

Cabinet



4 November 2020

Managing pavement parking – Open Consultation – Spelthorne Borough Council

Purpose of the report	To make a recommendation to Cabinet/Council	
Report Author	Bruno Barbosa	
Cabinet Member	Richard Barratt	Confidential No
Corporate Priority	Clean and Safe Environment Financial Sustainability	
Recommendations	Cabinet is asked to: Consider the proposed response to Government's Open Consultation on "Managing pavement parking", giving support to Option 2 of the said consultation.	
Reason for Recommendation	This Open Consultation will shape the Government's decision over what option to take, moving forward. Each of the three options has distinct impacts on Spelthorne, and Surrey in general, so it's important that formal feedback is provided to the consultation in that capacity, regardless of the outcome of the national consultation that is open to all citizens of the United Kingdom. Option 2 is the most likely to strike the right balance between flexibility, cost-effectiveness, and immediate positive impact on the key issues identified.	

1. Key issues

Although the 'pavement' is defined as the 'footway' in legislation, the more commonly used term 'pavement' is used in this document to mean the part of a highway which shares its border with the carriageway ('road') on which there is a public right of way on foot. This is distinct from a 'footpath', which does not border a road.

Many towns and cities were not designed to accommodate today's high traffic levels; and at some locations, especially in residential areas with narrow

roads and no driveways, the pavement is the only place to park without obstructing the carriageway. However, irrespective of whether pavement parking is deemed necessary, there are inherent dangers for all pedestrians; being forced onto the carriageway and into the flow of traffic. This is particularly difficult for people with sight or mobility impairments, and those with prams or buggies. While resulting damage to the pavement and verges is, uppermost, a trip hazard, maintenance and personal injury claims are also a cost to local authorities.

Since 1974, parking on pavements, with certain exceptions, has been prohibited in Greater London by the Greater London Council (General Powers) Act 1974. Exemptions at specific locations can be permitted through an administrative resolution and indicated by traffic signs. A national prohibition was enacted in Scotland in November 2019 but has yet to come into force. The reverse applies elsewhere in England, where parking on pavements and verges is permitted unless specifically prohibited by a local authority (either street-by-street or zonally); the prohibition requiring a formal Traffic Regulation Order (TRO).

The Open Consultation presents 3 Options for how the Department for Transport can proceed on this matter. It's open to the general public, but Local Authorities are encouraged to make representations too.

Supporting documentation can be found on the following [website address](#).

2. Options analysis and proposal

2.1 The Open Consultation presents three options, each with its rationale for adoption. They are:

- (a) Option 1: to rely on improvements to the existing TRO system
 - i) This option implies that the current legal process is the reason for the lack of formal restrictions to pavement parking. The DfT suggests developing proposals for legislative change, with the aim of making the formal process easier to all parties. Whilst improvements in process are welcomed, if the process was indeed the main reason then this would have been highlighted by the various Highways Authorities as such. Other issues with this option involve the fact that it implies a mere intent to suggest improvements, as opposed to presenting concrete steps for meaningful reform. Overall, this option is the least likely to have meaningful impact on the key issues identified.
- (b) Option 2: to allow local authorities with CPE powers to enforce against 'Unnecessary obstruction of the pavement'
 - i) The relevance of this option is that it provides scope for local interpretation of civil enforcement, meaning that Civil Enforcement Officers would be able to judge if the obstruction to the pavement caused by a given vehicle is "unnecessary". This would be an

enhancement of the role of Civil Enforcement Officers, but it would equally be open to varied interpretation (both from officer to officer and from driver to driver). The DfT acknowledges the issues with interpretation, and proposes to have the first enforcement action on a given vehicle be merely a warning, as opposed to a full Penalty Charge Notice. Further issues with interpretation would need to be covered under later secondary legislation and/or guidance. Overall, this option is the most likely to strike the right balance between flexibility, cost-effectiveness, and immediate positive impact on the key issues identified.

(c) Option 3: a national pavement parking prohibition

- i) The nature of this option implies that, like in London, any and all pavement parking would be prohibited, and Highways Authorities would have to legally define areas where it's permitted. Current legislation already applies to London, and recently approved legislation extends this approach to Scotland. This approach would make a decisive step towards consistency of the rule, meaning that no parking is to occur on pavements unless explicitly signed as permitted. The biggest downside to this approach is that it implies significant investment, both financially and in time, by Highways Authorities to prepare defined areas where pavement parking is to be permitted. It's noted that, in Spelthorne and Surrey, this is likely to be an unsurmountable issue as it would require a multitude of Traffic Orders for multiple areas where pavement parking needs to occur on some extent to keep traffic flow. Overall, this option is likely to not be viable unless significant steps are taken by all Highways Authorities to prepare for it, at the risk of the positive impact on the key issues identified not being sufficient to balance the negative impact on those affected by unintended oversights.

2.2 With the recommendation for Option 2, the recommended responses to the Consultation, on behalf of Spelthorne Borough Council, would be (highlighted):

(a) Question 1

- i) For contact purposes only:
- ii) Your name – Spelthorne Borough Council
- iii) Your email – parking@spelthorne.gov.uk

(b) Question 2

- i) Are you responding as:
- ii) ~~an individual?~~
- iii) on behalf of an organisation? Yes.

(c) Questions for individuals

- i) Question 3
2.2.c.i.1. (not applicable)
- ii) Question 4
2.2.c.ii.1. (not applicable)

iii) Question 5

2.2.c.iii.1. (not applicable)

(d) Questions for all respondents

i) Question 6

2.2.d.i.1. Do you think vehicles parked on the pavement is a problem in your area?

2.2.d.i.1.1. ☒ Yes

2.2.d.i.1.2. ☐ No

2.2.d.i.1.3. ☐ Don't know

ii) Question 7

2.2.d.ii.1.1. Do you prefer:

2.2.d.ii.1.2. ☐ option 1?

2.2.d.ii.1.3. ☒ option 2? Yes.

2.2.d.ii.1.4. ☐ option 3?

2.2.d.ii.1.5. ☐ an alternative option? (please describe it)

(e) Option 2 - to allow local authorities with CPE powers to enforce against 'Unnecessary obstruction of the pavement'

i) Question 8

2.2.e.i.1. How would you define an 'unnecessary obstruction of the pavement'? Presence of an unattended vehicle in the footway that restricts the free use of the footway by a pedestrian (including those that require assistance in mobility), where the obstruction is not a result of circumstances wholly outside of the scope of control of the driver of the vehicle in question, or a result of lack of reasonable alternatives existing whilst carrying out statutory duties or essential works in the immediate vicinity of the obstruction caused. Essential works can be defined as:

2.2.e.i.1.1. ☐ Building industrial or demolition operation

2.2.e.i.1.2. ☐ Removal of any obstruction to traffic

2.2.e.i.1.3. ☐ Maintenance improvement or reconstruction of that specific section of carriageway/footway

2.2.e.i.1.4. ☐ Laying erection or repair in or in land adjacent to that section of carriageway/footway for Utilities and/or apparatus provided under Telecommunications Act 1984

ii) Question 9

2.2.e.ii.1. Do you think a warning notice should be given for first-time offences of causing an unnecessary obstruction by parking on the pavement?

2.2.e.ii.1.1. ☐ Yes

2.2.e.ii.1.2. ☐ No

2.2.e.ii.1.3. Don't know (if comments are permitted, it should be noted that some circumstances would be of significance to issue a PCN on first-time offences, and it should remain a local policy option to issue Warning Notices on first-time offences)

iii) Question 10

2.2.e.iii.1. What do you think are the advantages and disadvantages associated with Option 2? It provides scope for local interpretation of civil enforcement, meaning that Civil Enforcement Officers would be able to judge if the obstruction to the pavement caused by a given vehicle is "unnecessary". This would be an enhancement of the role of Civil Enforcement Officers, but it would equally be open to varied interpretation (both from officer to officer and from driver to driver). Further issues with interpretation would need to be covered under later secondary legislation and/or guidance. Overall, this option is the most likely to strike the right balance between flexibility, cost-effectiveness, and immediate positive impact on the key issues identified. Main risks are lack of local policy and management of the matter leading to potentially disruptive interpretations of the definition of obstruction.

(f) Option 3 - England-wide pavement parking prohibition

i) Question 11

~~2.2.f.i.1. Do you think a national prohibition should apply:~~

~~2.2.f.i.1.1. on no roads (since you are against the proposal)?~~

~~2.2.f.i.1.2. on all public roads within the country?~~

~~2.2.f.i.1.3. only on roads with speed limits up to 40mph (this includes roads in villages, towns and cities); or~~

~~2.2.f.i.1.4. in an alternative way of your description? (please describe)~~

ii) Question 12

~~2.2.f.ii.1. Should a national prohibition apply to:~~

~~2.2.f.ii.1.1. pavements only?~~

~~2.2.f.ii.1.2. pavements and verges?~~

iii) Question 13

~~2.2.f.iii.1. What are your views on the impact this would have on the built and historic environment?~~

iv) Question 14

~~2.2.f.iv.1. What do you think are the advantages and disadvantages of Option 3:~~

~~2.2.f.iv.1.1. for rural areas including villages?~~

~~2.2.f.iv.1.2. for suburban areas?~~

~~2.2.f.iv.1.3. ——— for town and city centres?~~

~~2.2.f.iv.1.4. ——— overall?~~

v) Question 15

~~2.2.f.v.1. Do you believe Option 2 or Option 3 would have an impact on the environment?~~

~~2.2.f.v.1.1. ——— Option 2~~

~~2.2.f.v.1.1.1. Yes~~

~~2.2.f.v.1.1.2. No~~

~~2.2.f.v.1.1.3. Don't know~~

~~2.2.f.v.1.2. ——— Option 3~~

~~2.2.f.v.1.2.1. Yes~~

~~2.2.f.v.1.2.2. No~~

~~2.2.f.v.1.2.3. Don't know~~

~~2.2.f.v.2. If answering "Yes" to an option, please explain the impact you think will occur and whether it is positive or negative.~~

vi) Question 16

~~2.2.f.vi.1. For both options 2 and 3, we propose exceptions for those vehicles listed in Annex B. (The final listed exception applies to option 3 only.)~~

~~2.2.f.vi.1.1. ——— What, if any, other additional vehicles or services would you like to exempt and why?~~

(g) Questions on the equality duty

i) Question 17

2.2.g.i.1. In respect of people who share any of the following protected characteristics:

2.2.g.i.1.1. age

2.2.g.i.1.2. disability

2.2.g.i.1.3. gender reassignment

2.2.g.i.1.4. pregnancy and maternity

2.2.g.i.1.5. race

2.2.g.i.1.6. religion/belief

2.2.g.i.1.7. sex

2.2.g.i.1.8. sexual orientation

Please describe any negative impacts that the options in this document might have on these objectives:

2.2.g.i.1.9. eliminating discrimination **None identified.**

2.2.g.i.1.10. advancing equality of opportunity **None identified.**

2.2.g.i.1.11. fostering good relations **None identified.**

Please clearly identify the specific consultation option, the protected characteristic affected, which objective is affected and the nature of any negative impact.

- (h) Final comments for all respondents
 - i) Question 18
 - 2.2.h.i.1. Do you have any other comments? **No.**
- (i) Questions for organisations (other than local authorities)
 - i) Question 19
 - ~~2.2.i.i.1. Your organisation's name is?~~
 - ii) Question 20
 - 2.2.i.ii.1. Is your organisation a commercial business?
 - ~~2.2.i.ii.1.1. Yes~~
 - 2.2.i.ii.1.2. **No**
 - iii) Question 21
 - 2.2.i.iii.1. Does your organisation routinely make deliveries as part of its business?
 - ~~2.2.i.iii.1.1. Yes~~
 - 2.2.i.iii.1.2. **No**
 - iv) Question 22
 - 2.2.i.iv.1. Do you agree that 20 minutes of pavement parking would be adequate for a delivery?
 - 2.2.i.iv.1.1. **Yes**
 - ~~2.2.i.iv.1.2. No~~
 - ~~2.2.i.iv.1.3. If you answered "No", why not?~~
 - v) Question 23
 - ~~2.2.i.v.1. If you answered "No", of all the daily deliveries that you may make, what percentage do you think will take longer than 20 minutes each to be completed?~~
 - vi) Question 24
 - ~~2.2.i.vi.1. In your opinion, what types of delivery that you make would require greater than 20 minutes?~~
- (j) Questions for local authorities
 - i) Question 25
 - 2.2.j.i.1. Are you representing a council?
 - 2.2.j.i.1.1. **Yes**
 - ~~2.2.j.i.1.2. No~~
 - ii) Question 26
 - 2.2.j.ii.1. Has your authority introduced a TRO, or TROs, to implement pavement parking restrictions?

2.2.j.ii.1.1. ——— Yes

2.2.j.ii.1.2. ——— Don't know

2.2.j.ii.1.3. No

2.2.j.ii.2. If you answered 'No', why not? Spelthorne Borough Council is not the Highways Authority in Spelthorne, so it relies on the Highways Authority (Surrey County Council) to implement parking restrictions in the public highway.

~~2.2.j.ii.3. If you answered 'Yes': * How many has your authority introduced in each of the last 10 years? * Typically, how long does a TRO take for you to put into place (in weeks)? * What was the average monetary cost (to the nearest £) of introducing a single TRO? (please breakdown costs eg administration, legal, advertising, traffic sign purchase / installation & road marking creation).~~

iii) Question 27

2.2.j.iii.1. Could you please provide where possible, for each of the 5 years 2015-2019, figures or estimates (please specify which) for your local authority:

2.2.j.iii.1.1. the number of injury claims made to your local authority (to be confirmed by Insurance)

2.2.j.iii.1.2. the number of injury claims made due to pavement parking None

2.2.j.iii.1.3. the number of injury claims for which compensation was paid (to be confirmed by Insurance)

2.2.j.iii.1.4. the number of injury claims made due to pavement parking for which compensation was paid None

2.2.j.iii.1.5. the total compensation paid for injury claims (to be confirmed by Insurance)

2.2.j.iii.1.6. the total compensation paid due to pavement parking None

(k) Question 28

i) What was the:

2.2.k.i.1. total spend on pavement repairs for each of the 5 years 2015 to 2019? None

2.2.k.i.1.1. the percentage of this total spend due to pavement parking: for each of the 5 years 2015 to 2019? None

(l) Option 2

i) Question 29

2.2.l.i.1. If your council has civil enforcement powers and was permitted to enforce the offence of 'unnecessary obstruction', would your council elect to do this?

2.2.l.i.1.1. Yes

2.2.l.i.1.2. No

~~2.2.I.i.1.3. Don't know~~

ii) Question 30

2.2.I.ii.1.1. If you answered "Yes" or "Don't know", what number of staff, in your authority, would need to learn the new enforcement guidance? **12 members of staff.**

iii) Question 31

2.2.I.iii.1. Can you foresee any additional, unfunded costs outside of the normal issuing and processing of PCNs?

~~2.2.I.iii.1.1. Yes~~

2.2.I.iii.1.2. **No**

~~2.2.I.iii.1.3. Don't know~~

iv) Question 32

~~2.2.I.iv.1. What are these costs (list the individual costs and the total average expenditure based on a per annum basis)?~~

(m) Option 3

i) Question 33

2.2.m.i.1. In your authority area, estimate based on your total road network, on how much road is pavement parking necessary to ensure free-flowing traffic is maintained? Give the amount:

2.2.m.i.1.1. in kilometres **Surrey County Council to provide**

2.2.m.i.1.2. as a percentage of the total road length **Surrey County Council to provide**

ii) Question 34

2.2.m.ii.1. What do you expect an assessment of your road network, to identify exemptions, to cost overall and how do the costs break down individually (£)? **Surrey County Council to provide**

iii) Question 35

2.2.m.iii.1. Would your authority need to provide more parking provision to implement option 3?

2.2.m.iii.1.1. **Yes**

~~2.2.m.iii.1.2. No~~

~~2.2.m.iii.1.3. Don't know~~

2.2.m.iii.1.4. Please provide any relevant evidence to support this view. Each vehicle currently parked in a footway unrestricted equates to a vehicle that has no off street space available, in theory. Including residential, this would mean the vehicles displaced would need to be stored in alternative locations, potentially leading to issues with availability of on street space and leading to an increase in demand for off street space.

iv) Question 36

2.2.m.iv.1. Please provide an estimate of the cost of implementing exemptions in your area, including:

2.2.m.iv.1.1. staff costs **Surrey County Council to provide**

2.2.m.iv.1.2. traffic signing costs **Surrey County Council to provide**

2.2.m.iv.1.3. bay marking costs **Surrey County Council to provide**

2.2.m.iv.1.4. removal of traffic signing for previously implemented TROs restricting pavement parking in your area **Surrey County Council to provide**

v) Question 37

2.2.m.v.1. Can you foresee any additional, unfunded costs beyond the normal costs of issuing and processing PCNs?

2.2.m.v.1.1. ~~Yes~~

2.2.m.v.1.2. **No**

2.2.m.v.1.3. ~~Don't know~~

vi) Question 38

2.2.m.vi.1. Give an explanation and breakdown of the number of additional:

2.2.m.vi.1.1. staff for your local authority? **Not applicable**

2.2.m.vi.1.2. salary costs for your local authority? **Not applicable**

2.2.m.vi.1.3. hiring costs for your local authority? **Not applicable**

2.2.m.vi.1.4. training costs for your local authority? **Not applicable**

vii) Question 39

2.2.m.vii.1.1. What additional staff roles do you envisage? **None**

viii) Question 40

2.2.m.viii.1. Do you expect any other, non-staff, costs to arise from a national pavement parking prohibition?

2.2.m.viii.1.1. **Yes**

2.2.m.viii.1.2. ~~No~~

2.2.m.viii.1.3. ~~Don't know~~

ix) Question 41

2.2.m.ix.1. What are these costs (list the individual costs and the total average expenditure based on a per annum basis)? **These costs cannot be estimated as they will be based on the level of increased demand for off street space.**

x) Question 42

2.2.m.x.1. What potential benefits, if any, do you think there will be for your authority from a national pavement parking prohibition

(such as existing costs being reduced)? Provide any monetary benefit where possible. **Not applicable**

xi) Question 43

2.2.m.xi.1. The government is looking to local authorities to introduce more cycle facilities to encourage active travel. Do you think this will cause issues for a national pavement parking prohibition?

2.2.m.xi.1.1. **Yes**

2.2.m.xi.1.2. ~~_____~~ No

2.2.m.xi.1.3. ~~_____~~ Don't know?

2.2.m.xi.1.4. If you answered "Yes", please describe the issues.

In areas where cycle routes are advisory and installed in the carriageway, vehicles parking on unrestricted carriageway space will lead to cycles being unable to use designated cycle lanes and either mount the pavement or share carriageway space with regular vehicles.

(n) Final comments

i) Question 44

2.2.n.i.1. Do you have any other comments? **No.**

3. Financial implications

3.1 Because Spelthorne Borough Council is not the Highways Authority in Spelthorne, the financial implications in terms of main costs are limited. Applicable financial implications are based on any likely enforcement actions under the current Agency Agreement to enforce on behalf of Surrey County Council (these are in the form of costs based on potentially higher staffing levels needed to cover an increase in enforceable areas, as well as income generated from the likely increase in enforcement actions).

4. Other considerations

4.1 As this proposal is a response to a public consultation, it in itself does not have any direct impact on any protected characteristics, but it supports a scheme that positively impacts issues faced by citizens with protected characteristics.

5. Sustainability/Climate Change Implications

5.1 This proposal has no direct impact on these areas, but it supports a scheme that positively impacts the environment and sustainability by reducing roadside space for vehicles and promoting alternative transport methods.

6. Timetable for implementation

6.1 The consultation deadline is 22/11/2020.

Background papers:

Appendices:

None