Meadow car parks and in accordance with a South car park order made in 1996. This agency agreement confirms that all income from parking charges and excess parking charges (fines) shall belong to the Vale Council and all expenses and costs are paid by the Vale Council. The agreement was accompanied by a lease of the car parks from the Vale Council to South at a peppercorn rent from year to year.
4. The Vale Council updated its main district-wide car park order in 2011 to allow for more effective enforcement and changes to the charging regime at its car parks within the district, including two hours free parking. It was not able to include the two car parks at Rye Farm and Hales Meadow within the new order as these car parks are enforced by a South car park order, which is separate to the order covering all the other South car parks.
5. Following legal advice, officers consider that it is now timely to review these arrangements and bring them up to date. The main change to the agency agreement is to enable the Vale Council to revoke the existing South order and make new orders covering these two car parks. This will allow for more effective enforcement and up to two hours free parking in line with other car parks in the Vale.
6. The new order will include Rye Farm and Hales Meadow car parks only and the main changes will be the same as those brought into the other car parks in the Vale by the 2011 order and as shown in appendix 1 attached to this report, namely:
 - a) a two hour period of free parking
 - b) an increase in all parking charges for three hours or more of £0.30

c) an increase in permit costs of six per cent (which equates to between £0.10 and £0.20 a day for annual permit holders, dependant upon the type of permit held and the location)

d) display of a ticket from the commencement of parking, incorporating the free period

e) an extension of the period in which parking charges apply until 6pm - because of the two hour free period, this would mean that people could park free of charge from 4pm onwards, as is the case at present

f) introduction of a 'no return' period of two hours covering all of the car parks in a particular town - this will stop users having a free period of parking in the morning, going away for lunch and then returning less than two hours later to have a further period of free parking - officers advise that, whilst this provision is important, it will be difficult to enforce, particularly where vehicles are moved from one car park to another.

Options

7. The current agency agreement requires updating as new legislation applies.
8. An alternative option would be for South to operate the car parks on behalf of the Vale Council. This would be a potential option as the enforcement and administration of the car parks is shared between the two councils and is managed from the offices in Abingdon. South would have to agree to the making of an order with a different charging regime to the other car parks in its district. It would also have to decide an appropriate cost for carrying out the enforcement on behalf of the Vale Council. However, officers consider it more reasonable that the Vale Council operates the car parks as they serve the town of Abingdon, which is within the Vale district.
9. Another option would be for the Vale Council to dispose of the car parks to South with the understanding that South would operate a car park with a charging regime in line with that of other car parks in the Vale. Officers consider that even though the land is not in the Vale district, the two car parks serve the town of Abingdon and provide an income that contributes towards the cost of running the two car parks

Financial implications

10. The current lease of the land is at a cost of an annual peppercorn rent and officers are not proposing any changes to this rent at present.
11. South considered whether to charge the Vale Council for agreeing to the new agency agreement, in the same way that it would if a similar request came from a commercial organisation. However, counsel advised that South could not charge for the agency agreement. On this basis, South is proposing that there should be provision to review the new arrangements after an initial three year period, so that consideration can be given to any change in financial and/or operational circumstances, etc. Officers will liaise with the relevant cabinet member on any proposed changes arising from this review.

12. Advertising the formal notice in a local newspaper will cost some £8,000, which can be met from the car park budget.
13. The Vale Council will cover South's legal costs in dealing with this matter.

Legal implications

14. Counsel's opinion confirms that South is able to enter into a new agency agreement made under section 101 of the 1972 Act and section 19 of the Local Government Act 2000 delegating to the Vale Council the power to make a car parking order in respect of Rye Farm and Hales Meadow car parks. However, the existing arrangement needs to be updated to reflect the new legislation as part of the Local Government Act 2000. The new agreement will allow the Vale Council to make an order, manage and enforce the two car parks and replace the existing order.
15. In addition, separate from the new agency agreement, counsel considers it prudent to have an express agreement between South and the Vale Council under section 33(4) of the Road Traffic Regulation Act 1984 to enable the Vale Council as landlord to join in an arrangement with South to provide the car parks under that Act.
16. Therefore, officers recommend that cabinet authorises the head of legal and democratic services to conclude the terms of the necessary agreements and any other associated arrangements and the date that they come into effect.
17. Both agreements will run for an initial period of three years, subject thereafter to the right for either council to terminate the agreement on one years notice.
18. The current agency agreement includes the delegation of power to enforce the 1996 car parking order but does not include any power to revoke that order or to exercise South's powers to make a new order. The intention is to allow the Vale Council these powers (to revoke the current order and make new ones) as part of the new agency agreement.
19. The changes set out in paragraph 18 above will require the making of a new car park order. Doing this would be in accordance with the agency agreement and the general duty upon the council under section 122(1) of the 1984 Road Traffic Act, to ensure the provision of suitable and adequate off street parking facilities and "secure the expeditious, convenient and safe movement of traffic".
20. The Road Traffic Regulation Act 1984 grants the power to the council to make an order. The 1984 Act, together with the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996, sets out the procedure we must follow. The Vale Council is required to publish the proposed order in the local press. The Vale Council must also consult with Oxfordshire County Council (whose consent to the confirmation of the order must be obtained before the order is confirmed), and other appropriate organisations including the police. Cabinet must consider all representations received before making the order.
21. Cabinet will need to authorise the head of legal and democratic services to prepare and publish a draft order under the new agency agreements and the Road Traffic Regulation Act 1984 and carry out the necessary consultations in accordance with

the requirements of the Act and the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 and to report back to cabinet on the responses received after the end of the consultation period.

22. The legal requirements to change the order as above to provide for better enforcement (such as displaying a ticket during the free period), free parking for two hours and other pricing changes will take at least four months. However, the exact start date will depend on whether the decision is subject to a scrutiny call-in and whether representations are received that cabinet has to consider formally.

Risks

23. Not updating the agency arrangement and/or not making a new car parking order would mean that the Vale Council would not be able to operate these two car parks in the same way as it operates its other car parks.

Other implications

24. If South agrees to grant agency powers to the Vale Council, then the Vale cabinet will need to formally recommend the Vale Council to accept the agency powers from South. The Vale cabinet would then be in a position to authorise the head of legal and democratic services to draft and formally consult on a new car park order that would cover the two car parks. The new order could be implemented by June 2012.
25. In the meantime, the two hour free parking can be introduced temporarily whilst the new car park order is being updated. However, the other changes such as extending the charging period to 6pm and increasing the other fees by 30p cannot be formally introduced until the new order is implemented.

Conclusion

26. The only way that the Vale Council can make orders under the current legislation is by having new agency arrangements with South. As long as these arrangements are put in place, then the Vale Council will be in a position to accept the agency agreement and start the formal process of putting a new car park order in place for the two car parks.

Background papers

- existing agency agreement between South Oxfordshire District Council and Vale of White Horse District Council
- lease of Rye Farm and Hales Meadow car parks between Vale of White Horse District Council and South Oxfordshire District Council.

APPENDIX 1 VALE OF WHITE HORSE DISTRICT COUNCIL
SCHEDULE OF CHARGES FOR RYE FARM AND HALES MEADOW CAR PARKS

1	2	3	4	5	6	7 SCHEDULE OF CHARGES		8 EXCESS CHARGES AND SESSIONARY EXCESS CHARGES (not subject to VAT)
						7a	7b	
NAME OF PARKING PLACE	POSITION IN WHICH VEHICLE MAY WAIT	PERMITTED CLASSES OF VEHICLE	HOURS AND DAYS OF OPERATION OF PARKING PLACE	CHARGING/ NON- CHARGING PERIODS AND MAXIMUM PERIOD FOR WHICH VEHICLES MAY WAIT	NO RETURN PERIOD	CHARGES FOR PARKING TICKETS Footnote 2 Footnote 3	PERMITS (INC. Footnote 1 Footnote 3	EXPIRED TICKET; EXPIRED PERMIT; NO PERMIT DISPLAYED; NO VALID TICKET OR PERMIT DISPLAYED; PERMIT OR TICKET NOT VALID FOR PARKING PLACE; WRONG REGISTRATION NUMBER ON TICKET; EXCEEDED MAX 3 HOUR STAY; EXCEEDED MAX STAY; RETURNED WITHIN 2 HOUR TIME LIMIT; NO VALID DISABLED BADGE DISPLAYED; PARKED IN AN UNAUTHORISED AREA; NOT PARKED WITHIN A MARKED BAY; EXCEEDED WEIGHT RESTRICTION; NO OVERNIGHT CAMPING

Rye Farm Abingdon	Wholly within a parking bay, disabled persons parking bay or motor cycle bay as maybe indicated by surface markings or signage	All classes of vehicle not exceeding 3.5 tonnes (70cwts) laden weight, max height 6'6"	All days all hours	Monday to Sunday 8am to 6pm 10 hours Monday to Sunday 6pm to 8am 14 hours Maximum stay 24 hours	Two Hours	Not exceeding: - up to 2 hours no charge - up to 3 hours £1.50 - up to 4 hours £3.10 - up to 6 hours £3.80 - over 6 hours £4.30 No charge	£52 per month (5 day) £61 per month (6 or 7 day) £157 per quarter (5 day) £190 per quarter (6 or 7 day) £520 per annum (5 day) £622 per annum (6 or 7 day) Resident permit: £287 per annum or £144 six months Market trader permits, one day/week per year £81	Excess Charge £80 payable within 28 days of the excess charge notice otherwise concessionary excess charge £50 if paid within 10 days.
Rye Farm: Oversize vehicles		All classes	All days all hours	Monday to Sunday 8am to 6pm 10 hours Monday to Sunday 6pm to 8am 14 hours Maximum stay 24 hours	Two Hours	£7.30 for 24 hours or part thereof	£636 per annum (5 £159 per annum (1 Resident permit: £287 per annum or £144 six months Market trader permits, one day/week per year £81	

Hales Meadow Abingdon	Wholly within a parking bay, disabled persons parking bay or motor cycle bay as maybe indicated by surface markings or signage	All classes of vehicle not exceeding 3.5 tonnes (70cwts) laden weight	All days all hours	Monday to Sunday 8am to 6pm 10 hours Monday to Saturday 6pm to 8am 14 hours Maximum stay 24 hours	Two Hours	Not exceeding: up to 2 hours no charge - up to 3 hours £1.50 - up to 4 hours £3.10 - up to 6 hours £3.80 - over 6 hours £4.30 No charge	£52 per month (5 day) £61 per month (6 or 7 day) £157 per quarter (5 day) £190 per quarter (6 or 7 day) £520 per annum (5 day) £622 per annum (6 or 7 day) Resident permit: £287 per annum or £144 six months Market trader permits, one day/week per year £81	Excess Charge £80 payable within 28 days of the excess charge notice otherwise concessionary excess charge £50 if paid within 10 days.
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Footnote 1: The Vale Council will charge £12 when asked to issue replacement permits.

Footnote 2: No charges apply to motorcycles or vehicles displaying a disabled person's badge at all car parks.

Footnote 3: A valid ticket or parking permit will be required to be displayed during a charging period at those car parks where charges are payable, including those periods when a charge is not payable.