

**Open Report on behalf of Executive Director for Environment & Economy**

Report to:	<b>Highways and Transport Scrutiny Committee</b>
Date:	<b>13 June 2016</b>
Subject:	<b>Parking on Footways – Pavements</b>

**Summary:**

This report addresses the problems caused by footway parking, the legal issues that surround it and the Council's powers to deal with them.

**Actions Required:**

Members of the Highways and Transport Scrutiny Committee are invited to consider and comment on the report. And, to consider that a Working Group is formed to review the issues surrounding pavement parking and make recommendations for the Executive Councillor for Highways, Transport and I.T to consider.

## **1. Background**

Parking on footways / pavements is a common problem throughout the country. Pavements are ultimately designed for pedestrian use. As such, pavements are built in such a manner that they are constructed to take the weight of pedestrians, mobility scooters and wheel chairs. Motor vehicles parked on pavements can cause significant damage with associated costs to the council. Vehicles parked in such a manner can be the cause of significant obstruction to those wishing to utilise the pavement for its intended purpose. Parking in such a manner can cause severe difficulties for some members of the public, especially those who are disabled, visually impaired, elderly, and for adults with young children in pushchairs.

Lincolnshire County Council have very limited powers to deal with footway parking. If a 'No Waiting' parking restriction is in force and present on the adjacent carriageway, a Penalty Charge Notice could be issued to the vehicle by a Civil Enforcement Officer as the restriction applies to the whole side of the highway i.e. centre of the carriageway to the boundary of the adjacent property, such as garden wall or building frontage.

Currently if a vehicle (other than an HGV) is parked wholly or partially on a pavement and there is no parking restriction on the highway, Lincolnshire County Council are unable to utilise their powers in line with Civil Parking Enforcement. Drivers could be issued with a Fixed Penalty Notice by the Police as it may be deemed that an obstruction has been created. The ability of the Police to take action would obviously depend upon their resources available and very much on individual circumstances. Additionally, it is an offence to drive onto the pavement, whether with intention to park or not. Because this is a criminal offence, as opposed to the vast majority of civil parking offences, it is enforceable by the police, not the Local Authority.

Due to the complex nature of parking regulations, cost implications and the consideration of local needs, a Working Group may wish to investigate the feasibility of introducing a ban on pavement parking.

Whilst pavement parking is seen as a hindrance to many, in some areas it may be deemed a necessity in order to ensure the free flow of traffic on the highway is maintained.

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”.

## **2. Conclusion**

Since Civil Parking Enforcement was introduced to Lincolnshire in December 2012, Councillors, business owners, residents and general members of the public have raised their concerns over pavement parking throughout the County. It would be practical for the Council to investigate these concerns thoroughly, and determine what course of action could be taken in order to help alleviate the problems created.

## **3. Consultation**

### **a) Policy Proofing Actions Required**

N/A

## **4. Background Papers**

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Matt Jones, who can be contacted on 01522 552110 or [matt.jones@lincolnshire.gov.uk](mailto:matt.jones@lincolnshire.gov.uk).

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