

The Wheatsheaf Public House, Chilton Foliat

Technical Note 2: Response to LHA Comment (21/03/2025) and the Officers Report to Committee

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|-----------------|-----------------|--------------|---------------------|
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1.0 Introduction

- 1.1 Tetra Tech (TT) has been commissioned by Artisan Innkeepers Ltd to provide transport and highways advice in relation to a planning application for the extension (66sqm) of a restaurant use at The Wheatsheaf Public House (Wiltshire Council Planning Ref: PL/2024/03701).
- 1.2 The is located off the B4192 in Chilton Foliat, Wiltshire. **Plan 1** shows the location of the site.
- 1.3 The application is for:
- “Construction of restaurant extension to rear, internal alterations to create a new kitchen servery hatch, insertion of rear door to kitchen, construction of cellar access, creation of new bay window to front elevation, raising of ceilings in the 3 first floor bedrooms.”*
- 1.4 The application has been the subject of on-going correspondence between the applicant and the Local Highway Authority (LHA), namely Wiltshire Council, in relation to the on-site car parking provision.
- 1.5 TT prepared a Transport Technical Note (TTN - dated 4th March 2025), to respond to the LHA’s earlier comments (June 2024). That TTN provided evidence in relation to the application of the parking standards, nearby similar public houses and two parking surveys of both The Wheatsheaf car park and the on-street parking in close proximity to the site. It was prepared with reference to the National Planning Policy Framework (NPPF) policies and the Local Plan policies. It concluded that:
- “In view of the evidence contained in this TTN, it is evident that the car parking provision would be adequate with the proposed extension to the restaurant. There would be no unacceptable safety impacts on the local highway network. The proposals comply with the NPPF.*
- Additional limited parking demand on the public highway may be generated by the proposals, however in the context of the evidence presents within this TTN, this will not lead to the detriment of the safety and amenity of the users of the highway and the proposals are not contrary to Core Polices CP60 and CP61.*

In view of the above evidence, the proposals should be acceptable as they comply with both national and local policies in terms of parking, safety and residual cumulative impacts.”

1.6 In response to the TTN, the LHA have provided the following comments, which are dated 21th March 2025:

*“I have consistently applied the most recent standards of 1 per 5m² in relation to all public floor space, this leads to a requirement of 13 spaces for the proposed 66m² new restaurant space. In their technical note the applicant is requesting an application of "older" standards to the existing floor space, this being 1 per 25m². I chose to apply the 1 per 5m² standard due to the location of the pub as well as the current operation which appears to have a high level of demand and associated impact on the adjacent highway. Though I stand by the application of 1 per 5m² as I believe that it offers the best outcome in relation to mitigating the potential impact of the extension (in terms of displaced parking) I do acknowledge that technically there is a reasonable expectation on behalf of the applicant for the original standards to be applied to the current floor space. **As such, I am willing to accept the standards outlined in Table 1 of the note, this suggesting a number of 30 spaces being required.** However, I am not minded to accept the proposed 1/3 discount outlined in Table 2. **The level of a potential double use of a space I consider is likely to be far less than as proposed.***

Therefore, I am minded to accept in part the approach outlined by the applicant and will accept a number of 30 spaces as a total for the scheme as a whole (including the restaurant extension).

*It is clear that the site cannot provide 30 spaces. The layout is designed in a way that all available space is completely utilised. There is also currently a potential query over land ownership which may make bringing forward two spaces more difficult. I am willing to count them at this time but there is a potential that the at least 2 more vehicles may be displaced in addition to the **4-5 already being noted.***

*The applicant has provided details of the on-street parking and the parking “available” on site. **Primarily any development should be able to accommodate its associated parking within its own control, with a principle that any displaced parking, in its own right, is a reason for refusal. This rests in the fact that the that the road is for the passing and repassing of vehicles and not to accommodate stationary vehicles.** As such, **even if there is potential accommodation on street for a single or even multiple vehicles it still equates to a possible reason for refusal as it is in this case.***

*The applicant has benefitted from the planning authority’s assessment of the site as a whole and has been provided, via the various applications on the site, an expert and considered application of current (and now acknowledging previous) standards and in turn provided with a layout which accommodates all existing uses (under previous applications). The extension requires its own demand for spaces which cannot be achieved. As noted above, on street parking, is not considered an acceptable fallback position by virtue that **parked cars of any number can be considered an obstruction.***

Therefore, after taking into account the submitted information and acknowledging the arguments outlined, I am still I am minded to adhere to my previous objection.”

- 1.7 Further to the LHA comments, the Local Planning Authority Case Officer's, Report to Planning Committee has been provided on the 10th April 2025. That document sets out the consultee comments, along with the public comments and the case officer has recommended that the application be refused on grounds of heritage and **highways safety**. The planning case officer's conclusion in relation to parking (pages 63 and 64 of the Committee Report), state:

“Car Parking Assessment, the objection raised by the council's Highways Officer has not been overcome. The application site is unable to provide an adequate and appropriate level of off street parking required for the proposed restaurant extension. The lack of adequate parking will displace vehicles onto the highway leading to the risk of a negative impact on the safety and amenity of users of the highway and contrary to CP 60 and CP 61 of the adopted WCS. This is also reflected in paragraph 116 of the NPPF which states “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

2.0 Addressing the LHA Comments

- 2.1 It is welcomed that the LHA have accepted that the maximum parking standards suggest 30 car parking spaces for the site under the proposals. The site plan includes 25 spaces within the car park and a service bay at the front of the public house. Considering the 25 spaces in the car park, based on the LHA's request for 30 spaces, the LHA consider that there is a shortfall of 5 spaces.
- 2.2 However, the LHA have clearly accepted that there is some potential for double use between the hotel spaces and the restaurant spaces (see section 1 above). They state that such lower use would in their view, be lower than 33% of the hotel users, also using the restaurant. TT's view is that 33% is a low estimate, particularly given that there are no other eateries within the village, nor in walking distance. Given that the LHA has accepted that there will be some level of double use, the shortfall is therefore less than 5 spaces. If the LHA were to accept that just 20% of the hotel guests were to eat at the restaurant, that would result in 3 double use spaces, and the site would have 2 fewer spaces than the LHA require, through their maximum parking standards.
- 2.3 When the parking provision is considered against the LHA view that there is a shortfall, whether that be 2 or 5 spaces, it is entirely immaterial, particularly given the availability of spare on-street car parking within the village at the peak times of the restaurant. The car parking surveys demonstrated that:
1. On-street parking occurs in the existing situation.
 2. There is availability for additional parking demand to be accommodated on street, due to vacant spaces on-street
- 2.4 The LHA comments describe the reason for refusal as:

“Primarily any development should be able to accommodate its associated parking within its own control, with a principle that any displaced parking, in its own right, is a reason for refusal. This rests

in the fact that the that the road is for the passing and repassing of vehicles and not to accommodate stationary vehicles. As such, even if there is potential accommodation on street for a single or even multiple vehicles it still equates to a possible reason for refusal as it is in this case.”

2.5 The statement is both fundamentally contradictory and flawed.

2.6 It is contradictory because:

- It states that, “**Primarily** any development should be able to accommodate its associated parking within its own control”. Primarily means the first option, not the only option. The second option is on-street parking.
- The comment first states that displaced parking “is” a reason for refusal and then contradicts this by stating that it is a “possible” reason for refusal.

2.7 It is flawed because:

- It does not accord with Planning Policy.
 - The NPPF does not require minimum levels of parking to be provided at proposed developments.
 - The Local Plan Policies 60 & 61 do not require minimum levels of parking to be provided at proposed developments.
- It states that “*the road is for the passing and repassing of vehicles and not to accommodate stationary vehicles*”. If this was the case, all roads would be subject to Traffic Regulation Orders restricting on-street parking or there would be a national prohibition of on-street parking.
- It states that “*even if there is potential accommodation on street for a single or even multiple vehicles it still equates to a possible reason for refusal as it is in this case.*”, yet the LHA are charging car drivers to park on street in the towns across the county, including on-street parking charges in Salisbury, Malmesbury and Marlborough (see [Find a car park - Wiltshire Council](#)).
- In the case of B4192, as there are no parking restriction in place, the Council is permitting on-street parking currently.

2.8 With reference to the above, the LHA should refer to the House of Commons Briefing Paper (2020) “Pavement and on-street parking in England” (see **Appendix A**), which describes how:

“There is no national prohibition against either on-street or pavement parking except in the latter case in London and more widely in relation to heavy commercial vehicles”

“The general principle is that it is legal to park at the side of the road (on-street parking) anywhere except where there are local authority restrictions in place.”

2.9 The B4192 road is between 7.5m to 8.07m wide throughout the extent where on-street parking takes place. Parallel parking spaces are 2m wide and therefore when there is a car parked to one side of the road, the remaining width is 5.5m to 6.07m. With reference to Manual for Streets, two large vehicles can pass on a 5.5m wide carriageway. Therefore, the on-street parking does not cause an obstruction.

- 2.10 Based on Tetra Tech’s site visit in the summer of 2024, no obstructions were observed due to the existing on-street parking.
- 2.11 There are no parking restrictions in place and there is clear evidence of existing car parking along the stretch of road which was included in the parking survey.
- 2.12 Furthermore, there is clear evidence that on-street parking already occurs, and the B4192 has excellent road safety record in this locality, which was described within the TTN (March 2025). This evidence clearly demonstrates that the parked cars on the B4192 do not cause an obstruction to the free flows of traffic. Accordingly, there would be no highway safety implications due to the very limited additional on-street parking (i.e just 2 to 5 spaces) resulting from the proposed small restaurant extension. Additionally, there would be no material impact on the amenity of users.
- 2.13 If obstructive parking was an issue within the village, then the LHA would have implemented Traffic Regulation Orders to restrict such parking. The accident statistics do not indicate that there is any evidence behind the LHA’s view.
- 2.14 Furthermore, the NPPF at Section 6 “Building a strong, competitive economy, Supporting a prosperous rural economy”, states:

“88. Planning policies and decisions should enable:

a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, new buildings;

b) the development and diversification of agricultural and other land-based rural businesses;

c) sustainable rural tourism and leisure developments which respect the character of the countryside; and

d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

*89. Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, **does not have an unacceptable impact on local roads** and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, **and sites that are physically well-related to existing settlements**, should be encouraged where suitable opportunities exist.”*

- 2.15 The proposals are in accordance with the NPPF, as there will not be any unacceptable impact on local roads. There is on-street parking available with spare capacity at peak times of the restaurant and as demonstrated by the House of Commons paper, it is legal to park on-street. The site is physically well related to the existing settlement and as described in the TTN (March 2025). The whole of the village is accessible within a 7-minute walk from the site.

- 2.16 Contrary to the LHA's comments, there is no requirement within the NPPF for **any development to be able to accommodate its associated parking within its own control, nor is there a principle that any displaced parking, in its own right, is a reason for refusal**. The NPPF test is whether the proposals have an unacceptable impact on local roads. In this case it is clear that the proposals will not have an unacceptable impact on the local roads.
- 2.17 The LHA refers to policy CP 60 (Sustainable transport) and CP61 (Transport and development) of the adopted Wiltshire Core Strategy (WCS) in raising alleged concerns on safety and amenity impacts of the development due to on street parking.
- 2.18 Given, the above evidence there will be no material safety and amenity impact due to the development. So, the proposal complies with both policies CP60 and CP61 of the WCS.
- 2.19 In terms of highway safety matters the NPPF (para 116) states that: *"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety,..."*. Given the above compelling evidence the development should not be prevented on highway grounds.
- 2.20 In conclusion, there would be no material highway safety or amenity issues arising from the proposals. Accordingly, the proposals comply with both the NPPF and the adopted WCS policies.

3.0 Public Comments

- 3.1 The public comments are summarised in the Committee Report.
- 3.2 A significant number of the comments reported, relate the highways improvement scheme that has been removed from the proposals, post submission of the planning application.
- 3.3 Comments relating to the parking provision have been addressed through Tetra Tech's TTN (March 2025) and this TTN02.
- 3.4 The other highways and transport related comments have been addressed through ongoing liaison between the applicant and the local highway authority. Given this, there are material concerns which have not been addressed.

4.0 Summary and Conclusion

- 4.1 The proposals will provide 25 car parking spaces within the car park.
- 4.2 The LHA require 30 parking spaces. They acknowledge that there will be some double use between the hotel spaces and the restaurant spaces, despite this, they have failed to take account of the double use in their calculations to derive the required spaces.
- 4.3 Based on a low estimate of just 20% of the hotel guests eating at the restaurant, that would result in 3 double use spaces, and the shortfall against the Council's maximum car parking standards would just be 2 spaces.

- 4.4 So, potentially the development may lead to 2 visitors / guests parking on-street, during the peak operating periods of the restaurant.
- 4.5 The recent parking surveys have demonstrated that there is adequate spare on-street parking capacity during the peak periods of the restaurant.
- 4.6 The local highway network has an excellent safety record with no accidents in the vicinity of the site. Demonstrating that the existing on-street parking does not cause any safety issues.
- 4.7 The LHA indicates that parked cars of any number on-street can be considered an obstruction. However, this statement is fundamentally flawed as on-street parking is not prohibited on the B4192. Furthermore, the Wiltshire Council is charging car drivers for on-street parking elsewhere in the County, which is not considered to be an obstruction.
- 4.8 The LHA has made some contradictory statements. It states that, "*Primarily any development should be able to accommodate its associated parking within its own control*". Primarily means the first option, not the only option. The second option is on-street parking. The comment first states that displaced parking "is" a reason for refusal and then contradicts this by stating that it is a "possible" reason for refusal. These statements do not accord with both the NPPF nor the Adopted WCS.
- 4.9 The House of Commons briefing paper (2020) "Pavement and on-street parking in England" states that "*There is no national prohibition against either on-street or pavement parking... ...The general principle is that it is legal to park at the side of the road (on-street parking) anywhere except where there are local authority restrictions in place*". There are no parking restrictions on the B4192.
- 4.10 The existing on-street parking does not cause obstruction to the free flows of traffic, as the road is wide enough to allow two-way movement of traffic with the parking. Accordingly, there would be no highway safety implications due to the very limited additional on-street parking (i.e just 2 to 5 spaces) resulting from the proposals. Likewise, there would be no material impact on the amenity of users.
- 4.11 The NPPF states that: "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety...*". Given the compelling evidence provided the development should not be prevented on highway grounds.
- 4.12 The public comments have been addressed through ongoing liaison between the applicant and the LHA.
- 4.13 In conclusion, there would be no material highway safety or amenity issues arising from the proposals. Accordingly, the proposals comply with both the NPPF and the adopted WCS policies.

Plan 1: Site Location

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Appendices

Appendix A – House of Commons Paper on Parking



BRIEFING PAPER

Number CBP 1170, 14 January 2020

Pavement and on-street parking in England

By Marguerite Page

Inside:

1. Are on-street and pavement parking legal?
2. Remedies
3. Legislating for 'a total ban'



Contents

| | |
|---|-----------|
| Summary | 3 |
| 1. Are on-street and pavement parking legal? | 4 |
| 1.1 London | 4 |
| 1.2 Scotland and Wales | 5 |
| 1.3 Heavy commercial vehicles | 6 |
| 1.4 Driving on the pavement with intention to park | 6 |
| 2. Remedies | 8 |
| 2.1 Obstruction | 8 |
| 2.2 Traffic Regulation Orders (TROs) | 9 |
| 2.3 Parking restrictions | 10 |
| 2.4 Selling or repairing vehicles | 11 |
| 2.5 Removal of abandoned vehicles | 11 |
| 3. Legislating for ‘a total ban’ | 13 |
| 3.1 The early years | 13 |
| 3.2 Action & attempts to legislate, 2011- | 13 |
| 3.3 Transport Select Committee inquiry, 2019 | 15 |

Summary

This paper outlines the general legal position on what is generally called ‘pavement parking’ and the measures available to the police and local authorities to tackle it.

The term ‘pavement parking’ can be confusing, as it can be used to describe a range of practices – from on-street parking at the side of the road, to parking either partially or entirely on the pavement. For the purposes of this paper:

- **‘Pavement’ parking** is used to describe parking where one or more wheels of a vehicle are on the pavement;
- other parking at the side of the road is described as **‘on-street’ parking**.

There is no national prohibition against either on-street or pavement parking except in the latter case in London and more widely in relation to heavy commercial vehicles. However, it is an offence to *drive onto the pavement*, whether with intention to park or not. Because this is a criminal rather than a civil offence, it is enforceable by the police, not the local authority. There have long been concerns about the extent to which this is enforced.

This paper focuses on the position in **England**, but it is worth noting that in Scotland the [Transport \(Scotland\) Act 2019](#) gives the Scottish Government the power to introduce a national ban on pavement and double parking. At date of publication, no secondary legislation or further details of how this will be implemented have been published.

Local authorities and the police may act to tackle on-street and 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.

There are long-standing campaigns to introduce a complete ban on pavement parking in England, and to make this a civil offence enforceable by local authorities. Pavement parking causes an obstruction to pedestrians and poses particular difficulties for blind and partially-sighted people, wheelchair and mobility scooter users and those with pushchairs and prams. These campaigns have resulted in Private Members’ Bills being introduced in Parliament to improve local authority controls over pavement parking. The most recent of these was Simon Hoare’s [Pavement Parking \(Protection of Vulnerable Pedestrians\) Bill 2015-16](#), which was debated in the House of Commons in December 2015, and subsequently withdrawn by the Member after securing commitments from the Government to progress some of the issues he raised.

The House of Commons Transport Committee held an inquiry into pavement parking in 2019, releasing their [report](#) in September 2019. The Committee criticised the Department for Transport for failing to take action on pavement parking and recommended that in the long term a ban on pavement parking should be implemented across England. Parliament dissolved for the 2019 General Election before the Government could issue a response.

Information on other parking-related matters can be found on the [Parliament website](#).

1. Are on-street and pavement parking legal?

The general principle is that it is legal to park *at the side of* the road (on-street parking) anywhere except where there are local authority restrictions in place.

Driving onto the pavement to park is illegal (see [section 1.4](#), below), but there are concerns about how widely this is enforced as it is a criminal offence (enforced by the police) rather than a civil offence (enforced by the local authority). Almost all other parking offences are now civil ones.

There is separate legislation banning pavement parking in London ([section 1.1](#), below) and more widely for heavy commercial vehicles ([section 1.3](#), below). Scotland has recently legislated to introduce a national ban on pavement and double parking, to be enforced by local authorities ([section 1.2](#), below).

Some on-street and pavement parking causes an obstruction and can be dealt with by the police, though what constitutes a ‘legal’ obstruction can be complex. However, most enforcement will be by local authorities who have assumed control of decriminalised/civil parking enforcement under various Acts of Parliament, most particularly Part 6 of the [Traffic Management Act 2004](#). As part of this process they can designate ‘Special Parking Areas’ (SPAs) in which vehicles parked on street or on the pavement can be ticketed for contravening parking regulations (e.g. parking on a yellow line), rather than for causing an obstruction.¹ Some local authorities, e.g. [Exeter](#), took their own Private Act powers to ban pavement parking within their areas.

Government guidance is available for all local authorities on alternative, non-legislative measures to discourage pavement parking. This includes suggestions such as guardrails, the planting of trees and the placement of bollards on pavements. Such physical measures, whilst perhaps costly in the first instance, have the advantage of being self-policing and self-enforcing.² These interventions may not always be appropriate or feasible. Adding to street clutter can negatively impact on those with visual or mobility impairments. Local authorities need to judge if these measures would create as much of a physical barrier for those with visual or mobility impairments as the vehicles parked on the pavements.

1.1 London

Pavement parking is banned in London, under section 15 of the [Greater London Council \(General Powers\) Act 1974](#), as amended. It is defined as parking a vehicle so that “one or more of its wheels” is resting on:

- (a) any footway;

¹ For full details of the parking policy framework, see HC Library briefing paper [CBP 2235](#)

² DfT, [Pavement parking](#) (Traffic Advisory Leaflet TAL 04/93), 1993

5 Pavement and on-street parking in England

(b) any land (not being a footway) which is situated between two carriageways in any such road; or

(c) any grass verge, garden or space not falling within the foregoing paragraph (a) or (b)

The maximum fine is £200 (Level 1 on the standard scale). It is also a [penalty charge](#) as legislated by the [Greater London Council \(General Powers\) Act 1974](#), section 15.

It is a defence under section 15(3) if one can prove that a vehicle was parked:

in accordance with permission given by a constable in uniform; or

for the purpose of saving life or extinguishing a fire or meeting any other emergency; or

for the purpose of rendering assistance at the scene of an accident or a bona fide breakdown involving one or more vehicles, and such assistance could not have been safely or satisfactorily rendered if the vehicle had not been so parked; and the vehicle was not left unattended at any time while it was so parked; or

for the purpose of loading or unloading goods, and the loading or unloading of the vehicle could not have been satisfactorily performed if it had not been so parked; and the vehicle was not left unattended at any time while it was so parked.

1.2 Scotland and Wales

The [Scotland Act 2016](#) devolved competence over on-street parking to the Scottish Parliament.³ There have been several attempts to legislate for a pavement parking ban in Scotland, each of which fell, and it was never clear until the 2016 Act was passed whether the Scottish Parliament had competence to legislate on these issues.⁴

In 2018 the Scottish Government brought forward a [Transport \(Scotland\) Bill](#). It received Royal Assent in November 2019 as the [Transport \(Scotland\) Act 2019](#). When Part 6 of the Act is fully implemented it would introduce a national ban on pavement and double parking. Specifically, it would:

- Prohibit parking on the pavement, subject to some exemptions;
- Prohibit double parking, subject to some exemptions;
- Allow local authorities to exempt certain streets/part of streets from the prohibition on pavement parking;
- Create a system for the enforcement for the pavement parking and double parking prohibitions – it would be a local authority duty and could be carried out by the same people who currently enforce civil parking restrictions for councils; and
- Allow for vehicles parked in contravention of a prohibition on the pavement or double parking to be removed and eventually disposed of, subject to a number of safeguards.

³ [Scotland Act 2016, section 43](#)

⁴ SPICe, [Transport \(Scotland\) Bill: Pavement Parking and Double Parking](#), SB 18-70, October 2018

The legal position regarding pavement parking in **Wales** is unclear.⁵ The competencies covering this have not been tested. The National Assembly for Wales Economy, Infrastructure and Skills Committee report *Post Legislative Scrutiny of the Active Travel (Wales) Act 2013*⁶ recommended that the Welsh Government work with police and local authorities at a regional level to agree innovative ways to tackle pavement parking, including changing driver behaviour and raising awareness of its impacts. The Welsh Government accepted this in principle.⁷

In July 2019 at the Active Travel conference in Cardiff the Deputy First Minister announced that the Welsh Government intended to convene an expert group to explore ways of clamping down more widely on illegal parking, including pavement parking, across Wales.⁸ As of the date of this paper no more information about this task force has been released.

1.3 Heavy commercial vehicles

Goods vehicles with an operating weight exceeding 7.5 tonnes are prohibited from parking on verges, footpaths or the central reservations of roads under section 19 of the [Road Traffic Act 1988](#), as amended.

The maximum penalty for committing an offence under section 19 is a £1,000 fine (Level 3 on the standard scale). Parking in breach of section 19 is also a non-endorseable Fixed Penalty offence, for which the fine is £30 (£40 in London).⁹

It is a defence under section 19(2) and (3) if one can prove that a vehicle was parked:

- in accordance with permission given by a constable in uniform; or
- that it was parked in contravention of this section for the purpose of saving life or extinguishing fire or meeting any other like emergency; or
- that the vehicle was parked on the verge of a road or on a footway for the purpose of loading or unloading, and that the loading or unloading of the vehicle could not have been satisfactorily performed if it had not been parked on the footway or verge, and that the vehicle was not left unattended at any time while it was so parked.

1.4 Driving on the pavement with intention to park

Although parking is generally permitted at the side of the road, except where there are restrictions or a specific offence has been committed,

⁵ *Wales Act 2017 Schedule 7* does not go into detail.

⁶ Economy, Infrastructure and Skills Committee [Welsh Assembly], [Post Legislative Scrutiny of the Active Travel \(Wales\) Act 2013](#), June 2018

⁷ *Ibid.*, page 10

⁸ Welsh Government '[Welsh Government to take action against pavement parking](#)' 4 July 2019

⁹ Fixed Penalty Notices (FPNs) are effectively temporary stays of prosecution and allow an individual to agree to a Fixed Penalty and subsequent immunity from prosecution for the offence [offences listed in Schedule 3 to the [Road Traffic Offenders Act 1988](#), as amended; fine amounts in Schedule 1 to the [Fixed Penalty Order 2000](#) (SI 200/2792), as amended]

7 Pavement and on-street parking in England

driving actually *onto* the pavement or footway (to park or otherwise) is an offence under section 72 of the [Highways Act 1835](#), as amended.¹⁰

Wilkinson's Road Traffic Offences explains:

Under the Highways Act 1835, s.72, it is an offence wilfully to ride or drive on the footway, even though the driving may last only for a few seconds (*McArthur v Jack* 1950 S.C.(J.) 29). The offence will apply to pedal and motor cyclists. Driving across the footway to get to a private park was held to be an offence in the absence of proof of long use or of its being a way of necessity (*Curtis v Geeves* (1930) 94 J.P. 71) but in *Vestry of St Mary, Newington v Jacobs* (1871) L.R. 7 Q.B. 47 the owner of land adjoining the highway was held to be entitled to convey machinery on trolleys over the pavement into his premises.¹¹

However, *Wilkinson's* also cautions that:

Not all police forces take active steps to enforce [this law], but many more are now doing so in order to prevent subsequent parking on the pavement. Quære whether there is a common law right to divert onto the pavement in cases on necessity when the carriageway is blocked.¹²

¹⁰ See also section 28 of the *Town Police Clauses Act 1847* under 'obstruction' in section 2.1, below

¹¹ *Wilkinson's Road Traffic Offences*, 28th ed., 2017, para 6.258

¹² *Wilkinson's Road Traffic Offences*, 28th ed., 2017, para 6.258

2. Remedies

2.1 Obstruction

Local authorities and the police have the power to remove a vehicle if it is illegally parked, causing an obstruction or has been abandoned.

The power to remove vehicles is given to the police under sections 99-102 of the [Road Traffic Regulation Act 1984](#), as amended, and by the [Removal and Disposal of Vehicles Regulations 1986](#) (SI 1986/183), as amended.¹³ The powers of removal under section 99 include vehicles that are parked illegally, have broken down and those that cause obstruction, danger or potential danger. If it can be shown that a vehicle is illegally parked, causing an obstruction or is abandoned, the local authority and the police may remove it under this legislation. It should be pointed out, however, that they do not *have* to remove a vehicle in any of these three cases, merely that they *may* do so.

A vehicle can only be illegally parked if there are parking restrictions operating in the area. In other cases, one would have to prove a vehicle was causing an obstruction. The police can remove vehicles that are causing an obstruction and there are a number of statutes and regulations that allow proceedings to be brought for obstructing the highway. These include:

- Section 137 of the [Highways Act 1980](#), as amended (wilfully obstructing the free passage of a highway);
- Section 28 of the [Town Police Clauses Act 1847](#), as amended (wilfully causing an obstruction in any public footpath or public thoroughfare); and
- Regulation 103 of the [Road Vehicles \(Construction and Use\) Regulations 1986](#) (SI 1986/1078), as amended (causing or permitting a motor vehicle or trailer to stand on a road so as to cause any unnecessary obstruction of the road).

There is a good deal of case law on the general issue of ‘obstruction’ and ‘unnecessary obstruction’. Extracts provided below from *Wilkinson’s Road Traffic Offences* demonstrate the breadth of the offence and reinforce the importance of individual circumstances in any case:

Obstruction can be caused by actual physical obstruction of an essential line of traffic ... or it may be unreasonable use of the right of stopping even though there is plenty of room for other traffic to pass [...]

While there is obviously an offence if there is a serious obstruction in fact, unreasonable use of the highway calculated to obstruct and whereby persons might be obstructed may suffice for a conviction without evidence that anyone has actually been obstructed (*Gill v Carson* (1917) 81 J.P. 250, a case under the Town and Police Clauses Act 1848, s.28). In *Nagy v Weston* [1965] 1 All E.R. 78 parking a van for five minutes in a wide, busy street near a bus stop and refusing to

¹³ Made under sections 99 and 101 of the 1984 Act

move was held to be an obstruction under what is now s.137 of the Highways Act 1980 [...]

It was again emphasised in *Wade v Grange* [1977] R.T.R. 417 that what amounts to obstruction is primarily a question of fact and that the Divisional Court is only concerned with correcting mistaken applications of the law [...]

Whether particular facts amount to an unreasonable use would depend very much on the magistrates' local knowledge of the importance of the particular road; a long stay may not be out of order in a quiet residential side road, but it would be otherwise in a busy shopping street. An obstruction only comes into existence if there is an unreasonable use of the right of stopping (*Nagy v Weston* above), and it is a matter of degree (*Dunn v Holt* (1904) 68 J.P. 271) [...] In *Absalom v Martin*, where the nearest public car park was several hundred yards away, the defendant parked partly on the carriageway and partly on the footpath and was endeavouring to carry on his business of bill posting in such a way as to cause the least inconvenience to pedestrians and other road users. A defendant who sold fruit from a barrow for 15 minutes, the barrow taking up 5ft in a 24ft road and customers causing further obstruction, was held to have been rightly convicted, as continuous selling does not mean that the barrow was not standing longer than was necessary (*Whiteseide v Watson* 1952 S.L.T. 367). In *Bego v Gardner* 1933 S.L.T. 110 the conviction was upheld of a man who sold ices from his van parked in a cul-de-sac frequented by the public.

Leaving a car unattended for three hours, which was found to cause danger to the public and annoyance to the residents but which was not specifically found to cause an obstruction, was held to constitute the offence of leaving a car unattended for longer than was necessary to load or unload it (*Henderson v Gray* [1927] S.C.(J.) 43). A motorist parked his car in a line of cars in a street and left it there for five hours. He argued that, as he parked in a line of cars, he was not causing an unnecessary obstruction. The High Court held that he clearly caused one (*Solomon v Durbridge* (1956) 120 J.P. 231) ...

Parking for five hours on a grass verge between the footpath and the wall was held to cause an unnecessary obstruction in *Worth v Brooks* [1959] Crim. L.R. 885, but in *Police v O'Connor* [1957] Crim. L.R. 478, quarter sessions held that it was not an unreasonable use of the highway to park a large vehicle outside the driver's own house in a cul-de-sac [...]

In *Seekings v Clarke* (1961) 59 L.G. 268, a case under what is now s.137 not involving a motor vehicle, it was said that anything which substantially prevented the public from passing over the whole of the highway (including the footway) and which was not purely temporary was an unlawful obstruction, subject to an exception on the de minimis principle. This case is discussed in *Wolverton UDC v Willis* [1962] 1 All E.R. 243.¹⁴

2.2 Traffic Regulation Orders (TROs)

A local highway authority can ban parking in a specific area by way of a Traffic Regulation Order (TRO) made under Parts I and IV of the [Road Traffic Regulation Act 1984](#), as amended.

¹⁴ op cit., *Wilkinson's Road Traffic Offences*, paras 6.210-6.221

Section 2 of the 1984 Act sets out what TROs may be used for and it includes almost anything prohibiting, restricting or regulating the use of a road by traffic or pedestrians, including parking.

There are three types of TRO: permanent, experimental and temporary. While permanent TROs require a lengthy consultation process, experimental orders, as precursors to permanent orders, can be implemented more easily and quickly.

There is an extensive network of TROs in place across the country. However, these tend to be for widespread on-street parking restrictions, limiting the movements of heavy goods vehicles and other traffic management purposes.

It should be noted that TROs can only be used for specific roads and not to give a general parking prohibition.

General (i.e. authority- or area-wide) prohibitions are provided under separate legislation. Decriminalised parking enforcement (DPE) was introduced in England (outside London) in 1995. Under this system parking offences became civil rather than criminal offences and local authorities took responsibility for parking in their areas. On 31 March 2008 this was renamed civil parking enforcement (CPE) and some changes were made to the enforcement and appeals process.

A general outline of the decriminalised/civil parking regime is given in the Library Note [‘Parking Policy in England’](#).

Special parking bays for disabled people on the highway may be designated by the local authority under a TRO made under section 32 of the 1984 Act. Anyone displaying a blue badge may park there. These are enforceable by law and the police and local authorities have powers to prosecute offenders under section 35A of the Act. However, since making a TRO is a relatively complicated and costly process, local authorities will often mark out a disabled parking space without introducing an order. Such a space is only advisory and there is no legal sanction to prevent other people using the space. Experimental orders can be used for things like tackling pavement parking.

As an example of how TROs might be used in relation to pavement parking, Slough Borough Council has [introduced a borough-wide ban](#) starting with Central Ward: they are rolling out an experimental TRO and permitting pavement parking in marked bays only.

The TRO process is viewed by many local authorities as bureaucratic, time consuming and expensive.¹⁵ The Department for Transport is investigating what it can do to make the TRO process easier for local authorities.¹⁶

2.3 Parking restrictions

There are two types of on-street parking controls:

- ‘Prohibited’ parking is where there are yellow lines or clearway restrictions in operation, and it is an offence to park on the adjacent

More information on TROs can be found in Commons Library briefing paper [CBP 6013](#), November 2014.

¹⁵ See para 38-45 of the Transport Select Committee’s [Pavement Parking](#) report from 2019

¹⁶ GeoPlace, [TRO discovery Summary report](#), 30 August 2019

11 Pavement and on-street parking in England

pavement or verge. The restrictions are for the whole road, including pavements, from property to property; and

- 'Permitted' parking is where there are meter bays or resident bays.

Decriminalised parking enforcement (DPE) was introduced in England (outside London) in 1995. Under this system parking offences became civil rather than criminal offences and local authorities took responsibility for parking in their areas.

On 31 March 2008 this was renamed civil parking enforcement (CPE) and some changes were made to the enforcement and appeals process.

In areas where local authorities have taken over responsibility for parking, cars parked on the pavement can be ticketed as contravening the parking regulations imposed by the local authority, included in prohibited parking, rather than for causing an obstruction.

A general outline of the decriminalised/civil parking regime is given in the Library Note ['Parking Policy in England'](#).

2.4 Selling or repairing vehicles

Part 2 of the [Clean Neighbourhoods and Environment Act 2005](#) introduced two new offences:

- parking vehicles on the street in order to sell them; and
- parking vehicles on the street in order to carry out repairs in the course of a business.

Under section 3 it is an offence for a person to park motor vehicles on a street, where the vehicles are parked merely in order to be sold. There must be two or more vehicles on the same street, no more than 500 metres apart, for the offence to be committed. The provision is not aimed at an individual selling a car privately; they must be acting as part of a business.

Under section 4 it is an offence to carry out 'restricted works' to vehicles on a road.¹⁷ Again, it does not apply to someone who can show they were not repairing the vehicle in the course of a business – although this is so only as long as it does not cause annoyance to persons in the area. A second exception is where the repairs arose from a breakdown or accident and are carried out promptly.

The maximum penalty for both offences is a fine of £2,500 (Level 4 on the standard scale); [fixed penalties](#) of up to £100 also apply.

2.5 Removal of abandoned vehicles

Local authorities have powers to remove abandoned vehicles – these tend to be vehicles which are not taxed or insured and have been left in one place for a considerable amount of time.

¹⁷ 'restricted works' are works for "the repair, maintenance, servicing, improvement or dismantling of a motor vehicle" or "the installation, replacement or renewal of any such part or accessory"

[Section 3](#) of the *Refuse Disposal (Amenity) Act 1978*, as amended, sets out the duties on local authorities to remove abandoned vehicles.

This is supported by the [Department for Environment, Food and Rural Affairs' \(Defra\) basic guidance](#), which says that councils:

... must remove abandoned vehicles from both:

1. land in the open air
2. roads (including private roads)

When removing vehicles from occupied land, councils cannot charge occupiers. Councils must give landowners or occupiers 15 days' notice and can only remove vehicles with their permission. The 15-day notice period does not apply if the vehicle is abandoned on a road or highway. Authorities do not have to remove abandoned vehicles if the cost of moving them to the nearest highway is unreasonably high (for example, if special machinery is needed), unless the vehicle is on a carriageway.

[According to Defra](#), it is likely that a vehicle is abandoned if at least one of the following applies:

- it has no keeper on DVLA's database and is untaxed;
- it is stationary for a significant amount of time;
- it is significantly damaged, run down or unroadworthy – for example, has flat tyres, missing wheels or broken windows;
- it is burned out; or
- a number plate is missing.

There is also a second route. The DVLA (or a local authority acting on their behalf) has the power to remove untaxed vehicles. You can use the registration number of any vehicle to [check online](#) if it is taxed and, if not, [report it to DVLA](#).

3. Legislating for ‘a total ban’

3.1 The early years

In 1974 Parliament provided for a national ban on pavement parking in urban areas under section 7 of the [Road Traffic Act 1974](#) (this inserted new section 36B into the *Road Traffic Act 1972*). If implemented, this would have prohibited all parking on verges, central reservations and footways on ‘urban roads’. The Secretary of State could have exempted certain classes of vehicles and individual local authorities could have made Orders within their own areas to exempt from the national ban certain streets at all times or during certain periods.

However, full implementation required that the ban had to be brought in by secondary legislation and this never happened. Successive transport ministers argued that there were difficulties for local authorities and the police in finding the resources to carry out the necessary policing and enforcement work. In 1979 the new Conservative Government decided to indefinitely defer implementation.¹⁸

In December 1986 the Department of Transport sought comments on a discussion paper, *Pavement Parking - Curbing an Abuse*. The paper looked at the reasons for pavement parking and the problems it caused. It put forward four options to tackle the problem involving a mixture of bringing the 1974 Act into force, providing more scope for TROs and making time for more Private Acts from individual authorities. However, nothing further happened.

When the 1972 Act was repealed in 1988, section 36B (the ‘national ban’ mentioned above) became, without any amendment, section 19A of the *Road Traffic Act 1988* and the matter rested there. Regulations to put into effect the national ban were not brought forward because of the potentially enormous costs to local authorities and police of securing proper policing and enforcement for the ban. It was finally repealed by section 83 and Schedule 8 of the [Road Traffic Act 1991](#).

3.2 Action & attempts to legislate, 2011-

As explained above, the current arrangements essentially give local authorities the powers to ban on-street and pavement parking by introducing parking measures and prohibitions in their areas. Successive governments have taken the view that it should be for local authorities to take these decisions based on specific local needs.

In 2011 the DfT wrote to councils “prompting them to use their powers to prevent parking on the pavement where it is a problem”, and giving all councils in England permission to use signs to indicate a local on-street/pavement parking ban without the need for special signs authorisation from the Department each time they wanted to put a pavement parking ban in place.¹⁹

¹⁸ [HC Deb 27 July 1979, cc631-2W](#)

¹⁹ DfT press notice, “[Freeing pedestrians from pavement parking blight](#)”, 21 February 2011

There were two bills seeking to address this issue in the 2014-15 Parliamentary session: one by the former MP Mark Lazarowicz to devolve powers to introduce a pavement parking ban to the Scottish Government and one by former MP Martin Horwood to introduce a blanket pavement parking ban in England and Wales.²⁰ Mr Lazarowicz's Bill received Second Reading in the House of Commons in September 2014 but progressed no further.²¹ Mr Horwood's Bill did not proceed past First Reading and was not debated in the House.

Simon Hoare MP sponsored the [Pavement Parking \(Protection of Vulnerable Pedestrians\) Bill 2015-16](#), which received Second Reading on 4 December 2015. The Bill provided a framework for local authorities in England and Wales to consult on and subsequently to ban pavement parking across wide areas, subject to certain exemptions to be set out by the Secretary of State in secondary legislation and guidance.

At the end of the debate Mr Hoare withdrew his Bill, having secured from the Minister a commitment to convene a roundtable in 2016 to discuss footway parking issues, and to undertake some work to "examine more closely the legal and financial implications of an alternative regime, and the likely impacts on local authorities".²²

The roundtable [took place](#) in March 2016, during which the process for putting in place Traffic Regulation Orders (TROs) was identified as a major factor affecting the enforcement of pavement parking – see next section for an explanation. The minister said that he was "considering how best to address the general improvement of the TRO-making process".²³

In April 2017 the minister said that he planned "to launch a survey in Summer 2017 in order to gather evidence about the current situation, the costs and timescales for processing TROs, and information about options for change".²⁴ The survey was put back to 'autumn 2017'.²⁵

In March 2018 the Minister said that:

The Department for Transport has been considering the scope for improving the Traffic Regulation Order process. However, the Department is now undertaking a broader piece of work to gather evidence on the issue of pavement parking including how it is addressed in current regulation. We expect to be able to draw conclusions later this year.²⁶

By November 2018 the Government's position remained that it was "in the process of gathering evidence on the problems posed by vehicles parking on pavements, the effectiveness of current regulation, and the case for change".²⁷ The then Transport Minister Jesse Norman said that the

²⁰ [Responsible Parking \(Scotland\) Bill 2014-15](#) and [Pavement Parking Bill 2014-15](#)

²¹ [HC Deb 5 September 2014, cc612-24](#)

²² [HC Deb 4 December 2015, cc659-60](#)

²³ [Parking: Pedestrian Areas: Written question – 49804](#), 26 October 2016

²⁴ [Parking: Pedestrian Areas: Written question – 71396](#), 24 April 2017

²⁵ see e.g. [Parking: Pedestrian Areas: Written question – 4827](#), 20 July 2017

²⁶ [Parking: Pedestrian Areas: Written question – 133316](#), 26 March 2018

²⁷ [Parking: Pedestrian Areas: Written question – 191412](#), 19 November 2018

15 Pavement and on-street parking in England

Department for Transport had held meetings with a range of stakeholders, including accessibility campaigners, local authority managers, and motoring associations, with the intention of completing this evidence gathering by the end of 2018.²⁸

In April 2019 the then Minister said that the Department for Transport was still “considering the findings of its internal review on the issue of pavement parking, and will be announcing a decision in the coming months”.²⁹ The TRO discovery project—funded by the Department for Transport, and that is feeding into the Department’s internal review—reported to the Department on 30 August 2019 (see [section 2.2](#), above).³⁰

During this period there were several pushes by outside organisations to introduce a nationwide ‘blanket ban’. This has been led by charities such as [Guide Dogs for the Blind](#), and [Living Streets](#) and has garnered widespread support. They argue that:

Pavement parking affects people across the country. For many people — including those who have sight loss, parents with babies or toddlers in buggies, and wheelchair users — this is a serious problem. For someone who is blind, having to step off the pavement into the road because of a badly parked car can be extremely frightening.³¹

Research commissioned for Guide Dogs for the Blind in 2014 found that of 407 local councillors from England and Wales questioned,

- 89% agreed that pavement parking creates safety risks for pedestrians;
- 61% said that pavement parking was a problem in their area; and
- 48% did not think that existing measures available to local authorities (such as parking restrictions and physical barriers) were sufficient to prevent pavement parking.³²

3.3 Transport Select Committee inquiry, 2019

The Transport Select Committee launched an inquiry into pavement parking in April 2019. The scope of the inquiry was to explore the problems of pavement parking and consider possible solutions.

The Committee [published its report into pavement parking](#) on 9 September.

The main recommendation of the report was that **in the long-term a ban on pavement parking be implemented across England**, outside London. The relevant legislation should give the Secretary of State for Transport powers to make secondary legislation setting out exemptions that local authorities can use to opt out from a nationwide ban. The report recommended that the Government include in the legislation a provision for a new exemption order process based on the London model. The specific nature of those exemptions should only be determined following

²⁸ [Parking: Pedestrian Areas: Written question – 242828](#), 15 April 2019

²⁹ [Parking: Pedestrian Areas: Written question – 242828](#), 15 April 2019

³⁰ GeoPlace, [TRO discovery Summary report](#), 30 August 2019

³¹ Letter to *The Times*, 12 September 2014 [from campaign groups, charities, politicians and others]

³² Guide Dogs for the Blind, *Guide Dogs survey of Councillors*, February 2014

public consultation and the full involvement of local authorities across England. It should include a full impact assessment to weigh the resource implications to local authorities of different options. The enforcement of this ban should lie with local authorities and not the police, who do not have time to enforce parking offences.

They also recommended the deployment of a **national awareness campaign** to highlight that driving onto the pavement is illegal, funded by the Department for Transport. This would also show the negative consequences of pavement parking for pedestrians including older people, disabled people and children.

It also recommended that a new exemption process be put in place which is easier and less expensive than the current Traffic Regulation Order (TRO). They note that this would not be a quick process, so also recommend a full consultation with local authorities.

Relatedly, the report recommended that the Government bring forward proposals to **reform the TRO process**, specifically that it be made cheaper and easier for local authorities to use.

Part of this change should be the abolition of the requirement to advertise TROs in a local newspaper. This should be replaced with a requirement for the local authority to maximise the reach of its advertising to the largest number of people by whatever media would best achieve this. The Government should commit to achieving this, and to bringing forth any required and necessary secondary legislation by spring 2020.

The report recommended that the Government undertake actions to ensure that local authorities and police forces have access to the correct **information** about who enforces which offences and they are clear about their responsibilities. This should be communicated with the general public as part of the public awareness campaign recommended above, the report suggests that the Government commit to such a campaign.

The Committee recommended that the Government should consult on a **new offence of obstructive pavement parking**, with a view to making such an offence subject to civil enforcement under the *Traffic Management Act 2004*, and that the relevant legislation should be introduced by summer 2020.

In addition, the Committee said that a **public information campaign** surrounding this work would help the public understand where they can park, the effects of pavement parking and where to report these offences.³³

During the inquiry the Committee received [430 pieces of written evidence](#), held two evidence sessions and a public engagement event in Bexhill-on-Sea.

The RAC responded cautiously to the Committee's report, stating that they 'welcomed proposals to review the law to help those most vulnerable, although warns that a blanket ban may cause issues.' Prior to the release of

³³ Transport Committee, [Pavement Parking](#), HC 1982, 2017-19, page 25-27, 9 September 2019

17 Pavement and on-street parking in England

the report, Nicholas Lyes, head of roads policy at RAC, said that any review of the law should 'look carefully at how we can strike the right balance.'³⁴

Disability Rights UK, a disability activism charity, welcomed the report, with Sue Bott, their head of policy and research saying that 'Parking on pavements creates obstacles for many disabled people trying to get on with our everyday lives. To add insult to injury, often pavement parking also blocks the down curb. It's time this anti-social behaviour was tackled.'³⁵

Because of the General Election the Government's formal response to the report has been delayed, but it should be published once the Committee has been re-established following Chair and member elections.

³⁴ RAC, ['£70 fine for parking on the pavement - MPs call for controversial ban'](#), 9 September 2019

³⁵ Disability News Service, [MPs call for overdue government action to ban pavement parking](#), 12 September 2019

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