

## HAMPSHIRE COUNTY COUNCIL

### Report

<b>Committee:</b>	Economy Transport and Environment (Overview and Scrutiny) Committee
<b>Date:</b>	31 March 2022
<b>Title:</b>	On-Street Chargeable Parking – High Street, Lymington Consideration of Request to Exercise Call-in Powers
<b>Report From:</b>	Head of Law and Governance and Monitoring Officer

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#### Purpose of this Report

1. The purpose of the meeting to which this report relates is for the Economy Transport and Environment (Overview and Scrutiny) Committee ('ETE Select Committee') to consider whether or not it should exercise its powers under Section 9F of Part 1A of the Local Government Act 2000 ('the 2000 Act'), referred to in the County Council's Constitution as 'Call-in'.

#### Recommendation(s)

That Members of the ETE Select Committee determine whether:

2. They consider that the Executive Member for Highways Operations should re-consider his decisions as set out in the Decision Record attached at Appendix 1
3. they consider that they should not recommend the Executive Member for Highways Operations re-consider his decisions as set out in the Decision Record attached at Appendix 1.

#### Contextual information

4. As part of the Transformation to 2019 programme, the ETE Select Committee considered the proposed savings for the Economy Transport and Environment Department ('Department') on 19 September 2017. On the

same day, the then Executive Member for Environment and Transport approved for submission to Cabinet, the proposed savings options for the department, which included proposals to modernise the on-street parking service with the aim of delivering the function on a full cost recovery basis. Proposals included a range of measures with the introduction of targeted on-street chargeable parking. The savings proposals were approved by Cabinet on 16 October 2017 and recommended to the County Council on 2 November 2017, whereupon the overall Transformation to 2019 savings were approved, subject to further consultation and Executive decision making where necessary. Some of the Department's proposals were not supported by Full Council (closure of Household Waste Recycling Centre Service Review and School Crossing Patrols) and were removed from the Transformation to 2019 savings programme.

5. Following the approval of the Transformation to 2019 savings proposals by Full Council, the then Executive Member for Environment and Transport at his meeting on 17 November 2017 made a number of decisions relating to On Street Parking and Civil Parking Enforcement, both of which form part of the Parking Project approved by Council.
6. On 5 June 2018 the then Executive Member for Environment and Transport gave approval in principle for the introduction of Chargeable on-street parking and delegated authority to the Director of Economy, Transport and Environment to take all the necessary measures and steps to implement the changes, including the progression and approval of any associated Traffic Regulation Orders and any works necessary to support the introduction of chargeable on-street parking.
7. At his meeting on the 29 October 2018, the then Executive Member for Environment and Transport considered the progress that had been made on the Parking project and approved the principle of future parking controls being implemented on a full cost recovery basis. The ETE Select Committee pre scrutinised this paper at its meeting of the same day and supported the recommendations.
8. On 8 October 2020, the then Executive Member for Environment and Transport gave approval to delay the implementation of on street chargeable parking in town centre areas whilst proceeding with schemes in other suitable areas.
9. The Executive Member for Highways Operations considered the On Street Chargeable Parking – High Street Lymington Report attached at Appendix 2a ('Decision Day Report') and appendix at 2b ('Supporting Appendix) as well as an exempt appendix (Item 10) at his Decision Day on 10 March 2022 and approved the recommendations contained at paragraph 2 and 3 of the Report. The decision record of the Executive Member dated 10 March 2022 is attached at Appendix 1.

10. Following the decision of the Executive Member for Highway Operations on 10 March 2022 a call-in request was made by a quorum of members of the ETE Select Committee for a meeting of the Committee to be held in order for it to consider whether or not it should exercise its call-in powers. No reason was given in the call-in request.

### **Legal and Constitutional Position**

11. Legal provisions in respect of Call-in are set out at Section 9F of Part 1A of the 2000 Act and reflected at Part 3, Chapter 3, Paragraph 1.17 of the County Council's Constitution. A copy of Part 3, Chapter 3, Paragraph 1.17 of the Constitution is attached at Appendix 3 for ease of reference. It should be noted however that discussion of the Executive decision subject of the Call-in request is not limited to the points raised in the request (if any were given).
12. When a Scrutiny Committee meets in order to consider whether or not it should exercise its Call-in powers in respect of an Executive Decision, a Select Committee is required to consider whether or not to recommend:
  - a) that the decision be reconsidered by the relevant decision maker; or
  - b) that its function in respect of review or scrutiny of the decision should be exercised by the County Council.
13. It should however be noted that the recommendation as referred to at 12 b) above is not available where the Executive decision in question is in line with the Budget or Policy Framework. Neither does the exercise of Call-in powers prevent implementation of a decision within the Budget and Policy Framework. As indicated at paragraph 4 of this Report, the decision of the Executive Member for Highways Operations relates to proposals regarding implementation of the County Council's Decision regarding the Transformation to 2019 proposals, following submission of the Department's proposed savings options, agreed by Cabinet prior to consideration by the County Council at its meeting on 2 November 2017. For these reasons, it is the view of the Head of Law and Governance and Monitoring Officer that the decision made by the Executive Member for Highways Operations is in line with the Budget Framework and therefore should the Select Committee determine it appropriate to exercise its Call-in powers, the recommendation open to the Committee is as set out in Paragraph 2 above.

### **Scrutiny**

14. The role of a Scrutiny Committee includes both developing and reviewing policy and holding the Executive to account. A Scrutiny Committee may not however discharge any functions other than those conferred on it, and whilst it is perfectly proper for a Scrutiny Committee to offer advice and recommendations to an Executive decision maker, in law responsibility for an

Executive decision is that of the Executive. Similarly, in law, functions of the Executive cannot be discharged or overturned by the Full Council.

15. When operated effectively, call-in provisions should ensure that there is an appropriate balance between effectively holding the Executive to account, being able to question decisions before they are recommended, and allowing effective and efficient decision making by the Executive within the policy framework and budget agreed by the full Council.

### **Call-In**

16. So far as reconsideration of the recommendations in the Report contained at Paragraphs 1.1 and 1.2 of the decision record, it is open to the Select Committee to ask the Executive Member for Highways Operations to reconsider his decision.

It is not however possible under the provisions relating to call-in for the ETE Select Committee to do anything other than ask the Executive Member for Highways Operations to reconsider the specific decision he made.

**REQUIRED CORPORATE AND LEGAL INFORMATION:**

**Links to the Strategic Plan**

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	no
People in Hampshire enjoy a rich and diverse environment:	no
People in Hampshire enjoy being part of strong, inclusive communities:	no

**Other Significant Links**

<b>Links to previous Member decisions:</b>	
<u>Title</u>	<u>Date</u>
<a href="#">2017-09-19-EET Select Committee pre scrutiny of Transformation to 2019 saving proposals</a>	19 September 2017
<a href="#">2017-11-02-Council Medium Term Financial Strategy</a>	2 November 2017
<a href="#">2017-11-17-EMET Decision County-Wide Civil Parking Enforcement Services</a>	17 November 2017
<a href="#">2018-06-05-EMET T19 Parking Project Update</a>	5 June 2018
<a href="#">2018-10-29-EMET T19 Modernisation of the On Street Parking Service</a>	29 October 2018
<a href="#">On-Street Pay and Display Parking-2020-10-08-EMETE Decision Day (hants.gov.uk)</a>	8 October 2020
<b>Direct links to specific legislation or Government Directives</b>	
<u>Title</u>	<u>Date</u>
Local Government Act	2000

**Section 100 D - Local Government Act 1972 - background documents**

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

## **EQUALITIES IMPACT ASSESSMENT:**

### **1. Equality Duty**

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

### **2. Equalities Impact Assessment:**

An EIA was not applicable as the report is governance in nature and relates to decisions that have a separate assessment undertaken.

### **Climate Change Impact Assessment**

The carbon mitigation tool and/or climate change adaptation tool were not applicable because the decision relates to a separate project, which is subject to assessment individually.