

HIGHWAYS OPERATIONAL MATTERS

To: **Cabinet**

Date: **8th September 2009**

From: **Executive Director : Environment Services**

Electoral division(s): **All**

Forward Plan ref: **2009 / 044**

Key Decision: **Yes**

Purpose: **To consider:**

- i. **a clarification of the charges for road adoption agreements; and**
- ii. **a protocol for the enforcement of new parking regulations issued under the Traffic Management Act 2004.**

Recommendation: **Cabinet is recommended to:**

- i. **approve the clarification of the road adoption agreement charges set out in Appendix A; and**
- ii. **support the enforcement protocol for parking enforcement set out in Paragraph 2.5, with a further review to be undertaken in March 2010.**

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|--------------------------------|--|------------------------------|--|
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1. HIGHWAY CHARGES

- 1.1 In 2008, various highway policies were brought together in a single document called the Highway Network Management Policies and Standards which Cabinet reviews annually, in the Spring. The document sets out the charges levied for various highway services which are varied in line with inflation each year.
- 1.2 The policy document sets out the charges for development control (section 38, 106 & 278) agreements that are currently levied. However, the wording does not reflect the long standing practice of calculating the fees for these agreements based on a bond sum rather than the works costs. The bond sum, which sets the level of financial surety provided by a developer should they fail to complete the work, is calculated on 110% of the expected construction costs.
- 1.3 **Appendix A** shows the relevant extract from the policy document along with a modified version to better reflect current operational arrangements.

2. CIVIL PARKING ENFORCEMENT (CPE)

New regulations

- 2.1 Sections 85 and 86 of the Traffic Management Act 2004 (TMA) came into force on 31st March 2008. These sections prohibit double parking and parking at dropped footways in special enforcement areas. The prohibitions in these sections are enforceable as if imposed by a Traffic Regulation Order. Following consultation, Government has introduced new regulations that mean that traffic signs and road markings are not required to enforce these prohibitions. These regulations came into operation on 1st June this year. The County's response to consultation, which was considered by the relevant Cabinet portfolio holder, is available as a source document.
- 2.2 Where they are responsible for enforcement, the police may take action against a vehicle that is parked causing an unnecessary obstruction whether or not this is indicated. The Highway Code states that it is an offence to leave a vehicle or trailer where it causes an unnecessary obstruction of the road and that vehicles should not be stopped or parked where the kerb has been lowered to help a wheelchair user or powered mobility vehicle, or in front of an entrance to a property. Therefore, Government believes motorists are aware that they should not park at dropped footways and that the indication of these prohibitions with traffic signs and/or road markings is not necessary and adds to street clutter.
- 2.3 The regulations define double parking as any parking where the vehicle is parked greater than 0.5 metres from the kerb.
- 2.4 Government considers the changes to the regulations will provide consistency in relation to the prohibitions against double parking and parking on dropped curbs, avoiding confusion for motorists that use both areas.

Operational protocol

- 2.5 Officers remain concerned over the number of challenges that may be raised through the adjudication service if the new regulations are enforced under civil parking arrangements (which currently only operate in Cambridge). If there are a large number of challenges there is a reputational risk for the authority which could undermine the good work done since CPE was introduced in Cambridge.

It is suggested that the following operational protocol be adopted, initially, that would be reviewed through experience as part of the annual policy review in the Spring:

Drop kerbs: only take enforcement action at private accesses where an access protection marking is provided to identify the location of a private access and at pedestrian drop kerbs where tactile paving is provided to highlight its existence.

Double parking: only take enforcement action where vehicles are parked alongside other motor vehicles

Policy Development Group

- 2.6 At its meeting on 15th July, the Highways and Transport PDG, considered the above operational protocol and expressed support.

3. RESOURCES & PERFORMANCE INFORMATION

Performance

- 3.1 One of the performance indicators for CPE is the level of appeals against penalty charge notices (parking tickets). The recent Government guidance carries with it a greater risk of appeals being lodged. Impact: Some

Key Risks

- 3.2 Enforcement action for parking at dropped kerbs and for double parking offences risks damaging the council's reputation through being considered as too zealous in its approach to parking enforcement. Equally, a failure to address these parking issues may also damage reputation. In order to manage these risks it is proposed to adopt the protocol set out above and monitor the situation.

Finance

- 3.3 Unless the charges for development control agreements are amended, the budgeted level of income generated through the development control may not be realised. impact: Some
- 3.4 No significant implications have been identified under the following headings:
- Property and Facilities Management
 - Best Practice
 - ICT
 - Human Resources
 - Statutory Duties / Requirements

- Partnerships
- Climate Change
- Greenhouse Gas Emissions
- Environment
- Inclusion
- Crime and Disorder
- Voluntary Sector
- Equality and Diversity
- Transport
- Engagement and consultation

Source documents

Location

Part 6 TRAFFIC MANAGEMENT ACT 2004
(TMA): Enforcement of dropped kerb and double
parking prohibitions

ET 1028
Castle Court
Cambridge

Government consultation

DEVELOPMENT CONTROL HIGHWAY CHARGESExisting wording

| Item | Charge | Comment | Annual index |
|--|--------------------------------------|---------|--------------|
| Development control | | | |
| Highways Act Section 38 road adoption agreement | 7.5% of works cost plus legal costs | | N/A |
| Section 106 planning agreement | 7.5% of works costs plus legal costs | | N/A |
| Highways Act Section 278 highway works agreement | 7.5% of works cost plus legal costs | | |

Amended wording

| Item | Charge | Comment | Annual index |
|--|---|---------|--------------|
| Development control | | | |
| Highways Act Section 38 road adoption agreement | 7.5% of the bond sum calculated by the County Council based on linear metre cost of works plus legal costs (Bond sum based on 110% of construction costs) | | N/A |
| Section 106 planning agreement | 7.5% of the bond sum calculated by the County Council plus legal costs (Bond sum based on 110% of construction costs) | | |
| Highways Act Section 278 highway works agreement | | | |