

Key Decision: No

Date First Published:  
N/A

## CABINET

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**Date of Meeting:** 7<sup>th</sup> July 2020

**Report Title:** Notice of Motion – Pavement Parking

**Portfolio Holder:** Cllr Laura Crane - Portfolio Holder Highways and Waste

**Senior Officer:** Frank Jordan - Executive Director Place

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### 1. Report Summary

- 1.1. At Council in October 2019, consideration was given to a Notice of Motion, as follows:

*“This Council requests that Cabinet give consideration to developing a borough wide policy on pavement parking and a separate borough wide policy on pavement obstruction, which should be sufficiently flexible to recognise the varied needs and demands within different areas of the Borough. Council further calls on the Cabinet to bring a draft policy on pavement parking to a future meeting of Full Council for debate.”*

- 1.2. Council resolved that the motion be referred to Cabinet. This report addresses the background to this matter and recommends a way forward.

### 2. Recommendations

- 2.1. That Cabinet

- 2.1.1. Agree that any new approach to restricting pavement parking in the Borough be informed by the Department for Transport’s review of current practice and the procedures for making and enforcing Traffic Regulation Orders.

- 2.1.2. Agree that Cheshire East Council respond to the forthcoming DfT consultation with evidence, including that provided as background to the Notice of Motion to Council. The details of this response are to be delegated to the Director of Highways and Infrastructure, in consultation with the Portfolio Holder for Highways Waste.

### **3. Reasons for Recommendations**

- 3.1. On 12th March 2020, the Secretary of State for Transport issued a media statement covering the Department's response to the Transport Committee's Report on Pavement Parking. This response included Government plans to consult on proposals for a national pavement parking ban in the summer 2020.
- 3.2. The 12-week consultation will include options such as allowing local authorities with civil parking enforcement powers to take action on unnecessary obstruction of the pavement. Currently, outside London, only police have this power.
- 3.3. This statement pre-dates the Coronavirus pandemic and we await further details from the DfT on the timing of this consultation.
- 3.4. Awaiting the national consultation will allow Cheshire East Council to consider and influence the proposed changes to statutory procedures being brought forward by Government. In addition, it will ensure that any subsequent proposals for a ban on pavement parking in Cheshire East have maximum opportunity to utilise the flexibilities and potential cost savings facilitated by the changes to regulations.

### **4. Other Options Considered**

- 4.1. The option of preparing to make orders for a borough-wide ban on pavement parking under current rules and responsibilities was considered. Given the prospect of imminent consultations on changes at the national level, this approach was considered to incur risks of abortive work, excessive costs and ultimately leading to an unenforceable set of legal orders. The option was discounted.
- 4.2. The option of doing nothing was considered. This approach does not meet the reasonable expectations of vulnerable road users that the impacts of inconsiderate and obstructive pavement parking will be effectively managed by the local highway authority.

### **5. Background**

- 5.1. The House of Commons Transport Committee published its report on Pavement Parking in September 2019. The Committee concluded that pavement parking can be significant blight on people's lives across the

country. It stops pedestrians being able to use footways safely and is particularly dangerous for people with sight loss and wheelchair users who can be forced into the road. There is no national prohibition of pavement parking, except in London and more widely in relation to heavy commercial vehicles. Instead enforcement against parking on pavements is a complex mix of local authority and Police responsibilities relating variously to driving on pavements, waiting restrictions and obstruction of the highway. It is generally accepted that the Police have insufficient resources to routinely enforce offences relating to pavement parking and that this could more effectively be undertaken by local authority Civil Enforcement Officers.

- 5.2. Traffic Regulation Orders (TROs) are a way that local authorities can tackle congestion, manage traffic flows and restrict parking, including pavement parking. The Committee concluded that Government should remove the onerous requirement of newspaper advertising from the TRO process whilst maintaining a commitment to ensure widespread consultation amongst those likely to be affected by an Order.
- 5.3. Local authorities and the Police may act to tackle pavement parking in various ways, such as under legislation governing obstruction and dangerous parking; designating limited areas of 'no pavement parking' through a Traffic Regulation Order (TRO); or establishing a special parking area.
- 5.4. Recently there have been campaigns to introduce a complete civil ban on pavement parking, enforceable by local authorities. Pavement parking causes an obstruction to pedestrians and particular difficulties for blind and partially-sighted people, wheelchair and mobility scooter users and those with pushchairs and prams.
- 5.5. For Cheshire East Council, the options available currently are:
  - 5.5.1. Waiting Restrictions – where orders operate for the full-width of the road with enforcement by the Councils Civil Enforcement Officers
  - 5.5.2. Permissive TROs for selective sites to enable pavement parking where is assist the working of the highways
  - 5.5.3. Police enforcement action where parking is deemed to be obstructive.

A Borough-wide ban on pavement parking would be difficult to implement under current powers.

5.6. The impacts of a comprehensive ban on pavement parking will need to take into account a number of areas of Council business, including the following:

5.6.1. Parking standards, as applied for planning new development can impact on the demand for on-street parking.

5.6.2. Policies relating to Houses in Multiple Occupation can influence the intensity of parking demands relative to the available kerb-space on street.

5.6.3. Employers Travel Plans can influence to reliance and impact on on-street parking close to places of work.

5.6.4. Disabled parking bays, which are provided on the highway to afford priority to people with impaired mobility

5.6.5. Household & Commercial Waste collection practices where collection from the pavement is routine practice

5.6.6. Sustainability policies designed to encourage greater reliance on walking, cycling, Public Transport.

Development of a borough-wide approach to pavement parking will need to consider the impact of any changes with regard to these wider policies and services.

5.7. Our local approach to pavement parking will need to take into account a large number of streets in our towns were built to have little, if any, off-street parking facilities. Vehicles may be parked on the footway with a mind to ensure that other vehicles can travel along the highway. There are risks that a restriction of pavement parking could displaced parked vehicles to other residential areas. Therefore, the Council's approach will need to develop criteria to assess the benefits and disbenefits arising from a restrictions to pavement parking, whilst enhancing movement for pedestrians especially people with disabilities and the elderly. In this way the Council can ensure it approach protects convenient and safe movement for all road users and meets the needs for residential parking facilities as far as is practical.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. Under Section 122(1) Road Traffic Regulation Act 1984 it is "the duty of every local authority upon whom functions are conferred by or under this Act, so to exercise the functions conferred on them by this Act, as (so far as practicable having regard to the matters specified in subsection (2) below) to secure the expeditious, convenient and safe

movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway. Section 122(1) requires a balancing of vehicular and pedestrian traffic.

6.1.2. The duty under Section 122(1) is also a qualified duty and is to be read with consideration to the factors in Section 122(2). The requirement to secure convenient and safe movement of pedestrians has to be balanced with the desirability of securing and maintaining reasonable access to premises. It may be an unreasonable exercise of powers to impose blanket bans to parking on footways if it leads to vehicles parking on neighbouring roads, thereby shifting the problem, or at an unreasonable distance from premises.

6.1.3. These considerations and others within this report should form part of the response to the DfT.

## **6.2. Finance Implications**

6.2.1. There are no immediate financial implications arising from the recommendations. The costs of responding to the DfT consultation will be negligible, and covered by normal staff time within existing staffing budgets in the Parking Service.

6.2.2. When DfT have completed consultation on pavement parking regulations and revised, as necessary, and statutory regulations it will be possible to prepare a business case for implementation across Cheshire East. At this time, the potential costs and benefits arising from a new pavement parking regime will be assessed in detail.

## **6.3. Policy Implications**

6.3.1. Adoption of a borough-wide approach to enhanced management and enforcement of pavement parking, particularly where parking is inconsiderate or obstructive is consistent with the Council's responsibilities for ensuring safe working of the local highway network.

6.3.2. Careful definition of any locations that may be exempt from an outright ban on pavement parking should enable the approach to be responsive to wider considerations such as access by emergency vehicles, public transport or other services such as refuse collection.

6.3.3. Management of pavement parking can make a positive contribution to policies aimed at influence travel choices in favour of more sustainable modes of travel, which is consistent with the Council's draft Environment Strategy. The policy development for pavement parking should also take into consideration car parking standards in the Local Plan and their application across the borough.

#### **6.4. Equality Implications**

- 6.4.1. The approach to manage better pavement parking is expected to benefit a number of vulnerable road user-groups including people who are mobility impaired, the blind and sight impaired, people accompanying prams and pushchairs, and children.
- 6.4.2. An Equalities Impact Assessment would be prepared for any proposed changes to policies in Cheshire East at that time.

#### **6.5. Human Resources Implications**

- 6.5.1. None at this time. The implications of any changes to national regulations for the Council's enforcement teams will be assessed at a later stage.

#### **6.6. Risk Management Implications**

- 6.6.1. There are no specific risk implications arising from the recommendations in this report.
- 6.6.2. When the DfT publishes its proposed revisions to current statutory procedures, a full risk assessment for the implementation of these changes will be prepared.

#### **6.7. Rural Communities Implications**

- 6.7.1. The approach to managing pavement parking applies equally to instances on inconsiderate or obstructive parking in rural areas.

#### **6.8. Implications for Children & Young People/Cared for Children**

- 6.8.1. Evidence given to the Transport Committee revealed that children and young people are especially vulnerable to the adverse impacts of pavement parking. Measures to better manage inconsiderate or obstructive parking on pavements are expected to be a benefit to children and young people using local roads.

#### **6.9. Public Health Implications**

- 6.9.1. Evidence given to the Transport Committee revealed that the adverse impacts of pavement parking included health consequences such as greater loneliness, stress and anxiety. Also, it is likely that there are instances where pavement parking contributed to road traffic collisions and injuries.
- 6.9.2. Measures to improve provisions to manage better inconsiderate or obstructive parking on pavements are expected to be a benefit to public health in Cheshire East.

## **6.10. Climate Change Implications**

- 6.10.1. Management of pavement parking can make a positive contribution to policies aimed at influence travel choices in favour of more sustainable modes of travel, which is consistent with the Council's draft Environment Strategy.
- 6.10.2. Where a ban on pavement parking is aligned with sustainability policies designed to encourage greater reliance on walking, cycling, Public Transport, it can contribute to reducing transport-related carbon emissions and so assist mitigating climate change.
- 6.10.3. Where pavement parking is permitted to aid traffic flow on densely used residential streets, with insufficient off-street parking spaces, the approach can reduce the impacts of traffic-idling and congestion caused by obstructions to traffic flow.

## **7. Ward Members Affected**

- 7.1. All Wards in Cheshire East

## **8. Consultation & Engagement**

- 8.1. Consultation is a legal requirement of the preparation of a Traffic Regulation Order. The requirements for consultation may be affected by any revision to statutory procedures arising from the DfT's review.
- 8.2. The requirements for consultation to put in place any new arrangements for managing parking in the Borough will be defined when the DfT publishes the outcomes of its review.

## **9. Access to Information**

- 9.1. All relevant material and background documents related to this decision can be obtained from the Contact Officer.
- 9.2. The House of Commons Transport Committee Report (5th September 2019) relating to this report can be found at [www.parliament.uk/transcom](http://www.parliament.uk/transcom).
- 9.3. The Department for Transport update (March 2020) can be found at [www.gov.uk/government/news/transport-secretary-acts-to-make-pavements-safer-for-pedestrians](http://www.gov.uk/government/news/transport-secretary-acts-to-make-pavements-safer-for-pedestrians)

## **10. Contact Information**

- 10.1. Any questions relating to this report should be directed to the following officer:  
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