

Cabinet Report

Report of Head of Development and Corporate Landlord

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To: CABINET

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New car park order 2022 – consultation results

Recommendations

That cabinet:

- (a) agrees the making of new 2022 car park orders having considered the comments made during the consultation period
- (b) authorises the head of Legal and Democratic services to make the new order and to determine the date it comes into effect
- (c) adopts the new Joint Management Parking Policy appended to this report in appendix C
- (d) agrees to the Vale of White Horse District Council joining PATROL (Parking and Traffic Regulations Outside London) Adjudication Joint Committee as a member
- (e) appoints Councillor Neil Fawcett to represent the Vale of White Horse District Council on the PATROL Adjudication Joint Committee for the remainder of this council until May 2023
- (f) appoints Councillor Andrew Crawford as the named substitute in respect of the appointment under (e) above.

Purpose of Report

1. This report provides details of feedback received during the consultation period to enable cabinet to make new 2022 car park orders.
2. Officers request cabinet also agree a new Joint Management Parking Policy (JMPP) required as part of Civil Parking Enforcement (CPE) legislation to provide transparency of how we provide the car parking service.

Corporate Objectives

3. The provision and pricing of car parking supports the Vale's Corporate Plan 2020/24 and strategic objective of Building Healthy Communities by encouraging the switch to more active sustainable travel options, improving air quality. It also supports the objective Building Stable Finances through maximising parking income.

Background

4. In December 2020, South Oxfordshire District Council and Vale of White Horse District Council approved a joint Cabinet report for the introduction of Civil Parking Enforcement (CPE), agreeing to support an application by Oxfordshire County Council (OCC) to the Department for Transport (DfT) for the introduction of CPE across Oxfordshire.
5. This application for Oxfordshire was approved by the DfT and OCC began implementing CPE on street from 1 November 2021.
6. As part of the approval of this application we are required to change our off-street car parking orders to introduce and follow the requirements of the Traffic Management Act 2004 legislation that now operates across Oxfordshire.
7. The Individual Cabinet Member Decision (ICMD) of 8 September 2021 agreed to prepare and publish new draft orders to include changes so we could operate our off-street car parks under CPE and to allow the head of Housing and Environment to oversee the statutory consultation. The ICMD also agreed the level of penalty charge notices (PCN).
8. Officers organised a Notice of Proposal highlighting the changes to the orders to be published in the local newspaper, displayed in the car parks and published on the council website and on social media. This information was made available from 12 May to 6 June 2022.
9. The changes to the order are relatively minor such as the wording of a 'car park inspector' changing to a 'civil enforcement officer' and PCNs being issued for offences rather than excess charge notices.
10. There are two orders covering the Vale district, one is for car parks at Rye Farm and Hales Meadow, Abingdon which fall within the South Oxfordshire district boundary and the second order is for all other Vale car parks.
11. The most important change to the orders is how we process the PCNs; how people dispute the issuing of the tickets and the ultimate outcome which is dealt with by a national adjudication service rather than in the magistrate's court.

12. In addition, as part of CPE we are required to prepare and publish a JMPP which includes details on how we process and deal with PCNs. Officers have drafted a joint South and Vale Car JMPP attached as appendix C.
13. Cabinet is required to consider the outcome of the consultation and to agree the implementation of the JMPP.
14. PATROL represents over 300 local authorities in England and provides a governing body which includes an adjudication service where the recipient of a PCN can challenge the decision of a Council. The Council is required to be a member of PATROL and to nominate a Council member to participate in the committee meetings.

Results of the consultation

Statutory consultation on the draft car park 2022

15. As required, we published a Notice of Proposal in the Herald newspaper on 11 May 2022 and sent a draft orders No. 1 and No. 2 to Oxfordshire County Council Highways (who must consent to the orders) and other appropriate organisations, including the Police. Cabinet is required to consider any representations received before making the order.
16. The statutory consultees support the draft orders and did not raise any comments or objections. OCC has given formal consent to the orders.
17. Appendix A has a table of the comments received from statutory consultees.

Public feedback

18. Officers received one formal objection to the order on the basis that reducing the free hours from two hours to one hour is at the expense of public health and local businesses and only benefits the council's profits. A redacted copy of the email removing personal details is in appendix B.
19. In a further email from the same person, they requested to know what the impact of the change from two hours free to one hour free has had on the car park income. They have requested statistics and data on usage and revenue. Officers have yet to look in detail on the change to the free period (implemented April 2022). This will be considered as part of the annual cabinet report on car park fees and charges later this year.
20. The objection to the order in appendix B is not an issue related to any changes made as part of this consultation. The issue raised about the change from the two free hours parking to one hour was considered by Cabinet at the meeting on 4 February 2022 when it was agreed new fees and charges would be implemented on 4 April 2022.
21. On this basis there is no public feedback that impacts on the making of this new order, officers request Cabinet agree to the making of the new orders.

Other feedback

22. Officers have been contacted by Abingdon Town Council and Wantage Town Council to enquire whether the district council would consider carrying out limited enforcement

in their car parks on their behalf. This requires further legal investigations along with the business case for the council to consider separately.

Options

23. As there are no substantiated objections to the draft orders the recommended option is to agree the orders with no amendments.
24. The alternative option is to not change the orders and continue operating using existing orders. Officers do not consider this a viable option as we will be unable to enforce parking rules within car parks.

Joint Management Parking Policy (JMPP)

25. Officers have drafted a JMPP as required by CPE legislation. The policy as attached at appendix C details how we provide the car parking service and the various associated elements.
26. The new policy incorporates existing policies such as the cancellation policy and pricing policy and once adopted will sit aside the new order. Once the new order is made and implemented, the parking policy will be published on the council website in an open and transparent way and so the public are aware of how we manage car parks.

Membership of PATROL

27. We are required to appoint a member representative on the PATROL Committee. Although Oxfordshire County Council will carry out off street parking enforcement, Vale of White Horse District Council will become members of the Joint Committee and are entitled to a place on it. Appointees do have to be councillors but do not have to be members of the executive. The appointment would be for the life of the Council. Council is entitled to appoint one named substitute.
28. The PATROL Committee is the body that enables all local authorities with Orders to carry out civil enforcement of parking contraventions and to exercise their functions under the Traffic Management Act 2004 and the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.
29. There is a statutory requirement for civil enforcement authorities to make provision for the independent adjudication of appeals against civil traffic penalties. This is exercised by the council joining the PATROL Adjudication Joint Committee which provides resources for the Traffic Penalty Tribunal.
30. The main function of the Joint Committee is to provide resources to support independent adjudicators and their staff who together comprise the Traffic Penalty Tribunal. The tribunal's appeal streams include:
 - Parking
 - Bus Lanes
 - Road User Charging
 - Littering from vehicles

31. PATROL also undertakes initiatives to support its member authorities and raise awareness of the objectives of civil enforcement.
32. Nominated members are committing to attend in person three committee meetings a year in Westminster, generally January, July and October.

Climate and ecological impact implications

33. The new order includes an offence for 'engine idling' which will allow the enforcement of drivers who keep vehicles running.
34. The main benefit of CPE, for on street and off street parking, is to encourage the free flow of traffic around town centres, thus reducing pollution.

Financial Implications

35. Any council decision that has financial implications must be made with the knowledge of the council's overarching financial position. For Vale, the position reflected in the council's medium-term financial plan (MTFP) as reported to Full Council in February 2022 showed that the council was able to set a balanced budget for 2022/23, but that there is expected to be a budget gap in future years.
36. This future funding gap is predicted to increase to over £3.7 million by 2026/27. As there remains no certainty on future local government funding, following the announcement of a one-year spending review by government, and as the long-term financial consequences of the Coronavirus pandemic remain unknown, this gap could increase further. Every financial decision made needs to be cognisant of the need to address this funding gap in future years.
37. The new offences under CPE provide for the issuing of PCNs at a higher level (more serious offences for example parking in a disabled bay without displaying a blue badge) and lower level (overstaying your time). As the current excess charge notices are all issued at more than the new levels, there may be a loss of income from penalty notices. Total income from ECNS in 2020/21 was £24,475 and officers estimate the income from PCNs issued under CPE for the comparable year would have been £15,000.
38. We may be able to balance this loss by the new increased charges for the issue of a charge certificate. If that remains unpaid, there will be a further increase if/when the case is registered at the Traffic Enforcement Centre to allow for the collection of debt. In addition for each PCN issued there is a cost of 30 pence which goes to PATROL (Parking and Traffic Regulations Outside London - the adjudication service) to administer the appeal system. This would be a cost of £237 per year based on the ECNs issued in 2021/22.
39. We may have to amend future budgets in light of this, once more accurate income rates become available.
40. In line with legislation, the car park account needs to be able to show how much we spend on car parks and identify any surplus income to be spent on highways and car park improvements.
41. Members of outside bodies are entitled to travel expenses. The cost of attending the PATROL committee costs would be met from existing democratic services budgets.

Legal Implications

42. Under Regulation 14 of The Local Authorities' Traffic Order (Procedure)(England and Wales) Regulations 1996, we can modify an order, whether in consideration of any objections or otherwise, before an order is made. In doing so we must take appropriate steps to a) inform persons likely to be affected by the modifications; b) giving those persons an opportunity of making representations; and c) ensuring that any such representations are duly considered by the authority.
43. We are required to publish and promote our car parking orders so that people are aware of the changes and the new charge levels.
44. Officers placed adverts in local newspapers, put notices in all pay and display car parks and all legal documents were placed on the website. Communications highlighted the changes via social media.
45. Officers ask Cabinet to confirm that no changes to the draft order are required and so can go ahead with publishing a new order. Once signed and sealed, we will advertise the new approved order via a 'Notice of Making' in the local press and on our website. We will also place a copy of the 'Notice of Making' in each car park. We must reply to anyone who objected to the draft order to explain whether or not we have accepted their objection and the reason for our final decision.
46. Officers intend for the new order to come into force on 12 September 2022.

GDPR Implications

47. Implementing CPE means there will be changes to how we manage personal data and we will also be using a different processing system. Officers will work on a Data Protection Impact Assessment (DPIA), update any changes within privacy notices and within the Councils Record of Processing Activities (ROPA).

Risks

48. There is a legal duty to draft a new order and consult formally with statutory consultees like the Police and the Highways Authority and we have carried this out. As the changes to the order are minor and only impact on those receiving a PCN we have not carried out a district wide formal consultation with residents. Publication in the local newspapers on social media and in all the car parks reduces the risk that there is a legal challenge later on which could make the new order invalid.
49. An outline explanation of how we process the PCN is explained on the back of the tickets issued and with an address of our website. This reduces the risk of challenge from those who have received an ECN in the past and are not aware of the new process.
50. When operating car parks under CPE we are required to publish a JMPP which makes clear how we operate our car parks. The draft policy is attached at Appendix C. Cabinet is required to adopt the policy as we would be at risk of challenge to any PCNs issued without it.
51. The Council could decide not to make an appointment to the Joint Committee; however, we would not be able to enforce under CPE regulations.

52. There is a statutory requirement for civil enforcement authorities to make provision for independent adjudication for appeals against civil traffic penalties. PATROL has been established to enable local authorities undertaking civil parking enforcement to exercise their functions under Section 81 of the Traffic Management Act 2004 (TMA).

Conclusion

53. Officers carried out a formal consultation with statutory bodies on changes to the car parking order as well as publishing information on relevant changes. We received no comments to warrant making any changes to the draft order and so ask Cabinet to consider the comments and agree for officers to carry out the making of a new 2022 order.

54. Officers request Cabinet approves the adoption of the draft Joint Management parking Policy for publication.

55. Officers request Cabinet approves the membership to PATROL and the representatives put forward to join the committee.

Background Papers

- None

Appendix A

Consultation with statutory consultees on Vale of White Horse District Council draft car parking Order 2022

<u>Organisation</u>	<u>Comment made</u>
Oxford Fire and Rescue	No reply
OCC Highways	Replied to say no comments or objections
Thames Valley Police	Replied to say no objection
Southern Central Ambulance	No reply
Thames Travel	No reply
NHS Trust	No reply
Road Haulage Association	No reply
Logistics UK	No reply

Appendix B

Formal objections to the Vale car park order 2022.

Email extract:

The reason for the objection to the Order is that these two things feel to me to be part of one plan, and it is not a nice plan, and it also diminishes the likelihood of Thames walkers spending money in Abingdon which is contrary to promoting good local business, and that would be worth a few column inches in local press I am sure if you go ahead with this.

2 hours is a good time for a walk, 1 hour is not, and causes stress.

Adding in this new level of enforcement feels 'intentional' and a deliberate attempt to ramp up Council income at the expense of local business and to claw money from walkers.

I would therefore NOT object, that is to say my objection would be overcome, if the 2 hour free period was returned at this location and assured for a long future (and I presume this may apply to other car parks, please bear in mind people generally don't bother complaining because no-one feels they can change the opinion of public authorities any more so don't even bother wasting their time).

1 hour is not quite enough to put your walking shoes on, walk far enough to feel like that was a good piece of exercise, and turn around again with enough margin that you don't feel pressured on the way back.

Please return free parking period to 2 hours, and I will drop the objection.

The change to 1 hour free PLUS new enforcement rules is objectionable because it appears part of one unified plan to extract more money from people who may well 'need' recreational walking, but merely at the expense of lost money to local businesses, thus, actually, no net gain.

The proposed Order therefore feels nothing more than a thinly veiled money grab for the Council to feather its own pockets.

In summary, the objection stated is therefore;-

I object to this Order, ***in combination with*** reduced free parking periods from 2 to 1 hour, which appears to be part of a single plan to feather the Council's own pockets at the expense of the recreational health of residents, and also the income of local businesses, thus is a plan with no public interest benefits but for Council profiteering.

My objection can be overcome by returning the free period to 2 hours (at all car parks if you did it to others too). This is a reasonable time to permit a good walk (or a shorter walk with locally purchased refreshments) and is in the public interest, thus one can then accept enforcement is proportionate if that timing is abused.

If my objection is not overcome and you do this anyway then I'll be discussing the issue with the local press for a bit of attention to things that the Council may be doing contrary to the public interest.

Appendix C

Joint South and Vale joint management policy