

Manchester City Council Report for Information

Report to: Economy and Regeneration Scrutiny Committee – 9 January 2024

Subject: Highway Services – Pavement Parking

Report of: Strategic Director (Neighbourhoods)

Summary

Vehicles parking on footways, cycleways and pavements can cause obstruction to people seeking to use those facilities for their intended use of walking and wheeling in the city. Unmanaged parking on pavements often results in parking practices which are inconsiderate to the needs of those road users and can result in people who need the most assistance in travelling around the city (e.g. young children, the elderly and people with limited mobility and disabilities) being significantly impacted in going about their daily lives.

Recommendations

The Committee is asked to note;

- The legislative position with regard to managing and enforcing parking on the pavement, with particular reference to the current issues relating to the definition of “obstruction” in law;
 - The challenges with respect to the consequences of displaced parking when implementing measures to prevent or enforce against pavement parking;
 - The ongoing work to identify suitable locations for the introduction of a trial project in Manchester to prevent pavement parking, in order to evaluate the consequential impacts of displaced parking and;
 - That the Executive Member for Transport and Environment will write to the Secretary of State for Transport to request clarity on the offence of “obstruction” in these circumstances, and to seek confirmation of a timeframe for the devolution of civil enforcement powers for obstruction offences/contraventions and the powers to introduce a ban on pavement parking to Local Authorities outside London.
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Wards Affected: All

Environmental Impact Assessment - the impact of the issues highlighted in this report with respect to seeking to providing and improved environment	Improving facilities for pedestrian and cycling environment through the reduction in instances of pavement parking will improve the attractiveness and accessibility of walking, wheeling and cycling as an alternative to private car journeys.
Equality, Diversity and Inclusion - the impact of the issues addressed in this	Taking steps towards the City Council tackling instances of obstructive and

report in meeting our Public Sector Equality Duty and broader equality commitments	inconsiderate pavement parking more effectively will improve accessibility for pavement users, in particular those with restricted mobility and impaired vision.
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Manchester Strategy outcomes	Summary of how this report aligns to the OMS/Contribution to the Strategy
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	Footways and cycleways with less obstructions support access to jobs and opportunity, particular for those with restricted mobility and accessibility challenges.
A highly skilled city: world class and home-grown talent sustaining the city's economic success	Footways and cycleways with less obstructions support access to jobs and opportunity, particular for those with restricted mobility an accessibility challenges, in addition to improving the visual amenity of the public realm
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	Footways and cycleways with less obstructions support access to jobs and opportunity, particular for those with restricted mobility an accessibility challenges,
A liveable and low carbon city: a destination of choice to live, visit, work	Footways that are less obstructed by parked vehicles will encourage people to visit, live and work within the city and supports active travel choices such as walking, wheeling and cycling; in addition to improving the visual amenity of the public realm
A connected city: world class infrastructure and connectivity to drive growth	Footways that are less obstructed by parked vehicles will encourage people to visit, live and work within the city and supports active travel choices such as walking, wheeling and cycling; in addition to improving the visual amenity of the public realm

Full details are in the body of the report, along with any implications for:

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

Financial Consequences – Revenue

With respect to the recommendations contained within this report, there are no revenue finance consequences. Any future progression of this subject regarding the possible devolution of powers for enforcement will require further consideration in relation to resultant revenue consequences for the City Council, as and when those devolved powers might be granted by Government.

Financial Consequences – Capital

With respect to the recommendations contained within this report, there are no capital finance consequences for the City Council. Any future progression of this topic regarding the possible devolution of powers for enforcement will require further consideration in relation to any potential resultant support for Capital Investment required by the City Council, as and when those devolved powers might be granted by Government.

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Background documents (available for public inspection):

None

1. Introduction

- 1.1. Transport is at the heart of how we live our lives and contributes to society by enabling people to access vital services like healthcare and education. A vital component in providing a functional and accessible transport system that supports those aims (and seeks to provide more sustainable options for travel) is ensuring that the infrastructure that enables those travel choices is managed to a condition that removes any barriers to their use.
- 1.2. Pavement parking can cause real problems for pedestrians, but particularly for wheelchair users, people with visual impairments and those using prams or buggies. Obstructive parking causes inherent dangers for all pedestrians, often resulting in them being forced onto the carriageway and into the flow of traffic. In addition, while resulting damage to the pavement and verges can become a hazard to pedestrians, increased maintenance of footway surfaces and the potential for personal injury claims as a consequence of that damage are also a cost to local authorities.

2. Definitions

- 2.1. For the purposes of this report and to provide greater context to the issue of enforcement of pavement parking, the following definitions are helpful to clarify.
- 2.2. **Pavement** - Although the 'pavement' is defined as the 'footway' in legislation, the more commonly used term 'pavement' is used in this report to mean the part of a highway which shares its border with the carriageway ('road') on which there is a public use on foot or by cycle. This is distinct from a 'footpath', which does not border a road.
- 2.3. **Obstruction** - this a key term with regard to current pavement parking enforcement practices and the potential for the devolution of future enforcement powers.
- 2.4. The term obstruction does not have a clear and defined meaning in this context in law. A Government Transport Committee in 2019 which reviewed the national picture relating to Pavement Parking reported the issue as follows.

Defining obstruction is likely to be difficult. The standard textbook, Wilkinson's Road Traffic Offences, has 12 densely-packed paragraphs explaining the degree and definition of 'obstruction' as it has been defined in caselaw over the past 100 years. Much turns on the question of "intent" in the current offences—e.g. whether obstructive parking is "wilful" or has been "caused" or "permitted".

- 2.5. The Committee recommended that obstruction should be clearly defined in law. The Government responded to the report in March 2020, partially accepting the recommendation while noting that;

...the obstruction offence involves challenges that would need to be tested through consultation, in particular, how to define 'unnecessary obstruction' sufficiently clearly in order to ensure clarity of understanding of the offence for

both the motorist and enforcement authorities. If this was not achieved motorists would be confused about where they can park and the scenarios in which penalty charges were issued by Civil Enforcement Officers may differ across the country.

- 2.6. At this time the recommendation from the Government report has not been taken forward, meaning that currently the required action on enforcing authorities has a degree of subjective (and as a result, inconsistency) with respect to how offences/contraventions of obstruction are enforced (see 3.12).

3. Managing Pavement Parking

- 3.1. There are broadly three options for managing pavement parking.

- Physical Prevention
- Accommodation
- Enforcement

3.2. Physical Prevention

- 3.3. Engineering measures such as bollards, trees and railings, can be used to stop drivers parking on pavements. However, these solutions may not always be appropriate, feasible or affordable. Those features can also add to street clutter and negatively impact those with visual or mobility impairments.

- 3.4. When implementing engineering measures to prevent pavement parking consideration must be given as to whether any measure would create as much of a physical barrier for those with visual or mobility impairments as the vehicles parked on the pavement. Also the additional capital and future maintenance costs to the City Council need to be considered in the implementation of such measures.

3.5. Accommodation

- 3.6. Where it is considered that pavement parking can be accommodated on the pavement without causing an obstruction to pavement users, engineering measures can be introduced to allow parking on those areas. This solution can involve providing hard surfaces to replace grass verges or strengthen existing pavement construction, or creating parking laybys. And whilst generally such measures result in an improved condition of the pavement, capital costs of creating these areas to accommodate pavement parking can be significant.

- 3.7. Often accommodation measures will require additional physical or enforcement measures (i.e. the inclusion of restrictions on the extent of parking through a Traffic Regulation Order) to contain parking to a defined area of the pavement to ensure that there is sufficient pavement width protected from parking to allow for use by pedestrians.

3.8. Enforcement

- 3.9. Enforcement of pavement parking is recognised as a complex issue, with the right solution as to how enforcement is applied being dependent on location,

the presence of parking restrictions and the definition of “obstruction” (see 2.3).

- 3.10. Under current legislation, the powers to enforce pavement parking rest between Local Authorities (in this case the City Council) and the Police. Which enforcing authority has the powers to take action regarding pavement parking will be dependent on the factors set out in 3.9 for each instance.
- 3.11. For ease of reference the following table summarises the position in relation to the responsibility for enforcement in some typical circumstances.

Circumstances	Criminal or Civil Offence	Who Enforces it?
Parking a vehicle on a pavement; the remaining pavement is clearly wide enough for pedestrians to pass; the street is not subject to any parking restrictions	No offence or contravention	No enforcement action
Parking a vehicle on a pavement; the pavement is clearly blocked and pedestrians are forced onto the carriageway; the street is not subject to any parking restrictions	An obstruction offence may be being committed in this case	Police
Parking a vehicle on a pavement; the remaining pavement is clearly wide enough for pedestrians to use; the street is subject to parking restrictions (e.g., yellow lines)	Civil contravention (parked where restricted during restricted hours)	Local authority
Parking a car or motorbike on a pavement; the pavement is entirely blocked and pedestrians are forced onto the carriageway; the street is subject to parking restrictions (e.g. yellow lines)	Civil contravention (parking where restricted during prescribed hours) A separate obstruction offence may also be being committed.	Local authority for the contravention of parking restrictions Police service for the obstruction offence
Parking a vehicle on the footway and/or verge, where that street is subject to a prohibition of footway and/or verge parking (i.e. a TRO	This would be a civil contravention, regardless of the type of vehicle or whether a criminal obstruction is taking place	Local Authority

banning pavement parking)		
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3.12. It should be noted that whilst approaches may differ across constabularies, as a general position it is understood that police services are unlikely to issue Fixed Penalty Notices to vehicles parked on pavements unless there is a clear and unambiguous obstruction, and that the enforcement action taken will depend on the specifics of each case.

3.13. National Context of Civil Enforcement Powers

3.14. **London Authorities** - Since 1974, parking on pavements, with certain exceptions, has been prohibited in Greater London by the Greater London Council (General Powers) Act 1974. Exemptions at specific locations can be permitted through an administrative resolution and indicated by traffic signs.

3.15. **England (outside London)** - The reverse applies elsewhere in England, where parking on pavements and verges is permitted unless specifically prohibited by a local authority (either street-by-street or zonally); the prohibition requiring a formal Traffic Regulation Order (TRO).

3.16. In recent years there have been several indications from Government that there would be a devolution of the same enforcement powers that have been available to London Authorities to all LAs in England. However despite those indications and continued requests from LAs through various means, those powers have been devolved and seem not likely to be granted to LAs in the foreseeable future.

3.17. **Scotland** - The Transport (Scotland) Act 2019 bans pavement parking, double parking and parking at dropped kerbs, with certain exemptions designated by local authorities - for example to ensure safe access for emergency vehicles. From 11th December 2023, local authorities in Scotland can begin enforcing that law, meaning drivers could be fined £100 for these parking behaviours; reduced to £50 if paid within 14 days.

4. **Consequential Effects of Preventing Pavement Parking**

4.1. It must be recognised in seeking to tackle pavement parking that many towns and cities were not designed to accommodate today's high levels of vehicle traffic and car ownership.

4.2. In some locations, especially in residential areas with narrow roads and little or no provision for off-street parking within properties, the pavement is often the only place to park without obstructing the road. So in some cases pavement parking may be a preferable solution in order to maintain free-flowing traffic, including for emergency services and public transport. The displacement of parked vehicles due to the introduction of either physical prevention measures or enforcement needs to be carefully considered and balanced in each instance where such changes are being proposed.

4.3. Where displacement on to the adjacent carriageway would not be the anticipated consequence (e.g. due to the presence of parking restrictions on

the road), consideration needs to be given to the potential for parking to be displaced to surrounding streets and any constraints or adverse impacts that could occur as a result.

5. Pavement Parking in Manchester

- 5.1. In a response to the government's consultation on pavement parking in 2020, Greater Manchester councils and Transport for Greater Manchester stated that it is their ambition to have all pavements clear of parked vehicles, emphasising that the practice restricts access for people walking or wheeling, particularly for those with disabilities or pushing a pram.
- 5.2. The City Council has historically looked to tackle issues of pavement and grass verge parking by the use of physical measures such as those described in 3.3 above, where appropriate given the potential for displacement of parking.
- 5.3. Recognising the increasing levels of car ownership and other demographic factors (e.g. an increase in the number of residents of driving age living in the same property) in recent years, in many residential areas on-street parking has become a significant pressure in many areas of the city. This trend exacerbates instances of pavement parking and obstructive parking because as available kerb side space reduces pavement parking becomes the next alternative for some drivers.
- 5.4. In the last 12 months potential locations for a trial of pavement parking using physical prevention measures have been identified. There has been discussion with the relevant ward members to establish alternative options and identify the consequences of measures in those locations with regard to the potential displacement of parked vehicles. Currently locations and options are continuing to be considered with a view to seeking to implement a pilot scheme during 2024 which can be monitored and evaluated to inform a future programme of works, which would be subject to future funding approval.
- 5.5. In terms of considering the potential for obstructive parking in new developments, attempts are made during the design process to mitigate instances where it could potentially occur. However given the nature of current residential development design guidance, there is limited opportunity to introduce widespread physical prevention measures (feature areas/squares and wide footways around bends and junctions would be some examples of locations where it would be possible) or parking restrictions for enforcement recognising that most roads on new developments serve residential frontages.

6. Recommendations

- 6.1. The recommendations are noted at the front of the report.