Recommendations

1. That Cabinet considers the objections and representations received on the council's proposed Car Park Order 2011 and makes no changes to the draft Order

2. That Cabinet authorises the head of legal and democratic services in consultation with the Cabinet member for commercial services to make the Car Parks Order 2011 with or without modifications having first considered independent legal advice regarding the validity of the Order and to determine the date on which the Order shall come into operation

Purpose of Report

1. This report invites Cabinet to consider the objections and representations received on the council’s Car Park Order 2011.

Strategic Objectives

2. The provision of car parks contributes to the achievement of Strategic Objective 6 “to maintain and improve the economy” by giving access to shops within the towns and some villages. The car park pricing policy balances the requirement for users to meet the costs of the car parks, with the need for charges to be economically viable having regard to the impact they have on the local economy. The policy aims to:
• encourage people to shop locally
• have car park charges which are competitive with car parks provided by others in the district and which are comparable with other neighbouring authorities
• offer season tickets at reduced rates to also support local shops and businesses that may have employees who park all day in the car park as well as market traders and tourists

Consultation

3. This council has undertaken the necessary consultation on proposals in its Car Park Order 2011 to set the tariffs and regulate the use of its off street car parks. The consultation process included advertising the proposals in a local newspaper (The Oxford Times), at each car park in the district, consulting a number of statutory organisations and parish and town councils in whose area the car parks are located. An article was included in Outpost, a council publication sent to all town and parish councils and some local parish newsletter editors, and the proposals were available on the council’s website. The council also consulted other public bodies including the fire service and ambulance trust.

4. Oxfordshire County Council has given its consent to the making of the Order. In doing so it raised concern that the use of car parks for commercial purposes could have health and safety implications for pedestrians particularly at Castle Street in Wallingford. Thames Valley Police has responded to the consultation. Whilst having no objections, Thames Valley Police asks the council to monitor the use of parking places by commercial traders, highlighting that an inappropriate trader could lead to potential road traffic issues, noise issues, litter, crime and anti-social behaviour. The council has received a good response to the consultation, both in supporting and opposing the proposals. All responses received are reproduced in the attached schedules to this report and all members of the public who have made objections or representations against the Order will receive letters explaining why the council is proposing the change and telling them about this meeting. The main concerns relate to the use of the car parks for commercial purposes and the restriction on the use of the car parks at Mill Stream in Benson and Church Road in Wheatley. A local resident has also raised concerns about the validity of the Order in terms of its drafting, compliance with the statutory requirements and the validity of the consultation process.

5. These issues are covered in the following paragraphs.

Requirement to display a ticket for free period

6. Some respondents take the view that this proposal is unnecessary and bureaucratic. However, officers consider that the introduction of the requirement to obtain a ticket for the free period is the most cost effective way of ensuring people do not abuse the system. If approved, signs will be placed at all pedestrian access points informing people of the change. Temporary signs were also erected in the car parks giving advance notice of this proposal prior to the official consultation on the Order and an item included in Outlook which is circulated to all households in the district. For a month following implementation of this change warning notices will be issued rather than excess charge notices.

7. In response to the comments received during the consultation relating to the requirement to display a ticket for the ‘free’ period, officers recommend that the
draft 2011 Order should not be changed and that the new paragraph to require to display a ticket at all times during the charging period is included.

Use of car parks for commercial purposes

8. Wallingford Town Council and a number of residents mainly in Wallingford have raised concern that the proposal to allow car parks to be used for commercial purposes could allow kebab vans and fast food vans to operate in the council’s car parks. A number of consultees have also noted that Wallingford has a number of market days and that any further commercial use of the car parks is not required and could reduce the number of available car park spaces.

9. The council receives occasional requests from companies, organisations and individuals to use spaces in the car parks for commercial purposes. Two examples are for builders’ skips when work is taking place on an adjacent property and by small businesses to run stalls and offer services. The council would like to consider these applications on their merits but the current car parking order does not allow it to do so as it has no provisions for commercial use.

10. There is no intention to use this change to encourage mobile fast food outlets or kebab vans to ply their trade in council car parks. Additionally there is no intention of allowing large scale use of the car parks for commercial use thereby reducing the availability of car park spaces.

11. As stated in paragraph nine, the council will judge each application on its own merits and take into account the available space in the car park, health and safety issues and the implications for the local residents before coming to any decisions. Each application will be considered by the head of service in consultation with the cabinet member. The appropriate use for commercial purposes could provide valuable additional income at a time when public sector finances are under significant pressure.

12. In response to the comments received during the consultation relating to the use of car parks for commercial purposes, officers recommend no change to the draft 2011 Order and the inclusion of the new paragraph to allow consent for the use of a parking place by commercial traders in appropriate circumstances.

Mill Stream Car Park, Benson

13. A number of residents in Benson have raised concern about provisions in the order to restrict parking in the car park to no more than eight hours during the day (8am to 8pm) and not more than 11 hours overnight (8pm to 8am). However, this is no change to how the car park has operated in the past. This provision is required to prevent people leaving vehicles such as mobile homes or sports cars only used in the summer or using the car park as a garage to store vehicles off the road.

14. In response to the comments received during the consultation relating to parking restrictions in Mill Stream car park, Benson, officers recommend no change to the draft 2011 Order. However, officers will continue to enforce this sensitively as they have done in the past and only take action against those users who leave vehicles parked for excessive periods of time and take advantage of the free parking that accords with the Order. People who have been used to parking there all day
should not be concerned. Local residents who back onto the car park and use the spaces regularly to park overnight can continue to do so.

**Church Road Car Park, Wheatley**

15. The council has received a number of objections to the proposal to restrict parking to four hours in Church Road car park, Wheatley.

16. A proposal in the 2011 Order will not allow vehicles to be left for more than four hours during the day (9am to 5pm) and not more than 15 hours overnight (5pm to 9am). Usage surveys of the car park reveal that of the 25 spaces available, more than half of these are taken up by people parking for periods in excess of four hours. The council wishes to support the economic viability and vitality of the village by increasing the turn over of spaces in this car park. These spaces will then be available for people coming into Wheatley for short periods.

17. On-street parking places are available along London Road, Church Road and Holloway Road. If people intend to park all day in Wheatley they could park here and walk into the village centre.

18. In response to the comments received during the consultation on the new restrictions to parking in Church Road car park, Wheatley, officers recommend no change to the draft 2011 Order.

**Validity of Order and consultation process**

19. A resident has raised a number of issues concerning the drafting of the Order, compliance with the statutory requirements and the validity of the consultation process. Officers have responded to each of these issues and remain of the view that the council has done all it needs to do with regard to the newspaper notice and, in particular, the requirement to include a statement of the proposed charges and are satisfied that the Order as drafted reflects the statutory requirements. However, to ensure the council has a valid order in place officers have sought an independent legal opinion on both the content of the Order and the consultation process undertaken. Officers recommend that the head of legal and democratic services is authorised to decide whether to make the Order with or without modifications in light of the opinion received.

**Financial information**

20. A local resident has questioned the council's car park depreciation calculations. Officers have responded confirming that the council's external auditor has audited the calculations and raised no issues. Following re-checking in response to the enquiry, the council’s section 151 officer has assured the resident that the figures are correct, as are the associated figures in the accounts.

21. The resident has also questioned whether the fees and charges are revenue raising contrary to the Road Traffic Regulation Act 1984. The council is entitled to set the charges with a view to ‘providing an adequate and suitable service’. Each year the council reviews the fees and charges in line with its adopted policy. The fees and charges are set over a five year rolling period so they at least meet the cost of car parks. The report to cabinet in December 2010 provided financial estimates which showed that the car park account would have a net income of
approximately £126,000 in 2011/12. These estimates are derived from a range of assumptions regarding general economic conditions, local town centre vitality and individual car park usage. The estimates are as accurate as officers can predict but are prone to a significant margin for error. The fees and charges have not been set to raise revenue in general but the projected net income against expenditure reflects efficient running of the car park account and provides a prudent buffer in case the estimates are under-achieved. It was noted in the report to cabinet that officers would look at a long term strategy for parking and look at the surplus in the account.

22. Car park fees and charges shall be set so that over a five-year rolling period they at least meet the costs of car parks calculated in accordance with proper accounting practice. Costs will include charges for capital expenditure.

Legal Implications

23. Cabinet is required to consider the objection(s) and representation(s) and decide whether it wishes to modify the Order in response to them or authorise the making of the Order as advertised with or without modifications which may arise as a result of seeking independent legal advice.

Conclusion

24. Cabinet is asked to consider the objections and representations received on the council's Car Park Order 2011 and decide whether to change the Order in light of these. Officers do not recommend any changes. Cabinet is also asked to authorise the head of legal and democratic services in consultation with the cabinet member for commercial services to decide whether to make the Order with or without modifications in light of independent legal advice on the various procedural issues set out in the report and if so the date on which the Order shall come into operation.

Background Papers

- Cabinet report, December 2010
- Draft car parking notice, Order and Schedules