Report to	Norwich Highways Agency committee 22 March 2018	**Item**
Report of	Head of city development services	8
Subject	Enforcement of parking adjacent to dropped kerbs	

Purpose

To agree that the city council should use its powers under the Traffic Management Act 2004 to issue fixed penalty notices to vehicles parked adjacent to dropped kerbs even if no parking related traffic regulation order exists

Recommendation

To:

(1) agree the city council should use its powers under the Traffic Management Act 2004 to issue fixed penalty notices to vehicles parked in front of dropped kerbs even if no traffic regulation order exists;

(2) agree to an amendment to on-street parking permit terms and conditions to enable enforcement of obstructive parking adjacent to dropped kerbs for vehicle crossovers in Controlled Parking Zones.

Corporate and service priorities

The report helps to meet the corporate priority a safe, clean and low carbon city

Financial implications

There are no direct financial implications of this report; the cost of any additional enforcement will be met through the income from the fixed penalty notices

Ward/s: All Wards

Cabinet member: Councillor Stonard - Sustainable and inclusive growth

Contact officers

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Joanne Day – Parking manager (operations)	01603 212453

Background documents

None

Report

Background

1. The city council often receives complaints about vehicles parking adjacent to dropped kerbs, such as those at informal pedestrian crossing points, accesses to cycle ways and accesses to private driveways. Historically, unless there was a parking restriction, such as a double yellow line, in place across the dropped kerb the city council have been unable to take any action against the offending vehicle. However powers now exist (Operational Guidance to Local Authorities: Parking Policy and Enforcement 2015) that allow the council to tackle this persistent problem by issuing of Penalty Charge Notices (PCNs) to such vehicles.

Legislation

2. In 2002 the Norwich administrative area was granted the status of being a special parking area when the civil parking enforcement scheme was introduced in the city. This saw the responsibility for enforcing all parking restrictions transfer from Norfolk constabulary to Norfolk county council, who in turn delegated the function to the city council under the Highways Agency agreement.

3. In 2004 the government introduced the Traffic Management Act 2004 which laid out the responsibilities of local authorities to manage traffic and congestion on their network. This included legislation around managing on-street parking. The legislation has been enabled over a period of years and in 2015 the Department for Transport issued a document called Operational Guidance to Local Authorities: Parking Policy and Enforcement. One of the powers granted in this document was for local authorities to be able to enforce against vehicles parked adjacent to dropped kerbs. An extract from the Operational Guidance is attached at appendix 1.

Practical application

4. Experience suggests that most complaints about parking adjacent to dropped kerbs provided for pedestrians or cyclists come from areas within or on the edge of the existing Controlled Parking Zones (CPZs) where pressure on parking is at its highest. These areas would be the priority for the civil parking enforcement team, who would be able to add this to their day to day work with little impact resourcing and work patterns. Enforcement of this type of dropped kerb would either come from a specific complaint from an individual or if the civil enforcement officer (CEO) was to observe a vehicle parked across a clearly defined dropped kerb in the course of their day to day activities. Examples of a clearly defined dropped kerb would be one where there is tactile paving or cycle markings

5. Complaints about parking in front of driveways are likely to be more dissipated and may require a special visit, which may not always be possible within the resources available in the civil parking enforcement team. It will therefore be necessary to manage expectations around the ability to respond to this type of request, and the priority for these will be in areas where there are persistent problems. The CEOs would only issue PCNs for this offence if a request from the resident at the property where the dropped kerb was located had specifically requested attention, as it is perfectly legitimate for a vehicle to obstruct a driveway with the householders permission.

6. Strictly speaking, under the terms of the TMA 2004, the council is not able to issue PCNs against obstructive parking by valid permit holders in CPZs next to a dropped kerb for a vehicle crossover to a private parking space. However a simple amendment to the terms and conditions of the use of parking permits can be made that would enable the council to issue a PCN. As for veicle crossovers outside of CPZs this would only be done where there were examples of persistent problems

7. The amendment of terms and conditions would also include dropped kerbs for pedestrians and cyclist use.

8. It is proposed to amend the permit holder terms and conditions to read:

    Restrictions on use of permit adjacent to dropped kerbs:

    Permit holders may not park adjacent to a dropped kerb for:

    i) A pedestrian crossing; i.e. pedestrian road crossing points with dropped or low kerbs intended for this purpose.

    ii) A cycle crossing; i.e. for a cycle track, lane or path that conjoins the highway at a junction specifically constructed for this purpose

    iii) A vehicle crossing; i.e. adjacent to a private driveway with a dropped kerb that has been specifically constructed for this purpose without the specific agreement of the occupier of the associated premises.

9. To maximise the effectiveness of this enforcement and to help manage expectations of those reporting dropped kerb parking issues, information would be made available on the council's website, outlining the enforcement approach. For a first offence, our civil parking enforcement staff would issue warning notices to motorists, but a subsequent offence would receive a PCN. An on-line facility is already provided to report illegal parking which could be extended to include parking adjacent to dropped kerbs.

Conclusion

10. If left unenforced, pedestrians, cyclists and vulnerable road users would continue to be unnecessarily inconvenienced, discouraged and put at risk owing to obstructive and inconsiderate parking.

11. In keeping with local and national priorities to increase levels of walking and cycling; it is recommended that the city council should proceed to use its powers under the Traffic Management Act 2004 to issue fixed penalty notices to vehicles parked adjacent to dropped kerbs without the need for a TRO to be place. Subject to gaining approval, and updating staff and our website, timescales for commencing this enforcement are likely to be within two months of this report.

Integrated impact assessment

NORWICH City Council

Report author to complete	
Committee:	Norwich Highways Agency Committee
Committee date:	22 March 2018
Director / Head of service	Andy Watt
Report subject:	Enforcement of parking adjacent to dropped kerbs
Date assessed:	12 March 2018

	Impact			
Economic (please add an 'x' as appropriate)	**Neutral**	**Positive**	**Negative**	**Comments**
Finance (value for money)	☒	☐	☐	The enforcement detailed in this report would be carried out by the civil enforcement officers as part of their existing day to day duties
Other departments and services e.g. office facilities, customer contact	☒	☐	☐	It is expected that all complaints about dropped kerb obstruction will be submitted online and therefore not add to existing customer contact workload
ICT services	☒	☐	☐	
Economic development	☒	☐	☐	
Financial inclusion	☒	☐	☐	
Social (please add an 'x' as appropriate)	**Neutral**	**Positive**	**Negative**	**Comments**
Safeguarding children and adults	☒	☐	☐	However, the policy should make the road safer for everyone
S17 crime and disorder act 1998	☒	☐	☐	
Human Rights Act 1998	☒	☐	☐	
Health and well being	☐	☒	☐	Policy will improve conditions for pedestrians and cyclists

	Impact			
Equality and diversity (please add an 'x' as appropriate)	**Neutral**	**Positive**	**Negative**	**Comments**
Relations between groups (cohesion)	☐	☒	☐	Policy should reduce the conflicts between motorists and the affected groups
Eliminating discrimination & harassment	☐	☒	☐	Policy will improve accessibility for those with mobility problems
Advancing equality of opportunity	☐	☒	☐	Policy will improve accessibility for those with mobility problems
Environmental (please add an 'x' as appropriate)	**Neutral**	**Positive**	**Negative**	**Comments**
Transportation	☐	☒	☐	Policy will help to ensure that facilities for pedestrians and cyclist are available for use
Natural and built environment	☒	☐	☐	
Waste minimisation & resource use	☒	☐	☐	
Pollution	☒	☐	☐	
Sustainable procurement	☒	☐	☐	
Energy and climate change	☒	☐	☐	
(Please add an 'x' as appropriate)	**Neutral**	**Positive**	**Negative**	**Comments**

	Impact			
Risk management	☐	☒	☐	The lack of enforcement of dropped kerbs is a routine source of criticism

Recommendations from impact assessment
Positive
The policy has positive benefits for pedestrians (particularly those with mobility problems), cyclists and occupiers of premises who may currently be obstructed by parked vehicles
Negative
There are no negative impacts. Enforcement will be within existing patrols
Neutral
The policy has no impact in these areas
Issues
The policy helps to reduce issues for people legitimately using dropped kerbs.

Appendix 1 - Extract from the Department for Transport document – Operational Guidance to Local Authorities: Parking Policy and Enforcement

Double parking etc and parking at dropped footways etc

8.60 The TMA enables authorities with CPE power to enforce in a Special Enforcement Area (SEA) prohibitions of double parking and parking at dropped footways as if they had been introduced using a Traffic Regulation Order (Traffic Management Order in London). Any Special Parking Area (SPA) that existed before commencement of the TMA 2004 automatically becomes an SEA but authorities should ensure that the public are aware of the new restrictions before starting enforcement. In most authorities the area covered by their SPA was the same as their Permitted Parking Area (PPA), and so the area of the SEA will be the same as their CEA.

8.61 In areas where the police service is responsible for enforcing parking, they have the power to take enforcement action against vehicles causing obstruction by parking at dropped footways etc or more than 50 cm from the edge of the carriageway.

8.62 There are various exceptions to the power given to enforcement authorities to take action, set out in the TMA. Enforcement staff and back office staff should be aware fully of these exceptions. Principally they cover:

- vehicles parked wholly within a designated parking place or any other part of the carriageway where parking is specifically authorised;
- vehicles used by the fire, ambulance or police services;
- loading and unloading; and
- vehicles used for waste collection, building works or road works.

8.63 The provisions in the Act mean that an authority can introduce such a prohibition without a TRO/TMO. Amendments to the TRO procedure regulations make clear the Government's policy intention that traffic signs are not required to enforce this nationwide ban of double parking and parking where the footway, cycle track or verge has been lowered (or the carriageway raised) for the purposes set out in the TMA. Some prohibitions may already be indicated – for instance, at street corners. Authorities should, however, take care to ensure the terms of use of existing indications do not conflict with those of this provision. For instance, holders of a valid Blue Badge may park for up to 3 hours on yellow lines where it is safe to do so and providing they are not causing an obstruction. That is not the case for double parking or dropped kerbs.

8.64 The purpose of these powers are to help prevent inconsiderate and selfish parking causing congestion and road safety problems. To be effective, enforcement action may need to be quite severe and so the powers should always be used reasonably and with circumspection. Enforcement action should only be taken if the vehicle is causing or likely to cause a road safety hazard or obstruction to other road users or pedestrians. Restrictions on the situations in which an authority can use these powers mean that they may be more suitable for tackling persistent problems than occasional ones. London authorities should note that there are small differences from the London legislation. An authority that decides to use the power should, before commencement, publicise the circumstances in which they will or will not take action. If an authority decides to target an area where there is known to be a problem, they should first use additional publicity such as leaflets to all households in the area.

Appendix 1 - Extract from the Department for Transport document – Operational Guidance to Local Authorities: Parking Policy and Enforcement

Double parking

8.65 Parking more than 50cm from the edge of the carriageway may not cause problems for smaller vehicles, but can obstruct the passage of ambulances, fire engines, buses, waste collection vehicles and other essential vehicles. The contravention of double parking applies when a vehicle parks on any part of the carriageway and no part of the vehicle is within 50 cm of the edge of the carriageway, subject to the exemptions in part 6 of the TMA.

Parking alongside dropped footways etc

8.66 The contravention of parking adjacent to a dropped footway etc applies where a vehicle parks on the carriageway next to a place where the footway, cycle track or verge has been lowered to the level of the carriageway (or where the carriageway has been raised to the level of the footway, cycle track or verge) to assist:

- pedestrians crossing the carriageway;
- cyclists entering or leaving the carriageway; or
- vehicles entering or leaving the carriageway across the footway, cycle track or verge.

8.67 Parking alongside a drooped footway etc can cause considerable inconvenience. But it can also put vulnerable road users at greater risk of being involved in a road traffic accident. Where the footway, cycle track or verge has been lowered (or the carriageway raised) to facilitate access to a premises, parking adjacent to such a location can cause considerable inconvenience to vehicles trying to enter or leave the premises. The Highway Code advises drivers “DO NOT stop or park … where the kerb has been lowered to help wheelchair users and powered mobility vehicles, in front of an entrance to a property or where you would obstruct cyclists’ use of cycle facilities ... except when forced to do so by stationary traffic.”

8.68 The contravention does not apply to exemptions specified in the TMA, such as the emergency services, alighting, unloading, building works, road works, and the like. Nor does it apply where a vehicle is parked outside residential premises with the occupier’s consent (but it does apply if that consent has been paid for) or where the driveway is shared. These exceptions suggest that authorities should not take enforcement action where a vehicle is parked outside residential premises unless the occupier has asked the enforcement authority to do so. Authorities will need to check that the individual making such a request is entitled to do so.

8.69 An authority that plans to use this power, should ensure that it is clear to a motorist the difference between a regular kerb and a dropped kerb (or a regular carriageway and a raised carriageway).