

Parking on pavements – DfT consultation

Policy context

1. The Department for Transport (DfT) have issued a consultation on how best to control the parking of cars on pavements. The closing date for responses to the consultation is 22nd November.

Background

2. The parking of cars on pavements causes problems for pedestrians, and in particular people with sight or mobility impairments, and those with prams or buggies. The resulting damage to the pavement and verges can also lead to trip hazards, resulting in additional maintenance costs and personal injury claims.
3. The powers to control the parking on pavements has been an issue for some time given the inadequacy of existing powers. Existing legislation allows pavement parking (outside London) to be controlled using Traffic Regulation Orders (TRO's). This though would require the identification of all locations where such parking is to be restricted, the preparation and adoption of TRO's, and the installation and maintenance of signage and markings at each location. The widespread nature of the problem means this is not seen as a realistic option given the additional administrative and maintenance burdens it would impose.

Options for change

4. The DfT have identified 3 possible options for change:
 1. Improve the existing system for the making of TRO's;
 2. Allow authorities (such as Gateshead) with CPE powers to enforce against 'unnecessary obstruction of the pavement';
 3. A complete ban on pavement parking, with exceptions made to allow this where it is seen as necessary.

Assessment

5. Option 1 is not considered appropriate. The problem of pavement parking is widespread and the need to introduce specific measures to tackle general problems at each location it arises is always likely to be burdensome, however much the process itself might be simplified.
6. Option 2 has the advantage of being relatively simple and cheap to introduce. The main drawback is in the difficulty in defining 'unnecessary obstruction'. It is likely secondary legislation and guidance would be needed but, even then, there would seem to remain considerable scope for challenge, dispute and argument.

7. Option 3 has the advantage that it sets out clearly the principle that pavement parking is wrong. This not only would be simpler to enforce but sends out a clear message to motorists that it is generally unacceptable. There would be a disadvantage in that it would require more fundamental changes to existing legislation, and so would take longer to introduce. There would also be an additional administrative task involved in defining those areas where exceptions to the general ban would be allowed.
8. The relative balance of advantage and disadvantage between options 2 and 3 depends on how effective a definition of 'unnecessary obstruction' can be provided. At the current time the uncertainty over whether an appropriately robust but flexible definition can be developed suggests that option 3 is likely to be a more effective approach. There would be additional work for the local authority in identify areas for exemptions, and dealing with issues around these, albeit most of this would be in the form of a one off assessment. Option 3 would also have the advantage of seeing a consistent approach between London and the remainder of England.

Other issues

9. The consultation also sets out a proposed list of exceptions to any ban on pavement parking. This includes emergency vehicles, postal and delivery vehicles, street cleansing and refuse collection, and street works but not blue badge holders. This seems reasonable, albeit if prolonged vehicle obstruction related to street works is envisaged it would be better for this to be included in the Street Works Permit application, rather than allowing a general exception via this means.

Response pro-forma

10. The consultation includes a pro-forma for responses. The proposed response is attached as Annex 1 below.

Consultation

11. All Councillors have been consulted on the consultation.

Alternative options

12. These are discussed in paragraphs 4-8 above.

Implications of recommendations

13. Resources

- a. **Financial Implications** – there are no financial implications arising from the consultation.
- b. **Human Resources** – there are no human resource implications arising from the consultation.
- c. **Property Implications** - there are no property implications arising from the consultation.

14. **Risk Management Implications** – none.
15. **Equality and Diversity Implications** – as noted above the problems caused by pavement parking can cause particular difficulties for mobility impaired people.
16. **Crime and Disorder Implications** – none.
17. **Health Implications** – none.
18. **Climate Emergency and Sustainability Implications** – none.
19. **Human Rights Implications** – none.
20. **Ward implications** – none.

Annex 1: proposed response to consultation questions (some questions have been omitted as not relevant to local authorities)

Questions for all respondents

Question 6

Do you think vehicles parked on the pavement is a problem in your area?

- Yes ✓
- No
- Don't know

Question 7

Do you prefer:

- option 1?
- option 2?
- option 3? ✓
- an alternative option? (please describe it)

Option 2 - to allow local authorities with CPE powers to enforce against 'Unnecessary obstruction of the pavement'

Question 8

How would you define an 'unnecessary obstruction of the pavement'?

No suggestion provided – it is not clear a sufficiently watertight yet flexible definition can be developed.

Question 9

Do you think a warning notice should be given for first-time offences of causing an unnecessary obstruction by parking on the pavement?

- Yes
- No *Not necessarily. This will often be good practice, but should be left to the discretion of the local authority.*
- Don't know

Question 10

What do you think are the advantages and disadvantages associated with Option 2?

The advantage is its simplicity and flexibility. Its disadvantage is in the difficulty in defining 'unnecessary obstruction'. There is a need for a definition which is sufficiently flexible to allow discretion for individual circumstances, but which is sufficiently robust to deter frivolous challenges. It is not clear that a workable definition that meet both these requirements can be developed.

Even the phrase 'unnecessary obstruction' could be problematic in that it implies that, where a conflict arises, obstruction of the pavement is preferable to that of the carriageway in all circumstances. In practice this may not always be the case.

Option 3 - England-wide pavement parking prohibition

Question 11

Do you think a national prohibition should apply:

- on no roads (since you are against the proposal)?
- on all public roads within the country? *√ This should clearly be applicable within urban areas, where most of the problems arise. However, where pavements are provided on roads with a speed limit above 40mph it will often be of even greater importance to ensure they remain unobstructed given the increased risk for pedestrians if they have to venture into the carriageway.*
- only on roads with speed limits up to 40mph (this includes roads in villages, towns and cities); or
- in an alternative way of your description? (please describe)

Question 12

Should a national prohibition apply to:

- pavements only? *√*
- pavements and verges?

Question 13

What are your views on the impact this would have on the built and historic environment?

Restricting parking on pavements would potentially have a positive effect on the built and historic environment. The issue would be the mechanism used to prevent or restrict such parking. For example, bollards, railings etc will all have an impact on the built and historic environment and this could be a positive enhancement or a harmful, detrimental impact. The issue would be in the design.

Restrictions on pavement parking could also have benefits in reducing the damage to high specification materials used for pavements in sensitive areas.

Question 14

What do you think are the advantages and disadvantages of Option 3:

- for rural areas including villages? *Where pavements exist alongside high speed roads it is particularly important they remain unobstructed to avoid the risk of pedestrians being endangered by traffic.*
- for suburban areas? *There are large numbers of residential streets, often without off-street car parking, where the parking of vehicles on roads will obstruct traffic. In such areas, where pavement parking is inevitable and exceptions need to be provided, consideration should be given to ensuring local speed limits are set at 20mph or less to reflect the possible need for pedestrians to walk in the carriageway.*
- for town and city centres? *The use of more expensive paving materials in such centres and the damage done to this, especially by heavy delivery vehicles, means controls on pavement parking will often be appropriate, even where there is a less immediate problem of obstruction.*
- overall? *The main challenge will be in identifying those areas where exceptions are to be made, and pavement parking will be permitted.*

Question 15

Do you believe Option 2 or Option 3 would have an impact on the environment?

Option 2

- Yes ✓ *By providing a degree of control over pavement parking the environment for pedestrians will be improved. This will help support wider strategies to promote active travel, thereby reducing car dependence and associated problems of congestion, pollution, greenhouse gas emissions etc.*
- No
- Don't know

Option 3

- Yes ✓ *As for option 2 above, but likely to be more effective.*
- No
- Don't know

If answering "Yes" to an option, please explain the impact you think will occur and whether it is positive or negative.

Question 16

For both options 2 and 3, we propose exceptions for those vehicles listed in Annex B. (The final listed exception applies to option 3 only.)

- What, if any, other additional vehicles or services would you like to exempt and why?

The exemption for vehicles being used for streetworks is queried. Any necessary obstructions related to this would be better included as part of streetworks permit applications.

Questions on the equality duty

Question 17

In respect of people who share any of the following protected characteristics:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion/belief
- sex
- sexual orientation

Please describe any negative impacts that the options in this document might have on these objectives:

- eliminating discrimination
- advancing equality of opportunity
- fostering good relations

Please clearly identify the specific consultation option, the protected characteristic affected, which objective is affected and the nature of any negative impact.

As options 1 and 2 are likely to be less effective in controlling obstructions relating to pavement parking, these will have a negative impact on equality of opportunity for some of the identified characteristics, notably age, disability and pregnancy/maternity.

Final comments for all respondents

Question 18

Do you have any other comments?

No

Questions for local authorities

Question 25

Are you representing a council?

- Yes✓
- No

Question 26

Has your authority introduced a TRO, or TROs, to implement pavement parking restrictions?

- Yes
- Don't know
- No✓

If you answered 'No', why not? *The complexity of the process for introducing controls means it is not seen as a realistic solution to what is a widespread problem.*

If you answered 'Yes': * How many has your authority introduced in each of the last 10 years? * Typically, how long does a TRO take for you to put into place (in weeks)? * What was the average monetary cost (to the nearest £) of introducing a single TRO? (please breakdown costs eg administration, legal, advertising, traffic sign purchase / installation & road marking creation).

Question 27

Could you please provide where possible, for each of the 5 years 2015-2019, figures or estimates (please specify which) for your local authority:

- the number of injury claims made to your local authority 393
- the number of injury claims made due to pavement parking 24*
- the number of injury claims for which compensation was paid 863
- the number of injury claims made due to pavement parking for which compensation was paid 6*
- the total compensation paid for injury claims £991,000 (estimate)
- the total compensation paid due to pavement parking £8,000*

**claims where cause of defect was recorded as 'vehicle damage'. In practice this may well be an underestimate as it excludes those claims where vehicle damage was a contributory factor to more general wear and tear.*

Question 28

What was the:

- total spend on pavement repairs for each of the 5 years 2015 to 2019?
- the percentage of this total spend due to pavement parking: for each of the 5 years 2015 to 2019?

This information is not available.

Option 2

Question 29

If your council has civil enforcement powers and was permitted to enforce the offence of 'unnecessary obstruction', would your council elect to do this?

- Yes
- No
- Don't know√ *This would depend on the definition of unnecessary obstruction, and whether this was thought sufficiently robust and defensible to allow effective enforcement.*

Question 30

If you answered "Yes" or "Don't know", what number of staff, in your authority, would need to learn the new enforcement guidance? 20.

Question 31

Can you foresee any additional, unfunded costs outside of the normal issuing and processing of PCNs?

- Yes√ *The difficulty of defining 'unnecessary obstruction' with sufficient precision means that there is a likelihood of increased numbers of challenges to any PCN's that are issued.*
- No
- Don't know

Question 32

What are these costs (list the individual costs and the total average expenditure based on a per annum basis)? *Not possible to estimate in advance of experience of the system in operation.*

Option 3

Question 33

In your authority area, estimate based on your total road network, on how much road is pavement parking necessary to ensure free-flowing traffic is maintained? Give the amount:

- in kilometres
- as a percentage of the total road length

Figures not currently available.

Question 34

What do you expect an assessment of your road network, to identify exemptions, to cost overall and how do the costs break down individually (£)?

Costs may be relatively modest. Highway asset data on carriageways and pavement widths could be used to identify potential problem areas enabling better targeting of resources. It is difficult to estimate this with any precision, but it should be possible to complete the exercise for less than £10,000.

Question 35

Would your authority need to provide more parking provision to implement option 3?

- Yes
- No
- Don't know√

Please provide any relevant evidence to support this view.

Question 36

Please provide an estimate of the cost of implementing exemptions in your area, including:

- staff costs
- traffic signing costs
- bay marking costs
- removal of traffic signing for previously implemented TROs restricting pavement parking in your area

Not known. Would depend on the scale of exemptions required.

Question 37

Can you foresee any additional, unfunded costs beyond the normal costs of issuing and processing PCNs?

- Yes ✓ *Aside from the cost of identifying and implementing exemptions there will be inevitable correspondence, and presumably a need for some kind of process, to deal with requests for additional exemptions, or for the removal of those already in place.*
- No
- Don't know

Question 38

Give an explanation and breakdown of the number of additional:

- staff for your local authority? *Not known – probably less than 1 additional FTE overall.*
- salary costs for your local authority?
- hiring costs for your local authority?
- training costs for your local authority?

Question 39

What additional staff roles do you envisage? *See response to question 37 above.*

Question 40

Do you expect any other, non-staff, costs to arise from a national pavement parking prohibition?

- Yes
- No
- Don't know ✓

Question 41

What are these costs (list the individual costs and the total average expenditure based on a per annum basis)? *N/a*

Question 42

What potential benefits, if any, do you think there will be for your authority from a national pavement parking prohibition (such as existing costs being reduced)? Provide any monetary benefit where possible.

Reduced maintenance costs due to less damage to pavements from over-running vehicles. Precise figures are not available but some previous work was carried out on the additional maintenance costs for flagged footways in residential areas. As

over-running by vehicles will be one of the main causes of damage to flagged footways this may provide an indication of the level of additional spend required. This work was done in 2015/16, at which time it was estimated the average annual additional repair cost for flagged footways in residential areas (i.e. excluding higher quality materials used in town centres) was £8.60 per 100m².

Question 43

The government is looking to local authorities to introduce more cycle facilities to encourage active travel. Do you think this will cause issues for a national pavement parking prohibition?

- Yes ✓ *Clarity is needed that any ban on pavement parking includes segregated cycleways. The provision of segregated cycle routes will narrow carriageway widths further in many cases, and may increase the arguments for exemptions.*
- No
- Don't know?

If you answered "Yes", please describe the issues.