

**Derbyshire County Council**

**Cabinet Meeting**

**20 March 2007**

Report of the Strategic Director - Environmental Services

**Decriminalised / Civil Parking Enforcement (Sustainable Communities)**

**(1) Purpose of Report**

(i) To advise Cabinet of the current options available for this Authority adopting Decriminalised Parking Enforcement (DPE), soon to be known as Civil Parking Enforcement (CPE) powers in Derbyshire. And seek approval in principle to the adoption of DPE powers within the County.

(ii) To report the findings of a Feasibility Study and to seek approval to progress towards the implementation of DPE through Agency Agreements.

(iii) To seek authority to prepare an application to the Secretary of State for Transport for enforcement powers for Derbyshire subject to final approval by Cabinet.

(iv) To seek delegation of powers to Cabinet Member for Sustainable Communities to make decisions on the contracting and working arrangements leading to the approval of the application to the Secretary of State for Transport for enforcement powers for Derbyshire.

**(2) Information and Analysis**

**Background**

Since 1991 Authorities outside London have been allowed to apply for DPE powers, where they employ the enforcement staff and the income from penalty charges is retained by the local authority and finances the enforcement operation, and many have done so.

The 1991 Road Traffic Act permits highway authorities to apply to the Secretary of State to become a Special Parking Area (SPA) / Civil Parking Area (CPA). Once a SPA / CPA application is approved, the power to enforce parking, loading and waiting restrictions passes from the Police to the local council on a specified date.

More recently the Traffic Management Act (TMA) 2004 has given the Highways Agency and councils, as Local Traffic Authority (LTA), powers and a duty to keep roads clear and traffic moving. They will now have to focus more sharply on tackling causes of congestion and disruption. Under this legislation local authorities will take over certain moving traffic enforcement roles from the police.

Part 6 of the Traffic Management Act 2004 includes powers to make regulations for the civil enforcement, by local authorities, of parking and waiting restrictions, bus lanes and some moving traffic offences. These regulations will replace, in due course, existing powers in national and London local legislation. It will give authorities, as LTAs outside London, civil enforcement powers to cover some moving traffic offences (such as ignoring the rules at box junctions and banned turns) using camera evidence, and additional powers in respect of parking enforcement which already exist in London. The DfT has implied that they will use reserve powers under the TMA 2004 to require a local authority to take on DPE powers, if they feel the authority is not making progress towards DPE, when it should be doing so.

### **Advantages of DPE / CPE**

Local authorities will be able to ensure that parking policies are implemented effectively with consequent benefits to parking flow, better management of overall traffic levels, a fairer distribution of parking places and an improved environment. This integration of enforcement and parking policy will provide better monitoring of the effectiveness of parking controls and enable the local authority to be responsive to the public's needs. The Guidance issued by Government also highlights the need to integrate both on and off-street parking enforcement.

DPE / CPE will bring benefits to the community by:

- Releasing the police to concentrate fully on crime fighting.
- Encouraging sensible and safe parking.
- Easing congestion on the roads.
- Improving safety for drivers and pedestrians.
- Allowing buses and authorised service vehicles to operate more effectively.
- Improving the general environment.
- Improving access to shops, offices, schools and other premises.
- Improving enforcement of disabled bays / permit holders bays.
- Integration of on-street with off-street parking (car parks) enforcement for, which District or Borough Councils are responsible, is possible.
- Enabling the Council to introduce new restrictions and to enforce them.
- Introducing single responsibility for parking means greater clarity and simpler perception to the general public.

## **Current Position**

In April 2004 the Cabinet Member for Environment and Highways approved the appointment of specialist consultants, RTA Associates Ltd, to undertake a Feasibility Study into DPE in Derbyshire. As the highway authority, Derbyshire County Council has been taking the lead on the feasibility study into DPE on a county-wide basis, involving both off and on-street parking in all eight District and Boroughs. It has included the production of detailed financial assessments with reference to current off and on-street parking arrangements and forecast costs based upon the various enforcement operating methods. It is appreciated that some District and Borough Councils have dual role wardens, where they have ambassadorial and neighbourhood warden functions in addition to car park enforcement. Unfortunately, current legislation does not allow parking attendants under DPE/CPE to have any other roles; therefore Derbyshire County Council can not support dual role parking attendants at present. However, discussions will continue on this matter. The findings and recommendations of the Feasibility Study are summarised in Appendix 1.

## **The Feasibility Study Findings**

The Feasibility Study by the Consultants was guided by advice from within the Traffic Management Act 2004 which states that by retaining the income from the Penalty Charge Notices (PCNs) it should be possible for the enforcing authority to manage the scheme in a way that is at least cost neutral to the authority.

On the basis of the above the Study by the Consultants looked to assessing the financial viability in all Districts and Boroughs under the different operating methods and subsequently the Feasibility Study makes recommendations on the method of operation for DPE. The Feasibility Study has involved officers from both this Authority and the District and Borough Councils, who have supported the outcomes.

The financial models produced by RTA Associates have indicated that a method of operation employing services from an external contractor will minimise initial set up costs, accommodation costs, uniform and equipment costs, whilst also providing the required numbers of enforcement staff.

It is also recommended that to ensure a consistent service Derbyshire the Authority centrally procures this service that is then available as a framework arrangement for use by District and Boroughs. This would give a flexible service, with fixed known rates that can be adjusted to suit the level of enforcement required during the hours required, with the ability to increase or decrease as desired to match actual changing needs. The enforcement staff could be managed, where appropriate, by the Districts and Boroughs on behalf of this authority, with careful control and monitoring imposed by the County Council's Traffic Manager.

To avoid having eight ticket processing units with each requiring accommodation, with associated set up costs and large IT costs, economies of scale can easily be achieved by having one Central Ticket Unit (CTU). This CTU would be procured by this Authority and the provision of accommodation, staff and IT etc would be specified by the procurement process but it would be the responsibility of the CTU to provide and manage. It would process all the PCNs issued on-street and also for those who have an off-street enforcement regime, for issuing authorities for a fixed fee per PCN issued. This service would also include the establishment of an on-street account and an off-street account, where appropriate, for every District and Borough. This is a central Government requirement so that expenditure and income for on and off-street is separate and allows for the accounts to be reported annually to ensure that a balanced enforcement service is being provided that it is financially viable.

Overall it is considered that these proposals will deliver a flexible service, with fixed known costs that can be adjusted to suit the level of enforcement during the hours required. Also built in would be the ability to increase or decrease the operation as desired to respond to changing needs. The actual enforcement staff would be managed, subject to the specific approval from the Authority's Traffic Manager, by the appropriate Authority on behalf of this Authority.

To date the Authority has had meetings with the officers of the District and Borough Councils and has obtained general support for implementing DPE in Derbyshire as soon as possible. Discussions and negotiations are continuing with the District and Borough Councils.

### **The Way Forward**

It is now proposed that further discussions are held with the District and Borough Councils to agree the detailed arrangements regarding staffing levels, on and off-street enforcement levels and PCN procedures to be incorporated in any potential arrangements with each Council.

To prevent delays in taking on DPE / CPE powers it is essential that the procurement process be commenced as soon as is possible. This will not prejudice any future decisions yet to be taken on the final methods of DPE / CPE operation. It will, however, ensure that this option is ready to be implemented without further delay when decisions are made.

(3) **Financial Considerations** To deal with the setting up costs and procedures during 2007 / 2008 financial year, the revenue sum of £317,000 has been allocated as a non recurring cost item of finance from general reserves as approved at Cabinet on 30 January 2007.

(4) **Property Considerations**                      There are no County Council property considerations associated with this report.

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality of opportunity; and environmental, health, legal and human rights and personnel considerations.

(5) **Background Papers**                      The files are held at County Hall, Matlock on file 44XT/DPE.

(6) **Key Decision**                      Yes.

(7) **Officer Recommendations**                      That Cabinet approves:-

7.1    The adoption in principle of Decriminalised Parking Enforcement in Derbyshire.

7.2    The procurement by the County Council of external enforcement contractor and a Central Ticket Unit for use in all eight Districts and Borough Councils.

7.3    That the agreement making process be commenced with the eight District and Borough Councils regarding the details for the operation of DPE / CPE in Derbyshire leading to formal agreements with separate Councils.

7.4    The final Agency Agreements and the application to apply to the Secretary of State for Decriminalised Parking Enforcement powers to be the subject of a future report to Cabinet.

7.5    The authority to make decisions relating to any Agency Agreements on the contracting and working arrangements be delegated to the Cabinet Member for Sustainable Communities.

7.6    That authority to make decisions on processes leading to the final arrangements be delegated to the Cabinet Member for Sustainable Communities.

David Harvey  
Strategic Director – Environmental Services

## **Appendix 1**

### **Summary of Feasibility Study Produced By RTA Associates**

#### **Decriminalised Parking Enforcement in Derbyshire**

##### **What is 'Decriminalised Parking' and how can the powers be gained?**

The decriminalisation of parking enforcement involves the transfer of the responsibility for parking enforcement from the Police to the Highway Authority, as defined in the Road Traffic Act 1991.

The essence of the new arrangements is that highway authorities apply to the Secretary of State for orders decriminalising parking offences within particular geographical areas. Then as the offences are no longer criminal:

- Enforcement becomes the responsibility of the highway authority.
- Parking attendants place penalty charge notices on vehicles parked in contravention.
- The penalty charges are civil debts.
- Representations are made to independent adjudicators.

The proposed operating method needs to give Best Value, needs to cover on and off-street and, most importantly, is acceptable to County as the Highway Authority, the Districts, Boroughs and the DfT. It has to be understood that neither County nor Districts and Boroughs can act independently in this process. It needs the complete understanding and co-operation from all parties for it to succeed.

##### **Feasibility Study**

Derbyshire County employed consultants RTA Associates Ltd in 2004 to undertake the research into the options available and to produce a Feasibility Study. This process included holding discussions with each of the Derbyshire's Districts and Boroughs leading to the production of financial models of the options.

Based upon the study it is proposed that the County will met the set up costs at the outset for each District and Borough. The proposed arrangements have to be proven to be financially viable, for them to be accepted by the DfT, and in some instances it may be necessary to divert a portion of the surplus revenue from one District to pay towards a deficit in another. Initially, the surpluses are used to finance the enforcement and adjudication services. The remaining surplus on street income from both the PCNs and Pay and Display is then ring

fenced under Section 55 of the RTRA 1984 to defined areas of expenditure for traffic management purposes and a decision on whether this income is shared evenly or pro-rata to Districts and Boroughs will need to be made based on the financial modelling of the income streams. These decisions will be made during the “Agreement Making” stage.

Existing off-street parking income, which remains with the districts post DPE, raised through “paid for parking” and the “pay & display machines” is proven in other authorities to increase after the introduction of DPE on-street. This is the result of drivers having to find a legal parking space off-street, rather than parking in contravention on-street. Not only do the numbers using the car parks increase, the number of penalty notices issued off-street increases, the level of the PCN payment is set by Central Government at a minimum £40 (discounted to £20 on early payment) and a maximum £60 (discounted to £30) and the return from the PCN is non VAT-able.

### **Financial implications**

The set up costs in 2007/08 are estimated to be £317k and depend to a large extent on how the scheme is taken forward. The recommended method of operation in Derbyshire not only obtains economies of scale but will produce a consistent service across the County. It should be noted that as there are large set up costs in the first year a deficit will occur in the early years, with a modest surplus to be gained in the longer term. This will require further financial support from appropriate budgets until a surplus situation is reached.

### **Traffic Regulation Order (TRO) provision and Record Management**

A Countywide TRO review including the condition of signs and lines has been completed with the maintenance work to be completed before the authority “goes live” with DPE. An Appropriateness Review has just commenced where all restrictions will be checked to see if they are still required and fit for purpose. Any recommended changes from this will undergo the normal consultation process. The Authority has just installed new software “PARKMAP” which holds computer based records of all TROs. Off-street TROs are the responsibility of each of the Districts and these will need reviewing to ensure they are enforceable under DPE and also current advice is that all car park and machine signing should be reviewed and improved where necessary.

### **Organisational implications**

The financial arrangements that evolve from these ‘partnerships’ are complex and require careful consideration at the outset and ongoing monitoring and adjustment through the term of the agreement.



The on and off-street income budgets are required by law to be separate budgets because, as stated previously, the on-street income is ring fenced to cover clearly defined functions as laid down in Section 55 of the 1984 Road Traffic Regulation Act. An annual submission of accounts must be made to the Secretary of State and the financial systems must be in place to accommodate these requirements.

Agency agreements can be a major source of difficulty within the process and they must be devised with care. They must have the complete backing of all parties to the agreement for them to work in the manner that is proposed. Lengthy negotiations may be required to achieve this aim.

Across the entire County the policies must be consistent and the whole scheme must be project managed by the County Council through to implementation even after implementation the County Council even if the is not ultimately responsible for the management of the enforcement in all Districts and Boroughs. The public will have a clearer view of what is happening, and the impact of displacement parking within the County can be better controlled.

### **Current Position**

This study has created the financial models of all the options that enabled a fully informed recommendation to be made. It is recommended that in Derbyshire the enforcement staff for this service should be provided by external contractors. It is also recommended that to ensure a continuity of service across the County that Derbyshire County Council centrally procures this service that is then available as a framework agreement for use by all Districts and Boroughs. It also recommends that economies of scale can easily be achieved by having one Central Ticket Unit (CTU) procured by Derbyshire County Council. The provision of accommodation, staff and IT etc would be specified by the procurement process but it would be their responsibility to provide and manage. The CTU would process all PCNs issued both on and off-street for all issuing authorities for a fixed fee.

### **Future publicity**

Prior to adopting the powers and actually taking over the enforcement from the Police, it is advisable to undertake a major public relations exercise to avoid conflict and also to minimise the workload through removing uncertainties within the public's perception of the scheme as a whole. A full Public Relations (PR) review will be required to develop the most effective methods of putting the message across without alienating the motorists, residents and other users of the Highway Network. This has to be a joint PR campaign between the County Council and the District and Borough Councils to ensure the same information is being released.