
Meeting: Traffic Management Meeting
Date: 29 January 2014
Subject: Proposed Council-wide Verge and Footway Parking TRO
– Consider Objections

Report of: Jane Moakes, Assistant Director Environmental Services

Summary: This report seeks the approval of the Executive Member for Sustainable Communities - Services for the implementation of an order for the prohibition of waiting and loading on verges and footways in Central Bedfordshire following the receipt of objections.

Contact Officer: Nick Chapman
nick.chapman@amey.co.uk

Public/Exempt: Public

Wards Affected: All wards

Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

The Parking Service seeks to deliver the Council's objectives of:-

- Enhancing Central Bedfordshire – creating jobs, managing growth, protecting our countryside and enabling businesses to grow.
- Better infrastructure – improved roads, broadband reach and transport.
- Great universal services.

These are achieved by improving highway safety, facilitating the free flow of traffic and improve the amenity of streets for residents by controlling parking.

Financial:

The scheme is being funded from the Car Park Management and Maintenance budget.

Legal:

Central Bedfordshire Council is the highway and traffic authority for the road network in Central Bedfordshire. An important function of the authority is to manage the local road network in a safe, efficient and equitable manner. The Council has an Enforcement duty to manage its on and off street parking restrictions as part of Decriminalised Parking Enforcement in Bedfordshire. Central Bedfordshire is now a Civil Enforcement Area and Special Parking Area as provided in the Traffic Management Act 2004.

Risk Management:

Failure to deliver an efficient, effective and enforceable road network would be detrimental to the safe and expeditious use of the road network and could be damaging to the local community as well as economic growth.

Staffing (including Trades Unions):

None from this report

Equalities/Human Rights:

Public authorities have a statutory duty to promote equality of opportunity, to eliminate unlawful discrimination and to foster good relations in respect of nine protected characteristics; age disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Creating an attractive and accessible public realm has a part to play in getting people out and about. One objective of enforcing traffic restrictions is to ensure that the most vulnerable members of the community have fair access to the public realm. Disabled people, in particular, place a high priority on the provision and enforcement of disabled parking bays, the provision of dropped kerbs and unobstructed passage along footways.

An efficiently managed parking system is therefore crucial for allowing equality of opportunity.

Community Safety:

The proposal will improve road safety for all road users and particularly pedestrians.

Sustainability:

None from this report

RECOMMENDATION(S):

That the proposal to introduce a prohibition of waiting and loading on verges and footways in Central Bedfordshire be implemented as published.

Background and Information

1. A proposal has been published to introduce a prohibition of waiting and loading across the whole of Central Bedfordshire Council's administrative area. The only roads excluded are the M1 and trunk roads, which are the responsibility of the Highways Agency.

2. If brought into operation, the prohibition would only be enforceable when the required regulatory signs have been erected. The advantage of this approach is that the Council-wide Order would give the Council the legal power to introduce such a prohibition wherever it sees fit without undertaking any further legal processes. However, before introducing enforcement the Council would liaise with local residents, relevant Town/Parish Councils and Elected Members. The following process would be used when considering introducing the prohibition in a given area or street. The full procedure is included in Appendix B and would involve the following:-

Stage 1

For a street to be considered for verge and footway enforcement at least one of the following criteria must be met (streets meeting more than one criterion will be given a higher priority):-

1. The Central Bedfordshire Ward Councillor(s) support(s) the introduction of verge and footway enforcement at this location;
2. The Police, Fire Service or Ambulance Service have requested a prohibition;
3. Where the Council has clear evidence that verge or footway parking is affecting the safety of pedestrians.

Stage 2

1. In the area identified and with resources agreed, advisory letters to be sent to all households in the area and leaflets placed on vehicles parking on the verge or footway advising them of the Council's intention to introduce the enforcement of verge and footway parking in that street.
2. The parking activity then monitored over a three week period to determine whether the letters and leaflets have resulted in a satisfactory reduction in the level of verge and footway parking.
3. If evidence shows that verge/footway parking is no longer a problem, no further action will be taken. If the problem of verge and footway parking continues ; proceed to stage 3.

Stage 3

1. Formal decision made to implement the order on an 'opt in' basis following consultation with the Executive Member Sustainable Communities - Services. Ward Member/s and Town/Parish Council
 2. Signs erected
 3. Appropriate level of enforcement undertaken
3. The proposal was formally advertised by public notice in December 2013. Consultations were carried out with the emergency services and other statutory bodies, all Town and Parish Councils and all Elected Members.

4. Three objections and one further representation have been received. Copies of the representations are included in Appendix B. The main points of objection are summarised below:-

Objection 1 is that a Parish Council is not listed at 1 to 3 of Stage 1. In the view of the objector they should be listed in the criteria as being one of the ways in which CBC would consider footway enforcement at a particular location.

Objection 2 is that the prohibition is unduly restrictive, particularly in those roads where it is common practise for people to park half on the footway. In roads where verge and footway parking occurs it is usually necessary and reasonable. Forcing drivers to park wholly on the road would obstruct emergency vehicles.

Objection 3 is that the blanket order fails to identify the exact specific location of all affected areas; currently insufficient unloading or loading areas within reasonable distances, resulting in a significant health, safety or environment hazard; and the existing ways are currently poorly maintained.

The other representation expresses concerns that the order permits certain vehicles, such as those owned by builders, to park on verges and footways contrary to highway law and suggests that the restriction would create unacceptable street clutter.

5. Bedfordshire Police do not object to the published proposal.

Responses and Conclusion

6. The Highways team response to the objections is as follows:-

Objection 1. It was always the intention that Town and Parish Councils would be fully involved in the scheme identification process and formally consulted before installing the signs and commencing enforcement. It is possible to go a step further and include a request from the relevant Town or Parish Council to Stage 1 of the process.

Objection 2. It is envisaged that the prohibition would only be enforced at selective locations where verge or footway parking creates a hazard, obstruction, damage or is supported by a majority of residents in that area. In roads that have wide footways and drivers regularly park half off the road, a prohibition is unlikely to be introduced unless there is strong support from residents.

Objection 3. Specific locations would be considered in accordance with the process published. If the prohibition was introduced, in the vast majority of cases, it would be acceptable for a driver to park fully on the road for the purposes of loading and unloading, even if yellow lines were also in place. For that reason, the condition of "existing ways" is not relevant.

Representation. Parking on verges and footways outside of London is not a specific offence, which is the reason for proposing this order. The exemption to allow vehicles to be parked on verges and footways for certain essential reasons, is common in most orders controlling parking. The exemption only allows such vehicles to park whilst actually carrying out the specific function. At locations where enforcement is being considered, an important consideration will be the required traffic signage. It is envisaged that any signage will be kept to a legal minimum to reduce clutter.

More generally; the published procedure for considering specific areas/streets for enforcement of the prohibition does not form part of the legal Order and therefore can be amended by the Council as it sees fit with no further legal processes required. Indeed, if the prohibition is brought into operation, it is highly likely that the process for considering enforcement will need to be refined over time.

7. It is considered that the proposal is a reasonable and practical means of addressing the issue of indiscriminate verge and footway parking. It is envisaged that local Members, Town and Parish Councils and residents will be fully engaged when the Council considers enforcing the prohibition in a given area or street. Consequently, it is recommended that the proposal be implemented as published. The decision to implement the TRO on an 'opt in' basis is to be clarified, however it is intended that this will be undertaken in consultation with the Executive Member Sustainable Communities – Services, Ward Member/s and the Town/Parish Council .
8. If approved, it is anticipated that consideration of specific locations for enforcement of the prohibition will commence in the new financial year 2014/15..

Appendices:

Appendix A – Public Notice, draft Order and Statement of Reasons

Appendix B – Objections

PUBLIC NOTICE

CENTRAL BEDFORDSHIRE COUNCIL PROPOSES TO INTRODUCE A PROHIBITION OF WAITING AND LOADING ON VERGES AND FOOTWAYS

Reason for proposal: The proposed Order is considered necessary for avoiding danger to persons or other traffic using the road, preventing damage to the road and for facilitating the passage of traffic, including pedestrians. Parking on verges and footways is a hazard and an inconvenience to other road users and causes damage to the highway and underground services. The prohibition covers all of Central Bedfordshire, but is only enforceable when the necessary traffic signs have been installed. Residents and businesses would be consulted before any restrictions are made enforceable in their street.

Effect of the Order:

To introduce No Waiting and No Loading at any time on verges and footways in all roads in Central Bedfordshire, except for the M1 motorway, A1, A5 and A421 trunk roads.

Further Details of the proposal may be examined during normal opening hours at Ampthill, Arlesey, Barton, Biggleswade, Dunstable, Flitwick, Houghton Regis, Leighton Buzzard, Potton, Sandy, Shefford, Stotfold and Toddington Libraries or online at www.centralbedfordshire.gov.uk/publicstatutorynotices. These details will be placed on deposit until 6 weeks after the Order is made or until it is decided not to continue with the proposal.

Objections: should be sent in writing to the Transportation Manager, Bedfordshire Highways, Woodlands Annex, Manton Lane, Bedford MK41 7NU or e-mail centralbedsconsultation@amey.co.uk stating the grounds on which they are made by 24 December 2013.

Order Title: If made will be "Central Bedfordshire Council (Prohibition of Waiting and Loading on Verges and Footways) Order 2013"

Central Bedfordshire Council
Priory House
Chicksands
Shefford SG1917 5TQ

Marcel Coiffait
Director of Community Services

25 November 2013

CENTRAL BEDFORDSHIRE COUNCIL
(PROHIBITION OF WAITING AND LOADING ON VERGES AND FOOTWAYS)
ORDER 201*

The Central Bedfordshire Council (the "Council") in exercise of the powers under sections 1(1), 2(1) to (3), 4 (2) and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 ("The Act") and all other enabling powers and after consultation with the Chief Officer of Police in accordance with Part III of schedule 9 to the Act, hereby makes the following Order:

1. This Order shall come into operation on day of 201* and may be cited as "Central Bedfordshire Council (Prohibition of Waiting and Loading on Verges and Footways) Order 201**"

2. In this Order, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:-

"administrative area" means the entire area of Central Bedfordshire Council.

"Civil Enforcement Officer" means a person authorised by or on behalf of the Council to supervise any parking place and to enforce the provisions of this Order.

"footway" has the same meaning as in Section 329 of the Highways Act 1980.

"road" means all roads, including but not limited to, carriageways, footways, verges, footpaths, lanes, bridleways and all highways maintainable at the public expense within the administrative area, but excluding those roads referred to in the Schedule to this Order.

"traffic sign" means a sign of any size, colour and type prescribed or authorised under, or having effect as though prescribed or authorised under, Section 64 of the Act.

"verge" means any grassed or un-grassed strip of land forming part of the highway.

3. Save as provided in Articles 5 to 7 of this Order no person shall except upon the direction or with the permission of a police constable in uniform or a civil enforcement officer, cause or permit any motor vehicle to wait at any time on a verge or footway in any road.

4. The restrictions imposed by this Order will only apply provided traffic signs are erected as required by the Traffic Signs Regulations and General Directions 2002 and any subsequent amendments or as authorised by the Secretary of State.

5. Nothing in Article 3 of this Order shall render it unlawful to cause or permit a wheelchair, including a mechanically propelled wheelchair, to wait at any time on a verge or footway in any road.

6. Nothing in Article 3 of this Order shall render it unlawful to cause or permit any motor vehicle to wait on a verge or footway for so long as may be necessary, and the motor vehicle is removed from the said verge or footway as soon as practicable following the completion of such purpose, to enable:-

- a) the motor vehicle to be used in connection with any of the following operations, namely:-
 - (i) any building or demolition.
 - (ii) the removal of any obstruction to traffic.
 - (iii) the maintenance, improvement or reconstruction of the road
 - (iv) the laying, erection, alteration or repair in or on land adjacent to the road of any sewer or any main, pipe or apparatus for the supply of gas, water or electricity or any telegraphic line;
- b) the motor vehicle to be used in the service of a local authority in pursuance of statutory powers or duties;
- c) the motor vehicle of a universal service provider (as defined in section 4(3) and (4) of the Postal Services Act 2000) to be used for the purpose of delivering and/or collecting postal packets;
- d) the motor vehicle to be used for fire brigade, ambulance, police or special forces purposes;
- e) the motor vehicle to wait in any case where the person in control of the vehicle is required by law to stop, is obliged to stop so as to prevent an accident or is prevented from proceeding by circumstances outside his or her control.
- f) the motor vehicle to wait on a verge or footway while any gate or other barrier at the entrance to premises to which the motor vehicle requires access to or from which it has emerged is opened or closed, if it is not reasonably practicable for the vehicle to wait otherwise than on that verge or footway.

7. The restrictions imposed by this Order shall be in addition to and not in derogation of any restriction imposed by any restriction imposed by any Regulations made or having effect as if made under the Act or by any other enactment.

GIVEN under the Common Seal of the Central Bedfordshire Council
 this xxxx day of xxxx 201*

THE COMMON SEAL of THE)
 CENTRAL BEDFORDSHIRE COUNCIL)
 was hereunto affixed in the)
 presence of:)

Signed

CENTRAL BEDFORDSHIRE COUNCIL (PROHIBITION OF WAITING AND LOADING
ON VERGES AND FOOTWAYS) ORDER 201*

SCHEDULE

Lengths of road excluded from the Order

Road	Description
M1 Motorway	The entire length, including any slip roads, within the administrative area.
A1 Trunk Road	The entire length, including any slip roads, within the administrative area.
A5 Trunk Road	The entire length, including any slip roads, within the administrative area.
A421 Trunk Road	The entire length, including any slip roads, within the administrative area.



Statement of Reasons

The proposed Order is considered necessary for avoiding danger to persons or other traffic using the road, preventing damage to the road and for facilitating the passage of traffic, including pedestrians.

Parking on verges and footways is a hazard and an inconvenience to other road users and causes damage to the highway and underground services.

The prohibition covers all of Central Bedfordshire, but is only enforceable when the necessary traffic signs have been installed. Residents would be consulted before any restrictions are made enforceable in their street.

Further details can be found on the attached draft Order and Public Notice.

If the proposed Order is brought into operation, the following procedure will be followed before the prohibition is made enforceable:-

Stage 1

For a street to be considered for verge and footway enforcement at least one of the following criteria must be met (streets meeting more than one criterion will be given a higher priority):-

1. The Central Bedfordshire Ward Councillor(s) support(s) the introduction of verge and footway enforcement at this location;
2. The Police, Fire Service or Ambulance Service have requested a prohibition;
3. Where the Council has clear evidence that verge or footway parking is affecting the safety of pedestrians.

Stage 2

1. Deliver letters to households and post leaflets on vehicles parking on the verge or footway advising them of the Council's intention to introduce the enforcement of verge and footway parking in that street.
2. Monitor parking activity over a three week period to determine whether the letters and leaflets have resulted in a satisfactory reduction in the level of verge and footway parking.
3. If the problem has been removed take no further action. If the problem has not been satisfactorily resolved or any previous notices have failed to maintain a sustained reduction in verge and footway parking proceed to stage 3.

Stage 3

1. Erect signs to enable enforcement to take place.
2. Undertake appropriate level of enforcement

Appendix B

Objection 1

I Object to the proposed order "*To introduce No Waiting and No Loading at any time on verges and footways in all roads in Central Bedfordshire, except for the M1 motorway, A1, A5 and A421 trunk roads*", in its currently proposed form, for the following reasons :-

1. Parish Councils are not listed at 1 to 3 in Stage 1 - they should be.
2. No mention is made of the level of fines or other measures that may be taken against those contravening the order.
3. No mention is made of whether or not the fine will be on a cost recovery only basis, or will be of a punitive/exemplary nature

Please acknowledge receipt of this Objection

Follow up e-mail

Thank You for your very prompt reply to my e-mail below, that detailed my objections to the Order as currently proposed.

I note that you state that "your [Parish] Council would be involved if we were considering enforcing the restriction in your area", but that is not the point I was making. My objection is that a Parish Council is not listed at 1 to 3 of Stage 1 - *i.e.*, they should be listed as being one of the criteria ways in which CBC would consider footway enforcement at a particular location.

I therefore want my objection #1 to stand.

So far as the Government setting the level of PCNs, and those being the method by which penalties are set, I suggest that you state that some where in the Order, or in an appended note to it - I have done a word search on "Penalty, and can find no mention of that word in the drafty Order.

I withdraw my objections # 2 & #3,

Objection 2

I could not open the attachment so have no idea of the details of the proposal, or of the public contact details you refer to. As a CBC Member I'm replying to your message directly if I may, but I can't help also looking at this from the point of view of an ordinary member of the public.

I appreciate that there is scope for the majority view in each individual road to be taken into account and trust that in practice this proposal will effectively come to nothing. I think you will find overwhelming opposition in most roads, including my own, Lowry Drive in Houghton Regis. I know that CBC members and staff often get complaints about vehicles blocking pavements to an impassable degree, or grass verges getting worn out, but with both hats on I wish to say that the proposal as a whole is utterly preposterous. In most roads where kerb parking takes place, it is perfectly necessary and reasonable - take a road like Waterlow Road in Dunstable as an obvious example. Most households have more cars than they have parking spaces, and that is increasingly likely if we keep allowing garage conversions and building housing estates with inadequate parking facilities, e.g. garages that are too small to practically get a car into. Kerb parking is a matter for the law, and is only enforced if it does force pedestrians into the road.

Taking my own experience as a further example, I remember one time when I parked entirely on the road outside my house. The neighbour opposite promptly put a note through my door complaining that I HADN'T parked up the kerb a bit, lecturing me that he couldn't then park

outside his house at all, and what about emergency vehicle access etc.? I've been parking a bit on my kerb for all 13 years I've lived here, as have all my neighbours, and no-one has complained to the police as I've always been scrupulously sure to cover as little of the pavement as possible. Nor have the police ever told me off - even though I park on the offside into the bargain, i.e. facing the oncoming traffic. They didn't even tell me off when a stolen, joyriding car smashed into mine late one evening a fortnight ago. Once when I lived in Evelyn Road in Dunstable, where I was able to park parallel to the road but entirely off it, a police car pulled up alongside me as I parked and told me about a faulty light, but didn't mention my parking at all.

So I would like to hope that the Council will see sense on this one and stop the unreasonable war on motorists, which has already seen blanket 20mph zones imposed on the vast majority of Dunstable, when I've told you that it won't make the slightest bit of difference to the minority who cause all the accidents, and unfairly restrict the safe majority.

I believe I am really representing my own constituents and those of CBC as a whole, on this one, and will try to get quite involved if necessary. I did take a bit of a back seat on the recent kerfuffle over revising the Linslade parking scheme on certain roads, because one of my colleagues beat me to it in picking it up and running with it and I didn't see the need to stick my oar in, and I have allowed one or two Traffic Management meetings to pass me by, partly because I don't get the hard copy agendas as I requested, but I will stand up and be counted on this one.

Please let me have a hard copy of these proposals as and when, thanks, or email them to me in a format that I can open.

Kind regards~ Cllr Nigel Warren

Follow up e-mail

Thanks for your help with the links, they worked fine.

However, they only served to reinforce my staunch opposition to this proposal. I can't believe CBC has taken it upon itself (in theory at this stage I accept) to attempt to effectively prevent parking on the road at all. I know this proposal is not seeking to ban parking on the road per se, but that is what it would amount to in roads like mine, given that if everyone has to park on one side only, in order to be able to park fully on the road while leaving enough room for emergency vehicles, there wouldn't be enough room in most roads for all the residents of both sides to park on the same side.

Objection 3

Re : Proposed Order 201 CBC Prohibition of waiting and loading on verges and footways

I make Objections to the above order for the following reasons :

- The blanket order fails to identify the exact specific location of all affected areas
 - Currently insufficient unloading or loading areas within reasonable distances, resulting in a significant health, safety or environment hazard
 - The existing ways are currently poorly maintained
-

Other representation

I wish to comment as follows:

As far as I am aware s137 Highways Act 1980 forbids obstruction of the highway without lawful authority. This has also been tempered by cases such as *Soloman v Durbridge* to apply to "unnecessary" obstruction.

There is also overriding legislation making it an offence to damage the highway (s130 Highways Act 1980) . Most verges will form a part of the highway maintainable at public expense.

Therefore I question whether para 6 in the order would be legal since it attempts to grant permission to builders to ignore important items of established highway law. I see no reason to attempt to allow builders or any others to obstruct pavements since this could result in pedestrians eg mothers with prams having to walk on the vehicular carriageway. Also I see no reason to allow builders to damage verges without permission from the Highway Authority accompanied by a written agreement setting out legal responsibility for reinstatement. And here I have to say that current policing of verges is very poor and builders rarely clear stones and this makes it impossible for grass cutting contractors to avoid the risk of flying stones or damage to very expensive machinery. Finally compaction of grass verges due to over running by very heavy lorries cannot be removed and therefore has to be avoided.

Some while ago David Bowie produced a draft letter for Town and Parish Councils to use where the occasional person was parking in an unnecessary way. Most people finding one of these on there windscreens do not park wrongly again. This simple approach therefore works well and is quick and easy.

In situations where forcing on road parking would effectively close the road there seems to be no option but to do what we have all been doing that is to turn a blind eye.

The proposed order will be neither quick nor easy and will generate another amount of cluttering road signs which we should all be trying to minimise.