

Report to the Cabinet

Report reference: C-031-2010/11
Date of meeting: 25 October 2010



Portfolio: Operational Planning and Transport

Subject: Parking Reviews in Epping, Buckhurst Hill and Loughton Broadway

Responsible Officer: John Gilbert (01992 564062)

Democratic Services Officer: Gary Woodhall (01992 564470)

Recommendations/Decisions Required:

(1) To note that the expenditure to date since the commencement of the 2004/05 financial year on the Epping, Buckhurst Hill and Loughton Broadway parking reviews stands at £902,956;

(2) To agree that, on the basis that the County Council will not provide a written assurance that their revised approach to advertising the Traffic Regulation Orders (proposals and final orders) meets with all legal requirements nor indemnify the Council against any abortive costs which arise should that revised approach be successfully challenged, advertising of the Orders be undertaken through a newspaper whose circulation covers all of the areas affected by the reviews at an estimated additional cost of £165,000;

(3) To consider whether, in the light of the expenditure to date, future estimated and possible costs, no further work should be undertaken on the reviews with the consequences of:

(a) £215,000 of capital spend being charged to the General Fund through the District Development Fund; and

(b) the remaining £527,000 being withdrawn from the capital programme;

(4) If consideration of recommendation (3) results in a decision to continue with the reviews, then:

(a) in the light of the forthcoming withdrawal of the on street enforcement agency by the County Council, to remove the pay and display machines from the current review proposals generating a capital saving of £70,000;

(b) to not pay the County Council the £20,000 associated with previous abortive advertising costs;

(c) to note that subject to recommendations 4(a) and (b) the estimated cost of the reviews reduces from £646,000 to £556,000 against the current budget provision of £527,000; and

(d) to take the reviews forwards in accordance with the recommendation of the

Local Highways Panel through a phased approach of completing the Epping review, then Buckhurst Hill and finally Loughton Broadway but with total expenditure to be contained within the currently available capital allocation;

(5) To authorise the use of the ring fenced on street enforcement account to meet the additional costs of:

(a) capital costs of the reviews should the budget be exceeded; and/or

(b) enforcement associated with the implementation of new and revised Traffic Regulation Orders, to include weekend and evening enforcement where required; and

(6) To agree that the Council should no longer undertake wide area parking reviews.

Executive Summary:

The District Council implemented a number of wide area parking reviews when it had the agency agreement with Essex County Council (ECC – The Highways Authority). Although the agency agreement reverted back to ECC in 2006 the District Council agreed to fund wide area parking reviews for Epping and Buckhurst Hill, including a further review 6 months after the implementation.

A similar wide area parking review for Loughton Broadway was approved as part of a town centre enhancement scheme.

The three reviews have progressed to various stages with Epping at the most advanced stage followed by Buckhurst Hill and Loughton. Informal consultations have been carried out in all three areas with mixed responses received from residents.

A decision is now required on the future of these schemes as set out in the recommendations above.

These are key decisions

Council Plan 2006-10 (Ref HN7) “to seek to deal with problems associated with vehicle parking in the built up areas of the District”

Medium Term Priorities – “a safe, healthy and attractive place – maintain the special character and advantage of the District and address local environmental issues”

Reasons for Proposed Decision:

To agree on the future of the two post implementation reviews of the wide area parking schemes in Epping and Buckhurst Hill and the initial wide area parking scheme in Loughton Broadway.

To manage the available budget and the risk of further cost increases but facilitate the recommencement of work on all three schemes.

The County Highways service is currently undergoing a significant restructure which will not be completed for some time. Given this constraint upon staff resources a phased continuation of the schemes may result in a more certain outcome.

The previous abortive advertising costs arose solely because of decisions made by ECC and

it is therefore quite proper that they should meet the costs associated with those decisions. However, given the legal uncertainty around the proposals for advertising these Orders, the previously adopted process of advertising should be utilised

There is a surplus in the ring fenced on-street account which will revert to the County following the cessation of the Decriminalised Parking Enforcement (DPE) Agency. This could be utilised to support capital expenditure and/or enable out of hours enforcement where required.

Other Options for Action:

The main alternative course of action are:

- (a) continue the current suspension of the schemes until the County Highway Service restructure is completed;
- (b) recommence the schemes but appoint a consultant/contractor to undertake the work being undertaken by the County Highways Service;
- (c) not removing the pay & display meters from the schemes and paying the County for abortive costs; or
- (d) continuing with the potentially challengeable advertising process.

None of the above are put forward for recommendation since there is already considerable public concern and disquiet regarding the future of the reviews and further delays would simply increase that concern. Further delay may also increase overall costs. The use of contracted resources would certainly result in higher overall costs and in any event the outcomes could not be implemented without County consent and input into the Traffic Order process, for which they would have to be paid.

Report:

Background

1. These schemes were either implemented as a result of a town centre enhancement scheme, for example in Buckhurst Hill and Loughton Broadway or to address severe parking issues as in the case of Epping. The Epping and Buckhurst Hill schemes were commenced whilst the Council was still acting as an agent for the County Council. This agency ceased in 2006 and the County assumed responsibility again for all such matters. The County has a policy of only dealing with minor locally based reviews and therefore this Council agreed to continue to fund the reviews using its own capital resources.

2. When agreeing to the Epping and Buckhurst Hill reviews it was resolved that they should be revisited after 6 months in order to 'iron out' any small scale anomalies. At the same time it was agreed to implement a new wide area parking review for the Loughton Broadway area to follow the enhancement scheme. The initial schemes for Epping and Buckhurst Hill were implemented in 2007 and work on the 6 month post implementation reviews began in 2008 along with the new wide area parking review for Loughton Broadway.

3. County officers prepared proposals for changes to parking arrangements based on comments received directly from residents, District and County Members and technical officers' assessments of requirements for changes. These were presented to District and County ward Members and after their approval an informal consultation was carried out within the three areas. Epping residents were consulted first followed by Buckhurst Hill and

Loughton.

4. Although the post implementation reviews of Epping and Buckhurst Hill were only intended to address minor issues highlighted by the original reviews, such was the level of dissatisfaction with the original outcome that the complexity and scope of the reviews increased significantly, including an increase in the geographical area of the review.

5. Furthermore, the high number of responses received meant that it took longer to analyse and assess than originally estimated. This had a significant effect in terms of time and therefore cost. Due to the technical nature of the work involved in dealing with consultation responses, it was not considered by the County to be cost effective to hire additional temporary agency staff to assist with work load. This was because any temporary staff brought in to deal with a peak in work load, having not been involved with the scheme from the early design stages, would have lacked the local knowledge and experience necessary to deal with local site specific issues.

6. It is a legal requirement that all proposals and the finally agreed Traffic Orders have to be advertised in a local newspaper with a circulation which covers all of the streets/roads affected by the Order (The Local Authorities' Traffic Orders (Procedure)(England and Wales) Regulations 1996). When the proposals were finalised, changes for Epping were advertised in a local paper at a cost of £20,000 and residents invited to comment. Unfortunately, it later transpired that the advertising was abortive as the newspaper did not circulate in the whole area affected and was therefore deemed not to comply with the above legal requirements. Thus resulted in advertising costs increasing significantly to the point where this Council's available budget would have been exceeded. This matter was reported to the Cabinet on 7 June when it was decided to suspend all work on the three schemes until further clarification was obtained. Cabinet on 19 July further resolved that the County Council Portfolio Holder for Highways and Transportation be asked questions on the costs of the reviews.

Present Situation

7. In order to provide some financial context, Cabinet is reminded that for a number of years the capital programme has contained £200,000 for traffic reviews and associated highway works. The costs to date, since the commencement of the 2004/05 financial year, of undertaking the initial Epping and Buckhurst Hill reviews, six month post implementation reviews and the preliminary works at Loughton Broadway currently stands at £922,956, **(Recommendation (1))** broken down as follows:

Review	04/05 £	05/06 £	06/07 £	07/08 £	08/09 £	09/10 £	10/11 £	Total £
B' Hill		30,512	63,937	223,867	48,215	42,475	6	415,006
Epping	47,926	23,100	82,687	198,437	19,647	50,853	10	432,650
Broadway				37,132	2,206	31,962	4	75,300
Total	47,926	53,612	146,624	459,436	70,068	125,290	20	922,956

8. A significant element of the cost of reviews arises from the need to place advertisements in the local press. The County Council has taken the view that it is possible to reduce these costs through a combination of using free local newspapers supplemented by hand deliveries to premises/businesses not in the circulation area.. The County Council has, on the basis of these reduced advertising costs, provided a revised total estimated cost of completion of all three schemes of £481,000 against an existing budget allocation of £527,000. However, it should be noted that this is not without risk, insofar that such an approach might at some point be open to challenge since the "free" newspapers to be used have a circulation only in Loughton and Buckhurst Hill and not in Epping. On the last

occasion that the County incorrectly advertised an Order, £20,000 of abortive costs were generated. The County has so far refused to remove this from their costs to be recovered from this Council. Officers have sought assurances from the County's legal officers that their proposals meet all necessary legal requirements and that in the event that abortive costs were to arise again that they would not seek those costs from us. Their response has been that there is an element of risk, but if this Council wishes to avoid this risk, then we should meet the costs of the original advertising proposal resulting in an additional cost of £165,000 resulting in a total advertising cost of £285,000. **(Recommendation (2))**.

9. It should also be noted that, notwithstanding steps taken to reduce costs, it is difficult to state with certainty that costs will not rise above the current estimate. In the main this is due to uncertainty around the response to the necessary formal public consultation exercises. Should the response be large and complex, then a lot of County officer time will be required to undertake the assessment, advise the County Portfolio Holder on the available options and then make any necessary alterations to the formal Orders.

Options

10. The responsibility for all highway matters within the District rests with the County Council as the Highways Authority. The County has a policy of not undertaking wide area reviews, and therefore these schemes are being promoted and funded by this Council in order to try to deal with the parking concerns of its residents. Whilst unpalatable and doubtless very unpopular, it remains the case that the Council could make a decision to withdraw from the process at this point in time, and leave matters as they are. This would result in the capital spent to date on the post implementation reviews in Epping and Buckhurst Hill and the initial review at The Broadway, £215,000, reverting to revenue (via the District development Fund as a one off cost) with the capital residue of £527,000 being withdrawn from the Council's capital programme. **(Recommendations (3)(a)(b))**.

11. If however a decision to cease entirely is not considered to be appropriate, decisions are required on how best to take the schemes forward. Members will be aware that the Agency for the on street enforcement of parking (DPE) ceases with effect from the 1st of April 2011. It is not yet clear what arrangements will be in place to replace it. However, once this function reverts to the County all income from on street parking enforcement will be the County's, including that from any on street pay and display equipment. The schemes as currently proposed include 14 machines at a cost of £70,000. Officers and members have asked County whether, following the reversion of the Agency, they would be prepared to reimburse this expenditure, and they have said no. Therefore, it is recommended that these be removed from the schemes and be replaced by alternative on street restrictions **(Recommendation (4)(a))**

12. Given that, as stated above, the County has so far rejected our request to meet abortive advertising costs, it is suggested that this Council should withhold that payment on the basis that the decision to advertise in this way was the County's and that they should therefore absorb the abortive costs. **(Recommendation (4)(b))**

13. If the actions in recommendations (4)(a) and (b) are adopted, then there is a saving to the Council of up to £90,000 reducing the estimated cost of completing the reviews to £556,000 against the available budget of £527,000, a projected overspend of £29,000 **(Recommendation (4)(c))**.

14. The Local Highways Panel, at its last meeting on 21 September, considered similar options to those set out in this report. The Panel resolved:

"That the Local Highways Panel recommends to the Cabinet that a phased approach

be taken to the parking reviews starting with Epping, to ensure that costs could be estimated for the sequential reviews in Buckhurst Hill and Loughton Broadway”
(Minute reference 67)

15. Should this approach be adopted, and the time required to complete these reviews, consideration has to be given to the likelihood that the final costs will exceed the currently available capital budget. Given the expenditure to date, it is recommended that a cap be placed on the capital allocation at the current level of £527,000. However, at the present time there is a projected budget overspend of £29,000 and Members are therefore requested to consider making available the surplus which is currently held within the on street DPE account to meet that shortfall. If costs are able to be contained within the present budget allocation, it is suggested that it be used to meet the additional enforcement costs which will arise through the new on street restrictions and any required out of hours enforcement activities (**Recommendations (4)(d) and (5)(a)(b)**)

16. In November 2007 Cabinet, as part of its consideration of the 2007 – 2012 capital strategy, resolved:

“(2) That no further town centre enhancements or large scale parking reviews be undertaken before 2012” (Minute reference 112).

17. It has become increasingly clear that delivering acceptable outcomes from wide area reviews is extraordinarily difficult because of their complexity, problems of displacement and the requirement to try to satisfy the needs of very different interested groups e.g. residents, traders and commuters. It could be argued that we have failed to gain a genuine consensus in support of the outcomes and that the post implementation reviews have done nothing more to increase that support; in fact they have simply shifted the location of those who either support or object to the proposals. Given the costs which have been incurred and the fact that this Council is not the Highway Authority, Cabinet is asked to give consideration to the future of wide area views, with a recommendation to undertake no more once those currently underway are completed. This would not preclude the Council asking the County to intervene or indeed to meet the costs of a small local review, but only where there is a technically deliverable outcome and a strong clear consensus in support is obtained (**Recommendation (6)**).

Resource Implications:

The capital situation is as follows, assuming that the full £90,000 is withdrawn from the review (i.e. £20,000 abortive advertising and £70,000 P & D machines):

	Epping	Buckhurst Hill	Loughton Broadway	Total
Costs to date	£ 432,650	£ 415,006	£ 75,300	£ 922,956
Estimated remaining costs	£ 217,000	£ 150,000	£ 114,000	£ 481,000
Higher advertising cost	£ 55,000	£ 55,000	£ 55,000	£ 165,000
Total estimated cost	£ 704,650	£ 620,006	£ 244,300	£ 1,568,956
Possible savings:				
Pay & display machines	(60,000)	(10,000)		(70,000)
Withholding abortive costs	(20,000)			(20,000)
Net cost	£ 624,650	£ 610,006	£ 244,300	£ 1,478,956
Funded by:				

Capital spend to date	£ 432,650	£ 415,006	£ 75,300	£ 922,956
Capital remaining	£ 192,000	£ 195,000	£ 140,000	£ 527,000
Total available funding	£ 624,650	£ 610,006	£ 215,300	£ 1,449,956
Estimated shortfall in available capital funding			£ 29,000	£ 29,000

It can be seen from the above table that there is currently insufficient capital provision to meet the estimated costs of completing all three reviews. There is also no contingency available. This means that unless review and implementation costs can be reduced across all three schemes, it will not be possible to complete the Loughton Broadway review based on currently estimated costs. It is for this reason that **Recommendation (5)** suggests that the surplus currently available in the on street DPE account be used as a reserve/contingency fund, although this may have an adverse impact on meeting future increased enforcement costs.

Legal and Governance Implications:

The District Council will implement any new parking restrictions under the Traffic Management Act 2004 brought about as a result of these parking reviews, as agents to the County Council. The County Council has given a notice of termination to all Districts and Borough Councils in Essex and this could mean that the District Council may not carry out this service or receive the income from it after 31 March 2011.

A countywide review of the arrangements to be put into place after 31 March 2011 is currently well advanced, but the outcome has yet to be agreed. Whatever the outcome, there will be significant governance and financial issues for the Council to consider before it agrees to enter into any new arrangement.

Safer, Cleaner and Greener Implications:

Ensuring optimum utilisation of available car parking spaces on the public highway.
Addressing the safety of all road users and tackling issues of inconsiderate parking on the public highway
Preventing congestion and its affects upon local air quality etc

Consultation Undertaken:

ECC west area office has indicated that a phased implementation approach will be advantageous. If there is a peak in workload arising from a high level of responses from residents, then it can deal with these without an impact on the next scheme. A staggered approach will also allow better management of costs.

Three informal area wide consultations have been carried out and each resident received a letter and plan showing the impact of the proposed changes in the vicinity. Larger plans were on display in the offices and local libraries. Formal statutory consultations will be carried out if the schemes recommence both at the provisional Order stage and then at the point of formal adoption and implementation.

Background Papers:

Previous Cabinet reports.
Details of original consultation exercises.

Impact Assessments:

Risk Management

There are a number of identifiable risks:

(i) any decision not to proceed further with the reviews, whilst justifiable for a number of reasons, will generate huge concern from residents in the affected areas. Even though both Epping & Buckhurst Hill have had a wide area review implemented, the post implementation reviews have become in effect another major review and the level of expectation that existing problems will be solved is high;

(ii) carrying on with the reviews may once more generate concerns from those affected by the outcome, albeit the people may well will be different from those currently concerned. This is the reason for the suggested moratorium on further wide area reviews;

(iii) should a decision be made to proceed but with reduced costs through 'cheaper' advertising it should be noted that the County is aware that there are risks associated with this revised approach to publication of the Orders. They are not currently prepared to shoulder that risk themselves, stating that any costs arising will have to be met by this Council, or through embarking upon the more expensive former advertising process.

There are financial and reputational risks arising from adopting the 'cheaper' approach due to:

(a) challenges to the Order making process; and/or

(b) challenges against the ability to enforce the Orders (this may be mitigated in time through the reversion of the enforcement Agency back to the County Council); and

(c) the appearance that a public body has not undertaken its duties professionally and competently in not using the correct advertising procedures; and

(iv) further delays in implementation may cause reputational risk to the Council, since it will doubtless have to shoulder the blame, irrespective of where it arises

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

What equality implications were identified through the Equality Impact Assessment process?
N/A

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
N/A