

# Individual Decision

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The attached report will be taken as an Individual Portfolio Member Decision on:

**Thursday, 24th November, 2022**

<b>Ref:</b>	<b>Title</b>	<b>Portfolio Member</b>	<b>Page No.</b>
ID4290	<b>Civil Enforcement of Moving Traffic Offences</b>	Councillor Richard Somner	3 - 18



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# Civil Enforcement of Moving Traffic Offences

<b>Committee considering report:</b>	Individual Executive Member Decisions
<b>Date of Committee:</b>	24 November 2022
<b>Portfolio Member:</b>	Councillor Richard Somner
<b>Date Portfolio Member agreed report:</b>	N/A
<b>Report Author:</b>	Cheryl Evans
<b>Forward Plan Ref:</b>	ID 4290

## 1 Purpose of the Report

- 1.1 To inform the Executive Member for Planning, Transport and Countryside of the responses received during a consultation on the Council's proposed application for powers to undertake civil enforcement of moving traffic contraventions under Part 6 of the Traffic Management Act 2004.
- 1.2 To make a recommendation as to whether the Council proceeds with its application in light of the consultation responses.

## 2 Recommendation

It is recommended that the Council proceeds with its application to the Department for Transport for powers to undertake civil enforcement of moving traffic contraventions under Part 6 of the Traffic Management Act 2004.

## 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	There are no immediate financial implications associated with making the application for powers to enforce moving traffic contraventions. The wider financial implications associated with actually exercising these powers was previously discussed in ID4097.
<b>Human Resource:</b>	There are no immediate HR implications associated with making the application. The wider HR implications associated

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	with actually exercising these powers was previously discussed in ID4097.			
<b>Legal:</b>	None			
<b>Risk Management:</b>	None			
<b>Property:</b>	None.			
<b>Policy:</b>	The consultation was in accordance with the Council's consultation procedure.			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		x		N/A
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		x		N/A
<b>Environmental Impact:</b>	x			The future use of these powers will encourage and enable active travel, which will reduce the environmental impact of travel in line with the Council's Environment Strategy.
<b>Health Impact:</b>	x			Encouraging and enabling active travel will promote physical activity.

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<b>ICT Impact:</b>		x		As noted in ID4097, if the Council takes on the responsibility for enforcing moving traffic contraventions, it is likely that a software package will need to be procured. This would need to be compatible with existing ICT systems and would require the assistance of ICT colleagues.
<b>Digital Services Impact:</b>		x		On-going support in the use of ICM and the Council's consultation and engagement hub will be required.
<b>Council Strategy Priorities:</b>	x			The future use of these powers will encourage and enable active travel, which will reduce the environmental impact of travel and contribute the Council Strategy Priority to "maintain a green district".
<b>Core Business:</b>		x		Although contributing to the above Council Strategy Priority and wider social and environmental objectives, there is no statutory requirement for the Council to apply for or exercise these powers.
<b>Data Impact:</b>		x		N/A
<b>Consultation and Engagement:</b>	<p>Local stakeholders and road users were consulted on the proposed moving traffic offence application via the Council's online Consultation and Engagement hub between 5<sup>th</sup> August and 30<sup>th</sup> September 2022.</p> <p>This report has been circulated to all members for information and comment. 1 member response and 8 Parish and Town Council responses received.</p>			

## 4 Executive Summary

- 4.1 Following the introduction of the pilot School Streets scheme in Calcot, the Executive Member for Planning, Transport and Countryside approved Individual Decision ID4097, which included a recommendation that the Council applies to the Department for Transport for the necessary powers to undertake civil enforcement of moving traffic contraventions.
- 4.2 The Traffic and Road Safety team proceeded to undertake a consultation process prior to the application for these powers, as required by the Department for Transport.

- 4.3 This report summarises the responses to the consultation and makes a recommendation as to whether the application should go ahead.

## 5 Supporting Information

### Introduction

- 5.1 Part 6 of the Traffic Management Act (2004), allows Local Authorities outside of London to enforce against specific traffic restrictions. The Government has invited Councils to apply for the necessary powers to enforce against 'moving traffic contraventions' in their areas. These powers will enable the Council to expand the work it already does enforcing against unlawful parking, and misuse of bus lanes.
- 5.2 The immediate intention is to use these powers to enforce contraventions of a traffic regulation order associated with the pilot School Streets scheme in Calcot, but the powers would enable the Council to enforce similar restrictions other School Streets schemes and a variety of other restrictions across the District in the future.

### Background

- 5.3 In September 2021, the Council introduced a pilot "School Streets" project at Calcot Junior and Infant Schools, the effect of which was to introduce a restriction that prohibited motor vehicles from entering certain roads during specified hours at the beginning and end of the school day. The scheme's main aims were to:
- (a) Cut down on traffic and parking pressures outside the schools;
  - (b) Discourage car journeys to school and encourage walking and cycling;
  - (c) Make the streets outside the schools safer at the start and end of the day;
  - (d) Improve air quality and create a more pleasant environment for everyone.
- 5.4 Further information on the project is available in Individual Decision report ref ID4097, which is included as a background paper to this report. One of the key conclusions of this report was that to maximise the benefits of the scheme, greater compliance with the traffic restriction is required and that this can be achieved by more intensive enforcement action, in particular using a camera-based enforcement system. It was therefore recommended that the Council applied for the necessary powers to carry out such enforcement.

### Consultation

- 5.1 Prior to making a formal application, the Department for Transport requires local authorities to undertake public engagement on the location(s) and type(s) of moving traffic restriction that they intend to enforce. The Council therefore carried out a consultation process to advertise its intentions and invite

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comments from stakeholders. The consultation was undertaken between 5<sup>th</sup> August and 30<sup>th</sup> September 2022 using the online Consultation and Engagement Hub and can be viewed using the following link: <https://www.westberks.gov.uk/MTOpowers>

- 5.2 A total of 70 responses were received, of which 49 were supportive of the Council's proposals, 12 objected and 9 were neutral or made comments not directly relevant to the proposals.
- 5.3 The key messages arising from the consultation are as follows:
- (a) The majority of respondents agreed with the Council's proposal to apply for the Part 6 powers to enforce the moving traffic offences.
  - (b) The Chief Officer of Thames Valley Police was consulted directly and has stated that they support the application (see Appendix C).
  - (c) The issue of ensuring and promoting compliance with traffic restrictions was raised by a wide cross section of respondents, with many observing that without the powers or significant resources in the police this would not change the behaviour of those that continue to break the law.
  - (d) More schools streets schemes should be introduced where feasible.
  - (e) No specific objections in respect of the suitability, or otherwise, of the proposed enforcement site in Calcot were received.
  - (f) Objectors suggested that enforcement should, in principle, remain with the police.
  - (g) It was also suggested that the use of ANPR cameras was breaching a right to privacy.
  - (h) The principle of the Council making money from "fines" was questioned.
- 5.4 A summary of the consultation results can be found in Appendix D.
- 5.5 In response to the comments that road traffic enforcement should remain the responsibility of the police, it should be stressed that the principle of allowing local authorities to undertake such enforcement has been established through legislation, ie the Traffic Management Act 2004. It is not, therefore, considered that such comments should prevent the Council from proceeding with its application.
- 5.6 Similarly, whilst there is a degree of objection to the use of camera-based equipment to carry out road traffic enforcement, this is also a principle that has already been established and it subject to rigorous regulation. For example enforcement equipment must be certified by the Vehicle Certification Agency and there is a robust appeals process for those who wish to challenge their Penalty Charge Notices.

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- 5.7 In respect of the comment about the Council using these powers as a means to generate income, it is unlikely that the income from Penalty Charges will exceed the operating costs of the enforcement activities and in the event that it does, there are restrictions in place governing how such monies are spent. It should be stressed that the reason for seeking to adopt powers of enforcement is to encourage compliance with restrictions to achieve environmental and social objectives rather than to generate income.

### Future enforcement at other sites

- 5.8 Whilst the Council only has to apply to the Department for Transport for these enforcement powers once, in order to designate the entire district as an area in which civil enforcement can be undertaken, this does not mean that it can immediately carry out enforcement at any location of its choosing. Any proposed new enforcement sites would be subject to separate consultation processes.

### Proposals

- 5.9 In view of the above, it is proposed that the Council proceeds with its application to the Department for Transport for powers to undertake civil enforcement of moving traffic contraventions under Part 6 of the Traffic Management Act 2004.

## 6 Other options considered

- 6.1 To discontinue with the application for Part 6 powers (Tranche 2). In view of the positive reaction to the school streets scheme and the encouraging shift towards active travel for journeys to school, this is not recommended. Furthermore, the Department for Transport have advised that there are no plans for a further application process once the current one closes in January 2023, so it is important to take the opportunity while it is available.
- 6.2 To continue to rely on the Police to enforce moving traffic contraventions of the school streets restriction. In view of the observed compliance issues and the stakeholder feedback, it is clear that the success of a school streets scheme will be diminished if complementary measures, including a suitable means of enforcement, are not introduced.

## 7 Conclusions

- 7.1 It can be concluded that without the council obtaining the necessary powers to enforce the access restriction at the School Streets project at Calcot Junior and Infant Schools the ongoing success of this scheme will be jeopardised.
- 7.2 There was a largely positive response to the consultation on the Council's proposed application for the powers to enforce moving traffic contraventions and the objections that were received have been addressed by this report.
- 7.3 Obtaining the powers of enforcement now will give the Council options to enforce other restrictions in other locations in the future, subject to further site-specific consultation processes.



## 8 Appendices

- 8.1 Appendix A – Secretary of state Application for Part 6 powers
- 8.2 Appendix B – Deadline for application notification (DfT)
- 8.3 Appendix C - Chief of Police supporting letter.
- 8.4 Appendix D – anonymised consultation summary

### Background Papers:

Individual Executive Member Decision report ref ID4097

#### Subject to Call-In:

Yes:  No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council's position
- Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

**Wards affected:** All Parish and Town councils

#### Officer details:

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### Document

### Control

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### Change

### History

Version	Date	Description	Change ID
1			
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## Traffic Management Act 2004, Part 6: Application for Designation of Civil Enforcement Area for Moving Traffic Contraventions

Dear Secretary of State

Following the introduction, on 31 May 2022, of regulations giving effect to the moving traffic enforcement powers under Part 6 of the Traffic Management Act 2004 (“the Part 6 powers”), I am writing to formally apply on behalf of West Berkshire District Council [as established by Sections 17-23 of the Local Government Act 1972 and the Local Government Changes for England Regulations 1994/SI867 and Berkshire Structural Change Order 1996 SI/1879] [formerly Newbury District Council] for designation as a civil enforcement area for moving traffic contraventions. This application is submitted in accordance with paragraph 10 of Schedule 8 to the Traffic Management Act 2004 and the below conditions set out by the Department for Transport.

As Service Director – Environment, I confirm that West Berkshire District Council, being a unitary authority makes this application with the authority of the Council. I also confirm that the Council has met all of the following as required:

	Yes / No
Has the Council consulted the appropriate Chief Officer of Police?	Yes
Has the Council carried out public engagement, for the requisite minimum six-week period, on the location(s) and type(s) of moving traffic restriction selected by the local authority as appropriate for enforcement action?	Yes
Did this exercise set out rationale for, and benefits of, moving traffic enforcement to local residents and businesses, and provide the opportunity for them to raise any concerns?	Yes
Has the Council taken appropriate steps, as it considers reasonable, to resolve all objections?	Yes
Has the Council carried out effective public communication and engagement, using the full range of media available, as the Council considers appropriate?	Yes
Will this public communication and engagement continue up to the start of enforcement and for a reasonable period thereafter?	Yes
Has the Council ensured that enforcement of all moving traffic restrictions will be underpinned by accurate Traffic Regulation Orders, where applicable, and indicated by lawful traffic signs and road markings?	Yes
Has the Council ensured all the relevant equipment has been certified by the Vehicle Certification Agency (VCA) specifically for moving traffic contraventions?	Yes
Do you undertake to carry out all of the above steps in respect of any new camera location in the future?	Yes

West Berkshire District Council [as established by Sections 17-23 of the Local Government Act 1972 and the Local Government Changes for England Regulations 1994/SI867 and Berkshire Structural Change Order 1996 SI/1879] [formerly Newbury District Council] is applying for designation of the Part 6 powers to cover the whole of its civil enforcement area for parking contraventions.

Yours,

Jon Winstanley, Service Director - Environment

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# Department for Transport

Civil Parking Enforcement Authorities  
in England

By Email:

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28<sup>TH</sup> SEPTEMBER 2022

Dear Civil Parking Enforcement Authority,

## **Civil Enforcement of Moving Traffic Contraventions – Tranche 2**

I am writing to advise you that the deadline for compliant applications for inclusion in the 'Tranche 2' Designation Order has been deferred from 11 November 2022 until 13 January 2023.

We do, however, encourage authorities to submit their applications as soon as they are ready to ensure that any queries can be addressed before the deadline. Any problems which occur after the deadline cannot be resolved.

Once the legal drafting process has concluded, subject to the approval of Parliament we plan to lay the Designation Order in June to come into effect in July 2023 at which point enforcement can commence in practice. It is too early at this stage to programme the third tranche Designation Order.

If you have any queries in relation to this, please do not hesitate to contact me.

Thank you in advance.

Yours faithfully



Emily Kenning  
Policy Advisor

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**David Edmond**  
Traffic Management Officer  
Hampshire Constabulary & Thames  
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5<sup>th</sup> August 2022

Dear Mr. Winstanley,

**TRAFFIC MANAGEMENT ACT PART 6 application – West Berkshire Council School Streets Scheme, Calcot.**

I refer to your letter dated 25<sup>th</sup> July 2022 relating to West Berkshire Councils intention to apply to the Department for Transport for powers to enforce moving traffic offences at the above location under Part 6 of the Traffic Management Act 2004.

I can confirm that consultation has taken place and on behalf of the Chief Officer of Thames Valley Police I do not object to this application.

Kind regards,

A handwritten signature in black ink, appearing to be 'D Edmond', written over a white background.

Dave Edmond

For Superintendent i/c  
Roads Policing

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# Moving Traffic Offence – Part 6 consultation results

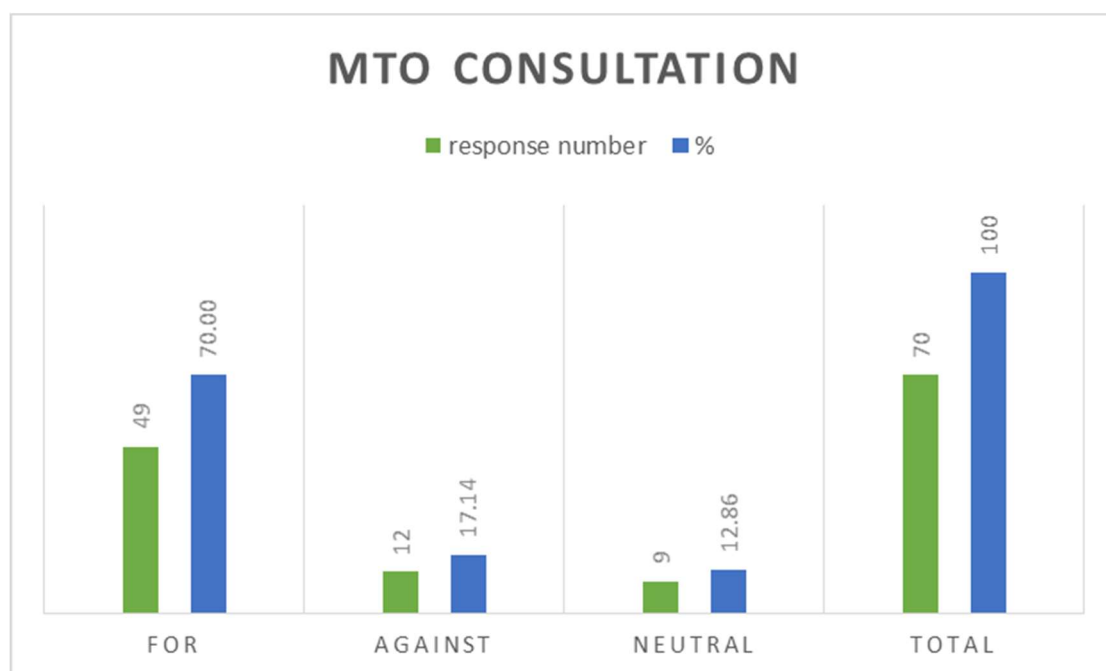
The survey ran from the 5<sup>th</sup> August until the 30<sup>th</sup> September and was open to business and residents across West Berkshire.

## 70 responses

We asked <https://www.westberks.gov.uk/MTOpowers>

We'd like to know your views on the new powers, and whether you have any alternative ideas or suggestions on how to improve road safety, particularly around schools, and reduce congestion.

Here is what they said



### Comments

"I am in favour of cameras as the school traffic in the Curtis Road Area, during key pick up and drop off times has increased during the Summer Term, in particular."

"Broadly supportive"

"I strongly support adding ANPR to the Calcot Scool Streets Scheme area. The growing number of drivers who ignore the school streets restrictions will only be reduced if there is consistent enforcement action."

"A Driver educational programme needs to be considered, paid for from the funds generated by the enforcement."

"This is a thoroughly bad idea! Local Authorities have a very poor track record, when given such enforcement powers. Enforcement must be left to the police and PCSO's."

"You seem to be starting in a rather limited way but I appreciate you may not have many resources to deploy so that means you're aiming first at the most egregious rule breakers."

"I think it's a good idea, especially outside of our schools."

"It is long overdue and is much needed and I sincerely hope that neighbouring councils will undertake similar initiatives."

"I believe the feeling in the community is that certain steps need to be taken in order to protect the public, especially children or elderly and the step of getting new MTO powers is in the right direction."

"I am fully in support of the application of the enhanced enforcement powers, particularly to protect school streets and enhance active travel in West Berkshire."

"Whilst this proposal seems superficially attractive I firmly believe that it would be fundamentally wrong for West Berkshire Council to apply for these powers."

"In my view the installation of council run ANPR cameras is a considerable imposition on people's right to privacy. Of all the reasons set out as to why cameras might be installed, the only one which in any way might be justified is safety and even then it should only be considered where there is sound empirical data to justify the decision."

### What happens now?

These results will be presented at the next Individual Decision meeting on 24<sup>th</sup> November 2022 (ID 4290). If supported by the Executive member and committee the application will be submitted for the secretary of state to consider no later than January 2023.

If we're granted the powers by the DfT, we estimate that the powers will come into effect in July 2023 and appropriate sites will be chosen and publicised. However, this is completely dependent on the legislation and parliamentary timelines.