

HAMBLETON DISTRICT COUNCIL

Report To: Cabinet
11 September 2012

Subject: CIVIL PARKING ENFORCEMENT

**All Wards
Scrutiny Committees
Portfolio Holder for Corporate Services: Councillor B Phillips**

1.0 PURPOSE AND BACKGROUND:

- 1.1 The purpose of this report is to seek Members' approval for:-
 - 1.1.1 the inclusion of Hambleton District Council managed off-street car parks in a Civil Parking Enforcement designation order for North Yorkshire;
 - 1.1.2 the inclusion of the District Council in a proposed County-wide Civil Parking Enforcement operation model.
- 1.2 In North Yorkshire the County Council is responsible for on-street parking on the local highway network and the District Councils and National Parks are responsible for most public off-street car parks. These responsibilities will be unaffected by the introduction of Civil Parking Enforcement (CPE).
- 1.3 The Traffic Management Act 2004 provides the legal framework for local highway authorities to apply for and then operate CPE. The introduction of CPE means that the powers to enforce on-street parking restrictions are transferred from the Police to the local highway authority. CPE enables the local highway authority to influence driver behaviour by issuing Penalty Charge Notices (PCNs) for contraventions of parking restrictions. As part of a CPE designation order off-street parking can also be enforced through civil processes rather than criminal sanctions.
- 1.4 In North Yorkshire CPE has been operational in Harrogate Borough since 2002 and in Scarborough Borough since 2007. Harrogate and Scarborough Borough Councils operate CPE on and off-street within the respective Boroughs, the on-street operation under agreement with the County Council.
- 1.5 The County Council has made a commitment in the third Local Transport Plan (LTP3) and the County Council Parking Strategy to introduce CPE in the remainder of the County.
- 1.6 A partnership approach to the County-wide CPE project has been adopted involving the County Council, the District Councils and the Police, with officers meeting regularly to develop the proposal.

2.0 ON-STREET PARKING:

- 2.1 The County Council, as highway authority, has a legal obligation to keep the highways free moving, safe and available to all users. One of the ways the County Council is able fulfil this legal duty is through the use of parking and waiting restrictions. However, currently the County Council has no control over the enforcement of existing on-street restrictions outside of the Harrogate and Scarborough Boroughs, and this also limits their ability to introduce new restrictions.
- 2.2 Due to other statutory obligations and pressures it will become increasingly difficult for North Yorkshire Police to commit sufficient resources to enforce on-street parking and waiting restrictions. There is also the potential for the Police to decide to stop enforcing on-street parking restrictions altogether.
- 2.3 It should be noted that 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.

3.0 OFF-STREET PARKING IN HAMBLETON:

- 3.1 The District Councils in North Yorkshire, with the exception of Harrogate and Scarborough, currently carry out enforcement in their off-street car parks under the Road Traffic Regulation Act 1984. The Department for Transport (DfT) has indicated that they want to see off-street car parks managed by District Councils included in the CPE designation order. This would mean that on and off-street enforcement is undertaken under the Traffic Management Act 2004.
- 3.2 The DfT adopt this stance because they want to make the new arrangements easier for the public to understand. There will be consistency in the issue of Penalty Charge Notices (PCNs) and in the way that challenges, representations and appeals are dealt with. In other words the contravention of a parking restriction committed on or off-street will be dealt with under the same process.
- 3.3 The County Council has been told by the DfT that they would not support a proposal 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'*. The County Council is therefore proposing to apply for a CPE designation order which includes off-street car parks subject to approval by the District Councils.
- 3.4 Once CPE Powers are granted the changes cannot be reversed
- 3.5 It is possible for the District Council to support County-wide CPE and still enforce parking restrictions in its own car parks. The next section of the report deals with the arguments for and against entering into a collaborative arrangement for enforcement with the County Council and Scarborough Borough Council.

4.0 PROPOSED MODEL OF ENFORCEMENT:

4.1 The County Council's business case for County-wide CPE enforcement is that the Harrogate and Scarborough operations are extended as set out below:-

- Scarborough Borough Council managing the on and off street enforcement operation in Ryedale, Hambleton and Richmondshire;
- Harrogate Borough Council managing the on and off street enforcement operation in Craven and Selby.

4.2 This proposal is considered by NYCC to represent a natural geographic split and maximises the experience and expertise built up in the existing Harrogate and Scarborough operations.

4.3 It is proposed that there will be a review of the model of operation after a period of three years to ensure that it continues to be the most effective way of delivery County-wide CPE.

4.4 The County Council is proposing a joint on and off-street model of operation because it is considered to be the most cost effective way of introducing CPE and provides consistency for the general public.

4.5 It would be possible for Hambleton to establish a stand alone off-street CPE operation under the Traffic Management Act 2004 within the district. However, the legal process when a PCN is disputed requires officers to be trained in the relevant legislation and how to apply it. There will also be set up costs requiring investment, for example technology and systems that are capable of managing the processing of PCNs. The experience of Harrogate and Scarborough shows that it takes time to establish an effective CPE operation. It is arguable that it would cost more to develop this Council's existing enforcement arrangements to meet CPE rather than utilise Scarborough's existing system.

4.6 The proposed model of operation will mean that the same Parking Enforcement Officer (CEO) can enforce on both the public highway and in off-street car parks. Separate operations would mean that an on-street CEO would be unable to enforce off-street contraventions and vice versa for an off-street CEO.

5.0 OFF-STREET PARKING MANAGEMENT:

5.1 Neither the introduction of CPE nor the proposed model of operation will affect Hambleton's function of parking authority responsible for off-street car parks other than in respect of enforcement. Hambleton will still be responsible for its own parking policy, including provision and maintenance of car parks and setting car parking fees.

5.2 The proposed model of operation means that rather than delivering the enforcement of off-street car parks as an in-house service, Hambleton will be buying in a CPE service from Scarborough Borough Council, the details of which are still to be clarified. Whilst the District Council will not be the employing authority they will still retain complete local control over where off-street enforcement takes place. This will be achieved through a Service Level Agreement between the respective Councils and ongoing engagement at an operational level.

5.3 Furthermore, Hambleton will not be committing to the proposed model of operation indefinitely. For example the legal agreements currently in place between the County

Council and Harrogate/Scarborough Borough Councils to deliver on-street enforcement on behalf of the County Council state that either party can terminate the agreement at three years notice. If there is a breach in the agreement (i.e. failure to deliver the functions to a satisfactory standard) then the agreement can be terminated within 12 months. The County Council is proposing that a similar agreement is put in place between the District Council and the Borough Council delivering the enforcement service (either Harrogate or Scarborough).

5.4 All off-street income from pay and display parking and Penalty Charge Notices, after the costs of buying in the enforcement service have been met, will remain with the District Council as it does now.

6.0 OFF-STREET PARKING COSTS/INCOME:

6.1 The business case presents a three year cost to deliver the off-street CPE operation for each District Council. These costs are based on continuing to deliver the current level of off-street enforcement. The amount of off-street enforcement can be altered in the future at the discretion of the District Council, but this would clearly impact upon the costs presented in the business case.

6.2 The off-street costs presented relate to the enforcement of off-street car parks and the processing of PCNs. The costs also include other related activities for a CEO, for example inspecting parking equipment, fixing minor faults and reporting defective signing. The costs presented in the business case do not include:-

- Permit administration;
- Cash collection;
- General car park maintenance.

6.3 The off-street enforcement costs for individual District Councils have been based on the current level of off-street enforcement as provided by the District Councils and set out below. It is and always will be for District Councils to determine the level of off-street enforcement.

- Craven – 0.7 FTE
- Hambleton – 1.7 FTE [currently 1.3 basic]
- Richmondshire – 1 FTE
- Ryedale – 2.1 FTE
- Selby – 0.3 FTE

6.4 The table below summarises the off-street costs for individual district councils. The costs are higher in year one because of the expenditure associated with start up.

Off-street costs based on the current level of off-street enforcement				
	Year 1 (£)	Year 2 (£)	Year 3 (£)	Cumulative (Years 1 - 3) (£)
Richmondshire	41,738.88	36,584.50	36,584.50	114,907.88
Hambleton	66,634.96	58,355.84	58,355.84	183,346.64
Ryedale	71,507.35	63,575.96	63,575.96	198,659.27
Craven	37,420	32,359	32,359	102,138
Selby	18,400	13,339	13,339	45,078

6.5 District Councils currently set the Excess Charge Notice rate under the Road Traffic Regulation Act (1984) which allows local discretion. Under CPE the Penalty Charge Notice rate is governed by the Traffic Management Act 2004 and it is not possible to set discretionary rates. Even by applying Band 2 charges, which are the highest possible, the current District Council Excess Charge Notice rates are nearly all higher as shown by the table below:-

	Band	Higher Level Penalty Charge	Lower Level Penalty Charge	Reduced Charge	Number of days reduced charge is valid
CPE	1	£60	£40	50%	14
	2	£70	£50	50%	14
Current	Craven	£60		£35	14
	Ryedale*	£92		£46	7
	Hambleton	£75		£50	14
	Richmondshire	£60		£30	14
	Selby	£50		£30	7

*If you have a valid ticket or permit Ryedale DC may, in certain circumstances, levy a reduced Discretionary Charge if the Excess Charge has been correctly issued but the customer can produce a valid ticket or permit which, for some reason, was not correctly displayed.

6.6 Each district would therefore have to reduce the level of its PCN rates (fines) with a commensurate reduction in income. The estimated reduction in income (based on income per PCN) for the District Councils is set out in the table below. This has been calculated by multiplying the number of Excess Charge Notices currently issued by £23.90, which is the average income generated for each off-street PCN issued across 102 existing CPE operations taking into account non-payment and cancellations. This figure is similar to the average income per off-street PCN issued in Harrogate (£24.21) and Scarborough (£21.86).

District	ECN's issued 2010/11	ECN income 2010/11	Estimated PCN income (ECNs issued x £23.90)	Estimated annual reduction in PCN income
Craven	962	£26,827	£22,991.80	- £ 3,835.20
Ryedale	1,013	£35,750	£24,210.70	- £11,539.30
Hambleton	1,277	£58,425	£30,520.30	- £27,904.7
Richmondshire	899	£30,310	£21,486.10	- £ 8,823.9
Selby	290	£8,469.60	£ 6,931	- £ 1,538.60

6.7 The requirement to reduce PCN rates (fines) under CPE will mean a potential loss to Hambleton of approximately £28,000 per annum.

7.0 POTENTIAL INCREASED OPERATIONAL COSTS/LOSS OF INCOME:

- 7.1 In recent years Hambleton's enforcement operation has been cost-neutral with income from excess charges ('fines') equalling the cost. Occasionally income has exceeded the cost. CPE will require income to fall with a potential "cost" to the Council which could be in the region of £28,000. Some of this may be off-set by increased charges income from vehicles displaced from on-street into Hambleton car parks, but this cannot be guaranteed.
- 7.2 The County Council is prepared to guarantee that moving to this new model of operation will be at worst cost neutral to the District Council for a limited period.
- 7.3 Where a District Council can demonstrate through an open book accounting arrangement that moving to this model of operation will cost them more and/or it reduces their likely income from PCNs, then the County Council is willing to initially underwrite any deficit for a period of up to three years after which the position will be reviewed.
- 7.4 However, there is evidence to suggest that better on-street enforcement encourages increased use of off-street car parks resulting in increased pay and display income and a higher number of Notices being issued. If this materialises the County Council expects that any increase in revenue from pay and display and/or more PCNs being issued is balanced against the additional costs/reduction in income per PCN before any deficit is funded by the County Council. There would need to be a calculation at the end of each financial year to determine whether or not a deficit has been incurred by the District Council.
- 7.5 The County Council will also 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.
- 7.6 Notwithstanding the points made in paragraphs 7.4 and 7.5 it needs to be borne in mind that CPE will see a 'cost' to Hambleton of approximately £28,000 per annum from 2016. This cannot be reversed once CPE is introduced across the County.

8.0 LEGAL IMPLICATIONS:

- 8.1 CPE utilises a simpler civil process for dealing with unauthorised parking (with an appeal to an independent adjudicator) rather than resorting to the criminal justice system. The process will be more straightforward for the public and the enforcing authority.
- 8.2 New Parking Orders will be required, but these can be introduced relatively quickly. There is no provision for public objection.
- 8.3 There will need to be a legal agreement between Scarborough Borough Council and/or the County Council and/or Hambleton to cover how enforcement will be undertaken and to deal with any reimbursement of lost fee income to Hambleton.

9.0 STAFFING IMPLICATIONS:

- 9.1 A number of staff are currently involved in enforcing parking restrictions in the Council's off-street car parks. There are currently 1.3 FTE Parking Enforcement Officers (PEOs) and

staff in the Design and Maintenance and Legal Teams are also involved. It is likely that the PEOs would transfer to Scarborough Borough Council on their current terms and conditions if Scarborough took over the enforcement process. Other staff would undertake other tasks within their respective teams.

10.0 **FINANCIAL IMPLICATIONS AND EFFICIENCIES:**

- 10.1 If Hambleton does not agree to CPE then it would continue to enforce in its car parks under existing arrangements. There would be no financial implications.
- 10.2 If the Council agrees to support CPE financial implications can be split into two – the cost of agreeing to County-wide CPE and the cost of agreeing to County-wide enforcement.
- 10.3 If the Council simply agrees to County-wide CPE, but undertakes enforcement in its own car parks the costs are likely to be as follows:-

	2013/14 £	2014/15 £	2015/16 £	2016/17 £	2017/18 £
Capital:					
Software, changes to signage etc)	10,000	-	-	-	-
Financed from the Capital Programme	10,000	-	-	-	-
	-	-	-	-	-
Revenue:					
Expenditure:					
Staff, support, supplies and transport	58,000	58,000	58,000	58,000	58,000
PCN income	30,000	30,000	30,000	30,000	30,000
	28,000	28,000	28,000	28,000	28,000

- 10.4 There is currently no provision in the Capital Programme for the set-up costs.
- 10.5 If the Council also agrees to transfer enforcement to Scarborough Borough Council there will be no set up costs for the District and the on-going financial implications are intended to be cost neutral for three years. Following that the implications are that the potential annual deficit of £28,000 would need to be borne by Hambleton. The costs are summarised as follows:-

	2013/14 £	2014/15 £	2015/16 £	2016/17 £	2017/18 £
Capital:					
Software, changes to signage etc)	8,300	-	-	-	-
Financed from County Council	8,300	-	-	-	-
	-	-	-	-	-

	2013/14 £	2014/15 £	2015/16 £	2016/17 £	2017/18 £
Revenue:					
Expenditure:					
Staffing, support, supplies and transport	58,000	58,000	58,000	58,000	58,000
Income:					
PCN income	30,000	30,000	30,000	30,000	30,000
County Council	28,000	28,000	28,000	-	-
	-	-	-	28,000	28,000

11.0 **NEXT STEPS:**

- 11.1 Hambleton needs to determine whether it supports County-wide CPE before an application can be submitted to the DfT.
- 11.2 DfT has recently introduced two 'windows' throughout the calendar year where applications will be dealt with. The completed application needs to have been formally accepted by the DfT by the end of October 2012 for them to make the proposed order by mid-April 2013. County-wide CPE would then be introduced in early summer 2013.
- 11.3 The proposed timetable for CPE implementation is set out in the table below:-

Final Business Case approval as of May 2012	
Completed application submitted to DfT	31 October 2012
Proposed order made by the DfT	Mid-April 2013
CPE implementation	Summer 2013

12.0 **CONCLUSIONS:**

- 12.1 Hambleton is being asked to support an application to extend CPE across the whole of the County. Once introduced, this cannot be reversed. CPE should be of benefit to the public in ensuring a uniform system of civil car parking enforcement. It will also enable the County (through its agent Scarborough Borough Council) to enforce on-street restrictions instead of the Police.
- 12.2 CPE will mean that off-street CPN rates (fines) have to be reduced which may affect Hambleton income in the longer term. The County have offered to off-set the effect for at least three years.

- 12.3 Hambleton can arrange for Scarborough Borough Council to undertake enforcement of off-street parking as its agent. An agreement would last initially for three years. Hambleton could withdraw from this after three years if it was unhappy with Scarborough's performance.
- 12.4 On balance, there may be benefits in agreeing to County-wide CPE and shared enforcement, although the potential financial effects need to be borne in mind. There are still a number of details to be agreed with the County Council/Scarborough and these will be negotiated by Officers if the Cabinet agree in principle to the proposal.
- 12.5 The Cabinet is recommended to agree the proposal in principle and receive a further report if the details cannot be adequately agreed by Officers.

13.0 RECOMMENDATIONS:

13.1 That Cabinet approve:-

- 13.1.1 in principle the inclusion of Hambleton managed off-street car parks in the Civil Parking Enforcement designation order;
- 13.1.2 in principle the inclusion of the District Council in the proposed County-wide Civil Parking Enforcement operation model for a period of three years, subject to the Director of Corporate Services being satisfied that arrangements are in place to ensure adequate enforcement in District Council car parks and that the District Council would not lose financially from the arrangement over that period;
- 13.1.3 the entering into of preliminary negotiations with North Yorkshire County Council and Scarborough Borough Council in seeking a mutually acceptable Service Level Agreement to ensure adequate monitoring and control capability by Hambleton District Council in financial and enforcement matters for off-street parking;
- 13.1.4 the entering into of preliminary discussions and programming with North Yorkshire County Council and Scarborough Borough Council in terms of the scope and details of likely staff transfer arrangements.

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Background papers: None

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