

# CHESHIRE EAST COUNCIL

## Cabinet Member for Environmental Services

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Date of Meeting:	16 <sup>th</sup> December 2010
Report of:	Head of Safer and Stronger Communities
Subject/Title:	Proposed Amendment of the Cheshire East Borough Council (Off Street Parking Places) (Congleton Area) Order 2010, (the Order) to extend the maximum stay to eight hours – Princess Street Car Park, Congleton: consideration of objections received

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### 1.0 Report Summary

This report sets out the objection received in respect of the proposal to amend the Order as it relates to the maximum period a vehicle may wait within the Charging Hours in relation to Princess Street car park in Congleton.

### 2.0 Recommendation

2.1 The Cabinet Member for Environmental Services is requested to consider the representation received in relation to the proposed amendment to the Order in relation to the maximum period a vehicle may wait within the Charging Hours at Princess Street Car Park, Congleton.

2.2 Subject to the decision in relation to the separate proposal regarding an amendment to the Charging Hours, the Cabinet Member for Environmental Services is further requested:

2.2.1 to resolve whether, in the light of the objections, to approve the proposed amendment to the Cheshire East Borough Council (Off Street Parking Places) (Congleton Area) Order 2010 the effect of which would be as follows:

(a) to extend the maximum permitted length of stay on Princess Street Car Park, Congleton from 3 hours to 8 hours; and

(b) to amend the charging regime to the following: Monday to Saturday inclusive: 9am to 5pm: up to 1 hour: 30p; up to 2 hours: 50p; up to 3 hours: £1.00; up to 4 hours £1.00; up to 8 hours £1.50.

and

2.2.2 if the proposed amendment order is approved, to authorise the Borough Solicitor, or officer acting on her behalf, to make and bring into force the

proposed amendment order (as set out in 2.2.1 above) and to give notice thereof in accordance with statutory requirements.

2.3 If the separate proposal in relation to Charging Hours does not receive approval, the Cabinet Member for Environmental Services is requested:

2.3.1 subject to statutory consultation, to approve an amendment to the Order, the effect of which would be:

(a) to extend the maximum permitted length of stay on Princess Street Car Park, Congleton from 3 hours to 10 hours; and

(b) to amend the charging regime to the following: Monday to Saturday inclusive: 9am to 5pm: up to 1 hour: 30p; up to 2 hours: 50p; up to 3 hours: £1.00; up to 4 hours £1.00; up to 10 hours £1.50.

2.3.2 to authorise the Borough Solicitor, or officer acting on his behalf, to publish a notice of proposals in relation to the proposed amendment order, with any objections to be made within the statutory consultation period of 21 days. In the event that objections are received, for these to be referred back to the Cabinet Member for consideration at a future meeting.

2.3.3 in the event that no objections to the proposed amendment order are received, to authorise the Borough Solicitor to make and bring into force the proposed amendment order (as set out in 2.3.1 above) and to give notice thereof in accordance with statutory requirements.

### **3.0 Reasons for Recommendation**

3.1 At a meeting on 19<sup>th</sup> October 2010 the Cabinet Member for Environmental Services authorised the publication of a 'notice of proposals' in relation to proposed amendments to the Order as it relates to the maximum period a vehicle may wait within the Charging Hours in relation to Princess Street car park, Congleton. An objection has been received in response to the notice of proposals. For this reason, in accordance with the Local Authorities' Traffic Orders (Procedure)(England and Wales) Regulations 1996, the matter has been referred back to the Cabinet Member so that he may consider the objection. Details of the objection, together with a response to it, are set out within paragraph 10 below.

3.2 The proposed maximum stay of 8 hours is to be in line with the proposal in a separate report to change Charging Hours in Congleton town centre off street car parks (including Princess Street) to 8 hours (i.e. 9am to 5pm). The statutory consultation for that proposal will run simultaneously with that relating to the proposal within this report. Should that proposal for any reason fail, this will also necessitate a revision to the proposal in respect of Princess Street. A suggested amended proposal is set out within paragraph 2.3.1 in the event that the separate proposals in relation to Charging Hours do not receive approval.

#### **4.0 Wards Affected**

4.1 Congleton Town West

#### **5.0 Local Ward Members**

Councillors Gordon Baxendale, Roland Domleo and David Topping

#### **6.0 Policy Implications**

6.1 None significant: minimising of vehicle movement through parking control should remain effective after the proposed changes.

#### **7.0 Financial Implications**

7.1 A small income increase initially of 20% (£5000 per annum) may be expected due to the increased facility for long stay parking.

7.2 There will be some costs required in year 2010/11 for altering signs, lines and administration and statutory advertising which will be absorbed in existing budgets. These should not exceed £2000.

#### **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 **S 122 Duty** : Section 122 of the Act imposes a general duty on the local authority to have regard to certain factors when exercising its functions under the Act, including car parking order making. Section 122 states the following:

8.1.1 *'It shall be the duty of every local authority upon whom functions are conferred by or under this Act, so to exercise the functions conferred on them by this Act as (so far as practicable having regard to the matters specified in subsection (2) below) to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway.'*

8.1.2 The matters specified under s122(2) are as follows:

- (a) *the desirability of securing and maintaining reasonable access to premises;*
- (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;*
- (c) *the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy);*
- (d) *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; and*

(e) *any other matters appearing to the local authority to be relevant.'*

8.1.3 It is considered that the change proposed in this report will not adversely affect the fulfilment of the Authority's duties under s122(2). The changed hours for charging are a response to councillors', officers' and business owners' observations that this car park is underutilised as a short stay. The change will make it easier for some longer stay vehicles to find a safe and convenient parking space that does not compromise the availability of short stay space in the centre. Therefore the change is unlikely to compromise access, safety or air quality.

8.2 Changing the charging hours of the Car Parks requires the proposing and making of an amendment order to amend the Original Order. The procedure for making such an order is prescribed within the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996.

8.3 In accordance with the Regulations a 'notice of proposals' was published in the Congleton Chronicle on 11<sup>th</sup> November 2010. Consultation has also taken place with prescribed bodies, including the Chief Officer of Police. The Council is required to take into consideration any objections received within the 21 day consultation period. An objection has been received and therefore the matter has been referred back to the Cabinet Member.

8.4 Public inquiry

When considering whether to make an order under the Road Traffic Regulation Act 1984, the Cabinet Member will be aware of the discretion he has to hold a public inquiry. Factors which ought to take into account in deciding whether or not an inquiry should be held are;

- the complexity of the proposals;
- the nature of the objections received;
- whether the decision maker is able to take into account competing arguments and weigh them against each other;

8.5 The discretion as to whether to hold a public inquiry or not should be exercised according to rules of natural justice, i.e. fairly in all the circumstances. Any decision is not to be based on any self-imposed rule of policy or practice and therefore the decision must be made in relation to the present circumstances. It must not be based upon any previous presence or absence of an inquiry in similar proposals, nor must it be based upon a fear of setting a 'precedent'.

8.6 Making of an order

As soon as practicable after an order is made the Council is required to place a copy of the order with the documents on deposit at the Council's offices and, within fourteen days of the making of the order publish a 'notice of making'; inform any person who has objected to the order of the order being made; and ensure adequate publicity is given to the making of the order. A six week high court challenge period will then follow from the date the order was made.

## **9.0 Risk Management :**

N/A

## **10.0 Background and Options**

- 10.1 As the Cabinet Member will recall on 19<sup>th</sup> October he was asked to consider a report in relation to a proposal to amend the period a vehicle may wait within the Charging Hours at Princess Street Car Park, Congleton from 3 hours to 8 hours and to amend the tariff for parking accordingly.
- 10.2 As set out within the legal implications above, a 'notice of proposals' was published in the Congleton Chronicle and on site on 11<sup>th</sup> November 2010. The notice specified that any objections to the proposals were to be received by 2<sup>nd</sup> December 2010. An objection has been received, details of which are set out below, and therefore the matter has been referred back to the Cabinet Member for consideration.
- 10.3 The objector makes reference to the proposals and states that she cannot support the proposed amendments and states that the introduction of a charging regime should not have happened. The text of the original objection is shown as Appendix I.
- 10.4 In response to this objection, it is suggested that neither of the allegations within the objection are strictly relevant to the change proposed. However, it is considered, that the removal of charges altogether is not advised as this would run counter to the Council's policy of seeking to control and regulate vehicle movements in the town centre, in order to improve availability of parking space for visitors to the centre and its businesses. As reported to the Cabinet Member on 19<sup>th</sup> October 2010, occupancy of this car park has been low in recent months since the introduction of control through charging. Following the Car Parking Review and consultation with the Ward Councillors, Town Councillors and the Business Association, it was considered that this change would increase options for long stay users near to the centre and help reduce displacement parking in adjacent streets. However it was agreed also to retain the short stay fees as the car park does serve local shops, businesses and the market. Princess Street car park holds eighty-two bays and so does have sufficient capacity to accommodate longer stay as well as shorter stay customers.
- 10.5 The Cabinet Member is requested to consider the objection received and to determine whether, in light of it, to approve the making of an order in the terms within paragraph 2.2.1 above. The alternative options are either (i) not to approve any amendment to the order; or (ii) to propose further modifications to the Order. It should be noted that if any proposed modifications would make a substantial change in the proposed order, before making an order the authority is required to take such steps as appear appropriate for (a) informing 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. If the separate proposal in relation to Charging Hours does not receive approval, the Cabinet Member is requested to consider a suggested amendment order to extend the maximum period of waiting to 10 hours and to adjust the tariff bandings accordingly. Any such proposal would be subject to further consultation.

#### **11.0 Access to Information**

Background Documents: Appendix I Objection received (see below).

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## Appendix I

Dear Sir/Madam

My comment on your proposed amendments to 1) on-road parking hours and 2) changes to status of car parks is as follows.

Parking charges were introduced despite almost 100% opposition by Congleton residents. There was no problem for parking charges to 'solve' and there was no meaningful consultation - far from it. There are now more than 40 empty shops and the car parks are little patronised.

I see the proposed amendments as akin to the council deciding to build a bitterly-contested motorway outside my house then saying they have changed their minds and it will be merely a dual carriageway, that is a change to something which should never have happened in the first place. In these circumstances I cannot support them.

yours sincerely