

Date of Commission meeting: 17 April 2014

Pavement Parking Scrutiny Review

Worcester City Council – pavement parking briefing

1. Introduction

- 1.1 Worcester city council became the first English authority outside London to introduce the enforcement of a ban on pavement parking. It introduced the measure, which is partial and not a city-wide ban, as a trial on 1st January 2014.
- 1.2 This note sets out the history and background to the development of the strategy, points out the public pressure to introduce such a ban, how it was implemented in practice and how it has been working to date.
- 1.3 Members are asked to:
 - (i) Note the report
 - (ii) Ask officers to monitor Worcester Council's review of the trial and report back on progress if timely for the review.

2. Summary

- 2.1 Worcester City Council has implemented a selective ban on pavement parking within the city. The ban is aimed at the worst cases – where pedestrians are forced off the pavement, and the road conditions (heavy or speeding traffic) make this hazardous.
- 2.2 The strategy relies on enforcement of existing Traffic Regulation Orders (TROs) rather than a city-wide TRO banning pavement parking.
- 2.3 The strategy has not yet been tested by an appeal to an independent adjudicator.

3. Background

- 3.1 Worcester City Council took on responsibility for decriminalised parking in February 2003 and enforcement under the Road Traffic Acts. Since 1st April 2008 enforcement powers are within The Traffic Management Act 2004 (TMA04).
- 3.2 In many streets both the Police and the District Council had turned a blind eye to cars parking on the pavement. If this did not happen in relation to some narrow streets larger vehicles such as emergency and delivery vehicles could not pass.

- 3.3 Historically, the Council had not taken enforcement action against pavement parking [Contravention 62 TMAO4]¹. A dilemma for the authority was where to take enforcement action, with the important criterion that all of its enforcement needed to be fair and proportionate to the issues.
- 3.4 The authority was aware that if a Penalty Charge Notice (PCN) was issued to a vehicle and a driver's appeal to the council was turned down, the issue could go to the Traffic Penalty Tribunal (TPT), the independent adjudicator.
- 3.5 The TPT would ask: "where are the signs that tell the driver they cannot park on the pavement?" However, it is reasonable to suppose drivers should know they should not park on the pavement. Highway Code rules 238 – 252 'Waiting & Parking' it is clear drivers should not park on the pavement.
- 3.6 Officers felt adjudicators tended to favour drivers, and in that context had extensive discussions with the county, which was asked for a consolidated TRO making a pavement parking order for the whole of the city.
- 3.7 Worcestershire County Council was reluctant to do so as this would imply the need for hundreds of signs at all locations where drivers do park on the pavement. This was considered to be insupportable.
- 3.8 The County said that if Worcester City Council identified a particular street with a pavement parking issue, they would look at the issue on a street by street basis and if appropriate generate a new TRO for pavement parking and put the signs up. The City Council did not think this was a tenable approach either. Therefore, no action was taken on pavement parking issues.

4. Implementation

- 4.1 Towards the end of 2013, officers started receiving more complaints about pavement parking. Complainants were aggrieved by the council saying it did not enforce, referring the matter to the police and the police taking no action. Worcester City Council's view was that the police had informally withdrawn from parking enforcement, steering the complainant back to them.
- 4.2 In an attempt to break this cycle Worcester City Council agreed to start a three months trial on 1st January 2014, using a protocol which meant enforcement would only be taken in the most serious cases.
- 4.3 The 16-strong CEO team and back office team were briefed on how this would be done, and this is outlined in the slides below.

¹ Contravention Code 62 under the Act relates to parking with one or more wheels on any part of an urban road other than a carriageway (footway parking) in contravention of the terms of a TRO.

Existing Contravention 'Parking On The Pavement'

- Parking On Pavement or
- Footpath.
- Code 62 on HHC
- Parked with **one** or more wheels on **any part** of an urban road other than a carriageway [footway parking]



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4.4 Enforcement would be considered where:

- The vehicle was on the pavement
- It was parked in such a manner that pedestrians would have no option but to walk in the carriageway; and
- Issues such as blocking the passage of push-chairs and mobility scooters were involved.

Supporting Evidence

Clear Photographs.
Pocket book entry.
Evidence of moving traffic.

Evidence of other pedestrian activity.
Evidence of alternative parking.

- **CEO retains professional discretion at all times.**



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4.5 By 26th March 2014 CEOs in Worcester had issued 107 PCNs, 48 of which have been paid, and only three are at the informal appeal stage. There are 28 appeals in the system but none is likely to be allowed.

- 4.6 Officers felt this provide evidence that enforcement is only being taken in circumstances where the driver will be hard pressed to defend their actions. The tickets made up around two per cent of total tickets issues.
- 4.7 The guidelines allow all CEOs to issue in the same manner, while vesting with them professional discretion and if they feel a vehicle parked on the pavement warrants a PCN managers are happy to support them.
- 4.8 Officials are awaiting an appeal to TPT, and in what would essentially be an important test case let the adjudicator decide whether the policy and practice is correct.
- 4.9 If the TPT were to find in favour of the driver on a PCN issued in accordance with its stated policy the council would have to consider its position on action against pavement parking.

5. Conclusion

- 5.1 Worcester's view is that authorities have shied away from this issue as it was potentially going to be difficult, but that this was not a reason for not attempting it. The results of the trial are being reviews by officers and members.

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