

Environment Overview & Scrutiny Sub-Committee 8 th March 2016:	
Briefing Paper	
Obstructive Parking & Anti-Social Parking on the School Run	
Presented by	Supported by
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<p>1. Introduction</p> <p>1.1. In many instances illegal parking is an unbridled act of anti-social behaviour and the tools conventionally used to manage such situations are to be found across a range of traffic and parking control legislation, with primacy resting with the Traffic Management Act 2004. (TMA 2004). However, in the last year that legislation has been amended and it is now more difficult and time consuming to deal with some common type of illegal parking, such as parking that blocks access to and from private residential off street parking places, and the significant dangers, frustrations and inconvenience experienced in areas around schools as a direct consequence of the “School Run”.</p> <p>1.2. This briefing paper looks at two topical issues that Traffic & Parking Control officers are developing options for and will see improvements in the current situation arising from both.</p> <p>1.3. It must be noted that this is a briefing paper only and work is on-going I respect both matters. The paper sets out the current position as it is but that is subject to change. However, if there are any changes then officers will update members as necessary at the actual meeting.</p> <p>2. Obstructive Parking – The Problem</p> <p>2.1. Illegal parking brings danger, inconvenience and frustration to many, including other motorists and of course pedestrians, but the blocking of dropped kerbs is for many a direct personal affront as it can prevent citizens from enjoying the most basic form of freedom, viz the freedom to go to and from their home in their vehicle at a time they determine. An obstruction that prevents such ease of access can cause considerable distress.</p> <p>2.2. Many residents act in a positive way to adapt areas of their property to create an off street parking space. Doing so is in the main for their personal benefit but it can also have a positive impact locally by removing a parked vehicle from the kerbside. However, the installation of a dropped kerb is not a free service with most dropped kerbs potentially costing a resident between one and two thousand pounds to have the Council install the drop.</p> <p>2.3. The legislation, as it relates to parking across dropped kerbs, notes that it is a parking contravention for which a Penalty Charge Notice can be issued. However, the legislation has a caveat, viz that only “unfriendly” parking is</p>	

defined as a parking contravention. Unfriendly parking is where a vehicle parked across a dropped kerb is parked without the express authorisation of the property owner.

- 2.4. The legislation therefore places the onus upon the property owner to define “unfriendly” parking and then inform the local enforcement authority when it takes place in order that the illegal parking can be enforced.
- 2.5. Council’s manage the situation of “unfriendly” parking in a variety of ways. Some ask that all residents with dropped kerbs detail annually in advance the registration numbers of “friendly” vehicles with others requiring that the resident inform them of the registration number of a “friendly” vehicle the moment it arrives and parks. Both the aforementioned methods require a vehicle registration system and an administrative process to manage live information. Additionally, the annual system is not flexible and the necessity to immediately “register” as friendly parker is not always practical, especially if friendly parking is an expectation but the resident isn’t available to notify the Council of the arrival.
- 2.6. In Havering the friendly, unfriendly issue has been historically managed through a system of a positive assumption. That means all residential dropped kerb parking is considered “friendly” and only considered “unfriendly” upon notification of that from a resident. This system negates the need for a vehicle registration scheme and or the managing of live requests from residents.
- 2.7. If a resident notifies the Council of an unfriendly parked vehicle then a Civil Enforcement Officer will be sent within one hour to address the situation and then where appropriate, issue a Penalty Charge Notice.
- 2.8. Civil Parking Enforcement legislation pivots on the deterrent factor of a Penalty Charge Notice but that means a vehicle parked in contravention remains so after being issued with a penalty. Post penalty issuance there is no incentive to move the obstructing vehicle. In a situation, such as the blocking of a dropped kerb, that means the initial obstruction remains and the resident’s access stays blocked. That is not a solution to the problem.

3. Obstructive Parking – A Potential Solution

- 3.1. The TMA 2004 has published alongside it a document entitled “Operational Guidance to Local Authorities: Parking Policy and Enforcement”. The guidance sets out in detail how Council’s should manage the TMA 2004 locally. The operational guidance has a specific section covering vehicle immobilisation and removal. Section 8.96 notes;

“Very few authorities now use immobilisation. The Secretary of State is of the view that it should only be used in limited circumstances such as where the same vehicle repeatedly breaks parking restrictions and it has not been possible to collect payment for penalties, primarily because the keeper is not registered, or is not properly registered, with the DVLA. Where a vehicle is causing a hazard or obstruction the enforcement authority should remove

rather than immobilise. Immobilisation/removal activity should only take place where it gives clear traffic management benefits”.

- 3.2. As can be seen, the legislation does allow for a vehicle to be immobilised and or removed in certain circumstances but historically in Havering there has been little or no vehicle removed in respect of obstructive parking.
- 3.3. When a vehicle is removed to the car pound the vehicle then becomes subject to a £40.00 per day storage charge. That charge is recovered from the vehicle owner upon its collection, along with the payment of the Penalty Charge Notice and a release fee. If a vehicle is not collected then after 100 days it is considered safe to dispose of the vehicle, normally at auction.
- 3.4. It is not uncommon for owners not to claim their impounded vehicle if its value is less than the penalty, release fee and storage charge. In such instances the Council will attempt to locate the owner but where that is not successful then the vehicle will be disposed of at auction, or indeed scrapped. All monies raised at auction go towards settling the storage fee; however, it was historically common for the Council to pay any shortfall in auction income to settle any storage fees.
- 3.5. With the aforementioned in mind Havering have limited the removal of vehicles, though it should be said that the numbers of vehicles that “qualified” for removal have historically been low and not more than ten to fifteen vehicles were removed annually. Last year zero vehicles were impounded by Traffic & Parking Control, though Enforcement Agents working on behalf of the Council did remove vehicles. Such removals though are not the same as what is under discussion in this paper as vehicles were removed using the authority of a court order.
- 3.6. Whilst it is accepted that the Council can remove illegally parked vehicles, and especially those that are causing an obstruction, it is clear that to do so risks a significant financial encumbrance upon the Council. However, a secondary option that carries less risk should be considered.
- 3.7. Instead of removing to a pound a vehicle that is illegally parked and causing an obstruction, it is suggested that the Council introduce a “Relocation” service that sees an illegally parked vehicle removed from its obstructive position and relocated elsewhere and nearby in a legal parking place.
- 3.8. In practice this would take place following a complaint made by a resident of unfriendly parking across the dropped kerb accessing their property. Following receipt of the residents’ complaint a Civil Enforcement Officer would attend and issue a Penalty Charge Notice to the illegally parked vehicle. Once the penalty is issued the officer will contact the vehicle removal contractor and arrange to have the vehicle relocated. The contractor would arrive onsite and relocate the obstructive vehicle to a nearby legal parking space and then notify an organisation called TRACE, operated by London Councils in partnership with the Police, and advise them that the vehicle had been relocated from position x to position y. TRACE would then load that data onto their database

and any enquiry re a stolen vehicle etc would pick up the fact that the vehicle had been relocated.

- 3.9. The cost of the relocation would in effect be subsidised from the Penalty Charge Notice cash receipt if paid within 14 days at 50% discount or in total if the after 14 days at the full standard Penalty Charge Notice rate.
- 3.10. Traffic & Parking Control officers will need to negotiate with the Council's existing vehicle removal contractor as a relocation element is not part of the existing contract. It is hoped that those negotiations could start soon and a relocation service readied to go live for the week commencing 27th June 2016

4. Anti-Social Parking on the School Run

- 4.1. The situation outside many schools during the school run has become very dangerous, so much so that Traffic & Parking Control officers consider existing civil parking enforcement regulations not specific enough to manage down the problems of school run anti-social parking behaviours witnessed, and their underlying causes. Accordingly officers have examined alternative approaches and consider that the use of Public Space Protection Orders, in combination with other controls and activities, may have a beneficial impact locally in areas where the school run is problematic and a danger.
- 4.2. This section of the briefing paper sets out how many illegal parking acts are traits of anti-social behaviour, and how officers consider that current traditional civil parking enforcement legislation could be augmented with powers available within the Anti-social Behaviour Crime and Policing Act 2014, viz Public Space Protection Orders (PSPOs), to minimise anti-social parking behaviours, and in turn reduce obstructive parking often encountered by local residents, and most importantly, reduce the anti-social parking behaviour that impacts so negatively upon the safety of children, their parents, carers, other pedestrians and legitimate road users during the school run outside many of the boroughs schools.
- 4.3. Officers are planning to present a report to Cabinet in the near future entitled, "Improving the Safety of Our Schools and across the wider Borough" and that report will detail a full analysis of the school run problem and proposals to reduce the same via PSPOs and complementary measures and activities.

5. Background

- 5.1. The Traffic Management Act 2004 (TMA 2004) defines civil parking enforcement and regulates the penalties and the process for undertaking that enforcement, from enforcement officers uniforms, personal ID that needs to be worn, equipment that can or cannot be used to monitor and enforce (CCTV), the certification of electronic equipment used, the cost of a penalty, observation times, grace periods and the type and level of discretion that must be applied to all cases upon challenge. Further, it dictates how challenge and enforcement sections of the Council must be separate units, and describes the composition of an independent appeals service, and how arising parking debts

should be progressed through the County Court service, and on to a recovery process thereafter. So, civil parking enforcement is complex and of course a topic that attracts much scrutiny from the public, media and others.

- 5.2. The TMA 2004 has performed well since its introduction and allowed many Council's, such as Havering, with a relatively small team of enforcement officers, and historically being in the lowest three "Penalty Charge Notice issuing" Council's in London, to deliver its enforcement responsibilities more efficiently without effectively increasing the size of its enforcement team, through the use of CCTV for specific and more serious types of illegal parking, such as those occurring on double yellow lines, footways, across residential and other dropped kerbs, outside of schools on zig zags, bus stops and others which were previously defined as the more serious type of illegal parking.
- 5.3. Unfortunately, the media and others very vocally considered the use of CCTV and its positive effect on enforcement efficiency as a negative and dubbed it "the war on motorists". That and other considerations combined to see the government launch a consultation in 2014 into how CCTV was being used as an enforcement tool, and some other peripheral enforcement issues.
- 5.4. The outcome of the consultation was legislated by the government in April 2015 through its Deregulation Act 2015. That act significantly curtails and so limits the use of CCTV to monitor and enforce illegal parking, the net effect being its use limited to only school keep clear areas and bus stops. (CCTV can continue to be used as before to enforce bus lanes and Moving Traffic Contraventions (MTCs) such as banned turns. Havering commenced MTC enforcement in September 2015).
- 5.5. All other acts of illegal parking now need to be monitored and enforced conventionally by a Civil Enforcement Officer (CEO) observing from the kerbside and manually processing a PCN on site. That process requires an observation period and time taken to physically process and then legally issue a PCN, which comes near the end of the process and not at the moment details of a contravention are observed, evidenced and recorded. Therefore, there exists a window of opportunity to illegally park of up to ten minutes whilst the aforementioned is completed, whereas that was previously close to zero when using CCTV.
- 5.6. In addition to that already described above, the Deregulation Act 2015 also introduced a mandatory ten minute grace period before enforcement could take place against vehicles parked in most permitted parking spaces such as a disabled bay, resident bay or other parking bay, both on and off street. This grace period is permitted in addition to the observation time already required. Therefore, by adding the two periods together one can see how the opportunity to enforce can be considerably restricted in some circumstances according to the type of illegal parking act. The circumstances today are that a vehicle can, in a majority of circumstances, come to an illegal stop, drop off, or collect, or even wait a few minutes, before the legal point of "illegal parking" is reached, observed and evidenced; a situation that is detrimental across a number of factors, including but not limited to, traffic congestion and pedestrian

safety.

6. The School Run & Obstructive Parking

- 6.1. As part of an initiative entitled “Improving the Safety of Our Schools and across the wider Borough” officers have examined the potential to PSPOs as a complementary measure to minimise the volume of vehicles entering a specific area to stop, and then drop and collect children during what is colloquially referred to as the “School Run”.
- 6.2. The most serious issue arising from the chaos witnessed at the majority of locations during the school run is the direct danger posed to children due to irresponsible and selfish parking and vehicle manoeuvring. Those core issues then easily translate into what we consider to be anti-social behaviour. That view is further compounded when considering the level of obstructive parking that also takes place during the school run with many residents justifiably complaining that they cannot drive on or off their off street parking places as a vehicle has parked across the associated dropped kerb thus preventing access.
- 6.3. The ability of conventional civil parking enforcement regulations to deal with the situations arising from the school run are limited and described elsewhere in this paper.

7. Proposed Use of Public Space Protection Orders (PSPOs)

- 7.1. Using a PSPO to limit the accessing of and stopping of any vehicle in an area during a prescribed time would address the school drop off and pick up issues and improve safety around schools and derive peripheral benefits for local residents. It is considered that the introduction of PSPO's will result in the behavioural change required to improve safety via a reduction in the illegal, unsafe and anti-social parking behaviours that cause significant dangers to pedestrians and much inconvenience to local residents and other stakeholders.
- 7.2. The proposal includes a facility, managed by a simple virtual permit system, to retain full unhindered access to an area for local residents, their visitors and other legitimate visitors and entities during the times of an active PSPO.
- 7.3. The geographical range of a PSPO will vary according to the actual target location and will be monitored via demountable CCTV cameras and automatic number plate recognition software. That software will support the identification of those in the area so prevent the erroneous issuing of a Fixed Penalty Notice (FPN) to those entitled to be present within the PSPO area at the time.
- 7.4. PSPO have at their core the authority for a Fixed Penalty Notice (FPN) to be issued. An FPN is classified as a minor criminal device and once issued the recipient is able to settle the FPN within 14 days, without there being any criminal record established. Alternatively, if no payment is made, or if the recipient so opts to do so, then the FPN can be dealt with by a Magistrate in a

local Court as a criminal proceeding. The Council also reserves the authority to instigate Magistrate proceedings instead of discharging the evidenced offence via a FPN in situations of repeat offences by the same individual.

- 7.5. Existing civil parking enforcement PCNs are classified as a civil misdemeanour and non-payment constitutes a civil debt. Additionally, it is subject to a multi-layered appeal system that encompasses a significantly wide interpretation and application of discretion at all stages of the process. Accordingly, the process can be lengthy and lack the level of gravitas that the issues it seeks to manage deserve. Also, as a civil matter the deterrence factor is low.
- 7.6. The focus of a PSPO FPN being a criminal proceeding compared to a civil parking enforcement PCN being a civil proceeding will provide appropriate gravitas to the situation and act as a suitable deterrence in support of a PSPO and its aims and objectives.
- 7.7. It is important to stress that the placing of a PSPO will be accompanied, where appropriate, with other traffic and parking control measures and activities. This could see new parking controls being placed in support of a PSPO, or in rare instances, changes to junction layouts and or footways. However, if complementary measures are not necessary or appropriate then a PSPO could be a lone controlling device. Also, it is certain that not all locations will be suitable for a PSPO and where so, other conventional control measures will be assessed.
- 7.8. The aim of PSPO deployment is to improve the safety of children and others around our schools during the school run, and to minimise the opportunity there currently exists for residents to suffer obstructive and anti-social parking behaviours that limit their ability to access their off street parking places.

8. Project Management

- 8.1. A Project Management Team has been established and it's currently working within a significant project brief. That brief is very substantive and includes the gathering of evidence necessary to support the use of PSPOs, consultations with schools, including head teachers and governors where applicable, parents (Carers), local residents and businesses, the general public, the Police and other stakeholders. Most importantly, the project team have engaged directly, and continue to do so as the scope of the project develops, with local members. Member engagement is essential and it's intended to invite members to meetings with schools and other stakeholders as the project progresses. The project team will also be emailing weekly a project update to all members informing them of progress and up and coming events. Members are without doubt central to the success of the project.

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9. Project Team Contacts

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