

Report to: **Hub Committee**

Date: **12<sup>th</sup> April 2022**

Title: **Amendment of Off Street Parking Places Order**

Portfolio Area: **Cllr Terry Pearce**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken:

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## **RECOMMENDATIONS**

**That the Hub Committee is RECOMMENDED to:**

- 1. Authorise the Head of Assets to publish notice of proposals for the West Devon Borough Council (Off-Street Parking Places) Order 2022 to consolidate with amendments the current off-street parking places order; the amendments to be made to be to the relevant parts of the Order to reflect changes to legislation in respect of parking enforcement.**
- 2. Request the Head of Assets to prepare a report summarising the representations received in response to the notice of proposals for consideration by the Hub Committee before making a decision whether to make the off-street parking places order as proposed or with modifications.**

### **1. Executive summary**

- 1.1** Following the Government commitment to make the moving traffic enforcement powers under Part 6 of the Traffic Management Act 2004 (the 2004 Act) available to local authorities outside of London they have now taken the opportunity to consolidate, the existing civil enforcement regimes for bus lane contraventions alongside parking contraventions.

- 1.2 This report seeks to implement these changes of legislation within our Off Street Parking Places Order to ensure, from the 31<sup>st</sup> May 2022 and thereafter Penalty Charge Notices will be subject to the The Civil Enforcement Of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022 and The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals)(England) Regulations 2022
- 1.3 The forthcoming regulations are legislative changes and must be amended to ensure we are compliant with our enforcement of the Off Street Parking Places Order.
- 1.4 This report also requests that Members consider the recommendations to revoke all previous Parking Orders and consolidate into one new Off Street Parking Places Order (2022)
- 1.5 The recommendations will enable the Council to continue to manage off-street parking in an efficient and effective manner.
- 1.6 Without these updates to the Off Street Parking Places Order, enforcement will not be possible in respect of the additions and changes to the Parking Order.

## **2. Background**

- 2.1 This report seeks to implement the legislative changes due to come into effect on 31<sup>st</sup> May 2022 following the Government's commitment to make moving traffic enforcement powers under Part 6 of the Traffic Management Act 2004 available to local authorities outside of London.
- 2.2 All local authorities undertaking civil enforcement of parking contraventions must ensure the Regulations are amended to ensure they remain compliant with the Regulations.
- 2.3 Although, as a Council we will not be undertaking moving traffic enforcement (this is a Devon County Council on street parking function) in making these powers available, Government have taken the opportunity to consolidate under the 2004 Act the existing civil enforcement regimes for bus lane contraventions, together with parking contraventions. This creates a more cohesive civil enforcement regime, by removing numerous inconsistencies and providing more efficient regime administration.

### 3. Outcomes/outputs

#### Legislative Changes

- 3.1 Following the amendment to the Traffic Management Act 2004, all penalty charge notices issued to and including 30<sup>th</sup> May 2022 will be subject to the current regulatory regime for parking enforcement (currently under 2007 regulations made under the 2004 Act). All local authorities undertaking civil enforcement of parking contraventions must ensure the Regulations are amended to 2022 Regulations.
- 3.2 Any penalty charge notices issued on 31<sup>st</sup> May 2022 and thereafter will be subject to the 2022 regulations.
- 3.3 The existing regulations will therefore be replaced as per the table below:

Existing Regulations:	To be replaced with:
The Civil Enforcement of Parking Contraventions (England) General Regulations 2007	The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions)(England) Regulations 2022
The Civil Enforcement of Parking Contraventions (Guidelines of Level of Charges)(England) Order 2007	
The Civil Enforcement of Parking Contraventions (Approved Devices)(England) Order 2007	
The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007	The Civil Enforcement Of Road Traffic Contraventions (Representations and Appeals)(England) Regulations 2022

- Revocation of Previous Off Street Parking Places Order**
- 3.4 To assist effective management of all Parking Orders, all previous Parking Orders will be revoked and subsequently consolidated into one new Off Street Parking Places Order 2022. This will make interpretation easier and more robust, assist Adjudicators when considering appeals and provide a stronger platform for further changes.

#### 4. Options available and consideration of risk

- 4.1 A 21 day public consultation will be undertaken following the meeting.
- 4.2 The Council must ensure the Off Street Parking Orders are amended with the new Regulations to ensure we can continue to enforce parking restrictions by law.

- 4.3 During the consultation period, customers who wish to object to or comment on recommendations will have the opportunity to do so. Objections will be considered prior to implementation of any changes.

## 5. Proposed Way Forward

- 5.1 The proposed amendments to the Off Street Parking Places Order proceed in accordance with the recommendations.
- 5.2 Should the Recommendations be accepted, the following steps will occur:
- a. 21 day consultation commence (April 2022) to which customers will be alerted by notice in the local press, on the Council's website and in all affected car parks. This will allow customers to make comments on and/or objections to the proposals, should they wish to do so.
  - b. All objections duly made under regulation 8 will be considered and referred to the Hub Committee for further consideration if necessary,
  - c. Otherwise, the detailed implementation of the recommendations should be delegated to the Head of Assets in consultation with the Portfolio Holder for car parking for implementation.
- 5.3 This proposal fits with the following priorities:  
 Council  
 Communities  
 Environment

## 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Council has power to provide and to regulate off-street car parks under the Road Traffic Regulation Act 1984 The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 set out the procedures to be followed before and after making any order regulating the use of car parks.
Financial implications to include reference to value for money		If the legislative changes are not made penalty charge notices will not be enforceable through the existing legislation

Risk		The Regulations must be amended to ensure we can continue to enforce parking contraventions That if the Council does not amend and consolidate the existing off-street parking places orders it may have difficulties in taking enforcement action against drivers who park in a hazardous manner or otherwise misuse a car park.
Supporting Corporate Strategy		Council Communities Environment
Climate Change - Carbon / Biodiversity Impact		There are no negative impacts.  There may be small positive impacts with customers considering alternative means of transport or care sharing.
<b>Comprehensive Impact Assessment Implications</b>		
Equality and Diversity		No implications.
Safeguarding		No implications.
Community Safety, Crime and Disorder		No implications.
Health, Safety and Wellbeing		No implications.
Other implications		None.

**Supporting Information**

**Appendices:**

None

**Background Papers:**

None