

CYNGOR SIR POWYS COUNTY COUNCIL.

**Report to Full Council
18th November 2016**

REPORT AUTHOR: Solicitor to the Council

**SUBJECT: Call In of Portfolio Holder Decision
dated 13th October 2016 on Car Parking Charges**

REPORT FOR: Decision

1.0. Background

- 1.1 On 8th September 2015, the Cabinet considered a report on the introduction of car parking charges so as to action the approval of the Medium Term Financial Plan (MTFS) by Full Council on the 11th February 2015 which included a requirement to make £30,000 of savings/ income from car parks.
- 1.2 The report to Cabinet dated 8th September 2015 sought to achieve those savings by introducing car parking charges in certain car parks throughout the County and by introducing Residents Car parking Permits in some other car parks. Upon consideration of the report, Cabinet resolved as follows:-

- “ 1. To initiate the Traffic Regulation Order consultation procedure in accordance with The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996.
2. To provide the Portfolio Holder with the authority to implement the proposed changes taking into account the findings of the consultation process and the determination of any restrictions and/or covenants on the land.
3. That the source for funding the capital investment be identified by the Finance Section. “

A full copy of the report to Cabinet and the minutes of Cabinet are found at Appendix 1.

- 1.3 A consultation process was undertaken between 4th – 25th March 2016 and the results of the consultation together with amended proposals were given to the portfolio holder in a report which is attached as Appendix 2.
- 1.4 On 13th October 2016, the Portfolio holder approved the recommendations within that report and resolved as follows;-

“To make the Traffic Regulation Order in accordance with The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 introducing control into the car parks as referenced in section 2.4 of the report.”

1.5 Upon the close of Council on the 19th October 2016, I received a request from a Call-In signed by 5 Members of the Place Scrutiny Committee and a copy of that letter is attached as Appendix 3.

1.6 On the 20th October 2016, the request for a call-in was considered by myself and the Section 151 Officer in accordance with Rule 7.37.3 of the Constitution to determine whether the criteria for a call in as set out in Rule 37.3 had been met, namely :-

“7.37.3.1 the decision or action was contrary to the policy framework or budget, or fell outside the functions of the Cabinet; or

7.37.3.2 the Cabinet or decision maker had not followed agreed procedures or failed to consult (where required) before reaching its decision; or

7.37.3.3 the Cabinet had not followed, or had failed to take account of, any legal obligations, including regulations or statutory guidance governing the Council's actions, or other guidance adopted by the Council.”

1.7 The Section 151 Officer and I agreed that there were procedural irregularities with decision making in that there was no impact assessment produced with the report to the Portfolio Holder and accordingly the call-in was allowed to proceed.

1.8 The call-in was considered by the Place Scrutiny Committee on Monday 31st October 2016 where the Committee resolved as follows:-

“i) the Chief Executive be informed of the Committee's concerns regarding the quality of the delegated decision report, particularly Statutory Officer comments and that the lack of an Impact Assessment had not been highlighted, and the poor standard of the Impact Assessment now that it has been completed: and

ii) the issue be referred to County Council for full discussion.”

1.9 In accordance with Rule 7.37.10 of the Constitution, under normal circumstances where a call-in is referred by a scrutiny committee to Full Council, the Full Council should consider the matter within 10 clear days. However, the Place Scrutiny Committee agreed that on this occasion, and in order to save the costs that would be incurred in calling an extraordinary meeting of Council, that the Call-In could

take place during the course of the Council meeting held on the 18th November 2016.

2.0 Proposal

- 2.1 The Place Scrutiny Committee asks Full Council to consider the Portfolio Holders decision dated 13th October 2016 and to decide whether Council requests the Portfolio Holder to review his decision, and if so, the matters which Council would wish the Portfolio holder to take into account reconsidering the decision.
- 2.2 According to Rule 7.37.11 of the Constitution, Full Council does not have the right to overrule the decision made by the Portfolio holder made on 13th October 2016 but can ask the Portfolio holder to reconsider the decision and to require the Portfolio holder to take into account their concerns. Such concerns must be recorded in writing in accordance with Rule 7.37.11.
- 2.3 To avoid repetition I have not sought the views of Local Members as those views have already been expressed within the report to Cabinet dated 8th September 2015, during the consultation process, and the report to the Portfolio Holder which appears as Appendix 3.

3. Comment from the Chair of Place Scrutiny Committee

- 3.1 "I am pleased the committee has had a chance to consider this important issue – I have nothing further to add to the committee’s observations and recommendations”.

4. Statutory Officers

- 4.1 The Solicitor to the Council (Monitoring Officer) has nothing to add to the report.

5. Members’ Interests

- 5.1 The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
<p>That Full Council decides whether or not they wish the Portfolio Holder for Highways to reconsider his decision dated 13th October 2016 and if so, to record in writing what concerns they require the Portfolio Holder to take into account when reconsidering his decision.</p>	<p>To Comply with Rule 7.37 of the Constitution</p>

Within Policy:	Y	Within Budget:	y
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Person(s) To Implement Decision:	The Portfolio Holder for Highways
Date By When Decision To Be Implemented:	By 5.12.16

Contact Officer Name:	Tel:	Fax:	Email:
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Background Papers used to prepare Report: