

**Committee: Scrutiny**

**Agenda Item**

**Date: 26 November 2013**

**8**

**Title: Airport related parking**

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Item for decision:  
No

## **Summary**

1. This report has been requested by members of this committee to enable the committee to understand issues relating to airport related parking.

## **Recommendations**

1. For information only.

## **Financial Implications**

2. None.

## **Background Papers**

3. Minutes from Scrutiny Committee meetings 2012/13

## **Impact**

4. At its meeting on the 15 October 2013 this committee requested a report dealing with airport related parking covering:
  - § Unauthorised businesses operating unofficial car parks outside the airport boundaries.
  - § Whether there was an issue of suppressing commercial alternative parking
  - § Historic data regarding enforcement.
  - § The inconvenience to local residents of on street parking by airport users and airport workers.
  - § What the airport's policy is regarding drop-off arrangements.
  - § What the take up of the local residents concession has been, how is this being promoted and who is this available to.
  - § To determine if the Airports dedicated complaints line is successful or if more publicity is needed.
5. A report was presented to this committee on 4 December 2012 which dealt with the issue of airport related parking in some detail. Members are referred back to that report for its content. In the absence of specific concerns

regarding the issues raised therein it is unnecessary to set out the detail again in this report. The report included historic enforcement data from the formation of the Enforcement Team in 2006 to the date of the report.

6. At the time of the last report there were 7 current enforcement investigations into suspected airport related parking operations. In 3 cases compliance with planning legislation was achieved by negotiation with no formal action being necessary. Enforcement notices were served in respect of 2 sites. An appeal was lodged in respect of 1 and was dismissed. No appeal was lodged within time in respect of the other. Both notices are therefore effective.
7. 1 case was closed on the basis that it was not expedient to enforce. The land in question here was within the airport boundaries and therefore parking was not contrary to policy. However there was also some evidence to show that the use had probably been on-going for more than 10 years and that it was probably immune from enforcement in any event.
8. In the last case the owner applied for a certificate of lawful use on the basis that the use had been continuous for more than 10 years and after consideration of the evidence the certificate was granted.
9. Since December 2012 there have been 12 reports of airport related parking outside of the airport boundaries. In 3 cases there was no evidence of a breach of planning control. In 2 cases compliance was achieved without the need to serve an enforcement notice. 1 case was statute barred. 1 case relates to land which is the subject of an effective enforcement notice. The owner of the land has been interviewed under caution and a file is being prepared for prosecution. 6 cases remain the subject to active investigations.
10. The dates for compliance in respect of 3 current enforcement notices occur in December 2013. Compliance inspections will take place and if necessary prosecutions will be brought to secure compliance.
11. The appeal referred to in paragraph 3 above is worthy of further comment. The owners maintained that they had been carrying on the business of airport related parking from the land for more than 10 years prior to the enforcement notice being served and argued that for that reason the use was immune from enforcement action. The land had been the subject of prior investigations during which planning contravention notices were served on 2 occasions. The responses to those notices denied that any business activity was being undertaken on the land. The planning inspector found as a matter of fact that more than 10 years use had been proved. However he upheld the enforcement notice on the basis of the principle set down in *Welwyn and Hatfield Council v Secretary of State* that a person should not be able to circumvent an enforcement notice where earlier action had been avoided by a deception on the part of the owner. The owner sought permission to appeal to the High Court but permission was refused.
12. It is necessary to bear in mind that the *Welwyn* case and the provisions of the Localism Act 2011 (alluded to in the December 2012 report) only apply where

there has been deception on the part of the landowner. Where the use has continued undetected for more than 10 years and no deception is involved the use will be immune from enforcement.

13. The Council does not have resources to carry out extensive surveys of the district to try and detect instances of airport related parking. However enforcement officers and planning officers are fully aware of the issue and if they notice any activity which may be a breach of planning control whilst they are travelling within the district this prompts an investigation. Sensitive sites (e.g. where airport related parking has occurred previously but the situation has been resolved without formal action) are kept under observation. The enforcement team also reacts to reports from councillors, parish and town councils and the public.
14. In scoping the request for this report the Committee wished to consider whether there was an issue of suppressing commercial alternative parking.
15. The local plan has always regarded Stansted as being an “airport in the countryside”. In support of this aim the plan provides that all development related to airport related activities must be within the airport boundaries and that development which is not airport related will not be permitted within the airport boundaries. The 2005 local plan specifically states that “Proposals for car parking associated with any use at Stansted Airport will be refused beyond the Airport boundaries, as defined in the Stansted Airport Inset Map”. Members are referred to policy T3 in the plan for the rationale behind this policy.
16. The airport owners control all the land that is currently used for short, mid and long stay car parking but they have sold the freehold of some of the ancillary land within the airport boundary. Previously an issue of monopoly provision was raised by an appellant in an appeal against an enforcement notice in 2011. In that case the inspector held that the purpose of the Council’s policy was not “to prevent legitimate business competition” nor “to stifle economic growth”. The inspector did go on to say that more was required to justify the policy than merely saying that there was sufficient capacity at the airport but on the evidence before him he did not conclude that the policy unfairly prevented competition.
17. Since that decision the new owners of part of the freehold land that now comprises Site 500 (aka Endeavour House 2) has made a planning application for airport related car parking which the council has resolved to grant subject to completion of planning agreement requiring the operator to charge a levy on each car park transaction which would go towards funding public transport improvements at the airport. A similar levy is charges by the airport operator on its own parking transactions at the short, mid and long stay car parks.
18. Any relaxation which would permit off airport parking in competition with the sites would need to be dealt with in the context of the local plan revision. However as the inspector pointed out in his appeal decision “it is a moot point whether “airport related parking” amounts to use of land in planning terms, as

opposed to simply car parking". The issue therefore is whether members wish to see large car parks developed in the district.

19. On-street parking that is alleged to be airport related is monitored by the Highways Working Group of the Stansted Area Transport Forum (SATF). The officer-level Group meets quarterly, and is chaired by a representative from Essex County Council, and is also attended by representatives of UDC, East Herts DC, Herts CC, MAG, Sustrans and the Highways Agency.

20. The requirement to monitor this activity stems from an obligation in the May 2003 Section 106 Agreement between UDC, ECC and Stansted Airport Limited (STAL) when planning permission was granted for expansion from 15 million passengers per annum (mppa) to 25mppa. With the sale of the airport, the terms of the agreement roll the obligation forward onto MAG.

21. The obligation is in two parts (Clauses 9 and 10 of Schedule 5):

*Within 6 months of the date of grant, to carry out or procure studies of the incidence of air passengers parking motor vehicles on the public highway within five miles of the airport boundary but excluding the airport and to report the results of such studies to ECC and UDC as soon as possible*

*To pay to ECC upon request a contribution of up to £50,000 to ameliorate any problems with off-airport parking which may be identified as a result of the studies referred to in paragraph 9 of this schedule including (but without prejudice to the generality of the foregoing) the costs of introducing local residents only parking zones.*

22. In October 2003, STAL introduced a Freephone parking "hotline" (0800 7312385) to permit members of the public to phone in to leave information against a series of prompts regarding airport related vehicles parked in residential streets. The introduction of the hotline followed discussions at the Highways Working Group, which also involved STAL's highway consultants, Halcrow. It was intended originally to carry out a series of street surveys to meet Clause 9, but it was concluded that this would not be a practical way of identifying airport-related parking. The surveys would need to be repeated frequently to identify long staying vehicles, and would not catch people in the act of parking, which would give the best clue as to the nature of the parking (i.e suitcases being taken out of the car). The hotline would allow the public to phone in with the first-hand evidence that they had seen.

23. A one hour no-waiting scheme was subsequently introduced in parts of Takeley, paid for by part of the £50k contribution. The scheme was designed, consulted upon and introduced by ECC, residents having been given the option of a residents' parking scheme. The scheme was modified after an initial period (to include the Clearway along Parsonage Road), and remains in force today.

24. The Highways Working Group continues to monitor the output from the Freephone hotline, but the current volume and location of calls to the hotline

do not allow the conclusion to be drawn that there are any parking hotspots that require attention. In the last quarter, there were only 16 calls to the hotline, which seems about average for each quarter at the moment. The call locations were:

- 3 – Meadowcroft, Stansted
- 1 – West Road, Stansted
- 2 – The Champions, Stansted
- 1 – Wilson Way, Stansted
- 1 – Brewers End, Takeley
- 1 – Elm Close, Takeley
- 1 – North Road, Takeley
- 2 – Hawthorn Close, Takeley
- 1 – Leefield, Takeley
- 3 – Bishop’s Stortford

25. It has been the practice for the airport operator to relaunch and publicise the hotline periodically, and Parish and Town Councils are encouraged to put the number on their websites.

26. The previous report also reviewed parking options and charges. Since this the airport have restricted entry to the terminal forecourt and introduced new pick up and drop options:

Free facility – located in the mid stay car park a 5 minute bus ride from the terminal forecourt.

Express facility - located just a short walk to the terminal. Charge £2 for 10 minutes.

Short stay car park – Located a short walk to the terminal. Charge £2.80 for 25 minutes.

27. At the same time they introduced an Express Set Down discount scheme of 75% for stays up to a maximum of 15 minutes in the Express Set Down only for any resident of Uttlesford District Council (UDC), East Herts District Council (EHDC), UDC and EHDC licensed Hackney Carriage / Private Hire Vehicles. Some residents have expressed difficulty in joining the scheme.

28. The new arrangements in drop off and pick up do not seem to have impacted the calls received to the freephone hotline.

**Risk Analysis**

Risk	Likelihood	Impact	Mitigating actions
1	1	1	

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project