

		AGENDA ITEM 7
		PSEG/33/16
Committee:	Place Services and Economic Growth Scrutiny Committee	
Date:	24 November 2016	
PAVEMENT PARKING		
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On 22 September 2016 (Minute 9) the Committee sought a briefing on Pavement Parking for this meeting.

Consequently a briefing paper is attached at the Appendix on the topic by way of background, and there will be a presentation at the meeting itself.

On 17 October 2016 an Art of the Possible **#scrutiny** event was organised to provide Members and officers with an opportunity to collaborate on exploring what scrutiny could learn from social media about people's real life experiences. The Committee put forward the topic of 'Parking Pavement' as its contribution to exploring how social media might be used as a scrutiny tool. A number of Committee Members may have taken part in the event and will be asked to share their observations with colleagues on what they learned through social media on this particular topic.

Action required by the Committee:

To receive a briefing on Pavement Parking.

Briefing Paper on Pavement Parking

For the Place Services and Economic Growth Scrutiny Committee meeting on 24 November 2016

Prepared by Mark Rowe, and Vicky Duff Network Assurance Manager, Essex Highways on behalf of the Cabinet Member for Highways and Transport



1. Purpose of Report

- To identify the current legal position in respect to pavement parking, and
- To outline what measures are available to tackle the problem and who may use these.

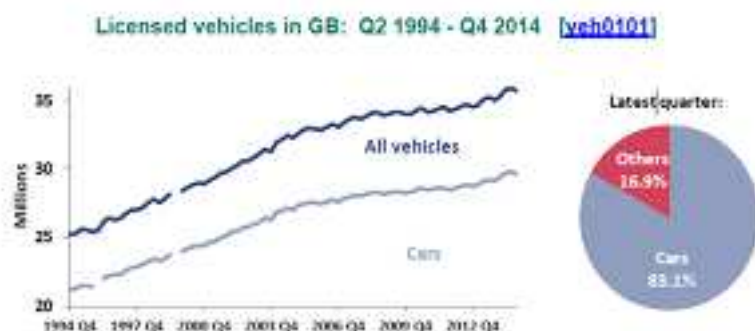
2. Summary of issue

Traffic Growth

At the end of December 2014 there were 35.6 million vehicles licensed for use on the road in Great Britain

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/421337/vls-2014.pdf

The total number of licensed vehicles has increased in every year since the end of the Second World War except 1991. This level of vehicle ownership has led to increased levels of congestion and pollution, particularly in more densely populated areas.



Parking Standards for Residential Developments

The first Parking Standards Document was produced in 1978 and set the standards for Parking in the then County of Essex including Southend on Sea and Thurrock, for all land uses. At that time these were expressed in minimum standards that is to say that no less than the proscribed number of parking spaces should be provided for the identified land use.

The 1998 Transport White Paper saw a change in direction with parking provision, using reduced parking availability as one of the tools to achieve a change in travel behaviour to more sustainable modes such as public transport, cycling and walking. https://www.essex.gov.uk/Environment%20Planning/Planning/Transport-planning/Information-for-developers/Documents/Parking_Standards_2009.pdf

The 2009 parking standards were produced and implemented as a consequence of the recognition that the application of maximum standards did not appear to have any effect on car ownership and consequently all the maximum standard achieved was to create more on-street parking in residential area. Minimum standards for residential parking provision were therefore applied to residential development. The 2009 standards retained maximum standards for employment and commercial uses in an attempt to reduce the number of vehicle trips, particularly in peak periods.

Essex County Council have recently gone out to public consultation to revisions the 2009 parking standards to resolve a number of anomalies and clarify a few issues which have arisen with the 2009 standards. However, the principle remains the same of minimum standards for residential and maximum for commercial.

Issues

Parking in residential developments is creating a significant amount of correspondence with both customer services and county councillors. Lack of space has resulted in requests to grasscrete over green areas in order to facilitate additional parking in the hope of being able to relieve the situation. However, this is not the answer as these areas are unlikely to relieve the problem as car ownership and demand for parking outstrips the available parking space.



an example of grasscrete used to stabilise grass areas and take vehicle weight.

The loss of these grass areas diminishes the aesthetics of the residential area/development. Unfortunately if they are currently being used for parking this results in the areas being churned into an unsightly mud bath at certain times of the year.

The issues are compounded by the current cost of first time buyers and increasing numbers of adults still living with their parents. A report for Thisismoney.co.uk in

February 2016 identified that young adults are more likely to be living with their parents than at any other time in the past 20 years as record numbers struggle to fly the nest. There are now 3.3million 20-34 year olds still living with parents, a 618,000 leap since 1996, the findings are taken from the Office for National Statistics show.

A fifth of 25-to-29 year olds still living with their parents, and half of those aged 20-to-24 and one in 10 aged 30-to-34 are also in the same situation. The increase comes as a rising number of young adults struggle to take the first step on to the property ladder.

With adult children living at home the number of vehicles parked outside residential properties is increasing. It is not unusual for there to be in excess of 4 vehicles per property where parking off road and on road can barely accommodate 2 vehicles.

<http://www.thisismoney.co.uk/money/mortgageshome/article-3458315/Number-young-adults-living-parents-hits-20-year-high-says-ONS.html#ixzz4PL0AFjeG>

In addition to the situation within residential developments there is an increasing number of complaints received about cars now parking on the kerbside along “main roads” half on half off the footway in order to prevent obstruction of free flowing traffic conditions.



This practice results in the available footway width being so severely restricted that in many instances it is not passable by a parent with pushchair or a mobility vehicle.

Legislation

Essex since 2002 has undertaken parking enforcement by virtue of decriminalised/civil parking enforcement under Part 6 of the Traffic Management Act 2004. The Parking Partnership created in 2011 is a Council-run organisation which brings together all street-based parking services in Essex. The aim is to administer the parking rules to a fair, proportionate and consistent standard in order to provide a service in a reasonable and responsible way. The service is a partnership between Essex County Council and its 12 Borough/City/District Councils and is run in two areas:

- the North Essex Parking Partnership (led by Colchester Borough Council)
- the South Essex Parking Partnership (led by Chelmsford City Council)

Each Partnership is responsible for:

- its area's on-street Civil Enforcement Officers ("traffic wardens")
- the enforcement process, together with challenges to, and payments of, parking penalties ("parking fines")
- the administration of the parking restrictions ("yellow lines") and the management and maintenance of permit schemes

The general rule is that it is legal to park at the side of the road (on-street Parking) everywhere **except** where there are restrictions imposed by the local authority. Unless the action is creating an obstruction.

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 pavement or verge; and
- 'Permitted' parking is where there are meter bays or resident bays.

Driving onto the pavement or footway to park is an offence under section 72 of the Highways Act 1835 but there is a long standing national issue about how widely it is enforced as it is a *criminal* offence (enforced by Police Officers). Obviously resources play a major part in the availability of Police Officers to take action and the offence is *driving on*. cars parked on the pavement can be ticketed as contravening the parking regulations imposed by the local authority rather than for causing an obstruction

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.

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.

Quaere whether there is a common law right to divert onto the pavement in cases on necessity when the carriageway is blocked

In London there is separate legislation banning pavement parking.

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).

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.

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

Private Members Bill (from House of Commons Briefing Paper SN01170)

Pre-1991

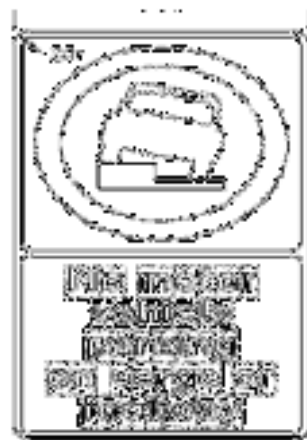
Prior to 1991, successive governments and individual Members of Parliament sought ways of combating pavement parking. In 1974 Parliament provided for a national ban on pavement parking in urban areas in section 7 of the Road Traffic Act 1974. If implemented, this would have prohibited all parking on 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 occurred. 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 then Government decided to defer implementation indefinitely.

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.

2014-

As detailed 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. The most recent government action came in 2011 when 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.



There has since been a renewed push to reintroduce 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.

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.

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 another one by former MP Martin Horwood to introduce a blanket pavement parking ban in England and Wales.

Mr Lazarowicz's Bill was instigated by problems Scottish MSPs have had introducing their own legislation in this area (see, e.g. Sandra White MSP's proposed Responsible Parking (Scotland) Bill). The Bill received Second Reading in the House of Commons in September 2014, but progressed no further.

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. Mr Hoare explained how his Bill would work as follows:

This will not be a blanket ban for pavement parking. In medieval or older town and city centres with Victorian terraces and the like, popular ownership of the motorcar was never envisaged. To make the carriageways wide enough for emergency vehicles, bin lorries and other large vehicles, it is important to ensure a balance is struck between allowing the free movement of vehicles and securing the free movement of pedestrians. The major difference in the Bill is that clause 3 sets aside specific provision for the Secretary of State for Transport to provide regulations and guidance to local authorities about who to consult—who are statutory consultees—and how to consult before it is introduced. It is not a blanket ban and nor is it an automatic obligation for local authorities to make use of the purposes set out. It will be up to the local authority, working in concert with local councillors, communities, freight transport associations, road haulage associations and the emergency services, to decide precisely where it is either appropriate or inappropriate to permit or to prohibit the parking of motorcars on pavements. This is not the dead hand of the state. This is not a licence for pettifogging officialdom, and nor is it a cash cow for local authorities to try to get in a bit of extra revenue. It will be proportionate and it will be sensible.

However, at the end of the debate Mr Hoare withdrew his Bill, having secured from the Minister a commitment to convene a round table 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”.

Essex Customer Services

Essex customer services have identified the following statistics for parking enquiries / complaints for October. The assumption is that numbers should be reflective for all months.

Issue – Best Description	Enquiries	Complaints
Obstructive Parking	38	4
Requesting Restrictions	18	0
Verge Parking	22	0
Unhappy with effect of restrictions elsewhere	3	1
Other	21	0

This may not be an accurate reflection as the system used for recoding complaints and enquiries outside of confirm does not have a separate designation for parking issues, therefore, it is not possible to run a report on this. In order to get to this figure provided above a manual trawl through the emails received using a keyword search was undertaken. In addition it has been identified that a further 15 letters across all categories may also cover parking issues.

Customer services have also identified that there could be an addition 15/20 enquiries that mention parking issues as additional topics

3. Issues for consideration

Requests for Parking Restrictions are undertaken through the Essex Parking Partnership. However, there is a set of criteria for the introduction of restrictions and resources for enforcement are limited.

Timing of problems in a lot of locations it is most likely to be evenings and weekends when vehicle owners are at home and space for car parking is oversubscribed.

Parking Restriction may just force the issue into other areas.

Moving vehicles partially parked on the footway wholly onto the road may create a congestion issue as moving traffic will no longer be free flowing in many locations.
