

Environment & Sustainable Communities Overview & Scrutiny Committee



1 October 2015

Briefing Note: Parking on Council Land – Summary of Issues Raised

Report of Lorraine O'Donnell, Assistant Chief Executive

Purpose

1. The purpose of this briefing note is to provide a summary of the issues raised at the last special meeting of Environment and Sustainable Communities Overview and Scrutiny Committee held on 14 September to discuss the topic of parking on council land.

Detail

Presentation

2. In attendance at the meeting was Mary Readman, Customer Relations, Policy and Performance Manager; Brian Buckley, Strategic Highways Manager; Ian Hault, Neighbourhood Protection Manager and Clare Pattinson, Legal Manager – Governance and Elections to provide members with a powerpoint presentation on parking on council owned land.
3. Members were advised that during November 2014 and March 2015, that out of a total of 7424 customer contacts, 555 had been received in relation to parking, and of these 105 related to parking on grass while 405 were other parking related service requests that related to parking fines, parking spaces and parked DCC vehicles. Members were provided with a map which showed the hot spots for customer contact in relation to parking on grassed areas which showed that the largest number of issues were at Wheatley Hill, Shotton and Peterlee areas in the east of the county and Shildon area in the south of the county. Also provided for Members was a breakdown of the parking related complaints in the same period and of the 555 contacts 24 progressed to parking complaints, 3 on grassed areas, 2 in disabled bays, 8 obstructing footpaths, 7 blocking access and 4 outside or near schools.
4. The Strategic Highways Manager provided members with statistics based around 2011 census information which showed that County Durham has an estimated population of 513,200, with no of households 223,800, an estimated population over 18 356,000, average cars per household 2, with an estimated number of cars in the county as 450,000 and length of Highway 3,780 kms. He showed members examples of the types of parking issues his officers encounter which included parking on footways and highway verge. Members were advised that the most common parking incidence was two wheels on the road and two wheels off the road.

5. The possible solutions to highway verge parking were to do nothing, enforcement using the Highway Act 1980 and other legislation, education and cooperation, provision of more parking spaces, verge hardening, bollards, vehicle crossings and a combination of all. The resources required to tackle such a widespread problem is enormous and beyond the scope of the existing staff at this time and in some cases the solution creates more problems than the original problem itself.
6. Examples of various parking issues and the enforcement which could be used to deal with it were given to members of the committee. Problems arise when drivers do not allow sufficient room for pedestrians to pass especially those with pushchairs or wheelchairs. In these incidences where it is dangerous for pedestrians immediate action is taken and if necessary legal action is considered using section 137 of the Highways Act 1980. Issues were discussed of parking on highway verge with enough room for pedestrians to pass safely this causes little damage to the kerb or footway but is antisocial and can be dealt with under section 161 of the Highways Act 1980 however it is difficult to prove. Another example showed that in some instances drivers had completely parked on the verge, this is antisocial but there is no damage to the verge or footway. Enforcement could have been taken under section 161 of the Highways Act 1980 but is difficult to prove because to park the vehicle on the highway could have caused traffic disruption on a busy road and danger to other road users.
7. Photographs were shown of vehicle overrun which is caused by parking on the footpath and can lead to an increase in highway claims which is a drain on council finances and is expensive to rectify. In these instances it is almost impossible to prove which vehicle has caused the damage to the footway.
8. Ways of educating drivers to park considerately was discussed these included a parking policy by Living Streets, a third sector organisation which shares best practice for making pathways safe. Leaflet drops to advise residents on the need to park considerately or an article placed in Durham County News or localised campaigns to educate and ask for cooperation.
9. In the past, provision had been made for parking spaces in areas with significant parking issues so that vehicles did not need to park on the road. The cost of construction and maintenance of creating additional parking areas and the availability of land makes this not a viable option in the current financial climate. Also now there was very little or no parking areas provided when social housing was considered.
10. Verge hardening solutions such as grasscrete on grassed areas have been used on some social housing estates but some residents still insist on parking on the grassed areas rather than using the harder surface. Currently there is no funding or land available to alleviate parking on estates and would require future maintenance which is an additional cost implication
11. Bollards have been installed in some areas due to extensive damage that had been caused to the paved footpaths which led to an increase in injury claims.

The bollards have stopped all antisocial parking in the area but they have significant extra maintenance costs. Bollards are not used in residential areas and are not the answer in most cases.

12. In relation to Vehicle Crossings, in many instances the public did not apply for a vehicular crossing licence and bumped over the kerb or constructed a crossing which was not fit for purpose such as using flagstones, tarmac or timber. A vehicular crossing licence is required to cross the footway to ensure crossings are constructed to the required standard so there is the least amount of damage to the footway and to protect underground services. The approximate cost for the construction of a crossing was currently in the region of £600 to £700. Members of the public requiring a vehicular access crossing licence should apply to highways for a licence at a cost of £130 which was broken down into £37 licence fee and £93 inspection fee. Following the construction, works would be inspected and the crossing would be adopted by the authority. There is not a high take up of vehicular access crossings licenses and to address the issue of unlicensed crossings would mean taking on additional staff resource.
13. The Neighbourhood Protection Manager gave examples of parking on open space amenity areas, the first referred to an old pit site at Wingate where there had been problems with off road vehicles driving on to the site to feed horses and the vehicles were cutting up the ground. To solve this problem the Council had erected a fence to stop vehicles gaining access. While this measure had stopped access in this location the problem moved to another access to the site.
14. The second example referred to Gray Avenue, Sherburn Village, there was extensive damage to open space grassed areas outside of residential properties. The road is a bus route so residents parked on the grassed areas outside of their properties which helped to reduce congestion because the road is so narrow a bus would not have been able to get down the road if everyone had parked on both sides of the road.
15. A final example showed a photograph of cars parked on open space at Bek Road, Newton Hall which was another bus route. The photograph indicated significant damage to the land this is extremely difficult to prove that the extensive damage to the land was caused by that particular vehicle.
16. Members were informed that the Neighbourhood Wardens' current approach is to engage with communities and educate members of the public in relation to environmental crimes using methods such as letter drops. Neighbourhood Wardens used enforcement action where the vehicles were abandoned. There is no enforcement for parking on open space as evidence and proportionality are required. It is proposed that enforcement could include the new legislation by way of ASB, Crime and Policing Act 2014, using Public Space Protection Orders but it has to be demonstrated that the quality of life would be improved by this action and would also require a community consultation of affect areas.

17. A benchmarking exercise had been undertaken using the Association of Public Service Excellence (APSE) of parking on grassed areas and indicated that very few local authorities had parking policies to control parking on council open amenity grassed areas and that most made use of Traffic Regulation Orders (TROs).
18. The Governance and Elections Manager provided advice on the legislation relating to parking issues on highway verge and parking on council owned open amenity land and indicated that there was no national prohibition against on-street or 'pavement' parking except in relation to heavy commercial vehicles.
19. She went on to advise about tackling problem parking issues, when a vehicle is causing an obstruction or is dangerously parked i.e. people double parked or when emergency vehicles can't get through then enforcement is swift and immediate. Designating limited areas of 'no pavement parking' through a Traffic Regulation Order (TRO) is an option but this is not a high priority and where do you start and stop. It also attracts an additional cost because back up enforcement is needed. Special parking areas could be established, which some members have done and funded via their Members Initiative Fund.
20. An option could be to enforce the offence of driving onto the pavement, whether with intention to park or not - however they could spend hours enforcing but where were the vehicles going to park and is this appropriate use of scarce DCC resources. Physical discouragement such as tree planting, bollards and guardrails is also an option but this is a response to a specific problem in a particular area rather than policy and consultation exercises were required. Parking issues could be addressed in one area but would then re-emerge in another and may have additional issues because of it- the issue is only moving elsewhere and the fundamental issue is the number of vehicles on the road.
21. Local Authorities and the Police have the power to remove vehicles which are parked illegally, causing an obstruction or abandoned. A vehicle is only illegally parked if there are parking restrictions operating in the area, in other cases one would have to show a vehicle is causing an obstruction. The police can remove vehicles which are causing an obstruction.
22. Previous planning policy had restricted parking on new residential estates to a ratio of one space per dwelling but these standards have now been relaxed to minimum standards instead of maximum standards. This means that new residential estates should have ample car parking spaces for home owners and visitors.

Members Questions

23. Members discussed their frustrations at the costs of engineering works to address parking issues and were advised that each area was viewed on its own merits but where there were services hidden underground then costs are significantly increased. In relation to highway maintenance there is currently a

backlog but 'A' roads are kept to a good standard, B and C roads are kept to an acceptable standard but unclassified roads are the lowest priority.

24. Councillor Hopgood advised members that she had asked for this issue to be considered by scrutiny and indicated that thousands of pounds had been spent on parking spaces in the Bek road area of her ward but they are not used and residents drove over them to park outside of their property. However some of the grassed areas had covenants which prevented cars from being parked but this had not deterred the continual parking of vehicles on some of the grassed areas and had caused significant damage to the land.
25. Neighbourhood Wardens had sent letters to residents, but there is nothing the council could do if residents did not respond. The Councillor is concerned that someone may fall into the ruts made by vehicles crossing over the grassed areas, especially children who played in the area and wanted to know who would be responsible should an injury claim be made against the council. The councillor also advised that estimates had indicated that it would cost £20,000 to provide parking bays in half of a small cul-de-sac. There are parking bays to the front of properties and parking to the rear but residents wanted to park outside their properties. This also created an issue with grounds maintenance as grass could not be cut properly because of the ruts and the Member suggested that council needed a policy to protect the grassed areas and asked if the council could charge residents to reinstate the land.
26. A Public Space Protection Order or a Traffic Regulation Order is required but the council needed to show that there is a detriment to the quality of life. The legislation for Public Space Protection Orders only came in last year but it would be a criminal offence if breached. The council could bring a claim towards the person responsible, provided there is evidence but would this be an effective use of resources and officers time when there is no guarantee that this would be upheld by the magistrates or if it is, that the perpetrator would not appeal the decision. This is new legislation and has not been tested in these circumstances.
27. The councillor responded that she was told that because DCC does not have a policy they cannot carry out enforcement measures and was advised that if there was sufficient evidence DCC could bring a claim. The Neighbourhoods Protection Manager indicated that there was very little done because of the lack of funding and evidence was difficult to gather and prove that one person caused the damage which is why they do not do any enforcement as they have no evidence.
28. Councillor Armstrong indicated that the council needed some kind of policy but there was no budget so very little could be done. He suggested that the way forward is to erect fencing on council land as a barrier.
29. Councillor Jewell suggested that because the number of complaints in relation to parking was not very many this indicated that this was not an issue which the public perceived to be of high importance. In his area they were advised to

remove double yellow lines to alleviate problems so they needed to look at the whole picture. The councillor queried how many unlicensed vehicular access crossings were in County Durham were up to standard and sought clarification in relation to planning policy of 1.5 parking spaces per dwelling.

30. The Strategic Highways Manager advised that they don't proactively look for unofficial car crossings and received on average 1000 enquires for vehicle crossings per year with a take up of around 500 which were built and adopted. There was a problem in particular on council estates where residents were knocking down garden walls and creating a hardstanding, they could enforce for driving over the highway. He suggested he could have two officers working full time on enforcement and recovery for parking but does not have the resources or the capacity for this currently.
31. Members were advised that planning permission was required for a hardstanding as this had an impact on the drainage system but conversion of garages into rooms did not need planning permission and garages tended to be used for storage rather than vehicles. The Senior Planning Policy Officer clarified that currently it is one and a half spaces per dwelling, but applications received from developers related to more than one dwelling so for example 10 houses there would be 15 parking spaces. Members were also advised that converting highway verge into hardstanding for parking would also impact on drainage systems too.
32. In relation to a query about costs it was confirmed that the initial cost of obtaining an order was cheaper than carrying out engineering works however all actions attracted a cost.
33. The design of some housing estates meant that there were no means of parking outside one's property and as a car was a large purchase most residents would want to be able to see their vehicle from their window. Members of the committee put a question in relation to the use of fixed penalty notices to prevent parking on grass but by issuing a Public Space Protection Order or Traffic Regulation Order would turn into a criminal offence and a penalty notice could be issued. To remove vehicles from council land would require the council going to court for an injunction which is costly and breaches would add to this cost. If this line was to be pursued then some other legal activity would have to stop to free up officers time members of the council would need to priorities issues and if this line is to be pursued then hot spot area should be considered first.
34. The Neighbourhood Protection Manager indicated that the level of complaints for this issue is low in comparison to other issues. If the council went looking for issues they would find them in every estate. If the council did enforcement, where would vehicles park and how would this impact on traffic congestion and traffic flows? There is a cost element as consultation would be required as well as signage and someone to enforce, and then take to court. This would impact on other services too such as customer contact centres.

35. In relation to cars parked on council land which was up for sale which were not individuals but were from a trader, members were advised there were a number of potential offences and enforcement could be carried out by the council or police. In the past the council had issued some notices where it had been reported but again it is hard to collect the evidence and the process was slow.
36. The vast majority of people are law abiding citizens and that harming the environment is unintentional, members suggested an advert to be placed in the Durham County News to give advice about parking.
37. Members asked if people who parked vehicles on council land could not be dealt with using the law of trespass but the reaction by the perpetrators is usually 'make me!' This would then require the council to prepare a case and go to court which would have a cost implication too.
38. The discussion ended with members being reminded that no matter what green space was designated via Neighbourhood Plans or Village Green allocations, the fundamental issue is there are too many cars and not enough spaces to park them. Therefore, people choose to park on green spaces. Some of the County's worst problems regarding this issue have occurred in areas that were planned to include as surplus of green amenity space, for example, in the new towns of Peterlee and Newton Aycliffe. However there are parking issues in many areas of the county. The Chairman advised that we are working to a medium term financial plan and had to think about priorities.

Summary of Key Points

39. The key points of the discussion were:

- Very few customer contacts or complaints are received.
- Car ownership for County Durham is estimated at 450,000 cars
- Issues with parking do not disappear they are just moved to another area.
- Parking on highway verge or open grassed areas is an issue for many areas, but all areas are different.
- There are cost implications to all options
- Durham County Council has no parking policy for parking on highway verge or grassed areas.