



The purpose of this paper is to report on developments in discussions with the Isle of Wight Council about the transfer of four of the town's car parks to local management by the Town Council.

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**No.    DETAIL**

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**1)    BACKGROUND**

- a) The Town Council submitted an Expression of Interest under the Localism Act's Community Right to Bid on 1 October 2013 to take on the management of all the town's eight car parks: that was formally refused by the Isle of Wight Council (IoWC) in a letter dated 13 January 2014.
  - b) Legal advice requested by the Town Council from Anthony Collins Solicitor in March indicated that the grounds given for the refusal were open to challenge and a Solicitor's letter to that effect was sent to the IoWC on 10 April.
  - c) In response, the Town Council was invited by the IoWC to begin constructive discussions about a way forward that protected the IoWC's significant income – around £215k a year gross – from Ventnor's car park ticket machines while also giving the Town Council an opportunity to explore the benefits of local management.
  - d) Discussions on this basis began in May.
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**2)    PROPOSAL**

- a) The Town Council proposed that it took on management responsibility for four of the town's eight car parks: Dudley Road, Market Street, Pound Lane and Shore Road.
  - b) The Town Council had been pursuing its interest in Dudley Road since 2012 in view of its importance to the planned development of Salisbury Gardens; Market Street and Pound Lane have the significance of their proximity to the Town Centre and the then Youth Centre while Shore Road is a large open space in Bonchurch of which very little use is made.
  - c) Although half the total number of car parks, these four provide only around 10% of the total for the ticket machines in all eight of the car parks, averaging a total of some £21.5k.
  - d) The early discussions led to the IoWC developing a categorisation matching that applied to the Island's grounds maintenance areas where a distinction is made between Principal Parks and other green spaces.
  - e) This opened the way for more detailed discussions of what exactly was under consideration for delegation in respect of the four the Town Council was now intending to manage directly.
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**3)    NEGOTIATIONS**

- a) A list of the matters the IoWC needed to be resolved was supplied to us in an email on 18 August from the IoWC's Strategic Manager for Recreation, Leisure and Public Spaces Alex Minns.
  - b) Andy Stafford of Parkspace Consulting – the Town Council's consultant for this area – was asked for his comments and this informed the discussion at a special meeting of the Public Buildings Working Group on 9 September following which a full list of the Town Council's responses to the matters raised was supplied to Alex Minns on 15 September; a copy is attached to this Report.
  - c) This prompted an invitation for the Mayor and Clerk to meet with Alex Minns and his deputy Sean Newton on 20 October; the meeting was joined by Head of Economy John Metcalfe and proved highly constructive with a commitment to a further meeting of this group on 18 November.
  - d) That meeting was also attended by Sonia Cooper and Jennie Harris from the IoWC's Legal
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team who provided copies of the section of the Road Traffic Regulations Act 1984 giving Town and Parish Councils the right to manage car parks; a copy of the extract is attached to this Report.

- e) Attention then focused on the need to develop separate leases for each of the four car parks and the Heads of Terms on which they would be based.
- f) It has been agreed throughout that the rent would be based on the current average total income of the four car parks based on the recently introduced new charges to be paid quarterly in arrears.
- g) Other matters on which a consensus emerged included that payments of the income received through the four ticket machines would be made to the Town Council on a monthly basis along with detailed activity reports, that the length of the lease would be the same as the remainder of the PFI Contract – 23 years - and that the Town Council would have the right to withdraw from the lease at any time subject to three months' notice.
- h) Maintenance of the car parks and the pay and display machines would continue to rest with Island Roads within the PFI Contract provisions and the IoWC would retain responsibility for maintenance of borders.

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#### 4) NEXT STEPS

- a) It is anticipated that Draft Heads of Terms will be provided for the Town Council's consideration at this meeting.
- b) Subject to agreement being reached on these, the proposal will be submitted to the January or February meeting of the Property Disposals Sub Committee.

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#### 5) RECOMMENDATION

The Town Council is recommended to respond to the Draft Heads of Terms if they are submitted in time for this meeting.

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# VENTNOR TOWN COUNCIL



FOUR CAR PARKS

RESPONSES TO IoWC IDENTIFIED ISSUES

15 SEPTEMBER 2014

| No  | IoWC ISSUE   | VTC RESPONSE   |
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| 1   | To enable the enforcement by IWC officers a car park order will need to be placed on behalf of a third party VTC. Some discussion as to how this is to be achieved and resourced will need to be considered  | <p>Our advice from Parkspace Consulting is that <i>If a council was outsourcing their car parking then the CPO would reflect that a "management contractor" was taking over the operational responsibility of the car park on behalf of the "client" (the council). This may still be the most relevant option, where the existing CPO would remain in place, but be amended to reflect a change in control of the relevant car parks, but not a change in operational management (in relation to enforcement)</i></p> <p>We have assumed that vtc management of the four car parks would be on the basis of a long lease.</p> |
| 2   | If the hours of operation/charging are to be changed and it is necessary to change the times that civil enforcement officers are required, consideration will need to be given with regards to the working hours of the staff as there could be a cost implication.  | <p>We have no intention of altering the hours for which enforcement would be required.</p> <p>Even if we had, would it not be expected that the additional work would be self-financing and perhaps even profitable!</p>   |
| 3-5 | <p>There will need to be some discussion as to whether or not existing permits are to be permitted. Namely:-</p> <p>Resident Zone Permits (200metre) these are assigned to a particular car park. The income for these could be passed to VTC</p> <p>Island Resident Permits (all island). If these are used it will not be possible to estimate the income to be passed to VTC. If not accepted this will need to be clearly signed. This may affect the value of the current offer for existing purchasers</p> | <p>Our intention is to leave the situation in regard to permits on an 'as is' basis to be reviewed after the first year with only the income from the resident zone permits for the four car parks being passed to vtc.</p> <p>Both Councils will then be clearer about the most effective basis for the longer term.</p>  |
| 6   | PayByPhone income - PayByPhone can give us a monthly report detailing the income per parking area so in theory we could ascertain the income directly attributable to each car park  | <p>That seems straightforward.</p>   |
| 7   | Visitor Permits (all island) if these are used it will not be possible to estimate the income to be passed to VTC. If not accepted this will need to be clearly signed. This may affect the value of the current offer for existing purchasers   | <p>As in 3-5 above, the plan is to leave all permits as they are for the first 12 months to see how the car parks have progressed and then review with you.</p>  |
| 8   | The car park at Market Street is located little more than 50 yds from Pound Street (28 spaces). Differing pricing policies and permits between the areas may result in   | <p>We understand that if there were to be differential charging between them – bearing in mind the significance of the Market Street car park for the proposed development of the Youth Centre and the potential relocation of the library - we will ensure they are very clearly signed.</p>  |

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|      | detrimental effects on the income levels and confusion with regards to the general public.  |   |
| 9-10 | Blue Badges. Currently the IWC allows blue badge holders to park in car parks for free. Whilst on street parking has to be free, off street is discretionary. If VTC decide not to implement this scheme, there maybe issues with regards to equality of opportunity and this would require public consultation and an Equality Impact Assessment | <p>We propose to make no change to the current free disabled car parking at least for the first 12 months when the use of these spaces, the revenue impact of them and the social and political significance of any change in charging for them could be reviewed on the basis of evidence.</p> <p>If any change is proposed following that review we would of course comply with the Public Consultation and Equality Impact Assessment exercises.</p> |
| 11   | Levels of income are affected by meters being out of order. Island Roads have specific criteria to fix meters in a specific time period. VTC will need to be comfortable with this and liaise directly with the PFI client team regarding any issues  | We would want to see the detail of the standards and compliance procedures in respect of equipment maintenance in the SLA between IWC and IR and to be assured that no lower level of service and response would be experienced by vtc in respect of equipment maintenance and the penalties payable for failure to deliver to those standards.   |
| 12   | As the software and administration remains with the IWC we will need to agree a specific level of reporting as we have very few officers left to undertake this; it is proposed to run a monthly report detailing income per tariff per hour, this could be broken down on a daily basis  | A monthly report detailing income per tariff per hour per car park per day would be sufficient for our requirements and, presumably, apart from the staff time to set up the report itself its monthly generation and communication would not incur a significant cost.   |
| 13   | The legislation surrounding enforcement is particularly onerous. It will need to be clear that VTC do not have any jurisdiction with regards to this area   | We will ensure that all signage clearly states <i>this car park is managed by IWC on behalf of VTC</i> and the Car Park Order and any specific car park terms and conditions will state this as well.   |
| 14   | Signage would need to be de-accrued from the IR contract or VTC could change it to meet their requirements and IR could continue to maintain it.  | We will replace the existing signage both to literally signal their different management arrangements by being distinctive and including related signage to perform the important function for us of giving car users clear guidance to local facilities and sites of interest.   |
| 15   | VTC's responsibility to account for any VAT to HM Customs and Excise on all revenue collected from the ticket machines by the Council on VTC's behalf.  | VTC is registered for VAT and routinely reports appropriately on a quarterly basis. Gross and net income from the four car parks will, naturally, be included.  |
| 16   | VTC will ensure the Parking Area in respect of public liability with an approved insurance company  | We have well established Insurance coverage for all vtc's activities including £10m public liability cover. We will take advice from our agent about any particular requirements in connection with our management of these car parks.  |
| 17   | VTC will indemnify the Council against any claims against the Council arising from the operation by the Council of eth Parking  | Apart from the need for clarity in relation to what vtc are indemnifying the Council for, we have no problem with this.   |

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|    | Areas.   |  |
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| 18 | Notice to IWC of parking suspensions; temporary cessation of Pay and Display, with signage and suspension activities (signing and coning) undertaken by VTC. | VTC will advise IWC routinely in advance when car parks are to be closed, used for other purposes and the P&D charges suspended, |

Andy Stafford (Parkspace Consulting) has also identified a small number of additional issues in respect of which he feels clarity would be helpful for both Councils:

- a) IWC / VTC to have quarterly review meetings to determine where parts of the agreement / service are above or below an agreed level
- b) Auditing & Monitoring – VTC will need to undertake an annual audit of the IWC operation (especially in terms of revenue)
- c) P&D machine ownership, whose assets will they be? Who will be responsible for their renewal? What happens if IWC break a machine when emptying the cash (which happens a lot on older units)?
- d) Who will be responsible for the purchase of P&D consumables (tickets)?
- e) Will IWC submit a monthly enforcement report to VTC, and will VTC be given an option to cancel a PCN?
- f) Who will be responsible for car park cleaning and vegetation control?



## **Ventnor Car Parks**

### **Road Traffic Regulation Act 1984**

*Provision of parking places by parish or community councils (sections 57-60 RTRA84)*

A parish council, with the consent of the county council (which may be subject to such conditions or restrictions as the county council thinks fit) (s59(1)), may provide and maintain off-road parking places where it appears to the parish council to be necessary to do so for the purposes of relieving or preventing congestion of traffic or preserving local amenities (s57(1)(b)). For the purpose of providing and maintaining such a parking place a parish council may utilise and adapt any land purchased by the parish council for the purpose or appropriated by the purpose under subsection 3 (s57(2)(a)) (subsection 3 is not relevant here).

Procedure for obtaining consent (57(2)): The parish council must make an application in writing to the county council giving details of the parking place which they propose to provide.

Section 35 RTRA84 will apply as if the parish council were a local authority for the purposes of sections 32 and 35, and the parking place was provided by the parish council under s32 (s57(3)).

The parish council may, by order, and with the consent of the county council (which may be subject to such conditions or reservations as the county council thinks fit) (s57(4)), make provision as to the use/conditions/charges etc in relation to the parking place (ss. 35,57(3)).

Where a parish council proposes to make an order under section 35(1) the parish council must submit a draft order to the county council who (without prejudice to their power to give or withhold consent to the making of the order) may require such modifications of the terms of the proposed order as they think appropriate (s57(5)).

A county council can, in relation to a parking place provided by a parish council under section 57(1)(b), by order, make provision as to the use/conditions/charges etc and a county council also it has the power to vary or revoke an order made by the parish council (s57(6)).

#### *Enforcement*

The county council can enforce non-compliance with the order in relation to the parking place (s73 & para 4, Sch 7 Traffic Management Act 2004; ss 35A(1) & s59(3) RTRA84).