

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

22 March 2016

Supplementary Report of the Director of Street Scene, Leisure & Technical Services

Part 1- Public

Matters for Information

1 CAR PARKING CHARGES IN WEST MALLING

Summary

This report provides Members with supplementary information relating to the report in these papers on the Car Parking Charges in West Malling.

1.1 Introduction

- 1.1.1 Since the publication of the report to this meeting on Car Parking Charges in West Malling, further correspondence have been received which it is felt appropriate to share with Members.

1.2 Supplementary Information

- 1.2.1 A letter was received from Kent Legal Services dated 14th March 2016 acting on behalf of West Malling Parish Council. A copy of the letter is attached at **Annex 1**, and Members will note it highlights the Parish Council's concerns as to the legal basis and procedure making process of the Order. The letter requests that this Council remove and temporarily suspends approval of the Order from Cabinet's agenda for a period of 6 months. This request would, in the opinion of the Parish Council, allow for alterations to be constructively discussed and explained. The letter also raises the potential of judicial review. The letter has been considered by this Council's Legal Service and a copy of the reply from the Director of Central Services & Monitoring Officer to Kent Legal Services is attached at **Annex 2**. Members will note that it is the view of this Council that there has been no defect in any part of the Council's process in this matter. Furthermore, the letter of response concludes that "there is nothing in any of the matters you raise on behalf of your client which could sustain a claim for judicial review: the points raised appear to be wholly without merit".
- 1.2.2 Attached at **Annex 3** is a statement dated 12th March 2016 to this Council's Chief Executive from a former Acting Chief Executive and former Leader of this Council. This letter refers to 'agreements' made in 1973 when the Malling Rural and Tonbridge District Councils were preparing for amalgamation. Whilst the statement provides an interesting historical background, there is no formal

agreement in existence, and Cabinet is now considering the issue over 40 years on when circumstances are extremely different. Whilst noting the historical context Members may question its relevance to the decision making process.

- 1.2.3 I have attached at **Annex 4** further correspondence from the Chairman of West Malling Parish Council to the Chief Executive dated 19th March 2016. The email brings forward alternative options which the Parish Council is considering and requests they are brought to the attention of Cabinet.

The Parish Council are suggesting a holistic view incorporating the following:-

- a pilot period of improved enforcement funded by the Parish Council.
- the application of a higher level of penalty charge (£70).
- a survey of the car park to estimate expected revenue from the Borough Council's proposals.
- a range of changes to the management of the Ryarsh Lane business car park to improve efficiency and generate additional income.
- more efficient delivery of the current enforcement arrangements.
- greater use of the station car park, Manor Country Park and land owned by Circle Russett Housing for business parking.
- a number of smaller initiatives.
- Finally the Parish Council has expressed an interest in taking over the responsibility of managing the Borough Council's car park in the town and finding a site for a new car park.

- 1.2.4 In considering the above Members are reminded of the two objectives of the Borough Council's proposal to introduce charges; to improve the free flow of traffic in the short-stay car park and to offset the significant cost of the Council.

The Parish Council's offer of financial support for enforcement is only for a relatively short period. Income from enforcement varies significantly and it would not be prudent to rely on such income in budgetary planning. The Borough Council's proposals include additional resources for enforcement.

The Borough Council already adopts the higher level penalty charge of £70, with a discount offered for prompt payment in accordance with Government guidelines.

The Council's Parking Manager has raised concerns over the use of single-handed enforcement officers as there have been a number of incidents in the town, particularly in the afternoons. Following a risk assessment this has led to staff working in pairs at certain times of the day.

The Parish Council has highlighted the potential use of car parking at the station, country park and other locations. None of these car parks are in the ownership of either the Borough or Parish Council. The opportunity of finding a suitable site for a new area of parking has been considered by the Steering Group over a number of years. No suitable sites have been identified and any such proposal would need to be commercially viable.

- 1.2.5 I have attached at **Annex 5** a letter from Kings Hill Parish Council dated 18th March 2016. The Parish Council has registered its objection to the proposed parking charges.
- 1.2.6 Members will have noted at **Annex 4** an update on the petitions. The up to date position is as follows:-
- 3828 signatures to the original on-line petition
 - 900 signatures to paper version of petition
 - 59 signatures of parents from West Malling Primary School
 - 3190 signatures accompanying a response to the formal consultation
- 1.2.7 None of the proposals brought forward by the Parish Council actually deal with the operation of the short stay car park. We clearly cannot continue to use the current number plate system to limit the time individual users stay. We need a clear unambiguous system that allows clear enforcement on the operation of this car park. There is a need to secure turnover of spaces to ensure shoppers can use the car park in support of the local traders.
- 1.2.8 In conjunction with the introduction of the short stay pay & display system we will continue to explore some of the on-street options discussed in this letter as they could assist in the long term management of parking in West Malling.

1.3 Legal Implications

- 1.3.1 The powers allowing the Borough Council to carry out parking management activity are contained in the Road Traffic Regulation Act 1984, supplemented by formal agreement with Kent County Council as the Local Highway Authority, in respect of its powers under the Traffic Management Act 2004. In particular, section 122 of the Road Traffic Regulation 1984 Act imposes a general duty on local authorities exercising functions under the Act to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of safe and adequate parking facilities on and off the highway.

1.4 Financial and Value for Money Considerations

1.4.1 The report to the Planning & Transportation Advisory Board reviewed the fees and charges within a set of guiding principles, the cost of the parking service to the Council and ongoing investment in the Parking Management Service.

1.5 Risk Assessment

1.5.1 There are both operational and financial risks linked to the consideration of parking fees & charges.

1.6 Policy Considerations

1.6.1 Asset Management

1.6.2 Community

1.6.3 Customer Contact

Background papers:

contact: Robert Styles

Nil

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Technical Services