

## SECTION 122 ROAD TRAFFIC REGULATION ACT 1984

1. Members' attention is drawn to the Legal Implications section of this Report in which Section 122 of the Road Traffic Regulation Act 1984 ("the Act") is outlined in detail. This Appendix contains an analysis of the proposed order in light of the Section 122 duty.
2. Insofar as the introduction of off-street car park controls can achieve the '*expeditious, convenient and safe movement of vehicular and other traffic*', the Cheshire East Council's Parking Strategy, upon which the introduction of car parking control is based, states as its objective

*'To be consistent with and contribute to the overall aims of the National and Regional transport strategies which seek [inter alia];*

- *to achieve a greater reduction in overall traffic*
- *to achieve a greater use of the more sustainable and healthy forms of travel*
- *to achieve a more effective and efficient transport system*

Thus, these overall aims are consistent with achieving the '*expeditious, convenient and safe movement of vehicular and other traffic*'.

3. The introduction of control and the provision of long stay and short stay parking places ensure people wishing to park have options available to them, generally with short stay places being located in town centre car parks and long stay places being located in peripheral car parks. It is believed that short stay visitors are less likely to travel in peak periods, which reduces congestion in and around town centres.
4. By controlling the length of stay on the car parks, the likelihood of a customer finding a parking bay within a reasonable time is increased. It is expected that availability of spaces will reduce congestion and vehicle movements by reducing the number of vehicles having to queue or repeatedly exit/enter car parks having not found a space. Further, it reduces vehicles circulating local areas in search of parking places, all of which seeks to achieve the expeditious, convenient and safe movement of traffic.
5. The proposals achieve the '*provision of suitable and adequate parking facilities on and off the highway*' in respect of off street parking facilities by the imposition of control which as stated above results in more availability of parking spaces through increased turnover, effectively increasing parking stock in real terms. The use of the parking spaces should become more efficient as people will not leave vehicles for a longer period than they need to. The appropriate designation of car parks as long or short stay seeks to achieve the provision of '*suitable parking*', in that, the car parks closer to town centres are designated as short stay sites and those on the periphery are designated as long stay. With this duty in mind, the designation of certain car parks has changed during the development of the proposal.

6. It has been stated in objections received during the consultation process that as the proposals do not concern on street parking, it will result in increased on-street parking. It is difficult to accurately predict the level or impact of any displacement of vehicles as a result of the introduction of charging, however, potentially, it is a negative consequence of the proposals and may in itself comprise the issues under s122(2) i.e. access to premises, passage of public service vehicles and movement of traffic. Whilst the s122 duty includes on street parking too, Members have already agreed to introduce civil enforcement powers in the Congleton area and an application to DfT is pending approval. When those civil powers are introduced, it will provide the Council with a system of regulation for on-street parking, as it transfers the power to enforce from the police to the Council. Given the nature and timetabling of the on-street civil enforcement powers it is not appropriate to include it in these off-street proposals. Further, it is the aim of the Director to look at a residents' parking scheme, provided the funding is available, and a separate report on this is being presented to Members. Such a scheme will, in conjunction with the introduction of civil enforcement powers, provide regulation of any displaced parking which may result from the present proposals
7. In respect of the matters in section 122(2) of the Act, to which the Cabinet must have regard to;

*a) the desirability of securing and maintaining reasonable access to premises;*

The proposals assist such a matter in that the increase in the availability of parking spaces increases access to premises. Conversely, the proposals do not negatively affect any access to premises, in the sense of preventing or making access more difficult.

*b) the effect on the amenities of any locality affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run....*

The effect on the amenities are both positive and negative. The positive effect on the amenities of the localities affected is the availability of space. Some objections received during the previous consultation process stated that the imposition of charging will have a negative effect on businesses and community facilities by discouraging customers/visitors and further it will penalise the staff or voluntary workers. It was stated in paragraph 8.1.1 of the report to the Cabinet Meeting on 8 September in response to that objection,

*'Effective control through charging will encourage the circulation and turnover of customers on short-stay 'shoppers'*

*car parks and restrict long stay parking in the central locations. There is no clear evidence that the imposition of appropriate charges is the key factor in a customer's decision as to whether to visit a town. It is the retail offer itself which is the main determinant of a destination as well as other factors such as accessibility, convenience and security. Charging can provide the incentive to town centre workers to explore alternative means of travel to work. Equally, charging should encourage employers to assist their colleagues in doing so.'*

In relation to community facilities, a negative effect as suggested in one of the objections in that such facilities rely upon free parking. It also stated it is unfair that people should be charged to visit medical centres or surgeries. In response, it was stated at paragraph 8.2.2 of the 8 September report...

*'This position is similar for other facilities around the Borough, including hospitals, which are already served by charged for car parks. Charging control assists with the availability of spaces and the current proposal uses a low tariff option to minimise the impact on such users.'*

The matter of the 'effect on the amenities' also requires consideration of the effect on schools. Some objections received stated the proposal unfairly affects the schools in Alsager and Middlewich as parents have no option other than to use the car parks when dropping children off for school. At its meeting on 8 September, the Cabinet had regard to the effect on such amenities and the difficulty facing the parents and proposed that the implementation of a permit system be investigated with the schools concerned.

Generally, whilst some of the effects on local amenities can be negative, that is, having to pay to park near to local facilities and the objectors view that this will discourage use, the effect can be positive as the increase in availability of parking space means customers or visitors can find a parking space when visiting those local businesses or community facilities, which would encourage visitors. The proposed tariff is the lowest across Cheshire East and such a low tariff minimises the financial impact on those groups such as the elderly or those on a low income.

In respect of the need to have regard to heavy commercial vehicles, this matter is really aimed at considering whether it is important to regulate or prevent heavy goods vehicles from travelling through areas in order to preserve or improve the amenities of the area through which a road runs. It is difficult to assess an off-street parking places order in the light of this matter, other than to state that as the draft order will prevent any vehicle over 3500kg unladen from parking on the car parks

within the order, such vehicles will have to park elsewhere and this may be on the highway. Conversely, in respect of the first matter, i.e. *'the effect on the amenities of any locality affected'*, removal from car parks of such vehicles can have a positive effect on the amenities of the affected localities in that visually, areas are improved and are more attractive and desirable to visitors and local residents.

(bb) *the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy);*

The introduction of car parking control leads to increased likelihood of finding a parking space, thus reducing queuing or circulating vehicles and engine running time.

As short stay users are less likely to travel in peak periods, the appropriate designation of short stay and long stay car parks can have the effect of reducing peak time congestion.

This reduction in engine running time and congestion helps to reduce air pollutant emissions which is an objective of the 'Air Quality Strategy for England, Scotland, Wales and Northern Ireland 2007'

Further, the proposals may encourage the use of public transport and/or sharing of journeys to work, thus encouraging sustainable forms of travel, another key aim of the Strategy.

c) *the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles;*

Although, as stated above, the proposals may encourage the use of public service vehicles, the proposals are not expected to have any effect upon the passage of such vehicles.

d) *any other matter appearing to the local authority*

There are no other matters appearing to the Officers.

8. Members will be aware that some of the obligations can be competing, however, it is a question of balance and in deciding whether to proceed with the proposed order Members must consider and balance these differing factors. The duty remains regardless of whether any objections have been received. Members need to consider, therefore, whether the Council should proceed with the order given the varying matters to which it is to have regard in section 122(2) as detailed above.