

## **Notice of Motion No. 29 – Pavement Parking**

### **Officer Response**

#### **1. Background**

1.1 In 2015 a private members bill was proposed in Parliament which would have made it an offence to park a vehicle on a pavement. However the bill was withdrawn by Parliament shortly after the second reading in December 2015 it is believed in response to Police concerns about enforcement. Consequently it is still not necessarily an offence to park a vehicle on a pavement (except in London). There are, however, a number of offences associated with the practice as set out below:-

1.1.1 To drive a vehicle on a footway (or pavement) is an offence under the Highways Act 1835 and is also prohibited by rule 145 of the Highway Code. This is enforced by the Police. Clearly any vehicle parked on a pavement will have most likely been driven on and the Police can take action if they consider appropriate.

1.1.2 To park on a pavement in such a manner as to obstruct pedestrians from moving along it is an offence. This is enforced by the Police where a pedestrian wants to pass but is physically prevented from doing so by a parked vehicle.

1.1.3 To damage a pavement by driving and/or parking on it is an offence. However it is necessary to prove that the pavement was undamaged before a vehicle was driven on it and that a specific vehicle has caused the damage. In practice this can be difficult to prove as most damage to the pavement/footways are likely to have been caused over a long period of time by repeated parking.

1.1.4 It is an offence to park on a pavement which is adjacent to a carriageway which has yellow lines on it (see below for further explanation in paragraph 3.1.).

#### **2. The Highway Code**

2.1 Section 244 of the code states that a driver MUST NOT park partially or wholly on the pavement in London, and should not do so elsewhere unless signs permit it. Rule 245 states that a vehicle must not stop or park where the kerb has been lowered to help wheelchair users and powered mobility vehicles. Parking on the pavement can obstruct and seriously inconvenience pedestrians, people in wheelchairs or with visual impairments and people with prams or pushchairs.

#### **3. Current Enforcement Arrangements**

Local authorities and the police may act to tackle pavement parking in various ways, such as under legislation governing obstruction and dangerous parking; designating limited areas of 'no pavement parking' through a Traffic Regulation Order (TRO); or establishing a special parking area

### 3.1 Yellow Lines

3.1.1 Vehicles parked on a pavement adjacent to a carriageway which has yellow lines on it, can be issued with a Penalty Charge Notice. The yellow line restrictions cover the pavement as well as the carriageway. This offence is dealt with by the council's Civil Enforcement Officers who will routinely deal with the problem when out on their regular patrols and will also respond to complaints from the general public.

3.1.2 The Council has powers under the Road Traffic Regulation Act 1984 to introduce permanent or temporary Traffic Regulation Orders (TROs) aimed at dealing with pavement and/or verge parking problems. TROs are enforced by the Police. However each TRO is site specific and there are considerable legal costs associated with the process as well as the need to sign each location to allow enforcement. A public consultation would be necessary if a permanent TRO is proposed.

3.1.3 Bollards, where appropriate can be installed by a highway authority to prevent vehicles from mounting a pavement. This is an expensive procedure and not considered appropriate for other than small, confined areas where there are concerns regarding the safety of pedestrians and other users of the pavement/footway.

## 4. Highways Act 1980

4.1 As highway authority the Council has various powers under the Highways Act to undertake enforcement to service notice on vehicle owners to remove vehicles obstructing the highway or to immediately remove obstructions (such as parked vehicles) from land recorded as highway which are considered to be causing a nuisance or danger to users of the highway which would potentially include vehicles parked on footway or pavement.

## 5. Pavement Parking and Byelaws

5.1 If byelaws were proposed, it would be recommended that these would need to be a countywide initiative to ensure equal treatment and avoid the perception that pavement parking is allowed in certain areas (unless an area was signed and lined showing pavement parking was allowed).

5.2 A full countywide public consultation would need to be undertaken before the byelaws are presented to full Council and it would be expected for this to take up considerable time and resources.

5.3 If made, for the byelaws to be lawfully enforceable there would need to be appropriate signs in place in every area where the by-laws would apply which would potentially carry a substantial additional cost to the council.

- 5.4 However it is considered that any enforcement of the byelaws would be difficult as the offender would need to be observed committing the offence and approached at that time by a council enforcement officer. The council would therefore need to employ additional staff as it does not have the resources currently in place to manage such a county wide operation.
- 5.5 Any prosecution under the byelaws would be undertaken through the Magistrates Court with all the associated legal costs of bringing a prosecution.
- 5.6 Parking on the pavement is often undertaken to allow vehicle road movements to continue in particular along narrow rural roads. In rural areas parking on pavements may be tolerated as there may be little or no appropriate alternative parking for residents in some small towns or villages. Parking on the pavement may be necessary to ensure the highway is clear for passing traffic when highway maintenance work is being undertaken. It has also been found that parking can have the effect of reducing speeds in traffic passing through rural areas. The prevention of pavement parking in a number of areas will create displacement parking. For example the imposition of pavement parking byelaws in one road will displace parking problems to surrounding roads where road parking would be allowed.
- 5.7 Banning pavement parking will need a countywide review of all the parking arrangements in both urban and rural areas to ensure a managed transfer. This will carry significant costs.

## **6. Enforcement Capacity**

- 6.1 The police have powers already which make it an offence wilfully to obstruct the free passage of the highway. The police have prioritised other enforcement arrangements above pavement parking issues.
- 6.2 The council's parking enforcement priorities are to ensure traffic management and compliance with the current parking arrangements. CEOs are scheduled to maximise their effectiveness, by focusing their presence on areas where traffic flow and parking availability carry the greatest risk of issues. However, the council already receives criticism that it does not support rural communities with the current enforceable parking arrangements.
- 6.3 The introduction of pavement parking byelaws would require sufficient resources to ensure compliance. There is insufficient capacity within the current CEO arrangements to meet the existing demand for parking enforcement. To undertake byelaw enforcement the number of CEOs would need to be increased to a level to ensure compliance. Before considering enforcing byelaws for parking on the pavement, there would remain higher priority enforcement duties for the current parking arrangements. Adding byelaw enforcement to Parking Services would raise expectations of enforcement, within local communities, which would be unachievable without considerable increases in revenue funding arrangements.

## **7. Conclusion**

- 7.1 The police have powers already which make it an offence wilfully to obstruct the free passage of the highway but the police appear reluctant to take enforcement action on cars parked on pavements.
- 7.2 There are an array of services the council already employs to control irresponsible parking. But it recognises it does not currently use of byelaws.
- 7.3 The requirement for parking enforcement is already greater than the council's resource capacity of the service. The council's resources are scheduled to maximise their benefit by focusing on maintaining traffic flow and parking availability in high priority areas.
- 7.4 Introducing byelaws banning pavement parking would carry significant additional costs to the council and unless ongoing funding is provided there would be insufficient resources to manage the byelaw.
- 7.5 The introduction of byelaws preventing pavement parking would add little value due to the council's ability to enforce any arrangement. It would raise unrealistic expectations. When pavement parking issues arise the police and council should consider using the powers already available to them. However, this would need to be considered within the current resource availability and enforcement priorities.