

# **Report to the Council**

**Committee:** Cabinet

**Date:** 29 March 2011

**Portfolio Holder:** Councillor S-A Stavrou (Operational Planning and Transport)

**Item:** 11

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## **ON-STREET DECRIMINALISED PARKING ENFORCEMENT**

### **Recommending:**

- (1) That the Northern Essex Parking Partnership be joined by the Council with effect from 1 April 2011;**
  - (2) That the Cabinet member with responsibility for parking matters be nominated as the Partnership Board Member for the District and that the appointment of a deputy be made by the Leader of the Council at a later date;**
  - (3) That the off-street parking operation be retained outside of the proposed Partnership and delivered through the existing contract with Vinci Park;**
  - (4) That negotiations be commenced with Vinci Park to enable the permitted two year extension of the contract from September 2012 to August 2014 with respect to off-street operations only; and**
  - (5) That it be noted that all services generated through on-street enforcement activity within the District from 1 April 2011 will be passed onto the new parking partnership.**
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### **Background**

1. The agency agreement between Essex Districts and the County Council in respect of decriminalised on-street parking enforcement commenced in April 2002. This Council decided that it should outsource the enforcement process, including that for its own off-street car parks, and, following a tendering exercise, the contract was awarded to Vinci Park. The contract was re-tendered during 2006/07 following which the contract was re-awarded to Vinci Park until September 2012.
2. The agency agreements with the Essex County Council differed slightly from district to district, particularly in regard to operational deficits. Deficits arose due to the income from parking fees and enforcement activity not covering the costs of enforcement activity. Some districts have “no deficit” agreements, whereby deficits could not be passed back to the County, whereas others, including this Council, had agreements whereby deficits could be recharged to the County.
3. This Council’s contract with Vinci Park has been very effective, and although there have been one or two years where a small deficit was generated, in general, on-street enforcement activity has generated a surplus, which the Council has retained in a ring-fenced budget in accordance with the requirements of the Road Traffic

Regulation Act 1984 and the agency agreement.

4. Across the County, the overall deficit position for the County Council is approaching £1m per annum. The County Council has taken the view that this is not sustainable, and as part of a fundamental review of the agency arrangements, in March 2009, it served notice upon districts of its intention to bring the agency to an end with effect from midnight, 31 March 2011. Since that time the County Council has been considering a range of alternative options and in 2010, it established a multi-council officer working group to draw up options for a partnership approach to the delivery of the on-street enforcement regime, ensuring as far as possible, the reduction and eventual removal of all operational deficits.

### **Parking Partnerships**

5. We have been advised that the outcome of the appraisal exercise is the creation of two parking partnerships, one for the north of the county and one for the south. This Council is included within the north partnership together with Harlow, Uttlesford, Braintree, Colchester (as lead authority) and Tendring. As lead authority, Colchester will be charged with managing the Partnership, will be the employing authority and will hold the delegated authorities from the County Council to act on its behalf.
6. This Council is the only Council in Essex which has chosen to outsource its enforcement activities, all others operating in-house services. It became clear through the option development process that this created tension, even though it could be clearly demonstrated that this Council's contract was cost effective and efficient in its operation, issuing more penalty notices and generating a surplus on the basis of fewer enforcement officers and lower overall costs. However, there was no general appetite for outsourcing to be considered as part of the initial establishment of the partnerships, although it has been recognised that the outsourcing model should be considered by the north partnership in the future once it has been established.
7. The costs of bringing the Council's contract with Vinci Park to an early end are prohibitive and cannot be met by this Council or by the new parking partnership. Furthermore, the possibility of assignment or novation from the Council to the partnership has to be discarded, because both require the consent of both parties, and Vinci Park has stated that it will not give consent.
8. At this stage it is only intended that the new partnerships will deal with on-street enforcement matters, leaving the off-street enforcement with the districts, although in later years it may become possible for districts to contract with the partnership to undertake this enforcement activity as well.
9. We have been advised that a decision has to be taken before the end of March 2011 on whether this Council should join the North Parking Partnership.
10. We have considered the advantages of joining the Partnership and the implications of not joining the Partnership.
11. If the Council joins the Partnership it will:
  - (a) be able to influence Partnership direction and policy, including the extended use of outsourcing in the future;
  - (b) be able, subject to resources, to subsidise future local increases in fees and charges;
  - (c) be able to maintain local management until the Vinci Park contract ends in September 2012, although with policy direction via the Partnership;

- (d) be able to participate in a shared partnership approach to a key local service in accordance with Government policy guidance;
  - (e) be able to demonstrate to the local community that the Council is working within the Partnership to generate the best possible outcome for all;
  - (f) be able to continue with on-street enforcement uninterrupted through the new Partnership delegation between the County Council and Colchester; Colchester will in turn delegate powers to this Council;
  - (g) be able to avoid any contract dispute or associated risks as a result of the Vinci Park contract remaining until its natural end; and
  - (h) be able to defer TUPE/redundancy issues until September 2012, with costs being met by Essex County Council.
12. The implications of not joining the partnership are:
- (a) losing all influence over on-street parking issues within the District, including pricing, tariff and permit pricing structures;
  - (b) not being able to subsidise Partnership set fees/charges;
  - (c) contractual difficulties with Vinci Park and with Essex County Council;
  - (d) opting out of a shared partnership approach to service delivery not in accordance with Government policy guidance;
  - (e) acceptance of whatever policies the Partnership imposes with the inability to explain to the community why the Council cannot exert influence;
  - (f) all on-street enforcement by this Council will have to cease with effect from 1 April 2011 since there will be no legal basis for its continuation; unless Colchester can provide enforcement officers for this area, this may generate local parking difficulties;
  - (g) financial and reputational risks associated with potential contract dispute with Vinci Park and Essex County Council; and
  - (h) TUPE/redundancy complications arising from cessation of part of the Vinci Park contract on 31 March 2011.
13. A Partnership Board is to be created to oversee the operations and policies of the new Partnership. The Board will be made up of members of the constituent district councils and in recommending that this Council joins the Partnership we are proposing that this Council's nominee should be the Cabinet member with responsibility for parking matters. The Partnership documentation allows for a deputy to attend but this should also be a member of the Executive and we are recommending that the Leader make this appointment at a later date. The Shadow Board has already met on two occasions and has been attended by the Operational Planning and Transport Portfolio Holder.
14. A number of concerns still exist around the completeness of the documentation and the business plan in particular. However, more clarity was provided at the second Shadow Board meeting in respect of the application of increased fees and charges and references to this Council not being able to participate fully until the Vinci Park contract ceased have been deleted. This means that this Council, should the decision be made taken to join, will have full participatory rights at the Board.

15. Not all districts in the north and south have indicated their intention to participate, although reasons are different. The exact position will not become clear until all councils have taken membership through their Cabinet or Committee structures.
16. The Partnership documentation enables districts to include within it their off-street operations. This is for enforcement activity only, with decisions on the levels of fees and charges and opening hours etc remaining with the District Council. However, even if the decision is to join a partnership, this option is not yet available. Therefore it is suggested that negotiations commence with Vinci Park in respect of a possible extension of the existing off-street enforcement operation.
17. The contract with Vinci Park (2010/11) amounts to £744,530 split almost equally between on-street and off-street operations. Fee and penalty income on-street was estimated at approximately £0.5m and off-street at approximately £1m. There is an accumulative surplus in the on-street account of approximately £60,000 which we have resolved to utilise to deal with increased enforcement arising from parking reviews and to provide some out-of-hours enforcement at critical locations within the District.
18. Whether the Council joins the Partnership or not, any on-street surpluses will be transferred to the new Partnership. The Partnership business plan as currently presented shows that an overall deficit will be generated for the first two years (£208,000 in 2011/12 and £61,000 in 2012/13). The County Council has stated that it will meet the costs of all outstanding deficits at the point of creating the partnerships and for those first two years. Thereafter, any deficits generated within the Partnership will have to be met by the constituent members of the partnership. It is not clear yet as to how this will be managed between districts which are in surplus and those in deficit.
19. The current business plan appears to rely on increases in income being generated, particularly through on-street tariffs and the costs of resident and visitor permits. The plan recognises that increased enforcement alone, whether through greater activity or through fuller enforcement restrictions, is unlikely to generate an overall surplus. This was an area of concern for a number of councils who foresaw conflicts, for example, between their economic development policies and the need for increases in on-street parking charges. However, at the Shadow Board meeting on 28 February, officers from Colchester indicated a revised approach whereby:
  - (a) a break even position could be achieved through more efficient operations and ensuring that all existing restrictions could be properly enforced;
  - (b) tariffs should only rise by the rate of inflation in general terms;
  - (c) residents' permits would only increase by £10 per annum, from their current base position, that increase to be staged over a four year period; and
  - (d) that only if the Partnership decides that it wished to generate a surplus would it become necessary to consider higher levels of tariffs or charges from free regulated metered on-street arrangements.
20. There will be personnel implications for officers currently engaged in managing the Vinci Park contract. There are currently four FTE posts on the establishment with changes having been made in November 2010 in order to reduce costs and to manage the potential effects of the creation of the new parking partnerships. It is likely that some posts will eventually have to transfer, via TUPE, to Colchester Borough Council, who as lead authority for the northern Partnership will be the employing authority. There may also be TUPE implications for Vinci Park employees depending upon the stance of the Partnership once the on-street element of the contract between the Council and Vinci Park ends in September 2012. These costs

will be met by the County Council for up to a maximum period of six months from the date of effective transfer of all staff. If the contract with Vinci Park is part terminated through the Partnership being declined, complex TUPE/redundancy issues will arise regarding the Council's staff and Vinci Park employees engaged on the on-street enforcement function.

21. There are potential risks to the Council of a decision to join or to remain outside of the new parking Partnership. This is a balanced decision in terms of the risks involved. However, we believe it is entirely reasonable to join the Partnership from April 2011 and see how it develops. Whilst it is our express intention to enter into the Partnership making a positive contribution, especially with regards to the consideration of future outsourcing, it remains the position that, like any other Partnership member if the Council is not satisfied with the Partnership arrangement it could serve the Partnership with six months' notice with the intention of bringing its membership to an end with effect from 31 March of any calendar year.
22. We recommend as set out at the commencement of this report.