



meeting **ENVIRONMENT AND SUSTAINABILITY SELECT COMMITTEE**

date **30 JANUARY 2006**

agenda item number

## REPORT OF THE DIRECTOR OF ENVIRONMENT

### **DECRIMINALISED PARKING ENFORCEMENT 2005 YEAR END PROGRESS REPORT**

#### **Purpose of Report**

1. To inform Select Committee of the latest developments associated with the Decriminalised Parking Enforcement (DPE) project.

#### **Background**

2. In accordance with the Cabinet resolution of the 21<sup>st</sup> April 2004, regular progress reports are to be brought before Environment and Sustainability Select Committee. This is the fourth of these reports following the previous report of the 4<sup>th</sup> July 2005. Capital funding for the DPE project was approved by Cabinet on 27<sup>th</sup> July 2005: £200,000 in 2005/06 and £725,000 in 2006/07.

#### **Project Development**

3. There are two fundamental parts to the DPE project: (1) the Traffic Regulation Order (TRO) Review and (2) the several strands which will enable this Authority to submit a formal "Special Parking Area" application to assume the civil enforcement responsibility of parking offences (and ultimately certain moving traffic offences) in co-operation with the seven District Councils.

#### **Traffic Regulation Order Review**

4. Colin Buchanan and Partners were appointed to undertake a review of existing parking and loading TROs within Nottinghamshire and to transfer the details onto a map based software system (PARKMAP) which will enable storage and manipulation of TRO data. This work, which commenced in January 2005, is now complete, but it has raised anomalies which need resolving. This will generate remedial work on site during 2006 to ensure all lines and signs associated with the TROs align to the Legal Orders and are therefore able to be legally enforced. In a

small number of cases, it will be necessary to re-advertise/consolidate certain TROs.

### **Special Parking Area Application (SPA)**

5. A draft SPA application was submitted to the Secretary of State detailing how it is envisaged civil enforcement will be undertaken in the administrative County of Nottinghamshire. This draft application has been acknowledged and recorded by the Department for Transport and will ensure that the Secretary of State allows time in Parliament to hear the formal SPA. Upon approval, enforcement responsibility will transfer to the Local Authorities from the specified date – 29<sup>th</sup> January 2007 (provisional).
6. Consultation has taken place with neighbouring authorities, emergency services, public transport operators and all other interested bodies. Discussions are still ongoing with the police regarding the future enforcement of the trunk road network in the County and the outcome of these discussions will influence the final wording of the formal SPA application.

### **Other Recent Development**

7. Since the last progress report to this Committee, four out of the seven District Councils have approved in principle the way forward on both the method of enforcement and ticket processing. The preferred options are that enforcement is carried out by an external contractor and that a central ticketing processing centre is developed under the County Council's control. The other three Districts are also expected to agree to these options shortly.
8. These decisions allowed a significant milestone to be reached at Cabinet on the 7<sup>th</sup> December 2005 when approval was granted for the next critical stages of the project. This detailed Cabinet Report is appended for Committee's information.

The resolutions obtained at 7<sup>th</sup> December Cabinet Meeting will enable the Authority to:-

- i) Prepare tender documents for an external countywide enforcement contract on behalf of the District Councils.
  - ii) Prepare and enter into appropriate formal Partnership Agreements with the District Councils.
  - iii) Enter into leasing arrangements for suitable premises for a County-run central ticket processing centre.
  - iv) Prepare specification for and produce tender documentation for the essential IT equipment required to operate the central ticket processing centre.
8. It will also be necessary to report back to Cabinet in mid 2006 to obtain approval to the formal Partnership Agreement with the District Councils which will then allow a formal submission of the final SPA application to the Secretary of State.

### **Other Associated Issues**

9. Members will also note from the 7<sup>th</sup> December 2005 Cabinet Report that approval was obtained to undertake a feasibility study on the implications of introducing on-street pay and display in town centres around the County as part of the civil enforcement operation. It was also agreed to assess the potential for the reintroduction of new Residents' Parking Schemes as a result of the impact of DPE in town centres. Both topics will be the subject of further reports back to Cabinet in due course.

PETER WEBSTER  
Director of Environment

T.SS/PRR/4 Jan 06

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## APPENDIX

Nottinghamshire  
County Council



meeting

**CABINET**

date

**7 DECEMBER 2005**

agenda item number

### REPORT OF THE CABINET MEMBER FOR ENVIRONMENT & SUSTAINABILITY

#### **DECRIMINALISED PARKING ENFORCEMENT**

##### **Purpose of Report**

1. To provide Cabinet with an update on scheme progress towards Decriminalised Parking Enforcement (DPE) and to seek approval to prepare a tender to provide enforcement and to manage the central ticket processing centre.

##### **Introduction**

2. DPE is parking enforcement undertaken by a local authority rather than the Police. Illegal parking changes from being a criminal offence to a civil offence and revenue raised from Penalty Charge Notices (the parking 'fines') is used to pay for the enforcement.
3. The main benefit of DPE is improved traffic management because the revenue raised pays directly for enforcement. DPE also brings consistent and more efficient parking enforcement, thus allowing the local authority to discourage incidents of illegal parking that cause congestion and road safety problems. There will be an improvement in the availability of limited waiting in town centres for shoppers as these spaces are cleared of long-term parking from local employees. Consequently, DPE allows the Council to effectively regulate parking and introduce Traffic Regulation Orders (TROs) that previously could not be considered because of a lack of enforcement. The Traffic Management Act 2000 also covers enforcement of moving traffic offences such as one-way street, prohibitions of driving and bus-lane violations. DPE also reduces pressure on police resources which can be removed from enforcement duties in order to meet higher priorities.
4. The Department for Transport (DfT), which grants enforcement powers to the local authority, want to see a co-ordinated approach to parking management and expect off-street local authority owned car parks to be included in the same application for enforcement powers. This approach has the benefit of improving

the economic viability of enforcement but, in particular, it considerably helps the public's understanding of the new enforcement regime. The District Councils are better placed to manage DPE in their respective areas as they all have experience of off-street car parking enforcement and can provide local management of wardens for both on and off street enforcement. Accordingly it is proposed that the Districts undertake enforcement on behalf of the County Council with the terms and conditions of enforcement determined by a Partnership Agreement. All District Councils have agreed in principle to enter negotiations on DPE and it is hoped that DPE can be introduced in unison across the County. If, however, agreement cannot be reached with a particular authority, then an application can be made to the DfT which excludes that District, leaving responsibility with the police to manage parking enforcement in that area.

5. Legislatively, Local Authorities have previously been able to seek DPE powers using the Road Traffic Act 1991 (RTA). Nationwide, many Authorities have already done so, typically in the larger cities and urban areas. The Traffic Management Act 2004 replaces the RTA and gives the DfT the power to force Local Authorities to undertake DPE, particularly where the local police are failing to reach agreed targets. Nationally, this has accelerated the move towards DPE in all local authorities and it is anticipated that the whole of England will be operating DPE by 2011. In recognition of this requirement, Cabinet on 27<sup>th</sup> July 2005 approved the capital funding of the project with £200k available in 2005/6 and £725k in 2006/7.

## **Progress**

6. The County Council's progression towards DPE has been the subject of the following Cabinet reports:
  - (i) 21<sup>th</sup> April 2004 – approval to commence the DPE project following the conclusion of the feasibility study.
  - (ii) 27<sup>th</sup> April 2005 – approval to submit a draft Special Parking Area to the DfT outlining how NCC and the District Councils intend to undertake enforcement.

As detailed in these reports, the project can be broadly split into two main areas: the review of the TROs and negotiations with the District Councils over the proposed partnership agreement. The review of the TROs is now largely complete and a programme of essential maintenance work will commence early in 2006 to ensure they are fully enforceable. Negotiations with the District Councils over the Partnership Agreement, which will detail how DPE will be managed, have commenced and the principal areas of discussion have been over how enforcement and ticket processing will be organised. A draft Special Parking Area application has been sent to the DfT which details how it is anticipated that DPE will operate and states that the County and District Councils are expecting to assume responsibility on 29<sup>th</sup> January 2007. Confirmation has now been received from the DfT that this application is satisfactory and a final irrevocable application should now be submitted 6

months prior to the start date. RTA consultants have been retained to provide expertise throughout the project and to assist in the IT set-up and contract negotiations.

## **Negotiations with District Councils**

- 7 Detailed meetings have now taken place with all the District Councils at officer level to discuss the general concepts of the partnership agreement and the preferred way forward. This followed agreement by District Members to enter negotiation with the County Council over DPE. Discussions have been held on whether enforcement should be managed in-house or via an external contractor and on the most efficient mechanism to process tickets and handle correspondence.

### **(i) In-House vs External Enforcement**

Clearly agreement on how to manage DPE must be reached with the appropriate District Council for an application to include that District Area. The County Council's consultants have advised that contracting out the enforcement in most cases offers advantages over an in-house operation. Furthermore, there are clear benefits in a central contract for the whole County which the Districts buy into with a sub-contract. Nationally the majority of authorities undertaking DPE for the first time are opting to use external contractors to enforce parking. This is now a well-established industry and consequently contract performance has improved considerably. The relative advantages and disadvantages of each approach are detailed in Appendix 1. The County Council has recommended to the District Councils that the central external contract managed locally by the Districts is the preferred option.

### **(ii) Ticket Processing**

Ticket processing is the 'back-room' aspect of DPE and is anticipated to employ between 15 and 20 people countywide in processing Penalty Charge Notices, checking car ownership, dealing with correspondence and managing finances. There are three options on how the Districts could undertake ticket processing:

- (1) employ staff internally;
- (2) contract-out to an external agency;
- (3) utilise a County Council developed central ticket processing centre.

The relative advantages and disadvantages of these approaches are detailed in Appendix 2. In terms of economies of scale and ensuring that the project progresses at the same pace around the County, a County-run central processing centre is preferred and is being recommended to the District Councils. If the Districts agree to this preferred option, it is anticipated that the processing centre can ultimately be included within the proposed Notts Connect Project. However, due to potentially different timescales, it may be necessary to lease temporary premises for this particular operation in the short term.

8. Presently four of the seven Districts (Bassetlaw, Broxtowe, Gedling and Newark) have agreed in principle to support the contracting out of enforcement and the development of a central processing centre. The other Districts are also expected to agree to this proposal shortly. Accordingly, and to ensure that the Authority can implement the DPE in January 2007, it is proposed to:
- (i) Commence the preparation of the contract documents with respect to enforcement with the intention of going out to tender during 2006.
  - (ii) Instruct the Head of Corporate Property to identify and secure appropriate premises for the central ticketing processing centre.

### **Neighbourhood Wardens**

9. The issue of neighbourhood or street wardens and their role under DPE was raised throughout the District Council meetings. Several of the District Councils employ these wardens to undertake a variety of tasks, including fines for litter, graffiti, dog fouling and off-street parking enforcement, and consequently the opportunity for a combined role has been discussed. Nationally this has been raised by other Authorities but unfortunately the current legislation does not allow for it. The DfT insist that DPE can only legally be undertaken by correctly attired Parking Attendants and that it must be self-financing. It is imperative therefore that attendants' time is correctly attributed to parking enforcement so that this can be compared with revenue to ensure there is no cost to the local tax payer. Some authorities have hired contractors to supply both neighbourhood wardens and parking attendants using interchangeable uniforms, but the two responsibilities are kept separate. In view of growing national interest, it is possible that the legislation may change in the future and it is suggested that the situation should be kept under review.

### **Police Community Support Officers**

10. Similar questions have been asked about Police Community Support Officers (PCSOs), who are directly employed by the police and are therefore funded by the Home Office. Their role is primarily to support the police particularly on issues such as anti-social behaviour. The Chief Constable for Nottinghamshire has granted PCSOs the power to issue parking tickets in this interim period prior to DPE being undertaken. This, however, is a short-term measure and would cease once parking enforcement passed to Local Authorities.

### **Residents' Parking Schemes (RPS) / On Street Charging (OSC)**

11. Members should note that, as part of DPE, consideration is also being given to re-introducing RPS and OSC, and further reports will be brought on these subjects in due course.

### **Financial Implications**

12. The financial implications of the recommendations are as follows:

- (i) The costs of procuring a central enforcement contract consist of consultancy and legal costs to draft and check the documents. This is estimated to be approximately £10k and can be met from the £925k capital allocation for DPE set-up costs of 2005/06 and 2006/07.
- (ii) The costs of developing a central ticket processing centre are more significant. Costs to provide IT equipment and software are estimated to be £190k. The lease of suitable accommodation and staff wages/training costs prior to DPE commencing are also allowed for within the estimated set-up and can therefore be met from the £925k capital allocation.

### **Staff Implications**

- 13. Several of the District Councils have an existing parking enforcement regime on the off-street car parks. Some of these are via external contractors but those that currently employ in-house staff to issue and process Excess Charge Notices (off-street parking fines) may be required to transfer to the new contractor if that option is pursued. This transfer would be undertaken via the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE).
- 14. The DPE project has already generated a significant workload for the Area Highways Offices via the review of TROs. In due course, Members will be asked to consider the Council's future stance on RPS. Should this be introduced, the assessment and introduction of RPS will add to this workload and it is anticipated that an additional temporary member of staff will be required to assist in this work. In addition, it is apparent that within the final year, the DPE project is likely to need additional staff resources although these may be sourced internally via secondment.

### **Statutory and Policy Implications**

- 15. This report has been compiled after consideration of implications in respect of Finance, Equal Opportunities, Personnel, Crime and Disorder (Community Safety), the Local Member and those using the service. Where such implications are material, they have been brought out in the text of the report. Attention is, however, drawn to specifics as follows:

#### **Crime and Disorder (Community Safety)**

- 16. The presence of Parking Attendants in town and district centres will provide a visible deterrent to crime and should assist in reducing fear of crime.

#### **Equal Opportunities Implications**

- 17. DPE will significantly improve access for registered disabled drivers by enforcing disabled spaces in town and district centres and thus dissuading illegal parking. In addition, the Traffic Management Act conveys the power to Parking



Attendants to check blue badges for authenticity which will considerably reduce incidents of misuse.

### **Human Rights Act Implications**

18. The Head of Legal Services advises that three rights under the Convention of Human Rights need to be considered when taking the decision:

Article 1 of the Convention provides that every natural or legal person is entitled to the peaceful enjoyment of his possessions.

Article 2 of the Convention is an unqualified right to life and to positive protection of that right by public authorities.

Article 8 of the Convention provides that “everyone has the right to respect for his private and family life and his home”. The implementation of a traffic regulation order could interfere with these rights for nearby residents, but the Council may interfere with such rights in accordance with the law as contained in the transportation and highways acts and, where it is necessary in a democratic society, in the interests of, amongst other things, public safety and the general interest. The decision maker may conclude that implementation of a traffic regulation order is necessary in a democratic society to enable residents and road users to make safe journeys thereby protecting public safety and will in environmental terms also be in the general interest.

The County Council has therefore a primary duty to protect life and a secondary duty not to interfere with Article 8 or 1 rights, except in certain circumstances. The benefit of greater road safety and environmental benefits may perhaps be considered to outweigh any intrusion there may be to Article 8 or 1 rights.

### **Proportionality**

19. The decision-maker needs to consider whether the benefits of implementing a Traffic Regulation Order outweigh any adverse effect on the human rights of nearby residents or road users. The provision of road safety is necessary in a democratic society and statutory powers exist to make such provision. The decision-maker must weigh any competing interests and decide which are more appropriate taking all of the above into account.

### **RECOMMENDATION**

20. It is RECOMMENDED that:
- (a) approval be given for the preparation of a tender for parking enforcement on behalf of the District Councils and to enter into appropriate Partnership agreements with the Districts;
  - (b) approval be given for the development of a County-run central ticket processing centre and for the Head of Corporate Property to enter into leasing arrangements for suitable premises.

- (c) a further report be brought to Cabinet detailing the proposed re-introduction of Residents' Parking Schemes;
- (d) a further report be brought to Cabinet on the findings of the study into the feasibility and implications of introducing on-street pay-and-display;
- (e) a further report be brought to Cabinet to confirm the Partnership Agreements and to obtain approval to the submission of the final Special Parking Area Application.

COUNCILLOR STELLA SMEDLEY  
Cabinet Member for Environment and Sustainability

#### **Director of Resources' Financial Comments**

The financial implications are as set out in the report. Any costs associated with the reintroduction of Residents' Parking Schemes would be the subject of further reports as schemes are introduced. [KRP 17.11.05]

#### **Legal Services' Comments**

Cabinet Member for Environment has power to decide the Recommendation, but the decision is brought to Cabinet because of the impact on the public, the budgetary implications and the need for a formal agreement between the County Council, District Councils and the Police. [SHB 17.11.05]

#### **Background Papers Available for Inspection**

Letter from DfT dated 20th October 2005 regarding the Special Parking Area application.

#### **Electoral Division Affected**

All.

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## **Appendix A:-**

### **ENFORCEMENT OPTIONS: ADVANTAGES AND DISADVANTAGES OF MAIN OPTIONS.**

#### **1. In-House Enforcement**

##### **DEFINITION**

Enforcement by Parking Attendants who are directly employed, trained, equipped and given accommodation/transport by the District Council.

##### **ADVANTAGES**

- i) Parking Attendants are District Council employed rather than via an external Contractor and are therefore more directly accountable.
- ii) Expenditure on enforcement is minimised as there is no third party to pay.
- iii) District Councils can use existing staff and avoid any TUPE requirements.

##### **DISADVANTAGES**

- i) Relatively high cost and time commitment recruiting and training staff. Typically, staff turnover is high amongst Parking Attendants and consequently this would be an on-going commitment.
- ii) High set up costs; District and County Council would bear the cost of equipping, training and accommodating Parking Attendants.
- iii) Equipment maintenance costs; hand-held ticket-issuing equipment will need regular maintenance.
- iv) Inflexible workforce; the primary aim of DPE is to produce compliant parking thus improving road safety, congestion and access to town centres. The service must be self-financing and as such it follows that the actual level of enforcement required to achieve this at a reasonable cost is reached by a degree of trial-and-error. Consequently, directly employing Parking Attendants makes it difficult to quickly reduce the workforce if necessary.

#### **2. Separate Contracts**

##### **DEFINITION:**

Each District Council draws up a contract with an external enforcement Contractor.

### ADVANTAGES

- i) Low set-up costs; the successful Contractor bears this cost.
- ii) Training and employment of Parking Attendants is the responsibility of the Contractor.
- iii) Flexible enforcement; typically, Parking Attendants are supplied on an hourly rate and, at a months notice, the District Council can alter the hours purchased to balance against revenue received.

### DISADVANTAGES

- i) Cost and time to draw up the enforcement contract.
- ii) Potential continuity problems between Districts; different Contractors under different terms of employment could potentially result in inequalities of enforcement. This would not assist the public's understanding of DPE.
- iii) Scheme revenue would be reduced to pay the enforcement Contractor.
- iv) Direct accountability of Parking Attendants is reduced: Parking Attendants would be employed directly by the Contractor. In some District Councils, existing enforcement staff may need to transfer to the Contractor under TUPE regulations.

## 3. **Central Contract**

### DEFINITION

The County Council draws up a central contract to the County which the District Councils utilise.

The advantages and disadvantages of this, the preferred option, are much the same as the separate Contractors option in .2 above with two notable exceptions; a central contract ensures continuity of enforcement approach and in terms of timescale, the County Council would take responsibility for tendering the contract thus enabling all District to undertake DPE at the same time and deliver the service consistent manner on a countywide basis.

## **Appendix B**

### **TICKET PROCESSING OPTIONS: ADVANTAGES AND DISADVANTAGES OF MAIN OPTIONS**

#### **1. District Councils process tickets independently.**

##### **ADVANTAGES**

- (i) The District Council is fully accountable for all processing of tickets with no third-party involvement.

##### **DISADVANTAGES**

- (i) A small scale operation at each District Council would have relatively high set-up costs compared to the economies of scale that could be achieved with a longer operation.
- (ii) IT systems may not be compatible between authorities.
- (iii) District Council has responsibility for training and recruiting a relatively small work-force. Sickness/holiday cover may be an issue.

#### **2. External Processing**

##### **DEFINITION:**

The enforcement contractor (if employed) also processes the tickets and is paid via a levy on tickets issued. National Parking Adjudication Service (NPAS) appeals handled by relevant District Councils

##### **ADVANTAGES**

- (i) No IT on or staff set-up costs as all of these are borne by the contractor.

##### **DISADVANTAGES**

- (i) IT software and hardware is owned by the contractor. If the contract is terminated for any reason, all tickets in the system would be lost and there will be a considerable delay in setting up a new system. All enforcement would effectively cease until a new system was procured.
- (ii) No local authority control over the ticket processing.

- (iii) Revenue is reduced as income is used to pay the contractor.
- (iv) Some District Council staff already employed in off street ticket processing work many have to be redeployed under TUPE regulations.

### **3. County Council Processing Centre**

#### **DEFINITION:**

One processing centre set-up for all the District. Either set-up and run by the County Council or by one of the District Councils. A non-profit making operation that is paid for by the levy of tickets. As with the other options, NPAS appeals are still dealt with by the relevant District Councils.

#### **ADVANTAGES**

- (i) Considerable economies of scale from having one operation using one software system.
- (ii) Staff numbers will be large enough to provide effective cover.
- (iii) The centre would be non-profit making. The District Councils would pay a levy on tickets issued but the consultants have advised that this will be cheaper than managing it in-house.

#### **DISADVANTAGES**

- (i) Complex IT system will need setting up to link the centre with all the District and the County Council.
- (ii) Time consuming set-up.
- (iii) Some District staff already employed in off-street ticket processing work may have to be redeployed under TUPE regulations.