

FAREHAM

BOROUGH COUNCIL

Report to the Health and Public Protection Scrutiny Panel

Date 22 March 2022

Report of: Director of Leisure and Community

Subject: Motion proposing height barriers at Portchester Precinct Car Park

SUMMARY

Following two illegal traveller encampments in the large car park at Portchester Precinct in 2021, a Notice of Motion was submitted to Council on 05 October 2021 proposing that height barriers be erected at the entrances and exits to the southwestern car park with immediate effect. The purpose of the barriers would be to restrict access to travellers' caravans and light goods vehicles. There are several considerations to be considered in respect of this request as height barriers would adversely affect other car park users, are not present in other district shopping centres, and would be an additional cost for the Council to meet.

RECOMMENDATION

It is recommended that the Health and Public Protection Scrutiny Panel:

- (a) considers the contents of this report;
- (b) determines whether it would be reasonable, proportionate, cost effective and affordable to install the height barriers as requested; and
- (c) agrees a recommendation to Council in respect of the motion proposed.

INTRODUCTION

1. In accordance with the Council's "Standing Orders with Respect to Meetings", a Notice of Motion was submitted to Council on 5 October 2021, requesting that barriers be erected at the entrance and exit points to the southwestern Portchester Precinct Car Park.
2. The specific wording of the Notice of Motion is as follows:

"Due to costs for the Council in removing Travellers and to protect the Residents/Public from the issues of Travellers parking in the large car park at Portchester Precinct. I request that height barriers be erected at the Entrance and Exit off of the road from Jubilee Road and the Entrance/Exit off the road leading to Assheton Court with immediate effect."

3. A marked-up image of the car park was also submitted with the motion, which can be seen at Appendix 1.
4. At the meeting on 21 October 2021, Council referred the item to the Health and Public Protection Scrutiny Panel to consider and make a recommendation to Council.

BACKGROUND

5. During 2021 there were, at the large Portchester Precinct Car Park, next to Jubilee Road, two separate traveller encampments on 5 August 2021 and 12 September 2021. The travellers were able to gain easy access for their vehicles and caravans, to the car park as there are no height restriction barriers in place at the car park.
6. Prior to the two encampments in 2021, it is understood that the Portchester Precinct car park has not experienced any traveller encampments for at least the last 10 years.
7. The details regarding the two encampments that occurred in 2021 are as follows:

FIRST ENCAMPMENT - 5 AUGUST 2021

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|----------------|---|
| 5 August 2021 | Travellers arrived with 2 caravans and 3 associated vehicles. |
| 6 August 2021 | Council served a Notice to Quit Letter |
| 9 August 2021 | Council served the required further Notices |
| 10 August 2021 | Council attended Court with evidence and papers then served court papers and supporting paperwork on travellers, confirming intention to seek possession of Council's land with a Court Hearing date set for Monday 16 August 2021 at 3.30pm. |
| 13 August 2021 | The 2 caravans and 3 vehicles left the encampment. A complaint about sewage waste being put down private drain nearby was received. |

14 August 2021 Court Hearing cancelled.

SECOND ENCAMPMENT - 12 SEPTEMBER 2021

- 12 September 2021 Travellers arrived with 5 caravans and 5 associated vehicles.
- 13 September 2021 Council served a Notice to Quit Letter and required Notices
- 16 September 2021 Council attended Court with evidence and papers then served court papers and supporting paperwork on Travellers that day, confirming intention to seek possession of Council's land with a Court Hearing date set for Tuesday 21 September 2021 at 10.00am.
- 17 September 2021 3 caravans and 3 vehicles left the encampment.
- 20 September 2021 The remaining 2 caravans and 2 vehicles left the location.
- 20 September 2021 Court hearing cancelled.

8. Both of the above encampments resulted in the following issues:

- Disruption to the operation of the car park – The area occupied by the caravans and vehicles could not be used for parking, and car park users did not want to park close to the caravans.
- Complaints from nearby residents were received in respect of crime and disorder and the fear of crime and disorder. Specifically, complaints were received about a blocked private drain, which was believed to have been caused by the travellers emptying their chemical toilet cartridges into it. There was no damage to the car park itself caused by either encampment.
- Legal costs were £778.00 for the first encampment, and £1,128.00 for the second. These were incurred by the Council in respect of the enforcement and legal process required to obtain possession of the Council's land. There was also a cost of £100.00 for the removal of bagged waste from the area, and £160.00 to unblock the drain.

LEGAL POSITION

9. When Travellers set up illegal encampments on Council land, the Council's only option is to apply to either the Magistrates Court or County Court to obtain an order to evict them. However, the Council must consider each encampment on its own merits and whether the eviction route is the correct course of action in the circumstances. The Council must have regard to the group's health, safety and welfare and also to their Human Rights and needs to comply with the requirements of the Equality Act.
10. In some circumstances the Police can use their emergency powers under the Criminal Justice and Public Order Act 1994, to secure their removal immediately. To be able to use these powers, certain criteria must be met in respect of actual damage to the land

or property, or there must be at least six vehicles or caravans present.

11. The Police were contacted regarding both encampments and attended the site to speak with Council officers and the travellers. However, they felt that, on both occasions, the criteria for using their emergency powers had not been met.
12. The Director of Leisure and Community spoke with the Chief Inspector, District Commander for Fareham and Gosport, at the time to raise concerns and further explore the specifics around management of unlawful encampments in Council owned Public Car Parks.
 - The Chief Inspector stated that the Police are unable to pre-determine specific actions ahead of an unlawful encampment, inferring that each occasion would be dealt with on its own merits.
 - As the impact on residents, businesses and the local economy when a car park encampment is established is much greater than when an encampment is established on other open spaces, the Director of Leisure and Community asked the Chief Inspector to consider using the Section 61 & 62 powers (Criminal Justice and Public Order Act 1994) when an encampment occurs in a Council owned car park. The Chief Inspector advised that the police do not view car parks in a different way to other open land. However, if a site was of Special Scientific Interest, or significant impact on the economy as a direct result of the encampment could be evidenced, then the Police would be more likely to exercise their powers.
 - The Chief Inspector advised that the Police are awaiting guidance following the Police, Crime, Sentencing and Courts Bill legislation which is at the report stage in the House of Lords.

FEASIBILITY OF PREVENTATIVE MEASURES

13. The motion to Council is requesting “that Height barriers be erected at the Entrance and Exit off of the road from Jubilee Road and the Entrance/Exit off the road leading to Assheton Court with immediate effect.”
14. It is possible that the car park did have height barriers at some point in the past, but Council records do not exist to determine when this was, and when and why they were removed. It is thought that the change may have occurred when Portchester Precinct was pedestrianised many years ago, to allow for delivery vehicles to access the back of the shops to make their deliveries, but this cannot be confirmed.
15. In recent years the car park in question has not had any height barriers and the established use of the car park now includes Market Traders with their light goods vehicles on Tuesdays, which is when the Portchester Market takes place.
16. If height barriers were installed with the intention of stopping travellers from accessing the car park, then they would need to be at a height that would also stop market traders and delivery vehicles from accessing it.
17. If they were installed and left open on market days, this would leave the car park exposed on Tuesdays, and still prevent delivery vehicles from accessing the car park on other days of the week.
18. Where the Council has installed lockable barriers in other locations, the locks have

been forced by travellers to gain successful entry.

19. This particular car park is also used by local residents to park light goods vehicles (work vans etc) overnight, as parking is limited in many of the residential streets nearby. If barriers were to be installed, this would cause parking issues in nearby roads and streets, which would likely lead to complaints by both those residents currently using the car park for overnight parking, and the residents living in the nearby streets and roads who may have access to their properties and kerbside parking restricted.
20. Although the installation of three height barriers, as indicated at Appendix 1 could deter travellers from establishing an encampment on the southwestern car park, there would need to be a further seven barriers installed at all other access points to the other car park areas on the same site to deter an encampment from being established within close proximity to the car park in question. Please see Appendix 2
21. There are no height barriers currently installed at any other district centres throughout the Borough.

PREVIOUS EXECUTIVE DECISION

22. In December 2019 the Executive considered a report which provided an update on the regeneration of Portchester Village Centre. The Vision for Portchester identified potential changes to the car park, which reflected the views of local people to have free and accessible parking that meets the needs of local residents and village centre users, including young families.
23. The Executive report set out a preliminary design for the preferred revised arrangement with the objectives of the schemes as follows:
 - The proposed car park improvements would provide more short stay spaces closer to the pedestrian precinct, with fewer long stay spaces but well orientated to the surrounding community uses. Overall, there will be no net loss of public car parking spaces, whilst facilitating the redevelopment of Assheton Court and maintaining the existing Long Stay East car park for future short-term parking;
 - It would introduce parent and child parking bays, conveniently located to the smaller Short Stay car park close to the pedestrian precinct;
 - Relocate and increase the number of disabled parking bays, again to the smaller Short Stay car park close to the pedestrian precinct;
 - It would remove the Lorry Park, but then provide spaces for smaller Light Goods Vehicles that are to be accommodated in part of the new Short Stay South car park, allowing small goods vehicles to utilise the car park. The existing lorry park would then be converted into car parking spaces to increase the capacity. It is envisaged that lorries and Heavy Goods Vehicles will be allowed to park overnight to deter parking in residential streets;
 - The former Lorry Park and the smaller Long Stay car park (south of the Lorry Park) would be combined to provide a single Long Stay car park;
 - The proposals would look to improve the signage within, to and from the car parks.

24. The Executive agreed the following actions:

- that further work is undertaken by officers to ensure that up-to-date information on car park use is used to support work developing a detailed design car park scheme; and
- that Officers undertake a procurement exercise to develop and deliver a detailed scheme design to implement improvements to the southern public car parks and pedestrian linkages to the Portchester (Village) Centre, prior to consulting on a TRO in the summer of 2020. The objectives and detailed provisions of the revised parking scheme previously agreed by the Executive would clearly be wholly undermined by any proposals to introduce height barriers which restrict access to the car parks.

25. In terms of implementation of the proposals, this has unfortunately been significantly impacted by the Covid-19 pandemic. With the gradual recovery of the local economy during last year it was possible for officers to ensure that up-to-date information on car park use is used to support further work developing a detailed design car park scheme. A revised Traffic Regulation Order setting out the proposed improvements was agreed by the Executive Member for Health and Public Protection on 22 February 2022, following a period of public consultation. Procurement of the car park works is now underway with a view to their phased implementation and completion by the end of the calendar year.

FUNDING

26. The indicative cost of installing the three height barriers as requested is £4,000 per barrier, so approx. £12,000 in total. There is currently no budget identified to meet this cost.
27. Further costs would include maintenance and operating costs to open and close the barriers when necessary. There is currently no budget identified to meet these costs.
28. There is also some concern that the installation of height barriers may result in the loss of some nearby trees, which would need to be investigated further, but would be at cost to the Council.

RISK ASSESSMENT

29. There are no significant risk considerations in relation to this report.

CONCLUSION

30. There were two illegal encampments in 2021 which resulted in a cost to the Council of nearly £2,000, however these were the first such encampments for at least 10 years and probably longer.
31. The installation of height barriers would:
- create additional parking demand in the nearby residential areas which are often already lined with cars
 - cause difficulty for market traders needing to park their vehicles on the car park on market days
 - prevent access to vehicles needing to make deliveries to the rear of the shops.

32. It is important to note that no other district centres currently have height or lockable barriers at their entrance and exit, and to agree to install them at Portchester Precinct car park could set a precedent for other district centres who may also request them.

33. The Council's experience is that openable barriers are easily accessed by travellers and would not be a fail-safe way to resolve the issue.

Appendices: Appendices 1 & 2 – Photographs of Portchester car park

Background Papers: None

Reference Papers: None

Enquiries: For further information on this report please contact Ian Rickman. (Ext 4773)