

**Sandbach Town Council**  
**Response to a Statutory Consultation**  
in respect of  
**Car Parking Proposals**  
made by  
**Cheshire East Council**



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## 1 Executive Summary

Cheshire East Council (CEC) is holding a statutory public consultation with respect to the proposed introduction of off-street car parking charges<sup>1</sup>. This is the formal response of Sandbach Town Council (STC). This document supersedes the initial response to draft proposals by CEC issued by STC for guidance and published in July 2009.

STC notes that the CEC car parking strategy (Strategy) is consistent with STC's Vision for Sandbach<sup>2</sup> and therefore supports and endorses it.

However, STC does not find CEC charging proposals to be consistent with its Strategy and therefore rejects the proposals in their entirety.

STC finds the approach adopted by CEC to be piecemeal, lacking a coherent plan to deliver a sustainable "pan-borough" charging regime. It sees no evidence that the parking needs of residents, businesses and visitors have been considered in a holistic manner. Nor has this been balanced to avoid conflict between the five main user groups (G1 to G5) identified in this report. STC is therefore convinced that such conflict will be seriously detrimental to the harmonious nature of the community of Sandbach.

STC considers that, except for Thursday (Market Day), the need for parking charges to limit resource usage is not proven. Furthermore, such charges will be detrimental to the social and economic well being of the community.

STC is of the view that it is only on Thursdays that there is a significant car-parking congestion issue. Such congestion is a result of an artificial situation, created by the traditional of market traders occupying about 40% of the available car-parking capacity of the Town. This being, 83% of the total short stay car-parking capacity.

STC is convinced that the proportionate, targeted and objectively justifiable solution is to deal with the core issue of the 40% loss of car parking capacity on Thursday.

One solution would be to consider the relocation of the Thursday Market to the High Street and Market Square, in a sensitive and carefully planned manner. This would immediately free up significant and valuable car parking resource on Thursday, Sandbach's busiest day.

This change would not only reduce conflict between car parking user groups within the community, but also draw more business into the Town. Such an accurately targeted solution to Sandbach's unique and rural situation would positively impact both the social and economic well being of the Town. Furthermore, it would also serve to improve the viability of the historic Market by enhancing the business of both the Market Traders and the Shopkeepers.

### 1.1 Key Recommendations

STC recommends that CEC does not introduce car-parking charges in Sandbach until:

- The legal fetters associated with Scotch Common have been removed or integrated into a holistic car parking strategy for Sandbach; and
- A comprehensive, free residential parking permit scheme is in place; and
- A comprehensive, low cost business parking permit scheme is in place; and
- A season ticket parking scheme is available; and

<sup>1</sup> CEC Off Street Parking Controls - Statutory consultation - 29/07/09 to 02/09/09

[http://www.cheshireeast.gov.uk/transport\\_and\\_travel/car\\_parks\\_and\\_parking/congleton\\_area/parking\\_consultation.aspx](http://www.cheshireeast.gov.uk/transport_and_travel/car_parks_and_parking/congleton_area/parking_consultation.aspx)

<sup>2</sup> A Vision for Sandbach: <http://sandbach.gov.uk/Vision.htm>



- A sound economic model is in place to set charging in a fair and equitable manner across the borough, to avoid conflict between the communities and protect the economic well being of smaller rural communities, such as Sandbach; and
- Adequate Civil Enforcement is ready to be deployed; and
- The core issue of the 40% loss of car parking capacity on Thursday is resolved; and
- That the need for Car Parking Charges has been proven, on the basis of the principles set out in CEC's own car parking strategy; and
- That short stay car-parking charging regime includes the first hour free; excluding Scotch Common, which is a special case, as set out in section 4.

This detailed response that follows is based on the assumption that CEC has obtained the relevant legal approvals to make enforcement with respect to parking their vehicles on Scotch Common. Until such legal approvals are proved by CEC and the people of Sandbach have been clearly apprised of this status, then STC strongly recommends that parking in Sandbach remains free of charge.

## 2 Car Parking Strategy

In 2007 STC endorsed a "Vision for Sandbach" and this is published here:

<http://sandbach.gov.uk/Vision.htm>

It states:

"Overall, policies, resources and effort will be directed at making Sandbach a thriving, clean, safe and distinctive market town, providing the community and visitors with a pleasant, attractive and enjoyable place to live, work, shop, socialise and to be proud of, with strong support for the arts and culture."

From this, it can be seen that the economic viability of the town is regarded as one of the most important elements of the strategy for Sandbach.

### 2.1 The CEC Car Parking Strategy<sup>3</sup>

STC has carefully reviewed the CEC strategy. The Strategy Objectives states:

*"The Council's [CEC's] parking objectives set out to be consistent with and contribute to the*

*overall aims of the National and Regional transport strategies which seek to:*

- *Achieve a reduction in overall traffic.*
- *To increase use of more sustainable and healthy forms of travel.*
- *To achieve a more effective and efficient transport system, whilst taking into account:*
  - *The **economic vitality** of the town centre*
  - *The **parking needs** of people with disabilities*
  - *The **parking needs** of local residents, shops and businesses*

Item 3 of the Vision<sup>4</sup> states:

*"Sufficient car parking should be available to adequately **meet the need**, together with well-signed, easily navigable access routes to the town, particularly Junction 17 on the M6."*

STC has carefully considered the above and found it to be fully consistent with the "Vision for Sandbach".

**STC therefore supports the CEC Strategy document; it is regarded as being a well-structured, high level document.**

<sup>3</sup> CEC Car Parking Strategy. Approved: 21/4/2009

<http://onlineservices.congleton.gov.uk/ecminutes/mgConvert2PDF.asp?ID=2786>

<sup>4</sup> A Vision for Sandbach: <http://sandbach.gov.uk/Vision.htm>



## 2.2 Demand Analysis

By considering the need it can be seen this can be sub-divided into five main car parking user groups:

- G1) Residents – *living in dwellings, without car storage areas.*
- G2) Workforce – *e.g. shop and office workers.*
- G3) Commuters Car Sharing – *the M6 J17 charge avoidance.*
- G4) Visitors - *to shops, library, park, doctors, schools and also tourists.*
- G5) Market stallholders – *Thursday Market use of Scotch and the Small Commons.*

Today in Sandbach, each group satisfies its car parking needs from a common resource i.e. the free car parks and on-street parking. Since parking is free, convenient location is the key driver, not cost. Each group places different temporal demands on this common resource.

- **Group 1** needs overnight parking and some variable daytime parking, especially Saturday and Sunday.
- **Groups 1 & 2 & 3** need long-term daytime parking.
- **Group 4** has a need for predominately Short Stay parking i.e. up to 4 hours.
- **Group 5** is a special case. The need being artificial.

*Relocating the Market would remove this demand on the car parks of the Town.*

By analysing these groups, a set of “conflict” time zones can found. Where each group vies for the same resource. These are:

Time Band	User Group	Comments & Explanation
Sunday all day	G1 mostly	<i>Minimal G2, G2 &amp; G4</i>
Saturdays	G1 v G4	<i>Saturday market &amp; shopping drives G4 Weak G2 &amp; G3 since few office workers</i>
Night-time (00:00-08:00)	G1 only	<i>No G2, G2 &amp; G4</i>
Evening 19:30-21:30	G1 & G4	<i>Social, Clubs &amp; Meetings</i>
Thursday, Friday, & Saturday (19:00-0:00)	G1 v G4	<i>Evening entertainment activities</i>
Weekdays (except Thursdays) (09:00-17:00)	G1 v G2 v G3	<i>weak G4, no market, low tourism</i>
Thursdays (09:00 –17:00)	G1 v G2 v G3 v G4 v G5	<i>All groups competing with G4 at its peak intensity.</i>

From this it is obvious that Thursday daytime parking is the time zone of greatest demand and hence conflict, between user groups, since each group is competing for use of the same common resource i.e. the towns car-parks and on-street parking.

This explains why it is only on Thursday, that Sandbach has a significant parking congestion issues.

The rest of the week, as measured on a random time/day long-term sample, there are **normally free parking slots** within the Town centre i.e. on any day, but Thursday.

It follows that the first step in solving Sandbach’s parking congestion issue, could be to move the Thursday Market elsewhere, on a trial basis.

This is consistent with item 8 of the “Sandbach Vision”:

“The weekly market will be managed and promoted to maximise benefits to the town, giving consideration to aspects including quality, size, location and how to accommodate visitors.”



**STC recommends that charging is introduced, if necessary, only after the Market has been relocated away from Scotch Common.**

A dedicated Project Group within STC is studying the issue of the future of Sandbach Market.

### **2.3 Impact of Charging on Demand Dynamics**

Any variation in the cost of the parking will change this demand dynamic and have serious unintended consequences and is likely to be highly disruptive and detrimental to the well being of the community. This needs to be carefully considered before any precipitous action is taken.

To impose charges in a piecemeal manner is not only highly questionable and unprofessional, but also in breach of CEC's own Car Parking Strategy considered earlier.

In particular, introducing off-street car parking charges in the absence of any support for, typically low income, user group G1 (residential parking) is cavalier at best. STC could not endorse this piecemeal approach to an issue that could have a serious impact on the local community.

STC understands that palliative mechanisms are being retrofitted by CEC in the Macclesfield areas, in terms of belated residential parking schemes. Surely, CEC would not wish to repeat this error of process, within Sandbach.

### **2.4 Public Meetings**

At the public meeting at Sandbach Town Hall (and **at all other** public meetings throughout the former Congleton Borough), this concern has been repeatedly voiced, especially about the impact on low-income residents. Residents who, lack the luxury of their own parking facilities or the ability to meet the additional burden, that such charging will impose.

**STC is deeply concerned about the impact on Group G1  
and therefore is unable to support CEC proposals  
in the absence of a coherent policy on residential parking.**

## **3 Background Material**

In developing its own recommendations, STC has carefully reviewed the documents listed in Appendix 1.

This includes reports by external consultants RTA Associates, as commissioned by and presented to Congleton Borough Council (CBC) in 2007. A number of other reports were presented to CBC Executive and Scrutiny committees, on this subject, throughout 2007 and 2008.

STC is aware that there was serious criticisms of the RTA report and its was subsequently recorded as being “flawed and biased in favour of car park charges”.

STC has also examined the historic record with respect to Scotch Common and received formal legal advice from CBC.



### 3.1 Call-in of CEC Cabinet Decision CE09/10-10

More recently (and subsequent to our initial response to draft proposals) STC has also noted that Cheshire East's Cabinet current car parking proposals were called-in by the CEC's Environment and Prosperity Scrutiny Committee<sup>5</sup> on the 8<sup>th</sup> July, 2009.

The Scrutiny Committee resolved to provide the following five points of "Advice" to the Cabinet:

1. *That Cabinet ensure that the facts and figures contained within the report are correct.*
2. *That the charging policy be standardised across the Borough.*
3. *That parking be free of charge for the first hour.*
4. *That the consultation period for the off street car parking order be extended to two months. [the statutory minimum being only 21 days]*
5. *That the Council's [CEC's] Parking Strategy be adhered to.*

**Point 1** suggests that the CEC proposals are not based on accurate evidence. STC agrees with and supports this advice.

**Point 2** suggests that the CEC charging policy should be based on a model that takes into account economic factors for each area, since a one size fits all policy is clearly untenable.

STC welcomes this new approach and agrees with the use of an economic model to set tariffs bands for large, medium and small towns and villages. On this basis STC agrees with and supports this advice. However STC would like to see this based on GDP for each area. A simple metric on which this could be derived would be the council tax yield for each urban area.

STC would be happy to work with CEC in developing a defensible charging model that was soundly based on the local economic circumstances.

**Point 3** takes into the consideration of short stay car park use, for the general benefit of the community and is consistent with the Vision for Sandbach and CEC car parking strategy. STC notes that according to the statutory consultation proposals, initial free parking is now being proposed by CEC for the Alsager Fairview car park. (First ½ hour free).

Furthermore, advice from CEC in response to this Scrutiny Advice, is no longer consistent with earlier advice from CEC on this matter, where initial free parking periods were suggested as infeasible.

This new advice and the subsequent proposals invalidate the basis for STC earlier submissions. STC has therefore revised its policy for the benefit of the Sandbach community and now proposes initial free parking, but for short stay only. This is consistent with the needs of longer stay users.

**STC has therefore revised its recommendations,  
which now include a free first hour for Short Stay parking, only.**

**Point 4** is noted as implemented. STC welcomes this change.

**Point 5** implies that the current proposals are not consistent with CEC's own strategy i.e. to take into account local economic needs. STC agrees with and supports this advice.

Concern had been expressed about the loss of the current free parking on public car parks. It is felt that there is significant risk that shoppers may choose larger shopping centres over Sandbach. Especially those nearby with continuing free parking e.g. Northwich and some

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<sup>5</sup> Call In of Cabinet Decision - CE09/10-10 by CEC Scrutiny:  
<http://onlineservices.congleton.gov.uk/ecminutes/ielssueDetails.asp?IId=7925&Opt=3>



retail parks in Crewe. STC is concerned that this may lead to both economic and social detriment, in a continuous downward spiral.



**This is not consistent with STC's overarching strategy for Sandbach, as embodied in the Vision.**

#### **4 Scotch Common**

Scotch Common is the largest capacity car park in Sandbach. It is the most valuable asset for the community, in terms of short stay parking resource. It serves Town Centre shopping, Sandbach Park, the Library, Doctors and Dentists. It also serves the community, being near various Churches, the Masonic Hall, Sandbach Bowls. Therefore, Scotch Common supports a number of sports and pastimes, albeit in a modern idiom by dint of vehicular access and parking for Sandbach Park. It also supplies ad hoc residential and business parking.

Scotch Common has a tarmac surface and is marked out as a car park. As far as is known, there have been no previous challenges to its status as a car park. STC notes that nearby, Sandbach Park provides the public with a large green space that supports a number of local sports and pastimes. Scotch Common is used for other economically and socially important activities during the year; these include the weekly market, two fairs and The Festival of Transport.

**Scotch Common was registered as a Village Green in 1979.**

**It is contended that s193 of the Law of Property Act 1925 ("Rights of the public over commons and waste lands") applies to Scotch Common because it is "manorial waste or common land within the area of a pre 1<sup>st</sup> April 1974 borough or urban district".**

Scotch Common has been used as a car park for more than 20 years and indeed for more than twenty years before it became a village green in 1979. This usage has been open, continuous and long-established. STC contends that this usage as a car park should not be disturbed.

**Therefore STC considers that it is highly beneficial to the economic viability of the town, that Scotch Common primarily remains as a car park.**

STC is however concerned about the legal position with respect to Manorial Rights associated with Scotch Common. The perception of a number of vocal members of the public, is that such "rights" imply that charging for the parking of vehicles on Scotch Common may not be legal. This seems to be borne out by the withdrawal of Scotch Common from the current proposals, as made by CEC.

**STC has carefully considered this factor and its position is that CEC must prove the legal status before any charging can commence.**

With respect to the perceived or real manorial rights, STC has recommended a special arrangement for the control of car parking upon Scotch Common. This approach is underpinned by the economic need for a small rural town to compete for visitors and shoppers with larger, more attractive centres, this being consistent with the Vision.

More recently STC has sought legal advice on this matter and has joined the Open Spaces Society<sup>6</sup>. STC notes that Scotch Common is a registered Village Green. The legal arguments are set out in Appendix 4. This means that Scotch Common cannot be

<sup>6</sup> Open Spaces Society. <http://www.oss.org.uk/>

reregistered. STC understand that although Village Greens typically cannot be used for car parking, Scotch Common is by no means typical and was used as a car park for over twenty years prior to its registration as a Village Green.



**Therefore STC believes that this admixture of Common Land status, Manorial Rights, Village Green status and established practice, means that the only viable solution that will be beneficial for the socio-economic well being of Sandbach is to permit 2-4 hours parking free of charge followed by penalties. STC recommends a free period of 2 hours.**

## 5 Market day

It is recognised that, although Sandbach does not have significant parking issues on all other days, there is a very serious car parking problem on Thursday (Market Day), when both Scotch Common and the Little Common are not available for use as car parks.

On Market Day, the Town loses almost 40% of its car parking capacity; this becomes highly disruptive to the car parking structure and the sustainability of the town.

Item 8 of the Vision<sup>7</sup> states:

*“The weekly market will be managed and promoted to maximise benefits to the town, giving consideration to aspects including quality, size, location and how to accommodate visitors.”*

Clearly the occupation of prime Short Stay car parks by the market is not consistent to that vision and is in conflict with item 3 of the Vision.

*“Sufficient car parking should be available to adequately meet the need...”*

The loss of these two primary car parks could be avoided, if the market was relocated. It follows that a holistic solution to Sandbach’s problem is to introduce car parking charges only after the Thursday Market has been relocated away from Scotch Common.

It is the view of STC that the introduction of car parking charges whilst this major conflict of user groups exists is unsustainable and will only lead to significant detriment. This will be severe to user group G1 (*residents*) on Market day.

**We therefore strongly recommend that until the market is relocated from Scotch Common (or an equivalent solution is found) and a sustainable residential parking scheme is introduced, then all public car parks should remain free of charge.**

## 6 Season Tickets

**STC requests that Car Park Season tickets be made available, at an attractive rate for those who park regularly in the Car parks which are designated as Long Stay Car parks. It is suggested that £1.00 per day be charged, with a minimum buy of 30 days.**

These should be made available at the time car parking charges are introduced.

## 7 Residential Parking - Group G1

The impact on Group G1 is likely to be severely detrimental. It is therefore vital that a residents permit scheme be introduced.

This should not be an allocated space (parking bay), since this reduces the efficiency of use of a shared resource. This reduction of utilisation efficiency or dedicated versus shared resource allocation, is a well-known effect in both highways and communications traffic<sup>8</sup> and

<sup>7</sup> A Vision for Sandbach: <http://sandbach.gov.uk/Vision.htm>

<sup>8</sup> Traffic Theories: a) Highways: [http://en.wikipedia.org/wiki/Traffic\\_flow](http://en.wikipedia.org/wiki/Traffic_flow) &  
b) Telecoms: [http://en.wikipedia.org/wiki/Traffic\\_generation\\_model](http://en.wikipedia.org/wiki/Traffic_generation_model)





queuing<sup>9</sup> theories, that can be confirmed by CEC highways department traffic management experts.

Instead STC strongly recommends a badge system, where the resident bid for timed on-street or paid off-street car parking, at the time of parking. This will help preserve the current parking capacity at the same level and lower the cost of delivery, since no specially marked bays are required.

These should be made available at the time car parking charges are introduced and should be made free of charge to eligible (G1) residents only. Limited to one per eligible dwelling.

**STC recommends that additional permits may be purchased at a discounted rate to be agreed between STC and CEC.**

### **7.1 Residents Parking on Public Car Parks**

STC recognises that some residents in Group G1 (i.e. who do not have car parking spaces on their homes), may use the Public Car parks at present.

**STC requests that CEC conducts a survey to ascertain those residents that live in close proximity to public car parks and currently use these as their main car park.**

### **7.2 Residents Parking Permits – On Street**

Residents without off-street parking facilities, who currently park in the street in front of their properties, will require permits in order to ensure that they have a space to park their vehicle/s.

**STC requests that resident surveys are undertaken in the Streets that are within the 350 metre zone in order to assess the requirements for residents parking permits. STC requests consultation regarding any plans to charge for these permits.**

## **8 On-Street Parking**

STC recognises that a change to the current free of charge status of car parks in Sandbach will cause increased pressure on-street car parking in the Town.

**STC recommends that:**

- 1. The present areas, designated for limited free parking, for 1 hour between 8 am and 6pm and with no return for 1 hour, should be retained and enforced.**
- 2. CEC ensures that road markings and signage are compliant with the current legal requirements for parking controls.**
- 3. Streets within a 350 metre radius of the Town Centre are included as part of its overall Car Parking Strategy process.**
- 4. The following streets/ roads are included in the survey to be undertaken by CEC before any imposition of Charges for public car parks.**

### **Candidate Streets for the On-Street Parking Survey:**

- Bradwall Road
- Brookhouse Road
- Chapel St
- Church Street
- Commons Mill
- Congleton Road
- Crewe Road
- Elworth Street

<sup>9</sup> Queuing Theory: [http://en.wikipedia.org/wiki/Queueing\\_theory](http://en.wikipedia.org/wiki/Queueing_theory)



- Front Street
- Green Street
- Hawk Street
- High Street
- Hightown
- Hope Street
- Newfield Street
- Sunnymill Drive
- Well Bank
- Welles Street
- Wesley Avenue

A brief photographic survey, of the above streets, is also included as Appendix 2 to this report.

## 9 Disabled Car Park Spaces

It is understood that six spaces marked for disabled use, adjacent to the library, have been added recently to Scotch Common Car Park bringing the total to 10. STC welcomes this, but is concerned that disabled car park capacity should meet national standards.

**STC therefore requests that a survey is undertaken in all public car parks to ensure that “disabled spaces” provided are within National guidelines, i.e. 5%.**

### 9.1 Chevron Parking

There is a need to review the disabled parking outside of W H Smiths. This area would better suit chevron parking and currently this is what most disabled drivers adopt. This was raised at CBC Highways, but concerns over cycle lane safety were not resolved. STC notes that the bike lane is excessively wide and could easily accommodate a safety zone to reduce the risk of conflict between reversing vehicles and cyclists. It is time that the working practice of chevron parking was regularised. STC has already asked CEC to examine this as part of its parking strategy developments for Sandbach.

## 10 Spaces for Bicycles and Motorcycles

There are a number of spaces on Scotch Common and the Little Common which due to their size and shape and not useable for cars. These could be designated and marked for Bicycle and Motorcycle use.

**It is recommended that these spaces made permanently free of charge, to avoid ticketing complications and encourage low carbon users.**

## 11 Buses, Coaches and Taxi

The parking spaces reserved next to the commons are rarely used by taxis and thus is often wasted or occupied illegally, by queuing buses and waiting coaches. This is an inefficient waste of valuable resources and chimes with STC objection to dedicated residential parking bays. Therefore:

**STC proposes that this is used more efficiently  
by marking this for shared use as  
TAXI-BUS-COACH**

## 12 Control and Management

STC recognises and supports the requirement for regular control and management of both Public Car parks and On-street Parking, in order to reduce vehicle driver non-compliance

and thereby reduce traffic obstruction and the resulting problems of congestion and highway safety and conflict within the community.



STC is disappointed about the plan of CEC to **appoint only 2 Civil Enforcement Officers (CEO'S) for the whole of the former Congleton Borough**, as stated in the 'Application for Civic Parking Enforcement and Bus Lane Enforcement' document; it was felt that through decriminalisation of parking that the enforcement requirement would be greater.

STC part funds two Police Community Support Officers (PCSOs) and these are currently deployed on parking enforcement as part of their duties.

STC has been informed that once Civic Parking Enforcement is in place, Police Constables and PCSOs can only issue tickets for significant obstructions. There is no authority to issue tickets either for off-street car parks or for parking on yellow lines, unless there is a significant obstruction. STC has also learned that the prognosis for the implementation of Civic Parking Enforcement is now December 2009.

**STC therefore recommends that the CEC proposals be postponed, until CEC is confident that it can deploy adequate Civic Parking Enforcement resources contemporaneously with the introduction of car parking charges.**

### 12.1 Clamping versus Fines

In examining all the possible options, the issue of clamping was raised. STC are concerned that clamping is a potentially dangerous process, where for valid reasons, a vehicle is inadvertently disabled to the severe detriment of the owner or prospective passengers.

STC therefore does not support clamping, but prefers a regime of fines via a Civil Enforcement Programme.

### 13 Public Car Parks

The Sandbach Public Car parks are listed in Appendix 3 below.

Scotch Common and the Little Common are the most central public car parks in the town. Scotch Common is the largest capacity car park in Sandbach.

STC has considered the usage of all of the public car parks in the town in a holistic manner that it believes is consistent with both the "Vision for Sandbach" and CEC's Car Parking Strategy. The proposed usage and charging regime is listed in Appendix 3 below.

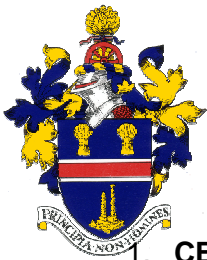
Charging is suggested to be between the hours of 8.00 am and 6.00 pm on weekdays and Saturdays. There will no charges for Sundays or Bank Holidays.

#### 13.1 Chapel Street Car Park

STC is concerned about the current poor state of the surface of a large part of this car park. It is aware of arrangements that CBC had and that CEC now holds, with a developer of adjacent land which is linked with this car park and requests information on the time limits agreed to complete this work.

**If CEC wishes to include this car park in its parking strategy then we recommend that it should be made good before charging commences.**

We note that this recommendation seems to have been adopted in the current proposals.



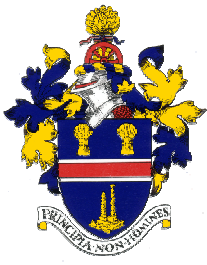
## Appendix 1 - References

STC has based this report on the following reference material.



1. **CEC Off Street Parking Controls** - Statutory consultation  
29/07/09 – 02/09/09  
[http://www.cheshireeast.gov.uk/transport\\_and\\_travel/car\\_parks\\_and\\_parking/congleton\\_area/parking\\_consultation.aspx](http://www.cheshireeast.gov.uk/transport_and_travel/car_parks_and_parking/congleton_area/parking_consultation.aspx)
2. **CEC Cabinet Meeting**  
14/07/09 - Car Parking & Legal Implications  
Item 59: <http://onlineservices.congleton.gov.uk/ecminutes/ielssueDetails.asp?IId=8008&Opt=3>
3. **Environment and Prosperity Scrutiny Committee**  
08/07/2009 - Call In of Cabinet Decision - CE09/10-10  
Item 8: <http://onlineservices.congleton.gov.uk/ecminutes/ielssueDetails.asp?IId=7925&Opt=3>
4. **CEC Cabinet Meeting**  
16/06/09 – Car Parking Proposals & Legal Implications  
Item 39: <http://onlineservices.congleton.gov.uk/ecminutes/ielssueDetails.asp?IId=7730&Opt=3>  
Item 45: <http://onlineservices.congleton.gov.uk/ecminutes/ielssueDetails.asp?IId=7731&Opt=3>  
Item 47: <http://onlineservices.congleton.gov.uk/ecminutes/ielssueDetails.asp?IId=7735&Opt=3>
5. **Meeting with Cllr David Brickhill – 16/4/09**  
Meeting Notes - On STC File
6. **STC Internal Car Parking Report – Cllr Keith Haines**  
01/05/09 – on STC file
7. **Car Parking Strategy - Cheshire East Council**  
**Approved: 21/4/2009**  
<http://onlineservices.congleton.gov.uk/ecminutes/mgConvert2PDF.asp?ID=2786>
8. **RTA Report: Congleton Borough Council – Car Parking Review**  
26/03/2007:  
<http://onlineservices.congleton.gov.uk/minutes/mgConvert2PDF.asp?ID=228>
9. **CBC Prosperity Scrutiny Committee - Agenda**  
11/04/2007  
<http://onlineservices.congleton.gov.uk/minutes/ielListDocuments.Asp?CId=103&MID=2030>
10. **CBC Prosperity Scrutiny Committee - Minutes**  
11/04/2007  
<http://onlineservices.congleton.gov.uk/minutes/mgConvert2PDF.asp?ID=349>
11. **Log of Recommendations to CBC Executive**  
10/7/2007  
<http://onlineservices.congleton.gov.uk/minutes/mgConvert2PDF.asp?ID=355>
12. **CBC Report to Executive**  
Car Park Management - Head of Safer Communities  
16th January 2008  
<http://onlineservices.congleton.gov.uk/minutes/mgConvert2PDF.asp?ID=909>
13. **CBC Executive Resolution – Reaffirming “free at point of use” Parking Policy**  
16/01/2008  
<http://onlineservices.congleton.gov.uk/minutes/ielssueDetails.asp?IId=3906&Opt=3>
14. **CEC Application for Civic Parking Enforcement and Bus Lane Enforcement**  
Document undated, received 23 April 2009
15. **CBC Letter (P Sutton) to G Bickerton - Scotch Common – Legal Status**  
18/03/2009 - On STC file
16. **Various Letters from G Bickerton to STC - Status of Scotch Common**  
2008-2009 - On STC File
17. **Scotch Common Village Green Status - Open Spaces Society**  
<http://www.oss.org.uk/village-greens/>
18. **Copy of Conveyance of Sandbach Common - Land Registry CH138710**  
11/01/1979
19. **History of Sandbach - C Massey**  
1958 + 1967 Supplement
20. **The History of the Ancient Parish of Sandbach - Earwaker**  
1890





**Appendix 2 - Photographic Survey**  
**of the Status of Sandbach Car Parking**  
**Monday, 4<sup>th</sup> May, 2009**  
**14:00-15:00**



**Bold Street**



**Church Street**



**Congleton Road**



**Cross Street**



**Crown Bank**



**Dingle Drive**



**Front Street**



**Green Street**



**High Street (1)**



**High Street (2)**



**Library (1)**



**Library (2)**





**Wellbank (1)**



**Wellbank (2)**



**Welles Street**



**Little Common (1)**



**Little Common (2)**



**Scotch Common**

**Other Observations**

**Scotch Common**



**Existing Parking Restrictions**



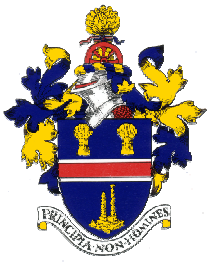
**Green Street**  
*Faded Lineage*



**Green Street**  
*Non standard Disabled bay*



**Parking Restriction Signage**



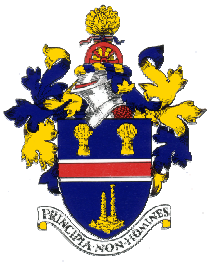
## Appendix 3 - Recommended Charges (subject to notes)



Car Park	Spaces	Usage	Charges Cars	Motorcycles & Cycles in designated spaces
Scotch Common <i>Special Case, see note2.</i>	142	Short Stay	2 hrs free, then fines. <i>See note2</i>	Free
	10 disabled			
Little Common	22	Short Stay	1 hr - Free 2 hr - 50p 3 hr - £1.00	Free
	2 disabled			
Crown Bank	11	Short Stay	1 hr - Free 2 hr - 50p 3 hr - £1.00	Free
Hawk Street	9	Short Stay	1 hr - Free 2 hr - 50p 3 hr - £1.00	Free
	1 disabled			
Well Bank	13	Short Stay	1 hr - Free 2 hr - 50p 3 hr - £1.00	Free
	1 disabled			
Chapel St <i>(non-standard surface)</i>	75	Mix of both short & Long Stay	As specified for short stay and long stay.	Free
Brook House Road <i>( Lower Waitrose)</i>	139	Long Stay	0-2 hr - £1.00 2-4 hr - £2.00 Day - £3.00	Free
	2 disabled			
Junction 17	15	Long Stay	0-2 hr - £1.00 2-4 hr - £2.00 Day - £3.00	Free

**Notes:**

1. The above charging regime assumes that a holistic car parking strategy and regime has been established. Including residential parking permit scheme, business parking permit scheme is in place, a season ticket parking scheme and adequate Civil Enforcement is ready to be deployed.
2. The unique parking regime recommended for Scotch Common Short Stay car park, is designed to reflect the traditional rights of the local community, including its use as a public car park, established over 50 years. See section 4 and appendix 4. The centre of the car park has traditionally permitted unlimited parking, whilst the edge has been restricted to two hours. See the Other Observations section, in Appendix 2.



## Appendix 4 - Legal Arguments relating to Scotch Common WITHOUT PREJUDICE




### Village Green Status

Scotch Common was registered as a Village Green on 3rd October, 1979.

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SCOTCH COMMONS ACT 1965



Reference No. 5/2/16

In the Matter of Scotch Common, Sandbach,  
Cheshire

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PRECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. VG 17 in the Register of Town or Village Greens maintained by the Cheshire County Council and is occasioned by Objection No. 21 made by the Trustees of the Crewe Unsettled Estate and noted in the Register on 25 November 1970.

I held a hearing for the purpose of inquiring into the dispute at Chester on 24 July 1979. The hearing was attended by Mr R H Flint Deputy Secretary of, and representing Congleton Borough Council.

The registration was made on the application of Sandbach UDG of which the Borough Council is the successor. The Objection was on the grounds that the Objectors own the freehold of the land.

The Borough Council has now acquired the interest of the Objectors in the land, and the latter are no longer interested to maintain the Objection. The Borough Council wish the registration to be confirmed and this I do.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated 3 October 1979

*L J Harris*  
Commons Commissioner

It is contended that s193 of the Law of Property Act 1925 (“ Rights of the public over commons and waste lands”) applies to Scotch Common because it is “manorial waste or common land within the area of a pre 1 April 1974 borough or urban district”.

This raises three legal issues:

- i) Can Scotch Common be used as a car park?
- ii) Can a change from free parking to pay parking be enforced?
- iii) Can any parking restrictions be enforced?

#### i) Can Scotch Common be used as a car park?

Scotch Common has been used as a car park for more than 20 years and indeed for more than 20 years before it was a village green in 1979. This usage has been open, continuous and long- established.

The usage as a car park has been *nec vi, nec clam, nec precario*: not by force, by stealth or with permission. Therefore a right to park on Scotch Common has been established by prescription. The House of Lords case of *Bakewell Management Ltd v Brandwood and others* [2004] UKHL14 reported at...

<http://www.publications.parliament.uk/pa/ld200304/ldjudgmt/jd040401/bake-1.htm>

....is relevant.



In this case in obiter dicta Lord Scott of Foscote said “*In my opinion, if an easement over land can be lawfully granted by the landowner the easement can be acquired either by prescription under section 2 of the 1832 Act or by the fiction of lost modern grant whether the use relied on is illegal in the criminal sense or merely in the tortious sense.*”

As Scotch Common has been used as a car park for more than 50 years and this usage has been open, continuous and long- established then an easement has been established by prescription.

Lord Hope of Craighead in obiter dicta in the same case noted that section 193(4) of the Law of Property Act 1925 recognises that it is open to the owner of the land to grant the authority that is needed for the use of it not to constitute an offence. So too does section 34 of the Road Traffic Act 1988.

STC contends that it is lawful for Scotch Common to continue to be used as a car park and that any attempt to prevent such use would be unlawful.

#### **ii) Can a change from free parking to pay parking be enforced?**

The owner of a common cannot lawfully do anything on the common that would constitute an unreasonable interference with the rights of the commoners (see s. 30, Commons Act 1876). To do so would be a nuisance (see Clerk & Lindsell 18th Ed. para 31-27). Furthermore, as noted above a right to park free of charge on Scotch Common has been established by prescription.

**Therefore STC contends that it is not lawful  
for CEC to charge for parking on Scotch Common.**

#### **iii) Can any parking regulations be enforced?**

STC has considered whether fines for parking in excess of a set free period would be lawful and the case of *Bakewell Management Ltd v Brandwood and others* [2004] UKHL14 is again relevant.

The practice of regulating parking on Scotch Common is well established and the outer spaces are already subject to a 2 hour limit (*see photos of existing signs in Appendix 2*).

The practice of fines for misuse of Scotch Common is also well established and can be traced back to October 1583 when 32 men were fined because they “*made use of an unlawful game viz; Bowling upon the common green or commons*” (reference History of the Ancient Parish of Sandbach p8 Earwaker).

In *Bakewell* in obiter dicta Lord Hope of Craighead drew a distinction with the earlier case of *Hanning v Top Deck Travel Group Limited* (1993) 68 P & CR 14. In *Hanning* the aim was to preserve the amenity of the common, of which his lordship approved, whereas in the case of *Bakewell* the aim was to make money, of which his lordship disapproved.

Applying those principles to Scotch Common it appears that any attempt to raise money by charging for parking will be unlawful, but that penalties for misuse designed to preserve the amenity of the common will be lawful.

**STC contends that fines designed to preserve the amenity of Scotch Common and regulate its use for the benefit of the people of Sandbach are lawful.**