

RUNNYMEDE BOROUGH COUNCIL**CONSULTATION WITH APPROPRIATE CHAIRMAN AND VICE- CHAIRMAN FOR URGENT ACTION TO BE TAKEN UNDER STANDING ORDER 42**

TO: Councillors Nigel King & David Coen
Chairman and Vice- Chairman of the Environment & Sustainability Committee

FROM: Linda Norman

OFFICER REFERENCE: Tesco's Hummer Road **DATE: 12.09.22**
 Car park

1. Synopsis of report:

Tesco have given notice that they no longer require the Council to manage their part of the Hummer Road car park from 1 September 2022 and that the land should revert to a private car park managed by Tesco for the benefit of their customers.

The Council's Off-Street Parking Places Order 2008 does not distinguish between the private car park and public car park at that location and as such, an amendment to that order needs to be made. Under the provisions of the Road Traffic Regulation Act 1984 the Council will have to advertise its intention to make the proposed change and allow 21-28 days for objection.

It is unlikely that there will be any objections as it is Tesco's intention to offer free parking for its customers. Should any objections be received, this will be considered by a further SO42 for a decision taken on whether to proceed with the Amendment Order. However, as Tesco have already taken back possession of the car park, the process of making the Order is to legally regularise the position.

2. Reasons why this matter cannot wait for a Committee Decision.

(Please state if agreement of Chairman and Vice-Chairman required within 24 hours, and why)

There is no official contract between Tesco and the Council. In 2003, when Tesco bought the supermarket from Somerfield, they asked that the previous 'gentlemen's agreement' for the management of the car park to be formalised into a contract. However, this was never completed and therefore, Tesco are not legally obliged to give formal notice on this arrangement.

They have informed the Council that they have taken back possession on 1 September 2022 and have asked that we suspend enforcement on their land from that date. The Council is working with Tesco to transition the public car park to a private car park and as such, the removal of this location from the Council's Off-Street Parking Places Order 2008 is critical to that transfer. The next meeting of the E&S committee is not until 17 November 2022 and as this is purely a legal process to return the car park to private ownership, this should be dealt with as quickly as possible.

3. Recommendation(s)

To make an amendment order to the Council's Off-Street Parking Places Order 2008 to remove the element of Tesco car park from the Hummer Road location.

The loss of up to £40,000 in lost car parking income be noted

4. Context of report

In July 2003, Tesco bought the supermarket and car park behind 60/63 High Street Egham. Tesco were aware of the 'gentlemen's agreement' between Somerfield and the Council whereby the Council managed the car park and was entitled to any monies generated by tickets and fines relating to the Tesco part of the car park. The Council was responsible for the running costs of the car park, but Tesco asked to be consulted on price changes. They asked for the agreement to be formalised into a contract, renewable on a year-by-year basis. Unfortunately, this agreement was never converted into a legally binding contract with a formal notice period should either party wish to end the contract. The agreement has been in place since 1989 with Somerfield and then from 2003 onwards with Tesco.

In July 2022, Tesco asked to see the contract for the car park and as one could not be found, they advised that they would be taking back possession of their land with immediate effect as per the land registry deeds. Upon further investigation and discussions, the origins of the agreement for managing the car park were uncovered and whilst Tesco are not obliged to give formal notice to end this arrangement, the Council has agreed to suspend parking enforcement on their land from 1 September 2022 whilst we work together to transfer the car park back into their possession. As part of this transfer, the Council's Off-Street Parking Places Order 2008 needs to be amended. As private land, this should not have been included in the order and this now needs to be rectified from a legal perspective.

In addition to the amendment to the order, other practical issues need to be resolved and these are progressing in partnership with Tesco to ensure the smooth transfer of the land.

5. Report and, where applicable, options considered

The land belongs to Tesco and there is no formal contract in place to enable the Council to keep possession and management of the car park. The only option is to work with Tesco to ensure the smooth transfer of the land back into their possession and use. Should the Council have refused to give up possession, Tesco could have involved expensive litigation and removal of the Council's assets immediately. By working with Tesco, this will ensure a smooth transition which will not inconvenience or confuse the public as to who is responsible for which part of the car park.

The Council will no longer receive the income generated from that car park from September 2022.

6. Policy framework implications

- Underpins the Council's Corporate theme of 'Supporting Local People'

The car park is widely used and by returning it to Tesco, customers will enjoy free parking when visiting that store.

There has always been some confusion for customers who have parked in the Council car park thinking they are parked in the Tesco car park which have resulted in Penalty Charge Notices being issued. By separating the two car parks, improving the signage, and having a clear demarcation between the two, this will improve the parking experience for customers visiting that part of Egham. There will be more spaces available to those customers wishing to visit the High Street as the Tesco customers will use that car park as a preference.

7. Financial and Resource implications (where practicable)

Hummer Road car park generates a high volume of income through the pay and display machines. With the loss of 45 spaces returning to Tesco, it is anticipated that the Council may lose approximately £40k income at this location this year. Unfortunately, there was no legal contract in place to enable the Council to have a right to a longer notice period and the Council has only ever been the managing agent of this car park. The Council has benefited from the gentlemen's agreement that was in place since 1989 but this has now ended and unfortunately, there is little the Council can do to mitigate this loss of income.

8. **Legal implications**

An amendment to the Off-Street Parking Order is required to remove the Tesco part of Hummer Road car park and return it to private ownership.

Under the provisions of the Road Traffic Regulation Act 1984 the Council must advertise its intention to make this proposed change. Any objections subsequently received, must be considered by E&S Committee who will then decide whether to proceed with the Amendment Order.

9. **Equality implications**

By returning this car park to private ownership will not negatively impact on any residents with protected characteristics and disabled bays will be available as normal in the Council owned car park at the other end of Hummer Road.

10. **Other implications (Environmental/biodiversity/ sustainability must be addressed)**

There are none

11. **Background papers**

There are none

12. **Chief Officer(s) Decision**

Signature of authorised officer 

I have been consulted and am in agreement with the above

Signature(s) and position(s) of
other relevant Chief Officer, Corporate Heads, or authorised representatives

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NB: this must include the Assistant Chief Executive or his authorised representative where the decision involves expenditure, loss of income, or future implications for budget or financial forecast.

13. **Chief Executive's Decision**

Signature of Chief Executive

I have been consulted and am in agreement with the above

14. **Chairman and Vice-Chairman Comments**

I concur in the Chief Officer's decision

Signed Nigel King

Date [REDACTED]

Signed [REDACTED]

Date 29/01/22

I have the following further comments:

Further information may be obtained from

on Ext. .

The completed copy is to be returned by the Councillors to the Corporate Head of Law and Governance (Democratic Services) who will send a copy to the Chief Officer and report to the relevant Committee for information.