
Civil Enforcement of Moving Traffic Offences

Committee considering report:	Individual Executive Member Decisions
Date of Committee:	24 November 2022
Portfolio Member:	Councillor Richard Somner
Date Portfolio Member agreed report:	N/A
Report Author:	Cheryl Evans
Forward Plan Ref:	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
Financial:	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.
Human Resource:	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.			
Legal:	None			
Risk Management:	None			
Property:	None.			
Policy:	The consultation was in accordance with the Council's consultation procedure.			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		x		N/A
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		x		N/A
Environmental Impact:	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.
Health Impact:	x			Encouraging and enabling active travel will promote physical activity.

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ICT Impact:		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.
Digital Services Impact:		x		On-going support in the use of ICM and the Council's consultation and engagement hub will be required.
Council Strategy Priorities:	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".
Core Business:		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.
Data Impact:		x		N/A
Consultation and Engagement:	<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 5th August and 30th 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 5th August and 30th 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

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