

Committee(s):	Date(s):	Item no.
Hampstead Heath Consultative Committee	November 6 th 2012	
Subject: Hampstead Heath Car Park Enforcement	Public	
Report of: Superintendent of Hampstead Heath	For Information	
<p><u>Summary</u></p> <p>From 1 October 2012 the Protection of Freedoms Act 2012 made it an offence to clamp or tow away a vehicle parked on private land, without lawful authority. An alternative enforcement method to ensure payment for parking within the Heath car parks has been introduced.</p> <p>This report sets out the new enforcement model based upon the arrangements currently operated at Burnham Beeches through an approved external contractor and on-site staff which has proved effective, fair and proportionate.</p> <p>Recommendations</p> <p>That Members note the new arrangements that are being introduced to manage unauthorised car parking events.</p>		

Main Report

Background

1. Car parks are located at East Heath, Jack Straws Castle and The Lido. There is also a small disabled car park at Golders Hill Park. Proposals have been approved by the London Borough of Camden's Planning Department to realign the car park at East Heath to increase capacity and improve the landscape. These works are due to be implemented during the winter period.
2. The power to charge for use of the car parks is by virtue of section 19 Local Government (Miscellaneous Provisions) Act 1976, as applied to the Heath by the Local Government Reorganisation (Hampstead Heath) Order 1989.
3. Parking fees for use of the car parks have been in operation since 1 July 2005. Fees were introduced at this time in order to provide a means manage the car parks more effectively as prior to this time the car parks were not opening to the public until 11am, a measure to prevent commuter parking, thus denying a facility to genuine Heath users. The

fees are set in such a way as to discourage long stays, with the cost increasing after 4 hours – current fees being as follows:

- £2.50 for up to 2 hours,
- £5.00 for up to 4 hours
- £4.00 for additional hours or part hours.

All Heath car parks are now open to the public between the hours of 7.30am and 8.30pm.

4. A means of enforcing parking fees is essential otherwise it is likely that payment would not be made in a number of cases. The current enforcement method has been through clamping. Given the nature of the service in seeking to promote access to the Heath, the City has worked hard to develop an enforcement policy that is fair and proportionate.
5. The Protection of Freedoms Act 2012 which has progressed more quickly than originally anticipated has made it an offence to clamp or tow away a vehicle parked on private land, without lawful authority from 1 October 2012; therefore an alternative model of enforcement has been implemented to ensure compliance.

Options Considered

6. The introduction of the Protection of Freedoms Act 2012 made it necessary to investigate the options available for the City in order to ensure payment of the required parking fees.
7. One option initially considered was the passing of a bye-law to authorise continued wheel-clamping. Any bye-law would require the approval of the central Government. It appeared unlikely that the Government would agree to a new bye-law which ran counter to the policy of the Protection of Freedoms Act 2012.
8. The preferred option that has been pursued is to issue a notice or parking ticket referred in this report as the Parking Charge Notice (PCN) – requesting payment of a parking charge for an unauthorised parking event, such as non-compliance with the stated conditions for parking within the car park. For example, non-payment of the fee for parking, not parking within a parking bay or overstaying the paid time on the pay and display ticket. Parking charges are enforceable under contract or tort law and may be pursued as a civil debt through the courts.

9. Burnham Beeches introduced this system of enforcement in August 2011, and it has proved to be very successful and continues to provide a positive means of managing the car park.
10. Contractors carrying out this role are required to be members of the Approved Operator Scheme administered by the British Parking Association (BPA). This enables access to the DVLA vehicle “keeper” details via a secure electronic link, in order to pursue payment when a PCN has been issued.
11. The opportunity to review the current enforcement role has also been taken. Under the clamping arrangements the patrols of the car parks were carried out by an external contractor, along with cash collection from the pay and display machines.
12. The issue of PCN’s at Burnham Beeches is carried out by the directly employed Ranger team, which means that they are in a customer service role and can provide information to visitors, litter pick the site and check for defects, for example whilst on site. Additionally on busy days resources can be focussed to ensure that staff are in the right places, doing the right things to manage effectively.
13. By utilising Heath staff rather than a dedicated third party to patrol the car parks and issue PCNs, the savings from the current contract can be used to retain a post within the Heath Ranger team that would otherwise, as part of the current budgetary reductions, be lost in 2014. The post is currently funded by the City Bridge Trust Grant that is in place until 2013/14. Ranger staff can also provide additional services as outlined above.
14. From 1 October 2012 the Protection of Freedoms Act 2012 has made it easier to recover parking charges as a civil debt, by introducing a right to claim unpaid parking charges from the vehicle keeper in appropriate circumstances, whether or not they were the driver of the vehicle at the time of the unauthorised parking event. A notice to the driver – in this report also referred to as a Parking Charge Notice (PCN) – containing prescribed information must be affixed to the vehicle or handed to the person in charge of the vehicle whilst the vehicle is stationary in the car park, and must be followed by a notice to keeper handed to the keeper or posted to their current address for service. An Independent Appeals Service (IAS) will be provided to deal with appeals.
15. To comply with the new model of enforcement the current signs will have to be amended to meet legal requirements and to comply with the code of practice set by the BPA.

New Arrangements

16. Following a tendering exercise District Enforcement have been appointed to provide the new services required.
17. City of London staff will now issue a PCN in appropriate circumstances and pass these to the new contractor to carry out subsequent enforcement activity. The contractor will also deal with appeals on a case by case basis, liaising with Hampstead Heath senior management as necessary. This approach will remove the administrative burden from Hampstead Heath, whilst enabling the City Corporation to maintain the correct balance between effectiveness fairness and proportionality.
18. Guidelines for notice cancellations will be provided to the contractor and any appeals which fall outside of these will be referred to Hampstead Heath management for guidance, thus building a criteria list for enforcement which will ensure a consistent and fair approach based upon the principles already established.
19. A survey of signage has been undertaken to update and amend the current signs to advise the public of the new enforcement procedures. The wording is modelled on that used at Burnham Beeches which has proved effective.
20. Training has been provided by the contractor, to prepare staff to carry out the ticketing role utilising handheld automated machines. The Heath staff will be directly supported in this new role by the Heath constables who will also provide training additional training for staff.
21. As this model is a change to the current method of enforcement a warning notice has been issued to those contravening the terms of parking for the first two weeks of operation. This will enable motorists to become familiar with the changes and for the staff to become accustomed with the ticketing requirements.

Corporate & Strategic Implications

22. The proposals support several of the City Together Strategy Themes, including: Supports our Communities and protects promotes and enhances our environment.
23. The Open Spaces Business Plan 2012-2015 values; the right services at the right price and the best of the old with the new are supported by this proposal.

24. Hampstead Heath Management Plan part 1 – Towards a Plan for the Heath 2007 -2017 policy D1 states “Conserve and enhance the historic and planned elements of the heath’s designed landscapes, while improving their appearance and public facilities.” The proposals support this policy.

Implications

Financial and Risk Implications

25. If enforcement is not carried in the car parks then it is likely that the income generated from these facilities will decrease and the car parks will be used by commuter traffic, depriving genuine Heath users of these facilities.
26. The change in the model of enforcement needs to be carefully managed. Warning Notices have been used to ensure that motorists are familiar with the changes and will therefore understand the need to comply with the conditions of parking and the implications of not purchasing a pay and display ticket for the duration of their stay. Clamping is a visual deterrent and it may be that more PCNs are issued than clamps were applied, this may result in complaints. By ensuring that correct signage is in place and that staff are on-site regularly to advise of the changes, this should mitigate the impact.

Legal

27. Contained within the body of the report.

Conclusion

28. The enforcement of the parking fees at Hampstead Heath had to change due to new legislative provisions. A proportionate means of enforcement has been identified and introduced.
29. By City staff issuing PCNs the front facing customer service function will be enhanced as they will be present in the car parks to deal with issues and identify problems. Additionally this will present the opportunity to retain a post that would otherwise be identified to be potentially deleted in April 2014.

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