

CABINET (TRAFFIC AND PARKING) COMMITTEE

10 JUNE 2009

FURTHER IMPLEMENTATION OF TRAFFIC MANAGEMENT ACT 2004: DOUBLE
PARKING AND PARKING AT DROPPED KERBS ENFORCEMENT

REPORT OF HEAD OF ACCESS AND INFRASTRUCTURE

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RECENT REFERENCES:

CAB1600 - Traffic Management Act 2004 Implementation - Parking Regulations,
16 January 2008

EXECUTIVE SUMMARY:

This report sets out details of further implementation of the Traffic Management Act in relation to double parking and parking at dropped footways/kerbs and the City Council's approach to this.

RECOMMENDATIONS:

That, subject to the consent of Hampshire County Council under the agency arrangements, the Head of Access and Infrastructure be authorised to implement enforcement of the provisions of the Traffic Management Act 2004 in relation to double parking and dropped footways/ kerbs as set out in this report.

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DETAIL:

1 Introduction

- 1.1 The Traffic Management Act 2004 was implemented in April 2008 but the provisions in relation to enforcing double parking and parking across dropped kerbs and footway/ cycleway crossing points was deferred. These aspects required further parliamentary approval which has now been obtained. As such local authorities with Civil Enforcement Powers can now issue penalty notices in relation to such infringements within special enforcement areas. The whole of Winchester District is a Special Enforcement Area.
- 1.2 The City Council acts as agent for Hampshire County Council for on-street parking enforcement, which would include these provisions. The consent of the County Council will be required before any enforcement took place.

2 Proposed Implementation

- 2.1 It is suggested that Winchester City Council starts to enforce the provisions of the Traffic Management Act 2004 in respect of infringements involving double parking and parking across dropped kerbs and footway/cycle crossing points as set out in the Department for Transport operational Guidance as attached to this report in Appendix 1.
- 2.2 It is suggested that a sensitive approach is taken to the enforcement of these provisions and that publicity is undertaken generally across the District through press releases and in Connections. In areas where particular problems are experienced, letters will be sent to households in areas where targeted enforcement will be undertaken.
- 2.3 There are numerous dropped kerbs across driveways to private dwellings and it is not intended to enforce at these locations unless particular consistent problems are reported to the City Council. Enforcement will be considered where vehicles park inconsiderately across formal crossing points which are usually distinguished by tactile paving.

OTHER CONSIDERATIONS:

3 SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):

3.1 This proposal contributes to the Corporate objectives of safe and secure communities.

4 RESOURCE IMPLICATIONS:

4.1 These restrictions can be enforced within current resources.

5 RISK MANAGEMENT ISSUES

5.1 Adverse publicity could result unless the scheme is well publicised in advance of any enforcement.

BACKGROUND DOCUMENTS:

None

APPENDICES:

DfT Operational Guidance – Double Parking etc and parking at dropped kerbs. May 2009

Double parking etc and parking at dropped footways etc

8.57 The TMA enables authorities with CPE power to enforce in a Special Enforcement Area (SEA)⁵¹ prohibitions of double parking⁵² and parking at dropped footways⁵³ 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 SEA⁵⁴ 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.

8.57A 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.

8.58 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.

8.59 The provisions in the Act mean that an authority can introduce such a prohibition without a TRO/TMO. Amendments to the TRO procedure regulations⁵⁵ 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.

8.59A 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.

Double parking

8.60 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

8.61 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.

8.61A Parking alongside a dropped 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.”

8.62 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.

8.62A 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).

51 TMA, Schedule 10.

52 TMA, section 85.

53 TMA, section 86.

54 TMA, Schedule 10, paragraphs 1(5) and 3(5).

55 The Local Authorities' Traffic Orders (Procedure) (England and Wales) (Amendment) (England) Regulations 2009 (SI 2009 No.1116).