

REPORT TITLE: PARKING ENFORCEMENT ON HOUSING LAND

31 JANUARY 2018

REPORT OF PORTFOLIO HOLDER: Leader with Portfolio for Housing Services –
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WARD(S): GENERAL

PURPOSE

This report proposes the introduction of permit parking on a selected number of housing estates by means of an off-street Traffic Management Order (TMO).

RECOMMENDATIONS:

1. That the proposal to consult with residents on the introduction of permit parking at the 16 locations identified at **Appendix 1** be approved.
2. That where residents are in favour of parking enforcement, consultation be undertaken with the emergency services and other statutory consultees (e.g. GPs, carers and other service providers who undertake home visits).
3. That the Corporate Head of Housing, in consultation with the Leader with Portfolio for Housing Services, be authorised to obtain an off-street TMO for those estates where consultation responses are positive; and to undertake works to ensure that the estates have appropriately marked bays and compliant signage.
4. That the Legal Services Manager be authorised to make any orders as required and advertise them in accordance with regulations.
5. That no charge be made to residents for parking enforcement. This will be reviewed after the first year of operation.

IMPLICATIONS:1 COUNCIL STRATEGY OUTCOME

1.1 The proposals in this report contribute to the delivery of three Council Strategy outcomes:

- *Delivering an entrepreneurial approach to efficient public services* – the proposal will protect and enhance housing land, with the potential to generate a modest revenue
- *Delivering quality housing options and Improving the quality of the District's environment* - parking enforcement will reduce congestion thereby improving the quality of the estate and the surrounding environment.

2 FINANCIAL IMPLICATIONS**Compliant signage and the provision/reinstatement of bays and lines**

2.1 The Engineering and Transport team have reviewed the parking areas at each of the proposed locations and provided estimated costs for the provision/reinstatement of bays and lines and the supply of compliant signage. Total estimated costs are summarised at table 1, below.

Table 1: Estimated cost of lining and signing

Cost of lining bays	£1,312
Cost of signing	£11,500
Total cost of new lining and signing	£12,812
Preliminaries @17%	£2,178
Sub-total	£14,990
Contingencies @10%	£1,499
TOTAL	£16,489

2.2 Some resurfacing work is also required at Penton Place and 8-16 Milland Road which has been costed separately and is summarised below, at table 2.

Table 2: Estimated cost of resurfacing

Penton Place	£10,500
8-16 Milland Road	£11,500
TOTAL	£22,000*
* These costs are inclusive of preliminaries and contingencies but exclude design, tender and site supervision fees which, if undertaken by the Engineering and Transport team, would be circa £3,500 - £4,000 per site.	

- 2.3 Ongoing costs have been identified at some sites for maintaining vegetation and leaf clearance in order to ensure that bays remain clearly visible. This is not currently estimated.

Administration and enforcement

- 2.4 The Council's Parking team have estimated the annual cost of the administration and enforcement functions on behalf of the Housing service. This will include:
- Permit issue. The principal costs here are administrative and stationery
 - On-site enforcement of restrictions by Civil Enforcement Officers (CEO) between 09:00 and 17:00 Monday to Friday, including the issue of Penalty Charge Notices (PCN) when appropriate
 - Post-PCN follow up work including the processing of challenges to PCNs and appropriate action in response to non-payment, the Housing Revenue Account (HRA) has sufficient budget to cover these likely costs.
- 2.5 Estimated annual administration and enforcement costs are set out below, at table 3.

Table 3: Estimated annual cost of administration and enforcement

On-site enforcement - based on 1 x FTE grade 3 (SCP 14-22) Cost based on 2018-19 salary rates and include NI, pension at 15.1% and apprentice levy	£21,752
Leased car – based on a three year contract, 15,000 miles per annum	£3,480
Holiday cover (includes 35% general overheads)	£2,823
Permits and visitor scratch cards- £1 each* NB: This cost will not reduce with the introduction of virtual permits	£3,474
TOTAL	£31,529
*Cost assumes the number of permits per household reflect current arrangements for on-street parking. I.e. For the inner area – one annual resident permit, one visitor permit and two sets of 10 one-day visitor scratch cards. For the outer area – two annual resident permits, two visitor permits and two sets of visitor scratch cards.	

Options for charging residents

- 2.6 Annual expenditure could be offset in part by the introduction of an administration/service charge. This would be payable by all residents irrespective of whether they were car owners. If, for example, this charge was set at an annual rate of £50 per property, the Council would receive an annual revenue of £30,800. This is dependant on the ability to charge in the lease and would only apply to leasehold properties. All leases would need to be checked as service charges may include the maintenance or lining of the areas but may not include ongoing enforcement and this element would need to be removed.

- 2.7 Charges could be levied for permits at the same rate as the on-street parking zones elsewhere in the city. ie. first permit £22; additional permit(s) £70; and visitor scratch cards (per set of ten) £13. However, it will be noted from section 3 of this report that it may not be possible to charge some existing residents for parking without effecting a variation of their tenancy or lease.
- 2.8 Tenancy conditions and leases could be revised to permit charging for parking. However, the time and expense of so doing should not be underestimated. Leaseholders would also incur legal costs.
- 2.9 It is possible to simply absorb the annual revenue cost associated with the administration and enforcement service into the HRA Business Plan from 2018/19, with no direct charges for residents. This is affordable and in the short term has only a minimal impact on the overall plan. However, this cost could increase if and when parking enforcement is implemented at other estates. The capital works costs outlined at Tables 1 and 2 can be met from the Housing Services external ground works budget allocation for 2018/19.
- 2.10 Another option could be to introduce charges for new tenants only. This would avoid the need to revise existing tenancy conditions and would, in time, generate a small revenue to offset against the cost of the service.
- 2.11 On balance, it is recommended that no charge is made for parking enforcement and that this be reviewed after the first year of operation.
- 2.12 In addition, a small revenue from the issue of PCNs can be expected. Evidence has shown that as enforcement becomes established this will reduce. A penalty charge is currently £70 or £50 (depending on the contravention) with a 50% reduction if paid within 14 days.

3 LEGAL AND PROCUREMENT IMPLICATIONS

Legal

- 3.1 Section 32 of the Road Traffic Act 1984 allows local authorities to provide off street parking places where it appears necessary for relieving or preventing congestion of traffic. It may not be possible to charge some existing residents for parking without effecting a variation of their tenancy or lease. For secure tenants who have previously enjoyed the benefits of unallocated parking, the introduction of a charge would be a variation of their tenancy. A tenancy can be varied by consent or by following the process set out in section 103 of the Housing Act 1985. Leaseholders would be entitled to any rights that were available to them as a secure tenant when they purchased pursuant to Paragraph 2 of Schedule 6 of the Housing Act 1985. So if they enjoyed the right to park as a tenant that right will be implied as a leaseholder. As most of the proposed areas are flats, the leases will contain provisions in relation to service charges for common areas and signing and resurfacing may be covered and could be re-charged as a service charge. This would not however include ongoing enforcement costs. The alternatives are to vary the tenancy agreements and leases to allow for parking permits and charging; to

recover costs via the service charge provisions and/or to levy an administration charge, with permits provided free of charge; or to make no charge at all.

Procurement

- 3.2 In terms of the administration and enforcement function, the service could be contracted out to a civil enforcement contractor under a model contract produced by the British Parking Association and the Department for Transport specifically for that purpose. It could also be incorporated into the Housing service with enforcement undertaken by housing staff, and it could be undertaken by the Parking team.
- 3.3 Both the administration and enforcement of the TMO and the provision of compliant signage/lining of bays will be procured in accordance with the Council's Contracts Procedure Rules and the Financial Procedure Rules.

4 WORKFORCE IMPLICATIONS

- 4.1 Resources are identified in the Service Plan 2017/18. Legal resource will be required to make and maintain the traffic orders.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 Parking enforcement will improve the overall appearance of the estates by ensuring best use of available parking land.

6 CONSULTATION AND COMMUNICATION

- 6.1 Residents at each estate will be consulted on the introduction of parking enforcement. This will include proposals for funding the service, and what provision is made for parking for people with disabilities. Consultation will be based on the written format used for parking enforcement by the Engineering and Transport team. To proceed formally with the proposal, the majority of residents at each estate must be supportive.
- 6.2 A draft of this report was presented to the Tenants' Panel on 16 January 2018. Members of the Panel welcomed the proposal to introduce parking enforcement on housing land; recognising that parking by non-residents at some of the Council's estates is an issue of increasing concern for many residents.
- 6.3 Members of the Panel made the following observations:
- Rather than undertaking consultation with residents by letter, it may be more appropriate to schedule a series of estate-based meetings. This will ensure that residents fully understand the proposals prior to making their formal response.

- Parking on grass verges and other non-designated areas is also a problem at some estates. The proposal to extend enforcement to areas of “No Parking “where appropriate was endorsed.
- Parking is not just a problem at the 16 estates earmarked for consultation. It was noted that the successful implementation of the current proposals may result in an increased demand for enforcement at other locations
- The need to prevent the opportunity for permits to be sold or rented was recognised, and members of the Panel welcomed the proposal for estate-specific permits that are registered to individual vehicles.
- Regular enforcement at each estate will be essential if the scheme is to be effective.
- Would larger households be entitled to a greater number of parking permits than smaller households? It was noted that some of the larger properties that are now privately owned are occupied by multiple households, most frequently students. The Panel was advised that entitlement to permits would be per property, irrespective of the number of inhabitants therein.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 Controlling parking on housing land will help to reduce the traffic congestion associated with free parking on a first come first served basis, enhancing the immediate environment and the wellbeing of residents.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 As a landlord, the Council’s duties under the Equality Act 2010 require that it make reasonable adjustments to ensure that people with disabilities can access facilities and services. Designated parking spaces are currently made available upon request, but the absence of parking controls has made it difficult to restrict their use.
- 8.2 The introduction of measures to enforce parking will provide an opportunity to review this provision on an estate-by-estate basis in consultation with residents, prior to the equality impact assessment of all subsequent proposals.

9 RISK MANAGEMENT

Risk	Mitigation	Opportunities
<i>Property N/A</i>		
<i>Community Support</i> Residents at some estates have previously raised concerns about charges associated with parking enforcement	It is recommended that no charge is made for parking enforcement	
<i>Timescales N/A</i>		
<i>Project capacity</i>	Resources to progress these proposals are	

	identified in the Service Plans for 2017/18 and 2018/19	
<i>Financial / VfM</i> That there are insufficient resources to cover the full revenue and capital costs of implementing parking controls	The capital cost can be met from proposed budgets for 2018/19. The annual revenue cost can be absorbed into the HRA Business Plan from 2018/19, with no direct charges for residents	
<i>Legal</i> Legal guidance has confirmed that existing residents cannot be charged for parking	It is recommended that no charge is made for parking enforcement	
<i>Innovation</i> N/A		
<i>Reputation</i> The Council has been criticised by residents for not taking steps to prevent non-residents parking on its estates	The proposals to introduce parking enforcement demonstrate the Council's commitment to addressing this issue	

10 SUPPORTING INFORMATION:

Background

- 10.1 The absence of parking enforcement on most of the Council's housing estates is widely known amongst non-resident vehicle users, who take advantage of the convenient and freely available parking. This is a particular problem in central Winchester, and provides commuters, students and those who work locally with an attractive alternative to paid parking.
- 10.2 With adult children tending to remain in the family home for longer nowadays, three and four car households are not unusual on the estates that provide family accommodation. Consequently, there is a high demand for parking from residents themselves.
- 10.3 This excessive demand for limited parking means that both residents and non-residents frequently resort to parking in non-designated areas such as those adjacent to garage sites. As a result, in some areas there is also a need to enforce "No Parking".
- 10.4 Whilst significant estate improvement funds have been invested in additional parking for residents, this has frequently been exploited by non-residents. For example, in 2014/15 the Estate Improvement Programme funded a £122,000 investment in 57 additional parking spaces at Winnall, but parking has

remained difficult for residents due to the demand mostly from non-resident Royal Mail workers.

- 10.5 Parking enforcement on housing land is currently in place at Airlie Corner, Stanmore and Greyfriars, Eastgate Street. Since implementation, there has been a significant reduction in the volume of (predominantly verbal) complaints from residents to visiting housing staff.

Options for enforcing parking on housing land

- 10.6 Various options are available to local authorities in terms of off-street parking enforcement. A review of the approaches taken by several other authorities during 2017 revealed that the majority are obtaining TMOs under the Road Traffic Regulation Act 1984, and enforcing them under the provisions of the Traffic Management Act 2004.
- 10.7 The Traffic Management Act 2004 allows local authorities to act against the keeper of an unauthorised vehicle, even if they are not the driver. This is the most effective way of enforcing parking control on housing land as the Act permits an authority to identify the keeper of a vehicle via access to DVLA records.
- 10.8 This approach reflects guidance from the Department for Transport, who in 2014 strongly recommended against enforcing off-street parking outside this framework. It is endorsed by independent legal guidance which has been obtained from the British Parking Association's (BPA) free advice line *Lawline*; and also the Council's Legal team.
- 10.9 It is therefore proposed that residents of the 16 estates listed at **Appendix 1** be consulted on the introduction of parking enforcement by means of an off-street TMO. There is clear evidence that the demand for parking exceeds available provision at each location. On some estates the demand from non-residents has been fuelled by the introduction of on-street restrictions elsewhere, and this has quite understandably impacted on resident satisfaction. Untaxed and/or abandoned vehicles are also an issue, with housing land providing an opportunity to locate these vehicles off the public highway.
- 10.10 Since the aim of enforcement is principally to deter commuters and those who work locally, parking restrictions will, initially at least, apply between 09:00 and 17:00 Monday to Friday. Parking for permit holders will be on a first come first served basis.
- 10.11 It is proposed that estate-specific housing permits be introduced to enforce parking on housing land to differentiate between parking for the residents of a particular estate and other permit-holding households. This is the most effective way of preventing non-residents from parking on housing land.
- 10.12 As with on-street parking enforcement, permits will be registered to specific vehicles. General housing permits could be issued, but the system would be

more open to abuse, with the opportunity for permits to be sold or rented to non-residents.

- 10.13 Initially, the only exception to this will be the Winnall flats, because on-street parking enforcement is already in place in the immediate locality. To prevent residents having to acquire two separate permits, permits will be the same for both on-street and off-street parking, reflecting the arrangements already in place at Greyfriars and Airlie Corner.
- 10.14 It is proposed that this arrangement also be applied eventually at Trussell Crescent (and access road), Weeke. Proposals to consult residents on increasing and formalising parking provision were presented to Cabinet (Housing) Committee in November 2017.

The process of obtaining a TMO

- 10.15 The process of obtaining a TMO is as follows:
- Consult residents (recommendation 1)
 - Where residents are supportive, consult with the emergency services and other statutory consultees (recommendation 2)
 - Obtain authority to proceed (recommendation 3)
 - Legal services draft the TMO, identifying on an estate by estate basis where parking will be permitted, and where “No Parking” will be enforced
 - Advertise proposed TMO on street and in a newspaper circulating in the area, allowing 21 days for comments and/or objections (recommendation 4)
 - Obtain Cabinet or Portfolio Holder approval to implement order (which this depends on the number of objections received)
 - Ensure signage, lining/surfacing of parking bays are in place
 - Implementation of order.
- 10.16 A separate TMO is not required for each area of housing land. All the estates earmarked for initial consultation will be covered by a single TMO; however additional estates can be added as a variation to the TMO at future dates by following the process outlined above.

11 OTHER OPTIONS CONSIDERED AND REJECTED

- 11.1 Parking enforcement can also be undertaken by private companies under Contract law and under the law of Trespass. The BPA’s *Lawline* considers that enforcement under Contract law is generally preferable to enforcement under the law of Trespass, and some local authorities have adopted this approach. However, accessing keeper details from the DVLA is difficult in this scenario (because it is only permissible under the Traffic Management Act 2004), and so enforcement action is less effective. Enforcement under both Contract law and the law of Trespass is also contrary to advice from the Council’s Legal team (on the basis that there is already a statutory procedure

for local authorities to control parking through TMOs); and the Department of Transport's 2014 guidance.

- 11.2 A further option would be to take no enforcement action at all. But it is reasonable to expect that problems with non-residents parking on housing land will worsen over time rather than improve, thereby affecting the quality of life for residents as well as the quality of the immediate environment.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB2550 (HSG) 4 February 2014: Estate Improvements – Winnall Flats.

CAB2979 (HSG) 22 November 2017: Estate Improvements – Trussell Crescent, Weeke.

Other Background Documents:-

None.

APPENDICES:

Appendix 1: Proposed locations for parking enforcement.

Proposed locations for parking enforcement

Estate	Permit zone	Accommodation type (sheltered/family)	Unit types, size & tenure ¹	Total units
1. Fulflood Court, Greenhill Road, Winchester (City centre)	Outer	Family	10 x 2 bedroom flats (rented) 7 x 2 bedroom flats (leasehold)	17
2. Albert Court, Andover Road, Winchester (City centre)	Inner	Family	20 x 1 bedroom flats (rented) 1 x 1 bedroom flat (leasehold) 3 x 2 bedroom flats (rented)	24
3. St Johns Street, Winchester (City centre)	Inner	Family	2 x 1 bedroom flats (rented) 2 x 2 bedroom flats (freehold)	4
4. Valley Court, The Valley, Winchester (Stanmore)	Outer	Family	14 x 1 bedroom flats (rented)	14
5. Penton Place, Test House & Meon House, Milland Road, Winchester (Highcliffe) (Includes parking adjacent to nos. 8-16 and 27-49 Milland Road)	Outer	Family	51 x 1 bedroom flats (rented) 3 x 1 bedroom flats (leasehold) 7 x 2 bedroom flats (rented)	61
6. Normandy Court, Station Close, Wickham	N/A	Sheltered	31 x 1 bedroom flats (rented) 6 x 2 bedroom flats (rented)	37
7. Mildmay Court, Eastgate Street, Winchester (City centre)	Inner	Sheltered	1 x bedsit (rented) 32 x 1 bedroom flats (rented) 1 x 3 bedroom house (rented)	34
8. Richard Moss House, St Peter Street, Winchester (City centre)	Inner	Sheltered	32 x 1 bedroom flats (rented) 17 x 2 bedroom flats (rented)	49
9. Danemark Court, Gordon Road, Winchester (City centre)	Outer	Sheltered	29 x 1 bedroom flats (rented) 6 x 2 bedroom flats (rented)	35
10. Matilda Place, Gordon Road, Winchester (City centre)	Outer	Sheltered	6 x bedsits (rented) 14 x 1 bedroom flats (rented)	20
11. Hyde Gate, Winchester (City centre)	Outer	Sheltered	11 x 1 bedroom flats (rented) 7 x 2 bedroom flats (rented)	18
12. Winnall Flats, Winnall Manor Road, Winchester	Outer	Family	4 x bedsits (rented) 34 x 1 bedroom flats (rented)	156

¹ Unit totals will exclude any freehold sales prior to 1994-95

Estate	Permit zone	Accommodation type (sheltered/family)	Unit types, size & tenure ¹	Total units
			6 x 1 bedroom flats (leasehold) 90 x 2 bedroom flats (rented) 22 x 2 bedroom flats (leasehold)	
13. Lent Hill Court, The Valley, Winchester (Stanmore)	Outer	Temporary accommodation	1 x bedsit (rented) 8 x 2 bedroom houses (rented)	9
14. Lisle Court, Stuart Crescent, Winchester (Stanmore)	Outer	Sheltered/family	16 x 1 bedroom flats (rented) 1 x 2 bedroom flat (leasehold) 1 x 3 bedroom flat (rented) 5 x 1 bedroom bungalows (rented)	23
<u>15.</u> Woolford Close, Winchester (Stanmore) <i>(Includes Wilberforce Close – parking only)</i>	Outer	Family	31 x 2 bedroom flats (rented) 16 x 2 bedroom flats (leasehold)	47
15. <u>16.</u> Thurmond Crescent, Winchester (Stanmore)	Outer	Family	26 x 2 bedroom flats (rented) 10 x 2 bedroom flats (leasehold) 25 x 3 bedroom houses (rented) 7 x 3 bedroom houses (freehold)	68
TOTAL UNITS	Inner - 111 Outer - 468 N/A - 37			616