

CHESHIRE EAST COUNCIL

Cabinet Member for Environmental Services

Date of Meeting: 21st March 2011
Report of: Head of Safer and Stronger Communities
Subject/Title: Proposed Amendment of the Borough of Crewe and Nantwich (General)(Off Street Parking Places) (Consolidation) (Minor) Order 2008 ('the Order') in relation to permits for parking on specified car parks in Nantwich – consideration of representations
Portfolio Holder: Councillor Rod Menlove

1.0 Report Summary

This report sets out the representations received in respect of the proposal to amend the Order as it relates to the sale and use of permits in relation to Love Lane, Snow Hill and First Wood Street Car Parks in Nantwich.

2.0 Recommendations

2.1 The Cabinet Member for Environmental Services is requested to consider the representations received in relation to the proposed amendment to the Order in relation the issue and use of permits in relation to Love Lane, Snow Hill and First Wood Street Car Parks in Nantwich.

2.2 The Cabinet Member for Environmental Services is further requested:

2.2.1 to resolve whether, in the light of the representations, to approve the proposed amendment to the Borough of Crewe and Nantwich (General) (Off Street Parking Places) (Consolidation) (Minor) Order 2008 the effect of which would be to make provision for the sale and use of annual and seasonal (i.e. quarterly) parking permits for use in relation to Love Lane Car Park, Nantwich, Snow Hill Car Park, Nantwich and First Wood Street Car Park, Nantwich, the cost of which would be as follows:

Annual charge: £495
Quarterly charge: £135

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.

3.0 Reasons for Recommendation

- 3.1 At a meeting on 16th December 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 sale and use of permits in relation to Love Lane, Snow Hill and First Wood Street Car Parks in Nantwich. Objections have 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 objections. Details of the objections are set out within paragraph 10 below.

4.0 Wards Affected

- 4.1 Nantwich

5.0 Local Ward Members

Councillors B Dykes, A Martin and A Moran

6.0 Policy Implications - Climate Change and Health

- 6.1 The proposal is in line with the existing policy of sale of permits elsewhere in the Borough. Additional information is provided within the responses to the objections.

7.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)

- 7.1 There will be costs of approximately £550 associated with the publication of a 'notice of making.' These costs will be managed within existing budgets.
- 7.2 Currently, spare capacity exists on most days in First Wood Street and Snow Hill car parks as turnover is good at present, (more than 2 per bay per day on average). However, until the take-up of contracts is known it is difficult to quantify the full financial impact on income levels.

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 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 Nantwich Chronicle on 9th February 2011. 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. Objections have 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 16th December he was asked to consider a report in relation to a proposal to amend the Order in order to make provision for the sale and use of permits in relation to Love Lane, Snow Hill and First Wood Street Car Parks in Nantwich. The report to the Cabinet Member suggested that annual and quarterly permits would represent a convenient alternative to those customers who park most regularly in the town of Nantwich, especially those who work there. The report also indicated (i) that the proposed charges were in line with the current contract charges elsewhere in the Borough where daily charges are equivalent to those in Nantwich; and (ii) that the price represented a discount of 35% for customers parking up to 305 days per annum or an equivalent of £1.62 per day.
- 10.2 As set out within the legal implications above, a 'notice of proposals' was published in the Nantwich Chronicle and on site on 9th February 2011. The notice specified that any objections to the proposals were to be received by 3rd March 2011. A number of representations have been received in relation to the proposals, details of which are set out below. As the representations include objections to the proposals the matter has been referred back to the Cabinet Member for consideration.
- 10.3 Attached as Appendix 1 is the representation received from Sustrans. Appendix 1 also includes a response by the Parking Services Manager to the points raised together with further points submitted by Sustrans and a response to these. Attached as Appendix 2 is a representation made on behalf of the Environment and Quality of Place Group of the Nantwich Local Area Partnership. Attached as Appendix 3 is a representation including comments from members of the South Cheshire Chamber of Commerce &

Industry. Officer comments in response to the points raised are shown in italics. A further representation has also been received from an individual who states “I wish to support this proposal. It will make parking easier for business owners and regular visitors to the town.”

- 10.4 The decision as to whether to proceed with the proposal hinges mainly on whether it will encourage increased long stay parking in the town causing less availability for shorter stay customers; this does not appear to have happened in the other towns of Cheshire East where permits are offered. However the parking stock is relatively small in Nantwich and the success of this scheme (in avoiding more congestion) depends upon the Council limiting sales of permits to a small percentage of the total space
- 10.5 The Cabinet Member is requested to consider the objections received and to determine whether, in light the objections, 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.

11.0 Overview of Year One and Term One Issues

Not applicable

12.0 Access to Information

Appendices 1 – 3: Representations received

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